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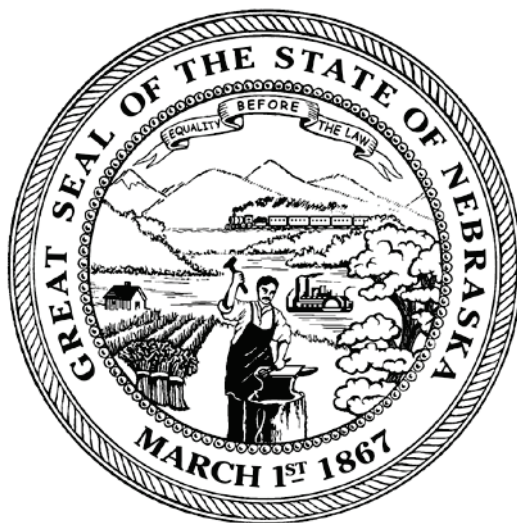
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REVISED STATUTES OF NEBRASKA

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Revisor of Statutes

For the benefit of the
State of Nebraska

CHAPTER 42

HOUSEHOLDS AND FAMILIES

Article.

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(a) PROTECTION FROM DOMESTIC ABUSE ACT

42-903 Terms, defined.

For purposes of the Protection from Domestic Abuse Act, unless the context otherwise requires:

(1) Abuse means the occurrence of one or more of the following acts between family or household members:

(a) Attempting to cause or intentionally and knowingly causing bodily injury with or without a dangerous instrument;

(b) Placing, by means of credible threat, another person in fear of bodily injury. For purposes of this subdivision, credible threat means a verbal or written threat, including a threat performed through the use of an electronic communication device, or a threat implied by a pattern of conduct or a combination of verbal, written, or electronically communicated statements and conduct that is made by a person with the apparent ability to carry out the threat so as to cause the person who is the target of the threat to reasonably fear for his or her safety or the safety of his or her family. It is not necessary to prove that the person making the threat had the intent to actually carry out the threat. The present incarceration of the person making the threat shall not prevent the threat from being deemed a credible threat under this section; or

(c) Engaging in sexual contact or sexual penetration without consent as defined in section 28-318;

(2) Department means the Department of Health and Human Services;

(3) Family or household members includes spouses or former spouses, children, persons who are presently residing together or who have resided together in the past, persons who have a child in common whether or not they have been married or have lived together at any time, other persons related by consanguinity or affinity, and persons who are presently involved in a dating

relationship with each other or who have been involved in a dating relationship with each other. For purposes of this subdivision, dating relationship means frequent, intimate associations primarily characterized by the expectation of affectional or sexual involvement, but does not include a casual relationship or an ordinary association between persons in a business or social context; and

(4) Law enforcement agency means the police department or town marshal in incorporated municipalities, the office of the sheriff in unincorporated areas, and the Nebraska State Patrol.

Source: Laws 1978, LB 623, § 3; Laws 1986, LB 448, § 1; Laws 1989, LB 330, § 5; Laws 1992, LB 1098, § 6; Laws 1993, LB 299, § 4; Laws 1996, LB 1044, § 103; Laws 1998, LB 218, § 18; Laws 2004, LB 613, § 12; Laws 2012, LB310, § 2; Laws 2017, LB289, § 13.

Effective date August 24, 2017.

42-924 Protection order; when authorized; term; renewal; violation; penalty; construction of sections.

(1) Any victim of domestic abuse may file a petition and affidavit for a protection order as provided in subsections (2) and (3) of this section. Upon the filing of such a petition and affidavit in support thereof, the court may issue a protection order without bond granting the following relief:

(a) Enjoining the respondent from imposing any restraint upon the petitioner or upon the liberty of the petitioner;

(b) Enjoining the respondent from threatening, assaulting, molesting, attacking, or otherwise disturbing the peace of the petitioner;

(c) Enjoining the respondent from telephoning, contacting, or otherwise communicating with the petitioner;

(d) Removing and excluding the respondent from the residence of the petitioner, regardless of the ownership of the residence;

(e) Ordering the respondent to stay away from any place specified by the court;

(f) Awarding the petitioner temporary custody of any minor children not to exceed ninety days;

(g) Enjoining the respondent from possessing or purchasing a firearm as defined in section 28-1201; or

(h) Ordering such other relief deemed necessary to provide for the safety and welfare of the petitioner and any designated family or household member.

(2) Petitions for protection orders shall be filed with the clerk of the district court, and the proceeding may be heard by the county court or the district court as provided in section 25-2740. A petition for a protection order may not be withdrawn except upon order of the court.

(3)(a) A protection order shall specify that it is effective for a period of one year and, if the order grants temporary custody, the number of days of custody granted to the petitioner unless otherwise modified by the court.

(b) Any victim of domestic abuse may file a petition and affidavit to renew a protection order. Such petition and affidavit for renewal shall be filed on or after thirty days before the expiration of the previous protection order. Such renewed order shall specify that it is effective for a period of one year to

commence on the first day following the expiration of the previous order and, if the court grants temporary custody, the number of days of custody granted to the petitioner unless otherwise modified by the court.

(4) Any person who knowingly violates a protection order issued pursuant to this section or section 42-931 after service or notice as described in subsection (2) of section 42-926 shall be guilty of a Class I misdemeanor, except that any person convicted of violating such order who has a prior conviction for violating a protection order shall be guilty of a Class IV felony.

(5) If there is any conflict between sections 42-924 to 42-926 and any other provision of law, sections 42-924 to 42-926 shall govern.

Source: Laws 1978, LB 623, § 24; Laws 1984, LB 276, § 3; Laws 1989, LB 330, § 7; Laws 1992, LB 1098, § 7; Laws 1993, LB 299, § 5; Laws 1997, LB 229, § 34; Laws 1998, LB 218, § 20; Laws 2002, LB 82, § 17; Laws 2012, LB310, § 3; Laws 2017, LB289, § 14.
Effective date August 24, 2017.

42-925 Ex parte protection order; duration; notice requirements; hearing; notice; referral to referee; notice regarding firearm or ammunition.

(1) An order issued under section 42-924 may be issued ex parte to the respondent if it reasonably appears from the specific facts included in the affidavit that the petitioner will be in immediate danger of abuse before the matter can be heard on notice. If an order is issued ex parte, such order is a temporary order and the court shall forthwith cause notice of the petition and order to be given to the respondent. The court shall also cause a form to request a show-cause hearing to be served upon the respondent. If the respondent wishes to appear and show cause why the order should not remain in effect, he or she shall affix his or her current address, telephone number, and signature to the form and return it to the clerk of the district court within five days after service upon him or her. Upon receipt of the request for a show-cause hearing, the request of the petitioner, or upon the court's own motion, the court shall immediately schedule a show-cause hearing to be held within thirty days after the receipt of the request for a show-cause hearing and shall notify the petitioner and respondent of the hearing date. If the respondent appears at the hearing and shows cause why such order should not remain in effect, the court shall rescind the temporary order. If the respondent does not so appear and show cause, the temporary order shall be affirmed and shall be deemed the final protection order. If the respondent has been properly served with the ex parte order and fails to appear at the hearing, the temporary order shall be affirmed and the service of the ex parte order shall be notice of the final protection order for purposes of prosecution under subsection (4) of section 42-924.

(2) If an order under section 42-924 is not issued ex parte, the court shall immediately schedule an evidentiary hearing to be held within fourteen days after the filing of the petition, and the court shall cause notice of the hearing to be given to the petitioner and the respondent. If the respondent does not appear at the hearing and show cause why such order should not be issued, the court shall issue a final protection order.

(3) The court may by rule or order refer or assign all matters regarding orders issued under section 42-924 to a referee for findings and recommendations.

(4) An order issued under section 42-924 shall remain in effect for the period provided in subsection (3) of section 42-924, unless dismissed or modified by the court prior to such date. If the order grants temporary custody, such custody shall not exceed the number of days specified by the court unless the respondent shows cause why the order should not remain in effect.

(5) The court shall also cause the notice created under section 29-2291 to be served upon the respondent notifying the respondent that it may be unlawful under federal law for a person who is subject to a protection order to possess or receive any firearm or ammunition.

Source: Laws 1978, LB 623, § 25; Laws 1989, LB 330, § 8; Laws 1998, LB 218, § 23; Laws 2008, LB1014, § 36; Laws 2012, LB310, § 4; Laws 2017, LB289, § 15.
Effective date August 24, 2017.

ARTICLE 12

ADDRESS CONFIDENTIALITY ACT

Section

42-1203. Terms, defined.

42-1204. Substitute address; application to Secretary of State; approval; certification; renewal; prohibited acts; violation; penalty.

42-1209. Program participants; application assistance.

42-1203 Terms, defined.

For purposes of the Address Confidentiality Act:

(1) Abuse means causing or attempting to cause physical harm, placing another person in fear of physical harm, or causing another person to engage involuntarily in sexual activity by force, threat of force, or duress, when committed by (a) a person against his or her spouse, (b) a person against his or her former spouse, (c) a person residing with the victim if such person and the victim are or were in a dating relationship, (d) a person who formerly resided with the victim if such person and the victim are or were in a dating relationship, (e) a person against a parent of his or her children, whether or not such person and the victim have been married or resided together at any time, (f) a person against a person with whom he or she is in a dating relationship, (g) a person against a person with whom he or she formerly was in a dating relationship, or (h) a person related to the victim by consanguinity or affinity;

(2) Address means a residential street address, school address, or work address of an individual as specified on the individual's application to be a program participant;

(3) Dating relationship means an intimate or sexual relationship;

(4) Program participant means a person certified as a program participant under section 42-1204;

(5) Sexual assault has the same meaning as in section 28-319, 28-319.01, 28-320, 28-320.01, or 28-386;

(6) Stalking has the same meaning as in sections 28-311.02 to 28-311.05; and

(7) Trafficking victim has the same meaning as in section 28-830.

Source: Laws 2003, LB 228, § 3; Laws 2006, LB 1199, § 31; Laws 2017, LB280, § 1.

Effective date May 13, 2017.

42-1204 Substitute address; application to Secretary of State; approval; certification; renewal; prohibited acts; violation; penalty.

(1) An adult, a parent or guardian acting on behalf of a minor, or a guardian acting on behalf of an incapacitated person as defined in section 30-2601 may apply to the Secretary of State to have an address designated by the Secretary of State serve as the substitute address of such adult, minor, or incapacitated person. The Secretary of State shall approve an application if it is filed in the manner and on the form prescribed by the Secretary of State and if it contains:

(a) A sworn statement by the applicant that the applicant has good reason to believe (i) that the applicant, or the minor or incapacitated person on whose behalf the application is made, is a victim of abuse, sexual assault, or stalking or is a trafficking victim and (ii) that the applicant fears for his or her safety, his or her children's safety, or the safety of the minor or incapacitated person on whose behalf the application is made;

(b) A designation of the Secretary of State as agent for purposes of service of process and receipt of mail;

(c) The mailing address and the telephone number or numbers where the applicant can be contacted by the Secretary of State;

(d) The new address or addresses that the applicant requests not be disclosed for the reason that disclosure will increase the risk of abuse, sexual assault, stalking, or trafficking; and

(e) The signature of the applicant and of any individual or representative of any office designated in writing under section 42-1209 who assisted in the preparation of the application and the date on which the applicant signed the application.

(2) Applications shall be filed in the office of the Secretary of State.

(3) Upon filing a properly completed application, the Secretary of State shall certify the applicant as a program participant. Such certification shall be valid for four years following the date of filing unless the certification is withdrawn or invalidated before that date. The Secretary of State may by rule and regulation establish a renewal procedure.

(4) A person who falsely attests in an application that disclosure of the applicant's address would endanger the applicant, the applicant's children, or the minor or incapacitated person on whose behalf the application is made, or who knowingly provides false or incorrect information upon making an application, is guilty of a Class II misdemeanor.

Source: Laws 2003, LB 228, § 4; Laws 2017, LB280, § 2.
Effective date May 13, 2017.

42-1209 Program participants; application assistance.

The Secretary of State shall designate state and local agencies and nonprofit entities that provide counseling and shelter services to victims of abuse, sexual assault, or stalking or trafficking victims to assist persons applying to be program participants. Any assistance or counseling rendered by the office of the Secretary of State or its designees to such applicants shall not be deemed legal advice or the practice of law.

Source: Laws 2003, LB 228, § 9; Laws 2017, LB280, § 3.
Effective date May 13, 2017.

ARTICLE 13

FAMILY MEMBER VISITATION

Section

- 42-1301. Terms, defined.
 42-1302. Legislative intent; petition to compel visitation; court findings.
 42-1303. Emergency hearing.
 42-1304. Costs and attorney's fees; remedies.

42-1301 Terms, defined.

For purposes of sections 42-1301 to 42-1304:

- (1) Adult child means an individual who is at least nineteen years of age and who is related to a resident biologically, through adoption, through the marriage or former marriage of the resident to the biological parent of the adult child, or by a judgment of parentage entered by a court of competent jurisdiction;
- (2) Family member means the spouse, adult child, adult grandchild, parent, grandparent, sibling, aunt, uncle, niece, nephew, cousin, or domestic partner of a resident;
- (3) Resident means an adult resident of:
- (a) A health care facility as defined in section 71-413; or
- (b) Any home or other residential dwelling in which the resident is receiving care and services from any person; and
- (4) Visitation means an in-person meeting or any telephonic, written, or electronic communication.

Source: Laws 2017, LB122, § 1.
 Effective date August 24, 2017.

42-1302 Legislative intent; petition to compel visitation; court findings.

- (1) It is the intent of the Legislature that, in order to allow family members to remain connected, a caregiver may not arbitrarily deny visitation to a family member of a resident, whether or not the caregiver is related to such family member, unless such action is authorized by a nursing home administrator pursuant to section 71-6021.
- (2) If a family member is being denied visitation with a resident, the family member may petition the county court to compel visitation with the resident. If the resident has been appointed a guardian under the jurisdiction of a county court in Nebraska, the petition shall be filed in the county court having such jurisdiction. If there is no such guardianship, the petition shall be filed in the county court for the county in which the resident resides. The court may not issue an order compelling visitation if the court finds any of the following:
- (a) The resident, while having the capacity to evaluate and communicate decisions regarding visitation, expresses a desire to not have visitation with the petitioner; or
- (b) Visitation between the petitioner and the resident is not in the best interests of the resident.

Source: Laws 2017, LB122, § 2.
 Effective date August 24, 2017.

42-1303 Emergency hearing.

If the petition filed pursuant to section 42-1302 states that the resident's health is in significant decline or that the resident's death may be imminent, the court shall conduct an emergency hearing on the petition as soon as practicable and in no case later than ten days after the date the petition is filed with the court.

Source: Laws 2017, LB122, § 3.
Effective date August 24, 2017.

42-1304 Costs and attorney's fees; remedies.

Upon a motion by a party or upon the court's own motion, if the court finds during a hearing pursuant to section 42-1303 that a person is knowingly isolating the resident from visitation by a family member, the court may order such person to pay court costs and reasonable attorney's fees of the petitioner and may order other appropriate remedies. No costs, fees, or other sanctions may be paid from the resident's finances or estate.

Source: Laws 2017, LB122, § 4.
Effective date August 24, 2017.

INFANTS AND JUVENILES

CHAPTER 43
INFANTS AND JUVENILES

Article.

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ARTICLE 2
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(b) GENERAL PROVISIONS

43-246.02 Transfer of jurisdiction to district court; bridge order; criteria; records; modification.

(1) A juvenile court may terminate its jurisdiction under subdivision (3)(a) of section 43-247 by transferring jurisdiction over the juvenile's custody, physical care, and visitation to the district court through a bridge order, if all of the following criteria are met:

(a) The juvenile has been adjudicated under subdivision (3)(a) of section 43-247 in an active juvenile court case and a dispositional order in that case is in place;

(b) Paternity of the juvenile has been legally established, including by operation of law due to an individual's marriage to the mother at the time of conception, birth, or at any time during the period between conception and birth of the child; by order of a court of competent jurisdiction; or by administrative order when authorized by law;

(c) The juvenile has been safely placed by the juvenile court with a legal parent; and

(d) The juvenile court has determined that its jurisdiction under subdivision (3)(a) of section 43-247 should properly end once orders for custody, physical care, and visitation are entered by the district court.

(2) When the criteria in subsection (1) of this section are met, a legal parent or guardian ad litem to a juvenile adjudicated under subdivision (3)(a) of section 43-247 in juvenile court may file a motion with the juvenile court for a bridge order under subsection (3) of this section. The parent is not required to intervene in the action. The motion shall be set for evidentiary hearing by the juvenile court no less than thirty days or more than ninety days from the date of the filing of the motion. The juvenile court, on its own motion, may also set an evidentiary hearing on the issue of a bridge order if such hearing is set no less than thirty days from the date of notice to the parties. The court may waive the evidentiary hearing if all issues raised in the motion for a bridge order are resolved by agreement of all parties and entry of a stipulated order.

(3) A motion for a bridge order shall:

(a) Allege that the juvenile court action filed under subdivision (3)(a) of section 43-247 may safely be closed once orders for custody, physical care, and visitation have been entered by the district court;

(b) State the relief sought by the petitioning legal parent or guardian ad litem;

(c) Disclose any other action or proceedings affecting custody of the juvenile, including proceedings related to domestic violence, protection orders, terminations of parental rights, and adoptions, including the docket number, court, county, and state of any such proceeding;

(d) State the names and addresses of any persons other than the legal parents who have a court order for physical custody or claim to have custody or visitation rights with the juvenile; and

(e) Name as a respondent any other person who has any relation to the controversy.

(4) A juvenile court shall designate the petitioner and respondent for purposes of a bridge order. A bridge order shall only address matters of legal and physical custody and parenting time. All other matters, including child support, shall be resolved by filing a separate petition or motion or by action of the child support enforcement office and shall be subject to existing applicable statutory provisions. No mediation or specialized alternative dispute resolution under section 42-364 shall be required in either district court or juvenile court where the juvenile has entered a bridge order. The Parenting Act shall not apply to the entry of the bridge order in juvenile or district court.

(5) Upon transferring jurisdiction from a juvenile court to a district court, the clerk of the district court shall docket the case under either a new docket or any previous docket establishing custody or paternity of a child.

(6) The district court shall give full force and effect to the juvenile court bridge order as to custody and parenting time and shall not modify the juvenile court bridge order without modification proceedings as provided in subsection (8) of this section.

(7) A district court shall take judicial notice of the juvenile court pleadings and orders in any hearing held subsequent to transfer. Records contained in the district court case file that were copied or transferred from the juvenile court file concerning the case shall be subject to section 43-2,108 and other confidentiality provisions of the Nebraska Juvenile Code, and such records shall only be disclosed, upon request, to the child support enforcement office without a court order.

(8) Following the issuance of a bridge order, a party may file a petition in district court for modification of the bridge order as to legal and physical custody or parenting time. If the petition for modification is filed within one year after the filing date of the bridge order, the party requesting modification shall not be required to demonstrate a substantial change of circumstance but instead shall demonstrate that such modification is in the best interests of the child. If a petition for modification is filed within one year after the filing date of the bridge order, filing fees and other court costs shall not be assessed against the parties.

(9) Nothing in this section shall be construed to require appointment of counsel for the parties in the district court action.

Source: Laws 2017, LB180, § 1.
Effective date August 24, 2017.

Cross References

Parenting Act, see section 43-2920.

(d) PREADJUDICATION PROCEDURES

43-253 Temporary custody; investigation; release; when.

(1) Upon delivery to the probation officer of a juvenile who has been taken into temporary custody under section 29-401, 43-248, or 43-250, the probation

officer shall immediately investigate the situation of the juvenile and the nature and circumstances of the events surrounding his or her being taken into custody. Such investigation may be by informal means when appropriate.

(2) The probation officer's decision to release the juvenile from custody or place the juvenile in detention or an alternative to detention shall be based upon the results of the standardized juvenile detention screening instrument described in section 43-260.01.

(3) No juvenile who has been taken into temporary custody under subdivision (1)(c) of section 43-250 or subsection (6) of section 43-286.01 or pursuant to an alleged violation of an order for conditional release shall be detained in any detention facility or be subject to an alternative to detention infringing upon the juvenile's liberty interest for longer than twenty-four hours, excluding nonjudicial days, after having been taken into custody unless such juvenile has appeared personally before a court of competent jurisdiction for a hearing to determine if continued detention, services, or supervision is necessary. The juvenile shall be represented by counsel at the hearing. Whether such counsel shall be provided at the cost of the county shall be determined as provided in subsection (1) of section 43-272. If continued secure detention is ordered, such detention shall be in a juvenile detention facility, except that a juvenile charged with a felony as an adult in county or district court may be held in an adult jail as set forth in subdivision (1)(c)(v) of section 43-250. A juvenile placed in an alternative to detention, but not in detention, may waive this hearing through counsel.

(4) When the probation officer deems it to be in the best interests of the juvenile, the probation officer shall immediately release such juvenile to the custody of his or her parent. If the juvenile has both a custodial and a noncustodial parent and the probation officer deems that release of the juvenile to the custodial parent is not in the best interests of the juvenile, the probation officer shall, if it is deemed to be in the best interests of the juvenile, attempt to contact the noncustodial parent, if any, of the juvenile and to release the juvenile to such noncustodial parent. If such release is not possible or not deemed to be in the best interests of the juvenile, the probation officer may release the juvenile to the custody of a legal guardian, a responsible relative, or another responsible person.

(5) The court may admit such juvenile to bail by bond in such amount and on such conditions and security as the court, in its sole discretion, shall determine, or the court may proceed as provided in section 43-254. In no case shall the court or probation officer release such juvenile if it appears that further detention or placement of such juvenile is a matter of immediate and urgent necessity for the protection of such juvenile or the person or property of another or if it appears that such juvenile is likely to flee the jurisdiction of the court.

Source: Laws 1981, LB 346, § 9; Laws 1982, LB 787, § 6; Laws 1994, LB 451, § 2; Laws 1998, LB 1073, § 15; Laws 2000, LB 1167, § 15; Laws 2001, LB 451, § 6; Laws 2010, LB800, § 16; Laws 2016, LB894, § 7; Laws 2017, LB8, § 1.
Effective date August 24, 2017.

Cross References

Clerk magistrate, authority to determine temporary custody of juvenile, see section 24-519.

43-254 Placement or detention pending adjudication; restrictions; assessment of costs.

Pending the adjudication of any case, and subject to subdivision (5) of section 43-251.01, if it appears that the need for placement or further detention exists, the juvenile may be (1) placed or detained a reasonable period of time on order of the court in the temporary custody of either the person having charge of the juvenile or some other suitable person, (2) kept in some suitable place provided by the city or county authorities, (3) placed in any proper and accredited charitable institution, (4) placed in a state institution, except any adult correctional facility, when proper facilities are available and the only local facility is a city or county jail, at the expense of the committing county on a per diem basis as determined from time to time by the head of the particular institution, (5) placed in the temporary care and custody of the Department of Health and Human Services when it does not appear that there is any need for secure detention, except that beginning October 1, 2013, no juvenile alleged to be a juvenile described in subdivision (1), (2), (3)(b), or (4) of section 43-247 shall be placed in the care and custody or under the supervision of the Department of Health and Human Services, or (6) beginning October 1, 2013, offered supervision options as determined pursuant to section 43-260.01, through the Office of Probation Administration as ordered by the court and agreed to in writing by the parties, if the juvenile is alleged to be a juvenile described in subdivision (1), (2), (3)(b), or (4) of section 43-247 and it does not appear that there is any need for secure detention. The court may assess the cost of such placement or detention in whole or in part to the parent of the juvenile as provided in section 43-290.

If a juvenile has been removed from his or her parent, guardian, or custodian pursuant to subdivision (2) of section 43-248, the court may enter an order continuing detention or placement upon a written determination that continuation of the juvenile in his or her home would be contrary to the health, safety, or welfare of such juvenile and that reasonable efforts were made to preserve and reunify the family if required under section 43-283.01.

Source: Laws 1981, LB 346, § 10; Laws 1985, LB 447, § 16; Laws 1987, LB 635, § 1; Laws 1987, LB 638, § 2; Laws 1996, LB 1044, § 129; Laws 1998, LB 1041, § 23; Laws 2000, LB 1167, § 16; Laws 2010, LB800, § 17; Laws 2013, LB561, § 11; Laws 2017, LB289, § 16.

Effective date August 24, 2017.

(e) PROSECUTION**43-274 County attorney; city attorney; preadjudication powers and duties; petition, pretrial diversion, or mediation; transfer; procedures; appeal.**

(1) The county attorney or city attorney, having knowledge of a juvenile within his or her jurisdiction who appears to be a juvenile described in subdivision (1), (2), (3)(b), or (4) of section 43-247 and taking into consideration the criteria in section 43-276, may proceed as provided in this section.

(2) The county attorney or city attorney may offer pretrial diversion to the juvenile in accordance with a juvenile pretrial diversion program established pursuant to sections 43-260.02 to 43-260.07.

(3)(a) If a juvenile appears to be a juvenile described in subdivision (1), (2), (3)(b), or (4) of section 43-247 because of a nonviolent act or acts, the county

attorney or city attorney may offer mediation to the juvenile and the victim of the juvenile's act. If both the juvenile and the victim agree to mediation, the juvenile, his or her parent, guardian, or custodian, and the victim shall sign a mediation consent form and select a mediator or approved center from the roster made available pursuant to section 25-2908. The county attorney or city attorney shall refer the juvenile and the victim to such mediator or approved center. The mediation sessions shall occur within thirty days after the date the mediation referral is made unless an extension is approved by the county attorney or city attorney. The juvenile or his or her parent, guardian, or custodian shall pay the mediation fees. The fee shall be determined by the mediator in private practice or by the approved center. A juvenile shall not be denied services at an approved center because of an inability to pay.

(b) Terms of the mediation agreement shall specify monitoring, completion, and reporting requirements. The county attorney or city attorney, the court, or the probation office shall be notified by the designated monitor if the juvenile does not complete the agreement within the agreement's specified time.

(c) Terms of the agreement may include one or more of the following:

- (i) Participation by the juvenile in certain community service programs;
- (ii) Payment of restitution by the juvenile to the victim;
- (iii) Reconciliation between the juvenile and the victim; and
- (iv) Any other areas of agreement.

(d) If no mediation agreement is reached, the mediator or approved center will report that fact to the county attorney or city attorney within forty-eight hours of the final mediation session excluding nonjudicial days.

(e) If a mediation agreement is reached and the agreement does not violate public policy, the agreement shall be approved by the county attorney or city attorney. If the agreement is not approved and the victim agrees to return to mediation (i) the juvenile may be referred back to mediation with suggestions for changes needed in the agreement to meet approval or (ii) the county attorney or city attorney may proceed with the filing of a criminal charge or juvenile court petition. If the juvenile agrees to return to mediation but the victim does not agree to return to mediation, the county attorney or city attorney may consider the juvenile's willingness to return to mediation when determining whether or not to file a criminal charge or a juvenile court petition.

(f) If the juvenile meets the terms of an approved mediation agreement, the county attorney or city attorney shall not file a criminal charge or juvenile court petition against the juvenile for the acts for which the juvenile was referred to mediation.

(4) The county attorney or city attorney shall file the petition in the court with jurisdiction as outlined in section 43-246.01.

(5) When a transfer from juvenile court to county court or district court is authorized because there is concurrent jurisdiction, the county attorney or city attorney may move to transfer the proceedings. Such motion shall be filed with the juvenile court petition unless otherwise permitted for good cause shown. The juvenile court shall schedule a hearing on such motion within fifteen days after the motion is filed. The county attorney or city attorney has the burden by a preponderance of the evidence to show why such proceeding should be transferred. The juvenile shall be represented by counsel at the hearing and

may present the evidence as to why the proceeding should be retained. After considering all the evidence and reasons presented by both parties, the juvenile court shall retain the proceeding unless the court determines that a preponderance of the evidence shows that the proceeding should be transferred to the county court or district court. The court shall make a decision on the motion within thirty days after the hearing. The juvenile court shall set forth findings for the reason for its decision.

An order granting or denying transfer of the case from juvenile court to county or district court shall be considered a final order for the purposes of appeal. Upon the entry of an order, any party may appeal to the Court of Appeals within ten days. Such review shall be advanced on the court docket without an extension of time granted to any party except upon a showing of exceptional cause. Appeals shall be submitted, assigned, and scheduled for oral argument as soon as the appellee's brief is due to be filed. The Court of Appeals shall conduct its review in an expedited manner and shall render the judgment and opinion, if any, as speedily as possible. During the pendency of any such appeal, the juvenile court may continue to enter temporary orders in the best interests of the juvenile pursuant to section 43-295.

If the proceeding is transferred from juvenile court to the county court or district court, the county attorney or city attorney shall file a criminal information in the county court or district court, as appropriate, and the accused shall be arraigned as provided for a person eighteen years of age or older in subdivision (1)(b) of section 29-1816.

Source: Laws 1981, LB 346, § 30; Laws 1987, LB 638, § 4; Laws 1998, LB 1073, § 20; Laws 2003, LB 43, § 13; Laws 2014, LB464, § 16; Laws 2017, LB11, § 2.
Effective date August 24, 2017.

(g) DISPOSITION

43-283.01 Preserve and reunify the family; reasonable efforts; requirements.

(1) In determining whether reasonable efforts have been made to preserve and reunify the family and in making such reasonable efforts, the juvenile's health and safety are the paramount concern.

(2) Except as provided in subsections (4) and (5) of this section, reasonable efforts shall be made to preserve and reunify families prior to the placement of a juvenile in foster care to prevent or eliminate the need for removing the juvenile from the juvenile's home and to make it possible for a juvenile to safely return to the juvenile's home.

(3) If continuation of reasonable efforts to preserve and reunify the family is determined to be inconsistent with the permanency plan determined for the juvenile in accordance with a permanency hearing under section 43-1312, efforts shall be made to place the juvenile in a timely manner in accordance with the permanency plan and to complete whatever steps are necessary to finalize the permanent placement of the juvenile.

(4) Reasonable efforts to preserve and reunify the family are not required if a court of competent jurisdiction has determined that:

(a) The parent of the juvenile has subjected the juvenile or another minor child to aggravated circumstances, including, but not limited to, abandonment, torture, chronic abuse, or sexual abuse;

(b) The parent of the juvenile has (i) committed first or second degree murder to another child of the parent, (ii) committed voluntary manslaughter to another child of the parent, (iii) aided or abetted, attempted, conspired, or solicited to commit murder, or aided or abetted voluntary manslaughter of the juvenile or another child of the parent, (iv) committed a felony assault which results in serious bodily injury to the juvenile or another minor child of the parent, or (v) been convicted of felony sexual assault of the other parent of the juvenile under section 28-319.01 or 28-320.01 or a comparable crime in another state; or

(c) The parental rights of the parent to a sibling of the juvenile have been terminated involuntarily.

(5) Except as otherwise provided in the Nebraska Indian Child Welfare Act, if the family includes a child who was conceived by the victim of a sexual assault and a biological parent is convicted of the crime under section 28-319 or 28-320 or a law in another jurisdiction similar to either section 28-319 or 28-320, the convicted biological parent of such child shall not be considered a part of the child's family for purposes of requiring reasonable efforts to preserve and reunify the family.

(6) If reasonable efforts to preserve and reunify the family are not required because of a court determination made under subsection (4) of this section, a permanency hearing, as provided in section 43-1312, shall be held for the juvenile within thirty days after the determination, reasonable efforts shall be made to place the juvenile in a timely manner in accordance with the permanency plan, and whatever steps are necessary to finalize the permanent placement of the juvenile shall be made.

(7) Reasonable efforts to place a juvenile for adoption or with a guardian may be made concurrently with reasonable efforts to preserve and reunify the family, but priority shall be given to preserving and reunifying the family as provided in this section.

Source: Laws 1998, LB 1041, § 24; Laws 2009, LB517, § 1; Laws 2017, LB289, § 17.

Effective date August 24, 2017.

Cross References

Nebraska Indian Child Welfare Act, see section 43-1501.

43-286 Juvenile violator or juvenile in need of special supervision; disposition; violation of probation, supervision, or court order; procedure; discharge; procedure; notice; hearing; individualized reentry plan.

(1) When any juvenile is adjudicated to be a juvenile described in subdivision (1), (2), or (4) of section 43-247:

(a)(i) This subdivision applies until October 1, 2013. The court may continue the dispositional portion of the hearing, from time to time upon such terms and conditions as the court may prescribe, including an order of restitution of any property stolen or damaged or an order requiring the juvenile to participate in community service programs, if such order is in the interest of the juvenile's reformation or rehabilitation, and, subject to the further order of the court, may:

(A) Place the juvenile on probation subject to the supervision of a probation officer;

(B) Permit the juvenile to remain in his or her own home or be placed in a suitable family home, subject to the supervision of the probation officer; or

(C) Cause the juvenile to be placed in a suitable family home or institution, subject to the supervision of the probation officer. If the court has committed the juvenile to the care and custody of the Department of Health and Human Services, the department shall pay the costs of the suitable family home or institution which are not otherwise paid by the juvenile's parents.

Under subdivision (1)(a)(i) of this section, upon a determination by the court that there are no parental, private, or other public funds available for the care, custody, and maintenance of a juvenile, the court may order a reasonable sum for the care, custody, and maintenance of the juvenile to be paid out of a fund which shall be appropriated annually by the county where the petition is filed until a suitable provision may be made for the juvenile without such payment.

(ii) This subdivision applies beginning October 1, 2013. The court may continue the dispositional portion of the hearing, from time to time upon such terms and conditions as the court may prescribe, including an order of restitution of any property stolen or damaged or an order requiring the juvenile to participate in community service programs, if such order is in the interest of the juvenile's reformation or rehabilitation, and, subject to the further order of the court, may:

(A) Place the juvenile on probation subject to the supervision of a probation officer; or

(B) Permit the juvenile to remain in his or her own home or be placed in a suitable family home or institution, subject to the supervision of the probation officer;

(b)(i) This subdivision applies to all juveniles committed to the Office of Juvenile Services prior to July 1, 2013. The court may commit such juvenile to the Office of Juvenile Services, but a juvenile under the age of fourteen years shall not be placed at the Youth Rehabilitation and Treatment Center-Geneva or the Youth Rehabilitation and Treatment Center-Kearney unless he or she has violated the terms of probation or has committed an additional offense and the court finds that the interests of the juvenile and the welfare of the community demand his or her commitment. This minimum age provision shall not apply if the act in question is murder or manslaughter.

(ii) This subdivision applies to all juveniles committed to the Office of Juvenile Services for placement at a youth rehabilitation and treatment center on or after July 1, 2013.

When it is alleged that the juvenile has exhausted all levels of probation supervision and options for community-based services and section 43-251.01 has been satisfied, a motion for commitment to a youth rehabilitation and treatment center may be filed and proceedings held as follows:

(A) The motion shall set forth specific factual allegations that support the motion and a copy of such motion shall be served on all persons required to be served by sections 43-262 to 43-267; and

(B) The juvenile shall be entitled to a hearing before the court to determine the validity of the allegations. At such hearing the burden is upon the state by a preponderance of the evidence to show that:

(I) All levels of probation supervision have been exhausted;

(II) All options for community-based services have been exhausted; and

(III) Placement at a youth rehabilitation and treatment center is a matter of immediate and urgent necessity for the protection of the juvenile or the person or property of another or if it appears that such juvenile is likely to flee the jurisdiction of the court.

After the hearing, the court may commit such juvenile to the Office of Juvenile Services for placement at a youth rehabilitation and treatment center as a condition of an order of intensive supervised probation. Upon commitment by the court to the Office of Juvenile Services, the court shall immediately notify the Office of Juvenile Services of the commitment. Intensive supervised probation for purposes of this subdivision means that the Office of Juvenile Services shall be responsible for the care and custody of the juvenile until the Office of Juvenile Services discharges the juvenile from commitment to the Office of Juvenile Services. Upon discharge of the juvenile, the court shall hold a review hearing on the conditions of probation and enter any order allowed under subdivision (1)(a) of this section.

The Office of Juvenile Services shall notify those required to be served by sections 43-262 to 43-267, all interested parties, and the committing court of the pending discharge of a juvenile from the youth rehabilitation and treatment center sixty days prior to discharge and again in every case not less than thirty days prior to discharge. Upon notice of pending discharge by the Office of Juvenile Services, the court shall set a continued disposition hearing in anticipation of reentry. The Office of Juvenile Services shall work in collaboration with the Office of Probation Administration in developing an individualized reentry plan for the juvenile as provided in section 43-425. The Office of Juvenile Services shall provide a copy of the individualized reentry plan to the juvenile, the juvenile's attorney, and the county attorney or city attorney prior to the continued disposition hearing. At the continued disposition hearing, the court shall review and approve or modify the individualized reentry plan, place the juvenile under probation supervision, and enter any other order allowed by law. No hearing is required if all interested parties stipulate to the individualized reentry plan by signed motion. In such a case, the court shall approve the conditions of probation, approve the individualized reentry plan, and place the juvenile under probation supervision.

The Office of Juvenile Services is responsible for transportation of the juvenile to and from the youth rehabilitation and treatment center. The Office of Juvenile Services may contract for such services. A plan for a juvenile's transport to return to the community shall be a part of the individualized reentry plan. The Office of Juvenile Services may approve family to provide such transport when specified in the individualized reentry plan; or

(c) Beginning July 1, 2013, and until October 1, 2013, the court may commit such juvenile to the Office of Juvenile Services for community supervision.

(2) When any juvenile is found by the court to be a juvenile described in subdivision (3)(b) of section 43-247, the court may enter such order as it is empowered to enter under subdivision (1)(a) of this section or until October 1, 2013, enter an order committing or placing the juvenile to the care and custody of the Department of Health and Human Services.

(3) When any juvenile is adjudicated to be a juvenile described in subdivision (1), (2), (3)(b), or (4) of section 43-247 because of a nonviolent act or acts and the juvenile has not previously been adjudicated to be such a juvenile because of a violent act or acts, the court may, with the agreement of the victim, order

the juvenile to attend juvenile offender and victim mediation with a mediator or at an approved center selected from the roster made available pursuant to section 25-2908.

(4) When a juvenile is placed on probation and a probation officer has reasonable cause to believe that such juvenile has committed a violation of a condition of his or her probation, the probation officer shall take appropriate measures as provided in section 43-286.01.

(5)(a) When a juvenile is placed on probation or under the supervision of the court and it is alleged that the juvenile is again a juvenile described in subdivision (1), (2), (3)(b), or (4) of section 43-247, a petition may be filed and the same procedure followed and rights given at a hearing on the original petition. If an adjudication is made that the allegations of the petition are true, the court may make any disposition authorized by this section for such adjudications and the county attorney may file a motion to revoke the juvenile's probation.

(b) When a juvenile is placed on probation or under the supervision of the court for conduct under subdivision (1), (2), (3)(b), or (4) of section 43-247 and it is alleged that the juvenile has violated a term of probation or supervision or that the juvenile has violated an order of the court, a motion to revoke probation or supervision or to change the disposition may be filed and proceedings held as follows:

(i) The motion shall set forth specific factual allegations of the alleged violations and a copy of such motion shall be served on all persons required to be served by sections 43-262 to 43-267;

(ii) The juvenile shall be entitled to a hearing before the court to determine the validity of the allegations. At such hearing the juvenile shall be entitled to those rights relating to counsel provided by section 43-272 and those rights relating to detention provided by sections 43-254 to 43-256. The juvenile shall also be entitled to speak and present documents, witnesses, or other evidence on his or her own behalf. He or she may confront persons who have given adverse information concerning the alleged violations, may cross-examine such persons, and may show that he or she did not violate the conditions of his or her probation or supervision or an order of the court or, if he or she did, that mitigating circumstances suggest that the violation does not warrant revocation of probation or supervision or a change of disposition. The hearing shall be held within a reasonable time after the juvenile is taken into custody;

(iii) The hearing shall be conducted in an informal manner and shall be flexible enough to consider evidence, including letters, affidavits, and other material, that would not be admissible in an adversarial criminal trial;

(iv) The juvenile shall not be confined, detained, or otherwise significantly deprived of his or her liberty pursuant to the filing of a motion described in this section unless the requirements of subdivision (5) of section 43-251.01 and section 43-260.01 have been met. In all cases when the requirements of subdivision (5) of section 43-251.01 and section 43-260.01 have been met and the juvenile is confined, detained, or otherwise significantly deprived of his or her liberty as a result of his or her alleged violation of probation, supervision, or a court order, the juvenile shall be given a preliminary hearing. Such preliminary hearing shall be held before an impartial person other than his or her probation officer or any person directly involved with the case. If, as a result of such preliminary hearing, probable cause is found to exist, the juvenile

shall be entitled to a hearing before the court in accordance with this subsection;

(v) If the juvenile is found by the court to have violated the terms of his or her probation or supervision or an order of the court, the court may modify the terms and conditions of the probation, supervision, or other court order, extend the period of probation, supervision, or other court order, or enter any order of disposition that could have been made at the time the original order was entered; and

(vi) In cases when the court revokes probation, supervision, or other court order, it shall enter a written statement as to the evidence relied on and the reasons for revocation.

(6) Costs incurred on behalf of a juvenile under this section shall be paid as provided in section 43-290.01.

(7) When any juvenile is adjudicated to be a juvenile described in subdivision (4) of section 43-247, the juvenile court shall within thirty days of adjudication transmit to the Director of Motor Vehicles an abstract of the court record of adjudication.

Source: Laws 1981, LB 346, § 42; Laws 1982, LB 787, § 18; Laws 1987, LB 638, § 6; Laws 1989, LB 182, § 13; Laws 1994, LB 988, § 21; Laws 1996, LB 1044, § 134; Laws 1998, LB 1073, § 26; Laws 2000, LB 1167, § 21; Laws 2011, LB463, § 4; Laws 2012, LB972, § 3; Laws 2013, LB561, § 23; Laws 2014, LB464, § 20; Laws 2017, LB8, § 2.

Effective date August 24, 2017.

Cross References

Juvenile probation officers, appointment, see section 29-2253.

Placements and commitments, restrictions, see section 43-251.01.

43-286.01 Juveniles; graduated response; probation officer; duties; powers; county attorney; file action to revoke probation; when.

(1) For purposes of this section, graduated response means an accountability-based series of sanctions, incentives, and services designed to facilitate the juvenile's continued progress in changing behavior, ongoing compliance, and successful completion of probation. Graduated response does not include restrictions of liberty that would otherwise require a hearing under subsection (3) of section 43-253.

(2) The Office of Probation Administration may establish a statewide standardized graduated response matrix of incentives for compliance and positive behaviors and sanctions for probationers who violate the terms and conditions of a court order. The graduated response system shall use recognized best practices and be developed with the input of stakeholders, including judges, probation officers, county attorneys, defense attorneys, juveniles, and parents. The office shall provide implementation and ongoing training to all probation officers on the graduated response options.

(3) Graduated response sanctions should be immediate, certain, consistent, and fair to appropriately address the behavior. Failure to complete a sanction may result in repeating the sanction, increasing the duration, or selecting a different sanction similar in nature. Continued failure to comply could result in a request for a motion to revoke probation. Once a sanction is successfully

completed the alleged probation violation is deemed resolved and cannot be alleged as a violation in future proceedings.

(4) Graduated response incentives should provide positive reinforcement to encourage and support positive behavior change and compliance with court-ordered conditions of probation.

(5) Whenever a probation officer has reasonable cause to believe that a juvenile subject to the supervision of a probation officer has committed a violation of the terms of the juvenile's probation while on probation, but that such juvenile will not attempt to leave the jurisdiction and will not place lives or property in danger, the probation officer shall either:

(a) Impose one or more graduated response sanctions with the approval of his or her chief probation officer or such chief's designee. The decision to impose graduated response sanctions in lieu of formal revocation proceedings rests with the probation officer and his or her chief probation officer or such chief's designee and shall be based upon such juvenile's risk level, the severity of the violation, and the juvenile's response to the violation. If graduated response sanctions are to be imposed, such juvenile shall acknowledge in writing the nature of the violation and agree upon the graduated response sanction with approval of such juvenile's parents or guardian. Such juvenile has the right to decline to acknowledge the violation, and if he or she declines to acknowledge the violation, the probation officer shall submit a written report pursuant to subdivision (5)(b) of this section. If the juvenile fails to satisfy the graduated response sanctions and the office determines that a motion to revoke probation should be pursued, the probation officer shall submit a written report pursuant to subdivision (5)(b) of this section. A copy of the report shall be submitted to the county attorney of the county where probation was imposed; or

(b) Submit a written report to the county attorney of the county where probation was imposed and to the juvenile's attorney of record, outlining the nature of the probation violation and request that formal revocation proceedings be instituted against the juvenile subject to the supervision of a probation officer. The report shall also include a statement regarding why graduated response sanctions were not utilized or were ineffective. If there is no attorney of record for the juvenile, the office shall notify the court and counsel for the juvenile shall be appointed.

(6) Whenever a probation officer has reasonable cause to believe that a juvenile subject to the supervision of a probation officer has violated a condition of his or her probation and that such juvenile will attempt to leave the jurisdiction or will place lives or property in danger, the probation officer shall take such juvenile into temporary custody without a warrant and may call on any peace officer for assistance as provided in section 43-248. Continued detention or deprivation of liberty shall be subject to the criteria and requirements of sections 43-251.01, 43-260, and 43-260.01 and subdivision (5)(b)(iv) of section 43-286, and a hearing shall be held before the court within twenty-four hours as provided in subsection (3) of section 43-253.

(7) Immediately after detention or deprivation of liberty pursuant to subsection (6) of this section, the probation officer shall notify the county attorney of the county where probation was imposed and the juvenile's attorney of record and submit a written report describing the risk of harm to lives or property or of fleeing the jurisdiction which precipitated the need for such detention or

deprivation of liberty and of any violation of probation. If there is no attorney of record for the juvenile, the office shall notify the court and counsel for the juvenile shall be appointed. After prompt consideration of the written report, the county attorney shall:

(a) Order the release of the juvenile from confinement or alternative to detention subject to the supervision of a probation officer; or

(b) File with the adjudicating court a motion to revoke the probation.

(8) Whenever a county attorney receives a report from a probation officer that a juvenile subject to the supervision of a probation officer has violated a condition of probation and the probation officer is seeking revocation of probation, the county attorney may file a motion to revoke probation.

(9) Whenever a juvenile subject to supervision of a probation officer is engaging in positive behavior, completion of goals, and compliance with the terms of probation, the probation officer shall use graduated incentives to provide positive reinforcement and encouragement of such behavior. The office shall keep records of all incentives and provide such records to the county attorney or the juvenile's attorney upon request.

(10) During the term of probation, the court, on application of a probation officer or of the juvenile or on its own motion, may reduce or eliminate any of the conditions imposed on the juvenile. Upon completion of the term of probation or the earlier discharge of the juvenile, the juvenile shall be relieved of any obligations imposed by the order of the court and his or her record shall be sealed pursuant to section 43-2,108.04.

(11) The probation administrator shall adopt and promulgate rules and regulations to carry out this section.

Source: Laws 2010, LB800, § 7; R.S.Supp.,2010, § 29-2262.08; Laws 2011, LB463, § 5; Laws 2017, LB8, § 3.
Effective date August 24, 2017.

43-292.02 Termination of parental rights; state; duty to file petition; when.

(1) A petition shall be filed on behalf of the state to terminate the parental rights of the juvenile's parents or, if such a petition has been filed by another party, the state shall join as a party to the petition, and the state shall concurrently identify, recruit, process, and approve a qualified family for an adoption of the juvenile, if:

(a) A juvenile has been in foster care under the responsibility of the state for fifteen or more months of the most recent twenty-two months; or

(b) A court of competent jurisdiction has determined the juvenile to be an abandoned infant or has made a determination that the parent has committed murder of another child of the parent, committed voluntary manslaughter of another child of the parent, aided or abetted, attempted, conspired, or solicited to commit murder, or aided or abetted voluntary manslaughter of the juvenile or another child of the parent, or committed a felony assault that has resulted in serious bodily injury to the juvenile or another minor child of the parent. For purposes of this subdivision, infant means a child eighteen months of age or younger.

(2) A petition shall not be filed on behalf of the state to terminate the parental rights of the juvenile's parents or, if such a petition has been filed by another party, the state shall not join as a party to the petition if the sole factual basis

for the petition is that (a) the parent or parents of the juvenile are financially unable to provide health care for the juvenile or (b) the parent or parents of the juvenile are incarcerated. The fact that a qualified family for an adoption of the juvenile has been identified, recruited, processed, and approved shall have no bearing on whether parental rights shall be terminated.

(3) The petition is not required to be filed on behalf of the state or if a petition is filed the state shall not be required to join in a petition to terminate parental rights or to concurrently find a qualified family to adopt the juvenile under this section if:

(a) The child is being cared for by a relative;

(b) The Department of Health and Human Services has documented in the case plan or permanency plan, which shall be available for court review, a compelling reason for determining that filing such a petition would not be in the best interests of the juvenile; or

(c) The family of the juvenile has not had a reasonable opportunity to avail themselves of the services deemed necessary in the case plan or permanency plan approved by the court if reasonable efforts to preserve and reunify the family are required under section 43-283.01.

(4) Except as otherwise provided in the Nebraska Indian Child Welfare Act, if a child is conceived by the victim of a sexual assault, a petition for termination of parental rights of the perpetrator shall be granted if such termination is in the best interests of the child and (a) the perpetrator has been convicted of or pled guilty or nolo contendere to sexual assault of the child's birth parent under section 28-319 or 28-320 or a law in another jurisdiction similar to either section 28-319 or 28-320 or (b) the perpetrator has fathered the child or given birth to the child as a result of such sexual assault.

Source: Laws 1998, LB 1041, § 29; Laws 2017, LB289, § 18.
Effective date August 24, 2017.

Cross References

Nebraska Indian Child Welfare Act, see section 43-1501.

43-296 Associations receiving juveniles; supervision by Department of Health and Human Services; certificate; reports; statements.

All associations receiving juveniles under the Nebraska Juvenile Code shall be subject to the same visitation, inspection, and supervision by the Department of Health and Human Services as are public charitable institutions of this state, and it shall be the duty of the department to pass annually upon the fitness of every such association as may receive or desire to receive juveniles under the provisions of such code. Upon the department being satisfied that such association is competent and has adequate facilities to care for such juveniles, it shall issue to such association a certificate to that effect, which certificate shall continue in force for one year unless sooner revoked by the department. No juvenile shall be committed to any such association which has not received such a certificate within the fifteen months immediately preceding the commitment. The court may at any time require from any association receiving or desiring to receive juveniles under the provisions of the Nebraska Juvenile Code such reports, information, and statements as the judge shall deem proper and necessary for his or her action, and the court shall in no case be required to

commit a juvenile to any association whose standing, conduct, or care of juveniles or ability to care for the same is not satisfactory to the court.

Source: Laws 1981, LB 346, § 52; Laws 1985, LB 447, § 28; Laws 1996, LB 1044, § 146; Laws 2012, LB1160, § 11; Laws 2013, LB222, § 6; Laws 2017, LB417, § 5.
Effective date August 24, 2017.

Cross References

Department of Health and Human Services, supervisory powers, see section 43-707.

(i) MISCELLANEOUS PROVISIONS

43-2,108 Juvenile court; files; how kept; certain reports and records not open to inspection without order of court; exceptions.

(1) The juvenile court judge shall keep a minute book in which he or she shall enter minutes of all proceedings of the court in each case, including appearances, findings, orders, decrees, and judgments, and any evidence which he or she feels it is necessary and proper to record. Juvenile court legal records shall be deposited in files and shall include the petition, summons, notice, certificates or receipts of mailing, minutes of the court, findings, orders, decrees, judgments, and motions.

(2) Except as provided in subsections (3) and (4) of this section, the medical, psychological, psychiatric, and social welfare reports and the records of juvenile probation officers as they relate to individual proceedings in the juvenile court shall not be open to inspection, without order of the court. Such records shall be made available to a district court of this state or the District Court of the United States on the order of a judge thereof for the confidential use of such judge or his or her probation officer as to matters pending before such court but shall not be made available to parties or their counsel; and such district court records shall be made available to a county court or separate juvenile court upon request of the county judge or separate juvenile judge for the confidential use of such judge and his or her probation officer as to matters pending before such court, but shall not be made available by such judge to the parties or their counsel.

(3) As used in this section, confidential record information means all docket records, other than the pleadings, orders, decrees, and judgments; case files and records; reports and records of probation officers; and information supplied to the court of jurisdiction in such cases by any individual or any public or private institution, agency, facility, or clinic, which is compiled by, produced by, and in the possession of any court. In all cases under subdivision (3)(a) of section 43-247, access to all confidential record information in such cases shall be granted only as follows: (a) The court of jurisdiction may, subject to applicable federal and state regulations, disseminate such confidential record information to any individual, or public or private agency, institution, facility, or clinic which is providing services directly to the juvenile and such juvenile's parents or guardian and his or her immediate family who are the subject of such record information; (b) the court of jurisdiction may disseminate such confidential record information, with the consent of persons who are subjects of such information, or by order of such court after showing of good cause, to any law enforcement agency upon such agency's specific request for such agency's exclusive use in the investigation of any protective service case or

investigation of allegations under subdivision (3)(a) of section 43-247, regarding the juvenile or such juvenile's immediate family, who are the subject of such investigation; and (c) the court of jurisdiction may disseminate such confidential record information to any court, which has jurisdiction of the juvenile who is the subject of such information upon such court's request.

(4) The court shall provide copies of predispositional reports and evaluations of the juvenile to the juvenile's attorney and the county attorney or city attorney prior to any hearing in which the report or evaluation will be relied upon.

(5) In all cases under sections 43-246.01 and 43-247, the office of Inspector General of Nebraska Child Welfare may submit a written request to the probation administrator for access to the records of juvenile probation officers in a specific case. Upon a juvenile court order, the records shall be provided to the Inspector General within five days for the exclusive use in an investigation pursuant to the Office of Inspector General of Nebraska Child Welfare Act. Nothing in this subsection shall prevent the notification of death or serious injury of a juvenile to the Inspector General of Nebraska Child Welfare pursuant to section 43-4318 as soon as reasonably possible after the Office of Probation Administration learns of such death or serious injury.

(6) In all cases under sections 43-246.01 and 43-247, the juvenile court shall disseminate confidential record information to the Foster Care Review Office pursuant to the Foster Care Review Act.

(7) Nothing in subsections (3), (5), and (6) of this section shall be construed to restrict the dissemination of confidential record information between any individual or public or private agency, institute, facility, or clinic, except any such confidential record information disseminated by the court of jurisdiction pursuant to this section shall be for the exclusive and private use of those to whom it was released and shall not be disseminated further without order of such court.

(8)(a) Any records concerning a juvenile court petition filed pursuant to subdivision (3)(c) of section 43-247 shall remain confidential except as may be provided otherwise by law. Such records shall be accessible to (i) the juvenile except as provided in subdivision (b) of this subsection, (ii) the juvenile's counsel, (iii) the juvenile's parent or guardian, and (iv) persons authorized by an order of a judge or court.

(b) Upon application by the county attorney or by the director of the facility where the juvenile is placed and upon a showing of good cause therefor, a judge of the juvenile court having jurisdiction over the juvenile or of the county where the facility is located may order that the records shall not be made available to the juvenile if, in the judgment of the court, the availability of such records to the juvenile will adversely affect the juvenile's mental state and the treatment thereof.

(9) Nothing in subsection (3), (5), or (6) of this section shall be construed to restrict the immediate dissemination of a current picture and information about a child who is missing from a foster care or out-of-home placement. Such dissemination by the Office of Probation Administration shall be authorized by an order of a judge or court. Such information shall be subject to state and federal confidentiality laws and shall not include that the child is in the care,

custody, or control of the Department of Health and Human Services or under the supervision of the Office of Probation Administration.

Source: Laws 1981, LB 346, § 65; Laws 1997, LB 622, § 73; Laws 2014, LB464, § 25; Laws 2015, LB347, § 2; Laws 2016, LB954, § 1; Laws 2017, LB225, § 4.
Operative date April 28, 2017.

Cross References

Foster Care Review Act, see section 43-1318.
Office of Inspector General of Nebraska Child Welfare Act, see section 43-4301.

(j) SEPARATE JUVENILE COURTS

43-2,119 Judges; number; presiding judge.

(1) The number of judges of the separate juvenile court in counties which have established a separate juvenile court shall be:

- (a) Two judges in counties having seventy-five thousand inhabitants but less than two hundred thousand inhabitants;
- (b) Four judges in counties having at least two hundred thousand inhabitants but less than four hundred thousand inhabitants; and
- (c) Six judges in counties having four hundred thousand inhabitants or more.

(2) The senior judge in point of service as a juvenile court judge shall be the presiding judge. The judges shall rotate the office of presiding judge every three years unless the judges agree to another system.

Source: Laws 1972, LB 1362, § 1; Laws 1973, LB 446, § 1; Laws 1976, LB 669, § 3; R.S.1943, (1978), § 43-233.01; Laws 1981, LB 346, § 76; Laws 1995, LB 19, § 2; Laws 1998, LB 404, § 3; Laws 2001, LB 23, § 3; Laws 2007, LB377, § 4; Laws 2017, LB10, § 1.
Operative date July 1, 2017.

(k) CITATION AND CONSTRUCTION OF CODE

43-2,129 Code, how cited.

Sections 43-245 to 43-2,129 shall be known and may be cited as the Nebraska Juvenile Code.

Source: Laws 1981, LB 346, § 85; Laws 1985, LB 447, § 35; Laws 1989, LB 182, § 19; Laws 1994, LB 1106, § 8; Laws 1997, LB 622, § 74; Laws 1998, LB 1041, § 31; Laws 1998, LB 1073, § 27; Laws 2000, LB 1167, § 23; Laws 2003, LB 43, § 16; Laws 2006, LB 1115, § 32; Laws 2008, LB1014, § 42; Laws 2010, LB800, § 31; Laws 2011, LB463, § 11; Laws 2013, LB561, § 25; Laws 2014, LB464, § 26; Laws 2015, LB482, § 6; Laws 2017, LB180, § 2.
Effective date August 24, 2017.

ARTICLE 5

ASSISTANCE FOR CERTAIN CHILDREN

Section 43-536. Child care reimbursement; market rate survey; adjustment of rate; participation in quality rating and improvement system; effect.

43-536 Child care reimbursement; market rate survey; adjustment of rate; participation in quality rating and improvement system; effect.

In determining the rate of reimbursement for child care, the Department of Health and Human Services shall conduct a market rate survey of the child care providers in the state. The department shall adjust the reimbursement rate for child care every odd-numbered year at a rate not less than the sixtieth percentile and not to exceed the seventy-fifth percentile of the current market rate survey, except that (1) nationally accredited child care providers may be reimbursed at higher rates, (2) an applicable child care or early childhood education program, as defined in section 71-1954, that is participating in the quality rating and improvement system and has received a rating of step three or higher under the Step Up to Quality Child Care Act may be reimbursed at higher rates based upon the program's quality scale rating under the quality rating and improvement system, and (3) for the fiscal year beginning on July 1, 2017, such rate may not be less than the fiftieth percentile or the rate for the immediately preceding fiscal year and for the fiscal year beginning on July 1, 2018, such rate may not be less than the sixtieth percentile for the last three quarters of the fiscal year or the rate for the fiscal year beginning on July 1, 2016.

Source: Laws 1995, LB 455, § 20; Laws 1996, LB 1044, § 174; Laws 1997, LB 307, § 69; Laws 1998, LB 1073, § 28; Laws 2003, LB 414, § 1; Laws 2007, LB296, § 123; Laws 2011, LB464, § 1; Laws 2013, LB507, § 14; Laws 2017, LB335, § 1.
Effective date May 13, 2017.

Cross References

Step Up to Quality Child Care Act, see section 71-1952.

**ARTICLE 13
FOSTER CARE**

(a) FOSTER CARE REVIEW ACT

- Section
43-1303. Office; registry; reports required; foster care file audit case reviews; rules and regulations; local board; report; court; report; visitation of facilities; executive director; powers and duties.
43-1306. Children and Juveniles Data Feasibility Study Advisory Group; created; members; meetings; duties; Data Steering Subcommittee; Information-Sharing Subcommittee.
43-1318. Act, how cited.

(b) TRANSITION OF EMPLOYEES

- 43-1322. Repealed. Laws 2017, LB225, § 20.

(a) FOSTER CARE REVIEW ACT

43-1303 Office; registry; reports required; foster care file audit case reviews; rules and regulations; local board; report; court; report; visitation of facilities; executive director; powers and duties.

(1) The office shall maintain the statewide register of all foster care placements occurring within the state, and there shall be a weekly report made to the registry of all foster care placements by the Department of Health and

Human Services, any child-placing agency, or any court in a form as developed by the office in consultation with representatives of entities required to make such reports. For each child entering and leaving foster care, such report shall consist of identifying information, placement information, the plan or permanency plan developed by the person or court in charge of the child pursuant to section 43-1312, and information on whether any such child was a person immune from criminal prosecution under subsection (5) of section 28-801 or was considered a trafficking victim as defined in section 28-830. The department, the Office of Probation Administration, and every court and child-placing agency shall report any foster care placement within three working days. The report shall contain the following information:

- (a) Child identification information, including name, date of birth, gender, race, religion, and ethnicity;
- (b) Identification information for parents and stepparents, including name, address, and status of parental rights;
- (c) Placement information, including initial placement date, current placement date, and the name and address of the foster care placement;
- (d) Court status information, including which court has jurisdiction, initial custody date, court hearing date, and results of the court hearing;
- (e) Agency or other entity having custody of the child; and
- (f) Case worker, probation officer, or person providing direct case management or supervision functions.

(2)(a) The Foster Care Review Office shall designate a local board to conduct foster care file audit case reviews for each case of children in foster care placement.

(b) The office may adopt and promulgate rules and regulations for the following:

- (i) Establishment of training programs for local board members which shall include an initial training program and periodic inservice training programs;
- (ii) Development of procedures for local boards;
- (iii) Establishment of a central record-keeping facility for all local board files, including foster care file audit case reviews;
- (iv) Accumulation of data and the making of annual reports on children in foster care placements. Such reports shall include, but not be limited to, (A) personal data on length of time in foster care, (B) number of placements, (C) frequency and results of foster care file audit case reviews and court review hearings, (D) number of children supervised by the foster care programs in the state annually, (E) trend data impacting foster care, services, and placements, (F) analysis of the data, and (G) recommendations for improving the foster care system in Nebraska;
- (v) Accumulation of data and the making of quarterly reports regarding the children in foster care placements;
- (vi) To the extent not prohibited by section 43-1310, evaluation of the judicial and administrative data collected on foster care and the dissemination of such data to the judiciary, public and private agencies, the department, and members of the public; and
- (vii) Manner in which the office shall determine the appropriateness of requesting a court review hearing as provided for in section 43-1313.

(3) A local board shall send a written report to the office for each foster care file audit case review conducted by the local board. A court shall send a written report to the office for each foster care review hearing conducted by the court.

(4) The office shall report and make recommendations to the Legislature, the department, the Office of Probation Administration, the courts, local boards, and county welfare offices. Such reports and recommendations shall include, but not be limited to, the annual judicial and administrative data collected on foster care pursuant to subsections (2) and (3) of this section and the annual evaluation of such data. The report and recommendations submitted to the Legislature shall be submitted electronically. In addition, the Foster Care Review Office shall provide copies of such reports and recommendations to each court having the authority to make foster care placements. The executive director of the office shall also provide, at a time specified by the Health and Human Services Committee of the Legislature, regular electronic updates regarding child welfare data and information at least quarterly, and a fourth-quarter report which shall be the annual report. The executive director shall include issues, policy concerns, and problems which have come to the office and the executive director from analysis of the data. The executive director shall recommend alternatives to the identified problems and related needs of the office and the foster care system to the committee. The Health and Human Services Committee shall coordinate and prioritize data and information requests submitted to the office by members of the Legislature. The annual report of the office shall be completed by December 1 each year and shall be submitted electronically to the committee.

(5) The executive director of the office or his or her designees from the office may visit and observe foster care facilities in order to ascertain whether the individual physical, psychological, and sociological needs of each foster child are being met.

(6) At the request of any state agency, the executive director of the office or his or her designees from the office may conduct a case file review process and data analysis regarding any state ward or ward of the court whether placed in-home or out-of-home at the time of the case file review.

Source: Laws 1982, LB 714, § 3; Laws 1990, LB 1222, § 6; Laws 1996, LB 1044, § 195; Laws 1998, LB 1041, § 36; Laws 1999, LB 240, § 1; Laws 2012, LB998, § 5; Laws 2013, LB222, § 10; Laws 2015, LB265, § 9; Laws 2015, LB294, § 16; Laws 2017, LB289, § 19.

Effective date August 24, 2017.

43-1306 Children and Juveniles Data Feasibility Study Advisory Group; created; members; meetings; duties; Data Steering Subcommittee; Information-Sharing Subcommittee.

(1) The Children and Juveniles Data Feasibility Study Advisory Group is created. The advisory group shall oversee a feasibility study to identify how existing state agency data systems currently used to account for the use of all services, programs, and facilities by children and juveniles in the State of Nebraska can be used to establish an independent, external data warehouse. The Foster Care Review Office shall provide administrative support for the feasibility study and the advisory group.

(2) The advisory group shall include the Inspector General of Nebraska Child Welfare or his or her designee, the State Court Administrator or his or her designee, the probation administrator of the Office of Probation Administration or his or her designee, the executive director of the Nebraska Commission on Law Enforcement and Criminal Justice or his or her designee, the Commissioner of Education or his or her designee, the executive director of the Foster Care Review Office or his or her designee, the Chief Information Officer of the office of Chief Information Officer or his or her designee, and the chief executive officer of the Department of Health and Human Services or his or her designee.

(3) The advisory group shall:

(a) Meet at least twice a year;

(b) Carry out in good faith the duties provided in this section;

(c) Create a Data Steering Subcommittee. Each member of the advisory group shall designate one representative from his or her agency with specific technical knowledge of the agency's data structure, limitation, and capabilities to serve on the subcommittee. The subcommittee shall meet regularly to manage and discuss data-related items, including the technological and system issues of each agency's current data system, specific barriers that impact the implementation of a data warehouse, and steps necessary to establish and sustain a data warehouse. The subcommittee shall report its findings to the advisory group;

(d) Create an Information-Sharing Subcommittee. Each member of the advisory group shall designate one representative from his or her agency with specific knowledge of the agency's legal and regulatory responsibilities and restrictions related to sharing data to serve on the subcommittee. The subcommittee shall meet regularly to manage and discuss the legal and regulatory barriers to establishing a data warehouse and to identify possible solutions. The subcommittee shall report its findings to the advisory group; and

(e) Submit a written report electronically to the Legislature on October 1 of 2017 and 2018, detailing the technical and legal steps necessary to establish the Children and Juveniles Data Warehouse by July 1, 2019. The report to be submitted on October 1, 2018, shall include the final results of the feasibility study to establish the data warehouse by July 1, 2019. The results of the feasibility study shall not be binding on any agency.

(4) For purposes of this section, independent, external data warehouse means a data system which allows for the collection, storage, and analysis of data from multiple agencies but is not solely controlled by the agencies providing the data.

(5) This section terminates on December 31, 2019.

Source: Laws 2017, LB225, § 5.

Operative date April 28, 2017.

43-1318 Act, how cited.

Sections 43-1301 to 43-1321 shall be known and may be cited as the Foster Care Review Act.

Source: Laws 1982, LB 714, § 18; Laws 1996, LB 642, § 2; Laws 1998, LB 1041, § 44; Laws 2007, LB457, § 2; Laws 2011, LB177, § 9;

CHILD SUPPORT REFEREES

§ 43-1609

Laws 2014, LB908, § 7; Laws 2015, LB265, § 15; Laws 2017, LB225, § 6.
Operative date April 28, 2017.

(b) TRANSITION OF EMPLOYEES

43-1322 Repealed. Laws 2017, LB225, § 20.
Operative date April 28, 2017.

ARTICLE 14

PARENTAL SUPPORT AND PATERNITY

Section

43-1411.01. Paternity or parental support; jurisdiction; termination of parental rights; provisions applicable.

43-1411.01 Paternity or parental support; jurisdiction; termination of parental rights; provisions applicable.

(1) An action for paternity or parental support under sections 43-1401 to 43-1418 may be initiated by filing a complaint with the clerk of the district court as provided in section 25-2740. Such proceeding may be heard by the county court or the district court as provided in section 25-2740. A paternity determination under sections 43-1411 to 43-1418 may also be decided in a county court or separate juvenile court if the county court or separate juvenile court already has jurisdiction over the child whose paternity is to be determined.

(2) Whenever termination of parental rights is placed in issue in any case arising under sections 43-1401 to 43-1418, the Nebraska Juvenile Code and the Parenting Act shall apply to such proceedings.

(3) The court may stay the paternity action if there is a pending criminal allegation of sexual assault under section 28-319 or 28-320 or a law in another jurisdiction similar to either section 28-319 or 28-320 against the alleged father with regard to the conception of the child.

Source: Laws 1997, LB 229, § 38; Laws 1998, LB 1041, § 46; Laws 2004, LB 1207, § 40; Laws 2008, LB1014, § 46; Laws 2013, LB561, § 44; Laws 2017, LB289, § 20.
Effective date August 24, 2017.

Cross References

Nebraska Juvenile Code, see section 43-2,129.
Parenting Act, see section 43-2920.

ARTICLE 16

CHILD SUPPORT REFEREES

Section

43-1609. Child support referee; appointment; when; qualifications; oath or affirmation; removal; contracts authorized.
43-1611. Support and paternity matters; protection orders; referral or assignment.

43-1609 Child support referee; appointment; when; qualifications; oath or affirmation; removal; contracts authorized.

(1) Child support referees shall be appointed when necessary by the district courts, separate juvenile courts, and county courts to meet the requirements of federal law relating to expediting the establishment, modification, enforcement, and collection of child, spousal, or medical support and protection orders issued under section 42-924.

(2) Child support referees shall be appointed by order of the district court, separate juvenile court, or county court. The Supreme Court shall appoint child support referees to serve more than one judicial district if the Supreme Court determines it is necessary.

(3) To be qualified for appointment as a child support referee, a person shall be an attorney in good standing admitted to the practice of law in the State of Nebraska and shall meet any other requirements imposed by the Supreme Court. A child support referee shall be sworn or affirmed to well and faithfully hear and examine the cause and to make a just and true report according to the best of his or her understanding. The oath or affirmation may be administered by a district, county, or separate juvenile court judge. A child support referee may be removed at any time by the appointing court.

(4) The Supreme Court may contract with an attorney to perform the duties of a referee for a specific case or for a specific amount of time or may direct a judge of the county court to perform such duties.

Source: Laws 1989, LB 265, § 2; Laws 1991, LB 715, § 21; Laws 2008, LB1014, § 49; Laws 2017, LB289, § 21.
Effective date August 24, 2017.

43-1611 Support and paternity matters; protection orders; referral or assignment.

A district court, separate juvenile court, or county court may by rule or order refer or assign any and all matters regarding the establishment, modification, enforcement, and collection of child, spousal, or medical support, paternity matters, and protection orders issued under section 42-924 to a child support referee for findings and recommendations.

Source: Laws 1989, LB 265, § 4; Laws 1991, LB 715, § 23; Laws 2008, LB1014, § 51; Laws 2017, LB289, § 22.
Effective date August 24, 2017.

ARTICLE 19

CHILD ABUSE PREVENTION

Section

43-1906. Nebraska Child Abuse Prevention Fund; established; investment; use.

43-1906 Nebraska Child Abuse Prevention Fund; established; investment; use.

(1) There is hereby established the Nebraska Child Abuse Prevention Fund. The additional child abuse prevention fee as provided in section 33-106.03, the additional charge for supplying a certified copy of the record of any birth as provided in sections 71-612, 71-617.15, 71-627, and 71-628, and all amounts which may be received from grants, gifts, bequests, the federal government, or other sources granted or given for the purposes specified in sections 43-1901 to 43-1906 shall be remitted to the State Treasurer for credit to the Nebraska

Child Abuse Prevention Fund. The fund shall be administered and disbursed by the department.

(2) Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(3) In any one fiscal year, no more than twenty percent of the annually appropriated funds shall be disbursed to any one agency, organization, or individual.

(4) Funds allocated from the fund shall only be used for purposes authorized under sections 43-1901 to 43-1906 and shall not be used to supplant any existing governmental program or service. No grants may be made to any state department or agency.

Source: Laws 1986, LB 333, § 6; Laws 1995, LB 7, § 39; Laws 2002, LB 1310, § 4; Laws 2002, Second Spec. Sess., LB 48, § 2; Laws 2017, LB307, § 4.

Effective date August 24, 2017.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

ARTICLE 29

PARENTING ACT

Section

43-2924. Applicability of act.

43-2933. Registered sex offender; other criminal convictions; limitation on or denial of custody or access to child; presumption; modification of previous order.

43-2924 Applicability of act.

(1) The Parenting Act shall apply to proceedings or modifications filed on or after January 1, 2008, in which parenting functions for a child are at issue (a) under Chapter 42, including, but not limited to, proceedings or modification of orders for dissolution of marriage and child custody and (b) under sections 43-1401 to 43-1418. The Parenting Act may apply to proceedings or modifications in which parenting functions for a child are at issue under Chapter 30 or 43. The Parenting Act shall also apply to subsequent modifications of bridge orders entered under section 43-246.02 by a separate juvenile court or county court sitting as a juvenile court and docketed in a district court.

(2) The Parenting Act does not apply in any action filed by a county attorney or authorized attorney pursuant to his or her duties under section 42-358, 43-512 to 43-512.18, or 43-1401 to 43-1418, the Income Withholding for Child Support Act, the Revised Uniform Reciprocal Enforcement of Support Act before January 1, 1994, or the Uniform Interstate Family Support Act for purposes of the establishment of paternity and the establishment and enforcement of child and medical support or a bridge order entered under section 43-246.02 by a separate juvenile court or county court sitting as a juvenile court and docketed in a district court. A county attorney or authorized attorney shall not participate in the development of or court review of a parenting plan under the Parenting Act. If both parents are parties to a paternity or support action

filed by a county attorney or authorized attorney, the parents may proceed with a parenting plan.

Source: Laws 2007, LB554, § 5; Laws 2008, LB1014, § 57; Laws 2017, LB180, § 3.

Effective date August 24, 2017.

Cross References

Income Withholding for Child Support Act, see section 43-1701.

Revised Uniform Reciprocal Enforcement of Support Act, applicability, see section 42-7,105.

Uniform Interstate Family Support Act, see section 42-701.

43-2933 Registered sex offender; other criminal convictions; limitation on or denial of custody or access to child; presumption; modification of previous order.

(1)(a) No person shall be granted custody of, or unsupervised parenting time, visitation, or other access with, a child if the person is required to be registered as a sex offender under the Sex Offender Registration Act for an offense that would make it contrary to the best interests of the child for such access or for an offense in which the victim was a minor or if the person has been convicted under section 28-311, 28-319.01, 28-320, 28-320.01, or 28-320.02, unless the court finds that there is no significant risk to the child and states its reasons in writing or on the record.

(b) No person shall be granted custody of, or unsupervised parenting time, visitation, or other access with, a child if anyone residing in the person's household is required to register as a sex offender under the Sex Offender Registration Act as a result of a felony conviction in which the victim was a minor or for an offense that would make it contrary to the best interests of the child for such access unless the court finds that there is no significant risk to the child and states its reasons in writing or on the record.

(c) The fact that a child is permitted unsupervised contact with a person who is required, as a result of a felony conviction in which the victim was a minor, to be registered as a sex offender under the Sex Offender Registration Act shall be prima facie evidence that the child is at significant risk. When making a determination regarding significant risk to the child, the prima facie evidence shall constitute a presumption affecting the burden of producing evidence. However, this presumption shall not apply if there are factors mitigating against its application, including whether the other party seeking custody, parenting time, visitation, or other access is also required, as the result of a felony conviction in which the victim was a minor, to register as a sex offender under the Sex Offender Registration Act.

(2) Except as otherwise provided in the Nebraska Indian Child Welfare Act, no person shall be granted custody, parenting time, visitation, or other access with a child if the person has been convicted under section 28-319 or 28-320 or a law in another jurisdiction similar to either section 28-319 or 28-320 and the child was conceived as a result of that violation unless the custodial parent or guardian, as defined in section 43-245, consents.

(3) A change in circumstances relating to subsection (1) or (2) of this section is sufficient grounds for modification of a previous order.

Source: Laws 2007, LB554, § 14; Laws 2017, LB289, § 23.

Effective date August 24, 2017.

Cross References

Nebraska Indian Child Welfare Act, see section 43-1501.
Sex Offender Registration Act, see section 29-4001.

ARTICLE 42

NEBRASKA CHILDREN'S COMMISSION

Section

43-4218. Normalcy Task Force; Nebraska Strengthening Families Act Committee; created; duties; members; term; vacancy; report; contents.

43-4218 Normalcy Task Force; Nebraska Strengthening Families Act Committee; created; duties; members; term; vacancy; report; contents.

(1)(a) The Normalcy Task Force is created. On July 1, 2017, the Normalcy Task Force shall become the Nebraska Strengthening Families Act Committee.

(b)(i) Beginning July 1, 2016, until July 1, 2017, the Normalcy Task Force shall monitor and make recommendations regarding the implementation in Nebraska of the federal Preventing Sex Trafficking and Strengthening Families Act, Public Law 113-183, as such act existed on January 1, 2016.

(ii) On and after July 1, 2017, the Nebraska Strengthening Families Act Committee shall monitor and make recommendations regarding the implementation in Nebraska of the federal Preventing Sex Trafficking and Strengthening Families Act, Public Law 113-183, as such act existed on January 1, 2017, and the Nebraska Strengthening Families Act.

(2) Until July 1, 2017, the members of the task force, and on and after July 1, 2017, the members of the committee shall include, but not be limited to, (a) representatives from the legislative, executive, and judicial branches of government. The representatives from the legislative and judicial branches shall be nonvoting, ex officio members, (b) no fewer than three young adults currently or previously in foster care which may be filled on a rotating basis by members of Project Everlast or a similar youth support or advocacy group, (c) a representative from the juvenile probation system, (d) the executive director of the Foster Care Review Office, (e) one or more representatives from a child welfare advocacy organization, (f) one or more representatives from a child welfare service agency, (g) one or more representatives from an agency providing independent living services, (h) one or more representatives of a child-care institution as defined in section 43-4703, (i) one or more current or former foster parents, (j) one or more parents who have experience in the foster care system, (k) one or more professionals who have relevant practical experience such as a caseworker, and (l) one or more guardians ad litem who practice in juvenile court.

(3) On or before July 1, 2016, the Nebraska Children's Commission shall appoint the members of the task force. On July 1, 2017, the members of the task force shall become members of the committee, shall serve the amount of time remaining on their initial terms of office, and are eligible for reappointment by the Nebraska Children's Commission. Members shall be appointed for terms of two years. The commission shall appoint a chairperson or chairpersons of the committee and may fill vacancies on the committee as such vacancies occur.

(4) The committee shall provide a written report with recommendations regarding the initial and ongoing implementation of the federal Preventing Sex Trafficking and Strengthening Families Act, as such act existed on January 1,

2017, and the Nebraska Strengthening Families Act and related efforts to improve normalcy for children in foster care and related populations to the Nebraska Children’s Commission, the Health and Human Services Committee of the Legislature, the Department of Health and Human Services, and the Governor by December 15 of each year. The report to the Health and Human Services Committee of the Legislature shall be submitted electronically.

Source: Laws 2016, LB746, § 23; Laws 2017, LB225, § 7.
Operative date April 28, 2017.

Cross References

Nebraska Strengthening Families Act, see section 43-4701.

ARTICLE 43

**OFFICE OF INSPECTOR GENERAL OF
NEBRASKA CHILD WELFARE ACT**

Section

- 43-4301. Act, how cited.
- 43-4318. Office; duties; reports of death or serious injury; when required; law enforcement agencies and prosecuting attorneys; cooperation; confidentiality.
- 43-4323. Inspector General; powers; rights of person required to provide information.
- 43-4325. Reports of investigations; distribution; redact confidential information; powers of office; summarized final report; release.
- 43-4327. Inspector General’s report of investigation; contents; distribution.
- 43-4328. Report; director, probation administrator, or executive director; accept, reject, or request modification; when final; written response; corrected report; credentialing issue; how treated.
- 43-4332. Disclosure of information by employee; personnel actions prohibited.

43-4301 Act, how cited.

Sections 43-4301 to 43-4332 shall be known and may be cited as the Office of Inspector General of Nebraska Child Welfare Act.

Source: Laws 2012, LB821, § 8; Laws 2015, LB347, § 4; Laws 2017, LB207, § 1.
Effective date August 24, 2017.

43-4318 Office; duties; reports of death or serious injury; when required; law enforcement agencies and prosecuting attorneys; cooperation; confidentiality.

(1) The office shall investigate:

(a) Allegations or incidents of possible misconduct, misfeasance, malfeasance, or violations of statutes or of rules or regulations of:

(i) The department by an employee of or person under contract with the department, a private agency, a licensed child care facility, a foster parent, or any other provider of child welfare services or which may provide a basis for discipline pursuant to the Uniform Credentialing Act;

(ii) Subject to subsection (2) of this section, the juvenile services division by an employee of or person under contract with the juvenile services division, a private agency, a licensed facility, a foster parent, or any other provider of juvenile justice services;

(iii) The commission by an employee of or person under contract with the commission related to programs and services supported by the Nebraska

County Juvenile Services Plan Act, the Community-based Juvenile Services Aid Program, juvenile pretrial diversion programs, or inspections of juvenile facilities; and

(iv) A juvenile detention facility and staff secure juvenile facility by an employee of or person under contract with such facilities;

(b) Death or serious injury in foster homes, private agencies, child care facilities, juvenile detention facilities, staff secure juvenile facilities, and other programs and facilities licensed by or under contract with the department or the juvenile services division when the office, upon review, determines the death or serious injury did not occur by chance; and

(c) Death or serious injury in any case in which services are provided by the department or the juvenile services division to a child or his or her parents or any case involving an investigation under the Child Protection and Family Safety Act, which case has been open for one year or less and upon review determines the death or serious injury did not occur by chance.

The department, the juvenile services division, each juvenile detention facility, and each staff secure juvenile facility shall report all cases of death or serious injury of a child in a foster home, private agency, child care facility or program, or other program or facility licensed by the department or inspected through the commission to the Inspector General as soon as reasonably possible after the department or the Office of Probation Administration learns of such death or serious injury. For purposes of this subsection, serious injury means an injury or illness caused by suspected abuse, neglect, or maltreatment which leaves a child in critical or serious condition.

(2) With respect to any investigation conducted by the Inspector General pursuant to subdivision (1)(a) of this section that involves possible misconduct by an employee of the juvenile services division, the Inspector General shall immediately notify the probation administrator and provide the information pertaining to potential personnel matters to the Office of Probation Administration.

(3) Any investigation conducted by the Inspector General shall be independent of and separate from an investigation pursuant to the Child Protection and Family Safety Act. The Inspector General and his or her staff are subject to the reporting requirements of the Child Protection and Family Safety Act.

(4) Notwithstanding the fact that a criminal investigation, a criminal prosecution, or both are in progress, all law enforcement agencies and prosecuting attorneys shall cooperate with any investigation conducted by the Inspector General and shall, immediately upon request by the Inspector General, provide the Inspector General with copies of all law enforcement reports which are relevant to the Inspector General's investigation. All law enforcement reports which have been provided to the Inspector General pursuant to this section are not public records for purposes of sections 84-712 to 84-712.09 and shall not be subject to discovery by any other person or entity. Except to the extent that disclosure of information is otherwise provided for in the Office of Inspector General of Nebraska Child Welfare Act, the Inspector General shall maintain the confidentiality of all law enforcement reports received pursuant to its request under this section. Law enforcement agencies and prosecuting attorneys shall, when requested by the Inspector General, collaborate with the Inspector General regarding all other information relevant to the Inspector General's investigation. If the Inspector General in conjunction with the Public

Counsel determines it appropriate, the Inspector General may, when requested to do so by a law enforcement agency or prosecuting attorney, suspend an investigation by the office until a criminal investigation or prosecution is completed or has proceeded to a point that, in the judgment of the Inspector General, reinstatement of the Inspector General's investigation will not impede or infringe upon the criminal investigation or prosecution. Under no circumstance shall the Inspector General interview any minor who has already been interviewed by a law enforcement agency, personnel of the Division of Children and Family Services of the department, or staff of a child advocacy center in connection with a relevant ongoing investigation of a law enforcement agency.

Source: Laws 2012, LB821, § 25; Laws 2013, LB561, § 58; Laws 2014, LB853, § 28; Laws 2015, LB347, § 13; Laws 2016, LB954, § 3; Laws 2017, LB207, § 2.
Effective date August 24, 2017.

Cross References

Child Protection and Family Safety Act, see section 28-710.
Nebraska County Juvenile Services Plan Act, see section 43-3501.
Uniform Credentialing Act, see section 38-101.

43-4323 Inspector General; powers; rights of person required to provide information.

The Inspector General may issue a subpoena, enforceable by action in an appropriate court, to compel any person to appear, give sworn testimony, or produce documentary or other evidence deemed relevant to a matter under his or her inquiry. A person thus required to provide information shall be paid the same fees and travel allowances and shall be accorded the same privileges and immunities as are extended to witnesses in the district courts of this state and shall also be entitled to have counsel present while being questioned. Any fees associated with counsel present under this section shall not be the responsibility of the office of Inspector General of Nebraska Child Welfare.

Source: Laws 2012, LB821, § 30; Laws 2017, LB207, § 3.
Effective date August 24, 2017.

43-4325 Reports of investigations; distribution; redact confidential information; powers of office; summarized final report; release.

(1) Reports of investigations conducted by the office shall not be distributed beyond the entity that is the subject of the report without the consent of the Inspector General.

(2) Except when a report is provided to a guardian ad litem or an attorney in the juvenile court pursuant to subsection (2) of section 43-4327, the office shall redact confidential information before distributing a report of an investigation. The office may disclose confidential information to the chairperson of the Health and Human Services Committee of the Legislature or the chairperson of the Judiciary Committee of the Legislature when such disclosure is, in the judgment of the Public Counsel, desirable to keep the chairperson informed of important events, issues, and developments in the Nebraska child welfare system.

(3)(a) A summarized final report based on an investigation may be publicly released in order to bring awareness to systemic issues.

(b) Such report shall be released only:

(i) After a disclosure is made to the appropriate chairperson or chairpersons pursuant to subsection (2) of this section; and

(ii) If a determination is made by the Inspector General with the appropriate chairperson that doing so would be in the best interest of the public.

(c) If there is disagreement about whether releasing the report would be in the best interest of the public, the chairperson of the Executive Board of the Legislative Council may be asked to make the final decision.

(4) Records and documents, regardless of physical form, that are obtained or produced by the office in the course of an investigation are not public records for purposes of sections 84-712 to 84-712.09. Reports of investigations conducted by the office are not public records for purposes of sections 84-712 to 84-712.09.

(5) The office may withhold the identity of sources of information to protect from retaliation any person who files a complaint or provides information in good faith pursuant to the Office of Inspector General of Nebraska Child Welfare Act.

Source: Laws 2012, LB821, § 32; Laws 2015, LB347, § 18; Laws 2017, LB207, § 4.

Effective date August 24, 2017.

43-4327 Inspector General's report of investigation; contents; distribution.

(1) The Inspector General's report of an investigation shall be in writing to the Public Counsel and shall contain recommendations. The report may recommend systemic reform or case-specific action, including a recommendation for discharge or discipline of employees or for sanctions against a foster parent, private agency, licensed child care facility, or other provider of child welfare services or juvenile justice services. All recommendations to pursue discipline shall be in writing and signed by the Inspector General. A report of an investigation shall be presented to the director, the probation administrator, or the executive director within fifteen days after the report is presented to the Public Counsel.

(2) Any person receiving a report under this section shall not further distribute the report or any confidential information contained in the report beyond the entity that is the subject of the report. The Inspector General, upon notifying the Public Counsel and the director, the probation administrator, or the executive director, may distribute the report, to the extent that it is relevant to a child's welfare, to the guardian ad litem and attorneys in the juvenile court in which a case is pending involving the child or family who is the subject of the report. The report shall not be distributed beyond the parties except through the appropriate court procedures to the judge.

(3) A report that identifies misconduct, misfeasance, malfeasance, or violation of statute, rules, or regulations by an employee of the department, the juvenile services division, the commission, a private agency, a licensed child care facility, or another provider that is relevant to providing appropriate supervision of an employee may be shared with the employer of such employee. The employer may not further distribute the report or any confidential information contained in the report.

Source: Laws 2012, LB821, § 34; Laws 2015, LB347, § 20; Laws 2017, LB207, § 5.

Effective date August 24, 2017.

43-4328 Report; director, probation administrator, or executive director; accept, reject, or request modification; when final; written response; corrected report; credentialing issue; how treated.

(1) Within fifteen days after a report is presented to the director, the probation administrator, or the executive director under section 43-4327, he or she shall determine whether to accept, reject, or request in writing modification of the recommendations contained in the report. The written response may include corrections of factual errors. The Inspector General, with input from the Public Counsel, may consider the director's, probation administrator's, or executive director's request for modifications but is not obligated to accept such request. Such report shall become final upon the decision of the director, the probation administrator, or the executive director to accept or reject the recommendations in the report or, if the director, the probation administrator, or the executive director requests modifications, within fifteen days after such request or after the Inspector General incorporates such modifications, whichever occurs earlier.

(2) After the recommendations have been accepted, rejected, or modified, the report shall be presented to the foster parent, private agency, licensed child care facility, or other provider of child welfare services or juvenile justice services that is the subject of the report and to persons involved in the implementation of the recommendations in the report. Within thirty days after receipt of the report, the foster parent, private agency, licensed child care facility, or other provider may submit a written response to the office to correct any factual errors in the report and shall determine whether to accept, reject, or request in writing modification of the recommendations contained in the report. The Inspector General, with input from the Public Counsel, shall consider all materials submitted under this subsection to determine whether a corrected report shall be issued. If the Inspector General determines that a corrected report is necessary, the corrected report shall be issued within fifteen days after receipt of the written response.

(3) If the Inspector General does not issue a corrected report pursuant to subsection (2) of this section, or if the corrected report does not address all issues raised in the written response, the foster parent, private agency, licensed child care facility, or other provider may request that its written response, or portions of the response, be appended to the report or corrected report.

(4) A report which raises issues related to credentialing under the Uniform Credentialing Act shall be submitted to the appropriate credentialing board under the act.

Source: Laws 2012, LB821, § 35; Laws 2015, LB347, § 21; Laws 2017, LB207, § 6.

Effective date August 24, 2017.

Cross References

Uniform Credentialing Act, see section 38-101.

43-4332 Disclosure of information by employee; personnel actions prohibited.

Any person who has authority to recommend, approve, direct, or otherwise take or affect personnel action shall not, with respect to such authority:

(1) Take personnel action against an employee because of the disclosure of information by the employee to the office which the employee reasonably believes evidences wrongdoing under the Office of Inspector General of Nebraska Child Welfare Act;

(2) Take personnel action against an employee as a reprisal for the submission of an allegation of wrongdoing under the act to the office by such employee; or

(3) Take personnel action against an employee as a reprisal for providing information or testimony pursuant to an investigation by the office.

Source: Laws 2017, LB207, § 7.

Effective date August 24, 2017.

ARTICLE 44

CHILD WELFARE SERVICES

Section
43-4406. Child welfare services; report; contents.

43-4406 Child welfare services; report; contents.

On or before September 15, 2012, and each September 15 thereafter, the department shall report electronically to the Health and Human Services Committee of the Legislature the following information regarding child welfare services, with respect to children served by any lead agency or the pilot project and children served by the department:

(1) The percentage of children served and the allocation of the child welfare budget, categorized by service area and by lead agency or the pilot project, including:

(a) The percentage of children served, by service area and the corresponding budget allocation; and

(b) The percentage of children served who are wards of the state and the corresponding budget allocation;

(2) The number of siblings in out-of-home care placed with siblings as of the June 30th immediately preceding the date of the report, categorized by service area and by lead agency or the pilot project;

(3) The number of waivers granted under subsection (2) of section 71-1904;

(4) An update of the information in the report of the Children's Behavioral Health Task Force pursuant to sections 43-4001 to 43-4003, including:

(a) The number of children receiving mental health and substance abuse services annually by the Division of Behavioral Health of the department;

(b) The number of children receiving behavioral health services annually at the Hastings Regional Center;

(c) The number of state wards receiving behavioral health services as of September 1 immediately preceding the date of the report;

(d) Funding sources for children's behavioral health services for the fiscal year ending on the immediately preceding June 30;

(e) Expenditures in the immediately preceding fiscal year by the division, categorized by category of behavioral health service and by behavioral health region; and

(f) Expenditures in the immediately preceding fiscal year from the medical assistance program and CHIP as defined in section 68-969 for mental health and substance abuse services, for all children and for wards of the state;

(5) The following information as obtained for each service area and lead agency or the pilot project:

(a) Case manager education, including college degree, major, and level of education beyond a baccalaureate degree;

(b) Average caseload per case manager;

(c) Average number of case managers per child during the preceding twelve months;

(d) Average number of case managers per child for children who have been in the child welfare system for three months, for six months, for twelve months, and for eighteen months and the consecutive yearly average for children until the age of majority or permanency is attained;

(e) Monthly case manager turnover;

(f) Monthly face-to-face contacts between each case manager and the children on his or her caseload;

(g) Monthly face-to-face contacts between each case manager and the parent or parents of the children on his or her caseload;

(h) Case documentation of monthly consecutive team meetings per quarter;

(i) Case documentation of monthly consecutive parent contacts per quarter;

(j) Case documentation of monthly consecutive child contacts with case manager per quarter;

(k) Case documentation of monthly consecutive contacts between child welfare service providers and case managers per quarter;

(l) Timeliness of court reports; and

(m) Non-court-involved children, including the number of children served, the types of services requested, the specific services provided, the cost of the services provided, and the funding source;

(6) All placements in residential treatment settings made or paid for by the child welfare system, the Office of Juvenile Services, the State Department of Education or local education agencies, any lead agency or the pilot project through letters of agreement, and the medical assistance program, including, but not limited to:

(a) Child variables;

(b) Reasons for placement;

(c) The percentage of children denied medicaid-reimbursed services and denied the level of placement requested;

(d) With respect to each child in a residential treatment setting:

(i) If there was a denial of initial placement request, the length and level of each placement subsequent to denial of initial placement request and the status of each child before and immediately after, six months after, and twelve months after placement;

(ii) Funds expended and length of placements;

(iii) Number and level of placements;

(iv) Facility variables; and

(v) Identification of specific child welfare services unavailable in the child's community that, if available, could have prevented the need for residential treatment; and

(e) Identification of child welfare services unavailable in the state that, if available, could prevent out-of-state placements;

(7) From any lead agency or the pilot project, the percentage of its accounts payable to subcontracted child welfare service providers that are thirty days overdue, sixty days overdue, and ninety days overdue; and

(8) For any individual involved in the child welfare system receiving a service or a placement through the department or its agent for which referral is necessary, the date when such referral was made by the department or its agent and the date and the method by which the individual receiving the services was notified of such referral. To the extent the department becomes aware of the date when the individual receiving the referral began receiving such services, the department or its agent shall document such date.

Source: Laws 2012, LB1160, § 6; Laws 2013, LB222, § 13; Laws 2017, LB417, § 6.

Effective date August 24, 2017.

ARTICLE 47

NEBRASKA STRENGTHENING FAMILIES ACT

Section

43-4701. Act, how cited.

43-4702. Legislative findings and intent.

43-4703. Terms, defined.

43-4704. Rights of child.

43-4706. Department; duties; contract requirements; caregiver; duties; written notice posted; normalcy plan; contents; normalcy report; contents.

43-4707. Training for foster parents.

43-4709. Parental rights; consultation with parent; documentation; family team meeting.

43-4714. Rules and regulations.

43-4715. Missing child; department and probation; duties.

43-4701 Act, how cited.

Sections 43-4701 to 43-4715 shall be known and may be cited as the Nebraska Strengthening Families Act.

Source: Laws 2016, LB746, § 1; Laws 2017, LB225, § 8.

Operative date April 28, 2017.

43-4702 Legislative findings and intent.

The Legislature finds that every day a parent makes important decisions about his or her child's participation in activities and that a caregiver for a child in out-of-home care is faced with making the same decisions for a child in his or her care.

The Legislature also finds that, when a caregiver makes decisions, he or she must consider applicable laws, rules, and regulations to safeguard the health and safety of a child in out-of-home care and that those laws, rules, and regulations have commonly been interpreted to prohibit children in out-of-home care from participating in extracurricular, enrichment, cultural, and social activities.

The Legislature further finds that participation in these types of activities is important to a child's well-being, not only emotionally, but in developing valuable life skills.

It is the intent of the Legislature to recognize the importance of parental rights and the different rights that exist dependent on a variety of factors, including the age and maturity of the child, the status of the case, and the child's placement.

It is the intent of the Legislature to recognize the importance of race, culture, and identity for children in out-of-home care.

It is the intent of the Legislature to recognize the importance of making every effort to normalize the lives of children in out-of-home care and to empower a caregiver to approve or disapprove a child's participation in activities based on the caregiver's own assessment using a reasonable and prudent parent standard.

It is the intent of the Legislature to implement the federal Preventing Sex Trafficking and Strengthening Families Act, Public Law 113-183, as such act existed on January 1, 2016.

Source: Laws 2016, LB746, § 2; Laws 2017, LB225, § 9.
Operative date April 28, 2017.

43-4703 Terms, defined.

For purposes of the Nebraska Strengthening Families Act:

(1) Age or developmentally appropriate means activities or items that are generally accepted as suitable for a child of the same chronological age or level of maturity or that are determined to be developmentally appropriate for a child, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group and, in the case of a specific child, activities or items that are suitable for the child based on the developmental stages attained by the child with respect to the cognitive, emotional, physical, and behavioral capacities of the child;

(2) Caregiver means a foster parent with whom a child in foster care has been placed or a designated official for a child-care institution in which a child in foster care has been placed;

(3) Child-care institution has the definition found in 42 U.S.C. 672(c), as such section existed on January 1, 2016, and also includes the definition of residential child-caring agency as found in section 71-1926;

(4) Department means the Department of Health and Human Services;

(5) Foster family home has the definition found in 42 U.S.C. 672(c), as such section existed on January 1, 2017, and also includes the definition as found in section 71-1901;

(6) Probation means the Office of Probation Administration; and

(7) Reasonable and prudent parent standard means the standard characterized by careful and sensible parental decisions that maintain the health, safety, and best interest of a child while at the same time encouraging the emotional and developmental growth of the child that a caregiver shall use when determining whether to allow a child in foster care under the responsibility of the

state to participate in extracurricular, enrichment, cultural, and social activities.

Source: Laws 2016, LB746, § 3; Laws 2017, LB225, § 10.
Operative date April 28, 2017.

43-4704 Rights of child.

Every child placed by the department in a foster family home or child-care institution shall be entitled to access to reasonable opportunities to participate in age or developmentally appropriate extracurricular, enrichment, cultural, and social activities.

Source: Laws 2016, LB746, § 4; Laws 2017, LB225, § 11.
Operative date April 28, 2017.

43-4706 Department; duties; contract requirements; caregiver; duties; written notice posted; normalcy plan; contents; normalcy report; contents.

(1) The department shall ensure that each foster family home and child-care institution has policies consistent with this section and that such foster family home and child-care institution promote and protect the ability of children to participate in age or developmentally appropriate extracurricular, enrichment, cultural, and social activities.

(2) A caregiver shall use a reasonable and prudent parent standard in determining whether to give permission for a child to participate in extracurricular, enrichment, cultural, and social activities. The caregiver shall take reasonable steps to determine the appropriateness of the activity in consideration of the child's age, maturity, and developmental level.

(3) The department shall require, as a condition of each contract entered into by a child-care institution to provide foster care, the presence onsite of at least one official who, with respect to any child placed at the child-care institution, is designated to be the caregiver who is (a) authorized to apply the reasonable and prudent parent standard to decisions involving the participation of the child in age or developmentally appropriate activities, (b) provided with training in how to use and apply the reasonable and prudent parent standard in the same manner as foster parents are provided training in section 43-4707, and (c) required to consult whenever possible with the child and staff members identified by the child in applying the reasonable and prudent parent standard.

(4) The department shall also require, as a condition of each contract entered into by a child-care institution to provide foster care, that all children placed at the child-care institution be notified verbally and in writing, in an age or developmentally appropriate manner, of the process for making a request to participate in age or developmentally appropriate activities and that a written notice of this process be posted in an accessible, public place in the child-care institution.

(5)(a) The department shall also require, as a condition of each contract entered into by a child-care institution to provide foster care, a written normalcy plan describing how the child-care institution will ensure that all children have access to age or developmentally appropriate activities to be filed with the department and a normalcy report regarding the implementation of the normalcy plan to be filed with the department annually by June 30. Such plans and reports shall not be required to be provided by child-care institutions

physically located outside the State of Nebraska or psychiatric residential treatment facilities.

(b) The normalcy plan shall specifically address:

(i) Efforts to address barriers to normalcy that are inherent in a child-care institution setting;

(ii) Normalcy efforts for all children placed at the child-care institution, including, but not limited to, relationships with family, age or developmentally appropriate access to technology and technological skills, education and school stability, access to health care and information, and access to a sustainable and durable routine;

(iii) Procedures for developing goals and action steps in the child-care institution's case plan and case planning process related to participation in age or developmentally appropriate activities for each child placed at the child-care institution;

(iv) Policies on staffing, supervision, permission, and consent to age or developmentally appropriate activities consistent with the reasonable and prudent parent standard;

(v) A list of activities that the child-care institution provides onsite and a list of activities in the community regarding which the child-care institution will make children aware, promote, and support access;

(vi) Identified accommodations and support services so that children with disabilities and special needs can participate in age or developmentally appropriate activities to the same extent as their peers;

(vii) The individualized needs of all children involved in the system;

(viii) Efforts to reduce disproportionate impact of the system and services on families and children of color and other populations; and

(ix) Efforts to develop a youth board to assist in implementing the reasonable and prudent parent standard in the child-care institution and promoting and supporting normalcy.

(c) The normalcy report shall specifically address:

(i) Compliance with each of the plan requirements set forth in subdivisions (b)(i) through (ix) of this subsection; and

(ii) Compliance with subsections (3) and (4) of this section.

(6) The department shall make normalcy plans and reports received from contracting child-care institutions pursuant to subsection (5) of this section and plans and reports from all youth rehabilitation and treatment centers pursuant to subsection (7) of this section available upon request to the Nebraska Strengthening Families Act Committee, the Nebraska Children's Commission, probation, the Governor, and electronically to the Health and Human Services Committee of the Legislature, by September 1 of each year.

(7) All youth rehabilitation and treatment centers shall meet the requirements of subsection (5) of this section.

Source: Laws 2016, LB746, § 6; Laws 2017, LB225, § 12.
Operative date April 28, 2017.

43-4707 Training for foster parents.

The department shall adopt and promulgate rules and regulations regarding training for foster parents so that foster parents will be prepared adequately with the appropriate knowledge and skills relating to the reasonable and prudent parent standard for the participation of the child in age or developmentally appropriate activities, including knowledge and skills relating to the developmental stages of the cognitive, emotional, physical, and behavioral capacities of the child and knowledge and skills related to applying the standard to decisions such as whether to allow the child to engage in extracurricular, enrichment, cultural, and social activities, including sports, field trips, and overnight activities lasting one or more days and to decisions involving the signing of permission slips and arranging of transportation for the child to and from extracurricular, enrichment, cultural, and social activities. The department shall also adopt and promulgate rules and regulations regarding training for foster parents on recognizing human trafficking, including both sex trafficking and labor trafficking.

Source: Laws 2016, LB746, § 7; Laws 2017, LB225, § 13.
Operative date April 28, 2017.

43-4709 Parental rights; consultation with parent; documentation; family team meeting.

(1) Nothing in the Nebraska Strengthening Families Act or the application of the reasonable and prudent parent standard shall affect the parental rights of a parent whose parental rights have not been terminated pursuant to section 43-292 with respect to his or her child.

(2) To the extent possible, a parent shall be consulted about the child's participation in age or developmentally appropriate activities in the planning process. The department shall document such consultation in the report filed pursuant to subsection (3) of section 43-285.

(3) The child's participation in extracurricular, enrichment, cultural, and social activities shall be considered at any family team meeting.

Source: Laws 2016, LB746, § 9; Laws 2017, LB225, § 14.
Operative date April 28, 2017.

43-4714 Rules and regulations.

The department shall adopt and promulgate rules and regulations to carry out the Nebraska Strengthening Families Act and shall revoke any rules or regulations inconsistent with the act by October 15, 2017.

Source: Laws 2016, LB746, § 14; Laws 2017, LB225, § 16.
Operative date April 28, 2017.

43-4715 Missing child; department and probation; duties.

The department and probation shall establish procedures for the immediate dissemination of a current picture and information about a child who is missing from a foster care or out-of-home placement to appropriate third parties, which may include law enforcement agencies or persons engaged in procuring, gathering, writing, editing, or disseminating news or other information to the public. Any information released to a third party under this section shall be subject to state and federal confidentiality laws and shall not include that the child is under the care, custody, or supervision of the department or

under the supervision of probation. Such dissemination by probation shall be authorized by an order of a judge or court.

Source: Laws 2017, LB225, § 15.
Operative date April 28, 2017.

CHAPTER 44

INSURANCE

Article.

- 3. General Provisions Relating to Insurance. 44-314, 44-371.
- 5. Standard Provisions and Forms. 44-516 to 44-523.
- 7. General Provisions Covering Life, Sickness, and Accident Insurance. 44-7,107.
- 9. Privacy of Insurance Consumer Information Act. 44-905.
- 30. Unclaimed Life Insurance Benefits Act. 44-3001 to 44-3006.
- 40. Insurance Producers Licensing Act. 44-4059.
- 52. Small Employer Health Insurance. 44-5224 to 44-5266.
- 55. Surplus Lines Insurance. 44-5502.
- 85. Portable Electronics Insurance Act. 44-8502, 44-8508.
- 87. Nebraska Exchange Transparency Act. Repealed.

ARTICLE 3

GENERAL PROVISIONS RELATING TO INSURANCE

Section

- 44-314. City or county offering individual or family health insurance to first responders; prohibited acts.
- 44-371. Annuity contract; insurance proceeds and benefits; exempt from claims of creditors; exceptions.

44-314 City or county offering individual or family health insurance to first responders; prohibited acts.

(1) No city or county offering an individual or family health insurance policy to first responders shall cancel such individual or family health insurance for any first responder who suffers serious bodily injury from an assault that occurs while the first responder is on duty and that results in the first responder falling below the minimum number of working hours needed to maintain his or her regular individual or family health insurance.

(2) The city or county shall only be obligated to provide such health insurance while the first responder is employed with the city or county.

(3) A city or county may cancel such health insurance if the first responder does not return to employment within twelve months after the date of injury.

(4) For purposes of this section, first responder means a sheriff, deputy sheriff, police officer, paid firefighter, or paid individual licensed under a licensure classification in subdivision (1) of section 38-1217 who provides medical care in order to prevent loss of life or aggravation of physiological or psychological illness or injury.

Source: Laws 2017, LB444, § 1.

Effective date August 24, 2017.

44-371 Annuity contract; insurance proceeds and benefits; exempt from claims of creditors; exceptions.

(1)(a) Except as provided in subdivision (1)(b) of this section and in section 68-919, all proceeds, cash values, and benefits accruing under any annuity

contract, under any policy or certificate of life insurance payable upon the death of the insured to a beneficiary other than the estate of the insured, or under any accident or health insurance policy shall be exempt from attachment, garnishment, or other legal or equitable process and from all claims of creditors of the insured and of the beneficiary if related to the insured by blood or marriage, unless a written assignment to the contrary has been obtained by the claimant.

(b) Subdivision (1)(a) of this section shall not apply to:

(i) An individual's aggregate interests greater than one hundred thousand dollars in all loan values or cash values of all matured or unmatured life insurance contracts and in all proceeds, cash values, or benefits accruing under all annuity contracts owned by such individual; and

(ii) An individual's interest in all loan values or cash values of all matured or unmatured life insurance contracts and in all proceeds, cash values, or benefits accruing under all annuity contracts owned by such individual, to the extent that the loan values or cash values of any matured or unmatured life insurance contract or the proceeds, cash values, or benefits accruing under any annuity contract were established or increased through contributions, premiums, or any other payments made within three years prior to bankruptcy or within three years prior to entry against the individual of a money judgment which thereafter becomes final.

(c) An insurance company shall not be liable or responsible to any person to determine or ascertain the existence or identity of any such creditors prior to payment of any such loan values, cash values, proceeds, or benefits.

(2) Notwithstanding subsection (1) of this section, proceeds, cash values, and benefits accruing under any annuity contract or under any policy or certificate of life insurance payable upon the death of the insured to a beneficiary other than the estate of the insured shall not be exempt from attachment, garnishment, or other legal or equitable process by a judgment creditor of the beneficiary if the judgment against the beneficiary was based on, arose from, or was related to an act, transaction, or course of conduct for which the beneficiary has been convicted by any court of a crime punishable only by life imprisonment or death. No insurance company shall be liable or responsible to any person to determine or ascertain the existence or identity of any such judgment creditor prior to payment of any such proceeds, cash values, or benefits. This subsection shall apply to any judgment rendered on or after January 1, 1995, irrespective of when the criminal conviction is or was rendered and irrespective of whether proceedings for attachment, garnishment, or other legal or equitable process were pending on March 14, 1997.

Source: Laws 1933, c. 73, § 1, p. 315; C.S.Supp.,1941, § 44-1130; R.S. 1943, § 44-371; Laws 1980, LB 940, § 4; Laws 1981, LB 327, § 1; Laws 1987, LB 335, § 1; Laws 1997, LB 47, § 1; Laws 2005, LB 465, § 3; Laws 2017, LB268, § 8.
Effective date August 24, 2017.

ARTICLE 5

STANDARD PROVISIONS AND FORMS

Section

44-516. Automobile liability policy; notice of cancellation; reason for cancellation.

44-522. Policies; cancellation requirements.

Section

44-523. Automobile liability insurance policy; cancellation; notice; exceptions.

44-516 Automobile liability policy; notice of cancellation; reason for cancellation.

(1) No notice of cancellation of a policy to which section 44-515 applies shall be effective unless mailed by registered mail, certified mail, or first-class mail using intelligent mail barcode or another similar tracking method used or approved by the United States Postal Service to the named insured at least thirty days prior to the effective date of cancellation, except that if cancellation is for nonpayment of premium, at least ten days' notice of cancellation accompanied by the reason therefor shall be given. The requirements of this subsection shall apply to a cancellation initiated by a premium finance company for nonpayment of premium.

(2) Unless the reason accompanies or is included in the notice of cancellation, the notice of cancellation shall state or be accompanied by a statement that upon written request of the named insured, mailed or delivered to the insurer not less than twenty-five days prior to the effective date of cancellation, the insurer will specify the reason for such cancellation. The insurer shall, upon such written request of the named insured, mailed or delivered to the insurer not less than twenty-five days prior to the effective date of cancellation, specify in writing the reason for such cancellation. Such reason shall be mailed or delivered to the named insured within five days after receipt of such request.

(3) For purposes of sections 44-514 to 44-521:

(a) An insurer's substitution of insurance upon renewal which results in substantially equivalent coverage shall not be considered a cancellation of a policy; and

(b) The transfer of a policyholder between insurers within the same insurance group shall be considered a cancellation only if the transfer results in policy coverage or rates substantially less favorable to the insured.

(4) Subsections (1) and (2) of this section shall not apply to nonrenewal.

Source: Laws 1972, LB 1396, § 3; Laws 1973, LB 390, § 2; Laws 1999, LB 326, § 2; Laws 2001, LB 360, § 2; Laws 2017, LB406, § 1.
Effective date August 24, 2017.

44-522 Policies; cancellation requirements.

(1) No insurer may file an insurance policy with the department, as required by the Property and Casualty Insurance Rate and Form Act, which insures against loss or damage to property or against legal liability from any cause unless such policy contains appropriate provisions for cancellation thereof by either the insurer or the insured and for nonrenewal thereof by the insurer.

(2) On any policy or binder of property, marine, or liability insurance, as specified in section 44-201, the insurer shall give the insured sixty days' written notice prior to cancellation or nonrenewal of such policy or binder, except that the insurer may cancel upon ten days' written notice to the insured in the event of nonpayment of premium or if such policy or binder has a specified term of sixty days or less unless the policy or binder has previously been renewed. The requirements of this subsection shall apply to a cancellation initiated by a premium finance company for nonpayment of premium. The provisions of this

subsection and subsection (4) of this section shall not apply to nonrenewal of a policy or binder which has a specified term of sixty days or less unless the policy or binder has previously been renewed. Such notice shall state the reason for cancellation or nonrenewal.

(3) Notwithstanding subsection (2) of this section, no policy of property, marine, or liability insurance, as specified in section 44-201, which has been in effect for more than sixty days shall be canceled by the insurer except for one of the following reasons:

- (a) Nonpayment of premium;
- (b) The policy was obtained through a material misrepresentation;
- (c) Any insured has submitted a fraudulent claim;
- (d) Any insured has violated any of the terms and conditions of the policy;
- (e) The risk originally accepted has substantially increased;
- (f) Certification to the Director of Insurance of loss of reinsurance by the insurer which provided coverage to the insurer for all or a substantial part of the underlying risk insured; or
- (g) The determination by the director that the continuation of the policy could place the insurer in violation of the insurance laws of this state.

(4) Notice of cancellation or nonrenewal shall be sent by registered mail, certified mail, first-class mail, or first-class mail using intelligent mail barcode or another similar tracking method used or approved by the United States Postal Service to the insured's last mailing address known to the insurer. If sent by first-class mail, a United States Postal Service certificate of mailing shall be sufficient proof of receipt of notice on the third calendar day after the date of the certificate.

(5) For purposes of this section:

(a) An insurer's substitution of insurance upon renewal which results in substantially equivalent coverage shall not be considered a cancellation of or a refusal to renew a policy; and

(b) The transfer of a policyholder between insurers within the same insurance group shall be considered a cancellation or a refusal to renew a policy only if the transfer results in policy coverage or rates substantially less favorable to the insured.

(6) The requirements of subsections (2), (3), and (4) of this section shall not apply to automobile insurance coverage, insurance coverage issued under the Nebraska Workers' Compensation Act, insurance coverage on growing crops, or insurance coverage which is for a specified season or event and which is not subject to renewal or replacement.

(7) All policy forms issued for delivery in Nebraska shall conform to this section.

Source: Laws 1913, c. 154, § 72, p. 424; R.S.1913, § 3208; Laws 1919, c. 190, tit. V, art. IV, § 42, p. 604; C.S.1922, § 7807; C.S.1929, § 44-342; R.S.1943, § 44-379; Laws 1955, c. 176, § 1, p. 505; Laws 1986, LB 1184, § 1; R.S.1943, (1988), § 44-379; Laws 1989, LB 92, § 126; Laws 1991, LB 233, § 45; Laws 1999, LB 326, § 3; Laws 2000, LB 1119, § 37; Laws 2001, LB 360, § 5; Laws 2007, LB117, § 7; Laws 2017, LB406, § 2.
Effective date August 24, 2017.

Cross References

Nebraska Workers' Compensation Act, see section 48-1,110.

Property and Casualty Insurance Rate and Form Act, see section 44-7501.

44-523 Automobile liability insurance policy; cancellation; notice; exceptions.

(1)(a) Except as provided in subdivision (1)(b) of this section, a notice of cancellation, given for reasons other than for nonpayment of premium, of a policy of automobile liability insurance issued or delivered in this state shall only be effective if mailed by registered mail, certified mail, or first-class mail using intelligent mail barcode or another similar tracking method used or approved by the United States Postal Service to the named insured at the address shown in the policy at least thirty days prior to the effective date of such cancellation.

(b) A notice of cancellation, initiated by a premium finance company, of a policy of automobile liability insurance issued or delivered in this state shall only be effective if mailed by registered mail, certified mail, or first-class mail using intelligent mail barcode or another similar tracking method used or approved by the United States Postal Service to the named insured at the address shown in the policy at least ten days prior to the effective date of such cancellation.

(2) For purposes of this section:

(a) An insurer's substitution of insurance upon renewal which results in substantially equivalent coverage shall not be considered a cancellation of a policy; and

(b) The transfer of a policyholder between insurers within the same insurance group shall be considered a cancellation of a policy only if the transfer results in policy coverage or rates substantially less favorable to the insured.

(3) This section shall not apply (a) to any policy subject to sections 44-514 to 44-521, (b) to any policy issued under an automobile assigned risk plan or to any policy of insurance issued principally to cover personal or premises liability of an insured even though such insurance may also provide some incidental coverage for liability arising out of the ownership, maintenance, or use of a motor vehicle on the premises of the insured or on the ways adjoining such premises, and (c) to any policy or coverage which has been in effect less than sixty days at the time notice of cancellation is mailed or delivered by the insurer unless it is a renewal policy.

(4) Any attempted cancellation in violation of the provisions of this section shall be void.

Source: Laws 1972, LB 481, § 1; Laws 1973, LB 390, § 1; R.S.1943, (1988), § 44-379.01; Laws 1989, LB 92, § 127; Laws 1999, LB 326, § 4; Laws 2001, LB 360, § 6; Laws 2017, LB406, § 3.
Effective date August 24, 2017.

ARTICLE 7

**GENERAL PROVISIONS COVERING LIFE, SICKNESS,
AND ACCIDENT INSURANCE**

Section
44-7,107. Telehealth; coverage.

44-7,107 Telehealth; coverage.

Any insurer offering (1) any individual or group sickness and accident insurance policy, certificate, or subscriber contract delivered, issued for delivery, or renewed in this state, (2) any hospital, medical, or surgical expense-incurred policy, or (3) any self-funded employee benefit plan to the extent not preempted by federal law, shall not exclude, in any policy, certificate, contract, or plan offered or renewed on or after August 24, 2017, a service from coverage solely because the service is delivered through telehealth as defined in section 44-312 and is not provided through in-person consultation or contact between a licensed health care provider and a patient. This section does not apply to any policy, certificate, contract, or plan that provides coverage for a specified disease or other limited-benefit coverage.

Source: Laws 2017, LB92, § 1.
Effective date August 24, 2017.

ARTICLE 9

PRIVACY OF INSURANCE CONSUMER INFORMATION ACT

Section

44-905. Annual privacy notice to consumers; when required.

44-905 Annual privacy notice to consumers; when required.

(1) A licensee shall provide a clear and conspicuous notice to customers that accurately reflects its privacy policies and practices not less than annually during the continuation of the customer relationship. For purposes of this subsection, annually means at least once in any period of twelve consecutive months during which that relationship exists. A licensee may define the twelve-consecutive-month period, but the licensee shall apply it to the customer on a consistent basis.

(2) A licensee is not required to provide an annual notice under subsection (1) of this section if the licensee:

(a) Provides nonpublic personal information to nonaffiliated third parties only in accordance with sections 44-913 to 44-915; and

(b) Has not changed its policies and practices with regard to disclosing nonpublic personal information from the policies and practices that were disclosed in the most recent disclosure sent to consumers in accordance with section 44-904 or subsection (1) of this section.

(3)(a) A licensee is not required to provide an annual notice to a former customer.

(b) For purposes of this subsection, a former customer is an individual with whom a licensee no longer has a continuing relationship. A former customer includes:

(i) An individual who is no longer a current policyholder of an insurance product or no longer obtains insurance services with or through the licensee;

(ii) An individual whose policy is lapsed, expired, or otherwise inactive or dormant under the licensee's business practices, and the licensee has not communicated with the customer about the relationship for a period of twelve consecutive months, other than to provide annual privacy notices, material required by law or regulation, or promotional materials;

(iii) An individual whose last-known address according to the licensee's records is deemed invalid. An address of record is deemed invalid if mail sent

to that address by the licensee has been returned by the postal authorities as undeliverable and if subsequent attempts by the licensee to obtain a current valid address for the individual have been unsuccessful; and

(iv) In the case of providing real estate settlement services, the customer has completed execution of all documents related to the real estate closing, payment for those services has been received, or the licensee has completed all of its responsibilities with respect to the settlement, including filing documents on the public record, whichever is later.

(4) When a licensee is required by this section to deliver an annual privacy notice, the licensee shall deliver it according to section 44-909.

Source: Laws 2001, LB 52, § 5; Laws 2017, LB241, § 1.
Effective date August 24, 2017.

ARTICLE 30

UNCLAIMED LIFE INSURANCE BENEFITS ACT

Section

- 44-3001. Act, how cited.
- 44-3002. Terms, defined.
- 44-3003. Comparison against death master file; match; insurer; duties; group life insurance; insurer duties.
- 44-3004. Benefits; accrued contractual interest; how treated.
- 44-3005. Director of Insurance; powers.
- 44-3006. Unfair trade practice.

44-3001 Act, how cited.

Sections 44-3001 to 44-3006 shall be known and may be cited as the Unclaimed Life Insurance Benefits Act.

Source: Laws 2017, LB137, § 1.
Operative date January 1, 2018.

44-3002 Terms, defined.

For purposes of the Unclaimed Life Insurance Benefits Act:

- (1) Beneficiary means the party entitled or contingently entitled to receive proceeds from a policy or retained asset account;
- (2) Death master file means the United States Social Security Administration's Death Master File or any other data base or service that is at least as comprehensive as the United States Social Security Administration's Death Master File for determining that a person has reportedly died;
- (3) Death master file match means a search of the death master file that results in a match of the social security number or the name and date of birth of an insured, annuity owner, or retained asset account holder;
- (4) Policy means any policy or certificate of life insurance that provides a death benefit or any annuity contract, except that such term does not include:
 - (a) Any policy or certificate of life insurance that provides a death benefit under an employee benefit plan that is (i) subject to the Employee Retirement Income Security Act of 1974 or (ii) part of a federal employee benefit program;
 - (b) Any policy or certificate of life insurance that is used to fund a pre-need funeral contract or prearrangement;
 - (c) Any policy or certificate of credit life or accidental death insurance;

(d) Any policy issued to a group master policyholder for which the insurer does not provide record-keeping services; or

(e) An annuity used to fund an employment-based retirement plan or program if (i) the insurer does not perform the record-keeping services or (ii) the insurer is not committed by terms of the annuity contract to pay death benefits to the beneficiaries of specific plan participants;

(5) Record-keeping services means services provided by an insurer for a group policy customer pursuant to an agreement under which the insurer is responsible for obtaining, maintaining, and administering, in its own or its agent's systems, at least the following information about each individual insured under the group policy or a line of coverage thereunder:

(a) Social security number or name and date of birth;

(b) Beneficiary designation information;

(c) Coverage eligibility;

(d) Benefit amount; and

(e) Premium payment status; and

(6) Retained asset account means any mechanism whereby the settlement of proceeds payable under a policy is accomplished by the insurer or an entity acting on behalf of the insurer depositing the proceeds into an account with check or draft writing privileges, where those proceeds are retained by the insurer or its agent, pursuant to a supplementary contract not involving annuity benefits other than death benefits.

Source: Laws 2017, LB137, § 2.

Operative date January 1, 2018.

44-3003 Comparison against death master file; match; insurer; duties; group life insurance; insurer duties.

(1) An insurer shall perform a comparison of its insureds' in-force policies and retained asset accounts against a death master file to identify potential matches of its insureds. The comparison shall be done on at least a semiannual basis by using the full death master file for the initial comparison and thereafter using the death master file update files for subsequent comparisons. For any potential match identified as a death master file match, the insurer shall, within ninety days after the death master file match:

(a) Complete a good faith effort, which shall be documented by the insurer, to confirm the death of the insured or retained asset account holder using other available records and information; and

(b) Determine whether benefits are due in accordance with the applicable policy or retained asset account. If benefits are due under the policy or retained asset account, the insurer shall:

(i) Complete a good faith effort, which shall be documented by the insurer, to locate the beneficiary; and

(ii) Provide the appropriate claim forms or instructions to the beneficiary to make a claim, including the need to provide an official death certificate if applicable under the policy.

(2) With respect to group life insurance, an insurer is required to confirm the possible death of an insured under subdivision (1)(a) of this section if the

insurer maintains at least the following information on those covered under the policy:

- (a) Social security number or name and date of birth;
 - (b) Beneficiary designation information;
 - (c) Coverage eligibility;
 - (d) Benefit amount; and
 - (e) Premium payment status.
- (3) Every insurer shall implement procedures to account for:
- (a) Common nicknames, initials used in lieu of a first or middle name, use of a middle name, compound first and middle names, and interchanged first and middle names;
 - (b) Compound last names, maiden or married names, and hyphens, blank spaces, or apostrophes in last names;
 - (c) Transposition of the month and date portions of a date of birth; and
 - (d) Incomplete social security numbers.
- (4) Nothing in this section shall be construed to limit the ability of an insurer to request a valid death certificate as part of any claims validation process.
- (5) To the extent permitted by law, an insurer may disclose minimum necessary personal information about an insured, a beneficiary, or the owner of a policy or retained asset account to a person who the insurer reasonably believes may be able to assist the insurer in locating the beneficiary or a person otherwise entitled to payment of the claim proceeds.
- (6) An insurer or its service provider shall not charge any beneficiary or other authorized representative any fees or costs associated with a death master file search or verification of a death master file match conducted pursuant to this section.

Source: Laws 2017, LB137, § 3.

Operative date January 1, 2018.

44-3004 Benefits; accrued contractual interest; how treated.

- (1) If an insurer determines under section 44-3003 that benefits are due to a beneficiary, the benefits from the applicable policy or retained asset account, plus any applicable accrued contractual interest, shall be payable to the designated beneficiary. If such beneficiary cannot be found, the insurer shall comply with section 69-1303 with respect to such benefits and accrued contractual interest. Interest otherwise payable under section 44-3,143 shall not be considered unclaimed funds under section 69-1303.
- (2) Once the benefits and accrued contractual interest are presumed abandoned under section 69-1303, the insurer shall notify the State Treasurer, as part of the report sent under section 69-1310, that:
- (a) A beneficiary has not submitted a claim with the insurer; and
 - (b) The insurer has complied with section 44-3003 and has been unable, after good faith efforts documented by the insurer, to contact the beneficiary.

Source: Laws 2017, LB137, § 4.

Operative date January 1, 2018.

44-3005 Director of Insurance; powers.

The Director of Insurance may, at his or her discretion, make an order:

(1) Limiting an insurer's death master file comparisons required under section 44-3003 to the insurer's electronic searchable files or approving a plan and timeline for conversion of the insurer's files to electronic files;

(2) Exempting an insurer from death master file comparisons required under section 44-3003 or permitting an insurer to perform such comparisons on only certain policies or retained asset accounts or to perform such comparisons less frequently than semiannually upon a demonstration of hardship by the insurer; or

(3) Phasing in compliance with the Unclaimed Life Insurance Benefits Act according to a plan adopted and published by the director.

Source: Laws 2017, LB137, § 5.

Operative date January 1, 2018.

44-3006 Unfair trade practice.

Failure to meet any requirement of the Unclaimed Life Insurance Benefits Act shall be an unfair trade practice in the business of insurance subject to the Unfair Insurance Trade Practices Act.

Source: Laws 2017, LB137, § 6.

Operative date January 1, 2018.

Cross References

Unfair Insurance Trade Practices Act, see section 44-1521.

ARTICLE 40

INSURANCE PRODUCERS LICENSING ACT

Section

44-4059. Disciplinary actions; administrative fine; procedure.

44-4059 Disciplinary actions; administrative fine; procedure.

(1) The director may suspend, revoke, or refuse to issue or renew an insurance producer's license or may levy an administrative fine in accordance with subsection (4) of this section, or any combination of actions, for any one or more of the following causes:

(a) Providing incorrect, misleading, incomplete, or materially untrue information in the license application;

(b) Violating any insurance law or violating any rule, regulation, subpoena, or order of the director or of another state's insurance commissioner or director;

(c) Obtaining or attempting to obtain a license through misrepresentation or fraud;

(d) Improperly withholding, misappropriating, or converting any money or property received in the course of doing insurance business;

(e) Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance;

(f) Having been convicted of a felony or a Class I, II, or III misdemeanor;

(g) Having admitted or been found to have committed any insurance unfair trade practice, any unfair claims settlement practice, or fraud;

(h) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere;

(i) Having an insurance producer license, or its equivalent, denied, suspended, placed on probation, or revoked in Nebraska or in any other state, province, district, or territory;

(j) Forging another's name to an application for insurance or to any document related to an insurance transaction;

(k) Improperly using notes or any other reference material to complete an examination for an insurance license;

(l) Knowingly accepting insurance business from an individual who is not licensed;

(m) Failing to comply with an administrative or court order imposing a child support obligation pursuant to the License Suspension Act;

(n) Failing to pay state income tax or comply with any administrative or court order directing payment of state income tax; and

(o) Failing to maintain in good standing a resident license in the insurance producer's home state.

(2) If the director does not renew or denies an application for a license, the director shall notify the applicant or licensee and advise, in writing, the applicant or licensee of the reason for the denial or nonrenewal of the applicant's or licensee's license. The applicant or licensee may make written demand upon the director within thirty days for a hearing before the director to determine the reasonableness of the director's action. The hearing shall be held within thirty days and shall be held pursuant to the Administrative Procedure Act.

(3) The license of a business entity may be suspended, revoked, or refused if the director finds, after notice and hearing, that an individual licensee's violation was known or should have been known by one or more of the partners, officers, or managers acting on behalf of the business entity and the violation was neither reported to the director nor corrective action taken.

(4) In addition to or in lieu of any applicable denial, suspension, or revocation of a license, any person violating the Insurance Producers Licensing Act may, after notice and hearing, be subject to an administrative fine of not more than one thousand dollars per violation. Such fine may be enforced in the same manner as civil judgments. Any person charged with a violation of the act may waive his or her right to a hearing and consent to such discipline as the director determines is appropriate. The Administrative Procedure Act shall govern all hearings held pursuant to such act.

(5) The director shall retain the authority to enforce the provisions of and impose any penalty or remedy authorized by the Insurance Producers Licensing Act against any person who is under investigation for or charged with a violation of the act even if the person's license or registration has been surrendered or has lapsed by operation of law. No disciplinary proceeding shall be instituted against any licensed person after the expiration of three years from the termination of such license.

Source: Laws 2001, LB 51, § 13; Laws 2017, LB231, § 1.
Effective date August 24, 2017.

Administrative Procedure Act, see section 84-920.

License Suspension Act, see section 43-3301.

ARTICLE 52

SMALL EMPLOYER HEALTH INSURANCE

Section

- 44-5224. Purposes of act.
- 44-5230. Basic health benefit plan, defined.
- 44-5231. Repealed. Laws 2017, LB644, § 21.
- 44-5246. Repealed. Laws 2017, LB644, § 21.
- 44-5248. Repealed. Laws 2017, LB644, § 21.
- 44-5251. Repealed. Laws 2017, LB644, § 21.
- 44-5255. Standard health benefit plan, defined.
- 44-5258. Premium rates; requirements; limitation on transfers; director; powers; disclosures required; small employer carrier; duties.
- 44-5261. Repealed. Laws 2017, LB644, § 21.
- 44-5263. Repealed. Laws 2017, LB644, § 21.
- 44-5266. Small employer carrier; market health benefit plan coverage; carrier, agent, or broker; prohibited activities; compensation to agent or broker; denial of application; rules and regulations; unfair trade practice; when; third-party administrator.

44-5224 Purposes of act.

The purposes of the Small Employer Health Insurance Availability Act are to promote the availability of health insurance coverage to small employers regardless of their health status or claims experience, to prevent abusive rating practices, to require disclosure of rating practices to purchasers, to establish rules regarding renewability of coverage, to establish limitations on the use of preexisting condition exclusions, to provide for development of basic and standard health benefit plans to be offered to all small employers, and to improve the overall fairness and efficiency of the small group health insurance market. The act is not intended to provide a comprehensive solution to the problem of affordability of health care or health insurance.

Source: Laws 1994, LB 1222, § 2; Laws 2017, LB644, § 6.
Effective date August 24, 2017.

44-5230 Basic health benefit plan, defined.

Basic health benefit plan shall mean a lower cost health benefit plan regulated by the Department of Insurance.

Source: Laws 1994, LB 1222, § 8; Laws 2009, LB154, § 9; Laws 2017, LB644, § 7.
Effective date August 24, 2017.

44-5231 Repealed. Laws 2017, LB644, § 21.

44-5246 Repealed. Laws 2017, LB644, § 21.

44-5248 Repealed. Laws 2017, LB644, § 21.

44-5251 Repealed. Laws 2017, LB644, § 21.

44-5255 Standard health benefit plan, defined.

Standard health benefit plan shall mean a health benefit plan regulated by the Department of Insurance.

Source: Laws 1994, LB 1222, § 33; Laws 2009, LB154, § 10; Laws 2017, LB644, § 8.

Effective date August 24, 2017.

44-5258 Premium rates; requirements; limitation on transfers; director; powers; disclosures required; small employer carrier; duties.

(1) Premium rates for health benefit plans subject to the Small Employer Health Insurance Availability Act shall be subject to the following provisions:

(a) The index rate for a rating period for any class of business shall not exceed the index rate for any other class of business by more than twenty percent;

(b) For a class of business, the premium rates charged during a rating period to small employers with similar case characteristics for the same or similar coverage or the rates that could be charged to such employers under the rating system for that class of business shall not vary from the index rate by more than twenty-five percent of the index rate;

(c) The percentage increase in the premium rate charged to a small employer for a new rating period may not exceed the sum of the following:

(i) The percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. In the case of a health benefit plan into which the small employer carrier is no longer enrolling new small employers, the small employer carrier shall use the percentage change in the base premium rate if such change does not exceed, on a percentage basis, the change in the new business premium rate for the most similar health benefit plan into which the small employer carrier is actively enrolling new small employers;

(ii) Any adjustment, not to exceed fifteen percent annually and adjusted pro rata for rating periods of less than one year, due to the claim experience, health status, or duration of coverage of the employees or dependents of the small employer as determined from the small employer carrier's rate manual for the class of business; and

(iii) Any adjustment due to change in coverage or change in the case characteristics of the small employer as determined from the small employer carrier's rate manual for the class of business;

(d) Adjustments in rates for claim experience, health status, and duration of coverage shall not be charged to individual employees or dependents. Any such adjustment shall be applied uniformly to the rates charged for all employees and dependents of the small employer;

(e) Premium rates for health benefit plans shall comply with the requirements of this section;

(f) A small employer carrier may utilize industry as a case characteristic in establishing premium rates, provided that the highest rate factor associated with any industry classification shall not exceed the lowest rate factor associated with any industry classification by more than fifteen percent;

(g) In the case of health benefit plans delivered or issued for delivery prior to January 1, 1995, a premium rate for a rating period may exceed the ranges set

forth in subdivisions (a) and (b) of this subsection for a period of three years following January 1, 1995. In such case, the percentage increase in the premium rate charged to a small employer for a new rating period shall not exceed the sum of the following:

(i) The percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. In the case of a health benefit plan into which the small employer carrier is no longer enrolling new small employers, the small employer carrier shall use the percentage change in the base premium rate if such change does not exceed, on a percentage basis, the change in the new business premium rate for the most similar health benefit plan into which the small employer carrier is actively enrolling new small employers; and

(ii) Any adjustment due to change in coverage or change in the case characteristics of the small employer as determined from the carrier's rate manual for the class of business;

(h)(i) Small employer carriers shall apply rating factors, including case characteristics, consistently with respect to all small employers in a class of business. Rating factors shall produce premiums for identical groups which differ only by the amounts attributable to plan design and do not reflect differences due to the nature of the groups assumed to select particular health benefit plans.

(ii) A small employer carrier shall treat all health benefit plans issued or renewed in the same calendar month as having the same rating period;

(i) For the purposes of this subsection, a health benefit plan that contains a restricted network provision shall not be considered similar coverage to a health benefit plan that does not contain such a provision if the restriction of benefits to network providers results in substantial differences in claim costs;

(j) The small employer carrier shall not use case characteristics, other than age, gender, industry, geographic area, family composition, and group size without the prior approval of the director; and

(k) The director may establish regulations to implement the provisions of this section and to assure that rating practices used by small employer carriers are consistent with the purposes of the act, including regulations that:

(i) Assure that differences in rates charged for health benefit plans by small employer carriers are reasonable and reflect objective differences in plan design, not including differences due to the nature of the groups assumed to select particular health benefit plans; and

(ii) Prescribe the manner in which case characteristics may be used by small employer carriers.

(2) A small employer carrier shall not transfer a small employer involuntarily into or out of a class of business. A small employer carrier shall not offer to transfer a small employer into or out of a class of business unless such offer is made to transfer all small employers in the class of business without regard to case characteristics, claim experience, health status, or duration of coverage since issue.

(3) The director may suspend for a specified period the application of subdivision (1)(a) of this section as to the premium rates applicable to one or more small employers included within a class of business of a small employer carrier for one or more rating periods upon a filing by the small employer

carrier and a finding by the director either that the suspension is reasonable in light of the financial condition of the small employer carrier or that the suspension would enhance the efficiency and fairness of the marketplace for small employer health insurance.

(4) In connection with the offering for sale of any health benefit plan to a small employer, a small employer carrier shall make a reasonable disclosure, as part of its solicitation and sales materials, of all of the following:

(a) The extent to which premium rates for a specified small employer are established or adjusted based upon the actual or expected variation in claims costs or actual or expected variation in health status of the employees of the small employer and their dependents;

(b) The provisions of the health benefit plan concerning the small employer carrier's right to change premium rates and the factors, other than claim experience, that affect changes in premium rates;

(c) The provisions relating to the renewability of policies and contracts; and

(d) The provisions relating to any preexisting condition provision.

(5)(a) Each small employer carrier shall maintain at its principal place of business a complete and detailed description of its rating practices and renewal underwriting practices, including information and documentation that demonstrate that its rating methods and practices are based upon commonly accepted actuarial assumptions and are in accordance with sound actuarial principles.

(b) Each small employer carrier shall file with the director annually on or before March 15, an actuarial certification certifying that the carrier is in compliance with the act and that the rating methods of the small employer carrier are actuarially sound. Such certification shall be in a form and manner, and shall contain such information, as specified by the director. A copy of the certification shall be retained by the small employer carrier at its principal place of business.

(c) A small employer carrier shall make the information and documentation described in subdivision (a) of this subsection available to the director upon request. Except in cases of violations of the act, the information shall be considered proprietary and trade secret information and shall not be subject to disclosure by the director to persons outside of the Department of Insurance except as agreed to by the small employer carrier or as ordered by a court of competent jurisdiction.

Source: Laws 1994, LB 1222, § 36; Laws 2017, LB644, § 9.
Effective date August 24, 2017.

44-5261 Repealed. Laws 2017, LB644, § 21.

44-5263 Repealed. Laws 2017, LB644, § 21.

44-5266 Small employer carrier; market health benefit plan coverage; carrier, agent, or broker; prohibited activities; compensation to agent or broker; denial of application; rules and regulations; unfair trade practice; when; third-party administrator.

(1) Each small employer carrier shall actively market health benefit plan coverage, including the basic health benefit plans and standard health benefit plans, to eligible small employers in the state. If a small employer carrier denies coverage to a small employer on the basis of the health status or claims

experience of the small employer or its employees or dependents, the small employer carrier shall offer the small employer the opportunity to purchase a basic health benefit plan and a standard health benefit plan.

(2)(a) Except as provided in subdivision (b) of this subsection, no small employer carrier, agent, or broker shall, directly or indirectly, engage in the following activities:

(i) Encouraging or directing small employers to refrain from filing an application for coverage with the small employer carrier because of the health status, claims experience, industry, occupation, or geographic location of the small employer; or

(ii) Encouraging or directing small employers to seek coverage from another carrier because of the health status, claims experience, industry, occupation, or geographic location of the small employer.

(b) The provisions of subdivision (a) of this subsection shall not apply with respect to information provided by a small employer carrier, an agent, or a broker to a small employer regarding the established geographic service area or a restricted network provision of a small employer carrier.

(3)(a) Except as provided in subdivision (b) of this subsection, no small employer carrier shall, directly or indirectly, enter into any contract, agreement, or arrangement with an agent or broker that provides for or results in the compensation paid to an agent or broker for the sale of a health benefit plan to be varied because of the health status, claims experience, industry, occupation, or geographic location of the small employer.

(b) The provisions of subdivision (a) of this subsection shall not apply with respect to a compensation arrangement that provides compensation to an agent or broker on the basis of percentage of premium except that the percentage shall not vary because of the health status, claims experience, industry, occupation, or geographic area of the small employer.

(4) A small employer carrier shall provide reasonable compensation to an agent or broker, if any, for the sale of a basic health benefit plan or a standard health benefit plan.

(5) No small employer carrier, agent, or broker may induce or otherwise encourage a small employer to separate or otherwise exclude an employee from health coverage or benefits provided in connection with the employee's employment.

(6) Denial by a small employer carrier of an application for coverage from a small employer shall be in writing and shall state the reason or reasons for the denial.

(7) The director may establish rules and regulations setting forth additional standards to provide for the fair marketing and broad availability of health benefit plans to small employers in this state.

(8)(a) A violation of this section by a small employer carrier, an agent, or a broker shall be an unfair trade practice in the business of insurance under the Unfair Insurance Trade Practices Act.

(b) If a small employer carrier enters into a contract, agreement, or other arrangement with a third-party administrator to provide administrative, marketing, or other services related to the offering of health benefit plans to small

employers in this state, the third-party administrator shall be subject to this section as if it were a small employer carrier.

Source: Laws 1994, LB 1222, § 44; Laws 2017, LB644, § 10.
Effective date August 24, 2017.

Cross References

Unfair Insurance Trade Practices Act, see section 44-1521.

ARTICLE 55

SURPLUS LINES INSURANCE

Section

44-5502. Terms, defined.

44-5502 Terms, defined.

For purposes of the Surplus Lines Insurance Act:

(1) **Affiliated group** means a group of entities in which each entity, with respect to an insured, controls, is controlled by, or is under common control with the insured;

(2) **Control** means:

(a) To own, control, or have the power of an entity directly, indirectly, or acting through one or more other persons to vote twenty-five percent or more of any class of voting securities of another entity; or

(b) To direct, by an entity, in any manner, the election of a majority of the directors or trustees of another entity;

(3) **Department** means the Department of Insurance;

(4) **Director** means the Director of Insurance;

(5)(a) **Exempt commercial purchaser** means any person purchasing commercial insurance that, at the time of placement, meets the following requirements:

(i) The person employs or retains a qualified risk manager to negotiate insurance coverage;

(ii) The person has paid aggregate nationwide commercial property and casualty insurance premiums in excess of one hundred thousand dollars in the immediately preceding twelve months; and

(iii) The person meets at least one of the following criteria:

(A) The person possesses a net worth in excess of twenty million dollars, as such amount is adjusted pursuant to subdivision (5)(b) of this section;

(B) The person generates annual revenue in excess of fifty million dollars, as such amount is adjusted pursuant to subdivision (5)(b) of this section;

(C) The person employs more than five hundred full-time or full-time equivalent employees per individual insured or is a member of an affiliated group employing more than one thousand employees in the aggregate;

(D) The person is a not-for-profit organization or public entity generating annual budgeted expenditures of at least thirty million dollars, as such amount is adjusted pursuant to subdivision (5)(b) of this section; or

(E) The person is a municipality with a population in excess of fifty thousand inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census.

(b) Beginning on the fifth occurrence of January 1 after July 21, 2011, and each fifth occurrence of January 1 thereafter, the amounts in subdivisions (5)(a)(iii)(A), (B), and (D) of this section shall be adjusted to reflect the percentage change for such five-year period in the Consumer Price Index for All Urban Consumers published by the Federal Bureau of Labor Statistics;

(6) Foreign, alien, admitted, and nonadmitted, when referring to insurers, have the same meanings as in section 44-103 but do not include a risk retention group as defined in 15 U.S.C. 3901(a)(4);

(7)(a) Except as provided in subdivision (7)(b) of this section, home state means, with respect to an insured, (i) the state in which an insured maintains its principal place of business or, in the case of an individual, the individual's principal residence or (ii) if one hundred percent of the insured risk is located out of the state referred to in subdivision (7)(a)(i) of this section, the state to which the greatest percentage of the insured's taxable premium for that insurance contract is allocated.

(b) If more than one insured from an affiliated group are named insureds on a single nonadmitted insurance contract, home state means the home state, as determined pursuant to subdivision (7)(a) of this section, of the member of the affiliated group that has the largest percentage of premium attributed to it under such insurance contract.

(c) When determining the home state of the insured, the principal place of business is the state in which the insured maintains its headquarters and where the insured's high-level officers direct, control, and coordinate the business activities of the insured;

(8) Insurer has the same meaning as in section 44-103;

(9) Nonadmitted insurance means any property and casualty insurance permitted to be placed directly or through surplus lines licensees with a nonadmitted insurer eligible to accept such insurance; and

(10) Qualified risk manager means, with respect to a policyholder of commercial insurance, a person who meets the definition in section 527 of the Nonadmitted and Reinsurance Reform Act of 2010, which is Subtitle B of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111-203, as such section existed on January 1, 2011.

Source: Laws 1992, LB 1006, § 2; Laws 2007, LB117, § 22; Laws 2011, LB70, § 1; Laws 2017, LB113, § 44.
Effective date August 24, 2017.

ARTICLE 85

PORTABLE ELECTRONICS INSURANCE ACT

Section

44-8502. Terms, defined.

44-8508. Insurer; rights; duties; notice; policy; termination; vendor; duties.

44-8502 Terms, defined.

For purposes of the Portable Electronics Insurance Act:

(1) Customer means a person who purchases portable electronics;

(2) Covered customer means a customer who elects coverage pursuant to a portable electronics insurance policy issued to a vendor of portable electronics;

(3) Director means the Director of Insurance;

(4) Location means any physical location in this state or any web site, call center, or other site or similar location to which Nebraska customers may be directed;

(5) Portable electronics means any nonstationary electronic equipment and its accessories capable of communications or data processing or utility including, but not limited to, a laptop, a tablet, a wearable computer, a personal communications device such as a cellular or mobile telephone, a hand-held smart phone, a media player, an e-reader, a personal digital assistant, devices used for data collection, global positioning, or monitoring, and other devices that may or may not incorporate wireless transmitters and receivers. Portable electronics does not include telecommunications switching equipment, transmission wires, cellular site transceiver equipment, or other equipment or system used by a telecommunications company to provide telecommunications service to consumers;

(6)(a) Portable electronics insurance means insurance that provides coverage for the repair or replacement of portable electronics and may provide coverage for portable electronics that are lost, stolen, damaged, or inoperable due to mechanical failure or malfunction or suffer other similar causes of loss; and

(b) Portable electronics insurance does not include:

(i) A service contract under the Motor Vehicle Service Contract Reimbursement Insurance Act;

(ii) A service contract or extended warranty providing coverage as described in subdivision (2) of section 44-102.01;

(iii) A policy of insurance providing coverage for a seller's or manufacturer's obligations under a warranty; or

(iv) A homeowner's, renter's, private passenger automobile, commercial multiperil, or other similar policy;

(7) Portable electronics transaction means the sale or lease of portable electronics by a vendor to a customer or the sale of a service related to the use of portable electronics by a vendor to a customer;

(8) Supervising entity means a business entity that is a licensed insurance producer or insurer; and

(9) Vendor means a person in the business of engaging in portable electronics transactions directly or indirectly.

Source: Laws 2011, LB535, § 2; Laws 2017, LB306, § 1.
Effective date August 24, 2017.

Cross References

Motor Vehicle Service Contract Reimbursement Insurance Act, see section 44-3520.

44-8508 Insurer; rights; duties; notice; policy; termination; vendor; duties.

Notwithstanding any other provision of law:

(1) An insurer may terminate or otherwise change the terms and conditions of a policy of portable electronics insurance only upon providing the vendor and enrolled customers with at least thirty days' notice, except that:

(a) An insurer may terminate an enrolled customer's insurance policy upon fifteen days' notice for:

(i) Discovery of fraud or material misrepresentation in obtaining coverage or in the presentation of a claim under such policy; or

(ii) Nonpayment of premium; or

(b) An insurer may immediately terminate an enrolled customer’s insurance policy:

(i) If the enrolled customer ceases to have active service with the vendor of portable electronics; or

(ii) If an enrolled customer exhausts the aggregate limit of liability, if any, under the portable electronics insurance policy and the insurer sends notice of termination to the customer within thirty days after exhaustion of the limit. If such notice is not sent within the thirty-day period, the customer shall continue to be enrolled in such insurance policy notwithstanding the aggregate limit of liability until the insurer sends notice of termination to the customer;

(2) If the insurer changes the terms and conditions, the insurer shall provide the vendor with a revised policy or endorsement and each enrolled customer with a revised certificate, endorsement, updated brochure, or other evidence indicating a change in the terms and conditions has occurred and a summary of the material changes;

(3) If a portable electronics insurance policy is terminated by a vendor, the vendor shall mail or deliver written notice to each enrolled customer at least thirty days prior to the termination advising the customer of such termination and of the effective date of termination; and

(4) If notice is required under this section, it shall be:

(a) In writing and may be mailed or delivered to a vendor at the vendor’s mailing address and to an enrolled customer at such customer’s last-known mailing address on file with the insurer. The insurer or vendor, as applicable, shall maintain proof of mailing in a form authorized or accepted by the United States Postal Service or a commercial mail delivery service; or

(b) In electronic form. Disclosure of notice in electronic form to the enrolled customer shall be provided within thirty days after the purchase of the portable electronics. If notice is delivered in electronic form, the insurer or vendor, as applicable, shall maintain proof that the notice was sent.

Source: Laws 2011, LB535, § 8; Laws 2017, LB306, § 2.
Effective date August 24, 2017.

ARTICLE 87

NEBRASKA EXCHANGE TRANSPARENCY ACT

Section

- 44-8701. Repealed. Laws 2017, LB644, § 21.
- 44-8702. Repealed. Laws 2017, LB644, § 21.
- 44-8703. Repealed. Laws 2017, LB644, § 21.
- 44-8704. Repealed. Laws 2017, LB644, § 21.
- 44-8705. Repealed. Laws 2017, LB644, § 21.
- 44-8706. Repealed. Laws 2017, LB644, § 21.

44-8701 Repealed. Laws 2017, LB644, § 21.

44-8702 Repealed. Laws 2017, LB644, § 21.

44-8703 Repealed. Laws 2017, LB644, § 21.

44-8704 Repealed. Laws 2017, LB644, § 21.

44-8705 Repealed. Laws 2017, LB644, § 21.

44-8706 Repealed. Laws 2017, LB644, § 21.

CHAPTER 45

INTEREST, LOANS, AND DEBT

Article.

1. Interest Rates and Loans.
 - (f) Loan Brokers. 45-190 to 45-191.04.
3. Installment Sales. 45-335, 45-346.
9. Delayed Deposit Services Licensing Act. 45-902, 45-919.
10. Nebraska Installment Loan Act. 45-1002, 45-1009.
11. Guaranteed Asset Protection Waiver Act. 45-1103.

ARTICLE 1

INTEREST RATES AND LOANS

(f) LOAN BROKERS

Section

- 45-190. Terms, defined.
- 45-191.01. Loan brokerage agreement; written disclosure statement; requirements.
- 45-191.04. Loan brokerage agreement; requirements; right to cancel.

(f) LOAN BROKERS

45-190 Terms, defined.

For purposes of sections 45-189 to 45-191.11, unless the context otherwise requires:

- (1) Advance fee means any fee, deposit, or consideration which is assessed or collected, prior to the closing of a loan, by a loan broker and includes, but is not limited to, any money assessed or collected for processing, appraisals, credit checks, consultations, or expenses;
- (2) Borrower means a person obtaining or desiring to obtain a loan of money;
- (3) Department means the Department of Banking and Finance;
- (4) Director means the Director of Banking and Finance;
- (5)(a) Loan broker means any person who:
 - (i) For or in expectation of consideration from a borrower, procures, attempts to procure, arranges, or attempts to arrange a loan of money for a borrower;
 - (ii) For or in expectation of consideration from a borrower, assists a borrower in making an application to obtain a loan of money;
 - (iii) Is employed as an agent for the purpose of soliciting borrowers as clients of the employer; or
 - (iv) Holds himself or herself out, through advertising, signs, or other means, as a loan broker; and
- (b) Loan broker does not include: (i) A bank, bank holding company, trust company, savings and loan association or subsidiary of a savings and loan association, building and loan association, or credit union which is subject to regulation or supervision under the laws of the United States or any state; (ii) a mortgage banker or an installment loan company licensed or registered under

the laws of the State of Nebraska; (iii) a credit card company; (iv) an insurance company authorized to conduct business under the laws of the State of Nebraska; or (v) a lender approved by the Federal Housing Administration or the United States Department of Veterans Affairs, if the loan is secured or covered by guarantees, commitments, or agreements to purchase or take over the same by the Federal Housing Administration or the United States Department of Veterans Affairs;

(6) Loan brokerage agreement means any agreement for services between a loan broker and a borrower; and

(7) Person means natural persons, corporations, trusts, unincorporated associations, joint ventures, partnerships, and limited liability companies.

Source: Laws 1981, LB 154, § 2; Laws 1982, LB 751, § 1; Laws 1985, LB 86, § 1; Laws 1989, LB 272, § 3; Laws 1993, LB 121, § 271; Laws 1993, LB 270, § 1; Laws 1995, LB 599, § 11; Laws 2001, LB 53, § 87; Laws 2003, LB 131, § 26; Laws 2009, LB327, § 16; Laws 2011, LB75, § 3; Laws 2013, LB279, § 1; Laws 2017, LB184, § 1.

Effective date August 24, 2017.

45-191.01 Loan brokerage agreement; written disclosure statement; requirements.

(1) Prior to a borrower signing a loan brokerage agreement, the loan broker shall give the borrower a written disclosure statement. The cover sheet of the disclosure statement shall have printed, in at least ten-point boldface capital letters, the title DISCLOSURES REQUIRED BY NEBRASKA LAW. The following statement, printed in at least ten-point type, shall appear under the title:

THE STATE OF NEBRASKA HAS NOT REVIEWED AND DOES NOT APPROVE, RECOMMEND, ENDORSE, OR SPONSOR ANY LOAN BROKERAGE AGREEMENT. THE INFORMATION CONTAINED IN THIS DISCLOSURE DOCUMENT HAS NOT BEEN VERIFIED BY THE STATE. IF YOU HAVE QUESTIONS, SEEK LEGAL ADVICE BEFORE YOU SIGN A LOAN BROKERAGE AGREEMENT.

Only the title and the statement shall appear on the cover sheet.

(2) The body of the disclosure statement shall contain the following information:

(a) The name, street address, and telephone number of the loan broker, the names under which the loan broker does, has done, or intends to do business, the name and street address of any parent or affiliated company, and the electronic mail and Internet address of the loan broker, if any;

(b) A statement as to whether the loan broker does business as an individual, a partnership, a corporation, or another organizational form, including identification of the state of incorporation or formation;

(c) How long the loan broker has done business;

(d) The number of loan brokerage agreements the loan broker has entered into in the previous twelve months;

(e) The number of loans the loan broker has obtained for borrowers in the previous twelve months;

(f) A description of the services the loan broker agrees to perform for the borrower;

(g) The conditions under which the borrower is obligated to pay the loan broker. This disclosure shall be in boldface type;

(h) The names, titles, and principal occupations for the past five years of all officers, directors, or persons occupying similar positions responsible for the loan broker's business activities;

(i) A statement whether the loan broker or any person identified in subdivision (h) of this subsection:

(i) Has been convicted of a felony or misdemeanor or pleaded nolo contendere to a felony or misdemeanor charge if such felony or misdemeanor involved fraud, embezzlement, fraudulent conversion, or misappropriation of property;

(ii) Has been held liable in a civil action by final judgment or consented to the entry of a stipulated judgment if the civil action alleged fraud, embezzlement, fraudulent conversion, or misappropriation of property or the use of untrue or misleading representations in an attempt to sell or dispose of real or personal property or the use of unfair, unlawful, or deceptive business practices; or

(iii) Is subject to any currently effective injunction or restrictive order relating to business activity as the result of an action brought by a public agency or department including, but not limited to, action affecting any vocational license; and

(j) Any other information the director requires.

Source: Laws 1993, LB 270, § 3; Laws 2007, LB124, § 29; Laws 2017, LB184, § 2.

Effective date August 24, 2017.

45-191.04 Loan brokerage agreement; requirements; right to cancel.

(1) A loan brokerage agreement shall be in writing and shall be signed by the loan broker and the borrower. The loan broker shall furnish the borrower a copy of such signed loan brokerage agreement at the time the borrower signs it.

(2) The borrower has the right to cancel a loan brokerage agreement for any reason at any time within five business days after the date the parties sign the agreement. The loan brokerage agreement shall set forth the borrower's right to cancel and the procedures to be followed when an agreement is canceled.

(3) A loan brokerage agreement shall set forth in at least ten-point type, or handwriting of at least equivalent size, the following:

(a) The terms and conditions of payment;

(b) A full and detailed description of the acts or services the loan broker will undertake to perform for the borrower;

(c) The loan broker's principal business address, telephone number, and electronic mail and Internet address, if any, and the name, address, telephone number, and electronic mail and Internet address, if any, of its agent in the State of Nebraska authorized to receive service of process;

(d) The business form of the loan broker, whether a corporation, partnership, limited liability company, or otherwise; and

(e) The following notice of the borrower's right to cancel the loan brokerage agreement pursuant to this section:

“You have five business days in which you may cancel this agreement for any reason by mailing or delivering written notice to the loan broker. The five business days shall expire on (last date to mail or deliver notice), and notice of cancellation should be mailed to (loan broker’s name and business street address). If you choose to mail your notice, it must be placed in the United States mail properly addressed, first-class postage prepaid, and post-marked before midnight of the above date. If you choose to deliver your notice to the loan broker directly, it must be delivered to the loan broker by the end of the normal business day on the above date. Within five business days after receipt of the notice of cancellation, the loan broker shall return to you all sums paid by you to the loan broker pursuant to this agreement.”

The notice shall be set forth immediately above the place at which the borrower signs the loan brokerage agreement.

Source: Laws 1993, LB 270, § 6; Laws 2001, LB 53, § 89; Laws 2007, LB124, § 30; Laws 2017, LB184, § 3.
Effective date August 24, 2017.

ARTICLE 3

INSTALLMENT SALES

Section

45-335. Terms, defined.

45-346. License; application; issuance; bond; fee; term; director; duties.

45-335 Terms, defined.

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

(1) Goods means all personal property, except money or things in action, and includes goods which, at the time of sale or subsequently, are so affixed to realty as to become part thereof whether or not severable therefrom;

(2) Services means work, labor, and services of any kind performed in conjunction with an installment sale but does not include services for which the prices charged are required by law to be established and regulated by the government of the United States or any state;

(3) Buyer means a person who buys goods or obtains services from a seller in an installment sale;

(4) Seller means a person who sells goods or furnishes services to a buyer under an installment sale;

(5) Installment sale means any transaction, whether or not involving the creation or retention of a security interest, in which a buyer acquires goods or services from a seller pursuant to an agreement which provides for a time-price differential and under which the buyer agrees to pay all or part of the time-sale price in one or more installments and within one hundred forty-five months, except that installment contracts for the purchase of mobile homes may exceed such one-hundred-forty-five-month limitation. Installment sale does not include a consumer rental purchase agreement defined in and regulated by the Consumer Rental Purchase Agreement Act;

(6) Installment contract means an agreement entered into in this state evidencing an installment sale except those otherwise provided for in separate acts;

(7) Cash price or cash sale price means the price stated in an installment contract for which the seller would have sold or furnished to the buyer and the buyer would have bought or acquired from the seller goods or services which are the subject matter of the contract if such sale had been a sale for cash instead of an installment sale. It may include the cash price of accessories or services related to the sale such as delivery, installation, alterations, modifications, and improvements and may include taxes to the extent imposed on the cash sale;

(8) Basic time price means the cash sale price of the goods or services which are the subject matter of an installment contract plus the amount included therein, if a separate identified charge is made therefor and stated in the contract, for insurance, registration, certificate of title, debt cancellation contract, debt suspension contract, electronic title and lien services, guaranteed asset protection waiver, and license fees, filing fees, an origination fee, and fees and charges prescribed by law which actually are or will be paid to public officials for determining the existence of or for perfecting, releasing, or satisfying any security related to the credit transaction or any charge for nonfiling insurance if such charge does not exceed the amount of fees and charges prescribed by law which would have been paid to public officials for filing, perfecting, releasing, and satisfying any security related to the credit transaction and less the amount of the buyer's downpayment in money or goods or both;

(9) Time-price differential, however denominated or expressed, means the amount, as limited in the Nebraska Installment Sales Act, to be added to the basic time price;

(10) Time-sale price means the total of the basic time price of the goods or services, the amount of the buyer's downpayment in money or goods or both, and the time-price differential;

(11) Sales finance company means a person purchasing one or more installment contracts from one or more sellers. Sales finance company includes, but is not limited to, a financial institution or installment loan licensee, if so engaged;

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

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

(14) Financial institution has the same meaning as in section 8-101.03;

(15) Debt cancellation contract means a loan term or contractual arrangement modifying loan terms under which a financial institution or licensee agrees to cancel all or part of a buyer's obligation to repay an extension of credit from the financial institution or licensee upon the occurrence of a specified event. The debt cancellation contract may be separate from or a part of other loan documents. The term debt cancellation contract does not include loan payment deferral arrangements in which the triggering event is the buyer's unilateral election to defer repayment or the financial institution's or licensee's unilateral decision to allow a deferral of repayment;

(16) Debt suspension contract means a loan term or contractual arrangement modifying loan terms under which a financial institution or licensee agrees to

suspend all or part of a buyer's obligation to repay an extension of credit from the financial institution or licensee upon the occurrence of a specified event. The debt suspension contract may be separate from or a part of other loan documents. The term debt suspension contract does not include loan payment deferral arrangements in which the triggering event is the buyer's unilateral election to defer repayment or the financial institution's or licensee's unilateral decision to allow a deferral of repayment;

(17) Guaranteed asset protection waiver means a waiver that is offered, sold, or provided in accordance with the Guaranteed Asset Protection Waiver Act;

(18) Licensee means any person who obtains a license under the Nebraska Installment Sales Act;

(19) Person means individual, partnership, limited liability company, association, financial institution, trust, corporation, and any other legal entity;

(20) Breach of security of the system means unauthorized acquisition of data that compromises the security, confidentiality, or integrity of the information maintained by the Nationwide Mortgage Licensing System and Registry, its affiliates, or its subsidiaries;

(21) Nationwide Mortgage Licensing System and Registry means a licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the licensing and registration of mortgage loan originators, mortgage bankers, installment loan companies, and other state-regulated financial services entities and industries; and

(22)(a) Control in the case of a corporation means (i) direct or indirect ownership of or the right to control twenty-five percent or more of the voting shares of the corporation or (ii) the ability of a person or group acting in concert to elect a majority of the directors or otherwise effect a change in policy.

(b) Control in the case of any other entity means (i) the power, directly or indirectly, to direct the management or policies of the entity, (ii) the contribution of twenty-five percent or more of the capital of the entity, or (iii) the right to receive, upon dissolution, twenty-five percent or more of the capital of the entity.

Source: Laws 1965, c. 266, § 1, p. 751; Laws 1965, c. 268, § 2, p. 757; Laws 1969, c. 379, § 1, p. 1340; Laws 1969, c. 380, § 1, p. 1343; Laws 1969, c. 381, § 1, p. 1345; Laws 1973, LB 455, § 1; Laws 1978, LB 373, § 1; Laws 1989, LB 94, § 1; Laws 1989, LB 681, § 16; Laws 1992, LB 269, § 1; Laws 2003, LB 217, § 34; Laws 2006, LB 876, § 25; Laws 2010, LB571, § 8; Laws 2011, LB77, § 1; Laws 2012, LB965, § 2; Laws 2016, LB778, § 4; Laws 2017, LB140, § 153.

Operative date August 24, 2017.

Cross References

Consumer Rental Purchase Agreement Act, see section 69-2101.

Guaranteed Asset Protection Waiver Act, see section 45-1101.

45-346 License; application; issuance; bond; fee; term; director; duties.

(1) A license issued under the Nebraska Installment Sales Act is nontransferable and nonassignable. The same person may obtain additional licenses for

each place of business operating as a sales finance company in this state upon compliance with the act as to each license.

(2) Application for a license shall be on a form prescribed and furnished by the director and shall include audited financial statements showing a minimum net worth of one hundred thousand dollars. If the applicant is an individual or a sole proprietorship, the application shall include the applicant's social security number.

(3) An applicant for a license shall file with the department a surety bond in the amount of fifty thousand dollars, furnished by a surety company authorized to do business in this state. The bond shall be for the use of the State of Nebraska and any Nebraska resident who may have claims or causes of action against the applicant. The surety may cancel the bond only upon thirty days' written notice to the director.

(4) A license fee of one hundred fifty dollars and any processing fee allowed under subsection (2) of section 45-354 shall be submitted along with each application.

(5) An initial license shall remain in full force and effect until the next succeeding December 31. Each license shall remain in force until revoked, suspended, canceled, expired, or surrendered.

(6) The director shall, after an application has been filed for a license under the act, investigate the facts, and if he or she finds that the experience, character, and general fitness of the applicant, of the members thereof if the applicant is a corporation or association, and of the officers and directors thereof if the applicant is a corporation, are such as to warrant belief that the business will be operated honestly, fairly, and efficiently within the purpose of the act, the director shall issue and deliver a license to the applicant to do business as a sales finance company in accordance with the license and the act. The director shall have the power to reject for cause any application for a license.

(7) The director shall, within his or her discretion, make an examination and inspection concerning the propriety of the issuance of a license to any applicant. The cost of such examination and inspection shall be borne by the applicant.

(8) If an applicant for a license under the act does not complete the license application and fails to respond to a notice or notices from the department to correct the deficiency or deficiencies for a period of one hundred twenty days or more after the date the department sends the initial notice to correct the deficiency or deficiencies, the department may deem the application as abandoned and may issue a notice of abandonment of the application to the applicant in lieu of proceedings to deny the application.

Source: Laws 1965, c. 268, § 13, p. 764; Laws 1997, LB 752, § 116; Laws 2004, LB 999, § 35; Laws 2005, LB 533, § 47; Laws 2007, LB124, § 34; Laws 2012, LB965, § 4; Laws 2016, LB778, § 5; Laws 2017, LB185, § 2.
Effective date August 24, 2017.

ARTICLE 9

DELAYED DEPOSIT SERVICES LICENSING ACT

Section

45-902. Terms, defined.

45-919. Acts prohibited.

45-902 Terms, defined.

For purposes of the Delayed Deposit Services Licensing Act:

(1) Check means any check, draft, or other instrument for the payment of money;

(2) Delayed deposit services business means any person who for a fee (a) accepts a check dated subsequent to the date it was written or (b) accepts a check dated on the date it was written and holds the check for a period of days prior to deposit or presentment pursuant to an agreement with or any representation made to the maker of the check, whether express or implied;

(3) Director means the Director of Banking and Finance or his or her designee;

(4) Financial institution has the same meaning as in section 8-101.03;

(5) Licensee means any person licensed under the Delayed Deposit Services Licensing Act; and

(6) Person means an individual, proprietorship, association, joint venture, joint stock company, partnership, limited partnership, limited liability company, business corporation, nonprofit corporation, or any group of individuals however organized.

Source: Laws 1994, LB 967, § 2; Laws 2001, LB 53, § 103; Laws 2003, LB 217, § 37; Laws 2017, LB140, § 154.
Operative date August 24, 2017.

45-919 Acts prohibited.

(1) No licensee shall:

(a) At any one time hold from any one maker more than two checks;

(b) At any one time hold from any one maker a check or checks in an aggregate face amount of more than five hundred dollars;

(c) Hold or agree to hold a check for more than thirty-four days. A check which is in the process of collection for the reason that it was not negotiable on the day agreed upon shall not be deemed as being held in excess of the thirty-four-day period;

(d) Require the maker to receive payment by a method which causes the maker to pay additional or further fees and charges to the licensee or other person;

(e) Accept a check as repayment, refinancing, or any other consolidation of a check or checks held by the same licensee;

(f) Renew, roll over, defer, or in any way extend a delayed deposit transaction by allowing the maker to pay less than the total amount of the check and any authorized fees or charges. This subdivision shall not prevent a licensee that agreed to hold a check for less than thirty-four days from agreeing to hold the check for an additional period of time no greater than the thirty-four days it

would have originally been able to hold the check if (i) the extension is at the request of the maker, (ii) no additional fees are charged for the extension, and (iii) the delayed deposit transaction is completed as required by subdivision (1)(c) of this section. The licensee shall retain written or electronic proof of compliance with this subdivision. If a licensee fails, or is unable, to provide such proof to the department upon request, there shall be a rebuttable presumption that a violation of this subdivision has occurred and the department may pursue any remedies or actions available to it under the Delayed Deposit Services Licensing Act; or

(g) Enter into another delayed deposit transaction with the same maker on the same business day as the completion of a delayed deposit transaction unless prior to entering into the transaction the maker and the licensee verify on a form prescribed by the department that completion of the prior delayed deposit transaction has occurred. The licensee shall retain written proof of compliance with this subdivision. If a licensee fails, or is unable, to provide such proof to the department upon request, there shall be a rebuttable presumption that a violation of this subdivision has occurred and the department may pursue any remedies or actions available to it under the act.

(2) For purposes of this section, (a) completion of a delayed deposit transaction means the licensee has presented a maker's check for payment to a financial institution as defined in section 8-101.03 or the maker redeemed the check by paying the full amount of the check in cash to the licensee and (b) licensee shall include (i) a person related to the licensee by common ownership or control, (ii) a person in whom such licensee has any financial interest of ten percent or more, or (iii) any employee or agent of the licensee.

Source: Laws 1994, LB 967, § 19; Laws 2000, LB 932, § 34; Laws 2006, LB 876, § 44; Laws 2017, LB140, § 155.
Operative date August 24, 2017.

ARTICLE 10

NEBRASKA INSTALLMENT LOAN ACT

Section

45-1002. Terms, defined; act; applicability.

45-1009. License; application; grant or denial; time allowed; abandoned application; department; powers.

45-1002 Terms, defined; act; applicability.

(1) For purposes of the Nebraska Installment Loan Act:

(a) Applicant means a person applying for a license under the act;

(b) Breach of security of the system means unauthorized acquisition of data that compromises the security, confidentiality, or integrity of the information maintained by the Nationwide Mortgage Licensing System and Registry, its affiliates, or its subsidiaries;

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

(d) Debt cancellation contract means a loan term or contractual arrangement modifying loan terms under which a financial institution or licensee agrees to cancel all or part of a borrower's obligation to repay an extension of credit from the financial institution or licensee upon the occurrence of a specified event. The debt cancellation contract may be separate from or a part of other

loan documents. The term debt cancellation contract does not include loan payment deferral arrangements in which the triggering event is the borrower's unilateral election to defer repayment or the financial institution's or licensee's unilateral decision to allow a deferral of repayment;

(e) Debt suspension contract means a loan term or contractual arrangement modifying loan terms under which a financial institution or licensee agrees to suspend all or part of a borrower's obligation to repay an extension of credit from the financial institution or licensee upon the occurrence of a specified event. The debt suspension contract may be separate from or a part of other loan documents. The term debt suspension contract does not include loan payment deferral arrangements in which the triggering event is the borrower's unilateral election to defer repayment or the financial institution's or licensee's unilateral decision to allow a deferral of repayment;

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

(g) Financial institution has the same meaning as in section 8-101.03;

(h) Guaranteed asset protection waiver means a waiver that is offered, sold, or provided in accordance with the Guaranteed Asset Protection Waiver Act;

(i) Licensee means any person who obtains a license under the Nebraska Installment Loan Act;

(j)(i) Mortgage loan originator means an individual who for compensation or gain (A) takes a residential mortgage loan application or (B) offers or negotiates terms of a residential mortgage loan.

(ii) Mortgage loan originator does not include (A) any individual who is not otherwise described in subdivision (i)(A) of this subdivision and who performs purely administrative or clerical tasks on behalf of a person who is described in subdivision (i) of this subdivision, (B) a person or entity that only performs real estate brokerage activities and is licensed or registered in accordance with applicable state law, unless the person or entity is compensated by a lender, a mortgage broker, or other mortgage loan originator or by any agent of such lender, mortgage broker, or other mortgage loan originator, or (C) a person or entity solely involved in extensions of credit relating to time-share programs as defined in section 76-1702;

(k) Nationwide Mortgage Licensing System and Registry means a licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the licensing and registration of mortgage loan originators, mortgage bankers, installment loan companies, and other state-regulated financial services entities and industries;

(l) Person means individual, partnership, limited liability company, association, financial institution, trust, corporation, and any other legal entity; and

(m) Real property means an owner-occupied single-family, two-family, three-family, or four-family dwelling which is located in this state, which is occupied, used, or intended to be occupied or used for residential purposes, and which is, or is intended to be, permanently affixed to the land.

(2) Except as provided in subsection (3) of section 45-1017 and subsection (4) of section 45-1019, no revenue arising under the Nebraska Installment Loan Act shall inure to any school fund of the State of Nebraska or any of its governmental subdivisions.

(3) Loan, when used in the Nebraska Installment Loan Act, does not include any loan made by a person who is not a licensee on which the interest does not exceed the maximum rate permitted by section 45-101.03.

(4) Nothing in the Nebraska Installment Loan Act applies to any loan made by a person who is not a licensee if the interest on the loan does not exceed the maximum rate permitted by section 45-101.03.

Source: Laws 1941, c. 90, § 1, p. 345; C.S.Supp.,1941, § 45-131; Laws 1943, c. 107, § 1, p. 369; R.S.1943, § 45-114; Laws 1961, c. 225, § 1, p. 668; Laws 1963, Spec. Sess., c. 7, § 7, p. 92; Laws 1979, LB 87, § 1; Laws 1982, LB 941, § 1; Laws 1993, LB 121, § 264; Laws 1997, LB 137, § 20; Laws 1997, LB 555, § 3; R.S.1943, (1998), § 45-114; Laws 2001, LB 53, § 30; Laws 2003, LB 131, § 30; Laws 2003, LB 217, § 38; Laws 2006, LB 876, § 48; Laws 2009, LB328, § 41; Laws 2010, LB571, § 10; Laws 2010, LB892, § 19; Laws 2011, LB77, § 3; Laws 2012, LB965, § 21; Laws 2017, LB140, § 156.

Operative date August 24, 2017.

Cross References

Guaranteed Asset Protection Waiver Act, see section 45-1101.

45-1009 License; application; grant or denial; time allowed; abandoned application; department; powers.

(1) The department shall approve or deny every application for license under section 45-1008 within ninety days after the filing of an application, if the application is substantially complete and is accompanied by the required fees and the approved bond.

(2) If an applicant for a license under section 45-1008 does not complete the license application and fails to respond to a notice or notices from the department to correct the deficiency or deficiencies for a period of one hundred twenty days or more after the date the department sends the initial notice to correct the deficiency or deficiencies, the department may deem the application as abandoned and may issue a notice of abandonment of the application to the applicant in lieu of proceedings to deny the application.

Source: Laws 1941, c. 90, § 12, p. 350; C.S.Supp.,1941, § 45-140; R.S. 1943, § 45-121; Laws 1999, LB 396, § 26; R.S.Supp.,2000, § 45-121; Laws 2001, LB 53, § 37; Laws 2017, LB185, § 3. Effective date August 24, 2017.

ARTICLE 11

GUARANTEED ASSET PROTECTION WAIVER ACT

Section 45-1103. Terms, defined.

45-1103 Terms, defined.

For purposes of the Guaranteed Asset Protection Waiver Act:

(1) Borrower means a debtor, retail buyer, or lessee under a finance agreement;

(2) Creditor means:

- (a) The lender in a loan or credit transaction involving a motor vehicle;
 - (b) The lessor in a lease transaction involving a motor vehicle;
 - (c) Any retail seller of motor vehicles that provides credit to retail buyers of such motor vehicles if such entities comply with the provisions of the act; or
 - (d) The assignees of any of the foregoing to whom the credit obligation is payable;
- (3) Creditor's designee means a person other than the creditor that performs administrative or operational functions pursuant to a guaranteed asset protection waiver program;
- (4) Finance agreement means a loan, credit transaction, lease, or retail installment sales contract for the purchase or lease of a motor vehicle;
- (5) Financial institution has the same meaning as in section 8-101.03;
- (6) Free-look period means the period of time from the effective date of the guaranteed asset protection waiver until the date the borrower may cancel the contract without penalty, fees, or costs to the borrower. This period of time must not be shorter than thirty days;
- (7) Guaranteed asset protection waiver means a contractual agreement wherein a creditor or the creditor's designee agrees, for a separate charge, to cancel or waive all or part of amounts due on a borrower's finance agreement in the event of a total physical damage loss as determined by the insurer issuing the motor vehicle insurance policy subject to the terms of the waiver or unrecovered theft as determined by the insurer issuing the motor vehicle insurance policy subject to the terms of the waiver of the motor vehicle, which agreement must be part of, or a separate addendum to, the finance agreement. If a borrower does not have motor vehicle insurance, the creditor or the creditor's designee will accept a report prepared pursuant to insurance industry standards by a qualified inspector declaring the motor vehicle a total loss or a law enforcement report declaring the motor vehicle an unrecovered theft. Nothing in the act shall be construed to require the waiver to pay more than the amount that would have been paid if the borrower had motor vehicle insurance at the time of loss;
- (8) Motor vehicle means self-propelled or towed vehicles designed for personal or commercial use, including, but not limited to, automobiles, trucks, motorcycles, recreational vehicles, all-terrain vehicles, snowmobiles, campers, boats, personal watercraft, and motorcycle, boat, camper, and personal watercraft trailers; and
- (9) Person includes an individual, company, association, organization, partnership, business trust, corporation, and every form of legal entity.

Source: Laws 2010, LB571, § 3; Laws 2017, LB140, § 157.

Operative date August 24, 2017.

CHAPTER 46

IRRIGATION AND REGULATION OF WATER

Article.

- 2. General Provisions.
 - (g) Irrigation Works; Construction, Operation, and Regulation. 46-251.
- 16. Safety of Dams and Reservoirs Act. 46-1657.

ARTICLE 2

GENERAL PROVISIONS

(g) IRRIGATION WORKS; CONSTRUCTION, OPERATION, AND REGULATION

Section

- 46-251. Irrigation works; use of state lands and highways; grant; right-of-way; condemnation.

(g) IRRIGATION WORKS; CONSTRUCTION,
OPERATION, AND REGULATION

46-251 Irrigation works; use of state lands and highways; grant; right-of-way; condemnation.

All persons desirous of constructing any of the works provided for in sections 46-244 to 46-250 shall have the right to occupy state lands and obtain right-of-way over and across any highway in this state for such purpose without compensation, except public school lands. All bridges or crossings over such ditches, laterals, and canals shall be constructed under the supervision of the Department of Transportation, if on a state highway, and under the supervision of the county board or governing body of a municipality, if on a highway under the jurisdiction of such board or governing body. All such persons may obtain a right-of-way not to exceed sixteen feet in width, for a like purpose along, parallel to, and upon one side of any highway by condemnation proceedings where the same does not interfere with the proper drainage of such highway. In such cases the abutting landowner and the county may grant such right-of-way, or in case of their refusal notice shall be served upon them and proceedings had as in other cases. Not more than one such ditch or lateral shall be permitted along the side of the same highway.

Source: Laws 1919, c. 190, tit. VII, art. V, div. 3, § 7, p. 848; C.S.1922, § 8457; C.S.1929, § 46-607; R.S.1943, § 46-251; Laws 1961, c. 227, § 2, p. 672; Laws 2017, LB339, § 175.
Operative date July 1, 2017.

Cross References

Bridge over drainage or irrigation ditch, construction, maintenance, and payment of costs, see section 39-805.

ARTICLE 16

SAFETY OF DAMS AND RESERVOIRS ACT

Section

- 46-1657. New or modified dam; owner; filing requirements; approval to operate; issuance.

46-1657 New or modified dam; owner; filing requirements; approval to operate; issuance.

(1) Upon completion of a new or reconstructed dam and reservoir or of the enlargement of a dam and reservoir, the owner shall file with the department, without a filing fee, a completion certification accompanied by supplementary drawings or descriptive matter signed and sealed by the design engineer, showing or describing the work as actually completed. Such supplementary materials may include, but need not be limited to, the following as determined by the department:

- (a) A record of all geological boreholes and grout holes and grouting;
 - (b) A record of permanent location points, benchmarks, and instruments embedded in the structure;
 - (c) A record of tests of concrete or other material used in the construction, reconstruction, or enlargement of the dam; and
 - (d) A record of initial seepage flows and embedded instrument readings.
- (2) In connection with the enlargement of a dam, the supplementary drawings and descriptive matter need apply only to the new work.

(3) An approval to operate shall be issued by the department upon a finding by the department that the dam is safe to impound within the limitations prescribed in the application approval. No impoundment by the structure shall occur prior to issuance of the approval to operate.

Source: Laws 2005, LB 335, § 57; Laws 2017, LB154, § 1.
Effective date August 24, 2017.

CHAPTER 47
JAILS AND CORRECTIONAL FACILITIES

Article.

- 6. Community Corrections. 47-632.
- 9. Office of Inspector General of the Nebraska Correctional System Act. 47-901 to 47-920.

ARTICLE 6
COMMUNITY CORRECTIONS

Section

- 47-632. Community Corrections Uniform Data Analysis Cash Fund; created; use; investment.

47-632 Community Corrections Uniform Data Analysis Cash Fund; created; use; investment.

(1) The Community Corrections Uniform Data Analysis Cash Fund is created. Except as provided in subsections (2), (3), and (4) of this section, the fund shall be within the Nebraska Commission on Law Enforcement and Criminal Justice, shall be administered by the division, and shall only be used to support operations costs and analysis relating to the implementation and coordination of the uniform analysis of crime data pursuant to the Community Corrections Act, including associated information technology projects. The fund shall consist of money collected pursuant to section 47-633.

(2) Transfers may be made from the fund to the General Fund at the direction of the Legislature.

(3) The State Treasurer shall transfer the following amounts from the Community Corrections Uniform Data Analysis Cash Fund to the Violence Prevention Cash Fund:

(a) Two hundred thousand dollars on July 1, 2011, or as soon thereafter as administratively possible; and

(b) Two hundred thousand dollars on July 1, 2012, or as soon thereafter as administratively possible.

(4) The State Treasurer shall transfer the following amounts from the Community Corrections Uniform Data Analysis Cash Fund to the Nebraska Law Enforcement Training Center Cash Fund:

(a) Two hundred thousand dollars on July 1, 2017, or as soon thereafter as administratively possible; and

(b) Two hundred thousand dollars on July 1, 2018, or as soon thereafter as administratively possible.

(5) Any money in the Community Corrections Uniform Data Analysis 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 2003, LB 46, § 44; Laws 2005, LB 426, § 11; Laws 2005, LB 538, § 19; Laws 2007, LB322, § 6; Laws 2009, LB63, § 31;

Laws 2009, First Spec. Sess., LB3, § 23; Laws 2011, LB378, § 21; Laws 2011, LB390, § 13; Laws 2017, LB331, § 23.
 Effective date May 16, 2017.

Cross References

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

ARTICLE 9

OFFICE OF INSPECTOR GENERAL OF THE NEBRASKA
 CORRECTIONAL SYSTEM ACT

Section

- 47-901. Act, how cited.
- 47-905. Office; duties; law enforcement agencies and prosecuting attorneys; cooperation; confidentiality.
- 47-912. Reports of investigations; distribution; redact confidential information; powers of office.
- 47-920. Limitations on personnel action.

47-901 Act, how cited.

Sections 47-901 to 47-920 shall be known and may be cited as the Office of Inspector General of the Nebraska Correctional System Act.

Source: Laws 2015, LB598, § 1; Laws 2016, LB1094, § 28; Laws 2017, LB539, § 1.
 Effective date April 28, 2017.

47-905 Office; duties; law enforcement agencies and prosecuting attorneys; cooperation; confidentiality.

(1) The office shall investigate:

(a) Allegations or incidents of possible misconduct, misfeasance, malfeasance, or violations of statutes or of rules or regulations of the department by an employee of or a person under contract with the department or a private agency; and

(b) Death or serious injury in private agencies, department correctional facilities, and other programs and facilities licensed by or under contract with the department. The department shall report all cases of death or serious injury of a person in a private agency, department correctional facility or program, or other program or facility licensed by the department to the Inspector General as soon as reasonably possible after the department learns of such death or serious injury. The department shall also report all cases of the death or serious injury of an employee when acting in his or her capacity as an employee of the department as soon as reasonably possible after the department learns of such death or serious injury. The department shall also report all cases when an employee is hospitalized in response to an injury received when acting in his or her capacity as an employee of the department as soon as reasonably possible after the department learns of such hospitalization. For purposes of this subdivision, serious injury means an injury which requires urgent and immediate medical treatment and restricts the injured person's usual activity.

(2) Any investigation conducted by the Inspector General shall be independent of and separate from an investigation pursuant to sections 23-1821 to 23-1823.

(3) Notwithstanding the fact that a criminal investigation, a criminal prosecution, or both are in progress, all law enforcement agencies and prosecuting attorneys shall cooperate with any investigation conducted by the Inspector General and shall, immediately upon request by the Inspector General, provide the Inspector General with copies of all law enforcement reports which are relevant to the Inspector General's investigation. All law enforcement reports which have been provided to the Inspector General pursuant to this section are not public records for purposes of sections 84-712 to 84-712.09 and shall not be subject to discovery by any other person or entity. Except to the extent that disclosure of information is otherwise provided for in the Office of Inspector General of the Nebraska Correctional System Act, the Inspector General shall maintain the confidentiality of all law enforcement reports received pursuant to its request under this section. Law enforcement agencies and prosecuting attorneys shall, when requested by the Inspector General, collaborate with the Inspector General regarding all other information relevant to the Inspector General's investigation. If the Inspector General in conjunction with the Public Counsel determines it appropriate, the Inspector General may, when requested to do so by a law enforcement agency or prosecuting attorney, suspend an investigation by the office until a criminal investigation or prosecution is completed or has proceeded to a point that, in the judgment of the Inspector General, reinstatement of the Inspector General's investigation will not impede or infringe upon the criminal investigation or prosecution.

Source: Laws 2015, LB598, § 5; Laws 2017, LB539, § 2.
Effective date April 28, 2017.

47-912 Reports of investigations; distribution; redact confidential information; powers of office.

(1) Reports of investigations conducted by the office shall not be distributed beyond the entity that is the subject of the report without the consent of the Inspector General.

(2) The office shall redact confidential information before distributing a report of an investigation. The office may disclose confidential information to the chairperson of the Judiciary Committee of the Legislature when such disclosure is, in the judgment of the Public Counsel, desirable to keep the chairperson informed of important events, issues, and developments in the Nebraska correctional system.

(3)(a) A summarized final report based on an investigation may be publicly released in order to bring awareness to systemic issues.

(b) Such report shall be released only:

(i) After a disclosure is made to the chairperson pursuant to subsection (2) of this section; and

(ii) If a determination is made by the Inspector General with the chairperson that doing so would be in the best interest of the public.

(c) If there is disagreement about whether releasing the report would be in the best interest of the public, the chairperson of the Executive Board of the Legislative Council may be asked to make the final decision.

(4) Records and documents, regardless of physical form, that are obtained or produced by the office in the course of an investigation are not public records for purposes of sections 84-712 to 84-712.09. Reports of investigations conduct-

ed by the office are not public records for purposes of sections 84-712 to 84-712.09.

(5) The office may withhold the identity of sources of information to protect from retaliation any person who files a complaint or provides information in good faith pursuant to the Office of Inspector General of the Nebraska Correctional System Act.

Source: Laws 2015, LB598, § 12; Laws 2017, LB539, § 3.
Effective date April 28, 2017.

47-920 Limitations on personnel action.

Any person who has authority to recommend, approve, direct, or otherwise take or affect personnel action shall not, with respect to such authority:

(1) Take personnel action against an employee because of the disclosure of information by the employee to the office which the employee reasonably believes evidences wrongdoing under the Office of Inspector General of the Nebraska Correctional System Act;

(2) Take personnel action against an employee as a reprisal for the submission of an allegation of wrongdoing under the act to the office by such employee; or

(3) Take personnel action against an employee as a reprisal for providing information or testimony pursuant to an investigation by the office.

Source: Laws 2017, LB539, § 4.
Effective date April 28, 2017.

CHAPTER 48

LABOR

Article.

1. Workers' Compensation.
 - Part I—Compensation by Action at Law, Modification of Remedies. 48-101.01.
 - Part VII—Compensation Court Cash Fund. 48-1,116.
2. General Provisions. 48-225, 48-226.
3. Child Labor. 48-301, 48-307.
6. Employment Security. 48-601 to 48-682.
7. Boiler Inspection. 48-721, 48-735.01.
12. Wages.
 - (a) Minimum Wages. 48-1209.01.
29. Employee Classification Act. 48-2903.

ARTICLE 1

WORKERS' COMPENSATION

PART I—COMPENSATION BY ACTION AT LAW, MODIFICATION OF REMEDIES

Section

- 48-101.01. Mental injuries and mental illness; first responder; frontline state employee; compensation; when.

PART VII—COMPENSATION COURT CASH FUND

- 48-1,116. Compensation Court Cash Fund; created; use; investment.

PART I—COMPENSATION BY ACTION AT LAW, MODIFICATION OF REMEDIES

48-101.01 Mental injuries and mental illness; first responder; frontline state employee; compensation; when.

(1) Personal injury includes mental injuries and mental illness unaccompanied by physical injury for an employee who is a first responder or frontline state employee if such first responder or frontline state employee:

(a) Establishes, by a preponderance of the evidence, that the employee's employment conditions causing the mental injury or mental illness were extraordinary and unusual in comparison to the normal conditions of the particular employment; and

(b) Establishes, by a preponderance of the evidence, the medical causation between the mental injury or mental illness and the employment conditions by medical evidence.

(2) For purposes of this section, mental injuries and mental illness arising out of and in the course of employment unaccompanied by physical injury are not considered compensable if they result from any event or series of events which are incidental to normal employer and employee relations, including, but not limited to, personnel actions by the employer such as disciplinary actions, work evaluations, transfers, promotions, demotions, salary reviews, or terminations.

(3) For purposes of this section:

(a) First responder means a sheriff, a deputy sheriff, a police officer, an officer of the Nebraska State Patrol, a volunteer or paid firefighter, or a volunteer or paid individual licensed under a licensure classification in subdivision (1) of section 38-1217 who provides medical care in order to prevent loss of life or aggravation of physiological or psychological illness or injury;

(b) Frontline state employee means an employee of the Department of Correctional Services or the Department of Health and Human Services whose duties involve regular and direct interaction with high-risk individuals;

(c) High-risk individual means an individual in state custody for whom violent or physically intimidating behavior is common, including, but not limited to, a committed offender as defined in section 83-170, a patient at a regional center as defined in section 71-911, and a juvenile committed to the Youth Rehabilitation and Treatment Center-Kearney or the Youth Rehabilitation and Treatment Center-Geneva; and

(d) State custody means under the charge or control of a state institution or state agency and includes time spent outside of the state institution or state agency.

Source: Laws 2010, LB780, § 1; Laws 2012, LB646, § 2; Laws 2017, LB444, § 2.
Effective date August 24, 2017.

PART VII—COMPENSATION COURT CASH FUND

48-1,116 Compensation Court Cash Fund; created; use; investment.

The Compensation Court Cash Fund is hereby created. The fund shall be used to aid in providing for the expense of administering the Nebraska Workers' Compensation Act and the payment of the salaries and expenses of the personnel of the Nebraska Workers' Compensation Court.

The State Treasurer shall transfer one million five hundred thousand dollars from the Compensation Court Cash Fund to the General Fund after June 15, 2018, and before June 30, 2018, on such dates as directed by the budget administrator of the budget division of the Department of Administrative Services.

All fees received pursuant to sections 48-120, 48-120.02, 48-138, 48-139, 48-145.04, and 48-165 shall be remitted to the State Treasurer for credit to the Compensation Court Cash Fund. The fund shall also consist of amounts credited to the fund pursuant to sections 48-1,113, 48-1,114, and 77-912. The State Treasurer may receive and credit to the fund any money which may at any time be contributed to the state or the fund by the federal government or any agency thereof to which the state may be or become entitled under any act of Congress or otherwise by reason of any payment made from 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.

Source: Laws 1993, LB 757, § 22; Laws 1994, LB 1066, § 35; Laws 2002, LB 1310, § 5; Laws 2005, LB 13, § 33; Laws 2009, First Spec. Sess., LB3, § 24; Laws 2017, LB331, § 24.
Effective date May 16, 2017.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

ARTICLE 2 GENERAL PROVISIONS

Section

48-225. Veterans preference; terms, defined.

48-226. Veterans preference; required, when.

48-225 Veterans preference; terms, defined.

For purposes of sections 48-225 to 48-231:

(1) Servicemember means a person who serves on active duty in the armed forces of the United States except for training;

(2) Veteran means:

(a) A person who served full-time duty with military pay and allowances in the armed forces of the United States, except for training or for determining physical fitness, and was discharged or otherwise separated with a characterization of honorable or general (under honorable conditions); or

(b) The spouse of a veteran who has a one hundred percent permanent disability as determined by the United States Department of Veterans Affairs;

(3) Full-time duty means duty during time of war or during a period recognized by the United States Department of Veterans Affairs as qualifying for veterans benefits administered by the department and that such duty from January 31, 1955, to February 28, 1961, exceeded one hundred eighty days unless lesser duty was the result of a service-connected or service-aggravated disability;

(4) Disabled veteran means an individual who has served on active duty in the armed forces of the United States, has been discharged or otherwise separated with a characterization of honorable or general (under honorable conditions) therefrom, and has established the present existence of a service-connected disability or is receiving compensation, disability retirement benefits, or pension because of a public statute administered by the United States Department of Veterans Affairs or a military department; and

(5) Preference eligible means any veteran as defined in this section or the spouse of a servicemember as defined in this section, except that for a spouse of a servicemember such preference is limited to the time during which the servicemember serves on active duty as described in subdivision (1) of this section and up to one hundred eighty days after the servicemember's discharge or separation from service.

Source: Laws 1969, c. 751, § 1, p. 2826; Laws 1991, LB 2, § 6; Laws 2001, LB 368, § 1; Laws 2005, LB 54, § 7; Laws 2014, LB588, § 2; Laws 2017, LB639, § 1.
Effective date August 24, 2017.

48-226 Veterans preference; required, when.

A preference shall be given to preference eligibles seeking employment with the State of Nebraska or its governmental subdivisions. Such preference includes initial employment or a return to employment with the State of Nebras-

ka or its governmental subdivisions if termination of previous employment was for other than disciplinary reasons.

Source: Laws 1969, c. 751, § 2, p. 2827; Laws 1997, LB 5, § 1; Laws 2017, LB639, § 2.

Effective date August 24, 2017.

**ARTICLE 3
CHILD LABOR**

Section

48-301. Terms, defined.

48-307. Employment certificate; filing with Department of Labor.

48-301 Terms, defined.

For purposes of sections 48-302 to 48-313:

(1) Employment means (a) service for wages or (b) being under a contract of hire, written or oral, express or implied. Employment, other than detasseling, does not include any employment for which the employer is not liable for payment of the combined tax or payment in lieu of contributions under section 48-648, 48-649 to 48-649.04, or 48-660.01; and

(2) Detasseling means the removal of weeds, off-type and rogue plants, and corn tassels in hand pollinating and in any other engagement in hand labor in the production of seed.

Source: Laws 1995, LB 330, § 1; Laws 2001, LB 180, § 3; Laws 2017, LB172, § 3.

Operative date January 1, 2018.

48-307 Employment certificate; filing with Department of Labor.

The superintendent of public schools in all cities having a population of more than one thousand inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census and the presiding officer of all other school boards shall furnish a duplicate copy of all certificates issued under sections 48-302 to 48-313 to the Department of Labor. The duplicate certificates in the form set forth in section 48-309 shall be filed with the Department of Labor at the time of the issuance of the original certificate.

Source: Laws 1907, c. 66, § 7, p. 262; R.S.1913, § 3581; Laws 1919, c. 190, tit. IV, art. III, § 7, p. 553; C.S.1922, § 7675; C.S.1929, § 48-307; R.S.1943, § 48-307; Laws 1987, LB 35, § 3; Laws 2017, LB113, § 45.

Effective date August 24, 2017.

**ARTICLE 6
EMPLOYMENT SECURITY**

Section

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48-603.01. Indian tribes; applicability of Employment Security Law.

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EMPLOYMENT SECURITY

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§ 48-601**LABOR**

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- 48-648.01. Repealed. Laws 2017, LB172, § 89.
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- 48-651. Employer's account; benefit payments; notice; effect.
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- 48-654.01. Employer's experience account; transferable; when; violation; penalty.
- 48-655. Combined taxes; payments in lieu of contributions; collections; setoffs; interest; actions; setoff against federal income tax refund; procedure.
- 48-656. Combined taxes; report or return; requirements; assessment; notice; protest; penalty.
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- 48-662. State employment service; establishment; functions; funds available; agreements authorized.
- 48-663. Benefits; prohibited acts by employee; penalty; limitation of time for prosecution.
- 48-663.01. Benefits; false statements by employee; forfeit; appeal; failure to repay overpayment of benefits; penalty; levy authorized; procedure; failure or refusal to honor levy; liability.
- 48-664. Benefits; false statements by employer; penalty; failure or refusal to make combined tax payment.
- 48-665. Benefits; erroneous payments; recovery; setoff against federal income tax refund; procedure.
- 48-669. Repealed. Laws 2017, LB172, § 89.
- 48-675. Short-time compensation program; commissioner; decision; eligibility.
- 48-679. Short-time compensation program; individual; eligibility.
- 48-682. Short-time compensation; when considered exhaustee.

48-601 Act, how cited.

Sections 48-601 to 48-683 shall be known and may be cited as the Employment Security Law.

Source: Laws 1937, c. 108, § 1, p. 370; Laws 1941, c. 94, § 14, p. 401; C.S.Supp.,1941, § 48-701; R.S.1943, § 48-601; Laws 1949, c.

163, § 1, p. 417; Laws 1953, c. 167, § 1, p. 520; Laws 1981, LB 470, § 1; Laws 1985, LB 339, § 1; Laws 1985, LB 343, § 1; Laws 1994, LB 1337, § 1; Laws 1996, LB 1072, § 1; Laws 2001, LB 192, § 1; Laws 2005, LB 484, § 2; Laws 2005, LB 739, § 1; Laws 2007, LB265, § 3; Laws 2010, LB1020, § 1; Laws 2014, LB961, § 12; Laws 2017, LB172, § 4.

Operative date January 1, 2018.

48-602 Terms, defined.

For purposes of the Employment Security Law, unless the context otherwise requires:

(1) Agricultural labor means services performed:

(a) On a farm, in the employ of any employer, in connection with cultivating the soil or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, fur-bearing animals, and wildlife;

(b) In the employ of the owner, tenant, or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment or in salvaging timber or clearing land of brush and other debris left by a windstorm, if the major part of such service is performed on a farm;

(c) In connection with the production or harvesting of any commodity in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, used exclusively for supplying and storing water for farming purposes;

(d)(i) In the employ of the operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodity, but only if such operator produced more than one-half of the commodity with respect to which such service is performed, or (ii) in the employ of a group of operators of farms, or a cooperative organization of which such operators are members, in the performance of service described in subdivision (1)(d)(i) of this section, but only if such operators produced more than one-half of the commodity with respect to which such service is performed. Subdivisions (1)(d)(i) and (ii) of this section shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption; or

(e) On a farm operated for profit if such service is not in the course of the employer's trade or business;

(2) Base period means the first four of the last five completed calendar quarters immediately preceding the first day of an individual's benefit year, except that if the individual is not monetarily eligible for unemployment benefits as determined pursuant to section 48-627.01 based upon wages paid during the first four of the five most recently completed calendar quarters, the department shall make a redetermination of monetary eligibility based upon an alternative base period which consists of the last four completed calendar quarters immediately preceding the first day of the claimant's benefit year;

(3) Benefits means the money payments payable to an individual with respect to his or her unemployment;

(4) Benefit year, with respect to any individual, means the one-year period beginning with the first day of the first week with respect to which the individual first files a valid claim for benefits, and thereafter the one-year period beginning with the first day of the first week with respect to which the individual next files a valid claim for benefits after the termination of his or her last preceding benefit year. Any claim for benefits made in accordance with section 48-629 shall be deemed to be a valid claim for the purpose of this subdivision if the individual has been paid the wages for insured work required under section 48-627.01. For the purposes of this subdivision a week with respect to which an individual files a valid claim shall be deemed to be in, within, or during that benefit year which includes the greater part of such week;

(5) Calendar quarter means the period of three consecutive calendar months ending on March 31, June 30, September 30, or December 31, or the equivalent thereof as the Commissioner of Labor may by rule and regulation prescribe;

(6) Client means any individual, partnership, limited liability company, corporation, or other legally recognized entity that contracts with a professional employer organization to obtain professional employer services relating to worksite employees through a professional employer agreement;

(7) Combined tax means the employer liability consisting of contributions and the state unemployment insurance tax;

(8) Combined tax rate means the rate which is applied to wages to determine the combined taxes due;

(9) Commissioner means the Commissioner of Labor;

(10) Commodity means an agricultural commodity as defined in section 15(g) of the federal Agricultural Marketing Act, as amended, 12 U.S.C. 1141j;

(11) Contribution rate means the percentage of the combined tax rate used to determine the contribution portion of the combined tax;

(12) Contributions means that portion of the combined tax based upon the contribution rate portion of the combined tax rate which is deposited in the state Unemployment Compensation Fund as required by sections 48-648 and 48-649 to 48-649.04;

(13) Crew leader means an individual who furnishes individuals to perform service in agricultural labor for any other person, pays, either on his or her own behalf or on behalf of such other person, the individuals so furnished by him or her for the service in agricultural labor performed by them, and has not entered into a written agreement with such other person under which such individual is designated as an employee of such other person;

(14) Department means the Department of Labor;

(15) Employers engaged in the construction industry means all employers primarily engaged in business activities classified as sector 23 business activities under the North American Industry Classification System;

(16) Employment office means a free public employment office or branch thereof, operated by this state or maintained as a part of a state-controlled system of public employment offices, including public employment offices operated by an agency of a foreign government;

(17) Farm means stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses, or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards;

(18) Fund means the Unemployment Compensation Fund established by section 48-617 to which all contributions and payments in lieu of contributions required and from which all benefits provided shall be paid;

(19) Hearing officer means a person employed by the Department of Labor who conducts hearings, contested cases, or other proceedings pursuant to the Employment Security Law;

(20) Hospital means an institution which has been licensed, certified, or approved by the Department of Health and Human Services as a hospital;

(21) Insured work means employment for employers;

(22) Leave of absence means any absence from work: (a) Mutually and voluntarily agreed to by the employer and the employee; (b) mutually and voluntarily agreed to between the employer and the employee's bargaining agent; or (c) to which the employee is entitled as a matter of state or federal law;

(23) Paid vacation leave means a period of time while employed or following separation from employment in which the individual renders no services to the employer but is entitled to receive vacation pay equal to or exceeding his or her base weekly wage;

(24) Payments in lieu of contributions means the money payments to the Unemployment Compensation Fund required by sections 48-649.04, 48-652, 48-660.01, and 48-661;

(25) Professional employer agreement means a written professional employer services contract whereby:

(a) A professional employer organization agrees to provide payroll services, employee benefit administration, or personnel services for a majority of the employees providing services to the client at a client worksite;

(b) The agreement is intended to be ongoing rather than temporary in nature; and

(c) Employer responsibilities for worksite employees, including those of hiring, firing, and disciplining, are shared between the professional employer organization and the client by contract. The term professional employer agreement shall not include a contract between a parent corporation, company, or other entity and a wholly owned subsidiary;

(26) Professional employer organization means any individual, partnership, limited liability company, corporation, or other legally recognized entity that enters into a professional employer agreement with a client or clients for a majority of a client's workforce at a client worksite. The term professional employer organization does not include an insurer as defined in section 44-103 or a temporary help firm;

(27) Standard rate means the rate assigned to category twenty for that year under section 48-649.03. The standard rate shall be not less than five and four-tenths percent of the employer's annual taxable payroll;

(28) State includes, in addition to the states of the United States of America, any dependency of the United States, the Commonwealth of Puerto Rico, the Virgin Islands, and the District of Columbia;

(29) State unemployment insurance tax means that portion of the combined tax which is based upon the state unemployment insurance tax rate portion of the combined tax rate and which is deposited in the State Unemployment Insurance Trust Fund as required by sections 48-648 and 48-649 to 48-649.04;

(30) State unemployment insurance tax rate means the percentage of the combined tax rate used to determine the state unemployment insurance tax portion of the combined tax;

(31) Temporary employee means an employee of a temporary help firm assigned to work for the clients of such temporary help firm;

(32) Temporary help firm means a firm that hires its own employees and assigns them to clients to support or supplement the client's workforce in work situations such as employee absences, temporary skill shortages, seasonal workloads, and special assignments and projects;

(33) Unemployed means an individual during any week in which the individual performs no service and with respect to which no wages are payable to the individual or any week of less than full-time work if the wages payable with respect to such week are less than the individual's weekly benefit amount, but does not include any individual on a leave of absence or on paid vacation leave. When an agreement between the employer and a bargaining unit representative does not allocate vacation pay allowance or pay in lieu of vacation to a specified period of time during a period of temporary layoff or plant shutdown, the payment by the employer or his or her designated representative will be deemed to be wages as defined in this section in the week or weeks the vacation is actually taken;

(34) Unemployment Trust Fund means the trust fund in the Treasury of the United States of America established under section 904 of the federal Social Security Act, 42 U.S.C. 1104, as such section existed on January 1, 2015, which receives credit from the state Unemployment Compensation Fund;

(35) Wages, except with respect to services performed in employment as provided in subdivisions (4)(c) and (d) of section 48-604, means all remuneration for personal services, including commissions and bonuses, remuneration for personal services paid under a contract of hire, and the cash value of all remunerations in any medium other than cash. The reasonable cash value of remuneration in any medium other than cash shall be estimated and determined in accordance with rules and regulations adopted and promulgated by the commissioner. Wages includes tips which are received while performing services which constitute employment and which are included in a written statement furnished to the employer pursuant to section 6053(a) of the Internal Revenue Code as defined in section 49-801.01.

With respect to services performed in employment in agricultural labor as is provided in subdivision (4)(c) of section 48-604, wages means cash remuneration and the cash value of commodities not intended for personal consumption by the worker and his or her immediate family for such services. With respect to services performed in employment in domestic service as is provided in subdivision (4)(d) of section 48-604, wages means cash remuneration for such services.

The term wages does not include:

(a) The amount of any payment, including any amount paid by an employer for insurance or annuities or into a fund to provide for such payment, made to, or on behalf of, an individual in employment or any of his or her dependents under a plan or system established by an employer which makes provision for such individuals generally or for a class or classes of such individuals, including any amount paid by an employer for insurance or annuities or into a fund to provide for any such payment, on account of (i) sickness or accident disability, except, in the case of payments made to an employee or any of his or her dependents, this subdivision (i) shall exclude from wages only payments which are received under a workers' compensation law, (ii) medical and hospitalization expenses in connection with sickness or accident disability, or (iii) death;

(b) The payment by an employer, without deduction from the remuneration of the employee, of the tax imposed upon an employee under section 3101 of the Internal Revenue Code as defined in section 49-801.01;

(c) Any payment on account of sickness or accident disability, or medical or hospitalization expenses in connection with sickness or accident disability, made by an employer to, or on behalf of, an individual after the expiration of six calendar months following the last calendar month in which such individual worked for such employer;

(d) Any payment made to, or on behalf of, an individual or his or her beneficiary (i) from or to a trust described in section 401(a) of the Internal Revenue Code as defined in section 49-801.01 which is exempt from tax under section 501(a) of the Internal Revenue Code as defined in section 49-801.01 at the time of such payment unless such payment is made to an employee of the trust as remuneration for services rendered as such employee and not as a beneficiary of the trust or (ii) under or to an annuity plan which, at the time of such payment, meets the requirements of section 401 of the Internal Revenue Code as defined in section 49-801.01;

(e) Any payment made to, or on behalf of, an employee or his or her beneficiary (i) under a simplified employee pension as defined by the commissioner, (ii) under or to an annuity contract as defined by the commissioner, other than a payment for the purchase of such contract which is made by reason of a salary reduction agreement, whether evidenced by a written instrument or otherwise, (iii) under or to an exempt governmental deferred compensation plan as defined by the commissioner, (iv) to supplement pension benefits under a plan or trust, as defined by the commissioner, to take into account some portion or all of the increase in the cost of living since retirement, but only if such supplemental payments are under a plan which is treated as a welfare plan, or (v) under a cafeteria benefits plan;

(f) Remuneration paid in any medium other than cash to an individual for service not in the course of the employer's trade or business;

(g) Benefits paid under a supplemental unemployment benefit plan which satisfies the eight points set forth in Internal Revenue Service Revenue Ruling 56-249 as the ruling existed on January 1, 2015, and is in compliance with the standards set forth in Internal Revenue Service Revenue Rulings 58-128 and 60-330 as the rulings existed on January 1, 2015; and

(h) Remuneration for service performed in the employ of any state in the exercise of his or her duties as a member of the Army National Guard or Air

National Guard or in the employ of the United States of America as a member of any military reserve unit;

(36) Week means such period of seven consecutive days as the commissioner may by rule and regulation prescribe;

(37) Week of unemployment with respect to any individual means any week during which he or she performs less than full-time work and the wages payable to him or her with respect to such week are less than his or her weekly benefit amount;

(38) Wholly owned subsidiary means a corporation, company, or other entity which has eighty percent or more of its outstanding voting stock or membership owned or controlled, directly or indirectly, by the parent entity; and

(39) Worksite employee has the same meaning as the term covered employee in section 48-2702.

Source: Laws 1937, c. 108, § 2, p. 370; Laws 1939, c. 56, § 1, p. 229; Laws 1940, Spec. Sess., c. 2, § 1, p. 54; Laws 1941, c. 94, § 1, p. 373; C.S.Supp.,1941, § 48-702; Laws 1943, c. 111, §§ 1, 2, p. 390; R.S.1943, § 48-602; Laws 1947, c. 175, § 1, p. 563; Laws 1949, c. 163, § 2, p. 417; Laws 1951, c. 156, § 1, p. 626; Laws 1953, c. 167, § 2, p. 520; Laws 1961, c. 235, § 3, p. 695; Laws 1961, c. 238, § 1, p. 701; Laws 1971, LB 651, § 1; Laws 1972, LB 1392, § 1; Laws 1977, LB 509, § 1; Laws 1979, LB 581, § 1; Laws 1980, LB 800, § 1; Laws 1983, LB 248, § 1; Laws 1985, LB 339, § 2; Laws 1986, LB 950, § 1; Laws 1988, LB 1033, § 1; Laws 1992, LB 879, § 1; Laws 1993, LB 121, § 289; Laws 1994, LB 286, § 1; Laws 1994, LB 1337, § 2; Laws 1995, LB 77, § 1; Laws 1995, LB 574, § 51; Laws 1996, LB 1044, § 274; Laws 1999, LB 168, § 1; Laws 1999, LB 608, § 1; Laws 2001, LB 192, § 3; Laws 2002, LB 921, § 1; Laws 2005, LB 484, § 3; Laws 2005, LB 739, § 2; Laws 2007, LB265, § 4; Laws 2007, LB296, § 216; Laws 2010, LB579, § 20; Laws 2010, LB1020, § 2; Laws 2015, LB271, § 1; Laws 2017, LB172, § 5.

Operative date January 1, 2018.

48-603.01 Indian tribes; applicability of Employment Security Law.

(1) For purposes of the Employment Security Law, unless the context otherwise requires, the term employer shall include any Indian tribe for which services in employment as provided in subdivision (4)(a) of section 48-604 are performed.

(2) The term employment shall include service performed in the employ of an Indian tribe, as defined in 26 U.S.C. 3306(u), as such section existed on January 1, 2015, if such service is excluded from employment as defined in the Federal Unemployment Tax Act solely by reason of 26 U.S.C. 3306(c)(7), as such section existed on January 1, 2015, and is not otherwise excluded from employment under the Employment Security Law. For purposes of this section, the exclusions from employment in subdivisions (6)(f) and (6)(g) of section 48-604 shall be applicable to services performed in the employment of an Indian tribe.

(3) Benefits based on service in employment defined in this section shall be payable in the same amount, on the same terms, and subject to the same conditions as benefits payable on the basis of other covered employment under

the Employment Security Law. Section 48-628.06 shall apply to services performed in an educational institution or educational service agency owned or operated by an Indian tribe.

(4)(a) Indian tribes or tribal units, subdivisions, subsidiaries, or business enterprises wholly owned by such Indian tribes, subject to the Employment Security Law, shall pay combined tax under the same terms and conditions as all other subject employers, unless they elect to make payments in lieu of contributions equal to the amount of benefits attributable to service in the employ of the Indian tribe.

(b) Indian tribes electing to make payments in lieu of contributions shall make such election in the same manner and under the same conditions as provided in section 48-649.04 pertaining to state and local governments subject to the Employment Security Law. Indian tribes shall determine if reimbursement for benefits paid will be elected by the tribe as a whole, by individual tribal units, or by combinations of individual tribal units.

(c) Except as provided in subsection (7) of this section, Indian tribes or tribal units shall be billed for the full amount of benefits attributable to service in the employ of the Indian tribe or tribal unit on the same schedule as other employing units that have elected to make payments in lieu of contributions.

(d) At the discretion of the commissioner, any Indian tribe or tribal unit that elects to become liable for payments in lieu of contributions shall be required within thirty days after the effective date of its election to:

(i) Execute and file with the commissioner a surety bond approved by the commissioner; or

(ii) Deposit with the commissioner money or securities on the same basis as other employers with the same election option.

(5)(a)(i) Failure of the Indian tribe or tribal unit to make required payments, including assessments of interest and penalty, within ninety days of receipt of the bill will cause the Indian tribe to lose the option to make payments in lieu of contributions, as described in subsection (4) of this section, for the following tax year unless payment in full is received before combined tax rates for the next tax year are computed.

(ii) Any Indian tribe that loses the option to make payments in lieu of contributions due to late payment or nonpayment, as described in subdivision (5)(a)(i) of this section, shall have such option reinstated if, after a period of one year, all combined taxes have been paid timely and no combined tax, payments in lieu of contributions for benefits paid, penalties, or interest remain outstanding.

(b)(i) Failure of the Indian tribe or any tribal unit thereof to make required payments, including assessments of interest and penalty, after all collection activities deemed necessary by the commissioner have been exhausted will cause services performed for such tribe to not be treated as employment for purposes of subsection (2) of this section.

(ii) The commissioner may determine that any Indian tribe that loses coverage under subdivision (5)(b)(i) of this section may have services performed for such tribe again included as employment for purposes of subsection (2) of this section if all contributions, payments in lieu of contributions, penalties, and interest have been paid.

(6) Notices of payment and reporting delinquency to Indian tribes or their tribal units shall include information that failure to make full payment within the prescribed timeframe:

(a) Will cause the Indian tribe to be liable for taxes under the Federal Unemployment Tax Act, as the act existed on January 1, 2015;

(b) Will cause the Indian tribe to lose the option to make payments in lieu of contributions; and

(c) Could cause the Indian tribe to be excepted from the definition of employer, as provided in subsection (1) of this section, and services in the employ of the Indian tribe, as provided in subsection (2) of this section, to be excepted from employment.

(7) Extended benefits paid that are attributable to service in the employ of an Indian tribe and not reimbursed by the federal government shall be financed in their entirety by such Indian tribe.

(8) If an Indian tribe fails to make payments required under this section, including assessments of interest and penalty, within ninety days after a final notice of delinquency, the commissioner shall immediately notify the United States Internal Revenue Service and the United States Department of Labor.

Source: Laws 2001, LB 192, § 2; Laws 2003, LB 199, § 1; Laws 2005, LB 739, § 4; Laws 2015, LB271, § 3; Laws 2017, LB172, § 6.
Operative date January 1, 2018.

48-604 Employment, defined.

As used in the Employment Security Law, unless the context otherwise requires, employment shall mean:

(1) Any service performed, including service in interstate commerce, for wages under a contract of hire, written or oral, express or implied;

(2) The term employment shall include an individual's entire service, performed within or both within and without this state if (a) the service is localized in this state, (b) the service is not localized in any state but some of the service is performed in this state and the base of operations or, if there is no base of operations, then the place from which such service is directed or controlled is in this state or the base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed but the individual's residence is in this state, (c) the service shall be deemed to be localized within a state if (i) the service is performed entirely within such state or (ii) the service is performed both within and without such state, but the service performed without such state is incidental to the individual's service within the state, for example, is temporary or transitory in nature or consists of isolated transactions;

(3) Services performed outside the state and services performed outside the United States as follows:

(a) Services not covered under subdivision (2) of this section and performed entirely without this state, with respect to no part of which contributions are required under an unemployment compensation law of any other state or of the federal government, shall be deemed to be employment subject to the Employment Security Law if the commissioner approves the election of the employer, for whom such services are performed, that the entire service of such individual shall be deemed to be employment subject to such law;

(b) Services of an individual wherever performed within the United States or Canada if (i) such service is not covered under the employment compensation law of any other state or Canada and (ii) the place from which the service is directed or controlled is in this state; and

(c)(i) Services of an individual who is a citizen of the United States, performed outside the United States except in Canada in the employ of an American employer, other than service which is deemed employment under subdivisions (2) and (3)(a) and (b) of this section or the parallel provisions of another state's law, if:

(A) The employer's principal place of business in the United States is located in this state;

(B) The employer has no place of business in the United States, but the employer is an individual who is a resident of this state; the employer is a corporation or limited liability company which is organized under the laws of this state; or the employer is a partnership or a trust and the number of the partners or trustees who are residents of this state is greater than the number who are residents of any other state; or

(C) None of the criteria of subdivisions (A) and (B) of this subdivision are met, but the employer has elected coverage in this state or, the employer having failed to elect coverage in any state, the individual has filed a claim for benefits based on such service under the laws of this state.

(ii) American employer, for the purposes of this subdivision, shall mean: (A) An individual who is a resident of the United States; (B) a partnership if two-thirds or more of the partners are residents of the United States; (C) a trust if all the trustees are residents of the United States; or (D) a corporation or limited liability company organized under the laws of the United States or of any state.

(iii) The term United States for the purpose of this section includes the states, the District of Columbia, the Virgin Islands, and the Commonwealth of Puerto Rico;

(4)(a) Service performed in the employ of this state or any political subdivision thereof or any instrumentality of any one or more of the foregoing or any instrumentality which is wholly owned by this state and one or more other states or political subdivisions, or any service performed in the employ of any instrumentality of this state or of any political subdivision thereof and one or more other states or political subdivisions if such service is excluded from employment as defined in the Federal Unemployment Tax Act, as amended, solely by reason of 26 U.S.C. 3306(c)(7), and is not otherwise excluded under this section;

(b) Service performed by an individual in the employ of a religious, charitable, educational, or other organization, but only if the following conditions are met: (i) The service is excluded from employment as defined in the Federal Unemployment Tax Act, as amended, solely by reason of 26 U.S.C. 3306(c)(8), and is not otherwise excluded under this section; and (ii) the organization had four or more individuals in employment for some portion of a day in each of twenty different weeks, whether or not such weeks were consecutive, within either the current or preceding calendar year, regardless of whether they were employed at the same moment of time;

(c)(i) Service performed by an individual in agricultural labor if such service is performed for a person who during any calendar quarter in either the current or preceding calendar year paid remuneration in cash of twenty thousand dollars or more to individuals employed in agricultural labor, or for some portion of a day in each of twenty different calendar weeks, whether or not such weeks were consecutive, in either the current or the preceding calendar year, employed in agricultural labor ten or more individuals, regardless of whether they were employed at the same moment of time.

(ii) For purposes of this subdivision:

(A) Any individual who is a member of a crew furnished by a crew leader to perform services in agricultural labor for any other person shall be treated as an employee of such crew leader if such crew leader holds a valid certificate of registration under the Migrant and Seasonal Agricultural Worker Protection Act, as amended, 29 U.S.C. 1801 et seq.; substantially all the members of such crew operate or maintain tractors, mechanized harvesting or cropdusting equipment, or any other mechanized equipment, which is provided by such crew leader; and such individual is not an employee of such other person within the meaning of any other provisions of this section; and

(B) In case any individual who is furnished by a crew leader to perform service in agricultural labor for any other person and who is not treated as an employee of such crew leader under subdivision (A) of this subdivision, such other person and not the crew leader shall be treated as the employer of such individual and such other person shall be treated as having paid cash remuneration to such individual in an amount equal to the amount of cash remuneration paid to such individual by the crew leader, either on his or her own behalf or on behalf of such other person, for the service in agricultural labor performed for such other person; and

(d) Service performed by an individual in domestic service in a private home, local college club, or local chapter of a college fraternity or sorority if performed for a person who paid cash remuneration of one thousand dollars or more in the current calendar year or the preceding calendar year to individuals employed in such domestic service in any calendar quarter;

(5) Services performed by an individual for wages, including wages received under a contract of hire, shall be deemed to be employment unless it is shown to the satisfaction of the commissioner that (a) such individual has been and will continue to be free from control or direction over the performance of such services, both under his or her contract of service and in fact, (b) such service is either outside the usual course of the business for which such service is performed or such service is performed outside of all the places of business of the enterprise for which such service is performed, and (c) such individual is customarily engaged in an independently established trade, occupation, profession, or business. The provisions of this subdivision are not intended to be a codification of the common law and shall be considered complete as written;

(6) The term employment shall not include:

(a) Agricultural labor, except as provided in subdivision (4)(c) of this section;

(b) Domestic service, except as provided in subdivision (4)(d) of this section, in a private home, local college club, or local chapter of a college fraternity or sorority;

(c) Service not in the course of the employer's trade or business performed in any calendar quarter by an employee, unless the cash remuneration paid for such service is fifty dollars or more and such service is performed by an individual who is regularly employed by such employer to perform such service and, for the purposes of this subdivision, an individual shall be deemed to be regularly employed by an employer during a calendar quarter only if (i) on each of some twenty-four days during such quarter such individual performs for such employer for some portion of the day service not in the course of the employer's trade or business, or (ii) such individual was regularly employed, as determined under subdivision (c)(i) of this subdivision, by such employer in the performance of such service during the preceding calendar quarter;

(d) Service performed by an individual in the employ of his or her son, daughter, or spouse and service performed by a child under the age of twenty-one in the employ of his or her father or mother;

(e) Service performed in the employ of the United States Government or an instrumentality of the United States immune under the Constitution of the United States from the contributions imposed by sections 48-648 and 48-649 to 48-649.04, except that, to the extent that the Congress of the United States shall permit states to require any instrumentalities of the United States to make payments into an unemployment fund under a state unemployment compensation act, all of the Employment Security Law shall be applicable to such instrumentalities and to services performed for such instrumentalities in the same manner, to the same extent, and on the same terms as to all other employers, individuals, and services, except that if this state is not certified for any year by the Secretary of Labor of the United States under section 3304 of the Internal Revenue Code as defined in section 49-801.01, the payments required of such instrumentalities with respect to such year shall be refunded by the commissioner from the fund in the same manner and within the same period as is provided in section 48-660, with respect to contributions erroneously collected;

(f) Service performed in the employ of this state or any political subdivision thereof or any instrumentality of any one or more of the foregoing if such services are performed by an individual in the exercise of his or her duties: (i) As an elected official; (ii) as a member of the legislative body or a member of the judiciary of a state or political subdivision thereof; (iii) as a member of the Army National Guard or Air National Guard; (iv) as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or similar emergency; or (v) as an election official or election worker if the amount of remuneration received by the individual during the calendar year for services as an election official or election worker is less than one thousand dollars;

(g) For the purposes of subdivisions (4)(a) and (4)(b) of this section, service performed:

(i) In the employ of (A) a church or convention or association of churches or (B) an organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church or convention or association of churches;

(ii) By a duly ordained, commissioned, or licensed minister of a church in the exercise of his or her ministry or by a member of a religious order in the exercise of the duties required by such order;

(iii) In a facility conducted for the purpose of carrying out a program of rehabilitation for an individual whose earning capacity is impaired by age or physical or mental deficiency or injury, or providing remunerative work for the individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market, by an individual receiving such rehabilitation or remunerative work;

(iv) As part of an unemployment work relief or work-training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision thereof, by an individual receiving such work relief or work training; or

(v) By an inmate of a custodial or penal institution;

(h) Service with respect to which unemployment compensation is payable under an unemployment compensation system established by an act of Congress;

(i) Service performed in any calendar quarter in the employ of any organization exempt from income tax under section 501(a) of the Internal Revenue Code as defined in section 49-801.01, other than an organization described in section 401(a) of the Internal Revenue Code as defined in section 49-801.01, or under section 521 thereof, if the remuneration for such service is less than fifty dollars;

(j) Service performed in the employ of a school, college, or university, if such service is performed (i) by a student who is enrolled, regularly attending classes at, and working for such school, college, or university pursuant to a financial assistance arrangement with such school, college, or university or (ii) by the spouse of such student, if such spouse is advised, at the time such spouse commences to perform such service, that (A) the employment of such spouse to perform such service is provided under a program to provide financial assistance to such student by such school, college, or university and (B) such employment will not be covered by any program of unemployment insurance;

(k) Service performed as a student nurse in the employ of a hospital or nurses training school by an individual who is enrolled and is regularly attending classes in a nurses training school chartered or approved pursuant to state law; and service performed as an intern in the employ of a hospital by an individual who has completed a four-year course in a medical school chartered or approved pursuant to state law;

(l) Service performed by an individual as a real estate salesperson, as an insurance agent, or as an insurance solicitor, if all such service performed by such individual is performed for remuneration solely by way of commission;

(m) Service performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;

(n) Service performed by an individual in the sale, delivery, or distribution of newspapers or magazines under a written contract in which (i) the individual acknowledges that the individual performing the service and the service are not covered and (ii) the newspapers and magazines are sold by him or her at a fixed price with his or her compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to him or her, whether or not he or she is guaranteed a minimum

amount of compensation for such service, or is entitled to be credited with the unsold newspapers or magazines turned back;

(o) Service performed by an individual who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, as a student in a full-time program, taken for credit at such institution, which combines academic instruction with work experience, if such service is an integral part of such program, and such institution has so certified to the employer, except that this subdivision shall not apply to service performed in a program established for or on behalf of an employer or a group of employers;

(p) Service performed in the employ of a hospital, if such service is performed by a patient of the hospital;

(q) Service performed for a motor carrier, as defined in 49 U.S.C. 13102 or section 75-302, as amended, by a lessor leasing one or more motor vehicles driven by the lessor or one or more drivers provided by the lessor under a lease, with the motor carrier as lessee, executed pursuant to 49 C.F.R. part 376, Title 291, Chapter 3, as amended, of the rules and regulations of the Public Service Commission, or the rules and regulations of the Division of Motor Carrier Services. This shall not preclude the determination of an employment relationship between the lessor and any personnel provided by the lessor in the conduct of the service performed for the lessee;

(r) Service performed by an individual for a business engaged in compilation of marketing data bases if such service consists only of the processing of data and is performed in the residence of the individual;

(s) Service performed by an individual as a volunteer research subject who is paid on a per study basis for scientific, medical, or drug-related testing for any organization other than one described in section 501(c)(3) of the Internal Revenue Code as defined in section 49-801.01 or any governmental entity;

(t) Service performed by a direct seller if:

(i) Such person is engaged in sales primarily in person and is:

(A) Engaged in the trade or business of selling or soliciting the sale of consumer products or services to any buyer on a buy-sell basis or a deposit-commission basis for resale, by the buyer or any other person, in the home or otherwise than in a permanent retail establishment;

(B) Engaged in the trade or business of selling or soliciting the sale of consumer products or services in the home or otherwise than in a permanent retail establishment; or

(C) Engaged in the trade or business of the delivering or distribution of newspapers or shopping news, including any services directly related to such trade or business;

(ii) Substantially all the remuneration, whether or not paid in cash, for the performance of the services described in subdivision (t)(i) of this subdivision is directly related to sales or other output, including the performance of services, rather than to the number of hours worked; and

(iii) The services performed by the person are performed pursuant to a written contract between such person and the person for whom the services are performed and the contract provides that the person will not be treated as an employee for federal and state tax purposes. Sales by a person whose business

is conducted primarily by telephone or any other form of electronic sales or solicitation is not service performed by a direct seller under this subdivision;

(u) Service performed by an individual who is a participant in the National and Community Service State Grant Program, also known as AmeriCorps, because a participant is not considered an employee of the organization receiving assistance under the national service laws through which the participant is engaging in service pursuant to 42 U.S.C. 12511(30)(B); and

(v) Service performed at a penal or custodial institution by a person committed to a penal or custodial institution;

(7) If the services performed during one-half or more of any pay period by an individual for the person employing him or her constitute employment, all the services of such individual for such period shall be deemed to be employment, but if the services performed during more than one-half of any such pay period by an individual for the person employing him or her do not constitute employment, then none of the services of such individual for such period shall be deemed to be employment. As used in this subdivision, the term pay period means a period, of not more than thirty-one consecutive days, for which a payment of remuneration is ordinarily made to such individual by the person employing him or her. This subdivision shall not be applicable with respect to services performed in a pay period by an individual for the person employing him or her when any of such service is excepted by subdivision (6)(h) of this section; and

(8) Notwithstanding the foregoing exclusions from the definition of employment, services shall be deemed to be in employment if with respect to such services a tax is required to be paid under any federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment compensation fund or which as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act, as amended, is required to be covered under the Employment Security Law.

Source: Laws 1937, c. 108, § 2, p. 372; Laws 1939, c. 56, § 1, p. 230; Laws 1940, Spec. Sess., c. 2, § 1, p. 54; Laws 1941, c. 94, § 1, p. 375; C.S.Supp., 1941, § 48-702; R.S. 1943, § 48-604; Laws 1945, c. 115, § 1, p. 376; Laws 1947, c. 175, § 2, p. 566; Laws 1953, c. 167, § 3, p. 523; Laws 1959, c. 228, § 1, p. 795; Laws 1961, c. 238, § 2, p. 704; Laws 1971, LB 651, § 3; Laws 1972, LB 1392, § 2; Laws 1977, LB 509, § 3; Laws 1979, LB 581, § 2; Laws 1983, LB 248, § 2; Laws 1983, LB 319, § 1; Laws 1984, LB 745, § 1; Laws 1985, LB 339, § 4; Laws 1986, LB 799, § 1; Laws 1993, LB 121, § 291; Laws 1994, LB 1337, § 3; Laws 1995, LB 424, § 1; Laws 1995, LB 574, § 52; Laws 1997, LB 79, § 1; Laws 1997, LB 129, § 1; Laws 1997, LB 130, § 1; Laws 1999, LB 168, § 2; Laws 2000, LB 953, § 1; Laws 2001, LB 387, § 1; Laws 2003, LB 199, § 2; Laws 2011, LB 261, § 1; Laws 2016, LB 830, § 1; Laws 2017, LB 172, § 7.

Operative date January 1, 2018.

48-606 Commissioner; duties; powers; annual report; schedule of fees.

(1) It shall be the duty of the Commissioner of Labor to administer the Employment Security Law. He or she shall have the power and authority to employ such persons, make such expenditures, require such reports, make such

investigations, and take such other action as he or she deems necessary or suitable, if consistent with the Employment Security Law. The commissioner shall determine his or her own organization and methods of procedure in accordance with such law and shall have an official seal which shall be judicially noticed. Not later than the first day of January of each year, the commissioner shall submit to the Governor a report covering the administration and operation of such law during the preceding combined tax rate computational period ending September 30. The report shall include a balance sheet of the money in the fund in which there shall be provided a reserve against the liability in future years to pay benefits in excess of the then current contributions. The reserve shall be set up by the commissioner. Whenever the commissioner believes that a change in contribution or benefit rates will become necessary to protect the solvency of the fund, he or she shall promptly inform the Governor and the Clerk of the Legislature and make recommendations with respect thereto. Such information and recommendations submitted to the Clerk of the Legislature shall be submitted electronically. Each member of the Legislature shall receive an electronic copy of such information upon request to the commissioner.

(2) The commissioner may establish a schedule of fees to recover the cost of services including, but not limited to, copying, preparation of forms and other materials, responding to inquiries for information, payments for returned check charges and electronic payments not accepted, and furnishing publications prepared by the commissioner pursuant to the Employment Security Law. Fees received pursuant to this subsection shall be deposited in the Employment Security Administration Fund.

(3) Nothing in this section shall be construed to allow the department to charge any fee for making a claim for unemployment benefits or receiving assistance from the state employment service established pursuant to section 48-662 when performing functions within the purview of the federal Wagner-Peyser Act, 29 U.S.C. 49 et seq., as amended.

Source: Laws 1937, c. 108, § 11, p. 390; Laws 1941, c. 94, § 8, p. 396; C.S.Supp., 1941, § 48-711; R.S. 1943, § 48-606; Laws 1953, c. 167, § 4(1), p. 529; Laws 1955, c. 231, § 8, p. 720; Laws 1979, LB 322, § 17; Laws 1985, LB 339, § 6; Laws 1987, LB 278, § 1; Laws 2003, LB 195, § 1; Laws 2007, LB265, § 5; Laws 2012, LB782, § 61; Laws 2017, LB172, § 8.
Operative date January 1, 2018.

48-606.01 Commissioner; office space; acquire; approval of Department of Administrative Services.

The commissioner, with the written consent of the Department of Administrative Services, is authorized and empowered to use any funds available under either subdivision (1)(a) or (1)(b) of section 48-621, for the purpose of acquiring suitable office space within the corporate limits of the state capital city for the administration of the Employment Security Law. Office space may be acquired by purchase, by contract, or in any other manner including the right to use such funds, or any part thereof, to assist in financing the construction of any building erected by the State of Nebraska or any of its agencies. If the Department of Labor assists in financing the construction of any building erected by the State of Nebraska or any of its agencies under a lease or contract

between the commissioner and the State of Nebraska or such other agency, the Department of Labor shall continue to occupy such space rent free after the cost of financing such building has been liquidated. The commissioner, upon approval by the Department of Administrative Services, is authorized and empowered to use any such funds to acquire suitable office space for local employment offices anywhere in the State of Nebraska.

Source: Laws 1953, c. 167, § 4(2), p. 530; Laws 1955, c. 190, § 2, p. 540; Laws 1961, c. 239, § 2, p. 713; Laws 1975, LB 359, § 1; Laws 1984, LB 747, § 2; Laws 1985, LB 339, § 7; Laws 1995, LB 1, § 1; Laws 2000, LB 953, § 2; Laws 2017, LB172, § 9.
Operative date January 1, 2018.

48-609 Personnel; powers of commissioner; bond or insurance; retirement system.

(1) Subject to other provisions of the Employment Security Law, the Commissioner of Labor is authorized to appoint, fix the compensation of, and prescribe the duties and powers of such officers, accountants, attorneys, experts, and other persons as may be necessary in the performance of his or her duties under such law. The commissioner may delegate to any such person such power and authority as he or she deems reasonable and proper for the effective administration of such law. Employees handling money or signing warrants under such law shall be bonded or insured as required by section 11-201. The commissioner may pay the share of the premium from the Employment Security Administration Fund. The commissioner shall classify positions under such law and shall establish salary schedules and minimum personnel standards for the positions so classified. The commissioner shall follow State Personnel System rules, regulations, and contract requirements for appointments, promotions, demotions, and terminations for cause based upon ratings of efficiency and fitness.

(2) Any person employed by the department and paid from funds provided pursuant to Title III of the Social Security Act or funds from other federal sources shall be enrolled in the State Employees Retirement System of the State of Nebraska when he or she becomes eligible.

Source: Laws 1937, c. 108, § 11, p. 391; Laws 1939, c. 56, § 8, p. 246; C.S.Supp.,1941, § 48-711; R.S.1943, § 48-609; Laws 1961, c. 240, § 1, p. 715; Laws 1978, LB 653, § 10; Laws 1984, LB 747, § 3; Laws 1985, LB 339, § 10; Laws 1987, LB 272, § 1; Laws 1989, LB 29, § 1; Laws 2004, LB 884, § 21; Laws 2017, LB172, § 10.
Operative date January 1, 2018.

Cross References

State Employees Retirement Act, see section 84-1331.

48-612 Employers; records and reports required; privileged communications; violation; penalty.

(1) Each employer, whether or not subject to the Employment Security Law, shall keep true and accurate work records containing such information as required by the Commissioner of Labor. Such records shall be open to inspection and be subject to being copied by the commissioner or his or her authorized representatives at any reasonable time and as often as may be

necessary. The commissioner and a hearing officer may require from any such employer any sworn or unsworn reports, with respect to persons employed by it, deemed necessary for the effective administration of such law. Except as otherwise provided in section 48-612.01, information obtained pursuant to this section or obtained from any employer or individual pursuant to the administration of the Employment Security Law shall be held confidential.

(2) Any employee of the commissioner who violates any provision of sections 48-606 to 48-616 shall be guilty of a Class III misdemeanor.

(3) All letters, reports, communications, or any other matters, either oral or written, from an employer or his or her workers to each other or to the commissioner or any of his or her agents, representatives, or employees written or made in connection with the requirements and administration of the Employment Security Law, or the rules and regulations thereunder, shall be absolutely privileged. Any such letters, reports, communications, or other matters shall not be made the subject matter or basis for any suit for slander or libel in any court of this state, unless the same be false in fact and malicious in intent.

Source: Laws 1937, c. 108, § 11, p. 392; C.S.Supp.,1941, § 48-711; R.S.1943, § 48-612; Laws 1945, c. 115, § 2, p. 381; Laws 1977, LB 40, § 290; Laws 1985, LB 339, § 11; Laws 1993, LB 757, § 31; Laws 2001, LB 192, § 5; Laws 2007, LB265, § 6; Laws 2017, LB172, § 11.

Operative date January 1, 2018.

48-612.01 Employer information; disclosure authorized; costs; prohibited redisclosure; penalty.

(1) Information obtained pursuant to subsection (1) of section 48-612 may be disclosed under the following circumstances:

(a) Any claimant or employer or representative of a claimant or employer, as a party before a hearing officer or court regarding an unemployment claim or tax appeal, shall be supplied with information obtained in the administration of the Employment Security Law, to the extent necessary for the proper presentation of the claim or appeal;

(b) The names, addresses, and identification numbers of employers may be disclosed to the Nebraska Workers' Compensation Court which may use such information for purposes of enforcement of the Nebraska Workers' Compensation Act;

(c) Hearing officer decisions rendered pursuant to the Employment Security Law and designated as precedential by the commissioner on the coverage of employers, employment, wages, and benefit eligibility may be published in printed or electronic format if all social security numbers have been removed and disclosure is consistent with federal and state law;

(d) To a public official for use in the performance of his or her official duties. For purposes of this subdivision, performance of official duties means the administration or enforcement of law or the execution of the official responsibilities of a federal, state, or local elected official. Administration of law includes research related to the law administered by the public official. Execution of official responsibilities does not include solicitation of contributions or

expenditures to or on behalf of a candidate for public office or to a political party;

(e) To an agent or contractor of a public official to whom disclosure is permissible under subdivision (d) of this subsection;

(f) For use in reports and publications containing information collected exclusively for statistical purposes under a cooperative agreement with the federal Bureau of Labor Statistics. This subdivision does not restrict or impose any condition on the transfer of any other information to the federal Bureau of Labor Statistics under an agreement or the federal Bureau of Labor Statistics' disclosure or use of such information; and

(g) In response to a court order.

(2) Information about an individual or employer obtained pursuant to subsection (1) of section 48-612 may be disclosed to:

(a) One who acts as an agent for the individual or employer when the agent presents a written release from the individual or employer, where practicable, or other evidence of authority to act on behalf of the individual or employer;

(b) An elected official who is performing constituent services if the official presents reasonable evidence that the individual or employer has authorized such disclosure;

(c) An attorney who presents written evidence that he or she is representing the individual or employer in a matter arising under the Employment Security Law; or

(d) A third party or its agent carrying out the administration or evaluation of a public program. The third party or agent must obtain a written release from the individual or employer to whom the information pertains. To constitute informed consent, the release shall be signed and shall include a statement:

(i) Specifically identifying the information that is to be disclosed;

(ii) That state government files will be accessed to obtain that information;

(iii) Identifying the specific purpose or purposes for which the information is sought and that information obtained under the release will only be used for that purpose or purposes; and

(iv) Identifying and describing all the parties who may receive the disclosed information.

(3) Information obtained pursuant to subsection (1) of section 48-612 may be disclosed under the following circumstances:

(a) To an individual or employer if the information requested pertains only to the individual or employer making the request;

(b) To a local, state, or federal governmental official, other than a clerk of court, attorney, or notary public acting on behalf of a litigant, with authority to obtain such information by subpoena under state or federal law; and

(c) To a federal official for purposes of unemployment compensation program oversight and audits, including disclosures under 20 C.F.R. part 601 and 29 C.F.R. parts 96 and 97 as they existed on January 1, 2007.

(4) If the purpose for which information is provided under subsection (1), (2), or (3) of this section is not related to the administration of the Employment Security Law or the unemployment insurance compensation program of another jurisdiction, the commissioner shall recover the costs of providing such

information from the requesting individual or entity prior to providing the information. Costs shall be recovered unless the costs are nominal or the entity is a governmental agency which the commissioner has determined provides reciprocal services.

(5) Any person who receives information under subsection (1) or (2) of this section and rediscloses such information for any purpose other than the purpose for which it was originally obtained shall be guilty of a Class III misdemeanor.

Source: Laws 2007, LB265, § 7; Laws 2009, LB631, § 1; Laws 2017, LB172, § 12.

Operative date January 1, 2018.

Cross References

Nebraska Workers' Compensation Act, see section 48-1,110.

48-613 Oaths; depositions; subpoenas.

In the discharge of the duties imposed by the Employment Security Law, the Commissioner of Labor, an impartial hearing officer employed by the Department of Labor, and any duly authorized representative of any of them shall have power to administer oaths and affirmations, take depositions, certify to official acts, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records deemed necessary as evidence in connection with a disputed claim or the administration of such law.

Source: Laws 1937, c. 108, § 11, p. 393; C.S.Supp.,1941, § 48-711; R.S.1943, § 48-613; Laws 1985, LB 339, § 12; Laws 2001, LB 192, § 6; Laws 2017, LB172, § 13.

Operative date January 1, 2018.

48-614 Subpoenas; contumacy or disobedience; punishable as contempt; penalty.

The Commissioner of Labor, a hearing officer, or a duly authorized representative of the commissioner may petition a court to enforce a subpoena issued by the commissioner or a hearing officer in case of contumacy by any person or refusal of any person to obey such a subpoena. Any court of this state which has subject matter jurisdiction and has venue jurisdiction of the place where the person guilty of contumacy or refusal to obey is found, resides, or transacts business has jurisdiction to issue such person an order requiring him or her to appear before the commissioner, a hearing officer, or a duly authorized representative and to produce evidence or give testimony if so ordered touching the matter under investigation or in question. Any failure to obey such order of the court may be punished by the court as contempt. Any person who without just cause fails or refuses to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, and other records, if it is in his or her power so to do, in obedience to a subpoena of the commissioner, a hearing officer, or a duly authorized representative shall be guilty of a Class III misdemeanor. Each day such violation continues shall be a separate offense.

Source: Laws 1937, c. 108, § 11, p. 393; C.S.Supp.,1941, § 48-711; R.S.1943, § 48-614; Laws 1977, LB 40, § 291; Laws 2001, LB 192, § 7; Laws 2017, LB172, § 14.

Operative date January 1, 2018.

48-616 Commissioner of Labor; cooperation with Secretary of Labor of the United States; duties.

In the administration of the Employment Security Law, the Commissioner of Labor shall cooperate, to the fullest extent consistent with such law, with the Secretary of Labor of the United States. The commissioner is authorized and directed to adopt appropriate rules and regulations, administrative methods, and standards, as may be necessary to secure to this state and its citizens all advantages available under the Social Security Act, under sections 3303 and 3304 of the Federal Unemployment Tax Act, and under the Act of Congress entitled An act to provide for the establishment of a national employment system and for cooperation with states in the promotion of such system, and for other purposes, approved June 6, 1933, as amended. The commissioner shall comply with the regulations of the Secretary of Labor relating to the receipt or expenditure by this state of money granted under any of such acts. The commissioner shall make such reports, in such form and containing such information as the Secretary of Labor may from time to time require, and shall comply with such provisions as the Secretary of Labor may from time to time find necessary to assure the correctness and verification of such reports. Upon request, the commissioner shall furnish to any agency of the United States charged with the administration of public works or assistance through public employment the name, address, ordinary occupation, and employment status of each recipient of benefits and such recipient's rights to further benefits under the Employment Security Law. The commissioner may afford reasonable cooperation with every agency of the United States charged with the administration of any unemployment insurance law.

Source: Laws 1937, c. 108, § 11, p. 394; Laws 1939, c. 56, § 8, p. 247; Laws 1941, c. 94, § 16, p. 401; C.S.Supp.,1941, § 48-711; R.S. 1943, § 48-616; Laws 1961, c. 238, § 3, p. 709; Laws 1985, LB 339, § 13; Laws 2017, LB172, § 15.
Operative date January 1, 2018.

48-617 Unemployment Compensation Fund; establishment; composition; investment.

(1) There is hereby established as a special fund, separate and apart from all public money or funds of this state, an Unemployment Compensation Fund. The fund shall be administered by the Commissioner of Labor exclusively for the purposes of the Employment Security Law. The fund shall consist of:

- (a) All contributions and payments in lieu of contributions collected under such law together with any interest thereon collected pursuant to sections 48-655 to 48-660.01, except as provided in subdivision (1)(b) of section 48-621;
- (b) Interest earned upon any money in the fund;
- (c) Any property or securities acquired through the use of money belonging to the fund;
- (d) All earnings of such property or securities;
- (e) All money credited to this state's account in the Unemployment Trust Fund pursuant to section 903 of the federal Social Security Act, as amended; and
- (f) All other money received for the fund from any other source.

(2) Any money in the Unemployment Compensation Fund available for investment by the State of Nebraska shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1937, c. 108, § 9, p. 387; Laws 1939, c. 56, § 7, p. 243; C.S.Supp.,1941, § 48-709; R.S.1943, § 48-617; Laws 1947, c. 175, § 4, p. 572; Laws 1957, c. 208, § 1, p. 728; Laws 1969, c. 584, § 48, p. 2374; Laws 1972, LB 1392, § 3; Laws 1985, LB 339, § 14; Laws 1995, LB 1, § 2; Laws 1995, LB 7, § 46; Laws 2000, LB 953, § 3; Laws 2017, LB172, § 16.
Operative date January 1, 2018.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

48-618 Unemployment Compensation Fund; treasurer; accounts; transfer of interest; depositories; Unemployment Trust Fund; investment; bond or insurance.

(1) The Commissioner of Labor shall designate a treasurer and custodian of the Unemployment Compensation Fund, who shall be selected in accordance with section 48-609. The treasurer shall administer the Unemployment Compensation Fund in accordance with the directions of the commissioner and shall issue his or her warrants upon it in accordance with such rules and regulations as adopted and promulgated by the commissioner. The treasurer shall maintain within the Unemployment Compensation Fund three separate accounts:

- (a) A clearing account;
- (b) An Unemployment Trust Fund account; and
- (c) A benefit account.

(2) All money payable to the Unemployment Compensation Fund, upon receipt by the commissioner, shall be forwarded to the treasurer. The treasurer shall immediately deposit the same in the clearing account. Transfers of interest on delinquent contributions pursuant to subdivision (1)(b) of section 48-621 and refunds payable pursuant to section 48-660 may be paid from the clearing account upon warrants issued by the treasurer of the Unemployment Compensation Fund under the direction of the commissioner. After clearance, all other money in the clearing account shall be immediately deposited with the Secretary of the Treasury of the United States of America to the credit of the account of this state in the Unemployment Trust Fund. The benefit account shall consist of all money requisitioned from this state's account in the Unemployment Trust Fund. Except as herein otherwise provided, money in the clearing and benefit accounts may be deposited by the treasurer under the direction of the commissioner in any bank or public depository in which general funds of the state may be deposited. No public deposit insurance charge or premium shall be paid out of the Unemployment Compensation Fund.

(3) The Unemployment Trust Fund is to be maintained pursuant to section 904 of the Social Security Act, any provisions of law in this state relating to the deposit, administration, release, or disbursement of money in the possession or custody of this state to the contrary notwithstanding.

(4) Any money in the Unemployment Trust Fund available for investment by the State of Nebraska shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(5) The treasurer shall be bonded or insured as required by section 11-201.

Source: Laws 1937, c. 108, § 9, p. 387; Laws 1939, c. 56, § 7, p. 243; Laws 1941, c. 94, § 7, p. 395; C.S.Supp.,1941, § 48-709; R.S. 1943, § 48-618; Laws 1947, c. 175, § 5, p. 573; Laws 1955, c. 190, § 4, p. 541; Laws 1978, LB 653, § 11; Laws 1985, LB 339, § 15; Laws 1995, LB 1, § 3; Laws 2000, LB 953, § 4; Laws 2004, LB 884, § 22; Laws 2017, LB172, § 17.

Operative date January 1, 2018.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

48-619 Unemployment Trust Fund; withdrawals.

(1) Money shall be requisitioned from this state's account in the Unemployment Trust Fund solely for the payment of benefits in accordance with lawful rules and regulations adopted and promulgated by the Commissioner of Labor, except that money credited to this fund pursuant to section 903 of the federal Social Security Act, as amended, may be appropriated by the Legislature in accordance with section 903 of the federal Social Security Act for the administration of the Employment Security Law. For such purposes and to the extent required, credits to the account pursuant to section 903 of the federal Social Security Act may be transferred to the Employment Security Administration Fund established in subdivision (1)(a) of section 48-621. The commissioner shall from time to time requisition from the Unemployment Trust Fund such amounts as he or she deems necessary for the payment of benefits for a reasonable future period, not to exceed the amounts standing to this state's account therein. Upon receipt thereof, the treasurer shall deposit such money in the benefit account and shall issue his or her warrants as provided by law for the payment of benefits solely from such benefit account. Expenditures of such money in the benefit account and refunds from the clearing account shall not be subject to any provisions of law requiring specific appropriations.

(2) Any balance of money requisitioned from the Unemployment Trust Fund, which remains unclaimed or unpaid in the benefit account after the expiration of the period for which such sums were requisitioned, shall, at the discretion of the commissioner, either be:

(a) Deducted from estimates for, and may be utilized for the payment of, benefits during succeeding periods; or

(b) Redeposited with the Secretary of the Treasury of the United States of America, to the credit of this state's account in the Unemployment Trust Fund, as provided in section 48-618.

(3) As used in this section, the term warrant shall include a signature negotiable instrument, electronic funds transfer system, telephonic funds transfer system, electric funds transfer system, funds transfers as provided for in article 4A, Uniform Commercial Code, mechanical funds transfer system, or other funds transfer system established by the treasurer. The warrant, when it is a dual signature negotiable instrument, shall affect the state's cash balance in

the bank when redeemed by the treasurer, not when cashed by a financial institution.

Source: Laws 1937, c. 108, § 9, p. 388; Laws 1939, c. 56, § 7, p. 244; C.S.Supp.,1941, § 48-709; R.S.1943, § 48-619; Laws 1957, c. 208, § 2, p. 728; Laws 1985, LB 339, § 16; Laws 1995, LB 1, § 4; Laws 2000, LB 953, § 5; Laws 2005, LB 484, § 4; Laws 2017, LB172, § 18.

Operative date January 1, 2018.

48-620 Unemployment Trust Fund; discontinuance.

(1) The provisions of sections 48-617 to 48-619, to the extent that they relate to the Unemployment Trust Fund, shall be operative only so long as such Unemployment Trust Fund continues to exist and so long as the Secretary of the Treasury of the United States of America continues to maintain for this state a separate book account of all funds deposited therein by this state for benefit purposes. The separate book account for this state shall also include the state's proportionate share of earnings from the Unemployment Trust Fund, from which no other state is permitted to make withdrawals. If and when the Unemployment Trust Fund ceases to exist or such separate book account is no longer maintained, all money, properties, or securities therein belonging to the Unemployment Compensation Fund of this state shall be transferred to the treasurer of the Unemployment Compensation Fund.

(2) If advances to the Unemployment Trust Fund under Title XII of the federal Social Security Act are necessary, any interest required to be paid on such advances shall be paid in a timely manner and shall not be paid by this state, directly or indirectly, by an equivalent reduction in state unemployment taxes or otherwise, from amounts in the Unemployment Compensation Fund.

Source: Laws 1937, c. 108, § 9, p. 388; Laws 1939, c. 56, § 7, p. 245; C.S.Supp.,1941, § 48-709; R.S.1943, § 48-620; Laws 1969, c. 584, § 49, p. 2375; Laws 1984, LB 746, § 1; Laws 1995, LB 7, § 47; Laws 2017, LB172, § 19.

Operative date January 1, 2018.

48-621 Employment Security Administration Fund; Employment Security Special Contingent Fund; created; use; investment; federal funds; treatment.

(1) The administrative fund shall consist of the Employment Security Administration Fund and the Employment Security Special Contingent Fund. Each fund shall be maintained as a separate and distinct account in all respects, as follows:

(a) There is hereby created in the state treasury a special fund to be known as the Employment Security Administration Fund. All money credited to this fund is hereby appropriated and made available to the Commissioner of Labor. All money in this fund shall be expended solely for the purposes and in the amounts found necessary as defined by the specific federal programs, state statutes, and contract obligations for the proper and efficient administration of all programs of the Department of Labor. The fund shall consist of all money appropriated by this state and all money received from the United States of America or any agency thereof, including the Department of Labor and the Railroad Retirement Board, or from any other source for such purpose. Money received from any agency of the United States or any other state as compensa-

tion for services or facilities supplied to such agency, any amounts received pursuant to any surety bond or insurance policy for losses sustained by the Employment Security Administration Fund or by reason of damage to equipment or supplies purchased from money in such fund, and any proceeds realized from the sale or disposition of any equipment or supplies which may no longer be necessary for the proper administration of such programs shall also be credited to this fund. All money in the Employment Security Administration Fund shall be deposited, administered, and disbursed in the same manner and under the same conditions and requirements as provided by law for other special funds in the state treasury. Any balances in this fund, except balances of money therein appropriated from the General Fund of this state, shall not lapse at any time. Fund balances shall be continuously available to the commissioner for expenditure consistent with the Employment Security Law. Any money in the Employment Security Administration Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act; and

(b) There is hereby created in the state treasury a special fund to be known as the Employment Security Special Contingent Fund. Any money in the Employment Security Special Contingent Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. All money collected under section 48-655 as interest on delinquent contributions, less refunds, shall be credited to this fund from the clearing account of the Unemployment Compensation Fund at the end of each calendar quarter. Such money shall not be expended or available for expenditure in any manner to permit substitution for, or a corresponding reduction in, federal funds which, in the absence of such money, would be available to finance expenditures for the administration of the unemployment insurance law. However, nothing in this section shall prevent the money in the Employment Security Special Contingent Fund from being used as a revolving fund to cover necessary and proper expenditures under the law for which federal funds have been duly requested but not yet received. Upon receipt of duly requested federal funds, covered expenditures shall be charged against such federal funds. Money in the Employment Security Special Contingent Fund may only be used by the Commissioner of Labor as follows:

(i) To replace within a reasonable time any money received by this state pursuant to section 302 of the federal Social Security Act, as amended, and required to be paid under section 48-622;

(ii) To meet special extraordinary and contingent expenses which are deemed essential for good administration but which are not provided in grants from the Secretary of Labor of the United States. No expenditures shall be made from this fund for this purpose except on written authorization by the Governor at the request of the Commissioner of Labor; and

(iii) To be transferred to the Job Training Cash Fund.

(2)(a) Money credited to the account of this state in the Unemployment Trust Fund by the United States Secretary of the Treasury pursuant to section 903 of the Social Security Act may not be requisitioned from this state's account or used except:

(i) For the payment of benefits pursuant to section 48-619; and

(ii) For the payment of expenses incurred for the administration of the Employment Security Law and public employment offices. Money requisitioned or used for this purpose must be pursuant to a specific appropriation by the Legislature. Any such appropriation law shall specify the amount and purposes for which the money is appropriated and must be enacted before expenses may be incurred and money may be requisitioned. Such appropriation is subject to the following conditions:

(A) Money may be obligated for a limited period ending not more than two years after the effective date of the appropriation law; and

(B) An obligated amount shall not exceed the aggregate amounts transferred to the account of this state pursuant to section 903 of the Social Security Act less the aggregate of amounts used by this state pursuant to the Employment Security Law and amounts charged against the amounts transferred to the account of this state.

(b) For purposes of subdivision (2)(a)(ii)(B) of this section, amounts appropriated for administrative purposes shall be charged against transferred amounts when the obligation is entered into.

(c) The appropriation, obligation, and expenditure or other disposition of money appropriated under this subsection shall be accounted for in accordance with standards established by the United States Secretary of Labor.

(d) Money appropriated as provided in this subsection for the payment of administration expenses shall be requisitioned as needed for the payment of obligations incurred under such appropriation. Upon requisition, administration expenses shall be credited to the Employment Security Administration Fund from which such payments shall be made. Money so credited shall, until expended, remain a part of the Employment Security Administration Fund. If not immediately expended, credited money shall be returned promptly to the account of this state in the Unemployment Trust Fund.

(e) Notwithstanding subdivision (2)(a) of this section, money credited with respect to federal fiscal years 1999, 2000, and 2001 shall be used solely for the administration of the unemployment compensation program and are not subject to appropriation by the Legislature.

Source: Laws 1937, c. 108, § 13, p. 397; Laws 1939, c. 56, § 10, p. 248; Laws 1941, c. 94, § 10, p. 398; C.S.Supp., 1941, § 48-712; R.S. 1943, § 48-621; Laws 1947, c. 175, § 6, p. 574; Laws 1949, c. 163, § 5, p. 421; Laws 1957, c. 208, § 3, p. 729; Laws 1969, c. 584, § 50, p. 2375; Laws 1985, LB 339, § 17; Laws 1989, LB 305, § 4; Laws 1994, LB 1066, § 38; Laws 1995, LB 1, § 5; Laws 1996, LB 1072, § 3; Laws 1999, LB 608, § 2; Laws 2000, LB 953, § 6; Laws 2003, LB 197, § 1; Laws 2012, LB782, § 62; Laws 2012, LB946, § 9; Laws 2017, LB172, § 20.

Operative date January 1, 2018.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

48-622.01 State Unemployment Insurance Trust Fund; created; use; investment; commissioner; powers and duties; cessation of state unemployment insurance tax; effect.

(1) There is hereby created in the state treasury a special fund to be known as the State Unemployment Insurance Trust Fund. All state unemployment insurance tax collected under sections 48-648 to 48-661, less refunds, shall be paid into the fund. Such money shall be held in trust for payment of unemployment insurance benefits. 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 interest earned on money in the fund shall be credited to the Nebraska Training and Support Cash Fund at the end of each calendar quarter.

(2) The commissioner shall have the authority to determine when and in what amounts withdrawals from the State Unemployment Insurance Trust Fund for payment of benefits are necessary. Amounts withdrawn for payment of benefits shall be immediately forwarded to the Secretary of the Treasury of the United States of America to the credit of the state's account in the Unemployment Trust Fund, any provision of law in this state relating to the deposit, administration, release, or disbursement of money in the possession or custody of this state to the contrary notwithstanding.

(3) If and when the state unemployment insurance tax ceases to exist as determined by the Governor, all money then in the State Unemployment Insurance Trust Fund less accrued interest shall be immediately transferred to the credit of the state's account in the Unemployment Trust Fund, any provision of law in this state relating to the deposit, administration, release, or disbursement of money in the possession or custody of this state to the contrary notwithstanding. The determination to eliminate the state unemployment insurance tax shall be based on the solvency of the state's account in the Unemployment Trust Fund and the need for training of Nebraska workers. Accrued interest in the State Unemployment Insurance Trust Fund shall be credited to the Nebraska Training and Support Cash Fund.

Source: Laws 1994, LB 1337, § 4; Laws 1995, LB 7, § 48; Laws 2009, LB631, § 2; Laws 2011, LB378, § 23; Laws 2014, LB906, § 16; Laws 2014, LB997, § 1; Laws 2017, LB172, § 21.
Operative date January 1, 2018.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

48-622.02 Nebraska Training and Support Cash Fund; created; use; investment; Administrative Costs Reserve Account; created; use.

(1) The Nebraska Training and Support Cash Fund is created. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. No expenditures shall be made from the Nebraska Training and Support Cash Fund without the written authorization of the Governor upon the recommendation of the commissioner. Any interest earned on money in the State Unemployment Insurance Trust Fund shall be credited to the Nebraska Training and Support Cash Fund.

(2) Money in the Nebraska Training and Support Cash Fund shall be used for (a) administrative costs of establishing, assessing, collecting, and maintaining state unemployment insurance tax liability and payments, (b) administrative costs of creating, operating, maintaining, and dissolving the State Unemploy-

ment Insurance Trust Fund and the Nebraska Training and Support Cash Fund, (c) support of public and private job training programs designed to train, retrain, or upgrade work skills of existing Nebraska workers of for-profit and not-for-profit businesses, (d) recruitment of workers to Nebraska, (e) training new employees of expanding Nebraska businesses, (f) the costs of creating a common web portal for the attraction of businesses and workers to Nebraska, (g) developing and conducting labor availability and skills gap studies pursuant to the Sector Partnership Program Act, for which money may be transferred to the Sector Partnership Program Fund as directed by the Legislature, and (h) payment of unemployment insurance benefits if solvency of the state's account in the Unemployment Trust Fund and of the State Unemployment Insurance Trust Fund so require.

(3) The Administrative Costs Reserve Account is created within the Nebraska Training and Support Cash Fund. Money shall be allocated from the Nebraska Training and Support Cash Fund to the Administrative Costs Reserve Account in amounts sufficient to pay the anticipated administrative costs identified in subsection (2) of this section.

(4) The State Treasurer shall transfer two hundred fifty thousand dollars from the Nebraska Training and Support Cash Fund to the Sector Partnership Program Fund no later than July 15, 2016.

Source: Laws 1994, LB 1337, § 5; Laws 1995, LB 7, § 49; Laws 2009, LB631, § 3; Laws 2012, LB911, § 1; Laws 2014, LB997, § 2; Laws 2016, LB1110, § 13; Laws 2017, LB172, § 22.
Operative date January 1, 2018.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

Sector Partnership Program Act, see section 48-3401.

48-622.03 Nebraska Worker Training Board; created; members; chairperson; annual program plan; report.

(1) There is hereby created the Nebraska Worker Training Board. The board shall consist of seven members appointed and serving for terms determined by the Governor as follows:

- (a) A representative of employers in Nebraska;
- (b) A representative of employees in Nebraska;
- (c) A representative of the public;
- (d) The Commissioner of Labor or a designee;
- (e) The Director of Economic Development or a designee;
- (f) The Commissioner of Education or a designee; and
- (g) The chairperson of the governing board of the Nebraska Community College Association or a designee.

(2) The chairperson of the Nebraska Worker Training Board shall be the representative of the employers in Nebraska.

(3) Beginning July 1, 2015, and annually thereafter, the board shall prepare an annual program plan for the upcoming fiscal year containing guidelines for the program financed by the Nebraska Training and Support Cash Fund. The guidelines shall include, but not be limited to, guidelines for certifying training

providers, criteria for evaluating requests for the use of money under section 48-622.02, and guidelines for requiring employers to provide matching funds. The guidelines shall give priority to training that contributes to the expansion of the Nebraska workforce and increasing the pool of highly skilled workers in Nebraska.

(4) Beginning July 1, 2015, and annually thereafter, the board shall provide a report to the Governor covering the activities of the program financed by the Nebraska Training and Support Cash Fund for the previous fiscal year. The report shall contain an assessment of the effectiveness of the program and its administration.

Source: Laws 1994, LB 1337, § 6; Laws 2009, LB631, § 4; Laws 2014, LB997, § 3; Laws 2017, LB172, § 23.
Operative date January 1, 2018.

48-623 Benefits; how paid.

All benefits provided in the Employment Security Law shall be payable from the Unemployment Compensation Fund. All benefits shall be paid through employment offices in accordance with rules and regulations adopted and promulgated by the Commissioner of Labor.

Source: Laws 1937, c. 108, § 3, p. 374; Laws 1939, c. 56, § 2, p. 233; Laws 1941, c. 94, § 2, p. 381; C.S.Supp.,1941, § 48-703; R.S. 1943, § 48-623; Laws 1985, LB 339, § 19; Laws 2017, LB172, § 24.
Operative date January 1, 2018.

48-624 Benefits; weekly benefit amount; calculation.

For any benefit year beginning on or after January 1, 2018:

(1) An individual's weekly benefit amount shall be one-half of his or her average weekly wage rounded down to the nearest even whole dollar amount, but shall not exceed one-half of the state average weekly wage as annually determined under section 48-121.02;

(2) For purposes of this section, an individual's average weekly wage shall equal the wages paid for insured work in the highest quarter of the base period divided by thirteen; and

(3) Any change in the weekly benefit amounts prescribed in this section or in the maximum annual benefit amount prescribed in section 48-626 shall be applicable for the calendar year following the annual determination made pursuant to section 48-121.02.

Source: Laws 1937, c. 108, § 3, p. 375; Laws 1939, c. 56, § 2, p. 233; Laws 1941, c. 94, § 2, p. 381; C.S.Supp.,1941, § 48-703; R.S. 1943, § 48-624; Laws 1945, c. 114, § 2, p. 371; Laws 1949, c. 163, § 1, p. 423; Laws 1951, c. 157, § 1, p. 630; Laws 1953, c. 168, § 1, p. 541; Laws 1955, c. 190, § 5, p. 542; Laws 1957, c. 209, § 1, p. 738; Laws 1959, c. 229, § 1, p. 802; Laws 1963, c. 291, § 1, p. 870; Laws 1965, c. 286, § 1, p. 819; Laws 1967, c. 299, § 1, p. 814; Laws 1969, c. 401, § 1, p. 1394; Laws 1971, LB 651, § 4; Laws 1972, LB 1391, § 1; Laws 1973, LB 333, § 1; Laws 1974, LB 775, § 1; Laws 1975, LB 475, § 1; Laws 1977, LB 337, § 1; Laws 1979, LB 183, § 1; Laws 1983, LB 524, § 1; Laws

1985, LB 216, § 1; Laws 1987, LB 446, § 1; Laws 1990, LB 315, § 1; Laws 1994, LB 286, § 2; Laws 1998, LB 225, § 1; Laws 2005, LB 739, § 5; Laws 2007, LB265, § 8; Laws 2017, LB172, § 25.

Operative date January 1, 2018.

48-625 Benefits; weekly payment; how computed.

(1) Each eligible individual who is unemployed in any week shall be paid with respect to such week a benefit in an amount equal to his or her full weekly benefit amount if he or she has wages payable to him or her with respect to such week equal to one-fourth of such benefit amount or less. In the event he or she has wages payable to him or her with respect to such week greater than one-fourth of such benefit amount, he or she shall be paid with respect to that week an amount equal to the individual's weekly benefit amount less that part of wages payable to the individual with respect to that week in excess of one-fourth of the individual's weekly benefit amount. In the event there is any deduction from such individual's weekly benefit amount because of earned wages pursuant to this subsection or as a result of the application of section 48-628.02, the resulting benefit payment, if not an exact dollar amount, shall be computed to the next lower dollar amount.

(2) Any amount of unemployment compensation payable to any individual for any week, if not an even dollar amount, shall be rounded to the next lower full dollar amount.

The percentage of benefits and the percentage of extended benefits which are federally funded may be adjusted in accordance with the Balanced Budget and Emergency Deficit Control Act of 1985, Public Law 99-177.

Source: Laws 1937, c. 108, § 3, p. 375; Laws 1939, c. 56, § 2, p. 234; Laws 1941, c. 94, § 2, p. 382; C.S.Supp.,1941, § 48-703; R.S. 1943, § 48-625; Laws 1949, c. 163, § 8, p. 424; Laws 1953, c. 167, § 5, p. 531; Laws 1980, LB 800, § 2; Laws 1982, LB 801, § 1; Laws 1983, LB 248, § 3; Laws 1986, LB 950, § 2; Laws 1987, LB 461, § 1; Laws 1995, LB 1, § 6; Laws 1999, LB 608, § 3; Laws 2005, LB 739, § 8; Laws 2015, LB271, § 5; Laws 2017, LB172, § 26.

Operative date January 1, 2018.

48-626 Benefits; maximum annual amount; determination.

(1) For any benefit year beginning before October 1, 2018, any otherwise eligible individual shall be entitled during any benefit year to a total amount of benefits equal to whichever is the lesser of (a) twenty-six times his or her benefit amount or (b) one-third of his or her wages in the employment of each employer per calendar quarter of his or her base period; except that when any individual has been separated from his or her employment with a base period employer under the circumstances under which he or she was or could have been determined disqualified under section 48-628.10 or 48-628.12, the total benefit amount based on the employment from which he or she was so separated shall be reduced by an amount equal to the number of weeks for which he or she is or would have been disqualified had he or she filed a claim immediately after the separation, multiplied by his or her weekly benefit amount, but not more than one reduction may be made for each separation. In

no event shall the benefit amount based on employment for any employer be reduced to less than one benefit week when the individual was or could have been determined disqualified under section 48-628.12.

(2) For any benefit year beginning on or after October 1, 2018, any otherwise eligible individual shall be entitled during any benefit year to a total amount of benefits equal to whichever is the lesser of (a) twenty-six times his or her weekly benefit amount or (b) one-third of his or her wages in the employment of each employer per calendar quarter of his or her base period; except that when any individual has been separated from his or her employment with a base period employer under circumstances under which he or she was or could have been determined disqualified under section 48-628.10 or 48-628.12, the total benefit amount based on the employment from which he or she was so separated shall be reduced by an amount determined pursuant to subsection (3) of this section, but not more than one reduction may be made for each separation. In no event shall the benefit amount based on employment for any employer be reduced to less than one benefit week when the individual was or could have been determined disqualified under section 48-628.12.

(3) For purposes of determining the reduction of benefits described in subsection (2) of this section:

(a) If the claimant has been separated from his or her employment under circumstances under which he or she was or could have been determined disqualified under section 48-628.12, his or her total benefit amount shall be reduced by:

(i) Two times his or her weekly benefit amount if he or she left work voluntarily for the sole purpose of accepting previously secured, permanent, full-time, insured work, which he or she does accept, which offers a reasonable expectation of betterment of wages or working conditions, or both, and for which he or she earns wages payable to him or her; or

(ii) Thirteen times his or her weekly benefit amount if he or she left work voluntarily without good cause for any reason other than that described in subdivision (3)(a)(i) of this section; and

(b) If the claimant has been separated from his or her employment under circumstances under which he or she was or could have been determined disqualified under section 48-628.10, his or her total benefit amount shall be reduced by fourteen times his or her weekly benefit amount.

(4) For purposes of sections 48-623 to 48-626, wages shall be counted as wages for insured work for benefit purposes with respect to any benefit year only if such benefit year begins subsequent to the date on which the employer by whom such wages were paid has satisfied the conditions of section 48-603 or subsection (3) of section 48-661 with respect to becoming an employer.

(5) In order to determine the benefits due under this section and sections 48-624 and 48-625, each employer shall make reports, in conformity with reasonable rules and regulations adopted and promulgated by the commissioner, of the wages of any claimant. If any employer fails to make such a report within the time prescribed, the commissioner may accept the statement of such claimant as to his or her wages, and any benefit payments based on such

statement of earnings, in the absence of fraud or collusion, shall be final as to the amount.

Source: Laws 1937, c. 108, § 3, p. 375; Laws 1939, c. 56, § 2, p. 235; Laws 1941, c. 94, § 2, p. 382; C.S.Supp.,1941, § 48-703; R.S. 1943, § 48-626; Laws 1945, c. 114, § 3, p. 372; Laws 1949, c. 163, § 9, p. 425; Laws 1959, c. 229, § 2, p. 802; Laws 1963, c. 291, § 2, p. 871; Laws 1967, c. 300, § 1, p. 816; Laws 1972, LB 1392, § 4; Laws 1980, LB 800, § 3; Laws 1985, LB 339, § 20; Laws 1986, LB 950, § 3; Laws 1995, LB 1, § 7; Laws 2017, LB172, § 27; Laws 2017, LB203, § 1.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB172, section 27, with LB203, section 1, to reflect all amendments.

Note: Changes made by LB203 became effective August 24, 2017. Changes made by LB172 became operative January 1, 2018.

48-627 Benefits; eligibility conditions; availability for work; requirements.

An unemployed individual shall be eligible to receive benefits with respect to any week, only if the Commissioner of Labor finds:

(1) He or she has registered for work at an employment office, is actively searching for work, and thereafter reports at an employment office in accordance with such rules and regulations as the commissioner may adopt and promulgate. The commissioner may, by rule and regulation, waive or alter any of the requirements of this subdivision as to individuals attached to regular jobs and as to such other types of cases or situations if the commissioner finds that compliance with such requirements would be oppressive or inconsistent with the purposes of the Employment Security Law;

(2) He or she has made a claim for benefits in accordance with section 48-629;

(3)(a) He or she is able to work and is available for work.

(b) No individual, who is otherwise eligible, shall be deemed ineligible, or unavailable for work, because he or she is on vacation without pay during such week, if such vacation is not the result of his or her own action as distinguished from any collective action by a collective-bargaining agent or other action beyond his or her individual control, and regardless of whether he or she was notified of the vacation at the time of his or her hiring.

(c) An individual who is otherwise eligible shall not be deemed unavailable for work or failing to engage in an active work search solely because such individual is seeking part-time work if the majority of the weeks of work in an individual's base period include part-time work. For purposes of this subdivision, seeking only part-time work shall mean seeking less than full-time work having comparable hours to the individual's part-time work in the base period, except that the individual must be available for work at least twenty hours per week.

(d) Receipt of a non-service-connected total disability pension by a veteran at the age of sixty-five or more shall not of itself bar the veteran from benefits as not able to work.

(e) An otherwise eligible individual while engaged in a training course approved for him or her by the commissioner shall be considered available for work for the purposes of this section.

(f) An inmate sentenced to and in custody of a penal or custodial institution shall be considered unavailable for work for purposes of this section;

(4) He or she has been unemployed for a waiting period of one week. No week shall be counted as a week of unemployment for the purpose of this subdivision (a) unless it occurs within the benefit year, which includes the week with respect to which he or she claims payment of benefits, (b) if benefits have been paid with respect thereto, or (c) unless the individual was eligible for benefits with respect thereto, as provided in sections 48-627, 48-627.01, 48-628, and 48-628.02 to 48-628.12, except for the requirements of this subdivision; and

(5) He or she is participating in reemployment services at no cost to such individual as directed by the commissioner, such as job search assistance services, if the individual has been determined to be likely to exhaust regular benefits and to need reemployment services pursuant to a profiling system established by rule and regulation of the commissioner which is in compliance with section 303(j)(1) of the federal Social Security Act, unless the commissioner determines that:

(a) The individual has completed such services; or

(b) There is justifiable cause for the claimant's failure to participate in such services.

Source: Laws 1937, c. 108, § 4, p. 376; Laws 1939, c. 56, § 3, p. 235; Laws 1941, c. 94, § 3, p. 383; C.S.Supp., 1941, § 48-704; R.S. 1943, § 48-627; Laws 1945, c. 115, § 3, p. 382; Laws 1949, c. 163, § 10, p. 425; Laws 1953, c. 167, § 6, p. 531; Laws 1955, c. 190, § 6, p. 543; Laws 1957, c. 209, § 2, p. 739; Laws 1959, c. 230, § 1, p. 804; Laws 1961, c. 241, § 1, p. 717; Laws 1963, c. 291, § 3, p. 872; Laws 1963, c. 292, § 1, p. 875; Laws 1971, LB 651, § 5; Laws 1973, LB 372, § 1; Laws 1977, LB 509, § 4; Laws 1981, LB 470, § 2; Laws 1985, LB 339, § 21; Laws 1987, LB 446, § 2; Laws 1987, LB 469, § 1; Laws 1988, LB 1033, § 2; Laws 1995, LB 1, § 8; Laws 1995, LB 240, § 1; Laws 1998, LB 225, § 2; Laws 2005, LB 484, § 5; Laws 2005, LB 739, § 9; Laws 2010, LB1020, § 3; Laws 2017, LB172, § 28; Laws 2017, LB203, § 2.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB172, section 28, with LB203, section 2, to reflect all amendments.

Note: Changes made by LB203 became effective August 24, 2017. Changes made by LB172 became operative January 1, 2018.

48-627.01 Benefits; monetary eligibility; earned wages; adjustment.

(1) In addition to the requirements of section 48-627, for any benefit year beginning on or after January 1, 2018, an unemployed individual shall be monetarily eligible to receive benefits if the commissioner finds he or she has:

(a) Earned total wages for employment by employers equal to not less than four thousand one hundred forty-five dollars and seventy-four cents within his or her base period. Of such total wages, at least one thousand eight hundred fifty dollars shall have been paid in one quarter in his or her base period and eight hundred dollars shall have been paid in a second quarter of his or her base period; and

(b) Earned wages in insured work of at least six times his or her weekly benefit amount for the previous benefit year subsequent to filing the claim which establishes the previous benefit year.

(2) Beginning on January 1, 2019, and each January 1 thereafter, the amount which an individual is required to earn within his or her base period under subdivision (1)(a) of this section shall be adjusted annually. 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 one-year period ending on the previous September 30. If such adjusted amount is not a whole dollar amount, the adjusted amount shall be rounded down to the nearest whole dollar amount.

(3) For purposes of this section:

(a) For the determination of monetary eligibility, wages paid within a base period shall not include wages from any calendar quarter previously used to establish a valid claim for benefits; and

(b) For benefit purposes, wages shall be counted as wages for insured work with respect to any benefit year only if such benefit year begins subsequent to the date on which the employer, by whom such wages were paid, has satisfied the conditions of section 48-603 or subsection (3) of section 48-661 with respect to becoming an employer.

Source: Laws 2017, LB172, § 29.

Operative date January 1, 2018.

48-628 Benefits; conditions disqualifying applicant; exceptions.

(1) An individual shall be disqualified for benefits for any week of unemployment in which the commissioner finds he or she has failed, without good cause, to apply for available, suitable work when so directed by the employment office or the commissioner, to accept suitable work offered him or her, or to return to his or her customary self-employment, if any, and for the twelve weeks immediately thereafter. The total benefit amount to which he or she is then entitled shall be reduced by an amount equal to the number of weeks for which he or she has been disqualified by the commissioner.

(2) In determining whether or not any work is suitable for an individual, the commissioner shall consider the following:

(a) The degree of risk involved to the individual's health, safety, and morals;

(b) His or her physical fitness and prior training;

(c) His or her experience and prior earnings;

(d) His or her length of unemployment and prospects for securing local work in his or her customary occupation; and

(e) The distance of the available work from his or her residence.

(3) Notwithstanding any other provisions of the Employment Security Law, no work shall be deemed suitable and benefits shall not be denied under such law to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

(a) If the position offered is vacant due directly to a strike, lockout, or other labor dispute;

(b) If the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality; or

(c) If, as a condition of being employed, the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

(4) Notwithstanding any other provisions in this section relating to failure to apply for or a refusal to accept suitable work, no otherwise eligible individual shall be denied benefits with respect to any week in which he or she is in training with the approval of the commissioner.

(5) No individual shall be disqualified for refusing to apply for available, full-time work or accept full-time work under subsection (1) of this section solely because such individual is seeking part-time work if the majority of the weeks of work in an individual's base period include part-time work. For purposes of this subsection, seeking only part-time work shall mean seeking less than full-time work having comparable hours to the individual's part-time work in the base period, except that the individual must be available for work at least twenty hours per week.

Source: Laws 1937, c. 108, § 5, p. 377; Laws 1939, c. 56, § 4, p. 236; C.S.Supp.,1941, § 48-705; R.S.1943, § 48-628; Laws 1945, c. 114, § 4, p. 372; Laws 1955, c. 190, § 7, p. 545; Laws 1961, c. 241, § 2, p. 718; Laws 1965, c. 287, § 1, p. 821; Laws 1967, c. 301, § 1, p. 818; Laws 1969, c. 402, § 1, p. 1395; Laws 1971, LB 651, § 6; Laws 1975, LB 370, § 1; Laws 1976, LB 819, § 1; Laws 1977, LB 509, § 5; Laws 1978, LB 128, § 1; Laws 1979, LB 581, § 3; Laws 1980, LB 800, § 4; Laws 1981, LB 470, § 3; Laws 1982, LB 801, § 2; Laws 1983, LB 248, § 4; Laws 1983, LB 432, § 1; Laws 1984, LB 746, § 2; Laws 1985, LB 339, § 22; Laws 1985, LB 341, § 1; Laws 1987, LB 276, § 1; Laws 1987, LB 469, § 2; Laws 1989, LB 605, § 1; Laws 1991, LB 498, § 1; Laws 1992, LB 878, § 1; Laws 1994, LB 286, § 3; Laws 1994, LB 913, § 1; Laws 1995, LB 1, § 9; Laws 1995, LB 77, § 2; Laws 1995, LB 291, § 1; Laws 1995, LB 759, § 1; Laws 1996, LB 633, § 1; Laws 1998, LB 225, § 3; Laws 2000, LB 953, § 7; Laws 2001, LB 192, § 8; Laws 2002, LB 921, § 2; Laws 2005, LB 484, § 6; Laws 2005, LB 739, § 10; Laws 2010, LB1020, § 4; Laws 2017, LB172, § 30; Laws 2017, LB203, § 3.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB172, section 30, with LB203, section 3, to reflect all amendments.

Note: Changes made by LB203 became effective August 24, 2017. Changes made by LB172 became operative January 1, 2018.

48-628.01 Benefits; disqualification; receipt of other unemployment benefits.

An individual shall be disqualified for benefits for any week with respect to which, or a part of which, he or she has received or is seeking unemployment benefits under an unemployment compensation law of any other state or of the United States. If the appropriate agency of such other state or of the United States finally determines that he or she is not entitled to such unemployment benefits, the disqualification provided in this section shall not apply.

Source: Laws 2017, LB172, § 31.
Operative date January 1, 2018.

48-628.02 Benefits; disqualification; receipt of other remuneration.

(1) An individual shall be disqualified for benefits for any week in which he or she is receiving or has received remuneration in the form of:

- (a) Wages in lieu of notice or a dismissal or separation allowance;
- (b) Vacation leave pay, including that received in a lump sum or upon separation from employment;
- (c) Compensation for temporary disability under the workers' compensation law of any state or under a similar law of the United States;
- (d) Retirement or retired pay, pension, annuity, or other similar periodic payment under a plan maintained or contributed to by a base period or chargeable employer; or
- (e) A gratuity or a bonus from an employer, paid after termination of employment, on account of prior length of service, or disability not compensated under the workers' compensation law.

(2) Payments described in subsection (1) of this section that are made in a lump sum shall be prorated in an amount which is reasonably attributable to such week. If the prorated remuneration is less than the benefits which would otherwise be due, he or she shall be entitled to receive for such week, if otherwise eligible, benefits reduced by the amount of such remuneration. The prorated remuneration shall be considered wages for the quarter to which it is attributed.

(3) Military service-connected disability compensation payable under 38 U.S.C. chapter 11 and primary insurance benefits payable under Title II of the Social Security Act, as amended, or similar payments under any act of Congress shall not be deemed to be disqualifying or deductible from the benefit amount.

(4) No deduction shall be made for the part of any retirement pension which represents return of payments made by the individual. In the case of a transfer by an individual or his or her employer of an amount from one retirement plan to a second qualified retirement plan under the Internal Revenue Code, the amount transferred shall not be deemed to be received by the claimant until actually paid from the second retirement plan to the claimant.

(5) No deduction shall be made for any benefit received under a supplemental unemployment benefit plan described in subdivision (35)(g) of section 48-602.

(6) No deduction shall be made for any supplemental payments received by a claimant under the provisions of subsection (b) of section 408 of Title IV of the Veterans' Readjustment Assistance Act of 1952.

Source: Laws 2017, LB172, § 32.

Operative date January 1, 2018.

48-628.03 Benefits; disqualification; student.

(1) An individual shall be disqualified for benefits for any week of unemployment if such individual is a student unless the major portion of his or her wages for insured work during his or her base period was for services performed while attending school. Attendance at a school, college, or university for training purposes, under a plan approved by the commissioner for such individual, shall not be disqualifying.

(2) For purposes of this section, student means an individual who is registered for full-time status at and regularly attends an established school, college,

university, training facility, or other educational institution or who is on vacation during or between two successive academic years or terms.

Source: Laws 2017, LB172, § 33.

Operative date January 1, 2018.

48-628.04 Benefits; disqualification; alien.

(1) An individual shall be disqualified for unemployment benefits for any week if the services upon which such benefits are based are performed by an alien. This section shall apply unless such alien:

(a) Is an individual who was lawfully admitted for permanent residence at the time such services were performed;

(b) Was lawfully present for purposes of performing such services; or

(c) Was permanently residing in the United States under color of law at the time such services were performed, including an alien who was lawfully present in the United States as a result of the application of section 212(d)(5) of the Immigration and Nationality Act, 8 U.S.C. 1182(d)(5).

(2) Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits. In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to such individual are not payable because of his or her alien status shall be made except upon a preponderance of the evidence.

Source: Laws 2017, LB172, § 34.

Operative date January 1, 2018.

48-628.05 Benefits; disqualification; sports or athletic events.

An individual shall be disqualified for unemployment benefits for any week if substantially all the services upon which such benefits are based consist of participating in sports or athletic events or training or preparing to so participate, if:

(1) Such week of unemployment begins during the period between two successive sport seasons or similar periods;

(2) Such individual performed such services in the first of such seasons or similar periods; and

(3) There is a reasonable assurance that such individual will perform such services in the later of such seasons or similar periods.

Source: Laws 2017, LB172, § 35.

Operative date January 1, 2018.

48-628.06 Benefits; disqualification; educational institution.

An individual shall be disqualified for benefits for any week of unemployment if claimed benefits are based on services performed:

(1) In an instructional, research, or principal administrative capacity for an educational institution, if:

(a) Such week commences during the period between two successive academic years or terms, or when an agreement provides instead for a similar period between two regular, but not successive, terms during such period;

(b) Such individual performs such services in the first of such academic years or terms; and

(c) There is a contract or reasonable assurance that such individual will perform services in any such capacity for any educational institution in the second of such academic years or terms;

(2) In any other capacity for an educational institution, if such week commences during a period between two successive academic years or terms, such individual performs such services in the first of such academic years or terms, and there is a reasonable assurance that such individual will perform such services in the second of such academic years or terms. If benefits are denied to any individual for any week under this subdivision and such individual was not offered an opportunity to perform such services for the educational institution for the second of such academic years or terms, such individual shall be entitled to a retroactive payment of the benefits for each week for which the individual filed a timely claim for benefits and for which benefits were denied solely by reason of this subdivision;

(3) In any capacity described in subdivision (1) or (2) of this section in an educational institution while in the employ of an educational service agency, and such individual shall be disqualified as specified in subdivisions (1) and (2) of this section. As used in this subdivision, educational service agency means a governmental agency or governmental entity which is established and operated exclusively for the purpose of providing services to one or more educational institutions;

(4) In any capacity described in subdivision (1) or (2) of this section in an educational institution if such services are provided to or on behalf of the educational institution while in the employ of an organization or entity described in section 3306(c)(7) or 3306(c)(8) of the Federal Unemployment Tax Act, 26 U.S.C. 3306(c)(7) or (8), and such individual shall be disqualified as specified in subdivisions (1), (2), and (3) of this section; and

(5) In any capacity described in subdivision (1) or (2) of this section if such week commences during an established and customary vacation period or holiday recess if such individual performs such services in the period immediately before such vacation period or holiday recess, and there is a reasonable assurance that such individual will perform such services in the period immediately following such vacation period or holiday recess.

Source: Laws 2017, LB172, § 36.

Operative date January 1, 2018.

48-628.07 Benefits; training.

(1) Notwithstanding any other provisions of the Employment Security Law, no otherwise eligible individual shall be denied benefits for any week because he or she is in training approved under section 236(a)(1) of the federal Trade Act of 1974, 19 U.S.C. 2296(a)(1). Such an individual shall not be denied benefits by reason of leaving work to enter such training if the work left is not suitable employment or because of the application to any such week in training of provisions of the Employment Security Law, or any applicable federal unemployment compensation law, relating to availability for work, active search for work, or refusal to accept work.

(2) For purposes of this section, suitable employment means, with respect to an individual, work of a substantially equal or higher skill level than the individual's past adversely affected employment, as defined for purposes of the federal Trade Act of 1974, and wages for such work at not less than eighty percent of the individual's average weekly wage as determined for purposes of such act.

Source: Laws 2017, LB172, § 37.
Operative date January 1, 2018.

48-628.08 Benefits; disqualification; leave of absence.

An individual shall be disqualified for benefits for any week during which the individual is on a leave of absence.

Source: Laws 2017, LB172, § 38.
Operative date January 1, 2018.

48-628.09 Benefits; disqualification; labor dispute.

(1) An individual shall be disqualified for benefits for any week with respect to which the commissioner finds that his or her total unemployment is due to a stoppage of work which exists because of a labor dispute at the factory, establishment, or other premises where he or she is or was last employed. This section shall not apply if it is shown to the satisfaction of the commissioner that:

(a) The individual is not participating in, financing, or directly interested in the labor dispute which caused the stoppage of work; and

(b) He or she does not belong to a grade or class of workers that includes members who, immediately before the commencement of the stoppage, were employed at the premises where the stoppage occurs and who are participating, financing, or directly interested in the dispute.

(2) If in any case, separate branches of work, which are commonly conducted as separate businesses in separate premises, are conducted in separate departments of the same premises, each such department shall, for purposes of this section, be deemed to be a separate factory, establishment, or other premises.

Source: Laws 2017, LB172, § 39.
Operative date January 1, 2018.

48-628.10 Benefits; disqualification; discharge for misconduct.

(1) An individual shall be disqualified for benefits for the week in which he or she has been discharged for misconduct connected with his or her work, if so found by the commissioner, and for the fourteen weeks immediately thereafter.

(2) If the commissioner finds that the individual was discharged for misconduct that was not gross, flagrant, and willful or unlawful but which included being under the influence of any intoxicating beverage or any controlled substance listed in section 28-405 not prescribed by a physician licensed to practice medicine or surgery while the individual is on the worksite or while the individual is engaged in work for the employer, the commissioner shall cancel all wage credits earned as a result of employment with the discharging employer.

(3) If the commissioner finds that the individual's misconduct was gross, flagrant, and willful, or was unlawful, the commissioner shall totally disqualify

such individual from receiving benefits with respect to wage credits earned prior to discharge for such misconduct.

Source: Laws 2017, LB172, § 40.
Operative date January 1, 2018.

48-628.11 Benefits; disqualification; multiple disqualifications for prohibited acts by employee.

An individual shall be disqualified for benefits for any week of unemployment benefits or for waiting week credit if he or she has been disqualified from the receipt of benefits pursuant to section 48-663.01 two or more times in the five-year period immediately prior to filing his or her most recent claim. This section shall not apply if the individual has repaid in full all overpayments established in conjunction with the disqualifications assessed under section 48-663.01 during that five-year period.

Source: Laws 2017, LB172, § 41.
Operative date January 1, 2018.

48-628.12 Benefits; disqualification; leave work voluntarily without good cause.

An individual shall be disqualified for benefits:

(1) For any benefit year beginning before October 1, 2018:

(a) For the week in which he or she has left work voluntarily without good cause, if so found by the commissioner, and for the thirteen weeks immediately thereafter. For purposes of this subdivision, a temporary employee of a temporary help firm has left work voluntarily without good cause if the temporary employee does not contact the temporary help firm for reassignment upon completion of an assignment and the temporary employee has been advised by the temporary help firm of his or her obligation to contact the temporary help firm upon completion of assignments and has been advised by the temporary help firm that the temporary employee may be denied benefits for failure to do so; or

(b) For the week in which he or she has left work voluntarily for the sole purpose of accepting previously secured, permanent, full-time, insured work, if so found by the commissioner, and for the two weeks immediately thereafter. For this subdivision to apply, such work shall:

(i) Be accepted by the individual;

(ii) Offer a reasonable expectation of betterment of wages or working conditions, or both; and

(iii) Enable the individual to earn wages payable to him or her; or

(2) For any benefit year beginning on or after October 1, 2018, for the week in which he or she has left work voluntarily without good cause, if so found by the commissioner, and for all subsequent weeks until the individual has earned wages in insured work in an amount of at least four times his or her weekly benefit amount and has separated from the most recent subsequent employment under nondisqualifying conditions. For purposes of this subdivision, a temporary employee of a temporary help firm has left work voluntarily without good cause if the temporary employee does not contact the temporary help firm for reassignment upon completion of an assignment and the temporary employee has been advised by the temporary help firm of his or her obligation to

contact the temporary help firm upon completion of assignments and has been advised by the temporary help firm that the temporary employee may be denied benefits for failure to do so.

Source: Laws 2017, LB172, § 42.
Operative date January 1, 2018.

48-628.13 Good cause for voluntarily leaving employment, defined.

Good cause for voluntarily leaving employment shall include, but not be limited to, the following reasons:

(1) An individual has made all reasonable efforts to preserve the employment but voluntarily leaves his or her work for the necessary purpose of escaping abuse at the place of employment or abuse as defined in section 42-903 between household members;

(2) An individual left his or her employment voluntarily due to a bona fide non-work-connected illness or injury that prevented him or her from continuing the employment or from continuing the employment without undue risk of harm to the individual;

(3) An individual left his or her employment to accompany his or her spouse to the spouse's employment in a different city or new military duty station;

(4) An individual left his or her employment because his or her employer required the employee to relocate;

(5)(a) An individual is a construction worker and left his or her employment voluntarily for the purpose of accepting previously secured insured work in the construction industry if the commissioner finds that:

(i)(A) The quit occurred within thirty days immediately prior to the established termination date of the job which the individual voluntarily leaves, (B) the specific starting date of the new job is prior to the established termination date of the job which the worker quits, (C) the new job offered employment for a longer period of time than remained available on the job which the construction worker voluntarily quit, and (D) the worker had worked at least twenty days or more at the new job after the established termination date of the previous job unless the new job was terminated by a contract cancellation; or

(ii)(A) The construction worksite of the job which the worker quit was more than fifty miles from his or her place of residence, (B) the new construction job was fifty or more miles closer to his or her residence than the job which he or she quit, and (C) the worker actually worked twenty days or more at the new job unless the new job was terminated by a contract cancellation.

(b) The provisions of this subdivision (5) shall not apply if the individual is separated from the new job under conditions resulting in a disqualification from benefits under section 48-628.10 or 48-628.12;

(6) An individual accepted a voluntary layoff to avoid bumping another worker;

(7) An individual left his or her employment as a result of being directed to perform an illegal act;

(8) An individual left his or her employment because of unlawful discrimination or workplace harassment on the basis of race, sex, or age;

(9) An individual left his or her employment because of unsafe working conditions;

- (10) An individual left his or her employment to attend school; or
- (11) Equity and good conscience demand a finding of good cause.

Source: Laws 2005, LB 739, § 7; R.S.1943, (2010), § 48-628.01; Laws 2017, LB172, § 43.

Operative date January 1, 2018.

48-628.14 Extended benefits; terms, defined; weekly extended benefit amount; payment of emergency unemployment compensation.

(1) As used in the Employment Security Law, unless the context otherwise requires:

(a) Extended benefit period means a period which begins with the third week after a week for which there is a state “on” indicator and ends with either of the following weeks, whichever occurs later: (i) The third week after the first week for which there is a state “off” indicator or (ii) the thirteenth consecutive week of such period, except that no extended benefit period may begin by reason of a state “on” indicator before the fourteenth week following the end of a prior extended benefit period which was in effect with respect to this state;

(b) Extended benefits means benefits, including benefits payable to federal civilian employees and to ex-servicemen or ex-servicewomen pursuant to 5 U.S.C. chapter 85, payable to an individual for weeks of unemployment in his or her eligibility period;

(c) Eligibility period of an individual means the period consisting of the weeks in his or her benefit year which begin in an extended benefit period and, if his or her benefit year ends within such extended benefit period, any weeks thereafter which begin in such period. Notwithstanding any other provision of the Employment Security Law, if the benefit year of any individual ends within an extended benefit period, the remaining balance of extended benefits that such individual would, but for this section, be entitled to receive in that extended benefit period, with respect to weeks of unemployment beginning after the end of the benefit year, shall be reduced, but not below zero, by the product of the number of weeks for which the individual received any amounts as trade readjustment allowances within that benefit year multiplied by the individual’s weekly benefit amount for extended benefits;

(d) Exhaustee means an individual who, with respect to any week of unemployment in his or her eligibility period:

(i)(A) Has received, prior to such week, all of the regular benefits that were available to him or her under the Employment Security Law of this state or under the unemployment insurance law of any other state, including dependents’ allowances and benefits payable to federal civilian employees and ex-servicemen or ex-servicewomen under 5 U.S.C. chapter 85, in his or her current benefit year that includes such week, except for the purposes of this subdivision, an individual shall be deemed to have received all of the regular benefits that were available to him or her although as a result of a pending appeal with respect to wages or employment or both wages and employment that were not considered in the original monetary determination in his or her benefit year, he or she may subsequently be determined to be entitled to added regular benefits; or (B) his or her benefit year having expired prior to such week, has no, or insufficient, wages or employment or both wages and employ-

ment on the basis of which he or she could establish a new benefit year that would include such week;

(ii) Has no right to unemployment benefits or allowances, as the case may be, under the Railroad Unemployment Insurance Act, the Trade Expansion Act of 1962, the Automotive Products Trade Act of 1965, and such other federal laws as are specified in regulations issued by the United States Secretary of Labor; and

(iii) Has not received and is not seeking unemployment benefits under the unemployment compensation law of Canada, but if he or she is seeking such benefits and the appropriate agency finally determines that he or she is not entitled to benefits under such law, he or she is considered an exhaustee;

(e) Rate of insured unemployment means the percentage, used by the commissioner in determining whether there is a state "on" or state "off" indicator, derived by dividing (i) the average weekly number of individuals filing claims for regular compensation under the Employment Security Law for weeks of unemployment with respect to the most recent thirteen-consecutive-week period, as determined by the commissioner on the basis of his or her reports to the United States Secretary of Labor, by (ii) the average monthly employment covered under the Employment Security Law for the first four of the most recent six completed calendar quarters ending before the end of such thirteen-week period;

(f) Regular benefits means benefits payable to an individual under the Employment Security Law of this state or under the unemployment insurance law of any other state, including benefits payable to federal civilian employees and to ex-servicemen or ex-servicewomen pursuant to 5 U.S.C. chapter 85, other than extended benefits;

(g) State "off" indicator means a week for which the commissioner determines that, for the period consisting of such week and the immediately preceding twelve weeks, neither subdivision (1)(h)(i) or (1)(h)(ii) of this section was satisfied; and

(h) State "on" indicator means a week for which the commissioner determines that, for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment, not seasonally adjusted, under the Employment Security Law: (i) Equaled or exceeded one hundred twenty percent of the average of such rates for the corresponding thirteen-week period ending in each of the preceding two calendar years and equaled or exceeded five percent or (ii) equaled or exceeded six percent.

(2) Except when the result would be inconsistent with the other provisions of this section, as provided in the rules and regulations of the commissioner, the provisions of the Employment Security Law which apply to claims for or payment of regular benefits shall apply to claims for and payment of extended benefits. An individual shall be eligible to receive extended benefits with respect to any week of unemployment in his or her eligibility period only if the commissioner finds that with respect to such week:

(a) Such individual is an exhaustee;

(b) Such individual has satisfied the requirements of the Employment Security Law for the receipt of regular benefits that are applicable to individuals claiming extended benefits, including not being subject to a disqualification for the receipt of benefits;

(c) Sections 48-628.15 and 48-628.16 do not apply; and

(d) Such individual has been paid wages for insured work during the individual's base period equal to at least one and one-half times the wages paid in that calendar quarter of the individual's base period in which such wages were highest.

(3) The weekly extended benefit amount payable to an individual for a week of total unemployment in his or her eligibility period shall be an amount equal to the weekly benefit amount payable to him or her during his or her applicable benefit year. The total extended benefit amount payable to any eligible individual with respect to his or her applicable benefit year shall be the least of the following amounts:

(a) Fifty percent of the total amount of regular benefits which were payable to him or her under the Employment Security Law in his or her applicable benefit year; or

(b) Thirteen times his or her weekly benefit amount which was payable to him or her under the Employment Security Law for a week of total unemployment in the applicable benefit year.

(4) Whenever an extended benefit period is to become effective in this state as a result of a state "on" indicator or an extended benefit period is to be terminated in this state as a result of a state "off" indicator, the commissioner shall make an appropriate public announcement. Computations required to determine the rate of insured unemployment shall be made by the commissioner in accordance with regulations prescribed by the United States Secretary of Labor. Any amount of extended benefits payable to any individual for any week, if not an even dollar amount, shall be rounded to the next lower full dollar amount.

(5) Notwithstanding any other provision of the Employment Security Law, during an extended benefit period, the Governor may provide for the payment of emergency unemployment compensation pursuant to Public Law 110-252, as amended, or any substantially similar federal unemployment compensation paid entirely from federal funds to individuals prior to the payment of extended benefits pursuant to this section and sections 48-628.15 and 48-628.16.

Source: Laws 1971, LB 651, § 7; Laws 1972, LB 1392, § 5; Laws 1977, LB 509, § 6; Laws 1979, LB 581, § 4; Laws 1981, LB 470, § 4; Laws 1982, LB 801, § 3; Laws 1984, LB 746, § 3; Laws 1985, LB 339, § 23; Laws 2010, LB1055, § 1; R.S.1943, (2010), § 48-628.02; Laws 2017, LB172, § 44.
Operative date January 1, 2018.

48-628.15 Extended benefits; eligibility; seek or accept suitable work; suitable work, defined.

(1) An individual shall be ineligible for payment of extended benefits for any week of unemployment in his or her eligibility period if the commissioner finds that during such period (a) he or she failed to accept any offer of suitable work or failed to apply for any suitable work to which he or she was referred by the commissioner or (b) he or she failed to actively engage in seeking work as prescribed under subsection (5) of this section.

(2) Any individual who has been found ineligible for extended benefits by reason of subsection (1) of this section shall also be denied benefits beginning

with the first day of the week following the week in which such failure occurred and until he or she (a) has been employed in each of four subsequent weeks, whether or not consecutive, and (b) has earned remuneration equal to not less than four times the extended weekly benefit amount.

(3) For purposes of this section, the term suitable work means, with respect to any individual, any work which is within such individual's capabilities and for which the gross average weekly remuneration payable for the work exceeds the sum of the individual's average weekly benefit amount payable to him or her during his or her applicable benefit year, plus the amount, if any, of supplemental unemployment compensation benefits as defined in section 501(c)(17)(D) of the Internal Revenue Code payable to such individual for such week. Such work must also pay wages equal to the higher of the federal minimum wage or the applicable state or local minimum wage. No individual shall be denied extended benefits for failure to accept an offer or referral to any job which meets the definition of suitability contained in this subsection if (a) the position was not offered to such individual in writing or was not listed with the employment service, (b) such failure could not result in a denial of benefits under the definition of suitable work for regular benefit claimants in section 48-628, to the extent that the criteria of suitability in that section are not inconsistent with the provisions of this subsection, or (c) the individual furnishes satisfactory evidence to the commissioner that his or her prospects for obtaining work in his or her customary occupation within a reasonably short period are good. If such evidence is deemed satisfactory for this purpose, the determination of whether any work is suitable with respect to such individual shall be made in accordance with the definition of suitable work in section 48-628 without regard to the definition specified by this subsection.

(4) Notwithstanding the provisions of subsection (3) of this section to the contrary, no work shall be deemed to be suitable work for an individual which does not accord with the labor standard provisions set forth under subsection (3) of section 48-628, nor shall an individual be denied benefits if such benefits would not be deniable by reason of subsection (4) of section 48-628.

(5) For the purposes of subsection (1) of this section, an individual shall be treated as actively engaged in seeking work during any week if the individual has engaged in a systematic and sustained effort to obtain work during such week and the individual furnishes tangible evidence that he or she has engaged in such effort during such week.

(6) The state employment service shall refer any claimant entitled to extended benefits under this section to any suitable work which meets the criteria prescribed in subsection (3) of this section.

(7) An individual shall not be eligible to receive extended benefits with respect to any week of unemployment in his or her eligibility period if such individual has been disqualified for benefits under section 48-628, 48-628.10, or 48-628.12 unless such individual has earned wages for services performed in subsequent employment in an amount not less than four hundred dollars.

Source: Laws 1981, LB 470, § 5; Laws 1982, LB 801, § 4; Laws 1993, LB 47, § 1; Laws 1995, LB 1, § 10; Laws 1995, LB 574, § 53; Laws 2000, LB 953, § 8; Laws 2010, LB1055, § 2; R.S.1943, (2010), § 48-628.03; Laws 2017, LB172, § 45.

Operative date January 1, 2018.

48-628.16 Extended benefits; payments not required; when.

(1) Except as provided in subsection (2) of this section, payment of extended benefits shall not be made to any individual for any week if (a) extended benefits would, but for this section, have been payable for such week pursuant to an interstate claim filed in any state under the interstate benefit payment plan, and (b) an extended benefit period is not in effect for such week in such state.

(2) Subsection (1) of this section shall not apply with respect to the first two weeks for which extended benefits are payable, determined without regard to this section, pursuant to an interstate claim filed under the interstate benefit payment plan to the individual from the extended benefit account established for the benefit year.

Source: Laws 1981, LB 470, § 6; R.S.1943, (2010), § 48-628.04; Laws 2017, LB172, § 46.

Operative date January 1, 2018.

48-628.17 Additional unemployment benefits; conditions; amount; when benefits payable.

(1) In addition to any other unemployment benefits to which an individual is entitled under the Employment Security Law, an individual who has exhausted all regular unemployment benefits for which he or she has been determined eligible shall continue to be eligible for up to twenty-six additional weeks of unemployment benefits if such individual:

(a)(i) Was involuntarily separated from employment as a result of a permanent reduction of operations at the individual's place of employment or (ii) is unemployed as the result of a separation from a declining occupation;

(b) Is enrolled and making satisfactory progress in a (i) training program approved for him or her by the commissioner or (ii) job training program authorized under the federal Workforce Innovation and Opportunity Act, as amended;

(c) Is receiving training which is preparing the individual for entry into a high-demand occupation;

(d) Is enrolled in training no later than the end of the benefit year established with respect to the separation that makes the individual eligible for the training benefit. Individuals shall be notified of the enrollment requirement at the time of their initial determination of eligibility for regular benefits; and

(e) Is not receiving similar stipends or other training allowances for nontraining costs. Similar stipend means an amount provided under a program with similar aims, such as providing training to increase employability, and in approximately the same amounts.

(2) The amount of unemployment benefits payable to an individual for a week of unemployment under this section shall be equal to the amount of unemployment benefits which he or she has been determined eligible for under section 48-624 less any deductions or offsets authorized under the Employment Security Law.

(3) If an individual begins to receive unemployment benefits under this section while enrolled in a training program described in subsection (1) of this section during a benefit year, such individual shall continue to receive such benefits so long as he or she continues to make satisfactory progress in such

training program, except that such benefits shall not exceed twenty-six times the individual's weekly benefit amount for the most recent benefit year as determined under section 48-624.

(4) No benefits shall be payable under this section until the individual has exhausted all (a) regular unemployment benefits, (b) extended benefits as defined in subdivision (1)(b) of section 48-628.14, and (c) unemployment benefits paid entirely from federal funds to which he or she is entitled, including, but not limited to, trade readjustment assistance, emergency unemployment compensation, or other similar federally funded unemployment benefits.

(5) For purposes of this section, regular unemployment benefits means all unemployment benefits for which an individual is eligible payable under sections 48-624 to 48-626, extended unemployment benefits payable under section 48-628.14, and any unemployment benefits funded solely by the federal government.

Source: Laws 2010, LB1020, § 5; R.S.1943, (2010), § 48-628.05; Laws 2017, LB172, § 47.

Operative date January 1, 2018.

48-629 Claims; rules and regulations for filing.

Claims for benefits shall be made in accordance with such rules and regulations as the commissioner may adopt and promulgate. Each employer shall post and maintain printed statements of such rules and regulations in places readily accessible to individuals in his or her service and shall make available to each such individual, at the time he or she becomes unemployed, a printed statement of such rules and regulations. Such printed statements shall be supplied by the commissioner to each employer without cost to the employer.

Source: Laws 1937, c. 108, § 6, p. 378; Laws 1941, c. 94, § 4, p. 384; C.S.Supp.,1941, § 48-706; R.S.1943, § 48-629; Laws 1985, LB 339, § 24; Laws 2017, LB172, § 48.

Operative date January 1, 2018.

48-629.01 Claims; advisement to claimant; amounts deducted; how treated.

(1) An individual filing a new claim for unemployment compensation shall, at the time of the filing of such claim, be advised that:

- (a) Unemployment compensation is subject to federal and state income tax;
- (b) Requirements exist pertaining to estimated tax payments;
- (c) The individual may elect to have federal income tax withheld from the individual's payment of unemployment compensation at the amount specified in the Internal Revenue Code;
- (d) The individual may elect to have state income tax withheld from the individual's payment of unemployment compensation at the rate of five percent; and
- (e) The individual shall be permitted to change a previously elected withholding status.

(2) Amounts deducted and withheld from unemployment compensation for federal income tax purposes shall remain in the Unemployment Compensation Fund until transferred to the federal Internal Revenue Service as a payment of

income tax. Amounts deducted and withheld from unemployment compensation for state income tax purposes shall remain in the Unemployment Compensation Fund until transferred to the Department of Revenue as a payment of income tax.

(3) The commissioner shall follow all procedures specified by the United States Department of Labor and the federal Internal Revenue Service pertaining to the deducting and withholding of income tax.

(4) Amounts shall be deducted and withheld under this section only after amounts are deducted and withheld for any overpayments of unemployment compensation, child support obligations, or any other amounts required to be withheld under the Employment Security Law.

Source: Laws 1996, LB 1072, § 2; Laws 2017, LB172, § 49.
Operative date January 1, 2018.

48-630 Claims; determinations by adjudicator.

(1) A determination upon a claim filed pursuant to section 48-629 shall be made promptly by a representative designated by the commissioner, hereinafter referred to as an adjudicator.

(2) A determination shall include a statement as to whether and in what amount claimant is entitled to benefits for the week with respect to which the determination is made. A determination with respect to the first week of a benefit year shall also include a statement as to whether the claimant has been paid the wages required under section 48-627.01, and, if so, the first day of the benefit year, his or her weekly benefit amount, and the maximum total amount of benefits payable to him or her with respect to such benefit year. Whenever any claim involves the application of the provisions of section 48-628.09, the adjudicator shall promptly transmit his or her full findings of fact, with respect to such section, to the commissioner, who, on the basis of the evidence submitted and such additional evidence as he or she may require, shall affirm, modify, or set aside such findings of fact and transmit to the adjudicator a decision upon the issue involved under such section, which shall be deemed to be the decision of the adjudicator. All claims arising out of the same alleged labor dispute may be considered at the same time.

(3) In the event a claim is denied, a determination shall state the reasons therefor. Regardless of the outcome, the parties shall be promptly notified of the determination, together with the reasons therefor, and such determination shall be deemed to be the final decision on the claim, unless an appeal is filed with the department in the manner prescribed in section 48-634.

(4) Any benefits for which a claimant has been found eligible shall not be withheld because of an appeal filed under section 48-634, and such benefits shall be paid until a hearing officer has rendered a decision modifying or reversing the determination allowing such benefits if the claimant is otherwise eligible. Any benefits received by any person to which he or she had been found not entitled, under a redetermination or decision pursuant to sections 48-630 to 48-638, shall be treated as erroneous payments in accordance with section 48-665.

Source: Laws 1937, c. 108, § 6, p. 379; Laws 1941, c. 94, § 4, p. 384; C.S.Supp.,1941, § 48-706; R.S.1943, § 48-630; Laws 1969, c. 403, § 1, p. 1399; Laws 1972, LB 1392, § 6; Laws 1985, LB 338,

§ 1; Laws 1995, LB 1, § 11; Laws 1995, LB 240, § 2; Laws 2012, LB1058, § 1; Laws 2017, LB172, § 50.
Operative date January 1, 2018.

48-631 Claims; redetermination; time; notice; appeal.

(1) The adjudicator may reconsider a determination if he or she finds that:

(a) An error in computation or identity has occurred in connection with the determination;

(b) Wages of the claimant pertinent to such determination, but not considered in connection therewith, have been newly discovered; or

(c) Benefits have been allowed or denied or the amount of benefits has been set based on misrepresentations of fact.

(2) No such redetermination shall be made after two years from the date of the original determination.

(3) Notice of any redetermination shall be promptly given to the parties entitled to notice of the original determination, in the manner prescribed in section 48-630 with respect to notice of an original determination.

(4) If the amount of benefits is increased or decreased by a redetermination, an appeal therefrom may be filed solely with respect to the matters involved in such increase or decrease in the manner and subject to the limitations provided in section 48-634. Subject to the same limitations and for the same reasons, the Commissioner of Labor may reconsider the determination, in any case in which the final decision has been rendered by a hearing officer or a court, and may apply to the hearing officer or court which rendered such final decision to issue a revised decision. In the event that an appeal involving an original determination is pending as of the date a redetermination is issued, such appeal, unless withdrawn, shall be treated as an appeal of the redetermination.

Source: Laws 1941, c. 94, § 4, p. 385; C.S.Supp.,1941, § 48-706; R.S. 1943, § 48-631; Laws 1961, c. 238, § 5, p. 711; Laws 2011, LB11, § 1; Laws 2017, LB172, § 51.
Operative date January 1, 2018.

48-632 Claims; determination; notice; persons entitled; employer; rights; duties.

(1) Notice of a determination upon a claim shall be promptly given to the claimant by electronic notice or by mailing such notice to his or her last-known address. A claimant shall elect to receive either electronic notice or mailed notice when he or she files a new claim or establishes a new benefit year. A claimant may change his or her election at any time. In addition, notice of any determination, together with the reasons therefor, shall be promptly given in the same manner to any employer from whom the claimant received wages on or after the first day of the base period for his or her most recent claim if such employer has indicated prior to the determination, in such manner as required by rule and regulation of the commissioner, that such individual may be ineligible or disqualified under any provision of the Employment Security Law. An employer shall provide information to the department in respect to the request for information within ten days after the mailing or electronic transmission of a request.

(2) If the employer provided information pursuant to subsection (6) of section 48-652 on the claim establishing the previous benefit year but did not receive a determination because of no involvement of base period wages and there are wages from that employer in the base period for the most recent claim, the employer shall be provided the opportunity to provide new information that such individual may be ineligible or disqualified under any provision of the Employment Security Law on the current claim. This subsection shall not apply to employers who did not receive a determination because the separation was determined to result from a lack of work.

(3) If an employer fails to provide information to the department within the time period specified in subsection (1) of this section, the employer shall forfeit any appeal rights otherwise available pursuant to section 48-634.

Source: Laws 1941, c. 94, § 4, p. 385; C.S.Supp.,1941, § 48-706; R.S. 1943, § 48-632; Laws 1985, LB 339, § 25; Laws 2012, LB1058, § 2; Laws 2017, LB172, § 52; Laws 2017, LB203, § 4.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB172, section 52, with LB203, section 4, to reflect all amendments.

Note: Changes made by LB203 became effective August 24, 2017. Changes made by LB172 became operative January 1, 2018.

48-634 Administrative appeal; notice; time allowed; hearing; parties.

(1) The claimant or any other party entitled to notice of a determination as provided in section 48-632 may file an appeal from such determination with the department.

(2) An appeal must be in writing or in accordance with rules and regulations adopted and promulgated by the commissioner and must be delivered and received within twenty days after the date of mailing of the notice of determination to the parties' last-known address or, if such notice is not mailed, after the date of delivery of such notice of determination, except that for good cause shown an appeal filed outside the prescribed time period may be heard.

(3) In accordance with section 303 of the federal Social Security Act, 42 U.S.C. 503, the commissioner shall provide the opportunity for a fair hearing before an impartial hearing officer on each appeal.

(4) Unless the appeal is withdrawn, a hearing officer, after affording the parties reasonable opportunities for a fair hearing, shall make findings and conclusions and on the basis thereof affirm, modify, or reverse such determination.

(5) If an appeal involves a question as to whether services were performed by the claimant in employment or for an employer, a hearing officer shall give special notice of such issue and of the pendency of the appeal to the employer and to the commissioner, both of whom shall be parties to the proceeding and be afforded a reasonable opportunity to adduce evidence bearing on such question.

(6) The parties shall be promptly notified of a hearing officer's decision and shall be furnished with a copy of the decision and the findings and conclusions in support of the decision.

(7) The commissioner shall be a party entitled to notice in any proceeding involving a claim for benefits before a hearing officer.

Source: Laws 1941, c. 94, § 4, p. 386; C.S.Supp.,1941, § 48-706; R.S. 1943, § 48-634; Laws 1979, LB 328, § 1; Laws 1995, LB 239,

§ 1; Laws 2001, LB 192, § 10; Laws 2012, LB1058, § 3; Laws 2017, LB172, § 53.

Operative date January 1, 2018.

48-635 Administrative appeals; procedure; rules of evidence; record.

(1) The presentation of disputed claims and the conduct of hearings and appeals shall be in accordance with the rules and regulations adopted and promulgated by the commissioner for determining the rights of the parties, whether or not such rules and regulations conform to common-law or statutory rules of evidence and other technical rules of procedure.

(2) A full and complete record shall be kept of all proceedings in connection with the disputed claims.

(3) All testimony at any hearing upon a disputed claim shall be recorded, but need not be transcribed unless the disputed claim is further appealed.

Source: Laws 1937, c. 108, § 6, p. 380; Laws 1941, c. 94, § 4, p. 387; C.S.Supp.,1941, § 48-706; R.S.1943, § 48-635; Laws 1985, LB 339, § 26; Laws 2017, LB172, § 54.

Operative date January 1, 2018.

48-637 Administrative appeals; decisions; effect in subsequent proceedings; certification of questions.

The final decisions of a hearing officer and the principles of law declared by him or her in arriving at such decisions, unless expressly or impliedly overruled by a later decision of a hearing officer or by a court of competent jurisdiction, shall be binding upon the commissioner and any adjudicator in subsequent proceedings which involve similar questions of law, except that if in connection with any subsequent proceeding the commissioner or an adjudicator has serious doubt as to the correctness of any principle so declared, he or she may certify his or her findings of fact in such case together with the question of law involved to a hearing officer who, after giving notice and reasonable opportunity for hearing upon the law to all parties to such proceedings, shall thereupon certify to the commissioner, such adjudicator, and such parties his or her answer to the question submitted. If the question thus certified to a hearing officer arises in connection with a claim for benefits, a hearing officer in his or her discretion may remove to himself or herself the entire proceedings on such claim and, after proceeding in accordance with the requirements of sections 48-634 to 48-643 with respect to proceedings before a hearing officer, shall render his or her decision upon the entire claim.

Source: Laws 1941, c. 94, § 4, p. 387; C.S.Supp.,1941, § 48-706; R.S. 1943, § 48-637; Laws 2012, LB1058, § 5; Laws 2017, LB172, § 55.

Operative date January 1, 2018.

48-638 Appeal to district court; procedure.

(1) Any party to the proceedings before a hearing officer may appeal the hearing officer's decision by filing a petition (a) in the district court of the county in which the individual claiming benefits claims to have been last employed or in which such claimant resides, (b) in any district court of this state upon which the parties may agree, or (c) if neither subdivision (1)(a) or (b) of this section applies, then in the district court of Lancaster County.

(2) If the commissioner is not the petitioning party, he or she shall be a party defendant in every appeal. Such appeal shall otherwise be governed by the Administrative Procedure Act.

(3) An appeal may be taken from the decision of the district court to the Court of Appeals in accordance with the Administrative Procedure Act.

(4) No bond shall be required as a condition of initiating a proceeding for judicial review or entering an appeal from the decision of the court upon such review. Costs which would be otherwise taxed to a claimant shall be taxed in such courts to the commissioner regardless of the result of the action unless justice and equity otherwise require. Notwithstanding any general statute to the contrary, no filing fee shall be charged by a hearing officer or by the clerk of any court for any service required by sections 48-634 to 48-638.

(5) In any proceeding for judicial review pursuant to this section, the commissioner may be represented by any qualified attorney employed and designated by the commissioner for that purpose or, at the commissioner's request, by the Attorney General.

Source: Laws 1941, c. 94, § 4, p. 388; C.S.Supp.,1941, § 48-706; R.S. 1943, § 48-638; Laws 1945, c. 115, § 4, p. 384; Laws 1957, c. 208, § 4, p. 731; Laws 1979, LB 328, § 2; Laws 1986, LB 950, § 4; Laws 1988, LB 352, § 85; Laws 1996, LB 1072, § 4; Laws 2017, LB172, § 56.

Operative date January 1, 2018.

Cross References

Administrative Procedure Act, see section 84-920.

48-640 Repealed. Laws 2017, LB172, § 89.
Operative date January 1, 2018.

48-641 Repealed. Laws 2017, LB172, § 89.
Operative date January 1, 2018.

48-642 Repealed. Laws 2017, LB172, § 89.
Operative date January 1, 2018.

48-643 Witnesses; fees.

Witnesses subpoenaed pursuant to sections 48-629 to 48-644 shall be allowed fees at a rate fixed by the commissioner, not to exceed the amount allowed for witness fees in district court. Such fees shall be deemed an expense of administering the Employment Security Law.

Source: Laws 1937, c. 108, § 6, p. 380; Laws 1941, c. 94, § 4, p. 389; C.S.Supp.,1941, § 48-706; R.S.1943, § 48-643; Laws 1985, LB 339, § 29; Laws 2017, LB172, § 57.

Operative date January 1, 2018.

Cross References

For witness fees in district court, see section 33-139.

48-644 Benefits; payment; appeal not a supersedeas; reversal; effect.

(1) Benefits shall be promptly paid in accordance with a determination or redetermination.

(2) If pursuant to a determination or redetermination benefits are payable in any amount as to which there is no dispute, such amount of benefits shall be promptly paid regardless of any appeal.

(3) The commencement of a proceeding for judicial review pursuant to section 48-638 shall not operate as a supersedeas or stay.

(4) If an employer is otherwise entitled to noncharging of benefits pursuant to sections 48-630 and 48-652, and a decision allowing benefits is finally reversed, no employer's account shall be charged with benefits paid pursuant to the erroneous determination, and benefits shall not be paid for any subsequent weeks of unemployment involved in such reversal.

Source: Laws 1941, c. 94, § 4, p. 389; C.S.Supp.,1941, § 48-706; R.S. 1943, § 48-644; Laws 1972, LB 1392, § 7; Laws 2012, LB1058, § 6; Laws 2017, LB172, § 58.
Operative date January 1, 2018.

48-645 Benefits; waiver, release, and deductions void; discrimination in hire or tenure unlawful; penalty.

(1) Any agreement by an individual to waive, release, or commute his or her rights to benefits or any other rights under the Employment Security Law shall be void.

(2) Any agreement by an individual in the employ of any person or concern to pay all or any portion of an employer's contributions required under such law from such employer, shall be void.

(3) No employer shall:

(a) Directly or indirectly make, require, or accept any deduction from wages to finance the employer's contributions required from him or her;

(b) Require or accept any waiver of any right hereunder by any individual in his or her employ;

(c) Discriminate in regard to the hiring, rehiring, or tenure of work of any individual on account of any claim made by such individual for benefits under the Employment Security Law; or

(d) Obstruct or impede the filing of claims for benefits in any manner.

(4) Any employer, officer, or agent of an employer who violates any provision of this section shall be guilty of a Class II misdemeanor.

Source: Laws 1937, c. 108, § 15, p. 399; Laws 1941, c. 94, § 11, p. 399; C.S.Supp.,1941, § 48-714; R.S.1943, § 48-645; Laws 1977, LB 40, § 292; Laws 1985, LB 339, § 30; Laws 2017, LB172, § 59.
Operative date January 1, 2018.

48-646 Repealed. Laws 2017, LB172, § 89.

Operative date January 1, 2018.

48-647 Benefits; assignments void; exemption from legal process; exception; child support obligations; Supplemental Nutrition Assistance Program benefits overissuance; disclosure required; collection.

(1)(a) Any assignment, pledge, or encumbrance of any right to benefits which are or may become due or payable under sections 48-623 to 48-626 shall be void except as set forth in this section. Such rights to benefits shall be exempt

from levy, execution, attachment, or any other remedy provided for the collection of debt. Benefits received by any individual, so long as they are not mingled with other funds of the recipient, shall be exempt from any remedy for the collection of all debts, except debts incurred for necessities furnished to such individual or his or her spouse or dependents during the time when such individual was unemployed.

(b) Any assignment, pledge, or encumbrance of any right or claim to contributions or to any money credited to any employer's reserve account in the Unemployment Compensation Fund shall be void. Such right or claim to contributions or money shall be exempt from levy, execution, attachment, or any other remedy provided for the collection of debt.

(c) Any waiver of any exemption provided for in this section shall be void.

(2)(a) An individual filing a new claim for unemployment compensation shall, at the time of filing such claim, disclose whether or not he or she owes child support obligations as defined under subdivision (h) of this subsection. If such individual discloses that he or she owes child support obligations and is determined to be eligible for unemployment compensation, the commissioner shall notify the Department of Health and Human Services that the individual has been determined to be eligible for unemployment compensation.

(b) The commissioner shall deduct and withhold from any unemployment compensation otherwise payable to an individual disclosing child support obligations:

(i) The amount specified by the individual to the commissioner to be deducted under this subsection, if neither subdivision (ii) nor (iii) of this subdivision is applicable;

(ii) The amount, if any, determined pursuant to an agreement between the Department of Health and Human Services and such individual owing the child support obligations to have a specified amount withheld if such agreement is submitted to the commissioner, unless subdivision (iii) of this subdivision is applicable; or

(iii) The amount otherwise required to be deducted and withheld from such unemployment compensation pursuant to legal process, as that term is defined in subdivision (2)(i) of this section, properly served upon the commissioner.

(c) Any amount deducted and withheld under subdivision (b) of this subsection shall be paid by the commissioner to the Department of Health and Human Services.

(d) Any amount deducted and withheld under subdivision (b) or (g) of this subsection shall for all purposes be treated as if it were paid to the individual as unemployment compensation and paid by such individual to the Department of Health and Human Services in satisfaction of his or her child support obligations.

(e) For purposes of subdivisions (a) through (d) and (g) of this subsection, the term unemployment compensation shall mean any compensation payable under the Employment Security Law, including amounts payable by the commissioner pursuant to an agreement under any federal law providing for compensation, assistance, or allowances with respect to unemployment.

(f) This subsection shall apply only if appropriate arrangements have been made for reimbursement by the Department of Health and Human Services for

the administrative costs incurred by the commissioner under this section which are attributable to child support obligations being enforced by the department.

(g) The Department of Health and Human Services and the commissioner shall develop and implement a collection system to carry out the intent of this subdivision. The collection system shall, at a minimum, provide that:

(i) The commissioner shall periodically notify the Department of Health and Human Services of the information listed in section 43-1719 with respect to individuals determined to be eligible for unemployment compensation during such period;

(ii) Unless the county attorney, the authorized attorney, or the Department of Health and Human Services has sent a notice on the same support order under section 43-1720, upon the notification required by subdivision (2)(g)(i) of this section, the Department of Health and Human Services shall send notice to any such individual who owes child support obligations and who is subject to income withholding pursuant to subdivision (2)(a), (2)(b)(ii), or (2)(b)(iii) of section 43-1718.01. The notice shall be sent by certified mail to the last-known address of the individual and shall state the same information as required under section 43-1720;

(iii)(A) If the support obligation is not based on a foreign support order entered pursuant to section 43-1729 and the individual requests a hearing, the Department of Health and Human Services shall hold a hearing within fifteen days of the date of receipt of the request. The hearing shall be in accordance with the Administrative Procedure Act. The assignment shall be held in abeyance pending the outcome of the hearing. The department shall notify the individual and the commissioner of its decision within fifteen days of the hearing; and

(B) If the support obligation is based on a foreign support order entered pursuant to section 43-1729 and the individual requests a hearing, the county attorney or authorized attorney shall apply the procedures described in sections 43-1732 to 43-1742;

(iv)(A) If no hearing is requested by the individual under this subsection or pursuant to a notice sent under section 43-1720, (B) if after a hearing under this subsection or section 43-1721 the Department of Health and Human Services determines that the assignment should go into effect, (C) in cases in which the court has ordered income withholding for child support pursuant to subsection (1) of section 43-1718.01, or (D) in cases in which the court has ordered income withholding for child support pursuant to section 43-1718.02 and the case subsequently becomes one in which child support collection services are being provided under Title IV-D of the federal Social Security Act, as amended, the Department of Health and Human Services shall certify to the commissioner the amount to be withheld for child support obligations from the individual's unemployment compensation. Such amount shall not exceed the maximum amount permitted to be withheld under section 303(b) of the federal Consumer Credit Protection Act, 15 U.S.C. 1673(b)(2)(A) and (B), and the amount withheld to satisfy a debt of child support when added to the amount withheld to pay current support shall not exceed such maximum amount;

(v) The collection system shall comply with the requirements of Title III and Title IV-D of the federal Social Security Act, as amended;

(vi) The collection system shall be in addition to and not in substitution for or derogation of any other available remedy; and

(vii) The Department of Health and Human Services and the commissioner shall adopt and promulgate rules and regulations to carry out subdivision (2)(g) of this section.

(h) For purposes of this subsection, the term child support obligations shall include only obligations which are being enforced pursuant to a plan described in section 454 of the federal Social Security Act which has been approved by the Secretary of Health and Human Services under Part D of Title IV of the federal Social Security Act.

(i) For purposes of this subsection, the term legal process shall mean any writ, order, summons, or other similar process in the nature of garnishment, which:

(i) Is issued by a court of competent jurisdiction of any state, territory, or possession of the United States or an authorized official pursuant to order of such a court of competent jurisdiction or pursuant to state law. For purposes of this subdivision, the chief executive officer of the Department of Health and Human Services shall be deemed an authorized official pursuant to order of a court of competent jurisdiction or pursuant to state law; and

(ii) Is directed to, and the purpose of which is to compel, the commissioner to make a payment for unemployment compensation otherwise payable to an individual in order to satisfy a legal obligation of such individual to provide child support.

(j) Nothing in this subsection shall be construed to authorize withholding from unemployment compensation of any support obligation other than child support obligations.

(3)(a) An individual filing a new claim for unemployment compensation shall, at the time of filing such claim, disclose whether or not he or she owes an uncollected overissuance, as defined in 7 U.S.C. 2022(c)(1) as such section existed on January 1, 2017, of Supplemental Nutrition Assistance Program benefits, if not otherwise known or disclosed to the state Supplemental Nutrition Assistance Program agency. The commissioner shall notify the state Supplemental Nutrition Assistance Program agency enforcing such obligation of any individual disclosing that he or she owes an uncollected overissuance whom the commissioner determines is eligible for unemployment compensation.

(b) The commissioner shall deduct and withhold from any unemployment compensation payable to an individual who owes an uncollected overissuance:

(i) The amount specified by the individual to the commissioner to be deducted and withheld under this subsection;

(ii) The amount, if any, determined pursuant to an agreement submitted to the state Supplemental Nutrition Assistance Program agency under 7 U.S.C. 2022(c)(3)(A), as such section existed on January 1, 2017; or

(iii) Any amount otherwise required to be deducted and withheld from unemployment compensation pursuant to 7 U.S.C. 2022(c)(3)(B), as such section existed on January 1, 2017.

(c) Any amount deducted and withheld under this subsection shall be paid by the commissioner to the state Supplemental Nutrition Assistance Program agency.

(d) Any amount deducted and withheld under subdivision (b) of this subsection shall be treated as if it were paid to the individual as unemployment

compensation and paid by such individual to the state Supplemental Nutrition Assistance Program agency as repayment of the individual's uncollected overissuance.

(e) For purposes of this subsection, unemployment compensation means any compensation payable under the Employment Security Law, including amounts payable by the commissioner pursuant to an agreement under any federal law providing for compensation, assistance, or allowances with respect to unemployment.

(f) This subsection applies only if arrangements have been made for reimbursement by the state Supplemental Nutrition Assistance Program agency for the administrative costs incurred by the commissioner under this subsection which are attributable to the repayment of uncollected overissuances to the state Supplemental Nutrition Assistance Program agency.

Source: Laws 1937, c. 108, § 15, p. 400; C.S.Supp.,1941, § 48-714; R.S.1943, § 48-647; Laws 1982, LB 801, § 5; Laws 1985, LB 339, § 32; Laws 1985, Second Spec. Sess., LB 7, § 76; Laws 1990, LB 974, § 1; Laws 1993, LB 523, § 26; Laws 1994, LB 1224, § 81; Laws 1995, LB 240, § 3; Laws 1996, LB 1044, § 275; Laws 1996, LB 1155, § 21; Laws 1997, LB 307, § 106; Laws 1997, LB 864, § 5; Laws 1998, LB 1073, § 56; Laws 2007, LB296, § 217; Laws 2009, LB288, § 15; Laws 2017, LB172, § 60.

Operative date January 1, 2018.

Cross References

Administrative Procedure Act, see section 84-920.

48-648 Combined tax; employer; payment; rules and regulations governing; related corporations or limited liability companies; professional employer organization.

(1) With respect to wages for employment, combined tax shall accrue and become payable by each employer not otherwise entitled to make payments in lieu of contributions for each calendar year in which he or she is subject to the Employment Security Law. Such combined tax shall become due and be paid by each employer to the commissioner for the State Unemployment Insurance Trust Fund and the Unemployment Trust Fund in such manner and at such times as the commissioner may, by rule and regulation, prescribe. Such combined tax shall not be deducted, in whole or in part, from the wages of individuals in such employer's employ.

(2) The commissioner may require any employer whose annual payroll for either of the two preceding calendar years has equaled or exceeded one hundred thousand dollars to file combined tax returns and pay combined taxes owed by an electronic method approved by the commissioner, except when the employer establishes to the satisfaction of the commissioner that filing the combined tax return or payment of the tax by an electronic method would create a hardship for the employer.

(3) In the payment of any combined tax, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to one cent. If the combined tax due for any reporting period is less than five dollars, the employer need not remit the combined tax.

(4) If two or more related corporations or limited liability companies concurrently employ the same individual and compensate such individual through a common paymaster which is one of such corporations or limited liability companies, each such corporation or limited liability company shall be considered to have paid as remuneration to such individual only the amounts actually disbursed by it to such individual and shall not be considered to have paid as remuneration to such individual amounts actually disbursed to such individual by another of such corporations or limited liability companies. An employee of a wholly owned subsidiary shall be considered to be concurrently employed by the parent corporation, company, or other entity and the wholly owned subsidiary whether or not both companies separately provide remuneration.

(5) The professional employer organization shall report and pay combined tax, penalties, and interest owed for wages earned by worksite employees under the client's employer account number using the client's combined tax rate. The client is liable for the payment of unpaid combined tax, penalties, and interest owed for wages paid to worksite employees, and the worksite employees shall be considered employees of the client for purposes of the Employment Security Law.

(6) The Commissioner of Labor may require by rule and regulation that each employer subject to the Employment Security Law shall submit to the commissioner quarterly wage reports on such forms and in such manner as the commissioner may prescribe. The commissioner may require any employer whose annual payroll for either of the two preceding calendar years has equaled or exceeded one hundred thousand dollars to file wage reports by an electronic method approved by the commissioner, except when the employer establishes to the satisfaction of the commissioner that filing by an electronic method would create a hardship for the employer. The quarterly wage reports shall be used by the commissioner to make monetary determinations of claims for benefits.

Source: Laws 1937, c. 108, § 7, p. 382; Laws 1941, c. 94, § 5, p. 390; C.S.Supp.,1941, § 48-707; R.S.1943, § 48-648; Laws 1971, LB 651, § 8; Laws 1981, LB 279, § 1; Laws 1985, LB 339, § 33; Laws 1992, LB 879, § 2; Laws 1994, LB 1337, § 7; Laws 1998, LB 834, § 1; Laws 2002, LB 921, § 3; Laws 2005, LB 484, § 7; Laws 2009, LB631, § 5; Laws 2015, LB271, § 6; Laws 2017, LB172, § 61.

Operative date January 1, 2018.

48-648.01 Repealed. Laws 2017, LB172, § 89.

Operative date January 1, 2018.

48-648.02 Wages, defined.

As used in sections 48-648 and 48-649 to 48-649.04 only, the term wages shall not include that part of the remuneration paid to an individual by an employer or by the predecessor of such employer with respect to employment within this or any other state during a calendar year which exceeds nine thousand dollars unless that part of the remuneration is subject to a federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund.

Source: Laws 2005, LB 739, § 6; Laws 2017, LB172, § 62.

Operative date January 1, 2018.

48-649 Combined tax rate.

The commissioner shall, for each calendar year, determine the combined tax rate applicable to each employer on the basis of his or her actual experience in the payment of contributions and with respect to benefits charged against his or her separate experience account in accordance with sections 48-649.01 to 48-649.04.

Source: Laws 1937, c. 108, § 7, p. 382; Laws 1939, c. 56, § 5, p. 239; Laws 1941, c. 94, § 5, p. 390; C.S.Supp., 1941, § 48-707; R.S. 1943, § 48-649; Laws 1947, c. 175, § 10, p. 577; Laws 1949, c. 163, § 12, p. 427; Laws 1953, c. 167, § 8, p. 533; Laws 1955, c. 190, § 9, p. 548; Laws 1972, LB 1392, § 8; Laws 1976, LB 819, § 2; Laws 1977, LB 509, § 7; Laws 1984, LB 249, § 1; Laws 1985, LB 339, § 34; Laws 1994, LB 1337, § 8; Laws 1995, LB 334, § 1; Laws 2005, LB 484, § 9; Laws 2005, LB 739, § 11; Laws 2007, LB265, § 9; Laws 2009, LB631, § 7; Laws 2017, LB172, § 63.

Operative date January 1, 2018.

48-649.01 State unemployment insurance tax rate.

(1) By December 1 of each calendar year, the commissioner shall determine the state unemployment insurance tax rate for the following year based on information available through the department. The state unemployment insurance tax rate shall be zero percent if:

(a) The average balance in the State Unemployment Insurance Trust Fund at the end of any three months in the preceding calendar year is greater than one percent of state taxable wages for the same preceding year; or

(b) The balance in the State Unemployment Insurance Trust Fund equals or exceeds thirty percent of the average month end balance of the state's account in the Unemployment Trust Fund for the three lowest calendar months in the preceding year.

(2) If the state unemployment insurance tax rate is determined to be zero percent pursuant to subsection (1) of this section, the contribution rate for all employers shall equal one hundred percent of the combined tax rate.

(3) If the state unemployment insurance tax rate is not zero percent as determined in this section, the combined tax rate shall be divided so that not less than eighty percent of the combined tax rate equals the contribution rate and not more than twenty percent of the combined tax rate equals the state unemployment insurance tax rate except for employers who are assigned a combined tax rate of five and four-tenths percent or more. For those employers, the state unemployment insurance tax rate shall equal zero and their combined tax rate shall equal their contribution rate.

Source: Laws 2017, LB172, § 64.

Operative date January 1, 2018.

48-649.02 Employee's continued tax rate before benefits have been payable.

(1) Until benefits have been payable from and chargeable to an employer's experience account throughout the preceding four calendar quarters and wages for employment have been paid by the employer in each of the two preceding four-calendar-quarter periods, the employer's combined tax rate shall be:

(a) For employers not engaged in the construction industry, the lesser of the value of the state’s average combined tax rate as determined pursuant to section 48-649.03 or two and five-tenths percent; and

(b) For employers engaged in the construction industry, the value of the category twenty rate determined pursuant to section 48-649.03.

(2) In no event shall the combined tax rate under subsection (1) of this section be less than one and twenty-five hundredths percent.

(3) For any employer who has not paid wages for employment during each of the two preceding four-calendar-quarter periods ending on September 30, but has paid wages for employment in any two four-calendar-quarter periods, regardless of whether such four-calendar-quarter periods are consecutive, such employer’s combined tax rate for the following tax year shall be:

(a) The highest combined tax rate for employers with a positive experience account balance if the employer’s experience account balance exhibits a positive balance as of September 30 of the year of rate computation; or

(b) The standard rate if the employer’s experience account exhibits a negative balance as of September 30 of the year of rate computation.

Source: Laws 2017, LB172, § 65.
Operative date January 1, 2018.

48-649.03 Employer’s combined tax rate once benefits payable from experience account; experience factor.

(1) Once benefits have been payable from and chargeable to an employer’s experience account throughout the preceding four calendar quarters and wages for employment have been paid by the employer in each of the two preceding four-calendar-quarter periods, the employer’s combined tax rate shall be calculated according to this section. The combined tax rate shall be based upon the employer’s experience rating record and determined from the employer’s reserve ratio.

(2) The employer’s reserve ratio is the percent obtained by dividing (a) the amount by which the employer’s contributions credited from the time the employer first or most recently became an employer, whichever date is later, and up to and including September 30 of the year the rate computation is made, plus any part of the employer’s contributions due for that year paid on or before October 31 of such year, exceed the employer’s benefits charged during the same period, by (b) the employer’s average annual taxable payroll for the sixteen-consecutive-calendar-quarter period ending September 30 of the year in which the rate computation is made. For an employer with less than sixteen consecutive calendar quarters of contribution experience, the employer’s average taxable payroll shall be determined based upon the four-calendar-quarter periods for which contributions were payable.

(3) Each eligible experience rated employer shall be assigned to one of twenty rate categories with a corresponding experience factor as follows:

Category	Experience Factor
1	0.00
2	0.25
3	0.40
4	0.45
5	0.50

6	0.60
7	0.65
8	0.70
9	0.80
10	0.90
11	0.95
12	1.00
13	1.05
14	1.10
15	1.20
16	1.35
17	1.55
18	1.80
19	2.15
20	2.60

Eligible experience rated employers shall be assigned to rate categories from highest to lowest according to their experience reserve ratio, with category one assigned to accounts with the highest reserve ratios and category twenty assigned to accounts with the lowest reserve ratios. Each category shall be limited to no more than five percent of the state’s total taxable payroll, except that:

(a) Any employer with a portion of its taxable wages falling into two consecutive categories shall be assigned to the lower category;

(b) No employer with a reserve ratio calculated to five decimal places equal to the similarly calculated reserve ratio of another employer shall be assigned to a higher rate than the employer to which it has the equal reserve ratio; and

(c) No employer with a positive experience account balance shall be assigned to category twenty.

(4) The state’s reserve ratio shall be calculated annually by dividing the amount available to pay benefits in the Unemployment Trust Fund and the State Unemployment Insurance Trust Fund as of September 30, less any outstanding obligations and amounts appropriated from those funds, by the state’s total wages from the four calendar quarters ending on September 30. For purposes of this section, total wages means all remuneration paid by an employer in employment. The state’s reserve ratio shall be applied to the table in this subsection to determine the yield factor for the upcoming rate year.

State’s Reserve Ratio	Yield Factor
1.45 percent and above	= 0.70
1.30 percent up to but not including 1.45	= 0.75
1.15 percent up to but not including 1.30	= 0.80
1.00 percent up to but not including 1.15	= 0.90
0.85 percent up to but not including 1.00	= 1.00
0.70 percent up to but not including 0.85	= 1.10
0.60 percent up to but not including 0.70	= 1.20
0.50 percent up to but not including 0.60	= 1.25
0.45 percent up to but not including 0.50	= 1.30
0.40 percent up to but not including 0.45	= 1.35
0.35 percent up to but not including 0.40	= 1.40
0.30 percent up to but not including 0.35	= 1.45
Below 0.30 percent	= 1.50

Once the yield factor for the upcoming rate year has been determined, it is multiplied by the amount of unemployment benefits paid from combined tax during the four calendar quarters ending September 30 of the preceding year. The resulting figure is the planned yield for the rate year. The planned yield is divided by the total taxable wages for the four calendar quarters ending September 30 of the previous year and carried to four decimal places to create the average combined tax rate for the rate year.

(5) The average combined tax rate is assigned to rate category twelve as established in subsection (3) of this section. Rates for each of the remaining nineteen categories are determined by multiplying the average combined tax rate by the experience factor associated with each category and carried to four decimal places. Employers who are delinquent in filing their combined tax reports as of October 31 of any year shall be assigned to category twenty for the following calendar year unless the delinquency is corrected prior to December 31 of the year of rate calculation.

(6) In addition to required contributions, an employer may make voluntary contributions to the fund to be credited to his or her account. Voluntary contributions by employers may be made up to the amount necessary to qualify for one rate category reduction. Voluntary contributions received after January 10 shall not be used in rate calculations for the same calendar year.

(7) As used in sections 48-648 to 48-654, the term payroll means the total amount of wages during a calendar year, except as otherwise provided in section 48-654, by which the combined tax was measured.

Source: Laws 2017, LB172, § 66.

Operative date January 1, 2018.

48-649.04 State or political subdivision; combined tax; election to make payments in lieu of contributions.

(1) The state or any of its political subdivisions and any instrumentality of one or more of the foregoing or any other governmental entity for which services in employment as provided in subdivision (4)(a) of section 48-604 are performed shall be required to pay combined tax on wages paid for services rendered in its or their employment on the same basis as any other employer who is liable for the payment of combined tax under the Employment Security Law, unless the state or any political subdivision thereof and any instrumentality of one or more of the foregoing or any other governmental entity for which such services are performed files with the commissioner its written election not later than thirty days after such employer becomes subject to this section to become liable to make payments in lieu of contributions in an amount equal to the full amount of regular benefits plus the full amount of extended benefits paid during each calendar quarter that is attributable to service in employment of such electing employer.

(2) Eligible employers electing to make payments in lieu of contributions shall not be liable for combined tax payments.

(3) The commissioner, after the end of each calendar quarter, shall notify any such employer that has elected to make payments in lieu of contributions of the amount of benefits for which it is liable to pay pursuant to its election that have been paid that are attributable to service in its employment and the employer so notified shall reimburse the fund within thirty days after receipt of such notice.

(4) Any employer which makes an election in accordance with this section to become liable for payments in lieu of contributions shall continue to be liable for payments in lieu of contributions for all benefits paid based upon wages paid for service in employment of such employer while such election is effective. Any such election shall continue until such employer files with the commissioner, not later than December 1 of any calendar year, a written notice terminating its election as of December 31 of that year. Upon termination of the election, such employer shall again be liable for the payment of contributions and for the reimbursement of such benefits as may be paid based upon wages paid for services in employment of such employer while such election was effective.

(5) The commissioner may require any employer subject to this section whose annual payroll for either of the two preceding calendar years has equaled or exceeded one hundred thousand dollars to pay the amount owed pursuant to this section by an electronic method approved by the commissioner, except when the employer establishes to the satisfaction of the commissioner that payment by an electronic method would create a hardship for the employer.

Source: Laws 2017, LB172, § 67.

Operative date January 1, 2018.

48-650 Combined tax rate; determination of employment; notice; review; redetermination; proceedings; appeal.

The commissioner shall determine the rate of combined tax applicable to each employer pursuant to sections 48-649 to 48-649.04 and may determine, at any time during the year, whether services performed by an individual were employment or for an employer. Any such determination shall become conclusive and binding upon the employer unless, within thirty days after the prompt mailing of notice thereof to his or her last-known address or in the absence of mailing within thirty days after the delivery of such notice, the employer files an appeal with the department in accordance with rules and regulations adopted and promulgated by the commissioner. No employer shall have standing, in any proceeding involving his or her combined tax rate or combined tax liability, to contest the chargeability to his or her account of any benefits paid in accordance with a determination, redetermination, or decision pursuant to sections 48-629 to 48-644 except upon the ground that the services on the basis of which such benefits were found to be chargeable did not constitute services performed in employment for him or her and only in the event that he or she was not a party to such determination, redetermination, or decision or to any other proceedings under the Employment Security Law in which the character of such services was determined. A full and complete record shall be kept of all proceedings in connection with such hearing. All testimony at any such hearing shall be recorded but need not be transcribed unless there is a further appeal. The employer shall be promptly notified of a hearing officer's decision which shall become final unless the employer or the commissioner appeals within thirty days after the date of service of the decision of the hearing officer. The appeal shall otherwise be governed by the Administrative Procedure Act.

Source: Laws 1941, c. 94, § 5, p. 391; C.S.Supp.,1941, § 48-707; R.S. 1943, § 48-650; Laws 1985, LB 339, § 35; Laws 1985, LB 342,

§ 1; Laws 1988, LB 352, § 88; Laws 1994, LB 1337, § 9; Laws 2001, LB 192, § 11; Laws 2017, LB172, § 68.
Operative date January 1, 2018.

Cross References

Administrative Procedure Act, see section 84-920.

48-651 Employer's account; benefit payments; notice; effect.

(1) The commissioner may provide for the following by rule and regulation:

(a) Periodic notification to employers of benefits paid and chargeable to their accounts or of the status of such accounts; and

(b) Notification to all base period employers of any individual of the establishment of such individual's benefit year.

(2) Any such notification, in the absence of an application for redetermination filed in such manner and within such period as the commissioner may prescribe, shall become conclusive and binding upon the employer for all purposes. Such redeterminations, made after notice and opportunity for hearing, and the commissioner's findings of fact in connection therewith may be introduced in any subsequent administrative or judicial proceedings involving the determination of the combined tax rate of any employer for any calendar year.

Source: Laws 1941, c. 94, § 5, p. 392; C.S.Supp.,1941, § 48-707; R.S. 1943, § 48-651; Laws 1985, LB 339, § 36; Laws 1994, LB 1337, § 10; Laws 2017, LB172, § 69.
Operative date January 1, 2018.

48-652 Employer's experience account; reimbursement account; combined tax; liability; termination; reinstatement.

(1)(a) A separate experience account shall be established for each employer who is liable for payment of combined tax. Whenever and wherever in the Employment Security Law the terms reserve account or experience account are used, unless the context clearly indicates otherwise, such terms shall be deemed interchangeable and synonymous and reference to either of such accounts shall refer to and also include the other.

(b) A separate reimbursement account shall be established for each employer who is liable for payments in lieu of contributions. All benefits paid with respect to service in employment for such employer shall be charged to his or her reimbursement account, and such employer shall be billed for and shall be liable for the payment of the amount charged when billed by the commissioner. Payments in lieu of contributions received by the commissioner on behalf of each such employer shall be credited to such employer's reimbursement account, and two or more employers who are liable for payments in lieu of contributions may jointly apply to the commissioner for establishment of a group account for the purpose of sharing the cost of benefits paid that are attributable to service in the employ of such employers. The commissioner shall adopt and promulgate such rules and regulations as he or she deems necessary with respect to applications for establishment, maintenance, and termination of group accounts authorized by this subdivision.

(2) All contributions paid by an employer shall be credited to the experience account of such employer. State unemployment insurance tax payments shall

not be credited to the experience account of each employer. Partial payments of combined tax shall be credited so that at least eighty percent of the combined tax payment excluding interest and penalty is credited first to contributions due. Contributions with respect to prior years which are received on or before January 31 of any year shall be considered as having been paid at the beginning of the calendar year. All voluntary contributions which are received on or before January 10 of any year shall be considered as having been paid at the beginning of the calendar year.

(3)(a) Each experience account shall be charged only for benefits based upon wages paid by such employer. No benefits shall be charged to the experience account of any employer if:

(i) Such benefits were paid on the basis of a period of employment from which the claimant (A) left work voluntarily without good cause, (B) left work voluntarily due to a nonwork-connected illness or injury, (C) left work voluntarily with good cause to escape abuse as defined in section 42-903 between household members as provided in subdivision (1) of section 48-628.13, (D) left work from which he or she was discharged for misconduct connected with his or her work, (E) left work voluntarily and is entitled to unemployment benefits without disqualification in accordance with subdivision (3) or (5) of section 48-628.13, or (F) was involuntarily separated from employment and such benefits were paid pursuant to section 48-628.17; and

(ii) The employer has filed timely notice of the facts on which such exemption is claimed in accordance with rules and regulations adopted and promulgated by the commissioner.

(b) No benefits shall be charged to the experience account of any employer if such benefits were paid during a week when the individual was participating in training approved under section 236(a)(1) of the federal Trade Act of 1974, 19 U.S.C. 2296(a)(1).

(c) Each reimbursement account shall be charged only for benefits paid that were based upon wages paid by such employer in the base period that were wages for insured work solely by reason of section 48-627.01.

(d)(i) Benefits paid to an eligible individual shall be charged against the account of his or her most recent employers within his or her base period against whose accounts the maximum charges hereunder have not previously been made in the inverse chronological order in which the employment of such individual occurred. The maximum amount so charged against the account of any employer, other than an employer for which services in employment as provided in subdivision (4)(a) of section 48-604 are performed, shall not exceed the total benefit amount to which such individual was entitled as set out in section 48-626 with respect to base period wages of such individual paid by such employer plus one-half the amount of extended benefits paid to such eligible individual with respect to base period wages of such individual paid by such employer. The commissioner shall adopt and promulgate rules and regulations determining the manner in which benefits shall be charged against the account of several employers for whom an individual performed employment during the same quarter or during the same base period.

(ii) Any benefit check duly issued and delivered or mailed to a claimant and not presented for payment within one year from the date of its issue may be invalidated and the amount thereof credited to the Unemployment Compensation Fund, except that a substitute check may be issued and charged to the fund

on proper showing at any time within the year next following. Any charge made to an employer's account for any such invalidated check shall stand as originally made.

(4)(a) An employer's experience account shall be terminated one calendar year after such employer has ceased to be subject to the Employment Security Law, except that if the commissioner finds that an employer's business is closed solely because one or more of the owners, officers, partners, or limited liability company members or the majority stockholder entered the armed forces of the United States, or of any of its allies, such employer's account shall not be terminated and, if the business is resumed within two years after the discharge or release from active duty in the armed forces of such person or persons, the employer's experience account shall be deemed to have been continuous throughout such period.

(b) An experience account terminated pursuant to this subsection shall be reinstated if:

(i) The employer becomes subject again to the Employment Security Law within one calendar year after termination of such experience account;

(ii) The employer makes a written application for reinstatement of such experience account to the commissioner within two calendar years after termination of such experience account; and

(iii) The commissioner finds that the employer is operating substantially the same business as prior to the termination of such experience account.

(5) All money in the Unemployment Compensation Fund shall be kept mingled and undivided. In no case shall the payment of benefits to an individual be denied or withheld because the experience account of any employer does not have a total of contributions paid in excess of benefits charged to such experience account.

(6)(a) For benefit years beginning before September 3, 2017, if an individual's base period wage credits represent part-time employment for a contributory employer and the contributory employer continues to employ the individual to the same extent as during the base period, then the contributory employer's experience account shall not be charged if the contributory employer has filed timely notice of the facts on which such exemption is claimed in accordance with rules and regulations adopted and promulgated by the commissioner.

(b) For benefit years beginning on or after September 3, 2017, if an individual's base period wage credits represent part-time employment for an employer and the employer continues to employ the individual to the same extent as during the base period, then the employer's experience account, in the case of a contributory employer, or the employer's reimbursement account, in the case of a reimbursable employer, shall not be charged if the employer has filed timely notice of the facts on which such exemption is claimed in accordance with rules and regulations prescribed by the commissioner.

(7) If a contributory employer responds to the department's request for information within the time period set forth in subsection (1) of section 48-632 and provides accurate information as known to the employer at the time of the response, the employer's experience account shall not be charged if the individ-

ual's separation from employment is voluntary and without good cause as determined under section 48-628.12.

Source: Laws 1937, c. 108, § 7, p. 383; Laws 1939, c. 56, § 5, p. 240; Laws 1941, c. 94, § 5, p. 392; C.S.Supp.,1941, § 48-707; R.S. 1943, § 48-652; Laws 1947, c. 175, § 11, p. 579; Laws 1949, c. 163, § 13, p. 428; Laws 1953, c. 167, § 9, p. 534; Laws 1957, c. 208, § 5, p. 732; Laws 1971, LB 651, § 9; Laws 1977, LB 509, § 8; Laws 1980, LB 800, § 5; Laws 1984, LB 995, § 1; Laws 1985, LB 339, § 37; Laws 1986, LB 901, § 1; Laws 1987, LB 275, § 1; Laws 1988, LB 1033, § 3; Laws 1993, LB 121, § 292; Laws 1994, LB 884, § 65; Laws 1994, LB 1337, § 11; Laws 1995, LB 1, § 12; Laws 1995, LB 240, § 4; Laws 2000, LB 953, § 9; Laws 2001, LB 418, § 1; Laws 2005, LB 739, § 12; Laws 2007, LB265, § 10; Laws 2008, LB500, § 1; Laws 2009, LB631, § 8; Laws 2010, LB1020, § 6; Laws 2012, LB1058, § 7; Laws 2017, LB172, § 70; Laws 2017, LB519, § 1.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB172, section 70, with LB519, section 1, to reflect all amendments.

Note: Changes made by LB519 became effective August 24, 2017. Changes made by LB172 became operative January 1, 2018.

48-654 Employer's experience account; acquisition by transferee-employer; transfer; contribution rate.

(1) Subject to section 48-654.01, any employer that acquires the organization, trade, or business, or substantially all the assets of another employer shall immediately notify the commissioner of the acquisition and may, pursuant to rules and regulations adopted and promulgated by the commissioner, assume the position of such acquired employer with respect to the resources and liabilities of such acquired employer's experience account as if no change with respect to such acquired employer's experience account has occurred.

(2) The commissioner may provide by rule and regulation for partial transfers of experience accounts, except that such partial transfers of accounts shall be construed to allow computation and fixing of contribution rates only where an employer has transferred at any time a definable and segregable portion of his or her payroll and business to a transferee-employer.

(3) For an acquisition which occurs during either of the first two calendar quarters of a calendar year or during the fourth quarter of the preceding calendar year, a new rate of contributions, payable by the transferee-employer with respect to wages paid by him or her after midnight of the last day of the calendar quarter in which such acquisition occurs and prior to midnight of the following September 30, shall be computed in accordance with this section. For the purpose of computing such new rate of contributions, the computation date with respect to any such acquisition shall be September 30 of the preceding calendar year and the term payroll shall mean the total amount of wages by which contributions to the transferee's account and to the transferor's account were measured for four calendar quarters ending September 30 preceding the computation date.

Source: Laws 1937, c. 108, § 7, p. 385; Laws 1941, c. 94, § 5, p. 394; C.S.Supp.,1941, § 48-707; R.S.1943, § 48-654; Laws 1945, c. 115, § 6, p. 386; Laws 1947, c. 175, § 13, p. 582; Laws 1953, c. 169, § 1, p. 543; Laws 1985, LB 336, § 1; Laws 1985, LB 339,

§ 38; Laws 2005, LB 484, § 10; Laws 2009, LB631, § 9; Laws 2015, LB271, § 8; Laws 2017, LB172, § 71.
Operative date January 1, 2018.

48-654.01 Employer's experience account; transferable; when; violation; penalty.

(1) For purposes of this section:

(a) Knowingly means having actual knowledge of or acting with deliberate ignorance or reckless disregard of the prohibition involved;

(b) Person means an individual, a partnership, a limited liability company, a corporation, or any other legally recognized entity;

(c) Trade or business includes the employer's workforce; and

(d) Violates or attempts to violate includes intent to evade, misrepresentation, or willful nondisclosure.

(2) Notwithstanding any other provision of law, the following shall apply regarding assignment of combined tax rates and transfer of an employer's experience account:

(a) If an employer transfers its trade or business, or a portion thereof, to another employer and, at the time of the transfer, there is substantially common ownership, management, or control of the two employers, then the employer's experience account attributable to the transferred trade or business shall be transferred to the employer to whom such business is transferred. The rates of both employers shall be recalculated in accordance with section 48-654. The transfer of some or all of an employer's workforce to another employer shall be considered a transfer of trade or business when, as the result of such transfer, the transferring employer no longer performs trade or business with respect to the transferred workforce and such trade or business is performed by the employer to whom the workforce is transferred. If, following a transfer of experience under this subdivision, the commissioner determines that a substantial purpose of the transfer of trade or business was to obtain a lower combined tax rate, then the experience rating accounts of the employers involved shall be combined into a single account and a single rate assigned to such account; or

(b) Whenever a person is not an employer at the time it acquires the trade or business of an employer, the employer's experience account of the acquired business shall not be transferred to such person if the commissioner finds that the business was acquired solely or primarily for the purpose of obtaining a lower combined tax rate. Instead, such person shall be assigned the new employer combined tax rate under sections 48-649 and 48-649.02. In determining whether the business was acquired solely or primarily for the purpose of obtaining a lower combined tax rate, the commissioner shall use objective factors which may include:

(i) The cost of acquiring the business;

(ii) Whether the person continued the business enterprise of the acquired business;

(iii) How long such business enterprise was continued; or

(iv) Whether a substantial number of new employees were hired for performance of duties unrelated to the business activity conducted prior to the acquisition.

(3)(a) If a person knowingly violates or attempts to violate this section, or if a person knowingly advises another person in a way that results in a violation of this section and:

(i) The person is an employer, such employer shall be assigned the highest combined tax rate assignable under sections 48-649 to 48-649.04 for the rate year during which the violation or attempted violation occurred and for the three rate years immediately following such rate year. However, if the person's business is already at the highest combined tax rate or if the amount of increase in the combined tax rate would be less than two percent, then a penalty combined tax rate of two percent of taxable wages shall be imposed for the rate year during which the violation or attempted violation occurred and for the three rate years immediately following such year; or

(ii) The person is not an employer, such person shall be subject to a civil penalty of not more than five thousand dollars.

(b) In addition to any civil penalties that may apply under this subsection, such person shall be guilty of a Class IV felony.

(4) The commissioner shall establish procedures to identify the transfer or acquisition of a business for purposes of evading combined tax liability.

Source: Laws 2005, LB 484, § 11; Laws 2017, LB172, § 72.

Operative date January 1, 2018.

48-655 Combined taxes; payments in lieu of contributions; collections; set-offs; interest; actions; setoff against federal income tax refund; procedure.

(1) Combined taxes or payments in lieu of contributions unpaid on the date on which they are due and payable, as prescribed by the commissioner, shall bear interest at the rate of one and one-half percent per month from such date until payment, plus accrued interest, is received by the commissioner, except that no interest shall be charged subsequent to the date of the erroneous payment of an amount equal to the amount of the delayed payment into the unemployment trust fund of another state or to the federal government. Interest collected pursuant to this section shall be paid in accordance with subdivision (1)(b) of section 48-621. If, after due notice, any employer defaults in any payment of combined taxes or payments in lieu of contributions or interest thereon, the amount due may be collected (a) by civil action in the name of the commissioner and the employer adjudged in default shall pay the costs of such action, (b) by setoff against any state income tax refund due the employer pursuant to sections 77-27,197 to 77-27,209, or (c) as provided in subsection (2) of this section. Civil actions brought under this section to collect combined taxes or interest thereon or payments in lieu of contributions or interest thereon from an employer shall be heard by the court at the earliest possible date and shall be entitled to preference upon the calendar of the court over all other civil actions except petitions for judicial review under section 48-638.

(2) The commissioner may recover a covered unemployment compensation debt, as defined in 26 U.S.C. 6402, by setoff against a liable party's federal income tax refund. Such setoff shall be made in accordance with such section and United States Treasury regulations and guidelines adopted pursuant thereto. The commissioner shall notify the debtor that the commissioner plans to recover the debt through setoff against any federal income tax refund, and the debtor shall be given sixty days to present evidence that all or part of the liability is either not legally enforceable or is not a covered unemployment

compensation debt. The commissioner shall review any evidence presented and determine that the debt is legally enforceable and is a covered unemployment compensation debt before proceeding further with the offset. The amount recovered, less any administrative fees charged by the United States Treasury, shall be credited to the debt owed. Any determination rendered under this subsection that the liable party's federal income tax refund is not subject to setoff does not require the commissioner to amend the commissioner's initial determination that formed the basis for the proposed setoff.

Source: Laws 1937, c. 108, § 14, p. 398; Laws 1939, c. 56, § 11, p. 249; C.S.Supp., 1941, § 48-713; R.S. 1943, § 48-655; Laws 1947, c. 175, § 14, p. 582; Laws 1949, c. 163, § 14(1), p. 429; Laws 1971, LB 651, § 10; Laws 1985, LB 337, § 1; Laws 1986, LB 811, § 137; Laws 1993, LB 46, § 14; Laws 1994, LB 1337, § 12; Laws 1995, LB 1, § 13; Laws 2000, LB 953, § 10; Laws 2009, LB 631, § 10; Laws 2012, LB 1058, § 8; Laws 2017, LB 172, § 73.
Operative date January 1, 2018.

48-656 Combined taxes; report or return; requirements; assessment; notice; protest; penalty.

(1) If any employer fails to file a report or return required by the commissioner for the determination of combined taxes, the commissioner may make such reports or returns or cause them to be made and determine the combined taxes payable, on the basis of such information as he or she may be able to obtain, and shall collect the combined taxes as determined together with any interest thereon due under section 48-655. The commissioner shall immediately notify the employer of the assessment, in writing, by registered or certified mail, in the usual course, and such assessment shall be final unless the employer protests such assessment within fifteen days after the mailing of the notice. If the employer protests such assessment, the employer shall have an opportunity to be heard by a hearing officer upon written request therefor. After the hearing, the hearing officer shall immediately notify the employer in writing of his or her decision, and the assessment, if any, shall be final upon issuance of such notice.

(2) If any employer files a report or return required by the commissioner for the determination of combined taxes but fails to pay all or some part of the combined taxes actually due for the reported period, the commissioner may determine the combined taxes actually payable on the basis of such information as he or she may be able to obtain and shall collect the combined taxes as determined together with any interest due under section 48-655. The commissioner shall immediately notify the employer of the assessment, in writing by registered or certified mail in the usual course, and such assessment shall be final unless the employer protests such assessment within fifteen days after the mailing of the notice. If the employer protests such assessment, the employer shall have an opportunity to be heard by a hearing officer upon a written request therefor. After the hearing, the hearing officer shall immediately notify the employer in writing of his or her decision and the assessment, if any, shall be final upon issuance of such notice.

(3) Any employer or any officer or agent of an employer who fails to file a required quarterly combined tax report and wage schedule by the tenth day of the second month following the end of the calendar quarter shall pay a penalty

to the commissioner of one-tenth of one percent of the total wages paid during the quarter, except that the penalty shall not be less than twenty-five nor more than two hundred dollars. For good cause shown, the commissioner may waive the penalty in accordance with rules and regulations adopted and promulgated by the commissioner. The commissioner shall remit any penalty collected to the State Treasurer who shall credit it to the pool account of the Employment Security Special Contingent Fund.

Source: Laws 1939, c. 56, § 11, p. 249; C.S.Supp., 1941, § 48-713; R.S. 1943, § 48-656; Laws 1957, c. 208, § 7, p. 735; Laws 1989, LB 414, § 1; Laws 1994, LB 1337, § 14; Laws 2001, LB 192, § 12; Laws 2017, LB172, § 74.

Operative date January 1, 2018.

48-660.01 Benefits; nonprofit organizations; combined tax; payments in lieu of contributions; election; notice; appeal; lien; liability.

(1) Benefits paid to employees of nonprofit organizations shall be financed in accordance with this section. For the purpose of this section, a nonprofit organization is an organization, or group of organizations, described in subdivision (9) of section 48-603.

(2)(a) Any nonprofit organization which is, or becomes, subject to the Employment Security Law shall pay combined tax under sections 48-648 to 48-661 unless it elects, in accordance with this subsection, to pay to the commissioner for the unemployment fund an amount, equal to the amount of regular benefits and of one-half of the extended benefits paid, that is attributable to service in the employ of such nonprofit organization, to individuals for weeks of unemployment which begin during the effective period of such election.

(b) Any nonprofit organization which is, or becomes, subject to the Employment Security Law may elect to become liable for payments in lieu of contributions for a period of not less than twelve months beginning with the date on which such subjectivity begins by filing a written notice of its election with the commissioner not later than thirty days immediately following the date of the determination of such subjectivity.

(c) Any nonprofit organization which makes an election in accordance with subdivision (b) of this subsection shall continue to be liable for payments in lieu of contributions until it files with the commissioner a written notice terminating its election not later than thirty days prior to the beginning of the taxable year for which such termination shall first be effective.

(d) Any nonprofit organization which has been paying combined tax under the Employment Security Law may change to a reimbursable basis by filing with the commissioner not later than thirty days prior to the beginning of any taxable year a written notice of election to become liable for payments in lieu of contributions. Such election shall not be terminable by the organization for that and the next year.

(e) The commissioner may for good cause extend the period within which a notice of election, or a notice of termination, must be filed and may permit an election to be retroactive but not any earlier than with respect to benefits paid after December 31, 1969.

(f) The commissioner, in accordance with such rules and regulations as he or she may adopt and promulgate, shall notify each nonprofit organization of any determination which he or she may make of its status as an employer and of the effective date of any election which it makes and of any termination of such election. Such determinations shall be subject to redetermination and appeal, and the appeal shall be in accordance with the Administrative Procedure Act.

(3) Payments in lieu of contributions shall be made in accordance with this subsection as follows:

(a) At the end of each calendar quarter, or at the end of any other period as determined by the commissioner, the commissioner shall bill each nonprofit organization, or group of such organizations, which has elected to make payment in lieu of contributions for an amount equal to the full amount of regular benefits plus one-half of the amount of extended benefits paid during such quarter or other prescribed period that is attributable to service in the employ of such organization;

(b) Payment of any bill rendered under subdivision (a) of this subsection shall be made not later than thirty days after such bill was mailed to the last-known address of the nonprofit organization or was otherwise delivered to it unless there has been an application for review and redetermination in accordance with subdivision (d) of this subsection;

(c) Payments made by any nonprofit organization under this subsection shall not be deducted or deductible, in whole or in part, from the remuneration of individuals in the employ of the organization;

(d) The amount due specified in any bill from the commissioner shall be conclusive on the organization unless, not later than thirty days after the bill was mailed to its last-known address or otherwise delivered to it, the organization files an application for redetermination by the commissioner setting forth the grounds for such application. The commissioner shall promptly review and reconsider the amount due specified in the bill and shall thereafter issue a redetermination in any case in which such application for redetermination has been filed. Any such redetermination shall be conclusive on the organization unless the organization appeals the redetermination, and the appeal shall be in accordance with the Administrative Procedure Act; and

(e) Past-due payments of amounts in lieu of contributions shall be subject to the same interest that, pursuant to section 48-655, applies to past-due contributions, and the commissioner may file a lien against such nonprofit organization in accordance with the Uniform State Tax Lien Registration and Enforcement Act. Such liens shall set forth the amount of payments in lieu of contributions and interest in default and shall be enforced as provided in the Uniform State Tax Lien Registration and Enforcement Act.

(4) If any nonprofit organization is delinquent in making payments in lieu of contributions as required under subsection (3) of this section, the commissioner may terminate such organization's election to make payments in lieu of contributions as of the beginning of the next taxable year, and such termination shall be effective for that and the next taxable year.

(5) Each employer that is liable for payments in lieu of contributions shall pay to the commissioner for the fund the amount of regular benefits plus the amount of one-half of extended benefits paid that are attributable to service in the employ of such employer. If benefits paid to an individual are based on wages paid by more than one employer and one or more of such employers are

liable for payments in lieu of contributions, the amount payable to the fund by each employer that is liable for such payments shall be determined in accordance with section 48-652.

Source: Laws 1971, LB 651, § 11; Laws 1985, LB 339, § 42; Laws 1988, LB 352, § 89; Laws 1994, LB 1337, § 19; Laws 1999, LB 165, § 2; Laws 2015, LB271, § 9; Laws 2017, LB172, § 75.
Operative date January 1, 2018.

Cross References

Administrative Procedure Act, see section 84-920.

Uniform State Tax Lien Registration and Enforcement Act, see section 77-3901.

48-662 State employment service; establishment; functions; funds available; agreements authorized.

The state employment service is hereby established in the Department of Labor, State of Nebraska. The commissioner of such department, in the conduct of such service, shall establish and maintain free public employment offices in such number and in such places as may be necessary for the proper administration of the Employment Security Law and for the purpose of performing such functions as are within the purview of the Act of Congress entitled An act to provide for the establishment of a national employment system and for cooperation with the states in the promotion of such system, and for other purposes, approved June 6, 1933, (48 Stat. 113; 29 U.S.C. 49 (c)), as amended, herein referred to as the Wagner-Peyser Act. The provisions of the Act of Congress are hereby accepted by this state and the Department of Labor is hereby designated and constituted the agency of this state for the purposes of such act. All money received by this state under the Act of Congress shall be paid into the Employment Security Administration Fund and shall be expended solely for the maintenance of the state system of public employment offices. There shall also be credited to the Employment Security Administration Fund for the same purpose, any sums appropriated by the Legislature from the General Fund of the state for the purposes of maintaining public employment offices or of matching funds granted under the Wagner-Peyser Act. For the purpose of establishing and maintaining free public employment offices and promoting the use of their facilities, the commissioner is authorized to enter into agreements with the Railroad Retirement Board, any other agency of the United States or of this or any other state charged with the administration of any law whose purposes are reasonably related to the purposes of the Employment Security Law, any political subdivision of this state, or any private nonprofit organization and as a part of such agreements may accept money, services, or quarters as a contribution to the maintenance of the state system of public employment offices or as reimbursement for services performed. All money received for such purposes shall be paid into the Employment Security Administration Fund.

Source: Laws 1941, c. 94, § 17, p. 402; C.S.Supp.,1941, § 48-726; R.S. 1943, § 48-662; Laws 1949, c. 163, § 15, p. 430; Laws 1961, c. 239, § 3, p. 713; Laws 1984, LB 747, § 5; Laws 1985, LB 339, § 44; Laws 2017, LB172, § 76.
Operative date January 1, 2018.

48-663 Benefits; prohibited acts by employee; penalty; limitation of time for prosecution.

Whoever obtains or increases any benefit or other payment under sections 48-623 to 48-629 or under an employment security law of any other state, the federal government, or a foreign government, either for himself or herself or for any other person, (1) by making a false statement or representation knowing it to be false by oral, written, or electronic communication that can be attributed to such person by use of a personal identification number or other identification process or (2) by knowingly failing to disclose a material fact shall be guilty of a Class III misdemeanor. Each such false statement or representation or failure to disclose a material fact shall constitute a separate offense. Prosecution under this section may be instituted within three years after the time the offense was committed in any county where any part of the crime was committed, including the county in which the person received the benefits.

Source: Laws 1937, c. 108, § 16, p. 400; C.S.Supp.,1941, § 48-715; R.S.1943, § 48-663; Laws 1949, c. 163, § 16(1), p. 432; Laws 1953, c. 167, § 12, p. 538; Laws 1957, c. 208, § 10, p. 737; Laws 1977, LB 40, § 294; Laws 1985, LB 340, § 1; Laws 1986, LB 950, § 7; Laws 2001, LB 192, § 14; Laws 2017, LB172, § 77.
Operative date January 1, 2018.

48-663.01 Benefits; false statements by employee; forfeiture; appeal; failure to repay overpayment of benefits; penalty; levy authorized; procedure; failure or refusal to honor levy; liability.

(1)(a) Notwithstanding any other provision of this section, or of section 48-627 or 48-663, an individual who willfully fails to disclose amounts earned during any week with respect to which benefits are claimed by him or her or who willfully fails to disclose or has falsified as to any fact which would have disqualified him or her or rendered him or her ineligible for benefits during such week, shall forfeit all or part of his or her benefit rights, as determined by an adjudicator, with respect to uncharged wage credits accrued prior to the date of such failure or to the date of such falsifications.

(b) In addition to any benefits which he or she may be required to repay pursuant to subdivision (1)(a) of this section, if an overpayment is established pursuant to this section, an individual shall be required to pay to the department a penalty equal to fifteen percent of the amount of benefits received as a result of such willful failure to disclose or falsification. All amounts collected pursuant to this subdivision shall be remitted for credit to the Unemployment Compensation Fund.

(c) An appeal may be taken from any determination made pursuant to subdivision (1)(a) of this section in the manner provided in section 48-634.

(2)(a) If any person liable to repay an overpayment of unemployment benefits resulting from a determination under subdivision (1)(a) of this section and pay the penalty required under subdivision (1)(b) of this section fails or refuses to repay such overpayment and pay any penalty assessed within twelve months after the date the overpayment determination becomes final, the commissioner may issue a levy on salary, wages, or other regular payments due to or received by such person and such levy shall be continuous from the date the levy is served until the amount of the levy is satisfied. Notice of the levy shall be mailed to the person whose salary, wages, or other regular payment is levied upon at his or her last-known address not later than the date that the levy is served. Exemptions or limitations on the amount of salary, wages, or other

regular payment that can be garnished or levied upon by a judgment creditor shall apply to levies made pursuant to this section. Appeal of a levy may be made in the manner provided in section 48-634, but such appeal shall not act as a stay of the levy.

(b) Any person upon whom a levy is served who fails or refuses to honor the levy without cause may be held liable for the amount of the levy up to the value of the assets of the person liable to repay the overpayment that are under the control of the person upon whom the levy is served at the time of service and thereafter.

Source: Laws 1949, c. 163, § 16(2), p. 432; Laws 2007, LB265, § 11; Laws 2012, LB1058, § 9; Laws 2015, LB271, § 10; Laws 2017, LB172, § 78.

Operative date January 1, 2018.

48-664 Benefits; false statements by employer; penalty; failure or refusal to make combined tax payment.

Any employer, whether or not subject to the Employment Security Law, or any officer or agent of such an employer or any other person who makes a false statement or representation knowing it to be false, or who knowingly fails to disclose a material fact, to prevent or reduce the payment of benefits to any individual entitled thereto, to obtain benefits for an individual not entitled thereto, to avoid becoming or remaining subject to such law, or to avoid or reduce any contribution or other payment required from an employer under sections 48-648 and 48-649 to 48-649.04, or who willfully fails or refuses to make any such contributions or other payment or to furnish any reports required under the Employment Security Law or to produce or permit the inspection or copying of records as required under such law, shall be guilty of a Class III misdemeanor. Each such false statement or representation or failure to disclose a material fact and each day of such failure or refusal shall constitute a separate offense. An individual employer, partner, corporate officer, or member of a limited liability company or limited liability partnership who willfully fails or refuses to make any combined tax payment shall be jointly and severally liable for the payment of such combined tax and any penalties and interest owed thereon. When an unemployment benefit overpayment occurs, in whole or in part, as the result of a violation of this section by an employer, the amount of the overpayment recovered shall not be credited back to such employer's experience account.

Source: Laws 1937, c. 108, § 16, p. 400; C.S.Supp.,1941, § 48-715; R.S.1943, § 48-664; Laws 1953, c. 167, § 13, p. 539; Laws 1977, LB 40, § 295; Laws 1985, LB 339, § 45; Laws 2005, LB 484, § 12; Laws 2007, LB265, § 12; Laws 2017, LB172, § 79.

Operative date January 1, 2018.

48-665 Benefits; erroneous payments; recovery; setoff against federal income tax refund; procedure.

(1) Any person who has received any sum as benefits under the Employment Security Law to which he or she was not entitled shall be liable to repay such sum to the commissioner for the fund. Any such erroneous benefit payments shall be collectible (a) without interest by civil action in the name of the commissioner, (b) by offset against any future benefits payable to the claimant

with respect to the benefit year current at the time of such receipt or any benefit year which may commence within three years after the end of such current benefit year, except that no such recoupment by the withholding of future benefits shall be had if such sum was received by such person without fault on his or her part and such recoupment would defeat the purpose of the Employment Security Law or would be against equity and good conscience, (c) by setoff against any state income tax refund due the claimant pursuant to sections 77-27,197 to 77-27,209, or (d) as provided in subsection (2) of this section.

(2) The commissioner may recover a covered unemployment compensation debt, as defined in 26 U.S.C. 6402, by setoff against a liable party's federal income tax refund. Such setoff shall be made in accordance with such section and United States Treasury regulations and guidelines adopted pursuant thereto. The commissioner shall notify the debtor that the commissioner plans to recover the debt through setoff against any federal income tax refund, and the debtor shall be given sixty days to present evidence that all or part of the liability is either not legally enforceable or is not a covered unemployment compensation debt. The commissioner shall review any evidence presented and determine that the debt is legally enforceable and is a covered unemployment compensation debt before proceeding further with the offset. The amount recovered, less any administrative fees charged by the United States Treasury, shall be credited to the debt owed. Any determination rendered under this subsection that the liable party's federal income tax refund is not subject to setoff does not require the commissioner to amend the commissioner's initial determination that formed the basis for the proposed setoff.

Source: Laws 1937, c. 108, § 16, p. 401; Laws 1941, c. 94, § 12, p. 400; C.S.Supp., 1941, § 48-715; R.S. 1943, § 48-665; Laws 1953, c. 167, § 14(1), p. 539; Laws 1969, c. 403, § 2, p. 1400; Laws 1980, LB 798, § 1; Laws 1985, LB 339, § 46; Laws 1986, LB 950, § 8; Laws 1993, LB 46, § 15; Laws 2009, LB631, § 11; Laws 2012, LB1058, § 10; Laws 2017, LB172, § 80.
Operative date January 1, 2018.

48-669 Repealed. Laws 2017, LB172, § 89.

Operative date January 1, 2018.

48-675 Short-time compensation program; commissioner; decision; eligibility.

(1) The commissioner shall approve or disapprove a short-time compensation plan in writing within thirty days after its receipt and promptly communicate the decision to the employer. A decision disapproving the plan shall clearly identify the reasons for the disapproval. The disapproval shall be final, but the employer shall be allowed to submit another short-time compensation plan for approval not earlier than forty-five days after the date of the disapproval.

(2)(a) A short-time compensation plan will only be approved for a contributory employer that (a) is eligible for experience rating under section 48-649.03, (b) has a positive balance in the employer's experience account, (c) has filed all quarterly reports and other reports required under the Employment Security Law, and (d) has paid all obligation assessments, contributions, interest, and penalties due through the date of the employer's application.

(b) A short-time compensation plan will only be approved for an employer liable for making payments in lieu of contributions that has filed all quarterly reports and other reports required under the Employment Security Law and has paid all obligation assessments, payments in lieu of contributions, interest, and penalties due through the date of the employer’s application.

Source: Laws 2014, LB961, § 16; Laws 2017, LB172, § 81.
Operative date January 1, 2018.

48-679 Short-time compensation program; individual; eligibility.

An individual is eligible to receive short-time compensation with respect to any week only if the individual is monetarily eligible for unemployment compensation, not otherwise disqualified for unemployment compensation, and:

(1) During the week, the individual is employed as a member of an affected unit under an approved short-time compensation plan, which was approved prior to that week, and the plan is in effect with respect to the week for which short-time compensation is claimed;

(2) Notwithstanding any other provisions of the Employment Security Law relating to availability for work and actively seeking work, the individual is available for the individual’s usual hours of work with the short-time compensation employer, which may include, for purposes of this section, participating in training to enhance job skills that is approved by the commissioner such as employer-sponsored training or training funded under the federal Workforce Innovation and Opportunity Act, 29 U.S.C. 3101 et seq.; and

(3) Notwithstanding any other provision of law, an individual covered by a short-time compensation plan is deemed unemployed in any week during the duration of such plan if the individual’s remuneration as an employee in an affected unit is reduced based on a reduction of the individual’s usual weekly hours of work under an approved short-time compensation plan.

Source: Laws 2014, LB961, § 20; Laws 2017, LB172, § 82.
Operative date January 1, 2018.

48-682 Short-time compensation; when considered exhaustee.

An individual who has received all of the short-time compensation or combined unemployment compensation and short-time compensation available in a benefit year shall be considered an exhaustee for purposes of extended benefits under section 48-628.14 and, if otherwise eligible under such section, shall be eligible to receive extended benefits.

Source: Laws 2014, LB961, § 23; Laws 2017, LB172, § 83.
Operative date January 1, 2018.

**ARTICLE 7
BOILER INSPECTION**

Section

48-721. State boiler inspector; deputy inspectors; qualifications; bond or insurance.
48-735.01. Boiler Inspection Cash Fund; created; use; investment.

48-721 State boiler inspector; deputy inspectors; qualifications; bond or insurance.

(1) The commissioner shall employ a state boiler inspector who shall work under the direct supervision of the commissioner or his or her designee and

devote his or her full time to the duties of the office. The person so appointed shall:

(a) Be a practical boilermaker, technical engineer, operating engineer, or boiler inspector;

(b) Hold an "AI" or "IS" Commission from the National Board of Boiler and Pressure Vessel Inspectors. The state boiler inspector shall also either hold "B" and "R" endorsements to his or her commission at the time of hire or acquire such endorsements within eighteen months of employment;

(c) Be qualified by not less than ten years' experience in the construction, installation, repair, inspection, or operation of boilers, steam generators, and superheaters;

(d) Have a knowledge of the operation and use of boilers, steam generators, and superheaters for the generating of steam for power, heating, or other purposes; and

(e) Neither directly nor indirectly be interested in the manufacture, ownership, or agency of boilers, steam generators, and superheaters.

(2) The commissioner may hire deputy inspectors as necessary to carry out the Boiler Inspection Act. Deputy inspectors shall hold an "IS" Commission from the National Board of Boiler and Pressure Vessel Inspectors or acquire the same within twelve months of hire. Such deputy inspectors shall otherwise be subject to and governed by the same rules and regulations applicable to and governing the acts and conduct of the state boiler inspector.

(3) Before entering upon his or her duties under the Boiler Inspection Act, the state boiler inspector and each deputy inspector shall be bonded or insured as required by section 11-201.

Source: Laws 1943, c. 112, § 1, p. 392; R.S.1943, § 48-701; Laws 1978, LB 653, § 12; R.S.1943, (1984), § 48-701; Laws 1987, LB 462, § 3; Laws 1998, LB 395, § 12; Laws 1999, LB 66, § 1; Laws 2004, LB 884, § 23; Laws 2017, LB264, § 1.
Effective date August 24, 2017.

48-735.01 Boiler Inspection Cash Fund; created; use; investment.

The Boiler Inspection Cash Fund is created. The commissioner shall use the fund for the administration of the boiler inspection program pursuant to the Boiler Inspection Act. The fund shall consist of money appropriated to it by the Legislature and fees collected in the administration of the act. Fees so collected shall be remitted to the State Treasurer with an itemized statement showing the source of collection. The State Treasurer shall credit the fees to the fund and the money in the fund shall not lapse into the General Fund, except that money in the Boiler Inspection Cash Fund may be transferred to the General Fund at the direction of the Legislature. Any money in the Boiler Inspection Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

The State Treasurer shall transfer one hundred fifty thousand dollars from the Boiler Inspection Cash Fund to the General Fund on or before June 15,

2018, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

Source: Laws 1995, LB 438, § 13; Laws 2017, LB331, § 25.
Effective date May 16, 2017.

Cross References

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

ARTICLE 12

WAGES

(a) MINIMUM WAGES

Section

48-1209.01. Police; firefighters; cities having a population of more than 10,000 inhabitants; minimum salaries.

(a) MINIMUM WAGES

48-1209.01 Police; firefighters; cities having a population of more than 10,000 inhabitants; minimum salaries.

The officers and members of the police and paid fire departments of cities of the metropolitan and primary classes and of cities of the first class having a population of more than ten thousand inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census shall each receive a salary of not less than three hundred fifty dollars per month. The city council may, by ordinance, at any time, change, fix or revise the salaries of the officers or members of the police and fire departments of such cities, but in no instance shall the minimum salary of any officer or member be less than three hundred fifty dollars per month.

Source: Laws 1965, c. 78, § 1, p. 313; Laws 1979, LB 80, § 63; R.S.1943, (1983), § 19-1824; Laws 2017, LB113, § 46.
Effective date August 24, 2017.

ARTICLE 29

EMPLOYEE CLASSIFICATION ACT

Section

48-2903. Presumption; act; how construed.

48-2903 Presumption; act; how construed.

(1) An individual performing construction labor services for a contractor is presumed an employee and not an independent contractor for purposes of the Employee Classification Act, unless:

(a) The individual meets the criteria found in subdivision (5) of section 48-604;

(b) The individual has been registered as a contractor pursuant to the Contractor Registration Act prior to commencing construction work for the contractor; and

(c) The individual has been assigned a combined tax rate pursuant to sections 48-649 to 48-649.04 or is exempted from unemployment insurance coverage pursuant to subdivision (6) of section 48-604.

(2) An individual performing delivery services for a contractor is presumed an employee and not an independent contractor for purposes of the Employee Classification Act, unless the individual meets the criteria found in subdivision (5) of section 48-604 or is exempted from unemployment insurance coverage pursuant to subdivision (6) of section 48-604.

(3) The Employee Classification Act shall not be construed to affect or apply to a common-law or statutory action providing for recovery in tort and shall not be construed to affect or change the common-law interpretation of independent contractor status as it relates to tort liability or a workers' compensation claim. The act shall also not be construed to affect or alter the use of the term independent contractor as interpreted by the Department of Revenue and shall not be construed to affect any action brought pursuant to the Nebraska Revenue Act of 1967.

Source: Laws 2010, LB563, § 3; Laws 2017, LB172, § 84.
Operative date January 1, 2018.

Cross References

Contractor Registration Act, see section 48-2101.
Nebraska Revenue Act of 1967, see section 77-2701.

CHAPTER 49

LAW

Article.

5. Publication and Distribution of Session Laws and Journals. 49-506.
6. Printing and Distribution of Statutes. 49-617.
8. Definitions, Construction, and Citation. 49-801.01.
14. Nebraska Political Accountability and Disclosure Act.
 - (a) General Provisions. 49-1401.
 - (d) Conflicts of Interest. 49-1494, 49-1497.
 - (e) Nebraska Accountability and Disclosure Commission. 49-14,123.
 - (g) Payment of Civil Penalties. 49-14,142.
18. Uniform Unsworn Foreign Declarations Act. 49-1801 to 49-1807.

ARTICLE 5

PUBLICATION AND DISTRIBUTION OF SESSION LAWS AND JOURNALS

Section

- 49-506. Distribution by Secretary of State.

49-506 Distribution by Secretary of State.

After the Secretary of State has made the distribution provided by section 49-503, he or she shall deliver additional copies of the session laws and the journal of the Legislature pursuant to this section in print or electronic format as he or she determines, upon recommendation by the Clerk of the Legislature and approval of the Executive Board of the Legislative Council.

One copy of the session laws shall be delivered to the Lieutenant Governor, the State Treasurer, the Auditor of Public Accounts, the Reporter of the Supreme Court and Court of Appeals, the State Court Administrator, the State Fire Marshal, the Department of Administrative Services, the Department of Agriculture, the Department of Banking and Finance, the State Department of Education, the Department of Environmental Quality, the Department of Insurance, the Department of Labor, the Department of Motor Vehicles, the Department of Revenue, the Department of Transportation, the Department of Veterans' Affairs, the Department of Natural Resources, the Military Department, the Nebraska State Patrol, the Nebraska Commission on Law Enforcement and Criminal Justice, each of the Nebraska state colleges, the Game and Parks Commission, the Nebraska Library Commission, the Nebraska Liquor Control Commission, the Nebraska Accountability and Disclosure Commission, the Public Service Commission, the State Real Estate Commission, the Nebraska State Historical Society, the Public Employees Retirement Board, the Risk Manager, the Legislative Fiscal Analyst, the Public Counsel, the materiel division of the Department of Administrative Services, the State Records Administrator, the budget division of the Department of Administrative Services, the Tax Equalization and Review Commission, the inmate library at all state penal and correctional institutions, the Commission on Public Advocacy, and the Library of Congress; two copies to the Governor, the Secretary of State, the Nebraska Workers' Compensation Court, the Commission of Industrial

Relations, and the Coordinating Commission for Postsecondary Education, one of which shall be for use by the community colleges; three copies to the Department of Health and Human Services; four copies to the Nebraska Publications Clearinghouse; five copies to the Attorney General; nine copies to the Revisor of Statutes; sixteen copies to the Supreme Court and the Legislative Council; and thirty-five copies to the University of Nebraska College of Law.

One copy of the journal of the Legislature shall be delivered to the Governor, the Lieutenant Governor, the State Treasurer, the Auditor of Public Accounts, the Reporter of the Supreme Court and Court of Appeals, the State Court Administrator, the Nebraska State Historical Society, the Legislative Fiscal Analyst, the Tax Equalization and Review Commission, the Commission on Public Advocacy, and the Library of Congress; two copies to the Secretary of State, the Commission of Industrial Relations, and the Nebraska Workers' Compensation Court; four copies to the Nebraska Publications Clearinghouse; five copies to the Attorney General and the Revisor of Statutes; eight copies to the Clerk of the Legislature; thirteen copies to the Supreme Court and the Legislative Council; and thirty-five copies to the University of Nebraska College of Law. The remaining copies shall be delivered to the State Librarian who shall use the same, so far as required for exchange purposes, in building up the State Library and in the manner specified in sections 49-507 to 49-509.

Source: Laws 1907, c. 78, § 6, p. 290; R.S.1913, § 3738; C.S.1922, § 3131; C.S.1929, § 49-506; R.S.1943, § 49-506; Laws 1947, c. 185, § 4, p. 611; Laws 1961, c. 243, § 2, p. 725; Laws 1969, c. 413, § 1, p. 1419; Laws 1972, LB 1284, § 17; Laws 1987, LB 572, § 2; Laws 1991, LB 663, § 34; Laws 1991, LB 732, § 117; Laws 1993, LB 3, § 34; Laws 1995, LB 271, § 6; Laws 1996, LB 906, § 1; Laws 1996, LB 1044, § 277; Laws 1999, LB 36, § 3; Laws 2000, LB 534, § 3; Laws 2000, LB 900, § 240; Laws 2000, LB 1085, § 2; Laws 2007, LB296, § 222; Laws 2007, LB334, § 6; Laws 2017, LB339, § 176.

Operative date July 1, 2017.

ARTICLE 6

PRINTING AND DISTRIBUTION OF STATUTES

Section

49-617. Printing of statutes; distribution of copies.

49-617 Printing of statutes; distribution of copies.

The Revisor of Statutes shall cause the statutes to be printed. The printer shall deliver all completed copies to the Supreme Court. These copies shall be held and disposed of by the court as follows: Sixty copies to the State Library to exchange for statutes of other states; five copies to the State Library to keep for daily use; not to exceed twenty-five copies to the Legislative Council for bill drafting and related services to the Legislature and executive state officers; as many copies to the Attorney General as he or she has attorneys on his or her staff; as many copies to the Commission on Public Advocacy as it has attorneys on its staff; up to sixteen copies to the State Court Administrator; thirteen copies to the Tax Commissioner; eight copies to the Nebraska Publications Clearinghouse; six copies to the Public Service Commission; four copies to the Secretary of State; three copies to the Tax Equalization and Review Commis-

sion; four copies to the Clerk of the Legislature for use in his or her office and three copies to be maintained in the legislative chamber, one copy on each side of the chamber and one copy at the desk of the Clerk of the Legislature, under control of the sergeant at arms; three copies to the Department of Health and Human Services; two copies each to the Governor of the state, the Chief Justice and each judge of the Supreme Court, each judge of the Court of Appeals, the Clerk of the Supreme Court, the Reporter of the Supreme Court and Court of Appeals, the Commissioner of Labor, the Auditor of Public Accounts, and the Revisor of Statutes; one copy each to the Secretary of State of the United States, each Indian tribal court located in the State of Nebraska, the library of the Supreme Court of the United States, the Adjutant General, the Air National Guard, the Commissioner of Education, the State Treasurer, the Board of Educational Lands and Funds, the Director of Agriculture, the Director of Administrative Services, the Director of Economic Development, the director of the Nebraska Public Employees Retirement Systems, the Director-State Engineer, the Director of Banking and Finance, the Director of Insurance, the Director of Motor Vehicles, the Director of Veterans' Affairs, the Director of Natural Resources, the Director of Correctional Services, the Nebraska Emergency Operating Center, each judge of the Nebraska Workers' Compensation Court, each commissioner of the Commission of Industrial Relations, the Nebraska Liquor Control Commission, the State Real Estate Commission, the secretary of the Game and Parks Commission, the Board of Pardons, each state institution under the Department of Health and Human Services, each state institution under the State Department of Education, the State Surveyor, the Nebraska State Patrol, the materiel division of the Department of Administrative Services, the personnel division of the Department of Administrative Services, the Nebraska Motor Vehicle Industry Licensing Board, the Board of Trustees of the Nebraska State Colleges, each of the Nebraska state colleges, each district judge of the State of Nebraska, each judge of the county court, each judge of a separate juvenile court, the Lieutenant Governor, each United States Senator from Nebraska, each United States Representative from Nebraska, each clerk of the district court for the use of the district court, the clerk of the Nebraska Workers' Compensation Court, each clerk of the county court, each county attorney, each county public defender, each county law library, and the inmate library at all state penal and correctional institutions, and each member of the Legislature shall be entitled to two complete sets, and two complete sets of such volumes as are necessary to update previously issued volumes, but each member of the Legislature and each judge of any court referred to in this section shall be entitled, on request, to an additional complete set. Copies of the statutes distributed without charge, as listed in this section, shall be the property of the state or governmental subdivision of the state and not the personal property of the particular person receiving a copy. Distribution of statutes to the library of the College of Law of the University of Nebraska shall be as provided in sections 85-176 and 85-177.

Source: Laws 1943, c. 115, § 17, p. 407; R.S.1943, § 49-617; Laws 1944, Spec. Sess., c. 3, § 5, p. 100; Laws 1947, c. 185, § 5, p. 612; Laws 1951, c. 345, § 1, p. 1132; Laws 1957, c. 210, § 3, p. 743; Laws 1961, c. 242, § 2, p. 722; Laws 1961, c. 243, § 3, p. 725; Laws 1961, c. 415, § 5, p. 1247; Laws 1961, c. 416, § 8, p. 1266; Laws 1963, c. 303, § 3, p. 898; Laws 1965, c. 305, § 1, p. 858; Laws 1967, c. 325, § 1, p. 863; Laws 1967, c. 326, § 1, p. 865; Laws

1971, LB 36, § 4; Laws 1972, LB 1032, § 254; Laws 1972, LB 1174, § 1; Laws 1972, LB 1284, § 18; Laws 1973, LB 1, § 5; Laws 1973, LB 563, § 4; Laws 1973, LB 572, § 1; Laws 1974, LB 595, § 1; Laws 1975, LB 59, § 4; Laws 1978, LB 168, § 1; Laws 1984, LB 13, § 82; Laws 1985, LB 498, § 2; Laws 1987, LB 572, § 6; Laws 1991, LB 732, § 118; Laws 1992, Third Spec. Sess., LB 14, § 3; Laws 1995, LB 271, § 7; Laws 1996, LB 906, § 2; Laws 1996, LB 1044, § 278; Laws 1999, LB 36, § 4; Laws 2000, LB 692, § 9; Laws 2000, LB 900, § 241; Laws 2000, LB 1085, § 3; Laws 2007, LB296, § 223; Laws 2007, LB334, § 7; Laws 2007, LB472, § 8; Laws 2010, LB770, § 3; Laws 2011, LB384, § 1; Laws 2017, LB339, § 177.

Operative date July 1, 2017.

ARTICLE 8

DEFINITIONS, CONSTRUCTION, AND CITATION

Section

49-801.01. Internal Revenue Code; reference.

49-801.01 Internal Revenue Code; reference.

Except as provided by Article VIII, section 1B, of the Constitution of Nebraska and in sections 77-1106, 77-1108, 77-1109, 77-1117, 77-1119, 77-2701.01, 77-2714 to 77-27,123, 77-27,191, 77-2902, 77-2906, 77-2908, 77-2909, 77-4103, 77-4104, 77-4108, 77-5509, 77-5515, 77-5527 to 77-5529, 77-5539, 77-5717 to 77-5719, 77-5728, 77-5802, 77-5803, 77-5806, 77-5903, 77-6302, and 77-6306, any reference to the Internal Revenue Code refers to the Internal Revenue Code of 1986 as it exists on May 11, 2017.

Source: Laws 1995, LB 574, § 1; Laws 1996, LB 984, § 1; Laws 1997, LB 46, § 1; Laws 1998, LB 1015, § 2; Laws 1999, LB 33, § 1; Laws 2000, LB 944, § 1; Laws 2001, LB 122, § 1; Laws 2001, LB 620, § 45; Laws 2002, LB 989, § 8; Laws 2003, LB 281, § 1; Laws 2004, LB 1017, § 1; Laws 2005, LB 312, § 1; Laws 2005, LB 383, § 1; Laws 2006, LB 1003, § 2; Laws 2007, LB315, § 1; Laws 2008, LB896, § 1; Laws 2009, LB251, § 1; Laws 2010, LB879, § 2; Laws 2011, LB134, § 1; Laws 2011, LB389, § 11; Laws 2012, LB725, § 1; Laws 2012, LB1128, § 20; Laws 2013, LB24, § 1; Laws 2014, LB191, § 13; Laws 2014, LB739, § 1; Laws 2015, LB171, § 1; Laws 2017, LB234, § 1.

Effective date May 11, 2017.

ARTICLE 14

NEBRASKA POLITICAL ACCOUNTABILITY AND DISCLOSURE ACT

(a) GENERAL PROVISIONS

Section

49-1401. Act, how cited.

(d) CONFLICTS OF INTEREST

49-1494. Candidates for elective office; statement of financial interest; filing; time; supplementary statements; failure to file; effect.

49-1497. Financial institution, defined; irrevocable trust; how treated.

Section

(e) NEBRASKA ACCOUNTABILITY AND DISCLOSURE COMMISSION

49-14,123. Commission; duties.

(g) PAYMENT OF CIVIL PENALTIES

49-14,142. Payment of civil penalty.

(a) GENERAL PROVISIONS

49-1401 Act, how cited.

Sections 49-1401 to 49-14,142 shall be known and may be cited as the Nebraska Political Accountability and Disclosure Act.

Source: Laws 1976, LB 987, § 1; Laws 1981, LB 134, § 1; Laws 1986, LB 548, § 11; Laws 1987, LB 480, § 1; Laws 1989, LB 815, § 1; Laws 1991, LB 232, § 1; Laws 1994, LB 872, § 1; Laws 1994, LB 1243, § 2; Laws 1995, LB 28, § 3; Laws 1995, LB 399, § 1; Laws 1997, LB 49, § 1; Laws 1997, LB 420, § 15; Laws 1999, LB 581, § 1; Laws 2000, LB 438, § 1; Laws 2000, LB 1021, § 1; Laws 2001, LB 242, § 1; Laws 2002, LB 1003, § 34; Laws 2005, LB 242, § 2; Laws 2007, LB464, § 2; Laws 2007, LB527, § 1; Laws 2009, LB322, § 1; Laws 2009, LB626, § 1; Laws 2017, LB85, § 3.

Effective date August 24, 2017.

(d) CONFLICTS OF INTEREST

49-1494 Candidates for elective office; statement of financial interest; filing; time; supplementary statements; failure to file; effect.

(1) An individual who files to appear on the ballot for election to an elective office specified in section 49-1493 shall file a statement of financial interests for the preceding calendar year with the commission as provided in this section.

(2) Candidates for the elective offices specified in section 49-1493 who qualify other than by filing shall file a statement for the preceding calendar year with the commission within five days after becoming a candidate or being appointed to that elective office.

(3) If the candidate for an elective office specified in section 49-1493 files to appear on the ballot for election prior to January 1 of the year in which the election is held, the candidate shall file supplementary statements, covering the preceding calendar year, with the commission on or before March 1 of the year in which the election is held or, if the filing deadline for the elective office is after March 1 of the year in which the election is held, the candidate shall file such supplementary statements on or before the filing deadline for the elective office.

(4) If the candidate for an elective office specified in section 49-1493 files to appear on the ballot for election during the calendar year in which the election is held, the candidate shall file a statement of financial interests for the preceding calendar year with the commission on or before March 1 of the year in which the election is held or, if the filing deadline for the elective office is after March 1 of the year in which the election is held, the candidate shall file such statement on or before the filing deadline for the elective office.

(5) A candidate for an elective office specified in section 49-1493 who fails to file a statement of financial interests as required in subsection (1) or (2) of this section within five days after the deadline in subsection (3) or (4) of this section and section 49-1493 shall not appear on the ballot.

(6) A statement of financial interests shall be preserved for a period of not less than five years by the commission.

Source: Laws 1976, LB 987, § 94; Laws 1983, LB 479, § 3; Laws 2001, LB 242, § 10; Laws 2005, LB 242, § 36; Laws 2016, LB400, § 2; Laws 2017, LB451, § 15.
Effective date August 24, 2017.

49-1497 Financial institution, defined; irrevocable trust; how treated.

(1) For purposes of section 49-1496, financial institution means:

- (a) A bank or banking corporation as defined in section 8-101.03;
- (b) A federal bank or branch bank;
- (c) An insurance company providing a loan on an insurance policy;
- (d) A small loan company;
- (e) A state or federal savings and loan association or credit union; or
- (f) The federal government or any political subdivision thereof.

(2) The res or the income of an irrevocable trust of a member of the individual's immediate family is not required to be reported pursuant to section 49-1496.

Source: Laws 1976, LB 987, § 97; Laws 2005, LB 242, § 38; Laws 2017, LB140, § 158.
Operative date August 24, 2017.

(e) NEBRASKA ACCOUNTABILITY AND DISCLOSURE COMMISSION

49-14,123 Commission; duties.

In addition to any other duties prescribed by law, the commission shall:

(1) Adopt and promulgate rules and regulations to carry out the Nebraska Political Accountability and Disclosure Act pursuant to the Administrative Procedure Act;

(2) Prescribe forms for statements and reports required to be filed pursuant to the Nebraska Political Accountability and Disclosure Act and furnish such forms to persons required to file such statements and reports;

(3) Prepare and publish one or more manuals explaining the duties of all persons and other entities required to file statements and reports by the act and setting forth recommended uniform methods of accounting and reporting for such filings;

(4) Accept and file any reasonable amount of information voluntarily supplied that exceeds the requirements of the act;

(5) Make statements and reports filed with the commission available for public inspection and copying during regular office hours and make copying facilities available at a cost of not more than fifty cents per page;

(6) Compile and maintain an index of all reports and statements filed with the commission to facilitate public access to such reports and statements;

(7) Prepare and publish summaries of statements and reports filed with the commission and special reports and technical studies to further the purposes of the act;

(8) Review all statements and reports filed with the commission in order to ascertain whether any person has failed to file a required statement or has filed a deficient statement;

(9) Preserve statements and reports filed with the commission for a period of not less than five years from the date of receipt;

(10) Issue and publish advisory opinions on the requirements of the act upon the request of a person or government body directly covered or affected by the act. Any such opinion rendered by the commission, until amended or revoked, shall be binding on the commission in any subsequent charges concerning the person or government body who requested the opinion and who acted in reliance on it in good faith unless material facts were omitted or misstated by the person or government body in the request for the opinion;

(11) Act as the primary civil enforcement agency for violations of the Nebraska Political Accountability and Disclosure Act and the rules or regulations adopted and promulgated thereunder;

(12) Receive all late filing fees, civil penalties, and interest imposed pursuant to the Nebraska Political Accountability and Disclosure Act and remit all such funds to the State Treasurer for credit to the Nebraska Accountability and Disclosure Commission Cash Fund;

(13) Provide current information or a list of persons owing civil penalties and interest to filing officers to determine compliance with subsection (4) of section 32-602. The commission shall provide the current information or list to each filing officer on December 1 prior to a statewide primary election, shall continuously update the information or list through March 1 prior to the statewide primary election, and shall update such information or list at other times upon request of a filing officer; and

(14) Prepare and distribute to the appropriate local officials statements of financial interest, campaign committee organization forms, filing instructions and forms, and such other forms as the commission may deem appropriate.

Source: Laws 1976, LB 987, § 123; Laws 1981, LB 134, § 9; Laws 1981, LB 545, § 13; Laws 1983, LB 479, § 5; Laws 1992, LB 556, § 12; Laws 1994, LB 872, § 12; Laws 1994, LB 1243, § 14; Laws 1997, LB 420, § 20; Laws 1997, LB 758, § 3; Laws 2000, LB 438, § 10; Laws 2005, LB 242, § 56; Laws 2007, LB464, § 3; Laws 2013, LB79, § 27; Laws 2017, LB85, § 5.
Effective date August 24, 2017.

Cross References

Administrative Procedure Act, see section 84-920.

(g) PAYMENT OF CIVIL PENALTIES

49-14,142 Payment of civil penalty.

No person shall be appointed to any elective or appointive office specified in section 49-1493 until he or she has first paid any outstanding civil penalties and interest imposed pursuant to the Nebraska Political Accountability and Disclosure Act.

Source: Laws 2017, LB85, § 4.
Effective date August 24, 2017.

ARTICLE 18

UNIFORM UNSWORN FOREIGN DECLARATIONS ACT

Section

- 49-1801. Act, how cited.
- 49-1802. Definitions.
- 49-1803. Applicability.
- 49-1804. Validity of unsworn declaration.
- 49-1805. Required medium.
- 49-1806. Form of unsworn declaration.
- 49-1807. Relation to Electronic Signatures in Global and National Commerce Act.

49-1801 Act, how cited.

Sections 49-1801 to 49-1807 shall be known and may be cited as the Uniform Unsworn Foreign Declarations Act.

Source: Laws 2017, LB57, § 3.
Effective date August 24, 2017.

49-1802 Definitions.

In the Uniform Unsworn Foreign Declarations Act:

(1) Boundaries of the United States means the geographic boundaries of the United States, Puerto Rico, the United States Virgin Islands, and any territory or insular possession subject to the jurisdiction of the United States.

(2) Law includes the federal or a state constitution, a federal or state statute, a judicial decision or order, a rule of court, an executive order, and an administrative rule, regulation, or order.

(3) Record means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(4) Sign means, with present intent to authenticate or adopt a record:

(A) to execute or adopt a tangible symbol; or

(B) to attach to or logically associate with the record an electronic symbol, sound, or process.

(5) 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.

(6) Sworn declaration means a declaration in a signed record given under oath. The term includes a sworn statement, verification, certificate, and affidavit.

(7) Unsworn declaration means a declaration in a signed record that is not given under oath, but is given under penalty of perjury.

Source: Laws 2017, LB57, § 4.
Effective date August 24, 2017.

49-1803 Applicability.

The Uniform Unsworn Foreign Declarations Act applies to an unsworn declaration by a declarant who at the time of making the declaration is

The Uniform Unsworn Foreign Declarations Act modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. 7001 et seq., as the act existed on January 1, 2017, but does not modify, limit, or supersede section 101(c) of that act, 15 U.S.C. 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that act, 15 U.S.C. 7003(b).

Source: Laws 2017, LB57, § 9.

Effective date August 24, 2017.

CHAPTER 50 LEGISLATURE

Article.

- 4. Legislative Council. 50-429 to 50-435.
- 6. Whiteclay Public Health Emergency Task Force. 50-601 to 50-603.
- 12. Legislative Performance Audit Act. 50-1205.01, 50-1210.

ARTICLE 4 LEGISLATIVE COUNCIL

Section

- 50-429. Repealed. Laws 2017, LB644, § 21.
- 50-430. Repealed. Laws 2017, LB644, § 21.
- 50-431. Repealed. Laws 2017, LB644, § 21.
- 50-432. Repealed. Laws 2017, LB644, § 21.
- 50-433. Repealed. Laws 2017, LB644, § 21.
- 50-435. Nebraska Economic Development Task Force; created; members; meetings; report.

50-429 Repealed. Laws 2017, LB644, § 21.

50-430 Repealed. Laws 2017, LB644, § 21.

50-431 Repealed. Laws 2017, LB644, § 21.

50-432 Repealed. Laws 2017, LB644, § 21.

50-433 Repealed. Laws 2017, LB644, § 21.

50-435 Nebraska Economic Development Task Force; created; members; meetings; report.

(1) The Legislature finds and declares that economic development is vitally important to the well-being of the State of Nebraska, and that the Legislature and the state would benefit from a more coordinated approach to legislation addressing economic development.

(2) The Nebraska Economic Development Task Force is created. The task force shall collaborate with the Department of Economic Development and the Department of Labor to gather input on issues pertaining to economic development and discuss proactive approaches on economic development. The task force shall monitor analysis and policy development in all aspects of economic development in Nebraska. The task force shall also discuss long-range strategic plans to improve economic development within the state.

(3) The Nebraska Economic Development Task Force shall be composed of three members of the Legislature appointed by the Executive Board of the Legislative Council, one from each congressional district, and the following seven members: The chairperson of the Appropriations Committee of the Legislature or his or her designee, the chairperson of the Banking, Commerce and Insurance Committee of the Legislature or his or her designee, the chairperson of the Business and Labor Committee of the Legislature or his or

her designee, the chairperson of the Education Committee of the Legislature or his or her designee, the chairperson of the Revenue Committee of the Legislature or his or her designee, the chairperson of the Legislature's Planning Committee or his or her designee, and the chairperson of the Urban Affairs Committee of the Legislature or his or her designee. The task force members shall choose a chairperson and vice-chairperson from among the task force members.

(4)(a) The Nebraska Economic Development Task Force shall meet on or before June 15, 2017, and on or before each June 15 thereafter.

(b) Following the meeting required by subdivision (4)(a) of this section, the task force shall meet not less than once every three months, but shall not be required to meet while the Legislature is in session.

(c) Meetings of the task force shall be called by the chairperson.

(d) The task force may ask other persons or entities to attend its meetings or present information at such meetings.

(e) The task force shall annually identify economic development priorities and electronically submit a report to the Legislature on or before December 31, 2017, and on or before each December 31 thereafter.

(5) This section shall terminate on January 1, 2021.

Source: Laws 2017, LB641, § 5.

Operative date August 24, 2017.

Termination date January 1, 2021.

ARTICLE 6

WHITECLAY PUBLIC HEALTH EMERGENCY TASK FORCE

Section

50-601. Whiteclay Public Health Emergency Task Force; created; members.

50-602. Whiteclay Public Health Emergency Task Force; duties.

50-603. Whiteclay Public Health Emergency Task Force; report; contents.

50-601 Whiteclay Public Health Emergency Task Force; created; members.

(1) The Whiteclay Public Health Emergency Task Force is created.

(2) The task force shall consist of five voting members: The chairperson of the State-Tribal Relations Committee of the Legislature, an additional member of the State-Tribal Relations Committee of the Legislature, the chairperson of the Health and Human Services Committee of the Legislature or his or her designee, the chairperson of the Appropriations Committee of the Legislature or his or her designee, and the chairperson of the Judiciary Committee of the Legislature or his or her designee. The voting members of the task force shall choose a chairperson and vice-chairperson from among the voting members.

(3) The task force shall also include the following nonvoting, ex officio members: The executive director of the Commission on Indian Affairs or his or her designee, a public health expert, and a data analysis expert from the University of Nebraska Medical Center appointed by the Chancellor of the University of Nebraska Medical Center.

(4) The task force shall consult with (a) advocacy groups that focus on public health issues and economic development issues, (b) academic experts in health care and economic development issues, (c) service providers, (d) educational

institutions, (e) workforce development agencies, and (f) experts in public health issues for Native American people.

Source: Laws 2017, LB407, § 1.

Effective date August 24, 2017.

50-602 Whiteclay Public Health Emergency Task Force; duties.

(1) The Whiteclay Public Health Emergency Task Force shall examine public health implications of alcohol sales in Whiteclay, Nebraska, on the Whiteclay community and surrounding areas, including the neighboring Pine Ridge Reservation. The task force shall: (a) Collect, examine, and analyze data on fetal alcohol syndrome and other health conditions related to alcoholism in such areas; (b) collect, examine, and analyze data on access in such areas to detoxification, treatment facilities, telehealth, distance learning, and other health resources for those affected by the consumption of alcohol, including affected children; (c) collect, examine, and analyze data on children in such areas who are at risk of continuing a cycle of alcoholism unless outside intervention is made available; (d) encourage participation and obtain input from academic and medical experts, including, but not limited to, the University of Nebraska Medical Center; (e) encourage and obtain input from nonprofit organizations, faith-based institutions, and city, county, and tribal government officials to evaluate and develop strategies and solutions to help victims escape alcoholism; (f) study, evaluate, and report on the status and effectiveness of policies, procedures, and programs implemented by other states directed toward Native American populations as they relate to preventing and combating alcoholism; (g) evaluate the adequacy of interagency data sharing and policy coordination and recommend changes as necessary; (h) examine sources of federal, state, and private funds that may be available for prevention, detoxification, treatment, rehabilitation, and economic development; (i) create a long-range strategic plan containing measurable goals and benchmarks, including future action needed to attain those goals and benchmarks, for decreasing the incidence of alcohol-related health problems through prevention programs and increasing treatment, access to detoxification services, and economic growth in Whiteclay, Nebraska, and the surrounding areas; and (j) recommend data-supported changes to policies, procedures, and programs to address the needs of children affected by alcohol-related health issues and to help those children escape the cycle of alcoholism, including the steps that will be required to make the recommended changes and whether further action is required by the Legislature or local governments.

(2) To accomplish the objectives set forth in subsection (1) of this section, the task force may request, obtain, review, and analyze information relating to public health issues in Whiteclay, Nebraska, and surrounding areas, including, but not limited to, reports, audits, data, projections, and statistics.

Source: Laws 2017, LB407, § 2.

Effective date August 24, 2017.

50-603 Whiteclay Public Health Emergency Task Force; report; contents.

On or before December 15, 2017, and on or before December 15, 2018, the Whiteclay Public Health Emergency Task Force shall submit a preliminary report to the Governor, the executive director of the Commission on Indian Affairs, and electronically to the State-Tribal Relations Committee of the Legis-

lature and the Executive Board of the Legislative Council. On or before December 31, 2019, the task force shall submit a final report to the Governor, the executive director of the Commission on Indian Affairs, and electronically to the State-Tribal Relations Committee of the Legislature and the Executive Board of the Legislative Council. The preliminary reports and the final report shall include: (1) The long-range strategic plan required pursuant to section 50-602; (2) a summary of the actions taken by the task force to fulfill its statutory purposes and duties during the time period covered by the report; (3) a description of the policies, procedures, and programs that have been implemented or modified to help rectify the Whiteclay public health emergency; and (4) the task force's recommendations on how the state should act to solve issues relating to the Whiteclay public health emergency and the economic and social issues contributing to the emergency.

The Whiteclay Public Health Emergency Task Force shall terminate on December 31, 2019.

Source: Laws 2017, LB407, § 3.
Effective date August 24, 2017.

ARTICLE 12

LEGISLATIVE PERFORMANCE AUDIT ACT

Section

50-1205.01. Performance audits; standards.

50-1210. Report of findings and recommendations; distribution; confidentiality; agency response.

50-1205.01 Performance audits; standards.

(1) Except as provided in subsections (2) and (3) of this section, performance audits done under the terms of the Legislative Performance Audit Act shall be conducted in accordance with the generally accepted government auditing standards for performance audits contained in the Government Auditing Standards (2011 Revision), published by the Comptroller General of the United States, Government Accountability Office.

(2) Standards requiring continuing education for employees of the office shall be met as practicable based on the availability of training funds.

(3) The frequency of the required external quality control review shall be determined by the committee.

(4) At the beginning of each biennial legislative session, the Legislative Auditor shall create a plan for meeting such standards and provide the plan to the chairperson of the Legislative Performance Audit Committee.

Source: Laws 2003, LB 607, § 8; Laws 2004, LB 1118, § 2; Laws 2006, LB 588, § 4; Laws 2008, LB822, § 2; Laws 2013, LB40, § 2; Laws 2017, LB210, § 1.
Effective date August 24, 2017.

50-1210 Report of findings and recommendations; distribution; confidentiality; agency response.

(1)(a) Upon completion of a performance audit, the office shall prepare a report of its findings and recommendations for action. Except as provided in subdivision (b) of this subsection, the Legislative Auditor shall provide the

office's report concurrently to the committee, agency director, and Legislative Fiscal Analyst. The committee may, by majority vote, release the office's report or portions thereof to other individuals, with the stipulation that the released material shall be kept confidential.

(b) To protect taxpayer confidentiality, for tax incentive performance audits conducted under section 50-1209, the Legislative Auditor may provide the office's report to the agency director up to five business days prior to providing it to the committee and Legislative Fiscal Analyst.

(2) When the Legislative Auditor provides the report to the Legislative Fiscal Analyst, the Legislative Fiscal Analyst shall issue an opinion to the committee indicating whether the office's recommendations can be implemented by the agency within its current appropriation.

(3) When the Legislative Auditor provides the report to the agency, the agency shall have twenty business days from the date of receipt of the report to provide a written response. Any written response received from the agency shall be attached to the committee report. The agency shall not release any part of the report to any person outside the agency, except that an agency may discuss the report with the Governor. The Governor shall not release any part of the report.

(4) Following receipt of any written response from the agency, the Legislative Auditor shall prepare a brief written summary of the response, including a description of any significant disagreements the agency has with the office's report or recommendations.

Source: Laws 1992, LB 988, § 10; Laws 2003, LB 607, § 13; Laws 2006, LB 956, § 9; Laws 2012, LB782, § 79; Laws 2013, LB39, § 8; Laws 2015, LB538, § 6; Laws 2017, LB210, § 2.
Effective date August 24, 2017.

CHAPTER 52

LIENS

Article.

- 10. Uniform Federal Lien Registration Act. 52-1004.
- 13. Filing System for Farm Product Security Interests. 52-1307.
- 16. Master Lien List. 52-1603.

ARTICLE 10

UNIFORM FEDERAL LIEN REGISTRATION ACT

Section

52-1004. Notice; filing; fees; billing.

52-1004 Notice; filing; fees; billing.

(1) The uniform fee, payable to the Secretary of State, for presenting for filing and indexing and for filing and indexing each notice of lien or certificate or notice affecting the lien pursuant to the Uniform Federal Lien Registration Act shall be two times the fee required for recording instruments with the register of deeds as provided in section 33-109. There shall be no fee for the filing of a termination statement. The uniform fee for each county more than one designated pursuant to subsection (1) of section 52-1001 shall be the fee required for recording instruments with the register of deeds as provided in section 33-109. The Secretary of State shall deposit each fee received pursuant to this subsection in the Uniform Commercial Code Cash Fund. Of the fees received and deposited pursuant to this subsection, the Secretary of State shall remit the fee required for recording instruments with the register of deeds as provided in section 33-109 to the register of deeds of a county for each designation of such county in a filing pursuant to subsection (1) of section 52-1001.

(2) The Secretary of State shall bill the district directors of internal revenue or other appropriate federal officials on a monthly basis for fees for documents presented or filed by them.

Source: Laws 1969, c. 433, § 4, p. 1458; Laws 1984, LB 808, § 5; Laws 1988, LB 933, § 6; Laws 1998, LB 1321, § 86; Laws 1999, LB 550, § 23; Laws 2012, LB14, § 5; Laws 2017, LB152, § 3; Laws 2017, LB268, § 9.

Effective date August 24, 2017.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB152, section 3, with LB268, section 9, to reflect all amendments.

ARTICLE 13

FILING SYSTEM FOR FARM PRODUCT SECURITY INTERESTS

Section

52-1307. Effective financing statement, defined.

52-1307 Effective financing statement, defined.

Effective financing statement means a statement that:

- (1) Is an original or reproduced copy thereof;
- (2) Is filed by the secured party in the office of the Secretary of State;
- (3) Is signed, authorized, or otherwise authenticated by the debtor, unless filed electronically, in which case the signature of the debtor shall not be required;
- (4) Contains (a) the name and address of the secured party, (b) the name and address of the debtor, (c) the approved unique identifier of the debtor, (d) a description of the farm products subject to the security interest, (e) each county in Nebraska where the farm product is produced or located, (f) crop year unless every crop of the farm product in question, for the duration of the effective financing statement, is to be subject to the particular security interest, (g) further details of the farm product subject to the security interest if needed to distinguish it from other quantities of such product owned by the same person or persons but not subject to the particular security interest, and (h) such other information that the Secretary of State may require to comply with section 1324 of the Food Security Act of 1985, Public Law 99-198, or to more efficiently carry out his or her duties under sections 52-1301 to 52-1322;
- (5) Shall be amended in writing, within three months, and signed, authorized, or otherwise authenticated by the debtor and filed, to reflect material changes. A change in the name or address of the secured party shall not constitute a material change. If the statement is filed electronically, the signature of the debtor shall not be required;
- (6) Remains effective for a period of five years from the date of filing, subject to extensions for additional periods of five years each by refiling or filing a continuation statement within six months before the expiration of the five-year period;
- (7) Lapses on either the expiration of the effective period of the statement or the filing of a notice signed by the secured party that the statement is terminated, whichever occurs first;
- (8) Is accompanied by the requisite filing fee set by section 52-1313; and
- (9) Substantially complies with the requirements of this section even though the statement contains minor errors that are not seriously misleading.

An effective financing statement properly filed with a social security number or an Internal Revenue Service taxpayer identification number shall maintain its effectiveness regardless that such numbers are not required on such statement.

An effective financing statement may, for any given debtor or debtors, cover more than one farm product located in more than one county.

Source: Laws 1986, Third Spec. Sess., LB 1, § 7; Laws 1998, LB 924, § 20; Laws 1998, LB 1321, § 90; Laws 1999, LB 552, § 1; Laws 2002, LB 1105, § 439; Laws 2003, LB 4, § 2; Laws 2007, LB124, § 61; Laws 2015, LB464, § 1; Laws 2017, LB142, § 1.
Effective date May 11, 2017.

ARTICLE 16

MASTER LIEN LIST

Section
52-1603. Buyer of farm products; purchase subject to lien; when; waiver or release of lien.

52-1603 Buyer of farm products; purchase subject to lien; when; waiver or release of lien.

(1) A buyer of farm products who is registered to receive or obtain the master lien list as provided in section 52-1602 and who, in the ordinary course of business, buys farm products from a seller engaged in farming operations shall take free of any lien created under the provisions of Chapter 52, article 2, 5, 9, 11, 12, or 14, if such lien is not on the most recent master lien list received or obtained by the buyer pursuant to sections 52-1601 to 52-1605, except that such buyer shall take subject to any such lien if the lien was filed after the last date for inclusion in the most recent distribution or publication of the master lien list and if the buyer has received from the lienholder or seller written notice of the lien. For purposes of this subsection, the form of such written notice of the lien may be a copy of the lien filing. For purposes of this subsection, received or obtained by the buyer means the first date upon which delivery of the master lien list, in whatever form, is attempted by a carrier or, in the case of electronic publication, the first date upon which the Secretary of State made the most current master lien list available electronically, and in all cases in which delivery of the master lien list is involved, a buyer shall be presumed to have received the master lien list ten days after it was mailed by the Secretary of State.

(2) If a buyer buying property subject to a lien created under the provisions of Chapter 52, article 2, 5, 9, 11, 12, or 14, tenders to the seller the total purchase price by means of a check or other instrument payable to such seller and the lienholder of any such lien for such property and if such lienholder authorizes the negotiation of such check or other instrument, such authorization or endorsement and payment thereof shall constitute a waiver or release of the lien specified to the extent of the amount of the check or instrument. Such waiver or release of the lien shall not serve to establish or alter in any way security interest or lien priorities under Nebraska law.

(3) Except as otherwise provided in the provisions of subsections (1) and (2) of this section, sections 52-1601 to 52-1605 shall not be interpreted or construed to alter liability of buyers of property subject to liens created under the provisions of Chapter 52, article 2, 5, 9, 11, 12, or 14.

Source: Laws 1988, LB 987, § 3; Laws 2003, LB 70, § 1; Laws 2016, LB1035, § 6; Laws 2017, LB142, § 2.
Effective date May 11, 2017.

CHAPTER 53

LIQUORS

Article.

1. Nebraska Liquor Control Act.
 - (d) Licenses; Issuance and Revocation. 53-124.14.

ARTICLE 1

NEBRASKA LIQUOR CONTROL ACT

(d) LICENSES; ISSUANCE AND REVOCATION

Section

- 53-124.14. Applicants outside cities and villages; airport authorities; Nebraska State Fair Board; issuance of licenses; when permitted.

(d) LICENSES; ISSUANCE AND REVOCATION

53-124.14 Applicants outside cities and villages; airport authorities; Nebraska State Fair Board; issuance of licenses; when permitted.

(1) The commission may license the sale of alcoholic liquor at retail in the original package to applicants who reside in any county in which there is no incorporated city or village or in which the county seat is not located in an incorporated city or village if the licensed premises are situated in an unincorporated village having a population of twenty-five inhabitants or more as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census.

(2) The commission may license the sale of beer at retail in any county outside the corporate limits of any city or village therein and license the sale of alcoholic liquor at retail for consumption on the premises and off the premises, sales in the original package only.

(3) The commission may license the sale of alcoholic liquor for consumption on the premises as provided in subdivision (6)(a)(iii) of section 53-124 on lands controlled by airport authorities when such land is located on and under county jurisdiction or by the Nebraska State Fair Board.

Source: Laws 1991, LB 582, § 2; Laws 2001, LB 278, § 6; Laws 2002, LB 1236, § 17; Laws 2004, LB 485, § 18; Laws 2010, LB861, § 61; Laws 2017, LB113, § 47.
Effective date August 24, 2017.

CHAPTER 54

LIVESTOCK

Article.

1. Livestock Brand Act. 54-179 to 54-1,122.02.
8. Commercial Feed. 54-857.

ARTICLE 1

LIVESTOCK BRAND ACT

Section	
54-179.	Certificate of inspection, defined.
54-189.	Satisfactory evidence of ownership, defined.
54-191.	Nebraska Brand Committee; created; members; terms; vacancy; bond or insurance; expenses; purpose.
54-192.	Nebraska Brand Committee; employees; executive director; duties; brand recorder; grievance procedure.
54-195.	Assessments and promotional materials.
54-198.	Recorded livestock brand; requirements; in-herd identification; prohibited act.
54-1,100.	Recorded brand; transfer; lien or security interest; notice; effect; fee; effect; lease of brand; fee.
54-1,105.	Brands; distinction requirements.
54-1,110.	Brand inspection area; brand inspection requirements.
54-1,111.	Brand inspection area; sale or trade of cattle; requirements.
54-1,115.	Livestock transportation authority form; requirements.
54-1,119.	Open market; designation; brand inspection requirements.
54-1,122.01.	Repealed. Laws 2017, LB600, § 14.
54-1,122.02.	Repealed. Laws 2017, LB600, § 14.

54-179 Certificate of inspection, defined.

Certificate of inspection means the official document issued and signed by a brand inspector authorizing (1) movement of livestock from a point of origin within the brand inspection area to a destination either inside or outside of the brand inspection area or outside of this state, (2) slaughter of livestock as specified on such certificate, or (3) the change of ownership of livestock as specified on such certificate. A certificate of inspection shall designate, as needed, the name of the shipper, consignor, or seller of the livestock, the purchaser or consignee of the livestock, the destination of the livestock, the vehicle license number or carrier number, the miles driven by an inspector to perform inspection, the amount of inspection fees collected, the number and sex of the livestock to be moved or slaughtered, the brands, if any, on the livestock, and the brand owner. A certificate of inspection shall be construed and is intended to be documentary evidence of ownership on all livestock covered by such document.

Source: Laws 1999, LB 778, § 10; Laws 2017, LB600, § 1.
Effective date August 24, 2017.

54-189 Satisfactory evidence of ownership, defined.

Satisfactory evidence of ownership consists of the brands, tattoos, or marks on the livestock; point of origin of livestock; the physical description of the livestock; the documentary evidence, such as bills of sale, brand clearance, certificates of inspection, breed registration certificates, animal health or testing certificates, genomic testing certificates, recorded brand certificates, purchase sheets, scale tickets, disclaimers of interest, affidavits, court orders, security agreements, powers of attorney, canceled checks, bills of lading, or tags; and such other facts, statements, or circumstances that taken in whole or in part cause an inspector to believe that proof of ownership is established.

Source: Laws 1999, LB 778, § 20; Laws 2017, LB600, § 2.
Effective date August 24, 2017.

54-191 Nebraska Brand Committee; created; members; terms; vacancy; bond or insurance; expenses; purpose.

(1) The Nebraska Brand Committee is hereby created. Beginning August 28, 2007, the brand committee shall consist of five members appointed by the Governor. At least three appointed members shall be active cattlemen and at least one appointed member shall be an active cattle feeder. The Secretary of State and the Director of Agriculture, or their designees, shall be nonvoting, ex officio members of the brand committee. The appointed members shall be owners of cattle within the brand inspection area, shall reside within the brand inspection area, shall be owners of Nebraska-recorded brands, and shall be persons whose principal business and occupation is the raising or feeding of cattle within the brand inspection area.

(2) The members of the brand committee shall elect a chairperson and vice-chairperson from among its appointed members during the first meeting held after September 1 each calendar year. A member may be reelected to serve as chairperson or vice-chairperson.

(3) The terms of the members shall be four-year, staggered terms, beginning on August 28 of the year of initial appointment or reappointment and concluding on August 27 of the year of expiration. At the expiration of the term of an appointed member, the Governor shall appoint a successor. If there is a vacancy on the brand committee, the Governor shall fill such vacancy by appointing a member to serve during the unexpired term of the member whose office has become vacant.

(4) The action of a majority of the members shall be deemed the action of the brand committee. No appointed member shall hold any elective or appointive state or federal office while serving as a member of the brand committee. Each member and each brand committee employee who collects or who is the custodian of any funds shall be bonded or insured as required under section 11-201. The appointed members of the brand committee shall be paid their actual and necessary traveling expenses in attending meetings of the brand committee or in performing any other duties that are prescribed in the Livestock Brand Act or section 54-415, as provided for in sections 81-1174 to 81-1177.

The purpose of the Nebraska Brand Committee is to protect Nebraska brand and livestock owners from the theft of livestock through established brand recording, brand inspection, and livestock theft investigation.

Source: Laws 1999, LB 778, § 22; Laws 2004, LB 884, § 26; Laws 2007, LB422, § 1; Laws 2017, LB600, § 3.
Effective date August 24, 2017.

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

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

(2) The brand committee shall employ an executive director who shall be the brand committee head for administrative purposes. The executive director shall also be chief investigator and chief brand inspector. Any person employed as executive director who at the time of hire does not possess a valid law enforcement certificate or diploma as required to exercise the authority of an investigator shall complete the requirements for such certificate or diploma within two years after the date of hire and shall assume the title of chief investigator upon obtaining such certificate or diploma. The executive director's duties during such period prior to obtaining such certificate or diploma shall not be within the authority granted under a commission as a deputy state sheriff. The director shall keep a record of all proceedings, transactions, communications, and official acts of the brand committee, shall be custodian of all records of the brand committee, and shall perform such other duties as may be required by the brand committee. The director shall call a meeting at the direction of the chairperson of the brand committee, or in his or her absence the vice-chairperson, or upon the written request of two or more members of the brand committee. The director shall have supervisory authority to direct and control all full-time and part-time employees of the brand committee. This authority allows the director to hire employees as are needed on an interim basis subject to approval or confirmation by the brand committee for regular employment. The director may place employees on probation and may discharge an employee.

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

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

Source: Laws 1999, LB 778, § 23; Laws 2007, LB422, § 2; Laws 2017, LB600, § 4.

Effective date August 24, 2017.

54-195 Assessments and promotional materials.

(1) The Nebraska Brand Committee may contract to collect assessments made by any public, quasi-public, or private agency or organization on the sale of cattle, beef, and beef products in Nebraska by producers and importers of such cattle, beef, and beef products. The brand committee may charge such agency or organization for collection of the assessments. The charge for collection of assessments shall be used to cover administrative costs of the brand committee, but such charge shall not exceed five percent of the assessments collected.

(2) The brand committee may authorize and direct its employees to disseminate or otherwise distribute various materials promoting the cattle industry.

Source: Laws 1999, LB 778, § 26; Laws 2017, LB600, § 5.
Effective date August 24, 2017.

54-198 Recorded livestock brand; requirements; in-herd identification; prohibited act.

(1) Any person may record a brand, which he or she has the exclusive right to use in this state, and it is unlawful to use any brand for branding any livestock unless the person using such brand has recorded that brand with the Nebraska Brand Committee. A brand is a mark consisting of symbols, characters, numerals, or a combination of such intended as a visual means of identification when applied to the hide of an animal or another method of livestock identification approved by rule and regulation of the brand committee, including an electronic device used for livestock identification. Only a hot iron or freeze brand or other method approved by the brand committee shall be used to brand a live animal.

(2) A hot iron brand or freeze brand may be used for in-herd identification purposes such as for year or production records. With respect to hot iron brands used for in-herd identification, the numerals 0, 1, 2, 3, 4, 5, 6, 7, 8, and 9 in singular or triangular position are reserved on both the right and left shoulder of all cattle, except that such shoulder location for a single-number hot iron brand may be used for year branding for in-herd identification purposes, and an alphabetical letter may be substituted for one of the numerals used in a triangular configuration for in-herd identification purposes. Hot iron brands used for in-herd identification shall be used in conjunction with the recorded hot iron brand and shall be on the same side of the animal as the recorded hot iron brand. Freeze branding for in-herd identification may be applied in any location and any configuration with any combination of numerals or alphabetical letters.

(3) It shall be unlawful to knowingly maintain a herd containing one or more animals which the possessor has branded, or caused to be branded, in violation of this section or any other provision of the Livestock Brand Act.

Source: Laws 1999, LB 778, § 29; Laws 2000, LB 213, § 4; Laws 2002, LB 589, § 2; Laws 2017, LB600, § 6.
Effective date August 24, 2017.

54-1,100 Recorded brand; transfer; lien or security interest; notice; effect; fee; effect; lease of brand; fee.

(1) A recorded brand is the property of the person causing such record to be made and is subject to sale, assignment, transfer, devise, and descent as personal property. Any instrument of writing evidencing the sale, assignment, or transfer of a recorded brand shall be effective upon its recording with the Nebraska Brand Committee. No such instrument shall be accepted for recording if the brand committee has been duly notified of the existence of a lien or security interest against livestock owned or thereafter acquired by the owner of such brand by the holder of such lien or security interest. Written notification from the holder of such lien or security interest that the lien or security interest has been satisfied or consent from the holder of such lien or security interest shall be required in order for the brand committee to accept for recording an instrument selling, assigning, or transferring such recorded brand. Except as provided in subsection (2) of this section, the fee for recording such an instrument shall be established by the brand committee and shall not be more than forty dollars. Such instrument shall give notice to all third persons of the matter recorded in the instrument and shall be acknowledged by a notary public or any other officer qualified under law to administer oaths.

(2) The owner of a recorded brand may lease the brand to another person upon compliance with this subsection and subject to the approval of the brand committee. The lessee shall pay a filing fee established by the brand committee not to exceed one hundred dollars. The leased recorded brand may expire as agreed in the lease, but in no event shall such leased recorded brand exceed the original expiration date.

Source: Laws 1999, LB 778, § 31; Laws 2002, LB 589, § 4; Laws 2009, LB142, § 1; Laws 2017, LB600, § 7.
Effective date August 24, 2017.

54-1,105 Brands; distinction requirements.

(1) Cattle branded with a Nebraska-recorded visual brand shall be branded so that the recorded brand of the owner shows distinctly.

(2) If the owners of recorded brands which conflict with or closely resemble each other maintain their herds in close proximity to each other, the Nebraska Brand Committee has the authority to decide, after hearing as to which at least ten days' written notice has been given, any dispute arising therefrom and to direct such change or changes in the position or positions where such recorded brand or brands are to be placed as will remove any confusion that might result from such conflict or close resemblance.

Source: Laws 1999, LB 778, § 36; Laws 2002, LB 589, § 6; Laws 2017, LB600, § 8.
Effective date August 24, 2017.

54-1,110 Brand inspection area; brand inspection requirements.

(1) Except as provided in subsections (2) and (3) of this section, no person shall move, in any manner, cattle from a point within the brand inspection area to a point outside the brand inspection area unless such cattle first have a brand inspection by the Nebraska Brand Committee and a certificate of inspection is issued. A copy of such certificate shall accompany the cattle and shall be retained by all persons moving such cattle as a permanent record.

(2) Cattle in a registered feedlot registered under sections 54-1,120 to 54-1,122 are not subject to the brand inspection of subsection (1) of this section.

Possession by the shipper or trucker of a shipping certificate from the registered feedlot constitutes compliance if the cattle being shipped are as represented on such shipping certificate.

(3) If the line designating the brand inspection area divides a farm or ranch or lies between noncontiguous parcels of land which are owned or operated by the same cattle owner or owners, a permit may be issued, at the discretion of the Nebraska Brand Committee, to the owner or owners of cattle on such farm, ranch, or parcels of land to move the cattle in and out of the brand inspection area without inspection. If the line designating the brand inspection area lies between a farm or ranch and nearby veterinary medical facilities, a permit may be issued, at the discretion of the brand committee, to the owner or owners of cattle on such farm or ranch to move the cattle in and out of the brand inspection area without inspection to obtain care from the veterinary medical facilities. The brand committee shall issue initial permits only after receiving an application which includes an application fee established by the brand committee which shall not be more than fifteen dollars. The brand committee shall mail all current permitholders an annual renewal notice, for January 1 renewal, which requires a renewal fee established by the brand committee which shall not be more than fifteen dollars. If the permit conditions still exist, the cattle owner or owners may renew the permit.

(4) No person shall sell any cattle knowing that the cattle are to be moved, in any manner, in violation of this section. Proof of shipment or removal of the cattle from the brand inspection area by the purchaser or his or her agent is prima facie proof of knowledge that sale was had for removal from the brand inspection area.

(5) In cases of prosecution for violation of this section, venue may be established in the county of origin or any other county through which the cattle may pass in leaving the brand inspection area.

Source: Laws 1999, LB 778, § 41; Laws 2000, LB 213, § 6; Laws 2002, LB 589, § 8; Laws 2014, LB768, § 6; Laws 2017, LB600, § 9.
Effective date August 24, 2017.

54-1,111 Brand inspection area; sale or trade of cattle; requirements.

(1) Except as provided in subsection (2) of this section, no person shall sell or trade any cattle located within the brand inspection area, nor shall any person buy or purchase any such cattle unless the cattle have been inspected for brands and ownership and a certificate of inspection or brand clearance has been issued by the Nebraska Brand Committee. Any person selling such cattle shall present to the brand inspector a properly executed bill of sale, brand clearance, or other satisfactory evidence of ownership which shall be filed with the original certificate of inspection in the records of the brand committee. Any time a brand inspection is required by law, a brand investigator or brand inspector may transfer evidence of ownership of such cattle from a seller to a purchaser by issuing a certificate of inspection.

(2) A brand inspection is not required:

(a) For cattle of a registered feedlot registered under sections 54-1,120 to 54-1,122 shipped for direct slaughter or sale on any terminal market;

(b) For cattle that are:

(i) Transferred to a family corporation when all the shares of capital stock of the corporation are owned by the husband, wife, children, or grandchildren of the transferor and there is no consideration for the transfer other than the issuance of stock of the corporation to such family members; or

(ii) Transferred to a limited liability company in which membership is limited to the husband, wife, children, or grandchildren of the transferor and there is no consideration paid for the transfer other than a membership interest in the limited liability company;

(c) When the change of ownership of cattle is a change in form only and the surviving interests are in the exact proportion as the original interests of ownership. When there is a change of ownership described in subdivision (2)(b) or (c) of this section, an affidavit, on a form prescribed by the Nebraska Brand Committee, signed by the transferor and stating the nature of the transfer and the number of cattle involved and the brands presently on the cattle, shall be filed with the brand committee;

(d) For cattle sold or purchased for educational or exhibition purposes or other recognized youth activities if a properly executed bill of sale is exchanged and presented upon demand. Educational or exhibition purpose means cattle sold or purchased for the purpose of being fed, bred, managed, or tended in a program designed to demonstrate or instruct in the use of various feed rations, the selection of individuals of certain physical conformation or breeds, the measurement and recording of rate of gain in weight or fat content of meat or milk produced, or the preparation of cattle for the purpose of exhibition or for judging as to quality and conformation;

(e) For calves under the age of thirty days sold or purchased at private treaty if a bill of sale is exchanged and presented upon demand; and

(f) For seedstock cattle raised by the seller and individually registered with an organized breed association if a properly executed bill of sale is exchanged and presented upon demand.

Source: Laws 1999, LB 778, § 42; Laws 2000, LB 213, § 7; Laws 2014, LB768, § 7; Laws 2017, LB600, § 10.
Effective date August 24, 2017.

54-1,115 Livestock transportation authority form; requirements.

(1) Any person, other than the owner or the owner's employee, using a motor vehicle or trailer to transport livestock or carcasses over any land within the State of Nebraska not owned or rented by such person or who is so transporting such livestock upon a highway, public street, or thoroughfare within the State of Nebraska shall have in his or her possession a livestock transportation authority form, certificate of inspection, or shipping certificate from a registered feedlot, authorizing such movement as to each head of livestock transported by such vehicle.

(2) A livestock transportation authority form shall be in writing and shall state the name of the owner of the livestock, the owner's post office address, the place from which the livestock are being moved, including the name of the ranch, if any, the destination, the name and address of the carrier, the license number and make of motor vehicle to which consigned, together with the number of livestock and a description thereof including kind, sex, breed, color, and marks, if any, and in the case of livestock shipments originating within the

brand inspection area, the brands, if there are any. The authority form shall be signed by the owner of the livestock or the owner's authorized agent.

(3) Any peace officer, based upon probable cause to question the ownership of the livestock being transported, may stop a motor vehicle or motor vehicle and trailer and request exhibition of any authority form or certificate required by this section.

Source: Laws 1999, LB 778, § 46; Laws 2000, LB 213, § 8; Laws 2017, LB600, § 11.
Effective date August 24, 2017.

Cross References

Duty to care for livestock, violation, penalty, see section 54-7,104.

54-1,119 Open market; designation; brand inspection requirements.

(1) Any livestock market, whether within or outside of the state, or any meat packing plant which maintains brand inspection under the supervision of the Nebraska Brand Committee and under such rules and regulations as are specified by the United States Department of Agriculture, may be designated by the brand committee as an open market.

(2) When cattle originating from within the brand inspection area are consigned for sale to any commission company at any open market designated as such by the Nebraska Brand Committee where brand inspection is maintained, no brand inspection is required at the point of origin but is required at the point of destination unless the point of origin is a registered feedlot. If cattle are consigned to a commission company at an open market, the carrier transporting the cattle shall not allow the owner, shipper, or party in charge to change the billing to any point other than the commission company at the open market designated on the original billing, unless the carrier secures from the brand committee a certificate of inspection on the cattle so consigned. Any cattle originating in a registered feedlot consigned to a commission company at any terminal market destined for direct slaughter may be shipped in accordance with rules and regulations governing registered feedlots.

(3) Until the cattle are inspected for brands on the premises by the Nebraska Brand Committee, no person shall sell or cause to be sold or offer for sale (a) any cattle at a livestock auction market located within the brand inspection area or at a farm or ranch sale located within the brand inspection area or (b) any cattle originating within the brand inspection area consigned to an open market.

Source: Laws 1999, LB 778, § 50; Laws 2000, LB 213, § 9; Laws 2017, LB600, § 12.
Effective date August 24, 2017.

54-1,122.01 Repealed. Laws 2017, LB600, § 14.

54-1,122.02 Repealed. Laws 2017, LB600, § 14.

**ARTICLE 8
COMMERCIAL FEED**

Section
54-857. Commercial Feed Administration Cash Fund; created; use; investment.

54-857 Commercial Feed Administration Cash Fund; created; use; investment.

All money received pursuant to the Commercial Feed Act shall be remitted by the director to the State Treasurer for credit to the Commercial Feed Administration Cash Fund which is hereby created. Such fund shall be used by the department to aid in defraying the expenses of administering the act and to aid in defraying the expenses related to a cooperative agreement with the United States Department of Agriculture Market News reporting program. Transfers may be made from the fund to the General Fund at the direction of the Legislature. Any money in the Commercial Feed Administration Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1986, LB 322, § 11; Laws 1995, LB 7, § 57; Laws 2008, LB961, § 3; Laws 2009, First Spec. Sess., LB3, § 29; Laws 2011, LB305, § 1; Laws 2012, LB782, § 83; Laws 2014, LB941, § 2; Laws 2017, LB2, § 1.
Effective date August 24, 2017.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

CHAPTER 55

MILITIA

Article.

1. Military Code. 55-181.
4. Nebraska Code of Military Justice. 55-480.

ARTICLE 1

MILITARY CODE

Section

- 55-181. Department; contract with Nebraska Wing of Civil Air Patrol; purposes; funding agreement.

55-181 Department; contract with Nebraska Wing of Civil Air Patrol; purposes; funding agreement.

The Military Department may contract with the Nebraska Wing of the Civil Air Patrol, the civilian auxiliary of the United States Air Force, for the following purposes:

- (1) To encourage and aid American citizens in the contribution of their efforts, services, and resources in the development of aviation and the maintenance of aerospace supremacy;
- (2) To encourage and develop, by example, the voluntary contribution of private citizens to the public welfare;
- (3) To provide aviation and aerospace education and training;
- (4) To foster and encourage civil aviation in local communities throughout the state; and
- (5) To assist in meeting emergencies within the state.

The Division of Aeronautics of the Department of Transportation and the Military Department shall enter into an agreement that will continue the funding of the contract under this section from the Aeronautics Cash Fund in an amount equal to the appropriation by the Legislature for such purpose.

Source: Laws 1976, LB 847, § 1; R.S.1943, (1997), § 3-125.01; Laws 2003, LB 69, § 1; Laws 2017, LB339, § 178.
Operative date July 1, 2017.

ARTICLE 4

NEBRASKA CODE OF MILITARY JUSTICE

Section

- 55-480. Disorders and prejudice of good order and discipline.

55-480 Disorders and prejudice of good order and discipline.

Though not specifically mentioned in this code, all disorders and neglects to the prejudice of good order and discipline in the armed forces, all conduct of a nature to bring discredit upon the armed forces and crimes and offenses not

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capital, of which persons subject to this code may be guilty, shall be taken cognizance of by a court-martial, according to the nature and degree of the offense, and shall be punished at the discretion of that court.

Source: Laws 1969, c. 458, § 80, p. 1580; Laws 2015, LB268, § 31; Referendum 2016, No. 426.

Note: The changes made to section 55-480 by Laws 2015, LB 268, section 31, have been omitted because of the vote on the referendum at the November 2016 general election.

CHAPTER 56 MILLDAMS

Article.

1. Acquisition of Dams and Sites. Repealed.

ARTICLE 1

ACQUISITION OF DAMS AND SITES

Section

- 56-101. Repealed. Laws 2017, LB176, § 1.
- 56-115. Repealed. Laws 2017, LB176, § 1.
- 56-124. Repealed. Laws 2017, LB176, § 1.
- 56-125. Repealed. Laws 2017, LB176, § 1.
- 56-126. Repealed. Laws 2017, LB176, § 1.
- 56-127. Repealed. Laws 2017, LB176, § 1.

56-101 Repealed. Laws 2017, LB176, § 1.

56-115 Repealed. Laws 2017, LB176, § 1.

56-124 Repealed. Laws 2017, LB176, § 1.

56-125 Repealed. Laws 2017, LB176, § 1.

56-126 Repealed. Laws 2017, LB176, § 1.

56-127 Repealed. Laws 2017, LB176, § 1.

CHAPTER 57

MINERALS, OIL, AND GAS

Article.

- 11. Eminent Domain for Pipelines. 57-1102.
- 14. Major Oil Pipeline Siting Act. 57-1407.

ARTICLE 11

EMINENT DOMAIN FOR PIPELINES

Section

- 57-1102. Crossing public roads or highways; rights acquired; restrictions.

57-1102 Crossing public roads or highways; rights acquired; restrictions.

Any such person, company, corporation, or association, in the laying, relaying, operation, and maintenance of any such pipeline within the State of Nebraska, shall have the right to enter upon and cross, with such pipeline, any public road or highway, under such reasonable regulations and restrictions as may be prescribed by the Department of Transportation, if it is a state or federal highway, or by the county board of each county, as to all other public roads and highways within such county, and shall also have the right to lay, relay, operate, and maintain such pipeline in and along any public road or highway.

Source: Laws 1963, c. 323, § 2, p. 980; Laws 2017, LB339, § 179.
Operative date July 1, 2017.

ARTICLE 14

MAJOR OIL PIPELINE SITING ACT

Section

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

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

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

- (a) Within sixty days, schedule a public hearing;
- (b) Notify the pipeline carrier of the time, place, and purpose of the public hearing;
- (c) Publish a notice of the time, place, and purpose of the public hearing in at least one newspaper of general circulation in each county in which the major oil pipeline is to be constructed; and
- (d) Serve notice of the public hearing upon the governing bodies of the counties and municipalities through which the proposed route of the major oil pipeline would be located as specified in subdivision (2)(d) of section 57-1405.

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

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

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

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

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

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

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

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

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

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

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

Source: Laws 2011, First Spec. Sess., LB1, § 8; Laws 2017, LB339, § 180.

Operative date July 1, 2017.

CHAPTER 58

MONEY AND FINANCING

Article.

7. Nebraska Affordable Housing Act. 58-703, 58-708.

ARTICLE 7

NEBRASKA AFFORDABLE HOUSING ACT

Section

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

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

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

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

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

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

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

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

(a) Set forth selection criteria to be used to determine housing priorities of the housing trust fund which are appropriate to local conditions, including the community's immediate need for affordable housing, proposed increases in home ownership, private dollars leveraged, level of local government support

and participation, and repayment, in part or in whole, of financial assistance awarded by the fund; and

(b) Give first priority in allocating trust fund assistance among selected projects to those projects which are located in whole or in part within an enterprise zone designated pursuant to the Enterprise Zone Act, serve the lowest income occupant, and are obligated to serve qualified occupants for the longest period of time.

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

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

Source: Laws 1996, LB 1322, § 18; Laws 2005, LB 40, § 3; Laws 2011, LB388, § 13; Laws 2014, LB800, § 5; Laws 2014, LB906, § 17; Laws 2015, LB457, § 1; Laws 2017, LB217, § 3.
Operative date August 24, 2017.

Cross References

Enterprise Zone Act, see section 13-2101.01.

CHAPTER 59

MONOPOLIES AND UNLAWFUL COMBINATIONS

Article.

16. Consumer Protection Act. 59-1608.04.

ARTICLE 16

CONSUMER PROTECTION ACT

Section

59-1608.04. State Settlement Cash Fund; created; use; investment; transfer.

59-1608.04 State Settlement Cash Fund; created; use; investment; transfer.

(1) The State Settlement Cash Fund is created. The fund shall be maintained by the Department of Justice and administered by the Attorney General. Except as otherwise provided by law, the fund shall consist of all recoveries received pursuant to the Consumer Protection Act, including any money, funds, securities, or other things of value in the nature of civil damages or other payment, except criminal penalties, whether such recovery is by way of verdict, judgment, compromise, or settlement in or out of court, or other final disposition of any case or controversy, or any other payments received on behalf of the state by the Department of Justice and administered by the Attorney General for the benefit of the state or the general welfare of its citizens, but excluding all funds held in a trust capacity where specific benefits accrue to specific individuals, organizations, or governments. The fund may be expended for any allowable legal purposes as determined by the Attorney General. Transfers from the State Settlement Cash Fund may be made at the direction of the Legislature to the Nebraska Capital Construction Fund and the General Fund. To provide necessary financial accountability and management oversight, revenue from individual settlement agreements or other separate sources credited to the State Settlement Cash Fund may be tracked and accounted for within the state accounting system through the use of separate and distinct funds, subfunds, or any other available accounting mechanism specifically approved by the Accounting Administrator for use by the Department of Justice. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) The State Treasurer shall transfer two million five hundred thousand dollars from the State Settlement Cash Fund to the Nebraska Capital Construction Fund on July 1, 2013, or as soon thereafter as administratively possible.

(3) The State Treasurer shall transfer seven hundred fifty thousand dollars from the State Settlement Cash Fund to the General Fund on or before June 30, 2018, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

(4) The State Treasurer shall transfer seven hundred fifty thousand dollars from the State Settlement Cash Fund to the General Fund on or before June 30,

2019, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

Source: Laws 2006, LB 1061, § 4; Laws 2009, First Spec. Sess., LB3, § 34; Laws 2010, LB190, § 7; Laws 2011, LB549, § 8; Laws 2013, LB199, § 26; Laws 2017, LB331, § 26.
Effective date May 16, 2017.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

MOTOR VEHICLES

CHAPTER 60 MOTOR VEHICLES

Article.

1. Motor Vehicle Certificate of Title Act. 60-101 to 60-192.
3. Motor Vehicle Registration. 60-301 to 60-3,235.
4. Motor Vehicle Operators' Licenses.
 - (e) General Provisions. 60-462.01.
 - (f) Provisions Applicable to All Operators' Licenses. 60-479.01 to 60-4,109.
 - (g) Provisions Applicable to Operation of Motor Vehicles Other than Commercial. 60-4,114 to 60-4,118.04.
 - (h) Provisions Applicable to Operation of Commercial Motor Vehicles. 60-4,146 to 60-4,168.01.
5. Motor Vehicle Safety Responsibility.
 - (a) Definitions. 60-501.
 - (b) Administration. 60-506.01.
 - (c) Security Following Accident. 60-507.
6. Nebraska Rules of the Road.
 - (a) General Provisions. 60-628.01 to 60-658.01.
 - (b) Powers of State and Local Authorities. 60-680.
 - (c) Penalty and Enforcement Provisions. 60-692.
 - (d) Accidents and Accident Reporting. 60-695 to 60-6,107.
 - (e) Applicability of Traffic Laws. 60-6,115.
 - (f) Traffic Control Devices. 60-6,118 to 60-6,130.
 - (g) Use of Roadway and Passing. 60-6,137 to 60-6,145.
 - (i) Pedestrians. 60-6,153, 60-6,154.
 - (j) Turning and Signals. 60-6,159.
 - (k) Stopping, Standing, Parking, and Backing Up. 60-6,164 to 60-6,168.
 - (l) Special Stops. 60-6,171 to 60-6,177.
 - (n) Speed Restrictions. 60-6,186 to 60-6,193.
 - (o) Alcohol and Drug Violations. 60-6,211.05.
 - (q) Lighting and Warning Equipment. 60-6,230.
 - (s) Tires. 60-6,250.
 - (u) Occupant Protection Systems and Three-point Safety Belt Systems. 60-6,267.
 - (y) Size, Weight, and Load. 60-6,288 to 60-6,301.
 - (bb) Special Rules for Mopeds. 60-6,311.
 - (cc) Special Rules for Bicycles. 60-6,314.
 - (dd) Special Rules for Snowmobiles. 60-6,335.
 - (hh) Special Rules for Electric Personal Assistive Mobility Devices. 60-6,376.
 - (ii) Emergency Vehicle or Road Assistance Vehicle. 60-6,378.
 - (kk) Special Rules for Low-Speed Vehicles. 60-6,380.
13. Weighing Stations. 60-1301 to 60-1303.
14. Motor Vehicle Industry Licensing. 60-1403.01 to 60-1416.
15. Department of Motor Vehicles. 60-1505 to 60-1507.
29. Uniform Motor Vehicle Records Disclosure Act. 60-2904, 60-2907.
31. State Fleet Card Program. 60-3101.

ARTICLE 1

MOTOR VEHICLE CERTIFICATE OF TITLE ACT

Section

- | | |
|------------|-----------------------------|
| 60-101. | Act, how cited. |
| 60-102. | Definitions, where found. |
| 60-119.01. | Low-speed vehicle, defined. |
| 60-119.02. | Licensed dealer, defined. |

§ 60-101

MOTOR VEHICLES

Section

- 60-142.09. Vehicle manufactured more than thirty years prior to application for certificate of title; department; duties.
- 60-142.10. Vehicle manufactured more than thirty years prior to application for certificate of title; fee.
- 60-144. Certificate of title; issuance; filing; application; contents; form.
- 60-149. Application; documentation required.
- 60-154. Fees.
- 60-155. Notation of lien; fees.
- 60-161. County treasurer; remit funds; when.
- 60-164. Department; implement electronic title and lien system for vehicles; liens on motor vehicles; when valid; notation on certificate; inventory, exception; priority; adjustment to rental price; how construed; notation of cancellation; failure to deliver certificate; damages; release.
- 60-164.01. Electronic certificate of title; changes authorized.
- 60-166. New certificate of title; issued when; proof required; processing of application.
- 60-168.02. Certificate of title in dealer's name; issuance authorized; documentation and fees required; dealer; duties.
- 60-192. Odometers; transferor; statement; contents.

60-101 Act, how cited.

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

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

Operative date August 24, 2017.

60-102 Definitions, where found.

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

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

Operative date August 24, 2017.

60-119.01 Low-speed vehicle, defined.

Low-speed vehicle means a four-wheeled motor vehicle (1) whose speed attainable in one mile is more than twenty miles per hour and not more than twenty-five miles per hour on a paved, level surface, (2) whose gross vehicle weight rating is less than three thousand pounds, and (3) that complies with 49 C.F.R. part 571, as such part existed on January 1, 2017.

Source: Laws 2007, LB286, § 5; Laws 2011, LB289, § 7; Laws 2016, LB929, § 1; Laws 2017, LB263, § 12.

Operative date April 28, 2017.

60-119.02 Licensed dealer, defined.

Licensed dealer means a motor vehicle dealer, motorcycle dealer, or trailer dealer licensed under the Motor Vehicle Industry Regulation Act.

Source: Laws 2017, LB263, § 9.
Operative date August 24, 2017.

Cross References

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

60-142.09 Vehicle manufactured more than thirty years prior to application for certificate of title; department; duties.

If the owner does not have a certificate of title for a vehicle manufactured more than thirty years prior to application for a certificate of title which has not had any major component part replaced, the department shall search its records and any records readily accessible to the department for evidence of issuance of a certificate of title for such vehicle at the request of the owner. If no certificate of title has been issued, the owner may apply for a certificate of title indicating that the year, make, and model of the vehicle is that originally designated by the manufacturer by presenting a notarized bill of sale, an affidavit in support of the application for title, and a statement that an inspection has been conducted on the vehicle.

Source: Laws 2017, LB263, § 10.
Operative date August 24, 2017.

60-142.10 Vehicle manufactured more than thirty years prior to application for certificate of title; fee.

For each certificate of title issued by the department under section 60-142.09, the fee shall be twenty-five dollars, which shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

Source: Laws 2017, LB263, § 11.
Operative date August 24, 2017.

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

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

(ii) This subdivision applies beginning on an implementation date designated by the director. The director shall designate an implementation date which is on or before January 1, 2020. In addition to the information required under subdivision (1)(a)(i) of this section, the application for a certificate of title shall contain (A) the full legal name as defined in section 60-468.01 of each owner and (B)(I) the motor vehicle operator's license number or state identification card number of each owner, if applicable, and one or more of the identification elements as listed in section 60-484 of each owner, if applicable, and (II) if any owner is a business entity, a nonprofit organization, an estate, a trust, or a church-controlled organization, its tax identification number.

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

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

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

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

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

(3)(a) Except as otherwise provided in subdivision (b) of this subsection until January 1, 2019, if a vehicle, other than an all-terrain vehicle, a utility-type vehicle, or a minibike, has situs in Nebraska, the application shall be filed with the county treasurer of the county in which the vehicle has situs. Beginning January 1, 2019, if a vehicle has situs in Nebraska, the application for a certificate of title may be filed with the county treasurer of any county.

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

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

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

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

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

Source: Laws 2005, LB 276, § 44; Laws 2006, LB 663, § 13; Laws 2006, LB 765, § 3; Laws 2009, LB202, § 12; Laws 2010, LB650, § 11; Laws 2010, LB816, § 4; Laws 2011, LB212, § 2; Laws 2012, LB801, § 29; Laws 2015, LB642, § 3; Laws 2017, LB263, § 13.
Operative date August 24, 2017.

Cross References

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

60-149 Application; documentation required.

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

(b) Except for manufactured homes or mobile homes as provided in subsection (2) of this section, if a certificate of title has not previously been issued for the vehicle in this state or if a certificate of title is unavailable pursuant to subsection (4) of section 52-1801, the application shall be accompanied by:

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

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

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

(iv) A certificate of title from another state;

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

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

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

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

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

(2)(a) If the application for a certificate of title for a manufactured home or a mobile home is being made in accordance with subdivision (4)(b) of section 60-137 or if the certificate of title for a manufactured home or a mobile home is unavailable pursuant to section 52-1801, the application shall be accompanied by proof of ownership in the form of:

(i) A duly assigned manufacturer's or importer's certificate;

(ii) A certificate of title from another state;

(iii) A court order issued by a court of record;

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

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

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

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

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

Source: Laws 2005, LB 276, § 49; Laws 2006, LB 663, § 15; Laws 2010, LB650, § 13; Laws 2010, LB933, § 1; Laws 2012, LB801, § 33; Laws 2017, LB263, § 14; Laws 2017, LB492, § 12.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB263, section 14, with LB492, section 12, to reflect all amendments.

Note: Changes made by LB492 became effective August 24, 2017. Changes made by LB263 became operative August 24, 2017.

60-154 Fees.

(1)(a) For each original certificate of title issued by a county for a motor vehicle or trailer, the fee shall be ten dollars. Three dollars and twenty-five cents shall be retained by the county. Four dollars shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund. Two dollars shall be remitted to the State Treasurer for credit to the General Fund. Seventy-five cents shall be remitted to the State Treasurer for credit as follows: Twenty cents to the Motor Vehicle Fraud Cash Fund; forty-five cents to the Nebraska State Patrol Cash Fund; and ten cents to the Nebraska Motor Vehicle Industry Licensing Fund.

(b) For each original certificate of title issued by a county for an all-terrain vehicle, a utility-type vehicle, or a minibike, the fee shall be ten dollars. Three dollars and twenty-five cents shall be retained by the county. Four dollars shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund. Two dollars shall be remitted to the State Treasurer for credit to the General Fund. Seventy-five cents shall be remitted to the State Treasurer for credit as follows: Twenty cents to the Motor Vehicle Fraud Cash Fund; and fifty-five cents to the Nebraska State Patrol Cash Fund.

(2) For each original certificate of title issued by the department for a vehicle except as provided in section 60-159.01, the fee shall be ten dollars. Four dollars shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund. Six dollars shall be remitted to the State Treasurer for credit to the Motor Carrier Division Cash Fund.

(3) An approved licensed dealer participating in the electronic dealer services system pursuant to section 60-1507 may collect the fees prescribed by this section and shall remit any such fees to the appropriate county treasurer or the department.

Source: Laws 2005, LB 276, § 54; Laws 2006, LB 663, § 16; Laws 2006, LB 1061, § 7; Laws 2010, LB650, § 15; Laws 2012, LB751, § 7; Laws 2017, LB263, § 15.
Operative date August 24, 2017.

60-155 Notation of lien; fees.

(1) For each notation of a lien by a county, the fee shall be seven dollars. Two dollars shall be retained by the county. Four dollars shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund. One dollar shall be remitted to the State Treasurer for credit to the General Fund.

(2) For each notation of a lien by the department, the fee shall be seven dollars. Four dollars shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund. Three dollars shall be remitted to the State Treasurer for credit to the Motor Carrier Division Cash Fund.

(3) An approved licensed dealer participating in the electronic dealer services system pursuant to section 60-1507 may collect the fees prescribed by this section and shall remit any such fees to the appropriate county treasurer or the department.

Source: Laws 2005, LB 276, § 55; Laws 2013, LB30, § 1; Laws 2017, LB263, § 16.

Operative date August 24, 2017.

60-161 County treasurer; remit funds; when.

The county treasurer shall remit all funds due the State Treasurer under sections 60-154 to 60-160 monthly and not later than the twentieth day of the month following collection. The county treasurer shall credit the fees not due the State Treasurer to the county general fund.

Source: Laws 2005, LB 276, § 61; Laws 2011, LB135, § 2; Laws 2012, LB801, § 37; Laws 2017, LB263, § 17.

Operative date January 1, 2019.

60-164 Department; implement electronic title and lien system for vehicles; liens on motor vehicles; when valid; notation on certificate; inventory, exception; priority; adjustment to rental price; how construed; notation of cancellation; failure to deliver certificate; damages; release.

(1) The department shall implement an electronic title and lien system for vehicles. The holder of a security interest, trust receipt, conditional sales contract, or similar instrument regarding a vehicle, or beginning January 1, 2019, a licensed dealer, may file a lien electronically as prescribed by the department. Upon receipt of an application for a certificate of title for a vehicle, any lien filed electronically shall become part of the electronic certificate of title record created by the county treasurer or department maintained on the electronic title and lien system. If an application for a certificate of title indicates that there is a lien or encumbrance on a vehicle or if a lien or notice of lien has been filed electronically, the department shall retain an electronic certificate of title record and shall note and cancel such liens electronically on the system. The department shall provide access to the electronic certificate of title records for licensed dealers and lienholders who participate in the system by a method determined by the director.

(2) Except as provided in section 60-165, the provisions of article 9, Uniform Commercial Code, shall never be construed to apply to or to permit or require the deposit, filing, or other record whatsoever of a security agreement, conveyance intended to operate as a mortgage, trust receipt, conditional sales contract, or similar instrument or any copy of the same covering a vehicle. Any

mortgage, conveyance intended to operate as a security agreement as provided by article 9, Uniform Commercial Code, trust receipt, conditional sales contract, or other similar instrument covering a vehicle, if such instrument is accompanied by delivery of such manufacturer's or importer's certificate and followed by actual and continued possession of the same by the holder of such instrument or, in the case of a certificate of title, if a notation of the same has been made electronically as prescribed in subsection (1) of this section or by the county treasurer or department on the face of the certificate of title or on the electronic certificate of title record, shall be valid as against the creditors of the debtor, whether armed with process or not, and subsequent purchasers, secured parties, and other lienholders or claimants but otherwise shall not be valid against them, except that during any period in which a vehicle is inventory, as defined in section 9-102, Uniform Commercial Code, held for sale by a person or corporation that is required to be licensed as provided in the Motor Vehicle Industry Regulation Act and is in the business of selling such vehicles, the filing provisions of article 9, Uniform Commercial Code, as applied to inventory, shall apply to a security interest in such vehicle created by such person or corporation as debtor without the notation of lien on the certificate of title. A buyer of a vehicle at retail from a dealer required to be licensed as provided in the Motor Vehicle Industry Regulation Act shall take such vehicle free of any security interest. A purchase-money security interest, as defined in section 9-103, Uniform Commercial Code, in a vehicle is perfected against the rights of judicial lien creditors and execution creditors on and after the date the purchase-money security interest attaches.

(3) Subject to subsections (1) and (2) of this section, all liens, security agreements, and encumbrances noted upon a certificate of title or an electronic certificate of title record and all liens noted electronically as prescribed in subsection (1) of this section shall take priority according to the order of time in which the same are noted by the county treasurer or department. Exposure for sale of any vehicle by the owner thereof with the knowledge or with the knowledge and consent of the holder of any lien, security agreement, or encumbrance on such vehicle shall not render the same void or ineffective as against the creditors of such owner or holder of subsequent liens, security agreements, or encumbrances upon such vehicle.

(4) The holder of a security agreement, trust receipt, conditional sales contract, or similar instrument, upon presentation of such instrument to the department or to any county treasurer, together with the certificate of title and the fee prescribed for notation of lien, may have a notation of such lien made on the face of such certificate of title. The owner of a vehicle may present a valid out-of-state certificate of title issued to such owner for such vehicle with a notation of lien on such certificate of title and the prescribed fee to the county treasurer or department and have the notation of lien made on the new certificate of title issued pursuant to section 60-144 without presenting a copy of the lien instrument. The county treasurer or the department shall enter the notation and the date thereof over the signature of the person making the notation and the seal of the office. If noted by a county treasurer, he or she shall on that day notify the department which shall note the lien on its records. The county treasurer or the department shall also indicate by appropriate notation and on such instrument itself the fact that such lien has been noted on the certificate of title.

(5) A transaction does not create a sale or a security interest in a vehicle, other than an all-terrain vehicle, a utility-type vehicle, or a minibike, merely because it provides that the rental price is permitted or required to be adjusted under the agreement either upward or downward by reference to the amount realized upon sale or other disposition of the vehicle.

(6) The county treasurer or the department, upon receipt of a lien instrument duly signed by the owner in the manner prescribed by law governing such lien instruments together with the fee prescribed for notation of lien, shall notify the first lienholder to deliver to the county treasurer or the department, within fifteen days after the date of notice, the certificate of title to permit notation of such other lien and, after notation of such other lien, the county treasurer or the department shall deliver the certificate of title to the first lienholder. The holder of a certificate of title who refuses to deliver a certificate of title to the county treasurer or the department for the purpose of showing such other lien on such certificate of title within fifteen days after the date of notice shall be liable for damages to such other lienholder for the amount of damages such other lienholder suffered by reason of the holder of the certificate of title refusing to permit the showing of such lien on the certificate of title.

(7) Upon receipt of a subsequent lien instrument duly signed by the owner in the manner prescribed by law governing such lien instruments or a notice of lien filed electronically, together with an application for notation of the subsequent lien, the fee prescribed in section 60-154, and, if a printed certificate of title exists, the presentation of the certificate of title, the county treasurer or department shall make notation of such other lien. If the certificate of title is not an electronic certificate of title record, the county treasurer or department, upon receipt of a lien instrument duly signed by the owner in the manner prescribed by law governing such lien instruments together with the fee prescribed for notation of lien, shall notify the first lienholder to deliver to the county treasurer or department, within fifteen days after the date of notice, the certificate of title to permit notation of such other lien. After such notation of lien, the lien shall become part of the electronic certificate of title record created by the county treasurer or department which is maintained on the electronic title and lien system. The holder of a certificate of title who refuses to deliver a certificate of title to the county treasurer or department for the purpose of noting such other lien on such certificate of title within fifteen days after the date when notified to do so shall be liable for damages to such other lienholder for the amount of damages such other lienholder suffered by reason of the holder of the certificate of title refusing to permit the noting of such lien on the certificate of title.

(8) When a lien is discharged, the holder shall, within fifteen days after payment is received, note a cancellation of the lien on the certificate of title over his, her, or its signature and deliver the certificate of title to the county treasurer or the department, which shall note the cancellation of the lien on the face of the certificate of title and on the records of such office. If delivered to a county treasurer, he or she shall on that day notify the department which shall note the cancellation on its records. The county treasurer or the department shall then return the certificate of title to the owner or as otherwise directed by the owner. The cancellation of lien shall be noted on the certificate of title without charge. For an electronic certificate of title record, the lienholder shall, within fifteen days after payment is received when such lien is discharged, notify the department electronically or provide written notice of such lien

release, in a manner prescribed by the department, to the county treasurer or department. The department shall note the cancellation of lien and, if no other liens exist, issue the certificate of title to the owner or as otherwise directed by the owner or lienholder. If the holder of the title cannot locate a lienholder, a lien may be discharged ten years after the date of filing by presenting proof that thirty days have passed since the mailing of a written notice by certified mail, return receipt requested, to the last-known address of the lienholder.

Source: Laws 2005, LB 276, § 64; Laws 2007, LB286, § 14; Laws 2008, LB756, § 3; Laws 2008, LB953, § 3; Laws 2009, LB202, § 15; Laws 2010, LB650, § 17; Laws 2010, LB816, § 5; Laws 2012, LB801, § 40; Laws 2017, LB263, § 18.
Operative date August 24, 2017.

Cross References

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

60-164.01 Electronic certificate of title; changes authorized.

Beginning January 1, 2019, if a certificate of title is an electronic certificate of title record, upon application by an owner or a lienholder and payment of the fee prescribed in section 60-154, the following changes may be made to a certificate of title electronically and without printing a certificate of title:

- (1) Changing the name of an owner to reflect a legal change of name;
- (2) Removing the name of an owner with the consent of all owners and lienholders; or
- (3) Adding an additional owner with the consent of all owners and lienholders.

Source: Laws 2017, LB263, § 19.
Operative date August 24, 2017.

60-166 New certificate of title; issued when; proof required; processing of application.

(1) In the event of (a) the transfer of ownership of a vehicle by operation of law as upon inheritance, devise, or bequest, order in bankruptcy, insolvency, replevin, or execution sale or as provided in sections 30-24,125, 52-601.01 to 52-605, 60-1901 to 60-1911, and 60-2401 to 60-2411, (b) the engine of a vehicle being replaced by another engine, (c) a vehicle being sold to satisfy storage or repair charges or under section 76-1607, or (d) repossession being had upon default in performance of the terms of a chattel mortgage, trust receipt, conditional sales contract, or other like agreement, and upon acceptance of an electronic certificate of title record after repossession, in addition to the title requirements in this section, the county treasurer of any county or the department, upon the surrender of the prior certificate of title or the manufacturer's or importer's certificate, or when that is not possible, upon presentation of satisfactory proof of ownership and right of possession to such vehicle, and upon payment of the appropriate fee and the presentation of an application for certificate of title, may issue to the applicant a certificate of title thereto. If the prior certificate of title issued for such vehicle provided for joint ownership with right of survivorship, a new certificate of title shall be issued to a subsequent purchaser upon the assignment of the prior certificate of title by the surviving owner and presentation of satisfactory proof of death of the deceased

owner. Only an affidavit by the person or agent of the person to whom possession of such vehicle has so passed, setting forth facts entitling him or her to such possession and ownership, together with a copy of the journal entry, court order, or instrument upon which such claim of possession and ownership is founded, shall be considered satisfactory proof of ownership and right of possession, except that if the applicant cannot produce such proof of ownership, he or she may submit to the department such evidence as he or she may have, and the department may thereupon, if it finds the evidence sufficient, issue the certificate of title or authorize any county treasurer to issue a certificate of title, as the case may be.

(2) If from the records of the county treasurer or the department there appear to be any liens on such vehicle, such certificate of title shall comply with section 60-164 or 60-165 regarding such liens unless the application is accompanied by proper evidence of their satisfaction or extinction.

Source: Laws 2005, LB 276, § 66; Laws 2007, LB286, § 15; Laws 2009, LB202, § 18; Laws 2012, LB751, § 8; Laws 2012, LB801, § 41; Laws 2017, LB263, § 20; Laws 2017, LB492, § 13.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB263, section 20, with LB492, section 13, to reflect all amendments.

Note: Changes made by LB492 became effective August 24, 2017. Changes made by LB263 became operative January 1, 2019.

60-168.02 Certificate of title in dealer's name; issuance authorized; documentation and fees required; dealer; duties.

(1) When a motor vehicle, trailer, or semitrailer is purchased by a motor vehicle dealer or trailer dealer and the original assigned certificate of title has been lost or mutilated, the dealer selling such motor vehicle or trailer may apply for an original certificate of title in the dealer's name. The following documentation and fees shall be submitted by the dealer:

- (a) An application for a certificate of title in the name of such dealer;
- (b) A photocopy from the dealer's records of the front and back of the lost or mutilated original certificate of title assigned to a dealer;
- (c) A notarized affidavit from the purchaser of such motor vehicle or trailer for which the original assigned certificate of title was lost or mutilated stating that the original assigned certificate of title was lost or mutilated; and
- (d) The appropriate certificate of title fee.

(2) The application and affidavit shall be on forms prescribed by the department. When the motor vehicle dealer or trailer dealer receives the new certificate of title in such dealer's name and assigns it to the purchaser, the dealer shall record the original sale date and provide the purchaser with a copy of the front and back of the original lost or mutilated certificate of title as evidence as to why the purchase date of the motor vehicle or trailer is prior to the issue date of the new certificate of title.

Source: Laws 2007, LB286, § 18; Laws 2008, LB756, § 4; Laws 2017, LB263, § 21.

Operative date August 24, 2017.

60-192 Odometers; transferor; statement; contents.

The transferor of any motor vehicle of an age of less than ten years, which was equipped with an odometer by the manufacturer, shall provide to the

transferee a statement, signed by the transferor, setting forth: (1) The mileage on the odometer at the time of transfer; and (2)(a) a statement that, to the transferor's best knowledge, such mileage is that actually driven by the motor vehicle, (b) a statement that the transferor has knowledge that the mileage shown on the odometer is in excess of the designated mechanical odometer limit, or (c) a statement that the odometer reading does not reflect the actual mileage and should not be relied upon because the transferor has knowledge that the odometer reading differs from the actual mileage and that the difference is greater than that caused by odometer calibration error. If a discrepancy exists between the odometer reading and the actual mileage, a warning notice to alert the transferee shall be included with the statement. The transferor shall retain a true copy of such statement for a period of five years from the date of the transaction. If motor vehicle ownership has been transferred by operation of law pursuant to repossession under subdivision (1)(d) of section 60-166, the mileage shall be listed as the odometer reading at the time of the most recent transfer of ownership prior to the repossession of the motor vehicle. The adjustment shall not be deemed a violation of section 60-190.

Source: Laws 2005, LB 276, § 92; Laws 2017, LB263, § 22.
Operative date January 1, 2019.

ARTICLE 3

MOTOR VEHICLE REGISTRATION

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60-301 Act, how cited.

Sections 60-301 to 60-3,235 shall be known and may be cited as the Motor Vehicle Registration Act.

Source: Laws 2005, LB 274, § 1; Laws 2006, LB 663, § 21; Laws 2007, LB286, § 20; Laws 2007, LB349, § 1; Laws 2007, LB570, § 1; Laws 2008, LB756, § 5; Laws 2009, LB110, § 1; Laws 2009, LB129, § 1; Laws 2010, LB650, § 20; Laws 2011, LB163, § 16; Laws 2011, LB289, § 12; Laws 2012, LB216, § 1; Laws 2012, LB1155, § 7; Laws 2014, LB383, § 1; Laws 2014, LB816, § 1; Laws 2015, LB220, § 1; Laws 2015, LB231, § 6; Laws 2016, LB474, § 3; Laws 2016, LB783, § 1; Laws 2016, LB977, § 5; Laws 2017, LB46, § 1; Laws 2017, LB263, § 23.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB46, section 1, with LB263, section 23, to reflect all amendments.

Note: Changes made by LB46 became effective August 24, 2017. Changes made by LB263 became operative August 24, 2017.

60-302 Definitions, where found.

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

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

60-317 Commercial trailer, defined.

Commercial trailer means any trailer or semitrailer which has a gross weight, including load thereon, of more than nine thousand pounds and which is designed, used, or maintained for the transportation of persons or property for hire, compensation, or profit or designed, used, or maintained primarily for the transportation of property. Commercial trailer does not include cabin trailers, farm trailers, fertilizer trailers, or utility trailers.

Source: Laws 2005, LB 274, § 17; Laws 2016, LB783, § 4; Laws 2017, LB263, § 25.

Operative date April 28, 2017.

60-335.01 Licensed dealer, defined.

Licensed dealer means a motor vehicle dealer, motorcycle dealer, or trailer dealer licensed under the Motor Vehicle Industry Regulation Act.

Source: Laws 2017, LB263, § 26.

Operative date August 24, 2017.

Cross References

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

60-336.01 Low-speed vehicle, defined.

Low-speed vehicle means a four-wheeled motor vehicle (1) whose speed attainable in one mile is more than twenty miles per hour and not more than twenty-five miles per hour on a paved, level surface, (2) whose gross vehicle weight rating is less than three thousand pounds, and (3) that complies with 49 C.F.R. part 571, as such part existed on January 1, 2017.

Source: Laws 2007, LB286, § 26; Laws 2011, LB289, § 14; Laws 2014, LB776, § 1; Laws 2015, LB313, § 1; Laws 2016, LB929, § 2; Laws 2017, LB263, § 27.

Operative date April 28, 2017.

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

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

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

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

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

Source: Laws 2005, LB 274, § 63; Laws 2010, LB725, § 1; Laws 2014, LB758, § 1; Laws 2017, LB263, § 28.

Operative date April 28, 2017.

60-372 Vehicle Title and Registration System; agent of county treasurer; appointment.

(1) Each county shall issue and file registration certificates using the Vehicle Title and Registration System which shall be provided and maintained by the department.

(2) The county treasurer may appoint an agent to issue registration certificates and to accept the payment of taxes and fees as provided in the Motor Vehicle Registration Act, upon approval of the county board. The agent shall furnish a bond in such amount and upon such conditions as determined by the county board.

Source: Laws 2005, LB 274, § 72; Laws 2012, LB801, § 54; Laws 2017, LB263, § 29.

Operative date August 24, 2017.

60-373 Operation of vehicle without registration; dealer; employee or agent; licensed manufacturer; conditions.

(1) Each licensed motor vehicle dealer or trailer dealer as defined in sections 60-1401.26 and 60-1401.37, respectively, doing business in this state, in lieu of registering each motor vehicle or trailer which such dealer owns of a type otherwise required to be registered, or any full-time or part-time employee or agent of such dealer may, if the motor vehicle or trailer displays dealer number plates:

(a) Operate or tow the motor vehicle or trailer upon the highways of this state solely for purposes of transporting, testing, demonstrating, or use in the ordinary course and conduct of business as a motor vehicle or trailer dealer. Such use may include personal or private use by the dealer and personal or private use by any bona fide employee, if the employee can be verified by payroll records maintained at the dealership as ordinarily working more than thirty hours per week or fifteen hundred hours per year at the dealership;

(b) Operate or tow the motor vehicle or trailer upon the highways of this state for transporting industrial equipment held by the licensee for purposes of demonstration, sale, rental, or delivery; or

(c) Sell the motor vehicle or trailer.

(2) Each licensed manufacturer as defined in section 60-1401.24 which actually manufactures or assembles motor vehicles or trailers within this state, in lieu of registering each motor vehicle or trailer which such manufacturer owns of a type otherwise required to be registered, or any employee of such manufacturer may operate or tow the motor vehicle or trailer upon the highways of this state solely for purposes of transporting, testing, demonstrating to prospective customers, or use in the ordinary course and conduct of business as a motor vehicle or trailer manufacturer, upon the condition that any such motor vehicle or trailer display thereon, in the manner prescribed in section 60-3,100, dealer number plates as provided for in section 60-3,114.

(3) In no event shall such plates be used on motor vehicles or trailers hauling other than automotive or trailer equipment, complete motor vehicles, or trailers which are inventory of such licensed dealer or manufacturer unless there is issued by the department a special permit specifying the hauling of other products. This section shall not be construed to allow a dealer to operate a motor vehicle or trailer with dealer number plates for the delivery of parts

inventory. A dealer may use such motor vehicle or trailer to pick up parts to be used for the motor vehicle or trailer inventory of the dealer.

Source: Laws 2005, LB 274, § 73; Laws 2010, LB816, § 7; Laws 2017, LB346, § 1.

Effective date August 24, 2017.

60-385 Application; situs.

Every owner of a motor vehicle or trailer required to be registered shall make application for registration to the county treasurer of the county in which the motor vehicle or trailer has situs. The application shall be by any means designated by the department. An approved licensed dealer participating in the electronic dealer services system pursuant to section 60-1507 may submit such application electronically to the appropriate county treasurer or the department. A salvage branded certificate of title and a nontransferable certificate of title provided for in section 60-170 shall not be valid for registration purposes.

Source: Laws 2005, LB 274, § 85; Laws 2006, LB 765, § 6; Laws 2007, LB286, § 33; Laws 2012, LB801, § 57; Laws 2017, LB263, § 30.

Operative date August 24, 2017.

60-386 Application; contents.

(1) Each new application shall contain, in addition to other information as may be required by the department, the name and residential and mailing address of the applicant and a description of the motor vehicle or trailer, including the color, the manufacturer, the identification number, the United States Department of Transportation number if required by 49 C.F.R. 390.5 and 390.19, as such regulations existed on January 1, 2017, and the weight of the motor vehicle or trailer required by the Motor Vehicle Registration Act. With the application the applicant shall pay the proper registration fee and shall state whether the motor vehicle is propelled by alternative fuel and, if alternative fuel, the type of fuel. The application shall also contain a notification that bulk fuel purchasers may be subject to federal excise tax liability. The department shall include such notification in the notices required by section 60-3,186.

(2) This subsection applies beginning on an implementation date designated by the director. The director shall designate an implementation date which is on or before January 1, 2020. In addition to the information required under subsection (1) of this section, the application for registration shall contain (a) the full legal name as defined in section 60-468.01 of each owner and (b)(i) the motor vehicle operator's license number or state identification card number of each owner, if applicable, and one or more of the identification elements as listed in section 60-484 of each owner, if applicable, and (ii) if any owner is a business entity, a nonprofit organization, an estate, a trust, or a church-controlled organization, its tax identification number.

Source: Laws 2005, LB 274, § 86; Laws 2011, LB289, § 17; Laws 2012, LB801, § 58; Laws 2013, LB207, § 1; Laws 2015, LB642, § 4; Laws 2016, LB929, § 3; Laws 2017, LB263, § 31.

Operative date April 28, 2017.

60-393 Multiple vehicle registration.

Any owner who has two or more motor vehicles or trailers required to be registered under the Motor Vehicle Registration Act may register all such motor

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

Source: Laws 2005, LB 274, § 93; Laws 2007, LB570, § 4; Laws 2011, LB289, § 18; Laws 2014, LB383, § 2; Laws 2015, LB220, § 2; Laws 2016, LB474, § 4; Laws 2017, LB46, § 2; Laws 2017, LB263, § 32.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB46, section 2, with LB263, section 32, to reflect all amendments.

Note: Changes made by LB46 became effective August 24, 2017. Changes made by LB263 became operative August 24, 2017.

60-394 Registration; certain name and address changes; fee.

(1) Registration which is in the name of one spouse may be transferred to the other spouse for a fee of one dollar and fifty cents.

(2) So long as one registered name on a registration of a noncommercial motor vehicle or trailer remains the same, other names may be deleted therefrom or new names added thereto for a fee of one dollar and fifty cents.

(3) At any time prior to annual renewal beginning January 1, 2019, an owner may voluntarily update his or her address on the registration certificate upon payment of a fee of one dollar and fifty cents.

Source: Laws 2005, LB 274, § 94; Laws 2017, LB263, § 33.
Operative date August 24, 2017.

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

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

- (a) Upon transfer of ownership of any motor vehicle or trailer;
- (b) In case of loss of possession because of fire, theft, dismantlement, or junking;

(c) When a salvage branded certificate of title is issued;

(d) Whenever a type or class of motor vehicle or trailer previously registered is subsequently declared by legislative act or court decision to be illegal or ineligible to be operated or towed on the public roads and no longer subject to registration fees, the motor vehicle tax imposed in section 60-3,185, the motor vehicle fee imposed in section 60-3,190, and the alternative fuel fee imposed in section 60-3,191;

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

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

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

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

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

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

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

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

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

Source: Laws 2005, LB 274, § 95; Laws 2007, LB286, § 35; Laws 2007, LB570, § 5; Laws 2009, LB175, § 1; Laws 2011, LB289, § 19; Laws 2012, LB801, § 61; Laws 2014, LB383, § 3; Laws 2015, LB220, § 3; Laws 2016, LB474, § 5; Laws 2017, LB46, § 3; Laws 2017, LB263, § 34.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB46, section 3, with LB263, section 34, to reflect all amendments.

Note: Changes made by LB46 became effective August 24, 2017. Changes made by LB263 became operative August 24, 2017.

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

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

Source: Laws 2005, LB 274, § 96; Laws 2007, LB570, § 6; Laws 2012, LB801, § 62; Laws 2014, LB383, § 4; Laws 2015, LB220, § 4; Laws 2016, LB474, § 6; Laws 2017, LB46, § 4; Laws 2017, LB263, § 35.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB46, section 4, with LB263, section 35, to reflect all amendments.

Note: Changes made by LB46 became effective August 24, 2017. Changes made by LB263 became operative August 24, 2017.

60-3,104 Types of license plates.

The department shall issue the following types of license plates:

- (1) Amateur radio station license plates issued pursuant to section 60-3,126;
- (2) Apportionable vehicle license plates issued pursuant to section 60-3,203;
- (3) Autocycle license plates issued pursuant to section 60-3,100;
- (4) Boat dealer license plates issued pursuant to section 60-379;
- (5) Breast Cancer Awareness Plates issued pursuant to sections 60-3,230 and 60-3,231;
- (6) Bus license plates issued pursuant to section 60-3,144;

- (7) Choose Life License Plates issued pursuant to sections 60-3,232 and 60-3,233;
- (8) Commercial motor vehicle license plates issued pursuant to section 60-3,147;
- (9) Dealer or manufacturer license plates issued pursuant to sections 60-3,114 and 60-3,115;
- (10) Disabled veteran license plates issued pursuant to section 60-3,124;
- (11) Farm trailer license plates issued pursuant to section 60-3,151;
- (12) Farm truck license plates issued pursuant to section 60-3,146;
- (13) Farm trucks with a gross weight of over sixteen tons license plates issued pursuant to section 60-3,146;
- (14) Fertilizer trailer license plates issued pursuant to section 60-3,151;
- (15) Gold Star Family license plates issued pursuant to sections 60-3,122.01 and 60-3,122.02;
- (16) Handicapped or disabled person license plates issued pursuant to section 60-3,113;
- (17) Historical vehicle license plates issued pursuant to sections 60-3,130 to 60-3,134;
- (18) Local truck license plates issued pursuant to section 60-3,145;
- (19) Military Honor Plates issued pursuant to sections 60-3,122.03 and 60-3,122.04;
- (20) Minitruck license plates issued pursuant to section 60-3,100;
- (21) Motor vehicle license plates for motor vehicles owned or operated by the state, counties, municipalities, or school districts issued pursuant to section 60-3,105;
- (22) Motor vehicles exempt pursuant to section 60-3,107;
- (23) Motorcycle license plates issued pursuant to section 60-3,100;
- (24) Mountain Lion Conservation Plates issued pursuant to sections 60-3,226 and 60-3,227;
- (25) Native American Cultural Awareness and History Plates issued pursuant to sections 60-3,234 and 60-3,235;
- (26) Nebraska Cornhusker Spirit Plates issued pursuant to sections 60-3,127 to 60-3,129;
- (27) Nebraska 150 Sesquicentennial Plates issued pursuant to sections 60-3,223 to 60-3,225;
- (28) Nonresident owner thirty-day license plates issued pursuant to section 60-382;
- (29) Passenger car having a seating capacity of ten persons or less and not used for hire issued pursuant to section 60-3,143 other than autocycles;
- (30) Passenger car having a seating capacity of ten persons or less and used for hire issued pursuant to section 60-3,143 other than autocycles;
- (31) Pearl Harbor license plates issued pursuant to section 60-3,122;
- (32) Personal-use dealer license plates issued pursuant to section 60-3,116;

- (33) Personalized message license plates for motor vehicles, trailers, and semitrailers, except motor vehicles, trailers, and semitrailers registered under section 60-3,198, issued pursuant to sections 60-3,118 to 60-3,121;
- (34) Prisoner-of-war license plates issued pursuant to section 60-3,123;
- (35) Public power district license plates issued pursuant to section 60-3,228;
- (36) Purple Heart license plates issued pursuant to section 60-3,125;
- (37) Recreational vehicle license plates issued pursuant to section 60-3,151;
- (38) Repossession license plates issued pursuant to section 60-375;
- (39) Special interest motor vehicle license plates issued pursuant to section 60-3,135.01;
- (40) Specialty license plates issued pursuant to sections 60-3,104.01 and 60-3,104.02;
- (41) Trailer license plates issued for trailers owned or operated by the state, counties, municipalities, or school districts issued pursuant to section 60-3,106;
- (42) Trailer license plates issued pursuant to section 60-3,100;
- (43) Trailer license plates issued for trailers owned or operated by a public power district pursuant to section 60-3,228;
- (44) Trailers exempt pursuant to section 60-3,108;
- (45) Transporter license plates issued pursuant to section 60-378;
- (46) Trucks or combinations of trucks, truck-tractors, or trailers which are not for hire and engaged in soil and water conservation work and used for the purpose of transporting pipe and equipment exclusively used by such contractors for soil and water conservation construction license plates issued pursuant to section 60-3,149;
- (47) Utility trailer license plates issued pursuant to section 60-3,151; and
- (48) Well-boring apparatus and well-servicing equipment license plates issued pursuant to section 60-3,109.

Source: Laws 2005, LB 274, § 104; Laws 2006, LB 663, § 23; Laws 2007, LB286, § 37; Laws 2007, LB570, § 7; Laws 2009, LB110, § 2; Laws 2010, LB650, § 26; Laws 2012, LB216, § 3; Laws 2014, LB383, § 5; Laws 2015, LB45, § 2; Laws 2015, LB220, § 5; Laws 2015, LB231, § 12; Laws 2016, LB474, § 7; Laws 2016, LB783, § 7; Laws 2016, LB977, § 6; Laws 2017, LB46, § 5; Laws 2017, LB263, § 36.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB46, section 5, with LB263, section 36, to reflect all amendments.

Note: Changes made by LB46 became effective August 24, 2017. Changes made by LB263 became operative August 24, 2017.

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

(1) A person may apply for specialty license plates in lieu of regular license plates on an application prescribed and provided by the department pursuant to section 60-3,104.02 for any motor vehicle, trailer, or semitrailer, except for motor vehicles or trailers registered under section 60-3,198. An applicant receiving a specialty license plate for a farm truck with a gross weight of over sixteen tons or for a commercial motor vehicle registered for a gross weight of five tons or over shall affix the appropriate tonnage decal to the plate. The department shall make forms available for such applications. Each application

for initial issuance or renewal of specialty license plates shall be accompanied by a fee of seventy dollars. Fees collected pursuant to this subsection shall be remitted to the State Treasurer. The State Treasurer shall credit fifteen percent of the fee for initial issuance and renewal of specialty license plates to the Department of Motor Vehicles Cash Fund and eighty-five percent of the fee to the Highway Trust Fund.

(2) Until January 1, 2019, when the department receives an application for specialty license plates, it shall deliver the plates to the county treasurer of the county in which the motor vehicle, trailer, or semitrailer is registered. Beginning January 1, 2019, when the department receives an application for specialty license plates, the department may deliver the plates and registration certificate to the applicant by United States mail or to the county treasurer of the county in which the motor vehicle, trailer, or semitrailer is registered and the delivery of the plates and registration certificate shall be made through a secure process and system. The county treasurer or the department shall issue specialty license plates in lieu of regular license plates when the applicant complies with the other provisions of law for registration of the motor vehicle, trailer, or semitrailer. If specialty license plates are lost, stolen, or mutilated, the licensee shall be issued replacement license plates pursuant to section 60-3,157.

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

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

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

Source: Laws 2009, LB110, § 3; Laws 2012, LB801, § 65; Laws 2017, LB263, § 37.

Operative date August 24, 2017.

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

(1) A handicapped or disabled parking permit shall be of a design, size, configuration, color, and construction and contain such information as specified in the regulations adopted by the United States Department of Transportation in 23 C.F.R. part 1235, UNIFORM SYSTEM FOR PARKING FOR PERSONS WITH DISABILITIES, as such regulations existed on January 1, 2017.

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

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

Source: Laws 2011, LB163, § 26; Laws 2012, LB751, § 13; Laws 2013, LB35, § 1; Laws 2014, LB657, § 8; Laws 2014, LB776, § 2; Laws 2015, LB313, § 2; Laws 2016, LB929, § 4; Laws 2017, LB263, § 38.

Operative date April 28, 2017.

60-3,116 Personal-use dealer license plates; fee.

(1) Any licensed dealer or manufacturer may, upon payment of an annual fee of two hundred fifty dollars, make an application, on a form approved by the Nebraska Motor Vehicle Industry Licensing Board, to the county treasurer of the county in which his or her place of business is located for a certificate and one personal-use dealer license plate for the type of motor vehicle or trailer the dealer has been authorized by the Nebraska Motor Vehicle Industry Licensing Board to sell and demonstrate. Additional personal-use dealer license plates may be procured upon payment of an annual fee of two hundred fifty dollars each, subject to the same limitations as provided in section 60-3,114 as to the number of additional dealer license plates. A personal-use dealer license plate may be displayed on a motor vehicle having a gross weight including any load of six thousand pounds or less belonging to the dealer, may be used in the same manner as a dealer license plate, and may be used for personal or private use of the dealer, the dealer's immediate family, or any bona fide employee of the dealer.

(2) Personal-use dealer license plates shall have the same design and shall be displayed as provided in sections 60-370 and 60-3,100.

Source: Laws 2005, LB 274, § 116; Laws 2010, LB816, § 11; Laws 2012, LB801, § 71; Laws 2017, LB346, § 2.

Effective date August 24, 2017.

60-3,118 Personalized message license plates; conditions.

(1) In lieu of the license plates provided for by section 60-3,100, the department shall issue personalized message license plates for motor vehicles, trailers, or semitrailers, except for motor vehicles and trailers registered under section 60-3,198, to all applicants who meet the requirements of sections 60-3,119 to 60-3,121. Personalized message license plates shall be the same size and of the same basic design as regular license plates issued pursuant to section 60-3,100. The characters used shall consist only of letters and numerals of the same size and design and shall comply with the requirements of subdivision (1)(a) of section 60-3,100. A maximum of seven characters may be used, except that for an autocycle or a motorcycle, a maximum of six characters may be used.

(2) The following conditions apply to all personalized message license plates:

(a) County prefixes shall not be allowed except in counties using the alphanumeric system for motor vehicle registration. The numerals in the county prefix shall be the numerals assigned to the county, pursuant to subsection (2) of section 60-370, in which the motor vehicle or trailer is registered. Renewal of a personalized message license plate containing a county prefix shall be conditioned upon the motor vehicle or trailer being registered in such county. The numerals in the county prefix, including the hyphen or any other unique design for an existing license plate style, count against the maximum number of characters allowed under this section;

(b) The characters in the order used shall not conflict with or duplicate any number used or to be used on the regular license plates or any number or license plate already approved pursuant to sections 60-3,118 to 60-3,121;

(c) The characters in the order used shall not express, connote, or imply any obscene or objectionable words or abbreviations; and

(d) An applicant receiving a personalized message license plate for a farm truck with a gross weight of over sixteen tons or a commercial truck or truck-tractor with a gross weight of five tons or over shall affix the appropriate tonnage decal to such license plate.

(3) The department shall have sole authority to determine if the conditions prescribed in subsection (2) of this section have been met.

Source: Laws 2005, LB 274, § 118; Laws 2007, LB286, § 39; Laws 2015, LB231, § 14; Laws 2017, LB263, § 39.
Operative date August 24, 2017.

60-3,120 Personalized message license plates; delivery.

Until January 1, 2019, when the department approves an application for personalized message license plates, it shall notify the applicant and deliver the license plates to the county treasurer of the county in which the motor vehicle or trailer is to be registered. Beginning January 1, 2019, when the department approves an application for personalized message license plates, the department shall notify the applicant and deliver the license plates and registration certificate to the applicant by United States mail or to the county treasurer of the county in which the motor vehicle or trailer is to be registered and the delivery of the plates and registration certificate shall be made through a secure process and system. The county treasurer or the department shall deliver such plates to the applicant, in lieu of regular license plates, when the applicant complies with the other provisions of law for registration of the motor vehicle or trailer.

Source: Laws 2005, LB 274, § 120; Laws 2012, LB801, § 73; Laws 2017, LB263, § 40.
Operative date August 24, 2017.

60-3,121 Personalized message license plates; transfer; credit allowed; fee.

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

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

(3) Application for such transfer shall be accompanied by a fee of three dollars. The fees shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

Source: Laws 2005, LB 274, § 121; Laws 2012, LB801, § 74; Laws 2017, LB263, § 41.

Operative date August 24, 2017.

60-3,122 Pearl Harbor plates.

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

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

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

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

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

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

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

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

Operative date August 24, 2017.

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

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

ancestor, including a stepparent, a descendant, including a stepchild, a foster parent or a person in loco parentis, or a sibling of a person who died while in good standing on active duty in the military service of the United States.

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

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

(3) Until January 1, 2019, when the department receives an application for Gold Star Family plates, the department shall deliver the plates to the county treasurer of the county in which the motor vehicle or trailer is registered. Beginning January 1, 2019, when the department receives an application for Gold Star Family plates, the department may deliver the plates and registration certificate to the applicant by United States mail or to the county treasurer of the county in which the motor vehicle or trailer is registered and the delivery of the plates and registration certificate shall be made through a secure process and system. The county treasurer or the department shall issue Gold Star Family plates in lieu of regular license plates when the applicant complies with the other provisions of the Motor Vehicle Registration Act for registration of the motor vehicle or trailer. If Gold Star Family plates are lost, stolen, or mutilated, the licensee shall be issued replacement license plates upon request and without charge.

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

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

the remainder shall be credited to the Nebraska Veteran Cemetery System Operation Fund.

Source: Laws 2007, LB570, § 3; Laws 2009, LB110, § 7; Laws 2009, LB331, § 2; Laws 2012, LB801, § 75; Laws 2017, LB263, § 43.
Operative date August 24, 2017.

60-3,122.03 Military Honor Plates.

(1) The department shall design license plates to be known as Military Honor Plates. The department shall create designs honoring persons who have served or are serving in the United States Army, United States Army Reserve, United States Navy, United States Navy Reserve, United States Marine Corps, United States Marine Corps Reserve, United States Coast Guard, United States Coast Guard Reserve, United States Air Force, United States Air Force Reserve, or National Guard. There shall be eleven designs, one for each of such armed forces reflecting its official emblem, official seal, or other official image. The issuance of plates for each of such armed forces shall be conditioned on the approval of the armed forces owning the copyright to the official emblem, official seal, or other official image. A person may qualify for a Military Honor Plate by registering with the Department of Veterans' Affairs pursuant to section 80-414. The Department of Motor Vehicles shall verify the applicant's eligibility for a plate created pursuant to this section by consulting the registry established by the Department of Veterans' Affairs.

(2) The design shall be selected on the basis of limiting the manufacturing cost of each plate to an amount less than or equal to the amount charged for license plates pursuant to section 60-3,102. The Department of Motor Vehicles shall make applications available for each type of plate when it is designed. The department may adopt and promulgate rules and regulations to carry out this section and section 60-3,122.04.

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

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

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

Source: Laws 2014, LB383, § 9; Laws 2017, LB45, § 1.
Operative date January 1, 2018.

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

(1) An eligible person may apply to the department for Military Honor Plates in lieu of regular license plates on an application prescribed and provided by the department for any motor vehicle, trailer, or semitrailer, except for a motor vehicle or trailer registered under section 60-3,198. An applicant receiving a Military Honor Plate for a farm truck with a gross weight of over sixteen tons shall affix the appropriate tonnage decal to the plate. The department shall make forms available for such applications through the county treasurers. The license plates shall be issued upon payment of the license fee described in subsection (2) of this section and verification by the department of an appli-

cant's eligibility using the registry established by the Department of Veterans' Affairs pursuant to section 80-414. To be eligible an applicant shall be (a) active duty or reserve duty armed forces personnel serving in any of the armed forces listed in subsection (1) of section 60-3,122.03, (b) a veteran of any of such armed forces who was discharged or otherwise separated with a characterization of honorable or general (under honorable conditions), or (c) a current or former commissioned officer of the United States Public Health Service or National Oceanic and Atmospheric Administration who has been detailed directly to any branch of such armed forces for service on active or reserve duty and who was discharged or otherwise separated with a characterization of honorable or general (under honorable conditions) as proven with valid orders from the United States Department of Defense, a statement of service provided by the United States Public Health Service, or a report of transfer or discharge provided by the National Oceanic and Atmospheric Administration. Any person using Military Honor Plates shall surrender the plates to the county treasurer if such person is no longer eligible for the plates. Regular plates shall be issued to any such person upon surrender of the Military Honor Plates for a three-dollar transfer fee and forfeiture of any of the remaining annual fee. The three-dollar transfer fee shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

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

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

(3) Until January 1, 2019, when the Department of Motor Vehicles receives an application for Military Honor Plates, the department shall deliver the plates to the county treasurer of the county in which the motor vehicle or trailer is registered. Beginning January 1, 2019, when the department receives an application for Military Honor Plates, the department may deliver the plates and registration certificate to the applicant by United States mail or to the county treasurer of the county in which the motor vehicle or trailer is registered and the delivery of the plates and registration certificate shall be made through a secure process and system. The county treasurer or the department shall issue Military Honor Plates in lieu of regular license plates when the applicant complies with the other provisions of the Motor Vehicle Registration Act for registration of the motor vehicle or trailer. If Military Honor Plates are lost, stolen, or mutilated, the licensee shall be issued replacement license plates upon request pursuant to section 60-3,157.

(4) The owner of a motor vehicle or trailer bearing Military Honor Plates may apply to the county treasurer to have such plates transferred to a motor vehicle or trailer other than the motor vehicle or trailer for which such plates were

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

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

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

Source: Laws 2014, LB383, § 10; Laws 2017, LB45, § 2; Laws 2017, LB263, § 44.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB45, section 2, with LB263, section 44, to reflect all amendments.

Note: Changes made by LB263 became operative August 24, 2017. Changes made by LB45 became operative January 1, 2018.

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

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

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

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

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

Operative date August 24, 2017.

60-3,124 Disabled veteran plates.

(1) Any person who is a veteran of the United States Armed Forces, who was discharged or otherwise separated with a characterization of honorable or general (under honorable conditions), and who is classified by the United States Department of Veterans Affairs as one hundred percent service-connected

disabled may, in addition to the application required in section 60-385, apply to the Department of Motor Vehicles for license plates designed by the department to indicate that the applicant is a disabled veteran. The inscription on the license plates shall be D.A.V. immediately below the license plate number to indicate that the holder of the license plates is a disabled veteran.

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

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

Source: Laws 2005, LB 274, § 124; Laws 2007, LB286, § 42; Laws 2009, LB110, § 9; Laws 2010, LB705, § 3; Laws 2015, LB642, § 6; Laws 2017, LB263, § 46.
Operative date August 24, 2017.

60-3,125 Purple Heart plates; fee.

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

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

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

Source: Laws 2005, LB 274, § 125; Laws 2007, LB286, § 43; Laws 2009, LB110, § 10; Laws 2014, LB383, § 7; Laws 2017, LB263, § 47.
Operative date August 24, 2017.

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

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

(2) Such license plates shall be issued, in lieu of the usual numbers and letters, to such an applicant upon payment of the regular license fee and the payment of an additional fee of five dollars and furnishing proof that the applicant holds such an unrevoked and unexpired amateur radio station li-

cense. The additional fee shall be remitted to the State Treasurer for credit to the Highway Trust Fund. Only one such motor vehicle or trailer owned by an applicant shall be so registered at any one time.

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

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

Source: Laws 2005, LB 274, § 126; Laws 2007, LB286, § 44; Laws 2017, LB263, § 48.

Operative date August 24, 2017.

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

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

(2) Until January 1, 2019, when the department receives an application for spirit plates, it shall deliver the plates to the county treasurer of the county in which the motor vehicle or trailer is registered. Beginning January 1, 2019, when the department receives an application for spirit plates, the department may deliver the plates and registration certificate to the applicant by United States mail or to the county treasurer of the county in which the motor vehicle or trailer is registered and the delivery of the plates and registration certificate shall be made through a secure process and system. The county treasurer or the department shall issue spirit plates in lieu of regular license plates when the applicant complies with the other provisions of law for registration of the motor vehicle or trailer. If spirit plates are lost, stolen, or mutilated, the licensee shall be issued replacement license plates pursuant to section 60-3,157.

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

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

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

Source: Laws 2005, LB 274, § 128; Laws 2007, LB286, § 45; Laws 2009, LB110, § 11; Laws 2012, LB801, § 76; Laws 2017, LB263, § 49.
Operative date August 24, 2017.

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

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

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

(3) If only one license plate is used on the vehicle, the license plate shall be placed on the rear of the vehicle. The owner of a historical vehicle may use only one plate on the vehicle even for years in which two license plates were issued for vehicles in general.

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

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

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB46, section 6, with LB263, section 50, to reflect all amendments.

Note: Changes made by LB46 became effective August 24, 2017. Changes made by LB263 became operative August 24, 2017.

60-3,135.01 Special interest motor vehicle license plates; application; fee; delivery; special interest motor vehicle; restrictions on use; prohibited acts; penalty.

(1) The department shall either modify an existing plate design or design license plates to identify special interest motor vehicles, to be known as special interest motor vehicle license plates. The department, in designing such special interest motor vehicle license plates, shall include the words special interest and limit the manufacturing cost of each plate to an amount less than or equal to the amount charged for license plates pursuant to section 60-3,102. The department shall choose the design of the plate. The department shall make applications available for this type of plate when it is designed.

(2) One type of special interest motor vehicle license plate shall be alphanumeric plates. The department shall:

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

(3) One type of special interest motor vehicle license plate shall be personalized message plates. Such plates shall be issued subject to the same conditions specified for personalized message license plates in section 60-3,118.

(4) A person may apply to the department for a special interest motor vehicle license plate in lieu of regular license plates on an application prescribed and provided by the department for any special interest motor vehicle, except that no motor vehicle registered under section 60-3,198, autocycle, motorcycle, or trailer shall be eligible for special interest motor vehicle license plates. The department shall make forms available for such applications through the county treasurers.

(5) The form shall contain a description of the special interest motor vehicle owned and sought to be registered, including the make, body type, model, serial number, and year of manufacture.

(6)(a) In addition to all other fees required to register a motor vehicle, each application for initial issuance or renewal of a special interest motor vehicle license plate shall be accompanied by a special interest motor vehicle license plate fee of fifty dollars. Twenty-five dollars of the special interest motor vehicle license plate fee shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund, and twenty-five dollars of the special interest motor vehicle license plate fee shall be remitted to the State Treasurer for credit to the Highway Trust Fund.

(b) If a special interest motor vehicle license plate is lost, stolen, or mutilated, the owner shall be issued a replacement license plate pursuant to section 60-3,157.

(7) Until January 1, 2019, when the department receives an application for a special interest motor vehicle license plate, the department shall deliver the plate to the county treasurer of the county in which the special interest motor vehicle is registered. Beginning January 1, 2019, when the department receives an application for a special interest motor vehicle license plate, the department may deliver the plate and registration certificate to the applicant by United States mail or to the county treasurer of the county in which the special interest motor vehicle is registered and the delivery of the plate and registration certificate shall be made through a secure process and system. The county treasurer or the department shall issue the special interest motor vehicle license plate in lieu of regular license plates when the applicant complies with the other provisions of the Motor Vehicle Registration Act for registration of the special interest motor vehicle.

(8) If the cost of manufacturing special interest motor vehicle license plates at any time exceeds the amount charged for license plates pursuant to section 60-3,102, any money to be credited to the Department of Motor Vehicles Cash Fund under this section shall instead be credited first to the Highway Trust Fund in an amount equal to the difference between the manufacturing costs of special interest motor vehicle license plates and the amount charged pursuant to section 60-3,102 with respect to such license plates and the remainder shall be credited to the Department of Motor Vehicles Cash Fund.

(9) The special interest motor vehicle license plate shall be affixed to the rear of the special interest motor vehicle.

(10) A special interest motor vehicle shall not be used for the same purposes and under the same conditions as other motor vehicles of the same type and shall not be used for business or occupation or regularly for transportation to and from work. A special interest motor vehicle may be driven on the public streets and roads only for occasional transportation, public displays, parades, and related pleasure or hobby activities.

(11) It shall be unlawful to own or operate a motor vehicle with special interest motor vehicle license plates in violation of this section. Upon conviction of a violation of any provision of this section, a person shall be guilty of a Class V misdemeanor.

(12) For purposes of this section, special interest motor vehicle means a motor vehicle of any age which is being collected, preserved, restored, or maintained by the owner as a leisure pursuit and not used for general transportation of persons or cargo.

Source: Laws 2012, LB216, § 4; Laws 2015, LB231, § 15; Laws 2017, LB263, § 51.

Operative date August 24, 2017.

60-3,141 Agents of department; fees; collection.

(1) The various county treasurers shall act as agents for the department in the collection of all motor vehicle taxes, motor vehicle fees, and registration fees. An approved licensed dealer participating in the electronic dealer services system pursuant to section 60-1507 may collect all such taxes and fees as agent for the appropriate county treasurer and the department in a manner provided by such system.

(2) While acting as agents pursuant to subsection (1) of this section, the county treasurers or any approved licensed dealers participating in the electronic dealer services system shall in addition to the taxes and registration fees collect one dollar and fifty cents for each registration of a motor vehicle or trailer of a resident of the State of Nebraska and four dollars and fifty cents for each registration of a motor vehicle or trailer of a nonresident. The county treasurer shall credit such additional fees collected by the county treasurer or any approved licensed dealer participating in the electronic dealer services system to the county general fund in a manner provided by such system.

(3) The county treasurers shall transmit all motor vehicle fees and registration fees collected pursuant to this section to the State Treasurer on or before the twentieth day of each month and at such other times as the State Treasurer requires for credit to the Motor Vehicle Fee Fund and the Highway Trust Fund, respectively, except as provided in section 60-3,156. Any county treasurer who

fails to transfer to the State Treasurer the amount due the state at the times required in this section shall pay interest at the rate specified in section 45-104.02, as such rate may be adjusted from time to time, from the time the motor vehicle fees and registration fees become due until paid.

(4) If a registrant requests delivery of license plates, registration certificates, or validation decals by mail, the county treasurer may charge a postage and handling fee in an amount not more than necessary to recover the cost of postage and handling for the specific items mailed to the registrant.

Source: Laws 2005, LB 274, § 141; Laws 2007, LB286, § 47; Laws 2012, LB801, § 78; Laws 2013, LB207, § 2; Laws 2017, LB263, § 52.
Operative date January 1, 2019.

60-3,151 Trailers; recreational vehicles; registration fee.

(1) For the registration of any commercial trailer or semitrailer, the fee shall be one dollar.

(2) The fee for utility trailers shall be one dollar for each one thousand pounds gross vehicle weight or fraction thereof, up to and including nine thousand pounds. Utility trailer license plates shall display, in addition to the registration number, the letter X. Trailers other than farm trailers of more than nine thousand pounds must be registered as commercial trailers.

(3) The fee for cabin trailers having gross vehicle weight of one thousand pounds or less shall be nine dollars and more than one thousand pounds, but less than two thousand pounds, shall be twelve dollars. Cabin trailers having a gross vehicle weight of two thousand pounds or more shall be registered for a fee of fifteen dollars.

(4) Recreational vehicles having a gross vehicle weight of eight thousand pounds or less shall be registered for a fee of eighteen dollars, those having a gross vehicle weight of more than eight thousand pounds but less than twelve thousand pounds shall be registered for thirty dollars, and those having a gross vehicle weight of twelve thousand pounds or over shall be registered for forty-two dollars. When living quarters are added to a registered truck, a recreational vehicle registration may be obtained without surrender of the truck registration, in which event both the truck and recreational vehicle license plates shall be displayed on the vehicle. Recreational vehicle license plates shall be the same size and of the same basic design as regular license plates issued pursuant to section 60-3,100.

(5) Farm trailers shall be licensed for a fee of one dollar, except that when a farm trailer is used with a registered farm truck, such farm trailer may, at the option of the owner, be registered as a separate unit for a fee of three dollars per ton gross vehicle weight and, if so registered, shall not be considered a truck and trailer combination for purposes of sections 60-3,145 and 60-3,146. Farm trailer license plates shall display, in addition to the registration number, the letter X.

(6) Fertilizer trailers shall be registered for a fee of one dollar. Fertilizer trailer license plates shall display, in addition to the registration number, the letter X.

(7) Trailers used to haul poles and cable reels owned and operated exclusively by public utility companies shall be licensed at a fee based on two dollars for

each one-thousand-pound load to be hauled or any fraction thereof, and such load shall not exceed sixteen thousand pounds.

Source: Laws 2005, LB 274, § 151; Laws 2016, LB783, § 10; Laws 2017, LB263, § 53.

Operative date April 28, 2017.

60-3,161 Transferred to section 60-1506.

60-3,184 Motor vehicle tax and fee; terms, defined.

For purposes of sections 60-3,184 to 60-3,190:

(1) Automobile means passenger cars, trucks, utility vehicles, and vans up to and including seven tons;

(2) Motor vehicle means every motor vehicle, trailer, and semitrailer subject to the payment of registration fees or permit fees under the laws of this state;

(3) Motor vehicle fee means the fee imposed upon motor vehicles under section 60-3,190;

(4) Motor vehicle tax means the tax imposed upon motor vehicles under section 60-3,185; and

(5) Registration period means the period from the date of registration pursuant to section 60-392 to the first day of the month following one year after such date.

Source: Laws 2005, LB 274, § 184; Laws 2007, LB286, § 52; Laws 2017, LB263, § 54.

Operative date August 24, 2017.

60-3,193.01 International Registration Plan; adopted.

For purposes of the Motor Vehicle Registration Act, the International Registration Plan is adopted and incorporated by reference as the plan existed on January 1, 2017.

Source: Laws 2008, LB756, § 10; Laws 2009, LB331, § 4; Laws 2010, LB805, § 2; Laws 2011, LB212, § 3; Laws 2012, LB751, § 14; Laws 2013, LB35, § 2; Laws 2014, LB776, § 3; Laws 2015, LB313, § 3; Laws 2016, LB929, § 5; Laws 2017, LB263, § 55.

Operative date April 28, 2017.

60-3,218 Nebraska Snowmobile Trail Cash Fund; created; use; investment; Game and Parks Commission; establish rules and regulations.

(1) There is hereby created the Nebraska Snowmobile Trail Cash Fund into which shall be deposited the portion of the fees collected from snowmobile registration as provided in section 60-3,217.

(2) The Game and Parks Commission shall use the money in the Nebraska Snowmobile Trail Cash Fund for the operation, maintenance, enforcement, planning, establishment, and marking of snowmobile trails throughout the state and for the acquisition by purchase or lease of real property to carry out the provisions of this section.

(3) The commission shall establish rules and regulations pertaining to the use and maintenance of snowmobile trails.

(4) Transfers may be made from the Nebraska Snowmobile Trail Cash Fund to the General Fund at the direction of the Legislature. Any money in the Nebraska Snowmobile Trail Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(5) The State Treasurer shall transfer the unobligated June 30, 2017, balance in the Nebraska Snowmobile Trail Cash Fund to the General Fund on or before July 31, 2017, on such date as directed by the budget administrator of the budget division of the Department of Administrative Services.

Source: Laws 2005, LB 274, § 218; Laws 2009, First Spec. Sess., LB3, § 35; Laws 2017, LB331, § 27.
Effective date May 16, 2017.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

60-3,224 Nebraska 150 Sesquicentennial Plates; application; form; fee; delivery; transfer; procedure; fee.

(1) Beginning October 1, 2015, and ending December 31, 2022, a person may apply to the department for Nebraska 150 Sesquicentennial Plates in lieu of regular license plates on an application prescribed and provided by the department for any motor vehicle, trailer, or semitrailer, except for a motor vehicle or trailer registered under section 60-3,198. An applicant receiving a plate under this section for a farm truck with a gross weight of over sixteen tons shall affix the appropriate tonnage decal to the plate. The department shall make forms available for such applications through the county treasurers.

(2) Each application for initial issuance or renewal of Nebraska 150 Sesquicentennial Plates shall be accompanied by a fee of seventy dollars. Fees collected pursuant to this section shall be remitted to the State Treasurer. The State Treasurer shall credit fifteen percent of the fee for initial issuance and renewal of plates under subsection (3) of section 60-3,223 to the Department of Motor Vehicles Cash Fund and eighty-five percent of such fee to the Nebraska 150 Sesquicentennial Plate Proceeds Fund. The State Treasurer shall credit forty-three percent of the fee for initial issuance and renewal of plates under subsection (4) of section 60-3,223 to the Department of Motor Vehicles Cash Fund and fifty-seven percent of such fee to the Nebraska 150 Sesquicentennial Plate Proceeds Fund.

(3) Until January 1, 2019, when the department receives an application for Nebraska 150 Sesquicentennial Plates, the department shall deliver the plates to the county treasurer of the county in which the motor vehicle or trailer is registered. Beginning January 1, 2019, when the department receives an application for Nebraska 150 Sesquicentennial Plates, the department may deliver the plates and registration certificate to the applicant by United States mail or to the county treasurer of the county in which the motor vehicle or trailer is registered and the delivery of the plates and registration certificate shall be made through a secure process and system. The county treasurer or the department shall issue plates under this section in lieu of regular license plates when the applicant complies with the other provisions of the Motor Vehicle Registration Act for registration of the motor vehicle or trailer. If plates are

lost, stolen, or mutilated, the licensee shall be issued replacement license plates pursuant to section 60-3,157.

(4) The owner of a motor vehicle or trailer bearing Nebraska 150 Sesquicentennial Plates may apply to the county treasurer to have such plates transferred to a motor vehicle or trailer other than the motor vehicle or trailer for which such plates were originally purchased if such motor vehicle or trailer is owned by the owner of the plates. The owner may have the unused portion of the fee for the plates credited to the other motor vehicle or trailer which will bear the plates at the rate of eight and one-third percent per month for each full month left in the registration period. Application for such transfer shall be accompanied by a fee of three dollars. The State Treasurer shall credit fees collected pursuant to this subsection to the Department of Motor Vehicles Cash Fund.

(5) Nebraska 150 Sesquicentennial Plates shall not be issued or renewed beginning on January 1, 2023.

Source: Laws 2015, LB220, § 8; Laws 2017, LB263, § 56.
Operative date August 24, 2017.

60-3,227 Mountain Lion Conservation Plates; application; form; fee; delivery; transfer; procedure; fee.

(1) Beginning October 1, 2016, a person may apply to the department for Mountain Lion Conservation Plates in lieu of regular license plates on an application prescribed and provided by the department for any motor vehicle, trailer, or semitrailer, except for a motor vehicle, trailer, or semitrailer registered under section 60-3,198. An applicant receiving a Mountain Lion Conservation Plate for a farm truck with a gross weight of over sixteen tons shall affix the appropriate tonnage decal to the plate. The department shall make forms available for such applications through the county treasurers. The license plates shall be issued upon payment of the license fee described in subsection (2) of this section.

(2)(a) In addition to all other fees required for registration under the Motor Vehicle Registration Act, each application for initial issuance of alphanumeric Mountain Lion Conservation Plates shall be accompanied by a fee of five dollars. An application for renewal of such plates shall be accompanied by a fee of five dollars. County treasurers collecting fees pursuant to this subdivision shall remit them to the State Treasurer. The State Treasurer shall credit five dollars of the fee to the Game and Parks Commission Educational Fund.

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

(3) Until January 1, 2019, when the department receives an application for Mountain Lion Conservation Plates, the department shall deliver the plates to the county treasurer of the county in which the motor vehicle, trailer, or semitrailer is registered. Beginning January 1, 2019, when the department receives an application for Mountain Lion Conservation Plates, the department may deliver the plates and registration certificate to the applicant by United

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

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

(5) If the cost of manufacturing Mountain Lion Conservation Plates at any time exceeds the amount charged for license plates pursuant to section 60-3,102, any money to be credited to the Game and Parks Commission Educational Fund shall instead be credited first to the Highway Trust Fund in an amount equal to the difference between the manufacturing costs of Mountain Lion Conservation Plates and the amount charged pursuant to section 60-3,102 with respect to such plates and the remainder shall be credited to the Game and Parks Commission Educational Fund.

Source: Laws 2016, LB474, § 10; Laws 2017, LB263, § 57.
Operative date August 24, 2017.

60-3,229 Public power district license plates; registration fee.

The registration fee for a public power district motor vehicle shall be the fee provided for commercial motor vehicles in section 60-3,147. The registration fee for a public power district trailer shall be the fee provided for a trailer in section 60-3,151.

Source: Laws 2016, LB783, § 12; Laws 2017, LB263, § 58.
Operative date April 28, 2017.

60-3,231 Breast Cancer Awareness Plates; application; form; fee; delivery; transfer; procedure; fee.

(1) Beginning January 1, 2017, a person may apply to the department for Breast Cancer Awareness Plates in lieu of regular license plates on an application prescribed and provided by the department for any motor vehicle, trailer, or semitrailer, except for a motor vehicle or trailer registered under section 60-3,198. An applicant receiving a plate under this section for a farm truck with a gross weight of over sixteen tons shall affix the appropriate tonnage decal to the plate. The department shall make forms available for such applications through the county treasurers.

(2) In addition to all other fees required for registration under the Motor Vehicle Registration Act, each application for initial issuance or renewal of

personalized message Breast Cancer Awareness Plates shall be accompanied by a fee of forty dollars. No such additional fee shall be due for the initial issuance or renewal of alphanumeric Breast Cancer Awareness Plates. County treasurers collecting fees pursuant to this subsection shall remit them to the State Treasurer. The State Treasurer shall credit twenty-five percent of the fee to the Highway Trust Fund and seventy-five percent of the fee to the Department of Motor Vehicles Cash Fund.

(3) Until January 1, 2019, when the department receives an application for Breast Cancer Awareness Plates, the department shall deliver the plates to the county treasurer of the county in which the motor vehicle or trailer is registered. Beginning January 1, 2019, when the department receives an application for Breast Cancer Awareness Plates, the department may deliver the plates and registration certificate to the applicant by United States mail or to the county treasurer of the county in which the motor vehicle or trailer is registered and the delivery of the plates and registration certificate shall be made through a secure process and system. The county treasurer or the department shall issue plates under this section in lieu of regular license plates when the applicant complies with the other provisions of the Motor Vehicle Registration Act for registration of the motor vehicle or trailer. If Breast Cancer Awareness Plates are lost, stolen, or mutilated, the licensee shall be issued replacement license plates upon request pursuant to section 60-3,157.

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

Source: Laws 2016, LB977, § 10; Laws 2017, LB263, § 59.

Operative date August 24, 2017.

60-3,232 Choose Life Plates; design.

(1) The department shall design license plates to be known as Choose Life License Plates. The department shall create designs reflecting support for the protection of Nebraska's children. The design shall be selected on the basis of limiting the manufacturing cost of each plate to an amount less than or equal to the amount charged for license plates pursuant to section 60-3,102. The department shall make applications available for this type of plate beginning January 1, 2018. The department may adopt and promulgate rules and regulations to carry out this section and section 60-3,233.

(2) One type of Choose Life License Plates shall be alphanumeric plates. The department shall:

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

(3) One type of Choose Life License Plates shall be personalized message plates. Such plates shall be issued subject to the same conditions specified for

personalized message license plates in section 60-3,118, except that a maximum of five characters may be used.

Source: Laws 2017, LB46, § 7.

Effective date August 24, 2017.

60-3,233 Choose Life Plates; application; form; fee; transfer; procedure; fee.

(1) Beginning January 1, 2018, a person may apply to the department for Choose Life License Plates in lieu of regular license plates on an application prescribed and provided by the department for any motor vehicle or trailer, except for a motor vehicle or trailer registered under section 60-3,198. An applicant receiving a Choose Life License Plate for a farm truck with a gross weight of over sixteen tons or a commercial truck or truck-tractor with a gross weight of five tons or over shall affix the appropriate tonnage decal to the plate. The department shall make forms available for such applications through the county treasurers. The license plates shall be issued upon payment of the license fee described in subsection (2) of this section.

(2)(a) In addition to all other fees required for registration under the Motor Vehicle Registration Act, each application for initial issuance of alphanumeric Choose Life License Plates shall be accompanied by a fee of five dollars. An application for renewal of such plates shall be accompanied by a fee of five dollars. County treasurers collecting fees pursuant to this subdivision shall remit them to the State Treasurer. The State Treasurer shall credit five dollars of the fee to the Health and Human Services Cash Fund to supplement federal funds available to the Department of Health and Human Services for the Temporary Assistance for Needy Families program, 42 U.S.C. 601, et seq.

(b) In addition to all other fees required for registration under the Motor Vehicle Registration Act, each application for initial issuance or renewal of personalized message Choose Life License Plates shall be accompanied by a fee of forty dollars. County treasurers collecting fees pursuant to this subdivision shall remit them to the State Treasurer. The State Treasurer shall credit twenty-five percent of the fee for initial issuance and renewal of such plates to the Department of Motor Vehicles Cash Fund and seventy-five percent of the fee to the Health and Human Services Cash Fund to supplement federal funds available to the Department of Health and Human Services for the Temporary Assistance for Needy Families program.

(3) When the department receives an application for Choose Life License Plates, the department shall deliver the plates to the county treasurer of the county in which the motor vehicle or trailer is registered. The county treasurer shall issue Choose Life License Plates in lieu of regular license plates when the applicant complies with the other provisions of the Motor Vehicle Registration Act for registration of the motor vehicle or trailer. If Choose Life License Plates are lost, stolen, or mutilated, the licensee shall be issued replacement license plates upon request pursuant to section 60-3,157.

(4) The owner of a motor vehicle or trailer bearing Choose Life License Plates may apply to the county treasurer to have such plates transferred to a motor vehicle other than the vehicle for which such plates were originally purchased if such vehicle is owned by the owner of the plates. The owner may have the unused portion of the fee for the plates credited to the other vehicle which will bear the plates at the rate of eight and one-third percent per month for each full month left in the registration period. Application for such transfer shall be

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

(5) If the cost of manufacturing Choose Life License Plates at any time exceeds the amount charged for license plates pursuant to section 60-3,102, any money to be credited to the Health and Human Services Cash Fund to supplement federal funds available to the Department of Health and Human Services for the Temporary Assistance for Needy Families program shall instead be credited first to the Highway Trust Fund in an amount equal to the difference between the manufacturing costs of Choose Life License Plates and the amount charged pursuant to section 60-3,102 with respect to such plates and the remainder shall be credited to the Health and Human Services Cash Fund to supplement federal funds available to the Department of Health and Human Services for the Temporary Assistance for Needy Families program.

Source: Laws 2017, LB46, § 8.

Effective date August 24, 2017.

60-3,234 Native American Cultural Awareness and History Plates; design requirements.

(1) The department, in consultation with the Commission on Indian Affairs, shall design license plates to be known as Native American Cultural Awareness and History Plates. The design shall reflect the unique culture and history of Native American tribes historically and currently located in Nebraska. The design shall be selected on the basis of limiting the manufacturing cost of each plate to an amount less than or equal to the amount charged for license plates pursuant to section 60-3,102. The department shall make applications available for this type of plate by January 1, 2018. The department may adopt and promulgate rules and regulations to carry out this section and section 60-3,235.

(2) One type of Native American Cultural Awareness and History Plates shall be alphanumeric plates. The department shall:

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

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

Source: Laws 2017, LB263, § 60.

Operative date August 24, 2017.

60-3,235 Native American Cultural Awareness and History Plates; application; form; fee; delivery; transfer; procedure; fee.

(1) Beginning January 1, 2018, a person may apply to the department for Native American Cultural Awareness and History Plates in lieu of regular license plates on an application prescribed and provided by the department for any motor vehicle or trailer, except for a motor vehicle or trailer registered under section 60-3,198. An applicant receiving a Native American Cultural Awareness and History Plate for a farm truck with a gross weight of over sixteen tons shall affix the appropriate tonnage decal to the plate. The department shall make forms available for such applications through the county

treasurers. The license plates shall be issued upon payment of the license fee described in subsection (2) of this section.

(2)(a) In addition to all other fees required for registration under the Motor Vehicle Registration Act, each application for initial issuance or renewal of alphanumeric Native American Cultural Awareness and History Plates shall be accompanied by a fee of five dollars. County treasurers collecting fees pursuant to this subdivision shall remit them to the State Treasurer. The State Treasurer shall credit five dollars of the fee to the Native American Scholarship and Leadership Fund.

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

(3) Until January 1, 2019, when the department receives an application for Native American Cultural Awareness and History Plates, the department shall deliver the plates to the county treasurer of the county in which the motor vehicle or trailer is registered. Beginning January 1, 2019, when the department receives an application for Native American Cultural Awareness and History Plates, the department may deliver the plates and registration certificate to the applicant by United States mail or to the county treasurer of the county in which the motor vehicle or trailer is registered and the delivery of the plates and registration certificate shall be made through a secure process and system. The county treasurer or the department shall issue Native American Cultural Awareness and History Plates in lieu of regular license plates when the applicant complies with the other provisions of the Motor Vehicle Registration Act for registration of the motor vehicle or trailer. If Native American Cultural Awareness and History Plates are lost, stolen, or mutilated, the licensee shall be issued replacement license plates upon request pursuant to section 60-3,157.

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

(5) If the cost of manufacturing Native American Cultural Awareness and History Plates at any time exceeds the amount charged for license plates pursuant to section 60-3,102, any money to be credited to the Native American Scholarship and Leadership Fund shall instead be credited first to the Highway Trust Fund in an amount equal to the difference between the manufacturing costs of Native American Cultural Awareness and History Plates and the

amount charged pursuant to section 60-3,102 with respect to such plates and the remainder shall be credited to the Native American Scholarship and Leadership Fund.

Source: Laws 2017, LB263, § 61.
Operative date August 24, 2017.

ARTICLE 4
MOTOR VEHICLE OPERATORS' LICENSES

(e) GENERAL PROVISIONS

Section

60-462.01. Federal regulations; adopted.

(f) PROVISIONS APPLICABLE TO ALL OPERATORS' LICENSES

- 60-479.01. Fraudulent document recognition training; criminal history record information check; lawful status check; cost.
- 60-483. Operator's license; numbering; records; abstracts of operating records; fees; information to United States Selective Service System; when; reciprocity agreement with foreign country.
- 60-4,100. Suspension; when authorized; citation; lack of financial ability to pay; hearing; determination; court or magistrate; powers; order; operate as release.
- 60-4,105. Appeal; procedure.
- 60-4,108. Operating motor vehicle during period of suspension, revocation, or impoundment; penalties; juvenile; violation; handled in juvenile court.
- 60-4,109. Operating motor vehicle during period of suspension, revocation, or impoundment; city or village ordinance; penalties.

(g) PROVISIONS APPLICABLE TO OPERATION OF MOTOR VEHICLES OTHER THAN COMMERCIAL

- 60-4,114. County treasurer; personnel; examination of applicant; denial or refusal of certificate; appeal; medical opinion.
- 60-4,118. Vision requirements; persons with physical impairments; physical or mental incompetence; prohibited act; penalty.
- 60-4,118.02. Repealed. Laws 2017, LB644, § 21.
- 60-4,118.03. Mental, medical, or vision problems; records and reports; examinations; reports; appeal; immunity.
- 60-4,118.04. Repealed. Laws 2017, LB644, § 21.

(h) PROVISIONS APPLICABLE TO OPERATION OF COMMERCIAL MOTOR VEHICLES

- 60-4,146. Application; requirements of federal law; certification.
- 60-4,147.02. Hazardous materials endorsement; USA PATRIOT Act requirements.
- 60-4,168. Disqualification; when.
- 60-4,168.01. Out-of-service order; violation; disqualification; when.

(e) GENERAL PROVISIONS

60-462.01 Federal regulations; adopted.

For purposes of the Motor Vehicle Operator's License Act, the following federal regulations are adopted as Nebraska law as they existed on January 1, 2017:

The parts, subparts, and sections of Title 49 of the Code of Federal Regulations, as referenced in the Motor Vehicle Operator's License Act.

Source: Laws 2003, LB 562, § 20; Laws 2004, LB 560, § 36; Laws 2005, LB 76, § 3; Laws 2006, LB 853, § 7; Laws 2006, LB 1007, § 4; Laws 2007, LB239, § 4; Laws 2008, LB756, § 16; Laws 2009,

LB331, § 7; Laws 2010, LB805, § 3; Laws 2011, LB178, § 3; Laws 2011, LB212, § 5; Laws 2012, LB751, § 17; Laws 2013, LB35, § 3; Laws 2014, LB776, § 4; Laws 2014, LB983, § 3; Laws 2015, LB313, § 4; Laws 2016, LB929, § 6; Laws 2017, LB263, § 62.

Operative date April 28, 2017.

(f) PROVISIONS APPLICABLE TO ALL OPERATORS' LICENSES

60-479.01 Fraudulent document recognition training; criminal history record information check; lawful status check; cost.

(1) All persons handling source documents or engaged in the issuance of new, renewed, or reissued operators' licenses or state identification cards shall have periodic fraudulent document recognition training.

(2) All persons and agents of the department involved in the recording of verified application information or verified operator's license and state identification card information, involved in the manufacture or production of licenses or cards, or who have the ability to affect information on such licenses or cards shall be subject to a criminal history record information check, including a check of prior employment references, and a lawful status check as required by 6 C.F.R. part 37, as such part existed on January 1, 2017. Such persons and agents shall provide fingerprints which shall be submitted to the Federal Bureau of Investigation. The bureau shall use its records for the criminal history record information check.

(3) Upon receipt of a request pursuant to subsection (2) of this section, the Nebraska State Patrol shall undertake a search for criminal history record information relating to such applicant, including transmittal of the applicant's fingerprints to the Federal Bureau of Investigation for a national criminal history record information check. The criminal history record information check shall include information concerning the applicant from federal repositories of such information and repositories of such information in other states, if authorized by federal law. The Nebraska State Patrol shall issue a report to the employing public agency that shall include the criminal history record information concerning the applicant. The cost of any background check shall be borne by the employer of the person or agent.

(4) Any person convicted of any disqualifying offense as provided in 6 C.F.R. part 37, as such part existed on January 1, 2017, shall not be involved in the recording of verified application information or verified operator's license and state identification card information, involved in the manufacture or production of licenses or cards, or involved in any capacity in which such person would have the ability to affect information on such licenses or cards. Any employee or prospective employee of the department shall be provided notice that he or she will undergo such criminal history record information check prior to employment or prior to any involvement with the issuance of operators' licenses or state identification cards.

Source: Laws 2008, LB911, § 8; Laws 2011, LB215, § 4; Laws 2012, LB751, § 18; Laws 2013, LB35, § 4; Laws 2014, LB776, § 5; Laws 2015, LB313, § 5; Laws 2016, LB929, § 7; Laws 2017, LB263, § 63.

Operative date April 28, 2017.

60-483 Operator's license; numbering; records; abstracts of operating records; fees; information to United States Selective Service System; when; reciprocity agreement with foreign country.

(1) The director shall assign a distinguishing number to each operator's license issued and shall keep a record of the same which shall be open to public inspection by any person requesting inspection of such record who qualifies under section 60-2906 or 60-2907. Any person requesting such driver record information shall furnish to the Department of Motor Vehicles (a) verification of identity and purpose that the requester is entitled under section 60-2906 or 60-2907 to disclosure of the personal information in the record, (b) the name of the person whose record is being requested, and (c) when the name alone is insufficient to identify the correct record, the department may request additional identifying information. The department shall, upon request of any requester, furnish a certified abstract of the operating record of any person, in either hard copy or electronically, and shall charge the requester a fee of three dollars per abstract.

(2) The department shall remit any revenue generated under subsections (1) through (5) of this section to the State Treasurer, and the State Treasurer shall credit eight and one-third percent to the Department of Motor Vehicles Cash Fund, fifty-eight and one-third percent to the General Fund, and thirty-three and one-third percent to the Records Management Cash Fund.

(3) The director shall, upon receiving a request and an agreement from the United States Selective Service System to comply with requirements of this section, furnish driver record information to the United States Selective Service System to include the name, post office address, date of birth, sex, and social security number of licensees. The United States Selective Service System shall pay all costs incurred by the department in providing the information but shall not be required to pay any other fee required by law for information. No driver record information shall be furnished to the United States Selective Service System regarding any female, nor regarding any male other than those between the ages of seventeen years and twenty-six years. The information shall only be used in the fulfillment of the required duties of the United States Selective Service System and shall not be furnished to any other person.

(4) The director shall keep a record of all applications for operators' licenses that are disapproved with a brief statement of the reason for disapproval of the application.

(5) The director may establish a monitoring service which provides information on operating records that have changed due to any adjudicated traffic citation or administrative action. The director shall charge a fee of six cents per operating record searched pursuant to this section and the fee provided in subsection (1) of this section for each abstract returned as a result of the search.

(6) Driver record header information, including name, license number, date of birth, address, and physical description, from every driver record maintained by the department may be made available so long as the Uniform Motor Vehicle Records Disclosure Act is not violated. Monthly updates, including all new records, may also be made available. There shall be a fee of eighteen dollars per thousand records. All fees collected pursuant to this subsection shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

(7) The department may enter into a reciprocity agreement with a foreign country to provide for the mutual recognition and reciprocal exchange of a valid operator's license issued by this state or the foreign country if the department determines that the licensing standards of the foreign country are comparable to those of this state. Any such agreement entered into by the department shall not include the mutual recognition and reciprocal exchange of a commercial driver's license.

Source: Laws 1929, c. 149, § 9, p. 516; C.S.1929, § 60-409; Laws 1937, c. 141, § 19, p. 516; Laws 1941, c. 176, § 2, p. 688; C.S.Supp.,1941, § 60-409; R.S.1943, § 60-412; Laws 1961, c. 315, § 9, p. 1005; Laws 1961, c. 316, § 9, p. 1014; Laws 1963, c. 360, § 1, p. 1154; Laws 1965, c. 384, § 1, p. 1238; Laws 1973, LB 319, § 1; Laws 1974, LB 974, § 1; Laws 1978, LB 502, § 1; Laws 1983, LB 326, § 1; Laws 1984, LB 694, § 2; Laws 1984, LB 711, § 1; Laws 1987, LB 300, § 2; Laws 1987, LB 767, § 1; R.S.1943, (1988), § 60-412; Laws 1989, LB 285, § 33; Laws 1993, LB 491, § 10; Laws 1995, LB 467, § 9; Laws 1997, LB 590, § 2; Laws 1997, LB 635, § 19; Laws 1997, LB 720, § 17; Laws 2000, LB 1317, § 6; Laws 2001, LB 106, § 1; Laws 2003, LB 562, § 3; Laws 2004, LB 560, § 37; Laws 2017, LB263, § 64.
Operative date August 24, 2017.

Cross References

Uniform Motor Vehicle Records Disclosure Act, see section 60-2901.

60-4,100 Suspension; when authorized; citation; lack of financial ability to pay; hearing; determination; court or magistrate; powers; order; operate as release.

(1) Any resident of this state who has violated a promise to comply with the terms of a traffic citation issued by a law enforcement officer for a moving violation in any jurisdiction outside this state pursuant to the Nonresident Violator Compact of 1977 or in any jurisdiction inside this state shall be subject to having his or her operator's license suspended pursuant to this section.

(2) The court having jurisdiction over the offense for which the citation has been issued shall notify the director of a resident's violation of a promise to comply with the terms of the citation after thirty working days have elapsed from the date of the failure to comply, unless within such thirty working days the resident appears before the clerk of the county court having jurisdiction over the offense to request a hearing pursuant to subsection (3) of this section to establish that such resident lacks the financial ability to pay the citation.

(3) A hearing requested under subsection (2) of this section shall be set before the court or magistrate on the first regularly scheduled court date following the request. At the hearing, the resident shall have the opportunity to present information as to his or her income, assets, debts, or other matters affecting his or her financial ability to pay the citation. Following the hearing, the court or magistrate shall determine the resident's financial ability to pay the citation, including his or her financial ability to pay in installments.

(4)(a) Except as provided in subdivision (4)(c) of this section, if the court or magistrate determines under subsection (3) of this section that the resident is financially able to pay the citation and the resident refuses to pay, the court or magistrate shall either:

(i) Notify the director of the resident's violation of a promise to comply with the terms of the citation; or

(ii) Postpone the hearing for a period of no more than one month during which period the court or magistrate may order the resident to complete such hours of community service as the court or magistrate deems appropriate, subject to a total limit of twenty hours. At the end of such period, if the resident has completed such community service to the satisfaction of the court or magistrate, the court or magistrate shall enter an order pursuant to subsection (5) of this section discharging the resident of the obligation to pay such citation and shall notify the director. If the resident has not completed such community service to the satisfaction of the court or magistrate, the court or magistrate shall notify the director of the resident's violation of a promise to comply with the terms of the citation. A hearing may only be postponed once under this subdivision.

(b) If the court or magistrate determines under subsection (3) of this section that the resident is financially unable to pay the citation, the court or magistrate shall either:

(i) Enter an order pursuant to subsection (5) of this section discharging the resident of the obligation to pay such citation;

(ii) Postpone the hearing for a period of no more than one month during which period the court or magistrate may order the resident to complete such hours of community service as the court or magistrate deems appropriate, subject to a total limit of twenty hours. At the end of such period, if the resident has completed such community service to the satisfaction of the court or magistrate, the court or magistrate shall enter an order pursuant to subsection (5) of this section discharging the resident of the obligation to pay such citation and shall notify the director. If the resident has not completed such community service to the satisfaction of the court or magistrate, the court or magistrate shall notify the director of the resident's violation of a promise to comply with the terms of the citation. A hearing may only be postponed once under this subdivision.

(c) If the court or magistrate determines under subsection (3) of this section that the resident is financially able to pay in installments and the resident agrees to make such payments, the court or magistrate shall make arrangements suitable to the court or magistrate and to the resident by which the resident may pay in installments. The court or magistrate shall enter an order specifying the terms of such arrangements and the dates on which payments are to be made. If the resident fails to pay an installment, the court or magistrate shall notify the director of the resident's violation of a promise to comply with the terms of the citation unless the resident requests a hearing from the clerk of the county court on or before ten working days after such installment was due. At the hearing, the resident shall show good cause for such failure, including financial inability to pay. If, following such hearing, the court or magistrate finds:

(i) That the resident has not demonstrated good cause for such failure, the court or magistrate shall either notify the director of the resident's violation of a promise to comply with the terms of the citation or postpone the hearing and order community service pursuant to subdivision (4)(a)(ii) of this section;

(ii) That the resident remains financially able to pay but has demonstrated good cause for such missed installment, the court or magistrate shall make any

necessary modifications to the order specifying the terms of the installment payments; or

(iii) That the resident has become financially unable to pay, the court or magistrate shall enter an order pursuant to subsection (5) of this section discharging the resident of the obligation to pay such citation and shall notify the director.

(5) An order discharging the resident of the obligation to pay a traffic citation shall be set forth in or accompanied by a judgment entry. Such order shall operate as a complete release of such payment obligation.

(6) Upon notice to the director that a resident has violated a promise to comply with the terms of a traffic citation as provided in this section, the director shall send written notice to such resident by regular United States mail to the resident's last-known mailing address or, if such address is unknown, to the last-known residence address of such resident as shown by the records of the department. Such notice shall state that such resident has twenty working days after the date of the notice to show the director that the resident has complied with the terms of such traffic citation. If the resident fails to show the director that he or she has complied with the terms of such traffic citation on or before twenty working days after the date of the notice, the director shall summarily suspend the operator's license and issue an order. The order shall be sent by regular United States mail to the resident's last-known mailing address as shown by the records of the department. The suspension shall continue until the resident has furnished the director with satisfactory evidence of compliance with the terms of the citation.

(7) The reinstatement fee required under section 60-4,100.01 shall be waived if five years have passed since issuance of the license suspension order under this section.

(8) The performance or completion of an order to complete community service under this section may be supervised or confirmed by a community correctional facility or program or another similar entity as ordered by the court or magistrate.

(9) For purposes of this section:

(a) Agency means any public or governmental unit, institution, division, or agency or any private nonprofit organization which provides services intended to enhance the social welfare or general well-being of the community, which agrees to accept community service from residents under this section and to supervise and report the progress of such community service to the court or magistrate;

(b) Community correctional facility or program has the same meaning as in section 47-621; and

(c) Community service means uncompensated labor for an agency to be performed by a resident when the resident is not working or attending school.

Source: Laws 1937, c. 141, § 23, p. 518; Laws 1941, c. 124, § 4, p. 472; C.S.Supp.,1941, § 60-428; R.S.1943, § 60-426; Laws 1981, LB 344, § 2; Laws 1986, LB 153, § 10; R.S.1943, (1988), § 60-426; Laws 1989, LB 285, § 50; Laws 1991, LB 420, § 10; Laws 1993, LB 491, § 11; Laws 1997, LB 10, § 1; Laws 2001, LB 38, § 21; Laws 2012, LB751, § 22; Laws 2017, LB259, § 13.
Operative date July 1, 2019.

Cross References

Nonresident Violator Compact of 1977, see section 1-119, Vol. 2A, Appendix.

60-4,105 Appeal; procedure.

(1) Unless otherwise provided by statute, any person aggrieved by a final decision or order of the director or the Department of Motor Vehicles to cancel, suspend, revoke, or refuse to issue or renew any operator's license, any decision of the director, or suspension of an operator's license under the License Suspension Act may appeal to either the district court of the county in which the person originally applied for the license or the district court of the county in which such person resides or, in the case of a nonresident, to the district court of Lancaster County within thirty days after the date of the final decision or order.

(2) Summons shall be served on the department within thirty days after the filing of the petition in the manner provided for service of a summons in section 25-510.02. Within thirty days after service of the petition and summons, the department shall prepare and transmit to the petitioner a certified copy of the official record of the proceedings before the department. The department shall require payment of a five-dollar fee prior to the transmittal of the official record. The petitioner shall file the transcript with the court within fourteen days after receiving the transcript from the department.

(3) The district court shall hear the appeal as in equity without a jury and determine anew all questions raised before the director. Either party may appeal from the decision of the district court to the Court of Appeals.

(4) The appeal procedures described in the Administrative Procedure Act shall not apply to this section.

Source: Laws 1937, c. 141, § 29, p. 522; Laws 1941, c. 124, § 8, p. 475; C.S.Supp., 1941, § 60-433; R.S. 1943, § 60-420; Laws 1984, LB 697, § 1; Laws 1988, LB 352, § 105; R.S. 1943, (1988), § 60-420; Laws 1989, LB 285, § 55; Laws 1989, LB 352, § 1; Laws 1991, LB 732, § 121; Laws 1994, LB 211, § 3; Laws 1997, LB 752, § 139; Laws 1999, LB 704, § 14; Laws 2002, LB 876, § 79; Laws 2017, LB644, § 11.

Effective date August 24, 2017.

Cross References

Administrative Procedure Act, see section 84-920.

License Suspension Act, see section 43-3301.

60-4,108 Operating motor vehicle during period of suspension, revocation, or impoundment; penalties; juvenile; violation; handled in juvenile court.

(1) It shall be unlawful for any person to operate a motor vehicle during any period that he or she is subject to a court order not to operate any motor vehicle for any purpose or during any period that his or her operator's license has been revoked or impounded pursuant to conviction or convictions for violation of any law or laws of this state, by an order of any court, or by an administrative order of the director. Except as otherwise provided by subsection (3) of this section or by other law, any person so offending shall (a) for a first such offense, be guilty of a Class II misdemeanor, and the court shall, as a part of the judgment of conviction, order such person not to operate any motor vehicle for any purpose for a period of one year from the date ordered by the

court and also order the operator's license of such person to be revoked for a like period, unless the person was placed on probation, then revocation may be ordered at the court's discretion, (b) for a second or third such offense, be guilty of a Class II misdemeanor, and the court shall, as a part of the judgment of conviction, order such person not to operate any motor vehicle for any purpose for a period of two years from the date ordered by the court and also order the operator's license of such person to be revoked for a like period, and (c) for a fourth or subsequent such offense, be guilty of a Class I misdemeanor, and the court shall, as a part of the judgment of conviction, order such person not to operate any motor vehicle for any purpose for a period of two years from the date ordered by the court and also order the operator's license of such person to be revoked for a like period. Such orders of the court shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked.

(2) It shall be unlawful for any person to operate a motor vehicle (a) during any period that his or her operator's license has been suspended, (b) after a period of revocation but before issuance of a new license, or (c) after a period of impoundment but before the return of the license. Except as provided in subsection (3) of this section, any person so offending shall be guilty of a Class III misdemeanor, and the court may, as a part of the judgment of conviction, order such person not to operate any motor vehicle for any purpose for a period of one year from the date ordered by the court, except that if the person at the time of sentencing shows proof of reinstatement of his or her suspended operator's license, proof of issuance of a new license, or proof of return of the impounded license, the person shall only be fined in an amount not to exceed one hundred dollars. If the court orders the person not to operate a motor vehicle for a period of one year from the date ordered by the court, the court shall also order the operator's license of such person to be revoked for a like period. Such orders of the court shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked.

(3) If a juvenile whose operator's license or permit has been impounded by a juvenile court operates a motor vehicle during any period that he or she is subject to the court order not to operate any motor vehicle or after a period of impoundment but before return of the license or permit, such violation shall be handled in the juvenile court and not as a violation of this section.

Source: Laws 1957, c. 275, § 2, p. 1002; Laws 1959, c. 293, § 3, p. 1099; Laws 1977, LB 39, § 81; Laws 1979, LB 149, § 1; Laws 1985, LB 356, § 1; Laws 1986, LB 153, § 12; R.S.1943, (1988), § 60-430.01; Laws 1989, LB 285, § 58; Laws 1997, LB 772, § 4; Laws 2001, LB 38, § 25; Laws 2010, LB800, § 34; Laws 2012, LB1155, § 13; Laws 2017, LB263, § 65.
Operative date August 24, 2017.

60-4,109 Operating motor vehicle during period of suspension, revocation, or impoundment; city or village ordinance; penalties.

(1) Upon conviction of any person in any court within this state of a violation of any city or village ordinance pertaining to the operation of a motor vehicle by such person during any period that he or she is subject to a court order not to operate any motor vehicle for any purpose or during any period that his or

her operator's license has been revoked or impounded pursuant to any law of this state, such person shall (a) for a first such offense, be guilty of a Class II misdemeanor, and the court shall, as a part of the judgment of conviction, order such person not to operate any motor vehicle for any purpose for a period of one year from the date ordered by the court and also order the operator's license of such person to be revoked for a like period, unless the person was placed on probation, then revocation may be ordered at the court's discretion, and (b) for each subsequent such offense, be guilty of a Class II misdemeanor, and the court shall, as a part of the judgment of conviction, order such person not to operate any motor vehicle for any purpose for a period of two years from the date ordered by the court and also order the operator's license of such person to be revoked for a like period. Such orders of the court shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked.

(2) Upon conviction of any person in any court within this state of a violation of any city or village ordinance pertaining to the operation of a motor vehicle by such person (a) during any period that his or her operator's license has been suspended pursuant to any law of this state, (b) after a period of revocation but before issuance of a new license, or (c) after a period of impoundment but before the return of the license, such person shall be guilty of a Class III misdemeanor, and the court may, as a part of the judgment of conviction, order such person not to operate any motor vehicle for any purpose for a period of one year from the date ordered by the court, except that if the person at the time of sentencing shows proof of reinstatement of his or her suspended operator's license, proof of issuance of a new license, or proof of return of the impounded license, the person shall only be fined in an amount not to exceed one hundred dollars. If the court orders the person not to operate a motor vehicle for a period of one year after the date ordered by the court, the court shall also order the operator's license of such person to be revoked for a like period. Such orders of the court shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked.

Source: Laws 1959, c. 293, § 4, p. 1099; R.S.1943, (1988), § 60-430.05; Laws 1989, LB 285, § 59; Laws 1997, LB 772, § 5; Laws 2001, LB 38, § 26; Laws 2017, LB263, § 66.
Operative date August 24, 2017.

(g) PROVISIONS APPLICABLE TO OPERATION OF MOTOR
VEHICLES OTHER THAN COMMERCIAL

60-4,114 County treasurer; personnel; examination of applicant; denial or refusal of certificate; appeal; medical opinion.

(1) The county treasurer may employ such additional clerical help as may be necessary to assist him or her in the performance of the ministerial duties required of him or her under the Motor Vehicle Operator's License Act and, for such additional expense, shall be reimbursed as set out in section 60-4,115.

(2) The director may, in his or her discretion, appoint department personnel to examine all applicants who apply for an initial license or whose licenses have been revoked or canceled to ascertain such person's ability to operate a motor vehicle properly and safely.

(3) Except as otherwise provided in section 60-4,122, the application process, in addition to the other requisites of the act, shall include the following:

(a) An inquiry into the medical condition and visual ability of the applicant to operate a motor vehicle;

(b) An inquiry into the applicant's ability to drive and maneuver a motor vehicle, except that no driving skills test shall be conducted using an autocycle; and

(c) An inquiry touching upon the applicant's knowledge of the motor vehicle laws of this state, which shall include sufficient questions to indicate familiarity with the provisions thereof.

(4) If an applicant is denied or refused a certificate for license or a license is canceled, such applicant or licensee shall have the right to an immediate appeal to the director from the decision. It shall be the duty of the director to review the appeal and issue a final order, to be made not later than ten days after the receipt of the appeal by the director. The director shall issue a final order not later than ten days following receipt of the medical opinion if the applicant or licensee submits reports from a physician of his or her choice for the director's consideration as provided in section 60-4,118.03. The applicant or licensee who files an appeal pursuant to this section shall notify the director in writing if he or she intends to submit records or reports for consideration. Such notice must be received by the director not later than ten days after an appeal is filed pursuant to this section to stay the director's decision until after the consideration of such records or reports as provided in section 60-4,118.03. After consideration of evidence in the records of the applicant or licensee, including any records submitted by the applicant or licensee, the director shall make a determination of the physical or mental ability of the applicant or licensee to operate a motor vehicle and shall issue a final order. The order shall be in writing, shall be accompanied by findings of fact and conclusions of law, and shall be sent by regular United States mail to the last-known address of the applicant or licensee. The order may be appealed as provided in section 60-4,105.

Source: Laws 1929, c. 148, § 6, p. 514; C.S.1929, § 60-406; Laws 1931, c. 101, § 1, p. 272; Laws 1937, c. 141, § 16, p. 514; C.S.Supp.,1941, § 60-406; R.S.1943, § 60-408; Laws 1945, c. 141, § 5, p. 450; Laws 1947, c. 207, § 2, p. 676; Laws 1957, c. 366, § 38, p. 1272; Laws 1961, c. 307, § 5, p. 972; Laws 1961, c. 315, § 6, p. 1003; Laws 1961, c. 316, § 6, p. 1013; Laws 1972, LB 1439, § 1; Laws 1981, LB 76, § 2; R.S.1943, (1988), § 60-408; Laws 1989, LB 285, § 63; Laws 1994, LB 211, § 9; Laws 1999, LB 704, § 16; Laws 2001, LB 38, § 28; Laws 2001, LB 574, § 10; Laws 2011, LB215, § 12; Laws 2012, LB751, § 23; Laws 2015, LB231, § 22; Laws 2017, LB644, § 12.

Effective date August 24, 2017.

60-4,118 Vision requirements; persons with physical impairments; physical or mental incompetence; prohibited act; penalty.

(1) No operator's license shall be granted to any applicant until such applicant satisfies the examiner that he or she possesses sufficient powers of eyesight to enable him or her to obtain a Class O license and to operate a motor vehicle on the highways of this state with a reasonable degree of safety. The

Department of Motor Vehicles shall adopt and promulgate rules and regulations:

(a) Requiring a minimum acuity level of vision. Such level may be obtained through the use of standard eyeglasses, contact lenses, or bioptic or telescopic lenses which are specially constructed vision correction devices which include a lens system attached to or used in conjunction with a carrier lens; and

(b) Requiring a minimum field of vision. Such field of vision may be obtained through standard eyeglasses, contact lenses, or the carrier lens of the bioptic or telescopic lenses.

(2) If a vision aid is used by the applicant to meet the vision requirements of this section, the operator's license of the applicant shall be restricted to the use of such vision aid when operating the motor vehicle. If the applicant fails to meet the vision requirements, the examiner shall require the applicant to present an optometrist's or ophthalmologist's statement certifying the vision reading obtained when testing the applicant within ninety days of the applicant's license examination. If the vision reading meets the vision requirements prescribed by the department, the vision requirements of this section shall have been met. If the vision reading demonstrates that the applicant is required to use bioptic or telescopic lenses to operate a motor vehicle, the statement from the optometrist or ophthalmologist shall also indicate when the applicant needs to be reexamined for purposes of meeting the vision requirements for an operator's license as prescribed by the department. If such time period is two years or more after the date of the application, the license shall be valid for two years. If such time period is less than two years, the license shall be valid for such time period.

(3) If the applicant for an operator's license discloses that he or she has any other physical impairment which may affect the safety of operation by such applicant of a motor vehicle, the examiner shall require the applicant to show cause why such license should be granted and, through such personal examination and demonstration as may be prescribed by the director, to show the necessary ability to safely operate a motor vehicle on the highways. If the examiner is then satisfied that such applicant has the ability to safely operate a motor vehicle, an operator's license may be issued to the applicant subject, at the discretion of the director, to a limitation to operate only such motor vehicles at such time, for such purpose, and within such area as the license shall designate.

(4)(a) The director may, when requested by a law enforcement officer, when the director has reason to believe that a person may be physically or mentally incompetent to operate a motor vehicle, or when a person's driving record appears to the department to justify an examination, give notice to the person to appear before an examiner or a designee of the director for examination concerning the person's ability to operate a motor vehicle safely. Any such request by a law enforcement officer shall be accompanied by written justification for such request and shall be approved by a supervisory law enforcement officer, police chief, or county sheriff.

(b) A refusal to appear before an examiner or a designee of the director for an examination after notice to do so shall be unlawful and shall result in the immediate cancellation of the person's operator's license by the director.

(c) If the person cannot qualify at the examination by an examiner, his or her operator's license shall be immediately surrendered to the examiner and forwarded to the director who shall cancel the person's operator's license.

(d) If the director determines that the person lacks the physical or mental ability to operate a motor vehicle, the director shall notify the person in writing of the decision. Upon receipt of the notice, the person shall immediately surrender his or her operator's license to the director who shall cancel the person's operator's license.

(e) Refusal to surrender an operator's license on demand shall be unlawful, and any person failing to surrender his or her operator's license as required by this subsection shall be guilty of a Class III misdemeanor.

Source: Laws 1929, c. 148, § 5, p. 514; C.S.1929, § 60-405; Laws 1931, c. 104, § 2, p. 277; Laws 1937, c. 141, § 15, p. 512; C.S.Supp.,1941, § 60-405; R.S.1943, § 60-407; Laws 1945, c. 141, § 4, p. 449; Laws 1949, c. 179, § 11, p. 511; Laws 1951, c. 200, § 1, p. 753; Laws 1955, c. 240, § 1, p. 751; Laws 1955, c. 241, § 1, p. 754; Laws 1957, c. 272, § 1, p. 995; Laws 1959, c. 286, § 3, p. 1082; Laws 1959, c. 292, § 1, p. 1094; Laws 1961, c. 315, § 5, p. 1000; Laws 1961, c. 316, § 5, p. 1009; Laws 1963, c. 358, § 1, p. 1144; Laws 1963, c. 359, § 1, p. 1148; Laws 1965, c. 219, § 2, p. 637; Laws 1965, c. 381, § 1, p. 1230; Laws 1967, c. 234, § 2, p. 621; Laws 1971, LB 725, § 1; Laws 1973, LB 90, § 1; Laws 1974, LB 611, § 1; Laws 1974, LB 821, § 14; Laws 1977, LB 39, § 76; Laws 1984, LB 710, § 1; Laws 1984, LB 811, § 4; Laws 1987, LB 224, § 22; Laws 1988, LB 1093, § 1; Laws 1989, LB 284, § 5; R.S.1943, (1988), § 60-407; Laws 1989, LB 285, § 68; Laws 1990, LB 742, § 3; Laws 1993, LB 564, § 15; Laws 1994, LB 211, § 10; Laws 1995, LB 37, § 9; Laws 1995, LB 467, § 12; Laws 1998, LB 309, § 6; Laws 1998, LB 320, § 6; Laws 1999, LB 585, § 2; Laws 1999, LB 704, § 18; Laws 2001, LB 38, § 30; Laws 2001, LB 387, § 5; Laws 2006, LB 1008, § 3; Laws 2017, LB644, § 13.
Effective date August 24, 2017.

60-4,118.02 Repealed. Laws 2017, LB644, § 21.

60-4,118.03 Mental, medical, or vision problems; records and reports; examinations; reports; appeal; immunity.

Whenever the director reviews the denial or cancellation of an operator's license because of mental, medical, or vision problems that may affect the person's ability to safely operate a motor vehicle as provided in sections 60-4,114 and 60-4,118, the director may consider records and reports from a qualified physician. The applicant or licensee may cause a written report to be forwarded to the director by a physician of his or her choice pursuant to an immediate appeal to the director under section 60-4,114. The director shall grant reasonable time for the applicant or licensee to submit such records. The director shall give due consideration to any such report.

Reports received by the director for the purpose of assisting the director in determining whether a person is qualified to be licensed shall be for the confidential use of the director and any designees of the director and may not be divulged to any person other than the applicant or licensee or used in evidence in any legal proceeding, except that a report may be admitted in an

appeal of an order of the director based on the report. Any person aggrieved by a decision of the director made pursuant to this section may appeal the decision as provided in section 60-4,105.

No person examining any applicant or licensee shall be liable in tort or otherwise for any opinion, recommendation, or report presented to the director if such action was taken in good faith and without malice.

Source: Laws 1994, LB 211, § 7; Laws 2017, LB644, § 14.
Effective date August 24, 2017.

60-4,118.04 Repealed. Laws 2017, LB644, § 21.

(h) PROVISIONS APPLICABLE TO OPERATION
OF COMMERCIAL MOTOR VEHICLES

60-4,146 Application; requirements of federal law; certification.

(1) In addition to certifying himself or herself under this section, an applicant shall also certify himself or herself under section 60-4,144.01.

(2) Upon making application pursuant to section 60-4,144 or 60-4,148.01, any applicant who operates or expects to operate a commercial motor vehicle in interstate or foreign commerce and who is not subject to 49 C.F.R. part 391 shall certify that he or she is not subject to 49 C.F.R. part 391. Any applicant making certification pursuant to this subsection shall meet the physical and vision requirements established in section 60-4,118 and shall be subject to the provisions of such section.

(3) Upon making application pursuant to section 60-4,144 or 60-4,148.01, any applicant who operates or expects to operate a commercial motor vehicle solely in intrastate commerce and who is subject to 49 C.F.R. part 391 adopted pursuant to section 75-363 shall certify that the applicant meets the qualification requirements of 49 C.F.R. part 391.

(4) Upon making application for a CLP-commercial learner's permit or commercial driver's license, any applicant who operates or expects to operate a commercial motor vehicle solely in intrastate commerce and who is not subject to 49 C.F.R. part 391 adopted pursuant to section 75-363 shall certify that he or she is not subject to 49 C.F.R. part 391. Any applicant making certification pursuant to this subsection shall meet the physical and vision requirements established in section 60-4,118 and shall be subject to the provisions of such section.

(5) An applicant who certifies that he or she is not subject to 49 C.F.R. part 391 under subsection (2) or (4) of this section shall answer the following questions on the application:

(a) Have you within the last three months (e.g. due to diabetes, epilepsy, mental illness, head injury, stroke, heart condition, neurological disease, etc.):

(i) lost voluntary control or consciousness ... yes ... no

(ii) experienced vertigo or multiple episodes of dizziness or fainting ... yes ... no

(iii) experienced disorientation ... yes ... no

(iv) experienced seizures ... yes ... no

(v) experienced impairment of memory, memory loss ... yes ... no

Please explain:

(b) Do you experience any condition which affects your ability to operate a motor vehicle? (e.g. due to loss of, or impairment of, foot, leg, hand, arm; neurological or neuromuscular disease, etc.) ... yes ... no

Please explain:

(c) Since the issuance of your last driver's license/permit has your health or medical condition changed or worsened? ... yes ... no

Please explain, including how the above affects your ability to drive:
.....

Source: Laws 1989, LB 285, § 96; Laws 1990, LB 980, § 19; Laws 1994, LB 211, § 11; Laws 1996, LB 938, § 2; Laws 1998, LB 320, § 18; Laws 1999, LB 704, § 31; Laws 2006, LB 1007, § 8; Laws 2011, LB178, § 16; Laws 2012, LB751, § 34; Laws 2014, LB983, § 34; Laws 2016, LB977, § 16; Laws 2017, LB644, § 15.
Effective date August 24, 2017.

60-4,147.02 Hazardous materials endorsement; USA PATRIOT Act requirements.

No endorsement authorizing the driver to operate a commercial motor vehicle transporting hazardous materials shall be issued, renewed, or transferred by the Department of Motor Vehicles unless the endorsement is issued, renewed, or transferred in conformance with the requirements of section 1012 of the federal Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, USA PATRIOT Act, 49 U.S.C. 5103a, including all amendments and federal regulations adopted pursuant thereto as of January 1, 2017, for the issuance of licenses to operate commercial motor vehicles transporting hazardous materials.

Source: Laws 2005, LB 76, § 17; Laws 2006, LB 853, § 12; Laws 2007, LB239, § 5; Laws 2008, LB756, § 17; Laws 2009, LB331, § 10; Laws 2010, LB805, § 7; Laws 2011, LB212, § 6; Laws 2012, LB751, § 35; Laws 2013, LB35, § 5; Laws 2014, LB776, § 6; Laws 2015, LB313, § 6; Laws 2016, LB929, § 8; Laws 2017, LB263, § 67.
Operative date April 28, 2017.

60-4,168 Disqualification; when.

(1) Except as provided in subsections (2) and (3) of this section, a person shall be disqualified from operating a commercial motor vehicle for one year upon his or her first conviction, after April 1, 1992, in this or any other state for:

(a) Operating a commercial motor vehicle in violation of section 60-6,196 or 60-6,197 or under the influence of a controlled substance or, beginning September 30, 2005, operating any motor vehicle in violation of section 60-6,196 or 60-6,197 or under the influence of a controlled substance;

(b) Operating a commercial motor vehicle in violation of section 60-4,163 or 60-4,164;

(c) Leaving the scene of an accident involving a commercial motor vehicle operated by the person or, beginning September 30, 2005, leaving the scene of an accident involving any motor vehicle operated by the person;

(d) Using a commercial motor vehicle in the commission of a felony other than a felony described in subdivision (3)(b) of this section or, beginning September 30, 2005, using any motor vehicle in the commission of a felony other than a felony described in subdivision (3)(b) of this section;

(e) Beginning September 30, 2005, operating a commercial motor vehicle after his or her commercial driver's license has been suspended, revoked, or canceled or the driver is disqualified from operating a commercial motor vehicle; or

(f) Beginning September 30, 2005, causing a fatality through the negligent or criminal operation of a commercial motor vehicle.

(2) Except as provided in subsection (3) of this section, if any of the offenses described in subsection (1) of this section occurred while a person was transporting hazardous material in a commercial motor vehicle which required placarding pursuant to section 75-364, the person shall, upon conviction or administrative determination, be disqualified from operating a commercial motor vehicle for three years.

(3) A person shall be disqualified from operating a commercial motor vehicle for life if, after April 1, 1992, he or she:

(a) Is convicted of or administratively determined to have committed a second or subsequent violation of any of the offenses described in subsection (1) of this section or any combination of those offenses arising from two or more separate incidents; or

(b) Beginning September 30, 2005, used a commercial motor vehicle in the commission of a felony involving the manufacturing, distributing, or dispensing of a controlled substance.

(4)(a) A person is disqualified from operating a commercial motor vehicle for a period of not less than sixty days if he or she is convicted in this or any other state of two serious traffic violations, or not less than one hundred twenty days if he or she is convicted in this or any other state of three serious traffic violations, arising from separate incidents occurring within a three-year period while operating a commercial motor vehicle.

(b) A person is disqualified from operating a commercial motor vehicle for a period of not less than sixty days if he or she is convicted in this or any other state of two serious traffic violations, or not less than one hundred twenty days if he or she is convicted in this or any other state of three serious traffic violations, arising from separate incidents occurring within a three-year period while operating a motor vehicle other than a commercial motor vehicle if the convictions have resulted in the revocation, cancellation, or suspension of the person's operator's license or driving privileges.

(5)(a) A person who is convicted of operating a commercial motor vehicle in violation of a federal, state, or local law or regulation pertaining to one of the following six offenses at a highway-rail grade crossing shall be disqualified for the period of time specified in subdivision (5)(b) of this section:

(i) For drivers who are not required to always stop, failing to slow down and check that the tracks are clear of an approaching train;

(ii) For drivers who are not required to always stop, failing to stop before reaching the crossing, if the tracks are not clear;

(iii) For drivers who are always required to stop, failing to stop before driving onto the crossing;

(iv) For all drivers, failing to have sufficient space to drive completely through the crossing without stopping;

(v) For all drivers, failing to obey a traffic control device or the directions of an enforcement official at the crossing; or

(vi) For all drivers, failing to negotiate a crossing because of insufficient undercarriage clearance.

(b)(i) A person shall be disqualified for not less than sixty days if the person is convicted of a first violation described in this subsection.

(ii) A person shall be disqualified for not less than one hundred twenty days if, during any three-year period, the person is convicted of a second violation described in this subsection in separate incidents.

(iii) A person shall be disqualified for not less than one year if, during any three-year period, the person is convicted of a third or subsequent violation described in this subsection in separate incidents.

(6) A person shall be disqualified from operating a commercial motor vehicle for at least one year if, on or after July 8, 2015, the person has been convicted of fraud related to the issuance of his or her CLP-commercial learner's permit or commercial driver's license.

(7) If the department receives credible information that a CLP-commercial learner's permit holder or a commercial driver's license holder is suspected, but has not been convicted, on or after July 8, 2015, of fraud related to the issuance of his or her CLP-commercial learner's permit or commercial driver's license, the department must require the driver to retake the skills and knowledge tests. Within thirty days after receiving notification from the department that retesting is necessary, the affected CLP-commercial learner's permit holder or commercial driver's license holder must make an appointment or otherwise schedule to take the next available test. If the CLP-commercial learner's permit holder or commercial driver's license holder fails to make an appointment within thirty days, the department must disqualify his or her CLP-commercial learner's permit or commercial driver's license. If the driver fails either the knowledge or skills test or does not take the test, the department must disqualify his or her CLP-commercial learner's permit or commercial driver's license. If the holder of a CLP-commercial learner's permit or commercial driver's license has had his or her CLP-commercial learner's permit or commercial driver's license disqualified, he or she must reapply for a CLP-commercial learner's permit or commercial driver's license under department procedures applicable to all applicants for a CLP-commercial learner's permit or commercial driver's license.

(8) For purposes of this section, controlled substance has the same meaning as in section 28-401.

(9) For purposes of this section, conviction means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law, in a court of original jurisdiction or by an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court costs, or a violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated.

(10) For purposes of this section, serious traffic violation means:

- (a) Speeding at or in excess of fifteen miles per hour over the legally posted speed limit;
 - (b) Willful reckless driving as described in section 60-6,214 or reckless driving as described in section 60-6,213;
 - (c) Improper lane change as described in section 60-6,139;
 - (d) Following the vehicle ahead too closely as described in section 60-6,140;
 - (e) A violation of any law or ordinance related to motor vehicle traffic control, other than parking violations or overweight or vehicle defect violations, arising in connection with an accident or collision resulting in death to any person;
 - (f) Beginning September 30, 2005, operating a commercial motor vehicle without a commercial driver's license;
 - (g) Beginning September 30, 2005, operating a commercial motor vehicle without a commercial driver's license in the operator's possession;
 - (h) Beginning September 30, 2005, operating a commercial motor vehicle without the proper class of commercial driver's license and any endorsements, if required, for the specific vehicle group being operated or for the passengers or type of cargo being transported on the vehicle;
 - (i) Beginning October 27, 2013, texting while driving as described in section 60-6,179.02; and
 - (j) Using a handheld mobile telephone as described in section 60-6,179.02.
- (11) Each period of disqualification imposed under this section shall be served consecutively and separately.

Source: Laws 1989, LB 285, § 118; Laws 1990, LB 980, § 24; Laws 1993, LB 191, § 6; Laws 1993, LB 370, § 93; Laws 1996, LB 323, § 11; Laws 2001, LB 773, § 13; Laws 2002, LB 499, § 3; Laws 2003, LB 562, § 16; Laws 2005, LB 76, § 15; Laws 2012, LB751, § 38; Laws 2014, LB983, § 49; Laws 2016, LB311, § 21; Laws 2016, LB666, § 8; Laws 2017, LB263, § 68.
Operative date August 24, 2017.

60-4,168.01 Out-of-service order; violation; disqualification; when.

- (1) Except as provided in subsection (2) of this section, a person who is convicted of violating an out-of-service order while operating a commercial motor vehicle which is transporting nonhazardous materials shall be subject to disqualification as follows:
- (a) A person shall be disqualified from operating a commercial motor vehicle for a period of at least one hundred eighty days but no more than one year upon a court conviction for violating an out-of-service order;
 - (b) A person shall be disqualified from operating a commercial motor vehicle for a period of at least two years but no more than five years upon a second court conviction for violating an out-of-service order, which arises out of a separate incident, during any ten-year period; and
 - (c) A person shall be disqualified from operating a commercial motor vehicle for a period of at least three years but no more than five years upon a third or subsequent court conviction for violating an out-of-service order, which arises out of a separate incident, during any ten-year period.

(2) A person who is convicted of violating an out-of-service order while operating a commercial motor vehicle which is transporting hazardous materials required to be placarded pursuant to section 75-364 or while operating a commercial motor vehicle designed or used to transport sixteen or more passengers, including the driver, shall be subject to disqualification as follows:

(a) A person shall be disqualified from operating a commercial motor vehicle for a period of at least one hundred eighty days but no more than two years upon conviction for violating an out-of-service order; and

(b) A person shall be disqualified from operating a commercial motor vehicle for a period of at least three years but no more than five years upon a second or subsequent conviction for violating an out-of-service order, which arises out of a separate incident, during any ten-year period.

(3) For purposes of this section, out-of-service order has the same meaning as in section 75-362.

(4) Each period of disqualification imposed under this section shall be served consecutively and separately.

Source: Laws 1996, LB 323, § 5; Laws 2003, LB 562, § 17; Laws 2009, LB204, § 2; Laws 2017, LB263, § 69.
Operative date August 24, 2017.

ARTICLE 5

MOTOR VEHICLE SAFETY RESPONSIBILITY

(a) DEFINITIONS

Section
60-501. Terms, defined.

(b) ADMINISTRATION

60-506.01. Report of accident; effect.

(c) SECURITY FOLLOWING ACCIDENT

60-507. Accident; damage in excess of one thousand dollars; suspend license; suspend privilege of operation by nonresident; notice; exception; proof of financial responsibility; failure to furnish information; effect.

(a) DEFINITIONS

60-501 Terms, defined.

For purposes of the Motor Vehicle Safety Responsibility Act, unless the context otherwise requires:

(1) Department means Department of Motor Vehicles;

(2) Golf car vehicle means a vehicle that has at least four wheels, has a maximum level ground speed of less than twenty miles per hour, has a maximum payload capacity of one thousand two hundred pounds, has a maximum gross vehicle weight of two thousand five hundred pounds, has a maximum passenger capacity of not more than four persons, and is designed and manufactured for operation on a golf course for sporting and recreational purposes;

(3) Judgment means any judgment which shall have become final by the expiration of the time within which an appeal might have been perfected without being appealed, or by final affirmation on appeal, rendered by a court of competent jurisdiction of any state or of the United States, (a) upon a cause

of action arising out of the ownership, maintenance, or use of any motor vehicle for damages, including damages for care and loss of services, because of bodily injury to or death of any person or for damages because of injury to or destruction of property, including the loss of use thereof, or (b) upon a cause of action on an agreement of settlement for such damages;

(4) License means any license issued to any person under the laws of this state pertaining to operation of a motor vehicle within this state;

(5) Low-speed vehicle means a four-wheeled motor vehicle (a) whose speed attainable in one mile is more than twenty miles per hour and not more than twenty-five miles per hour on a paved, level surface, (b) whose gross vehicle weight rating is less than three thousand pounds, and (c) that complies with 49 C.F.R. part 571, as such part existed on January 1, 2017;

(6) Minitruck means a foreign-manufactured import vehicle or domestic-manufactured vehicle which (a) is powered by an internal combustion engine with a piston or rotor displacement of one thousand five hundred cubic centimeters or less, (b) is sixty-seven inches or less in width, (c) has a dry weight of four thousand two hundred pounds or less, (d) travels on four or more tires, (e) has a top speed of approximately fifty-five miles per hour, (f) is equipped with a bed or compartment for hauling, (g) has an enclosed passenger cab, (h) is equipped with headlights, taillights, turnsignals, windshield wipers, a rearview mirror, and an occupant protection system, and (i) has a four-speed, five-speed, or automatic transmission;

(7) Motor vehicle means any self-propelled vehicle which is designed for use upon a highway, including trailers designed for use with such vehicles, mini-trucks, and low-speed vehicles. Motor vehicle does not include (a) mopeds as defined in section 60-637, (b) traction engines, (c) road rollers, (d) farm tractors, (e) tractor cranes, (f) power shovels, (g) well drillers, (h) every vehicle which is propelled by electric power obtained from overhead wires but not operated upon rails, (i) electric personal assistive mobility devices as defined in section 60-618.02, (j) off-road designed vehicles, including, but not limited to, golf car vehicles, go-carts, riding lawnmowers, garden tractors, all-terrain vehicles and utility-type vehicles as defined in section 60-6,355, minibikes as defined in section 60-636, and snowmobiles as defined in section 60-663, and (k) bicycles as defined in section 60-611;

(8) Nonresident means every person who is not a resident of this state;

(9) Nonresident's operating privilege means the privilege conferred upon a nonresident by the laws of this state pertaining to the operation by him or her of a motor vehicle or the use of a motor vehicle owned by him or her in this state;

(10) Operator means every person who is in actual physical control of a motor vehicle;

(11) Owner means a person who holds the legal title of a motor vehicle, or in the event (a) a motor vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee or (b) a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purposes of the act;

(12) Person means every natural person, firm, partnership, limited liability company, association, or corporation;

(13) Proof of financial responsibility means evidence of ability to respond in damages for liability, on account of accidents occurring subsequent to the effective date of such proof, arising out of the ownership, maintenance, or use of a motor vehicle, (a) in the amount of twenty-five thousand dollars because of bodily injury to or death of one person in any one accident, (b) subject to such limit for one person, in the amount of fifty thousand dollars because of bodily injury to or death of two or more persons in any one accident, and (c) in the amount of twenty-five thousand dollars because of injury to or destruction of property of others in any one accident;

(14) Registration means registration certificate or certificates and registration plates issued under the laws of this state pertaining to the registration of motor vehicles;

(15) State means any state, territory, or possession of the United States, the District of Columbia, or any province of the Dominion of Canada; and

(16) The forfeiture of bail, not vacated, or of collateral deposited to secure an appearance for trial shall be regarded as equivalent to conviction of the offense charged.

Source: Laws 1949, c. 178, § 1, p. 482; Laws 1957, c. 366, § 42, p. 1275; Laws 1959, c. 298, § 1, p. 1107; Laws 1959, c. 299, § 1, p. 1123; Laws 1971, LB 644, § 4; Laws 1972, LB 1196, § 4; Laws 1973, LB 365, § 1; Laws 1979, LB 23, § 14; Laws 1983, LB 253, § 1; Laws 1987, LB 80, § 11; Laws 1993, LB 121, § 385; Laws 1993, LB 370, § 94; Laws 2002, LB 1105, § 447; Laws 2010, LB650, § 32; Laws 2011, LB289, § 26; Laws 2012, LB898, § 3; Laws 2012, LB1155, § 15; Laws 2015, LB95, § 9; Laws 2016, LB929, § 9; Laws 2017, LB263, § 70.
Operative date April 28, 2017.

(b) ADMINISTRATION

60-506.01 Report of accident; effect.

If the Department of Motor Vehicles receives Part II of a report of an accident from the Department of Transportation pursuant to section 60-699, it shall be presumed for purposes of the Motor Vehicle Safety Responsibility Act that the Part II information is true, and such presumption shall be accepted, when applicable, as satisfying the requirements of sections 60-507, 60-508, and 60-509.

Source: Laws 1961, c. 319, § 6, p. 1021; Laws 1993, LB 575, § 44; Laws 2017, LB263, § 71.
Operative date August 24, 2017.

(c) SECURITY FOLLOWING ACCIDENT

60-507 Accident; damage in excess of one thousand dollars; suspend license; suspend privilege of operation by nonresident; notice; exception; proof of financial responsibility; failure to furnish information; effect.

(1) Within ninety days after the receipt by the Department of Transportation of a report of a motor vehicle accident within this state which has resulted in

bodily injury or death, or damage to the property of any one person, including such operator, to an apparent extent in excess of one thousand dollars, the Department of Motor Vehicles shall suspend (a) the license of each operator of a motor vehicle in any manner involved in such accident and (b) the privilege, if such operator is a nonresident, of operating a motor vehicle within this state, unless such operator deposits security in a sum which shall be sufficient, in the judgment of the Department of Motor Vehicles, to satisfy any judgment or judgments for damages resulting from such accident which may be recovered against such operator and unless such operator gives proof of financial responsibility.

Notice of such suspension shall be sent by the Department of Motor Vehicles by regular United States mail to such operator not less than twenty days prior to the effective date of such suspension at his or her last-known mailing address as shown by the records of the department and shall state the amount required as security and the requirement of proof of financial responsibility. In the event a person involved in a motor vehicle accident within this state fails to make a report to the Department of Motor Vehicles indicating the extent of his or her injuries or the damage to his or her property within thirty days after the accident, and the department does not have sufficient information on which to base an evaluation of such injury or damage, the department, after reasonable notice to such person, may not require any deposit of security for the benefit or protection of such person. If the operator fails to respond to the notice on or before twenty days after the date of the notice, the director shall summarily suspend the operator's license or privilege and issue an order of suspension.

(2) The order of suspension provided for in subsection (1) of this section shall not be entered by the Department of Motor Vehicles if the department determines that in its judgment there is no reasonable possibility of a judgment being rendered against such operator.

(3) In determining whether there is a reasonable possibility of judgment being rendered against such operator, the department shall consider all reports and information filed in connection with the accident.

(4) The order of suspension provided for in subsection (1) of this section shall advise the operator that he or she has a right to appeal the order of suspension in accordance with the provisions set forth in section 60-503.

(5) The order of suspension provided for in subsection (1) of this section shall be sent by regular United States mail to the person's last-known mailing address as shown by the records of the department.

Source: Laws 1949, c. 178, § 7, p. 486; Laws 1953, c. 215, § 3, p. 763; Laws 1957, c. 366, § 45, p. 1278; Laws 1959, c. 298, § 5, p. 1111; Laws 1961, c. 319, § 7, p. 1022; Laws 1967, c. 392, § 1, p. 1218; Laws 1972, LB 1303, § 2; Laws 1973, LB 417, § 4; Laws 1985, LB 94, § 6; Laws 1997, LB 10, § 2; Laws 2003, LB 185, § 1; Laws 2012, LB751, § 42; Laws 2017, LB339, § 181.
Operative date July 1, 2017.

NEBRASKA RULES OF THE ROAD

ARTICLE 6

NEBRASKA RULES OF THE ROAD

(a) GENERAL PROVISIONS

- Section
60-628.01. Low-speed vehicle, defined.
60-631. Manual, defined.
60-658.01. School crossing zone, defined.

(b) POWERS OF STATE AND LOCAL AUTHORITIES

- 60-680. Regulation of highways by local authority; police powers.

(c) PENALTY AND ENFORCEMENT PROVISIONS

- 60-692. Failure to satisfy judgment; effect.

(d) ACCIDENTS AND ACCIDENT REPORTING

- 60-695. Peace officers; investigation of traffic accident; duty to report; Department of Transportation; powers; duties.
60-699. Accidents; reports required of operators and owners; when; supplemental reports; reports of peace officers open to public inspection; limitation on use as evidence; violation; penalty.
60-6,101. Accidents; coroner; report to Department of Transportation.
60-6,102. Accident; death; driver; pedestrian sixteen years or older; coroner; examine body; amount of alcohol or drugs; report to Department of Transportation; public information.
60-6,103. Accident; driver or pedestrian sixteen years of age or older; person killed; submit to chemical test; results in writing to Director-State Engineer; public information.
60-6,106. Accidents; reports; expenses; reimbursement to county by Department of Transportation.
60-6,107. Accidents; Department of Health and Human Services; Department of Transportation; adopt rules and regulations.

(e) APPLICABILITY OF TRAFFIC LAWS

- 60-6,115. Closed road; travel permitted; when.

(f) TRAFFIC CONTROL DEVICES

- 60-6,118. Manual on Uniform Traffic Control Devices; adoption by Department of Transportation.
60-6,120. Placing and maintaining traffic control devices; jurisdiction.
60-6,126.01. Road name signs; authorized.
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60-6,130. Signs, markers, devices, or notices; prohibited acts; penalty.

(g) USE OF ROADWAY AND PASSING

- 60-6,137. No-passing zones; exception.
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60-6,139. Driving on roadways laned for traffic; rules; traffic control devices.
60-6,144. Restrictions on use of controlled-access highway.
60-6,145. Official signs on controlled-access highway.

(i) PEDESTRIANS

- 60-6,153. Pedestrians' right-of-way in crosswalk; traffic control devices.
60-6,154. Crossing at other than crosswalks; yield right-of-way.

(j) TURNING AND SIGNALS

- 60-6,159. Required position and method of turning; right-hand and left-hand turns; traffic control devices.

MOTOR VEHICLES

Section

(k) STOPPING, STANDING, PARKING, AND BACKING UP

- 60-6,164. Stopping, parking, or standing upon a roadway, freeway, or bridge; limitations; duties of driver.
- 60-6,166. Stopping, standing, or parking prohibited; exceptions.
- 60-6,167. Parking regulations; signs; control by Department of Transportation or local authority.
- 60-6,168. Unattended motor vehicles; conditions.

(l) SPECIAL STOPS

- 60-6,171. Railroad crossing stop signs; jurisdiction.
- 60-6,176. School bus loading area warning signs; Department of Transportation; duties.
- 60-6,177. Signs relating to overtaking and passing school buses.

(n) SPEED RESTRICTIONS

- 60-6,186. Speed; maximum limits; signs.
- 60-6,188. Construction zone; signs; Director-State Engineer; authority.
- 60-6,189. Driving over bridges; maximum speed; determination by Department of Transportation or local authority; effect.
- 60-6,190. Establishment of state speed limits; power of Department of Transportation; other than state highway system; power of local authority; signs.
- 60-6,193. Minimum speed regulation; impeding traffic.

(o) ALCOHOL AND DRUG VIOLATIONS

- 60-6,211.05. Ignition interlock device; continuous alcohol monitoring device and abstinence from alcohol use; orders authorized; prohibited acts; violation; penalty; costs; Department of Motor Vehicles Ignition Interlock Fund; created; use; investment; prohibited acts relating to tampering with device; hearing.

(q) LIGHTING AND WARNING EQUIPMENT

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- 60-6,292. Extra-long vehicle combinations; permit; conditions; fee; rules and regulations; violation; penalty.
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- 60-6,298. Vehicles; size; weight; load; overweight; special, continuing, or continuous permit; issuance discretionary; conditions; penalty; continuing permit; fees.
- 60-6,299. Permit to move building; limitations; application; Department of Transportation; rules and regulations; violation; penalty.
- 60-6,301. Vehicles; overload; reduce or shift load; exceptions; permit fee; warning citation; when.

- Section
- (bb) SPECIAL RULES FOR MOPEDS
- 60-6,311. Moped; operator; Nebraska Rules of the Road; applicable.
- (cc) SPECIAL RULES FOR BICYCLES
- 60-6,314. Nebraska Rules of the Road; applicability to persons operating bicycles.
- (dd) SPECIAL RULES FOR SNOWMOBILES
- 60-6,335. Snowmobile operation; regulation; equipment; permission of landowner.
- (hh) SPECIAL RULES FOR ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICES
- 60-6,376. Electric personal assistive mobility device; operation; violation; penalty.
- (ii) EMERGENCY VEHICLE OR ROAD ASSISTANCE VEHICLE
- 60-6,378. Stopped authorized emergency vehicle or road assistance vehicle; driver; duties; violation; penalty.
- (kk) SPECIAL RULES FOR LOW-SPEED VEHICLES
- 60-6,380. Low-speed vehicle; restrictions on use.

(a) GENERAL PROVISIONS

60-628.01 Low-speed vehicle, defined.

Low-speed vehicle means a four-wheeled motor vehicle (1) whose speed attainable in one mile is more than twenty miles per hour and not more than twenty-five miles per hour on a paved, level surface, (2) whose gross vehicle weight rating is less than three thousand pounds, and (3) that complies with 49 C.F.R. part 571, as such part existed on January 1, 2017.

Source: Laws 2011, LB289, § 31; Laws 2016, LB929, § 10; Laws 2017, LB263, § 72.

Operative date April 28, 2017.

60-631 Manual, defined.

Manual shall mean the Manual on Uniform Traffic Control Devices adopted by the Department of Transportation pursuant to section 60-6,118.

Source: Laws 1993, LB 370, § 127; Laws 2017, LB339, § 182.

Operative date July 1, 2017.

60-658.01 School crossing zone, defined.

School crossing zone means the area of a roadway designated to the public by the Department of Transportation or any county, city, or village as a school crossing zone through the use of a sign or traffic control device as specified by the department or any county, city, or village in conformity with the manual but does not include any area of a freeway. A school crossing zone starts at the location of the first sign or traffic control device identifying the school crossing zone and continues until a sign or traffic control device indicates that the school crossing zone has ended.

Source: Laws 1997, LB 91, § 3; Laws 2017, LB339, § 183.

Operative date July 1, 2017.

(b) POWERS OF STATE AND LOCAL AUTHORITIES

60-680 Regulation of highways by local authority; police powers.

- (1) Any local authority with respect to highways under its jurisdiction and within the reasonable exercise of the police power may:
- (a) Regulate or prohibit stopping, standing, or parking;
 - (b) Regulate traffic by means of peace officers or traffic control devices;
 - (c) Regulate or prohibit processions or assemblages on the highways;
 - (d) Designate highways or roadways for use by traffic moving in one direction;
 - (e) Establish speed limits for vehicles in public parks;
 - (f) Designate any highway as a through highway or designate any intersection as a stop or yield intersection;
 - (g) Restrict the use of highways as authorized in section 60-681;
 - (h) Regulate operation of bicycles and require registration and inspection of such, including requirement of a registration fee;
 - (i) Regulate operation of electric personal assistive mobility devices;
 - (j) Regulate or prohibit the turning of vehicles or specified types of vehicles;
 - (k) Alter or establish speed limits authorized in the Nebraska Rules of the Road;
 - (l) Designate no-passing zones;
 - (m) Prohibit or regulate use of controlled-access highways by any class or kind of traffic except those highways which are a part of the state highway system;
 - (n) Prohibit or regulate use of heavily traveled highways by any class or kind of traffic it finds to be incompatible with the normal and safe movement of traffic, except that such regulations shall not be effective on any highway which is part of the state highway system unless authorized by the Department of Transportation;
 - (o) Establish minimum speed limits as authorized in the rules;
 - (p) Designate hazardous railroad grade crossings as authorized in the rules;
 - (q) Designate and regulate traffic on play streets;
 - (r) Prohibit pedestrians from crossing a roadway in a business district or any designated highway except in a crosswalk as authorized in the rules;
 - (s) Restrict pedestrian crossings at unmarked crosswalks as authorized in the rules;
 - (t) Regulate persons propelling push carts;
 - (u) Regulate persons upon skates, coasters, sleds, and other toy vehicles;
 - (v) Notwithstanding any other provision of law, adopt and enforce an ordinance or resolution prohibiting the use of engine brakes on the National System of Interstate and Defense Highways that has a grade of less than five degrees within its jurisdiction. For purposes of this subdivision, engine brake means a device that converts a power producing engine into a power-absorbing air compressor, resulting in a net energy loss;
 - (w) Adopt and enforce such temporary or experimental regulations as may be necessary to cover emergencies or special conditions; and
 - (x) Adopt other traffic regulations except as prohibited by state law or contrary to state law.

(2) No local authority, except an incorporated city with more than forty thousand inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census, shall erect or maintain any traffic control device at any location so as to require the traffic on any state highway or state-maintained freeway to stop before entering or crossing any intersecting highway unless approval in writing has first been obtained from the Department of Transportation.

(3) No ordinance or regulation enacted under subdivision (1)(d), (e), (f), (g), (j), (k), (l), (m), (n), (p), (q), or (s) of this section shall be effective until traffic control devices giving notice of such local traffic regulations are erected upon or at the entrances to such affected highway or part thereof affected as may be most appropriate.

Source: Laws 1973, LB 45, § 97; R.S.1943, (1988), § 39-697; Laws 1993, LB 370, § 176; Laws 2000, LB 1361, § 2; Laws 2002, LB 491, § 2; Laws 2002, LB 1105, § 455; Laws 2017, LB113, § 48; Laws 2017, LB339, § 184.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB113, section 48, with LB339, section 184, to reflect all amendments.

Note: Changes made by LB339 became operative July 1, 2017. Changes made by LB48 became effective August 24, 2017.

(c) PENALTY AND ENFORCEMENT PROVISIONS

60-692 Failure to satisfy judgment; effect.

When any person fails within thirty working days to satisfy any judgment imposed for any traffic infraction, it shall be the duty of the clerk of the court in which such judgment is rendered within this state to transmit a copy of such judgment to the Department of Motor Vehicles as provided in section 60-4,100.

Source: Laws 1973, LB 45, § 110; Laws 1991, LB 420, § 6; R.S.Supp.,1992, § 39-6,110; Laws 1993, LB 370, § 188; Laws 2017, LB259, § 14.

Operative date July 1, 2019.

(d) ACCIDENTS AND ACCIDENT REPORTING

60-695 Peace officers; investigation of traffic accident; duty to report; Department of Transportation; powers; duties.

It shall be the duty of any peace officer who investigates any traffic accident in the performance of his or her official duties in all instances of an accident resulting in injury or death to any person or in which estimated damage exceeds one thousand dollars to the property of any one person to submit an original report of such investigation to the Accident Records Bureau of the Department of Transportation within ten days after each such accident. The department shall have authority to collect accident information it deems necessary and shall prescribe and furnish appropriate forms for reporting.

Source: Laws 1973, LB 45, § 104; Laws 1985, LB 94, § 1; Laws 1988, LB 1030, § 41; R.S.1943, (1988), § 39-6,104; Laws 1993, LB 370, § 191; Laws 2003, LB 185, § 3; Laws 2017, LB339, § 185.

Operative date July 1, 2017.

60-699 Accidents; reports required of operators and owners; when; supplemental reports; reports of peace officers open to public inspection; limitation on use as evidence; violation; penalty.

(1) The operator of any vehicle involved in an accident resulting in injuries or death to any person or damage to the property of any one person, including such operator, to an apparent extent of more than one thousand dollars shall within ten days forward a report of such accident to the Department of Transportation. If the operator is physically incapable of making the report, the owner of the motor vehicle involved in the accident shall, within ten days from the time he or she learns of the accident, report the matter in writing to the Department of Transportation. The Department of Transportation or Department of Motor Vehicles may require operators involved in accidents to file supplemental reports of accidents upon forms furnished by it whenever the original report is insufficient in the opinion of either department. The operator or the owner of the motor vehicle shall make such other and additional reports relating to the accident as either department requires. Such records shall be retained for the period of time specified by the State Records Administrator pursuant to the Records Management Act.

(2) The report of accident required by this section shall be in two parts. Part I shall be in such form as the Department of Transportation may prescribe and shall disclose full information concerning the accident. Part II shall be in such form as the Department of Motor Vehicles may prescribe and shall disclose sufficient information to disclose whether or not the financial responsibility requirements of the Motor Vehicle Safety Responsibility Act are met through the carrying of liability insurance.

(3) Upon receipt of a report of accident, the Department of Transportation shall determine the reportability and classification of the accident and enter all information into a computerized data base. Upon completion, the Department of Transportation shall electronically send Part II of the report to the Department of Motor Vehicles for purposes of section 60-506.01.

(4) Such reports shall be without prejudice. All reports made by peace officers, made to or filed with peace officers in their respective offices or departments, or filed with or made by or to any other law enforcement agency of the state shall be open to public inspection, but accident reports filed by the operator or owner of a motor vehicle pursuant to this section shall not be open to public inspection. The fact that a report by an operator or owner has been so made shall be admissible in evidence solely to prove compliance with this section, but no such report or any part of or statement contained in the report shall be admissible in evidence for any other purpose in any trial, civil or criminal, arising out of such accidents nor shall the report be referred to in any way or be any evidence of the negligence or due care of either party at the trial of any action at law to recover damages.

(5) The failure by any person to report an accident as provided in this section or to correctly give the information required in connection with the report shall be a Class V misdemeanor.

Source: Laws 1931, c. 110, § 29, p. 315; C.S.Supp.,1941, § 39-1160; R.S.1943, § 39-764; Laws 1951, c. 120, § 1, p. 531; Laws 1953, c. 215, § 1, p. 761; Laws 1961, c. 189, § 2, p. 580; Laws 1961, c. 319, § 1, p. 1019; Laws 1973, LB 417, § 1; R.S.Supp.,1973, § 39-764; Laws 1985, LB 94, § 2; R.S.1943, (1988), § 39-6,104.04; Laws 1993, LB 370, § 195; Laws 1993, LB 575, § 24; Laws 2003, LB 185, § 4; Laws 2017, LB263, § 73; Laws 2017, LB339, § 186.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB263, section 73, with LB339, section 186, to reflect all amendments.

Note: Changes made by LB339 became operative July 1, 2017. Changes made by LB263 became operative August 24, 2017.

Cross References

Motor Vehicle Safety Responsibility Act, see section 60-569.

Records Management Act, see section 84-1220.

60-6,101 Accidents; coroner; report to Department of Transportation.

Any coroner or other official performing the duties of coroner shall report in writing to the Department of Transportation the death of any person within his or her jurisdiction as the result of an accident involving a motor vehicle and the circumstances of such accident. Such report by the coroner shall be made within ten days after such death.

Source: Laws 1974, LB 66, § 1; R.S.1943, (1988), § 39-6,104.06; Laws 1993, LB 370, § 197; Laws 1993, LB 590, § 1; Laws 2017, LB339, § 187.
Operative date July 1, 2017.

60-6,102 Accident; death; driver; pedestrian sixteen years or older; coroner; examine body; amount of alcohol or drugs; report to Department of Transportation; public information.

In the case of a driver who dies within four hours after being in a motor vehicle accident, including a motor vehicle accident in which one or more persons in addition to such driver is killed, and of a pedestrian sixteen years of age or older who dies within four hours after being struck by a motor vehicle, the coroner or other official performing the duties of coroner shall examine the body and cause such tests to be made as are necessary to determine the amount of alcohol or drugs in the body of such driver or pedestrian. Such information shall be included in each report submitted pursuant to sections 60-6,101 to 60-6,104 and shall be tabulated on a monthly basis by the Department of Transportation. Such information, including the identity of the deceased and any such amount of alcohol or drugs, shall be public information and may be released or disclosed as provided in rules and regulations of the department.

Source: Laws 1974, LB 66, § 2; R.S.1943, (1988), § 39-6,104.07; Laws 1993, LB 370, § 198; Laws 1993, LB 590, § 2; Laws 2017, LB339, § 188.
Operative date July 1, 2017.

60-6,103 Accident; driver or pedestrian sixteen years of age or older; person killed; submit to chemical test; results in writing to Director-State Engineer; public information.

Any surviving driver or pedestrian sixteen years of age or older who is involved in a motor vehicle accident in which a person is killed shall be requested, if he or she has not otherwise been directed by a peace officer to submit to a chemical test under section 60-6,197, to submit to a chemical test of blood, urine, or breath as the peace officer directs for the purpose of determining the amount of alcohol or drugs in his or her body fluid. The results of such test shall be reported in writing to the Director-State Engineer who shall tabulate such results on a monthly basis. Such information, including the identity of such driver or pedestrian and any such amount of alcohol or drugs, shall be public information and may be released or disclosed as provided in

rules and regulations of the Department of Transportation. The provisions of sections 60-6,199, 60-6,200, and 60-6,202 shall, when applicable, apply to the tests provided for in this section.

Source: Laws 1974, LB 66, § 3; R.S.1943, (1988), § 39-6,104.08; Laws 1993, LB 370, § 199; Laws 1993, LB 590, § 3; Laws 2017, LB339, § 189.

Operative date July 1, 2017.

60-6,106 Accidents; reports; expenses; reimbursement to county by Department of Transportation.

The Department of Transportation shall reimburse any county for expenses and costs incurred by the county pursuant to sections 60-6,101 to 60-6,105. The department shall provide the official in each county with the appropriate reporting form.

Source: Laws 1974, LB 66, § 6; R.S.1943, (1988), § 39-6,104.11; Laws 1993, LB 370, § 202; Laws 1993, LB 590, § 4; Laws 2017, LB339, § 190.

Operative date July 1, 2017.

60-6,107 Accidents; Department of Health and Human Services; Department of Transportation; adopt rules and regulations.

(1) Except as provided in subsection (2) of this section, the Department of Health and Human Services shall adopt necessary rules and regulations for the administration of the provisions of sections 60-6,101 to 60-6,106.

(2) The Department of Transportation shall adopt and promulgate rules and regulations which shall provide for the release and disclosure of the results of tests conducted under sections 60-6,102 and 60-6,103.

Source: Laws 1974, LB 66, § 7; R.S.1943, (1988), § 39-6,104.12; Laws 1993, LB 370, § 203; Laws 1993, LB 590, § 5; Laws 1996, LB 1044, § 283; Laws 2007, LB296, § 233; Laws 2017, LB339, § 191.

Operative date July 1, 2017.

(e) APPLICABILITY OF TRAFFIC LAWS

60-6,115 Closed road; travel permitted; when.

Notwithstanding the provisions of subsection (1) of section 60-6,119, when the Department of Transportation, any local authority, or its authorized representative or permittee has closed, in whole or in part, by barricade or otherwise, during repair or construction, any portion of any highway, the restrictions upon the use of such highway shall not apply to persons living along such closed highway or to persons who would need to travel such highway during the normal course of their operations if no other route of travel is available to such person, but extreme care shall be exercised by such persons on such highway.

Source: Laws 1993, LB 370, § 211; Laws 2017, LB339, § 192.

Operative date July 1, 2017.

(f) TRAFFIC CONTROL DEVICES

60-6,118 Manual on Uniform Traffic Control Devices; adoption by Department of Transportation.

Consistent with the provisions of the Nebraska Rules of the Road, the Department of Transportation may adopt and promulgate rules and regulations adopting and implementing a manual providing a uniform system of traffic control devices on all highways within this state which, together with any supplements adopted by the department, shall be known as the Manual on Uniform Traffic Control Devices.

Source: Laws 1973, LB 45, § 98; Laws 1984, LB 677, § 1; R.S.1943, (1988), § 39-698; Laws 1993, LB 370, § 214; Laws 2017, LB339, § 193.

Operative date July 1, 2017.

60-6,120 Placing and maintaining traffic control devices; jurisdiction.

(1) The Department of Transportation shall place and maintain, or provide for such placing and maintaining, such traffic control devices, conforming to the manual, upon all state highways as it deems necessary to indicate and to carry out the Nebraska Rules of the Road or to regulate, warn, or guide traffic.

(2)(a) In incorporated cities and villages with less than forty thousand inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census, the department shall have exclusive jurisdiction regarding the erection and maintenance of traffic control devices on the state highway system but shall not place traffic control devices on the state highway system within incorporated cities of more than twenty-five hundred inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census without consultation with the proper city officials.

(b) In incorporated cities of forty thousand or more inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census, except on state-maintained freeways of the state highway system where the department retains exclusive jurisdiction, the city shall have jurisdiction regarding erection and maintenance of traffic control devices on the state highway system after consultation with the department, except that there shall be joint jurisdiction with the department for such traffic control devices for which the department accepts responsibility for the erection and maintenance.

(3) No local authority shall place or maintain any traffic control device upon any highway under the jurisdiction of the department, except by permission of the department, or on any state-maintained freeway of the state highway system.

(4) The placing of traffic control devices by the department shall not be a departmental rule, regulation, or order subject to the statutory procedures for such rules, regulations, or orders but shall be considered as establishing precepts extending the provisions of the Nebraska Rules of the Road as

necessary to regulate, warn, or guide traffic. Violation of such traffic control devices shall be punishable as provided in the rules.

Source: Laws 1973, LB 45, § 10; R.S.1943, (1988), § 39-610; Laws 1993, LB 370, § 216; Laws 2017, LB113, § 49; Laws 2017, LB339, § 194.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB113, section 49, with LB339, section 194, to reflect all amendments.

Note: Changes made by LB339 became operative July 1, 2017. Changes made by LB113 became effective August 24, 2017.

60-6,126.01 Road name signs; authorized.

Local authorities may place and maintain road name signs on the same sign posts as signs under the jurisdiction of the Department of Transportation when highway visibility would not be impaired. Local authorities may also place and maintain road name signs in the right-of-way of any highway under the jurisdiction of the Department of Transportation when highway visibility would not be impaired.

Source: Laws 2006, LB 853, § 17; Laws 2017, LB339, § 195.
Operative date July 1, 2017.

60-6,129 Interference with official traffic control devices or railroad signs or signals; prohibited; liability in civil action.

(1) No person shall, without lawful authority, attempt to or in fact alter, deface, injure, knock down, or remove any traffic control device, any railroad sign or signal, or any part of such a device, sign, or signal.

(2) Any person who moves, alters, damages, or destroys warning devices placed upon roads which the Department of Transportation or any local authority or its representative has closed in whole or in part for the protection of the public or for the protection of the highway from damage during construction, improvement, or maintenance operation and thereby causes injury or death to any person or damage to any property, equipment, or material thereon shall be liable, subject to sections 25-21,185 and 25-21,185.07 to 25-21,185.12, for the full or allocated amount of such death, injury, or damage, and such amount may be recovered by the injured or damaged party or his or her legal representative in a civil action brought in any court of competent jurisdiction.

Source: Laws 1973, LB 45, § 19; Laws 1992, LB 262, § 10; R.S.Supp.,1992, § 39-619; Laws 1993, LB 370, § 225; Laws 2017, LB339, § 196.
Operative date July 1, 2017.

60-6,130 Signs, markers, devices, or notices; prohibited acts; penalty.

(1) Any person who willfully or maliciously shoots upon the public highway and injures, defaces, damages, or destroys any signs, monuments, road markers, traffic control devices, traffic surveillance devices, or other public notices lawfully placed upon such highways shall be guilty of a Class III misdemeanor.

(2) No person shall willfully or maliciously injure, deface, alter, or knock down any sign, traffic control device, or traffic surveillance device.

(3) It shall be unlawful for any person, other than a duly authorized representative of the Department of Transportation, a county, or a municipality, to remove any sign, traffic control device, or traffic surveillance device placed

along a highway for traffic control, warning, or informational purposes by official action of the department, county, or municipality. It shall be unlawful for any person to possess a sign or device which has been removed in violation of this subsection.

(4) Any person violating subsection (2) or (3) of this section shall be guilty of a Class II misdemeanor and shall be assessed liquidated damages in the amount of the value of the sign, traffic control device, or traffic surveillance device and the cost of replacing it.

Source: G.S.1873, c. 58, § 100, p. 743; R.S.1913, § 3040; Laws 1915, c. 60, § 1, p. 154; C.S.1922, § 2791; C.S.1929, § 39-1026; R.S.1943, § 39-714; Laws 1971, LB 331, § 1; C.S.Supp.,1972, § 39-714; Laws 1977, LB 41, § 9; Laws 1989, LB 283, § 1; R.S.Supp.,1992, § 39-619.01; Laws 1993, LB 370, § 226; Laws 2017, LB339, § 197.

Operative date July 1, 2017.

(g) USE OF ROADWAY AND PASSING

60-6,137 No-passing zones; exception.

(1) The Department of Transportation and local authorities may determine those portions of any highway under their respective jurisdictions where overtaking and passing or driving to the left of the center of the roadway would be especially hazardous and may by appropriate signs or markings on the roadway indicate the beginning and end of such zones. When such signs or markings are in place and clearly visible to an ordinarily observant person, every driver of a vehicle shall obey such indications.

(2) Where signs or markings are in place to define a no-passing zone, no driver shall at any time drive on the left side of the roadway within such no-passing zone or on the left side of any pavement striping designed to mark such no-passing zone throughout its length.

(3) This section shall not apply (a) under the conditions described in subdivision (1)(b) of section 60-6,131 or (b) to the driver of a vehicle turning left into or from an alley, private road, or driveway unless otherwise prohibited by signs.

Source: Laws 1973, LB 45, § 26; R.S.1943, (1988), § 39-626; Laws 1993, LB 370, § 233; Laws 2017, LB339, § 198.

Operative date July 1, 2017.

60-6,138 One-way roadways and rotary traffic islands; jurisdiction; exception for emergency vehicles.

(1) The Department of Transportation and local authorities with respect to highways under their respective jurisdictions may designate any highway, roadway, part of a roadway, or specific lanes upon which vehicular traffic shall proceed in one direction at all times or at such times as shall be indicated by traffic control devices.

(2) Except for emergency vehicles, no vehicle shall be operated, backed, pushed, or otherwise caused to move in a direction which is opposite to the direction designated by competent authority on any deceleration lane, acceleration lane, access ramp, shoulder, or roadway.

(3) A vehicle which passes around a rotary traffic island shall be driven only to the right of such island.

Source: Laws 1973, LB 45, § 27; R.S.1943, (1988), § 39-627; Laws 1993, LB 370, § 234; Laws 2017, LB339, § 199.
Operative date July 1, 2017.

60-6,139 Driving on roadways laned for traffic; rules; traffic control devices.

Whenever any roadway has been divided into two or more clearly marked lanes for traffic, the following rules, in addition to all others consistent with this section, shall apply:

(1) A vehicle shall be driven as nearly as practicable within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety;

(2) Upon a roadway which is divided into three lanes and provides for two-way movement of traffic, a vehicle shall not be driven in the center lane except (a) when overtaking and passing another vehicle traveling in the same direction when such center lane is clear of traffic within a safe distance, (b) in preparation for making a left turn, or (c) when such center lane is at the time allocated exclusively to traffic moving in the same direction that the vehicle is proceeding and such allocation is designated by traffic control devices;

(3) Traffic control devices may be erected by the Department of Transportation or local authorities to direct specified traffic to use a designated lane or to designate those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway and drivers of vehicles shall obey the directions of every such device; and

(4) Traffic control devices may be installed by the department or local authorities to prohibit the changing of lanes on sections of roadway and drivers of vehicles shall obey the directions of every such device.

Source: Laws 1973, LB 45, § 28; R.S.1943, (1988), § 39-628; Laws 1993, LB 370, § 235; Laws 2017, LB339, § 200.
Operative date July 1, 2017.

60-6,144 Restrictions on use of controlled-access highway.

Use of a freeway and entry thereon by the following shall be prohibited at all times except by permit from the Department of Transportation or from the local authority in the case of freeways not under the jurisdiction of the department:

- (1) Pedestrians except in areas specifically designated for that purpose;
- (2) Hitchhikers or walkers;
- (3) Vehicles not self-propelled;
- (4) Bicycles, motor-driven cycles, motor scooters not having motors of more than ten horsepower, and electric personal assistive mobility devices;
- (5) Animals led, driven on the hoof, ridden, or drawing a vehicle;
- (6) Funeral processions;
- (7) Parades or demonstrations;
- (8) Vehicles, except emergency vehicles, unable to maintain minimum speed as provided in the Nebraska Rules of the Road;

- (9) Construction equipment;
- (10) Implements of husbandry, whether self-propelled or towed, except as provided in section 60-6,383;
- (11) Vehicles with improperly secured attachments or loads;
- (12) Vehicles in tow, when the connection consists of a chain, rope, or cable, except disabled vehicles which shall be removed from such freeway at the nearest interchange;
- (13) Vehicles with deflated pneumatic, metal, or solid tires or continuous metal treads except maintenance vehicles;
- (14) Any person standing on or near a roadway for the purpose of soliciting or selling to an occupant of any vehicle; or
- (15) Overdimensional vehicles.

Source: Laws 1973, LB 45, § 33; R.S.1943, (1988), § 39-633; Laws 1993, LB 370, § 240; Laws 1993, LB 575, § 8; Laws 2002, LB 1105, § 457; Laws 2006, LB 853, § 18; Laws 2016, LB977, § 23; Laws 2017, LB339, § 201.

Operative date July 1, 2017.

60-6,145 Official signs on controlled-access highway.

The Department of Transportation and local authorities shall erect and maintain at appropriate locations official signs on freeways under their respective jurisdictions apprising motorists of the restrictions placed upon the use of such highways by the Nebraska Rules of the Road. When the department or local authority posts such signs, it need not follow the usual rules and procedure of posting signs on or near freeways nor shall the department be required to conform with the formalities of public hearings. When such signs are erected, no person shall violate the restrictions stated on such signs.

Source: Laws 1973, LB 45, § 34; R.S.1943, (1988), § 39-634; Laws 1993, LB 370, § 241; Laws 2017, LB339, § 202.

Operative date July 1, 2017.

(i) PEDESTRIANS

60-6,153 Pedestrians' right-of-way in crosswalk; traffic control devices.

(1) Except at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided, when traffic control signals are not in place or not in operation, the driver of a vehicle shall yield the right-of-way to a pedestrian crossing the roadway within a crosswalk who is in the lane in which the driver is proceeding or is in the lane immediately adjacent thereto by bringing his or her vehicle to a complete stop.

(2) No pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to stop.

(3) Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle.

(4) At or adjacent to the intersection of two highways at which a path designated for bicycles and pedestrians is controlled by a traffic control signal, a pedestrian who lawfully enters a highway where the path crosses the highway shall have the right-of-way within the crossing with respect to vehicles and bicycles.

(5) The Department of Transportation and local authorities in their respective jurisdictions may, after an engineering and traffic investigation, designate unmarked crosswalk locations where pedestrian crossing is prohibited or where pedestrians shall yield the right-of-way to vehicles. Such restrictions shall be effective only when traffic control devices indicating such restrictions are in place.

Source: Laws 1973, LB 45, § 42; Laws 1979, LB 395, § 1; R.S.1943, (1988), § 39-642; Laws 1993, LB 370, § 249; Laws 2016, LB716, § 1; Laws 2017, LB339, § 203.
Operative date July 1, 2017.

Cross References

Failure to yield to pedestrian, assessment of points against operator's license, see section 60-4,182 et seq.

60-6,154 Crossing at other than crosswalks; yield right-of-way.

(1) Every pedestrian who crosses a roadway at any point other than within a marked crosswalk, or within an unmarked crosswalk at an intersection, shall yield the right-of-way to all vehicles upon the roadway.

(2) Any pedestrian who crosses a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right-of-way to all vehicles upon the roadway.

(3) Between adjacent intersections at which traffic control signals are in operation, pedestrians shall not cross at any place except in a marked crosswalk.

(4) Where a path designated for bicycles and pedestrians crosses a highway, a pedestrian who is in the crossing in accordance with the traffic control device shall have the right-of-way within the crossing with respect to vehicles and bicycles.

(5) No pedestrian shall cross a roadway intersection diagonally unless authorized by traffic control devices, and when authorized to cross diagonally, pedestrians shall cross only in accordance with the traffic control devices pertaining to such crossing movements.

(6) Local authorities and the Department of Transportation, by erecting appropriate official traffic control devices, may, within their respective jurisdictions, prohibit pedestrians from crossing any roadway in a business district or any designated highway except in a crosswalk.

Source: Laws 1973, LB 45, § 43; R.S.1943, (1988), § 39-643; Laws 1993, LB 370, § 250; Laws 2016, LB716, § 2; Laws 2017, LB339, § 204.
Operative date July 1, 2017.

(j) TURNING AND SIGNALS

60-6,159 Required position and method of turning; right-hand and left-hand turns; traffic control devices.

(1) Both the approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.

(2) The driver of a vehicle intending to turn left at any intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle and, after entering the intersection, the left turn shall be made so as to leave the intersection, as nearly as practicable, in the extreme left-hand lane lawfully available to traffic moving in such direction upon the roadway being entered. Whenever practicable, the left turn shall be made in that portion of the intersection to the left of the center of the intersection.

(3) The Department of Transportation and local authorities in their respective jurisdictions may cause traffic control devices to be placed within or adjacent to intersections and thereby require and direct that a different course from that specified in this section be traveled by vehicles turning at an intersection, and when such devices are so placed, no driver of a vehicle shall turn a vehicle at an intersection other than as directed and required by such devices.

Source: Laws 1973, LB 45, § 50; R.S.1943, (1988), § 39-650; Laws 1993, LB 370, § 255; Laws 2017, LB339, § 205.
Operative date July 1, 2017.

(k) STOPPING, STANDING, PARKING, AND BACKING UP

60-6,164 Stopping, parking, or standing upon a roadway, freeway, or bridge; limitations; duties of driver.

(1) No person shall stop, park, or leave standing any vehicle, whether attended or unattended, upon a roadway outside of a business or residential district when it is practicable to stop, park, or leave such vehicle off such part of a highway, but in any event an unobstructed width of the roadway opposite a standing vehicle shall be left for the free passage of other vehicles and a clear view of such stopped vehicle shall be available from a distance of two hundred feet in each direction upon such highway. Such parking, stopping, or standing shall in no event exceed twenty-four hours.

(2) No person shall stop, park, or leave standing any vehicle on a freeway except in areas designated or unless so directed by a peace officer, except that when a vehicle is disabled or inoperable or the driver of the vehicle is ill or incapacitated, such vehicle shall be permitted to park, stop, or stand on the shoulder facing in the direction of travel with all wheels and projecting parts of such vehicle completely clear of the traveled lanes, but in no event shall such parking, standing, or stopping upon the shoulder of a freeway exceed twelve hours.

(3) No person, except law enforcement, fire department, emergency management, public or private ambulance, or authorized Department of Transportation or local authority personnel, shall loiter or stand or park any vehicle upon any bridge, highway, or structure which is located above or below or crosses over or under the roadway of any highway or approach or exit road thereto.

(4) Whenever a vehicle is disabled or inoperable in a roadway or for any reason obstructs the regular flow of traffic for reasons other than an accident, the driver shall move or cause the vehicle to be moved as soon as practical so as to not obstruct the regular flow of traffic.

(5) This section does not apply to the driver of any vehicle which is disabled while on the roadway in such manner and to such extent that it is impossible to avoid stopping and temporarily leaving such disabled vehicle in such position until such time as it can be removed pursuant to subsection (4) of this section.

Source: Laws 1973, LB 45, § 70; R.S.1943, (1988), § 39-670; Laws 1993, LB 370, § 260; Laws 1996, LB 43, § 11; Laws 2007, LB561, § 2; Laws 2017, LB339, § 206.
Operative date July 1, 2017.

60-6,166 Stopping, standing, or parking prohibited; exceptions.

(1) Except when necessary to avoid conflict with other traffic or when in compliance with law or the directions of a peace officer or traffic control device, no person shall:

(a) Stop, stand, or park any vehicle:

(i) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;

(ii) On a sidewalk;

(iii) Within an intersection;

(iv) On a crosswalk;

(v) Between a safety zone and the adjacent curb or within thirty feet of points on the curb immediately opposite the ends of a safety zone unless the Department of Transportation or the local authority indicates a different length by signs or markings;

(vi) Alongside or opposite any street excavation or obstruction when stopping, standing, or parking would obstruct traffic;

(vii) Upon any bridge or other elevated structure over a highway or within a highway tunnel;

(viii) On any railroad track; or

(ix) At any place where official signs prohibit stopping;

(b) Stand or park a vehicle, whether occupied or not, except momentarily to pick up or discharge a passenger or passengers:

(i) In front of a public or private driveway;

(ii) Within fifteen feet of a fire hydrant;

(iii) Within twenty feet of a crosswalk at an intersection;

(iv) Within thirty feet of any flashing signal, stop sign, yield sign, or other traffic control device located at the side of a roadway;

(v) Within twenty feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five feet of such entrance when properly signposted; or

(vi) At any place where official signs prohibit standing; or

(c) Park a vehicle, whether occupied or not, except temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers:

(i) Within fifty feet of the nearest rail of a railroad crossing; or

(ii) At any place where official signs prohibit parking.

(2) No person shall move a vehicle not lawfully under his or her control into any such prohibited area or away from a curb such a distance as shall be unlawful.

Source: Laws 1973, LB 45, § 72; R.S.1943, (1988), § 39-672; Laws 1993, LB 370, § 262; Laws 2017, LB339, § 207.
Operative date July 1, 2017.

60-6,167 Parking regulations; signs; control by Department of Transportation or local authority.

(1) Except as otherwise provided in this section, any vehicle stopped or parked upon a two-way roadway where parking is permitted shall be so stopped or parked with the right-hand wheels parallel to and within twelve inches of the right-hand curb or edge of such roadway. No vehicle shall be parked upon a roadway when there is a shoulder adjacent to the roadway which is available for parking.

(2) Except when otherwise provided by a local authority, every vehicle stopped or parked upon a one-way roadway shall be so stopped or parked parallel to the curb or edge of such roadway, in the direction of authorized traffic movement, with its right-hand wheels within twelve inches of the right-hand curb or edge of the roadway or its left-hand wheels within twelve inches of the left-hand curb or edge of such roadway.

(3) A local authority may permit angle or center parking on any roadway, except that angle or center parking shall not be permitted on any federal-aid highway or on any part of the state highway system unless the Director-State Engineer has determined that such roadway is of sufficient width to permit angle or center parking without interfering with the free movement of traffic.

(4) The Department of Transportation or a local authority may prohibit or restrict stopping, standing, or parking on highways under its respective jurisdiction outside the corporate limits of any city or village and erect and maintain proper and adequate signs thereon. No person shall stop, stand, or park any vehicle in violation of the restrictions stated on such signs.

Source: Laws 1973, LB 45, § 73; R.S.1943, (1988), § 39-673; Laws 1993, LB 370, § 263; Laws 1993, LB 575, § 18; Laws 2017, LB339, § 208.
Operative date July 1, 2017.

60-6,168 Unattended motor vehicles; conditions.

No person having control or charge of a motor vehicle shall allow such vehicle to stand unattended on a highway without first: (1) Stopping the motor of such vehicle; (2) except for vehicles equipped with motor starters that may be actuated without a key, locking the ignition and removing the key from the ignition; (3) effectively setting the brakes thereon; and (4) when standing upon any roadway, turning the front wheels of such vehicle to the curb or side of such roadway.

Source: Laws 1973, LB 45, § 74; R.S.1943, (1988), § 39-674; Laws 1993, LB 370, § 264; Laws 2017, LB263, § 74.
Operative date August 24, 2017.

(l) SPECIAL STOPS

60-6,171 Railroad crossing stop signs; jurisdiction.

The Department of Transportation and local authorities on highways under their respective jurisdictions may designate particularly dangerous highway grade crossings of railroads and erect stop signs at the crossings. When such stop signs are erected, the driver of any vehicle shall stop within fifty feet but not less than fifteen feet from the nearest rail of such railroad and shall proceed only upon exercising due care.

Source: Laws 1973, LB 45, § 56; R.S.1943, (1988), § 39-656; Laws 1993, LB 370, § 267; Laws 2017, LB339, § 209.
Operative date July 1, 2017.

60-6,176 School bus loading area warning signs; Department of Transportation; duties.

The Department of Transportation shall by rule and regulation adopt and promulgate uniform standards for school bus loading area warning signs. Such standards shall include requirements for the size, material, construction, and required wording. No school district shall use a school bus loading area warning sign unless such sign complies with all rules and regulations adopted and promulgated by the department. The cost of any sign shall be an obligation of the school district.

Source: Laws 1987, LB 347, § 2; R.S.1943, (1988), § 39-660.01; Laws 1993, LB 370, § 272; Laws 2017, LB339, § 210.
Operative date July 1, 2017.

60-6,177 Signs relating to overtaking and passing school buses.

The Department of Transportation shall post on highways of the state highway system outside of business and residential districts signs to the effect that it is unlawful to pass school buses stopped to load or unload children. Such signs shall be adequate in size and number to properly inform the public of the provisions relative to such passing.

Source: Laws 1973, LB 45, § 61; R.S.1943, (1988), § 39-661; Laws 1993, LB 370, § 273; Laws 2017, LB339, § 211.
Operative date July 1, 2017.

(n) SPEED RESTRICTIONS

60-6,186 Speed; maximum limits; signs.

(1) Except when a special hazard exists that requires lower speed for compliance with section 60-6,185, the limits set forth in this section and sections 60-6,187, 60-6,188, 60-6,305, and 60-6,313 shall be the maximum lawful speeds unless reduced pursuant to subsection (2) of this section, and no person shall drive a vehicle on a highway at a speed in excess of such maximum limits:

- (a) Twenty-five miles per hour in any residential district;
- (b) Twenty miles per hour in any business district;
- (c) Fifty miles per hour upon any highway that is not dustless surfaced and not part of the state highway system;

(d) Fifty-five miles per hour upon any dustless-surfaced highway not a part of the state highway system;

(e) Sixty miles per hour upon any part of the state highway system other than an expressway or a freeway, except that the Department of Transportation may, where existing design and traffic conditions allow, according to an engineering study, authorize a speed limit five miles per hour greater;

(f) Sixty-five miles per hour upon an expressway that is part of the state highway system;

(g) Sixty-five miles per hour upon a freeway that is part of the state highway system but not part of the National System of Interstate and Defense Highways; and

(h) Seventy-five miles per hour upon the National System of Interstate and Defense Highways, except that the maximum speed limit shall be sixty miles per hour for:

(i) Any portion of the National System of Interstate and Defense Highways located in Douglas County; and

(ii) That portion of the National System of Interstate and Defense Highways designated as Interstate 180 in Lancaster County and Interstate 129 in Dakota County.

(2) The maximum speed limits established in subsection (1) of this section may be reduced by the Department of Transportation or by local authorities pursuant to section 60-6,188 or 60-6,190.

(3) The Department of Transportation and local authorities may erect and maintain suitable signs along highways under their respective jurisdictions in such number and at such locations as they deem necessary to give adequate notice of the speed limits established pursuant to subsection (1) or (2) of this section upon such highways.

Source: Laws 1973, LB 45, § 62; Laws 1974, LB 873, § 1; Laws 1975, LB 381, § 1; Laws 1977, LB 256, § 1; Laws 1987, LB 430, § 1; R.S.1943, (1988), § 39-662; Laws 1993, LB 370, § 282; Laws 1996, LB 901, § 7; Laws 2007, LB35, § 2; Laws 2017, LB339, § 212.

Operative date July 1, 2017.

Cross References

Operator's license, assessment of points for speeding, see section 60-4,182 et seq.

60-6,188 Construction zone; signs; Director-State Engineer; authority.

(1) The maximum speed limit through any maintenance, repair, or construction zone on the state highway system shall be thirty-five miles per hour in rural areas and twenty-five miles per hour in urban areas.

(2) Such speed limits shall take effect only after appropriate signs giving notice of the speed limit are erected or displayed in a conspicuous place in advance of the area where the maintenance, repair, or construction activity is or will be taking place. Such signs shall conform to the manual and shall be regulatory signs imposing a legal obligation and restriction on all traffic proceeding into the maintenance, construction, or repair zone. The signs may be displayed upon a fixed, variable, or movable stand. While maintenance, construction, or repair is being performed, the signs may be mounted upon

moving Department of Transportation vehicles displaying such signs well in advance of the maintenance zone.

(3) The Director-State Engineer may increase the speed limit through any highway maintenance, repair, or construction zone in increments of five miles per hour if the speed set does not exceed the maximum speed limits established in sections 60-6,186, 60-6,187, 60-6,189, 60-6,190, 60-6,305, and 60-6,313. The Director-State Engineer may delegate the authority to raise speed limits through any maintenance, repair, or construction zone to any department employee in a supervisory capacity or may delegate such authority to a county, municipal, or local engineer who has the duty to maintain the state highway system in such jurisdiction if the maintenance is performed on behalf of the department by contract with the local authority. Such increased speed limit through a maintenance, repair, or construction zone shall be effective when the Director-State Engineer or any officer to whom authority has been delegated gives a written order for such increase and signs posting such speed limit are erected or displayed.

(4) The Department of Transportation shall post signs in maintenance, repair, or construction zones which inform motorists that the fine for exceeding the posted speed limit in such zones is doubled.

Source: Laws 1993, LB 370, § 284; Laws 1996, LB 901, § 9; Laws 2017, LB339, § 213.

Operative date July 1, 2017.

60-6,189 Driving over bridges; maximum speed; determination by Department of Transportation or local authority; effect.

(1) No person shall drive a vehicle over any public bridge, causeway, viaduct, or other elevated structure at a speed which is greater than the maximum speed which can be maintained with safety thereon when such structure is posted with signs as provided in subsection (2) of this section.

(2) The Department of Transportation or a local authority may conduct an investigation of any bridge or other elevated structure constituting a part of a highway under its jurisdiction, and if it finds that such structure cannot safely withstand vehicles traveling at the speed otherwise permissible, the department or local authority shall determine and declare the maximum speed of vehicles which such structure can safely withstand and shall cause suitable signs stating such maximum speed to be erected and maintained before each end of such structure.

(3) Upon the trial of any person charged with a violation of subsection (1) of this section, proof of such determination of the maximum speed by the department or local authority and the existence of such signs shall constitute conclusive evidence of the maximum speed which can be maintained with safety on such bridge or structure.

Source: Laws 1993, LB 370, § 285; Laws 2017, LB339, § 214.

Operative date July 1, 2017.

Cross References

Operator's license, assessment of points for speeding, see section 60-4,182 et seq.

60-6,190 Establishment of state speed limits; power of Department of Transportation; other than state highway system; power of local authority; signs.

(1) Whenever the Department of Transportation determines, upon the basis of an engineering and traffic investigation, that any maximum speed limit is greater or less than is reasonable or safe under the conditions found to exist at any intersection, place, or part of the state highway system outside of the corporate limits of cities and villages as well as inside the corporate limits of cities and villages on freeways which are part of the state highway system, it may determine and set a reasonable and safe maximum speed limit for such intersection, place, or part of such highway which shall be the lawful speed limit when appropriate signs giving notice thereof are erected at such intersection, place, or part of the highway, except that the maximum rural and freeway limits shall not be exceeded. Such a maximum speed limit may be set to be effective at all times or at such times as are indicated upon such signs.

(2) The speed limits set by the department shall not be a departmental rule, regulation, or order subject to the statutory procedures for such rules, regulations, or orders but shall be an authorization over the signature of the Director-State Engineer and shall be maintained on permanent file at the headquarters of the department. Certified copies of such authorizations shall be available from the department at a reasonable cost for duplication. Any change to such an authorization shall be made by a new authorization which cancels the previous authorization and establishes the new limit, but the new limit shall not become effective until signs showing the new limit are erected as provided in subsection (1) of this section.

(3) On county highways which are not part of the state highway system or within the limits of any state institution or any area under control of the Game and Parks Commission or a natural resources district and which are outside of the corporate limits of cities and villages, county boards shall have the same power and duty to alter the maximum speed limits as the department if the change is based on an engineering and traffic investigation comparable to that made by the department. The limit outside of a business or residential district shall not be decreased to less than thirty-five miles per hour.

(4) On all highways within their corporate limits, except on state-maintained freeways which are part of the state highway system, incorporated cities and villages shall have the same power and duty to alter the maximum speed limits as the department if the change is based on engineering and traffic investigation, except that no imposition of speed limits on highways which are part of the state highway system in cities and villages under forty thousand inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census shall be effective without the approval of the department.

(5) The director of any state institution, the Game and Parks Commission, or a natural resources district, with regard to highways which are not a part of the state highway system, which are within the limits of such institution or area under Game and Parks Commission or natural resources district control, and which are outside the limits of any incorporated city or village, shall have the same power and duty to alter the maximum speed limits as the department if the change is based on an engineering and traffic investigation comparable to that made by the department.

(6) Not more than six such speed limits shall be set per mile along a highway, except in the case of reduced limits at intersections. The difference between adjacent speed limits along a highway shall not be reduced by more than

twenty miles per hour, and there shall be no limit on the difference between adjacent speed limits for increasing speed limits along a highway.

(7) When the department or a local authority determines by an investigation that certain vehicles in addition to those specified in sections 60-6,187, 60-6,305, and 60-6,313 cannot with safety travel at the speeds provided in sections 60-6,186, 60-6,187, 60-6,189, 60-6,305, and 60-6,313 or set pursuant to this section or section 60-6,188 or 60-6,189, the department or local authority may restrict the speed limit for such vehicles on highways under its respective jurisdiction and post proper and adequate signs.

Source: Laws 1973, LB 45, § 63; Laws 1984, LB 861, § 17; Laws 1986, LB 436, § 1; R.S.1943, (1988), § 39-663; Laws 1993, LB 370, § 286; Laws 1996, LB 901, § 10; Laws 2010, LB805, § 11; Laws 2017, LB113, § 50; Laws 2017, LB339, § 215.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB113, section 50, with LB339, section 215, to reflect all amendments.

Note: Changes made by LB339 became operative July 1, 2017. Changes made by LB113 became effective August 24, 2017.

Cross References

Operator's license, assessment of points for speeding, see section 60-4,182 et seq.

60-6,193 Minimum speed regulation; impeding traffic.

(1) No person shall drive a motor vehicle at such a slow speed as to impede the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with law.

(2) On a freeway no motor vehicle, except emergency vehicles, shall be operated at a speed of less than forty miles per hour or at such a slow speed as to impede or block the normal and reasonable movement of traffic except when reduced speed is necessary for the safe operation of the motor vehicle because of weather, visibility, roadway, or traffic conditions. All vehicles entering or leaving such freeway from an acceleration or deceleration lane shall conform with the minimum speed regulations while they are within the roadway of the freeway. The minimum speed of forty miles per hour may be altered by the Department of Transportation or local authorities on freeways under their respective jurisdictions.

(3) Whenever the department or any local authority within its respective jurisdiction determines on the basis of an engineering and traffic investigation that low speeds on any part of a highway consistently impede the normal and reasonable movement of traffic, the department or such local authority may determine and declare a minimum speed limit below which no person shall drive a vehicle except when necessary for safe operation or in compliance with law.

(4) Vehicular, animal, and pedestrian traffic prohibited on freeways by the Nebraska Rules of the Road shall not travel on any other roadway where minimum speed limits of twenty miles per hour or more are posted.

(5) Any minimum speed limit which is imposed under subsection (2) or (3) of this section shall not be effective until appropriate and adequate signs are erected along the roadway affected by such regulation apprising motorists of such limitation.

(6) On any freeway, or other highway providing for two or more lanes of travel in one direction, vehicles shall not intentionally impede the normal flow of traffic by traveling side by side and at the same speed while in adjacent

lanes. This subsection shall not be construed to prevent vehicles from traveling side by side in adjacent lanes because of congested traffic conditions.

Source: Laws 1973, LB 45, § 65; R.S.1943, (1988), § 39-665; Laws 1993, LB 370, § 289; Laws 2017, LB339, § 216.

Operative date July 1, 2017.

(o) ALCOHOL AND DRUG VIOLATIONS

60-6,211.05 Ignition interlock device; continuous alcohol monitoring device and abstention from alcohol use; orders authorized; prohibited acts; violation; penalty; costs; Department of Motor Vehicles Ignition Interlock Fund; created; use; investment; prohibited acts relating to tampering with device; hearing.

(1) If an order is granted under section 60-6,196 or 60-6,197 and sections 60-6,197.02 and 60-6,197.03, the court may order that the defendant install an ignition interlock device of a type approved by the Director of Motor Vehicles on each motor vehicle operated by the defendant during the period of revocation. Upon sufficient evidence of installation, the defendant may apply to the director for an ignition interlock permit pursuant to section 60-4,118.06. The device shall, without tampering or the intervention of another person, prevent the defendant from operating the motor vehicle when the defendant has an alcohol concentration greater than three-hundredths of one gram or more by weight of alcohol per one hundred milliliters of his or her blood or three-hundredths of one gram or more by weight of alcohol per two hundred ten liters of his or her breath. The Department of Motor Vehicles shall issue an ignition interlock permit to the defendant under section 60-4,118.06 only upon sufficient proof that a defendant has installed an ignition interlock device on any motor vehicle that the defendant will operate during his or her release.

(2) If the court orders installation of an ignition interlock device and issuance of an ignition interlock permit pursuant to subsection (1) of this section, the court may also order the use of a continuous alcohol monitoring device and abstention from alcohol use at all times. The device shall, without tampering or the intervention of another person, test and record the alcohol consumption level of the defendant on a periodic basis and transmit such information to probation authorities.

(3) Any order issued by the court pursuant to this section shall not take effect until the defendant is eligible to operate a motor vehicle pursuant to subsection (8) of section 60-498.01. A person shall be eligible to be issued an ignition interlock permit allowing operation of a motor vehicle equipped with an ignition interlock device if he or she is not subject to any other suspension, cancellation, required no-driving period, or period of revocation and has successfully completed the ignition interlock permit application process. The Department of Motor Vehicles shall review its records and the driving record abstract of any person who applies for an ignition interlock permit allowing operation of a motor vehicle equipped with an ignition interlock device to determine (a) the applicant's eligibility for an ignition interlock permit, (b) the applicant's previous convictions under section 60-6,196, 60-6,197, or 60-6,197.06 or any previous administrative license revocation, if any, and (c) if the applicant is subject to any required no-drive periods before the ignition interlock permit may be issued.

(4)(a) If the court orders an ignition interlock device or the Board of Pardons orders an ignition interlock device under section 83-1,127.02, the court or the Board of Pardons shall order the defendant to apply for an ignition interlock permit as provided in section 60-4,118.06 which indicates that the defendant is only allowed to operate a motor vehicle equipped with an ignition interlock device.

(b) Such court order shall remain in effect for a period of time as determined by the court not to exceed the maximum term of revocation which the court could have imposed according to the nature of the violation and shall allow operation by the defendant of only an ignition-interlock-equipped motor vehicle.

(c) Such Board of Pardons order shall remain in effect for a period of time not to exceed any period of revocation the applicant is subject to at the time the application for a reprieve is made.

(5) Any person restricted to operating a motor vehicle equipped with an ignition interlock device, pursuant to a Board of Pardons order, who operates upon the highways of this state a motor vehicle without such device or if the device has been disabled, bypassed, or altered in any way, shall be punished as provided in subsection (3) of section 83-1,127.02.

(6) If a person ordered to use a continuous alcohol monitoring device and abstain from alcohol use pursuant to a court order as provided in subsection (2) of this section violates the provisions of such court order by removing, tampering with, or otherwise bypassing the continuous alcohol monitoring device or by consuming alcohol while required to use such device, he or she shall have his or her ignition interlock permit revoked and be unable to apply for reinstatement for the duration of the revocation period imposed by the court.

(7) The director shall adopt and promulgate rules and regulations regarding the approval of ignition interlock devices, the means of installing ignition interlock devices, and the means of administering the ignition interlock permit program.

(8)(a) The costs incurred in order to comply with the ignition interlock requirements of this section shall be paid directly to the ignition interlock provider by the person complying with an order for an ignition interlock permit and installation of an ignition interlock device.

(b) If the Department of Motor Vehicles has determined the person to be indigent and incapable of paying for the cost of installation, removal, or maintenance of the ignition interlock device in accordance with this section, such costs shall be paid out of the Department of Motor Vehicles Ignition Interlock Fund if such funds are available, according to rules and regulations adopted and promulgated by the department. Such costs shall also be paid out of the Department of Motor Vehicles Ignition Interlock Fund if such funds are available and if the court or the Board of Pardons, whichever is applicable, has determined the person to be indigent and incapable of paying for the cost of installation, removal, or maintenance of the ignition interlock device in accordance with this section. The Department of Motor Vehicles Ignition Interlock Fund is created. Money in the Department of Motor Vehicles Ignition Interlock Fund may be used for transfers to the General Fund at the direction of the Legislature. On October 1, 2017, or as soon thereafter as administratively possible, the State Treasurer shall transfer twenty-five thousand dollars from the Department of Motor Vehicles Ignition Interlock Fund to the Violence

Prevention Cash Fund. On October 1, 2018, or as soon thereafter as administratively possible, the State Treasurer shall transfer twenty-five thousand dollars from the Department of Motor Vehicles Ignition Interlock Fund to the Violence Prevention Cash Fund. Any money in the Department of Motor Vehicles Ignition Interlock 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.

(9)(a)(i) An ignition interlock service facility shall notify the appropriate district probation office or the appropriate court, as applicable, of any evidence of tampering with or circumvention of an ignition interlock device, or any attempts to do so, when the facility becomes aware of such evidence. Failure of the facility to provide notification as provided in this subdivision is a Class V misdemeanor.

(ii) An ignition interlock service facility shall notify the Department of Motor Vehicles, if the ignition interlock permit is issued pursuant to sections 60-498.01 to 60-498.04, of any evidence of tampering with or circumvention of an ignition interlock device, or any attempts to do so, when the facility becomes aware of such evidence. Failure of the facility to provide notification as provided in this subdivision is a Class V misdemeanor.

(b) If a district probation office receives evidence of tampering with or circumvention of an ignition interlock device, or any attempts to do so, from an ignition interlock service facility, the district probation office shall notify the appropriate court of such violation. The court shall immediately schedule an evidentiary hearing to be held within fourteen days after receiving such evidence, either from the district probation office or an ignition interlock service facility, and the court shall cause notice of the hearing to be given to the person operating a motor vehicle pursuant to an order under subsection (1) of this section. If the person who is the subject of such evidence does not appear at the hearing and show cause why the order made pursuant to subsection (1) of this section should remain in effect, the court shall rescind the original order. Nothing in this subsection shall apply to an order made by the Board of Pardons pursuant to section 83-1,127.02.

(10) Notwithstanding any other provision of law, the issuance of an ignition interlock permit by the Department of Motor Vehicles under section 60-498.01 or an order for the installation of an ignition interlock device and ignition interlock permit made pursuant to subsection (1) of this section as part of a conviction, as well as the administration of such court order by the Office of Probation Administration for the installation, maintenance, and removal of such device, as applicable, shall not be construed to create an order of probation when an order of probation has not been issued.

Source: Laws 1993, LB 564, § 6; Laws 1998, LB 309, § 24; Laws 2001, LB 38, § 55; Laws 2003, LB 209, § 15; Laws 2004, LB 208, § 22; Laws 2006, LB 925, § 16; Laws 2008, LB736, § 10; Laws 2009, LB497, § 10; Laws 2010, LB924, § 5; Laws 2011, LB667, § 40; Laws 2012, LB751, § 46; Laws 2013, LB158, § 5; Laws 2013, LB199, § 27; Laws 2017, LB331, § 28.
Effective date May 16, 2017.

Cross References

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

(q) LIGHTING AND WARNING EQUIPMENT

60-6,230 Lights; rotating or flashing; colored lights; when permitted.

(1) Except as provided in this section and sections 60-6,231 to 60-6,233, no person shall operate any motor vehicle or any equipment of any description on any highway in this state with any rotating or flashing light.

(2) Except for stop lights and directional signals, which may be red, yellow, or amber, no person shall display any color of light other than red on the rear of any motor vehicle or any equipment of any kind on any highway within this state.

(3) Amber rotating or flashing lights shall be displayed on vehicles of the Military Department for purpose of convoy control when on any state emergency mission.

(4) A single flashing white light may be displayed on the roof of school transportation vehicles during extremely adverse weather conditions.

(5) Blue and amber rotating or flashing lights may be displayed on (a) vehicles when operated by the Department of Transportation or any local authority for the inspection, construction, repair, or maintenance of highways, roads, or streets or (b) vehicles owned and operated by any public utility for the construction, maintenance, and repair of utility infrastructure on or near any highway.

Source: Laws 1969, c. 327, § 2, p. 1170; C.S.Supp.,1972, § 39-788.01; Laws 1979, LB 127, § 1; R.S.1943, (1988), § 39-6,148; Laws 1993, LB 370, § 326; Laws 1995, LB 59, § 6; Laws 2008, LB196, § 3; Laws 2015, LB181, § 1; Laws 2016, LB977, § 24; Laws 2017, LB339, § 217.
Operative date July 1, 2017.

(s) TIRES

60-6,250 Tires; requirements; cleats or projections prohibited; exceptions; permissive uses; special permits; exceptions.

(1) Every solid rubber tire on a vehicle moved on any highway shall have rubber on its entire traction surface at least one inch thick above the edge of the flange of the entire periphery.

(2) No tire on a vehicle moved on a highway shall have on its periphery any clock, stud, flange, cleat, or spike or any other protuberance of any material other than rubber which projects beyond the tread of the traction surface of the tire, except that:

(a) This prohibition shall not apply to pneumatic tires with metal or metal-type studs not exceeding five-sixteenths of an inch in diameter inclusive of the stud-casing with an average protrusion beyond the tread surface of not more than seven sixty-fourths of an inch between November 1 and April 1, except that school buses, mail carrier vehicles, and emergency vehicles shall be permitted to use metal or metal-type studs at any time during the year;

(b) It shall be permissible to use farm machinery with tires having protuberances which will not injure the highway; and

(c) It shall be permissible to use tire chains of reasonable proportions upon any vehicle when required for safety because of snow, ice, or other condition tending to cause a vehicle to slide or skid.

(3) No person shall operate or move on any highway any motor vehicle, trailer, or semitrailer (a) having any metal tire in contact with the roadway or (b) equipped with solid rubber tires, except that this subsection shall not apply to farm vehicles having a gross weight of ten thousand pounds or less or to implements of husbandry.

(4) The Department of Transportation and local authorities in their respective jurisdictions may, in their discretion, issue special permits authorizing the operation upon a highway of traction engines or tractors having movable tracks with transverse corrugations upon the periphery of such movable tracks or farm tractors or other farm machinery.

Source: Laws 1931, c. 110, § 36, p. 317; C.S.Supp.,1941, § 39-1167; R.S.1943, § 39-771; Laws 1965, c. 217, § 1, p. 633; Laws 1971, LB 678, § 2; R.S.Supp.,1972, § 39-771; Laws 1980, LB 619, § 3; Laws 1983, LB 50, § 1; Laws 1987, LB 504, § 3; R.S.1943, (1988), § 39-6,131; Laws 1993, LB 370, § 346; Laws 2017, LB339, § 218.

Operative date July 1, 2017.

(u) OCCUPANT PROTECTION SYSTEMS AND
THREE-POINT SAFETY BELT SYSTEMS

60-6,267 Use of restraint system, occupant protection system, or three-point safety belt system; when; information and education program.

(1) Any person in Nebraska who drives any motor vehicle which has or is required to have an occupant protection system or a three-point safety belt system shall ensure that all children up to six years of age being transported by such vehicle use a child passenger restraint system of a type which meets Federal Motor Vehicle Safety Standard 213 as developed by the National Highway Traffic Safety Administration, as such standard existed on January 1, 2009, and which is correctly installed in such vehicle.

(2) Any person in Nebraska who drives any motor vehicle which has or is required to have an occupant protection system or a three-point safety belt system shall ensure that all children six years of age and less than eighteen years of age being transported by such vehicle use an occupant protection system.

(3) Subsections (1) and (2) of this section apply to autocycles and to every motor vehicle which is equipped with an occupant protection system or is required to be equipped with restraint systems pursuant to Federal Motor Vehicle Safety Standard 208, as such standard existed on January 1, 2009, except taxicabs, mopeds, motorcycles, and any motor vehicle designated by the manufacturer as a 1963 year model or earlier which is not equipped with an occupant protection system.

(4) Whenever any licensed physician determines, through accepted medical procedures, that use of a child passenger restraint system by a particular child would be harmful by reason of the child's weight, physical condition, or other medical reason, the provisions of subsection (1) or (2) of this section shall be waived. The driver of any vehicle transporting such a child shall carry on his or her person or in the vehicle a signed written statement of the physician identifying the child and stating the grounds for such waiver.

(5) The drivers of authorized emergency vehicles shall not be subject to the requirements of subsection (1) or (2) of this section when operating such authorized emergency vehicles pursuant to their employment.

(6) A driver of a motor vehicle shall not be subject to the requirements of subsection (1) or (2) of this section if the motor vehicle is being operated in a parade or exhibition and the parade or exhibition is being conducted in accordance with applicable state law and local ordinances and resolutions.

(7) The Department of Transportation shall develop and implement an ongoing statewide public information and education program regarding the use of child passenger restraint systems and occupant protection systems and the availability of distribution and discount programs for child passenger restraint systems.

(8) All persons being transported by a motor vehicle operated by a holder of a provisional operator's permit or a school permit shall use such motor vehicle's occupant protection system or a three-point safety belt system.

Source: Laws 1983, LB 306, § 2; Laws 1985, LB 259, § 1; Laws 1990, LB 958, § 1; Laws 1992, LB 958, § 3; R.S.Supp., 1992, § 39-6,103.01; Laws 1993, LB 370, § 363; Laws 2000, LB 410, § 1; Laws 2002, LB 1073, § 1; Laws 2004, LB 227, § 2; Laws 2006, LB 853, § 20; Laws 2007, LB239, § 7; Laws 2008, LB756, § 22; Laws 2009, LB219, § 1; Laws 2009, LB331, § 12; Laws 2011, LB67, § 1; Laws 2015, LB231, § 35; Laws 2017, LB339, § 219.
Operative date July 1, 2017.

(y) SIZE, WEIGHT, AND LOAD

60-6,288 Vehicles; width limit; exceptions; conditions; Director-State Engineer; powers.

(1) No vehicle which exceeds a total outside width of one hundred two inches, including any load but excluding designated safety devices, shall be permitted on any portion of the National System of Interstate and Defense Highways. The Director-State Engineer shall adopt and promulgate rules and regulations, consistent with federal requirements, designating safety devices which shall be excluded in determining vehicle width.

(2) No vehicle which exceeds a total outside width of one hundred two inches, including any load but excluding designated safety devices, shall be permitted on any highway which is not a portion of the National System of Interstate and Defense Highways, except that such prohibition shall not apply to:

(a) Farm equipment in temporary movement, during daylight hours or during hours of darkness when the clearance light requirements of section 60-6,235 are fully complied with, in the normal course of farm operations;

(b) Combines eighteen feet or less in width, while in the normal course of farm operations and while being driven during daylight hours or during hours of darkness when the clearance light requirements of section 60-6,235 are fully complied with;

(c) Combines in excess of eighteen feet in width, while in the normal course of farm operations, while being driven during daylight hours for distances of twenty-five miles or less on highways and while preceded by a well-lighted pilot

vehicle or flagperson, except that such combines may be driven on highways while in the normal course of farm operations for distances of twenty-five miles or less and while preceded by a well-lighted pilot vehicle or flagperson during hours of darkness when the clearance light requirements of section 60-6,235 are fully complied with;

(d) Combines and vehicles used in transporting combines or other implements of husbandry, and only when transporting combines or other implements of husbandry, to be engaged in harvesting or other agricultural work, while being transported into or through the state during daylight hours, when the total width including the width of the combine or other implement of husbandry being transported does not exceed fifteen feet, except that vehicles used in transporting combines or other implements of husbandry may, when necessary to the harvesting operation or other agricultural work, travel unloaded for distances not to exceed twenty-five miles, while the combine or other implement of husbandry to be transported is engaged in a harvesting operation or other agricultural work;

(e) Farm equipment dealers or their representatives as authorized under section 60-6,382 driving, delivering, or picking up farm equipment, including portable livestock buildings not exceeding fourteen feet in width, or implements of husbandry during daylight hours;

(f) Livestock forage vehicles loaded or unloaded that comply with subsection (2) of section 60-6,305;

(g) During daylight hours only, vehicles en route to pick up, delivering, or returning unloaded from delivery of baled livestock forage which, including the load if any, may be twelve feet in width;

(h) Mobile homes or prefabricated livestock buildings not exceeding sixteen feet in width and with an outside tire width dimension not exceeding one hundred twenty inches moving during daylight hours;

(i) Self-propelled specialized mobile equipment with a fixed load when:

(i) The self-propelled specialized mobile equipment will be transported on a state highway, excluding any portion of the National System of Interstate and Defense Highways, on a city street, or on a road within the corporate limits of a city;

(ii) The city in which the self-propelled specialized mobile equipment is intended to be transported has authorized a permit pursuant to section 60-6,298 for the transportation of the self-propelled specialized mobile equipment, specifying the route to be used and the hours during which the self-propelled specialized mobile equipment can be transported, except that no permit shall be issued by a city for travel on a state highway containing a bridge or structure which is structurally inadequate to carry the self-propelled specialized mobile equipment as determined by the Department of Transportation;

(iii) The self-propelled specialized mobile equipment's gross weight does not exceed ninety-four thousand pounds if the self-propelled specialized mobile equipment has four axles or seventy-two thousand pounds if the self-propelled specialized mobile equipment has three axles; and

(iv) If the self-propelled specialized mobile equipment has four axles, the maximum weight on each set of tandem axles does not exceed forty-seven thousand pounds, or if the self-propelled specialized mobile equipment has

three axles, the maximum weight on the front axle does not exceed twenty-five thousand pounds and the total maximum weight on the rear tandem axles does not exceed forty-seven thousand pounds;

(j) Vehicles which have been issued a permit pursuant to section 60-6,299; or

(k) A motor home or travel trailer, as those terms are defined in section 71-4603, which may exceed one hundred and two inches if such excess width is attributable to an appurtenance that extends no more than six inches beyond the body of the vehicle. For purposes of this subdivision, the term appurtenance includes (i) an awning and its support hardware and (ii) any appendage that is intended to be an integral part of a motor home or travel trailer and that is installed by the manufacturer or dealer. The term appurtenance does not include any item that is temporarily affixed or attached to the exterior of the motor home or travel trailer for purposes of transporting the vehicular unit from one location to another. Appurtenances shall not be considered in calculating the gross trailer area as defined in section 71-4603.

(3) The Director-State Engineer, with respect to highways under his or her jurisdiction, may designate certain highways upon which vehicles of no more than ninety-six inches in width may be permitted to travel. Highways so designated shall be limited to one or more of the following:

(a) Highways with traffic lanes of ten feet or less;

(b) Highways upon which are located narrow bridges; and

(c) Highways which because of sight distance, surfacing, unusual curves, topographic conditions, or other unusual circumstances would not in the opinion of the Director-State Engineer safely accommodate vehicles of more than ninety-six inches in width.

Source: Laws 1933, c. 105, § 1, p. 425; C.S.Supp.,1941, § 39-1032; R.S.1943, § 39-719; Laws 1957, c. 156, § 1, p. 563; Laws 1961, c. 182, § 1, p. 544; Laws 1963, c. 219, § 1, p. 691; Laws 1963, c. 220, § 1, p. 693; Laws 1963, c. 221, § 1, p. 697; Laws 1965, c. 212, § 1, p. 621; Laws 1969, c. 308, § 2, p. 1101; Laws 1973, LB 491, § 1; R.S.Supp.,1973, § 39-719; Laws 1974, LB 593, § 1; Laws 1975, LB 306, § 1; Laws 1977, LB 427, § 2; Laws 1978, LB 576, § 1; Laws 1978, LB 750, § 2; Laws 1980, LB 284, § 1; Laws 1981, LB 285, § 2; Laws 1982, LB 417, § 1; Laws 1983, LB 244, § 1; Laws 1985, LB 553, § 3; Laws 1990, LB 369, § 3; R.S.Supp.,1992, § 39-6,177; Laws 1993, LB 370, § 384; Laws 1993, LB 413, § 1; Laws 1993, LB 575, § 35; Laws 1997, LB 226, § 1; Laws 1999, LB 704, § 47; Laws 2000, LB 1361, § 5; Laws 2001, LB 376, § 3; Laws 2008, LB756, § 23; Laws 2014, LB1039, § 3; Laws 2017, LB339, § 220.

Operative date July 1, 2017.

Cross References

Weighing stations, see sections 60-1301 to 60-1309.

60-6,292 Extra-long vehicle combinations; permit; conditions; fee; rules and regulations; violation; penalty.

(1) The Department of Transportation may issue permits for the use of extra-long vehicle combinations. Such permits shall allow the extra-long vehicle combinations to operate only on the National System of Interstate and Defense

Highways and only if such vehicles are empty and are being delivered for the manufacturer or retailer, except that a highway located not more than six miles from the National System of Interstate and Defense Highways may also be designated in such permits if it is determined by the Director-State Engineer that such designation is necessary for the permit holder to have access to the National System of Interstate and Defense Highways. An annual permit for such use may be issued to each qualified carrier company or individual. The carrier company or individual shall maintain a copy of such annual permit in each truck-tractor operating as a part of an extra-long vehicle combination. The fee for such permit shall be two hundred fifty dollars per year.

(2) The permit shall allow operation of the following extra-long vehicle combinations of not more than three cargo units and not fewer than six axles nor more than nine axles:

(a) A truck-tractor, a semitrailer, and two trailers having an overall combination length of not more than one hundred five feet. Semitrailers and trailers shall be of approximately equal lengths;

(b) A truck-tractor, semitrailer, and single trailer having an overall length of not more than one hundred five feet. Semitrailers and trailers shall be of approximately equal lengths; and

(c) A truck-tractor, semitrailer, or single trailer, one trailer of which is not more than forty-eight feet long, the other trailer of which is not more than twenty-eight feet long nor less than twenty-six feet long, and the entire combination of which is not more than ninety-five feet long. The shorter trailer shall be operated as the rear trailer.

For purposes of this subsection, a semitrailer used with a converter dolly shall be considered a trailer.

(3) The department shall adopt and promulgate rules and regulations governing the issuance of the permits, including, but not limited to, selection of carriers, driver qualifications, equipment selection, hours of operations, weather conditions, road conditions, and safety considerations.

(4) Any person who violates this section shall be guilty of a Class IV misdemeanor.

Source: Laws 1984, LB 983, § 1; R.S.1943, (1988), § 39-6,179.01; Laws 1993, LB 370, § 388; Laws 2017, LB339, § 221.
Operative date July 1, 2017.

60-6,294 Vehicles; weight limit; further restrictions by Department of Transportation, when authorized; axle load; load limit on bridges; overloading; liability.

(1) Every vehicle, whether operated singly or in a combination of vehicles, and every combination of vehicles shall comply with subsections (2) and (3) of this section except as provided in sections 60-6,294.01, 60-6,297, and 60-6,383. The limitations imposed by this section shall be supplemental to all other provisions imposing limitations upon the size and weight of vehicles.

(2) No wheel of a vehicle or trailer equipped with pneumatic or solid rubber tires shall carry a gross load in excess of ten thousand pounds on any highway nor shall any axle carry a gross load in excess of twenty thousand pounds on any highway. An axle load shall be defined as the total load transmitted to the highway by all wheels the centers of which may be included between two

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parallel transverse vertical planes forty inches apart extending across the full width of the vehicle.

(3) No group of two or more consecutive axles shall carry a load in pounds in excess of the value given in the following table corresponding to the distance in feet between the extreme axles of the group, measured longitudinally to the nearest foot, except that the maximum load carried on any group of two or more axles shall not exceed eighty thousand pounds on the National System of Interstate and Defense Highways unless the Director-State Engineer pursuant to section 60-6,295 authorizes a greater weight.

Distance in feet between the extremes of any group of two or more consecutive axles	Maximum load in pounds carried on any group of two or more consecutive axles					
	Two Axles	Three Axles	Four Axles	Five Axles	Six Axles	Seven Axles
4	34,000					
5	34,000					
6	34,000					
7	34,000					
8	34,000	42,000				
9	39,000	42,500				
10	40,000	43,500				
11		44,000				
12		45,000	50,000			
13		45,500	50,500			
14		46,500	51,500			
15		47,000	52,000			
16		48,000	52,500	58,000		
17		48,500	53,500	58,500		
18		49,500	54,000	59,000		
19		50,000	54,500	60,000		
20		51,000	55,500	60,500		
21		51,500	56,000	61,000		
22		52,500	56,500	61,500		
23		53,000	57,500	62,500		
24		54,000	58,000	63,000		
25		54,500	58,500	63,500	69,000	
26		55,500	59,500	64,000	69,500	
27		56,000	60,000	65,000	70,000	
28		57,000	60,500	65,500	71,000	
29		57,500	61,500	66,000	71,500	
30		58,500	62,000	66,500	72,000	
31		59,000	62,500	67,500	72,500	
32		60,000	63,500	68,000	73,000	
33			64,000	68,500	74,000	
34			64,500	69,000	74,500	
35			65,500	70,000	75,000	
36			66,000	70,500	75,500	
37			66,500	71,000	76,000	81,500
38			67,500	72,000	77,000	82,000
39			68,000	72,500	77,500	82,500
40			68,500	73,000	78,000	83,500
41			69,500	73,500	78,500	84,000

42	70,000	74,000	79,000	84,500
43	70,500	75,000	80,000	85,000
44	71,500	75,500	80,500	85,500
45	72,000	76,000	81,000	86,000
46	72,500	76,500	81,500	87,000
47	73,500	77,500	82,000	87,500
48	74,000	78,000	83,000	88,000
49	74,500	78,500	83,500	88,500
50	75,500	79,000	84,000	89,000
51	76,000	80,000	84,500	89,500
52	76,500	80,500	85,000	90,500
53	77,500	81,000	86,000	91,000
54	78,000	81,500	86,500	91,500
55	78,500	82,500	87,000	92,000
56	79,500	83,000	87,500	92,500
57	80,000	83,500	88,000	93,000
58		84,000	89,000	94,000
59		85,000	89,500	94,500
60		85,500	90,000	95,000

(4) The distance between axles shall be measured to the nearest foot. When a fraction is exactly one-half foot, the next larger whole number shall be used, except that:

(a) Any group of three axles shall be restricted to a maximum load of thirty-four thousand pounds unless the distance between the extremes of the first and third axles is at least ninety-six inches in fact; and

(b) The maximum gross load on any group of two axles, the distance between the extremes of which is more than eight feet but less than eight feet six inches, shall be thirty-eight thousand pounds.

(5) The limitations of subsections (2) through (4) of this section shall apply as stated to all main, rural, and intercity highways but shall not be construed as inhibiting heavier axle loads in metropolitan areas, except on the National System of Interstate and Defense Highways, if such loads are not prohibited by city ordinance.

(6) The weight limitations of wheel and axle loads as defined in subsections (2) through (4) of this section shall be restricted to the extent deemed necessary by the Department of Transportation for a reasonable period when road subgrades or pavements are weak or are materially weakened by climatic conditions.

(7) Two consecutive sets of tandem axles may carry a gross load of thirty-four thousand pounds each when the overall distance between the first and last axles of such consecutive sets of tandem axles is thirty-six, thirty-seven, or thirty-eight feet except as provided in section 60-6,297. Such vehicles shall be subject to section 60-6,301.

(8) If any vehicle crosses a bridge with a total gross load in excess of the posted capacity of such bridge and as a result of such crossing any damage results to the bridge, the owner of such vehicle shall be responsible for all of such damage.

(9) Vehicles equipped with a greater number of axles than provided in the table in subsection (3) of this section shall be legal if they do not exceed the maximum load upon any wheel or axle, the maximum load upon any group of

two or more consecutive axles, and the total gross weight, or any of such weights as provided in subsections (2) and (3) of this section.

(10) Subsections (1) through (9) of this section shall not apply to a vehicle which has been issued a permit pursuant to section 60-6,299, self-propelled specialized mobile equipment with a fixed load when the requirements of subdivision (2)(i) of section 60-6,288 are met, or an emergency vehicle when the requirements of subdivision (1)(a)(v) of section 60-6,298 are met.

(11) Any two consecutive axles the centers of which are more than forty inches and not more than ninety-six inches apart, measured to the nearest inch between any two adjacent axles in the series, shall be defined as tandem axles, and the gross weight transmitted to the road surface through such series shall not exceed thirty-four thousand pounds. No axle of the series shall exceed the maximum weight permitted under this section for a single axle.

(12) Dummy axles shall be disregarded in determining the lawful weight of a vehicle or vehicle combination for operation on the highway. Dummy axle shall mean an axle attached to a vehicle or vehicle combination in a manner so that it does not articulate or substantially equalize the load and does not carry at least the lesser of eight thousand pounds or eight percent of the gross weight of the vehicle or vehicle combination.

(13) The maximum gross weight limit and the axle weight limit for any vehicle or combination of vehicles equipped with idle reduction technology may be increased by an amount necessary to compensate for the additional weight of the idle reduction technology as provided in 23 U.S.C. 127(a)(12), as such section existed on July 18, 2008. The additional amount of weight allowed by this subsection shall not exceed four hundred pounds and shall not be construed to be in addition to the five-percent-in-excess-of-maximum-load provision of subdivision (1) of section 60-6,301.

Source: Laws 1933, c. 105, § 4, p. 426; Laws 1939, c. 50, § 2, p. 218; C.S.Supp.,1941, § 39-1035; Laws 1943, c. 133, § 2, p. 446; R.S. 1943, § 39-722; Laws 1945, c. 91, § 1, p. 312; Laws 1947, c. 147, § 1, p. 403; Laws 1953, c. 131, § 9, p. 404; Laws 1953, c. 134, § 1, p. 416; Laws 1959, c. 164, § 2, p. 600; Laws 1969, c. 318, § 1, p. 1150; C.S.Supp.,1972, § 39-722; Laws 1980, LB 284, § 4; Laws 1982, LB 383, § 2; Laws 1984, LB 726, § 1; Laws 1985, LB 553, § 6; Laws 1987, LB 132, § 1; Laws 1990, LB 369, § 4; R.S.Supp.,1992, § 39-6,180; Laws 1993, LB 370, § 390; Laws 1995, LB 186, § 1; Laws 1996, LB 1104, § 4; Laws 2000, LB 1361, § 8; Laws 2005, LB 82, § 3; Laws 2008, LB756, § 26; Laws 2016, LB977, § 25; Laws 2017, LB339, § 222.

Operative date July 1, 2017.

Cross References

Special load restrictions, rules and regulations of Department of Transportation, adoption, penalty, see sections 39-102 and 39-103. **Weighing stations**, see sections 60-1301 to 60-1309.

60-6,297 Disabled vehicles; length, load, width, height limitations; exception; special single trip permit; liability.

(1) Subdivision (1)(b) of section 60-6,290 and subsections (2) and (3) of section 60-6,294 shall not apply to a vehicle or combination of vehicles disabled or wrecked on a highway or right-of-way when the vehicle or combination of

vehicles is towed to a place of secure safekeeping by any wrecker or tow truck performing a wrecker or towing service.

(2) Subdivision (1)(b) of section 60-6,290 and subsections (2) and (3) of section 60-6,294 shall not apply to a single vehicle that is disabled or wrecked when the single vehicle is towed by any wrecker or tow truck to a place for repair or to a point of storage.

(3)(a) Section 60-6,288, subsection (1) of section 60-6,289, subdivision (1)(b) of section 60-6,290, and subsections (2) and (3) of section 60-6,294 shall not apply to a vehicle or combination of vehicles permitted by the Department of Transportation for overwidth, overheight, overlength, or overweight operation that is disabled or wrecked on a highway or right-of-way when the vehicle or combination of vehicles is towed if the vehicle or combination of vehicles is towed by any wrecker or tow truck performing a wrecker or towing service to the first or nearest place of secure safekeeping off the traveled portion of the highway that can accommodate the parking of such disabled vehicle or combination of vehicles.

(b) After the vehicle or combination of vehicles has been towed to a place of secure safekeeping, such vehicle or combination of vehicles shall then be operated in compliance with section 60-6,288, subsection (1) of section 60-6,289, subdivision (1)(b) of section 60-6,290, and subsections (2) and (3) of section 60-6,294, or the vehicle or combination of vehicles shall acquire a special single trip permit from the department for the movement of the overwidth, overheight, overlength, or overweight vehicle or combination of vehicles beyond the first or nearest place of secure safekeeping to its intended destination.

(4) The owners, lessees, and operators of any wrecker or tow truck exceeding the width, height, length, or weight restrictions while towing a disabled or wrecked vehicle or combination of vehicles shall be jointly and severally liable for any injury or damages that result from the operation of the wrecker or tow truck while exceeding such restrictions.

(5) If a disabled or wrecked vehicle or combination of vehicles is towed, the wrecker or tow truck shall be connected with the air brakes and brake lights of the towed vehicle or combination of vehicles.

(6) For purposes of this section:

(a) Place of secure safekeeping means a location off the traveled portion of the highway that can accommodate the parking of the disabled or wrecked vehicle or combination of vehicles in order for the vehicle or combination of vehicles to be repaired or moved to a point of storage; and

(b) Wrecker or tow truck means an emergency commercial vehicle equipped, designed, and used to assist or render aid and transport or tow a disabled vehicle or combination of vehicles from a highway or right-of-way to a place of secure safekeeping.

Source: Laws 1982, LB 383, § 3; R.S.1943, (1988), § 39-6,180.02; Laws 1993, LB 370, § 393; Laws 2003, LB 137, § 1; Laws 2005, LB 82, § 4; Laws 2011, LB35, § 1; Laws 2017, LB339, § 223.
Operative date July 1, 2017.

60-6,298 Vehicles; size; weight; load; overweight; special, continuing, or continuous permit; issuance discretionary; conditions; penalty; continuing permit; fees.

(1)(a) The Department of Transportation or the Nebraska State Patrol, with respect to highways under its jurisdiction including the National System of Interstate and Defense Highways, and local authorities, with respect to highways under their jurisdiction, may in their discretion upon application and good cause being shown therefor issue a special, continuing, or continuous permit in writing authorizing the applicant or his or her designee:

(i) To operate or move a vehicle, a combination of vehicles, or objects of a size or weight of vehicle or load exceeding the maximum specified by law when such permit is necessary:

(A) To further the national defense or the general welfare;

(B) To permit movement of cost-saving equipment to be used in highway or other public construction or in agricultural land treatment; or

(C) Because of an emergency, an unusual circumstance, or a very special situation;

(ii) To operate vehicles, for a distance up to one hundred twenty miles, loaded up to fifteen percent greater than the maximum weight specified by law, or up to ten percent greater than the maximum length specified by law, or both, except that any combination with two or more cargo-carrying units, not including the truck-tractor, also known as a longer combination vehicle, may only operate for a distance up to seventy miles loaded up to fifteen percent greater than the maximum weight specified by law, or up to ten percent greater than the maximum length specified by law, or both, when carrying grain or other seasonally harvested products from the field where such grain or products are harvested to storage, market, or stockpile in the field or from stockpile to market or factory when failure to move such grain or products in abundant quantities would cause an economic loss to the person or persons whose grain or products are being transported or when failure to move such grain or products in as large quantities as possible would not be in the best interests of the national defense or general welfare. The distance limitation may be waived for vehicles when carrying dry beans from the field where harvested to storage or market when dry beans are not normally stored, purchased, or used within the permittee's local area and must be transported more than one hundred twenty miles to an available marketing or storage destination. No permit shall authorize a weight greater than twenty thousand pounds on any single axle;

(iii) To transport an implement of husbandry which does not exceed twelve and one-half feet in width during daylight hours, except that the permit shall not allow transport on holidays;

(iv) To operate one or more recreational vehicles, as defined in section 71-4603, exceeding the maximum width specified by law if movement of the recreational vehicles is prior to retail sale and the recreational vehicles comply with subdivision (2)(k) of section 60-6,288; or

(v) To operate an emergency vehicle for purposes of sale, demonstration, exhibit, or delivery, if the applicant or his or her designee is a manufacturer or sales agent of the emergency vehicle. No permit shall be issued for an emergency vehicle which weighs over sixty thousand pounds on the tandem axle.

(b) No permit shall be issued under subdivision (a)(i) of this subsection for a vehicle carrying a load unless such vehicle is loaded with an object which exceeds the size or weight limitations, which cannot be dismantled or reduced in size or weight without great difficulty, and which of necessity must be moved over the highways to reach its intended destination. No permit shall be required for the temporary movement on highways other than dustless-surfaced state highways and for necessary access to points on such highways during daylight hours of cost-saving equipment to be used in highway or other public construction or in agricultural land treatment when such temporary movement is necessary and for a reasonable distance.

(2) The application for any such permit shall specifically describe the vehicle, the load to be operated or moved, whenever possible the particular highways for which permit to operate is requested, and whether such permit is requested for a single trip or for continuous or continuing operation. The permit shall include a signed affirmation under oath that, for any load sixteen feet high or higher, the applicant has contacted any and all electric utilities that have high voltage conductors and infrastructure that cross over the roadway affected by the move and made arrangements with such electric utilities for the safe movement of the load under any high voltage conductors owned by such electric utilities.

(3) The department or local authority is authorized to issue or withhold such permit at its discretion or, if such permit is issued, to limit the number of days during which the permit is valid, to limit the number of trips, to establish seasonal or other time limitations within which the vehicles described may be operated on the highways indicated, or to issue a continuous or continuing permit for use on all highways, including the National System of Interstate and Defense Highways. The permits are subject to reasonable conditions as to periodic renewal of such permit and as to operation or movement of such vehicles. The department or local authority may otherwise limit or prescribe conditions of operation of such vehicle or vehicles, when necessary to assure against undue damage to the road foundations, surfaces, or structures or undue danger to the public safety. The department or local authority may require such undertaking or other security as may be deemed necessary to compensate for any injury to any roadway or road structure.

(4) Every such permit shall be carried in the vehicle to which it refers and shall be open to inspection by any peace officer, carrier enforcement officer, or authorized agent of any authority granting such permit. Each such permit shall state the maximum weight permissible on a single axle or combination of axles and the total gross weight allowed. No person shall violate any of the terms or conditions of such special permit. In case of any violation, the permit shall be deemed automatically revoked and the penalty of the original limitations shall be applied unless:

(a) The violation consists solely of exceeding the size or weight specified by the permit, in which case only the penalty of the original size or weight limitation exceeded shall be applied; or

(b) The total gross load is within the maximum authorized by the permit, no axle is more than ten percent in excess of the maximum load for such axle or group of axles authorized by the permit, and such load can be shifted to meet the weight limitations of wheel and axle loads authorized by such permit. Such shift may be made without penalty if it is made at the state or commercial scale

designated in the permit. The vehicle may travel from its point of origin to such designated scale without penalty, and a scale ticket from such scale, showing the vehicle to be properly loaded and within the gross and axle weights authorized by the permit, shall be reasonable evidence of compliance with the terms of the permit.

(5) The department or local authority issuing a permit as provided in this section may adopt and promulgate rules and regulations with respect to the issuance of permits provided for in this section.

(6) The department shall make available applications for permits authorized pursuant to subdivisions (1)(a)(ii) and (1)(a)(iii) of this section in the office of each county treasurer. The department may make available applications for all other permits authorized by this section to the office of the county treasurer and may make available applications for all permits authorized by this section to any other location chosen by the department.

(7) The department or local authority issuing a permit may require a permit fee of not to exceed twenty-five dollars, except that:

(a) The fee for a continuous or continuing permit may not exceed twenty-five dollars for a ninety-day period, fifty dollars for a one-hundred-eighty-day period, or one hundred dollars for a one-year period; and

(b) The fee for permits issued pursuant to subdivision (1)(a)(ii) of this section shall be twenty-five dollars. Permits issued pursuant to such subdivision shall be valid for thirty days and shall be renewable four times for a total number of days not to exceed one hundred fifty days per calendar year.

A vehicle or combination of vehicles for which an application for a permit is requested pursuant to this section shall be registered under section 60-3,147 or 60-3,198 for the maximum gross vehicle weight that is permitted pursuant to section 60-6,294 before a permit shall be issued.

Source: Laws 1957, c. 156, § 4, p. 565; Laws 1961, c. 183, § 1, p. 546; Laws 1963, c. 220, § 3, p. 695; Laws 1963, c. 226, § 1, p. 708; Laws 1965, c. 214, § 1, p. 627; Laws 1967, c. 235, § 1, p. 627; Laws 1972, LB 1337, § 1; Laws 1973, LB 152, § 1; R.S.Supp.,1973, § 39-722.01; Laws 1975, LB 306, § 2; Laws 1979, LB 287, § 1; Laws 1980, LB 842, § 1; Laws 1981, LB 285, § 3; Laws 1986, LB 122, § 1; Laws 1986, LB 833, § 1; R.S.1943, (1988), § 39-6,181; Laws 1993, LB 176, § 1; Laws 1993, LB 370, § 394; Laws 1994, LB 1061, § 4; Laws 1995, LB 467, § 15; Laws 1996, LB 1306, § 2; Laws 1997, LB 122, § 1; Laws 1997, LB 261, § 1; Laws 2000, LB 1361, § 9; Laws 2001, LB 376, § 5; Laws 2003, LB 563, § 33; Laws 2005, LB 82, § 5; Laws 2005, LB 274, § 246; Laws 2010, LB820, § 2; Laws 2011, LB35, § 2; Laws 2012, LB841, § 1; Laws 2012, LB997, § 4; Laws 2013, LB117, § 1; Laws 2017, LB339, § 224.

Operative date July 1, 2017.

Cross References

Rules and regulations of Department of Transportation, adoption, penalty, see sections 39-102 and 39-103.

60-6,299 Permit to move building; limitations; application; Department of Transportation; rules and regulations; violation; penalty.

(1) The Department of Transportation may issue permits for vehicles moving a building or objects requiring specialized moving dollies. Such permits shall allow the vehicles transporting buildings or objects requiring specialized dollies to operate on highways under the jurisdiction of the department, excluding any portion of the National System of Interstate and Defense Highways. Such permit shall specify the maximum allowable width, length, height, and weight of the building to be transported, the route to be used, and the hours during which such building or object may be transported. Such permit shall clearly state that the applicant is not authorized to manipulate overhead high voltage lines or conductors or other such components, including electric utility poles, and that the applicant shall be guilty of a Class II misdemeanor for any violation of this section or of the notification requirements of section 60-6,288.01. Any vehicle moving a building or object requiring specialized moving dollies shall be escorted by another vehicle or vehicles in the manner determined by the department. Such vehicles shall travel at a speed which is not in excess of five miles per hour when carrying loads which are in excess of the maximum gross weight specified by law by more than twenty-five percent. The permit shall not be issued for travel on a state highway containing a bridge or structure which is structurally inadequate to carry such building or object as determined by the department. The department may prescribe conditions of operation of such vehicle when necessary to assure against damage to the road foundations, surfaces, or structures and require such security as may be deemed necessary to compensate for any injury to any roadway or road structure.

(2) The application for any such permit shall (a) specifically describe the vehicle, (b) specifically describe the load to be moved, (c) include a signed affirmation under oath that, for any load sixteen feet high or higher, the applicant has contacted any and all electric utilities that have high voltage conductors and infrastructure that cross over the roadway affected by the move and made arrangements with such electric utilities for the safe movement of the load under any high voltage conductors owned by such electric utilities, and (d) whenever possible, describe the particular highways for which the permit is requested. The company or individual shall maintain a copy of the permit in each vehicle moving a building or object requiring specialized moving dollies which shall be open to inspection by any peace officer, carrier enforcement officer, or authorized agent of any authority granting such permit. The fee for such permit shall be ten dollars.

(3) The department shall adopt and promulgate rules and regulations governing the issuance of the permits. Such rules and regulations shall include, but not be limited to, driver qualifications, equipment selection, hours of operation, weather conditions, road conditions, determination of any damage caused to highways or bridges, cutting or trimming of trees, removal or relocation of signs or other property of the state, raising or lowering of electric supply and communication lines, and such other safety considerations as the department deems necessary.

(4) Any person who violates the terms of a permit issued pursuant to this section or otherwise violates this section shall be guilty of a Class II misdemeanor.

Source: Laws 1985, LB 553, § 1; R.S.1943, (1988), § 39-6,181.01; Laws 1993, LB 370, § 395; Laws 2012, LB997, § 5; Laws 2016, LB973, § 5; Laws 2017, LB339, § 225.
Operative date July 1, 2017.

60-6,301 Vehicles; overload; reduce or shift load; exceptions; permit fee; warning citation; when.

When any motor vehicle, semitrailer, or trailer is operated upon the highways of this state carrying a load in excess of the maximum weight permitted by section 60-6,294, the load shall be reduced or shifted to within such maximum tolerance before being permitted to operate on any public highway of this state, except that:

(1) If any motor vehicle, semitrailer, or trailer exceeds the maximum load on only one axle, only one tandem axle, or only one group of axles when (a) the distance between the first and last axle of such group of axles is twelve feet or less, (b) the excess axle load is no more than five percent in excess of the maximum load for such axle, tandem axle, or group of axles permitted by such section, while the vehicle or combination of vehicles is within the maximum gross load, and (c) the load on such vehicle is such that it can be shifted or the configuration of the vehicle can be changed so that all axles, tandem axle, or groups of axles are within the maximum permissible limit for such axle, tandem axle, or group of axles, such shift or change of configuration may be made without penalty;

(2) Any motor vehicle, semitrailer, or trailer carrying only a load of livestock may exceed the maximum load as permitted by such section on only one axle, only one tandem axle, or only one group of axles when the distance between the first and last axle of the group of axles is six feet or less if the excess load on the axle, tandem axle, or group of axles is caused by a shifting of the weight of the livestock by the livestock and if the vehicle or combination of vehicles is within the maximum gross load as permitted by such section;

(3) With a permit issued by the Department of Transportation or the Nebraska State Patrol, a truck with an enclosed body and a compacting mechanism, designed and used exclusively for the collection and transportation of garbage or refuse, may exceed the maximum load as permitted by such section by no more than twenty percent on only one axle, only one tandem axle, or only one group of axles when the vehicle is laden with garbage or refuse if the vehicle is within the maximum gross load as permitted by such section. There shall be a permit fee of ten dollars per month or one hundred dollars per year. The permit may be issued for one or more months up to one year, and the term of applicability shall be stated on the permit;

(4) Any motor vehicle, semitrailer, or trailer carrying any kind of a load, including livestock, which exceeds the legal maximum gross load by five percent or less may proceed on its itinerary and unload the cargo carried thereon to the maximum legal gross weight at the first unloading facility on the itinerary where the cargo can be properly protected. All material so unloaded shall be cared for by the owner or operator of such vehicle at the risk of such owner or operator; and

(5) Any motor vehicle, semitrailer, or trailer carrying grain or other seasonally harvested products may operate from the field where such grain or products are harvested to storage, market, or stockpile in the field or from stockpile to market or factory up to seventy miles with a load that exceeds the maximum load permitted by section 60-6,294 by fifteen percent on any tandem axle, group of axles, and gross weight. Any truck with no more than a single rear axle carrying grain or other seasonally harvested products may operate from the field where such grain or products are harvested to storage, market, or

stockpile in the field or from stockpile to market or factory up to seventy miles with a load that exceeds the maximum load permitted by section 60-6,294 by fifteen percent on any single axle and gross weight. The owner or a representative of the owner of the agricultural product shall furnish the driver of the loaded vehicle a signed statement of origin and destination.

Nothing in this section shall be construed to permit to be operated on the National System of Interstate and Defense Highways any vehicle or combination of vehicles which exceeds any of the weight limitations applicable to such system as contained in section 60-6,294.

If the maximum legal gross weight or axle weight of any vehicle is exceeded by five percent or less and the arresting peace officer or carrier enforcement officer has reason to believe that such excessive weight is caused by snow, ice, or rain, the officer may issue a warning citation to the operator.

Source: Laws 1953, c. 134, § 5, p. 420; Laws 1955, c. 150, § 1, p. 446; Laws 1963, c. 226, § 3, p. 710; Laws 1969, c. 318, § 4, p. 1156; Laws 1973, LB 491, § 5; R.S.Supp.,1973, § 39-723.07; Laws 1974, LB 920, § 5; Laws 1976, LB 823, § 1; Laws 1977, LB 427, § 3; Laws 1980, LB 785, § 4; Laws 1984, LB 726, § 6; Laws 1986, LB 833, § 2; R.S.1943, (1988), § 39-6,185; Laws 1993, LB 370, § 397; Laws 2000, LB 1361, § 10; Laws 2007, LB148, § 1; Laws 2017, LB339, § 226.

Operative date July 1, 2017.

(bb) SPECIAL RULES FOR MOPEDS

60-6,311 Moped; operator; Nebraska Rules of the Road; applicable.

(1) Any person who rides a moped upon a roadway shall have all of the rights and shall be subject to all of the duties applicable to the driver of a motor vehicle under the Nebraska Rules of the Road except for special moped regulations in the rules and except for those provisions of the rules which by their nature can have no application.

(2) Regulations applicable to mopeds shall apply whenever a moped is operated upon any highway or upon any path set aside by the Department of Transportation or a local authority for the use of mopeds.

Source: Laws 1979, LB 23, § 5; R.S.1943, (1988), § 39-6,198; Laws 1993, LB 370, § 407; Laws 2017, LB339, § 227.

Operative date July 1, 2017.

(cc) SPECIAL RULES FOR BICYCLES

60-6,314 Nebraska Rules of the Road; applicability to persons operating bicycles.

(1) Any person who operates a bicycle upon a highway shall have all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle under the Nebraska Rules of the Road except for special bicycle regulations in the rules, except for those provisions of the rules which by their nature can have no application, and except as provided in section 60-6,142.

(2) Regulations applicable to bicycles shall apply whenever a bicycle is operated upon any highway or upon any path set aside by the Department of Transportation or a local authority for the exclusive use of bicycles.

Source: Laws 1973, LB 45, § 86; R.S.1943, (1988), § 39-686; Laws 1993, LB 370, § 410; Laws 1993, LB 575, § 19; Laws 2017, LB339, § 228.

Operative date July 1, 2017.

Cross References

Hand and arm signals, see sections 60-6,162 and 60-6,163.

(dd) SPECIAL RULES FOR SNOWMOBILES

60-6,335 Snowmobile operation; regulation; equipment; permission of landowner.

(1) No person shall operate a snowmobile upon any highway except as provided in sections 60-6,320 to 60-6,346. Subject to regulation by the Department of Transportation and by local authorities, in their respective jurisdictions, a snowmobile may be operated on the roadway of any highway, on the right-hand side of such roadway and in the same direction as the highway traffic, except that no snowmobile shall be operated at any time within the right-of-way of any controlled-access highway within this state.

(2) A snowmobile may make a direct crossing of a highway at any hour of the day if:

(a) The crossing is made at an angle of approximately ninety degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing;

(b) The snowmobile is brought to a complete stop before crossing the shoulder or roadway of the highway;

(c) The driver yields the right-of-way to all oncoming traffic which constitutes an immediate hazard;

(d) In crossing a divided highway, the crossing is made only at an intersection of such highway with another highway; and

(e) When the crossing is made between sunset and sunrise or in conditions of reduced visibility, both the headlights and taillights are on.

(3) No snowmobile shall be operated upon a highway unless equipped with at least one headlight and one taillight, with reflector material of a minimum area of sixteen square inches mounted on each side forward of the handlebars, and with brakes.

(4) A snowmobile may be operated upon a highway other than as provided by subsection (2) of this section in an emergency during the period of time when and at locations where snow upon the roadway renders travel by automobile impractical.

(5) Unless otherwise provided in sections 60-6,320 to 60-6,346, all other provisions of Chapter 60 shall apply to the operation of snowmobiles upon highways except for those relating to required equipment and those which by their nature have no application.

(6) No person shall operate a snowmobile upon any private lands without first having obtained permission of the owner, lessee, or operator of such lands.

Source: Laws 1971, LB 330, § 13; Laws 1972, LB 1149, § 2; Laws 1977, LB 230, § 11; R.S.1943, (1988), § 60-2013; Laws 1993, LB 370, § 431; Laws 1993, LB 575, § 49; Laws 1995, LB 459, § 4; Laws 2017, LB339, § 229.

Operative date July 1, 2017.

Cross References

Operation of snowmobile during public emergency or in parades, see section 60-6,348.

(hh) SPECIAL RULES FOR ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICES

60-6,376 Electric personal assistive mobility device; operation; violation; penalty.

(1) Any person who operates an electric personal assistive mobility device on a highway shall have all of the rights and shall be subject to all of the duties applicable to the operator of a vehicle under the Nebraska Rules of the Road except (a) as provided in special electric personal assistive mobility device regulations adopted pursuant to the Nebraska Rules of the Road, (b) any provisions of the Nebraska Rules of the Road which by their nature can have no application, and (c) as provided in section 60-6,142 with respect to operating an electric personal assistive mobility device on a shoulder of a highway.

(2) An electric personal assistive mobility device may be operated on any highway, alley, sidewalk, bike trail, path, or any other area where persons travel, except as provided by the Department of Transportation or local authority. Regulations applicable to an electric personal assistive mobility device shall apply whenever an electric personal assistive mobility device is so operated.

(3) An operator of an electric personal assistive mobility device shall yield to pedestrian traffic and any human-powered or animal-powered vehicle at all times. An operator of an electric personal assistive mobility device shall give an audible signal before overtaking and passing any pedestrian or human-powered or animal-powered vehicle. A person violating this subsection shall be fined ten dollars for the first offense. A person violating this subsection shall have his or her electric personal assistive mobility device impounded for up to thirty days for each subsequent offense.

Source: Laws 2002, LB 1105, § 460; Laws 2017, LB339, § 230.

Operative date July 1, 2017.

(ii) EMERGENCY VEHICLE OR ROAD ASSISTANCE VEHICLE

60-6,378 Stopped authorized emergency vehicle or road assistance vehicle; driver; duties; violation; penalty.

(1)(a) A driver in a vehicle on a controlled-access highway approaching or passing a stopped authorized emergency vehicle or road assistance vehicle which makes use of proper audible or visual signals shall proceed with due care and caution as described in subdivision (b) of this subsection.

(b) On a controlled-access highway with at least two adjacent lanes of travel in the same direction on the same side of the highway where a stopped

authorized emergency vehicle or road assistance vehicle is using proper audible or visual signals, the driver of the vehicle shall proceed with due care and caution and yield the right-of-way by moving into a lane at least one moving lane apart from the stopped authorized emergency vehicle or road assistance vehicle unless directed otherwise by a peace officer or other authorized emergency personnel. If moving into another lane is not possible because of weather conditions, road conditions, or the immediate presence of vehicular or pedestrian traffic or because the controlled-access highway does not have two available adjacent lanes of travel in the same direction on the same side of the highway where such a stopped authorized emergency vehicle or road assistance vehicle is located, the driver of the approaching or passing vehicle shall reduce his or her speed, maintain a safe speed with regard to the location of the stopped authorized emergency vehicle or road assistance vehicle, the weather conditions, the road conditions, and vehicular or pedestrian traffic, and proceed with due care and caution or proceed as directed by a peace officer or other authorized emergency personnel or road assistance personnel.

(c) Any person who violates this subsection is guilty of a traffic infraction for a first offense and Class IIIA misdemeanor for a second or subsequent offense.

(2) The Department of Transportation shall erect and maintain or cause to be erected and maintained signs giving notice of subsection (1) of this section along controlled-access highways.

(3) Enforcement of subsection (1) of this section shall not be accomplished using simulated situations involving an authorized emergency vehicle or a road assistance vehicle.

(4) This section does not relieve the driver of an authorized emergency vehicle or a road assistance vehicle from the duty to drive with due regard for the safety of all persons using the highway.

(5) For purposes of this section, road assistance vehicle includes a vehicle operated by the Nebraska Department of Transportation, a Nebraska State Patrol motorist assistance vehicle, a United States Department of Transportation registered towing or roadside assistance vehicle, and a utility service vehicle operated by a utility company. A road assistance vehicle shall emit a warning signal utilizing properly displayed emergency indicators such as strobe, rotating, or oscillating lights when stopped along a highway.

Source: Laws 2009, LB92, § 2; Laws 2013, LB154, § 1; Laws 2017, LB339, § 231.

Operative date July 1, 2017.

(kk) SPECIAL RULES FOR LOW-SPEED VEHICLES

60-6,380 Low-speed vehicle; restrictions on use.

A low-speed vehicle may be operated on any highway on which the speed limit is not more than thirty-five miles per hour. A low-speed vehicle may cross a highway on which the speed limit is more than thirty-five miles per hour. Nothing in this section shall prevent a county, city, or village from adopting more stringent ordinances governing low-speed vehicle operation if the governing body of the county, city, or village determines that such ordinances are necessary in the interest of public safety. Any person operating a low-speed vehicle as authorized under this section shall have a valid Class O operator's

license and shall have liability insurance coverage for the low-speed vehicle. The Department of Transportation may prohibit the operation of low-speed vehicles on any highway under its jurisdiction if it determines that the prohibition is necessary in the interest of public safety.

Source: Laws 2011, LB289, § 32; Laws 2017, LB339, § 232.
Operative date July 1, 2017.

ARTICLE 13

WEIGHING STATIONS

Section

- 60-1301. Weighing stations; portable scales; purpose; location; effect as evidence of weight determination; reweighing, when required; pickup trucks; exception; Nebraska State Patrol; rules and regulations.
- 60-1302. Eminent domain; procedure.
- 60-1303. Weighing stations; portable scales; operation; carrier enforcement division; rules and regulations.

60-1301 Weighing stations; portable scales; purpose; location; effect as evidence of weight determination; reweighing, when required; pickup trucks; exception; Nebraska State Patrol; rules and regulations.

In order to promote public safety, to preserve and protect the state highways and bridges and prevent immoderate and destructive use of the same, and to enforce the motor vehicle registration laws, the Department of Transportation shall have the responsibility to construct, maintain, provide, and contract with the Nebraska State Patrol for the operation of weighing stations and provide the funding for the same. The Nebraska State Patrol shall operate the weighing stations, including portable scales, for the weighing and inspection of buses, motor trucks, truck-tractors, semitrailers, trailers, and towed vehicles. Each of the weighing stations shall be located near, on, or adjacent to a state highway upon real estate owned by the State of Nebraska or upon real estate acquired for that purpose. Weights determined on such weighing stations and portable scales shall be presumed to be accurate and shall be accepted in court as prima facie evidence of a violation of the laws relating to the size, weight, load, and registration of buses, motor trucks, truck-tractors, semitrailers, trailers, and towed vehicles. The owner or driver of a vehicle found to be in violation of such laws by the use of portable scales shall be advised by the officer operating the portable scale that he or she has the right to demand an immediate reweighing at his or her expense at the nearest permanent state-approved scale capable of weighing the vehicle, and if a variance exists between the weights of the permanent and portable scales, then the weights determined on the permanent scale shall prevail. Sections 60-1301 to 60-1309 shall not apply to pickup trucks with a factory-rated capacity of one ton or less, except as may be provided by rules and regulations of the Nebraska State Patrol, or to recreational vehicles as defined in section 71-4603. The Nebraska State Patrol may adopt and promulgate rules and regulations concerning the weighing of pickup trucks with a factory-rated capacity of one ton or less which tow vehicles. Such rules and regulations shall require trucks towing vehicles to comply with sections 60-1301 to 60-1309 when it is necessary to promote the public safety and preserve and protect the state highways and bridges.

Source: Laws 1949, c. 109, § 1, p. 300; Laws 1951, c. 116, § 1, p. 525; R.R.S.1943, § 39-603.03; Laws 1955, c. 145, § 1, p. 406; Laws

1961, c. 323, § 1, p. 1027; Laws 1963, c. 373, § 5, p. 1197; Laws 1976, LB 823, § 2; Laws 1985, LB 395, § 4; Laws 2002, LB 470, § 1; Laws 2008, LB797, § 2; Laws 2017, LB339, § 233.
Operative date July 1, 2017.

60-1302 Eminent domain; procedure.

The Department of Transportation is hereby authorized to take, hold, and acquire by eminent domain so much real estate as may be necessary and convenient to carry out the provisions of section 60-1301. The procedure to condemn property shall be exercised in the manner set forth in sections 76-704 to 76-724.

Source: Laws 1949, c. 109, § 2, p. 300; Laws 1951, c. 101, § 88, p. 485; R.R.S.1943, § 39-603.04; Laws 1955, c. 145, § 2, p. 406; Laws 2017, LB339, § 234.
Operative date July 1, 2017.

60-1303 Weighing stations; portable scales; operation; carrier enforcement division; rules and regulations.

(1) The Nebraska State Patrol is hereby designated as the agency to operate the weighing stations and portable scales and to perform carrier enforcement duties.

(2)(a) On and after July 20, 2002, officers of the Nebraska State Patrol appointed to operate the weighing stations and portable scales and to perform carrier enforcement duties shall be known as the carrier enforcement division. The Superintendent of Law Enforcement and Public Safety shall appoint officers of the Nebraska State Patrol to the carrier enforcement division, including officers as prescribed in sections 81-2001 to 81-2009, and carrier enforcement officers as prescribed in sections 60-1301 to 60-1309.

(b) The employees within the Nebraska State Patrol designated to operate the weighing stations and portable scales and to perform carrier enforcement duties before July 20, 2002, and not authorized to act under subdivisions (1) through (8) of section 81-2005 shall be known as carrier enforcement officers.

(3) All carrier enforcement officers shall be bonded or insured as required by section 11-201. Premiums shall be paid from the money appropriated for the construction, maintenance, and operation of the state weighing stations.

(4) All employees of the Nebraska State Patrol who are carrier enforcement officers and who are not officers of the Nebraska State Patrol with the powers and duties prescribed in sections 81-2001 to 81-2009 shall be members of the State Employees Retirement System of the State of Nebraska. Officers of the Nebraska State Patrol who are carrier enforcement officers on July 20, 2002, who subsequently become officers of the Nebraska State Patrol with the powers and duties prescribed in sections 81-2001 to 81-2009, and who elect to remain members of the State Employees Retirement System of the State of Nebraska shall continue to participate in the State Employees Retirement System of the State of Nebraska. Carrier enforcement officers shall not receive any expense allowance as provided for by section 81-2002.

(5) The Nebraska State Patrol and the Department of Transportation shall have the duty, power, and authority to contract with one another for the staffing and operation of weighing stations and portable scales and the per-

formance of carrier enforcement duties to ensure that there is adequate personnel in the carrier enforcement division to carry out the duties specified in sections 60-1301 to 60-1309. Through June 30, 2005, the number of full-time equivalent positions funded pursuant to such contract shall be limited to eighty-eight officers, including carrier enforcement officers as prescribed in sections 60-1301 to 60-1309 and officers of the Nebraska State Patrol as prescribed in sections 81-2001 to 81-2009 assigned to the carrier enforcement division. Pursuant to such contract, command of the personnel involved in such carrier enforcement operations shall be with the Nebraska State Patrol. The Department of Transportation may use any funds at its disposal for its financing of such carrier enforcement activity in accordance with such contract as long as such funds are used only to finance those activities directly involved with the duties specified in sections 60-1301 to 60-1309. The Nebraska State Patrol shall account for all appropriations and expenditures related to the staffing and operation of weighing stations and portable scales and the performance of carrier enforcement duties in a budget program that is distinct and separate from budget programs used for non-carrier-enforcement-division-related activities.

(6) The Nebraska State Patrol may adopt, promulgate, and enforce rules and regulations consistent with statutory provisions related to carrier enforcement necessary for (a) the collection of fees, as outlined in sections 60-3,177 and 60-3,179 to 60-3,182 and the International Fuel Tax Agreement Act, (b) the inspection of licenses and permits required under the motor fuel laws, and (c) weighing and inspection of buses, motor trucks, truck-tractors, semitrailers, trailers, and towed vehicles.

Source: Laws 1955, c. 145, § 3, p. 406; Laws 1978, LB 653, § 21; Laws 1985, LB 395, § 5; Laws 1991, LB 627, § 7; Laws 1994, LB 1066, § 47; Laws 1996, LB 1218, § 15; Laws 2002, LB 470, § 2; Laws 2003, LB 408, § 2; Laws 2004, LB 884, § 32; Laws 2004, LB 983, § 2; Laws 2005, LB 274, § 253; Laws 2007, LB322, § 10; Laws 2017, LB339, § 235.

Operative date July 1, 2017.

Cross References

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

ARTICLE 14

MOTOR VEHICLE INDUSTRY LICENSING

Section	
60-1403.01.	License required; restriction on issuance; exception.
60-1406.	Licenses; classes.
60-1407.	Application for license; contents.
60-1409.	Nebraska Motor Vehicle Industry Licensing Fund; created; collections; disbursements; investment; audited.
60-1410.	License; form; display; pocket card.
60-1411.	Notice of changes; return of pocket card; required when.
60-1411.01.	Administration and enforcement expenses; how paid; fees; licenses; expiration.
60-1411.02.	Investigation; denial of application; revocation or suspension of license; probation; administrative fine; grounds.
60-1413.	Disciplinary actions; procedure.
60-1416.	Acting without license; penalty.

60-1403.01 License required; restriction on issuance; exception.

(1) No person shall engage in the business as, serve in the capacity of, or act as a motor vehicle, trailer, or motorcycle dealer, wrecker or salvage dealer, auction dealer, dealer's agent, manufacturer, factory branch, factory representative, distributor, distributor branch, or distributor representative in this state without being licensed by the board under the Motor Vehicle Industry Regulation Act. No dealer's license shall be issued to any minor. No wrecker or salvage dealer's license shall be issued or renewed unless the applicant has a permanent place of business at which the activity requiring licensing is performed and which conforms to all local laws.

(2) A license issued under the act shall authorize the holder thereof to engage in the business or activities permitted by the license subject to the act and the rules and regulations adopted and promulgated by the board under the act.

(3) This section shall not apply to a licensed real estate salesperson or broker who negotiates for sale or sells a trailer for any individual who is the owner of not more than two trailers.

(4) This section shall not restrict a licensed motor vehicle dealer from conducting an auction as provided in subsection (5) of section 60-1417.02.

Source: Laws 1971, LB 768, § 5; Laws 1972, LB 1335, § 2; Laws 1974, LB 754, § 3; Laws 1983, LB 234, § 20; Laws 2000, LB 1018, § 2; Laws 2003, LB 498, § 2; Laws 2010, LB816, § 56; Laws 2013, LB164, § 1; Laws 2017, LB346, § 3.
Effective date August 24, 2017.

60-1406 Licenses; classes.

Licenses issued by the board under the Motor Vehicle Industry Regulation Act shall be of the classes set out in this section and shall permit the business activities described in this section:

(1) Motor vehicle dealer's license. This license permits the licensee to engage in the business of selling or exchanging new, used, or new and used motor vehicles, trailers, and manufactured homes at the established place of business designated in the license and another place or places of business located within three hundred feet of the designated place of business and within the city or county described in the original license. This license permits the sale of a trade-in or consignment mobile home greater than forty feet in length and eight feet in width and located at a place other than the dealer's established place of business. This license permits one person, either the licensee, if he or she is the individual owner of the licensed business, or a stockholder, officer, partner, or member of the licensee, to act as a motor vehicle, trailer, and manufactured home salesperson and the name of the authorized person shall appear on the license;

(2) Manufacturer license. This license permits the licensee to engage in the activities of a motor vehicle, motorcycle, or trailer manufacturer or manufacturer's factory branch;

(3) Distributor license. This license permits the licensee to engage in the activities of a motor vehicle, motorcycle, or trailer distributor;

(4) Factory representative license. This license permits the licensee to engage in the activities of a factory branch representative;

(5) Factory branch license. This license permits the licensee to maintain a branch office in this state;

(6) Distributor representative license. This license permits the licensee to engage in the activities of a distributor representative;

(7) Finance company license. This license permits the licensee to engage in the activities of repossession of motor vehicles or trailers and the sale of such motor vehicles or trailers so repossessed;

(8) Wrecker or salvage dealer license. This license permits the licensee to engage in the business of acquiring motor vehicles or trailers for the purpose of dismantling the motor vehicles or trailers and selling or otherwise disposing of the parts and accessories of motor vehicles or trailers;

(9) Supplemental motor vehicle, motorcycle, or trailer dealer's license. This license permits the licensee to engage in the business of selling or exchanging motor vehicles, motorcycles, or trailers of the type designated in his or her dealer's license at a specified place of business which is located more than three hundred feet from any part of the place of business designated in the original motor vehicle, motorcycle, or trailer dealer's license but which is located within the city or county described in such original license;

(10) Motorcycle dealer's license. This license permits the licensee to engage in the business of selling or exchanging new, used, or new and used motorcycles at the established place of business designated in the license and another place or places of business located within three hundred feet of the designated place of business and within the city or county described in the original license. This form of license permits one person named on the license, either the licensee, if he or she is the individual owner of the licensed business, or a stockholder, officer, partner, or member of the licensee, to act as a motorcycle salesperson and the name of the authorized person shall appear on the license;

(11) Motor vehicle auction dealer's license. This license permits the licensee to engage in the business of selling motor vehicles and trailers. This form of license permits one person named on the license, either the licensee, if he or she is the individual owner of the licensed business, or a stockholder, officer, partner, or member of the licensee, to act as a motor vehicle auction dealer's salesperson and the name of the authorized person shall appear on the license;

(12) Trailer dealer's license. This license permits the licensee to engage in the business of selling or exchanging new, used, or new and used trailers and manufactured homes at the established place of business designated in the license and another place or places of business located within three hundred feet of the designated place of business and within the city or county described in the original license. This form of license permits one person named on the license, either the licensee, if he or she is the individual owner of the licensed business, or a stockholder, officer, partner, or member of the licensee, to act as a trailer and manufactured home salesperson and the name of the authorized person shall appear on the license; and

(13) Dealer's agent license. This license permits the licensee to act as the buying agent for one or more licensed motor vehicle dealers, motorcycle dealers, or trailer dealers. The agent shall act in accordance with a written contract and file a copy of the contract with the board. The dealer shall be bound by and liable for the actions of the agent. The dealer's agent shall disclose in writing to each dealer with which the agent contracts as an agent the names of all other dealers contracting with the agent. The agent shall make

each purchase on behalf of and in the name of only one dealer and may purchase for dealers only at auctions and only from licensed dealers. The agent shall not act as a licensed dealer and is not authorized to sell any vehicle pursuant to this license.

Source: Laws 1957, c. 280, § 6, p. 1016; Laws 1961, c. 307, § 8, p. 977; Laws 1963, c. 365, § 4, p. 1170; Laws 1967, c. 394, § 4, p. 1229; Laws 1971, LB 768, § 6; Laws 1972, LB 1335, § 3; Laws 1974, LB 754, § 5; Laws 1978, LB 248, § 5; Laws 1984, LB 825, § 14; Laws 1993, LB 121, § 389; Laws 1995, LB 564, § 4; Laws 1999, LB 632, § 1; Laws 2000, LB 1018, § 4; Laws 2003, LB 498, § 3; Laws 2010, LB816, § 59; Laws 2017, LB346, § 4.
Effective date August 24, 2017.

60-1407 Application for license; contents.

Any person desiring to apply for one or more of the types of licenses described in the Motor Vehicle Industry Regulation Act shall submit to the board, in writing, the following required information:

(1) The name and address of the applicant, if the applicant is an individual, his or her social security number, and the name under which he or she intends to conduct business. If the applicant is a partnership or limited liability company, it shall set forth the name and address of each partner or member thereof and the name under which the business is to be conducted. If the applicant is a corporation, it shall set forth the name of the corporation and the name and address of each of its principal officers;

(2) The place or places, including the city or village and the street and street number, if any, where the business is to be conducted;

(3) If the application is for a motor vehicle dealer's license, trailer dealer's license, or motorcycle dealer's license (a) the name or names of the new motor vehicle or vehicles, new trailer or trailers, or new motorcycle or motorcycles which the applicant has been enfranchised to sell or exchange, (b) the name or names and address or addresses of the manufacturer or distributor who has enfranchised the applicant, (c) a current copy of each existing franchise, and (d) a description of the community;

(4) If the application is for any of the above-named classes of dealer's licenses, the name and address of the person who is to act as a motor vehicle, trailer, or motorcycle salesperson under such license if issued;

(5) If the application is for a dealer's agent, the dealers for which the agent will be buying;

(6) A description of the proposed place or places of business proposed to be operated in the event a license is granted together with (a) a statement whether the applicant owns or leases the proposed established place of business and, if the proposed established place of business is leased, the applicant shall file a true and correct copy of the lease agreement, and (b) a description of the facilities for the display of motor vehicles, trailers, and motorcycles;

(7) If the application is for a manufacturer's license, a statement regarding the manufacturer's compliance with the Motor Vehicle Industry Regulation Act; and

(8) A statement that the licensee will comply with and be subject to the act, the rules and regulations adopted and promulgated by the board, and any

amendments to the act and the rules and regulations existing on the date of application.

Subdivision (3)(d) of this section shall not be construed to require any licensee who has a franchise on August 31, 2003, to show good cause to be in the same community as any other licensee who has a franchise of the same line-make in the same community on August 31, 2003.

Source: Laws 1957, c. 280, § 7, p. 1017; Laws 1959, c. 286, § 9, p. 1087; Laws 1963, c. 365, § 5, p. 1172; Laws 1967, c. 394, § 5, p. 1231; Laws 1971, LB 768, § 7; Laws 1972, LB 1335, § 4; Laws 1993, LB 121, § 390; Laws 1997, LB 752, § 146; Laws 2003, LB 182, § 1; Laws 2003, LB 498, § 4; Laws 2010, LB816, § 60; Laws 2017, LB346, § 5.
Effective date August 24, 2017.

60-1409 Nebraska Motor Vehicle Industry Licensing Fund; created; collections; disbursements; investment; audited.

The Nebraska Motor Vehicle Industry Licensing Fund is created. All fees collected under the Motor Vehicle Industry Regulation Act shall be remitted by the board, as collected, to the State Treasurer for credit to the fund. Such fund shall be appropriated by the Legislature for the operations of the Nebraska Motor Vehicle Industry Licensing Board and shall be paid out from time to time by warrants of the Director of Administrative Services on the State Treasurer for authorized expenditures upon duly itemized vouchers executed as provided by law and approved by the chairperson of the board or the executive secretary, except that transfers from the fund to the General Fund may be made at the direction of the Legislature through June 30, 2018. The expenses of conducting the office must always be kept within the income collected and reported to the State Treasurer by such board. Such office and expense thereof shall not be supported or paid from the General Fund, and all money deposited in the Nebraska Motor Vehicle Industry Licensing Fund shall be expended only for such office and expense thereof and, unless determined by the board, it shall not be required to expend any funds to any person or any other governmental agency.

Any money in the Nebraska Motor Vehicle Industry Licensing Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. The fund shall be audited by the Auditor of Public Accounts at such time as he or she determines necessary.

The State Treasurer shall transfer five hundred thousand dollars from the Nebraska Motor Vehicle Industry Licensing Fund to the General Fund on or before June 30, 2018, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

Source: Laws 1957, c. 280, § 9, p. 1019; Laws 1969, c. 584, § 60, p. 2382; Laws 1972, LB 1335, § 5; Laws 1974, LB 754, § 8; Laws 1978, LB 248, § 6; Laws 1995, LB 7, § 63; Laws 2002, LB 1310, § 6; Laws 2009, First Spec. Sess., LB3, § 36; Laws 2010, LB816, § 65; Laws 2011, LB337, § 3; Laws 2017, LB331, § 29.
Effective date May 16, 2017.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

60-1410 License; form; display; pocket card.

The board shall prescribe the form of the license and each license shall have printed thereon the seal of its office. All licenses shall be mailed to each licensee. It shall be the duty of each dealer to conspicuously display his or her own license or licenses in his or her place or places of business.

The board shall prepare and deliver a pocket card for dealer's agents, factory representatives, and distributor representatives. Such card shall certify that the person whose name appears thereon is a licensed dealer's agent, factory representative, or distributor representative, as the case may be.

Source: Laws 1957, c. 280, § 10, p. 1019; Laws 1963, c. 365, § 7, p. 1173; Laws 1971, LB 768, § 9; Laws 1972, LB 1335, § 6; Laws 2003, LB 498, § 5; Laws 2017, LB346, § 6.
Effective date August 24, 2017.

60-1411 Notice of changes; return of pocket card; required when.

If a motor vehicle dealer, motorcycle dealer, or trailer dealer changes the address of his or her place of business, changes franchise, adds another franchise, or loses a franchise for sale of new motor vehicles, motorcycles, or trailers, the dealer shall notify the board of such change within ten days prior to such change. Thereupon the license shall be corrected for the unexpired portion of the term at no additional fee except as provided in section 60-1411.01.

If a dealer's agent changes his or her agent's status with any dealer, the agent shall notify the board. If the agent is no longer contracting with any dealer, the dealer's agent license shall lapse and the license and pocket card shall be returned to the board.

Source: Laws 1957, c. 280, § 11, p. 1020; Laws 1963, c. 365, § 8, p. 1174; Laws 1971, LB 768, § 10; Laws 1972, LB 1335, § 7; Laws 2003, LB 498, § 6; Laws 2017, LB346, § 7.
Effective date August 24, 2017.

60-1411.01 Administration and enforcement expenses; how paid; fees; licenses; expiration.

(1) To pay the expenses of the administration, operation, maintenance, and enforcement of the Motor Vehicle Industry Regulation Act, the board shall collect with each application for each class of license fees not exceeding the following amounts:

- (a) Motor vehicle dealer's license, four hundred dollars;
- (b) Supplemental motor vehicle dealer's license, twenty dollars;
- (c) Dealer's agent license, one hundred dollars;
- (d) Motor vehicle, motorcycle, or trailer manufacturer's license, six hundred dollars;
- (e) Distributor's license, six hundred dollars;
- (f) Factory representative's license, twenty dollars;
- (g) Distributor representative's license, twenty dollars;

- (h) Finance company's license, four hundred dollars;
- (i) Wrecker or salvage dealer's license, two hundred dollars;
- (j) Factory branch license, two hundred dollars;
- (k) Motorcycle dealer's license, four hundred dollars;
- (l) Motor vehicle auction dealer's license, four hundred dollars; and
- (m) Trailer dealer's license, four hundred dollars.

(2) The fees shall be fixed by the board and shall not exceed the amount actually necessary to sustain the administration, operation, maintenance, and enforcement of the act.

(3) Such licenses, if issued, shall expire on December 31 next following the date of the issuance thereof. Any motor vehicle, motorcycle, or trailer dealer changing its location shall not be required to obtain a new license if the new location is within the same city limits or county, all requirements of law are complied with, and a fee of twenty-five dollars is paid, but any change of ownership of any licensee shall require a new application for a license and a new license. Change of name of licensee without change of ownership shall require the licensee to obtain a new license and pay a fee of five dollars. Applications shall be made each year for a new or renewal license. If the applicant is an individual, the application shall include the applicant's social security number.

Source: Laws 1971, LB 768, § 11; Laws 1972, LB 1335, § 8; Laws 1974, LB 754, § 9; Laws 1978, LB 248, § 7; Laws 1984, LB 825, § 16; Laws 1997, LB 752, § 147; Laws 1998, LB 903, § 4; Laws 1999, LB 632, § 3; Laws 2003, LB 498, § 7; Laws 2007, LB681, § 1; Laws 2010, LB816, § 66; Laws 2017, LB346, § 8.
Effective date August 24, 2017.

60-1411.02 Investigation; denial of application; revocation or suspension of license; probation; administrative fine; grounds.

The board may, upon its own motion, and shall, upon a sworn complaint in writing of any person, investigate the actions of any person acting, registered, or licensed under the Motor Vehicle Industry Regulation Act as a motor vehicle dealer, trailer dealer, dealer's agent, manufacturer, factory branch, distributor, factory representative, distributor representative, supplemental motor vehicle dealer, wrecker or salvage dealer, finance company, motorcycle dealer, or motor vehicle auction dealer or operating without a registration or license when such registration or license is required. The board may deny any application for a license, may revoke or suspend a license, may place the licensee or registrant on probation, may assess an administrative fine in an amount not to exceed five thousand dollars per violation, or may take any combination of such actions if the violator, applicant, registrant, or licensee including any officer, stockholder, partner, or limited liability company member or any person having any financial interest in the violator, applicant, registrant, or licensee:

- (1) Has had any license issued under the act revoked or suspended and, if the license has been suspended, has not complied with the terms of suspension;
- (2) Has knowingly purchased, sold, or done business in stolen motor vehicles, motorcycles, or trailers or parts therefor;
- (3) Has failed to provide and maintain an established place of business;

(4) Has been found guilty of any felony which has not been pardoned, has been found guilty of any misdemeanor concerning fraud or conversion, or has suffered any judgment in any civil action involving fraud, misrepresentation, or conversion. In the event felony charges are pending against an applicant, the board may refuse to issue a license to the applicant until there has been a final determination of the charges;

(5) Has made a false material statement in his or her application or any data attached to the application or to any investigator or employee of the board;

(6) Has willfully failed to perform any written agreement with any consumer or retail buyer;

(7) Has made a fraudulent sale, transaction, or repossession, or created a fraudulent security interest as defined in the Uniform Commercial Code, in a motor vehicle, trailer, or motorcycle;

(8) Has failed to notify the board of a change in the location of his or her established place or places of business;

(9) Has willfully failed to deliver to a purchaser a proper certificate of ownership for a motor vehicle, trailer, or motorcycle sold by the licensee or to refund the full purchase price if the purchaser cannot legally obtain proper certification of ownership within thirty days;

(10) Has forged the signature of the registered or legal owner on a certificate of title;

(11) Has failed to comply with the act and any orders, rules, or regulations of the board adopted and promulgated under the act;

(12) Has failed to comply with the advertising and selling standards established in section 60-1411.03;

(13) Has failed to comply with any provisions of the Motor Vehicle Certificate of Title Act, the Motor Vehicle Industry Regulation Act, the Motor Vehicle Registration Act, or the rules or regulations adopted and promulgated by the board pursuant to the Motor Vehicle Industry Regulation Act;

(14) Has failed to comply with any provision of Chapter 71, article 46, or with any code, standard, rule, or regulation adopted or made under the authority of or pursuant to Chapter 71, article 46;

(15) Has willfully defrauded any retail buyer or other person in the conduct of the licensee's business;

(16) Has failed to comply with sections 60-190 to 60-196;

(17) Has engaged in any unfair methods of competition or unfair or deceptive acts or practices prohibited under the Uniform Deceptive Trade Practices Act;

(18) Has conspired, as defined in section 28-202, with other persons to process certificates of title in violation of the Motor Vehicle Certificate of Title Act; or

(19) Has violated the Guaranteed Asset Protection Waiver Act.

If the violator, applicant, registrant, or licensee is a publicly held corporation, the board's authority shall extend only to the corporation and its managing officers and directors.

Source: Laws 1971, LB 768, § 12; Laws 1972, LB 1335, § 9; Laws 1974, LB 754, § 10; Laws 1978, LB 248, § 8; Laws 1980, LB 820, § 2; Laws 1984, LB 825, § 17; Laws 1991, LB 47, § 6; Laws 1993, LB

106, § 1; Laws 1993, LB 121, § 391; Laws 1993, LB 370, § 472; Laws 1994, LB 884, § 82; Laws 1995, LB 564, § 5; Laws 1999, LB 632, § 4; Laws 2003, LB 498, § 8; Laws 2005, LB 274, § 257; Laws 2005, LB 276, § 106; Laws 2010, LB571, § 12; Laws 2010, LB816, § 67; Laws 2017, LB346, § 9.
Effective date August 24, 2017.

Cross References

Guaranteed Asset Protection Waiver Act, see section 45-1101.

Motor Vehicle Certificate of Title Act, see section 60-101.

Motor Vehicle Registration Act, see section 60-301.

Uniform Deceptive Trade Practices Act, see section 87-306.

60-1413 Disciplinary actions; procedure.

(1) Before the board denies any license or any registration as described in section 60-1417.02, revokes or suspends any such license or registration, places a licensee or registrant on probation, or assesses an administrative fine under section 60-1411.02, the board shall give the applicant, licensee, registrant, or violator a hearing on the matter unless the hearing is waived upon agreement between the applicant, licensee, registrant, or violator and the executive director, with the approval of the board. As a condition of the waiver, the applicant, licensee, registrant, or violator shall accept the fine or other administrative action. If the hearing is not waived, the board shall, at least thirty days prior to the date set for the hearing, notify the party in writing. Such notice in writing shall contain an exact statement of the charges against the party and the date and place of hearing. The party shall have full authority to be heard in person or by counsel before the board in reference to the charges. The written notice may be served by delivery personally to the party or by mailing the notice by registered or certified mail to the last-known business address of the party. If the applicant is a dealer's agent, the board shall also notify the dealer employing or contracting with him or her or whose employ he or she seeks to enter by mailing the notice to the dealer's last-known business address. A stenographic record of all testimony presented at the hearings shall be made and preserved pending final disposition of the complaint.

(2) When the licensee fails to maintain a bond as provided in section 60-1419, an established place of business, or liability insurance as prescribed by subsection (3) of section 60-1407.01, the license shall immediately expire. The executive director shall notify the licensee personally or by mailing the notice by registered or certified mail to the last-known address of the licensee that his or her license is revoked until a bond as required by section 60-1419 or liability insurance as prescribed by subsection (3) of section 60-1407.01 is furnished and approved in which event the license may be reinstated.

(3) Upon notice of the revocation or suspension of the license, the licensee shall immediately surrender the expired license to the executive director or his or her representative. If the license is suspended, the executive director or his or her representative shall return the license to the licensee at the time of the conclusion of the period of suspension. Failure to surrender the license as required in this section shall subject the licensee to the penalties provided in section 60-1416.

Source: Laws 1957, c. 280, § 13, p. 1022; Laws 1963, c. 365, § 10, p. 1177; Laws 1967, c. 394, § 8, p. 1235; Laws 1971, LB 768, § 15; Laws 1978, LB 248, § 9; Laws 1984, LB 825, § 23; Laws 1993,

LB 106, § 2; Laws 1995, LB 564, § 7; Laws 1999, LB 632, § 5; Laws 2003, LB 498, § 9; Laws 2017, LB346, § 10.
Effective date August 24, 2017.

60-1416 Acting without license; penalty.

Any person acting as a motor vehicle dealer, trailer dealer, wrecker or salvage dealer, motorcycle dealer, auction dealer, dealer’s agent, manufacturer, factory representative, distributor, or distributor representative without having first obtained the license provided in section 60-1406 is guilty of a Class IV felony and is subject to the civil penalty provisions of section 60-1411.02.

Source: Laws 1957, c. 280, § 16, p. 1023; Laws 1963, c. 365, § 12, p. 1178; Laws 1971, LB 768, § 19; Laws 1974, LB 754, § 13; Laws 1977, LB 39, § 95; Laws 1984, LB 825, § 26; Laws 1989, LB 47, § 1; Laws 1995, LB 564, § 8; Laws 2003, LB 498, § 10; Laws 2017, LB346, § 11.
Effective date August 24, 2017.

ARTICLE 15

DEPARTMENT OF MOTOR VEHICLES

Section

- 60-1505. Vehicle Title and Registration System Replacement and Maintenance Cash Fund; created; use; investment.
- 60-1506. Registration and titling; records; copy or extract provided; electronic access; fee.
- 60-1507. Electronic dealer services system; licensed dealer; participation; service fee; powers of director.

60-1505 Vehicle Title and Registration System Replacement and Maintenance Cash Fund; created; use; investment.

The Vehicle Title and Registration System Replacement and Maintenance Cash Fund is hereby created. The fund shall be administered by the Department of Motor Vehicles. Revenue credited to the fund shall include fees collected by the department from participation in any multistate electronic data security program, except as otherwise specifically provided by law, and funds transferred as provided in section 60-3,186. The fund shall be used by the department to pay for costs associated with the acquisition, implementation, maintenance, support, upgrades, and replacement of the Vehicle Title and Registration System. 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 2014, LB906, § 2; Laws 2016, LB977, § 28; Laws 2017, LB263, § 75.
Operative date August 24, 2017.

Cross References

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

60-1506 Registration and titling; records; copy or extract provided; electronic access; fee.

(1) The Department of Motor Vehicles shall keep a record of each motor vehicle, trailer, motorboat, all-terrain vehicle, utility-type vehicle, snowmobile, and minibike registered or titled in this state, alphabetically by name of the owner, with cross reference in each instance to the registration number assigned to such motor vehicle, trailer, motorboat, all-terrain vehicle, utility-type vehicle, snowmobile, and minibike. The record may be destroyed by any public officer having custody of it after three years from the date of its issuance.

(2) The department shall issue a copy of the record of a registered or titled motor vehicle, trailer, motorboat, all-terrain vehicle, utility-type vehicle, snowmobile, or minibike to any person after receiving from the person the name on the registration or certificate of title, the license plate number, the vehicle identification or other type of identification number, or the title number of a motor vehicle, trailer, motorboat, all-terrain vehicle, utility-type vehicle, snowmobile, or minibike, if the person provides to the department verification of identity and purpose pursuant to section 60-2906 or 60-2907. A fee of one dollar shall be charged for the copy. An extract of the entire file of motor vehicles, trailers, motorboats, all-terrain vehicles, utility-type vehicles, snowmobiles, and minibikes registered or titled in the state or updates to the entire file may be provided to a person upon payment of a fee of eighteen dollars per thousand records. Any fee received by the department pursuant to this subsection shall be deposited into the Department of Motor Vehicles Cash Fund.

(3) The record of each motor vehicle, trailer, motorboat, all-terrain vehicle, utility-type vehicle, snowmobile, or minibike registration or title maintained by the department pursuant to this section may be made available electronically through the portal established under section 84-1204 so long as the Uniform Motor Vehicle Records Disclosure Act is not violated. There shall be a fee of one dollar per record for individual records and for data-to-data requests for multiple motor vehicle, trailer, motorboat, all-terrain vehicle, utility-type vehicle, snowmobile, or minibike title and registration records. For bulk record requests of multiple motor vehicle, trailer, motorboat, all-terrain vehicle, utility-type vehicle, snowmobile, or minibike titles and registrations selected on the basis of criteria of the individual making the request, there shall be a fee of fifty dollars for every request under two thousand records, and a fee of eighteen dollars per one thousand records for any number of records over two thousand, plus a reasonable programming fee not to exceed five hundred twenty dollars. All fees collected pursuant to this subsection for electronic access to records through the portal shall be deposited in the Records Management Cash Fund and shall be distributed as provided in any agreements between the State Records Board and the department.

Source: Laws 2005, LB 274, § 161; Laws 2008, LB756, § 13; Laws 2012, LB719, § 4; R.S.Supp.,2016, § 60-3,161; Laws 2017, LB263, § 76.

Operative date August 24, 2017.

Cross References

Uniform Motor Vehicle Records Disclosure Act, see section 60-2901.

60-1507 Electronic dealer services system; licensed dealer; participation; service fee; powers of director.

(1) Beginning January 1, 2019, the Department of Motor Vehicles shall develop an electronic dealer services system for implementation as provided in

subsection (7) of this section. The Director of Motor Vehicles shall approve a licensed dealer as defined in sections 60-119.02 and 60-335.01 for participation in the system. A licensed dealer may voluntarily participate in the system and provide titling and registration services. A licensed dealer who chooses to participate may collect from a purchaser of a vehicle as defined in section 60-136, who also chooses to participate, all appropriate certificate of title fees, notation of lien fees, registration fees, motor vehicle taxes and fees, and sales taxes. All such fees and taxes collected shall be remitted to the appropriate county treasurer or the department as provided in the Motor Vehicle Certificate of Title Act, the Motor Vehicle Registration Act, and the Nebraska Revenue Act of 1967.

(2) In addition to the fees and taxes described in subsection (1) of this section, a participating licensed dealer may charge and collect a service fee not to exceed fifty dollars from a purchaser electing to use the electronic dealer services system.

(3) The department shall provide an approved participating licensed dealer with access to the electronic dealer services system by a method determined by the director. An approved licensed dealer who chooses to participate shall use the system to electronically submit title, registration, and lien information to the Vehicle Title and Registration System maintained by the department. License plates, registration certificates, and certificates of title shall be delivered as provided under the Motor Vehicle Certificate of Title Act and the Motor Vehicle Registration Act.

(4) The director may remove a licensed dealer's authority to participate in the electronic dealer services system for any violation of the Motor Vehicle Certificate of Title Act, the Motor Vehicle Industry Regulation Act, the Motor Vehicle Registration Act, or the Nebraska Revenue Act of 1967, for failure to timely remit fees and taxes collected under this section, or for any other conduct the director deems to have or will have an adverse effect on the public or any governmental entity.

(5) An approved licensed dealer participating in the electronic dealer services system shall not release, disclose, use, or share personal or sensitive information contained in the records accessible through the electronic dealer services system as prohibited under the Uniform Motor Vehicle Records Disclosure Act, except that a licensed dealer may release, disclose, use, or share such personal or sensitive information when necessary to fulfill the requirements of the electronic dealer services system as approved by the department. An approved licensed dealer participating in the electronic dealer services system shall be responsible for ensuring that such licensed dealer's employees and agents comply with the Uniform Motor Vehicle Records Disclosure Act.

(6) The department may adopt and promulgate rules and regulations governing the eligibility for approval and removal of licensed dealers to participate in the electronic dealer services system, the procedures and requirements necessary to implement and maintain such system, and the procedures and requirements for approved licensed dealers participating in such system.

(7) The department shall implement the electronic dealer services system on a date to be determined by the director but not later than January 1, 2021.

Source: Laws 2017, LB263, § 77.

Operative date August 24, 2017.

Cross References

Motor Vehicle Certificate of Title Act, see section 60-101.
Motor Vehicle Industry Regulation Act, see section 60-1401.
Motor Vehicle Registration Act, see section 60-301.
Nebraska Revenue Act of 1967, see section 77-2701.
Uniform Motor Vehicle Records Disclosure Act, see section 60-2901.

ARTICLE 29

UNIFORM MOTOR VEHICLE RECORDS DISCLOSURE ACT

Section

60-2904. Terms, defined.

60-2907. Motor vehicle record; disclosure; authorized purposes.

60-2904 Terms, defined.

For purposes of the Uniform Motor Vehicle Records Disclosure Act:

(1) Department means the Department of Motor Vehicles or the duly authorized agents or contractors of the department responsible to compile and maintain motor vehicle records;

(2) Disclose means to engage in any practice or conduct to make available and make known personal information contained in a motor vehicle record about a person to any other person, organization, or entity by any means of communication;

(3) Individual record means a motor vehicle record containing personal information about a designated person who is the subject of the record as identified in a request;

(4) Motor vehicle record means any record that pertains to a motor vehicle operator's or driver's license or permit, motor vehicle, trailer, motorboat, all-terrain vehicle, utility-type vehicle, snowmobile, or minibike registration or certificate of title, or state identification card issued by the department or any other state or local agency authorized to issue any of such forms of credentials;

(5) Person means an individual, organization, or entity;

(6) Personal information means information that identifies a person, including an individual's driver identification number, name, address excluding zip code, and telephone number, but does not include information on collisions, driving, operating, or equipment-related violations, or operator's license or registration status; and

(7) Sensitive personal information means an individual's operator's license digital image, social security number, and medical or disability information.

Source: Laws 1997, LB 635, § 4; Laws 2000, LB 1317, § 11; Laws 2001, LB 574, § 32; Laws 2014, LB777, § 12; Laws 2017, LB263, § 78.
Operative date August 24, 2017.

60-2907 Motor vehicle record; disclosure; authorized purposes.

The department and any officer, employee, agent, or contractor of the department having custody of a motor vehicle record shall, upon the verification of identity and purpose of a requester, disclose and make available the requested motor vehicle record, including the personal information in the record, for the following purposes:

(1) For use by any federal, state, or local governmental agency, including any court or law enforcement agency, in carrying out the agency's functions or by a private person or entity acting on behalf of a governmental agency in carrying out the agency's functions;

(2) For use in connection with matters of motor vehicle or driver safety and theft; motor vehicle emissions; motor vehicle product alterations, recalls, or advisories; performance monitoring of motor vehicles, motor vehicle parts, and dealers; motor vehicle market research activities, including survey research; and removal of nonowner records from the original owner records of motor vehicle manufacturers;

(3) For use in the normal course of business by a legitimate business or its agents, employees, or contractors but only:

(a) To verify the accuracy of personal information submitted by the individual to the business or its agents, employees, or contractors; and

(b) If such information as so submitted is not correct or is no longer correct, to obtain the correct information, but only for the purposes of preventing fraud by, pursuing legal remedies against, or recovering on a debt or security interest against, the individual;

(4) For use in connection with any civil, criminal, administrative, or arbitral proceeding in any federal, state, or local court or governmental agency or before any self-regulatory body, including service of process, investigation in anticipation of litigation, and execution or enforcement of judgments and orders, or pursuant to an order of a federal, state, or local court, an administrative agency, or a self-regulatory body;

(5) For use in research activities, and for use in producing statistical reports, so long as the personal information is not published, redisclosed, or used to contact individuals;

(6) For use by any insurer or insurance support organization, or by a self-insured entity, or its agents, employees, or contractors, in connection with claims investigation activities, anti-fraud activities, rating, or underwriting;

(7) For use in providing notice to the owners of abandoned, towed, or impounded vehicles;

(8) For use only for a purpose permitted under this section either by a private detective, plain clothes investigator, or private investigative agency licensed under sections 71-3201 to 71-3213;

(9) For use by an employer or the employer's agent or insurer to obtain or verify information relating to a holder of a commercial driver's license or CLP-commercial learner's permit that is required under the Commercial Motor Vehicle Safety Act of 1986, 49 U.S.C. 31301 et seq., or pursuant to sections 60-4,132 and 60-4,141;

(10) For use in connection with the operation of private toll transportation facilities;

(11) For bulk distribution for surveys of, marketing to, or solicitations of persons who have expressly consented to such disclosure if the requester has obtained the notarized written consent of the individual who is the subject of the personal information being requested and has provided proof of receipt of such written consent to the department or an officer, employee, agent, or contractor of the department on a form prescribed by the department;

(12) For any use if the requester has obtained the notarized written consent of the individual who is the subject of the personal information being requested and has provided proof of receipt of such written consent to the department or an officer, employee, agent, or contractor of the department;

(13) For use, including redisclosure through news publication, of a member of a medium of communication as defined in section 20-145 who requests such information in connection with preparing, researching, gathering, or confirming news information involving motor vehicle or driver safety or motor vehicle theft;

(14) For use by the federally designated organ procurement organization for Nebraska to establish and maintain the Donor Registry of Nebraska as provided in section 71-4822;

(15) For use to fulfill the requirements of the electronic dealer services system pursuant to section 60-1507; and

(16) For any other use specifically authorized by law that is related to the operation of a motor vehicle or public safety.

Source: Laws 1997, LB 635, § 7; Laws 2000, LB 1317, § 13; Laws 2004, LB 559, § 6; Laws 2010, LB1036, § 34; Laws 2014, LB983, § 58; Laws 2017, LB263, § 79.
Operative date August 24, 2017.

ARTICLE 31

STATE FLEET CARD PROGRAM

Section

60-3101. State fleet card programs; Department of Transportation; University of Nebraska; State Treasurer; duties; political subdivisions; utilization authorized; unauthorized use prohibited.

60-3101 State fleet card programs; Department of Transportation; University of Nebraska; State Treasurer; duties; political subdivisions; utilization authorized; unauthorized use prohibited.

(1) State fleet card programs shall be created and shall be administered separately by the Department of Transportation and the University of Nebraska. The Department of Transportation shall administer a fleet card program on behalf of state government and political subdivisions other than the University of Nebraska under a contract through the State Treasurer. The State Treasurer shall determine the type of fleet card or cards utilized in the state fleet card program. The State Treasurer shall contract with one or more financial institutions, card-issuing banks, credit card companies, charge card companies, debit card companies, or third-party merchant banks capable of operating a fleet card program on behalf of the state, including the University of Nebraska, and political subdivisions that participate in the state contract for such services. Rules and regulations may be adopted and promulgated as needed by the Department of Transportation or the University of Nebraska for the operation of the state fleet card programs. The rules and regulations shall provide authorization instructions for all transactions. Expenses associated with the state fleet card programs shall be considered as an administrative or operational expense.

(2) For purposes of this section, fleet card means a payment card used for gasoline, diesel, and other fuels. Fleet cards may also be used to pay for vehicle

and equipment maintenance and expenses at the discretion of the program administrator. The Department of Transportation and the University of Nebraska shall each designate a program administrator.

(3) Any state official, agency, board, or commission may utilize a state fleet card for the purchase of goods and services described in subsection (2) of this section for and on behalf of the State of Nebraska. Any political subdivision may utilize a fleet card for the purchase of goods and services described in subsection (2) of this section for lawful government purposes of the political subdivision. No disbursements or cash back on fleet card transactions shall be allowed.

(4) Vendors accepting a state fleet card shall obtain authorization for all transactions in accordance with instructions from the program administrator. Transaction authorization shall be from the financial institution, card-issuing bank, credit card company, charge card company, debit card company, or third-party merchant bank contracted to provide such service to the State of Nebraska. Each transaction shall be authorized in accordance with the instructions provided by the program administrator for each state official, agency, board, or commission or each political subdivision.

(5) Detailed transaction information for the purposes of tracking expenditures shall include fleet card identification, merchant name and address, transaction number, date, time, product, quantity, cost, and equipment meter reading if applicable. A state fleet card program may require an itemized receipt for purposes of tracking expenditures of a state fleet card purchase from a commercial vendor as acceptable detailed transaction information. If detailed transaction information is not provided, the program administrator shall have the authority to temporarily or permanently suspend state fleet card purchases in accordance with rules and regulations.

(6) No officer or employee of the state or of a political subdivision shall use a state fleet card for any unauthorized use.

Source: Laws 2013, LB137, § 1; Laws 2017, LB339, § 236.
Operative date July 1, 2017.

CHAPTER 61

NATURAL RESOURCES

Article.

2. Department of Natural Resources. 61-218.

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.

61-218 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, except that for FY2012-13 it is the intent of the Legislature that four million seven hundred

thousand dollars be transferred from the General Fund to the Water Resources Cash Fund.

(5)(a) Expenditures from the Water Resources Cash Fund may be made to natural resources districts eligible under subsection (3) of this section for activities to either achieve a sustainable balance of consumptive water uses or assure compliance with an interstate compact or decree or a formal state contract or agreement and shall require a match of local funding in an amount equal to or greater than forty percent of the total cost of carrying out the eligible activity. The department shall, no later than August 1 of each year, beginning in 2007, determine the amount of funding that will be made available to natural resources districts from the Water Resources Cash Fund and notify natural resources districts of this determination. The department shall adopt and promulgate rules and regulations governing application for and use of the Water Resources Cash Fund by natural resources districts. Such rules and regulations shall, at a minimum, include the following components:

(i) Require an explanation of how the planned activity will achieve a sustainable balance of consumptive water uses or will assure compliance with an interstate compact or decree or a formal state contract or agreement as required by section 46-715 and the controls, rules, and regulations designed to carry out the activity; and

(ii) A schedule of implementation of the activity or its components, including the local match as set forth in subdivision (5)(a) of this section.

(b) Any natural resources district that fails to implement and enforce its controls, rules, and regulations as required by section 46-715 shall not be eligible for funding from the Water Resources Cash Fund until it is determined by the department that compliance with the provisions required by section 46-715 has been established.

(6) The Department of Natural Resources shall submit electronically an annual report to the Legislature no later than October 1 of each year, beginning in the year 2007, that shall detail the use of the Water Resources Cash Fund in the previous year. The report shall provide:

(a) Details regarding the use and cost of activities carried out by the department; and

(b) Details regarding the use and cost of activities carried out by each natural resources district that received funds from the Water Resources Cash Fund.

(7)(a) Prior to the application deadline for fiscal year 2011-12, the Department of Natural Resources shall apply for a grant of nine million nine hundred thousand dollars from the Nebraska Environmental Trust Fund, to be paid out in three annual installments of three million three hundred thousand dollars. The purposes listed in the grant application shall be consistent with the uses of the Water Resources Cash Fund provided in this section and shall be used to aid management actions taken to reduce consumptive uses of water, to enhance streamflows, to recharge ground water, or to support wildlife habitat in any river basin determined to be fully appropriated pursuant to section 46-714 or designated as overappropriated pursuant to section 46-713.

(b) If the application is granted, funds received from such grant shall be remitted to the State Treasurer for credit to the Water Resources Cash Fund for the purpose of supporting the projects set forth in the grant application. The department shall include in its grant application documentation that the Legis-

lature 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 and an additional three-year grant from the Nebraska Environmental Trust Fund that would begin in fiscal year 2017-18 if the criteria established in subsection (4) of section 81-15,175 are achieved.

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

Source: Laws 2007, LB701, § 25; Laws 2009, First Spec. Sess., LB3, § 39; Laws 2010, LB689, § 1; Laws 2010, LB993, § 1; Laws 2011, LB229, § 1; Laws 2012, LB782, § 87; Laws 2012, LB950, § 1; Laws 2017, LB331, § 30.
Effective date May 16, 2017.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

CHAPTER 66

OILS, FUELS, AND ENERGY

Article.

2. Nebraska Clean-burning Motor Fuel Development Act. 66-204.
4. Motor Vehicle Fuel Tax. 66-489.02 to 66-4,144.
6. Diesel, Alternative, and Compressed Fuel Taxes.
 - (d) Compressed Fuel Tax. 66-6,109.02.
7. Motor Fuel Tax Enforcement and Collection. 66-738.
8. Gasohol and Energy Development.
 - (b) Department of Transportation, Use of Gasohol. 66-821, 66-822.
10. Energy Conservation.
 - (b) Low-Income Home Energy Conservation Act. 66-1012 to 66-1019.01. Repealed.
13. Ethanol. 66-1333 to 66-1345.04.
15. Petroleum Release Remedial Action. 66-1519.

ARTICLE 2

NEBRASKA CLEAN-BURNING MOTOR FUEL DEVELOPMENT ACT

Section

66-204. Clean-burning Motor Fuel Development Fund; created; use; investment.

66-204 Clean-burning Motor Fuel Development Fund; created; use; investment.

(1) The Clean-burning Motor Fuel Development Fund is created. The fund shall consist of grants, private contributions, and all other sources.

(2) The fund shall be used by the State Energy Office to provide rebates under the Nebraska Clean-burning Motor Fuel Development Act up to the amount transferred under subsection (3) of this section. No more than thirty-five percent of the money in the fund annually shall be used as rebates for flex-fuel dispensers. The State Energy Office may use the fund for necessary costs in the administration of the act up to an amount not exceeding ten percent of the fund annually.

(3) Within five days after August 30, 2015, the State Treasurer shall transfer five hundred thousand dollars from the General Fund to the Clean-burning Motor Fuel Development Fund to carry out the Nebraska Clean-burning Motor Fuel Development Act.

(4) Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(5) The State Treasurer shall transfer two hundred thousand dollars from the Clean-burning Motor Fuel Development Fund to the General Fund on or before June 30, 2018, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

Source: Laws 2015, LB581, § 4; Laws 2016, LB902, § 3; Laws 2016, LB957, § 4; Laws 2017, LB331, § 31.
Effective date May 16, 2017.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

ARTICLE 4

MOTOR VEHICLE FUEL TAX

Section

- 66-489.02. Producer, supplier, distributor, wholesaler, or importer; tax on average wholesale price of gasoline; credit to Highway Trust Fund; use; allocation.
- 66-4,100. Highway Cash Fund; Roads Operations Cash Fund; created; use; investment.
- 66-4,144. Highway Restoration and Improvement Bond Fund; Highway Cash Fund; maintain adequate balance; setting of excise tax rates; procedure; Department of Transportation; provide information.

66-489.02 Producer, supplier, distributor, wholesaler, or importer; tax on average wholesale price of gasoline; credit to Highway Trust Fund; use; allocation.

(1) For tax periods beginning on and after July 1, 2009, at the time of filing the return required by section 66-488, the producer, supplier, distributor, wholesaler, or importer shall, in addition to the other taxes provided for by law, pay a tax at the rate of five percent of the average wholesale price of gasoline for the gallons of the motor fuels as shown by the return, except that there shall be no tax on the motor fuels reported if they are otherwise exempted by sections 66-482 to 66-4,149.

(2) The department shall calculate the average wholesale price of gasoline on April 1, 2009, and on each April 1 and October 1 thereafter. The average wholesale price on April 1 shall apply to returns for the tax periods beginning on and after July 1, and the average wholesale price on October 1 shall apply to returns for the tax periods beginning on and after January 1. The average wholesale price shall be determined using data available from the State Energy Office and shall be an average wholesale price per gallon of gasoline sold in the state over the previous six-month period, excluding any state or federal excise tax or environmental fees. The change in the average wholesale price between two six-month periods shall be adjusted so that the increase or decrease in the tax provided for in this section or section 66-6,109.02 does not exceed one cent per gallon.

(3) All sums of money received under this section shall be credited to the Highway Trust Fund. Credits and refunds of such tax allowed to producers, suppliers, distributors, wholesalers, or importers shall be paid from the Highway Trust Fund. The balance of the amount credited, after credits and refunds, shall be allocated as follows:

(a) Sixty-six percent to the Highway Cash Fund for the Department of Transportation;

(b) Seventeen percent to the Highway Allocation Fund for allocation to the various counties for road purposes; and

(c) Seventeen percent to the Highway Allocation Fund for allocation to the various municipalities for street purposes.

Source: Laws 2008, LB846, § 11; Laws 2012, LB727, § 18; Laws 2017, LB339, § 237.

Operative date July 1, 2017.

66-4,100 Highway Cash Fund; Roads Operations Cash Fund; created; use; investment.

The Highway Cash Fund and the Roads Operations Cash Fund are hereby created. If bonds are issued pursuant to subsection (2) of section 39-2223, the balance of the share of the Highway Trust Fund allocated to the Department of Transportation and deposited into the Highway Restoration and Improvement Bond Fund as provided in subsection (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 Transportation shall be transferred by the State Treasurer on or before the last day of each month to the Highway Cash Fund.

The Legislature may direct the State Treasurer to transfer funds from the Highway Cash Fund to the Roads Operations Cash Fund. Both funds shall be expended by the department (1) for acquiring real estate, road materials, equipment, and supplies to be used in the construction, reconstruction, improvement, and maintenance of state highways, (2) for the construction, reconstruction, improvement, and maintenance of state highways, including grading, drainage, structures, surfacing, roadside development, landscaping, and other incidentals necessary for proper completion and protection of state highways as the department shall, after investigation, find and determine shall be for the best interests of the highway system of the state, either independent of or in conjunction with federal-aid money for highway purposes, (3) for the share of the department of the cost of maintenance of state aid bridges, (4) for planning studies in conjunction with federal highway funds for the purpose of analyzing traffic problems and financial conditions and problems relating to state, county, township, municipal, federal, and all other roads in the state and for incidental costs in connection with the federal-aid grade crossing program for roads not on state highways, (5) for tests and research by the department or 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.

Transfers may be made from the Roads Operations Cash Fund to the General Fund at the direction of the Legislature through June 30, 2019. The State Treasurer shall transfer seven million five hundred thousand dollars from the

Roads Operations Cash Fund to the General Fund on or before June 30, 2018, on such date as directed by the budget administrator of the budget division of the Department of Administrative Services. The State Treasurer shall transfer seven million five hundred thousand dollars from the Roads Operations Cash Fund to the General Fund on or after July 1, 2018, but on or before June 30, 2019, on such date as directed by the budget administrator of the budget division of the Department of Administrative Services.

Source: Laws 1937, c. 148, § 4, p. 570; Laws 1939, c. 84, § 2, p. 363; Laws 1941, c. 133, § 2, p. 525; Laws 1941, c. 134, § 10, p. 536; C.S.Supp.,1941, § 66-411; Laws 1943, c. 138, § 1(4), p. 472; Laws 1943, c. 139, § 1(4), p. 479; R.S.1943, § 66-424; Laws 1947, c. 214, § 4, p. 698; Laws 1953, c. 131, § 15, p. 410; Laws 1965, c. 393, § 1, p. 1257; Laws 1969, c. 530, § 3, p. 2171; Laws 1971, LB 21, § 1; Laws 1972, LB 1496, § 2; Laws 1986, LB 599, § 16; Laws 1988, LB 632, § 19; Laws 1990, LB 602, § 3; R.S. 1943, (1990), § 66-424; Laws 1994, LB 1066, § 51; Laws 1994, LB 1194, § 15; Laws 2004, LB 1144, § 4; Laws 2011, LB98, § 2; Laws 2017, LB331, § 32; Laws 2017, LB339, § 238.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB331, section 32, with LB339, section 238, to reflect all amendments.

Note: Changes made by LB331 became effective May 16, 2017. Changes made by LB339 became operative July 1, 2017.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

66-4,144 Highway Restoration and Improvement Bond Fund; Highway Cash Fund; maintain adequate balance; setting of excise tax rates; procedure; Department of Transportation; provide information.

(1) In order to insure that an adequate balance in the Highway Restoration and Improvement Bond Fund is maintained to meet the debt service requirements of bonds to be issued by the commission under subsection (2) of section 39-2223, the Director-State Engineer shall certify to the department the excise tax rate to be imposed by sections 66-4,140 and 66-6,108 for each year during which such bonds are outstanding necessary to provide in each such year money equal in amount to not less than one hundred twenty-five percent of such year's bond principal and interest payment requirements. The department shall adjust the rate as certified by the Director-State Engineer. Such rate shall be in addition to the rate of excise tax set pursuant to subsection (2) of this section. Each such rate shall be effective from July 1 of a stated year through June 30 of the succeeding year or during such other period not longer than one year as the Director-State Engineer certifies to be consistent with the principal and interest requirements of such bonds. Such excise tax rates set pursuant to this subsection may be increased, but such excise tax rates shall not be subject to reduction or elimination unless the Director-State Engineer has received from the State Highway Commission notice of reduced principal and interest requirements for such bonds, in which event the Director-State Engineer shall certify the new rate or rates to the department. The new rate or rates, if any, shall become effective on the first day of the following semiannual period.

(2) In order to insure that there is maintained an adequate Highway Cash Fund balance to meet expenditures from such fund as appropriated by the Legislature, by June 15 or five days after the adjournment of the regular legislative session each year, whichever is later, the Director-State Engineer

DIESEL, ALTERNATIVE, AND COMPRESSED FUEL TAXES § 66-6,109.02

shall certify to the department the excise tax rate to be imposed by sections 66-4,140 and 66-6,108. The department shall adjust the rate as certified by the Director-State Engineer to be effective from July 1 through June 30 of the succeeding year. The rate of excise tax for a given July 1 through June 30 period set pursuant to this subsection shall be in addition to and independent of the rate or rates of excise tax set pursuant to subsection (1) of this section for such period. The Director-State Engineer shall determine the cash and investment balances of the Highway Cash Fund at the beginning of each fiscal year under consideration and the estimated receipts to the Highway Cash Fund from each source which provides at least one million dollars annually to such fund. The rate of excise tax shall be an amount sufficient to meet the appropriations made from the Highway Cash Fund by the Legislature. Such rate shall be set in increments of one-tenth of one percent.

(3) The Department of Transportation shall provide to the Legislative Fiscal Analyst an electronic copy of the information that is submitted to the Department of Revenue and used to set or adjust the excise tax rate.

(4) If the actual receipts received to date added to any projections or modified projections of deposits to the Highway Cash Fund for the current fiscal year are less than ninety-nine percent or greater than one hundred two percent of the appropriation for the current fiscal year, the Director-State Engineer shall certify to the department the adjustment in rate necessary to meet the appropriations made from the Highway Cash Fund by the Legislature. The department shall adjust the rate as certified by the Director-State Engineer to be effective on the first day of the following semiannual period.

(5) Nothing in this section shall be construed to abrogate the duties of the Department of Transportation or attempt to change any highway improvement program schedule.

Source: Laws 1980, LB 722, § 5; Laws 1981, LB 172, § 5; Laws 1988, LB 632, § 21; R.S.1943, (1990), § 66-476; Laws 1991, LB 255, § 1; Laws 1994, LB 1160, § 77; Laws 1995, LB 182, § 36; Laws 1997, LB 397, § 5; Laws 1998, LB 1161, § 18; Laws 2000, LB 1067, § 10; Laws 2000, LB 1135, § 11; Laws 2004, LB 983, § 27; Laws 2012, LB782, § 88; Laws 2017, LB339, § 239.
Operative date July 1, 2017.

ARTICLE 6

DIESEL, ALTERNATIVE, AND COMPRESSED FUEL TAXES

(d) COMPRESSED FUEL TAX

Section
66-6,109.02. Retailer; tax on average wholesale price of gasoline; credit to Highway Trust Fund; use; allocation.

(d) COMPRESSED FUEL TAX

66-6,109.02 Retailer; tax on average wholesale price of gasoline; credit to Highway Trust Fund; use; allocation.

(1) For tax periods beginning on and after July 1, 2009, at the time of filing the return required by section 66-6,110, the retailer shall, in addition to the other taxes provided for by law, pay a tax at the rate of five percent of the average wholesale price of gasoline calculated pursuant to section 66-489.02

for the gallons of the compressed fuel as shown by the return, except that there shall be no tax on the compressed fuel reported if it is otherwise exempted by the Compressed Fuel Tax Act.

(2) All sums of money received under this section shall be credited to the Highway Trust Fund. Credits and refunds of such tax allowed to producers, suppliers, distributors, wholesalers, or importers shall be paid from the Highway Trust Fund. The balance of the amount credited, after credits and refunds, shall be allocated as follows:

(a) Sixty-six percent to the Highway Cash Fund for the Department of Transportation;

(b) Seventeen percent to the Highway Allocation Fund for allocation to the various counties for road purposes; and

(c) Seventeen percent to the Highway Allocation Fund for allocation to the various municipalities for street purposes.

Source: Laws 2008, LB846, § 17; Laws 2017, LB339, § 240.

Operative date July 1, 2017.

ARTICLE 7

MOTOR FUEL TAX ENFORCEMENT AND COLLECTION

Section

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

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 Act, and sections 66-482 to 66-4,149, 66-501 to 66-531, and 66-712 to 66-736, 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; Laws 2012, LB727, § 25; Laws 2017, LB339, § 241.
Operative date July 1, 2017.

Cross References

Compressed Fuel Tax Act, see section 66-697.

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

State Aeronautics Act, see section 3-154.

ARTICLE 8

GASOHOL AND ENERGY DEVELOPMENT

(b) DEPARTMENT OF TRANSPORTATION, USE OF GASOHOL

Section

66-821. Terms, defined.

66-822. Department; motor vehicles; use of gasohol.

(b) DEPARTMENT OF TRANSPORTATION, USE OF GASOHOL

66-821 Terms, defined.

For purposes of sections 66-821 to 66-824, unless the context otherwise requires:

(1) Gasohol shall mean gasoline which contains a minimum of ten percent blend of an agricultural ethyl alcohol whose purity shall be at least ninety-nine percent alcohol, excluding denaturant, produced from cereal grains or domestic agricultural commodities; and

(2) Department shall mean the Department of Transportation.

Source: Laws 1979, LB 74, § 1; Laws 1981, LB 104, § 3; Laws 1985, LB 346, § 5; Laws 2017, LB339, § 242.
Operative date July 1, 2017.

66-822 Department; motor vehicles; use of gasohol.

The department shall, not later than July 1, 1980, implement a program of using gasohol as fuel in motor vehicles owned or operated by the department which are designed to operate on such fuel.

Source: Laws 1979, LB 74, § 2; Laws 2017, LB339, § 243.
Operative date July 1, 2017.

ARTICLE 10

ENERGY CONSERVATION

(b) LOW-INCOME HOME ENERGY CONSERVATION ACT.

Section

- 66-1012. Repealed. Laws 2017, LB217, § 40.
- 66-1013. Repealed. Laws 2017, LB217, § 40.
- 66-1014. Repealed. Laws 2017, LB217, § 40.
- 66-1015. Repealed. Laws 2017, LB217, § 40.
- 66-1016. Repealed. Laws 2017, LB217, § 40.
- 66-1017. Repealed. Laws 2017, LB217, § 40.
- 66-1018. Repealed. Laws 2017, LB217, § 40.
- 66-1019. Repealed. Laws 2017, LB217, § 40.
- 66-1019.01. Repealed. Laws 2017, LB217, § 40.

(b) LOW-INCOME HOME ENERGY CONSERVATION ACT.

66-1012 Repealed. Laws 2017, LB217, § 40.

Operative date August 24, 2017.

66-1013 Repealed. Laws 2017, LB217, § 40.

Operative date August 24, 2017.

66-1014 Repealed. Laws 2017, LB217, § 40.

Operative date August 24, 2017.

66-1015 Repealed. Laws 2017, LB217, § 40.

Operative date August 24, 2017.

66-1016 Repealed. Laws 2017, LB217, § 40.

Operative date August 24, 2017.

66-1017 Repealed. Laws 2017, LB217, § 40.

Operative date August 24, 2017.

66-1018 Repealed. Laws 2017, LB217, § 40.

Operative date August 24, 2017.

66-1019 Repealed. Laws 2017, LB217, § 40.

Operative date August 24, 2017.

66-1019.01 Repealed. Laws 2017, LB217, § 40.

Operative date August 24, 2017.

ARTICLE 13

ETHANOL

Section

- 66-1333. Terms, defined.
- 66-1345. Ethanol Production Incentive Cash Fund; created; use; investment; transfers; duties.
- 66-1345.01. Repealed. Laws 2017, LB1, § 4.
- 66-1345.02. Repealed. Laws 2017, LB1, § 4.
- 66-1345.03. Repealed. Laws 2017, LB1, § 4.
- 66-1345.04. Repealed. Laws 2017, LB1, § 4.

66-1333 Terms, defined.

For purposes of the Ethanol Development Act, unless the context otherwise requires:

- (1) Agricultural production facility or ethanol facility means a plant or facility related to the processing, marketing, or distribution of any products derived from grain components, coproducts, or byproducts;
- (2) Board means the Nebraska Ethanol Board;
- (3) Grain means wheat, corn, and grain sorghum;
- (4) Name plate design capacity means the original designed capacity of an agricultural production facility. Capacity may be specified as bushels of grain ground or gallons of ethanol produced per year; and
- (5) Related parties means any two or more individuals, firms, partnerships, limited liability companies, companies, agencies, associations, or corporations which are members of the same unitary group or are any persons who are considered to be related persons under the Internal Revenue Code.

Source: Laws 1986, LB 1230, § 3; Laws 1989, LB 587, § 3; Laws 1992, LB 754, § 2; R.S.Supp.,1992, § 66-1303; Laws 1993, LB 364, § 4; Laws 1995, LB 377, § 6; Laws 2004, LB 479, § 4; Laws 2017, LB1, § 1.
Effective date August 24, 2017.

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, and (e) credited to the Ethanol Production Incentive Cash Fund pursuant to sections 66-489 and 66-726.

(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) 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 electronically 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; Laws 2012, LB782, § 90; Laws 2014, LB130, § 1; Laws 2017, LB1, § 2; Laws 2017, LB331, § 33.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB1, section 2, with LB331, section 33, to reflect all amendments.

Note: Changes made by LB331 became effective May 16, 2017. Changes made by LB1 became effective August 24, 2017.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

66-1345.01 Repealed. Laws 2017, LB1, § 4.

66-1345.02 Repealed. Laws 2017, LB1, § 4.

66-1345.03 Repealed. Laws 2017, LB1, § 4.

66-1345.04 Repealed. Laws 2017, LB1, § 4.**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, 2020, 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; (h) the direct and indirect costs incurred by the department in responding to spills and other environmental emergencies related to petroleum or petroleum products; and (i) up to one million five hundred thousand dollars each fiscal year of the department's cost-share obligations and operation and maintenance obligations under the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9601 et seq.

(3) Transfers may be made from the Petroleum Release Remedial Action Cash Fund to the General Fund at the direction of the Legislature.

(4) Transfers may be made from the Petroleum Release Remedial Action Cash Fund to the Superfund Cost Share Cash Fund at the direction of the Legislature.

(5) 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, LB1145, § 1; Laws 2009, LB154, § 15; Laws 2011, LB2, § 6; Laws 2011, LB29, § 2; Laws 2012, LB873, § 1; Laws 2016, LB887, § 1; Laws 2017, LB331, § 34.
Effective date May 16, 2017.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

CHAPTER 67

PARTNERSHIPS

Article.

4. Uniform Partnership Act of 1998.
Part IX—Conversions and Mergers. 67-447 to 67-448.02.

ARTICLE 4

UNIFORM PARTNERSHIP ACT OF 1998

PART IX—CONVERSIONS AND MERGERS

Section

- 67-447. Conversion of partnership to limited partnership.
67-448. Conversion of limited partnership to partnership.
67-448.01. Domestic partnership; conversion into domestic limited liability company or foreign limited liability company; procedure; notice to holder of security interest.
67-448.02. Domestic limited liability partnership; conversion into domestic limited liability company or foreign limited liability company; procedure; notice to holder of security interest.

PART IX—CONVERSIONS AND MERGERS

67-447 Conversion of partnership to limited partnership.

(1) A partnership may be converted to a limited partnership pursuant to this section.

(2) The terms and conditions of a conversion of a partnership to a limited partnership must be approved by all of the partners or by a number or percentage specified for conversion in the partnership agreement.

(3) After the conversion is approved by the partners, the partnership shall file a certificate of limited partnership in the jurisdiction in which the limited partnership is to be formed. The certificate must include:

- (a) A statement that the partnership was converted to a limited partnership from a partnership;
- (b) Its former name; and
- (c) A statement of the number of votes cast by the partners for and against the conversion and, if the vote is less than unanimous, the number or percentage required to approve the conversion under the partnership agreement.

(4) The conversion takes effect when the certificate of limited partnership is filed or at any later date specified in the certificate. Within ten business days after the certificate of limited partnership takes effect, a partnership converting to a limited partnership shall send written notice of conversion to the last-known address of any holder of a security interest in collateral of such partnership.

(5) A general partner who becomes a limited partner as a result of the conversion remains liable as a general partner for an obligation incurred by the partnership before the conversion takes effect. If the other party to a transac-

tion with the limited partnership reasonably believes when entering the transaction that the limited partner is a general partner, the limited partner is liable for an obligation incurred by the limited partnership within ninety days after the conversion takes effect. The limited partner's liability for all other obligations of the limited partnership incurred after the conversion takes effect is that of a limited partner as provided in the Nebraska Uniform Limited Partnership Act.

Source: Laws 1997, LB 523, § 47; Laws 2017, LB99, § 6.
Effective date August 24, 2017.

Cross References

Nebraska Uniform Limited Partnership Act, see section 67-296.

67-448 Conversion of limited partnership to partnership.

(1) A limited partnership may be converted to a partnership pursuant to this section.

(2) Notwithstanding a provision to the contrary in a limited partnership agreement, the terms and conditions of a conversion of a limited partnership to a partnership must be approved by all of the partners.

(3) After the conversion is approved by the partners, the limited partnership shall cancel its certificate of limited partnership.

(4) The conversion takes effect when the certificate of limited partnership is canceled. Within ten business days after the certificate of limited partnership is canceled, a limited partnership converting into a partnership shall send written notice of conversion to the last-known address of any holder of a security interest in collateral of such limited partnership.

(5) A limited partner who becomes a general partner as a result of the conversion remains liable only as a limited partner for an obligation incurred by the limited partnership before the conversion takes effect. Except as otherwise provided in section 67-418, the partner is liable as a general partner for an obligation of the partnership incurred after the conversion takes effect.

Source: Laws 1997, LB 523, § 48; Laws 2017, LB99, § 7.
Effective date August 24, 2017.

67-448.01 Domestic partnership; conversion into domestic limited liability company or foreign limited liability company; procedure; notice to holder of security interest.

A domestic partnership may convert into a domestic limited liability company pursuant to sections 21-170 to 21-184 and may convert into a foreign limited liability company in accordance with this section and the applicable law of the state of formation of such foreign limited liability company. In each case, the conversion of a domestic partnership into such limited liability company shall be made pursuant to a plan of conversion setting forth the information required in section 21-175 and such information required pursuant to the statute under which such conversion shall be effected. Unless otherwise provided in its organizational documents, a plan of conversion shall be approved by the domestic partnership by partners who own in the aggregate more than fifty percent of the interests in the profits of such partnership. Notwithstanding such approval, at any time before the articles of conversion are filed, a plan of conversion may be terminated or amended pursuant to a provision for such

termination or amendment contained in the plan of conversion. Within ten business days after the articles of conversion take effect, a domestic partnership converting into a domestic limited liability company or a foreign limited liability company shall send written notice of such conversion to the last-known address of any holder of a security interest in collateral of such partnership.

Source: Laws 2016, LB1050, § 2; Laws 2017, LB99, § 8.
Effective date August 24, 2017.

67-448.02 Domestic limited liability partnership; conversion into domestic limited liability company or foreign limited liability company; procedure; notice to holder of security interest.

A domestic limited liability partnership may convert into a domestic limited liability company pursuant to sections 21-170 to 21-184 and may convert into a foreign limited liability company in accordance with this section and the applicable law of the state of formation of such foreign limited liability company. In each case, the conversion of a domestic limited liability partnership into such limited liability company shall be made pursuant to a plan of conversion setting forth the information required in section 21-175 and such information required pursuant to the statute under which such conversion shall be effected. Unless otherwise provided in its organizational documents, a plan of conversion shall be approved by the domestic limited liability partnership by partners who own in the aggregate more than fifty percent of the interests in the profits of such limited liability partnership. Notwithstanding such approval, at any time before the articles of conversion are filed, a plan of conversion may be terminated or amended pursuant to a provision for such termination or amendment contained in the plan of conversion. Within ten business days after the articles of conversion take effect, a domestic limited liability partnership converting into a domestic limited liability company or a foreign limited liability company shall send written notice of such conversion to the last-known address of any holder of a security interest in collateral of such limited liability partnership.

Source: Laws 2016, LB1050, § 3; Laws 2017, LB99, § 9.
Effective date August 24, 2017.

CHAPTER 68

PUBLIC ASSISTANCE

Article.

- 9. Medical Assistance Act. 68-901 to 68-991.
- 11. Aging.
 - (b) Aging Nebraskans Task Force. 68-1107 to 68-1110.
- 18. ICF/DD Reimbursement Protection Act. 68-1804.

ARTICLE 9

MEDICAL ASSISTANCE ACT

Section

- 68-901. Medical Assistance Act; act, how cited.
- 68-908. Department; powers and duties.
- 68-909. Existing contracts, agreements, rules, regulations, plan, and waivers; how treated; report required; exception; department; powers and duties.
- 68-919. Medical assistance recipient; liability; when; claim; procedure; department; powers; recovery of medical assistance reimbursement; procedure.
- 68-940.01. State Medicaid Fraud Control Unit Cash Fund; created; use; investment.
- 68-948. Repealed. Laws 2017, LB644, § 21.
- 68-949. Medical assistance program; legislative intent; department; duties.
- 68-957. Repealed. Laws 2017, LB4, § 1.
- 68-958. Repealed. Laws 2017, LB4, § 1.
- 68-959. Repealed. Laws 2017, LB4, § 1.
- 68-960. Repealed. Laws 2017, LB4, § 1.
- 68-961. Repealed. Laws 2017, LB4, § 1.
- 68-977. Ground Emergency Medical Transport Act; act, how cited.
- 68-978. Terms, defined.
- 68-979. Legislative intent.
- 68-980. Supplemental reimbursement.
- 68-981. Supplemental reimbursement; eligibility.
- 68-982. Supplemental reimbursement; calculation and payment.
- 68-983. Intergovernmental transfer program; department; powers and duties.
- 68-984. Agreement.
- 68-985. Governmental entity; duties.
- 68-986. Department; amendment to medicaid state plan; department; powers.
- 68-987. Department; duties.
- 68-988. Increased capitation payments; commencement.
- 68-989. Disclosure by applicant; income and assets; action for recovery of medical assistance authorized.
- 68-990. Medical assistance; transfers; security for recovery of indebtedness to department; lien; notice; filing; department; duties.
- 68-991. Medical provider; authority to apply for medical assistance.

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

Sections 68-901 to 68-991 shall be known and may be cited as the Medical Assistance Act.

Source: Laws 2006, LB 1248, § 1; Laws 2008, LB830, § 1; Laws 2009, LB27, § 1; Laws 2009, LB288, § 18; Laws 2009, LB342, § 1; Laws 2009, LB396, § 1; Laws 2010, LB1106, § 1; Laws 2011, LB525, § 1; Laws 2012, LB541, § 1; Laws 2012, LB599, § 2;

Laws 2015, LB500, § 1; Laws 2016, LB698, § 15; Laws 2017, LB268, § 10; Laws 2017, LB578, § 1.
Effective date August 24, 2017.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB268, section 10, with LB578, section 1, to reflect all amendments.

68-908 Department; powers and duties.

(1) The department shall administer the medical assistance program.

(2) The department may (a) enter into contracts and interagency agreements, (b) adopt and promulgate rules and regulations, (c) adopt fee schedules, (d) apply for and implement waivers and managed care plans for services for eligible recipients, including services under the Nebraska Behavioral Health Services Act, and (e) perform such other activities as necessary and appropriate to carry out its duties under the Medical Assistance Act. A covered item or service as described in section 68-911 that is furnished through a school-based health center, furnished by a provider, and furnished under a managed care plan pursuant to a waiver does not require prior consultation or referral by a patient's primary care physician to be covered. Any federally qualified health center providing services as a sponsoring facility of a school-based health center shall be reimbursed for such services provided at a school-based health center at the federally qualified health center reimbursement rate.

(3) The department shall maintain the confidentiality of information regarding applicants for or recipients of medical assistance and such information shall only be used for purposes related to administration of the medical assistance program and the provision of such assistance or as otherwise permitted by federal law.

(4) The department shall prepare an annual summary and analysis of the medical assistance program for legislative and public review. The department shall submit a report of such summary and analysis to the Governor and the Legislature electronically no later than December 1 of each year.

Source: Laws 1965, c. 397, § 8, p. 1278; Laws 1967, c. 413, § 2, p. 1278; Laws 1982, LB 522, § 43; Laws 1996, LB 1044, § 325; R.S.1943, (2003), § 68-1023; Laws 2006, LB 1248, § 8; Laws 2007, LB296, § 247; Laws 2009, LB288, § 20; Laws 2010, LB1106, § 3; Laws 2012, LB782, § 91; Laws 2012, LB1158, § 1; Laws 2017, LB417, § 7.

Effective date August 24, 2017.

Cross References

Nebraska Behavioral Health Services Act, see section 71-801.

68-909 Existing contracts, agreements, rules, regulations, plan, and waivers; how treated; report required; exception; 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

and the Legislature 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. The report submitted to the Legislature shall be submitted electronically. 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 department shall monitor 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; Laws 2012, LB782, § 92; Laws 2017, LB417, § 8; Laws 2017, LB644, § 16.

Effective date August 24, 2017.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB417, section 8, with LB644, section 16, to reflect all amendments.

68-919 Medical assistance recipient; liability; when; claim; procedure; department; powers; recovery of medical assistance reimbursement; procedure.

(1) The recipient of medical assistance under the medical assistance program shall be indebted to the department for the total amount paid for medical assistance on behalf of the recipient if:

(a) The recipient was fifty-five years of age or older at the time the medical assistance was provided; or

(b) The recipient resided in a medical institution and, at the time of institutionalization or application for medical assistance, whichever is later, the department determines that the recipient could not have reasonably been expected to be discharged and resume living at home. For purposes of this section, medical institution means a nursing facility, an intermediate care facility for persons with developmental disabilities, or an inpatient hospital.

(2) The debt accruing under subsection (1) of this section arises during the life of the recipient but shall be held in abeyance until the death of the recipient. Any such debt to the department that exists when the recipient dies shall be recovered only after the death of the recipient's spouse, if any, and only after the recipient is not survived by a child who either is under twenty-one years of age or is blind or totally and permanently disabled as defined by the Supplemental Security Income criteria. In recovering such debt, the department shall not foreclose on a lien on the home of the recipient (a) if a sibling of the recipient with an equity interest in the home has lawfully resided in the home for at least one year before the recipient's admission and has lived there continuously since the date of the recipient's admission or (b) while the home is the residence of an adult child who has lived in the recipient's home for at least two years immediately before the recipient was institutionalized, has lived there continuously since that time, and can establish to the satisfaction of the department that he or she provided care that delayed the recipient's admission.

(3) The debt shall include the total amount of medical assistance provided when the recipient was fifty-five years of age or older or during a period of

institutionalization as described in subsection (1) of this section and shall not include interest.

(4)(a) This subsection applies to the fullest extent permitted by 42 U.S.C. 1396p, as such section existed on January 1, 2017. It is the intent of the Legislature that the debt specified in subsection (1) of this section be collected by the department before any portion of the estate of a recipient of medical assistance is enjoyed by or transferred to a person not specified in subsection (2) of this section as a result of the death of such recipient. The debt may be recovered from the estate of a recipient of medical assistance.

(b) For purposes of this section:

(i) Estate of a recipient of medical assistance means any real estate, personal property, or other asset in which the recipient had any legal title or interest at the time of the recipient's death, to the extent of such interests. In furtherance and not in limitation of the foregoing, the estate of a recipient of medical assistance also includes:

(A) Assets to be transferred to a beneficiary described in section 77-2004 or 77-2005 in relation to the recipient through a revocable trust or other similar arrangement which has become irrevocable by reason of the recipient's death; and

(B) Notwithstanding anything to the contrary in subdivision (3) or (4) of section 68-923, assets conveyed or otherwise transferred to a survivor, an heir, an assignee, a beneficiary, or a devisee of the recipient of medical assistance through joint tenancy, tenancy in common, transfer on death deed, survivorship, conveyance of a remainder interest, retention of a life estate or of an estate for a period of time, living trust, or other arrangement by which value or possession is transferred to or realized by the beneficiary of the conveyance or transfer at or as a result of the recipient's death to the full extent authorized in 42 U.S.C. 1396p(b)(4)(B). Such other arrangements include insurance policies or annuities in which the recipient of medical assistance had at the time of death any incidents of ownership of the policy or annuity or the power to designate beneficiaries and any pension rights or completed retirement plans or accounts of the recipient. A completed retirement plan or account is one which because of the death of the recipient of medical assistance ceases to have elements of retirement relating to such recipient and under which one or more beneficiaries exist after such recipient's death; and

(ii) Estate of a recipient of medical assistance does not include:

(A) Insurance policies in proportion to the premiums and other payments to the insurance carrier that were paid by someone other than the recipient of medical assistance or the recipient's spouse;

(B) Insurance proceeds and accounts in institutions under federal supervision or supervision of the Department of Banking and Finance or Department of Insurance to the extent subject to a security interest where the secured party is not a related transferee as defined in section 68-990;

(C) Insurance proceeds, any trust account subject to the Burial Pre-Need Sale Act, or any limited lines funeral insurance policy to the extent used to pay for funeral, burial, or cremation expenses of the recipient of medical assistance;

(D) Conveyances of real estate made prior to August 24, 2017, that are subject to the grantor's retention of a life estate or an estate for a period of time; and

(E) Any pension rights or completed retirement plans to the extent that such rights or plans are exempt from claims for reimbursement of medical assistance under federal law.

(c) As to any interest in property created after August 24, 2017, and for as long as any portion of the debt arising under subsection (1) of this section remains unpaid, the death of the recipient of medical assistance shall not trigger a change in the rights to possession, enjoyment, access, income, or otherwise that the recipient had at the time of death and the personal representative of the recipient's estate is empowered to and shall exercise or enjoy such rights for the purpose of paying such debt, including, but not limited to, renting such property held as a life estate, severing joint tenancies, bringing partition actions, claiming equitable rights of contribution, or taking other actions otherwise appropriate to effect the intent of this section. Such rights shall survive the death of the recipient of medical assistance and shall be administered, marshaled, and disposed of for the purposes of this section. In the event that a claim for reimbursement is made as to some, but not all, nonprobate transferees or assets, the party or owner against whom the claim is asserted may seek equitable contribution toward the claim from the other nonprobate transferees or assets in a court of applicable jurisdiction. Except as otherwise provided in this section and except for the right of the department to recover the debt from such interests in property, this subsection in and of itself does not create any rights in any other person or entity.

(d) Unless includable in the estate of a recipient of medical assistance pursuant to this section as it existed prior to August 24, 2017, an interest in real estate transferred to a related transferee as defined in section 68-990 and vested in such related transferee prior to August 24, 2017, shall not be part of the estate of the recipient of medical assistance unless required disclosures were not made at the time of application for medical assistance under section 68-989 or at the time of any review by the department of the recipient's eligibility for medical assistance.

(e) The department, upon application of the personal representative of an estate, any person otherwise authorized under the Nebraska Probate Code to act on behalf of a decedent, any person having an interest in assets of the decedent which are subject to this subsection, a successor trustee of a revocable trust or other similar arrangement which has become irrevocable by reason of the decedent's death, or any other person holding assets of the decedent described in this subsection, shall release some or all of the property of a decedent from the provisions of this subsection in cases in which the department determines that either there is no medical assistance reimbursement due and no application for medical assistance has been filed on behalf of the decedent or that there will be sufficient assets of the probate estate of the decedent to satisfy all such claims for medical assistance reimbursement. If there is no medical assistance reimbursement due and no application for medical assistance has been filed on behalf of the decedent, the department shall certify to the applicant that no reimbursement is due as expeditiously as reasonably possible but in no event more than sixty days after receipt of the application, the decedent's name and social security number, and, if the decedent was predeceased by a spouse, the name and social security number of such spouse. Failure of the department to timely make such certification shall subject the department to payment of the applicant's reasonable attorney's fees and costs in an action for mandamus filed in either Lancaster County or the

county in which the probate action or inheritance tax proceeding is pending. The department shall annually report to the Legislature the amount and circumstances of such attorney's fees and costs paid. If the department determines that there is medical assistance reimbursement due or that an application for medical assistance has been filed on behalf of the decedent, the department shall mail notice thereof to the applicant within such sixty-day period. Notice stating that a demand for notice has been filed pursuant to subsection (3) of section 71-605 shall suffice for purposes of the notice requirement. Failure of the department to provide the required notice discharges the debt created under this section unless the department has previously filed a demand for notice under subsection (3) of section 71-605. An application under this subdivision shall be provided to the department in a delivery manner and at an address designated by the department, which manner may include email. The department shall post the acceptable manner of delivery on its web site. Any application that fails to conform with such manner is void. The department shall not require, as part of the application, that an applicant submit information beyond what is needed to implement this subdivision. Notwithstanding the lack of an order by a court designating a trustee or successor trustee of a revocable trust or other similar arrangement which has become irrevocable by reason of the decedent's death as a person who may receive information in conjunction with applicable privacy law, such person shall have the authority of a personal representative with respect to the trust assets, including, but not limited to, the authority to seek and to obtain from the department information protected by applicable privacy law, and the department shall release the information requested to the trustee to the extent it is relevant to resolving issues relating to reimbursement of medical assistance or the administration thereof.

(f) In the event that the department does not seek to recover medical assistance reimbursement for a period of eighteen months after it is entitled to do so, the county attorney of the county in which the recipient of medical assistance last resided, or in the case of real estate, the county where the real estate is located, may seek the consent of the department to enforce the rights of the department. The department shall determine whether or not to grant such consent within sixty days after the consent is requested. If the department fails to make a determination within the sixty-day period, such consent shall be deemed to have been granted. The department may not unreasonably withhold consent to the bringing of such action. If the county attorney brings such an action, the county shall be entitled to such reasonable attorney's fees as determined by the court with jurisdiction of the action. The department shall give its full cooperation to such county attorney.

(g) An action for recovery of the debt created under subsection (1) of this section may be brought by the department against the estate of a recipient of medical assistance as defined in subdivision (4)(b) of this section at any time before five years after the last of the following events:

- (i) The death of the recipient of medical assistance;
- (ii) The death of the recipient's spouse, if applicable;
- (iii) The attainment of the age of twenty-one years by the youngest of the recipient's minor children, if applicable; or

(iv) A determination that any adult child of the recipient is no longer blind or totally and permanently disabled as defined by the Supplemental Security Income criteria, if applicable.

(5) In any probate proceedings in which the department has filed a claim under this section, no additional evidence of foundation shall be required for the admission of the department's payment record supporting its claim if the payment record bears the seal of the department, is certified as a true copy, and bears the signature of an authorized representative of the department.

(6) The department may waive or compromise its claim, in whole or in part, if the department determines that enforcement of the claim would not be in the best interests of the state or would result in undue hardship as provided in rules and regulations of the department.

(7) Whenever the department has provided medical assistance because of sickness or injury to any person resulting from a third party's wrongful act or negligence and the person has recovered or may recover damages from such third party, to the fullest extent permitted by federal law and understandings entered into between the state and federal government, the department shall have the right to recover the medical assistance it paid from any amounts that the person has received or may receive from or on behalf of the third party. When, with the consent of the department, an action or claim is brought by the person alone and the person incurs or will incur a personal liability to pay attorney's fees and costs of litigation or costs incurred in pursuit of a claim, to the fullest extent permitted by federal law and understandings entered into between the state and federal government, the department's claim for reimbursement of the medical assistance provided to the person shall be reduced by twenty-five percent of the full amount of the judgment, award, or settlement, which the person may retain, though otherwise subject to applicable law including but not limited to eligibility criteria, and a pro rata share that represents the department's reasonable share of attorney's fees paid by the person and that portion of the costs of litigation or the costs incurred in pursuit of a claim determined by multiplying the amount of the costs of litigation or the costs incurred in pursuit of a claim by the ratio of the full amount of benefit expenditures made by the department to or on behalf of the person to the full amount of the judgment, award, or settlement. The department may not unreasonably withhold consent to the bringing of such action or claim. The department shall determine whether or not to grant such consent within thirty days after the consent is requested. If the department fails to make a determination within the thirty-day period, such consent shall be deemed to have been granted.

(8) The department may adopt and promulgate rules and regulations to carry out this section.

Source: Laws 1994, LB 1224, § 39; Laws 1996, LB 1044, § 334; Laws 2001, LB 257, § 1; Laws 2004, LB 1005, § 7; R.S.Supp.,2004, § 68-1036.02; Laws 2006, LB 1248, § 19; Laws 2007, LB185, § 2; Laws 2013, LB23, § 13; Laws 2015, LB72, § 4; Laws 2017, LB268, § 14.

Effective date August 24, 2017.

Cross References

Burial Pre-Need Sale Act, see section 12-1101.
Nebraska Probate Code, see section 30-2201.

68-940.01 State Medicaid Fraud Control Unit Cash Fund; created; use; investment.

The State Medicaid Fraud Control Unit Cash Fund is created. The fund shall be maintained by the Department of Justice and administered by the Attorney General. The fund shall consist of any recovery for the state's costs and attorney's fees received pursuant to subdivision (2)(b) of section 68-940 and sections 68-936 and 68-939, except criminal penalties, whether such recovery is by way of verdict, judgment, compromise, or settlement in or out of court, or other final disposition of any case or controversy under such subdivision or sections. Money in the fund shall be used to pay the salaries and related expenses of the Department of Justice for the state medicaid fraud control unit.

The State Treasurer shall transfer five hundred thousand dollars from the State Medicaid Fraud Control Unit Cash Fund to the General Fund on or before June 30, 2018, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

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 2009, LB288, § 23; Laws 2017, LB331, § 35.
Effective date May 16, 2017.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

68-948 Repealed. Laws 2017, LB644, § 21.**68-949 Medical assistance program; legislative intent; department; duties.**

(1) It is the intent of the Legislature that the department implement reforms to the medical assistance program such as those contained in the Medicaid Reform Plan, including (a) an incremental expansion of home and community-based services for aged persons and persons with disabilities consistent with such plan, (b) an increase in care coordination or disease management initiatives to better manage medical assistance expenditures on behalf of high-cost recipients with multiple or chronic medical conditions, and (c) other reforms as deemed necessary and appropriate by the department, in consultation with the committee.

(2) The department shall develop recommendations based on a comprehensive analysis of various options available to the state under applicable federal law for the provision of medical assistance to persons with disabilities who are employed, including persons with a medically improved disability, to enhance and replace current eligibility provisions contained in subdivision (8) of section 68-915.

(3) The department shall develop recommendations for further modification or replacement of the defined benefit structure of the medical assistance program. Such recommendations shall be consistent with the public policy in section 68-905 and shall consider the needs and resources of low-income Nebraska residents who are eligible or may become eligible for medical assistance, the experience and outcomes of other states that have developed and

implemented such changes, and other relevant factors as determined by the department.

Source: Laws 2006, LB 1248, § 49; Laws 2007, LB296, § 263; Laws 2008, LB928, § 16; Laws 2017, LB417, § 9; Laws 2017, LB644, § 17.
Effective date August 24, 2017.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB417, section 9, with LB644, section 17, to reflect all amendments.

68-957 Repealed. Laws 2017, LB4, § 1.

68-958 Repealed. Laws 2017, LB4, § 1.

68-959 Repealed. Laws 2017, LB4, § 1.

68-960 Repealed. Laws 2017, LB4, § 1.

68-961 Repealed. Laws 2017, LB4, § 1.

68-977 Ground Emergency Medical Transport Act; act, how cited.

Sections 68-977 to 68-988 shall be known and may be cited as the Ground Emergency Medical Transport Act.

Source: Laws 2017, LB578, § 2.
Effective date August 24, 2017.

68-978 Terms, defined.

For purposes of the Ground Emergency Medical Transport Act:

(1) Advanced life support means special services designed to provide definitive prehospital emergency medical care, including, but not limited to, cardiopulmonary resuscitation, cardiac monitoring, cardiac defibrillation, advanced airway management, intravenous therapy, administration with drugs and other medicinal preparations, and other specified techniques and procedures;

(2) Basic life support means emergency first aid and cardiopulmonary resuscitation procedures to maintain life without invasive techniques;

(3) Capitation payment means a payment the state makes periodically to a contractor on behalf of each beneficiary enrolled under a contract and based on the actuarially sound capitation rate for the provision of services under the state plan and which the state makes regardless of whether the particular beneficiary receives services during the period covered by the payment;

(4) Dry run means ground emergency medical transport services provided by an eligible ground emergency medical transport services provider to an individual who is released on the scene without transportation by ambulance to a medical facility;

(5) Ground emergency medical transport means the act of transporting an individual from any point of origin to the nearest medical facility capable of meeting the emergency medical needs of the patient, including dry runs;

(6) Ground emergency medical transport services means advanced life support, limited advanced life support, and basic life support services provided to an individual by ground emergency medical transport services providers before or during ground emergency medical transport;

(7) Limited advanced life support means special services to provide prehospital emergency medical care limited to techniques and procedures that exceed basic life support but are less than advanced life support services; and

(8) Medical transport means transportation to secure medical examinations and treatment for an individual.

Source: Laws 2017, LB578, § 3.
Effective date August 24, 2017.

68-979 Legislative intent.

It is the intent of the Legislature that no General Funds be used in carrying out the Ground Emergency Medical Transport Act.

Revenue from the intergovernmental transfer program created under the Ground Emergency Medical Transport Act shall be deposited into the Health and Human Services Cash Fund.

Source: Laws 2017, LB578, § 4.
Effective date August 24, 2017.

68-980 Supplemental reimbursement.

An eligible provider as described in section 68-981 shall, in addition to the rate of payment that the provider would otherwise receive for medicaid ground emergency medical transport services, receive supplemental reimbursement pursuant to the Ground Emergency Medical Transport Act.

Source: Laws 2017, LB578, § 5.
Effective date August 24, 2017.

68-981 Supplemental reimbursement; eligibility.

Participation in the supplemental reimbursement program by an eligible provider is voluntary. A provider is eligible for supplemental reimbursement only if the provider has all of the following characteristics continuously during a fiscal year of the state:

- (1) Provides ground emergency medical transport services to medicaid beneficiaries;
- (2) Is enrolled as a medicaid provider for the period being claimed;
- (3) Is owned or operated by the state or a city, county, rural or suburban fire protection district, hospital district, federally recognized Indian tribe, or another unit of government; and
- (4) Participates in the intergovernmental transfer program created pursuant to section 68-983.

Source: Laws 2017, LB578, § 6.
Effective date August 24, 2017.

68-982 Supplemental reimbursement; calculation and payment.

(1) An eligible provider's supplemental reimbursement pursuant to the Ground Emergency Medical Transport Act shall be calculated and paid as follows:

(a) The supplemental reimbursement shall equal the amount of federal financial participation received as a result of the claims submitted pursuant to the act; and

(b) In no instance may the amount certified pursuant to section 68-985, when combined with the amount received from all other sources of reimbursement from the medical assistance program, exceed one hundred percent of actual costs, as determined pursuant to the medicaid state plan, for ground emergency medical transport services.

(2) The supplemental reimbursement shall be distributed exclusively to eligible providers under a payment method based on ground emergency medical transport services provided to medicaid beneficiaries by eligible providers on a per-transport basis or other federally permissible basis.

Source: Laws 2017, LB578, § 7.

Effective date August 24, 2017.

68-983 Intergovernmental transfer program; department; powers and duties.

(1) The department shall design and implement, in consultation with eligible providers as described in section 68-981, an intergovernmental transfer program relating to medicaid managed care ground emergency medical transport services, including services provided by emergency medical technicians at the basic, advanced, and paramedic levels in prestabilization and preparation for transport, in order to increase capitation payments for the purpose of increasing reimbursement to eligible providers.

(2)(a) To the extent intergovernmental transfers are voluntarily made by, and accepted from, an eligible provider described in section 68-981 or a governmental entity affiliated with an eligible provider, the department shall make increased capitation payments to applicable medicaid managed care plans.

(b) The increased capitation payments made pursuant to this section shall be in actuarially determined amounts at least to the extent permissible under federal law.

(c) Except as provided in subsection (6) of this section, all funds associated with intergovernmental transfers made and accepted pursuant to this section shall be used to fund additional payments to medicaid managed care plans.

(d) Medicaid managed care plans shall enter into contracts or contract amendments with providers for the disbursement of any amount of increased capitation payments made pursuant to this section.

(3) The intergovernmental transfer program developed pursuant to this section shall be implemented on the date federal approval is obtained and only to the extent intergovernmental transfers from the eligible provider or the governmental entity with which it is affiliated are provided for this purpose.

(4) To the extent permitted by federal law, the department may implement the intergovernmental transfer program and increased capitation payments pursuant to this section retroactive to the date that the state plan amendment is submitted to the Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services pursuant to section 68-986.

(5) Participation in intergovernmental transfers under this section is voluntary on the part of the transferring entities for purposes of all applicable federal laws.

(6)(a) As a condition of participation under this section, each eligible provider or the governmental entity affiliated with an eligible provider shall agree to reimburse the department for any costs associated with implementing such program.

(b) Intergovernmental transfers described in this section are subject to a twenty percent administration fee of the nonfederal share paid to the department and are allowed to count as a cost of providing the services.

(7) As a condition of participation under this section, medicaid managed care plans, eligible providers, and governmental entities affiliated with eligible providers shall agree to comply with any requests for information or similar data requirements imposed by the department for purposes of obtaining supporting documentation necessary to claim federal funds or to obtain federal approval.

Source: Laws 2017, LB578, § 8.

Effective date August 24, 2017.

68-984 Agreement.

(1) An eligible provider, as a condition of receiving supplemental reimbursement, shall enter into and maintain an agreement with the department for purposes of implementing the Ground Emergency Medical Transport Act and reimbursing the department for the costs of administering the act.

(2) The nonfederal share of the supplemental reimbursement submitted to the federal Centers for Medicare and Medicaid Services for purposes of claiming federal financial participation shall be paid only with funds from the governmental entities described in subdivision (3) of section 68-981 and certified to the department as provided in section 68-985.

Source: Laws 2017, LB578, § 9.

Effective date August 24, 2017.

68-985 Governmental entity; duties.

If a governmental entity elects to seek supplemental reimbursement pursuant to the Ground Emergency Medical Transport Act on behalf of an eligible provider owned or operated by the entity, the governmental entity shall:

(1) Certify, in conformity with the requirements of 42 C.F.R. 433.51, that the claimed expenditures for ground emergency medical transport services are eligible for federal financial participation;

(2) Provide evidence supporting the certification as specified by the department;

(3) Submit data as specified by the department to determine the appropriate amounts to claim as expenditures qualifying for federal financial participation; and

(4) Keep, maintain, and have readily retrievable any records specified by the department to fully disclose reimbursement amounts to which the eligible provider is entitled and any other records required by the federal Centers for Medicare and Medicaid Services.

Source: Laws 2017, LB578, § 10.

Effective date August 24, 2017.

68-986 Department; amendment to medicaid state plan; department; powers.

(1) On or before January 1, 2018, the department shall submit an application to the Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services amending the medicaid state plan to provide for the supplemental reimbursement rate for ground emergency medical transport services as specified in the Ground Emergency Medical Transport Act.

(2) The department may limit the program to those costs that are allowable expenditures under Title XIX of the federal Social Security Act, 42 U.S.C. 1396 et seq., as such act and sections existed on April 1, 2017. Without such federal approval, the Ground Emergency Medical Transport Act may not be implemented.

(3) The intergovernmental transfer program authorized in section 68-983 shall be implemented only if and to the extent federal financial participation is available and is not otherwise jeopardized and any necessary federal approval has been obtained.

(4) To the extent that the chief executive officer of the department determines that the payments made pursuant to section 68-983 do not comply with federal medicaid requirements, the chief executive officer may return or not accept an intergovernmental transfer and may adjust payments as necessary to comply with federal medicaid requirements.

Source: Laws 2017, LB578, § 11.
Effective date August 24, 2017.

68-987 Department; duties.

(1) The department shall submit claims for federal financial participation for the expenditures for the services described in section 68-986 that are allowable expenditures under federal law.

(2) The department shall annually submit any necessary materials to the federal government to provide assurances that claims for federal financial participation will include only those expenditures that are allowable under federal law.

(3) If either a final judicial determination is made by any court of appellate jurisdiction or a final determination is made by the administrator of the federal Centers for Medicare and Medicaid Services that the supplemental reimbursement provided for in the act shall be made to any provider not described in this section, the chief executive officer of the department shall execute a declaration stating that the determination has been made and such supplemental reimbursement becomes inoperative on the date of such determination.

Source: Laws 2017, LB578, § 12.
Effective date August 24, 2017.

68-988 Increased capitation payments; commencement.

To the extent federal approval is obtained, the increased capitation payments under section 68-983 may commence for dates of service on or after January 1, 2018.

Source: Laws 2017, LB578, § 13.
Effective date August 24, 2017.

68-989 Disclosure by applicant; income and assets; action for recovery of medical assistance authorized.

(1) This section shall apply to the fullest extent permitted by federal law and understandings entered into between the state and the federal government. An applicant for medical assistance, or a person acting on behalf of the applicant, shall disclose at the time of application and, to the extent not owned at the time of application, at the time of any subsequent review of the applicant's eligibility for medical assistance all of his or her interests in any assets, including, but not limited to, any security, bank account, intellectual property right, contractual or lease right, real estate, trust, corporation, limited liability company, or other entity, whether such interest is direct or indirect, vested or contingent, or otherwise. The applicant or a person acting on behalf of the applicant shall also disclose:

(a) Any income derived from such interests and the source of the income; and

(b) Whether the income is generated directly or indirectly from (i) the applicant's spouse or an individual who is related to the applicant as described in section 77-2004 or 77-2005 or (ii) an entity controlled by one or more individuals described in subdivision (1)(b)(i) of this section. For purposes of this subdivision, control means individuals listed in subdivision (1)(b)(i) of this section together own or have the option to acquire more than fifty percent of the entity.

(2) If the applicant or a person acting on behalf of the applicant willfully fails to make the disclosures required in this section, any medical assistance obtained as a result of such failure is deemed unlawfully obtained and the department shall seek recovery of such medical assistance from the applicant or the estate of the recipient of medical assistance as defined in subdivision (4)(b) of section 68-919.

(3) If income is derived from a related party as described in subdivision (1)(b) of this section, the department shall determine whether the income is or, in the case of a written lease, whether the terms of the lease at the time it was entered into were commercially reasonable and consistent with income or lease terms derived in the relevant market area and negotiated at arms length between parties who are not related. If the department determines that the income or lease fails to meet these requirements, such income or lease shall be considered a transfer of the applicant's assets for less than full consideration and the department shall consider the resulting shortfall, to the fullest extent permitted by federal law, when determining eligibility for medical assistance or any share of cost or as otherwise required by law. The burden of proof of commercial reasonableness rests with the applicant. The department's determination on commercial reasonableness may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

(4) An action for recovery of medical assistance obtained in violation of this section may be brought by the department against the applicant or against the estate of the recipient of medical assistance as defined in subdivision (4)(b) of section 68-919 at any time before five years after the death of both the applicant and the applicant's spouse, if any.

(5) The department may adopt and promulgate rules and regulations to carry out this section. The rules and regulations may include guidance on the commercial reasonableness of lease terms.

Source: Laws 2017, LB268, § 11.

Effective date August 24, 2017.

Cross References

Administrative Procedure Act, see section 84-920.

68-990 Medical assistance; transfers; security for recovery of indebtedness to department; lien; notice; filing; department; duties.

(1) For purposes of this section:

(a) Related transferee means:

(i) An individual who is related to the transferor as described in section 77-2004 or 77-2005;

(ii) An entity controlled by one or more individuals described in subdivision (1)(a)(i) of this section. For purposes of this subdivision, control means individuals described in subdivision (1)(a)(i) of this section together own or have the option to acquire more than fifty percent of the entity; or

(iii) An irrevocable trust in which an individual described in subdivision (1)(a)(i) of this section is a beneficiary; and

(b) Related transferee does not include the recipient's spouse, if any, or a child who either is under twenty-one years of age or is blind or totally and permanently disabled as defined by Supplemental Security Income criteria.

(2) This section shall apply to the fullest extent permitted by federal law and understandings entered into between the state and the federal government. This section provides security for the recovery of the indebtedness to the department for medical assistance as provided in section 68-919. This section applies to transfers of real estate made on or after August 24, 2017. If, during the transferor's lifetime, an interest in real estate is irrevocably transferred to a related transferee for less than full consideration and the real estate transferred to the related transferee is subject to rights, actual or constructive possession, or powers retained by the transferor in a deed or other instrument, the interest in the real estate when acquired by the related transferee is subject to a lien in favor of the State of Nebraska for medical assistance reimbursement pursuant to section 68-919 to the extent necessary to secure payment in full of any claim remaining unpaid after application of the assets of the transferor's probate estate, not to exceed the amount determined under subsection (6) of this section. The lien does not attach to any interest retained by the transferor. Except as provided in this section, the lien applies to medical assistance provided before, at the same time as, or after the filing of the notice of lien under subsection (4) of this section.

(3) Within fifteen days after receipt of a statement required by section 76-214 indicating that the underlying real estate transfer was between relatives or, if to a trustee, where the trustor or settlor and the beneficiary are relatives, the register of deeds shall send a copy of such statement, together with the parcel identification number, if ascertainable, to the department. The copy shall be provided to the department in a delivery manner and at an address designated by the department, which manner may include email. The department shall post the acceptable manner of delivering the copy on its web site or otherwise communicate the manner of delivery to the registers of deeds.

(4) The lien imposed by subsection (2) of this section becomes effective upon the filing of a notice of lien in accordance with this subsection. The department may file a notice of the lien imposed by subsection (2) of this section only after the department receives an application for medical assistance on behalf of a transferor. The notice must be filed in the office of the register of deeds of the

county or counties in which the real estate subject to the lien is located. The notice must provide the legal description of the real estate subject to the lien, specify the amount then secured by the lien, and indicate that the lien also covers any future medical assistance provided to the transferor. The department shall provide the register of deeds with a self-addressed return envelope bearing sufficient postage for purposes of returning to the department a file-stamped copy of the notice of lien, which the register of deeds shall mail to the department. The lien is not valid against the owner of an interest in real estate received by a grantee who is not a related transferee pursuant to a deed or other instrument if such deed or other instrument is filed prior to the notice of lien. A lien that is not valid under this subsection shall be released by the department upon notice thereof from such grantee or a subsequent bona fide purchaser. A lien is valid against any subsequent creditor only if notice of such lien has been filed by the department in accordance with this subsection. Any mortgage or trust deed recorded prior to the filing of a notice of lien shall have priority over such lien. Except as provided in subsection (5) of this section, any optional future advance or advance necessary to protect the security secured by the mortgage or trust deed shall have the same priority as the mortgage or trust deed.

(5) Any optional future advance made pursuant to a mortgage or trust deed on real estate recorded prior to the filing of a notice of lien under subsection (4) of this section shall be junior to such lien only if the optional future advance is made after:

(a) A notice of lien has been filed by the department in accordance with subsection (4) of this section; and

(b) Written notice of the filing for record of such notice of lien has been received by the mortgagee or beneficiary at the address of the mortgagee or beneficiary set forth in the mortgage or trust deed or, if the mortgage or trust deed has been assigned, by the assignee at the address of the most recent assignee reflected in a recorded assignment of the mortgage or trust deed. The notice under this subdivision shall be sent by the department by certified mail to the applicable mortgagee, beneficiary, or assignee.

(6)(a) The lien authorized in this section is limited to the lesser of (i) the amount necessary to fully satisfy any reimbursement obligations remaining unpaid after application of any assets from the transferor's probate estate or (ii) the actual value of the real estate at the time that the lien is enforced minus the consideration adjustment and minus the cost of the improvements made to the real estate by or on behalf of the related transferee, if any.

(b) For purposes of this subsection:

(i) Actual value has the same meaning as in section 77-112;

(ii) Consideration adjustment means the amount of consideration paid by the related transferee to the transferor for the real estate multiplied by the growth factor; and

(iii) Growth factor means the actual value of the real estate at the time the lien is enforced divided by the actual value of the real estate at the time the consideration was paid.

(c) The burden of proof for showing the consideration paid for the real estate, the cost of any improvements to the real estate, and the actual value of the real estate rests with the related transferee or his or her successor in interest.

(7) If a deed or other instrument transferring an interest in real estate contains a recital acknowledged by the grantor stating that the grantee is not a related transferee, the real estate being transferred shall not be subject to the lien imposed by this section. A related transferee who takes possession or otherwise enjoys the benefits of the transfer knowing the recital is false becomes personally liable for medical assistance reimbursement to the extent necessary to discharge any claim remaining unpaid after application of the assets of the transferor's probate estate, not to exceed the amount determined under subsection (6) of this section.

(8) The department shall release or subordinate the lien authorized in this section upon application by the related transferee in which the related transferee agrees to indemnify the department for medical assistance reimbursement pursuant to section 68-919 to the extent necessary to discharge any such claim remaining unpaid after application of the assets of the transferor's probate estate, not to exceed the amount determined under subsection (6) of this section. The department may require the application submitted pursuant to this subsection to be accompanied by good and sufficient sureties or other evidence determined by the department to be sufficient to secure the liability. The department shall also release the lien upon a satisfactory showing of undue hardship or a showing that the interest subject to the lien is not one from which medical assistance reimbursement may be had.

(9)(a) Any indemnity and any lien shall be released upon:

(i) Notice delivered to the department, by certified mail, return receipt requested, of (A) the death and identification, including the social security number, of the transferor, (B) the legal description of the real estate subject to the indemnity or lien, and (C) the names and addresses of the owners of record of the real estate; and

(ii) The department either (A) filing a release of lien with the register of deeds of the county or counties in which the real estate subject to the lien is located or (B) not filing an action to foreclose the lien or collect on the indemnity within one year after delivery of the notice required under subdivision (9)(a)(i) of this section.

(b) Proof of delivery of such notice shall be made by filing a copy of the notice and a copy of the certified mail return receipt with the register of deeds of the county or counties in which the real estate subject to the lien is located.

(10) The department may adopt and promulgate rules and regulations to carry out this section.

Source: Laws 2017, LB268, § 12.
Effective date August 24, 2017.

68-991 Medical provider; authority to apply for medical assistance.

A medical provider shall have the authority of a guardian and conservator for the limited purpose of making application for medical assistance on behalf of a person whom the provider is treating if the person is unconscious or otherwise is unable to apply for medical assistance and does not have an existing power of attorney or a court-appointed individual to apply on the person's behalf.

Source: Laws 2017, LB268, § 13.
Effective date August 24, 2017.

ARTICLE 11

AGING

(b) AGING NEBRASKANS TASK FORCE

Section

- 68-1107. Repealed. Laws 2017, LB644, § 21.
- 68-1108. Department of Health and Human Services; report.
- 68-1109. Repealed. Laws 2017, LB644, § 21.
- 68-1110. Repealed. Laws 2017, LB644, § 21.

(b) AGING NEBRASKANS TASK FORCE

68-1107 Repealed. Laws 2017, LB644, § 21.

68-1108 Department of Health and Human Services; report.

The Department of Health and Human Services shall annually report electronically to the Legislature the percentage growth of medicaid spending for people over sixty-five years of age for no fewer than five years following acceptance of the application to the State Balancing Incentive Payments Program pursuant to section 81-3138.

Source: Laws 2014, LB690, § 3; Laws 2015, LB320, § 11; Laws 2017, LB644, § 18.

Effective date August 24, 2017.

68-1109 Repealed. Laws 2017, LB644, § 21.

68-1110 Repealed. Laws 2017, LB644, § 21.

ARTICLE 18

ICF/DD REIMBURSEMENT PROTECTION ACT

Section

- 68-1804. ICF/DD Reimbursement Protection Fund; created; use; allocation; investment; report.

68-1804 ICF/DD Reimbursement Protection Fund; created; use; allocation; investment; report.

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

(2) Beginning July 1, 2014, the department shall use the ICF/DD Reimbursement Protection Fund, including the matching federal financial participation under Title XIX of the Social Security Act, as amended, for purposes of enhancing rates paid under the medical assistance program to intermediate care facilities for persons with developmental disabilities and for an annual contribution to community-based programs for persons with developmental disabilities as specified in subsection (4) of this section, exclusive of the reimbursement paid under the medical assistance program and any other state appropriations to intermediate care facilities for persons with developmental disabilities.

(3) For FY2011-12 through FY2013-14, proceeds from the tax imposed pursuant to section 68-1803 shall be remitted to the State Treasurer for credit to the ICF/DD Reimbursement Protection Fund for allocation as follows:

- (a) First, fifty-five thousand dollars for administration of the fund;
- (b) Second, the amount needed to reimburse intermediate care facilities for persons with developmental disabilities for the cost of the tax;
- (c) Third, three hundred twelve thousand dollars for community-based services for persons with developmental disabilities;
- (d) Fourth, six hundred thousand dollars or such lesser amount as may be available in the fund for non-state-operated intermediate care facilities for persons with developmental disabilities, in addition to any continuation appropriations percentage increase provided by the Legislature to nongovernmental intermediate care facilities for persons with developmental disabilities under the medical assistance program, subject to approval by the federal Centers for Medicare and Medicaid Services of the department's annual application amending the medicaid state plan reimbursement methodology for intermediate care facilities for persons with developmental disabilities; and
- (e) Fifth, the remainder of the proceeds to the General Fund.

(4) For FY2016-17 and each fiscal year thereafter, the ICF/DD Reimbursement Protection Fund shall be used as follows:

- (a) First, fifty-five thousand dollars to the department for administration of the fund;
- (b) Second, payment to the intermediate care facilities for persons with developmental disabilities for the cost of the tax;
- (c) Third, three hundred twelve thousand dollars, in addition to any federal medicaid matching funds, for payment to providers of community-based services for persons with developmental disabilities;
- (d) Fourth, one million dollars to the General Fund; and
- (e) Fifth, 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 tax provided for in section 68-1803 and not utilized under subdivisions (a), (b), (c), and (d) of this subsection shall be used to enhance rates in non-state-operated intermediate care facilities for persons with developmental disabilities by increasing the annual inflation factor to the extent allowed to ensure federal financial participation for the department's payments to intermediate care facilities for persons with developmental disabilities.

(5) The Division of Medicaid and Long-Term Care of the Department of Health and Human Services shall report electronically, no later than December 1 of each year, to the Health and Human Services Committee of the Legislature and the Revenue Committee of the Legislature the amounts collected from each payer of the tax pursuant to section 68-1803 and the amount of each disbursement from the ICF/DD Reimbursement Protection Fund.

Source: Laws 2004, LB 841, § 5; Laws 2010, LB701, § 1; Laws 2013, LB23, § 19; Laws 2017, LB605, § 1.
Effective date May 10, 2017.

Cross References

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

CHAPTER 69

PERSONAL PROPERTY

Article.

- 17. Advertising Signs. 69-1701.
- 27. Tobacco. 69-2710.01.

ARTICLE 17

ADVERTISING SIGNS

Section

- 69-1701. Outdoor advertising sign; removal by public body; compensation; how determined; exception.

69-1701 Outdoor advertising sign; removal by public body; compensation; how determined; exception.

(1) Before an outdoor advertising sign, display, or device is removed, taken, or appropriated through the use of zoning or any other power or authority possessed by the state, a state agency, or a political subdivision of the state:

(a) The value of the sign, display, or device shall be determined by the taking entity without the use of any amortization schedule; and

(b) The owners of the sign, display, or device shall be paid the fair and reasonable market value for such removal, taking, or appropriation, which fair and reasonable market value shall be based upon the depreciated reproduction cost of such sign, display, or device using as a guideline the Nebraska Sign Schedule developed and used by the Department of Transportation, except that, when feasible, the taking entity may elect to relocate such sign, display, or device, in which event the owners of the sign, display, or device shall be paid the actual and necessary relocation cost therefor.

(2) Subsection (1) of this section shall not apply to:

(a) Actions taken by the Department of Transportation pursuant to sections 39-212 to 39-226 and 39-1320; and

(b) The removal, taking, or appropriation of a sign, display, or device which (i) is insecurely fixed or inadequately maintained such that the sign, display, or device constitutes a danger to the public health or safety, or (ii) has been abandoned or no longer used by the owners for at least six months.

Source: Laws 1981, LB 241, § 1; Laws 1995, LB 264, § 35; Laws 2017, LB339, § 244.

Operative date July 1, 2017.

ARTICLE 27

TOBACCO

Section

- 69-2710.01. Report; contents.

69-2710.01 Report; contents.

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

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

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

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

Source: Laws 2011, LB590, § 14; Laws 2017, LB217, § 4.
Operative date August 24, 2017.

Cross References

Tobacco Products Tax Act, see section 77-4001.

CHAPTER 70

POWER DISTRICTS AND CORPORATIONS

Article.

3. Right-of-Way for Pole Lines. 70-309.
4. Electric Companies; Rates. 70-408.
6. Public Power and Irrigation Districts. 70-604.01.

ARTICLE 3

RIGHT-OF-WAY FOR POLE LINES

Section

70-309. Electrical transmission lines; state or federal highways; regulation by Department of Transportation.

70-309 Electrical transmission lines; state or federal highways; regulation by Department of Transportation.

If the public road, along, upon, across, or under which the right to construct, operate, and maintain the electrical transmission line is granted, is a state or federal highway, then the location and installation of the electrical transmission facilities, insofar as they pertain to the present and future use of the rights-of-way for highway purposes, shall be subject to reasonable regulations and restrictions prescribed by the Department of Transportation. If the future use of the state or federal highway requires the moving or relocating of the facilities, then such facilities shall be removed or relocated by the owner, at the owner's cost and expense, and as directed by the Department of Transportation except as provided by section 39-1304.02.

Source: Laws 1943, c. 231, § 2, p. 780; R.S.1943, § 86-308.01; Laws 1957, c. 171, § 4, p. 593; R.S.1943, (1999), § 86-308.01; Laws 2002, LB 1105, § 472; Laws 2017, LB339, § 245.
Operative date July 1, 2017.

ARTICLE 4

ELECTRIC COMPANIES; RATES

Section

70-408. Electric companies; rates; kilowatt-hour meter; demand meter; minimum charge authorized.

70-408 Electric companies; rates; kilowatt-hour meter; demand meter; minimum charge authorized.

All charges, made for electrical energy for residential, commercial, and farm purposes by any person, firm, corporation, or municipality engaged in the sale of electrical energy in cities of the first class having a population of more than five thousand and less than twenty-five thousand inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census, cities of the second class, villages, and unincorporated areas in Nebraska, shall be based on the amount

of such energy actually furnished by the kilowatt-hour meter, together with such demand as may be registered or indicated by a demand meter, or as may be contracted for, to such purchaser. Such person, firm, corporation, or municipality may provide for either a penalty on or a discount from the amount of any bill to promote prompt payment thereof under uniform rules and regulations governing such penalty or discount. A reasonable minimum charge may be collected from purchasers of electrical energy by any such person, firm, corporation, or municipality, even though the charge for the amount of electrical energy actually furnished by the kilowatt-hour to such purchaser or user does not equal such minimum charge for the designated period of service. The provisions of sections 70-407 to 70-409 shall not be construed to affect any contract or franchise in existence at the time of the passage and approval of this section.

Source: Laws 1933, c. 60, § 2, p. 292; C.S.Supp.,1941, § 70-506; R.S. 1943, § 70-408; Laws 1949, c. 197, § 1, p. 576; Laws 2017, LB113, § 51.
Effective date August 24, 2017.

ARTICLE 6

PUBLIC POWER AND IRRIGATION DISTRICTS

Section

70-604.01. Chartered territory; boundaries.

70-604.01 Chartered territory; boundaries.

(1) Except as the same may be further limited or expanded by requirements in Chapter 70, article 6, the chartered territory of any district organized pursuant to and existing by virtue of or subject to the provisions of Chapter 70, article 6, shall include the area in this state within which such district renders electric service of the nature defined in section 70-604.02 and termed its operating area. There may be included, within the chartered area of such district, areas which are outside the operating area as defined in section 70-604.02, but as to which inclusion is nevertheless authorized by other sections of Chapter 70, article 6.

(2) Subject to the requirements of section 70-662 and the approval of the Nebraska Power Review Board in accordance with sections 70-663 and 70-664, any district organized pursuant to Chapter 70, article 6, and engaged in the operation of electric generation, transmission, or distribution facilities or any combination thereof may, in the discretion of the board of directors of such district and upon a finding by the board of directors of such district that the inclusion or exclusion thereof would be consistent with the best interests of the district and its customers, either include within or exclude from the chartered area all municipalities which have a population of fewer than one thousand five hundred inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census and which are within a county where such district provides electric service but are not otherwise in such district's operating area.

Source: Laws 1967, c. 418, § 7, p. 1289; Laws 1986, LB 949, § 6; Laws 2009, LB53, § 2; Laws 2017, LB113, § 52.
Effective date August 24, 2017.

PUBLIC HEALTH AND WELFARE

CHAPTER 71
PUBLIC HEALTH AND WELFARE

Article.

4. Health Care Facilities. 71-401 to 71-475.
5. Diseases.
 - (c) Inherited or Congenital Infant or Childhood-Onset Diseases. 71-519 to 71-523.
6. Vital Statistics. 71-605.
8. Behavioral Health Services. 71-806, 71-810.
10. State Anatomical Board, Disposal of Dead Bodies. 71-1001.
11. Developmental Disabilities Court-Ordered Custody Act. 71-1107 to 71-1113.
16. Local Health Services.
 - (b) Local Public Health Departments. 71-1631.02.
17. Nurses.
 - (g) Nurse Licensure Compact. 71-1795.01, 71-1795.02.
19. Care of Children.
 - (a) Foster Care Licensure. 71-1904.
24. Drugs.
 - (c) Emergency Box Drug Act. 71-2412, 71-2413.
 - (j) Automated Medication Systems Act. 71-2445.
 - (l) Prescription Drug Monitoring Program. 71-2454.
 - (m) Prescription Drug Safety Act. 71-2478, 71-2479.
33. Fluoridation. 71-3305.
34. Reduction in Morbidity and Mortality.
 - (b) Child and Maternal Deaths. 71-3407.
35. Radiation Control and Radioactive Waste.
 - (a) Radiation Control Act. 71-3505.
45. Palliative Care and Quality of Life Act. 71-4501 to 71-4504.
50. Compassion and Care for Medically Challenging Pregnancies Act. 71-5001 to 71-5004.
53. Drinking Water.
 - (b) Drinking Water State Revolving Fund Act. 71-5322.
60. Nursing Homes.
 - (c) Training Requirements. 71-6038 to 71-6039.06.
 - (d) Nursing Home Advisory Council. 71-6043 to 71-6052. Repealed.
64. Building Construction. 71-6403 to 71-6406.
66. Home Health Aide Services. 71-6603.
70. Breast and Cervical Cancer and Mammography. 71-7001.
74. Wholesale Drug Distributor Licensing. 71-7450.
76. Health Care.
 - (b) Nebraska Health Care Funding Act. 71-7611.
85. Telehealth Services.
 - (b) Children's Behavioral Health. 71-8509.
92. Health Care Transparency Act. Repealed.

ARTICLE 4

HEALTH CARE FACILITIES

Section

- 71-401. Act, how cited.
- 71-448. License; disciplinary action; grounds.
- 71-457. Rules and regulations.
- 71-468. Onsite vaccinations for influenza and pneumococcal disease.
- 71-475. Drug; provided to patient upon discharge; records; label; documentation.

71-401 Act, how cited.

Sections 71-401 to 71-475 shall be known and may be cited as the Health Care Facility Licensure Act.

Source: Laws 2000, LB 819, § 1; Laws 2001, LB 398, § 65; Laws 2004, LB 1005, § 41; Laws 2007, LB203, § 1; Laws 2009, LB288, § 31; Laws 2010, LB849, § 19; Laws 2010, LB999, § 1; Laws 2011, LB34, § 1; Laws 2011, LB542, § 1; Laws 2012, LB1077, § 1; Laws 2013, LB459, § 1; Laws 2015, LB37, § 68; Laws 2016, LB698, § 17; Laws 2016, LB722, § 12; Laws 2017, LB166, § 19. Effective date April 28, 2017.

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 or the Pharmacy Practice 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;

- (13) Violation of the Automated Medication Systems Act; or
 (14) Violation of the Dialysis Patient Care Technician Registration 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; Laws 2015, LB37, § 73; Laws 2017, LB255, § 11.
 Effective date May 11, 2017.

Cross References

Assisted-Living Facility Act, see section 71-5901.
Automated Medication Systems Act, see section 71-2444.
Dialysis Patient Care Technician Registration Act, see section 38-3701.
Emergency Box Drug Act, see section 71-2410.
Medication Aide Act, see section 71-6718.
Nebraska Nursing Home Act, see section 71-6037.
Pharmacy Practice Act, see section 38-2801.

71-457 Rules and regulations.

(1) To protect the health, safety, and welfare of the public and to insure to the greatest extent possible the efficient, adequate, and safe practice of health care in any health care facility or health care service licensed under the Health Care Facility Licensure Act, the department shall adopt, promulgate, and enforce rules, regulations, and standards with respect to the different types of health care facilities and health care services, except nursing facilities and skilled nursing facilities, designed to further the accomplishment of the purposes of the act. Such rules, regulations, and standards shall be modified, amended, or rescinded from time to time in the public interest by the department.

(2) The department shall adopt, promulgate, and enforce rules, regulations, and standards with respect to nursing facilities and skilled nursing facilities. Such rules, regulations, and standards shall be in compliance with the Nebraska Nursing Home Act. Such rules, regulations, and standards shall be modified, amended, or rescinded from time to time in the public interest by the department.

Source: Laws 2000, LB 819, § 57; Laws 2017, LB644, § 19.
 Effective date August 24, 2017.

Cross References

Nebraska Nursing Home Act, see section 71-6037.

71-468 Onsite vaccinations for influenza and pneumococcal disease.

In order to prevent, detect, and control pneumonia and influenza outbreaks in Nebraska:

(1) Each general acute hospital and intermediate care facility shall annually, beginning no later than October 1 and ending on the following April 1, offer onsite vaccinations for influenza and pneumococcal disease to all residents and to all inpatients prior to discharge, pursuant to procedures of the facility and in accordance with the recommendations of the advisory committee on immunization practices 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 recommendations existed on January 1, 2017; and

(2) Each nursing facility and skilled nursing facility shall annually, beginning no later than October 1 and ending on the following April 1, offer onsite vaccinations for (a) influenza and pneumococcal disease to all residents and (b)

influenza to all employees, pursuant to procedures of the facility and in accordance with the recommendations of the advisory committee on immunization practices 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 recommendations existed on January 1, 2017. This section shall not apply in individual cases when contraindicated or if a national shortage of the vaccine exists. Nothing in this section shall be construed to require any facility listed in this section to cover the cost of a vaccination provided pursuant to this section.

Source: Laws 2012, LB1077, § 2; Laws 2014, LB859, § 2; Laws 2017, LB267, § 1.
Effective date August 24, 2017.

71-475 Drug; provided to patient upon discharge; records; label; documentation.

(1)(a) When administration of a drug occurs in a hospital pursuant to a chart order, hospital personnel may provide the unused portion of the drug to the patient upon discharge from the hospital for continued use in treatment of the patient if:

(i) The drug has been opened and used for treatment of the patient at the hospital and is necessary for the continued treatment of the patient and would be wasted if not used by the patient; and

(ii) The drug is:

(A) In a multidose device or a multidose container; or

(B) In the form of a liquid reconstituted from a dry stable state to a liquid resulting in a limited stability.

(b) A drug provided to a patient in accordance with this subsection shall be labeled with the name of the patient, the name of the drug including the quantity if appropriate, the date the drug was provided, and the directions for use.

(2)(a) A licensed health care practitioner authorized to prescribe controlled substances may provide to his or her patients being discharged from a hospital a sufficient quantity of drugs adequate, in the judgment of the practitioner, to continue treatment, which began in the hospital, until the patient is reasonably able to access a pharmacy.

(b) The pharmacist-in-charge at the hospital shall maintain records of the drugs provided to patients in accordance with this subsection which shall include the name of the patient, the name of the drug including the quantity if appropriate, the date the drug was provided, and the directions for use.

(3) If a drug is provided to a patient in accordance with this section:

(a) The drug shall be kept in a locked cabinet or automated medication system with access only by a licensed health care practitioner authorized to prescribe, dispense, or administer controlled substances;

(b) Prior to providing the drug to the patient, a written or electronic order shall be in the patient's record;

(c) The process at the hospital shall be under the direct supervision of the prescriber;

(d) If the label is prepared by a nurse, the prescriber shall verify the drug and the directions for the patient;

(e) When possible, the directions for the patient shall be preprinted on the label by the pharmacist;

(f) The label shall include the name of the patient, the name of the drug including the quantity if appropriate, the date the drug was provided, and the directions for use;

(g) A written information sheet shall be given to the patient for each drug provided; and

(h) Documentation in a readily retrievable format shall be maintained each time a drug is provided to a patient from the hospital pharmacy's inventory which shall include the date, the patient, the drug, and the prescriber.

Source: Laws 2017, LB166, § 20.

Effective date April 28, 2017.

ARTICLE 5

DISEASES

(c) INHERITED OR CONGENITAL INFANT OR CHILDHOOD-ONSET DISEASES

Section

71-519. Screening test; duties; disease management; duties; fees authorized; immunity from liability.

71-520. Food supplement and treatment services program; authorized; fees.

71-522. Central data registry; department; duties; use of data.

71-523. Departments; powers and duties; adopt rules and regulations; contracting laboratories; requirements; fees.

(c) INHERITED OR CONGENITAL INFANT OR CHILDHOOD-ONSET DISEASES

71-519 Screening test; duties; disease management; duties; fees authorized; immunity from liability.

(1) All infants born in the State of Nebraska shall be screened for phenylketonuria, congenital primary hypothyroidism, biotinidase deficiency, galactosemia, hemoglobinopathies, medium-chain acyl co-a dehydrogenase (MCAD) deficiency, X-linked adrenoleukodystrophy (X-ALD), mucopolysaccharidoses type 1 (MPS-1), Pompe disease, and such other inherited or congenital infant or childhood-onset diseases as the Department of Health and Human Services may from time to time specify. Confirmatory tests shall be performed if a presumptive positive result on the screening test is obtained.

(2) The attending physician shall collect or cause to be collected the prescribed blood specimen or specimens and shall submit or cause to be submitted the same to the laboratory designated by the department for the performance of such tests within the period and in the manner prescribed by the department. If a birth is not attended by a physician and the infant does not have a physician, the person registering the birth shall cause such tests to be performed within the period and in the manner prescribed by the department. The laboratory shall within the period and in the manner prescribed by the department perform such tests as are prescribed by the department on the specimen or specimens submitted and report the results of these tests to the physician, if any, the hospital or other birthing facility or other submitter, and the department. The laboratory shall report to the department the results of such tests

that are presumptive positive or confirmed positive within the period and in the manner prescribed by the department.

(3) The hospital or other birthing facility shall record the collection of specimens for tests for metabolic diseases and the report of the results of such tests or the absence of such report. For purposes of tracking, monitoring, and referral, the hospital or other birthing facility shall provide from its records, upon the department's request, information about the infant's and mother's location and contact information, and care and treatment of the infant.

(4)(a) The department shall have authority over the use, retention, and disposal of blood specimens and all related information collected in connection with disease testing conducted under subsection (1) of this section.

(b) The department shall adopt and promulgate rules and regulations relating to the retention and disposal of such specimens. The rules and regulations shall: (i) Be consistent with nationally recognized standards for laboratory accreditation and shall comply with all applicable provisions of federal law; (ii) require that the disposal be conducted in the presence of a witness who may be an individual involved in the disposal or any other individual; and (iii) provide for maintenance of a written or electronic record of the disposal, verified by such witness.

(c) The department shall adopt and promulgate rules and regulations relating to the use of such specimens and related information. Such use shall only be made for public health purposes and shall comply with all applicable provisions of federal law. The department may charge a reasonable fee for evaluating proposals relating to the use of such specimens for public health research and for preparing and supplying specimens for research proposals approved by the department.

(5) The department shall prepare written materials explaining the requirements of this section. The department shall include the following information in the pamphlet:

(a) The nature and purpose of the testing program required under this section, including, but not limited to, a brief description of each condition or disorder listed in subsection (1) of this section;

(b) The purpose and value of the infant's parent, guardian, or person in loco parentis retaining a blood specimen obtained under subsection (6) of this section in a safe place;

(c) The department's procedures for retaining and disposing of blood specimens developed under subsection (4) of this section; and

(d) That the blood specimens taken for purposes of conducting the tests required under subsection (1) of this section may be used for research pursuant to subsection (4) of this section.

(6) In addition to the requirements of subsection (1) of this section, the attending physician or person registering the birth may offer to draw an additional blood specimen from the infant. If such an offer is made, it shall be made to the infant's parent, guardian, or person in loco parentis at the time the blood specimens are drawn for purposes of subsection (1) of this section. If the infant's parent, guardian, or person in loco parentis accepts the offer of an additional blood specimen, the blood specimen shall be preserved in a manner that does not require special storage conditions or techniques. The attending physician or person making the offer shall explain to the parent, guardian, or

person in loco parentis at the time the offer is made that the additional blood specimen can be used for future identification purposes and should be kept in a safe place. The attending physician or person making the offer may charge a fee that is not more than the actual cost of obtaining and preserving the additional blood specimen.

(7) The person responsible for causing the tests to be performed under subsection (2) of this section shall inform the parent or legal guardian of the infant of the tests and of the results of the tests and provide, upon any request for further information, at least a copy of the written materials prepared under subsection (5) of this section.

(8) Dietary and therapeutic management of the infant with phenylketonuria, primary hypothyroidism, biotinidase deficiency, galactosemia, hemoglobinopathies, MCAD deficiency, X-linked adrenoleukodystrophy (X-ALD), mucopolysaccharidoses type 1 (MPS-1), Pompe disease, or such other inherited or congenital infant or childhood-onset diseases as the department may from time to time specify shall be the responsibility of the child's parent, guardian, or custodian with the aid of a physician selected by such person.

(9) Except for acts of gross negligence or willful or wanton conduct, any physician, hospital or other birthing facility, laboratory, or other submitter making reports or notifications under sections 71-519 to 71-524 shall be immune from criminal or civil liability of any kind or character based on any statements contained in such reports or notifications.

Source: Laws 1987, LB 385, § 1; Laws 1988, LB 1100, § 99; Laws 1996, LB 1044, § 502; Laws 1998, LB 1073, § 85; Laws 2001, LB 432, § 10; Laws 2002, LB 235, § 1; Laws 2003, LB 119, § 2; Laws 2005, LB 301, § 15; Laws 2007, LB296, § 390; Laws 2017, LB91, § 1.

Operative date July 1, 2018.

71-520 Food supplement and treatment services program; authorized; fees.

The Department of Health and Human Services shall establish a program to provide food supplements and treatment services to individuals suffering from the inherited or congenital infant or childhood-onset diseases set forth in section 71-519. To defray or help defray the costs of any program which may be established by the department under this section, the department may prescribe and assess a scale of fees for the food supplements. The maximum prescribed fee for food supplements shall be no more than the actual cost of providing such supplements. No fees may be charged for formula, and up to two thousand dollars of pharmaceutically manufactured food supplements shall be available to an individual without fees each year. For purposes of this section, pharmaceutically manufactured foods are chemically synthesized or processed for the treatment of inborn errors in metabolism.

Source: Laws 1987, LB 385, § 2; Laws 1996, LB 1044, § 503; Laws 1997, LB 610, § 1; Laws 1998, LB 1073, § 86; Laws 2002, LB 235, § 2; Laws 2005, LB 301, § 16; Laws 2007, LB296, § 391; Laws 2017, LB91, § 2.

Operative date July 1, 2018.

71-522 Central data registry; department; duties; use of data.

The Department of Health and Human Services shall establish and maintain a central data registry for the collection and storage of reported data concerning inherited or congenital infant or childhood-onset diseases. The department shall use reported data to ensure that all infants born in the State of Nebraska are tested for diseases set forth in section 71-519 or by rule and regulation. The department shall also use reported data to evaluate the quality of the statewide system of newborn screening and develop procedures for quality assurance. Reported data in anonymous or statistical form may be made available by the department for purposes of research.

Source: Laws 1987, LB 385, § 4; Laws 1996, LB 1044, § 505; Laws 1998, LB 1073, § 87; Laws 2002, LB 235, § 4; Laws 2005, LB 301, § 18; Laws 2007, LB296, § 393; Laws 2017, LB91, § 3.
Operative date July 1, 2018.

71-523 Departments; powers and duties; adopt rules and regulations; contracting laboratories; requirements; fees.

(1) The Department of Health and Human Services shall provide educational and resource services regarding screened diseases to persons affected by sections 71-519 to 71-524 and to the public generally.

(2) The Department of Health and Human Services may apply for, receive, and administer assessed fees and federal or other funds which are available for the purpose of implementing sections 71-519 to 71-524 and may contract for or provide services as may be necessary to implement such sections.

(3) The Department of Health and Human Services shall adopt and promulgate rules and regulations to implement sections 71-519 to 71-524.

(4) The Department of Health and Human Services shall contract, following competitive bidding, with a single laboratory to perform tests, report results, set forth the fee the laboratory will charge for testing, and collect and submit fees pursuant to sections 71-519 to 71-524. The department shall require the contracting laboratory to: (a) Perform testing for all of the diseases pursuant to section 71-519 and in accordance with rules and regulations adopted and promulgated pursuant to this section, (b) maintain certification under the federal Clinical Laboratories Improvement Act of 1967, 42 U.S.C. 263a, as such act and section existed on July 20, 2002, (c) participate in appropriate quality assurance proficiency testing programs offered by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services or other professional laboratory organization, as determined by the Department of Health and Human Services, (d) maintain sufficient contingency arrangements to ensure testing delays of no longer than twenty-four hours in the event of natural disaster or laboratory equipment failure, and (e) charge to the hospital, other birthing facility, or other submitter the fee provided in the contract for laboratory testing costs and the administration fee specified in subsection (5) of this section. The administration fee collected pursuant to such subsection shall be remitted to the Department of Health and Human Services.

(5) The Department of Health and Human Services shall set an administration fee of not more than twenty dollars. The department may use the administration fee to pay for the costs of the central data registry, tracking, monitoring, referral, quality assurance, program operation, program development, program evaluation, and treatment services authorized under sections 71-519 to 71-523.

The fee shall be collected by the contracting laboratory as provided in subdivision (4)(e) of this section.

(6) Fees collected for the department pursuant to sections 71-519 to 71-523 shall be remitted to the State Treasurer for credit to the Health and Human Services Cash Fund.

Source: Laws 1987, LB 385, § 5; Laws 1996, LB 1044, § 506; Laws 1997, LB 610, § 2; Laws 1998, LB 1073, § 88; Laws 2002, LB 235, § 5; Laws 2005, LB 301, § 19; Laws 2007, LB296, § 394; Laws 2017, LB91, § 4.

Operative date July 1, 2018.

ARTICLE 6

VITAL STATISTICS

Section

71-605. Death certificate; cause of death; sudden infant death syndrome; how treated; cremation, disinterment, or transit permits; how executed; filing; requirements; department; deceased applied for or received medical assistance; duties; report.

71-605 Death certificate; cause of death; sudden infant death syndrome; how treated; cremation, disinterment, or transit permits; how executed; filing; requirements; department; deceased applied for or received medical assistance; duties; report.

(1) The funeral director and embalmer in charge of the funeral of any person dying in the State of Nebraska shall cause a certificate of death to be filled out with all the particulars contained in the standard form adopted and promulgated by the department. Such standard form shall include a space for veteran status and the period of service in the armed forces of the United States and a statement of the cause of death made by a person holding a valid license as a physician, physician assistant, or nurse practitioner who last attended the deceased. The standard form shall also include the deceased's social security number and a notice that, pursuant to section 30-2413, demands for notice which may affect the estate of the deceased are filed with the county court in the county where the decedent resided at the time of death. Death and fetal death certificates shall be completed by the funeral directors and embalmers and physicians, physician assistants, or nurse practitioners for the purpose of filing with the department and providing child support enforcement information pursuant to section 43-3340.

(2) The physician, physician assistant, or nurse practitioner shall have the responsibility and duty to complete and sign by electronic means pursuant to section 71-603.01, within twenty-four hours from the time of death, that part of the certificate of death entitled medical certificate of death. In the case of a death when no person licensed as a physician, physician assistant, or nurse practitioner was in attendance, the funeral director and embalmer shall refer the case to the county attorney who shall have the responsibility and duty to complete and sign the death certificate by electronic means pursuant to section 71-603.01.

No cause of death shall be certified in the case of the sudden and unexpected death of a child between the ages of one week and three years until an autopsy is performed at county expense by a qualified pathologist pursuant to section

23-1824. The parents or guardian shall be notified of the results of the autopsy by their physician, physician assistant, nurse practitioner, community health official, or county coroner within forty-eight hours. The term sudden infant death syndrome shall be entered on the death certificate as the principal cause of death when the term is appropriately descriptive of the pathology findings and circumstances surrounding the death of a child.

If the circumstances show it possible that death was caused by neglect, violence, or any unlawful means, the case shall be referred to the county attorney for investigation and certification. The county attorney shall, within twenty-four hours after taking charge of the case, state the cause of death as ascertained, giving as far as possible the means or instrument which produced the death. All death certificates shall show clearly the cause, disease, or sequence of causes ending in death. If the cause of death cannot be determined within the period of time stated above, the death certificate shall be filed to establish the fact of death. As soon as possible thereafter, and not more than six weeks later, supplemental information as to the cause, disease, or sequence of causes ending in death shall be filed with the department to complete the record. For all certificates stated in terms that are indefinite, insufficient, or unsatisfactory for classification, inquiry shall be made to the person completing the certificate to secure the necessary information to correct or complete the record.

(3) A completed death certificate shall be filed with the department within five business days after the date of death. If it is impossible to complete the certificate of death within five business days, the funeral director and embalmer shall notify the department of the reason for the delay and file the certificate as soon as possible. Within ten days after the filing of the certificate of death and prior to the issuance of any certified copies of the certificate of death, the department shall search its records to determine if the deceased had applied for or received medical assistance under the Medical Assistance Act. If the deceased made such application or received such assistance, the department shall, before or contemporaneously with the issuance of the first certified copy of the certificate of death, file a demand for notice pursuant to section 30-2413 in the county court of the county in which the decedent was domiciled at the time of death. The department shall annually report the following to the Legislature:

- (a) The number of demands for notice filed pursuant to this section; and
- (b) The number of times in the prior year that the time between a request for a certified copy of the certificate of death and the mailing of such certificate exceeded twenty-one days.

(4) Before any dead human body may be cremated, a cremation permit shall first be signed electronically by the county attorney, or by his or her authorized representative as designated by the county attorney in writing, of the county in which the death occurred on an electronic form prescribed and furnished by the department.

(5) A permit for disinterment shall be required prior to disinterment of a dead human body. The permit shall be issued by the department to a licensed funeral director and embalmer upon proper application. The request for disinterment shall be made by the person listed in section 30-2223 or a county attorney on a form furnished by the department. The application shall be signed by the funeral director and embalmer who will be directly supervising the disinter-

ment. When the disinterment occurs, the funeral director and embalmer shall sign the permit giving the date of disinterment and file the permit with the department within ten days of the disinterment.

(6) When a request is made under subsection (5) of this section for the disinterment of more than one dead human body, an order from a court of competent jurisdiction shall be submitted to the department prior to the issuance of a permit for disinterment. The order shall include, but not be limited to, the number of bodies to be disinterred if that number can be ascertained, the method and details of transportation of the disinterred bodies, the place of reinterment, and the reason for disinterment. No sexton or other person in charge of a cemetery shall allow the disinterment of a body without first receiving from the department a disinterment permit properly completed.

(7) No dead human body shall be removed from the state for final disposition without a transit permit issued by the funeral director and embalmer having charge of the body in Nebraska, except that when the death is subject to investigation, the transit permit shall not be issued by the funeral director and embalmer without authorization of the county attorney of the county in which the death occurred. No agent of any transportation company shall allow the shipment of any body without the properly completed transit permit prepared in duplicate.

(8) The interment, disinterment, or reinterment of a dead human body shall be performed under the direct supervision of a licensed funeral director and embalmer, except that hospital disposition may be made of the remains of a child born dead pursuant to section 71-20,121.

(9) All transit permits issued in accordance with the law of the place where the death occurred in a state other than Nebraska shall be signed by the funeral director and embalmer in charge of burial and forwarded to the department within five business days after the interment takes place.

Source: Laws 1921, c. 253, § 2, p. 863; C.S.1922, § 8233; Laws 1927, c. 166, § 3, p. 449; C.S.1929, § 71-2405; R.S.1943, § 71-605; Laws 1949, c. 202, § 1, p. 585; Laws 1953, c. 241, § 1, p. 830; Laws 1961, c. 341, § 3, p. 1091; Laws 1965, c. 418, § 3, p. 1335; Laws 1973, LB 29, § 1; Laws 1978, LB 605, § 1; Laws 1985, LB 42, § 3; Laws 1989, LB 344, § 10; Laws 1993, LB 187, § 8; Laws 1996, LB 1044, § 517; Laws 1997, LB 307, § 137; Laws 1997, LB 752, § 172; Laws 1999, LB 46, § 4; Laws 2003, LB 95, § 33; Laws 2005, LB 54, § 14; Laws 2005, LB 301, § 25; Laws 2007, LB463, § 1184; Laws 2009, LB195, § 68; Laws 2012, LB1042, § 4; Laws 2014, LB998, § 14; Laws 2016, LB786, § 1; Laws 2017, LB268, § 15.

Effective date August 24, 2017.

Cross References

For authority of chiropractors to sign death certificates, see section 38-811.

For authority of physician assistants to sign death certificates, see section 38-2047.

Medical Assistance Act, see section 68-901.

Organ and tissue donation, notation required, see section 71-4816.

ARTICLE 8

BEHAVIORAL HEALTH SERVICES

Section

71-806. Division; powers and duties; rules and regulations.

71-810. Division; community-based behavioral health services; duties; reduce or discontinue regional center behavioral health services; powers and duties.

71-806 Division; powers and duties; rules and regulations.

(1) The division shall act as the chief behavioral health authority for the State of Nebraska and shall direct the administration and coordination of the public behavioral health system, including, but not limited to: (a) Administration and management of the division, regional centers, and any other facilities and programs operated by the division; (b) integration and coordination of the public behavioral health system; (c) comprehensive statewide planning for the provision of an appropriate array of community-based behavioral health services and continuum of care; (d) coordination and oversight of regional behavioral health authorities, including approval of regional budgets and audits of regional behavioral health authorities; (e) development and management of data and information systems; (f) prioritization and approval of all expenditures of funds received and administered by the division, including: The establishment of rates to be paid; reimbursement methodologies for behavioral health services; methodologies to be used by regional behavioral health authorities in determining a consumer's financial eligibility as provided in subsection (2) of section 71-809; and fees and copays to be paid by consumers of such services; (g) cooperation with the department in the licensure and regulation of behavioral health professionals, programs, and facilities; (h) cooperation with the department in the provision of behavioral health services under the medical assistance program; (i) audits of behavioral health programs and services; (j) promotion of activities in research and education to improve the quality of behavioral health services, recruitment and retention of behavioral health professionals, and access to behavioral health programs and services; and (k) establishment of standards for peer services, including standards for training programs and for training, certification of, and service delivery by individuals.

(2) The department shall adopt and promulgate rules and regulations to carry out the Nebraska Behavioral Health Services Act.

Source: Laws 2004, LB 1083, § 6; Laws 2006, LB 1248, § 75; Laws 2007, LB296, § 456; Laws 2012, LB871, § 1; Laws 2017, LB417, § 10.
Effective date August 24, 2017.

71-810 Division; community-based behavioral health services; duties; reduce or discontinue regional center behavioral health services; powers and duties.

(1) The division shall encourage and facilitate the statewide development and provision of an appropriate array of community-based behavioral health services and continuum of care for the purposes of (a) providing greater access to such services and improved outcomes for consumers of such services and (b) reducing the necessity and demand for regional center behavioral health services.

(2) The division may reduce or discontinue regional center behavioral health services only if (a) appropriate community-based services or other regional center behavioral health services are available for every person receiving the

regional center services that would be reduced or discontinued, (b) such services possess sufficient capacity and capability to effectively replace the service needs which otherwise would have been provided at such regional center, and (c) no further commitments, admissions, or readmissions for such services are required due to the availability of community-based services or other regional center services to replace such services.

(3) The division shall notify the Governor and the Legislature of any intended reduction or discontinuation of regional center services under this section. The notification submitted to the Legislature shall be submitted electronically. Such notice shall include detailed documentation of the community-based services or other regional center services that are being utilized to replace such services.

(4) As regional center services are reduced or discontinued under this section, the division shall make appropriate corresponding reductions in regional center personnel and other expenditures related to the provision of such services. All funding related to the provision of regional center services that are reduced or discontinued under this section shall be reallocated and expended by the division for purposes related to the statewide development and provision of community-based services.

(5) The division may establish state-operated community-based services to replace regional center services that are reduced or discontinued under this section. The division shall provide regional center employees with appropriate training and support to transition such employees into positions as may be necessary for the provision of such state-operated services.

(6) The provisions of this section are self-executing and require no further authorization or other enabling legislation.

Source: Laws 2004, LB 1083, § 10; Laws 2005, LB 551, § 3; Laws 2008, LB928, § 17; Laws 2009, LB154, § 18; Laws 2012, LB782, § 105; Laws 2017, LB417, § 11.
Effective date August 24, 2017.

ARTICLE 10

STATE ANATOMICAL BOARD, DISPOSAL OF DEAD BODIES

Section

71-1001. State Anatomical Board; members; powers and duties; State Anatomical Board Cash Fund; created; use; investment.

71-1001 State Anatomical Board; members; powers and duties; State Anatomical Board Cash Fund; created; use; investment.

The heads of the anatomy departments of the medical schools and colleges of this state, one professor of anatomy appointed by the head of the anatomy department from each medical school or college of this state, one professor of anatomy appointed from each dental school or college of this state, and one layperson appointed by the Department of Health and Human Services shall constitute the State Anatomical Board of the State of Nebraska for the distribution, delivery, and use of certain dead human bodies, described in section 71-1002, to and among such schools, colleges, and persons as are entitled thereto under the provisions of such section. The board shall have power to establish rules and regulations for its government and for the collection, storage, and distribution of dead human bodies for anatomical purposes. It

shall have power to appoint and remove its officers and agents. It shall keep minutes of its meetings. It shall cause a record to be kept of all of its transactions, of bodies received and distributed by it, and of the school, college, or person receiving every such body, and its records shall be open at all times to the inspection of each member of the board and to every county attorney within this state.

There is hereby created the State Anatomical Board Cash Fund. The fund shall be under the University of Nebraska Medical Center for accounting and budgeting purposes only. The fund shall consist of revenue collected by the State Anatomical Board and shall only be used to pay for costs of operating the board. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1929, c. 158, § 1, p. 551; C.S.1929, § 71-2801; R.S.1943, § 71-1001; Laws 1969, c. 570, § 1, p. 2314; Laws 1978, LB 583, § 1; Laws 1979, LB 98, § 2; Laws 1992, LB 860, § 2; Laws 1996, LB 1044, § 556; Laws 2007, LB296, § 464; Laws 2017, LB331, § 36.

Effective date May 16, 2017.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

ARTICLE 11

DEVELOPMENTAL DISABILITIES COURT-ORDERED CUSTODY ACT

Section

71-1107. Developmental disability, defined.

71-1108.01. Intellectual disability, defined.

71-1113. Repealed. Laws 2017, LB333, § 14.

71-1107 Developmental disability, defined.

Developmental disability means a severe, chronic disability, including an intellectual disability, other than mental illness, which:

(1) Is attributable to a mental or physical impairment unless the impairment is solely attributable to a severe emotional disturbance or persistent mental illness;

(2) Is manifested before the age of twenty-two years;

(3) Is likely to continue indefinitely;

(4) Results in substantial functional limitations in one of each of the following areas of adaptive functioning:

(a) Conceptual skills, including language, literacy, money, time, number concepts, and self-direction;

(b) Social skills, including interpersonal skills, social responsibility, self-esteem, gullibility, wariness, social problem solving, and the ability to follow laws and rules and to avoid being victimized; and

(c) Practical skills, including activities of daily living, personal care, occupational skills, health care, mobility, and the capacity for independent living; and

(5) Reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic services, individualized support, or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated.

An individual from birth through the age of nine years who has a substantial developmental delay or specific congenital or acquired condition may be considered to have a developmental disability without manifesting substantial functional limitations in three or more of the areas of adaptive functioning described in subdivision (4) of this section if the individual, without services and support, has a high probability of manifesting such limitations in such areas later in life.

Source: Laws 2005, LB 206, § 7; Laws 2013, LB23, § 31; Laws 2017, LB333, § 1.
Operative date May 24, 2017.

71-1108.01 Intellectual disability, defined.

Intellectual disability means significantly subaverage general intellectual functioning which is associated with significant impairments in adaptive functioning manifested before the age of twenty-two years. Significant subaverage general intellectual functioning shall refer to a score of seventy or below on a properly administered and valid intelligence quotient test.

Source: Laws 2005, LB 206, § 10; R.S.1943, (2009), § 71-1110; Laws 2013, LB23, § 32; Laws 2016, LB1039, § 1; Laws 2017, LB333, § 2.
Operative date May 24, 2017.

71-1113 Repealed. Laws 2017, LB333, § 14.

Operative date May 24, 2017.

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, through December 31, 2017, 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) Through December 31, 2017, if such retirement plan is a defined benefit plan which was open to new members on January 1, 2004, in addition to the reports required by section 13-2402, a board of health with an independent retirement plan established pursuant to section 71-1631 shall cause to be prepared an annual report and the health director shall file the same with the Public Employees Retirement Board and the Nebraska Retirement Systems Committee of the Legislature 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. If the board of health does not submit a copy of the report to the Auditor of Public Accounts within six months after the end of the plan year, the Auditor of Public Accounts may audit, or cause to be audited, the local public health department. All costs of the audit shall be paid by the local public health department. 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. The report to the Nebraska Retirement Systems Committee shall be submitted electronically.

(3)(a) Beginning December 31, 2018, and each December 31 thereafter, for a defined benefit plan 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 or his or her designee shall prepare and electronically file an annual report with the Auditor of Public Accounts and the Nebraska Retirement Systems Committee of the Legislature. If such retirement plan is a defined benefit plan which was open to new members on January 1, 2004, the report shall be in addition to the reports required by section 13-2402. The report shall be on a form prescribed by the Auditor of Public Accounts and shall include, but not be limited to, the following information:

- (i) The levels of benefits of participants in the plan, the number of members who are eligible for a benefit, the total present value of such members' benefits, and the funding sources which will pay for such benefits; and

(ii) A copy of a full actuarial analysis of each such defined benefit plan. 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 which offers investment advice or provides investment management services to the retirement plan.

(b) 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. If the board of health does not submit a copy of the report to the Auditor of Public Accounts within six months after the end of the plan year, the Auditor of Public Accounts may audit, or cause to be audited, the board of health. All costs of the audit shall be paid by the board of health.

Source: Laws 1998, LB 1191, § 43; Laws 1999, LB 795, § 12; Laws 2011, LB474, § 12; Laws 2014, LB759, § 19; Laws 2017, LB415, § 23. Effective date May 24, 2017.

ARTICLE 17

NURSES

(g) NURSE LICENSURE COMPACT

Section

71-1795.01. Nurse Licensure Compact.

71-1795.02. Termination of prior compact.

(g) NURSE LICENSURE COMPACT

71-1795.01 Nurse Licensure Compact.

The State of Nebraska adopts the Nurse Licensure Compact in the form substantially as follows:

Nurse Licensure Compact

ARTICLE I

Findings and Declaration of Purpose

a. The party states find that:

1. The health and safety of the public are affected by the degree of compliance with and the effectiveness of enforcement activities related to state nurse licensure laws;

2. Violations of nurse licensure and other laws regulating the practice of nursing may result in injury or harm to the public;

3. The expanded mobility of nurses and the use of advanced communication technologies as part of our nation's health care delivery system require greater coordination and cooperation among states in the areas of nurse licensure and regulation;

4. New practice modalities and technology make compliance with individual state nurse licensure laws difficult and complex;

5. The current system of duplicative licensure for nurses practicing in multiple states is cumbersome and redundant for both nurses and states; and

6. Uniformity of nurse licensure requirements throughout the states promotes public safety and public health benefits.

- b. The general purposes of this Compact are to:
1. Facilitate the states' responsibility to protect the public's health and safety;
 2. Ensure and encourage the cooperation of party states in the areas of nurse licensure and regulation;
 3. Facilitate the exchange of information between party states in the areas of nurse regulation, investigation, and adverse actions;
 4. Promote compliance with the laws governing the practice of nursing in each jurisdiction;
 5. Invest all party states with the authority to hold a nurse accountable for meeting all state practice laws in the state in which the patient is located at the time care is rendered through the mutual recognition of party state licenses;
 6. Decrease redundancies in the consideration and issuance of nurse licenses; and
 7. Provide opportunities for interstate practice by nurses who meet uniform licensure requirements.

ARTICLE II

Definitions

As used in this Compact:

- a. Adverse action means any administrative, civil, equitable, or criminal action permitted by a state's laws which is imposed by a licensing board or other authority against a nurse, including actions against an individual's license or multistate licensure privilege such as revocation, suspension, probation, monitoring of the licensee, limitation on the licensee's practice, or any other encumbrance on licensure affecting a nurse's authorization to practice, including issuance of a cease and desist action.
- b. Alternative program means a nondisciplinary monitoring program approved by a licensing board.
- c. Coordinated licensure information system means an integrated process for collecting, storing, and sharing information on nurse licensure and enforcement activities related to nurse licensure laws that is administered by a nonprofit organization composed of and controlled by licensing boards.
- d. Current significant investigative information means:
 1. Investigative information that a licensing board, after a preliminary inquiry that includes notification and an opportunity for the nurse to respond, if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction; or
 2. Investigative information that indicates that the nurse represents an immediate threat to public health and safety regardless of whether the nurse has been notified and had an opportunity to respond.
- e. Encumbrance means a revocation or suspension of, or any limitation on, the full and unrestricted practice of nursing imposed by a licensing board.
- f. Home state means the party state which is the nurse's primary state of residence.
- g. Licensing board means a party state's regulatory body responsible for issuing nurse licenses.

h. Multistate license means a license to practice as a registered or a licensed practical/vocational nurse (LPN/VN) issued by a home state licensing board that authorizes the licensed nurse to practice in all party states under a multistate licensure privilege.

i. Multistate licensure privilege means a legal authorization associated with a multistate license permitting the practice of nursing as either a registered nurse (RN) or licensed practical/vocational nurse in a remote state.

j. Nurse means a registered nurse or a licensed practical/vocational nurse, as those terms are defined by each party state's practice laws.

k. Party state means any state that has adopted this Compact.

l. Remote state means a party state, other than the home state.

m. Single-state license means a nurse license issued by a party state that authorizes practice only within the issuing state and does not include a multistate licensure privilege to practice in any other party state.

n. State means a state, territory, or possession of the United States and the District of Columbia.

o. State practice laws means a party state's laws, rules, and regulations that govern the practice of nursing, define the scope of nursing practice, and create the methods and grounds for imposing discipline. State practice laws do not include requirements necessary to obtain and retain a license, except for qualifications or requirements of the home state.

ARTICLE III

General Provisions and Jurisdiction

a. A multistate license to practice registered or licensed practical/vocational nursing issued by a home state to a resident in that state will be recognized by each party state as authorizing a nurse to practice as a registered nurse (RN) or as a licensed practical/vocational nurse (LPN/VN), under a multistate licensure privilege, in each party state.

b. A state must implement procedures for considering the criminal history records of applicants for initial multistate license or licensure by endorsement. Such procedures shall include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant's criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that state's criminal records.

c. Each party state shall require the following for an applicant to obtain or retain a multistate license in the home state:

1. Meets the home state's qualifications for licensure or renewal of licensure, as well as, all other applicable state laws;

2. i. Has graduated or is eligible to graduate from a licensing board-approved registered nurse or licensed practical/vocational nurse prelicensure education program; or

ii. Has graduated from a foreign registered nurse or licensed practical/vocational nurse prelicensure education program that (a) has been approved by the authorized accrediting body in the applicable country and (b) has been verified by an independent credentials review agency to be comparable to a licensing board-approved prelicensure education program;

3. Has, if a graduate of a foreign prelicensure education program not taught in English or if English is not the individual's native language, successfully passed an English proficiency examination that includes the components of reading, speaking, writing, and listening;

4. Has successfully passed an NCLEX-RN® or NCLEX-PN® Examination or recognized predecessor, as applicable;

5. Is eligible for or holds an active, unencumbered license;

6. Has submitted, in connection with an application for initial licensure or licensure by endorsement, fingerprints, or other biometric data for the purpose of obtaining criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that state's criminal records;

7. Has not been convicted or found guilty, or has entered into an agreed disposition, of a felony offense under applicable state or federal criminal law;

8. Has not been convicted or found guilty, or has entered into an agreed disposition, of a misdemeanor offense related to the practice of nursing as determined on a case-by-case basis;

9. Is not currently enrolled in an alternative program;

10. Is subject to self-disclosure requirements regarding current participation in an alternative program; and

11. Has a valid United States social security number.

d. All party states shall be authorized, in accordance with existing state due process law, to take adverse action against a nurse's multistate licensure privilege such as revocation, suspension, probation, or any other action that affects a nurse's authorization to practice under a multistate licensure privilege, including cease and desist actions. If a party state takes such action, it shall promptly notify the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the home state of any such actions by remote states.

e. A nurse practicing in a party state must comply with the state practice laws of the state in which the client is located at the time service is provided. The practice of nursing is not limited to patient care, but shall include all nursing practice as defined by the state practice laws of the party state in which the client is located. The practice of nursing in a party state under a multistate licensure privilege will subject a nurse to the jurisdiction of the licensing board, the courts, and the laws of the party state in which the client is located at the time service is provided.

f. Individuals not residing in a party state shall continue to be able to apply for a party state's single-state license as provided under the laws of each party state. However, the single-state license granted to these individuals will not be recognized as granting the privilege to practice nursing in any other party state. Nothing in this Compact shall affect the requirements established by a party state for the issuance of a single-state license.

g. Any nurse holding a home state multistate license, on the effective date of this Compact, may retain and renew the multistate license issued by the nurse's then-current home state, provided that:

1. A nurse, who changes primary state of residence after this Compact's effective date, must meet all applicable Article III.c. requirements to obtain a multistate license from a new home state.

2. A nurse who fails to satisfy the multistate licensure requirements in Article III.c. due to a disqualifying event occurring after this Compact's effective date shall be ineligible to retain or renew a multistate license, and the nurse's multistate license shall be revoked or deactivated in accordance with applicable rules adopted by the Interstate Commission of Nurse Licensure Compact Administrators.

ARTICLE IV

Applications for Licensure in a Party State

a. Upon application for a multistate license, the licensing board in the issuing party state shall ascertain, through the coordinated licensure information system, whether the applicant has ever held, or is the holder of, a license issued by any other state, whether there are any encumbrances on any license or multistate licensure privilege held by the applicant, whether any adverse action has been taken against any license or multistate licensure privilege held by the applicant and whether the applicant is currently participating in an alternative program.

b. A nurse may hold a multistate license, issued by the home state, in only one party state at a time.

c. If a nurse changes primary state of residence by moving between two party states, the nurse must apply for licensure in the new home state, and the multistate license issued by the prior home state will be deactivated in accordance with applicable rules adopted by the Interstate Commission of Nurse Licensure Compact Administrators.

1. The nurse may apply for licensure in advance of a change in primary state of residence.

2. A multistate license shall not be issued by the new home state until the nurse provides satisfactory evidence of a change in primary state of residence to the new home state and satisfies all applicable requirements to obtain a multistate license from the new home state.

d. If a nurse changes primary state of residence by moving from a party state to a nonparty state, the multistate license issued by the prior home state will convert to a single-state license, valid only in the former home state.

ARTICLE V

Additional Authorities Invested in Party State Licensing Boards

a. In addition to the other powers conferred by state law, a licensing board shall have the authority to:

1. Take adverse action against a nurse's multistate licensure privilege to practice within that party state.

i. Only the home state shall have the power to take adverse action against a nurse's license issued by the home state.

ii. For purposes of taking adverse action, the home state licensing board shall give the same priority and effect to reported conduct received from a remote state as it would if such conduct had occurred within the home state. In so

doing, the home state shall apply its own state laws to determine appropriate action.

2. Issue cease and desist orders or impose an encumbrance on a nurse's authority to practice within that party state.

3. Complete any pending investigations of a nurse who changes primary state of residence during the course of such investigations. The licensing board shall also have the authority to take appropriate actions and shall promptly report the conclusions of such investigations to the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the new home state of any such actions.

4. Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses, as well as, the production of evidence. Subpoenas issued by a licensing board in a party state for the attendance and testimony of witnesses or the production of evidence from another party state shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage and other fees required by the service statutes of the state in which the witnesses or evidence are located.

5. Obtain and submit, for each nurse licensure applicant, fingerprint or other biometric-based information to the Federal Bureau of Investigation for criminal background checks, receive the results of the Federal Bureau of Investigation record search on criminal background checks, and use the results in making licensure decisions.

6. If otherwise permitted by state law, recover from the affected nurse the costs of investigations and disposition of cases resulting from any adverse action taken against that nurse.

7. Take adverse action based on the factual findings of the remote state, provided that the licensing board follows its own procedures for taking such adverse action.

b. If adverse action is taken by the home state against a nurse's multistate license, the nurse's multistate licensure privilege to practice in all other party states shall be deactivated until all encumbrances have been removed from the multistate license. All home state disciplinary orders that impose adverse action against a nurse's multistate license shall include a statement that the nurse's multistate licensure privilege is deactivated in all party states during the pendency of the order.

c. Nothing in this Compact shall override a party state's decision that participation in an alternative program may be used in lieu of adverse action. The home state licensing board shall deactivate the multistate licensure privilege under the multistate license of any nurse for the duration of the nurse's participation in an alternative program.

ARTICLE VI

Coordinated Licensure Information System and Exchange of Information

a. All party states shall participate in a coordinated licensure information system of all licensed registered nurses and licensed practical/vocational nurses. This system will include information on the licensure and disciplinary

history of each nurse, as submitted by party states, to assist in the coordination of nurse licensure and enforcement efforts.

b. The Interstate Commission of Nurse Licensure Compact Administrators, in consultation with the administrator of the coordinated licensure information system, shall formulate necessary and proper procedures for the identification, collection, and exchange of information under this Compact.

c. All licensing boards shall promptly report to the coordinated licensure information system any adverse action, any current significant investigative information, denials of applications (with the reasons for such denials), and nurse participation in alternative programs known to the licensing board regardless of whether such participation is deemed nonpublic or confidential under state law.

d. Current significant investigative information and participation in nonpublic or confidential alternative programs shall be transmitted through the coordinated licensure information system only to party state licensing boards.

e. Notwithstanding any other provision of law, all party state licensing boards contributing information to the coordinated licensure information system may designate information that may not be shared with nonparty states or disclosed to other entities or individuals without the express permission of the contributing state.

f. Any personally identifiable information obtained from the coordinated licensure information system by a party state licensing board shall not be shared with nonparty states or disclosed to other entities or individuals except to the extent permitted by the laws of the party state contributing the information.

g. Any information contributed to the coordinated licensure information system that is subsequently required to be expunged by the laws of the party state contributing that information shall also be expunged from the coordinated licensure information system.

h. The Compact administrator of each party state shall furnish a uniform data set to the Compact administrator of each other party state, which shall include, at a minimum:

1. Identifying information;
2. Licensure data;
3. Information related to alternative program participation; and
4. Other information that may facilitate the administration of this Compact, as determined by rules of the Interstate Commission of Nurse Licensure Compact Administrators.

i. The Compact administrator of a party state shall provide all investigative documents and information requested by another party state.

ARTICLE VII

Establishment of the Interstate Commission of Nurse Licensure Compact Administrators

a. The party states hereby create and establish a joint public entity known as the Interstate Commission of Nurse Licensure Compact Administrators.

1. The Commission is an instrumentality of the party states.

2. Venue is proper, and judicial proceedings by or against the Commission shall be brought solely and exclusively, in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

3. Nothing in this Compact shall be construed to be a waiver of sovereign immunity.

b. Membership, Voting, and Meetings

1. Each party state shall have and be limited to one administrator. The head of the state licensing board or designee shall be the administrator of this Compact for each party state. Any administrator may be removed or suspended from office as provided by the law of the state from which the Administrator is appointed. Any vacancy occurring in the Commission shall be filled in accordance with the laws of the party state in which the vacancy exists.

2. Each administrator shall be entitled to one vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the Commission. An administrator shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for an administrator's participation in meetings by telephone or other means of communication.

3. The Commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws or rules of the Commission.

4. All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in Article VIII.

5. The Commission may convene in a closed, nonpublic meeting if the Commission must discuss:

- i. Noncompliance of a party state with its obligations under this Compact;
- ii. The employment, compensation, discipline, or other personnel matters, practices, or procedures related to specific employees or other matters related to the Commission's internal personnel practices and procedures;
- iii. Current, threatened, or reasonably anticipated litigation;
- iv. Negotiation of contracts for the purchase or sale of goods, services, or real estate;
- v. Accusing any person of a crime or formally censuring any person;
- vi. Disclosure of trade secrets or commercial or financial information that is privileged or confidential;
- vii. Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
- viii. Disclosure of investigatory records compiled for law enforcement purposes;
- ix. Disclosure of information related to any reports prepared by or on behalf of the Commission for the purpose of investigation of compliance with this Compact; or
- x. Matters specifically exempted from disclosure by federal or state statute.

6. If a meeting, or portion of a meeting, is closed pursuant to this provision, the Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision. The Commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefor, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Commission or order of a court of competent jurisdiction.

c. The Commission shall, by a majority vote of the administrators, prescribe bylaws or rules to govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the powers of this Compact, including, but not limited to:

1. Establishing the fiscal year of the Commission;
2. Providing reasonable standards and procedures:
 - i. For the establishment and meetings of other committees; and
 - ii. Governing any general or specific delegation of any authority or function of the Commission;
3. Providing reasonable procedures for calling and conducting meetings of the Commission, ensuring reasonable advance notice of all meetings and providing an opportunity for attendance of such meetings by interested parties, with enumerated exceptions designed to protect the public's interest, the privacy of individuals, and proprietary information, including trade secrets. The Commission may meet in closed session only after a majority of the administrators vote to close a meeting in whole or in part. As soon as practicable, the Commission must make public a copy of the vote to close the meeting revealing the vote of each administrator, with no proxy votes allowed;
4. Establishing the titles, duties, and authority and reasonable procedures for the election of the officers of the Commission;
5. Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the Commission. Notwithstanding any civil service or other similar laws of any party state, the bylaws shall exclusively govern the personnel policies and programs of the Commission; and
6. Providing a mechanism for winding up the operations of the Commission and the equitable disposition of any surplus funds that may exist after the termination of this Compact after the payment or reserving of all of its debts and obligations;

d. The Commission shall publish its bylaws and rules, and any amendments thereto, in a convenient form on the web site of the Commission.

e. The Commission shall maintain its financial records in accordance with the bylaws.

f. The Commission shall meet and take such actions as are consistent with the provisions of this Compact and the bylaws.

g. The Commission shall have the following powers:

1. To promulgate uniform rules to facilitate and coordinate implementation and administration of this Compact. The rules shall have the force and effect of law and shall be binding in all party states;

2. To bring and prosecute legal proceedings or actions in the name of the Commission, provided that the standing of any licensing board to sue or be sued under applicable law shall not be affected;

3. To purchase and maintain insurance and bonds;

4. To borrow, accept, or contract for services of personnel, including, but not limited to, employees of a party state or nonprofit organizations;

5. To cooperate with other organizations that administer state compacts related to the regulation of nursing, including, but not limited to, sharing administrative or staff expenses, office space or other resources;

6. To hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of this Compact, and to establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

7. To accept any and all appropriate donations, grants, and gifts of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of the same; provided that at all times the Commission shall avoid any appearance of impropriety or conflict of interest;

8. To lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve, or use, any property, whether real, personal, or mixed; provided that at all times the Commission shall avoid any appearance of impropriety;

9. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, whether real, personal, or mixed;

10. To establish a budget and make expenditures;

11. To borrow money;

12. To appoint committees, including advisory committees comprised of administrators, state nursing regulators, state legislators or their representatives, and consumer representatives, and other such interested persons;

13. To provide and receive information from, and to cooperate with, law enforcement agencies;

14. To adopt and use an official seal; and

15. To perform such other functions as may be necessary or appropriate to achieve the purposes of this Compact consistent with the state regulation of nurse licensure and practice.

h. Financing of the Commission

1. The Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

2. The Commission may also levy on and collect an annual assessment from each party state to cover the cost of its operations, activities, and staff in its annual budget as approved each year. The aggregate annual assessment amount, if any, shall be allocated based upon a formula to be determined by the Commission, which shall promulgate a rule that is binding upon all party states.

3. The Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Commission pledge the

credit of any of the party states, except by, and with the authority of, such party state.

4. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the 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 Commission.

i. Qualified Immunity, Defense, and Indemnification

1. The administrators, officers, executive director, employees, and representatives of the Commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred, within the scope of Commission employment, duties or responsibilities; provided that nothing in this paragraph shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional, willful, or wanton misconduct of that person.

2. The Commission shall defend any administrator, officer, executive director, employee, or representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further that the actual or alleged act, error, or omission did not result from that person's intentional, willful, or wanton misconduct.

3. The Commission shall indemnify and hold harmless any administrator, officer, executive director, employee, or representative of the Commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional, willful, or wanton misconduct of that person.

ARTICLE VIII

Rulemaking

a. The Interstate Commission of Nurse Licensure Compact Administrators shall exercise its rulemaking powers pursuant to the criteria set forth in this Article and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment and shall have the same force and effect as provisions of this Compact.

b. Rules or amendments to the rules shall be adopted at a regular or special meeting of the Commission.

c. Prior to promulgation and adoption of a final rule or rules by the Commission, and at least sixty days in advance of the meeting at which the rule will be considered and voted upon, the Commission shall file a notice of proposed rulemaking:

1. On the web site of the Commission; and
2. On the web site of each licensing board or the publication in which each state would otherwise publish proposed rules.

d. The notice of proposed rulemaking shall include:

1. The proposed time, date, and location of the meeting in which the rule will be considered and voted upon;
2. The text of the proposed rule or amendment, and the reason for the proposed rule;
3. A request for comments on the proposed rule from any interested person; and
4. The manner in which interested persons may submit notice to the Commission of their intention to attend the public hearing and any written comments.

e. Prior to adoption of a proposed rule, the Commission shall allow persons to submit written data, facts, opinions, and arguments, which shall be made available to the public.

f. The Commission shall grant an opportunity for a public hearing before it adopts a rule or amendment.

g. The Commission shall publish the place, time, and date of the scheduled public hearing.

1. Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing. All hearings will be recorded, and a copy will be made available upon request.

2. Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the Commission at hearings required by this section.

h. If no one appears at the public hearing, the Commission may proceed with promulgation of the proposed rule.

i. Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the Commission shall consider all written and oral comments received.

j. The Commission shall, by majority vote of all administrators, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

k. Upon determination that an emergency exists, the Commission may consider and adopt an emergency rule without prior notice, opportunity for comment or hearing, provided that the usual rulemaking procedures provided in this Compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

1. Meet an imminent threat to public health, safety, or welfare;
2. Prevent a loss of Commission or party state funds; or

3. Meet a deadline for the promulgation of an administrative rule that is required by federal law or rule.

1. The Commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the web site of the Commission. The revision shall be subject to challenge by any person for a period of thirty days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing, and delivered to the Commission, prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.

ARTICLE IX

Oversight, Dispute Resolution, and Enforcement

a. Oversight

1. Each party state shall enforce this Compact and take all actions necessary and appropriate to effectuate this Compact's purposes and intent.

2. The Interstate Commission of Nurse Licensure Compact Administrators shall be entitled to receive service of process in any proceeding that may affect the powers, responsibilities, or actions of the Commission, and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process in such proceeding to the Commission shall render a judgment or order void as to the Commission, this Compact, or promulgated rules.

b. Default, Technical Assistance, and Termination

1. If the Commission determines that a party state has defaulted in the performance of its obligations or responsibilities under this Compact or the promulgated rules, the Commission shall:

i. Provide written notice to the defaulting state and other party states of the nature of the default, the proposed means of curing the default, or any other action to be taken by the Commission; and

ii. Provide remedial training and specific technical assistance regarding the default.

2. If a state in default fails to cure the default, the defaulting state's membership in this Compact may be terminated upon an affirmative vote of a majority of the administrators, and all rights, privileges, and benefits conferred by this Compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

3. Termination of membership in this Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Commission to the governor of the defaulting state and to the executive officer of the defaulting state's licensing board and each of the party states.

4. A state whose membership in this Compact has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

5. The Commission shall not bear any costs related to a state that is found to be in default or whose membership in this Compact has been terminated unless agreed upon in writing between the Commission and the defaulting state.

6. The defaulting state may appeal the action of the Commission by petitioning the United States District Court for the District of Columbia or the federal district in which the 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. Upon request by a party state, the Commission shall attempt to resolve disputes related to the Compact that arise among party states and between party and nonparty states.

2. The Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes, as appropriate.

3. In the event the Commission cannot resolve disputes among party states arising under this Compact:

i. The party states may submit the issues in dispute to an arbitration panel, which will be comprised of individuals appointed by the Compact administrator in each of the affected party states and an individual mutually agreed upon by the Compact administrators of all the party states involved in the dispute.

ii. The decision of a majority of the arbitrators shall be final and binding.

d. Enforcement

1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this Compact.

2. By majority vote, the Commission may initiate legal action in the United States District Court for the District of Columbia or the federal district in which the Commission has its principal offices against a party state that is in default to enforce compliance with the provisions of this Compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees.

3. The remedies herein shall not be the exclusive remedies of the Commission. The Commission may pursue any other remedies available under federal or state law.

ARTICLE X

Effective Date, Withdrawal, and Amendment

a. This Compact shall become effective and binding on the earlier of the date of legislative enactment of this Compact into law by no less than twenty-six states or December 31, 2018. All party states to this Compact, that also were parties to the prior Nurse Licensure Compact, superseded by this Compact, (Prior Compact), shall be deemed to have withdrawn from said Prior Compact within six months after the effective date of this Compact.

b. Each party state to this Compact shall continue to recognize a nurse's multistate licensure privilege to practice in that party state issued under the Prior Compact until such party state has withdrawn from the Prior Compact.

c. Any party state may withdraw from this Compact by enacting a statute repealing the same. A party state's withdrawal shall not take effect until six months after enactment of the repealing statute.

d. A party state's withdrawal or termination shall not affect the continuing requirement of the withdrawing or terminated state's licensing board to report adverse actions and significant investigations occurring prior to the effective date of such withdrawal or termination.

e. Nothing contained in this Compact shall be construed to invalidate or prevent any nurse licensure agreement or other cooperative arrangement between a party state and a nonparty state that is made in accordance with the other provisions of this Compact.

f. This Compact may be amended by the party states. No amendment to this Compact shall become effective and binding upon the party states unless and until it is enacted into the laws of all party states.

g. Representatives of nonparty states to this Compact shall be invited to participate in the activities of the Commission, on a nonvoting basis, prior to the adoption of this Compact by all states.

ARTICLE XI

Construction and Severability

This Compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this Compact shall be severable, and if any phrase, clause, sentence, or provision of this Compact is declared to be contrary to the constitution of any party state or of the United States, or if the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this Compact shall be held to be contrary to the constitution of any party state, this Compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected as to all severable matters.

Source: Laws 2017, LB88, § 26.
Operative date April 26, 2017.

71-1795.02 Termination of prior compact.

Section 71-1795 and the Nurse Licensure Compact contained in section 71-1795 terminate six months after the earlier of the date of legislative enactment of the Nurse Licensure Compact in section 71-1795.01 into law by no less than twenty-six states or December 31, 2018. The State of Nebraska shall be deemed to have withdrawn from the Nurse Licensure Compact in section 71-1795 at the time the compact terminates under this section.

Source: Laws 2017, LB88, § 27.
Operative date April 26, 2017.

ARTICLE 19

CARE OF CHILDREN

(a) FOSTER CARE LICENSURE

Section
71-1904. Rules and regulations; waiver of licensing standard; when.

(a) FOSTER CARE LICENSURE

71-1904 Rules and regulations; waiver of licensing standard; when.

(1) The department shall adopt and promulgate rules and regulations pursuant to sections 71-1901 to 71-1906.01 for (a) the proper care and protection of children by licensees under such sections, (b) the issuance, suspension, and revocation of licenses to provide foster care, (c) the issuance, suspension, and revocation of probationary licenses to provide foster care, (d) the issuance, suspension, and revocation of provisional licenses to provide foster care, (e) the provision of training in foster care, which training shall be directly related to the skills necessary to care for children in need of out-of-home care, including, but not limited to, abused, neglected, dependent, and delinquent children, and (f) the proper administration of sections 71-1901 to 71-1906.01.

(2) The department may issue a waiver for any licensing standard not related to children’s safety for a relative home that is pursuing licensure. Such waivers shall be granted on a case-by-case basis upon assessment by the department based upon the best interests of the child. A relative home that receives a waiver pursuant to this subsection shall be considered fully licensed for purposes of federal reimbursement under the federal Fostering Connections to Success and Increasing Adoptions Act of 2008, Public Law 110-351.

(3) The department shall adopt and promulgate rules and regulations establishing new foster home licensing requirements that ensure children’s safety, health, and well-being but minimize the use of licensing mandates for nonsafety issues. Such rules and regulations shall provide alternatives to address nonsafety issues regarding housing and provide assistance to families in overcoming licensing barriers, especially in child-specific relative and kinship placements, to maximize appropriate reimbursement under Title IV-E of the federal Social Security Act, as amended, including expanding the use of kinship guardianship assistance payments under 42 U.S.C. 673(d), as such act and section existed on January 1, 2013.

Source: Laws 1943, c. 154, § 4, p. 564; R.S.1943, § 71-1904; Laws 1945, c. 171, § 4, p. 550; Laws 1961, c. 415, § 28, p. 1259; Laws 1990, LB 1222, § 13; Laws 1995, LB 401, § 27; Laws 1995, LB 402, § 2; Laws 1995, LB 451, § 4; Laws 2001, LB 209, § 22; Laws 2002, LB 93, § 10; Laws 2003, LB 54, § 1; Laws 2012, LB782, § 114; Laws 2012, LB1160, § 17; Laws 2013, LB222, § 26; Laws 2013, LB265, § 43; Laws 2013, LB269, § 9; Laws 2017, LB417, § 12.

Effective date August 24, 2017.

ARTICLE 24

DRUGS

(c) EMERGENCY BOX DRUG ACT

Section

71-2412. Long-term care facility; emergency boxes; use; conditions.

71-2413. Drugs to be included in emergency boxes; requirements; removal; conditions; notification of supplying pharmacy; expired drugs; treatment; examination of emergency boxes; written procedures; establishment.

(j) AUTOMATED MEDICATION SYSTEMS ACT

71-2445. Terms, defined.

Section

(l) PRESCRIPTION DRUG MONITORING PROGRAM

71-2454. Prescription drug monitoring; system established; provisions included; not public records.

(m) PRESCRIPTION DRUG SAFETY ACT

71-2478. Legend drug not a controlled substance; written, oral, or electronic prescription; information required; controlled substance; requirements; prohibited acts.

71-2479. Legend drug not a controlled substance; prescription; retention; label; contents.

(c) EMERGENCY BOX DRUG ACT

71-2412 Long-term care facility; emergency boxes; use; conditions.

Drugs may be administered to residents of a long-term care facility by authorized personnel of the long-term care facility from the contents of emergency boxes located within such long-term care facility if such drugs and boxes meet all of the following requirements:

(1) All emergency box drugs shall be provided by and all emergency boxes containing such drugs shall be sealed by a supplying pharmacy with the seal on such emergency box to be of such a nature that it can be easily identified if it has been broken;

(2) Emergency boxes shall be stored in a medication room or other secured area within the long-term care facility. Only authorized personnel of the long-term care facility or the supplying pharmacy shall obtain access to such room or secured area, by key or combination, in order to prevent unauthorized access and to ensure a proper environment for preservation of the emergency box drugs;

(3) The exterior of each emergency box shall be labeled so as to clearly indicate that it is an emergency box for use in emergencies only. The label shall contain a listing of the drugs contained in the box, including the name, strength, route of administration, quantity, and expiration date of each drug, and the name, address, and telephone number of the supplying pharmacy;

(4) All emergency boxes shall be inspected by a pharmacist designated by the supplying pharmacy at least once every thirty days or after a reported usage of any drug to determine the expiration date and quantity of the drugs in the box. Every inspection shall be documented and the record retained by the long-term care facility for a period of five years; and

(5) All drugs in emergency boxes shall be in the original manufacturer's or distributor's containers or shall be repackaged by the supplying pharmacy and shall include the manufacturer's or distributor's name, lot number, drug name, strength, dosage form, NDC number, route of administration, and expiration date on a typewritten label. Any drug which is repackaged shall contain on the label the calculated expiration date.

For purposes of the Emergency Box Drug Act, calculated expiration date has the same meaning as in section 38-2808.01.

Source: Laws 1994, LB 1210, § 184; Laws 2002, LB 1062, § 52; Laws 2007, LB463, § 1195; Laws 2009, LB195, § 70; Laws 2017, LB166, § 21.

Effective date April 28, 2017.

71-2413 Drugs to be included in emergency boxes; requirements; removal; conditions; notification of supplying pharmacy; expired drugs; treatment; examination of emergency boxes; written procedures; establishment.

(1) The supplying pharmacy and the medical director and quality assurance committee of the long-term care facility shall jointly determine the drugs, by identity and quantity, to be included in the emergency boxes. The supplying pharmacy shall maintain a list of emergency box drugs which is identical to the list on the exterior of the emergency box and shall make such list available to the department upon request. The supplying pharmacy shall obtain a receipt upon delivery of the emergency box to the long-term care facility signed by the director of nursing of the long-term care facility or his or her designee which acknowledges that the drugs initially placed in the emergency box are identical to the initial list on the exterior of the emergency box. The receipt shall be retained by the supplying pharmacy for a period of five years.

(2) Except for the removal of expired drugs as provided in subsection (4) of this section, drugs shall be removed from emergency boxes only pursuant to a prescription. Whenever access to the emergency box occurs, the prescription and proof of use shall be provided to the supplying pharmacy and shall be recorded on the resident's medical record by authorized personnel of the long-term care facility. Removal of any drug from an emergency box by authorized personnel of the long-term care facility shall be recorded on a form showing the name of the resident who received the drug, his or her room number, the name of the drug, the strength of the drug, the quantity used, the dose administered, the route of administration, the date the drug was used, the time of usage, the disposal of waste, if any, and the signature or signatures of authorized personnel. The form shall be maintained at the long-term care facility for a period of five years from the date of removal with a copy of the form to be provided to the supplying pharmacy.

(3) Whenever an emergency box is opened, the supplying pharmacy shall be notified by the charge nurse or the director of nursing of the long-term care facility within twenty-four hours and a pharmacist designated by the supplying pharmacy shall restock and refill the box, reseal the box, and update the drug listing on the exterior of the box.

(4) Upon the expiration of any drug in the emergency box, the supplying pharmacy shall replace the expired drug, reseal the box, and update the drug listing on the exterior of the box. Emergency box drugs shall be considered inventory of the supplying pharmacy until such time as they are removed for administration.

(5) Authorized personnel of the long-term care facility shall examine the emergency boxes once every twenty-four hours and shall immediately notify the supplying pharmacy upon discovering evidence of tampering with any emergency box. Proof of examination by authorized personnel of the long-term care facility shall be recorded and maintained at the long-term care facility for a period of five years from the date of examination.

(6) The supplying pharmacy and the medical director and quality assurance committee of the long-term care facility shall jointly establish written procedures for the safe and efficient distribution of emergency box drugs.

Source: Laws 1994, LB 1210, § 185; Laws 1999, LB 828, § 166; Laws 2001, LB 398, § 71; Laws 2009, LB195, § 71; Laws 2017, LB166, § 22.

Effective date April 28, 2017.

(j) AUTOMATED MEDICATION SYSTEMS ACT

71-2445 Terms, defined.

For purposes of the Automated Medication Systems Act:

(1) Automated medication distribution machine means a type of automated medication system that stores medication to be administered to a patient by a person credentialed under the Uniform Credentialing Act;

(2) Automated medication system means a mechanical system that performs operations or activities, other than compounding, administration, or other technologies, relative to storage and packaging for dispensing or distribution of medications and that collects, controls, and maintains all transaction information and includes, but is not limited to, a prescription medication distribution machine or an automated medication distribution machine. An automated medication system may only be used in conjunction with the provision of pharmacist care;

(3) Chart order means an order for a drug or device issued by a practitioner for a patient who is in the hospital where the chart is stored, for a patient receiving detoxification treatment or maintenance treatment pursuant to section 28-412, or for a resident in a long-term care facility in which a long-term care automated pharmacy is located from which drugs will be dispensed. Chart order does not include a prescription;

(4) Hospital has the definition found in section 71-419;

(5) Long-term care automated pharmacy means a designated area in a long-term care facility where an automated medication system is located, that stores medications for dispensing pursuant to a medical order to residents in such long-term care facility, that is installed and operated by a pharmacy licensed under the Health Care Facility Licensure Act, and that is licensed under section 71-2451;

(6) Long-term care facility means an intermediate care facility, an intermediate care facility for persons with developmental disabilities, a long-term care hospital, a mental health center, a nursing facility, or a skilled nursing facility, as such terms are defined in the Health Care Facility Licensure Act;

(7) Medical order means a prescription, a chart order, or an order for pharmaceutical care issued by a practitioner;

(8) Pharmacist means any person who is licensed by the State of Nebraska to practice pharmacy;

(9) Pharmacist care means the provision by a pharmacist of medication therapy management, with or without the dispensing of drugs or devices, intended to achieve outcomes related to the cure or prevention of a disease, elimination or reduction of a patient's symptoms, or arresting or slowing of a disease process;

(10) Pharmacist remote order entry means entering an order into a computer system or drug utilization review by a pharmacist licensed to practice pharmacy in the State of Nebraska and located within the United States, pursuant to medical orders in a hospital, long-term care facility, or pharmacy licensed under the Health Care Facility Licensure Act;

(11) Practice of pharmacy has the definition found in section 38-2837;

(12) Practitioner means a certified registered nurse anesthetist, a certified nurse midwife, a dentist, an optometrist, a nurse practitioner, a physician assistant, a physician, a podiatrist, or a veterinarian;

(13) Prescription means an order for a drug or device issued by a practitioner for a specific patient, for emergency use, or for use in immunizations. Prescription does not include a chart order;

(14) Prescription medication distribution machine means a type of automated medication system that packages, labels, or counts medication in preparation for dispensing of medications by a pharmacist pursuant to a prescription; and

(15) Telepharmacy means the provision of pharmacist care, by a pharmacist located within the United States, using telecommunications, remote order entry, or other automations and technologies to deliver care to patients or their agents who are located at sites other than where the pharmacist is located.

Source: Laws 2008, LB308, § 2; Laws 2009, LB195, § 75; Laws 2013, LB23, § 35; Laws 2013, LB326, § 4; Laws 2017, LB166, § 23.
Effective date April 28, 2017.

Cross References

Health Care Facility Licensure Act, see section 71-401.
Uniform Credentialing Act, see section 38-101.

(l) PRESCRIPTION DRUG MONITORING PROGRAM

71-2454 Prescription drug monitoring; system established; provisions included; not public records.

(1) An entity described in section 71-2455 shall establish a system of prescription drug monitoring for the purposes of (a) preventing the misuse of controlled substances that are prescribed and (b) allowing prescribers and dispensers to monitor the care and treatment of patients for whom such a prescription drug is prescribed to ensure that such prescription drugs are used for medically appropriate purposes and that the State of Nebraska remains on the cutting edge of medical information technology.

(2) Such system of prescription drug monitoring shall be implemented as follows: Except as provided in subsection (4) of this section, beginning January 1, 2017, all dispensed prescriptions of controlled substances shall be reported; and beginning January 1, 2018, all prescription information shall be reported to the prescription drug monitoring system. The prescription drug monitoring system shall include, but not be limited to, provisions that:

(a) Prohibit any patient from opting out of the prescription drug monitoring system;

(b) Require all prescriptions dispensed in this state or to an address in this state to be entered into the system by the dispenser or his or her designee daily after such prescription is dispensed, including those for patients paying cash for such prescription drug or otherwise not relying on a third-party payor for payment for the prescription drug;

(c) Allow all prescribers or dispensers of prescription drugs to access the system at no cost to such prescriber or dispenser;

(d) Ensure that such system includes information relating to all payors, including, but not limited to, the medical assistance program established pursuant to the Medical Assistance Act; and

(e) Make the prescription information available to the statewide health information exchange described in section 71-2455 for access by its participants if such access is in compliance with the privacy and security protections set forth in the provisions of the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, and regulations promulgated thereunder, except that if a patient opts out of the statewide health information exchange, the prescription information regarding that patient shall not be accessible by the participants in the statewide health information exchange.

Dispensers may begin on February 25, 2016, to report dispensing of prescriptions to the entity described in section 71-2455 which is responsible for establishing the system of prescription drug monitoring.

(3) Except as provided in subsection (4) of this section, prescription information that shall be submitted electronically to the prescription drug monitoring system shall be determined by the entity described in section 71-2455 and shall include, but not be limited to:

- (a) The patient's name, address, and date of birth;
- (b) The name and address of the pharmacy dispensing the prescription;
- (c) The date the prescription is issued;
- (d) The date the prescription is filled;
- (e) The name of the drug dispensed or the National Drug Code number as published by the federal Food and Drug Administration of the drug dispensed;
- (f) The strength of the drug prescribed;
- (g) The quantity of the drug prescribed and the number of days' supply; and
- (h) The prescriber's name and National Provider Identifier number or Drug Enforcement Administration number when reporting a controlled substance.

(4) Beginning July 1, 2018, a veterinarian licensed under the Veterinary Medicine and Surgery Practice Act shall be required to report a dispensed prescription of controlled substances listed on Schedule II, Schedule III, or Schedule IV pursuant to section 28-405. Each such veterinarian shall indicate that the prescription is an animal prescription and shall include the following information in such report:

- (a) The first and last name and address, including city, state, and zip code, of the individual to whom the drug is dispensed in accordance with a valid veterinarian-client-patient relationship;
- (b) Reporting status;
- (c) The first and last name of the prescribing veterinarian and his or her federal Drug Enforcement Administration number;
- (d) The name of the drug dispensed and the prescription number;
- (e) The date the prescription is written and the date the prescription is filled;
- (f) The number of refills authorized, if any; and
- (g) The quantity of the drug dispensed and the number of days' supply.

(5)(a) All prescription drug information submitted pursuant to this section, all data contained in the prescription drug monitoring system, and any report obtained from data contained in the prescription drug monitoring system are confidential, are privileged, are not public records, and may be withheld pursuant to section 84-712.05.

(b) No patient-identifying data as defined in section 81-664, including the data collected under subsection (3) of this section, shall be disclosed, made public, or released to any public or private person or entity except to the statewide health information exchange described in section 71-2455 and its participants and to prescribers and dispensers as provided in subsection (2) of this section.

(c) All other data is for the confidential use of the department and the statewide health information exchange described in section 71-2455 and its participants. The department may release such information as Class I, Class II, or Class IV data in accordance with section 81-667 to the private or public persons or entities that the department determines may view such records as provided in sections 81-663 to 81-675.

(6) Before accessing the prescription drug monitoring system, any user shall undergo training on the purpose of the system, access to and proper usage of the system, and the law relating to the system, including confidentiality and security of the prescription drug monitoring system. Such training shall be administered by the statewide health information exchange described in section 71-2455 which shall have access to the prescription drug monitoring system for training and administrative purposes. Users who have been trained prior to May 10, 2017, are deemed to be in compliance with the training requirement of this subsection.

(7) For purposes of this section:

(a) Designee means any licensed or registered health care professional credentialed under the Uniform Credentialing Act designated by a prescriber or dispenser to act as an agent of the prescriber or dispenser for purposes of submitting or accessing data in the prescription drug monitoring system and who is supervised by such prescriber or dispenser;

(b) Dispenser means a person authorized in the jurisdiction in which he or she is practicing to deliver a prescription to the ultimate user by or pursuant to the lawful order of a prescriber but does not include (i) the delivery of such prescription drug for immediate use for purposes of inpatient hospital care or emergency department care, (ii) the administration of a prescription drug by an authorized person upon the lawful order of a prescriber, (iii) a wholesale distributor of a prescription drug monitored by the prescription drug monitoring system, or (iv) through December 31, 2017, a veterinarian licensed under the Veterinary Medicine and Surgery Practice Act when dispensing prescriptions for animals in the usual course of providing professional services;

(c) Participant means an individual or entity that has entered into a participation agreement with the statewide health information exchange described in section 71-2455 which requires the individual or entity to comply with the privacy and security protections set forth in the provisions of the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, and regulations promulgated thereunder; and

(d) Prescriber means a health care professional authorized to prescribe in the profession which he or she practices.

Source: Laws 2011, LB237, § 1; Laws 2014, LB1072, § 1; Laws 2016, LB471, § 1; Laws 2017, LB223, § 1.
Effective date May 10, 2017.

Cross References

Uniform Credentialing Act, see section 38-101.

Veterinary Medicine and Surgery Practice Act, see section 38-3301.

(m) PRESCRIPTION DRUG SAFETY ACT

71-2478 Legend drug not a controlled substance; written, oral, or electronic prescription; information required; controlled substance; requirements; prohibited acts.

(1) Except as otherwise provided in this section or the Uniform Controlled Substances Act or except when administered directly by a practitioner to an ultimate user, a legend drug which is not a controlled substance shall not be dispensed without a written, oral, or electronic prescription. Such prescription shall be valid for twelve months after the date of issuance.

(2) A prescription for a legend drug which is not a controlled substance shall contain the following information prior to being filled by a pharmacist or practitioner who holds a pharmacy license under subdivision (1) of section 38-2850: (a) Patient's name, (b) name of the drug, device, or biological, (c) strength of the drug or biological, if applicable, (d) dosage form of the drug or biological, (e) quantity of the drug, device, or biological prescribed, (f) directions for use, (g) date of issuance, (h) number of authorized refills, including pro re nata or PRN refills, (i) prescribing practitioner's name, and (j) if the prescription is written, prescribing practitioner's signature. Prescriptions for controlled substances must meet the requirements of sections 28-414 and 28-414.01.

(3) A written, signed paper prescription may be transmitted to the pharmacy via facsimile which shall serve as the original written prescription. An electronic prescription may be electronically or digitally signed and transmitted to the pharmacy and may serve as the original prescription.

(4) It shall be unlawful for any person knowingly or intentionally to possess or to acquire or obtain or to attempt to acquire or obtain, by means of misrepresentation, fraud, forgery, deception, or subterfuge, possession of any drug substance not classified as a controlled substance under the Uniform Controlled Substances Act which can only be lawfully dispensed, under federal statutes in effect on January 1, 2015, upon the written or oral prescription of a practitioner authorized to prescribe such substances.

Source: Laws 2015, LB37, § 22; Laws 2017, LB166, § 24.
Effective date April 28, 2017.

Cross References

Uniform Controlled Substances Act, see section 28-401.01.

71-2479 Legend drug not a controlled substance; prescription; retention; label; contents.

(1) Any prescription for a legend drug which is not a controlled substance shall be kept by the pharmacy or the practitioner who holds a pharmacy license in a readily retrievable format and shall be maintained for a minimum of five years. The pharmacy or practitioner shall make all such files readily available to the department and law enforcement for inspection without a search warrant.

(2) Before dispensing a legend drug which is not a controlled substance pursuant to a written, oral, or electronic prescription, a label shall be affixed to the container in which the drug is dispensed. Such label shall bear (a) the name, address, and telephone number of the pharmacy or practitioner, (b) the name of the patient, (c) the date of filling, (d) the serial number of the prescription under which it is recorded in the practitioner's prescription records, (e) the name of the prescribing practitioner, (f) the directions for use, (g) the name of the drug, device, or biological unless instructed to omit by the prescribing practitioner, (h) the strength of the drug or biological, if applicable, (i) the quantity of the drug, device, or biological in the container, except unit-dose containers, (j) the dosage form of the drug or biological, and (k) any cautionary statements contained in the prescription.

(3) For multidrug containers, more than one drug, device, or biological may be dispensed in the same container when (a) such container is prepackaged by the manufacturer, packager, or distributor and shipped directly to the pharmacy in this manner or (b) the container does not accommodate greater than a thirty-one-day supply of compatible dosage units and is labeled to identify each drug or biological in the container in addition to all other information required by law.

Source: Laws 2015, LB37, § 23; Laws 2017, LB166, § 25.
Effective date April 28, 2017.

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 as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census 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 as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census 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 as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census.

(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; Laws 2017, LB113, § 53.

Effective date August 24, 2017.

ARTICLE 34

REDUCTION IN MORBIDITY AND MORTALITY

(b) CHILD AND MATERNAL DEATHS

Section

71-3407. Team; purposes; duties; powers.

(b) CHILD AND MATERNAL DEATHS

71-3407 Team; purposes; duties; powers.

(1) The purposes of the team shall be to (a) develop an understanding of the causes and incidence of child or maternal deaths in this state, (b) develop recommendations for changes within relevant agencies and organizations which may serve to prevent child or maternal deaths, and (c) advise the Governor, the Legislature, and the public on changes to law, policy, and practice which will prevent child or maternal deaths.

(2) The team shall:

(a) Undertake annual statistical studies of the causes and incidence of child or maternal deaths in this state. The studies shall include, but not be limited to, an analysis of the records of community, public, and private agency involvement with the children, the pregnant or postpartum women, and their families prior to and subsequent to the child or maternal deaths;

(b) Develop a protocol for retrospective investigation of child or maternal deaths by the team;

(c) Develop a protocol for collection of data regarding child or maternal deaths by the team;

(d) Consider training needs, including cross-agency training, and service gaps;

(e) Include in its annual report recommended changes to any law, rule, regulation, or policy needed to decrease the incidence of preventable child or maternal deaths;

(f) Educate the public regarding the incidence and causes of child or maternal deaths, the public role in preventing child or maternal deaths, and specific steps the public can undertake to prevent child or maternal deaths. The

team may enlist the support of civic, philanthropic, and public service organizations in the performance of its educational duties;

(g) Provide the Governor, the Legislature, and the public with annual reports which shall include the team's findings and recommendations for each of its duties. The team shall provide the annual report on or before each September 15. The reports submitted to the Legislature shall be submitted electronically; and

(h) When appropriate, make referrals to those agencies as required in section 28-711 or as otherwise required by state law.

(3) The team may enter into consultation agreements with relevant experts to evaluate the information and records collected by the team. All of the confidentiality provisions of section 71-3411 shall apply to the activities of a consulting expert.

(4) The team may enter into written agreements with entities to provide for the secure storage of electronic data based on information and records collected by the team, including data that contains personal or incident identifiers. Such agreements shall provide for the protection of the security and confidentiality of the content of the information, including access limitations, storage of the information, and destruction of the information. All of the confidentiality provisions of section 71-3411 shall apply to the activities of the data storage entity.

(5) The team may enter into agreements with a local public health department as defined in section 71-1626 to act as the agent of the team in conducting all information gathering and investigation necessary for the purposes of the Child and Maternal Death Review Act. All of the confidentiality provisions of section 71-3411 shall apply to the activities of the agent.

(6) For purposes of this section, entity means an organization which provides collection and storage of data from multiple agencies but is not solely controlled by the agencies providing the data.

Source: Laws 1993, LB 431, § 4; Laws 2012, LB782, § 116; Laws 2012, LB1160, § 18; Laws 2013, LB361, § 4; Laws 2017, LB506, § 5.
Effective date August 24, 2017.

ARTICLE 35

RADIATION CONTROL AND RADIOACTIVE WASTE

(a) RADIATION CONTROL ACT

Section
71-3505. Department; powers and duties.

(a) RADIATION CONTROL ACT

71-3505 Department; powers and duties.

(1) Matters relative to radiation as they relate to occupational and public health and safety and the environment shall be a responsibility of the department. The department shall:

(a) Develop comprehensive policies and programs for the evaluation and determination of undesirable radiation associated with the production, use, storage, or disposal of radiation sources and formulate, adopt, promulgate, and repeal rules and regulations which may provide (i) for registration or licensure

under section 71-3507 or 71-3509, (ii) for registration or licensure of (A) any other source of radiation, (B) persons providing services for collection, detection, measurement, or monitoring of sources of radiation, including, but not limited to, radon and its decay products, (C) persons providing services to reduce the effects of sources of radiation, and (D) persons practicing industrial radiography, and (iii) for fingerprinting and a federal criminal background check on persons with unescorted access to radionuclides of concern, as specified by rule, regulation, or order so as to reasonably protect occupational and public health and safety and the environment in a manner compatible with regulatory programs of the federal government. The department for identical purposes may also adopt and promulgate rules and regulations for the issuance of licenses, either general or specific, to persons for the purpose of using, manufacturing, producing, transporting, transferring, receiving, acquiring, owning, or possessing any radioactive material. Such rules and regulations may prohibit the use of radiation for uses found by the department to be detrimental to occupational and public health or safety or the environment and shall carry out the purposes and policies set out in sections 71-3501 and 71-3502. Such rules and regulations shall not prohibit or limit the kind or amount of radiation purposely prescribed for or administered to a patient by doctors of medicine and surgery, dentistry, osteopathic medicine, chiropractic, podiatry, and veterinary medicine, while engaged in the lawful practice of such profession, or administered by other professional personnel, such as allied health personnel, medical radiographers, limited radiographers, nurses, and laboratory workers, acting under the supervision of a licensed practitioner. Violation of rules and regulations adopted and promulgated by the department pursuant to the Radiation Control Act shall be due cause for the suspension, revocation, or limitation of a license issued by the department. Any licensee may request a hearing before the department on the issue of such suspension, revocation, or limitation. Procedures for notice and opportunity for a hearing before the department shall be pursuant to the Administrative Procedure Act. The decision of the department may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act;

(b) Have the authority to accept and administer loans, grants, or other funds or gifts, conditional or otherwise, in furtherance of its functions, from the federal government and from other sources, public or private;

(c) Encourage, participate in, or conduct studies, investigations, training, research, and demonstrations relating to the control of sources of radiation;

(d) Collect and disseminate health education information relating to radiation protection;

(e) Make its facilities available so that any person or any agency may request the department to review and comment on plans and specifications of installations submitted by the person or agency with respect to matters of protection and safety for the control of undesirable radiation;

(f) Be empowered to inspect radiation sources and their shieldings and surroundings for the determination of any possible undesirable radiation or violations of rules and regulations adopted and promulgated by the department and provide the owner, user, or operator with a report of any known or suspected deficiencies; and

(g) Collect a fee for emergency response or environmental surveillance, or both, offsite from each nuclear power plant equal to the cost of completing the

emergency response or environmental surveillance and any associated report. In no event shall the fee for any nuclear power plant exceed the lesser of the actual costs of such activities or eighty-two thousand dollars per annum. Commencing January 1, 2018, the accounting division of the Department of Administrative Services shall recommend an inflationary adjustment equivalent which shall be based upon the Consumer Price Index for All Urban Consumers of the United States Department of Labor, Bureau of Labor Statistics, and shall not exceed five percent per annum. Such adjustment shall be applied to the annual fee for nuclear power plants. The fee collected shall be credited to the Health and Human Services Cash Fund. This fee shall be used solely for the purpose of defraying the costs of the emergency response and environmental surveillance at Cooper Nuclear Station and Fort Calhoun Station conducted by the department. The department may charge additional fees when mutually agreed upon for services, training, or equipment that are a part of or in addition to matters in this section. This subdivision shall not apply to any nuclear power plant that (i) has initiated permanent plant decommissioning and has notified the department that it has implemented a permanent defueled emergency plan which no longer requires pre-planned assistance from state agencies pursuant to rules and regulations of the United States Nuclear Regulatory Commission and (ii) no longer requires protective actions beyond the site boundary to protect the public and the environment from exposure to radiation as a result of an event at such plant.

(2) If a nuclear power plant is no longer subject to the fee requirement pursuant to subdivision (1)(g) of this section, the fee for the remaining nuclear power plant shall not exceed the lesser of the actual costs of the department's activities or one hundred ten thousand dollars per annum. Such fee shall be subject to all other provisions of subdivision (1)(g) of this section.

Source: Laws 1963, c. 406, § 5, p. 1299; Laws 1969, c. 577, § 1, p. 2324; Laws 1975, LB 157, § 5; Laws 1978, LB 814, § 4; Laws 1987, LB 390, § 6; Laws 1988, LB 352, § 131; Laws 1989, LB 342, § 33; Laws 1990, LB 1064, § 18; Laws 1995, LB 406, § 43; Laws 1996, LB 1044, § 653; Laws 1997, LB 658, § 13; Laws 2000, LB 1115, § 72; Laws 2002, LB 93, § 14; Laws 2007, LB296, § 568; Laws 2007, LB463, § 1210; Laws 2008, LB928, § 24; Laws 2017, LB430, § 1.

Effective date August 24, 2017.

Cross References

Administrative Procedure Act, see section 84-920.

ARTICLE 45

PALLIATIVE CARE AND QUALITY OF LIFE ACT

Section

- 71-4501. Act, how cited.
- 71-4502. Legislative findings.
- 71-4503. Palliative Care Consumer and Professional Information and Education Program; established; Department of Health and Human Services; duties.
- 71-4504. Palliative Care and Quality of Life Advisory Council; created; duties; members; meetings; expenses.

71-4501 Act, how cited.

Sections 71-4501 to 71-4504 shall be known and may be cited as the Palliative Care and Quality of Life Act.

Source: Laws 2017, LB323, § 1.
Effective date August 24, 2017.

71-4502 Legislative findings.

The Legislature finds that palliative care provides health care that improves the quality of life of a patient and his or her family as they face problems associated with life-threatening illness and is a critical part of health care delivery in the state.

Source: Laws 2017, LB323, § 2.
Effective date August 24, 2017.

71-4503 Palliative Care Consumer and Professional Information and Education Program; established; Department of Health and Human Services; duties.

The Department of Health and Human Services shall establish the Palliative Care Consumer and Professional Information and Education Program. The department shall consult with the Palliative Care and Quality of Life Advisory Council created in section 71-4504 regarding the program. The department shall make information regarding the program available on its web site on or before June 30, 2018. The information shall include, but not be limited to:

- (1) Continuing education opportunities regarding palliative care for health care professionals;
- (2) Delivery of palliative care in the home and in primary, secondary, and tertiary environments;
- (3) Best practices in palliative care delivery;
- (4) Educational materials for consumers of palliative care;
- (5) Referral information for palliative care; and
- (6) Palliative care delivery systems.

Source: Laws 2017, LB323, § 3.
Effective date August 24, 2017.

71-4504 Palliative Care and Quality of Life Advisory Council; created; duties; members; meetings; expenses.

(1) The Palliative Care and Quality of Life Advisory Council is created. The council shall consult with and advise the Department of Health and Human Services on matters relating to palliative care initiatives. The council shall:

- (a) Survey palliative care providers regarding best practices and recommendations;
- (b) Work with the department; and
- (c) Make recommendations to the department regarding information on the web site pursuant to section 71-4503 as standards of care change.

(2) The council shall be composed of nine members appointed by the Governor for three-year terms. At least two of the members shall be physicians or nurses certified under the Hospice and Palliative Medicine Certification Program administered by the American Board of Internal Medicine. One

member shall be an employee of the department familiar with hospice and palliative medicine. The remaining members shall (a) have palliative care work experience, (b) have experience with palliative care delivery models in a variety of settings, such as acute care, long-term care, and hospice care, and with a variety of populations, including pediatric patients, youth patients, and adult patients, or (c) be representatives of palliative care patients and their family caregivers.

(3) The council shall meet at least twice each calendar year. The members shall elect a chairperson and vice-chairperson. The members shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177 but shall not receive any other compensation for such services.

(4) The department shall provide a place and time for the council to meet and provide staffing assistance as necessary for the meetings.

Source: Laws 2017, LB323, § 4.

Effective date August 24, 2017.

ARTICLE 50

COMPASSION AND CARE FOR MEDICALLY CHALLENGING PREGNANCIES ACT

Section

71-5001. Act, how cited.

71-5002. Terms, defined.

71-5003. Lethal fetal anomaly; physician or nurse practitioner; powers.

71-5004. Department; web site and information support sheet; duties; perinatal hospice program; request to include information.

71-5001 Act, how cited.

Sections 71-5001 to 71-5004 shall be known and may be cited as the Compassion and Care for Medically Challenging Pregnancies Act.

Source: Laws 2017, LB506, § 1.

Effective date August 24, 2017.

71-5002 Terms, defined.

For purposes of the Compassion and Care for Medically Challenging Pregnancies Act:

(1) Department means the Department of Health and Human Services;

(2) Lethal fetal anomaly means a fetal condition diagnosed before birth that will, with reasonable certainty, result in the death of the unborn child within three months after birth;

(3) Nurse practitioner means any person licensed to practice as a nurse practitioner in this state;

(4) Perinatal hospice means comprehensive support to the pregnant woman and her family that includes support from the time of diagnosis, through the time of birth and the death of the infant, and through the postpartum period. Supportive care may include, but is not limited to, counseling and medical care by maternal-fetal medical specialists, obstetricians, neonatologists, anesthesia specialists, clergy, social workers, and specialty nurses focused on alleviating fear and ensuring that the woman and her family experience the life and death of their child in a comfortable and supportive environment; and

(5) Physician means any person licensed to practice medicine and surgery in this state and includes osteopathic physicians.

Source: Laws 2017, LB506, § 2.
Effective date August 24, 2017.

71-5003 Lethal fetal anomaly; physician or nurse practitioner; powers.

A physician or nurse practitioner who diagnoses an unborn child as having a lethal fetal anomaly may:

- (1) Inform the pregnant woman, orally and in person, that perinatal hospice services are available and offer or refer for this care; and
- (2) Deliver to the pregnant woman in writing the information support sheet provided by the department under section 71-5004.

Source: Laws 2017, LB506, § 3.
Effective date August 24, 2017.

71-5004 Department; web site and information support sheet; duties; perinatal hospice program; request to include information.

(1) The department shall create and organize geographically a list of perinatal hospice programs available in Nebraska and nationally. The department shall post such information on its web site and shall include an information support sheet in English and Spanish on the web site that can be printed and delivered by physicians and nurse practitioners to the pregnant woman as provided in section 71-5003. The web site and information support sheet shall be completed and available within ninety days after August 24, 2017. The web site and information support sheet shall include:

- (a) A statement indicating that perinatal hospice is an innovative and compassionate model of support for the pregnant woman who finds out that her baby has a life-limiting condition and who chooses to continue her pregnancy;
- (b) A general description of the health care services available from perinatal hospice programs; and
- (c) Pertinent contact information that includes any twenty-four-hour perinatal hospice services available.

(2) A perinatal hospice program may request that the department include the program’s informational material and contact information on the web site. The department may add the information to the web site upon request.

Source: Laws 2017, LB506, § 4.
Effective date August 24, 2017.

ARTICLE 53

DRINKING WATER

(b) DRINKING WATER STATE REVOLVING FUND ACT

Section
71-5322. Department; powers and duties.

(b) DRINKING WATER STATE REVOLVING FUND ACT

71-5322 Department; powers and duties.

The department shall have the following powers and duties:

(1) The power to establish a program to make loans to owners of public water systems, individually or jointly, for construction or modification of safe drinking water projects in accordance with the Drinking Water State Revolving Fund Act and the rules and regulations of the council adopted and promulgated pursuant to such act;

(2) The power, if so authorized by the council pursuant to section 71-5321, to execute and deliver documents obligating the Drinking Water Facilities Loan Fund or the Land Acquisition and Source Water Loan Fund and the assets thereof to the extent permitted by section 71-5318 to repay, with interest, loans to or credits into such funds and to execute and deliver documents pledging to the extent permitted by section 71-5318 all or part of such funds and assets to secure, directly or indirectly, the loans or credits;

(3) The duty to prepare an annual report for the Governor and the Legislature. The report submitted to the Legislature shall be submitted electronically;

(4) The duty to establish fiscal controls and accounting procedures sufficient to assure proper accounting during appropriate accounting periods, including the following:

(a) Accounting from the Nebraska Investment Finance Authority for the costs associated with the issuance of bonds pursuant to the act;

(b) Accounting for payments or deposits received by the funds;

(c) Accounting for disbursements made by the funds; and

(d) Balancing the funds at the beginning and end of the accounting period;

(5) The duty to establish financial capability requirements that assure sufficient revenue to operate and maintain a facility for its useful life and to repay the loan for such facility;

(6) The power to determine the rate of interest to be charged on a loan in accordance with the rules and regulations adopted and promulgated by the council;

(7) The power to develop an intended use plan, in consultation with the Director of Public Health of the Division of Public Health, for adoption by the council;

(8) The power to enter into required agreements with the United States Environmental Protection Agency pursuant to the Safe Drinking Water Act;

(9) The power to enter into agreements for the purpose of providing loan forgiveness concurrent with loans to public water systems that provide service to ten thousand persons or less, that are operated by political subdivisions, and that demonstrate serious financial hardships. The department may enter into agreements for up to one-half of the eligible project cost. Such agreements shall contain a provision that payment of the amount allocated is conditional upon the availability of appropriated funds;

(10) The power to provide emergency funding to public water systems operated by political subdivisions with drinking water facilities which have been damaged or destroyed by natural disaster or other unanticipated actions or circumstances. Such funding shall not be used for routine repair or maintenance of facilities;

(11) The power to provide financial assistance consistent with the intended use plan, described in subdivision (7) of this section, for completion of engineering studies, research projects to investigate low-cost options for achieving

compliance with safe drinking water standards, preliminary engineering reports, regional water system planning, source water protection, and other studies for the purpose of enhancing the ability of communities to meet the requirements of the Safe Drinking Water Act, to public water systems that provide service to ten thousand persons or less, that are operated by political subdivisions, and that demonstrate serious financial hardships. The department may enter into agreements for up to ninety percent of the eligible project cost. Such agreements shall contain a provision that payment of the amount obligated is conditional upon the availability of appropriated funds; and

(12) Such other powers as may be necessary and appropriate for the exercise of the duties created under the Drinking Water State Revolving Fund Act.

Source: Laws 1997, LB 517, § 11; Laws 2001, LB 667, § 47; Laws 2007, LB80, § 2; Laws 2007, LB296, § 621; Laws 2012, LB782, § 122; Laws 2017, LB182, § 1.
Effective date August 24, 2017.

ARTICLE 60

NURSING HOMES

(c) TRAINING REQUIREMENTS

Section

- 71-6038. Terms, defined.
71-6039. Nurse aide; qualifications; training requirements; department; duties; licensure as nurse; effect.
71-6039.06. Eligibility for Licensee Assistance Program.

(d) NURSING HOME ADVISORY COUNCIL

- 71-6043. Repealed. Laws 2017, LB644, § 21.
71-6044. Repealed. Laws 2017, LB644, § 21.
71-6045. Repealed. Laws 2017, LB644, § 21.
71-6046. Repealed. Laws 2017, LB644, § 21.
71-6047. Repealed. Laws 2017, LB644, § 21.
71-6048. Repealed. Laws 2017, LB644, § 21.
71-6049. Repealed. Laws 2017, LB644, § 21.
71-6050. Repealed. Laws 2017, LB644, § 21.
71-6051. Repealed. Laws 2017, LB644, § 21.
71-6052. Repealed. Laws 2017, LB644, § 21.

(c) TRAINING REQUIREMENTS

71-6038 Terms, defined.

For purposes of sections 71-6038 to 71-6042:

(1) Complicated feeding problems include, but are not limited to, difficulty swallowing, recurrent lung aspirations, and tube or parenteral or intravenous feedings;

(2) Department means the Department of Health and Human Services;

(3) Nurse aide means any person employed by a facility described in subsection (1) of section 71-6039 for the purpose of aiding a licensed registered or practical nurse through the performance of nonspecialized tasks related to the personal care and comfort of residents other than a paid dining assistant or a licensed registered or practical nurse;

(4) Nursing home means any facility or a distinct part of any facility that provides care as defined in sections 71-420, 71-421, 71-422, 71-424, and 71-429; and

(5) Paid dining assistant means any person employed by a nursing home for the purpose of aiding a licensed registered or practical nurse through the feeding of residents other than a nurse aide or a licensed registered or practical nurse.

Source: Laws 1983, LB 273, § 1; Laws 1984, LB 416, § 10; Laws 1988, LB 190, § 4; Laws 1990, LB 1080, § 6; Laws 1994, LB 1210, § 148; Laws 1996, LB 1044, § 749; Laws 1998, LB 1354, § 40; Laws 2004, LB 1005, § 110; Laws 2007, LB296, § 642; Laws 2007, LB463, § 1235; Laws 2017, LB417, § 13.
Effective date August 24, 2017.

71-6039 Nurse aide; qualifications; training requirements; department; duties; licensure as nurse; effect.

(1) No person shall act as a nurse aide in a facility or a distinct part of a facility that provides care as defined in section 71-405, 71-406, 71-409, 71-412, 71-416, 71-417, 71-418, 71-419, 71-420, 71-421, 71-422, 71-424, 71-426, 71-427, or 71-429 unless such person:

(a) Is at least sixteen years of age and has not been convicted of a crime involving moral turpitude;

(b) Is able to speak and understand the English language or a language understood by a substantial portion of the facility residents; and

(c) Has successfully completed a basic course of training approved by the department for nurse aides within one hundred twenty days of initial employment in the capacity of a nurse aide.

(2)(a) A registered nurse or licensed practical nurse whose license has been revoked, suspended, or voluntarily surrendered in lieu of discipline may not act as a nurse aide in a facility described in subsection (1) of this section.

(b) If a person registered as a nurse aide becomes licensed as a registered nurse or licensed practical nurse, his or her registration as a nurse aide becomes null and void as of the date of licensure.

(c) A person listed on the Nurse Aide Registry with respect to whom a finding of conviction has been placed on the registry may petition the department to have such finding removed at any time after one year has elapsed since the date such finding was placed on the registry.

(3) The department may prescribe a curriculum for training nurse aides and may adopt and promulgate rules and regulations for such courses of training. The content of the courses of training and competency evaluation programs shall be consistent with federal requirements unless exempted. The department may approve courses of training if such courses of training meet the requirements of this section. Such courses of training shall include instruction on the responsibility of each nurse aide to report suspected abuse or neglect pursuant to sections 28-372 and 28-711. Nursing homes may carry out approved courses of training within the nursing home, except that nursing homes may not conduct the competency evaluation part of the program. The prescribed training shall be administered by a licensed registered nurse.

(4) For nurse aides at intermediate care facilities for persons with developmental disabilities, such courses of training shall be no less than twenty hours in duration and shall include at least fifteen hours of basic personal care training and five hours of basic therapeutic and emergency procedure training,

and for nurse aides at all nursing homes other than intermediate care facilities for persons with developmental disabilities, such courses shall be no less than seventy-five hours in duration.

(5) This section shall not prohibit any facility from exceeding the minimum hourly or training requirements.

Source: Laws 1983, LB 273, § 2; Laws 1984, LB 416, § 11; Laws 1986, LB 921, § 11; Laws 1988, LB 463, § 49; Laws 1990, LB 1080, § 7; Laws 1994, LB 1210, § 149; Laws 2004, LB 1005, § 111; Laws 2007, LB185, § 43; Laws 2007, LB463, § 1236; Laws 2013, LB23, § 38; Laws 2017, LB417, § 14.
Effective date August 24, 2017.

71-6039.06 Eligibility for Licensee Assistance Program.

Nurse aides and paid dining assistants are eligible to participate in the Licensee Assistance Program as prescribed by section 38-175.

Source: Laws 2007, LB463, § 1240; Laws 2017, LB417, § 15.
Effective date August 24, 2017.

(d) NURSING HOME ADVISORY COUNCIL

71-6043 Repealed. Laws 2017, LB644, § 21.

71-6044 Repealed. Laws 2017, LB644, § 21.

71-6045 Repealed. Laws 2017, LB644, § 21.

71-6046 Repealed. Laws 2017, LB644, § 21.

71-6047 Repealed. Laws 2017, LB644, § 21.

71-6048 Repealed. Laws 2017, LB644, § 21.

71-6049 Repealed. Laws 2017, LB644, § 21.

71-6050 Repealed. Laws 2017, LB644, § 21.

71-6051 Repealed. Laws 2017, LB644, § 21.

71-6052 Repealed. Laws 2017, LB644, § 21.

ARTICLE 64

BUILDING CONSTRUCTION

Section

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

71-6405. State building code; compliance required.

71-6406. County, city, or village; building code; adopt; amend; enforce; copy; fees.

71-6403 State building code; adopted; amendments.

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

(a) The International Building Code (IBC), chapter 13 of the 2009 edition, and all but such chapter of the 2012 edition, published by the International

Code Council, except that (i) section 305.2.3 applies to a facility having twelve or fewer children and (ii) section 310.5.1 applies to a care facility for twelve or fewer persons;

(b) The International Residential Code (IRC), chapter 11 of the 2009 edition, and all but such chapter of the 2012 edition except section R313, published by the International Code Council; and

(c) The International Existing Building Code, 2012 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; Laws 2015, LB540, § 1; Laws 2017, LB590, § 1.

Effective date April 28, 2017.

71-6405 State building code; compliance required.

(1) 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.

(2) 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 (a) adopt, promulgate, or enforce any rule or regulation in conflict with the state building code or (b) adopt or enforce a building or construction code other than the state building code.

(3) 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.

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; Laws 2012, LB1001, § 1; Laws 2017, LB590, § 2.

Effective date April 28, 2017.

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 County, city, or village; building code; adopt; amend; enforce; copy; fees.

(1) Any county, city, or village may enact, administer, or enforce a local building or construction code if or as long as such county, city, or village:

(a) Adopts the state building code; or

(b) Adopts a building or construction code that conforms generally with the state building code.

(2) A building or construction code shall be deemed to conform generally with the state building code if it:

(a) Adopts a special or differing building standard by amending, modifying, or deleting any portion of the state building code in order to reduce unnecessary costs of construction, increase safety, durability, or efficiency, establish best building or construction practices within the county, city, or village, or address special local conditions within the county, city, or village;

(b) Adopts any supplement, new edition, appendix, or component or combination of components of the state building code;

(c) Adopts section 305 of the 2012 edition of the International Building Code without the exceptions described in subdivision (1)(a) of section 71-6403, chapter 13 of the 2012 edition of the International Building Code, chapter 11 of the 2012 edition of the International Residential Code, or section R313 of the 2012 edition of the International Residential Code;

(d) Adopts a plumbing code, an electrical code, a fire prevention code, or any other standard code as authorized under section 14-419, 15-905, 18-132, or 23-172; or

(e) Adopts a lighting and thermal efficiency ordinance, resolution, code, or standard as authorized under section 81-1618.

(3) A local building or construction code which includes a prior edition of any component or combination of components of the state building code shall not be deemed to conform generally with the state building code.

(4) A county, city, or village shall not adopt or enforce a local building or construction code other than as provided by this section.

(5) A county, city, or village which adopts or enforces a local building or construction code under this section shall regularly update its code. For purposes of this section, a code shall be deemed to be regularly updated if the most recently enacted state building code or a code that conforms generally with the state building code is adopted by the county, city, or village within two years after an update to the state building code.

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

(7) A county, city, or village which adopts one or more standard codes as part of its local building or construction code under this section shall keep at least one copy of each adopted code, or portion thereof, for use and examination by the public in the office of the clerk of the county, city, or village prior to the adoption of the code and as long as such code is in effect.

(8) Notwithstanding the provisions of the Building Construction Act, a public building of any political subdivision shall be built in accordance with the applicable local building or construction code. Fees, if any, for services which monitor a builder's application of codes shall be negotiable between the

political subdivisions involved, but such fees shall not exceed the actual expenses incurred by the county, city, or village doing the monitoring.

Source: Laws 1987, LB 227, § 6; Laws 1993, LB 319, § 4; Laws 2010, LB799, § 4; Laws 2011, LB546, § 3; Laws 2015, LB540, § 2; Laws 2016, LB704, § 214; Laws 2017, LB590, § 3.
Effective date April 28, 2017.

ARTICLE 66

HOME HEALTH AIDE SERVICES

Section

71-6603. Home health aide; requirements.

71-6603 Home health aide; requirements.

On and after September 6, 1991, no person shall act as a home health aide unless such person:

- (1) Is at least eighteen years of age;
- (2) Is of good moral character;
- (3) Has not been convicted of a crime under the laws of this state or another jurisdiction, the penalty for which is imprisonment for a period of more than one year and which is rationally related to the person's fitness or capacity to act as a home health aide;
- (4) Is able to speak and understand the English language or the language of the home health agency patient and the home health agency staff member who acts as the home health aide's supervisor;
- (5) Meets one of the following qualifications:
 - (a) Has successfully completed a home health aide training course which meets the standards described in section 71-6608.01;
 - (b) Is a graduate of a school of nursing;
 - (c) Has been employed by a licensed home health agency as a home health aide II prior to September 6, 1991;
 - (d) Has successfully completed a course in a school of nursing which included practical clinical experience in fundamental nursing skills and has completed a competency evaluation as described in section 71-6608.02;
 - (e) Has successfully completed a basic course of training approved by the department for nurse aides as required by section 71-6039 and has completed a competency evaluation as described in section 71-6608.02;
 - (f) Has been employed by a licensed home health agency as a home health aide I prior to September 6, 1991, and has completed a competency evaluation as described in section 71-6608.02; or
 - (g) Has met the qualifications equal to one of those contained in subdivisions (a) through (f) of this subdivision in another state or territory of the United States; and
- (6) Has provided to the employing licensed home health agency proof of meeting the requirements of this section.

Source: Laws 1988, LB 1100, § 118; Laws 1991, LB 703, § 55; Laws 2002, LB 1062, § 63; Laws 2017, LB417, § 16.
Effective date August 24, 2017.

ARTICLE 70**BREAST AND CERVICAL CANCER AND MAMMOGRAPHY**

Section

71-7001. Mammography; health care facilities; notice; powers and duties.

71-7001 Mammography; health care facilities; notice; powers and duties.

(1) All health care facilities that perform mammography shall include in the summary of the mammography report to be provided to a patient information that identifies the patient's individual breast tissue classification based on the Breast Imaging Reporting and Data System established by the American College of Radiology. If a facility determines that a patient has heterogeneously dense or extremely dense breast tissue, the summary of the mammography report shall also include a notice substantially similar to the following:

Your mammogram indicates that you have dense breast tissue. Dense breast tissue is a normal finding that is present in about forty percent of women. Dense breast tissue can make it more difficult to detect cancer on a mammogram and may be associated with a slightly increased risk for breast cancer. This information is provided to raise your awareness of the impact of breast density on cancer detection and to encourage you to discuss this issue, as well as other breast cancer risk factors, with your health care provider as you decide together which screening options may be right for you.

(2) A facility that performs mammography may update the language in the notice to reflect advances in science and technology, as long as it continues to notify patients about the frequency of dense breast tissue and its effect on the accuracy of mammograms and encourage patients to discuss the issue with their health care provider.

(3) This section does not create a duty of care or other legal obligation beyond the duty to provide notice as set forth in this section.

Source: Laws 2017, LB195, § 1.

Effective date August 24, 2017.

ARTICLE 74**WHOLESALE DRUG DISTRIBUTOR LICENSING**

Section

71-7450. Fees.

71-7450 Fees.

(1) Licensure activities under the Wholesale Drug Distributor Licensing Act shall be funded by license fees. An applicant for an initial or renewal license under the act shall pay a license fee as provided in this section.

(2) License fees shall include (a) a base fee of fifty dollars and (b) an additional fee of not more than five hundred dollars based on variable costs to the department of inspections and of receiving and investigating complaints, other similar direct and indirect costs, and other relevant factors as determined by the department.

(3) If the licensure application is denied, the license fee shall be returned to the applicant, except that the department may retain up to twenty-five dollars

as an administrative fee and may retain the entire license fee if an inspection has been completed prior to such denial.

(4) The department shall also collect a fee for reinstatement of a license that has lapsed or has been suspended or revoked. The department shall collect a fee of ten dollars for a duplicate original license.

(5) The department shall remit all license fees collected under this section to the State Treasurer for credit to the Health and Human Services Cash Fund. License fees collected under this section shall only be used for activities related to the licensure of wholesale drug distributors, except for the transfer of funds provided for under subsection (6) of this section.

(6) The State Treasurer shall transfer three million seven hundred thousand dollars from the Health and Human Services Cash Fund to the General Fund on or before June 30, 2018, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services. It is the intent of the Legislature that the transfer to the General Fund in this subsection be from funds credited to the Wholesale Drug Distributor Licensing subfund of the Health and Human Services Cash Fund.

Source: Laws 2006, LB 994, § 24; Laws 2007, LB296, § 673; Laws 2017, LB331, § 37.

Effective date May 16, 2017.

ARTICLE 76

HEALTH CARE

(b) NEBRASKA HEALTH CARE FUNDING ACT

Section

71-7611. Nebraska Health Care Cash Fund; created; use; investment; report.

(b) NEBRASKA HEALTH CARE FUNDING ACT

71-7611 Nebraska Health Care Cash Fund; created; use; investment; report.

(1) The Nebraska Health Care Cash Fund is created. The State Treasurer shall transfer (a) sixty million three hundred thousand dollars on or before July 15, 2014, (b) sixty million three hundred fifty thousand dollars on or before July 15, 2015, (c) sixty million three hundred fifty thousand dollars on or before July 15, 2016, (d) sixty million seven hundred thousand dollars on or before July 15, 2017, (e) sixty million seven hundred thousand dollars on or before July 15, 2018, and (f) sixty million four hundred fifty thousand dollars on or before every July 15 thereafter from the Nebraska Medicaid Intergovernmental Trust Fund and the Nebraska Tobacco Settlement Trust Fund to the Nebraska Health Care Cash Fund, except that such amount shall be reduced by the amount of the unobligated balance in the Nebraska Health Care Cash Fund at the time the transfer is made. The state investment officer shall advise the State Treasurer on the amounts to be transferred first from the Nebraska Medicaid Intergovernmental Trust Fund until the fund balance is depleted and from the Nebraska Tobacco Settlement Trust Fund thereafter in order to sustain such transfers in perpetuity. The state investment officer shall report electronically to the Legislature on or before October 1 of every even-numbered year on the sustainability of such transfers. The Nebraska Health Care Cash Fund shall also include money received pursuant to section 77-2602. Except as otherwise provided by

law, no more than the amounts specified in this subsection may be appropriated or transferred from the Nebraska Health Care Cash Fund in any fiscal year.

The State Treasurer shall transfer ten million dollars from the Nebraska Medicaid Intergovernmental Trust Fund to the General Fund on June 28, 2018, and June 28, 2019.

It is the intent of the Legislature that no additional programs are funded through the Nebraska Health Care Cash Fund until funding for all programs with an appropriation from the fund during FY2012-13 are restored to their FY2012-13 levels.

(2) Any money in the Nebraska Health Care Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(3) The University of Nebraska and postsecondary educational institutions having colleges of medicine in Nebraska and their affiliated research hospitals in Nebraska, as a condition of receiving any funds appropriated or transferred from the Nebraska Health Care Cash Fund, shall not discriminate against any person on the basis of sexual orientation.

(4) The State Treasurer shall transfer fifty thousand dollars on or before July 15, 2016, from the Nebraska Health Care Cash Fund to the Board of Regents of the University of Nebraska for the University of Nebraska Medical Center. It is the intent of the Legislature that these funds be used by the College of Public Health for workforce training.

Source: Laws 1998, LB 1070, § 7; Laws 2000, LB 1427, § 9; Laws 2001, LB 692, § 18; Laws 2003, LB 412, § 8; Laws 2004, LB 1091, § 7; Laws 2005, LB 426, § 12; Laws 2007, LB322, § 19; Laws 2007, LB482, § 6; Laws 2008, LB480, § 2; Laws 2008, LB830, § 9; Laws 2008, LB961, § 5; Laws 2009, LB27, § 7; Laws 2009, LB316, § 19; Laws 2012, LB782, § 125; Laws 2012, LB969, § 9; Laws 2013, LB199, § 29; Laws 2014, LB906, § 18; Laws 2015, LB390, § 12; Laws 2015, LB661, § 32; Laws 2017, LB331, § 38. Effective date May 16, 2017.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

ARTICLE 85

TELEHEALTH SERVICES

(b) CHILDREN'S BEHAVIORAL HEALTH

Section

71-8509. Telehealth services for children's behavioral health; rules and regulations; terms, defined.

(b) CHILDREN'S BEHAVIORAL HEALTH

71-8509 Telehealth services for children's behavioral health; rules and regulations; terms, defined.

(1) The Department of Health and Human Services shall adopt and promulgate rules and regulations providing for telehealth services for children's

behavioral health. Such rules and regulations relate specifically to children's behavioral health and are in addition to the Nebraska Telehealth Act.

For purposes of sections 71-8509 to 71-8512, child means a person under nineteen years of age.

(2) The rules and regulations required pursuant to subsection (1) of this section shall include, but not be limited to:

(a) An appropriately trained staff member or employee familiar with the child's treatment plan or familiar with the child shall be immediately available in person to the child receiving a telehealth behavioral health service in order to attend to any urgent situation or emergency that may occur during provision of such service. This requirement may be waived by the child's parent or legal guardian; and

(b) In cases in which there is a threat that the child may harm himself or herself or others, before an initial telehealth service the health care practitioner shall work with the child and his or her parent or guardian to develop a safety plan. Such plan shall document actions the child, the health care practitioner, and the parent or guardian will take in the event of an emergency or urgent situation occurring during or after the telehealth session. Such plan may include having a staff member or employee familiar with the child's treatment plan immediately available in person to the child, if such measures are deemed necessary by the team developing the safety plan.

Source: Laws 2013, LB556, § 1; Laws 2017, LB92, § 2.
Effective date August 24, 2017.

Cross References

Nebraska Telehealth Act, see section 71-8501.

ARTICLE 92

HEALTH CARE TRANSPARENCY ACT

Section

- 71-9201. Repealed. Laws 2017, LB644, § 21.
- 71-9202. Repealed. Laws 2017, LB644, § 21.
- 71-9203. Repealed. Laws 2017, LB644, § 21.
- 71-9204. Repealed. Laws 2017, LB644, § 21.

71-9201 Repealed. Laws 2017, LB644, § 21.

71-9202 Repealed. Laws 2017, LB644, § 21.

71-9203 Repealed. Laws 2017, LB644, § 21.

71-9204 Repealed. Laws 2017, LB644, § 21.

CHAPTER 72

PUBLIC LANDS, BUILDINGS, AND FUNDS

Article.

1. Lands Owned by the State. 72-108.
2. School Lands and Funds. 72-221, 72-221.01.
8. Public Buildings. 72-817.
10. Building Funds. 72-1001.
12. Investment of State Funds.
 - (a) Nebraska State Funds Investment Act. 72-1249.
 - (b) Nebraska Capital Expansion Act. 72-1263.
22. Nebraska State Capitol Preservation and Restoration Act. 72-2211.

ARTICLE 1

LANDS OWNED BY THE STATE

Section

72-108. Conveyances of real estate; custody after recording; exception.

72-108 Conveyances of real estate; custody after recording; exception.

All deeds or other instruments conveying any interest in lands to the State of Nebraska, or to any board, department, or commission thereof, shall be carefully deposited in the office of the Board of Educational Lands and Funds for safekeeping after they have been duly recorded in the office of the register of deeds in the county where the real estate is located. This section shall not apply to deeds or other instruments conveying any interest in lands to the Department of Transportation or the Game and Parks Commission.

Source: Laws 1957, c. 301, § 1, p. 1105; Laws 1965, c. 433, § 1, p. 1381; Laws 2017, LB339, § 246.
Operative date July 1, 2017.

Cross References

Records of state lands, see section 84-401.

ARTICLE 2

SCHOOL LANDS AND FUNDS

Section

72-221. School lands; acquisition for public highway.
72-221.01. Established public roads; dedicated to county or Department of Transportation; value; payment.

72-221 School lands; acquisition for public highway.

The Department of Transportation and the county board of any county may acquire land necessary to establish a public highway over or across any educational lands.

Source: Laws 1907, c. 134, § 1, p. 437; Laws 1913, c. 40, § 1, p. 135; R.S.1913, § 5855; Laws 1915, c. 103, § 1, p. 247; Laws 1921, c.

80, § 2, p. 290; C.S.1922, § 5191; Laws 1923, c. 61, § 1, p. 185; Laws 1925, c. 135, § 1, p. 354; Laws 1929, c. 188, § 1, p. 652; C.S.1929, § 72-211; Laws 1931, c. 118, § 1, p. 345; Laws 1935, c. 164, § 1, p. 611; Laws 1941, c. 145, § 1, p. 576; C.S.Supp.,1941, § 72-211; Laws 1943, c. 160, § 1, p. 574; R.S.1943, § 72-221; Laws 2017, LB339, § 247.
Operative date July 1, 2017.

72-221.01 Established public roads; dedicated to county or Department of Transportation; value; payment.

All established public roads that have been established for a period of ten years or more on the section line along any side or part of the side of a section owned by the Board of Educational Lands and Funds, and on any part of a section that has an established meandering road not on the section line and under the jurisdiction of the Board of Educational Lands and Funds, shall be dedicated to the county for public use in the case of county roads, or to the State of Nebraska, Department of Transportation, for public use. The public road right-of-way so dedicated shall be no less than thirty-three feet from the section line, nor less than sixty-six feet through that part of the section where the established road meanders through the described section. Upon receipt of payment from any county or the department of the fair and reasonable market value of the right-of-way at the date the road was established, the Board of Educational Lands and Funds shall convey to the county or the department title to such road right-of-way. The instruments of conveyance shall be recorded in the office of the register of deeds.

Source: Laws 1973, LB 36, § 1; Laws 2017, LB339, § 248.
Operative date July 1, 2017.

ARTICLE 8

PUBLIC BUILDINGS

Section

72-817. Applicability of sections.

72-817 Applicability of sections.

Sections 72-811 to 72-818 shall apply to every state agency except the University of Nebraska, the Nebraska state colleges, the Division of Aeronautics of the Department of Transportation, and the Board of Educational Lands and Funds, except that any such agency may elect to include under such sections any building or land for which it has responsibility. Such sections shall not apply to interests in real property held by the Department of Transportation.

Source: Laws 1988, LB 1143, § 7; Laws 1990, LB 830, § 7; Laws 1995, LB 567, § 6; Laws 2017, LB339, § 249.
Operative date July 1, 2017.

ARTICLE 10

BUILDING FUNDS

Section

72-1001. Nebraska Capital Construction Fund; created; use; investment.

72-1001 Nebraska Capital Construction Fund; created; use; investment.

The Nebraska Capital Construction Fund is created. The fund shall consist of revenue and transfers credited to the fund as authorized by law. Money shall be appropriated from the fund to state agencies for making payments on projects as determined by the Legislature, including, but not limited to, purchases of land, structural improvements to land, acquisition of buildings, construction of buildings, including architectural and engineering costs, replacement of or major repairs to structural improvements to land or buildings, additions to existing structures, remodeling of buildings, and acquisition of equipment and furnishings of new or remodeled buildings. The fund shall be administered by the State Treasurer as a multiple-agency-use fund and appropriated to state agencies as determined by the Legislature. Transfers may be made from the fund to the Capitol Restoration Cash Fund at the direction of the Legislature. Any money in the Nebraska Capital Construction Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 2005, LB 426, § 1; Laws 2009, First Spec. Sess., LB2, § 3; Laws 2017, LB331, § 39.
Effective date May 16, 2017.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

ARTICLE 12

INVESTMENT OF STATE FUNDS

(a) NEBRASKA STATE FUNDS INVESTMENT ACT

Section

72-1249. Expenses; costs; how paid.

(b) NEBRASKA CAPITAL EXPANSION ACT

72-1263. State investment officer; time deposit open account; conditions.

(a) NEBRASKA STATE FUNDS INVESTMENT ACT

72-1249 Expenses; costs; how paid.

(1) Any expenses with respect to the purchase, sale, or exchange of any security shall be charged to the fund or funds on behalf of which such purchase, sale, or exchange was made. All other expenses of the state investment officer shall be paid out of appropriations for the office of the state investment officer.

(2) Beginning on March 31, 2016, any expenses with respect to the transfer to and assumption by the council and the state investment officer of the duty and authority to invest the assets of a retirement system provided for under the Class V School Employees Retirement Act shall be charged to the Class V School Employees Retirement Fund established in section 79-9,115. Such expenses shall be paid without the approval of the board of education as defined in section 79-978 or the board of trustees provided for in section 79-980.

(3) Management, custodial, and service costs which are a direct expense of investing the assets of a retirement system provided for under the Class V School Employees Retirement Act may be paid from the income of such assets

when it is not prohibited by statute or the Constitution of Nebraska. For purposes of this section, management, custodial, and service costs include investment counsel fees for managing assets, real estate mortgage loan service fees, real estate management fees, and custody fees for fund securities. All such fees shall be approved by the council and the state investment officer.

Source: Laws 1969, c. 584, § 13, p. 2354; Laws 1972, LB 1279, § 1; Laws 1977, LB 364, § 1; Laws 2016, LB447, § 6; Laws 2017, LB29, § 1.

Effective date August 24, 2017.

Cross References

Class V School Employees Retirement Act, see section 79-978.01.

(b) NEBRASKA CAPITAL EXPANSION ACT

72-1263 State investment officer; time deposit open account; conditions.

Except as provided in section 72-1264, the state investment officer shall, out of funds available for investment, initially cause to be offered to all banks, capital stock financial institutions, and qualifying mutual financial institutions in this state a time deposit open account in the amount of one million dollars, except that the minimum amount that any bank, capital stock financial institution, or qualifying mutual financial institution may accept is the amount of one hundred thousand dollars. Such deposit shall be available at any investment date to such banks, capital stock financial institutions, or qualifying mutual financial institutions as are willing to meet the rate and other requirements set forth in the Nebraska Capital Expansion Act and make application therefor. No deposit shall be made when doing so would violate a fiduciary obligation of the state or section 72-1268.07. To the extent that the total amount of funds initially offered to all banks, capital stock financial institutions, and qualifying mutual financial institutions is not accepted by such banks, capital stock financial institutions, and qualifying mutual financial institutions, the balance of such funds shall be immediately reoffered to any banks, capital stock financial institutions, and qualifying mutual financial institutions desiring additional funds in an amount not to exceed each bank's, capital stock financial institution's, or qualifying mutual financial institution's pro rata share of the remaining funds, or fifteen million dollars for each bank, capital stock financial institution, or qualifying mutual financial institution, whichever is less. The reoffered funds shall be made available to such banks, capital stock financial institutions, and qualifying mutual financial institutions as are willing to meet the rate and other requirements set forth in the Nebraska Capital Expansion Act. All funds not investable under this section shall be invested as provided by section 72-1246. No one bank, capital stock financial institution, or qualifying mutual financial institution may receive for deposit a sum of more than sixteen million dollars.

Source: Laws 1978, LB 258, § 3; Laws 1985, LB 614, § 2; Laws 1990, LB 1146, § 3; Laws 2000, LB 932, § 35; Laws 2002, LB 957, § 26; Laws 2003, LB 175, § 4; Laws 2014, LB759, § 20; Laws 2017, LB94, § 1.

Effective date August 24, 2017.

ARTICLE 22

NEBRASKA STATE CAPITOL PRESERVATION AND RESTORATION ACT

Section

72-2211. Capitol Restoration Cash Fund; created; use; investment.

72-2211 Capitol Restoration Cash Fund; created; use; investment.

The Capitol Restoration Cash Fund is created. The administrator shall administer the fund, which shall consist of money received from the sale of material, rental revenue, private donations, public donations, and transfers from the Nebraska Capital Construction Fund as directed by the Legislature. The Capitol Restoration Cash Fund shall be used to finance projects to restore the State Capitol and capitol grounds to their original condition, to purchase and conserve items to be added to the Nebraska Capitol Collections housed in the State Capitol, to produce promotional material concerning the State Capitol, its grounds, and the Nebraska State Capitol Environs District, and to pay the expenditures for a project manager for the Capitol Heating, Ventilation, and Air Conditioning Systems Replacement Project until such time as the project is completed, except that transfers may be made from the fund to the General Fund at the direction of the Legislature. Such expenditures shall be prescribed by the administrator and approved by the commission. Any money in the Capitol Restoration Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 2004, LB 439, § 11; Laws 2009, First Spec. Sess., LB3, § 50; Laws 2017, LB331, § 40.
Effective date May 16, 2017.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

CHAPTER 73

PUBLIC LETTINGS AND CONTRACTS

Article.

5. State Contracts for Services. 73-506, 73-507.

ARTICLE 5

STATE CONTRACTS FOR SERVICES

Section

73-506. State agency contracts for services; requirements.

73-507. Exceptions.

73-506 State agency contracts for services; requirements.

State agency contracts for services shall be subject to the following requirements:

(1) Payments shall be made when contractual deliverables are received or in accordance with specific contractual terms and conditions;

(2) State agencies shall not enter into contracts for services with an unspecified or unlimited duration, and no contract for services shall be amended to extend the duration of the contract for a period of more than fifty percent of the initial contract term. Following the adoption of any amendment to extend the contract for a period of fifty percent or less of the initial contract term, no further extensions of the original contract shall be permitted. This subdivision does not prohibit the exercise of any renewal option expressly provided in the original contract;

(3) State agencies shall not structure contracts for services to avoid any of the requirements of sections 73-501 to 73-510; and

(4) State agencies shall not enter into contracts for services in excess of fifteen million dollars unless the state agency has complied with section 73-510.

Source: Laws 2003, LB 626, § 6; Laws 2012, LB858, § 9; Laws 2017, LB151, § 5.

Effective date April 28, 2017.

73-507 Exceptions.

(1) Subject to review by the Director of Administrative Services, the division shall provide procedures to grant limited exceptions from sections 73-504, 73-508, and 73-509 for:

(a) Sole source contracts, emergency contracts, and contracts for services when the price has been established by the federal General Services Administration or competitively bid by another state or group of states, a group of states and any political subdivision of any other state, or a cooperative purchasing organization on behalf of a group of states; and

(b) Other circumstances or specific contracts when any of the requirements of sections 73-504, 73-508, and 73-509 are not appropriate for or are not compatible with the circumstances or contract. The division shall provide a

written rationale which shall be kept on file when granting an exception under this subdivision.

(2) The following types of contracts for services are not subject to sections 73-504, 73-508, 73-509, and 73-510:

(a) Contracts for services subject to the Nebraska Consultants' Competitive Negotiation Act;

(b) Contracts for services subject to federal law, regulation, or policy or state statute, under which a state agency is required to use a different selection process or to contract with an identified contractor or type of contractor;

(c) Contracts for professional legal services and services of expert witnesses, hearing officers, or administrative law judges retained by state agencies for administrative or court proceedings;

(d) Contracts involving state or federal financial assistance passed through by a state agency to a political subdivision;

(e) Contracts with a value of fifteen million dollars or less with direct providers of medical, behavioral, or developmental health services, child care, or child welfare services to an individual;

(f) Agreements for services to be performed for a state agency by another state or local government agency or contracts made by a state agency with a local government agency for the direct provision of services to the public;

(g) Agreements for services between a state agency and the University of Nebraska, the Nebraska state colleges, the courts, the Legislature, or other officers or state agencies established by the Constitution of Nebraska;

(h) Department of Insurance contracts for financial or actuarial examination, for rehabilitation, conservation, reorganization, or liquidation of licensees, and for professional services related to residual pools or excess funds under the agency's control;

(i) Department of Transportation contracts for all road and bridge projects;

(j) Nebraska Investment Council contracts; and

(k) Contracts under section 57-1503.

Source: Laws 2003, LB 626, § 7; Laws 2011, First Spec. Sess., LB4, § 5; Laws 2012, LB858, § 10; Laws 2014, LB974, § 1; Laws 2017, LB339, § 250.

Operative date July 1, 2017.

Cross References

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

CHAPTER 74 RAILROADS

Article.

13. Railroad Safety.

(b) Railroad Crossings. 74-1310 to 74-1319.

(d) Nebraska Highway-Rail Grade Crossing Safety and Consolidation Act. 74-1331 to 74-1343.

ARTICLE 13

RAILROAD SAFETY

(b) RAILROAD CROSSINGS

Section

74-1310. Department, defined.

74-1314. Political subdivision; determine need for railroad crossing safety measure; notice to railroad; priority.

74-1318. Grade Crossing Protection Fund; department; administer; procedure; division of cost; responsibility for protection devices; powers and duties.

74-1319. Abandoned railroad line; removal of grade crossing protection devices.

(d) NEBRASKA HIGHWAY-RAIL GRADE CROSSING SAFETY AND CONSOLIDATION ACT

74-1331. Bridges; construction; dimensions; maintenance; violation; penalty.

74-1332. Crossings; jurisdiction of department.

74-1333. Crossings; public; maintenance.

74-1334. Crossings; public; safety regulations; gates and alarms; closure; when.

74-1335. Crossings; private; railroad; duties.

74-1336. Crossings; complaints; hearing; order; rules and regulations.

74-1338. Crossings; public; failure of county board and railroad to agree; power of department.

74-1340. Crossings; department orders; violation; penalty.

74-1341. Grade crossing safety; responsibility.

74-1342. Comprehensive public safety program; department; duties.

74-1343. Assessment process; recommendations; department; duties.

(b) RAILROAD CROSSINGS

74-1310 Department, defined.

For purposes of sections 74-1310 to 74-1322, unless the context otherwise requires, department shall mean the Department of Transportation.

Source: Laws 1979, LB 42, § 1; Laws 1994, LB 414, § 25; Laws 2017, LB339, § 251.

Operative date July 1, 2017.

74-1314 Political subdivision; determine need for railroad crossing safety measure; notice to railroad; priority.

When any political subdivision of this state determines that public safety will be improved by eliminating a crossing, by the installation, substantial modification, or improvement of automatic railroad grade crossing protection, or by construction of an overpass or underpass where a street, road, or highway

intersects with a line of the railroad company within its jurisdiction, and demand is made upon the railroad company concerned, the political subdivision shall inform the department of such fact.

Upon receiving such notice, or upon its own determination, the department shall forthwith examine the crossing concerned, in conjunction with representatives of the political subdivision, to determine whether the position of such crossing on the priority list established under section 74-1312 should be adjusted.

Source: Laws 1979, LB 42, § 5; Laws 2017, LB339, § 252.
Operative date July 1, 2017.

74-1318 Grade Crossing Protection Fund; department; administer; procedure; division of cost; responsibility for protection devices; powers and duties.

The department is hereby empowered to administer the funds deposited in the Grade Crossing Protection Fund as follows:

(1) If the department and the political subdivision with jurisdiction over the crossing agree that a grade crossing should be eliminated by closing the street, road, or highway, the political subdivision making such closing shall receive five thousand dollars from the fund and five thousand dollars from the railroad involved and the actual cost of closure not to exceed twelve thousand dollars from the fund. If pursuant to section 74-1305 it is agreed by the department and the political subdivision that such crossing should be eliminated by the removal of such rail line, the political subdivision paying for such removal, if any, shall receive two thousand dollars or the actual cost thereof not to exceed twelve thousand dollars from the fund;

(2) Except as otherwise provided in section 74-1315, in order to facilitate and protect the interest of the public as a whole and to compensate for the statewide use of such crossings by the public, the department shall pay ninety-five percent of the cost of overpasses, underpasses, and automatic railroad grade crossing protection measures or devices from the fund for all such projects in which an agreement among the department, the railroad, and the political subdivision is executed on or after May 24, 1979, and the balance of the cost shall be borne by the political subdivision, except that in any county in which a railroad transportation safety district has been formed, such balance shall be borne entirely by the political subdivision. For all such projects in which an agreement among the department, the railroad, and the political subdivision was executed prior to May 24, 1979, the costs shall continue to be borne in the same manner as they were prior to such date;

(3) It shall be the sole responsibility of the railroad company involved to maintain all automatic railroad grade crossing protection devices existing in this state;

(4) The department shall allocate the amount to be borne by the fund for the cost of construction, installation, or substantial modification or improvement of the automatic devices for the protection of the railroad grade crossing concerned under this section and section 74-1317; and

(5) The department shall enter into and enforce agreements involving the fund and the supervision of the construction, installation, substantial modification or improvement, and maintenance of such overpasses, underpasses, and automatic safety devices for which any part of the cost is borne from the fund

and the auditing and collection of the bills covering the cost thereof. The department is further authorized to enter into such contracts with any railroad companies and political subdivisions affected which are necessary to carry out this section and section 74-1317.

Source: Laws 1961, c. 359, § 3, p. 1127; R.S.Supp.,1961, § 75-219.01; Laws 1963, c. 241, § 2, p. 732; Laws 1965, c. 220, § 1, p. 641; Laws 1972, LB 866, § 1; Laws 1973, LB 144, § 2; R.S.Supp.,1973, § 39-7,137; Laws 1975, LB 249, § 2; R.S.Supp.,1979, § 39-6,195; Laws 1979, LB 42, § 9; Laws 1993, LB 477, § 1; Laws 2017, LB339, § 253.
Operative date July 1, 2017.

74-1319 Abandoned railroad line; removal of grade crossing protection devices.

Whenever a railroad line is abandoned, the department may remove grade crossing protection devices therefrom to protect the state's investment therein.

Source: Laws 1979, LB 42, § 10; Laws 2017, LB339, § 254.
Operative date July 1, 2017.

(d) NEBRASKA HIGHWAY-RAIL GRADE CROSSING
SAFETY AND CONSOLIDATION ACT

74-1331 Bridges; construction; dimensions; maintenance; violation; penalty.

Any person who operates a railroad in the State of Nebraska shall construct all bridges on its railway so that each bridge over a running stream in this state has an opening below high water line the area of which is sufficient to allow the free and unobstructed passage of the water of such running stream at extreme high water state. If in the case of any given bridge satisfactory proof is made to the Department of Transportation that the dimensions prescribed in this section are greater than are necessary to permit the unimpeded passage of the water under such bridge at high water, the department may authorize construction of the bridge with dimensions less than those prescribed in this section. Each railroad shall maintain and keep in good repair all bridges and abutments which the railroad constructs to enable its tracks to pass over or under any turnpike, road, canal, watercourse, or other way. Any operator of a railroad in this state who violates any of the provisions of this section or who permits any such violation on the part of any employee shall be guilty of a Class III misdemeanor.

Source: Laws 1963, c. 425, art. IV, § 27, p. 1408; Laws 1994, LB 414, § 93; R.S.1943, (1996), § 75-427; Laws 1997, LB 255, § 3; Laws 2017, LB339, § 255.
Operative date July 1, 2017.

74-1332 Crossings; jurisdiction of department.

The Department of Transportation shall have jurisdiction over all crossings outside of incorporated villages, towns, and cities, both public and private, across, over, or under all railroads in the state, except as provided in sections 74-1338 to 74-1340, and shall adopt and promulgate such rules and regulations for the construction, repair, and maintenance of the crossings as the depart-

ment deems adequate and sufficient for the protection and necessity of the public.

Source: Laws 1963, c. 425, art. IV, § 10, p. 1401; R.S.1943, (1996), § 75-410; Laws 1997, LB 255, § 4; Laws 2017, LB339, § 256.
Operative date July 1, 2017.

74-1333 Crossings; public; maintenance.

The owner of any railroad tracks which are crossed by a public road shall make and keep in good repair good and sufficient crossings for such road over its tracks, including all the grading, bridges, ditches, and culverts that may be necessary within its right-of-way. Such crossings shall be not less than twenty feet wide and shall be solidly constructed with no openings or filled spaces except such as are necessary for the track. The railroad crossings shall be made of durable material equal to the height of the railroad track. The Department of Transportation may, upon proper investigation and hearing, impose additional reasonable requirements as the circumstances may warrant.

Source: Laws 1963, c. 425, art. IV, § 11, p. 1402; Laws 1994, LB 414, § 86; R.S.1943, (1996), § 75-411; Laws 1997, LB 255, § 5; Laws 2017, LB339, § 257.
Operative date July 1, 2017.

74-1334 Crossings; public; safety regulations; gates and alarms; closure; when.

(1) Wherever any railroad track crosses any public road in a cut, on a curve or side hill, in timber lands, near buildings, or near any obstruction of view from the road, the Department of Transportation shall direct such precautions to be taken as it deems necessary for the safety of the traveling public. Each railroad carrier shall also provide and maintain such gates, crossings, signs, signals, alarm bells, and warning personnel as the department directs. The department may direct the placement of special signs where the physical conditions of any crossing warrant such action.

(2) Except as provided in subsection (3) of this section, any public railroad crossing without gates, signals, alarm bells, or warning personnel located within one-quarter mile from a public railroad crossing with gates, signals, alarm bells, or warning personnel shall be closed unless it is the only railroad crossing which provides access to property.

(3) An interested party may object to an action taken under subsection (2) of this section only if a written request is submitted to the department by a professional engineer licensed to practice in the State of Nebraska. The engineer shall state in writing that the engineer is familiar with the requirements in this section and with all relevant aspects of the railroad crossing. The engineer shall also provide a detailed explanation of why subsection (2) of this section should not apply to the railroad crossing in question and a statement that the railroad crossing corridor has been examined by the engineer and the engineer believes that the railroad crossing will be safe as designed. Such a written request shall exempt a railroad crossing from being closed under subsection (2) of this section.

Source: Laws 1963, c. 425, art. IV, § 12, p. 1402; Laws 1994, LB 414, § 87; R.S.1943, (1996), § 75-412; Laws 1997, LB 255, § 6; Laws

2006, LB 79, § 1; Laws 2008, LB837, § 1; Laws 2017, LB339, § 258.

Operative date July 1, 2017.

74-1335 Crossings; private; railroad; duties.

Whenever any person owns land on both sides of the right-of-way of any railroad, such railroad shall provide and keep in repair at least one adequate means for such landowner to cross the right-of-way. Any interested landowner with land on both sides of the right-of-way of any railroad may file written complaint with the Department of Transportation against any such railroad that the crossing is not adequate or is unsafe and dangerous to the life and property of those who use it, and the department thereupon shall make such investigation, hold such hearing, and issue such orders as it deems necessary, proper, and adequate. If circumstances warrant, the department may require overhead, underground, or grade crossings and wing fences at underground crossings or may require existing crossings to be relocated so as to be safe to those who use them, but when a special crossing involves an expenditure of more than one thousand five hundred dollars, the landowner shall bear one-half the expenses in excess of one thousand five hundred dollars.

Source: Laws 1963, c. 425, art. IV, § 13, p. 1402; Laws 1994, LB 414, § 88; R.S.1943, (1996), § 75-413; Laws 1997, LB 255, § 7; Laws 2017, LB339, § 259.

Operative date July 1, 2017.

74-1336 Crossings; complaints; hearing; order; rules and regulations.

(1) Whenever a complaint is filed in writing with the Department of Transportation by the duly authorized officers of any incorporated village or city or by the owner or operator of any railroad track, relative to any crossing within the affected village or city, praying for relief from the matters complained of, the department shall hold a hearing and shall make such order as the facts warrant. The findings of the department, subject to the right of appeal, shall be binding on the parties to the suit.

(2) The department shall adopt and promulgate rules and regulations for the construction, repair, and maintenance of all crossings, both public and private, across, over, and under all railroads within the corporate limits of any incorporated village or city. The rules and regulations shall be substantially the same as the rules and regulations under section 74-1332.

Source: Laws 1963, c. 425, art. IV, § 14, p. 1403; Laws 1994, LB 414, § 89; R.S.1943, (1996), § 75-414; Laws 1997, LB 255, § 8; Laws 2003, LB 259, § 1; Laws 2017, LB339, § 260.

Operative date July 1, 2017.

74-1338 Crossings; public; failure of county board and railroad to agree; power of department.

If the owner of the railroad track and the county board or other public authority in interest fail to agree upon any of the matters or things mentioned in section 74-1337, either the owner or the county board or other public authority in interest, in the name of the county or other public authority in interest, may file an application with the Department of Transportation, setting forth such fact together with a statement of the change, alteration, relocation,

or construction it wants, the estimated cost thereof, and such other facts as may be relevant and asking the department to enter an order directing that the change, alteration, relocation, or construction be made. The department shall proceed to hear the application in the manner provided by law, and if it finds that the application should be granted, it shall enter an order accordingly, designating in the order what portion of the expense of complying with the order shall be paid by the railroad carrier and what portion shall be paid by the county or other public authority in interest, if any.

Source: Laws 1963, c. 425, art. IV, § 16, p. 1404; Laws 1994, LB 414, § 91; R.S.1943, (1996), § 75-416; Laws 1997, LB 255, § 10; Laws 2017, LB339, § 261.

Operative date July 1, 2017.

74-1340 Crossings; department orders; violation; penalty.

When the owner of railroad tracks fails, neglects, or refuses promptly to comply with any order of the Department of Transportation issued under sections 74-1332 to 74-1339 or fails, refuses, or neglects to comply with such sections after the department has issued an order, the owner shall be guilty of a Class V misdemeanor and shall be fined in any sum not more than one hundred dollars for each such offense. Each week of such neglect, refusal, or failure shall constitute a separate offense.

Source: Laws 1963, c. 425, art. IV, § 18, p. 1404; Laws 1994, LB 414, § 92; R.S.1943, (1996), § 75-418; Laws 1997, LB 255, § 12; Laws 2017, LB339, § 262.

Operative date July 1, 2017.

74-1341 Grade crossing safety; responsibility.

The Department of Transportation, which possesses the requisite engineering expertise, highway and rail planning function, and highway safety mission and is the repository for state and federal funding for both rail and highway projects, shall be the agency responsible for grade crossing safety.

Source: Laws 1997, LB 255, § 13; Laws 2017, LB339, § 263.

Operative date July 1, 2017.

74-1342 Comprehensive public safety program; department; duties.

(1) The Department of Transportation shall adopt and promulgate rules and regulations establishing a comprehensive public safety program to deal with problems associated with public and private highway-rail grade crossings. In designing such a program, the department shall establish a process for assessing the risk to the public from particular grade crossings and for reducing or eliminating such risk in a cost-effective and timely manner. The department shall actively solicit input from the public and from representatives of county and municipal governments, the Federal Highway Administration, the Federal Railroad Administration, and any other individuals or entities with an interest in grade crossing safety.

(2) The grade crossing safety assessment process may include the following factors:

(a) Volume of trains;

- (b) Volume of motor vehicles, including character, function, and type of vehicular traffic through the crossing;
- (c) Number of tracks at the crossing;
- (d) Geometry of the crossing, including acute angles;
- (e) Sight-distance restrictions, if any;
- (f) Train and motor vehicle speed;
- (g) Accident history;
- (h) Character of proximate road network, including distance and travel time to adjacent crossings;
- (i) Frequency and duration of roadway blockage by trains, including citation history;
- (j) Emergency response routes, including alternatives;
- (k) Economic impact of crossing;
- (l) Current and foreseeable development in the vicinity of the crossing; and
- (m) Location of schools and hospitals.

Source: Laws 1997, LB 255, § 14; Laws 2017, LB339, § 264.
Operative date July 1, 2017.

74-1343 Assessment process; recommendations; department; duties.

The Department of Transportation shall establish the grade crossing safety assessment process no later than twelve months after September 13, 1997, and shall recommend to the Legislature no later than eighteen months after September 13, 1997, an equitable formula for funding grade crossing risk abatement.

Source: Laws 1997, LB 255, § 15; Laws 2017, LB339, § 265.
Operative date July 1, 2017.

CHAPTER 75

PUBLIC SERVICE COMMISSION

Article.

1. Organization and Composition, Regulatory Scope, and Procedure. 75-110, 75-128.
3. Motor Carriers.
 - (a) Intrastate Motor Carriers. 75-303.01 to 75-311.
 - (e) Safety Regulations. 75-363 to 75-369.03.
 - (l) Unified Carrier Registration Plan and Agreement. 75-392, 75-393.
7. Transmission Lines. 75-713, 75-716.

ARTICLE 1

ORGANIZATION AND COMPOSITION, REGULATORY SCOPE, AND PROCEDURE

Section

- 75-110. Rules and regulations.
75-128. Hearings; when held; filing fee.

75-110 Rules and regulations.

(1) The Public Service Commission shall adopt and promulgate rules and regulations for the government of its proceedings, including rules of procedure for notice and hearing. The commission shall adopt and promulgate rules and regulations which the commission deems necessary to regulate persons within the commission's jurisdiction. The commission shall not take any action affecting persons subject to the commission's jurisdiction unless such action is taken pursuant to a rule, regulation, or statute.

(2) For purposes of granting or denying a petition for intervention, the commission shall be exempt from section 84-912.02.

Source: Laws 1963, c. 425, art. I, § 10, p. 1357; Laws 1967, c. 479, § 1, p. 1475; Laws 1993, LB 413, § 2; Laws 1994, LB 414, § 32; Laws 1996, LB 1218, § 37; Laws 2017, LB263, § 80.
Operative date April 28, 2017.

Cross References

For other provisions for adopting rules and regulations, see Chapter 84, article 9.

75-128 Hearings; when held; filing fee.

(1) It is hereby declared to be the policy of the Legislature that all matters presented to the commission be heard and determined without delay. All matters requiring a hearing shall be set for hearing at the earliest practicable date and in no event, except for good cause shown, which showing shall be recited in the order, shall the time fixed for hearing be more than six months after the date of filing of the application, complaint, or petition on which such hearing is to be had. Except in case of an emergency and upon a motion to proceed with less than a quorum made by all parties and supported by a showing of clear and convincing evidence of such emergency and benefit to all parties, a quorum of the commission shall hear all matters set for hearing. Except as otherwise provided in the Major Oil Pipeline Siting Act or section

75-121 and except for good cause shown, a decision of the commission shall be made and filed within thirty days after completion of the hearing or after submission of affidavits in nonhearing proceedings.

(2) In the case of any proceeding upon which a hearing is held, the transcript of testimony shall be prepared and submitted to the commission prior to entry of an order, except that it shall not be necessary to have prepared prior to a commission decision the transcripts of testimony on hearings involving noncontested proceedings and hearings involving emergency rate applications under section 75-121.

(3) For each application, complaint, or petition filed with the commission, except those filed under sections 75-303.01 to 75-303.03, the Major Oil Pipeline Siting Act, or the State Natural Gas Regulation Act, the commission shall charge a filing fee to be determined by the commission, but in an amount not to exceed the sum of five hundred dollars, payable at the time of such filing. The commission shall also charge to persons regulated by the commission, except persons regulated under the Major Oil Pipeline Siting Act or the State Natural Gas Regulation Act, a hearing fee to be determined by the commission, but in an amount not to exceed the sum of two hundred fifty dollars, for each half day of hearings if the person regulated by the commission files an application, complaint, or petition which necessitates a hearing.

(4) For each new tariff filed with the commission, except those filed under sections 75-301 to 75-322, the commission shall charge a fee not to exceed fifty dollars. This subsection does not apply to amendments to existing tariffs.

(5) The commission shall remit the fees received to the State Treasurer for credit to the General Fund.

Source: Laws 1963, c. 425, art. I, § 28, p. 1365; Laws 1967, c. 479, § 8, p. 1479; Laws 1969, c. 604, § 1, p. 2464; Laws 1971, LB 24, § 1; Laws 1971, LB 839, § 1; Laws 1972, LB 1068, § 1; Laws 1982, LB 928, § 56; Laws 1982, LB 633, § 2; Laws 1985, LB 384, § 1; Laws 1989, LB 78, § 9; Laws 1993, LB 412, § 1; Laws 1994, LB 414, § 43; Laws 1994, LB 872, § 17; Laws 1995, LB 424, § 13; Laws 2002, LB 1105, § 487; Laws 2003, LB 187, § 17; Laws 2003, LB 790, § 68; Laws 2011, First Spec. Sess., LB1, § 18; Laws 2017, LB263, § 81.

Operative date April 28, 2017.

Cross References

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

State Natural Gas Regulation Act, see section 66-1801.

ARTICLE 3

MOTOR CARRIERS

(a) INTRASTATE MOTOR CARRIERS

Section

- 75-303.01. Nonemergency medical transportation for medicaid clients; contracts authorized.
- 75-303.02. Contracts for transportation; requirements.
- 75-303.03. Reimbursement for transportation costs; conditions; exemption from commission regulation or commission rate regulation.
- 75-306. Receipt for fees; license plates and renewal tabs.

- Section
 75-309. Certificate of public convenience and necessity or permit; required; exception.
 75-311. Certificates; permits; designation of authority; 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.
 75-366. Enforcement powers.
 75-369.03. Violations; civil penalty; referral to federal agency or Public Service Commission; when.

(l) UNIFIED CARRIER REGISTRATION PLAN AND AGREEMENT

- 75-392. Terms, defined.
 75-393. Unified carrier registration plan and agreement; director; powers.

(a) INTRASTATE MOTOR CARRIERS

75-303.01 Nonemergency medical transportation for medicaid clients; contracts authorized.

(1) The Department of Health and Human Services, a medicaid-managed care organization under contract with the department, or another agent working on the department's behalf may contract for nonemergency medical transportation for medicaid clients with a regulated motor carrier holding a designation of authority issued pursuant to subsection (3) of section 75-311 to provide medicaid nonemergency medical transportation services or that has been authorized to provide such services by the commission prior to April 28, 2017.

(2) While operating under a designation of authority issued pursuant to subsection (3) of section 75-311, a regulated motor carrier shall comply with (a) the requirements of the Department of Health and Human Services to protect the safety and well-being of department clients, including training, driver standards, background checks, and the provision and quality of service and (b) the rules and regulations adopted, promulgated, and enforced by the commission governing insurance requirements, equipment standards, and background checks.

Source: Laws 1993, LB 412, § 4; Laws 1995, LB 424, § 24; Laws 1996, LB 1044, § 791; Laws 1999, LB 594, § 68; Laws 2007, LB296, § 697; Laws 2017, LB263, § 82.
 Operative date April 28, 2017.

75-303.02 Contracts for transportation; requirements.

(1) The Department of Health and Human Services or any agency organized under the Nebraska Community Aging Services Act may contract for the transportation of clients with a contractor which does not hold a certificate or which is not otherwise exempt under section 75-303 only if:

(a) The proposed contractor is the individual who will personally drive the vehicle in question;

(b) The only compensation to the contractor for the transportation is paid by the department at a rate no greater than that provided for reimbursement of state employees pursuant to section 81-1176 for the costs incurred in the transportation; and

(c)(i) There is no regulated motor carrier serving the area in which the client needs transportation, (ii) the regulated motor carrier serving the area is incapable of providing the specific service in question by its own written statement or as determined by the commission upon application of the regulated motor carrier or the department, or (iii) the regulated carrier cannot or will not provide such service at the rate specified in subsection (2) of section 75-303.03.

(2) This section does not apply to a regulated motor carrier holding a designation of authority issued pursuant to subsection (3) of section 75-311.

Source: Laws 1993, LB 412, § 5; Laws 1995, LB 424, § 25; Laws 1996, LB 1044, § 792; Laws 1999, LB 594, § 69; Laws 2007, LB296, § 698; Laws 2017, LB263, § 83.
Operative date April 28, 2017.

Cross References

Nebraska Community Aging Services Act, see section 81-2201.

75-303.03 Reimbursement for transportation costs; conditions; exemption from commission regulation or commission rate regulation.

(1) The commission, in consultation with the Department of Health and Human Services, shall adopt and promulgate rules and regulations governing minimum liability insurance requirements, equipment standards, driver qualification requirements, and the issuance and filing of notice for any contractor utilized by the department or any agency organized under the Nebraska Community Aging Services Act pursuant to section 75-303.02.

(2) The Department of Health and Human Services or any agency organized under the Nebraska Community Aging Services Act shall reimburse common and contract carriers for transportation of passengers at a rate not to exceed the rate of reimbursement pursuant to section 81-1176 multiplied by three. The maximum reimbursement rate provided for in this subsection shall not apply when the carrier (a) transports such person wholly within the corporate limits of the city or village where the transportation of the person originated, (b) transports a disabled person as defined by the federal Americans with Disabilities Act of 1990 in a vehicle that is compliant with the regulations providing for the transportation of such disabled person, or (c) provides nonemergency medical transportation of medicaid clients pursuant to subsection (3) of section 75-311.

(3) Rates for nonemergency medical transportation service providers with a designation of authority issued pursuant to subsection (3) of section 75-311 are not subject to commission regulation, and regulated motor carriers with such a designation reimbursed under this section are not subject to commission rate regulation for such reimbursement rates.

(4)(a) The Department of Health and Human Services may reimburse an individual for the costs incurred by such individual in the transportation of a person eligible to receive transportation services through the department if:

(i) The individual is under contract with the department and provides transportation to the eligible person; and

(ii) The eligible person has chosen the individual to provide the transportation.

(b) The department shall reimburse for the costs incurred in the transportation at a rate no greater than that provided for reimbursement of state employees pursuant to section 81-1176.

(c) Transportation provided to an eligible person by an individual pursuant to this section does not constitute transportation for hire.

(d) The department may adopt and promulgate rules and regulations to implement this subsection.

Source: Laws 2006, LB 1069, § 2; Laws 2007, LB296, § 699; Laws 2017, LB263, § 84.

Operative date April 28, 2017.

Cross References

Nebraska Community Aging Services Act, see section 81-2201.

75-306 Receipt for fees; license plates and renewal tabs.

Receipt for the payment of annual fees shall be issued by the commission. The commission shall issue sufficient license plates and renewal tabs to any regulated motor carrier who is in compliance with sections 75-301 to 75-322 and the rules and regulations of the commission, except contractors operating pursuant to section 75-303.02 and transportation network companies, for the purpose of identification of regulated motor carriers subject to sections 75-301 to 75-322 and to distinguish those regulated motor carriers from other commercial motor carriers not subject to such sections. The Director of Motor Vehicles shall prepare a form of license plate and renewal tab for such regulated motor carriers and furnish a sufficient supply of them to the commission.

Source: Laws 1963, c. 425, art. III, § 6, p. 1379; Laws 1969, c. 606, § 5, p. 2471; Laws 1989, LB 78, § 22; Laws 1993, LB 412, § 8; Laws 1994, LB 414, § 70; Laws 1995, LB 424, § 29; Laws 1996, LB 1218, § 47; Laws 2015, LB629, § 26; Laws 2017, LB263, § 85.

Operative date April 28, 2017.

75-309 Certificate of public convenience and necessity or permit; required; exception.

Except for operations pursuant to a contract authorized by sections 75-303.02 and 75-303.03, it shall be unlawful for any common or contract carrier by motor vehicle subject to the provisions of sections 75-101 to 75-155 and 75-301 to 75-322 to engage in any intrastate operations on any public highway in Nebraska unless there is in force with respect to such common carrier a certificate of public convenience and necessity, a permit to such contract carrier, or a permit to a transportation network company under section 75-324, issued by the commission which authorizes such operations.

Source: Laws 1963, c. 425, art. III, § 9, p. 1381; Laws 1967, c. 479, § 15, p. 1482; Laws 1989, LB 78, § 24; Laws 1993, LB 412, § 9; Laws 1994, LB 414, § 72; Laws 1995, LB 424, § 36; Laws 2015, LB629, § 28; Laws 2017, LB263, § 86.

Operative date April 28, 2017.

75-311 Certificates; permits; designation of authority; 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) A designation of authority shall be issued to any regulated motor carrier holding a certificate under subsection (1) of this section or a permit under subsection (2) of this section authorizing such carrier to provide medicaid nonemergency medical transportation services pursuant to a contract with (i) the Department of Health and Human Services, (ii) a medicaid-managed care organization under contract with the department, or (iii) another agent working on the department's behalf as provided under section 75-303.01, if it is found after notice and hearing from the application or from any hearing held on the application that the authorization is or will be required by the present or future convenience and necessity to serve the distinct needs of medicaid clients. In determining whether the authorization is or will be required by the present or future convenience and necessity to serve the distinct needs of medicaid clients, the commission shall consult with the Director of Medicaid and Long-Term Care of the Division of Medicaid and Long-Term Care of the department or his or her designee.

(4) 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.

(5) 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.

(6) This section shall not apply to transportation network companies holding a permit under section 75-324 or operations pursuant to a contract authorized by sections 75-303.02 and 75-303.03.

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; Laws 2015, LB629, § 30; Laws 2017, LB263, § 87.
Operative date April 28, 2017.

(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, 2017, are adopted as Nebraska law.

(2) Except as otherwise provided in this section, the regulations shall be applicable to:

(a) All motor carriers, drivers, and vehicles to which the federal regulations apply; and

(b) All motor carriers transporting persons or property in intrastate commerce to include:

(i) All vehicles of such motor carriers with a gross vehicle weight rating, gross combination weight rating, gross vehicle weight, or gross combination weight over ten thousand pounds;

(ii) All vehicles of such motor carriers designed or used to transport more than eight passengers, including the driver, for compensation, or designed or used to transport more than fifteen passengers, including the driver, and not used to transport passengers for compensation;

(iii) All vehicles of such motor carriers transporting hazardous materials required to be placarded pursuant to section 75-364; and

(iv) All drivers of such motor carriers if the drivers are operating a commercial motor vehicle as defined in section 60-465 which requires a commercial driver's license.

(3) The Legislature hereby adopts, as modified in this section, the following parts of Title 49 of the Code of Federal Regulations:

(a) Part 382 - CONTROLLED SUBSTANCES AND ALCOHOL USE AND TESTING;

(b) Part 385 - SAFETY FITNESS PROCEDURES;

(c) Part 386 - RULES OF PRACTICE FOR FMCSA PROCEEDINGS;

(d) Part 387 - MINIMUM LEVELS OF FINANCIAL RESPONSIBILITY FOR MOTOR CARRIERS;

(e) Part 390 - FEDERAL MOTOR CARRIER SAFETY REGULATIONS; GENERAL;

(f) Part 391 - QUALIFICATIONS OF DRIVERS AND LONGER COMBINATION VEHICLE (LCV) DRIVER INSTRUCTORS;

(g) Part 392 - DRIVING OF COMMERCIAL MOTOR VEHICLES;

(h) Part 393 - PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION;

(i) Part 395 - HOURS OF SERVICE OF DRIVERS;

(j) Part 396 - INSPECTION, REPAIR, AND MAINTENANCE;

(k) Part 397 - TRANSPORTATION OF HAZARDOUS MATERIALS; DRIVING AND PARKING RULES; and

(l) Part 398 - TRANSPORTATION OF MIGRANT WORKERS.

(4) The provisions of subpart E - Physical Qualifications And Examinations of 49 C.F.R. part 391 - QUALIFICATIONS OF DRIVERS AND LONGER COMBINATION VEHICLE (LCV) DRIVER INSTRUCTORS shall not apply to any driver subject to this section who: (a) Operates a commercial motor vehicle exclusively in intrastate commerce; and (b) holds, or has held, a commercial driver's license issued by this state prior to July 30, 1996.

(5) The regulations adopted in subsection (3) of this section shall not apply to farm trucks registered pursuant to section 60-3,146 with a gross weight of sixteen tons or less. The following parts and sections of 49 C.F.R. chapter III shall not apply to drivers of farm trucks registered pursuant to section 60-3,146 and operated solely in intrastate commerce:

(a) All of part 391;

(b) Section 395.8 of part 395; and

(c) Section 396.11 of part 396.

(6) The following parts and subparts of 49 C.F.R. chapter III shall not apply to the operation of covered farm vehicles:

(a) Part 382 - CONTROLLED SUBSTANCES AND ALCOHOL USE AND TESTING;

(b) Part 391, subpart E - Physical Qualifications and Examinations;

(c) Part 395 - HOURS OF SERVICE OF DRIVERS; and

(d) Part 396 - INSPECTION, REPAIR, AND MAINTENANCE.

(7) Part 393 - PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION and Part 396 - INSPECTION, REPAIR, AND MAINTENANCE shall not apply to fertilizer and agricultural chemical application and distribution equipment transported in units with a capacity of three thousand five hundred gallons or less.

(8) For purposes of this section, intrastate motor carriers shall not include any motor carrier or driver excepted from 49 C.F.R. chapter III by section 390.3(f) of part 390.

(9)(a) Part 395 - HOURS OF SERVICE OF DRIVERS shall apply to motor carriers and drivers who engage in intrastate commerce as defined in section 75-362, except that no motor carrier who engages in intrastate commerce shall permit or require any driver used by it to drive nor shall any driver drive:

(i) More than twelve hours following ten consecutive hours off duty; or

(ii) For any period after having been on duty sixteen hours following ten consecutive hours off duty.

(b) No motor carrier who engages in intrastate commerce shall permit or require a driver of a commercial motor vehicle, regardless of the number of motor carriers using the driver's services, to drive, nor shall any driver of a commercial motor vehicle drive, for any period after:

(i) Having been on duty seventy hours in any seven consecutive days if the employing motor carrier does not operate every day of the week; or

(ii) Having been on duty eighty hours in any period of eight consecutive days if the employing motor carrier operates motor vehicles every day of the week.

(10) Part 395 - HOURS OF SERVICE OF DRIVERS, as adopted in subsections (3) and (9) of this section, shall not apply to drivers transporting agricultural commodities or farm supplies for agricultural purposes during planting and harvesting season when:

(a) The transportation of such agricultural commodities is from the source of the commodities to a location within a one-hundred-fifty-air-mile radius of the source of the commodities;

(b) The transportation of such farm supplies is from a wholesale or retail distribution point of the farm supplies to a farm or other location where the farm supplies are intended to be used which is within a one-hundred-fifty-air-mile radius of the wholesale or retail distribution point; or

(c) The transportation of such farm supplies is from a wholesale distribution point of the farm supplies to a retail distribution point of the farm supplies which is within a one-hundred-fifty-air-mile radius of the wholesale distribution point.

(11) 49 C.F.R. 390.21 - Marking of self-propelled CMVs and intermodal equipment shall not apply to farm trucks and farm truck-tractors registered pursuant to section 60-3,146 and operated solely in intrastate commerce.

(12) 49 C.F.R. 392.9a - Operating authority shall not apply to Nebraska motor carriers operating commercial motor vehicles solely in intrastate commerce.

(13) No motor carrier shall permit or require a driver of a commercial motor vehicle to violate, and no driver of a commercial motor vehicle shall violate, any out-of-service order.

Source: Laws 1986, LB 301, § 1; Laws 1987, LB 224, § 23; Laws 1988, LB 884, § 1; Laws 1989, LB 285, § 140; Laws 1990, LB 980, § 29; Laws 1991, LB 854, § 3; Laws 1993, LB 410, § 1; Laws 1994, LB 1061, § 5; Laws 1995, LB 461, § 1; Laws 1996, LB 938, § 4; Laws 1997, LB 722, § 1; Laws 1998, LB 1056, § 8; Laws 1999, LB 161, § 1; Laws 1999, LB 704, § 49; Laws 2000, LB 1361, § 11; Laws 2001, LB 375, § 1; Laws 2002, LB 499, § 5; Laws 2003, LB 480, § 2; Laws 2004, LB 878, § 1; Laws 2005, LB 83, § 1; Laws 2005, LB 274, § 271; Laws 2006, LB 1007, § 13; Laws 2007, LB239, § 8; Laws 2008, LB756, § 28; Laws 2008, LB845, § 1; Laws 2009, LB48, § 1; Laws 2009, LB331, § 15; Laws 2010, LB725, § 3; Laws 2010, LB805, § 13; Laws 2011, LB178, § 21; Laws 2011, LB212, § 7; Laws 2012, LB751, § 49; Laws 2013, LB35, § 6; Laws 2014, LB983, § 61; Laws 2015, LB313, § 7; Laws 2016, LB929, § 11; Laws 2017, LB263, § 88. Operative date April 28, 2017.

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, 2017, are adopted as part of Nebraska law and shall be applicable to all motor carriers whether engaged in interstate or intrastate commerce, drivers of such motor carriers, and vehicles of such motor carriers:

- (1) Part 107 - HAZARDOUS MATERIALS PROGRAM PROCEDURES, subpart F - Registration of Cargo Tank and Cargo Tank Motor Vehicle Manufacturers, Assemblers, Repairers, Inspectors, Testers, and Design Certifying Engineers;
- (2) Part 107 - HAZARDOUS MATERIALS PROGRAM PROCEDURES, subpart G - Registration of Persons Who Offer or Transport Hazardous Materials;
- (3) Part 171 - GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS;
- (4) Part 172 - HAZARDOUS MATERIALS TABLE, SPECIAL PROVISIONS, HAZARDOUS MATERIALS COMMUNICATIONS, EMERGENCY RESPONSE INFORMATION, TRAINING REQUIREMENTS, AND SECURITY PLANS;
- (5) Part 173 - SHIPPERS - GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS;
- (6) Part 177 - CARRIAGE BY PUBLIC HIGHWAY;
- (7) Part 178 - SPECIFICATIONS FOR PACKAGINGS; and
- (8) Part 180 - CONTINUING QUALIFICATION AND MAINTENANCE OF PACKAGINGS.

Source: Laws 1986, LB 301, § 2; Laws 1987, LB 538, § 1; Laws 1988, LB 884, § 2; Laws 1990, LB 980, § 30; Laws 1991, LB 854, § 4; Laws 1993, LB 410, § 2; Laws 1994, LB 1061, § 6; Laws 1995, LB 461, § 2; Laws 1996, LB 938, § 5; Laws 1997, LB 722, § 2; Laws 1998, LB 1056, § 9; Laws 1999, LB 161, § 2; Laws 2000, LB 1361, § 12; Laws 2001, LB 375, § 2; Laws 2002, LB 499, § 6; Laws 2003, LB 480, § 3; Laws 2004, LB 878, § 2; Laws 2005, LB 83, § 2; Laws 2006, LB 1007, § 15; Laws 2007, LB239, § 9; Laws 2008, LB756, § 29; Laws 2009, LB48, § 2; Laws 2009, LB331, § 16; Laws 2010, LB805, § 14; Laws 2011, LB178, § 22; Laws 2011, LB212, § 8; Laws 2012, LB751, § 50; Laws 2013, LB35, § 7; Laws 2014, LB983, § 62; Laws 2015, LB313, § 8; Laws 2016, LB929, § 12; Laws 2017, LB263, § 89.

Operative date April 28, 2017.

75-366 Enforcement powers.

For the purpose of enforcing Chapter 75, article 3, any officer of the Nebraska State Patrol may, upon demand, inspect the accounts, records, and equipment of any motor carrier or shipper. Any officer of the Nebraska State Patrol shall have the authority to enforce the federal motor carrier safety regulations, as such regulations existed on January 1, 2017, and federal hazardous materials regulations, as such regulations existed on January 1,

2017, and is authorized to enter upon, inspect, and examine any and all lands, buildings, and equipment of any motor carrier, any shipper, and any other person subject to the federal Interstate Commerce Act, the federal Department of Transportation Act, and other related federal laws and to inspect and copy any and all accounts, books, records, memoranda, correspondence, and other documents of a motor carrier, a shipper, and any other person subject to Chapter 75, article 3, for the purposes of enforcing Chapter 75, article 3. To promote uniformity of enforcement, the carrier enforcement division of the Nebraska State Patrol shall cooperate and consult with the Public Service Commission and the Division of Motor Carrier Services.

Source: Laws 1986, LB 301, § 4; Laws 1987, LB 538, § 2; Laws 1990, LB 980, § 31; Laws 1995, LB 424, § 48; Laws 1996, LB 1218, § 60; Laws 2002, LB 93, § 18; Laws 2003, LB 480, § 4; Laws 2012, LB751, § 51; Laws 2013, LB35, § 8; Laws 2014, LB983, § 63; Laws 2015, LB313, § 9; Laws 2016, LB929, § 13; Laws 2017, LB263, § 90.

Operative date April 28, 2017.

75-369.03 Violations; civil penalty; referral to federal agency or Public Service Commission; when.

(1) The Superintendent of Law Enforcement and Public Safety may issue an order imposing a civil penalty against a motor carrier transporting persons or property in interstate commerce for a violation of sections 75-392 to 75-399 or against a motor carrier transporting persons or property in intrastate commerce for a violation or violations of section 75-363 or 75-364 based upon an inspection conducted pursuant to section 75-366 in an amount which shall not exceed eight hundred dollars for any single violation in any proceeding or series of related proceedings against any person or motor carrier as defined in 49 C.F.R. part 390.5 as adopted in section 75-363.

(2) The superintendent shall issue an order imposing a civil penalty in an amount not to exceed fifteen thousand four hundred seventy-four dollars against a motor carrier transporting persons or property in interstate commerce for a violation of subdivision (2)(e) of section 60-4,162 based upon a conviction of such a violation.

(3) The superintendent shall issue an order imposing a civil penalty against a driver operating a commercial motor vehicle, as defined in section 60-465, that requires a commercial driver's license or CLP-commercial learner's permit, in violation of an out-of-service order. The civil penalty shall be in an amount not less than two thousand nine hundred eighty-five dollars for a first violation and not less than five thousand nine hundred seventy dollars for a second or subsequent violation.

(4) The superintendent shall issue an order imposing a civil penalty against a motor carrier who knowingly allows, requires, permits, or authorizes the operation of a commercial motor vehicle, as defined in section 60-465, that requires a commercial driver's license or CLP-commercial learner's permit, in violation of an out-of-service order. The civil penalty shall be not less than five thousand three hundred ninety-one dollars but not more than twenty-nine thousand eight hundred forty-nine dollars per violation.

(5) Upon the discovery of any violation by a motor carrier transporting persons or property in interstate commerce of section 75-307, 75-363, or

75-364 or sections 75-392 to 75-399 based upon an inspection conducted pursuant to section 75-366, the superintendent shall immediately refer such violation to the appropriate federal agency for disposition, and upon the discovery of any violation by a motor carrier transporting persons or property in intrastate commerce of section 75-307 based upon such inspection, the superintendent shall refer such violation to the Public Service Commission for disposition.

Source: Laws 1994, LB 358, § 3; Laws 1996, LB 1218, § 62; Laws 2002, LB 499, § 7; Laws 2006, LB 1007, § 20; Laws 2007, LB358, § 14; Laws 2008, LB845, § 2; Laws 2009, LB331, § 17; Laws 2014, LB983, § 64; Laws 2017, LB263, § 91.
Operative date April 28, 2017.

(l) UNIFIED CARRIER REGISTRATION PLAN AND AGREEMENT

75-392 Terms, defined.

For purposes of sections 75-392 to 75-399:

- (1) Director means the Director of Motor Vehicles;
- (2) Division means the Division of Motor Carrier Services of the Department of Motor Vehicles; and
- (3) Unified carrier registration plan and agreement means the plan and agreement established and authorized pursuant to 49 U.S.C. 14504a, as such section existed on January 1, 2017.

Source: Laws 2007, LB358, § 1; Laws 2014, LB776, § 7; Laws 2016, LB929, § 14; Laws 2017, LB263, § 92.
Operative date April 28, 2017.

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, 2017, and may file on behalf of this state the plan required by such plan and agreement for enforcement of the act in this state.

Source: Laws 2007, LB358, § 2; Laws 2009, LB331, § 19; Laws 2011, LB212, § 9; Laws 2012, LB751, § 52; Laws 2013, LB35, § 9; Laws 2014, LB776, § 8; Laws 2015, LB313, § 10; Laws 2016, LB929, § 15; Laws 2017, LB263, § 93.
Operative date April 28, 2017.

ARTICLE 7

TRANSMISSION LINES

Section

- 75-713. Construction near airports; application; when.
75-716. Division of Aeronautics; file list of airports with commission.

75-713 Construction near airports; application; when.

Any public utility, public power district, or other governmental subdivision or any person in this state, before engaging in the construction or alteration of any overhead wire, cable, or pipeline, the height of which is greater than five feet

above the elevation of an airport which has been approved and licensed by the Division of Aeronautics of the Department of Transportation, for each five hundred feet of the distance that such construction is or will be situated from the nearest boundary of such airport, shall file with the commission an original application for permission to enter upon and complete such construction or alteration and shall also file a copy thereof with the division. No application need be made when the construction or alteration is within the corporate limits of a city or village and is adjacent to other structures of a permanent character which are of equal or greater height than the construction or alteration proposed. No such overhead wire, cable, or pipeline for which application is required to be filed under sections 75-713 to 75-717 shall be constructed or altered without specific permission granted by order of the commission.

Source: Laws 1963, c. 425, art. VII, § 13, p. 1425; Laws 1980, LB 611, § 2; Laws 1993, LB 121, § 472; Laws 1994, LB 414, § 124; Laws 2017, LB339, § 266.
Operative date July 1, 2017.

75-716 Division of Aeronautics; file list of airports with commission.

The Division of Aeronautics of the Department of Transportation shall at all times maintain on file in the office of the commission a list of the airports currently licensed by the division setting forth the legal description of the real property thus used.

Source: Laws 1963, c. 425, art. VII, § 16, p. 1426; Laws 1980, LB 611, § 4; Laws 1994, LB 414, § 127; Laws 2017, LB339, § 267.
Operative date July 1, 2017.

CHAPTER 76

REAL PROPERTY

Article.

- 2. Conveyances.
 - (d) Formalities of Execution. 76-214.
- 12. Relocation Assistance. 76-1224.
- 16. Self-Service Storage Facilities Act. 76-1601 to 76-1609.
- 23. One-Call Notification System. 76-2316 to 76-2325.
- 34. Nebraska Uniform Real Property Transfer on Death Act. 76-3415.
- 35. Radon Resistant New Construction Act. 76-3501 to 76-3505.

ARTICLE 2

CONVEYANCES

(d) FORMALITIES OF EXECUTION

Section

- 76-214. Deed, memorandum of contract, or land contract; recorded; death certificate filed; statement required; access.

(d) FORMALITIES OF EXECUTION

76-214 Deed, memorandum of contract, or land contract; recorded; death certificate filed; statement required; access.

(1) Except as provided in subsection (4) of this section, every grantee who has a deed to real estate recorded and every purchaser of real estate who has a memorandum of contract or land contract recorded shall, at the time such deed, memorandum of contract, or land contract is presented for recording, file with the register of deeds a completed statement as prescribed by the Tax Commissioner. For all deeds and all memoranda of contract and land contracts recorded on and after January 1, 2001, the statement shall not require the social security number of the grantee or purchaser or the federal employer identification number of the grantee or purchaser. This statement may require the recitation of any information contained in the deed, memorandum of contract, or land contract, the total consideration paid, the amount of the total consideration attributable to factors other than the purchase of the real estate itself, and other factors which may influence the transaction. If a death certificate is recorded as provided in subsection (2) of this section, this statement may require a date of death, the name of the decedent, and whether the title is affected as a result of a transfer on death deed, a joint tenancy deed, or the expiration of a life estate or by any other means. This statement shall be signed and filed by the grantee, the purchaser, or his or her authorized agent. The register of deeds shall forward the statement to the county assessor. If the grantee or purchaser fails to furnish the prescribed statement, the register of deeds shall not record the deed, memorandum of contract, or land contract. The register of deeds shall indicate on the statement the book and page or computer system reference where the deed, memorandum of contract, or land contract is recorded and shall immediately forward the statement to the county assessor. The county assessor shall process the statement according to the

instructions of the Property Tax Administrator and shall, pursuant to the rules and regulations of the Tax Commissioner, forward the statement to the Tax Commissioner.

(2)(a) The statement described in subsection (1) of this section shall be filed at the time that a certified or authenticated copy of the grantor's death certificate is filed if such death certificate is required to be filed under section 76-2,126 and the conveyance of real estate was pursuant to a transfer on death deed.

(b) The statement described in subsection (1) of this section shall not be required to be filed at the time that a transfer on death deed is filed or at the time that an instrument of revocation of a transfer on death deed as described in subdivision (a)(1)(B) of section 76-3413 is filed.

(3) Any person shall have access to the statements at the office of the Tax Commissioner, county assessor, or register of deeds if the statements are available and have not been disposed of pursuant to the records retention and disposition schedule as approved by the State Records Administrator.

(4) The statement described in subsection (1) of this section shall not be required if the document being recorded is an easement or an oil, gas, or mineral lease, or any subsequent assignment of an easement or such lease, except that such statement shall be required for conservation easements and preservation easements as such terms are defined in section 76-2,111.

Source: Laws 1917, c. 224, § 1, p. 549; C.S.1922, § 5662; C.S.1929, § 76-268; R.S.1943, § 76-214; Laws 1965, c. 456, § 1, p. 1450; Laws 1965, c. 457, § 1, p. 1451; Laws 1981, LB 28, § 1; Laws 1981, LB 179, § 1; Laws 1984, LB 679, § 13; Laws 1985, LB 273, § 37; Laws 1986, LB 1027, § 200; Laws 1994, LB 902, § 13; Laws 1994, LB 1275, § 6; Laws 1995, LB 490, § 26; Laws 1995, LB 527, § 1; Laws 2000, LB 968, § 21; Laws 2007, LB334, § 12; Laws 2008, LB965, § 1; Laws 2009, LB348, § 1; Laws 2012, LB536, § 29; Laws 2014, LB780, § 1; Laws 2016, LB725, § 1; Laws 2017, LB535, § 2.

Effective date August 24, 2017.

Cross References

Violation of section, penalty, see section 76-215.

ARTICLE 12

RELOCATION ASSISTANCE

Section
76-1224. Lead agency, defined.

76-1224 Lead agency, defined.

Lead agency shall mean the Nebraska Department of Transportation.

Source: Laws 1989, LB 254, § 11; Laws 2017, LB339, § 268.

Operative date July 1, 2017.

ARTICLE 16

SELF-SERVICE STORAGE FACILITIES ACT

Section
76-1601. Act, how cited.

- Section
- 76-1602. Terms, defined.
- 76-1603. Operator; duty.
- 76-1604. Entry for inspection or repair.
- 76-1605. Operator; lien on personal property; rental agreement; contents.
- 76-1606. Default; deny access.
- 76-1607. Default for more than forty-five days; enforcement of lien; procedure; advertisement; sale; application of proceeds; rights of purchaser; notices; liability of operator.
- 76-1608. Occupant's care, custody, and control of personal property.
- 76-1609. Act; how construed.

76-1601 Act, how cited.

Sections 76-1601 to 76-1609 shall be known and may be cited as the Self-Service Storage Facilities Act.

Source: Laws 2017, LB492, § 1.
Effective date August 24, 2017.

76-1602 Terms, defined.

For purposes of the Self-Service Storage Facilities Act:

- (1) Commercially reasonable sale means a sale that (a) is conducted at the self-service storage facility or on a publicly accessible web site that conducts lien sales and (b) is attended by at least three persons who appear personally, online, by telephone, or by any other method;
- (2) Default means the failure to perform on time any obligation or duty set forth in a rental agreement;
- (3) Electronic mail means an electronic message or an executable program or computer file that contains an image of a message that is transmitted between two or more computers or electronic terminals and includes electronic messages that are transmitted within or between computer networks;
- (4) Emergency means any sudden, unexpected occurrence or circumstance at or near a self-service storage facility that requires immediate action to avoid injury to persons or property at or near the self-service storage facility, including, but not limited to, a fire;
- (5) Last-known address means the postal address or electronic mail address provided by an occupant in a rental agreement or the postal address or electronic mail address provided by the occupant in a subsequent written notice of a change of address;
- (6) Leased space means the individual storage space at a self-service storage facility which is rented to an occupant pursuant to a rental agreement;
- (7) Occupant means a person entitled to the use of leased space at a self-service storage facility under a rental agreement or his or her successors or assigns;
- (8) Operator means the owner, operator, lessor, or sublessor of a self-service storage facility or an agent or any other person authorized to manage the facility. Operator does not include a warehouseman if the warehouseman issues a warehouse receipt, bill of lading, or other document of title for the personal property stored;

(9) Personal property means movable property not affixed to land. Personal property includes, but is not limited to, goods, wares, merchandise, motor vehicles, watercraft, household items, and furnishings;

(10) Property which has no commercial value means property offered for sale in a commercially reasonable sale that receives no bid or offer;

(11) Rental agreement means any written agreement or lease that establishes or modifies the terms, conditions, or rules concerning the use and occupancy of a self-service storage facility;

(12) Self-service storage facility means any real property used for renting or leasing individual storage spaces in which the occupants customarily store and remove their own personal property on a self-service basis; and

(13) Verified mail means any method of mailing offered by the United States Postal Service that provides evidence of the mailing.

Source: Laws 2017, LB492, § 2.

Effective date August 24, 2017.

76-1603 Operator; duty.

(1) An operator shall not knowingly permit a leased space at a self-service storage facility to be used for residential purposes.

(2) An occupant shall not use a leased space for residential purposes.

Source: Laws 2017, LB492, § 3.

Effective date August 24, 2017.

76-1604 Entry for inspection or repair.

An occupant, upon reasonable request from the operator, shall allow the operator to enter a leased space for the purpose of inspection or repair. If an emergency occurs, an operator may enter a leased space for inspection or repair without notice to or consent from the occupant.

Source: Laws 2017, LB492, § 4.

Effective date August 24, 2017.

76-1605 Operator; lien on personal property; rental agreement; contents.

(1) The operator of a self-service storage facility and the operator's heirs, executors, administrators, successors, and assigns shall have a lien upon all of an occupant's personal property located at the self-service storage facility for delinquent rent, late fees, labor, or other charges incurred pursuant to a rental agreement and for expenses incurred for preservation, sale, or disposition of the personal property. The lien established by this subsection shall have priority over all other liens except for tax liens and liens or security interests of any lienholder or security interest holder of record on such personal property that are perfected or recorded prior to, on, or after the date on which the personal property is placed in a leased space.

(2) The lien described in subsection (1) of this section attaches on the date on which personal property is placed in a leased space.

(3) The rental agreement shall contain a statement, in bold type, advising the occupant:

(a) Of the existence of the lien; and

(b) That personal property stored in the leased space may be sold to satisfy the lien if the occupant is in default.

(4) If the rental agreement specifies a limit on the value of personal property that the occupant may store in the leased space, such limit shall be deemed to be the maximum value of the personal property in the occupant's leased space.

Source: Laws 2017, LB492, § 5.
Effective date August 24, 2017.

76-1606 Default; deny access.

If any part of the rent or other charges due from the occupant are in default, the operator shall have the right to deny the occupant access to the leased space at the self-service storage facility.

Source: Laws 2017, LB492, § 6.
Effective date August 24, 2017.

76-1607 Default for more than forty-five days; enforcement of lien; procedure; advertisement; sale; application of proceeds; rights of purchaser; notices; liability of operator.

(1) If an occupant is in default for a period of more than forty-five days, the operator may enforce the lien granted in section 76-1605 by selling the occupant's stored personal property for cash. Sale of the occupant's personal property may be by public or private proceedings. Such personal property may be sold as a unit or in parcels, by way of one or more contracts, at any time or place, and on any terms as long as the sale is a commercially reasonable sale. The operator may otherwise dispose of any property which has no commercial value.

(2) Before conducting a sale under this section, the operator shall:

(a) At least forty-five days before the sale, send notice of default to the occupant by verified mail or electronic mail pursuant to subdivision (8)(a) of this section. The notice of default shall include:

(i) A statement that the contents of the occupant's leased space are subject to the operator's lien;

(ii) A statement of the operator's claim, indicating the charges due on the date of the notice, the amount of any additional charges which shall become due before the date of sale, and the date such additional charges shall become due;

(iii) A demand for payment of the charges due within a specified time, which shall not be less than ten days after the date of the notice;

(iv) A statement that unless the claim is paid within the time stated, the contents of the occupant's leased space will be sold after a specified time; and

(v) The name, street address, and telephone number of the operator or a designated agent whom the occupant may contact to respond to the notice; and

(b) At least seven days before the sale, advertise the time, place, and terms of the sale in any commercially reasonable manner. The manner of advertisement is deemed commercially reasonable if at least three independent bidders attend the sale in person or online at the time and place advertised. A copy of the advertisement of sale shall be provided at least seven days before the sale to the

holder of any lien or security interest of record on the personal property being sold.

(3) The operator may buy the occupant's personal property at any public sale held pursuant to this section.

(4) If the personal property subject to the operator's lien is a vehicle, watercraft, or trailer and rent and other charges remain unpaid for sixty days, the operator may have the vehicle, watercraft, or trailer towed from the self-service storage facility. The operator shall not be liable for any damages to the vehicle, watercraft, or trailer once the towor takes possession of the property. Removal of any vehicle, watercraft, or trailer from the self-service storage facility shall not release the operator's lien.

(5) At any time before a sale is held under this section or before a vehicle, watercraft, or trailer is towed under this section, the occupant may pay the amount necessary to satisfy the lien and redeem the occupant's personal property.

(6) If a sale is held under this section, the operator shall:

(a) Apply the proceeds of the sale in the following order:

(i) To satisfy the actual expenses incurred in conducting the sale, including the costs for notice and advertisement of the sale, in an amount not to exceed five hundred dollars;

(ii) To satisfy the obligations secured by the lien or security interest of any lienholder or security interest holder of record; and

(iii) To satisfy the operator's lien; and

(b) Hold the balance of the proceeds remaining after the disbursements described in subdivision (6)(a) of this section, if any, for delivery on demand to the occupant for a period of one year after the date of such sale. The operator shall have no liability to any party for excess proceeds paid to the occupant. After the one-year period, any remaining proceeds shall be considered abandoned property to be reported and paid to the State Treasurer in accordance with the Uniform Disposition of Unclaimed Property Act.

(7) A purchaser in good faith of any personal property sold pursuant to this section to satisfy the lien granted in section 76-1605 takes the property free and clear of any rights of persons against whom the lien was valid. If the property is a vehicle, watercraft, or trailer, such sale shall extinguish any lien or security interest in the property of any holder of such lien or security interest to whom notice of the sale was sent in compliance with this section.

(8)(a) Notices to the occupant under subdivision (2)(a) of this section shall be sent to the occupant's last-known address by verified mail or electronic mail. Notices sent by verified mail shall be deemed delivered when deposited with the United States Postal Service if they are properly addressed with postage prepaid. Notices sent by electronic mail shall be deemed delivered when an electronic message is sent to the last-known address provided by the occupant. If the operator sends notice by electronic mail and receives an automated message stating that the electronic mail cannot be delivered, the operator shall send notice by verified mail to the occupant's last-known address with postage prepaid.

(b) The copy of the advertisement of sale provided to the holder of any lien or security interest of record under subdivision (2)(b) of this section shall be sent to the last-known address of the lienholder or security interest holder by United

States mail. The copy of the advertisement shall be deemed delivered when deposited with the United States Postal Service if it is properly addressed with postage prepaid.

(9) If the operator complies with the requirements of this section, the operator's liability:

(a) To the occupant shall be limited to the net proceeds received from the sale of the occupant's personal property less any proceeds paid to the holders of any lien or security interest of record on the personal property being sold; and

(b) To the holders of any lien or security interest of record on the personal property being sold shall be limited to the net proceeds received from the sale of any personal property covered by the holder's lien or security interest.

Source: Laws 2017, LB492, § 7.

Effective date August 24, 2017.

Cross References

Uniform Disposition of Unclaimed Property Act, see section 69-1329.

76-1608 Occupant's care, custody, and control of personal property.

Unless the rental agreement specifically provides otherwise and until a lien sale under section 76-1607, the exclusive care, custody, and control of all personal property stored in a leased space remains vested in the occupant.

Source: Laws 2017, LB492, § 8.

Effective date August 24, 2017.

76-1609 Act; how construed.

The Self-Service Storage Facilities Act does not impair the power of the parties to a rental agreement to create rights, duties, or obligations that do not arise from the act. The rights provided to an operator by the act are in addition to all other rights provided by law to a creditor against a debtor.

Source: Laws 2017, LB492, § 9.

Effective date August 24, 2017.

ARTICLE 23

ONE-CALL NOTIFICATION SYSTEM

Section

76-2316. Statewide one-call notification center, defined.

76-2319. Board of directors; rules and regulations; selection of vendor.

76-2320. Operator; duty to furnish information; center operational, when.

76-2325. Violations; civil penalty.

76-2316 Statewide one-call notification center, defined.

Statewide one-call notification center shall mean the association operating on a nonprofit basis, supported by its members, and having as its principal purpose the statewide receipt and dissemination to participating operators of information on a fair and uniform basis concerning intended excavation in an area where the operators have underground facilities.

Source: Laws 1994, LB 421, § 16; Laws 2017, LB263, § 94.

Operative date August 24, 2017.

76-2319 Board of directors; rules and regulations; selection of vendor.

(1) The center shall be governed by a board of directors who shall oversee operation of the center pursuant to rules and regulations adopted and promulgated by the State Fire Marshal. The board of directors shall also establish a competitive bidding procedure to select a vendor to provide the notification service, establish a procedure by which members of the center share the costs of the center on a fair, reasonable, and nondiscriminatory basis, and do all other things necessary to implement the purpose of the center. Any agreement between the center and a vendor for the notification service may be modified from time to time by the board of directors, and any agreement shall be reviewed by the board of directors at least once every three years, with an opportunity to receive new bids if desired by the board of directors.

(2) The rules and regulations adopted and promulgated by the State Fire Marshal may provide for:

(a) Any requirements necessary to comply with United States Department of Transportation programs;

(b) The qualifications, appointment, retention, and composition of the board of directors; and

(c) Best practices for the marking, location, and notification of proposed excavations which shall govern the center, excavators, and operators of underground facilities.

(3) Any rule or regulation adopted and promulgated by the State Fire Marshal pursuant to subdivision (2)(c) of this section shall originate with the board of directors.

Source: Laws 1994, LB 421, § 19; Laws 2017, LB263, § 95.
Operative date August 24, 2017.

76-2320 Operator; duty to furnish information; center operational, when.

Every operator shall furnish the vendor selected by the board of directors with information concerning the location of its underground facilities. Every operator having underground facilities in existence in this state on February 16, 1994, shall furnish such information to the vendor by April 3, 1995. The vendor shall have the center operational on October 2, 1995.

Source: Laws 1994, LB 421, § 20; Laws 2017, LB263, § 96.
Operative date August 24, 2017.

76-2325 Violations; civil penalty.

Any person who violates the provisions of section 76-2320, 76-2321, 76-2322, 76-2323, 76-2326, 76-2330, or 76-2331 shall be subject to a civil penalty as follows:

(1) For a violation related to a gas or hazardous liquid underground pipeline facility or a fiber optic telecommunications facility, an amount not to exceed ten thousand dollars for each violation for each day the violation persists, up to a maximum of five hundred thousand dollars; and

(2) For a violation related to any other underground facility, an amount not to exceed five thousand dollars for each day the violation persists, up to a maximum of fifty thousand dollars.

An action to recover a civil penalty shall be brought by the Attorney General or a prosecuting attorney on behalf of the State of Nebraska in any court of

competent jurisdiction of this state. The trial shall be before the court, which shall consider the nature, circumstances, and gravity of the violation and, with respect to the person found to have committed the violation, the degree of culpability, the absence or existence of prior violations, whether the violation was a willful act, any good faith attempt to achieve compliance, and such other matters as justice may require in determining the amount of penalty imposed. All penalties shall be remitted to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

Source: Laws 1994, LB 421, § 25; Laws 2014, LB930, § 5; Laws 2017, LB263, § 97.

Operative date August 24, 2017.

ARTICLE 34

NEBRASKA UNIFORM REAL PROPERTY TRANSFER ON DEATH ACT

Section

76-3415. Effect of transfer on death deed at transferor's death.

76-3415 Effect of transfer on death deed at transferor's death.

(a) Except as otherwise provided in the transfer on death deed, in this section, or in sections 30-2313 to 30-2319 or section 30-2354, on the death of the transferor, the following rules apply to property that is the subject of a transfer on death deed and owned by the transferor at death:

(1) Subject to subdivision (2) of this subsection, the interest in the property is transferred to the designated beneficiary in accordance with the deed;

(2) The interest of a designated beneficiary is contingent on the designated beneficiary surviving the transferor by one hundred twenty hours. If the deed provides for a different survival period, the deed shall determine the survival requirement for designated beneficiaries. The interest of a designated beneficiary that fails to survive the transferor by one hundred twenty hours or as otherwise provided in the deed shall be treated as if the designated beneficiary predeceased the transferor;

(3) Subject to subdivision (4) of this subsection, concurrent interests are transferred to the beneficiaries in equal and undivided shares with no right of survivorship; and

(4) If the transferor has identified two or more designated beneficiaries to receive concurrent interests in the property, the share of one which fails for any reason is transferred to the other, or to the others in proportion to the interest of each in the remaining part of the property held concurrently.

(b) A beneficiary takes the property subject to all conveyances, encumbrances, assignments, contracts, mortgages, liens, and other interests to which the property is subject at the transferor's death.

(c) If a transferor is a joint owner and is:

(1) Survived by one or more other joint owners, the property that is the subject of a transfer on death deed belongs to the surviving joint owner or owners with right of survivorship; or

(2) The last surviving joint owner, the transfer on death deed of the last surviving joint owner transferor is effective.

(d) A transfer on death deed transfers property without covenant or warranty of title even if the deed contains a contrary provision.

(e) If after recording a transfer on death deed the transferor is divorced or his or her marriage is dissolved or annulled, the divorce, dissolution, or annulment revokes any disposition or appointment of property made by the transfer on death deed as provided in section 30-2333.

Source: Laws 2012, LB536, § 15; Laws 2017, LB517, § 7.
Effective date August 24, 2017.

ARTICLE 35

RADON RESISTANT NEW CONSTRUCTION ACT

Section

76-3501. Act, how cited.

76-3502. Legislative findings.

76-3503. Terms, defined.

76-3504. Radon Resistant New Construction Task Force; created; members; meetings; expenses; duties.

76-3505. Recommendations; use by Legislature.

76-3501 Act, how cited.

Sections 76-3501 to 76-3505 shall be known and may be cited as the Radon Resistant New Construction Act.

Source: Laws 2017, LB9, § 1.
Effective date August 24, 2017.

76-3502 Legislative findings.

The Legislature finds that:

(1) Radon is a radioactive element that is part of the radioactive decay chain of naturally occurring uranium in soil;

(2) Radon is the leading cause of lung cancer among nonsmokers and is the number one risk in homes according to the Harvard Center for Risk Analysis at the Harvard T.H. Chan School of Public Health;

(3) The World Health Organization Handbook on Indoor Radon includes key messages which state:

(a) "There is no known threshold concentration below which radon exposure presents no risk."; and

(b) "The majority of radon-induced lung cancers are caused by low and moderate radon concentrations rather than by high radon concentrations, because in general less people are exposed to high indoor radon concentrations.";

(4) The Surgeon General of the United States urged Americans to test their homes to find out how much radon they might be breathing;

(5) The United States Environmental Protection Agency estimates that more than twenty thousand Americans die of radon-related lung cancer each year; and

(6) The United States Environmental Protection Agency has identified radon levels in Nebraska as the third highest in the United States because of the high concentration of uranium in the soil.

Source: Laws 2017, LB9, § 2.
Effective date August 24, 2017.

76-3503 Terms, defined.

For purposes of the Radon Resistant New Construction Act:

- (1) Active radon mitigation system means a family of radon mitigation systems involving mechanically driven soil depressurization, including subslab depressurization, drain tile depressurization, block wall depressurization, and submembrane depressurization. Active radon mitigation system is also known as active soil depressurization;
- (2) Building code means an ordinance, resolution, or law that establishes standards applicable to new construction;
- (3) Building contractor means any individual, corporation, partnership, limited liability company, or other business entity that engages in new construction;
- (4) Department means the Department of Health and Human Services;
- (5) New construction means any original construction of a single-family home or a multifamily dwelling, including apartments, group homes, condominiums, and townhouses, or any original construction of a building used for commercial, industrial, educational, or medical purposes. New construction does not include additions to existing structures or remodeling of existing structures;
- (6) Passive new construction pipe means a pipe installed in new construction that relies solely on the convective flow of air upward for soil gas depressurization and may consist of multiple pipes routed through conditioned space from below the foundation to above the roof; and
- (7) Radon mitigation specialist means an individual who is licensed by the department as a radon mitigation specialist in accordance with the Radiation Control Act.

Source: Laws 2017, LB9, § 3.

Effective date August 24, 2017.

Cross References

Radiation Control Act, see section 71-3519.

76-3504 Radon Resistant New Construction Task Force; created; members; meetings; expenses; duties.

- (1) The Radon Resistant New Construction Task Force is created. The task force shall consist of the chief medical officer of the Division of Public Health of the Department of Health and Human Services as designated in section 81-3115 or his or her designee, who shall serve as the chairperson of the task force, and the following additional members to be appointed by the Governor:
 - (a) Three representatives of home builders' associations in Nebraska, each from a different congressional district;
 - (b) A representative of a home inspectors' association in Nebraska;
 - (c) Two representatives of commercial construction associations, one of whom must have experience related to large-scale projects and one of whom must have experience related to medium-scale to small-scale projects;
 - (d) A representative of a Nebraska realtors' organization;
 - (e) A representative of a respiratory disease organization;
 - (f) A representative of a cancer research and prevention organization;
 - (g) A representative of the League of Nebraska Municipalities;

(h) Three community public health representatives, each from a different congressional district;

(i) A professional engineer as defined in section 81-3422;

(j) An architect as defined in section 81-3404; and

(k) A representative with expertise in residential or commercial building codes.

(2) The task force shall meet at the call of the chairperson. The appointed members of the task force shall serve without compensation but shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177. The department shall provide staff and support for the operation of the task force.

(3) The task force shall develop minimum standards for radon resistant new construction and shall recommend such minimum standards to the Governor, to the Health and Human Services Committee of the Legislature, and to the Urban Affairs Committee of the Legislature. In developing such minimum standards, the task force shall:

(a) Design the minimum standards so that they may be enforced by a county, city, or village as part of its local building code;

(b) Consider Appendix F of the International Residential Code for One- and Two-Family Dwellings, 2012 edition, published by the International Code Council; and

(c) Consider including the following provisions in such minimum standards:

(i) A requirement that the installation of an active radon mitigation system only be performed by a building contractor or his or her subcontractors or by a radon mitigation specialist;

(ii) A requirement that the installation of radon resistant new construction only be performed by a building contractor or his or her subcontractors or by a radon mitigation specialist; and

(iii) A requirement that only a building contractor or his or her subcontractors or a radon mitigation specialist be allowed to install a radon vent fan or upgrade a passive new construction pipe to an active radon mitigation system.

(4) The task force shall provide its recommendations by April 15, 2018. The task force and this section terminate on May 1, 2018.

Source: Laws 2017, LB9, § 4.

Effective date August 24, 2017.

76-3505 Recommendations; use by Legislature.

It is the intent of the Legislature that the recommendations provided by the Radon Resistant New Construction Task Force under section 76-3504 be used by the Legislature during the 2019 legislative session to establish, in statute, minimum standards for radon resistant new construction.

Source: Laws 2017, LB9, § 5.

Effective date August 24, 2017.

CHAPTER 77

REVENUE AND TAXATION

Article.

- 3. Department of Revenue. 77-3,119.
- 13. Assessment of Property. 77-1333, 77-1359.
- 18. Collection of Delinquent Real Property Taxes by Sale of Real Property. 77-1832 to 77-1837.01.
- 20. Inheritance Tax. 77-2018.02.
- 25. Affordable Housing Tax Credit Act. 77-2503, 77-2506.
- 26. Cigarette Tax. 77-2604, 77-2604.01.
- 27. Sales and Income Tax.
 - (a) Act, Rates, and Definitions. 77-2701.
 - (b) Sales and Use Tax. 77-2703, 77-2704.10.
 - (c) Income Tax. 77-2715.01 to 77-2785.
 - (d) General Provisions. 77-27,132.
 - (p) Internal Revenue Code Amendments. 77-27,222.
 - (v) Education and Transportation Assistance for Temporary Assistance for Needy Families Program Recipient. 77-27,238.
- 34. Political Subdivisions, Budget Limitations.
 - (d) Limitation on Property Taxes. 77-3442, 77-3443.
 - (e) Base Limitation. 77-3446.
- 35. Homestead Exemption. 77-3508 to 77-3517.
- 39. Uniform State Tax Lien Registration and Enforcement.
 - (a) Uniform State Tax Lien Registration and Enforcement Act. 77-3903.
- 42. Property Tax Credit Act. 77-4212.
- 57. Nebraska Advantage Act. 77-5725 to 77-5735.
- 59. Nebraska Advantage Microenterprise Tax Credit Act. 77-5902 to 77-5905.
- 63. Angel Investment Tax Credit Act. 77-6302 to 77-6307.

ARTICLE 3

DEPARTMENT OF REVENUE

Section

- 77-3,119. Tax Commissioner; certify population of cities and villages.

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 figures. The Tax Commissioner shall determine the most recent federal census figures 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 revised certified count 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; Laws 2017, LB113, § 54. Effective date August 24, 2017.

ARTICLE 13

ASSESSMENT OF PROPERTY

Section

- 77-1333. Rent-restricted housing projects; county assessor; perform income-approach calculation; owner; duties; Rent-Restricted Housing Projects Valuation Committee; created; members; meetings; report; county board of equalization; filing; hearing; Tax Commissioner; powers; petition; hearing.
- 77-1359. Agricultural and horticultural land; legislative findings; terms defined.

77-1333 Rent-restricted housing projects; county assessor; perform income-approach calculation; owner; duties; Rent-Restricted Housing Projects Valuation Committee; created; members; meetings; report; county board of equalization; filing; hearing; Tax Commissioner; powers; petition; hearing.

(1) For purposes of this section, rent-restricted housing project means a project consisting of five or more houses or residential units that has received an allocation of federal low-income housing tax credits under section 42 of the Internal Revenue Code from the Nebraska Investment Finance Authority or its successor agency and, for the year of assessment, is a project as defined in section 58-219 involving rental housing as defined in section 58-220.

(2) The Legislature finds that:

(a) The provision of safe, decent, and affordable housing to all residents of the State of Nebraska is a matter of public concern and represents a legitimate and compelling state need, affecting the general welfare of all residents;

(b) Rent-restricted housing projects effectively provide safe, decent, and affordable housing for residents of Nebraska;

(c) Such projects are restricted by federal law as to the rents paid by the tenants thereof;

(d) Of all the professionally accepted mass appraisal methodologies, which include the sales comparison approach, the income approach, and the cost approach, the utilization of the income-approach methodology results in the most accurate determination of the actual value of such projects; and

(e) This section is intended to (i) further the provision of safe, decent, and affordable housing to all residents of Nebraska and (ii) comply with Article VIII, section 1, of the Constitution of Nebraska, which empowers the Legislature to prescribe standards and methods for the determination of value of real property at uniform and proportionate values.

(3) Except as otherwise provided in this section, the county assessor shall utilize an income-approach calculation to determine the actual value of a rent-restricted housing project when determining the assessed valuation to place on the property for each assessment year. The income-approach calculation shall be consistent with this section and any rules and regulations adopted and

promulgated by the Tax Commissioner and shall comply with professionally accepted mass appraisal techniques.

(4) The Rent-Restricted Housing Projects Valuation Committee is created. For administrative purposes only, the committee shall be within the Department of Revenue. The committee's purpose shall be to develop a market-derived capitalization rate to be used by county assessors in determining the assessed valuation for rent-restricted housing projects. The committee shall consist of the following four persons:

(a) A representative of county assessors appointed by the Tax Commissioner. Such representative shall be skilled in the valuation of property and shall hold a certificate issued under section 77-422;

(b) A representative of the low-income housing industry appointed by the Tax Commissioner. The appointment shall be based on a recommendation made by the Nebraska Commission on Housing and Homelessness;

(c) The Property Tax Administrator or a designee of the Property Tax Administrator who holds a certificate issued under section 77-422. Such person shall serve as the chairperson of the committee; and

(d) An appraiser from the private sector appointed by the Tax Commissioner. Such appraiser must hold either a valid credential as a certified general real property appraiser under the Real Property Appraiser Act or an MAI designation from the Appraisal Institute.

(5) The owner of a rent-restricted housing project shall file a statement electronically on a form prescribed by the Tax Commissioner with the Rent-Restricted Housing Projects Valuation Committee on or before July 1 of each year that details actual income and actual expense data for the prior year, a description of any land-use restrictions, a description of the terms of any mortgage loans, including loan amount, interest rate, and amortization period, and such other information as the committee or the county assessor may require for purposes of this section. The Department of Revenue, on behalf of the committee, shall forward such statements on or before August 15 of each year to the county assessor of each county in which a rent-restricted housing project is located.

(6) The Rent-Restricted Housing Projects Valuation Committee shall meet annually in November to examine the information on rent-restricted housing projects that was provided pursuant to subsection (5) of this section. The Department of Revenue shall electronically publish notice of such meeting no less than thirty days in advance. The committee shall also solicit information on the sale of any such rent-restricted housing projects and information on the yields generated to investors in rent-restricted housing projects. The committee shall, after reviewing all such information, calculate a market-derived capitalization rate on an annual basis using the band-of-investment technique or other generally accepted technique used to derive capitalization rates depending upon the data available. The capitalization rate shall be a composite rate weighted by the proportions of total property investment represented by equity and debt, with equity weighted at eighty percent and debt weighted at twenty percent unless a substantially different market capital structure can be verified to the county assessor. The yield for equity shall be calculated using the data on investor returns gathered by the committee. The yield for debt shall be calculated using the data provided to the committee pursuant to subsection (5) of this section. If the committee determines that a particular county or group of

counties requires a different capitalization rate than that calculated for the rest of the state pursuant to this subsection, then the committee may calculate an additional capitalization rate that will apply only to such county or group of counties.

(7) After the Rent-Restricted Housing Projects Valuation Committee has calculated the capitalization rate or rates under subsection (6) of this section, the committee shall provide such rate or rates and the information reviewed by the committee in calculating such rate or rates in an annual report. Such report shall be forwarded by the Property Tax Administrator to each county assessor in Nebraska no later than December 1 of each year for his or her use in determining the valuation of rent-restricted housing projects. The Department of Revenue shall publish the annual report electronically but may charge a fee for paper copies. The Tax Commissioner shall set the fee based on the reasonable cost of producing the report.

(8) Except as provided in subsections (9) through (11) of this section, each county assessor shall use the capitalization rate or rates contained in the report received under subsection (7) of this section and the actual income and actual expense data filed by owners of rent-restricted housing projects under subsection (5) of this section in the county assessor's income-approach calculation. Any low-income housing tax credits authorized under section 42 of the Internal Revenue Code that were granted to owners of the project shall not be considered income for purposes of the calculation.

(9) If the actual income and actual expense data required to be filed for a rent-restricted housing project under subsection (5) of this section is not filed in a timely manner, the county assessor may use any method for determining actual value for such rent-restricted housing project that is consistent with professionally accepted mass appraisal methods described in section 77-112.

(10) If a county assessor, based on the facts and circumstances, believes that the income-approach calculation does not result in a valuation of a rent-restricted housing project at actual value, then the county assessor shall present such facts and circumstances to the county board of equalization. If the county board of equalization, based on such facts and circumstances, concurs with the county assessor, then the county board of equalization shall petition the Tax Equalization and Review Commission to consider the county assessor's utilization of another professionally accepted mass appraisal technique that, based on the facts and circumstances presented by a county board of equalization, would result in a substantially different determination of actual value of the rent-restricted housing project. Petitions must be filed no later than January 31. The burden of proof is on the petitioning county board of equalization to show that failure to make a determination that a different methodology should be used would result in a value that is not equitable and in accordance with the law. At the hearing, the commission may receive testimony from any interested person. After a hearing, the commission shall, within the powers granted in section 77-5007, enter its order based on evidence presented to it at such hearing.

(11) If the Tax Commissioner, based on the facts and circumstances, believes that the applicable capitalization rate set by the Rent-Restricted Housing Projects Valuation Committee to value a rent-restricted housing project does not result in a valuation at actual value for such rent-restricted housing project, then the Tax Commissioner shall petition the Tax Equalization and Review Commission to consider an adjustment to the capitalization rate of such rent-

restricted housing project. Petitions must be filed no later than January 31. The burden of proof is on the Tax Commissioner to show that failure to make an adjustment to the capitalization rate employed would result in a value that is not equal to the rent-restricted housing project's actual value. At the hearing, the commission may receive testimony from any interested person. After a hearing, the commission shall, within the powers granted in section 77-5007, enter its order based on evidence presented to it at such hearing.

Source: Laws 2005, LB 263, § 6; Laws 2007, LB334, § 68; Laws 2015, LB356, § 1; Laws 2017, LB217, § 5.
Operative date April 28, 2017.

Cross References

Nebraska Investment Finance Authority Act, see section 58-201.

Real Property Appraiser Act, see section 76-2201.

77-1359 Agricultural and horticultural land; legislative findings; terms, defined.

The Legislature finds and declares that agricultural land and horticultural land shall be a separate and distinct class of real property for purposes of assessment. The assessed value of agricultural land and horticultural land shall not be uniform and proportionate with all other real property, but the assessed value shall be uniform and proportionate within the class of agricultural land and horticultural land.

For purposes of this section and section 77-1363:

(1) Agricultural land and horticultural land means a parcel of land, excluding land associated with a building or enclosed structure located on the parcel, which is primarily used for agricultural or horticultural purposes, including wasteland lying in or adjacent to and in common ownership or management with other agricultural land and horticultural land;

(2)(a) Agricultural or horticultural purposes means used for the commercial production of any plant or animal product in a raw or unprocessed state that is derived from the science and art of agriculture, aquaculture, or horticulture;

(b) Agricultural or horticultural purposes includes the following uses of land:

(i) Land retained or protected for future agricultural or horticultural purposes under a conservation easement as provided in the Conservation and Preservation Easements Act except when the parcel or a portion thereof is being used for purposes other than agricultural or horticultural purposes; and

(ii) Land enrolled in a federal or state program in which payments are received for removing such land from agricultural or horticultural production; and

(c) Whether a parcel of land is primarily used for agricultural or horticultural purposes shall be determined without regard to whether some or all of the parcel is platted and subdivided into separate lots or developed with improvements consisting of streets, sidewalks, curbs, gutters, sewer lines, water lines, or utility lines;

(3) Farm home site means land contiguous to a farm site which includes an inhabitable residence and improvements used for residential purposes and which is located outside of urban areas or outside a platted and zoned subdivision; and

(4) Farm site means the portion of land contiguous to land actively devoted to agriculture which includes improvements that are agricultural or horticultural in nature, including any uninhabitable or unimproved farm home site.

Source: Laws 1985, LB 271, § 4; Laws 1986, LB 817, § 11; Laws 1988, LB 1207, § 3; Laws 1989, LB 361, § 14; Laws 1991, LB 320, § 7; Laws 1996, LB 934, § 3; Laws 1997, LB 270, § 77; Laws 2000, LB 419, § 1; Laws 2006, LB 808, § 35; Laws 2008, LB777, § 1; Laws 2012, LB750, § 1; Laws 2017, LB217, § 6.
Operative date August 24, 2017.

Cross References

Conservation and Preservation Easements Act, see section 76-2,118.

ARTICLE 18

COLLECTION OF DELINQUENT REAL PROPERTY TAXES BY SALE OF REAL PROPERTY

Section

- 77-1832. Real property taxes; issuance of treasurer's tax deed; service of notice; upon whom made.
77-1833. Real property taxes; issuance of treasurer's tax deed; proof of service; fees.
77-1837.01. Real property taxes; tax deed proceedings; changes in law not retroactive; laws governing.

77-1832 Real property taxes; issuance of treasurer's tax deed; service of notice; upon whom made.

(1) Service of the notice provided by section 77-1831 shall be made by:

(a) Personal, residence, certified mail, or designated delivery service as described in section 25-505.01 upon every person in actual possession or occupancy of the real property who qualifies as an owner-occupant under section 77-1824.01; or

(b) Certified mail service as described in section 25-505.01 upon:

(i) The person in whose name the title to the real property appears of record who does not qualify as an owner-occupant under section 77-1824.01. The notice shall be sent to the name and address to which the property tax statement was mailed; and

(ii) Every encumbrancer of record in the office of the register of deeds of the county. The notice shall be sent to the encumbrancer's name and address appearing of record as shown in the encumbrance filed with the register of deeds.

(2) Personal or residence service shall be made by the county sheriff of the county where service is made or by a person authorized by section 25-507. The sheriff or other person serving the notice shall be entitled to the statutory fee prescribed in section 33-117. Within twenty days after the date of request for service of the notice, the person serving the notice shall (a) make proof of service to the person requesting the service and state the time and place of service including the address if applicable, the name of the person with whom the notice was left, and the method of service or (b) return the proof of service with a statement of the reason for the failure to serve. Failure to make proof of service or delay in doing so does not affect the validity of the service.

Source: Laws 1903, c. 73, § 214, p. 467; Laws 1905, c. 115, § 1, p. 520; R.S.1913, § 6542; Laws 1921, c. 143, § 1, p. 610; C.S.1922,

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§ 6070; C.S.1929, § 77-2022; R.S.1943, § 77-1832; Laws 1987, LB 93, § 20; Laws 1992, LB 1063, § 158; Laws 1992, Second Spec. Sess., LB 1, § 131; Laws 2003, LB 319, § 1; Laws 2012, LB370, § 5; Laws 2013, LB341, § 13; Laws 2017, LB217, § 7. Operative date April 28, 2017.

77-1833 Real property taxes; issuance of treasurer's tax deed; proof of service; fees.

The service of notice provided by section 77-1832 shall be proved by affidavit, and the notice and affidavit shall be filed and preserved in the office of the county treasurer. The purchaser or assignee shall also affirm in the affidavit that a title search was conducted to determine those persons entitled to notice pursuant to such section. If certified mail or designated delivery service is used, the certified mail return receipt or a copy of the signed delivery receipt shall be filed with and accompany the return of service. The affidavit shall be filed with the application for the tax deed pursuant to section 77-1837. For each service of such notice, a fee of one dollar shall be allowed. The amount of such fees shall be noted by the county treasurer in the record opposite the real property described in the notice and shall be collected by the county treasurer in case of redemption for the benefit of the holder of the certificate.

Source: Laws 1903, c. 73, § 214, p. 467; Laws 1905, c. 115, § 1, p. 520; R.S.1913, § 6542; Laws 1921, c. 143, § 1, p. 610; C.S.1922, § 6070; C.S.1929, § 77-2022; R.S.1943, § 77-1833; Laws 1969, c. 645, § 9, p. 2561; Laws 1992, LB 1063, § 159; Laws 1992, Second Spec. Sess., LB 1, § 132; Laws 2003, LB 319, § 2; Laws 2012, LB370, § 6; Laws 2013, LB341, § 14; Laws 2017, LB217, § 8.

Operative date April 28, 2017.

77-1837.01 Real property taxes; tax deed proceedings; changes in law not retroactive; laws governing.

(1) Except as otherwise provided in subsection (2) of this section, the laws in effect on the date of the issuance of a tax sale certificate govern all matters related to tax deed proceedings, including noticing and application, and foreclosure proceedings. Changes in law shall not apply retroactively with regard to the tax sale certificates previously issued.

(2) Tax sale certificates sold and issued between January 1, 2010, and December 31, 2017, shall be governed by the laws and statutes that were in effect on December 31, 2009, with regard to all matters relating to tax deed proceedings, including noticing and application, and foreclosure proceedings.

Source: Laws 2012, LB370, § 10; Laws 2014, LB851, § 10; Laws 2017, LB217, § 9.

Operative date April 28, 2017.

**ARTICLE 20
INHERITANCE TAX**

Section

77-2018.02. Inheritance tax; procedure for determination in absence of probate of estate; petition; notice; waiver of notice; hearing notice to Department of Health and Human Services.

77-2018.02 Inheritance tax; procedure for determination in absence of probate of estate; petition; notice; waiver of notice; hearing notice to Department of Health and Human Services.

(1) In the absence of any proceeding brought under Chapter 30, article 24 or 25, in this state, proceedings for the determination of the tax may be instituted in the county court of the county where the property or any part thereof which might be subject to tax is situated.

(2) Upon the filing of the petition referred to in subsection (1) of this section, the county court shall order the petition set for hearing, not less than two nor more than four weeks after the date of filing the petition, and shall cause notice thereof to be given to all persons interested in the estate of the deceased and the property described in the petition, except as provided in subsections (4) and (5) of this section, in the manner provided for in subsection (3) of this section.

(3) The notice, provided for by subsection (2) of this section, shall be given by one publication in a legal newspaper of the county or, in the absence of such legal newspaper, then in a legal newspaper of some adjoining county of general circulation in the county. In addition to such publication of notice, personal service of notice of the hearing shall be had upon the county attorney of each county in which the property described in the petition is located, at least one week prior to the hearing.

(4) If it appears to the county court, upon the filing of the petition, by any person other than the county attorney, that no assessment of inheritance tax could result, it shall forthwith enter thereon an order directing the county attorney to show cause, within one week from the service thereof, why determination should not be made that no inheritance tax is due on account of the property described in the petition and the potential lien thereof on such property extinguished. Upon service of such order to show cause and failure of such showing by the county attorney, notice of such hearing by publication shall be dispensed with, and the petitioner shall be entitled without delay to a determination of no tax due on account of the property described in the petition, and any potential lien shall be extinguished.

(5) If it appears to the county court that (a) the county attorney of each county in which the property described in the petition is located has executed a waiver of notice upon him or her to show cause, or of the time and place of hearing, and has entered a voluntary appearance in such proceeding in behalf of the county and the State of Nebraska, and (b) either (i) all persons against whom an inheritance tax may be assessed are either a petitioner or have executed a waiver of notice upon them to show cause, or of the time and place of hearing, and have entered a voluntary appearance, or (ii) a party to the proceeding has agreed to pay to the proper counties the full inheritance tax so determined, the court may dispense with the notice provided for in subsections (2) and (3) of this section and proceed without delay to make a determination of inheritance tax, if any, due on account of the property described in the petition.

(6) If the decedent was fifty-five years of age or older or resided in a medical institution as defined in subsection (1) of section 68-919, a notice of the filing of the petition referred to in subsection (1) of this section shall be provided to the Department of Health and Human Services with the decedent's social security number and, if the decedent was predeceased by a spouse, the name and social security number of such spouse. A certificate of the providing of the notice to

the department shall be filed in the inheritance tax proceedings by an attorney for the petitioner or, if there is no attorney, by the petitioner, prior to the entry of an order pursuant to this section. The notice shall be provided to the department in a delivery manner and at an address designated by the department, which manner may include email. The department shall post the acceptable manner of delivering notice on its web site. Any notice that fails to conform with such manner is void and constitutes neither notice to the department nor a waiver application for purposes of any statute or regulation that requires that a notice or waiver application be provided to the department.

Source: Laws 1953, c. 282, § 8, p. 917; Laws 1959, c. 375, § 1, p. 1314; Laws 1969, c. 682, § 1, p. 2609; Laws 1975, LB 481, § 33; Laws 1976, LB 585, § 15; Laws 1977, LB 456, § 3; Laws 2015, LB72, § 5; Laws 2017, LB268, § 16.
Effective date August 24, 2017.

ARTICLE 25

AFFORDABLE HOUSING TAX CREDIT ACT

Section

- 77-2503. Application; form; qualified project; allocation of credit; transfer, sale, or assignment; use of credit.
77-2506. Recapture or disallowance of federal credit; Nebraska credit recaptured.

77-2503 Application; form; qualified project; allocation of credit; transfer, sale, or assignment; use of credit.

(1) An owner of an affordable housing project seeking a Nebraska affordable housing tax credit shall file an application with the authority on a form prescribed by the authority. A qualified taxpayer shall be allowed a nonrefundable tax credit if the authority determines that the project for which tax credits are sought is a qualified project.

(2) If the requirements of subsection (1) of this section are met, the authority shall issue an eligibility statement to the owner of such qualified project stating the amount of Nebraska affordable housing tax credits allocated to the qualified project. The amount of such tax credits shall be the amount of federal low-income housing tax credits available to such project, except as otherwise provided in subsection (4) of this section. Tax credits for each building in a qualified project shall be issued for the first six years of the credit period as defined in 26 U.S.C. 42(f)(1), except that any reduction in the credit allowable in the first year of the credit period due to the calculation in 26 U.S.C. 42(f)(2) shall be allowable in the seventh year of the credit period. The authority shall only allocate tax credits to qualified projects that are placed in service after January 1, 2018.

(3) If the owner of the qualified project is (a) a partnership, (b) a limited liability company, or (c) a corporation having an election in effect under subchapter S of the Internal Revenue Code of 1986, as amended, the Nebraska affordable housing tax credit shall be allocated among some or all of the partners, members, or shareholders of the owner of the qualified project in any manner agreed to by such persons. A qualified taxpayer may transfer, sell, or assign all or part of his or her ownership interest, including his or her interest in the tax credits authorized in this section. For any tax year in which such an interest is transferred, sold, or assigned pursuant to this subsection, the trans-

feror shall notify the Department of Revenue of the transfer, sale, or assignment and provide the tax identification number of the new owner at least thirty days prior to the new owner claiming the tax credits. The notification shall be in the manner prescribed by the department.

(4) The maximum amount of Nebraska affordable housing tax credits awarded to all qualified projects in any given allocation year shall be no more than one hundred percent of the total amount of federal low-income housing tax credits awarded by the authority in the same allocation year. Notwithstanding any other provision of the Affordable Housing Tax Credit Act, the authority is prohibited from awarding to a qualified project any combined amount of federal low-income housing tax credits and Nebraska affordable housing tax credits that is more than necessary to make the qualified project financially feasible.

(5) Any Nebraska affordable housing tax credits granted under this section may be used to offset any income taxes due under section 77-2715 or 77-2734.02, any premium and related retaliatory taxes due under section 44-150 or 77-908, or any franchise taxes due under sections 77-3801 to 77-3807.

(6) The tax credit shall not be used to reduce the tax liability of the qualified taxpayer to less than zero. Any tax credit claimed but not used in a taxable year may be carried forward.

Source: Laws 2016, LB884, § 13; Laws 2017, LB217, § 10.
Operative date August 24, 2017.

77-2506 Recapture or disallowance of federal credit; Nebraska credit recaptured.

If a portion of any federal low-income housing tax credits taken on a qualified project is required to be recaptured or is otherwise disallowed under 26 U.S.C. 42 during the 6-year period described in subsection (2) of section 77-2503, a portion of the Nebraska affordable housing tax credits with respect to such project shall also be recaptured from the qualified taxpayer who claimed such credits. The percentage of Nebraska affordable housing tax credits subject to recapture under this section shall be equal to the percentage of federal low-income housing tax credits subject to recapture or otherwise disallowed during such period. Any Nebraska affordable housing tax credits recaptured or disallowed under this section shall increase the tax liability of the qualified taxpayer who claimed the credits in the year the Department of Revenue declares the tax credits to be disallowed or recaptured.

Source: Laws 2016, LB884, § 16; Laws 2017, LB217, § 11.
Operative date August 24, 2017.

**ARTICLE 26
CIGARETTE TAX**

Section

77-2604. Tax Commissioner; reports; contents; when due.
77-2604.01. Cigarette sales; reports required; contents.

77-2604 Tax Commissioner; reports; contents; when due.

(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 in the manner prescribed 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 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.

Source: Laws 1947, c. 267, § 4, p. 862; Laws 2002, LB 989, § 12; Laws 2011, LB590, § 26; Laws 2015, LB261, § 9; Laws 2017, LB217, § 12.

Operative date August 24, 2017.

77-2604.01 Cigarette sales; reports required; contents.

(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 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.

Source: Laws 2011, LB590, § 27; Laws 2015, LB261, § 10; Laws 2017, LB217, § 13.

Operative date August 24, 2017.

ARTICLE 27

SALES AND INCOME TAX

(a) ACT, RATES, AND DEFINITIONS

Section
77-2701. Act, how cited.

(b) SALES AND USE TAX

77-2703. Sales and use tax; rate; collection; understatement; prohibited acts; violation; penalty; interest.

77-2704.10. Prepared food and food and food ingredients; fees and admissions; exemption.

(c) INCOME TAX

77-2715.01. Income and sales tax; Legislature; set rates; limitations; primary rate; Tax Rate Review Committee; members; meetings; report.

77-2756. Income tax; employer or payor; withholding for tax.

77-2783. Income tax; additional tax; notice; no appeal or protest; when.

77-2785. Income tax; assessment; deficiency; date.

(d) GENERAL PROVISIONS

77-27,132. Revenue Distribution Fund; created; use; collections under act; disposition.

Section

(p) INTERNAL REVENUE CODE AMENDMENTS

77-27,222. Internal Revenue Code amendment; Tax Commissioner; duties; report.

(v) EDUCATION AND TRANSPORTATION ASSISTANCE FOR TEMPORARY ASSISTANCE FOR NEEDY FAMILIES PROGRAM RECIPIENT

77-27,238. Temporary Assistance for Needy Families Program recipient; employer tax credit; Department of Revenue; report; contents.

(a) ACT, RATES, AND DEFINITIONS

77-2701 Act, how cited.

Sections 77-2701 to 77-27,135.01, 77-27,222, 77-27,235, 77-27,236, and 77-27,238 shall be known and may be cited as the Nebraska Revenue Act of 1967.

Source: Laws 1967, c. 487, § 1, p. 1533; Laws 1984, LB 1124, § 2; Laws 1985, LB 715, § 1; Laws 1985, LB 273, § 40; Laws 1987, LB 773, § 1; Laws 1987, LB 772, § 1; Laws 1987, LB 775, § 14; Laws 1987, LB 523, § 12; Laws 1989, LB 714, § 1; Laws 1989, LB 762, § 9; Laws 1991, LB 444, § 1; Laws 1991, LB 773, § 6; Laws 1991, LB 829, § 19; Laws 1992, LB 871, § 3; Laws 1992, LB 1063, § 180; Laws 1992, Second Spec. Sess., LB 1, § 153; Laws 1992, Fourth Spec. Sess., LB 1, § 22; Laws 1993, LB 138, § 69; Laws 1993, LB 240, § 1; Laws 1993, LB 345, § 14; Laws 1993, LB 587, § 20; Laws 1993, LB 815, § 22; Laws 1994, LB 901, § 1; Laws 1994, LB 938, § 1; Laws 1995, LB 430, § 2; Laws 1996, LB 106, § 2; Laws 1997, LB 182A, § 1; Laws 1998, LB 924, § 27; Laws 2001, LB 172, § 10; Laws 2001, LB 433, § 2; Laws 2002, LB 57, § 2; Laws 2002, LB 947, § 3; Laws 2003, LB 72, § 1; Laws 2003, LB 168, § 1; Laws 2003, LB 282, § 6; Laws 2003, LB 759, § 4; Laws 2004, LB 1017, § 2; Laws 2005, LB 28, § 1; Laws 2005, LB 312, § 6; Laws 2006, LB 872, § 1; Laws 2006, LB 968, § 3; Laws 2006, LB 1189, § 1; Laws 2007, LB223, § 3; Laws 2007, LB343, § 1; Laws 2007, LB367, § 9; Laws 2008, LB916, § 5; Laws 2009, LB9, § 2; Laws 2012, LB727, § 34; Laws 2012, LB830, § 1; Laws 2012, LB970, § 1; Laws 2012, LB1080, § 2; Laws 2014, LB96, § 1; Laws 2014, LB867, § 8; Laws 2015, LB3, § 1; Laws 2015, LB419, § 1; Laws 2016, LB774, § 2; Laws 2017, LB217, § 14.

Operative date April 28, 2017.

(b) SALES AND USE TAX

77-2703 Sales and use tax; rate; collection; understatement; prohibited acts; violation; penalty; interest.

(1) There is hereby imposed a tax at the rate provided in section 77-2701.02 upon the gross receipts from all sales of tangible personal property sold at retail in this state; the gross receipts of every person engaged as a public utility, as a community antenna television service operator, or as a satellite service operator, any person involved in the connecting and installing of the services defined in subdivision (2)(a), (b), (d), or (e) of section 77-2701.16, or every person engaged as a retailer of intellectual or entertainment properties referred to in

subsection (3) of section 77-2701.16; the gross receipts from the sale of admissions in this state; the gross receipts from the sale of warranties, guarantees, service agreements, or maintenance agreements when the items covered are subject to tax under this section; beginning January 1, 2008, the gross receipts from the sale of bundled transactions when one or more of the products included in the bundle are taxable; the gross receipts from the provision of services defined in subsection (4) of section 77-2701.16; and the gross receipts from the sale of products delivered electronically as described in subsection (9) of section 77-2701.16. Except as provided in section 77-2701.03, when there is a sale, the tax shall be imposed at the rate in effect at the time the gross receipts are realized under the accounting basis used by the retailer to maintain his or her books and records.

(a) The tax imposed by this section shall be collected by the retailer from the consumer. It shall constitute a part of the purchase price and until collected shall be a debt from the consumer to the retailer and shall be recoverable at law in the same manner as other debts. The tax required to be collected by the retailer from the consumer constitutes a debt owed by the retailer to this state.

(b) It is unlawful for any retailer to advertise, hold out, or state to the public or to any customer, directly or indirectly, that the tax or part thereof will be assumed or absorbed by the retailer, that it will not be added to the selling, renting, or leasing price of the property sold, rented, or leased, or that, if added, it or any part thereof will be refunded. The provisions of this subdivision shall not apply to a public utility.

(c) The tax required to be collected by the retailer from the purchaser, unless otherwise provided by statute or by rule and regulation of the Tax Commissioner, shall be displayed separately from the list price, the price advertised in the premises, the marked price, or other price on the sales check or other proof of sales, rentals, or leases.

(d) For the purpose of more efficiently securing the payment, collection, and accounting for the sales tax and for the convenience of the retailer in collecting the sales tax, it shall be the duty of the Tax Commissioner to provide a schedule or schedules of the amounts to be collected from the consumer or user to effectuate the computation and collection of the tax imposed by the Nebraska Revenue Act of 1967. Such schedule or schedules shall provide that the tax shall be collected from the consumer or user uniformly on sales according to brackets based on sales prices of the item or items. Retailers may compute the tax due on any transaction on an item or an invoice basis. The rounding rule provided in section 77-3,117 applies.

(e) The use of tokens or stamps for the purpose of collecting or enforcing the collection of the taxes imposed in the Nebraska Revenue Act of 1967 or for any other purpose in connection with such taxes is prohibited.

(f) For the purpose of the proper administration of the provisions of the Nebraska Revenue Act of 1967 and to prevent evasion of the retail sales tax, it shall be presumed that all gross receipts are subject to the tax until the contrary is established. The burden of proving that a sale of property is not a sale at retail is upon the person who makes the sale unless he or she takes from the purchaser (i) a resale certificate to the effect that the property is purchased for the purpose of reselling, leasing, or renting it, (ii) an exemption certificate pursuant to subsection (7) of section 77-2705, or (iii) a direct payment permit pursuant to sections 77-2705.01 to 77-2705.03. Receipt of a resale certificate,

exemption certificate, or direct payment permit shall be conclusive proof for the seller that the sale was made for resale or was exempt or that the tax will be paid directly to the state.

(g) In the rental or lease of automobiles, trucks, trailers, semitrailers, and truck-tractors as defined in the Motor Vehicle Registration Act, the tax shall be collected by the lessor on the rental or lease price, except as otherwise provided within this section.

(h) In the rental or lease of automobiles, trucks, trailers, semitrailers, and truck-tractors as defined in the act, for periods of one year or more, the lessor may elect not to collect and remit the sales tax on the gross receipts and instead pay a sales tax on the cost of such vehicle. If such election is made, it shall be made pursuant to the following conditions:

(i) Notice of the desire to make such election shall be filed with the Tax Commissioner and shall not become effective until the Tax Commissioner is satisfied that the taxpayer has complied with all conditions of this subsection and all rules and regulations of the Tax Commissioner;

(ii) Such election when made shall continue in force and effect for a period of not less than two years and thereafter until such time as the lessor elects to terminate the election;

(iii) When such election is made, it shall apply to all vehicles of the lessor rented or leased for periods of one year or more except vehicles to be leased to common or contract carriers who provide to the lessor a valid common or contract carrier exemption certificate. If the lessor rents or leases other vehicles for periods of less than one year, such lessor shall maintain his or her books and records and his or her accounting procedure as the Tax Commissioner prescribes; and

(iv) The Tax Commissioner by rule and regulation shall prescribe the contents and form of the notice of election, a procedure for the determination of the tax base of vehicles which are under an existing lease at the time such election becomes effective, the method and manner for terminating such election, and such other rules and regulations as may be necessary for the proper administration of this subdivision.

(i) The tax imposed by this section on the sales of motor vehicles, semitrailers, and trailers as defined in sections 60-339, 60-348, and 60-354 shall be the liability of the purchaser and, with the exception of motor vehicles, semitrailers, and trailers registered pursuant to section 60-3,198, the tax shall be collected by the county treasurer as provided in the Motor Vehicle Registration Act or by an approved licensed dealer participating in the electronic dealer services system pursuant to section 60-1507 at the time the purchaser makes application for the registration of the motor vehicle, semitrailer, or trailer for operation upon the highways of this state. The tax imposed by this section on motor vehicles, semitrailers, and trailers registered pursuant to section 60-3,198 shall be collected by the Department of Motor Vehicles at the time the purchaser makes application for the registration of the motor vehicle, semitrailer, or trailer for operation upon the highways of this state. At the time of the sale of any motor vehicle, semitrailer, or trailer, the seller shall (i) state on the sales invoice the dollar amount of the tax imposed under this section and (ii) furnish to the purchaser a certified statement of the transaction, in such form as the Tax Commissioner prescribes, setting forth as a minimum the total sales price, the allowance for any trade-in, and the difference between the two. The sales

tax due shall be computed on the difference between the total sales price and the allowance for any trade-in as disclosed by such certified statement. Any seller who willfully understates the amount upon which the sales tax is due shall be subject to a penalty of one thousand dollars. A copy of such certified statement shall also be furnished to the Tax Commissioner. Any seller who fails or refuses to furnish such certified statement shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars. If the purchaser does not register such motor vehicle, semitrailer, or trailer for operation on the highways of this state within thirty days of the purchase thereof, the tax imposed by this section shall immediately thereafter be paid by the purchaser to the county treasurer or the Department of Motor Vehicles. If the tax is not paid on or before the thirtieth day after its purchase, the county treasurer or Department of Motor Vehicles shall also collect from the purchaser interest from the thirtieth day through the date of payment and sales tax penalties as provided in the Nebraska Revenue Act of 1967. The county treasurer or Department of Motor Vehicles shall report and remit the tax so collected to the Tax Commissioner by the fifteenth day of the following month. The county treasurer 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 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 at the time the purchaser makes application for the registration of the motorboat. At the time of the sale of a motorboat, the seller shall (A) state on the sales invoice the dollar amount of the tax imposed under this section and (B) furnish to the purchaser a certified statement of the transaction, in such form as the Tax Commissioner prescribes, setting forth as a minimum the total sales price, the allowance for any trade-in, and the difference between the two. The sales tax due shall be computed on the difference between the total sales price and the allowance for any trade-in as disclosed by such certified statement. Any seller who willfully understates the amount upon which the sales tax is due shall be subject to a penalty of one thousand dollars. A copy of such certified statement shall also be furnished to the Tax Commissioner. Any seller who fails or refuses to furnish such certified statement shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars. If the purchaser does not register such motorboat within thirty days of the purchase thereof, the tax imposed by this section shall immediately thereafter be paid by the purchaser to the county treasurer. If the tax is not paid on or before the thirtieth day after its purchase, the county treasurer shall also collect from the purchaser interest from the thirtieth day through the date of payment and sales tax penalties as provided in the Nebraska Revenue Act of 1967. The county treasurer shall report and remit the tax so collected to the Tax Commissioner by the fifteenth day of the following month. The county treasurer shall deduct and withhold for the use of the county general fund, from all amounts

required to be collected under this subsection, the collection fee permitted to be deducted by any retailer collecting the sales tax. The collection fee shall be forfeited if the county treasurer violates any rule or regulation pertaining to the collection of the use tax.

(ii) In the rental or lease of motorboats, the tax shall be collected by the lessor on the rental or lease price.

(k)(i) The tax imposed by this section on the sale of an all-terrain vehicle as defined in section 60-103 or a utility-type vehicle as defined in section 60-135.01 shall be the liability of the purchaser. The tax shall be collected by the county treasurer or by an approved licensed dealer participating in the electronic dealer services system pursuant to section 60-1507 at the time the purchaser makes application for the certificate of title for the all-terrain vehicle or utility-type vehicle. At the time of the sale of an all-terrain vehicle or a utility-type vehicle, the seller shall (A) state on the sales invoice the dollar amount of the tax imposed under this section and (B) furnish to the purchaser a certified statement of the transaction, in such form as the Tax Commissioner prescribes, setting forth as a minimum the total sales price, the allowance for any trade-in, and the difference between the two. The sales tax due shall be computed on the difference between the total sales price and the allowance for any trade-in as disclosed by such certified statement. Any seller who willfully understates the amount upon which the sales tax is due shall be subject to a penalty of one thousand dollars. A copy of such certified statement shall also be furnished to the Tax Commissioner. Any seller who fails or refuses to furnish such certified statement shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars. If the purchaser does not obtain a certificate of title for such all-terrain vehicle or utility-type vehicle within thirty days of the purchase thereof, the tax imposed by this section shall immediately thereafter be paid by the purchaser to the county treasurer. If the tax is not paid on or before the thirtieth day after its purchase, the county treasurer shall also collect from the purchaser interest from the thirtieth day through the date of payment and sales tax penalties as provided in the Nebraska Revenue Act of 1967. The county treasurer shall report and remit the tax so collected to the Tax Commissioner by the fifteenth day of the following month. The county treasurer shall deduct and withhold for the use of the county general fund, from all amounts required to be collected under this subsection, the collection fee permitted to be deducted by any retailer collecting the sales tax. The collection fee shall be forfeited if the county treasurer violates any rule or regulation pertaining to the collection of the use tax.

(ii) In the rental or lease of an all-terrain vehicle or a utility-type vehicle, the tax shall be collected by the lessor on the rental or lease price.

(iii) County treasurers are appointed as sales and use tax collectors for all sales of all-terrain vehicles or utility-type vehicles made outside of this state to purchasers or users of all-terrain vehicles or utility-type vehicles which are required to have a certificate of title in this state. The county treasurer shall collect the applicable use tax from the purchaser of an all-terrain vehicle or a utility-type vehicle purchased outside of this state at the time application for a certificate of title is made. The full use tax on the purchase price shall be collected by the county treasurer if a sales or occupation tax was not paid by the purchaser in the state of purchase. If a sales or occupation tax was lawfully paid in the state of purchase at a rate less than the tax imposed in this state, use

tax must be collected on the difference as a condition for obtaining a certificate of title in this state.

(1) The Tax Commissioner shall adopt and promulgate necessary rules and regulations for determining the amount subject to the taxes imposed by this section so as to insure that the full amount of any applicable tax is paid in cases in which a sale is made of which a part is subject to the taxes imposed by this section and a part of which is not so subject and a separate accounting is not practical or economical.

(2) A use tax is hereby imposed on the storage, use, or other consumption in this state of property purchased, leased, or rented from any retailer and on any transaction the gross receipts of which are subject to tax under subsection (1) of this section on or after June 1, 1967, for storage, use, or other consumption in this state at the rate set as provided in subsection (1) of this section on the sales price of the property or, in the case of leases or rentals, of the lease or rental prices.

(a) Every person storing, using, or otherwise consuming in this state property purchased from a retailer or leased or rented from another person for such purpose shall be liable for the use tax at the rate in effect when his or her liability for the use tax becomes certain under the accounting basis used to maintain his or her books and records. His or her liability shall not be extinguished until the use tax has been paid to this state, except that a receipt from a retailer engaged in business in this state or from a retailer who is authorized by the Tax Commissioner, under such rules and regulations as he or she may prescribe, to collect the sales tax and who is, for the purposes of the Nebraska Revenue Act of 1967 relating to the sales tax, regarded as a retailer engaged in business in this state, which receipt is given to the purchaser pursuant to subdivision (b) of this subsection, shall be sufficient to relieve the purchaser from further liability for the tax to which the receipt refers.

(b) Every retailer engaged in business in this state and selling, leasing, or renting property for storage, use, or other consumption in this state shall, at the time of making any sale, collect any tax which may be due from the purchaser and shall give to the purchaser, upon request, a receipt therefor in the manner and form prescribed by the Tax Commissioner.

(c) The Tax Commissioner, in order to facilitate the proper administration of the use tax, may designate such person or persons as he or she may deem necessary to be use tax collectors and delegate to such persons such authority as is necessary to collect any use tax which is due and payable to the State of Nebraska. The Tax Commissioner may require of all persons so designated a surety bond in favor of the State of Nebraska to insure against any misappropriation of state funds so collected. The Tax Commissioner may require any tax official, city, county, or state, to collect the use tax on behalf of the state. All persons designated to or required to collect the use tax shall account for such collections in the manner prescribed by the Tax Commissioner. Nothing in this subdivision shall be so construed as to prevent the Tax Commissioner or his or her employees from collecting any use taxes due and payable to the State of Nebraska.

(d) All persons designated to collect the use tax and all persons required to collect the use tax shall forward the total of such collections to the Tax Commissioner at such time and in such manner as the Tax Commissioner may prescribe. For all use taxes collected prior to October 1, 2002, such collectors

of the use tax shall deduct and withhold from the amount of taxes collected two and one-half percent of the first three thousand dollars remitted each month and one-half of one percent of all amounts in excess of three thousand dollars remitted each month as reimbursement for the cost of collecting the tax. For use taxes collected on and after October 1, 2002, such collectors of the use tax shall deduct and withhold from the amount of taxes collected two and one-half percent of the first three thousand dollars remitted each month as reimbursement for the cost of collecting the tax. Any such deduction shall be forfeited to the State of Nebraska if such collector violates any rule, regulation, or directive of the Tax Commissioner.

(e) For the purpose of the proper administration of the Nebraska Revenue Act of 1967 and to prevent evasion of the use tax, it shall be presumed that property sold, leased, or rented by any person for delivery in this state is sold, leased, or rented for storage, use, or other consumption in this state until the contrary is established. The burden of proving the contrary is upon the person who purchases, leases, or rents the property.

(f) For the purpose of the proper administration of the Nebraska Revenue Act of 1967 and to prevent evasion of the use tax, for the sale of property to an advertising agency which purchases the property as an agent for a disclosed or undisclosed principal, the advertising agency is and remains liable for the sales and use tax on the purchase the same as if the principal had made the purchase directly.

Source: Laws 1967, c. 487, § 3, p. 1543; Laws 1967, c. 490, § 2, p. 1652; Laws 1969, c. 684, § 1, p. 2646; Laws 1969, c. 683, § 2, p. 2621; Laws 1974, LB 820, § 2; Laws 1981, LB 179, § 14; Laws 1983, LB 17, § 2; Laws 1983, LB 169, § 1; Laws 1983, LB 571, § 1; Laws 1985, LB 715, § 3; Laws 1985, LB 273, § 42; Laws 1986, LB 1027, § 204; Laws 1987, LB 224, § 28; Laws 1987, LB 523, § 14; Laws 1991, LB 239, § 1; Laws 1991, LB 47, § 7; Laws 1991, LB 829, § 21; Laws 1992, LB 871, § 25; Laws 1992, LB 1063, § 182; Laws 1992, Second Spec. Sess., LB 1, § 155; Laws 1992, Fourth Spec. Sess., LB 1, § 26; Laws 1993, LB 112, § 45; Laws 1993, LB 345, § 33; Laws 1993, LB 767, § 1; Laws 1994, LB 123, § 24; Laws 1994, LB 994, § 1; Laws 1994, LB 1207, § 15; Laws 1995, LB 17, § 1; Laws 1996, LB 1041, § 6; Laws 1996, LB 1218, § 65; Laws 1997, LB 62, § 1; Laws 1997, LB 182A, § 3; Laws 2002, LB 1085, § 11; Laws 2002, Second Spec. Sess., LB 32, § 1; Laws 2003, LB 282, § 48; Laws 2003, LB 381, § 3; Laws 2003, LB 563, § 43; Laws 2003, LB 759, § 12; Laws 2004, LB 1017, § 10; Laws 2005, LB 274, § 274; Laws 2007, LB223, § 7; Laws 2007, LB367, § 15; Laws 2008, LB916, § 15; Laws 2011, LB211, § 3; Laws 2012, LB801, § 98; Laws 2014, LB814, § 9; Laws 2017, LB263, § 98.

Operative date August 24, 2017.

Cross References

Motor Vehicle Registration Act, see section 60-301.

77-2704.10 Prepared food and food and food ingredients; fees and admissions; 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. This exemption does not apply to sales by an institution of higher education at any facility or function which is open to the general public;

(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) Fees and admissions charged for political events by ballot question committees, candidate committees, independent committees, and political party committees as defined in the Nebraska Political Accountability and Disclosure Act;

(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;

(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;

(7) Fees and admissions charged for participants in any activity provided by a nonprofit organization that is exempt from income tax under section 501(c)(3) of the Internal Revenue Code of 1986, as amended, which organization conducts statewide sport events with multiple sports for both adults and youth; and

(8) Fees and admissions charged for participants in any activity provided by a nonprofit organization that is exempt from income tax under section 501(c)(3) of the Internal Revenue Code of 1986, as amended, which organization is affiliated with a national organization, primarily dedicated to youth development and healthy living, and offers sports instruction and sports leagues or sports events in multiple sports.

Source: Laws 1992, LB 871, § 34; Laws 1993, LB 345, § 40; Laws 2003, LB 282, § 54; Laws 2011, LB211, § 5; Laws 2012, LB727, § 39; Laws 2017, LB63, § 1.

Operative date October 1, 2017.

Cross References

Nebraska Political Accountability and Disclosure Act, see section 49-1401.

(c) INCOME TAX

77-2715.01 Income and sales tax; Legislature; set rates; limitations; primary rate; Tax Rate Review Committee; members; meetings; report.

(1)(a) Commencing in 1987 the Legislature shall set the rates for the income tax imposed by section 77-2715 and the rate of the sales tax imposed by subsection (1) of section 77-2703. For taxable years beginning or deemed to begin before January 1, 2013, the rate of the income tax set by the Legislature shall be considered the primary rate for establishing the tax rate schedules used to compute the tax.

(b) The Legislature shall set the rates of the sales tax and income tax so that the estimated funds available plus estimated receipts from the sales, use, income, and franchise taxes will be not less than three percent nor more than seven percent in excess of the appropriations and express obligations for the biennium for which the appropriations are made, except that for the biennium ending June 30, 2019, the percentage shall not be less than two and one-half percent nor more than seven percent. The purpose of this subdivision is to insure that there shall be maintained in the state treasury an adequate General Fund balance, considering cash flow, to meet the appropriations and express obligations of the state.

(c) For purposes of this section, express obligation shall mean an obligation which has fiscal impact identifiable by a sum certain or by an established percentage or other determinative factor or factors.

(2) The Speaker of the Legislature and the chairpersons of the Legislature's Executive Board, Revenue Committee, and Appropriations Committee shall constitute a committee to be known as the Tax Rate Review Committee. The Tax Rate Review Committee shall meet with the Tax Commissioner within ten days after July 15 and November 15 of each year and shall determine whether the rates for sales tax and income tax should be changed. In making such determination the committee shall recalculate the requirements pursuant to the formula set forth in subsection (1) of this section, taking into consideration the appropriations and express obligations for any session, all miscellaneous claims, deficiency bills, and all emergency appropriations. The committee shall prepare an annual report of its determinations under this section. The committee shall submit such report electronically to the Legislature and shall append the tax expenditure report required under section 77-382 and the revenue volatility report required under section 50-419.02.

In the event it is determined by a majority vote of the committee that the rates must be changed as a result of a regular or special session or as a result of a change in the Internal Revenue Code of 1986 and amendments thereto, other provisions of the laws of the United States relating to federal income taxes, and the rules and regulations issued under such laws, the committee shall petition the Governor to call a special session of the Legislature to make whatever rate changes may be necessary.

Source: Laws 1969, c. 684, § 3, p. 2654; Laws 1971, LB 167, § 1; Laws 1973, LB 10, § 1; Laws 1975, LB 589, § 1; Laws 1975, Spec. Sess., LB 4, § 1; Laws 1976, LB 651, § 1; Laws 1978, LB 327, § 1; Laws 1982, LB 304, § 1; Laws 1982, LB 454, § 1; Laws 1982, LB 757, § 1; Laws 1982, LB 693, § 1; Laws 1983, LB 59, § 1; Laws 1983, LB 169, § 2; Laws 1983, LB 363, § 3; Laws 1984, LB 892, § 7; Laws 1985, LB 282, § 1; Laws 1986, LB 258, § 17; Laws 1987, LB 773, § 7; Laws 1988, LB 130, § 1; Laws

2012, LB962, § 2; Laws 2012, LB970, § 3; Laws 2015, LB33, § 2;
Laws 2017, LB331, § 41.
Effective date May 16, 2017.

77-2756 Income tax; employer or payor; withholding for tax.

(1) Except as provided in subsection (2) of this section, every employer or payor required to deduct and withhold income tax under the Nebraska Revenue Act of 1967 shall, for each calendar quarter, on or before the last day of the month following the close of such calendar quarter, file a withholding return as prescribed by the Tax Commissioner and pay over to the Tax Commissioner or to a depository designated by the Tax Commissioner the taxes so required to be deducted and withheld 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. When the aggregate amount required to be deducted and withheld by any employer or payor for either the first or second month of a calendar quarter exceeds five hundred dollars, the employer or payor shall, by the fifteenth day of the succeeding month, pay over such aggregate amount to the Tax Commissioner or to a depository designated by the Tax Commissioner. The amount so paid shall be allowed as a credit against the liability shown on the employer's or payor's quarterly withholding return required by this section. The Tax Commissioner may, by rule and regulation, provide for the filing of returns and the payment of the tax deducted and withheld on other than a quarterly basis.

(2) When the aggregate amount required to be deducted and withheld by any employer or payor for the entire calendar year is less than five hundred dollars or the employer or payor is allowed to file federal withholding returns annually, the employer or payor shall, for each calendar year, on or before the last day of the month following the close of such calendar year, file a withholding return as prescribed by the Tax Commissioner and pay over to the Tax Commissioner or to a depository designated by the Tax Commissioner the taxes so required to be deducted and withheld 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 employer or payor may elect or the Tax Commissioner may require the filing of returns and the payment of taxes on a quarterly basis.

(3) Whenever any employer or payor fails to collect, truthfully account for, pay over, or make returns of the income tax as required by this section, the Tax Commissioner may serve a notice requiring such employer or payor to collect the taxes which become collectible after service of such notice, to deposit such taxes in a bank approved by the Tax Commissioner in a separate account in trust for and payable to the Tax Commissioner, and to keep the amount of such tax in such account until paid over to the Tax Commissioner. Such notice shall remain in effect until a notice of cancellation is served by the Tax Commissioner.

(4) Any employer or payor may appoint an agent in accordance with section 3504 of the Internal Revenue Code of 1986, as amended, for the purpose of withholding, reporting, or making payment of amounts withheld on behalf of the employer or payor. The agent shall be considered an employer or payor for purposes of the Nebraska Revenue Act of 1967 and, with the actual employer or payor, shall be jointly and severally liable for any amount required to be

withheld and paid over to the Tax Commissioner and any additions to tax, penalties, and interest with respect thereto.

(5) The employer or payor shall also file on or before January 31 of the succeeding year a copy of each statement furnished by such employer or payor to each employee or payee with respect to taxes withheld on wages or payments subject to withholding. Any employer, payor, or agent who furnished more than fifty statements for a year shall file the required copies electronically in a manner approved by the Tax Commissioner that is compatible with federal electronic filing requirements or methods.

Source: Laws 1967, c. 487, § 56, p. 1596; Laws 1984, LB 962, § 21; Laws 1988, LB 1064, § 2; Laws 1997, LB 62, § 2; Laws 2005, LB 216, § 14; Laws 2007, LB223, § 13; Laws 2010, LB879, § 11; Laws 2017, LB217, § 16.

Operative date August 24, 2017.

77-2783 Income tax; additional tax; notice; no appeal or protest; when.

In the event that the amount of tax is understated on the taxpayer's return as a result of a mathematical or clerical error, the Tax Commissioner shall notify the taxpayer that an amount of tax in excess of that shown on the return is due and has been assessed and the reasons therefor. Such a notice of additional tax due shall not be considered a notice of deficiency assessment nor shall the taxpayer have any right of protest or appeal as in the case of a deficiency assessment based on such notice, and the assessment and collection of the amount of tax erroneously omitted in the return is not prohibited. For purposes of this section, mathematical or clerical error includes information on the taxpayer's return that is different from information reported to the Internal Revenue Service or the Tax Commissioner, including, but not limited to, information reported on Form W-2 and Form 1099.

Source: Laws 1967, c. 487, § 83, p. 1606; Laws 2017, LB217, § 17.

Operative date August 24, 2017.

77-2785 Income tax; assessment; deficiency; date.

(1) The amount of income tax which is shown to be due on an income tax return, including revisions for mathematical or clerical errors, shall be deemed to be assessed on the date of filing of the return including any amended returns showing an increase of tax. In the case of a return properly filed without the computation of the tax, the tax computed by the Tax Commissioner shall be deemed to be assessed on the date when payment is due. If a notice of deficiency has been mailed, the amount of the deficiency shall be deemed to be assessed on the date provided in section 77-2777 if no protest is filed or, if a protest is filed, then upon the date when the determination of the Tax Commissioner becomes final. If an amended return or report filed pursuant to the provisions of section 77-2775 concedes the accuracy of a federal change or correction or a state change or correction which has become final on or after May 1, 1993, any deficiency in the income tax under the Nebraska Revenue Act of 1967 resulting therefrom shall be deemed to be assessed on the date of filing such report or amended return and such assessment shall be timely notwithstanding any other provisions of such act. Any amount paid as a tax or in respect of a tax, other than amounts withheld at the source or paid as estimated

income tax, shall be deemed to be assessed upon the date of receipt of payment notwithstanding any other provision of such act.

(2) If the mode or time for the assessment of income tax under the provisions of the Nebraska Revenue Act of 1967, including interest, additions to tax, and penalties, is not otherwise provided for, the Tax Commissioner may establish the same by regulation.

(3) The Tax Commissioner may, at any time within the period prescribed for assessment, make a supplemental assessment, subject to the provisions of section 77-2776 when applicable, whenever it is found that any assessment is imperfect or incomplete in any material aspect.

(4) If the Tax Commissioner believes that the assessment or collection of a deficiency will be jeopardized by delay, by the frivolous objections of any person to compliance with the Nebraska Revenue Act of 1967, or by the attempt of any person to impede the administration of such act, he or she shall, notwithstanding the provisions of section 77-2786, immediately assess such tax, including interest and additions to tax, and penalties as provided by law and give notice and demand for payment to such person. When an assessment is made under this subsection, collection proceedings may be stayed by application for review and the posting of such security as may be required by the Tax Commissioner under section 77-27,129.

Source: Laws 1967, c. 487, § 85, p. 1606; Laws 1984, LB 962, § 27; Laws 1993, LB 345, § 66; Laws 2017, LB217, § 18.
Operative date August 24, 2017.

(d) GENERAL PROVISIONS

77-27,132 Revenue Distribution Fund; created; use; collections under act; disposition.

(1) There is hereby created a fund to be designated the Revenue Distribution Fund which shall be set apart and maintained by the Tax Commissioner. Revenue not required to be credited to the General Fund or any other specified fund may be credited to the Revenue Distribution Fund. Credits and refunds of such revenue shall be paid from the Revenue Distribution Fund. The balance of the amount credited, after credits and refunds, shall be allocated as provided by the statutes creating such revenue.

(2) The Tax Commissioner shall pay to a depository bank designated by the State Treasurer all amounts collected under the Nebraska Revenue Act of 1967. The Tax Commissioner shall present to the State Treasurer bank receipts showing amounts so deposited in the bank, and of the amounts so deposited the State Treasurer shall:

(a) For transactions occurring on or after October 1, 2014, and before October 1, 2022, credit to the Game and Parks Commission Capital Maintenance Fund all of the proceeds of the sales and use taxes imposed pursuant to section 77-2703 on the sale or lease of motorboats as defined in section 37-1204, personal watercraft as defined in section 37-1204.01, all-terrain vehicles as defined in section 60-103, and utility-type vehicles as defined in section 60-135.01;

(b) Credit to the Highway Trust Fund all of the proceeds of the sales and use taxes derived from the sale or lease for periods of more than thirty-one days of motor vehicles, trailers, and semitrailers, except that the proceeds equal to any

sales tax rate provided for in section 77-2701.02 that is in excess of five percent derived from the sale or lease for periods of more than thirty-one days of motor vehicles, trailers, and semitrailers shall be credited to the Highway Allocation Fund;

(c) For transactions occurring on or after July 1, 2013, and before July 1, 2033, of the proceeds of the sales and use taxes derived from transactions other than those listed in subdivisions (2)(a) and (b) 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; and

(d) Of the proceeds of the sales and use taxes derived from transactions other than those listed in subdivisions (2)(a) and (b) of this section, credit to the Property Tax Credit Cash Fund the amount certified under section 77-27,237, if any such certification is made.

The balance of all amounts collected under the Nebraska Revenue Act of 1967 shall be credited to the General Fund.

Source: Laws 1967, c. 487, § 132, p. 1636; Laws 1969, c. 695, § 1, p. 2692; Laws 1969, c. 313, § 2, p. 1130; Laws 1971, LB 53, § 9; Laws 1972, LB 343, § 23; Laws 1975, LB 233, § 2; Laws 1976, LB 868, § 1; Laws 1984, LB 466, § 5; Laws 1986, LB 599, § 23; Laws 1986, LB 539, § 3; Laws 1987, LB 730, § 30; Laws 1989, LB 258, § 11; Laws 2003, LB 759, § 22; Laws 2006, LB 904, § 4; Laws 2007, LB305, § 1; Laws 2011, LB84, § 6; Laws 2014, LB814, § 11; Laws 2015, LB200, § 2; Laws 2017, LB331, § 42. Effective date May 16, 2017.

(p) INTERNAL REVENUE CODE AMENDMENTS

77-27,222 Internal Revenue Code amendment; Tax Commissioner; duties; report.

(1) Within sixty days after an amendment of the Internal Revenue Code is enacted, the Tax Commissioner shall prepare and submit to the Governor, the Legislative Fiscal Analyst, the Speaker of the Legislature, and the chairpersons of the Executive Board of the Legislative Council, the Revenue Committee of the Legislature, and the Appropriations Committee of the Legislature a report that outlines:

(a) The changes in the Internal Revenue Code; and

(b) The impact of those changes on state revenue and on various classes and types of taxpayers.

(2) Subsection (1) of this section does not apply to an amendment of the Internal Revenue Code if the Tax Commissioner determines that the impact of the amendment on state income tax revenue for the fiscal year that begins during the calendar year in which the amendment is enacted will be less than five million dollars.

Source: Laws 2017, LB217, § 15.
Operative date April 28, 2017.

(v) EDUCATION AND TRANSPORTATION ASSISTANCE FOR TEMPORARY ASSISTANCE FOR NEEDY FAMILIES PROGRAM RECIPIENT

77-27,238 Temporary Assistance for Needy Families Program recipient; employer tax credit; Department of Revenue; report; contents.

(1) For taxable years beginning or deemed to begin on or after January 1, 2017, there shall be allowed to an employer of any eligible employee a nonrefundable credit, for not more than two years, against the income tax imposed by the Nebraska Revenue Act of 1967 in the amount of twenty percent of the employer’s annual expenditures for any of the following services that are provided to eligible employees and that are incidental to the employer’s business:

(a) The payment of tuition at a Nebraska public institution of postsecondary education or the payment of the costs associated with a high school equivalency program for eligible employees; and

(b) The provision of transportation of eligible employees to and from work.

(2) The credit allowed under this section for any taxable year shall not exceed the employer’s actual tax liability for such taxable year.

(3) The Department of Revenue shall submit a report electronically to the Clerk of the Legislature on or before July 1 of each year on (a) the number of employers claiming a credit under this section and (b) the number of eligible employees receiving the services for which credits are claimed.

(4) The Department of Revenue, in consultation with the Department of Health and Human Services, shall develop a process to verify that any employer claiming credits under this section qualifies for such credits.

(5) The Department of Revenue may adopt and promulgate rules and regulations necessary to carry out this section.

(6) For purposes of this section, eligible employee means a parent or caretaker relative (a) who is a member of a unit that received benefits under the state or federally funded Temporary Assistance for Needy Families program established in 42 U.S.C. 601 et seq., for any nine months of the eighteen-month period immediately prior to the employee’s hiring date and (b) whose hiring date is on or after the first day of the taxable year for which the credit is claimed.

Source: Laws 2016, LB774, § 10; Laws 2017, LB217, § 19.
Operative date August 24, 2017.

ARTICLE 34

POLITICAL SUBDIVISIONS, BUDGET LIMITATIONS

(d) LIMITATION ON PROPERTY TAXES

Section

77-3442. Property tax levies; maximum levy; exceptions.

77-3443. Other political subdivisions; levy limit; levy request; governing body; duties; allocation of levy.

(e) BASE LIMITATION

77-3446. Base limitation, defined.

(d) LIMITATION ON PROPERTY TAXES

77-3442 Property tax levies; maximum levy; exceptions.

(1) Property tax levies for the support of local governments for fiscal years beginning on or after July 1, 1998, shall be limited to the amounts set forth in this section except as provided in section 77-3444.

(2)(a) Except as provided in subdivisions (2)(b) and (2)(e) of this section, school districts and multiple-district school systems may levy a maximum levy of one dollar and five cents per one hundred dollars of taxable valuation of property subject to the levy.

(b) For each fiscal year prior to fiscal year 2017-18, learning communities may levy a maximum levy for the general fund budgets of member school districts of ninety-five cents per one hundred dollars of taxable valuation of property subject to the levy. The proceeds from the levy pursuant to this subdivision shall be distributed pursuant to section 79-1073.

(c) Except as provided in subdivision (2)(e) of this section, for each fiscal year prior to fiscal year 2017-18, school districts that are members of learning communities may levy for purposes of such districts' general fund budget and special building funds a maximum combined levy of the difference of one dollar and five cents on each one hundred dollars of taxable property subject to the levy minus the learning community levy pursuant to subdivision (2)(b) of this section for such learning community.

(d) Excluded from the limitations in subdivisions (2)(a) and (2)(c) of this section are (i) amounts levied to pay for current and future sums agreed to be paid by a school district to certificated employees in exchange for a voluntary termination of employment occurring prior to September 1, 2017, (ii) amounts levied by a school district otherwise at the maximum levy pursuant to subdivision (2)(a) of this section to pay for current and future qualified voluntary termination incentives for certificated teachers pursuant to subsection (3) of section 79-8,142 that are not otherwise included in an exclusion pursuant to subdivision (2)(d) of this section, (iii) amounts levied by a school district otherwise at the maximum levy pursuant to subdivision (2)(a) of this section to pay for seventy-five percent of the current and future sums agreed to be paid to certificated employees in exchange for a voluntary termination of employment occurring between September 1, 2017, and August 31, 2018, as a result of a collective-bargaining agreement in force and effect on September 1, 2017, that are not otherwise included in an exclusion pursuant to subdivision (2)(d) of this section, (iv) amounts levied by a school district otherwise at the maximum levy pursuant to subdivision (2)(a) of this section to pay for fifty percent of the current and future sums agreed to be paid to certificated employees in exchange for a voluntary termination of employment occurring between September 1, 2018, and August 31, 2019, as a result of a collective-bargaining agreement in force and effect on September 1, 2017, that are not otherwise included in an exclusion pursuant to subdivision (2)(d) of this section, (v) amounts levied by a school district otherwise at the maximum levy pursuant to subdivision (2)(a) of this section to pay for twenty-five percent of the current and future sums agreed to be paid to certificated employees in exchange for a voluntary termination of employment occurring between September 1, 2019, and August 31, 2020, as a result of a collective-bargaining agreement in force and effect on September 1, 2017, that are not otherwise included in an exclusion pursuant to subdivision (2)(d) of this section, (vi) amounts levied in compliance with sections 79-10,110 and 79-10,110.02, and (vii) amounts levied to pay for special building funds and sinking funds established for projects commenced prior to April 1, 1996, for construction, expansion, or alteration of

school district buildings. For purposes of this subsection, commenced means any action taken by the school board on the record which commits the board to expend district funds in planning, constructing, or carrying out the project.

(e) Federal aid school districts may exceed the maximum levy prescribed by subdivision (2)(a) or (2)(c) of this section only to the extent necessary to qualify to receive federal aid pursuant to Title VIII of Public Law 103-382, as such title existed on September 1, 2001. For purposes of this subdivision, federal aid school district means any school district which receives ten percent or more of the revenue for its general fund budget from federal government sources pursuant to Title VIII of Public Law 103-382, as such title existed on September 1, 2001.

(f) For each fiscal year, learning communities may levy a maximum levy of one-half cent on each one hundred dollars of taxable property subject to the levy for elementary learning center facility leases, for remodeling of leased elementary learning center facilities, and for up to fifty percent of the estimated cost for focus school or program capital projects approved by the learning community coordinating council pursuant to section 79-2111.

(g) For each fiscal year, learning communities may levy a maximum levy of one and one-half cents on each one hundred dollars of taxable property subject to the levy for early childhood education programs for children in poverty, for elementary learning center employees, for contracts with other entities or individuals who are not employees of the learning community for elementary learning center programs and services, and for pilot projects, except that no more than ten percent of such levy may be used for elementary learning center employees.

(3) For each fiscal year, community college areas may levy the levies provided in subdivisions (2)(a) through (c) of section 85-1517, in accordance with the provisions of such subdivisions. A community college area may exceed the levy provided in subdivision (2)(b) of section 85-1517 by the amount necessary to retire general obligation bonds assumed by the community college area or issued pursuant to section 85-1515 according to the terms of such bonds or for any obligation pursuant to section 85-1535 entered into prior to January 1, 1997.

(4)(a) Natural resources districts may levy a maximum levy of four and one-half cents per one hundred dollars of taxable valuation of property subject to the levy.

(b) Natural resources districts shall also have the power and authority to levy a tax equal to the dollar amount by which their restricted funds budgeted to administer and implement ground water management activities and integrated management activities under the Nebraska Ground Water Management and Protection Act exceed their restricted funds budgeted to administer and implement ground water management activities and integrated management activities for FY2003-04, not to exceed one cent on each one hundred dollars of taxable valuation annually on all of the taxable property within the district.

(c) In addition, natural resources districts located in a river basin, subbasin, or reach that has been determined to be fully appropriated pursuant to section 46-714 or designated as overappropriated pursuant to section 46-713 by the Department of Natural Resources shall also have the power and authority to levy a tax equal to the dollar amount by which their restricted funds budgeted to administer and implement ground water management activities and integrated

ed management activities under the Nebraska Ground Water Management and Protection Act exceed their restricted funds budgeted to administer and implement ground water management activities and integrated management activities for FY2005-06, not to exceed three cents on each one hundred dollars of taxable valuation on all of the taxable property within the district for fiscal year 2006-07 and each fiscal year thereafter through fiscal year 2017-18.

(5) Any educational service unit authorized to levy a property tax pursuant to section 79-1225 may levy a maximum levy of one and one-half cents per one hundred dollars of taxable valuation of property subject to the levy.

(6)(a) Incorporated cities and villages which are not within the boundaries of a municipal county may levy a maximum levy of forty-five cents per one hundred dollars of taxable valuation of property subject to the levy plus an additional five cents per one hundred dollars of taxable valuation to provide financing for the municipality's share of revenue required under an agreement or agreements executed pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act. The maximum levy shall include amounts levied to pay for sums to support a library pursuant to section 51-201, museum pursuant to section 51-501, visiting community nurse, home health nurse, or home health agency pursuant to section 71-1637, or statue, memorial, or monument pursuant to section 80-202.

(b) Incorporated cities and villages which are within the boundaries of a municipal county may levy a maximum levy of ninety cents per one hundred dollars of taxable valuation of property subject to the levy. The maximum levy shall include amounts paid to a municipal county for county services, amounts levied to pay for sums to support a library pursuant to section 51-201, a museum pursuant to section 51-501, a visiting community nurse, home health nurse, or home health agency pursuant to section 71-1637, or a statue, memorial, or monument pursuant to section 80-202.

(7) Sanitary and improvement districts which have been in existence for more than five years may levy a maximum levy of forty cents per one hundred dollars of taxable valuation of property subject to the levy, and sanitary and improvement districts which have been in existence for five years or less shall not have a maximum levy. Unconsolidated sanitary and improvement districts which have been in existence for more than five years and are located in a municipal county may levy a maximum of eighty-five cents per hundred dollars of taxable valuation of property subject to the levy.

(8) Counties may levy or authorize a maximum levy of fifty cents per one hundred dollars of taxable valuation of property subject to the levy, except that five cents per one hundred dollars of taxable valuation of property subject to the levy may only be levied to provide financing for the county's share of revenue required under an agreement or agreements executed pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act. The maximum levy shall include amounts levied to pay for sums to support a library pursuant to section 51-201 or museum pursuant to section 51-501. The county may allocate up to fifteen cents of its authority to other political subdivisions subject to allocation of property tax authority under subsection (1) of section 77-3443 and not specifically covered in this section to levy taxes as authorized by law which do not collectively exceed fifteen cents per one hundred dollars of taxable valuation on any parcel or item of taxable property. The county may allocate to one or more other political subdivisions subject to allocation of property tax

authority by the county under subsection (1) of section 77-3443 some or all of the county's five cents per one hundred dollars of valuation authorized for support of an agreement or agreements to be levied by the political subdivision for the purpose of supporting that political subdivision's share of revenue required under an agreement or agreements executed pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act. If an allocation by a county would cause another county to exceed its levy authority under this section, the second county may exceed the levy authority in order to levy the amount allocated.

(9) Municipal counties may levy or authorize a maximum levy of one dollar per one hundred dollars of taxable valuation of property subject to the levy. The municipal county may allocate levy authority to any political subdivision or entity subject to allocation under section 77-3443.

(10) Beginning July 1, 2016, rural and suburban fire protection districts may levy a maximum levy of ten and one-half cents per one hundred dollars of taxable valuation of property subject to the levy if (a) such district is located in a county that had a levy pursuant to subsection (8) of this section in the previous year of at least forty cents per one hundred dollars of taxable valuation of property subject to the levy or (b) for any rural or suburban fire protection district that had a levy request pursuant to section 77-3443 in the previous year, the county board of the county in which the greatest portion of the valuation of such district is located did not authorize any levy authority to such district in the previous year.

(11) Property tax levies (a) for judgments, except judgments or orders from the Commission of Industrial Relations, obtained against a political subdivision which require or obligate a political subdivision to pay such judgment, to the extent such judgment is not paid by liability insurance coverage of a political subdivision, (b) for preexisting lease-purchase contracts approved prior to July 1, 1998, (c) for bonds as defined in section 10-134 approved according to law and secured by a levy on property except as provided in section 44-4317 for bonded indebtedness issued by educational service units and school districts, and (d) for payments by a public airport to retire interest-free loans from the Division of Aeronautics of the Department of Transportation in lieu of bonded indebtedness at a lower cost to the public airport are not included in the levy limits established by this section.

(12) 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.

(13) 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.

(14) For purposes of sections 77-3442 to 77-3444, political subdivision means a political subdivision of this state and a county agricultural society.

(15) For school districts that file a binding resolution on or before May 9, 2008, with the county assessors, county clerks, and county treasurers for all counties in which the school district has territory pursuant to subsection (7) of section 79-458, if the combined levies, except levies for bonded indebtedness approved by the voters of the school district and levies for the refinancing of such bonded indebtedness, are in excess of the greater of (a) one dollar and

twenty cents per one hundred dollars of taxable valuation of property subject to the levy or (b) the maximum levy authorized by a vote pursuant to section 77-3444, all school district levies, except levies for bonded indebtedness approved by the voters of the school district and levies for the refinancing of such bonded indebtedness, shall be considered unauthorized levies under section 77-1606.

Source: Laws 1996, LB 1114, § 1; Laws 1997, LB 269, § 56; Laws 1998, LB 306, § 36; Laws 1998, LB 1104, § 17; Laws 1999, LB 87, § 87; Laws 1999, LB 141, § 11; Laws 1999, LB 437, § 26; Laws 2001, LB 142, § 57; Laws 2002, LB 568, § 9; Laws 2002, LB 898, § 1; Laws 2002, LB 1085, § 19; Laws 2003, LB 540, § 2; Laws 2004, LB 962, § 110; Laws 2004, LB 1093, § 1; Laws 2005, LB 38, § 2; Laws 2006, LB 968, § 12; Laws 2006, LB 1024, § 14; Laws 2006, LB 1226, § 30; Laws 2007, LB342, § 31; Laws 2007, LB641, § 4; Laws 2007, LB701, § 33; Laws 2008, LB988, § 2; Laws 2008, LB1154, § 5; Laws 2009, LB121, § 11; Laws 2010, LB1070, § 4; Laws 2010, LB1072, § 3; Laws 2011, LB59, § 2; Laws 2011, LB400, § 2; Laws 2012, LB946, § 10; Laws 2012, LB1104, § 1; Laws 2013, LB585, § 1; Laws 2015, LB261, § 13; Laws 2015, LB325, § 7; Laws 2016, LB959, § 1; Laws 2016, LB1067, § 10; Laws 2017, LB339, § 269; Laws 2017, LB512, § 6.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB339, section 269, with LB512, section 6, to reflect all amendments.

Note: Changes made by LB339 became operative July 1, 2017. Changes made by LB512 became operative September 1, 2017.

Cross References

Interlocal Cooperation Act, see section 13-801.

Joint Public Agency Act, see section 13-2501.

Nebraska Ground Water Management and Protection Act, see section 46-701.

77-3443 Other political subdivisions; levy limit; levy request; governing body; duties; allocation of levy.

(1) All political subdivisions, other than (a) school districts, community colleges, natural resources districts, educational service units, cities, villages, counties, municipal counties, rural and suburban fire protection districts that have levy authority pursuant to subsection (10) of section 77-3442, and sanitary and improvement districts and (b) political subdivisions subject to municipal allocation under subsection (2) of this section, may levy taxes as authorized by law which are authorized by the county board of the county or the council of a municipal county in which the greatest portion of the valuation is located, which are counted in the county or municipal county levy limit provided in section 77-3442, and which do not collectively total more than fifteen cents per one hundred dollars of taxable valuation on any parcel or item of taxable property for all governments for which allocations are made by the municipality, county, or municipal county, except that such limitation shall not apply to property tax levies for preexisting lease-purchase contracts approved prior to July 1, 1998, for bonded indebtedness approved according to law and secured by a levy on property, and for payments by a public airport to retire interest-free loans from the Division of Aeronautics of the Department of Transportation in lieu of bonded indebtedness at a lower cost to the public airport. The county board or council shall review and approve or disapprove the levy request of all political subdivisions subject to this subsection. The county board or council may approve all or a portion of the levy request and may approve a levy request

that would allow the requesting political subdivision to levy a tax at a levy greater than that permitted by law. The county board of a county or the council of a municipal county which contains a transit authority created pursuant to section 14-1803 shall allocate no less than three cents per one hundred dollars of taxable property within the city or municipal county subject to the levy to the transit authority if requested by such authority. For any political subdivision subject to this subsection that receives taxes from more than one county or municipal county, the levy shall be allocated only by the county or municipal county in which the greatest portion of the valuation is located. The county board of equalization shall certify all levies by October 15 to insure that the taxes levied by political subdivisions subject to this subsection do not exceed the allowable limit for any parcel or item of taxable property. The levy allocated by the county or municipal county may be exceeded as provided in section 77-3444.

(2) All city airport authorities established under the Cities Airport Authorities Act, community redevelopment authorities established under the Community Development Law, transit authorities established under the Transit Authority Law, and offstreet parking districts established under the Offstreet Parking District Act may be allocated property taxes as authorized by law which are authorized by the city, village, or municipal county and are counted in the city or village levy limit or municipal county levy limit provided by section 77-3442, except that such limitation shall not apply to property tax levies for preexisting lease-purchase contracts approved prior to July 1, 1998, for bonded indebtedness approved according to law and secured by a levy on property, and for payments by a public airport to retire interest-free loans from the Division of Aeronautics of the Department of Transportation in lieu of bonded indebtedness at a lower cost to the public airport. For offstreet parking districts established under the Offstreet Parking District Act, the tax shall be counted in the allocation by the city proportionately, by dividing the total taxable valuation of the taxable property within the district by the total taxable valuation of the taxable property within the city multiplied by the levy of the district. The city council of a city which has created a transit authority pursuant to section 14-1803 or the council of a municipal county which contains a transit authority shall allocate no less than three cents per one hundred dollars of taxable property subject to the levy to the transit authority if requested by such authority. The city council, village board, or council shall review and approve or disapprove the levy request of the political subdivisions subject to this subsection. The city council, village board, or council may approve all or a portion of the levy request and may approve a levy request that would allow a levy greater than that permitted by law. The levy allocated by the municipality or municipal county may be exceeded as provided in section 77-3444.

(3) On or before August 1, all political subdivisions subject to county, municipal, or municipal county levy authority under this section shall submit a preliminary request for levy allocation to the county board, city council, village board, or council that is responsible for levying such taxes. The preliminary request of the political subdivision shall be in the form of a resolution adopted by a majority vote of members present of the political subdivision's governing body. The failure of a political subdivision to make a preliminary request shall preclude such political subdivision from using procedures set forth in section 77-3444 to exceed the final levy allocation as determined in subsection (4) of this section.

(4) Each county board, city council, village board, or council shall (a) adopt a resolution by a majority vote of members present which determines a final allocation of levy authority to its political subdivisions and (b) forward a copy of such resolution to the chairperson of the governing body of each of its political subdivisions. No final levy allocation shall be changed after September 1 except by agreement between both the county board, city council, village board, or council which determined the amount of the final levy allocation and the governing body of the political subdivision whose final levy allocation is at issue.

Source: Laws 1996, LB 1114, § 2; Laws 1997, LB 269, § 57; Laws 1998, LB 306, § 37; Laws 1999, LB 141, § 12; Laws 2001, LB 142, § 58; Laws 2002, LB 994, § 26; Laws 2015, LB325, § 8; Laws 2017, LB339, § 270.
Operative date July 1, 2017.

Cross References

Cities Airport Authorities Act, see section 3-514.
Community Development Law, see section 18-2101.
Offstreet Parking District Act, see section 19-3301.
Transit Authority Law, see section 14-1826.

(e) BASE LIMITATION

77-3446 Base limitation, defined.

Base limitation means the budget limitation rate applicable to school districts and the limitation on growth of restricted funds applicable to other political subdivisions prior to any increases in the rate as a result of special actions taken by a supermajority of any governing board or of any exception allowed by law. The base limitation is two and one-half percent until adjusted, except that the base limitation for school districts for school fiscal years 2017-18 and 2018-19 is one and one-half percent. The base limitation may be adjusted annually by the Legislature to reflect changes in the prices of services and products used by school districts and political subdivisions.

Source: Laws 1998, LB 989, § 15; Laws 2001, LB 365, § 1; Laws 2003, LB 540, § 3; Laws 2009, LB545, § 2; Laws 2009, First Spec. Sess., LB5, § 1; Laws 2011, LB235, § 1; Laws 2013, LB407, § 1; Laws 2017, LB409, § 1.
Effective date May 11, 2017.

ARTICLE 35

HOMESTEAD EXEMPTION

Section

- 77-3508. Homesteads; assessment; exemptions; individuals; based on disability and income.
- 77-3510. Homesteads; exemptions; transfers; claimants; forms; contents; county assessor; furnish; confidentiality.
- 77-3517. Homestead; application for exemption; county assessor; Tax Commissioner; duties; refunds; liens; interest.

77-3508 Homesteads; assessment; exemptions; individuals; based on disability and income.

(1)(a) All homesteads in this state shall be assessed for taxation the same as other property, except that there shall be exempt from taxation, on any

homestead described in subdivision (b) of this subsection, a percentage of the exempt amount as limited by section 77-3506.03. The exemption shall be based on the household income of a claimant pursuant to subsections (2) through (4) of this section.

(b) The exemption described in subdivision (a) of this subsection shall apply to homesteads of:

(i) Veterans as defined in section 80-401.01 who were discharged or otherwise separated with a characterization of honorable or general (under honorable conditions) and who are totally disabled by a non-service-connected accident or illness;

(ii) Individuals who have a permanent physical disability and have lost all mobility so as to preclude locomotion without the use of a mechanical aid or prostheses;

(iii) Individuals who have undergone amputation of both arms above the elbow or who have a permanent partial disability of both arms in excess of seventy-five percent; and

(iv) Beginning January 1, 2015, individuals who have a developmental disability as defined in section 83-1205.

(c) Application for the exemption described in subdivision (a) of this subsection shall include certification from a qualified medical physician, physician assistant, or advanced practice registered nurse for subdivisions (b)(i) through (b)(iii) of this subsection, certification from the United States Department of Veterans Affairs affirming that the homeowner is totally disabled due to non-service-connected accident or illness for subdivision (b)(i) of this subsection, or certification from the Department of Health and Human Services for subdivision (b)(iv) of this subsection. Such certification from a qualified medical physician, physician assistant, or advanced practice registered nurse or from the Department of Health and Human Services shall be made on forms prescribed by the Department of Revenue. If an individual described in subdivision (b)(i), (ii), (iii), or (iv) of this subsection is granted a homestead exemption pursuant to this section for any year, such individual shall not be required to submit the certification required under this subdivision in succeeding years if no change in medical condition has occurred, except that the county assessor or the Tax Commissioner may request such certification to verify that no change in medical condition has occurred.

(2) For 2014, for a married or closely related claimant as described in subsection (1) of this section, the percentage of the exempt amount for which the claimant shall be eligible shall be the percentage in Column B which corresponds with the claimant's household income in Column A in the table found in this subsection.

Column A Household Income In Dollars	Column B Percentage Of Relief
0 through 34,700	100
34,701 through 36,400	90
36,401 through 38,100	80
38,101 through 39,800	70
39,801 through 41,500	60
41,501 through 43,200	50

HOMESTEAD EXEMPTION

§ 77-3510

Column A Household Income In Dollars	Column B Percentage Of Relief
43,201 through 44,900	40
44,901 through 46,600	30
46,601 through 48,300	20
48,301 through 50,000	10
50,001 and over	0

(3) For 2014, for a single claimant as described in subsection (1) of this section, the percentage of the exempt amount for which the claimant shall be eligible shall be the percentage in Column B which corresponds with the claimant's household income in Column A in the table found in this subsection.

Column A Household Income In Dollars	Column B Percentage Of Relief
0 through 30,300	100
30,301 through 31,700	90
31,701 through 33,100	80
33,101 through 34,500	70
34,501 through 35,900	60
35,901 through 37,300	50
37,301 through 38,700	40
38,701 through 40,100	30
40,101 through 41,500	20
41,501 through 42,900	10
42,901 and over	0

(4) For exemption applications filed in calendar year 2015 and each year thereafter, the income eligibility amounts in subsections (2) and (3) of this section shall be adjusted for inflation by the method provided in section 151 of the Internal Revenue Code. The income eligibility amounts shall be adjusted for cumulative inflation since 2014. If any amount is not a multiple of one hundred dollars, the amount shall be rounded to the next lower multiple of one hundred dollars.

Source: Laws 1979, LB 65, § 8; Laws 1980, LB 647, § 5; Laws 1981, LB 478, § 1; Laws 1983, LB 195, § 2; Laws 1986, LB 1258, § 2; Laws 1987, LB 376A, § 5; Laws 1988, LB 1105, § 3; Laws 1991, LB 2, § 17; Laws 1994, LB 902, § 34; Laws 1995, LB 483, § 5; Laws 1997, LB 182, § 5; Laws 1999, LB 179, § 2; Laws 2000, LB 1279, § 2; Laws 2005, LB 17, § 1; Laws 2005, LB 54, § 17; Laws 2014, LB986, § 2; Laws 2016, LB776, § 6; Laws 2017, LB20, § 1.

Operative date January 1, 2018.

77-3510 Homesteads; exemptions; transfers; claimants; forms; contents; county assessor; furnish; confidentiality.

On or before February 1 of each year, the Tax Commissioner shall prescribe forms to be used by all claimants for homestead exemption or for transfer of homestead exemption. Such forms shall contain provisions for the showing of all information which the Tax Commissioner may deem necessary to (1) enable the county officials and the Tax Commissioner to determine whether each claim

for exemption under sections 77-3506 and 77-3507 to 77-3509 should be allowed and (2) enable the county assessor to determine whether each claim for transfer of homestead exemption pursuant to section 77-3509.01 should be allowed. It shall be the duty of the county assessor of each county in this state to furnish such forms, upon request, to each person desiring to make application for homestead exemption or for transfer of homestead exemption. The forms so prescribed shall be used uniformly throughout the state, and no application for exemption or for transfer of homestead exemption shall be allowed unless the applicant uses the prescribed form in making an application. The forms shall require the attachment of an income statement for any applicant seeking an exemption under section 77-3507, 77-3508, or 77-3509 as prescribed by the Tax Commissioner fully accounting for all household income. The Tax Commissioner shall provide to each county assessor claim forms and address lists of applicants from the prior year in the manner approved by the Tax Commissioner. The application and information contained on any attachments to the application shall be confidential and available to tax officials only.

Source: Laws 1979, LB 65, § 10; Laws 1983, LB 494, § 2; Laws 1983, LB 396, § 1; Laws 1984, LB 809, § 6; Laws 1985, Second Spec. Sess., LB 6, § 3; Laws 1986, LB 1258, § 4; Laws 1987, LB 376A, § 8; Laws 1989, LB 84, § 10; Laws 1991, LB 9, § 4; Laws 1994, LB 902, § 36; Laws 1995, LB 135, § 1; Laws 1996, LB 921, § 3; Laws 1997, LB 397, § 26; Laws 2003, LB 192, § 1; Laws 2007, LB145, § 1; Laws 2014, LB1087, § 10; Laws 2017, LB217, § 20. Operative date August 24, 2017.

77-3517 Homestead; application for exemption; county assessor; Tax Commissioner; duties; refunds; liens; interest.

(1) On or before August 1 of each year, the county assessor shall forward the approved applications for homestead exemptions and a copy of the certification of disability status that have been examined pursuant to section 77-3516 to the Tax Commissioner. The Tax Commissioner shall determine if the applicant meets the income requirements and may also review any other application information he or she deems necessary in order to determine whether the application should be approved. The Tax Commissioner shall, on or before November 1, certify his or her determinations to the county assessor. If the application is approved, the county assessor shall make the proper deduction on the assessment rolls. If the application is denied or approved in part, the Tax Commissioner shall notify the applicant of the denial or partial approval by mailing written notice to the applicant at the address shown on the application. The applicant may appeal the Tax Commissioner's denial or partial approval pursuant to section 77-3520. Late applications authorized by the county board shall be processed in a similar manner after approval by the county assessor.

(2)(a) Upon his or her own action or upon a request by an applicant, a spouse, or an owner-occupant, the Tax Commissioner may review any information necessary to determine whether an application is in compliance with sections 77-3501 to 77-3529. Any action taken by the Tax Commissioner pursuant to this subsection shall be taken within three years after December 31 of the year in which the exemption was claimed.

(b) If after completion of the review the Tax Commissioner determines that an exemption should have been approved or increased, the Tax Commissioner

UNIFORM STATE TAX LIEN REGISTRATION AND ENFORCEMENT § 77-3903

shall notify the applicant, spouse, or owner-occupant and the county treasurer and assessor of his or her determination. The applicant, spouse, or owner-occupant shall receive a refund of the tax, if any, that was paid as a result of the exemption being denied, in whole or in part. The county treasurer shall make the refund and shall amend the county's claim for reimbursement from the state.

(c) If after completion of the review the Tax Commissioner determines that an exemption should have been denied or reduced, the Tax Commissioner shall notify the applicant, spouse, or owner-occupant of such denial or reduction. The applicant, the spouse, and any owner-occupant may appeal the Tax Commissioner's denial or reduction pursuant to section 77-3520. Upon the expiration of the appeal period in section 77-3520, the Tax Commissioner shall notify the county assessor of the denial or reduction and the county assessor shall remove or reduce the exemption from the tax rolls of the county. Upon notification by the Tax Commissioner to the county assessor, the amount of tax due as a result of the action of the Tax Commissioner shall become a lien on the homestead until paid. Upon attachment of the lien, the county treasurer shall refund to the Tax Commissioner the amount of tax equal to the denied or reduced exemption for deposit into the General Fund. No lien shall be created if a change in ownership of the homestead or death of the applicant, the spouse, and all other owner-occupants has occurred prior to the Tax Commissioner's notice to the county assessor. Beginning thirty days after the county assessor receives approval from the county board to remove or reduce the exemption from the tax rolls of the county, interest at the rate specified in section 45-104.01, as such rate may from time to time be adjusted by the Legislature, shall begin to accrue on the amount of tax due.

Source: Laws 1979, LB 65, § 17; Laws 1980, LB 647, § 10; Laws 1986, LB 1258, § 8; Laws 1987, LB 376A, § 13; Laws 1989, LB 84, § 14; Laws 1991, LB 9, § 7; Laws 1991, LB 773, § 25; Laws 1995, LB 133, § 5; Laws 1995, LB 499, § 2; Laws 1996, LB 1039, § 9; Laws 1997, LB 397, § 31; Laws 2010, LB877, § 6; Laws 2014, LB1087, § 16; Laws 2017, LB217, § 21.
Operative date January 1, 2018.

ARTICLE 39

UNIFORM STATE TAX LIEN REGISTRATION AND ENFORCEMENT

(a) UNIFORM STATE TAX LIEN REGISTRATION AND ENFORCEMENT ACT

Section
77-3903. Notice of lien; filing; requirements; fee; billing.

(a) UNIFORM STATE TAX LIEN REGISTRATION
AND ENFORCEMENT ACT

77-3903 Notice of lien; filing; requirements; fee; billing.

(1)(a) A notice of lien provided for in the Uniform State Tax Lien Registration and Enforcement Act upon real property shall be presented in the office of the Secretary of State. Such notice of lien shall be transmitted by the Secretary of State to and filed in the office of the register of deeds by the register of deeds of the county or counties in which the real property subject to the lien is situated as designated in the notice of lien. The register of deeds shall enter the notice in

the alphabetical state tax lien index, showing on one line the name and residence of the person liable named in such notice, the last four digits of the social security number or the federal tax identification number of such person, the Tax Commissioner's or Commissioner of Labor's serial number of such notice, the date and hour of filing, and the amount due. Such presentments to the Secretary of State may be made by direct input to the Secretary of State's data base or by other electronic means. All such notices of lien shall be retained in numerical order in a file designated state tax lien notices, except that in offices filing by the roll form of microfilm pursuant to section 23-1517.01, the original notices need not be retained. A lien subject to this subsection shall be effective upon real property when filed by the register of deeds as provided in this subsection.

(b) A notice of lien provided for in the Uniform State Tax Lien Registration and Enforcement Act upon personal property shall be filed in the office of the Secretary of State. The Secretary of State shall enter the notice in the state's central tax lien index, showing on one line the name and residence of the person liable named in such notice, the last four digits of the social security number or the federal tax identification number of such person, the Tax Commissioner's or Commissioner of Labor's serial number of such notice, the date and hour of filing, and the amount due. Such filings with the Secretary of State may be filed by direct input to the Secretary of State's data base or by other electronic means. All such notices of lien shall be retained in numerical order in a file designated state tax lien notices.

(2) The uniform fee, payable to the Secretary of State, for presenting for filing, releasing, continuing, or subordinating or for filing, releasing, continuing, or subordinating each tax lien pursuant to the Uniform State Tax Lien Registration and Enforcement Act shall be two times the fee required for recording instruments with the register of deeds as provided in section 33-109. There shall be no fee for the filing of a termination statement. The uniform fee for each county more than one designated pursuant to subdivision (1)(a) of this section shall be the fee required for recording instruments with the register of deeds as provided in section 33-109. The Secretary of State shall deposit each fee received pursuant to this subsection in the Uniform Commercial Code Cash Fund. Of the fees received and deposited pursuant to this subsection, the Secretary of State shall remit the fee required for recording instruments with the register of deeds as provided in section 33-109 to the register of deeds of a county for each designation of such county in a filing pursuant to subdivision (1)(a) of this section.

(3) The Secretary of State shall bill the Tax Commissioner or Commissioner of Labor on a monthly basis for fees for documents presented to or filed with the Secretary of State. No payment of any fee shall be required at the time of presenting or filing any such lien document.

Source: Laws 1986, LB 1027, § 216; Laws 1987, LB 523, § 32; Laws 1995, LB 490, § 179; Laws 1998, LB 1321, § 100; Laws 1999, LB 165, § 4; Laws 1999, LB 550, § 46; Laws 2007, LB223, § 23; Laws 2007, LB334, § 89; Laws 2012, LB14, § 7; Laws 2017, LB152, § 4; Laws 2017, LB268, § 17.

Effective date August 24, 2017.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB152, section 4, with LB268, section 17, to reflect all amendments.

ARTICLE 42

PROPERTY TAX CREDIT ACT

Section

77-4212. Property tax credit; county treasurer; duties; disbursement to counties; State Treasurer; duties.

77-4212 Property tax credit; county treasurer; duties; disbursement to counties; State Treasurer; duties.

(1) For tax year 2007, the amount of relief granted under the Property Tax Credit Act shall be one hundred five million dollars. For tax year 2008, the amount of relief granted under the act shall be one hundred fifteen million dollars. It is the intent of the Legislature to fund the Property Tax Credit Act for tax years after tax year 2008 using available revenue. For tax year 2017, the amount of relief granted under the act shall be two hundred twenty-four million dollars. The relief shall be in the form of a property tax credit which appears on the property tax statement.

(2)(a) For tax years prior to tax year 2017, to determine the amount of the property tax credit, the county treasurer shall multiply the amount disbursed to the county under subdivision (4)(a) of this section by the ratio of the real property valuation of the parcel to the total real property valuation in the county. The amount determined shall be the property tax credit for the property.

(b) Beginning with tax year 2017, to determine the amount of the property tax credit, the county treasurer shall multiply the amount disbursed to the county under subdivision (4)(b) of this section by the ratio of the credit allocation valuation of the parcel to the total credit allocation valuation in the county. The amount determined shall be the property tax credit for the property.

(3) If the real property owner qualifies for a homestead exemption under sections 77-3501 to 77-3529, the owner shall also be qualified for the relief provided in the act to the extent of any remaining liability after calculation of the relief provided by the homestead exemption. If the credit results in a property tax liability on the homestead that is less than zero, the amount of the credit which cannot be used by the taxpayer shall be returned to the State Treasurer by July 1 of the year the amount disbursed to the county was disbursed. The State Treasurer shall immediately credit any funds returned under this subsection to the Property Tax Credit Cash Fund. Upon the return of any funds under this subsection, the county treasurer shall electronically file a report with the Property Tax Administrator, on a form prescribed by the Tax Commissioner, indicating the amount of funds distributed to each taxing unit in the county in the year the funds were returned, any collection fee retained by the county in such year, and the amount of unused credits returned.

(4)(a) For tax years prior to tax year 2017, the amount disbursed to each county shall be equal to the amount available for disbursement determined under subsection (1) of this section multiplied by the ratio of the real property valuation in the county to the real property valuation in the state. By September 15, the Property Tax Administrator shall determine the amount to be disbursed under this subdivision to each county and certify such amounts to the State Treasurer and to each county. The disbursements to the counties shall occur in two equal payments, the first on or before January 31 and the second on or

before April 1. After retaining one percent of the receipts for costs, the county treasurer shall allocate the remaining receipts to each taxing unit levying taxes on taxable property in the tax district in which the real property is located in the same proportion that the levy of such taxing unit bears to the total levy on taxable property of all the taxing units in the tax district in which the real property is located.

(b) Beginning with tax year 2017, the amount disbursed to each county shall be equal to the amount available for disbursement determined under subsection (1) of this section multiplied by the ratio of the credit allocation valuation in the county to the credit allocation valuation in the state. By September 15, the Property Tax Administrator shall determine the amount to be disbursed under this subdivision to each county and certify such amounts to the State Treasurer and to each county. The disbursements to the counties shall occur in two equal payments, the first on or before January 31 and the second on or before April 1. After retaining one percent of the receipts for costs, the county treasurer shall allocate the remaining receipts to each taxing unit based on its share of the credits granted to all taxpayers in the taxing unit.

(5) For purposes of this section, credit allocation valuation means the taxable value for all real property except agricultural land and horticultural land, one hundred twenty percent of taxable value for agricultural land and horticultural land that is not subject to special valuation, and one hundred twenty percent of taxable value for agricultural land and horticultural land that is subject to special valuation.

(6) The State Treasurer shall transfer from the General Fund to the Property Tax Credit Cash Fund one hundred five million dollars by August 1, 2007, and one hundred fifteen million dollars by August 1, 2008.

(7) The Legislature shall have the power to transfer funds from the Property Tax Credit Cash Fund to the General Fund.

Source: Laws 2007, LB367, § 4; Laws 2014, LB1087, § 21; Laws 2016, LB958, § 1; Laws 2017, LB217, § 22.

Operative date August 24, 2017.

ARTICLE 57

NEBRASKA ADVANTAGE ACT

Section

77-5725. Tiers; requirements; incentives; enumerated; deadlines.

77-5726. Credits; use; refund claims; procedures; interest; appointment of purchasing agent; protest; appeal.

77-5735. Changes to sections; when effective; applicability.

77-5725 Tiers; requirements; incentives; enumerated; deadlines.

(1) Applicants may qualify for benefits under the Nebraska Advantage Act in one of six tiers:

(a) Tier 1, investment in qualified property of at least one million dollars and the hiring of at least ten new employees. There shall be no new project applications for benefits under this tier filed after December 31, 2020. All complete project applications filed on or before December 31, 2020, shall be considered by the Tax Commissioner and approved if the project and taxpayer qualify for benefits. Agreements may be executed with regard to completed

project applications filed on or before December 31, 2020. All project agreements pending, approved, or entered into before such date shall continue in full force and effect;

(b) Tier 2, (i) investment in qualified property of at least three million dollars and the hiring of at least thirty new employees or (ii) for a large data center project, investment in qualified property for the data center of at least two hundred million dollars and the hiring for the data center of at least thirty new employees. There shall be no new project applications for benefits under this tier filed after December 31, 2020. All complete project applications filed on or before December 31, 2020, shall be considered by the Tax Commissioner and approved if the project and taxpayer qualify for benefits. Agreements may be executed with regard to completed project applications filed on or before December 31, 2020. All project agreements pending, approved, or entered into before such date shall continue in full force and effect;

(c) Tier 3, the hiring of at least thirty new employees. There shall be no new project applications for benefits under this tier filed after December 31, 2020. All complete project applications filed on or before December 31, 2020, shall be considered by the Tax Commissioner and approved if the project and taxpayer qualify for benefits. Agreements may be executed with regard to completed project applications filed on or before December 31, 2020. All project agreements pending, approved, or entered into before such date shall continue in full force and effect;

(d) Tier 4, investment in qualified property of at least ten million dollars and the hiring of at least one hundred new employees. There shall be no new project applications for benefits under this tier filed after December 31, 2020. All complete project applications filed on or before December 31, 2020, shall be considered by the Tax Commissioner and approved if the project and taxpayer qualify for benefits. Agreements may be executed with regard to completed project applications filed on or before December 31, 2020. All project agreements pending, approved, or entered into before such date shall continue in full force and effect;

(e) Tier 5, (i) investment in qualified property of at least thirty million dollars or (ii) for the production of electricity by using one or more sources of renewable energy to produce electricity for sale as described in subdivision (1)(j) of section 77-5715, investment in qualified property of at least twenty million dollars. Failure to maintain an average number of equivalent employees as defined in section 77-5727 greater than or equal to the number of equivalent employees in the base year shall result in a partial recapture of benefits. There shall be no new project applications for benefits under this tier filed after December 31, 2020. All complete project applications filed on or before December 31, 2020, shall be considered by the Tax Commissioner and approved if the project and taxpayer qualify for benefits. Agreements may be executed with regard to completed project applications filed on or before December 31, 2020. All project agreements pending, approved, or entered into before such date shall continue in full force and effect; and

(f) Tier 6, investment in qualified property of at least ten million dollars and the hiring of at least seventy-five new employees or the investment in qualified property of at least one hundred million dollars and the hiring of at least fifty new employees. There shall be no new project applications for benefits under this tier filed after December 31, 2020. All complete project applications filed

on or before December 31, 2020, shall be considered by the Tax Commissioner and approved if the project and taxpayer qualify for benefits. Agreements may be executed with regard to completed project applications filed on or before December 31, 2020. All project agreements pending, approved, or entered into before such date shall continue in full force and effect.

(2) When the taxpayer has met the required levels of employment and investment contained in the agreement for a tier 1, tier 2, tier 4, tier 5, or tier 6 project, the taxpayer shall be entitled to the following incentives:

(a) A refund of all sales and use taxes for a tier 2, tier 4, tier 5, or tier 6 project or a refund of one-half of all sales and use taxes for a tier 1 project paid under the Local Option Revenue Act, the Nebraska Revenue Act of 1967, and sections 13-319, 13-324, and 13-2813 from the date of the application through the meeting of the required levels of employment and investment for all purchases, including rentals, of:

(i) Qualified property used as a part of the project;

(ii) Property, excluding motor vehicles, based in this state and used in both this state and another state in connection with the project except when any such property is to be used for fundraising for or for the transportation of an elected official;

(iii) Tangible personal property by a contractor or repairperson after appointment as a purchasing agent of the owner of the improvement to real estate when such property is incorporated into real estate as a part of a project. The refund shall be based on fifty percent of the contract price, excluding any land, as the cost of materials subject to the sales and use tax;

(iv) Tangible personal property by a contractor or repairperson after appointment as a purchasing agent of the taxpayer when such property is annexed to, but not incorporated into, real estate as a part of a project. The refund shall be based on the cost of materials subject to the sales and use tax that were annexed to real estate; and

(v) Tangible personal property by a contractor or repairperson after appointment as a purchasing agent of the taxpayer when such property is both (A) incorporated into real estate as a part of a project and (B) annexed to, but not incorporated into, real estate as a part of a project. The refund shall be based on fifty percent of the contract price, excluding any land, as the cost of materials subject to the sales and use tax; and

(b) A refund of all sales and use taxes for a tier 2, tier 4, tier 5, or tier 6 project or a refund of one-half of all sales and use taxes for a tier 1 project paid under the Local Option Revenue Act, the Nebraska Revenue Act of 1967, and sections 13-319, 13-324, and 13-2813 on the types of purchases, including rentals, listed in subdivision (a) of this subsection for such taxes paid during each year of the entitlement period in which the taxpayer is at or above the required levels of employment and investment.

(3) Any taxpayer who qualifies for a tier 1, tier 2, tier 3, or tier 4 project shall be entitled to a credit equal to three percent times the average wage of new employees times the number of new employees if the average wage of the new employees equals at least sixty percent of the Nebraska average annual wage for the year of application. The credit shall equal four percent times the average wage of new employees times the number of new employees if the average wage of the new employees equals at least seventy-five percent of the Nebraska

average annual wage for the year of application. The credit shall equal five percent times the average wage of new employees times the number of new employees if the average wage of the new employees equals at least one hundred percent of the Nebraska average annual wage for the year of application. The credit shall equal six percent times the average wage of new employees times the number of new employees if the average wage of the new employees equals at least one hundred twenty-five percent of the Nebraska average annual wage for the year of application. For computation of such credit:

(a) Average annual wage means the total compensation paid to employees during the year at the project who are not base-year employees and who are paid wages equal to at least sixty percent of the Nebraska average weekly wage for the year of application, excluding any compensation in excess of one million dollars paid to any one employee during the year, divided by the number of equivalent employees making up such total compensation;

(b) Average wage of new employees means the average annual wage paid to employees during the year at the project who are not base-year employees and who are paid wages equal to at least sixty percent of the Nebraska average weekly wage for the year of application, excluding any compensation in excess of one million dollars paid to any one employee during the year; and

(c) Nebraska average annual wage means the Nebraska average weekly wage times fifty-two.

(4) Any taxpayer who qualifies for a tier 6 project shall be entitled to a credit equal to ten percent times the total compensation paid to all employees, other than base-year employees, excluding any compensation in excess of one million dollars paid to any one employee during the year, employed at the project.

(5) Any taxpayer who has met the required levels of employment and investment for a tier 2 or tier 4 project shall receive a credit equal to ten percent of the investment made in qualified property at the project. Any taxpayer who has met the required levels of investment and employment for a tier 1 project shall receive a credit equal to three percent of the investment made in qualified property at the project. Any taxpayer who has met the required levels of investment and employment for a tier 6 project shall receive a credit equal to fifteen percent of the investment made in qualified property at the project.

(6) The credits prescribed in subsections (3), (4), and (5) of this section shall be allowable for compensation paid and investments made during each year of the entitlement period that the taxpayer is at or above the required levels of employment and investment.

(7) The credit prescribed in subsection (5) of this section shall also be allowable during the first year of the entitlement period for investment in qualified property at the project after the date of the application and before the required levels of employment and investment were met.

(8)(a) Property described in subdivisions (8)(c)(i) through (v) of this section used in connection with a project or projects, whether purchased or leased, and placed in service by the taxpayer after the date the application was filed shall constitute separate classes of property and are eligible for exemption under the conditions and for the time periods provided in subdivision (8)(b) of this section.

(b)(i) A taxpayer who has met the required levels of employment and investment for a tier 4 project shall receive the exemption of property in subdivisions (8)(c)(ii), (iii), and (iv) of this section. A taxpayer who has met the required levels of employment and investment for a tier 6 project shall receive the exemption of property in subdivisions (8)(c)(ii), (iii), (iv), and (v) of this section. Such property shall be eligible for the exemption from the first January 1 following the end of the year during which the required levels were exceeded through the ninth December 31 after the first year property included in subdivisions (8)(c)(ii), (iii), (iv), and (v) of this section qualifies for the exemption.

(ii) A taxpayer who has filed an application that describes a tier 2 large data center project or a project under tier 4 or tier 6 shall receive the exemption of property in subdivision (8)(c)(i) of this section beginning with the first January 1 following the date the property was placed in service. The exemption shall continue through the end of the period property included in subdivisions (8)(c)(ii), (iii), (iv), and (v) of this section qualifies for the exemption.

(iii) A taxpayer who has filed an application that describes a tier 2 large data center project or a tier 5 project that is sequential to a tier 2 large data center project for which the entitlement period has expired shall receive the exemption of all property in subdivision (8)(c) of this section beginning any January 1 after the date the property was placed in service. Such property shall be eligible for exemption from the tax on personal property from the January 1 preceding the first claim for exemption approved under this subdivision through the ninth December 31 after the year the first claim for exemption is approved.

(iv) A taxpayer who has a project for an Internet web portal or a data center and who has met the required levels of employment and investment for a tier 2 project or the required level of investment for a tier 5 project, taking into account only the employment and investment at the web portal or data center project, shall receive the exemption of property in subdivision (8)(c)(ii) of this section. Such property shall be eligible for the exemption from the first January 1 following the end of the year during which the required levels were exceeded through the ninth December 31 after the first year any property included in subdivisions (8)(c)(ii), (iii), (iv), and (v) of this section qualifies for the exemption.

(v) Such investment and hiring of new employees shall be considered a required level of investment and employment for this subsection and for the recapture of benefits under this subsection only.

(c) The following property used in connection with such project or projects, whether purchased or leased, and placed in service by the taxpayer after the date the application was filed shall constitute separate classes of personal property:

(i) Turbine-powered aircraft, including turboprop, turbojet, and turbofan aircraft, except when any such aircraft is used for fundraising for or for the transportation of an elected official;

(ii) Computer systems, made up of equipment that is interconnected in order to enable the acquisition, storage, manipulation, management, movement, control, display, transmission, or reception of data involving computer software and hardware, used for business information processing which require environmental controls of temperature and power and which are capable of simultaneously supporting more than one transaction and more than one user. A

computer system includes peripheral components which require environmental controls of temperature and power connected to such computer systems. Peripheral components shall be limited to additional memory units, tape drives, disk drives, power supplies, cooling units, data switches, and communication controllers;

(iii) Depreciable personal property used for a distribution facility, including, but not limited to, storage racks, conveyor mechanisms, forklifts, and other property used to store or move products;

(iv) Personal property which is business equipment located in a single project if the business equipment is involved directly in the manufacture or processing of agricultural products; and

(v) For a tier 2 large data center project or tier 6 project, any other personal property located at the project.

(d) In order to receive the property tax exemptions allowed by subdivision (8)(c) of this section, the taxpayer shall annually file a claim for exemption with the Tax Commissioner on or before May 1. The form and supporting schedules shall be prescribed by the Tax Commissioner and shall list all property for which exemption is being sought under this section. A separate claim for exemption must be filed for each project and each county in which property is claimed to be exempt. A copy of this form must also be filed with the county assessor in each county in which the applicant is requesting exemption. The Tax Commissioner shall determine whether a taxpayer is eligible to obtain exemption for personal property based on the criteria for exemption and the eligibility of each item listed for exemption and, on or before August 1, certify such to the taxpayer and to the affected county assessor.

(9)(a) The investment thresholds in this section for a particular year of application shall be adjusted by the method provided in this subsection, except that the investment threshold for a tier 5 project described in subdivision (1)(e)(ii) of this section shall not be adjusted.

(b) For tier 1, tier 2, tier 4, and tier 5 projects other than tier 5 projects described in subdivision (1)(e)(ii) of this section, beginning October 1, 2006, and each October 1 thereafter, the average Producer Price Index for all commodities, published by the United States Department of Labor, Bureau of Labor Statistics, for the most recent twelve available periods shall be divided by the Producer Price Index for the first quarter of 2006 and the result multiplied by the applicable investment threshold. The investment thresholds shall be adjusted for cumulative inflation since 2006.

(c) For tier 6, beginning October 1, 2008, and each October 1 thereafter, the average Producer Price Index for all commodities, published by the United States Department of Labor, Bureau of Labor Statistics, for the most recent twelve available periods shall be divided by the Producer Price Index for the first quarter of 2008 and the result multiplied by the applicable investment threshold. The investment thresholds shall be adjusted for cumulative inflation since 2008.

(d) For a tier 2 large data center project, beginning October 1, 2012, and each October 1 thereafter, the average Producer Price Index for all commodities, published by the United States Department of Labor, Bureau of Labor Statistics, for the most recent twelve available periods shall be divided by the Producer Price Index for the first quarter of 2012 and the result multiplied by

the applicable investment threshold. The investment thresholds shall be adjusted for cumulative inflation since 2012.

(e) If the resulting amount is not a multiple of one million dollars, the amount shall be rounded to the next lowest one million dollars.

(f) The investment thresholds established by this subsection apply for purposes of project qualifications for all applications filed on or after January 1 of the following year for all years of the project. Adjustments do not apply to projects after the year of application.

Source: Laws 2005, LB 312, § 47; Laws 2006, LB 1003, § 14; Laws 2007, LB223, § 30; Laws 2007, LB334, § 98; Laws 2008, LB895, § 16; Laws 2008, LB965, § 22; Laws 2009, LB164, § 6; Laws 2010, LB879, § 18; Laws 2010, LB918, § 4; Laws 2012, LB1118, § 7; Laws 2013, LB104, § 4; Laws 2014, LB1067, § 2; Laws 2015, LB538, § 13; Laws 2016, LB1022, § 9; Laws 2017, LB217, § 23. Operative date August 24, 2017.

Cross References

Local Option Revenue Act, see section 77-27,148.

Nebraska Revenue Act of 1967, see section 77-2701.

77-5726 Credits; use; refund claims; procedures; interest; appointment of purchasing agent; protest; appeal.

(1)(a) The credits prescribed in section 77-5725 for a year shall be established by filing the forms required by the Tax Commissioner with the income tax return for the taxable year which includes the end of the year the credits were earned. The credits may be used and shall be applied in the order in which they were first allowed. The credits may be used after any other nonrefundable credits to reduce the taxpayer's income tax liability imposed by sections 77-2714 to 77-27,135. Credits may be used beginning with the taxable year which includes December 31 of the year the required minimum levels were reached. The last year for which credits may be used is the taxable year which includes December 31 of the last year of the carryover period. Any decision on how part of the credit is applied shall not limit how the remaining credit could be applied under this section.

(b) The taxpayer may use the credit provided in subsection (3) of section 77-5725 to reduce the taxpayer's income tax withholding employer or payor tax liability under section 77-2756 or 77-2757 to the extent such liability is attributable to the number of new employees at the project, excluding any compensation in excess of one million dollars paid to any one employee during the year. The taxpayer may use the credit provided in subsection (4) of section 77-5725 to reduce the taxpayer's income tax withholding employer or payor tax liability under section 77-2756 or 77-2757 to the extent such liability is attributable to all employees employed at the project, other than base-year employees and excluding any compensation in excess of one million dollars paid to any one employee during the year. To the extent of the credit used, such withholding shall not constitute public funds or state tax revenue and shall not constitute a trust fund or be owned by the state. The use by the taxpayer of the credit shall not change the amount that otherwise would be reported by the taxpayer to the employee under section 77-2754 as income tax withheld and shall not reduce the amount that otherwise would be allowed by the state as a

refundable credit on an employee's income tax return as income tax withheld under section 77-2755.

For a tier 1, tier 2, tier 3, or tier 4 project, the amount of credits used against income tax withholding shall not exceed the withholding attributable to new employees employed at the project, excluding any compensation in excess of one million dollars paid to any one employee during the year.

For a tier 6 project, the amount of credits used against income tax withholding shall not exceed the withholding attributable to all employees employed at the project, other than base-year employees and excluding any compensation in excess of one million dollars paid to any one employee during the year.

If the amount of credit used by the taxpayer against income tax withholding exceeds this amount, the excess withholding shall be returned to the Department of Revenue in the manner provided in section 77-2756, such excess amount returned shall be considered unused, and the amount of unused credits may be used as otherwise permitted in this section or shall carry over to the extent authorized in subdivision (1)(e) of this section.

(c) Credits may be used to obtain a refund of sales and use taxes under the Local Option Revenue Act, the Nebraska Revenue Act of 1967, and sections 13-319, 13-324, and 13-2813 which are not otherwise refundable that are paid on purchases, including rentals, for use at the project for a tier 1, tier 2, tier 3, or tier 4 project or for use within this state for a tier 2 large data center project or a tier 6 project.

(d) The credits earned for a tier 6 project may be used to obtain a payment from the state equal to the real property taxes due after the year the required levels of employment and investment were met and before the end of the carryover period, for real property that is included in such project and acquired by the taxpayer, whether by lease or purchase, after the date the application was filed. Once the required levels of employment and investment for a tier 2 large data center project have been met, the credits earned for a tier 2 large data center project may be used to obtain a payment from the state equal to the real property taxes due after the year of application and before the end of the carryover period, for real property that is included in such project and acquired by the taxpayer, whether by lease or purchase, after the date the application was filed. The payment from the state shall be made only after payment of the real property taxes have been made to the county as required by law. Payments shall not be allowed for any taxes paid on real property for which the taxes are divided under section 18-2147 or 58-507.

(e) Credits may be carried over until fully utilized, except that such credits may not be carried over more than nine years after the year of application for a tier 1 or tier 3 project, fourteen years after the year of application for a tier 2 or tier 4 project, or more than sixteen years past the end of the entitlement period for a tier 6 project.

(2)(a) No refund claims shall be filed until after the required levels of employment and investment have been met.

(b) Refund claims shall be filed no more than once each quarter for refunds under the Nebraska Advantage Act, except that any claim for a refund in excess of twenty-five thousand dollars may be filed at any time.

(c) Refund claims for materials purchased by a purchasing agent shall include:

(i) A copy of the purchasing agent appointment;

(ii) The contract price; and

(iii)(A) For refunds under subdivision (2)(a)(iii) or (2)(a)(v) of section 77-5725, a certification by the contractor or repairperson of the percentage of the materials incorporated into or annexed to the project on which sales and use taxes were paid to Nebraska after appointment as purchasing agent; or

(B) For refunds under subdivision (2)(a)(iv) of section 77-5725, a certification by the contractor or repairperson of the percentage of the contract price that represents the cost of materials annexed to the project and the percentage of the materials annexed to the project on which sales and use taxes were paid to Nebraska after appointment as purchasing agent.

(d) All refund claims shall be filed, processed, and allowed as any other claim under section 77-2708, except that the amounts allowed to be refunded under the Nebraska Advantage Act shall be deemed to be overpayments and shall be refunded notwithstanding any limitation in subdivision (2)(a) of section 77-2708. The refund may be allowed if the claim is filed within three years from the end of the year the required levels of employment and investment are met or within the period set forth in section 77-2708.

(e) If a claim for a refund of sales and use taxes under the Local Option Revenue Act or sections 13-319, 13-324, and 13-2813 of more than twenty-five thousand dollars is filed by June 15 of a given year, the refund shall be made on or after November 15 of the same year. If such a claim is filed on or after June 16 of a given year, the refund shall not be made until on or after November 15 of the following year. The Tax Commissioner shall notify the affected city, village, county, or municipal county of the amount of refund claims of sales and use taxes under the Local Option Revenue Act or sections 13-319, 13-324, and 13-2813 that are in excess of twenty-five thousand dollars on or before July 1 of the year before the claims will be paid under this section.

(f) Interest shall not be allowed on any taxes refunded under the Nebraska Advantage Act.

(3) The appointment of purchasing agents shall be recognized for the purpose of changing the status of a contractor or repairperson as the ultimate consumer of tangible personal property purchased after the date of the appointment which is physically incorporated into or annexed to the project and becomes the property of the owner of the improvement to real estate or the taxpayer. The purchasing agent shall be jointly liable for the payment of the sales and use tax on the purchases with the owner of the property.

(4) A determination that a taxpayer is not engaged in a qualified business or has failed to meet or maintain the required levels of employment or investment for incentives, exemptions, or recapture may be protested within sixty days after the mailing of the written notice of the proposed determination. If the notice of proposed determination is not protested within the sixty-day period, the proposed determination is a final determination. If the notice is protested, the Tax Commissioner shall issue a written order resolving such protests. The written order of the Tax Commissioner resolving a protest may be appealed to the district court of Lancaster County within thirty days after the issuance of the order.

Source: Laws 2005, LB 312, § 48; Laws 2008, LB895, § 17; Laws 2008, LB914, § 23; Laws 2009, LB164, § 7; Laws 2010, LB879, § 19;

Laws 2012, LB1118, § 8; Laws 2013, LB34, § 7; Laws 2017, LB161, § 1.
Effective date August 24, 2017.

Cross References

Local Option Revenue Act, see section 77-27,148.
Nebraska Revenue Act of 1967, see section 77-2701.

77-5735 Changes to sections; when effective; applicability.

(1) The changes made in sections 77-5703, 77-5708, 77-5712, 77-5714, 77-5715, 77-5723, 77-5725, 77-5726, 77-5727, and 77-5731 by Laws 2008, LB895, and sections 77-5707.01, 77-5719.01, and 77-5719.02 apply to all applications filed on and after April 18, 2008. For all applications filed prior to such date, the provisions of the Nebraska Advantage Act as they existed immediately prior to such date apply.

(2) The changes made in sections 77-5725 and 77-5726 by Laws 2010, LB879, apply to all applications filed on or after July 15, 2010. For all applications filed prior to such date, the taxpayer may make a one-time election, within the time period prescribed by the Tax Commissioner, to have the changes made in sections 77-5725 and 77-5726 by Laws 2010, LB879, apply to such taxpayer's application, or in the absence of such an election, the provisions of the Nebraska Advantage Act as they existed immediately prior to July 15, 2010, apply to such application.

(3) The changes made in sections 77-5707, 77-5715, 77-5719, and 77-5725 by Laws 2010, LB918, apply to all applications filed on or after July 15, 2010. For all applications filed prior to such date, the provisions of the Nebraska Advantage Act as they existed immediately prior to such date apply.

(4) The changes made in sections 77-5701, 77-5703, 77-5705, 77-5715, 77-5723, 77-5725, 77-5726, and 77-5727 by Laws 2012, LB1118, apply to all applications filed on or after March 8, 2012. For all applications filed prior to such date, the provisions of the Nebraska Advantage Act as they existed immediately prior to such date apply.

(5) The changes made in sections 77-5707.01, 77-5709, 77-5712, 77-5719, 77-5720, 77-5723, and 77-5726 by Laws 2013, LB34, apply to all applications filed on or after September 6, 2013. For all applications filed prior to such date, the provisions of the Nebraska Advantage Act as they existed immediately prior to such date apply.

(6) The changes made in section 77-5726 by Laws 2017, LB161, apply to all applications filed before, on, or after August 24, 2017.

Source: Laws 2008, LB895, § 20; Laws 2010, LB879, § 20; Laws 2010, LB918, § 5; Laws 2012, LB1118, § 10; Laws 2013, LB34, § 11; Laws 2014, LB851, § 15; Laws 2017, LB161, § 2.
Effective date August 24, 2017.

ARTICLE 59**NEBRASKA ADVANTAGE MICROENTERPRISE TAX CREDIT ACT**

Section
77-5902. Act; administration; purpose.
77-5903. Terms, defined.
77-5904. Tax credit; application; contents; advisory committee.
77-5905. Applications; approval; limit.

77-5902 Act; administration; purpose.

The Nebraska Advantage Microenterprise Tax Credit Act shall be administered by the Department of Revenue. The purpose of the act is to provide tax credits to applicants for creating or expanding microbusinesses that contribute to the state's economy through the creation of new or improved income, self-employment, or other new jobs.

Source: Laws 2005, LB 312, § 67; Laws 2017, LB217, § 24.
Operative date August 24, 2017.

77-5903 Terms, defined.

For purposes of the Nebraska Advantage Microenterprise Tax Credit Act:

(1) Actively engaged in the operation of a microbusiness means personal involvement on a continuous basis in the daily management and operation of the business;

(2) Equivalent employees means the number of employees computed by dividing the total hours paid in a year by the product of forty times the number of weeks in a year;

(3) Microbusiness means any business employing five or fewer equivalent employees at the time of application. Microbusiness does not include a farm or livestock operation unless (a) the person actively engaged in the operation of the microbusiness has a net worth of not more than five hundred thousand dollars, including any holdings by a spouse or dependent, based on fair market value, or (b) the investment or employment is in the processing or marketing of agricultural products, aquaculture, agricultural tourism, or the production of fruits, herbs, tree products, vegetables, tree nuts, dried fruits, organic crops, or nursery crops;

(4) New employment means the amount by which the total compensation plus the employer cost for health insurance for employees paid during the tax year to or for employees who are Nebraska residents exceeds the total compensation paid plus the employer cost for health insurance for employees to or for employees who are Nebraska residents in the tax year prior to application. New employment does not include compensation to any employee that is in excess of one hundred fifty percent of the Nebraska average weekly wage. Nebraska average weekly wage means the most recent average weekly wage paid by all employers as reported by October 1 by the Department of Labor;

(5) New investment means the increase during the tax year over the year prior to the application in the applicant's (a) purchases of buildings and depreciable personal property located in Nebraska, (b) expenditures on repairs and maintenance on property located in Nebraska, neither subdivision (a) or (b) of this subdivision to include vehicles required to be registered for operation on the roads and highways of this state, and (c) expenditures on advertising, legal, and professional services. If the buildings or depreciable personal property is leased, the amount of new investment shall be the increase in average net annual rents multiplied by the number of years of the lease for which the taxpayer is bound, not to exceed ten years;

(6) Related persons means (a) any corporation, partnership, limited liability company, cooperative, including cooperatives exempt under section 521 of the Internal Revenue Code of 1986, as amended, limited cooperative association, or

joint venture which is or would otherwise be a member of the same unitary group, if incorporated, or any person who is considered to be a related person under either section 267(b) and (c) or section 707(b) of the Internal Revenue Code of 1986, as amended, and (b) any individual who is a spouse, parent if the taxpayer is a minor, or minor son or daughter of the taxpayer; and

(7) Taxpayer means any person subject to the income tax imposed by the Nebraska Revenue Act of 1967, any corporation, partnership, limited liability company, cooperative, including a cooperative exempt under section 521 of the Internal Revenue Code of 1986, as amended, limited cooperative association, or joint venture that is or would otherwise be a member of the same unitary group, if incorporated, which is, or whose partners, members, or owners representing an ownership interest of at least ninety percent of such entity are, subject to such tax, and any other partnership, limited liability company, subchapter S corporation, cooperative, including a cooperative exempt under section 521 of the Internal Revenue Code of 1986, as amended, limited cooperative association, or joint venture when the partners, shareholders, or members representing an ownership interest of at least ninety percent of such entity are subject to such tax.

The changes made to this section by Laws 2008, LB 177, shall be operative for all applications for benefits received on or after July 18, 2008.

Source: Laws 2005, LB 312, § 68; Laws 2006, LB 1003, § 17; Laws 2007, LB368, § 141; Laws 2008, LB177, § 1; Laws 2009, LB531, § 1; Laws 2015, LB246, § 1; Laws 2017, LB217, § 25.
Operative date August 24, 2017.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

77-5904 Tax credit; application; contents; advisory committee.

(1) The Department of Revenue shall accept applications for tax credits from taxpayers who are actively engaged in the operation of a microbusiness or who will establish a microbusiness that they will actively operate within the current or subsequent tax year. 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.

(2) The department may convene an advisory committee of individuals with expertise in small business development, lending, and community development to evaluate applications and advise the department in authorizing tentative tax credits.

(3) The application shall be on a form developed by the department and shall contain:

- (a) A description of the microbusiness;
- (b) The projected income and expenditures;
- (c) The market to be served by the microbusiness and the way the expansion addresses the market;
- (d) The amount of projected investment or employment increase that would generate the credit;

(e) The projected improvement in income or creation of new self-employment or other jobs;

(f) The nature of the applicant's engagement in the operation of the microbusiness; and

(g) Other documents, plans, and specifications as required by the department.

Source: Laws 2005, LB 312, § 69; Laws 2007, LB223, § 32; Laws 2017, LB217, § 26.

Operative date August 24, 2017.

77-5905 Applications; approval; limit.

(1) If the Department of Revenue determines that an application meets the requirements of section 77-5904 and that the investment or employment is eligible for the credit and (a) the applicant is actively engaged in the operation of the microbusiness or will be actively engaged in the operation upon its establishment, (b) the applicant will make new investment or employment in the microbusiness, and (c) the new investment or employment will create new income or jobs, the department shall approve the application and authorize tentative tax credits to the applicant within the limits set forth in this section and certify the amount of tentative tax credits approved for the applicant. Applications for tax credits shall be considered in the order in which they are received.

(2) The department may approve applications up to the adjusted limit for each calendar year beginning January 1, 2006, through December 31, 2022. After applications totaling the adjusted limit have been approved for a calendar year, no further applications shall be approved for that year. The adjusted limit in a given year is two million dollars plus tentative tax credits that were not granted by the end of the preceding year. Tax credits shall not be allowed for a taxpayer receiving benefits under the Employment and Investment Growth Act, the Nebraska Advantage Act, or the Nebraska Advantage Rural Development Act.

Source: Laws 2005, LB 312, § 70; Laws 2009, LB164, § 11; Laws 2014, LB1067, § 4; Laws 2015, LB538, § 15; Laws 2016, LB1022, § 11; Laws 2017, LB217, § 27.

Operative date August 24, 2017.

Cross References

Employment and Investment Growth Act, see section 77-4101.

Nebraska Advantage Act, see section 77-5701.

Nebraska Advantage Rural Development Act, see section 77-27,187.

ARTICLE 63

ANGEL INVESTMENT TAX CREDIT ACT

Section

77-6302. Terms, defined.

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; effect; final report; when required.

77-6302 Terms, defined.

For purposes of the Angel Investment Tax Credit Act:

- (1) Director means the Director of Economic Development;
- (2) Family member means a family member within the meaning of section 267(c)(4) of the Internal Revenue Code of 1986, as amended;
- (3) Investment date means the latest of the following:
 - (a) The date of a fully executed investor subscription agreement or underlying transaction document pertaining to the applicable qualified investment;
 - (b) The date on a check made out to a qualified small business for the applicable qualified investment or the date a wire transfer is completed for the applicable qualified investment; or
 - (c) The date the qualified small business deposits a check made out to such qualified small business for the applicable qualified investment or receives a wire transfer for the applicable qualified investment, as documented on the deposit slip or bank statement of the qualified small business;
- (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; Laws 2014, LB1067, § 5; Laws 2017, LB217, § 28.

Operative date August 24, 2017.

77-6306 Tax credit; amount; director; allocation; limitation; reallocation; when; notice to director; tax credit certificates issued; holding period.

(1) A qualified investor or qualified fund is eligible for a refundable tax credit equal to forty percent of its qualified investment in a qualified small business. The director shall not allocate more than four million dollars in tax credits to all qualified investors or qualified funds in a calendar year. If the director does not allocate the entire four 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 2022.

(2) The director shall not allocate more than a total maximum amount in tax credits for a calendar year to a qualified investor for the investor's cumulative qualified investments as an individual qualified investor and as an investor in a qualified fund as provided in this subsection. For married couples filing joint returns the maximum is three hundred fifty thousand dollars, and for all other filers the maximum is three hundred thousand dollars. The director shall not allocate more than a total of one million dollars in tax credits for qualified investments in any one qualified small business.

(3) The director shall not allocate a tax credit to a qualified investor either as an individual qualified investor or as an investor in a qualified fund if the investor receives more than forty-nine percent of the investor's gross annual income from the qualified small business in which the qualified investment is proposed. A family member of an individual disqualified by this subsection is not eligible for a tax credit under this section. For a married couple filing a joint return, the limitations in this subsection apply collectively to the investor and spouse. For purposes of determining the ownership interest of an investor under this subsection, the rules under section 267(c) and (e) of the Internal Revenue Code of 1986, as amended, apply.

(4) Tax credits shall be allocated to qualified investors or qualified funds in the order that the tax credit applications are filed with the director. Once tax credits have been approved and allocated by the director, the qualified investors and qualified funds shall implement the qualified investment specified within ninety days after allocation of the tax credits. Qualified investors and qualified funds shall notify the director no later than thirty days after the expiration of the ninety-day period that the qualified investment has been made. If the qualified investment is not made within ninety days after allocation of the tax credits, or the director has not, within thirty days following expiration of the ninety-day period, received notification that the qualified investment was made, the tax credit allocation is canceled and available for reallocation. A qualified investor or qualified fund that fails to invest as specified in the application within ninety days after allocation of the tax credits shall notify the director of the failure to invest within five business days after the expiration of the ninety-day investment period.

(5) All tax credit applications filed with the director on the same day shall be treated as having been filed contemporaneously. If two or more qualified investors or qualified funds file tax credit applications on the same day and the aggregate amount of tax credit allocation requests exceeds the aggregate limit of tax credits under this section or the lesser amount of tax credits that remain unallocated on that day, then the tax credits shall be allocated among the qualified investors or qualified funds who filed on that day on a pro rata basis with respect to the amounts requested. The pro rata allocation for any one qualified investor or qualified fund shall be the product obtained by multiplying a fraction, the numerator of which is the amount of the tax credit allocation request filed on behalf of a qualified investor or qualified fund and the denominator of which is the total of all tax credit allocation requests filed on behalf of all applicants on that day, by the amount of tax credits that remain unallocated on that day for the taxable year.

(6) A qualified investor or qualified fund, or a qualified small business acting on behalf of the investor or fund, shall notify the director when an investment for which tax credits were allocated has been made and shall furnish the director with documentation of the investment date. A qualified fund shall also provide the director with a statement indicating the amount invested by each investor in the qualified fund based on each investor's share of the assets of the qualified fund at the time of the qualified investment. After receiving notification that the qualified investment was made, the director shall issue tax credit certificates for the taxable year in which the qualified investment was made to the qualified investor or, for a qualified investment made by a qualified fund, to each qualified investor who is an investor in the fund. The certificate shall state that the tax credit is subject to revocation if the qualified investor or qualified fund does not hold the investment in the qualified small business for at least three years, consisting of the calendar year in which the investment was made and the two following calendar years. The three-year holding period does not apply if:

- (a) The qualified investment by the qualified investor or qualified fund becomes worthless before the end of the three-year period;
- (b) Eighty percent or more of the assets of the qualified small business are sold before the end of the three-year period;
- (c) The qualified small business is sold or merges with another business before the end of the three-year period;
- (d) The qualified small business's common stock begins trading on a public exchange before the end of the three-year period; or
- (e) In the case of an individual qualified investor, such investor becomes deceased before the end of the three-year period.

(7) The director shall notify the Tax Commissioner that tax credit certificates have been issued, including the amount of tax credits and all other pertinent tax information.

Source: Laws 2011, LB389, § 6; Laws 2014, LB1067, § 8; Laws 2015, LB156, § 1; Laws 2016, LB1022, § 12; Laws 2017, LB217, § 29.
Operative date August 24, 2017.

77-6307 Annual report; contents; failure to file; effect; final report; when required.

(1) Each qualified small business, qualified investor, and qualified fund shall submit an annual report to the director by July 1 of each year. The report shall certify that the business, investor, or fund satisfies the requirements of the Angel Investment Tax Credit Act and shall include all information which will enable the Department of Economic Development to fulfill its reporting requirements under section 77-6309.

(2) 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.

(3) To maintain the confidentiality of the qualified investor, the Department of Economic Development shall use a designated number to identify such persons or entities.

(4) A qualified small business, qualified investor, or qualified fund that fails to file a complete annual report by July 1 shall, at the discretion of the director, be subject to a fine of two hundred dollars, revocation of its certification, or both.

Source: Laws 2011, LB389, § 7; Laws 2014, LB1067, § 9; Laws 2015, LB156, § 2; Laws 2017, LB217, § 30.
Operative date August 24, 2017.

SCHOOLS

CHAPTER 79
SCHOOLS

Article.

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ARTICLE 2

PROVISIONS RELATING TO STUDENTS

(e) ENROLLMENT OPTION PROGRAM

Section

79-237. Attendance; application; cancellation; forms.

(q) STATE SCHOOL SECURITY DIRECTOR

79-2,144. State school security director; duties.

(s) PREGNANT AND PARENTING STUDENTS

79-2,149. Legislative findings.

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(t) STUDENT ONLINE PERSONAL PROTECTION ACT

79-2,153. Act, how cited.

79-2,154. Terms, defined.

Section

79-2,155. Operator; prohibited acts; duties; use or disclosure of covered information; applicability of section.

(e) ENROLLMENT OPTION PROGRAM

79-237 Attendance; application; cancellation; forms.

(1) For a student to begin attendance as an option student in an option school district in which the student resides, the student's parent or legal guardian shall submit an application to the school board of the option school district between September 1 and March 15 for attendance during the following and subsequent school years. Except as provided in subsection (2) of this section, applications submitted after March 15 shall contain a release approval from the resident school district on the application form prescribed and furnished by the State Department of Education pursuant to subsection (8) of this section. A district may not accept or approve any applications submitted after such date without such a release approval. The option school district shall provide the resident school district with the name of the applicant on or before April 1 or, in the case of an application submitted after March 15, within sixty days after submission. The option school district shall notify, in writing, the parent or legal guardian of the student and the resident school district whether the application is accepted or rejected on or before April 1 or, in the case of an application submitted after March 15, within sixty days after submission. An option school district that is a member of a learning community may not approve an application pursuant to this section for a student who resides in such learning community to attend prior to school year 2017-18.

(2) A student who relocates to a different resident school district after February 1 or whose option school district merges with another district effective after February 1 may submit an application to the school board of an option school district for attendance during the current or immediately following and subsequent school years unless the applicant is a resident of a learning community and the application is for attendance to begin prior to school year 2017-18 in an option school district that is also a member of such learning community. Such application does not require the release approval of the resident school district. The option school district shall accept or reject such application within forty-five days.

(3) A parent or guardian may provide information on the application for an option school district that is a member of a learning community regarding the applicant's potential qualification for free or reduced-price lunches. Any such information provided shall be subject to verification and shall only be used for the purposes of subsection (4) of section 79-238. Nothing in this subsection requires a parent or guardian to provide such information. Determinations about an applicant's qualification for free or reduced-price lunches for purposes of subsection (4) of section 79-238 shall be based on any verified information provided on the application. If no such information is provided, the student shall be presumed not to qualify for free or reduced-price lunches for the purposes of subsection (4) of section 79-238.

(4) Applications for students who do not actually attend the option school district may be withdrawn in good standing upon mutual agreement by both the resident and option school districts.

(5) No option student shall attend an option school district for less than one school year unless the student relocates to a different resident school district, completes requirements for graduation prior to the end of his or her senior year, transfers to a private or parochial school, or upon mutual agreement of the resident and option school districts cancels the enrollment option and returns to the resident school district.

(6) Except as provided in subsection (5) of this section or, for open enrollment option students, in section 79-235.01, the option student shall attend the option school district until graduation unless the student relocates in a different resident school district, transfers to a private or parochial school, or chooses to return to the resident school district.

(7) In each case of cancellation pursuant to subsections (5) and (6) of this section, the student's parent or legal guardian shall provide written notification to the school board of the option school district and the resident school district on forms prescribed and furnished by the department under subsection (8) of this section in advance of such cancellation.

(8) The application and cancellation forms shall be prescribed and furnished by the State Department of Education.

(9) An option student who subsequently chooses to attend a private or parochial school and who is not an open enrollment option student shall be automatically accepted to return to either the resident school district or option school district upon the completion of the grade levels offered at the private or parochial school. If such student chooses to return to the option school district, the student's parent or legal guardian shall submit another application to the school board of the option school district which shall be automatically accepted, and the deadlines prescribed in this section shall be waived.

Source: Laws 1989, LB 183, § 6; Laws 1990, LB 843, § 7; Laws 1993, LB 348, § 66; Laws 1993, LB 838, § 1; R.S.1943, (1994), § 79-3406; Laws 1996, LB 900, § 41; Laws 2001, LB 797, § 6; Laws 2006, LB 1024, § 19; Laws 2009, LB62, § 2; Laws 2009, LB549, § 6; Laws 2013, LB410, § 4; Laws 2016, LB1066, § 3; Laws 2016, LB1067, § 16; Laws 2017, LB512, § 7.
Operative date May 23, 2017.

(q) STATE SCHOOL SECURITY DIRECTOR

79-2,144 State school security director; duties.

The state school security director appointed pursuant to section 79-2,143 shall be responsible for providing leadership and support for safety and security for the public schools. Duties of the director include, but are not limited to:

(1) Collecting safety and security plans, required pursuant to rules and regulations of the State Department of Education relating to accreditation of schools, and other school security information from each school system in Nebraska. School districts shall provide the state school security director with the safety and security plans of the school district and any other security information requested by the director, but any plans or information submitted by a school district may be withheld by the department pursuant to subdivision (8) of section 84-712.05;

(2) Recommending minimum standards for school security on or before January 1, 2016, to the State Board of Education;

- (3) Conducting an assessment of the security of each public school building, which assessment shall be completed by August 31, 2019;
- (4) Identifying deficiencies in school security based on the minimum standards adopted by the State Board of Education and making recommendations to school boards for remedying such deficiencies;
- (5) Establishing security awareness and preparedness tools and training programs for public school staff;
- (6) Establishing research-based model instructional programs for staff, students, and parents to address the underlying causes for violent attacks on schools;
- (7) Overseeing suicide awareness and prevention training in public schools pursuant to section 79-2,146;
- (8) Establishing tornado preparedness standards which shall include, but not be limited to, ensuring that every school conducts at least two tornado drills per year;
- (9) Responding to inquiries and requests for assistance relating to school security from private, denominational, and parochial schools; and
- (10) Recommending curricular and extracurricular materials to assist school districts in preventing and responding to cyberbullying and digital citizenship issues.

Source: Laws 2014, LB923, § 2; Laws 2015, LB525, § 5; Laws 2017, LB512, § 8.

Operative date May 23, 2017.

(s) PREGNANT AND PARENTING STUDENTS

79-2,149 Legislative findings.

The Legislature finds and declares that:

- (1) Pregnant and parenting students face enormous challenges to completing their education. The majority of young women who become pregnant in high school leave school which detrimentally impacts their financial, social, and educational future, as well as the future of their children;
- (2) Schools have an obligation to keep pregnant and parenting students in school;
- (3) Schools must remove overly restrictive or inflexible absence and leave policies so that pregnant students can attend prenatal medical appointments and parenting students can attend appointments for pediatric medical care, provide opportunities for students to make up school work or allow alternative education for students who become pregnant, and make accommodations for breastfeeding or milk expression; and
- (4) Young women should not have to choose between completing their education and parenthood.

Source: Laws 2017, LB427, § 1.

Effective date August 24, 2017.

79-2,150 School board; duties.

Beginning May 1, 2018, the school board of each school district shall adopt a written policy to be implemented at the start of the 2018-19 school year which

provides for standards and guidelines to accommodate absences related to pregnancy and child care for pregnant and parenting students. Such policy shall include procedures and provisions in conformance with the minimum standards set forth in any model policy developed by the State Department of Education pursuant to section 79-2,151 or shall meet the minimum standards set forth in such section and may include any other procedures and provisions the school board deems appropriate.

Source: Laws 2017, LB427, § 2.
Effective date August 24, 2017.

79-2,151 State Department of Education; model policy; contents.

On or before December 1, 2017, the State Department of Education may develop and distribute a model policy to encourage the educational success of pregnant and parenting students. At a minimum, such policy shall:

(1) Specifically identify procedures to anticipate and provide for student absences due to pregnancy and allow students to return to school and, if applicable, participate in extracurricular activities after pregnancy;

(2) Provide alternative methods to keep a pregnant or parenting student in school by allowing coursework to be accessed at home or accommodating tutoring visits, online courses, or a similar supplement to classroom attendance;

(3) Identify alternatives for accommodating lactation by providing students with private, hygienic spaces to express breast milk during the school day; and

(4) Establish a procedure for schools which do not have an in-school child care facility to assist student-parents by identifying child care providers for purposes of placing their children in child care facilities which, where possible, participate in the quality rating and improvement system and meet all of the quality rating criteria for at least a step-three rating pursuant to the Step Up to Quality Child Care Act and which collaborate with the school.

Source: Laws 2017, LB427, § 3.
Effective date August 24, 2017.

Cross References

Step Up to Quality Child Care Act, see section 71-1952.

79-2,152 State Department of Education; powers.

In addition to the development of a model policy, the State Department of Education may offer training for teachers, counselors, and administrators on each school district's policy adopted under section 79-2,150 and the rights of pregnant and parenting students to receive equal access to education.

Source: Laws 2017, LB427, § 4.
Effective date August 24, 2017.

(t) **STUDENT ONLINE PERSONAL PROTECTION ACT**

79-2,153 Act, how cited.

Sections 79-2,153 to 79-2,155 shall be known and may be cited as the Student Online Personal Protection Act.

Source: Laws 2017, LB512, § 1.
Operative date September 1, 2017.

79-2,154 Terms, defined.

For purposes of the Student Online Personal Protection Act:

(1) Covered information means personally identifiable information or material or information that is linked to personally identifiable information or material in any medium or format that is not publicly available and is any of the following:

(a) Created or gathered by or provided to an operator by a student, or the student's parent or legal guardian, in the course of the student's, parent's, or legal guardian's use of the operator's site, service, or application for elementary, middle, or high school purposes;

(b) Created by or provided to an operator by an employee or agent of an elementary school, middle school, high school, or school district for elementary, middle, or high school purposes; or

(c) Gathered by an operator through the operation of its site, service, or application for elementary, middle, or high school purposes and personally identifies a student, including, but not limited to, information in the student's educational record or electronic mail, first and last name, home address, telephone number, electronic mail address, or other information that allows physical or online contact, discipline records, test results, special education data, juvenile dependency records, grades, evaluations, criminal records, medical records, health records, social security number, biometric information, disabilities, socioeconomic information, food purchases, political affiliations, religious information, text messages, documents, student identifiers, search activity, photos, voice recordings, or geolocation information;

(2) Interactive computer service has the definition found in 47 U.S.C. 230, as such section existed on January 1, 2017;

(3) Elementary, middle, or high school purposes means purposes that are directed by or that customarily take place at the direction of an elementary school, a middle school, a high school, a teacher, or a school district or that aid in the administration of school activities, including, but not limited to, instruction in the classroom or at home, administrative activities, collaboration between students, school personnel, or parents, and other purposes that are pursued for the use and benefit of the school or school district;

(4) Operator means, to the extent it is operating in this capacity, the operator of an Internet web site, online service, online application, or mobile application with actual knowledge that the site, service, or application is used primarily for elementary, middle, or high school purposes and was designed and marketed for elementary, middle, or high school purposes. This term does not include Internet web sites, online services, online applications, or mobile applications operated by a postsecondary institution with a physical presence in Nebraska; and

(5) Targeted advertising means presenting advertisements to a student where the advertisement is selected based on information obtained or inferred over time from that student's online behavior, usage of applications, or covered information. It does not include advertising to a student at an online location based upon that student's current visit to that location, or in response to that student's request for information or feedback, without the retention of that

student's online activities or requests over time for the purpose of targeting subsequent advertisements.

Source: Laws 2017, LB512, § 2.

Operative date September 1, 2017.

79-2,155 Operator; prohibited acts; duties; use or disclosure of covered information; applicability of section.

(1) An operator shall not knowingly:

(a) Engage in targeted advertising on the operator's site, service, or application or targeted advertising on any other site, service, or application if the targeting of the advertising is based on any information, including covered information and persistent unique identifiers, that the operator has acquired because of the use of that operator's site, service, or application for elementary, middle, or high school purposes;

(b) Use covered information, including persistent unique identifiers, created or gathered by the operator's site, service, or application to amass a profile about a student except in furtherance of elementary, middle, or high school purposes. Amassing a profile does not include the collection and retention of account information that remains under the control of the student, the student's parent or guardian, or the elementary school, middle school, or high school;

(c) Sell or rent a student's covered information. This subdivision does not apply to (i) the purchase, merger, or other type of acquisition of an operator by another entity if the operator or successor entity complies with this section regarding such covered information or (ii) a national assessment provider if the provider secures the express written consent of the student or parent or guardian of the student given in response to clear and conspicuous notice that access to covered information shall only be provided for purposes of obtaining employment, educational scholarships, financial aid, or postsecondary educational opportunities for such student; or

(d) Except as otherwise provided in subsection (3) of this section, disclose covered information unless the disclosure is made for the following purposes:

(i) In furtherance of the elementary, middle, or high school purpose of the site, service, or application, if the recipient of the covered information disclosed under this subdivision does not further disclose the covered information except to allow or improve operability and functionality of the operator's site, service, or application;

(ii) To ensure legal and regulatory compliance or protect against liability;

(iii) To respond to or participate in the judicial process;

(iv) To protect the safety or integrity of users of the site or other individuals or the security of the site, service, or application;

(v) For a school, educational, or employment purpose requested by the student or the student's parent or guardian if the covered information is not used or further disclosed for any other purpose; or

(vi) To a third party if the operator contractually prohibits the third party from using any covered information for any purpose other than providing the contracted service to or on behalf of the operator, prohibits the third party from disclosing any covered information provided by the operator with subsequent

third parties, and requires the third party to implement and maintain reasonable security procedures and practices.

(2) Nothing in this section shall prohibit the operator from using covered information for maintaining, developing, supporting, improving, or diagnosing the operator's site, service, or application.

(3) An operator shall:

(a) Implement and maintain reasonable security procedures and practices appropriate to the nature of the covered information designed to protect that covered information from unauthorized access, destruction, use, modification, or disclosure; and

(b) Delete within a reasonable time period a student's covered information if the elementary school, middle school, high school, or school district requests deletion of covered information under the control of the elementary school, middle school, high school, or school district, unless a student or parent or guardian consents to the maintenance of the covered information.

(4) An operator may use or disclose covered information of a student under the following circumstances:

(a) If other provisions of federal or state law require the operator to disclose the covered information and the operator complies with the requirements of federal and state law in protecting and disclosing such covered information;

(b) As long as no covered information is used for advertising or to amass a profile on the student for purposes other than elementary, middle, or high school purposes, for legitimate research purposes as required by state or federal law and subject to the restrictions under applicable state and federal law or as allowed by state or federal law and in furtherance of elementary, middle, or high school purposes or postsecondary educational purposes; or

(c) To state or local educational agencies, including elementary schools, middle schools, high schools, and school districts, for elementary, middle, or high school purposes, as permitted by state or federal law.

(5) This section does not prohibit an operator from doing any of the following:

(a) Using covered information to improve educational products if such covered information is not associated with an identified student within the operator's site, service, or application or other sites, services, or applications owned by the operator;

(b) Using covered information that is not associated with an identified student to demonstrate or market the effectiveness of the operator's products or services;

(c) Sharing covered information that is not associated with an identified student for the development and improvement of educational sites, services, or applications;

(d) Using recommendation engines to recommend to a student either of the following:

(i) Additional content relating to an educational, other learning, or employment opportunity purpose within an online site, service, or application if the recommendation is not determined in whole or in part by payment or other consideration from a third party; or

(ii) Additional services relating to an educational, other learning, or employment opportunity purpose within an online site, service, or application if the recommendation is not determined in whole or in part by payment or other consideration from a third party; or

(e) Responding to a student's request for information or for feedback without the information or response being determined in whole or in part by payment or other consideration from a third party.

(6) This section does not:

(a) Limit the authority of a law enforcement agency to obtain any content or covered information from an operator as authorized by law or under a court order;

(b) Limit the ability of an operator to use student data, including covered information, for adaptive learning or customized student learning purposes;

(c) Apply to general audience Internet web sites, general audience online services, general audience online applications, or general audience mobile applications, even if login credentials created for an operator's site, service, or application may be used to access those general audience sites, services, or applications;

(d) Limit service providers from providing Internet connectivity to schools or a student and his or her family;

(e) Prohibit an operator of an Internet web site, online service, online application, or mobile application from marketing educational products directly to parents if the marketing did not result from the use of covered information obtained by the operator through the provision of services covered under this section;

(f) Impose a duty upon a provider of an electronic store, network gateway, marketplace, or other means of purchasing or downloading software or applications to review or enforce compliance with this section on those applications or software;

(g) Impose a duty upon a provider of an interactive computer service to review or enforce compliance with this section by third-party content providers; or

(h) Prohibit a student from downloading, exporting, transferring, saving, or maintaining his or her own student data or documents.

Source: Laws 2017, LB512, § 3.

Operative date September 1, 2017.

ARTICLE 3

STATE DEPARTMENT OF EDUCATION

(c) STATE BOARD OF EDUCATION

Section

79-319. State Board of Education; additional powers; enumerated.

79-321. Repealed. Laws 2017, LB512, § 41.

(c) STATE BOARD OF EDUCATION

79-319 State Board of Education; additional powers; enumerated.

The State Board of Education has the authority to (1) provide for the education of and approve special educational facilities and programs provided

in the public schools for children with disabilities, (2) act as the state's authority for the approval of all types of veterans educational programs and have jurisdiction over the administration and supervision of on-the-job and apprenticeship training, on-the-farm training, and flight training programs for veterans which are financially supported in whole or in part by the federal government, (3) supervise and administer any educational or training program established within the state by the federal government, except postsecondary education in approved colleges, (4) coordinate educational activities in the state that pertain to elementary and secondary education and such other educational programs as are placed by statute under the jurisdiction of the board, (5) administer any state or federal career and technical education laws and funding as directed, (6) receive and distribute according to law any money, commodities, goods, or services made available to the board from the state or federal government or from any other source and distribute money in accordance with the terms of any grant received, including the distribution of money from grants by the federal government to schools, preschools, day care centers, day care homes, nonprofit agencies, and political subdivisions of the state or institutions of learning not owned or exclusively controlled by the state or a political subdivision thereof, so long as no public funds of the state, any political subdivision, or any public corporation are added to such federal grants, (7) publish, from time to time, directories of schools and educators, pamphlets, curriculum guides, rules and regulations, handbooks on school constitution and other matters of interest to educators, and similar publications. Such publications may be distributed without charge to schools and school officials within this state or may be sold at a price not less than the actual cost of printing. The proceeds of such sale shall be remitted to the State Treasurer for credit to the State Department of Education Cash Fund which may be used by the State Department of Education for the purpose of printing and distributing further such publications on a nonprofit basis. Copies of such publications shall be provided to the Nebraska Publications Clearinghouse pursuant to section 51-413, and (8) when necessary for the proper administration of the functions of the department and with the approval of the Governor and the Department of Administrative Services, rent or lease space outside the State Capitol.

Source: Laws 1953, c. 320, § 9, p. 1058; Laws 1959, c. 384, § 1, p. 1332; Laws 1961, c. 395, § 1, p. 1202; Laws 1963, c. 469, § 5, p. 1504; Laws 1972, LB 1284, § 20; Laws 1974, LB 863, § 9; Laws 1975, LB 359, § 2; Laws 1976, LB 733, § 1; Laws 1985, LB 417, § 1; Laws 1986, LB 997, § 7; R.S.1943, (1994), § 79-329; Laws 1996, LB 900, § 147; Laws 2009, LB549, § 19; Laws 2014, LB967, § 4; Laws 2017, LB512, § 9.

Operative date May 23, 2017.

79-321 Repealed. Laws 2017, LB512, § 41.

Operative date May 23, 2017.

ARTICLE 4**SCHOOL ORGANIZATION AND REORGANIZATION****(b) LEGAL STATUS, FORMATION, AND TERRITORY**

Section

79-407. Class III school district; boundaries; body corporate; powers.

(b) LEGAL STATUS, FORMATION, AND TERRITORY**79-407 Class III school district; boundaries; body corporate; powers.**

The territory within the corporate limits of each incorporated municipality in the State of Nebraska that is not in part within the boundaries of a learning community, together with such additional territory and additions to such municipality as may be added thereto, as declared by ordinances to be boundaries of such municipality, having a population of more than one thousand and less than one hundred fifty thousand inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census, including such adjacent territory as now is or hereafter may be attached for school purposes, shall constitute a Class III 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. The school district shall be a body corporate and possess all the usual powers of a corporation for public purposes and may sue and be sued, purchase, hold, and sell such personal and real property, and control such obligations as are authorized by law.

Source: Laws 1881, c. 78, subdivision XIV, § 1, p. 376; Laws 1883, c. 72, § 18, p. 296; Laws 1897, c. 69, § 1, p. 315; Laws 1909, c. 128, § 1, p. 472; R.S.1913, § 6948; Laws 1917, c. 128, § 1, p. 309; C.S.1922, § 6582; C.S.1929, § 79-2501; R.S.1943, § 79-2501; Laws 1949, c. 256, § 232, p. 767; Laws 1959, c. 382, § 4, p. 1325; Laws 1967, c. 541, § 1, p. 1782; Laws 1976, LB 383, § 1; Laws 1980, LB 743, § 3; Laws 1981, LB 16, § 2; Laws 1983, LB 465, § 1; Laws 1984, LB 908, § 1; Laws 1988, LB 1142, § 6; Laws 1988, LB 835, § 1; R.S.1943, (1994), § 79-801; Laws 1996, LB 900, § 156; Laws 1997, LB 345, § 9; Laws 1998, LB 629, § 2; Laws 2005, LB 126, § 13; Laws 2006, LB 1024, § 21; Referendum 2006, No. 422; Laws 2017, LB113, § 55.
Effective date August 24, 2017.

Cross References

Annexation by change of city boundaries, see section 79-473.

ARTICLE 5**SCHOOL BOARDS****(b) SCHOOL BOARD DUTIES**

Section

79-527.01. Repealed. Laws 2017, LB512, § 41.

(b) SCHOOL BOARD DUTIES

79-527.01 Repealed. Laws 2017, LB512, § 41.
Operative date May 23, 2017.

ARTICLE 6

SCHOOL TRANSPORTATION

Section

79-604. Pupils; transportation; buses; routes, posting with signs.

79-604 Pupils; transportation; buses; routes, posting with signs.

The Department of Transportation shall post on state highways signs reading: Unlawful to pass school buses stopped to load or unload children. These signs shall be adequate in size and number to properly inform the public. School districts may obtain and post such signs on other bus route roads upon the approval of appropriate county officials. The Department of Transportation may furnish such signs at cost to school districts.

Source: Laws 1959, c. 396, § 2, p. 1355; R.S.1943, (1994), § 79-488.03; Laws 1996, LB 900, § 365; Laws 2017, LB339, § 271.
Operative date July 1, 2017.

ARTICLE 7

ACCREDITATION, CURRICULUM, AND INSTRUCTION

(f) VOCATIONAL EDUCATION

Section

- 79-738. Repealed. Laws 2017, LB512, § 41.
- 79-739. Repealed. Laws 2017, LB512, § 41.
- 79-740. Repealed. Laws 2017, LB512, § 41.
- 79-741. Repealed. Laws 2017, LB512, § 41.
- 79-742. Repealed. Laws 2017, LB512, § 41.
- 79-743. Repealed. Laws 2017, LB512, § 41.
- 79-744. Repealed. Laws 2017, LB512, § 41.
- 79-746. Interdistrict school agreements; authorized.

(f) VOCATIONAL EDUCATION

79-738 Repealed. Laws 2017, LB512, § 41.
Operative date May 23, 2017.

79-739 Repealed. Laws 2017, LB512, § 41.
Operative date May 23, 2017.

79-740 Repealed. Laws 2017, LB512, § 41.
Operative date May 23, 2017.

79-741 Repealed. Laws 2017, LB512, § 41.
Operative date May 23, 2017.

79-742 Repealed. Laws 2017, LB512, § 41.
Operative date May 23, 2017.

79-743 Repealed. Laws 2017, LB512, § 41.
Operative date May 23, 2017.

79-744 Repealed. Laws 2017, LB512, § 41.

Operative date May 23, 2017.

79-746 Interdistrict school agreements; authorized.

Any public school district in this state may enter into an agreement with any other public school district in this state to provide and share vocational educational programs, particularly programs involving recent technological developments such as electronics, computer science, and communications. The agreement's terms shall be approved by the school board or board of education of each school district participating in the agreement. The terms of the agreement shall include, but not be limited to, the method of sharing or hiring personnel, purchasing equipment and materials, and course curriculum.

The State Board of Education shall be apprised of all interdistrict school agreements at the time such agreements are executed.

Source: Laws 1983, LB 207, § 2; R.S.1943, (1994), § 79-1435.02; Laws 1996, LB 900, § 420; Laws 2017, LB512, § 10.
Operative date May 23, 2017.

ARTICLE 8**TEACHERS AND ADMINISTRATORS**

(l) MISCELLANEOUS

Section

79-898. Repealed. Laws 2017, LB62, § 1.

79-899. Repealed. Laws 2017, LB62, § 1.

(r) INCENTIVES FOR VOLUNTARY TERMINATION

79-8,142. Incentive for voluntary termination; school district; duties.

(l) MISCELLANEOUS

79-898 Repealed. Laws 2017, LB62, § 1.**79-899 Repealed. Laws 2017, LB62, § 1.**

(r) INCENTIVES FOR VOLUNTARY TERMINATION

79-8,142 Incentive for voluntary termination; school district; duties.

(1) A school district may agree to pay incentives to a certificated employee in exchange for a voluntary termination of employment.

(2) For purposes of this section, incentives paid in exchange for a voluntary termination of employment include any amount paid, except pursuant to the Retirement Incentive Plan or Staff Development Assistance agreement required under sections 79-854 to 79-856 for school districts involved in a unification or reorganization, to or on behalf of any certificated staff member in exchange for a voluntary termination of employment, including, but not limited to, early retirement inducements and costs to the school district for insurance coverage for such certificated staff member or any member of such certificated staff member's family.

(3) Incentives paid to a certificated teacher in exchange for a voluntary termination of employment shall be a qualified voluntary termination incentive for a certificated teacher for purposes of sections 77-3442 and 79-1028.01 if:

(a) All current and future incentives paid by the school district to such certificated teacher for such voluntary termination of employment do not exceed thirty-five thousand dollars in total and such school district has not and shall not pay any other incentives to such certificated teacher for any voluntary termination of employment;

(b) All current and future incentives for such voluntary termination of employment are paid within five years after such voluntary termination of employment or prior to such certificated teacher becoming eligible for medicare, whichever occurs first;

(c) Such school district has, to the satisfaction of the State Board of Education, demonstrated that the payment of such incentives in exchange for a voluntary termination of employment will result in a net savings in salary and benefit costs to the school district over a five-year period; and

(d) Such incentives to be paid in exchange for a voluntary termination of employment were not included in any collective-bargaining agreement.

(4) Each school district shall report all incentives paid in exchange for voluntary terminations of employment on the annual financial report in the manner specified by the department.

(5) The State Board of Education may adopt and promulgate rules and regulations to carry out the purposes of this section.

Source: Laws 2017, LB512, § 11.
Operative date September 1, 2017.

ARTICLE 9

SCHOOL EMPLOYEES RETIREMENT SYSTEMS

(a) EMPLOYEES OF OTHER THAN CLASS V DISTRICT

- Section
- 79-902. Terms, defined.
- 79-904.01. Board; power to adjust contributions and benefits; repayment of benefit; overpayment of benefits; investigatory powers; subpoenas.
- 79-918. Repealed. Laws 2017, LB415, § 55.
- 79-921. Retirement system; membership; termination; employer; duty; member; duty; reinstatement; application for restoration of relinquished creditable service; payment required.
- 79-923. Repealed. Laws 2017, LB415, § 55.
- 79-926. Retirement system; members; statement of service record; requirements for prior service credit; exception; reemployment; military service; credit; effect.
- 79-931. Retirement; when; application.
- 79-933.08. Purchase of service credit within twelve months of retirement; agreement authorized.
- 79-934. Formula annuity retirement allowance; eligibility; formula; payment.
- 79-951. Retirement; disability; conditions; application; medical examination; waiver.
- 79-954. Retirement; disability beneficiary; restoration to active service; effect.
- 79-958. Employee; employer; required deposits and contributions.

(b) EMPLOYEES RETIREMENT SYSTEM IN CLASS V DISTRICTS

- 79-978. Terms, defined.
- 79-978.01. Act, how cited.
- 79-987. Employees retirement system; audits; cost; report.
- 79-992. Employees retirement system; termination of employment; refunds; reemployment.
- 79-992.01. Termination of employment; employer; duties; member; duties.

Section	
79-992.02.	False or fraudulent claim or benefit application; prohibited acts; penalty.
79-9,100.01.	Employees retirement system; annuity reductions; when; computation.
79-9,105.	Employees retirement system; member; disability; benefits.
79-9,115.	Employees retirement system; Class V School Employees Retirement Fund; created; use; expenses; payment.

(a) EMPLOYEES OF OTHER THAN CLASS V DISTRICT

79-902 Terms, defined.

For purposes of the School Employees Retirement Act, unless the context otherwise requires:

(1) Accumulated contributions means the sum of all amounts deducted from the compensation of a member and credited to his or her individual account in the School Retirement Fund together with regular interest thereon, compounded monthly, quarterly, semiannually, or annually;

(2)(a) Actuarial equivalent means the equality in value of the aggregate amounts expected to be received under different forms of payment.

(b) For a school employee hired before July 1, 2017, the determinations shall be based on the 1994 Group Annuity Mortality Table reflecting sex-distinct factors blended using twenty-five percent of the male table and seventy-five percent of the female table. An interest rate of eight percent per annum shall be reflected in making these determinations except when a lump-sum settlement is made to an estate.

(c) For a school employee hired on or after July 1, 2017, or rehired on or after July 1, 2017, after termination of employment and being paid a retirement benefit, the determinations shall be based on a unisex mortality table and an interest rate specified by the board. Both the mortality table and the interest rate shall be recommended by the actuary and approved by the retirement board following an actuarial experience study, a benefit adequacy study, or a plan valuation. The mortality table, interest rate, and actuarial factors in effect on the school employee's retirement date will be used to calculate actuarial equivalency of any retirement benefit. Such interest rate may be, but is not required to be, equal to the assumed rate.

(d) If the lump-sum settlement is made to an estate, the interest rate will be determined by the AAA-rated segment of the Bloomberg Barclays Long U.S. Corporate Bond Index as of the prior June 30, rounded to the next lower quarter percent. If the AAA-rated segment of the Bloomberg Barclays Long U.S. Corporate Bond Index is discontinued or replaced, a substitute index shall be selected by the board which shall be a reasonably representative index;

(3) Beneficiary means any person in receipt of a school retirement allowance or other benefit provided by the act;

(4)(a) Compensation means gross wages or salaries payable to the member for personal services performed during the plan year and includes (i) overtime pay, (ii) member retirement contributions, (iii) retroactive salary payments paid pursuant to court order, arbitration, or litigation and grievance settlements, and (iv) amounts contributed by the member to plans under sections 125, 403(b), and 457 of the Internal Revenue Code as defined in section 49-801.01 or any other section of the code which defers or excludes such amounts from income.

(b) Compensation does not include (i) fraudulently obtained amounts as determined by the retirement board, (ii) amounts for accrued unused sick leave or accrued unused vacation leave converted to cash payments, (iii) insurance premiums converted into cash payments, (iv) reimbursement for expenses incurred, (v) fringe benefits, (vi) per diems paid as expenses, (vii) bonuses for services not actually rendered, (viii) early retirement inducements, (ix) cash awards, (x) severance pay, or (xi) employer contributions made for the purposes of separation payments made at retirement.

(c) Compensation in excess of the limitations set forth in section 401(a)(17) of the Internal Revenue Code as defined in section 49-801.01 shall be disregarded. For an employee who was a member of the retirement system before the first plan year beginning after December 31, 1995, the limitation on compensation shall not be less than the amount which was allowed to be taken into account under the retirement system as in effect on July 1, 1993;

(5) County school official means (a) until July 1, 2000, the county superintendent or district superintendent and any person serving in his or her office who is required by law to have a teacher's certificate and (b) on or after July 1, 2000, the county superintendent, county school administrator, or district superintendent and any person serving in his or her office who is required by law to have a teacher's certificate;

(6)(a) Creditable service means prior service for which credit is granted under sections 79-926 to 79-929, service credit purchased under sections 79-933.03 to 79-933.06 and 79-933.08, and all service rendered while a contributing member of the retirement system;

(b) For employees hired prior to July 1, 2018, creditable service includes working days, sick days, vacation days, holidays, and any other leave days for which the employee is paid regular wages as part of the employee's agreement with the employer. Creditable service does not include lump-sum payments to the employee upon termination or retirement in lieu of accrued benefits for such days, eligibility and vesting credit, service years for which member contributions are withdrawn and not repaid by the member, service rendered for which the retirement board determines that the member was paid less in compensation than the minimum wage as provided in the Wage and Hour Act, or service which the board determines was rendered with the intent to defraud the retirement system;

(c) For employees hired on or after July 1, 2018, creditable service includes working days, used accrued sick days, used accrued vacation days, federal and state holidays, and jury duty leave for which the member is paid full compensation by the employer. Creditable service does not include lump-sum payments to the employee upon termination or retirement in lieu of accrued benefits for such days, eligibility and vesting credit, service years for which member contributions are withdrawn and not repaid by the member, service rendered for which the retirement board determines that the member was paid less in compensation than the minimum wage as provided in the Wage and Hour Act, service which the board determines was rendered with the intent to defraud the retirement system, or any other type of leave not expressly included in this subdivision; and

(d) Creditable service does not include service provided to an employer in the retirement system provided under the Class V School Employees Retirement Act;

(7) Current benefit means the initial benefit increased by all adjustments made pursuant to the School Employees Retirement Act;

(8) Disability means an inability to engage in any substantially gainful activity by reason of any medically determinable physical or mental impairment which was initially diagnosed or became disabling while the member was an active participant in the plan and which can be expected to result in death or be of a long-continued and indefinite duration;

(9) Disability retirement allowance means the annuity paid to a person upon retirement for disability under section 79-952;

(10) Disability retirement date means the first day of the month following the date upon which a member's request for disability retirement is received on a retirement application provided by the retirement system if the member has terminated employment in the school system and has complied with sections 79-951 to 79-954 as such sections refer to disability retirement;

(11) Early retirement inducement means, but is not limited to:

(a) A benefit, bonus, or payment to a member in exchange for an agreement by the member to terminate from employment;

(b) A benefit, bonus, or payment paid to a member in addition to the member's retirement benefit;

(c) Lump-sum or installment cash payments, except payments for accrued unused leave converted to cash payments;

(d) An additional salary or wage component of any kind that is being paid as an incentive to leave employment and not for personal services performed for which creditable service is granted;

(e) Partial or full employer payment of a member's health, dental, life, or long-term disability insurance benefits or cash in lieu of such insurance benefits that extend beyond the member's termination of employment and contract of employment dates. This subdivision does not apply to any period during which the member is contributing to the retirement system and being awarded creditable service; and

(f) Any other form of separation payments made by an employer to a member at termination, including, but not limited to, purchasing retirement annuity contracts for the member pursuant to section 79-514, depositing money for the member in an account established under section 403(b) of the Internal Revenue Code except for payments for accrued unused leave, or purchasing service credit for the member pursuant to section 79-933.08;

(12) Eligibility and vesting credit means credit for years, or a fraction of a year, of participation in a Nebraska government plan for purposes of determining eligibility for benefits under the School Employees Retirement Act. Such credit shall not be included as years of creditable service in the benefit calculation;

(13) Emeritus member means a person (a) who has entered retirement under the provisions of the act, including those persons who have retired since July 1, 1945, under any other regularly established retirement or pension system as contemplated by section 79-916, (b) who has thereafter been reemployed in any capacity by a public school, a Class V school district, or a school under the control and management of the Board of Trustees of the Nebraska State Colleges, the Board of Regents of the University of Nebraska, or a community college board of governors or has become a state school official or county

school official subsequent to such retirement, and (c) who has applied to the board for emeritus membership in the retirement system. The school district or agency shall certify to the retirement board on forms prescribed by the retirement board that the annuitant was reemployed, rendered a service, and was paid by the district or agency for such services;

(14) Employer means the State of Nebraska or any subdivision thereof or agency of the state or subdivision authorized by law to hire school employees or to pay their compensation;

(15)(a) Final average compensation means:

(i) Except as provided in subdivision (ii) of this subdivision:

(A) The sum of the member's total compensation during the three twelve-month periods of service as a school employee in which such compensation was the greatest divided by thirty-six; or

(B) If a member has such compensation for less than thirty-six months, the sum of the member's total compensation in all months divided by the total number of months of his or her creditable service therefor; and

(ii) For an employee who became a member on or after July 1, 2013:

(A) The sum of the member's total compensation during the five twelve-month periods of service as a school employee in which such compensation was the greatest divided by sixty; or

(B) If a member has such compensation for less than sixty months, the sum of the member's total compensation in all months divided by the total number of months of his or her creditable service therefor.

(b) Payments under the Retirement Incentive Plan pursuant to section 79-855 and Staff Development Assistance pursuant to section 79-856 shall not be included in the determination of final average compensation;

(16) Fiscal year means any year beginning July 1 and ending June 30 next following;

(17) Hire date or date of hire means the first day of compensated service subject to retirement contributions;

(18) Initial benefit means the retirement benefit calculated at the time of retirement;

(19) Member means any person who has an account in the School Retirement Fund;

(20) Participation means qualifying for and making required deposits to the retirement system during the course of a plan year;

(21) Plan year means the twelve-month period beginning on July 1 and ending on June 30 of the following year;

(22) Prior service means service rendered as a school employee in the public schools of the State of Nebraska prior to July 1, 1945;

(23) Public school means any and all schools offering instruction in elementary or high school grades, as defined in section 79-101, which schools are supported by public funds and are wholly under the control and management of the State of Nebraska or any subdivision thereof, including (a) schools or other entities established, maintained, and controlled by the school boards of local school districts, except Class V school districts, (b) any educational service unit, and (c) any other educational institution wholly supported by public funds,

except schools under the control and management of the Board of Trustees of the Nebraska State Colleges, the Board of Regents of the University of Nebraska, or the community college boards of governors for any community college areas;

(24) Regular employee means an employee hired by a public school or under contract in a regular full-time or part-time position who works a full-time or part-time schedule on an ongoing basis for twenty or more hours per week. An employee hired as described in this subdivision to provide service for less than twenty hours per week but who provides service for an average of twenty hours or more per week in each calendar month of any three calendar months of a plan year shall, beginning with the next full payroll period, commence contributions and shall be deemed a regular employee for all future employment with the same employer;

(25) Regular interest means interest fixed at a rate equal to the daily treasury yield curve for one-year treasury securities, as published by the Secretary of the Treasury of the United States, that applies on July 1 of each year, which may be credited monthly, quarterly, semiannually, or annually as the board may direct;

(26) Relinquished creditable service means, with respect to a member who has withdrawn his or her accumulated contributions under section 79-955, the total amount of creditable service which such member has given up as a result of his or her election not to remain a member of the retirement system;

(27) Required deposit means the deduction from a member's compensation as provided for in section 79-958 which shall be deposited in the School Retirement Fund;

(28) Retirement means qualifying for and accepting a school or disability retirement allowance granted under the School Employees Retirement Act;

(29) Retirement application means the form approved and provided by the retirement system for acceptance of a member's request for either regular or disability retirement;

(30) Retirement board or board means the Public Employees Retirement Board;

(31) Retirement date means (a) if the member has terminated employment, the first day of the month following the date upon which a member's request for retirement is received on a retirement application provided by the retirement system or (b) if the member has filed a retirement application but has not yet terminated employment, the first day of the month following the date on which the member terminates employment. An application may be filed no more than one hundred twenty days prior to the effective date of the member's initial benefit;

(32) Retirement system means the School Employees Retirement System of the State of Nebraska;

(33) Savings annuity means payments for life, made in equal monthly payments, derived from the accumulated contributions of a member;

(34) School employee means a contributing member who earns service credit pursuant to section 79-927. For purposes of this section, contributing member means the following persons who receive compensation from a public school: (a) Regular employees; (b) regular employees having retired pursuant to the School Employees Retirement Act who subsequently provide compensated service on a regular basis in any capacity; and (c) regular employees hired by a public school on an ongoing basis to assume the duties of other regular employees who are temporarily absent. Substitute employees, temporary em-

ployees, and employees who have not attained the age of eighteen years shall not be considered school employees;

(35) School year means one fiscal year which includes not less than one thousand instructional hours or, in the case of service in the State of Nebraska prior to July 1, 1945, not less than seventy-five percent of the then legal school year;

(36) School retirement allowance means the total of the savings annuity and the service annuity or formula annuity paid a person who has retired under sections 79-931 to 79-935. The monthly payments shall be payable at the end of each calendar month during the life of a retired member. The first payment shall include all amounts accrued since the effective date of the award of annuity. The last payment shall be at the end of the calendar month in which such member dies or in accordance with the payment option chosen by the member;

(37) Service means employment as a school employee and shall not be deemed interrupted by (a) termination at the end of the school year of the contract of employment of an employee in a public school if the employee enters into a contract of employment in any public school, except a school in a Class V school district, for the following school year, (b) temporary or seasonal suspension of service that does not terminate the employee's employment, (c) leave of absence authorized by the employer for a period not exceeding twelve months, (d) leave of absence because of disability, or (e) military service when properly authorized by the retirement board. Service does not include any period of disability for which disability retirement benefits are received under sections 79-951 to 79-953;

(38) Service annuity means payments for life, made in equal monthly installments, derived from appropriations made by the State of Nebraska to the retirement system;

(39) State deposit means the deposit by the state in the retirement system on behalf of any member;

(40) State school official means the Commissioner of Education and his or her professional staff who are required by law or by the State Department of Education to hold a certificate as such term is defined in section 79-807;

(41) Substitute employee means a person hired by a public school as a temporary employee to assume the duties of regular employees due to a temporary absence of any regular employees. Substitute employee does not mean a person hired as a regular employee on an ongoing basis to assume the duties of other regular employees who are temporarily absent;

(42) Surviving spouse means (a) the spouse married to the member on the date of the member's death or (b) the spouse or former spouse of the member if survivorship rights are provided under a qualified domestic relations order filed with the board pursuant to the Spousal Pension Rights Act. The spouse or former spouse shall supersede the spouse married to the member on the date of the member's death as provided under a qualified domestic relations order. If the benefits payable to the spouse or former spouse under a qualified domestic relations order are less than the value of benefits entitled to the surviving spouse, the spouse married to the member on the date of the member's death shall be the surviving spouse for the balance of the benefits;

(43) Temporary employee means an employee hired by a public school who is not a regular employee and who is hired to provide service for a limited period of time to accomplish a specific purpose or task. When such specific purpose or

task is complete, the employment of such temporary employee shall terminate and in no case shall the temporary employment period exceed one year in duration;

(44) Termination of employment occurs on the date on which the member experiences a bona fide separation from service of employment with the member's employer, the date of which separation is determined by the end of the member's contractual agreement or, if there is no contract or only partial fulfillment of a contract, by the employer.

A member shall not be deemed to have terminated employment if the member subsequently provides service to any employer participating in the retirement system provided for in the School Employees Retirement Act within one hundred eighty days after ceasing employment unless such service:

(a) Is bona fide unpaid voluntary service or substitute service, provided on an intermittent basis; or

(b) Is as provided in subsection (2) of section 79-920.

Nothing in this subdivision precludes an employer from adopting a policy which limits or denies employees who have terminated employment from providing voluntary or substitute service within one hundred eighty days after termination.

A member shall not be deemed to have terminated employment if the board determines that a claimed termination was not a bona fide separation from service with the employer or that a member was compensated for a full contractual period when the member terminated prior to the end date of the contract; and

(45) Voluntary service or volunteer means providing bona fide unpaid service to any employer.

Source: Laws 1945, c. 219, § 1, p. 638; R.S.Supp.,1947, § 79-2901; Laws 1949, c. 256, § 435, p. 840; Laws 1953, c. 315, § 1, p. 1042; Laws 1961, c. 410, § 1, p. 1229; Laws 1963, c. 469, § 7, p. 1506; Laws 1963, c. 495, § 1, p. 1580; Laws 1965, c. 530, § 1, p. 1663; Laws 1965, c. 531, § 1, p. 1671; Laws 1967, c. 546, § 2, p. 1798; Laws 1969, c. 584, § 84, p. 2396; Laws 1969, c. 735, § 1, p. 2773; Laws 1971, LB 987, § 16; Laws 1975, LB 50, § 1; Laws 1984, LB 971, § 1; Laws 1985, LB 350, § 1; Laws 1986, LB 325, § 1; Laws 1986, LB 311, § 14; Laws 1987, LB 549, § 1; Laws 1988, LB 551, § 10; Laws 1988, LB 1170, § 1; Laws 1989, LB 506, § 9; Laws 1991, LB 549, § 24; Laws 1992, LB 1001, § 32; Laws 1994, LB 833, § 28; Laws 1996, LB 700, § 5; Laws 1996, LB 847, § 27; R.S.1943, (1994), § 79-1501; Laws 1996, LB 900, § 537; Laws 1996, LB 1076, § 13; Laws 1996, LB 1273, § 23; Laws 1997, LB 347, § 26; Laws 1997, LB 623, § 12; Laws 1997, LB 624, § 16; Laws 1997, LB 724, § 3; Laws 1998, LB 1191, § 45; Laws 1999, LB 272, § 91; Laws 1999, LB 538, § 1; Laws 1999, LB 674, § 3; Laws 2000, LB 1192, § 9; Laws 2001, LB 408, § 13; Laws 2002, LB 407, § 22; Laws 2003, LB 451, § 18; Laws 2005, LB 329, § 2; Laws 2005, LB 364, § 8; Laws 2005, LB 503, § 8; Laws 2006, LB 1019, § 8; Laws 2010, LB950, § 11; Laws 2011, LB509, § 17; Laws 2012, LB916, § 19; Laws 2013, LB263, § 13; Laws 2013, LB553, § 3; Laws 2014, LB1042, § 1; Laws 2015, LB446, § 1; Laws 2016, LB790, § 4; Laws 2017, LB415, § 24.
Effective date May 24, 2017.

Cross References

Class V School Employees Retirement Act, see section 79-978.

Public Employees Retirement Board, see sections 84-1501 to 84-1513.

Spousal Pension Rights Act, see section 42-1101.

Wage and Hour Act, see section 48-1209.

79-904.01 Board; power to adjust contributions and benefits; repayment of benefit; overpayment of benefits; investigatory powers; subpoenas.

(1)(a) 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 may 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 a material underpayment of a benefit, the board shall immediately make payment equal to the deficit amount plus regular interest.

(b) The board shall have the power, through the director of the Nebraska Public Employees Retirement Systems or the director's designee, to make a thorough investigation of any overpayment of a benefit, when in the judgment of the retirement system such investigation is necessary, including, but not limited to, circumstances in which benefit payments are made after the death of a member or beneficiary and the retirement system is not made aware of such member's or beneficiary's death. In connection with any such investigation, the board, through the director or the director's designee, shall have the power to compel the attendance of witnesses and the production of books, papers, records, and documents, whether in hardcopy, electronic form, or otherwise, and issue subpoenas for such purposes. Such subpoenas shall be served in the same manner and have the same effect as subpoenas from district courts.

(2) If the board determines that termination of employment has not occurred and a retirement benefit has been paid to a member of the retirement system pursuant to section 79-933, such member shall repay the benefit to the retirement system.

(3) 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 at the time of or prior to an adjustment and shall describe the process for disputing an adjustment of contributions or benefits.

(4) The board shall not refund contributions made on compensation in excess of the limitations imposed by subdivision (4) of section 79-902 or subsection (9) of section 79-934.

Source: Laws 1996, LB 1076, § 30; Laws 2011, LB509, § 20; Laws 2013, LB263, § 14; Laws 2015, LB40, § 9; Laws 2015, LB446, § 2; Laws 2016, LB790, § 5; Laws 2017, LB415, § 25.
Effective date May 24, 2017.

79-918 Repealed. Laws 2017, LB415, § 55.**79-921 Retirement system; membership; termination; employer; duty; member; duty; reinstatement; application for restoration of relinquished creditable service; payment required.**

(1) The membership of any person in the retirement system shall cease only if he or she (a) withdraws his or her accumulated contributions under section 79-955, (b) retires on a school or formula or disability retirement allowance, or (c) dies.

(2)(a) The employer shall (i) notify the board in writing of the date upon which a termination of employment has occurred and provide the board with such information as the board deems necessary, (ii) notify the board in writing whether or not a member accepted and received an early retirement inducement, and (iii) submit in writing with the notice of termination of employment and notice of receipt of an early retirement inducement a completed certification by the employer and member under penalty of prosecution pursuant to section 79-949 that, prior to the member's termination, there was no prearranged written or verbal agreement for the member to return to service in any capacity with the same employer.

(b) The member shall submit certification to the board on a form prescribed by the board, under penalty of prosecution pursuant to section 79-949, whether or not the member accepted and received an early retirement inducement from his or her employer.

(c) The board may adopt and promulgate rules and regulations and prescribe forms as the board determines appropriate in order to carry out this subsection and to ensure full disclosure and reporting by the employer and member in order to minimize fraud and abuse and prevent the filing of false or fraudulent claim or benefit applications.

(3)(a) A former member of the retirement system who has withdrawn his or her accumulated contributions under section 79-955 shall be reinstated to membership in the retirement system if such person again becomes a school employee.

(b) The date of such membership shall relate back to the beginning of his or her original membership in the retirement system only if such school employee has repaid all amounts required in accordance with subsection (4) of this section. Unless and until all such amounts are repaid, the school employee shall be considered a new member, effective as of the date he or she again becomes a school employee.

(4)(a) With respect to any person who is reinstated to membership in the retirement system pursuant to subdivision (3)(a) of this section prior to April 17, 2014, and who files a valid and complete one-time application with the retirement board for the restoration of part or all of his or her relinquished creditable service prior to six years after April 17, 2014, but prior to termination, the following shall apply:

(i) Such member shall pay to the retirement system an amount equal to the previously withdrawn contributions for the creditable service to be restored, plus an amount equal to the actuarial assumed rate of return on such amount to the date of repayment; and

(ii) Payment for restoration of such relinquished creditable service must be completed within six years of April 17, 2014, or prior to termination, whichever is earlier.

(b) With respect to any person who is reinstated to membership in the retirement system pursuant to subdivision (3)(a) of this section on and after April 17, 2014, and who files a valid and complete one-time application with the retirement board for the restoration of part or all of his or her relinquished creditable service within five years after the date of such member's reinstatement to membership in the retirement system but prior to termination, the following shall apply:

(i) Such member shall pay to the retirement system an amount equal to the previously withdrawn contributions for the creditable service to be restored, plus an amount equal to the actuarial assumed rate of return on such amount to the date of repayment; and

(ii) Payment for restoration of such relinquished creditable service must be completed within five years of the date of such member's reinstatement to membership in the retirement system or prior to termination, whichever is earlier.

(5) If less than full payment is made by the member, relinquished creditable service shall be restored in proportion to the amounts repaid. Repayment may be made through direct payment, installment payments, an irrevocable payroll deduction authorization, cash rollover contributions pursuant to section 79-933.02, or trustee-to-trustee transfers pursuant to section 79-933.09.

Source: Laws 1945, c. 219, § 14, p. 643; R.S.Supp.,1947, § 79-2914; Laws 1949, c. 256, § 448, p. 845; Laws 1969, c. 735, § 4, p. 2778; Laws 1986, LB 311, § 16; Laws 1986, LB 325, § 2; R.S.1943, (1994), § 79-1514; Laws 1996, LB 900, § 556; Laws 1996, LB 1076, § 16; Laws 1997, LB 623, § 16; Laws 1997, LB 624, § 18; Laws 1999, LB 703, § 9; Laws 2001, LB 408, § 14; Laws 2004, LB 1097, § 24; Laws 2013, LB263, § 16; Laws 2014, LB1042, § 2; Laws 2017, LB415, § 26.

Effective date May 24, 2017.

79-923 Repealed. Laws 2017, LB415, § 55.

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)(a) Any school employee who is reemployed pursuant to 38 U.S.C. 4301 et seq., shall be treated as not having incurred a break in service by reason of his or her period of military service. Such military service shall be credited for purposes of determining the nonforfeitability of the member's accrued benefits and the accrual of benefits under the plan.

(b) The employer shall be liable for funding any obligation of the plan to provide benefits based upon such period of military service. To satisfy the liability, the employer shall pay to the retirement system an amount equal to:

(i) The sum of the member and employer contributions that would have been paid during such period of military service; and

(ii) Any actuarial costs necessary to fund the obligation of the plan to provide benefits based upon such period of military service. For the purposes of determining the amount of such liability and obligation of the plan, earnings and forfeitures, gains and losses, regular interest, or interest credits that would have accrued on the member and employer contributions that are paid by the employer pursuant to this section shall not be included.

(c) The amount required in subdivision (b) of this subsection shall be paid to the retirement system as soon as reasonably practicable following the date of reemployment, but must be paid within eighteen months of the date the board notifies the employer of the amount due. If the employer fails to pay the required amount within such eighteen-month period, then the employer is also responsible for any actuarial costs and interest on actuarial costs that accrue from eighteen months after the date the employer is notified by the board until the date the amount is paid.

(d) The retirement board may adopt and promulgate rules and regulations to carry out this subsection, including, but not limited to, rules and regulations on:

(i) How and when the member and employer must notify the retirement system of a period of military service;

(ii) The acceptable methods of payment;

(iii) Determining the service and compensation upon which the contributions must be made;

(iv) Accelerating the payment from the employer due to unforeseen circumstances that occur before payment is made pursuant to this section, including, but not limited to, the member's termination or retirement or the employer's reorganization, consolidation, merger, or closing; and

(v) The documentation required to substantiate that the member was reemployed pursuant to 38 U.S.C. 4301 et seq.

(3) This section only applies to military service that falls within the definition of uniformed service under 38 U.S.C. 4301 et seq. Military service does not include service provided pursuant to sections 55-101 to 55-181.

Source: Laws 1945, c. 219, § 15, p. 643; R.S.Supp.,1947, § 79-2915; Laws 1949, c. 256, § 449, p. 845; Laws 1951, c. 291, § 2, p. 965; Laws 1953, c. 316, § 1, p. 1048; Laws 1975, LB 236, § 1; Laws 1992, LB 1001, § 33; Laws 1996, LB 847, § 30; R.S.1943, (1994), § 79-1515; Laws 1996, LB 900, § 561; Laws 1998, LB 1191, § 50; Laws 2011, LB509, § 23; Laws 2017, LB415, § 27.
Effective date May 24, 2017.

79-931 Retirement; when; application.

(1) A member hired prior to July 1, 2016, upon filing a retirement application with the retirement system, may retire (a) at any age if the member has completed thirty-five years of creditable service, (b) if the member has completed at least five years of creditable service plus eligibility and vesting credit and is at least sixty years of age, (c) if the member is at least sixty-five years of age upon termination, or (d) if the member is at least fifty-five years of age, has acquired the equivalent of one-half year of service as a public school employee under the retirement system following July 1, 1997, was a school employee on or after March 4, 1998, and the sum of the member's attained age and creditable service totals eighty-five.

(2) A member hired on or after July 1, 2016, and prior to July 1, 2018, or a member who has taken a retirement or refund that relinquished all prior service credit and who has not repaid the full amount of the refund pursuant to section 79-921 and is rehired or hired by any employer covered by the retirement system on or after July 1, 2016, and prior to July 1, 2018, upon filing a retirement application with the retirement system, may retire (a) at any age if the member has completed thirty-five years of creditable service, (b) if the member is at least fifty-five years of age and the sum of the member's attained age and creditable service totals eighty-five, or (c) if the member is at least sixty years of age and has completed at least five years of creditable service including eligibility and vesting credit.

(3) A member hired on or after July 1, 2018, or a member or former member who has taken a retirement or refund that relinquished all prior service credit and who has not repaid the full amount of the refund pursuant to section 79-921 and is rehired or hired by any employer covered by the retirement system on or after July 1, 2018, upon filing a retirement application with the retirement system, may retire (a) if the member is at least sixty years of age and the sum of the member's attained age and creditable service totals eighty-five or (b) if the member is at least sixty years of age and has completed at least five years of creditable service including eligibility and vesting credit.

Source: Laws 1945, c. 219, § 21, p. 645; R.S.Supp.,1947, § 79-2921; Laws 1949, c. 256, § 454, p. 847; Laws 1987, LB 549, § 5; Laws 1989, LB 506, § 10; R.S.1943, (1994), § 79-1520; Laws 1996, LB 900, § 566; Laws 1996, LB 1076, § 19; Laws 1998, LB 822, § 1; Laws 2016, LB447, § 9; Laws 2017, LB415, § 28.
Effective date May 24, 2017.

79-933.08 Purchase of service credit within twelve months of retirement; agreement authorized.

(1) A school employee who became a member before July 1, 2014, and who has completed at least five years of creditable service plus eligibility and vesting credit or a school employee who became a member for the first time on or after July 1, 2014, and who has completed ten or more years of creditable service may purchase service credit for up to five years of creditable service. Such purchase may be executed up to twelve months prior to the employee's retirement date. Such service credits shall be purchased by the employee for an amount equal to the actuarial cost to the retirement system for allowing such additional service credit to the employee.

(2) Payment for such service credits shall be completed prior to the employee's termination of employment date and may be made through direct payment, installment payments, or an irrevocable deduction authorization. If payments are made on an installment basis, interest shall be charged at the rate of regular interest.

(3) Compensation for the period of service purchased shall not be included in determining the member's final average compensation.

(4) The retirement board shall credit funds collected pursuant to this section to the Contingent Account pending the employee's retirement. If the employee does not retire within twelve months after the execution of the purchase made pursuant to this section, such funds shall be refunded, excluding interest earned, and the employee shall not be given credit for the service credit attempted to be purchased.

Source: Laws 1997, LB 724, § 1; Laws 1999, LB 703, § 14; Laws 2014, LB1042, § 6; Laws 2017, LB415, § 29.
Effective date May 24, 2017.

79-934 Formula annuity retirement allowance; eligibility; formula; payment.

(1) In lieu of the school retirement allowance provided by section 79-933, any member who is not an employee of a Class V school district and who becomes eligible to make application for and receive a school retirement allowance under section 79-931 may receive a formula annuity retirement allowance if it is greater than the school retirement allowance provided by section 79-933.

(2) Subject to the other provisions of this section, the monthly formula annuity in the normal form shall be determined by multiplying the number of years of creditable service for which such member would otherwise receive the service annuity provided by section 79-933 by (a) one and one-quarter percent of his or her final average compensation for a member who has acquired the equivalent of one-half year of service or more as a school employee under the retirement system following August 24, 1975, (b) one and one-half percent of his or her final average compensation for a member who has acquired the equivalent of one-half year of service or more as a school employee under the retirement system following July 17, 1982, (c) one and sixty-five hundredths percent of his or her final average compensation for a member who has acquired the equivalent of one-half year of service or more as a school employee under the retirement system following July 1, 1984, (d) one and seventy-three hundredths percent of his or her final average compensation for a member actively employed as a school employee under the retirement system or under contract with an employer on or after June 5, 1993, (e) one and eight-

tenths percent of his or her final average compensation for a member who has acquired the equivalent of one-half year of service or more as a school employee under the retirement system following July 1, 1995, and was employed as a school employee under the retirement system or under contract with an employer on or after April 10, 1996, (f) one and nine-tenths percent of his or her final average compensation for a member who has acquired the equivalent of one-half year of service or more as a school employee under the retirement system following July 1, 1998, and was employed as a school employee under the retirement system or under contract with an employer on or after April 29, 1999, (g) two percent of his or her final average compensation for a member who has acquired the equivalent of one-half year of service or more as a school employee under the retirement system following July 1, 2000, who was employed as a school employee under the retirement system or under contract with an employer on or after May 2, 2001, and hired prior to July 1, 2016, and who has not retired prior to May 2, 2001, or (h) two percent of his or her final average compensation for a member initially hired on or after July 1, 2016, or a member who has taken a refund or retirement and is rehired or hired by a separate employer covered by the retirement system on or after July 1, 2016, and has acquired the equivalent of five years of service or more as a school employee under the retirement system or under contract with an employer on or after July 1, 2016. Subdivision (2)(f) of this section shall not apply to a member who is retired prior to April 29, 1999. Subdivision (2)(g) of this section shall not apply to a member who is retired prior to May 2, 2001.

(3) If the annuity begins on or after the member's sixty-fifth birthday, the annuity shall not be reduced.

(4) If the annuity begins prior to the member's sixtieth birthday and the member has completed thirty-five or more years of creditable service, the annuity shall be actuarially reduced on the basis of age sixty-five.

(5)(a) For a member who has acquired the equivalent of one-half year of creditable service or more as a school employee under the retirement system following July 1, 1997, and who was a school employee on or after March 4, 1998, and who was hired prior to July 1, 2016, if the annuity begins at a time when the sum of the member's attained age and creditable service totals eighty-five and the member is at least fifty-five years of age, the annuity shall not be reduced. This subdivision shall not apply to a member who is retired prior to March 4, 1998.

(b) For a member hired on or after July 1, 2016, and prior to July 1, 2018, or for a member who has taken a retirement or refund that relinquished all prior service credit and who has not repaid the full amount of the refund pursuant to section 79-921 and is rehired or hired by any employer covered by the retirement system on or after July 1, 2016, and prior to July 1, 2018, if the annuity begins at a time when the sum of the member's attained age and creditable service totals eighty-five and the member is at least fifty-five years of age, the annuity shall not be reduced.

(c) For a member hired on or after July 1, 2018, or for a member or former member who has taken a retirement or refund that relinquished all prior service credit and who has not repaid the full amount of the refund pursuant to section 79-921 and is rehired or hired by any employer covered by the retirement system on or after July 1, 2018, if the annuity begins at a time when

the sum of the member's attained age and creditable service totals eighty-five and the member is at least sixty years of age, the annuity shall not be reduced.

(6) If the annuity begins on or after the member's sixtieth birthday and the member has completed at least a total of five years of creditable service including eligibility and vesting credit but has not yet qualified for an unreduced annuity as specified in this section, the annuity shall be reduced by three percent for each year after the member's sixtieth birthday and prior to his or her sixty-fifth birthday.

(7) Except as provided in section 42-1107, the normal form of the formula annuity shall be an annuity payable monthly during the remainder of the member's life with the provision that in the event of his or her death before sixty monthly payments have been made the monthly payments will be continued to his or her estate or to the beneficiary he or she has designated until sixty monthly payments have been made. Except as provided in section 42-1107, a member may elect to receive in lieu of the normal form of annuity an actuarially equivalent annuity in any optional form provided by section 79-938.

(8) All formula annuities shall be paid from the School Retirement Fund.

(9)(a)(i) For purposes of this section, 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 (4)(a)(iv) of section 79-902.

(ii) For purposes of subdivision (9)(a) 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.

(b)(i) In the determination of compensation for members whose retirement date is on or after July 1, 2012, through June 30, 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 shall be excluded.

(ii) For purposes of subdivision (9)(b) of this section, compensation base means (A) for current members employed with the same employer, the member's compensation for the plan year ending June 30, 2012, or (B) 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.

(c)(i) In the determination of compensation for members whose retirement date is on or after July 1, 2013, that part of a member's compensation for the plan year which exceeds the member's compensation for the preceding plan year by more than eight percent during the capping period shall be excluded. Such member's compensation for the first plan year of the capping period shall be compared to the member's compensation received for the plan year immediately preceding the capping period.

(ii) For purposes of subdivision (9)(c) of this section:

(A) Capping period means the five plan years preceding the later of (I) such member's retirement date or (II) such member's final compensation date; and

(B) Final compensation date means the later of (I) the date on which a retiring member's final compensation is actually paid or (II) if a retiring member's final compensation is paid in advance as a lump sum, the date on which such final compensation would have been paid to the member in the absence of such advance payment.

Source: Laws 1967, c. 546, § 7, p. 1804; Laws 1969, c. 736, § 1, p. 2785; Laws 1975, LB 50, § 2; Laws 1981, LB 248, § 2; Laws 1982, LB 609, § 1; Laws 1984, LB 457, § 2; Laws 1986, LB 546, § 2; Laws 1986, LB 325, § 7; Laws 1987, LB 549, § 8; Laws 1988, LB 160, § 1; Laws 1988, LB 1170, § 3; Laws 1991, LB 549, § 36; Laws 1993, LB 292, § 2; Laws 1996, LB 700, § 9; R.S.1943, (1994), § 79-1522.01; Laws 1996, LB 900, § 569; Laws 1996, LB 1050, § 7; Laws 1996, LB 1076, § 21; Laws 1996, LB 1273, § 24; Laws 1998, LB 822, § 2; Laws 1999, LB 674, § 4; Laws 2001, LB 711, § 2; Laws 2002, LB 407, § 32; Laws 2015, LB446, § 3; Laws 2016, LB447, § 10; Laws 2016, LB790, § 6; Laws 2017, LB415, § 30.

Effective date May 24, 2017.

79-951 Retirement; disability; conditions; application; medical examination; waiver.

(1) Any member, disregarding the length of service, may be retired as a result of disability either upon his or her own application or upon the application of his or her employer or any person acting in his or her behalf. Before any member may be so retired, a medical examination shall be made at the expense of the retirement system, which examination shall be conducted by a disinterested physician legally authorized to practice medicine under the laws of the state in which he or she practices, such physician to be selected by the retirement board, and the physician shall certify to the board that the member should be retired because he or she suffers from an inability to engage in any substantially gainful activity by reason of any medically determinable physical

or mental impairment which was initially diagnosed or became disabling while the member was an active participant in the plan and which can be expected to result in death or to be of long-continued and indefinite duration. The medical examination may be waived if, in the judgment of the retirement board, extraordinary circumstances exist which preclude substantial gainful activity by the member. Such circumstances shall include hospice placement or similar confinement for a terminal illness or injury. The application for disability retirement shall be made within one year of termination of employment.

(2) The retirement board may adopt and promulgate rules and regulations and prescribe the necessary forms to carry out this section.

Source: Laws 1945, c. 219, § 24, p. 646; R.S.Supp.,1947, § 79-2924; Laws 1949, c. 256, § 457, p. 848; Laws 1963, c. 495, § 3, p. 1584; Laws 1975, LB 50, § 3; Laws 1987, LB 549, § 9; Laws 1991, LB 549, § 37; R.S.1943, (1994), § 79-1523; Laws 1996, LB 900, § 586; Laws 1996, LB 1076, § 27; Laws 1997, LB 623, § 25; Laws 1998, LB 1191, § 55; Laws 1999, LB 538, § 2; Laws 2000, LB 1192, § 15; Laws 2004, LB 1097, § 28; Laws 2010, LB950, § 16; Laws 2017, LB415, § 31.

Effective date May 24, 2017.

79-954 Retirement; disability beneficiary; restoration to active service; effect.

If a disability beneficiary under the age of sixty-five years is restored to active service as a school employee or if the examining physician certifies that the person is no longer disabled for service as a school employee, the disability retirement allowance shall cease. If the beneficiary again becomes a school employee, he or she shall become a member of the retirement system. Any prior service certificate, on the basis of which his or her creditable service was computed at the time of his or her retirement for disability, shall be restored to full force and effect upon his or her again becoming a member of such retirement system.

Source: Laws 1945, c. 219, § 27, p. 647; R.S.Supp.,1947, § 79-2927; Laws 1949, c. 256, § 460, p. 849; R.S.1943, (1994), § 79-1526; Laws 1996, LB 900, § 589; Laws 2009, LB449, § 1; Laws 2013, LB553, § 7; Laws 2016, LB447, § 12; Laws 2017, LB415, § 32.

Effective date May 24, 2017.

79-958 Employee; employer; required deposits and contributions.

(1) Beginning on September 1, 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 nine and seventy-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 pursuant to section 414(h)(2) of the Internal Revenue Code in determining federal tax treatment under the code and shall not be included as gross income of the member until such time as they are distributed or made available. The contributions, although designated as member contributions, shall be paid by the employer in lieu of member contributions. 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 and 79-933.03 to 79-933.06, 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; Laws 2013, LB263, § 19; Laws 2013, LB553, § 8; Laws 2017, LB415, § 33.
Effective date May 24, 2017.

(b) EMPLOYEES RETIREMENT SYSTEM IN CLASS V DISTRICTS

79-978 Terms, defined.

For purposes of the Class V School Employees Retirement Act, unless the context otherwise requires:

(1) Accumulated contributions means the sum of amounts contributed by a member of the system together with regular interest credited thereon;

(2) Actuarial equivalent means the equality in value of the retirement allowance for early retirement or the retirement allowance for an optional form of annuity, or both, with the normal form of the annuity to be paid, as determined by the application of the appropriate actuarial table, except that use of such actuarial tables shall not effect a reduction in benefits accrued prior to September 1, 1985, as determined by the actuarial tables in use prior to such date;

(3) Actuarial tables means:

(a) For determining the actuarial equivalent of any annuities other than joint and survivorship annuities, a unisex mortality table using twenty-five percent of the male mortality and seventy-five percent of the female mortality from the

1994 Group Annuity Mortality Table with a One Year Setback and using an interest rate of eight percent compounded annually; and

(b) For joint and survivorship annuities, a unisex retiree mortality table using sixty-five percent of the male mortality and thirty-five percent of the female mortality from the 1994 Group Annuity Mortality Table with a One Year Setback and using an interest rate of eight percent compounded annually and a unisex joint annuitant mortality table using thirty-five percent of the male mortality and sixty-five percent of the female mortality from the 1994 Group Annuity Mortality Table with a One Year Setback and using an interest rate of eight percent compounded annually;

(4) Annuitant means any member receiving an allowance;

(5) Annuity means annual payments, for both prior service and membership service, for life as provided in the Class V School Employees Retirement Act;

(6) Audit year means the period beginning January 1 in any year and ending on December 31 of that same year except for the initial audit year which will begin September 1, 2016, and end on December 31, 2016. Beginning September 1, 2016, the audit year will be the period of time used in the preparation of the annual actuarial analysis and valuation and a financial audit of the investments of the retirement system;

(7) Beneficiary means any person entitled to receive or receiving a benefit by reason of the death of a member;

(8) Board of education means the board of education of the school district;

(9)(a) Compensation means gross wages or salaries payable to the member during a fiscal year and includes (i) overtime pay, (ii) member contributions to the retirement system that are picked up under section 414(h) of the Internal Revenue Code, as defined in section 49-801.01, (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 board, (ii) amounts for accrued unused sick leave or accrued unused vacation leave converted to cash payments, (iii) insurance premiums converted into cash payments, (iv) reimbursement for expenses incurred, (v) fringe benefits, (vi) per diems paid as expenses, (vii) bonuses for services not actually rendered, (viii) early retirement inducements, (ix) cash awards, (x) severance pay, or (xi) employer contributions made for the purposes of separation payments made at retirement and early retirement inducements.

(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;

(10) Council means the Nebraska Investment Council created and acting pursuant to section 72-1237;

(11) Creditable service means the sum of the membership service and the prior service, measured in one-tenth-year increments;

(12) Early retirement date means, for members hired prior to July 1, 2016, who have attained age fifty-five, that month and year selected by a member having at least ten years of creditable service which includes a minimum of five

years of membership service. Early retirement date means, for members hired on or after July 1, 2016, that month and year selected by a member having at least five years of creditable service and who has attained age sixty;

(13) Early retirement inducement means, but is not limited to:

(a) A benefit, bonus, or payment to a member in exchange for an agreement by the member to retire with a reduced retirement benefit;

(b) A benefit, bonus, or payment paid to a member in addition to the member's retirement benefit;

(c) Lump-sum or installment cash payments, except payments for accrued unused leave converted to cash payments;

(d) An additional salary or wage component of any kind that is being paid as an incentive to leave employment and not for personal services performed for which creditable service is granted;

(e) Partial or full employer payment of a member's health, dental, life, or long-term disability insurance benefits or cash in lieu of such insurance benefits that extend beyond the member's termination of employment and contract of employment dates. This subdivision does not apply to any period during which the member is contributing to the retirement system and being awarded creditable service; and

(f) Any other form of separation payments made by an employer to a member at termination, including, but not limited to, purchasing retirement contracts for the member pursuant to section 79-514, or depositing money for the member in an account established under section 403(b) of the Internal Revenue Code except for payments for accrued unused leave;

(14) Employee means the following enumerated persons receiving compensation from the school district: (a) Regular teachers and administrators employed on a written contract basis; and (b) regular employees, not included in subdivision (14)(a) of this section, hired upon a full-time basis, which basis shall contemplate a workweek of not less than thirty hours;

(15) Employer means a school district participating in a retirement system established pursuant to the Class V School Employees Retirement Act;

(16) Fiscal year means the period beginning September 1 in any year and ending on August 31 of the next succeeding year;

(17) Hire date or date of hire means the first day of compensated service subject to retirement contributions;

(18) Interest means, for the purchase of service credit, the purchase of prior service credit, restored refunds, and delayed payments, the investment return assumption used in the most recent actuarial valuation;

(19) Member means any employee included in the membership of the retirement system or any former employee who has made contributions to the system and has not received a refund;

(20) Membership service means service on or after September 1, 1951, as an employee of the school district and a member of the system for which compensation is paid by the school district. Credit for more than one year of membership service shall not be allowed for service rendered in any fiscal year. Beginning September 1, 2005, a member shall be credited with a year of membership service for each fiscal year in which the member performs one thousand or more hours of compensated service as an employee of the school

district. For an employee who becomes a member prior to July 1, 2018, an hour of compensated service shall include any hour for which the member is compensated by the school district during periods when no service is performed due to vacation or approved leave. For an employee who becomes a member on or after July 1, 2018, an hour of compensated service shall include any hour for which the member is compensated by the school district during periods when no service is performed due to used accrued sick days, used accrued vacation days, federal and state holidays, and jury duty leave for which the member is paid full compensation by the employer. If a member performs less than one thousand hours of compensated service during a fiscal year, one-tenth of a year of membership service shall be credited for each one hundred hours of compensated service by the member in such fiscal year. In determining a member's total membership service, all periods of membership service, including fractional years of membership service in one-tenth-year increments, shall be aggregated;

(21) Military service means service in the uniformed services as defined in 38 U.S.C. 4301 et seq., as such provision existed on March 27, 1997;

(22) Normal retirement date means the end of the month during which the member attains age sixty-five and has completed at least five years of membership service;

(23) Primary beneficiary means the person or persons entitled to receive or receiving a benefit by reason of the death of a member;

(24) Prior service means service rendered prior to September 1, 1951, for which credit is allowed under section 79-999, service rendered by retired employees receiving benefits under preexisting systems, and service for which credit is allowed under sections 79-990, 79-991, 79-994, 79-995, and 79-997;

(25) Regular interest means interest (a) on the total contributions of the member prior to the close of the last preceding fiscal year, (b) compounded annually, and (c)(i) beginning September 1, 2016, 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 September 1 of each year and (ii) prior to September 1, 2016, at rates to be determined annually by the board, which shall have the sole, absolute, and final discretionary authority to make such determination, except that the rate for any given year in no event shall exceed the actual percentage of net earnings of the system during the last preceding fiscal year;

(26) Retirement allowance means the total annual retirement benefit payable to a member for service or disability;

(27) Retirement date means the date of retirement of a member for service or disability as fixed by the board of trustees;

(28) Retirement system or system means the School Employees' Retirement System of (corporate name of the school district as described in section 79-405) as provided for by the act;

(29) Secondary beneficiary means the person or persons entitled to receive or receiving a benefit by reason of the death of all primary beneficiaries prior to the death of the member. If no primary beneficiary survives the member, secondary beneficiaries shall be treated in the same manner as primary beneficiaries;

(30) State investment officer means the state investment officer appointed pursuant to section 72-1240 and acting pursuant to the Nebraska State Funds Investment Act;

(31) Substitute employee means a person hired by an employer as a temporary employee to assume the duties of an employee due to a temporary absence of any employee. Substitute employee does not mean a person hired as an employee on an ongoing basis to assume the duties of other employees who are temporarily absent;

(32) Temporary employee means a person hired by an employer who is not an 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;

(33) Trustee means a trustee provided for in section 79-980; and

(34) Voluntary service or volunteer means providing bona fide unpaid service to an employer.

Source: Laws 1951, c. 274, § 1, p. 910; Laws 1953, c. 308, § 1, p. 1025; Laws 1967, c. 544, § 1, p. 1786; Laws 1976, LB 994, § 1; Laws 1982, LB 131, § 1; Laws 1985, LB 215, § 1; Laws 1987, LB 298, § 5; Laws 1988, LB 1142, § 9; Laws 1988, LB 551, § 2; Laws 1989, LB 237, § 1; Laws 1991, LB 350, § 1; Laws 1992, LB 1001, § 20; Laws 1993, LB 107, § 1; Laws 1995, LB 505, § 1; R.S.Supp.,1995, § 79-1032; Laws 1996, LB 900, § 613; Laws 1997, LB 347, § 28; Laws 1997, LB 623, § 28; Laws 1998, LB 497, § 6; Laws 2000, LB 155, § 1; Laws 2005, LB 364, § 11; Laws 2010, LB950, § 17; Laws 2015, LB446, § 4; Laws 2016, LB447, § 14; Laws 2016, LB790, § 7; Laws 2017, LB415, § 34.
Effective date May 24, 2017.

Cross References

For supplemental retirement benefits, see sections 79-941 to 79-947.
Nebraska State Funds Investment Act, see section 72-1260.

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; Laws 2016, LB447, § 15; Laws 2017, LB415, § 35.
Effective date May 24, 2017.

79-987 Employees retirement system; audits; cost; report.

(1) An annual audit of the affairs of the retirement system shall be conducted in each fiscal year. At the option of the board of trustees, 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) Each audit year an annual financial audit of the investments of the retirement system shall be conducted. At the option of the council, 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 board of trustees and the Auditor of Public Accounts.

(3) Beginning May 1, 2017, and until May 1, 2018, if such retirement plan is a defined benefit plan, the board of trustees 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. Beginning May 1, 2018, the board of trustees shall cause to be prepared an annual report and the administrator shall file the same with the Auditor of Public Accounts and submit to the members of the Nebraska Retirement Systems Committee of the Legislature a copy of such report. The report submitted to the committee and the Auditor of Public Accounts shall be submitted electronically. 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 of the American Academy of Actuaries and meet the academy's qualification standards to render a statement of actuarial opinion, 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. The report shall be presented to the Nebraska Retirement Systems Committee of the Legislature at a public hearing.

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; Laws 2012, LB782, § 157; Laws 2013, LB263, § 22; Laws 2014, LB1042, § 9; Laws 2016, LB447, § 26; Laws 2017, LB415, § 36. Effective date May 24, 2017.

79-992 Employees retirement system; termination of employment; refunds; reemployment.

(1) A member who has five years or more of creditable service, excluding years of prior service acquired pursuant to section 79-990, 79-991, 79-994, 79-995, or 79-997, and who terminates his or her employment may elect to leave his or her contributions in the retirement system, in which event he or she shall receive a retirement allowance at normal retirement age based on the annuity earned to the date of such termination of employment. Such member may elect to receive a retirement allowance at early retirement age if such member retires at an early retirement date. Such annuity shall be adjusted in accordance with section 79-9,100. Upon termination of employment, except on account of retirement, a member shall be entitled to receive refunds as follows: (a) An amount equal to the accumulated contributions to the retirement system by the member; and (b) any contributions made to a previously existing system which were refundable under the terms of that system. Any member receiving a refund of contributions shall thereby forfeit and relinquish all accrued rights in the retirement system including all accumulated creditable service, except that if any member who has withdrawn his or her contributions as provided in this section reenters the service of the district and again becomes a member of the retirement system, he or she may restore any or all money previously received by him or her as a refund, including the interest on the amount of the restored

refund for the period of his or her absence from the district's service as determined using the interest rate for interest on such restored refunds, and he or she shall then again receive credit for that portion of service which the restored money represents. Such restoration may be made as the board of trustees may direct through direct payments to the system or on an installment basis pursuant to a binding irrevocable payroll deduction authorized between the member and the school district over a period of not to exceed five years from the date of reemployment. Interest on delayed payments shall be at the rate of interest for determining interest on delayed payments by members to the retirement system. Creditable service may be purchased only in one-tenth-year increments, starting with the most recent years' salary.

(2) Except as provided in section 79-992.01:

(a) A retired member who returns to employment as an employee of the school district shall again participate in the retirement system as a new member and shall make contributions to the retirement system commencing upon reemployment. The retirement annuity of a retired member who returns to employment with the school district shall continue to be paid by the retirement system. A retired member who returns to employment as an employee of the school district shall receive creditable service only for service performed after his or her return to employment and in no event shall creditable service which accrues or the compensation paid to the member after such return to employment after retirement increase the amount of the member's original retirement annuity; and

(b) Upon termination of employment of the reemployed member, the member shall receive in addition to the retirement annuity which commenced at the time of the previous retirement (i) if the member has accrued five years or more of creditable service after his or her return to employment, excluding years of prior service acquired pursuant to section 79-990, 79-991, 79-994, 79-995, or 79-997, a retirement annuity as provided in section 79-999 or 79-9,100, as applicable, calculated solely on the basis of creditable service and final average compensation accrued and earned after the member's return to employment after his or her original retirement, and as adjusted to reflect any payment in other than the normal form or (ii) if the member has not accrued five years or more of creditable service after his or her return to employment, a refund equal to the member's accumulated contributions which were credited to the member after the member's return to employment. In no event shall the member's creditable service which accrued prior to a previous retirement be considered as part of the member's creditable service after his or her return to employment for any purpose of the Class V School Employees Retirement Act.

(3) In the event a member is entitled to receive a refund of contributions pursuant to subsection (1) or subdivision (2)(b)(ii) of this section in an amount greater than one thousand dollars, if the member does not elect to have the refund paid directly to himself or herself or transferred to an eligible retirement plan designated by the member as a direct rollover pursuant to section 79-998, then the refund of contributions shall be paid in a direct rollover to an individual retirement plan designated by the board of trustees.

Source: Laws 1951, c. 274, § 18, p. 920; Laws 1955, c. 321, § 2, p. 992; Laws 1963, c. 490, § 3, p. 1565; Laws 1967, c. 544, § 3, p. 1789; Laws 1972, LB 1116, § 2; Laws 1982, LB 131, § 8; Laws 1985, LB 215, § 7; Laws 1987, LB 298, § 10; Laws 1988, LB 551, § 6;

Laws 1992, LB 1001, § 25; Laws 1993, LB 107, § 9; R.S.1943, (1994), § 79-1049; Laws 1996, LB 900, § 627; Laws 1997, LB 624, § 25; Laws 1998, LB 497, § 16; Laws 2001, LB 711, § 11; Laws 2005, LB 364, § 14; Laws 2006, LB 1019, § 11; Laws 2013, LB263, § 25; Laws 2016, LB447, § 30; Laws 2017, LB415, § 37.
Effective date May 24, 2017.

79-992.01 Termination of employment; employer; duties; member; duties.

(1) An employer participating in a retirement system established pursuant to the Class V School Employees Retirement Act shall:

(a) Notify the board of trustees in writing of the date upon which a termination of employment has occurred and provide the board of trustees with such information as the board of trustees deems necessary;

(b) Notify the board of trustees in writing whether or not a member accepted and received an early retirement inducement; and

(c) Submit in writing with the notice of termination of employment and notice of receipt of an early retirement inducement a completed certification by the employer and member under penalty of prosecution pursuant to section 79-992.02 that, prior to the member's termination, there was no prearranged written or verbal agreement for the member to return to service in any capacity with the same employer.

(2) The member shall submit to the board of trustees upon the member's termination, under penalty of prosecution pursuant to section 79-992.02, completed certification on forms prescribed by the board of trustees stating whether or not the member accepted and received an early retirement inducement from his or her employer.

(3) The board of trustees may adopt and promulgate rules and regulations and prescribe forms as the board determines appropriate in order to carry out this section and to ensure full disclosure and reporting by the employer and member in order to minimize fraud and abuse and the filing of false or fraudulent claim or benefit applications.

Source: Laws 2017, LB415, § 38.

Effective date May 24, 2017.

79-992.02 False or fraudulent claim or benefit application; prohibited acts; penalty.

(1) Any person who, knowing it to be false or fraudulent, presents or causes to be presented a false or fraudulent claim or benefit application, any false or fraudulent proof in support of such a claim or benefit, or false or fraudulent information which would affect a future claim or benefit application to be paid under a retirement system for the purpose of defrauding or attempting to defraud the retirement system shall be guilty of a Class II misdemeanor. The board of trustees shall deny any benefits that it determines are based on false or fraudulent information and shall have a cause of action against the member to recover any benefits already paid on the basis of such information.

(2) Any employee, member of a board of education, or agent of any employer who willfully fails or refuses to furnish to the board of trustees upon its request and in the manner prescribed by it such information, data, or records, as may

be necessary for carrying into effect the Class V School Employees Retirement Act, shall be guilty of a Class V misdemeanor.

Source: Laws 2017, LB415, § 39.

Effective date May 24, 2017.

79-9,100.01 Employees retirement system; annuity reductions; when; computation.

(1)(a) For employees who become members on or after July 1, 2016, and prior to July 1, 2018, if the annuity begins at a time when the sum of the member's attained age and creditable service totals eighty-five and the member is at least fifty-five years of age, the annuity shall not be reduced.

(b) For employees who become members on or after July 1, 2018, if the annuity begins at a time when the sum of the member's attained age and creditable service totals eighty-five and the member is at least sixty years of age, the annuity shall not be reduced.

(2)(a) For an employee who becomes a member prior to July 1, 2018, if the annuity begins on or after the sixtieth birthday of the member and the member has completed at least a total of five years of creditable service, the annuity shall be reduced by twenty-five hundredths percent for each month or partial month between the date the annuity begins and the member's sixty-fifth birthday.

(b) For a member hired or rehired on or after July 1, 2018, if the annuity begins on or after the sixtieth birthday and the member has completed at least a total of five years of creditable service including eligibility and vesting credit but has not qualified for an unreduced annuity as specified in this section, the annuity shall be reduced by twenty-five hundredths percent for each month or partial month between the date the annuity begins and the member's sixty-fifth birthday.

(3) A member's attained age shall be measured in one-half-year increments.

(4) Except as provided in section 42-1107, the normal form of the formula retirement annuity based on final average compensation shall be an annuity payable monthly during the remainder of the member's life with the provision that, in the event of his or her death before sixty monthly payments have been made, the monthly payments will be continued to his or her estate or to the beneficiary he or she has designated until a total of sixty monthly payments have been made. A member may elect to receive, in lieu of the normal form of annuity, an actuarially equivalent annuity in any optional form provided by section 79-9,101.

(5) All formula annuities shall be paid from the Class V School Employees Retirement Fund.

Source: Laws 2016, LB447, § 34; Laws 2017, LB415, § 40.

Effective date May 24, 2017.

79-9,105 Employees retirement system; member; disability; benefits.

(1) Any member with five or more years of creditable service, excluding years of prior service acquired pursuant to section 79-990, 79-991, 79-994, 79-995, or 79-997, who becomes totally disabled for further performance of duty on or after March 22, 2000, may be approved for deferred disability retirement by the board of trustees. In the case of such deferred disability retirement, the

member, during the period specified in subsection (3) of this section, shall be credited with creditable service for each year or portion thereof, to be determined in accordance with policies of the board of trustees governing creditable service, that the member defers retirement, up to a maximum of thirty-five years of total creditable service, including creditable service accrued before the member became totally disabled. The member approved for deferred disability retirement may at any time of the member's choosing request the deferral to end and retirement annuity payments to begin. The retirement annuity of such member shall be based on the total number of years of the member's creditable service, including the years credited to the member during his or her total disability under this section, and the member's final average salary as of the date that the member became totally disabled and as adjusted from such date by a percentage equal to the cumulative percentage cost-of-living adjustments that were made or declared for annuities in pay status pursuant to section 79-9,103 after the date of the approval of the board of trustees for deferred disability retirement and before the cessation of the accrual of additional creditable service pursuant to subsection (3) of this section. Except as provided in subsection (4) of this section, the retirement annuity so determined for the member shall be payable to the member without reduction due to any early commencement of benefits, except that the retirement annuity shall be reduced by the amount of any periodic payments to such employee as workers' compensation benefits. Additional creditable service acquired through deferred disability retirement shall apply to the service requirements specified in section 79-9,106. The board of trustees shall consider a member to be totally disabled when it has received an application by the member and a statement by at least two licensed and practicing physicians designated by the board of trustees certifying that the member is totally and presumably permanently disabled and unable to perform his or her duties as a consequence thereof.

(2) Notwithstanding the provisions of subsection (1) of this section, the payment of the retirement annuity of a member may not be deferred later than the member's required beginning date as defined in section 401(a)(9) of the Internal Revenue Code, as defined in section 49-801.01. If the payment of a disabled member's retirement annuity is required to commence before the member has elected to end his or her deferred disability retirement, the amount of benefit that would have accrued pursuant to subsection (1) of this section in the fiscal year of the member's required beginning date, and in each subsequent fiscal year through the year of the member's election to end the deferred disability retirement period, shall be reduced, but not below zero, by the actuarial equivalent of the payments which were paid to the member during each such fiscal year and after the member's required beginning date. The retirement annuity of any member that commences before the end of the member's deferred disability retirement shall be adjusted as of each September 1 pursuant to the requirements of this subsection.

(3) The accrual of creditable service and any adjustment of final average salary provided in subsection (1) of this section shall begin from the first day of the month following the date of the first of the two examinations by which the member is determined by the board of trustees to be totally disabled, shall continue only so long as the member does not receive any wages or compensation for services, and shall end at the earlier of (a) the time total disability ceases as determined by the board of trustees or (b) the date the member elects to end the deferred disability retirement and begin to receive his or her

retirement annuity. The board of trustees may require periodic proof of disability but not more frequently than semiannually.

(4)(a) For an employee hired prior to July 1, 2018, the payment of any retirement annuity to a disabled member, which begins to be paid under this section (i) before the member's sixty-second birthday or (ii) at a time before the sum of the member's attained age and creditable service is eighty-five or more, shall be suspended if the board of trustees determines at any time before the member's sixty-second birthday that the member's total disability has ceased.

(b) For an employee hired on or after July 1, 2018, the payment of any retirement annuity to a disabled member, which begins to be paid under this section (i) before the member's sixty-fifth birthday or (ii) at a time before the sum of the member's attained age and creditable service is eighty-five or more, shall be suspended if the board of trustees determines at any time before the member's sixty-fifth birthday that the member's total disability has ceased.

(c) Payment of the retirement annuity of such member as determined under this section shall recommence at the member's early retirement date or normal retirement date but shall be subject to reduction at such time as specified in section 79-9,100.

Source: Laws 1951, c. 274, § 17, p. 919; Laws 1957, c. 354, § 2, p. 1202; Laws 1963, c. 490, § 2, p. 1565; Laws 1982, LB 131, § 7; Laws 1985, LB 215, § 6; Laws 1987, LB 298, § 9; Laws 1988, LB 551, § 5; Laws 1991, LB 350, § 6; Laws 1993, LB 107, § 8; R.S.1943, (1994), § 79-1048; Laws 1996, LB 900, § 640; Laws 2000, LB 155, § 4; Laws 2001, LB 711, § 15; Laws 2013, LB553, § 13; Laws 2016, LB447, § 37; Laws 2017, LB415, § 41.
Effective date May 24, 2017.

79-9,115 Employees retirement system; Class V School Employees Retirement Fund; created; use; expenses; payment.

(1) All allowances, annuities, or other benefits granted under the Class V School Employees Retirement Act, and all expenses incurred in connection with the administration of the act, except clerical work incurred in connection with maintenance of records and payment of benefits, shall be paid from the Class V School Employees Retirement Fund which is hereby established. Such clerical work shall be performed by employees of the school district or districts. The administrator and staff of the retirement system shall be permitted reasonable office and records storage space in the central office building of the Class V school district formed before September 13, 1997. All expenses for the retirement system office accommodations and integrated pension benefit information management systems, including all services, support, furniture, and equipment provided to or by any central office department of the school district, shall be charged to the retirement system. The school district or districts shall not be liable for acts or omissions in the administration of the act made at the direction of the board of trustees or its employees.

(2) Beginning on August 24, 2017, any expenses with respect to the transfer to and assumption by the council and the state investment officer of the duty and authority to invest the assets of a retirement system provided for under the Class V School Employees Retirement Act shall be charged to the Class V

School Employees Retirement Fund. Such expenses shall be paid without the approval of the board of trustees.

Source: Laws 1951, c. 274, § 27, p. 925; R.S.1943, (1994), § 79-1058; Laws 1996, LB 900, § 650; Laws 1998, LB 497, § 27; Laws 2006, LB 1024, § 70; Laws 2016, LB447, § 43; Laws 2017, LB29, § 2. Effective date August 24, 2017.

ARTICLE 10

SCHOOL TAXATION, FINANCE, AND FACILITIES

(a) TAX EQUITY AND EDUCATIONAL OPPORTUNITIES SUPPORT ACT

Section

- 79-1003. Terms, defined.
- 79-1004. Repealed. Laws 2017, LB512, § 41.
- 79-1007.11. School district formula need; calculation.
- 79-1009. Option school districts; net option funding; calculation.
- 79-1015.01. Local system formula resources; local effort rate yield; determination.
- 79-1016. Adjusted valuation; how established; objections; filing; appeal; notice; correction due to clerical error; injunction prohibited.
- 79-1017.01. Local system formula resources; amounts included.
- 79-1022. Distribution of income tax receipts and state aid; effect on budget.
- 79-1022.02. School fiscal year 2017-18 certifications null and void.
- 79-1023. School district; general fund budget of expenditures; limitation; department; certification.
- 79-1027. Budget; restrictions.
- 79-1028.01. School fiscal years; district may exceed certain limits; situations enumerated; state board; duties.
- 79-1031.01. Appropriations Committee; duties.

(b) SCHOOL FUNDS

- 79-1054. State Board of Education; establish innovation grant program; application; contents; department; duties; report; Department of Education Innovative Grant Fund; created; use; investment.
- 79-1065. Financial support to school districts; adjustments authorized; records.

(g) SUMMER FOOD SERVICE PROGRAM

- 79-10,141. Summer Food Service Program; legislative intent; department; duties; preference for grants; applications.

(j) LEARNING COMMUNITY TRANSITION AID

- 79-10,145. Learning community transition aid; calculation.

(k) SWIMMING POOL

- 79-10,146. Swimming pool; personnel.

(a) TAX EQUITY AND EDUCATIONAL OPPORTUNITIES SUPPORT ACT

79-1003 Terms, defined.

For purposes of the Tax Equity and Educational Opportunities Support Act:

(1) Adjusted general fund operating expenditures means (a) for school fiscal years 2013-14 through 2015-16, the difference of the general fund operating expenditures as calculated pursuant to subdivision (23) of this section increased by the cost growth factor calculated pursuant to section 79-1007.10, minus the transportation allowance, special receipts allowance, poverty allowance, limited English proficiency allowance, distance education and telecommunications allowance, elementary site allowance, summer school allowance, instructional time allowance, teacher education allowance, and focus school and program

allowance, (b) for school fiscal years 2016-17 through 2018-19, the difference of the general fund operating expenditures as calculated pursuant to subdivision (23) of this section increased by the cost growth factor calculated pursuant to section 79-1007.10, minus the transportation allowance, special receipts allowance, poverty allowance, limited English proficiency allowance, distance education and telecommunications allowance, elementary site allowance, summer school allowance, and focus school and program allowance, and (c) for school fiscal year 2019-20 and each school fiscal year thereafter, the difference of the general fund operating expenditures as calculated pursuant to subdivision (23) of this section increased by the cost growth factor calculated pursuant to section 79-1007.10, minus the transportation allowance, special receipts allowance, poverty allowance, limited English proficiency allowance, distance education and telecommunications allowance, elementary site allowance, summer school allowance, community achievement plan allowance, and focus school and program allowance;

(2) Adjusted valuation means the assessed valuation of taxable property of each local system in the state, adjusted pursuant to the adjustment factors described in section 79-1016. Adjusted valuation means the adjusted valuation for the property tax year ending during the school fiscal year immediately preceding the school fiscal year in which the aid based upon that value is to be paid. For purposes of determining the local effort rate yield pursuant to section 79-1015.01, adjusted valuation does not include the value of any property which a court, by a final judgment from which no appeal is taken, has declared to be nontaxable or exempt from taxation;

(3) Allocated income tax funds means the amount of assistance paid to a local system pursuant to section 79-1005.01 as adjusted, for school fiscal years prior to school fiscal year 2017-18, 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;

(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 or unified system as defined in section 79-4,108;

(13) Ensuing school fiscal year means the school fiscal year following the current school fiscal year;

(14) Equalization aid means the amount of assistance calculated to be paid to a local system pursuant to sections 79-1007.11 to 79-1007.23, 79-1007.25, 79-1008.01 to 79-1022, and 79-1022.02;

(15) Fall membership means the total membership in kindergarten through grade twelve attributable to the local system as reported on the fall school district membership reports for each district pursuant to section 79-528;

(16) Fiscal year means the state fiscal year which is the period from July 1 to the following June 30;

(17) Formula students means:

(a) For state aid certified pursuant to section 79-1022, the sum of the product of fall membership from the school fiscal year immediately preceding the school fiscal year in which the aid is to be paid multiplied by the average ratio of average daily membership to fall membership for the second school fiscal year immediately preceding the school fiscal year in which the aid is to be paid and the prior two school fiscal years plus sixty percent of the qualified early childhood education fall membership plus tuitioned students from the school fiscal year immediately preceding the school fiscal year in which aid is to be paid minus the product of the number of students enrolled in kindergarten that is not full-day kindergarten from the fall membership multiplied by 0.5; and

(b) For the final calculation of state aid pursuant to section 79-1065, the sum of average daily membership plus sixty percent of the qualified early childhood education average daily membership plus tuitioned students minus the product of the number of students enrolled in kindergarten that is not full-day kindergarten from the average daily membership multiplied by 0.5 from the school fiscal year immediately preceding the school fiscal year in which aid was paid;

(18) Free lunch and free milk calculated students means, using the most recent data available on November 1 of the school fiscal year immediately preceding the school fiscal year in which aid is to be paid, (a) for schools that did not provide free meals to all students pursuant to the community eligibility provision, students who individually qualified for free lunches or free milk pursuant to the federal Richard B. Russell National School Lunch Act, 42 U.S.C. 1751 et seq., and the federal Child Nutrition Act of 1966, 42 U.S.C. 1771 et seq., as such acts and sections existed on January 1, 2015, and rules and regulations adopted thereunder, plus (b) for schools that provided free meals to all students pursuant to the community eligibility provision, (i) for school fiscal year 2016-17, the product of the students who attended such school multiplied by the identified student percentage calculated pursuant to such federal provision or (ii) for school fiscal year 2017-18 and each school fiscal year thereafter,

the greater of the number of students in such school who individually qualified for free lunch or free milk using the most recent school fiscal year for which the school did not provide free meals to all students pursuant to the community eligibility provision or one hundred ten percent of the product of the students who qualified for free meals at such school pursuant to the community eligibility provision multiplied by the identified student percentage calculated pursuant to such federal provision, except that the free lunch and free milk students calculated for any school pursuant to subdivision (18)(b)(ii) of this section shall not exceed one hundred percent of the students qualified for free meals at such school pursuant to the community eligibility provision;

(19) Free lunch and free milk student means, for school fiscal years prior to school fiscal year 2016-17, a student who qualified for free lunches or free milk from the most recent data available on November 1 of the school fiscal year immediately preceding the school fiscal year in which aid is to be paid;

(20) Full-day kindergarten means kindergarten offered by a district for at least one thousand thirty-two instructional hours;

(21) General fund budget of expenditures means the total budget of disbursements and transfers for general fund purposes as certified in the budget statement adopted pursuant to the Nebraska Budget Act, except that for purposes of the limitation imposed in section 79-1023 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;

(22) General fund expenditures means all expenditures from the general fund;

(23) General fund operating expenditures means for state aid calculated for school fiscal years 2012-13 and each school fiscal year thereafter, as reported on the annual financial report for the second school fiscal year immediately preceding the school fiscal year in which aid is to be paid, the total general fund expenditures minus (a) the amount of all receipts to the general fund, to the extent that such receipts are not included in local system formula resources, from early childhood education tuition, summer school tuition, educational entities as defined in section 79-1201.01 for providing distance education courses through the Educational Service Unit Coordinating Council to such educational entities, private foundations, individuals, associations, charitable organizations, the textbook loan program authorized by section 79-734, federal impact aid, and levy override elections pursuant to section 77-3444, (b) the amount of expenditures for categorical funds, tuition paid, transportation fees paid to other districts, adult education, community services, redemption of the principal portion of general fund debt service, retirement incentive plans authorized by section 79-855, and staff development assistance authorized by section 79-856, (c) the amount of any transfers from the general fund to any bond fund and transfers from other funds into the general fund, (d) any legal expenses in excess of fifteen-hundredths of one percent of the formula need for the school fiscal year in which the expenses occurred, (e)(i) for state aid calculated for school fiscal years prior to school fiscal year 2018-19, expenditures to pay for sums agreed to be paid by a school district to certificated employees in exchange for a voluntary termination occurring prior to July 1, 2009, occurring on or after the last day of the 2010-11 school year and prior to the first day of the 2013-14 school year, or, to the extent that a district has

demonstrated to the State Board of Education pursuant to section 79-1028.01 that the agreement will result in a net savings in salary and benefit costs to the school district over a five-year period, occurring on or after the first day of the 2013-14 school year or (ii) for state aid calculated for school fiscal year 2018-19 and each school fiscal year thereafter, expenditures to pay for incentives agreed to be paid by a school district to certificated employees in exchange for a voluntary termination of employment for which the State Board of Education approved an exclusion pursuant to subdivisions (1)(h), (i), (j), or (k) of section 79-1028.01, (f)(i) expenditures to pay for employer contributions pursuant to subsection (2) of section 79-958 to the School Employees Retirement System of the State of Nebraska to the extent that such expenditures exceed the employer contributions under such subsection that would have been made at a contribution rate of seven and thirty-five hundredths percent or (ii) expenditures 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 (g) any amounts paid by the district for lobbyist fees and expenses reported to the Clerk of the Legislature pursuant to section 49-1483.

For purposes of this subdivision (23) of this section, receipts from levy override elections shall equal ninety-nine percent of the difference of the total general fund levy minus a levy of one dollar and five cents per one hundred dollars of taxable valuation multiplied by the assessed valuation for school districts that have voted pursuant to section 77-3444 to override the maximum levy provided pursuant to section 77-3442;

(24) High school district means a school district providing instruction in at least grades nine through twelve;

(25) 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;

(26) 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;

(27) 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;

(28) Local system means a learning community for purposes of calculation of state aid for each school fiscal year prior to school fiscal year 2017-18, 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;

(29) Low-income child means (a) for school fiscal years prior to 2016-17, a child under nineteen years of age living in a household having an annual adjusted gross income for the second calendar year preceding the beginning of the school fiscal year for which aid is being calculated equal to or less than the maximum household income that would allow a student from a family of four people to be a free lunch and free milk student during the school fiscal year immediately preceding the school fiscal year for which aid is being calculated and (b) for school fiscal year 2016-17 and each school fiscal year thereafter, a child under nineteen years of age living in a household having an annual adjusted gross income for the second calendar year preceding the beginning of the school fiscal year for which aid is being calculated equal to or less than the maximum household income pursuant to sections 9(b)(1) and 17(c)(4) of the Richard B. Russell National School Lunch Act, 42 U.S.C. 1758(b)(1) and 42 U.S.C. 1766(c)(4), respectively, and sections 3(a)(6) and 4(e)(1)(A) of the Child Nutrition Act of 1966, 42 U.S.C. 1772(a)(6) and 42 U.S.C. 1773(e)(1)(A), respectively, as such acts and sections existed on January 1, 2015, for a household of that size that would have allowed the child to meet the income qualifications for free meals during the school fiscal year immediately preceding the school fiscal year for which aid is being calculated;

(30) 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;

(31) 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;

(32) Poverty students means (a) for school fiscal years prior to 2016-17, the number of low-income students or the number of students who are free lunch and free milk students in a district plus the difference of the number of low-income students or the number of students who are free lunch and free milk students in a district, whichever is greater, minus the average number of poverty students for such district, prior to such addition, for the three immediately preceding school fiscal years if such difference is greater than zero and (b) for school fiscal year 2016-17 and each school fiscal year thereafter, the unadjusted poverty students plus the difference of such unadjusted poverty students minus the average number of poverty students for such district, prior to such addition, for the three immediately preceding school fiscal years if such difference is greater than zero;

(33) 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;

(34) 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;

(35) Regular route transportation means the transportation of students on regularly scheduled daily routes to and from the attendance center;

(36) Reorganized district means any district involved in a consolidation and currently educating students following consolidation;

(37) School year or school fiscal year means the fiscal year of a school district as defined in section 79-1091;

(38) 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;

(39) Special education means specially designed kindergarten through grade twelve instruction pursuant to section 79-1125, and includes special education transportation;

(40) 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;

(41) State aid means the amount of assistance paid to a district pursuant to the Tax Equity and Educational Opportunities Support Act;

(42) State board means the State Board of Education;

(43) State support means all funds provided to districts by the State of Nebraska for the general fund support of elementary and secondary education;

(44) 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;

(45) 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;

(46) Teacher has the definition found in section 79-101;

(47) 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;

(48) 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;

(49) 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;

(50) Unadjusted poverty students means, for school fiscal year 2016-17 and each school fiscal year thereafter, the greater of the number of low-income students or the free lunch and free milk calculated students in a district; and

(51) Very sparse local system means a local system that has:

(a)(i) Less than one-half student per square mile in each county in which each high school attendance center is located based on the school district census, (ii) less than one formula student per square mile in the local system, and (iii) more than fifteen miles between the high school attendance center and the next closest high school attendance center on paved roads; or

(b)(i) More than four hundred fifty square miles in the local system, (ii) less than one-half student per square mile in the local system, and (iii) more than fifteen miles between each high school attendance center and the next closest high school attendance center on paved roads.

Source: Laws 1990, LB 1059, § 3; Laws 1991, LB 511, § 71; Laws 1992, LB 245, § 76; Laws 1994, LB 1290, § 3; Laws 1995, LB 840, § 4; R.S.Supp., 1995, § 79-3803; Laws 1996, LB 900, § 654; Laws 1996, LB 1050, § 12; Laws 1997, LB 347, § 29; Laws 1997, LB 710, § 5; Laws 1997, LB 713, § 1; Laws 1997, LB 806, § 31; Laws 1998, LB 306, § 42; Laws 1998, LB 1134, § 2; Laws 1998, LB 1219, § 15; Laws 1998, LB 1229, § 3; Laws 1998, Spec. Sess., LB 1, § 15; Laws 1999, LB 149, § 3; Laws 1999, LB 813, § 19; Laws 2001, LB 313, § 1; Laws 2001, LB 797, § 18; Laws 2001, LB 833, § 4; Laws 2002, LB 898, § 3; Laws 2005, LB 126, § 45;

Laws 2005, LB 577, § 1; Laws 2006, LB 1024, § 73; Laws 2006, LB 1208, § 4; Referendum 2006, No. 422; Laws 2007, LB641, § 13; Laws 2008, LB988, § 9; Laws 2009, LB545, § 4; Laws 2009, LB549, § 26; Laws 2009, First Spec. Sess., LB5, § 3; Laws 2010, LB1071, § 12; Laws 2011, LB18, § 2; Laws 2011, LB235, § 5; Laws 2011, LB382, § 5; Laws 2011, LB509, § 38; Laws 2013, LB407, § 2; Laws 2013, LB553, § 15; Laws 2014, LB967, § 11; Laws 2015, LB519, § 12; Laws 2015, LB525, § 17; Laws 2016, LB959, § 2; Laws 2016, LB1066, § 16; Laws 2016, LB1067, § 32; Laws 2017, LB512, § 12.

Operative date May 23, 2017.

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.

79-1004 Repealed. Laws 2017, LB512, § 41.

Operative date May 23, 2017.

79-1007.11 School district formula need; calculation.

(1) Except as otherwise provided in this section, for school fiscal years 2013-14 through 2015-16, 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, and any negative student growth adjustment correction.

(2) Except as otherwise provided in this section, for school fiscal year 2016-17, 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, 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, and any negative student growth adjustment correction.

(3) Except as otherwise provided in this section, for school fiscal years 2017-18 and 2018-19, each school district's formula need shall equal the difference of the sum of the school district's basic funding, poverty allowance, poverty allowance adjustment, limited English proficiency allowance, focus school and program allowance, summer school allowance, special receipts allowance, transportation allowance, elementary site allowance, distance education and telecommunications allowance, averaging adjustment, new community achievement plan 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, and any negative student growth adjustment correction.

(4) Except as otherwise provided in this section, for school fiscal year 2019-20 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, distance education and telecommunications allowance, community achievement plan allowance, averaging adjustment, new community achievement plan 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, and any negative student growth adjustment correction.

(5) If the formula need calculated for a school district pursuant to subsections (1) through (4) 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.

(6) If the formula need calculated for a school district pursuant to subsections (1) through (4) 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.

(7) For purposes of subsections (5) and (6) 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.

Source: Laws 2008, LB988, § 13; Laws 2008, LB1153, § 7; Laws 2009, LB545, § 8; Laws 2009, First Spec. Sess., LB5, § 5; Laws 2011, LB235, § 9; Laws 2013, LB407, § 6; Laws 2014, LB967, § 12; Laws 2015, LB519, § 13; Laws 2016, LB1067, § 35; Laws 2017, LB512, § 13.

Operative date May 23, 2017.

79-1009 Option school districts; net option funding; calculation.

(1)(a) A district shall receive net option funding if (i) option students as defined in section 79-233 were actually enrolled in the school year immediately preceding the school year in which the aid is to be paid, (ii) option students as defined in such section will be enrolled in the school year in which the aid is to be paid as converted contract option students, or (iii) for the calculation of aid for school fiscal year 2017-18 for school districts that are members of a learning community, open enrollment students were actually enrolled for school year 2016-17 pursuant to section 79-2110.

(b) The determination of the net number of option students shall be based on (i) the number of students enrolled in the district as option students and the number of students residing in the district but enrolled in another district as option students as of the day of the fall membership count pursuant to section 79-528, for the school fiscal year immediately preceding the school fiscal year in which aid is to be paid, (ii) the number of option students that will be enrolled in the district or enrolled in another district as converted contract option students for the fiscal year in which the aid is to be paid, and (iii) for the calculation of aid for school fiscal year 2017-18 for school districts that are members of a learning community, the number of students enrolled in the district as open enrollment students and the number of students residing in the district but enrolled in another district as open enrollment students as of the day of the fall membership count pursuant to section 79-528 for school fiscal year 2016-17.

(c) Except as otherwise provided in this subsection, net number of option students means the difference of the number of option students enrolled in the district minus the number of students residing in the district but enrolled in another district as option students. For purposes of the calculation of aid for school fiscal year 2017-18 for school districts that are members of a learning community, net number of option students means the difference of the number of students residing in another school district who are option students or open enrollment students enrolled in the district minus the number of students residing in the district but enrolled in another district as option students or open enrollment students.

(2)(a) For all school fiscal years except school fiscal years 2017-18 and 2018-19, net option funding shall be the product of the net number of option students multiplied by the statewide average basic funding per formula student.

(b) For school fiscal years 2017-18 and 2018-19, net option funding shall be the product of the net number of option students multiplied by ninety-five and five-tenths percent of 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 for school fiscal years prior to school fiscal year 2017-18 shall be made from the funds to be disbursed under section 79-1005.01.

Such payments shall go directly to the option school district but shall count as a formula resource for the local system.

Source: Laws 1996, LB 1050, § 18; Laws 1997, LB 806, § 40; Laws 1998, Spec. Sess., LB 1, § 21; Laws 1999, LB 813, § 21; Laws 2001, LB 797, § 22; Laws 2001, LB 833, § 5; Laws 2002, LB 898, § 10;

Laws 2004, LB 1093, § 6; Laws 2008, LB988, § 35; Laws 2011, LB235, § 14; Laws 2016, LB1067, § 39; Laws 2017, LB409, § 2.
Effective date May 11, 2017.

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 2017-18 and 2018-19: (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 2017-18 and 2018-19: (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 two and ninety-seven hundredths 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.

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; Laws 2013, LB407, § 11; Laws 2014, LB725, § 2; Laws 2017, LB409, § 3.

Effective date May 11, 2017.

79-1016 Adjusted valuation; how established; objections; filing; appeal; notice; correction due to clerical error; injunction prohibited.

(1) On or before August 20, the county assessor shall certify to the Property Tax Administrator the total taxable value by school district in the county for the current assessment year on forms prescribed by the Tax Commissioner. The county assessor may amend the filing for changes made to the taxable valuation of the school district in the county if corrections or errors on the original certification are discovered. Amendments shall be certified to the Property Tax Administrator on or before August 31.

(2) On or before October 10, the Property Tax Administrator shall compute and certify to the State Department of Education the adjusted valuation for the current assessment year for each class of property in each school district and each local system. The adjusted valuation of property for each school district and each local system, for purposes of determining state aid pursuant to the Tax Equity and Educational Opportunities Support Act, shall reflect as nearly as possible state aid value as defined in subsection (3) of this section. The Property Tax Administrator shall notify each school district and each local system of its adjusted valuation for the current assessment year by class of property on or before October 10. Establishment of the adjusted valuation shall be based on the taxable value certified by the county assessor for each school district in the county adjusted by the determination of the level of value for each school district from an analysis of the comprehensive assessment ratio study or other studies developed by the Property Tax Administrator, in compliance with professionally accepted mass appraisal techniques, as required by section 77-1327. The Tax Commissioner shall adopt and promulgate rules and regulations setting forth standards for the determination of level of value for state aid purposes.

(3) For purposes of this section, state aid value means:

(a) For real property other than agricultural and horticultural land, ninety-six percent of actual value;

(b) For agricultural and horticultural land, seventy-two percent of actual value as provided in sections 77-1359 to 77-1363. For agricultural and horticultural land that receives special valuation pursuant to section 77-1344, seventy-two percent of special valuation as defined in section 77-1343; and

(c) For personal property, the net book value as defined in section 77-120.

(4) On or before November 10, any local system may file with the Tax Commissioner written objections to the adjusted valuations prepared by the Property Tax Administrator, stating the reasons why such adjusted valuations are not the valuations required by subsection (3) of this section. The Tax Commissioner shall fix a time for a hearing. Either party shall be permitted to introduce any evidence in reference thereto. On or before January 1, the Tax Commissioner shall enter a written order modifying or declining to modify, in whole or in part, the adjusted valuations and shall certify the order to the State Department of Education. Modification by the Tax Commissioner shall be based upon the evidence introduced at hearing and shall not be limited to the modification requested in the written objections or at hearing. A copy of the written order shall be mailed to the local system within seven days after the date of the order. The written order of the Tax Commissioner may be appealed within thirty days after the date of the order to the Tax Equalization and Review Commission in accordance with section 77-5013.

(5) On or before November 10, any local system or county official may file with the Tax Commissioner a written request for a nonappealable correction of the adjusted valuation due to clerical error as defined in section 77-128 or, for agricultural and horticultural land, assessed value changes by reason of land qualified or disqualified for special use valuation pursuant to sections 77-1343 to 77-1347.01. On or before the following January 1, the Tax Commissioner shall approve or deny the request and, if approved, certify the corrected adjusted valuations resulting from such action to the State Department of Education.

(6) On or before May 31 of the year following the certification of adjusted valuation pursuant to subsection (2) of this section, any local system or county official may file with the Tax Commissioner a written request for a nonappealable correction of the adjusted valuation due to changes to the tax list that change the assessed value of taxable property. Upon the filing of the written request, the Tax Commissioner shall require the county assessor to recertify the taxable valuation by school district in the county on forms prescribed by the Tax Commissioner. The recertified valuation shall be the valuation that was certified on the tax list, pursuant to section 77-1613, increased or decreased by changes to the tax list that change the assessed value of taxable property in the school district in the county in the prior assessment year. On or before the following July 31, the Tax Commissioner shall approve or deny the request and, if approved, certify the corrected adjusted valuations resulting from such action to the State Department of Education.

(7) No injunction shall be granted restraining the distribution of state aid based upon the adjusted valuations pursuant to this section.

(8) A school district whose state aid is to be calculated pursuant to subsection (5) of this section and whose state aid payment is postponed as a result of failure to calculate state aid pursuant to such subsection may apply to the state board for lump-sum payment of such postponed state aid. Such application may be for any amount up to one hundred percent of the postponed state aid. The state board may grant the entire amount applied for or any portion of such amount. The state board shall notify the Director of Administrative Services of the amount of funds to be paid in a lump sum and the reduced amount of the monthly payments. The Director of Administrative Services shall, at the time of the next state aid payment made pursuant to section 79-1022, draw a warrant for the lump-sum amount from appropriated funds and forward such warrant to the district.

Source: Laws 1990, LB 1059, § 9; Laws 1991, LB 829, § 32; Laws 1991, LB 511, § 76; Laws 1992, LB 245, § 81; Laws 1992, LB 719A, § 198; Laws 1994, LB 1290, § 7; Laws 1995, LB 490, § 185; R.S.Supp., 1995, § 79-3809; Laws 1996, LB 900, § 662; Laws 1996, LB 934, § 5; Laws 1996, LB 1050, § 24; Laws 1997, LB 270, § 103; Laws 1997, LB 271, § 53; Laws 1997, LB 342, § 4; Laws 1997, LB 595, § 6; Laws 1997, LB 713, § 3; Laws 1997, LB 806, § 46; Laws 1998, Spec. Sess., LB 1, § 24; Laws 1999, LB 194, § 34; Laws 1999, LB 813, § 22; Laws 2000, LB 968, § 80; Laws 2001, LB 170, § 28; Laws 2002, LB 994, § 30; Laws 2004, LB 973, § 66; Laws 2005, LB 126, § 46; Laws 2005, LB 263, § 16; Laws 2006, LB 808, § 46; Laws 2006, LB 968, § 16; Referendum 2006, No. 422; Laws 2007, LB334, § 101; Laws 2008, LB988, § 39; Laws 2009, LB166, § 21; Laws 2017, LB217, § 31.

Operative date August 24, 2017.

Cross References

Tax Equalization and Review Commission, see section 77-5003.

79-1017.01 Local system formula resources; amounts included.

(1) For state aid calculated for school fiscal years 2014-15 and 2015-16, local system formula resources includes other actual receipts determined pursuant to

section 79-1018.01, net option funding determined pursuant to section 79-1009, teacher education aid determined pursuant to section 79-1007.25, instructional time aid determined pursuant to subsection (2) of section 79-1007.23, allocated income tax funds determined pursuant to section 79-1005.01, and minimum levy adjustments determined 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.

(2) For state aid calculated for school fiscal year 2016-17 and each school fiscal year thereafter, local system formula resources includes other actual receipts determined pursuant to section 79-1018.01, net option funding determined pursuant to section 79-1009, allocated income tax funds determined pursuant to section 79-1005.01, community achievement plan aid determined pursuant to section 79-1005, and minimum levy adjustments determined pursuant to section 79-1008.02 for school fiscal years prior to school fiscal year 2017-18, and is reduced by amounts paid by the district in the most recently available complete data year as property tax refunds pursuant to or in the manner prescribed by section 77-1736.06.

Source: Laws 1997, LB 806, § 48; Laws 2002, LB 898, § 11; Laws 2009, LB545, § 14; Laws 2011, LB235, § 17; Laws 2013, LB407, § 12; Laws 2014, LB967, § 17; Laws 2015, LB519, § 14; Laws 2016, LB959, § 7; Laws 2016, LB1067, § 40; Laws 2017, LB512, § 14.
Operative date May 23, 2017.

79-1022 Distribution of income tax receipts and state aid; effect on budget.

(1) On or before June 1, 2017, 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 for the ensuing school fiscal year pursuant to the Tax Equity and Educational Opportunities Support Act and shall certify the amounts to the Director of Administrative Services, the Auditor of Public Accounts, each learning community for school fiscal years prior to school fiscal year 2017-18, and each district. Except as otherwise provided in this section, the amount to be distributed to each district from the amount certified for a local system shall be proportional based on the formula students attributed to each district in the local system. For school fiscal years prior to school fiscal year 2017-18, 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 June 1, 2017, and on or before March 1 of each year thereafter, for each ensuing fiscal year, the department shall report the necessary funding level for the ensuing school fiscal year to the Governor, the Appropriations Committee of the Legislature, and the Education Committee of the Legislature. The report submitted to the committees of the Legislature shall be submitted electronically. Except as otherwise provided in this subsection, certified state aid amounts, including adjustments pursuant to section 79-1065.02, shall be shown as budgeted non-property-tax receipts and deducted prior to calculating the property tax request in the district's general fund budget statement as provided to the Auditor of Public Accounts pursuant to section 79-1024.

(2) Except as provided in this subsection, subsection (8) of section 79-1016, and sections 79-1005, 79-1033, and 79-1065.02, the amounts certified pursuant to subsection (1) of this section shall be distributed in ten as nearly as possible equal payments on the last business day of each month beginning in September of each ensuing school fiscal year and ending in June of the following year, except that when a 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.

Source: Laws 1990, LB 1059, § 13; Laws 1991, LB 511, § 79; Laws 1992, LB 245, § 84; Laws 1994, LB 1290, § 8; Laws 1994, LB 1310, § 16; Laws 1995, LB 840, § 9; R.S.Supp.,1995, § 79-3813; Laws 1996, LB 900, § 668; Laws 1996, LB 1050, § 30; Laws 1997, LB 710, § 13; Laws 1997, LB 713, § 5; Laws 1997, LB 806, § 51; Laws 1998, Spec. Sess., LB 1, § 28; Laws 1999, LB 149, § 10; Laws 1999, LB 194, § 35; Laws 1999, LB 813, § 23; Laws 2002, LB 898, § 12; Laws 2002, Second Spec. Sess., LB 4, § 1; Laws 2003, LB 67, § 12; Laws 2003, LB 540, § 5; Laws 2004, LB 973, § 67; Laws 2005, LB 126, § 47; Laws 2005, LB 198, § 3; Laws 2006, LB 1024, § 86; Referendum 2006, No. 422; Laws 2007, LB21, § 3; Laws 2007, LB641, § 28; Laws 2008, LB988, § 41; Laws 2009, LB61, § 1; Laws 2009, LB545, § 15; Laws 2009, LB548, § 1; Laws 2010, LB711, § 2; Laws 2010, LB1071, § 19; Laws 2011, LB18, § 6; Laws 2012, LB633, § 1; Laws 2012, LB782, § 159; Laws 2013, LB408, § 1; Laws 2014, LB838, § 1; Laws 2016, LB1067, § 43; Laws 2017, LB119, § 1.
Effective date February 16, 2017.

79-1022.02 School fiscal year 2017-18 certifications null and void.

Notwithstanding any other provision of law, any certification of state aid pursuant to section 79-1022, certification of budget authority pursuant to section 79-1023, and certification of applicable allowable reserve percentages pursuant to section 79-1027 completed prior to February 16, 2017, for school fiscal year 2017-18 is null and void.

Source: Laws 2002, LB 898, § 13; Laws 2003, LB 540, § 6; Laws 2008, LB988, § 42; Laws 2011, LB18, § 7; Laws 2012, LB633, § 2; Laws 2017, LB119, § 2.
Effective date February 16, 2017.

79-1023 School district; general fund budget of expenditures; limitation; department; certification.

(1) On or before June 1, 2017, and on or before March 1 of each year thereafter, the department shall determine and certify to each school district budget authority for the general fund budget of expenditures for the ensuing school fiscal year.

(2) Except as provided in sections 79-1028.01, 79-1029, 79-1030, and 81-829.51, each school district shall have budget authority for the general fund budget of expenditures equal to the greater of (a) the general fund budget of expenditures for the immediately preceding school fiscal year minus exclusions pursuant to subsection (1) of section 79-1028.01 for such school fiscal year with the difference increased by the basic allowable growth rate for the school fiscal

year for which budget authority is being calculated, (b) the general fund budget of expenditures for the immediately preceding school fiscal year minus exclusions pursuant to subsection (1) of section 79-1028.01 for such school fiscal year with the difference increased by an amount equal to any student growth adjustment calculated for the school fiscal year for which budget authority is being calculated, or (c) one hundred ten percent of formula need for the school fiscal year for which budget authority is being calculated minus the special education budget of expenditures as filed on the school district budget statement on or before September 20 for the immediately preceding school fiscal year, which special education budget of expenditures is increased by the basic allowable growth rate for the school fiscal year for which budget authority is being calculated.

(3) For any school fiscal year for which the budget authority for the general fund budget of expenditures for a school district is based on a student growth adjustment, the budget authority for the general fund budget of expenditures for such school district shall be adjusted in future years to reflect any student growth adjustment corrections related to such student growth adjustment.

Source: Laws 1990, LB 1059, § 14; Laws 1991, LB 829, § 33; Laws 1992, LB 1063, § 202; Laws 1992, Second Spec. Sess., LB 1, § 173; Laws 1995, LB 613, § 3; Laws 1996, LB 299, § 27; R.S.Supp.,1995, § 79-3814; Laws 1996, LB 900, § 669; Laws 1998, LB 989, § 8; Laws 2003, LB 67, § 13; Laws 2008, LB988, § 43; Laws 2009, LB61, § 2; Laws 2009, LB545, § 16; Laws 2009, LB548, § 2; Laws 2009, First Spec. Sess., LB5, § 11; Laws 2010, LB711, § 3; Laws 2010, LB1071, § 20; Laws 2011, LB18, § 8; Laws 2011, LB235, § 19; Laws 2012, LB633, § 3; Laws 2013, LB408, § 2; Laws 2014, LB838, § 2; Laws 2015, LB283, § 3; Laws 2017, LB119, § 3.
Effective date February 16, 2017.

Cross References

Retirement expenditures, not exempt from limitations, see section 79-977.

79-1027 Budget; restrictions.

No district shall adopt a budget, which includes total requirements of depreciation funds, necessary employee benefit fund cash reserves, and necessary general fund cash reserves, exceeding the applicable allowable reserve percentages of total general fund budget of expenditures as specified in the schedule set forth in this section.

Average daily membership of district	Allowable reserve percentage
0 - 471	45
471.01 - 3,044	35
3,044.01 - 10,000	25
10,000.01 and over	20

On or before June 1, 2017, and on or before March 1 each year thereafter, the department shall determine and certify each district's applicable allowable reserve percentage for the ensuing school fiscal year.

Each district with combined necessary general fund cash reserves, total requirements of depreciation funds, and necessary employee benefit fund cash

reserves less than the applicable allowable reserve percentage specified in this section may, notwithstanding the district's applicable allowable growth rate, increase its necessary general fund cash reserves such that the total necessary general fund cash reserves, total requirements of depreciation funds, and necessary employee benefit fund cash reserves do not exceed such applicable allowable reserve percentage.

Source: Laws 1990, LB 1059, § 18; Laws 1991, LB 511, § 83; Laws 1992, LB 245, § 88; Laws 1992, LB 1063, § 204; Laws 1992, Second Spec. Sess., LB 1, § 175; R.S.1943, (1994), § 79-3818; Laws 1996, LB 900, § 673; Laws 1998, Spec. Sess., LB 1, § 31; Laws 1999, LB 149, § 12; Laws 1999, LB 813, § 26; Laws 2001, LB 797, § 28; Laws 2002, LB 460, § 2; Laws 2003, LB 67, § 16; Laws 2005, LB 126, § 49; Referendum 2006, No. 422; Laws 2007, LB21, § 5; Laws 2009, LB61, § 4; Laws 2009, LB545, § 18; Laws 2009, LB548, § 4; Laws 2010, LB711, § 5; Laws 2010, LB1071, § 22; Laws 2011, LB18, § 10; Laws 2012, LB633, § 4; Laws 2013, LB408, § 3; Laws 2014, LB838, § 3; Laws 2017, LB119, § 4.

Effective date February 16, 2017.

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 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;

(f) Expenditures 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;

(g) Expenditures for incentives agreed to be paid by a school district to certificated employees in exchange for a voluntary termination of employment occurring prior to July 1, 2009, occurring on or after the last day of the 2010-11 school year and prior to the first day of the 2013-14 school year, or, to the extent that a district demonstrates to the State Board of Education pursuant to subsection (3) of this section that the agreement will result in a net savings in salary and benefit costs to the school district over a five-year period, occurring on or after the first day of the 2013-14 school year and prior to September 1, 2017;

(h) Expenditures by a school district with budgeted expenditures otherwise equal to the budget authority for the general fund budget of expenditures for such school district as calculated pursuant to section 79-1023 for such school fiscal year for current and future qualified voluntary termination incentives for certificated teachers pursuant to subsection (3) of section 79-8,142 that are not otherwise included in an exclusion pursuant to this subsection;

(i) Expenditures by a school district with budgeted expenditures otherwise equal to the budget authority for the general fund budget of expenditures for such school district as calculated pursuant to section 79-1023 for such school fiscal year for seventy-five percent of incentives agreed to be paid to certificated employees in exchange for a voluntary termination of employment occurring between September 1, 2017, and August 31, 2018, as a result of a collective-bargaining agreement in force and effect on September 1, 2017, that are not otherwise included in an exclusion pursuant to this subsection;

(j) Expenditures by a school district with budgeted expenditures otherwise equal to the budget authority for the general fund budget of expenditures for such school district as calculated pursuant to section 79-1023 for such school fiscal year for fifty percent of incentives agreed to be paid to certificated employees in exchange for a voluntary termination of employment occurring between September 1, 2018, and August 31, 2019, as a result of a collective-bargaining agreement in force and effect on September 1, 2017, that are not otherwise included in an exclusion pursuant to this subsection;

(k) Expenditures by a school district with budgeted expenditures otherwise equal to the budget authority for the general fund budget of expenditures for such school district as calculated pursuant to section 79-1023 for such school fiscal year for twenty-five percent of incentives agreed to be paid to certificated employees in exchange for a voluntary termination of employment occurring between September 1, 2019, and August 31, 2020, as a result of a collective-bargaining agreement in force and effect on September 1, 2017, that are not otherwise included in an exclusion pursuant to this subsection;

(l) The special education budget of expenditures;

(m) Expenditures of special grant funds; and

(n) Expenditures of funds received as federal impact aid pursuant to 20 U.S.C. 7701 to 7714, as such sections existed on January 1, 2016, due to a district having land within its boundaries that is federal property classified as Indian lands under 20 U.S.C. 7713(7), as such section existed on January 1, 2016, and funds received as impact aid due to children in attendance who resided on Indian lands in accordance with 20 U.S.C. 7703(a)(1)(C), as such section existed on January 1, 2016.

(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) 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;

(b) 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;

(c) For the first school fiscal year for which early childhood education membership is included in formula students for the calculation of state aid, expenditures for early childhood education equal to the amount the school district received in early childhood education grants pursuant to section 79-1103 for the prior school fiscal year, increased by the basic allowable growth rate; and

(d) For school fiscal year 2013-14, an amount not to exceed two percent over the previous school year if such increase is approved by a seventy-five percent majority vote of the school board of such district.

(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; Laws 2013, LB407, § 13; Laws 2013, LB410, § 10; Laws 2013, LB553, § 16; Laws 2014, LB967, § 18; Laws 2015, LB525, § 23; Laws 2016, LB1066, § 18; Laws 2017, LB512, § 15.
Operative date September 1, 2017.

Cross References

Class V School Employees Retirement Act, see section 79-978.01.
Emergency Management Act, see section 81-829.36.

79-1031.01 Appropriations Committee; duties.

The Appropriations Committee of the Legislature shall annually include the amount necessary to fund the state aid that will be certified to school districts on or before June 1, 2017, and on or before March 1 of each year thereafter for each ensuing school fiscal year in its recommendations to the Legislature to

carry out the requirements of the Tax Equity and Educational Opportunities Support Act.

Source: Laws 1997, LB 710, § 17; Laws 1997, LB 806, § 54; Laws 1998, Spec. Sess., LB 1, § 34; Laws 1999, LB 149, § 15; Laws 2002, LB 898, § 14; Laws 2005, LB 126, § 51; Referendum 2006, No. 422; Laws 2007, LB21, § 6; Laws 2008, LB988, § 48; Laws 2009, LB61, § 5; Laws 2009, LB545, § 22; Laws 2009, LB548, § 5; Laws 2010, LB711, § 6; Laws 2010, LB1071, § 24; Laws 2011, LB18, § 13; Laws 2012, LB633, § 5; Laws 2013, LB408, § 4; Laws 2014, LB838, § 4; Laws 2017, LB119, § 5.
Effective date February 16, 2017.

(b) SCHOOL FUNDS

79-1054 State Board of Education; establish innovation grant program; application; contents; department; duties; report; Department of Education Innovative Grant Fund; created; use; investment.

(1) The State Board of Education shall establish a competitive innovation grant program with funding from the Nebraska Education Improvement Fund pursuant to section 9-812. Grantees shall be a school district, an educational service unit, or a combination of entities that includes at least one school district or educational service unit. For grantees that consist of a combination of entities, a participating school district or educational service unit shall be designated to act as the fiscal agent and administer the program funded by the grant. The state board shall only award grants pursuant to applications that the state board deems to be sufficiently innovative and to have a high chance of success.

(2) An application for a grant pursuant to subsection (1) of this section shall describe:

(a) Specific measurable objectives for improving education outcomes for early childhood students, elementary students, middle school students, or high school students or for improving the transitions between any successive stages of education or between education and the workforce;

(b) The method for annually evaluating progress toward a measurable objective, with a summative evaluation of progress submitted to the state board and electronically to the Education Committee of the Legislature on or before July 1, 2019;

(c) The potential for the project to be both scalable and replicable; and

(d) Any cost savings that could be achieved by reductions in other programs if the funded program is successful.

(3) Based on evaluations received on or before July 1, 2019, for each grant, the State Board of Education shall recommend the grant project as:

(a) Representing a best practice;

(b) A model for a state-supported program; or

(c) A local issue for further study.

(4) On or before December 1, 2017, and on or before December 1 of each year thereafter, the state board shall electronically submit a report to the Clerk of the Legislature on all such grants, including, but not limited to, the results of the evaluations for each grant. The state board may adopt and promulgate rules

and regulations to carry out this section, including, but not limited to, application procedures, selection procedures, and annual evaluation reporting procedures.

(5) The Department of Education Innovative Grant Fund is created. The fund shall be administered by the State Department of Education and shall consist of transfers pursuant to section 9-812, repayments of grant funds, and interest payments received in the course of administering this section. The fund shall be used to carry out this section. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 2015, LB519, § 2; Laws 2017, LB512, § 16.
Operative date May 23, 2017.

Cross References

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

79-1065 Financial support to school districts; adjustments authorized; records.

The State Department of Education shall adjust payments of state funds provided under Chapter 79 or federal funds provided under federal law to school districts which, after final determination, received funds not equal to the appropriate allocation for the previous school fiscal year such that the district will receive the funds to which it was finally determined to be entitled. If the total adjustment cannot be made from the funds to be provided in the current school fiscal year, the adjustment shall be prorated, with additional adjustments made to payments for future school fiscal years. The department shall maintain an accurate account and a record of the reasons the adjustments were made and the amount of such adjustments.

Source: Laws 1976, LB 903, § 10; Laws 1987, LB 367, § 68; Laws 1990, LB 1059, § 41; Laws 1991, LB 511, § 63; Laws 1992, LB 245, § 68; Laws 1992, LB 1001, § 30; R.S.1943, (1994), § 79-1369; Laws 1996, LB 900, § 711; Laws 1997, LB 710, § 20; Laws 1998, Spec. Sess., LB 1, § 38; Laws 2017, LB512, § 17.
Operative date May 23, 2017.

(g) SUMMER FOOD SERVICE PROGRAM

79-10,141 Summer Food Service Program; legislative intent; department; duties; preference for grants; applications.

(1) Because children are susceptible to hunger in the summertime, resulting in negative health effects, the Legislature intends, as a state nutrition and health policy, that the State of Nebraska's participation in the Summer Food Service Program of the United States Department of Agriculture be strengthened where it is needed to provide adequate nutrition for children.

(2) To encourage participation and utilization of the Summer Food Service Program, the department shall:

(a) Provide information to sponsors concerning the benefits and availability of the Summer Food Service Program; and

(b) Award grants of up to fifteen thousand dollars on a competitive basis to sponsors approved by the department. Grants awarded under this section may

be used for nonrecurring expenses incurred in initiating or expanding services under the Summer Food Service Program, including, but not limited to, the acquisition of equipment, salaries of staff, training of staff in new capacities, outreach efforts to publicize new or expanded services under the Summer Food Service Program, minor alterations to accommodate new equipment, computer point-of-service systems for food service, and the purchase of vehicles for transporting food to sites. Funds may be expended up to the full cost of a qualifying expense incurred by a sponsor in initiating or expanding the services under the Summer Food Service Program, and if the funds are expended solely for the benefit of child nutrition programs administered by the department, no proration of the expense shall be required. Funds shall not be used for food, computers, except point-of-service systems, or capital outlay. The total amount of grants awarded under this section shall be limited to one hundred thousand dollars per fiscal year.

(3) In awarding grants under this section, the department shall give preference in the following order of priority to:

(a) Sponsors located within the boundaries of school districts in which fifty percent or more of the students apply and qualify for free and reduced-price lunches or located within the boundaries of a census tract in which fifty percent or more of the children fall under the poverty threshold as defined by the United States Department of Agriculture;

(b) Sponsors in which health or education activities are emphasized; and

(c) Sponsors that participate in the Summer Food Service Program at the time of grant application.

(4) Sponsors may apply for grants under this section by:

(a) Submitting to the department a plan to start or expand services under the Summer Food Service Program;

(b) Agreeing to operate the Summer Food Service Program for a period of not less than two years; and

(c) Assuring that the expenditure of funds from state and local resources for the maintenance of other child nutrition programs administered by the department shall not be diminished as a result of grants received under this section.

Source: Laws 2012, LB1090, § 2; Laws 2017, LB512, § 18.

Operative date May 23, 2017.

(j) LEARNING COMMUNITY TRANSITION AID

79-10,145 Learning community transition aid; calculation.

(1) For school fiscal year 2017-18, the department shall, based on data for school fiscal year 2016-17, calculate the amount of learning community transition aid, if any, to be paid from the Nebraska Education Improvement Fund to each school district that is a member of a learning community which levied a common levy for member school districts prior to school fiscal year 2017-18. Learning community transition aid for each such district shall be calculated by:

(a) Recalculating the 2016-17 state aid for each member school district as if the district were not a member of the learning community using the same data that was used in the certification pursuant to section 79-1022 to determine the calculated 2016-17 individual state aid for each member school district;

(b) Multiplying the aggregate taxable valuation for all member school districts for the 2016 tax year by the ratio of ninety-five cents per one hundred dollars of taxable valuation and multiplying the result by ninety-nine percent to determine the calculated 2016-17 common levy receipts;

(c) Dividing the calculated 2016-17 common levy receipts among member school districts proportionally based on the difference of the formula need calculated pursuant to section 79-1007.11 minus the sum of the state aid certified pursuant to section 79-1022 and the other actual receipts included in local system formula resources pursuant to section 79-1018.01 for the 2016-17 school fiscal year to determine the district share of the calculated 2016-17 common levy receipts for each member district;

(d) Adding the district share of the calculated 2016-17 common levy receipts to the state aid certified pursuant to section 79-1022 for the 2016-17 school fiscal year to determine the calculated 2016-17 common levy resources total for each member school district;

(e) Multiplying the taxable valuation for each member school district for the 2016 tax year by the ratio of ninety-five cents per one hundred dollars of taxable valuation and multiplying the result by ninety-nine percent to determine the calculated 2016-17 individual levy receipts for each member school district;

(f) Adding the calculated 2016-17 individual levy receipts to the calculated 2016-17 individual state aid to determine the calculated 2016-17 individual district resources total for each member school district; and

(g) Multiplying the difference of the calculated 2016-17 common levy resources total minus both the calculated 2016-17 individual district resources total and the community achievement plan aid calculated for school fiscal year 2017-18 pursuant to section 79-1005 for each member school district by fifty percent to equal the 2017-18 learning community transition aid for each member school district for which the calculated common levy resources total is greater than such sum of the calculated individual district resources total plus the community achievement plan aid.

(2) For school fiscal year 2018-19, the department shall, based on data for school fiscal year 2017-18, calculate the amount of learning community transition aid, if any, to be paid from the Nebraska Education Improvement Fund to each school district that is a member of a learning community which levied a common levy for member school districts prior to school fiscal year 2017-18. Learning community transition aid for each such district shall be calculated by:

(a) Recalculating the 2017-18 state aid for each member school district as if the district continued to be subject to a learning community general fund common levy and without any poverty allowance adjustment pursuant to section 79-1007.06 or community achievement aid pursuant to section 79-1005 using the same data that was used in the certification pursuant to section 79-1022 to determine the calculated 2017-18 common levy formula need and calculated 2017-18 common levy state aid for each member school district;

(b) Multiplying the aggregate taxable valuation for all member school districts for the 2017 tax year by the ratio of ninety-five cents per one hundred dollars of taxable valuation and multiplying the result by ninety-nine percent to determine the calculated 2017-18 common levy receipts;

(c) Dividing the calculated 2017-18 common levy receipts among member school districts proportionally based on the difference of the calculated com-

mon levy formula need minus the sum of the calculated 2017-18 common levy state aid and the other actual receipts included in local system formula resources pursuant to section 79-1018.01 for the 2017-18 school fiscal year to determine the district share of the calculated 2017-18 common levy receipts for each member district;

(d) Adding the district share of the calculated 2017-18 common levy receipts to the calculated 2017-18 common levy state aid to determine the calculated 2017-18 common levy resources total for each member school district;

(e) Multiplying the taxable valuation for each member school district for the 2017 tax year by the ratio of ninety-five cents per one hundred dollars of taxable valuation and multiplying the result by ninety-nine percent to determine the calculated 2017-18 individual levy receipts for each member school district;

(f) Adding the calculated 2017-18 individual levy receipts to the state aid certified pursuant to section 79-1022 for school fiscal year 2017-18 to determine the calculated 2017-18 individual district resources total for each member school district; and

(g) Multiplying the difference between the calculated 2017-18 common levy resources total minus the calculated 2017-18 individual district resources total for each member school district by twenty-five percent to equal the 2018-19 learning community transition aid for each member school district for which the calculated common levy resources total is greater than the calculated individual district resources total.

(3) Learning community transition aid shall not be considered in the calculation of formula resources pursuant to section 79-1017.01.

Source: Laws 2016, LB1067, § 42; Laws 2017, LB409, § 4.
Effective date May 11, 2017.

(k) SWIMMING POOL

79-10,146 Swimming pool; personnel.

Every swimming pool owned, rented, leased, or otherwise used by a school district for practice, competition, or any other school function shall have at least one person present during such use who is currently certified by a nationally recognized aquatic training program in first aid, cardiopulmonary resuscitation, and drowning risk prevention.

Source: Laws 2017, LB512, § 4.
Operative date September 1, 2017.

ARTICLE 11

SPECIAL POPULATIONS AND SERVICES

(b) GIFTED CHILDREN AND LEARNERS WITH HIGH ABILITY

Section

79-1108.02. Learners with high ability; curriculum programs; funding.

(c) SPECIAL EDUCATION

SUBPART (i)—SPECIAL EDUCATION ACT

79-1118.01. Disability, defined; diagnosis.

79-1144. Children with disabilities; education; funds; channeled through office of State Department of Education; expenditures authorized.

(b) GIFTED CHILDREN AND LEARNERS WITH HIGH ABILITY

79-1108.02 Learners with high ability; curriculum programs; funding.

(1) The department shall distribute funds appropriated for purposes 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; Laws 2017, LB512, § 19.

Operative date May 23, 2017.

(c) SPECIAL EDUCATION

SUBPART (i)—SPECIAL EDUCATION ACT

79-1118.01 Disability, defined; diagnosis.

Disability means an impairment which causes a child to be identified as having at least one of the conditions defined in this section and causes such child to need special education and related services. For purposes of this section:

(1) Autism means a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age

three, that adversely affects a child's educational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences. Autism does not apply if a child's educational performance is adversely affected primarily because the child has an emotional disturbance;

(2) Blind and visually impaired means partially seeing or blind, which visual impairment, even with correction, adversely affects a child's educational performance;

(3) Deaf means a hearing impairment which is so severe that processing linguistic information through hearing, with or without amplification, is impaired to the extent that educational performance is adversely affected;

(4) Deaf-blind means concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational problems that such impairments cannot be accommodated in special education programs solely for children who are deaf or blind;

(5) Developmental delay means either (a) a significant delay in function in one or more of the following areas: (i) Cognitive development; (ii) physical development; (iii) communication development; (iv) social or emotional development; or (v) adaptive behavior or skills development, or (b) a diagnosed physical or mental condition that has a high probability of resulting in a substantial delay in function in one or more of such areas;

(6) Dyslexia means a specific learning disability under subdivision (13) of this section that (a) is neurobiological in origin, (b) is characterized by difficulties with accurate or fluent word recognition and by poor spelling and decoding abilities, (c) typically results from a deficit in the phonological component of language that is often unexpected in relation to other cognitive abilities and effective classroom instruction, and (d) has secondary consequences that may include problems in reading comprehension and reduced reading experience that may impede growth of vocabulary and background knowledge;

(7)(a) Emotional disturbance means a condition in which a student exhibits one or more of the following characteristics over a long period of time and to a marked degree which adversely affects educational performance:

(i) An inability to learn which cannot be explained by intellectual, sensory, or health factors;

(ii) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers;

(iii) Inappropriate types of behavior or feelings under normal circumstances;

(iv) A general pervasive mood of unhappiness or depression; or

(v) A tendency to develop physical symptoms or fears associated with personal or school problems.

(b) Emotional disturbance includes schizophrenia but does not include social maladjustment unless a characteristic defined in subdivision (7)(a)(i) or (ii) of this section is also present;

(8) Hard of hearing means a hearing impairment, whether permanent or fluctuating, which adversely affects educational performance but is not included under the term deaf in subdivision (3) of this section;

(9) Intellectual disability means a condition in which a child exhibits significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period which adversely affects educational performance;

(10) Multiple disabilities means concomitant impairments, such as intellectual disability-blind or intellectual disability-orthopedic impairment, the combination of which causes such severe educational problems that a child with such impairments cannot be accommodated in special education programs for one of the impairments. Multiple disabilities does not include deaf-blind;

(11) Orthopedic impairment means a severe orthopedic impairment which adversely affects a child's educational performance. Severe orthopedic impairments include impairments caused by (a) congenital anomaly, including, but not limited to, clubfoot or absence of a member, (b) disease, including, but not limited to, poliomyelitis or bone tuberculosis, or (c) other causes, including, but not limited to, cerebral palsy, amputations, and fractures and burns which cause contractures;

(12) Other health impaired means having limited strength, vitality, or alertness due to chronic or acute health problems, including, but not limited to, a heart condition, tuberculosis, rheumatic fever, nephritis, asthma, sickle cell anemia, hemophilia, epilepsy, lead poisoning, leukemia, or diabetes, which adversely affects a child's educational performance;

(13) Specific learning disability means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations. Specific learning disability includes, but is not limited to, perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia;

(14) Speech-and-language-impaired means having a communication disorder such as stuttering, impaired articulation, language impairments, or voice impairment which adversely affects a child's educational performance; and

(15) Traumatic brain injury means an acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a child's educational performance. Traumatic brain injury applies to open or closed head injuries resulting in impairments in one or more areas, including cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech. Traumatic brain injury does not include brain injuries that are congenital or degenerative or brain injuries induced by birth trauma.

The State Department of Education may group or subdivide the classifications of children with disabilities for the purpose of program description and reporting. The department shall establish eligibility criteria and age ranges for the disability classification of developmental delay.

Source: Laws 1987, LB 367, § 9; Laws 1993, LB 348, § 62; R.S.1943, (1994), § 79-3309; Laws 1996, LB 900, § 802; R.S.1943, (1996), § 79-1120; Laws 1997, LB 346, § 12; Laws 1999, LB 813, § 38; Laws 2013, LB23, § 45; Laws 2013, LB410, § 12; Laws 2014, LB967, § 22; Laws 2017, LB645, § 1.
Effective date August 24, 2017.

79-1144 Children with disabilities; education; funds; channeled through office of State Department of Education; expenditures authorized.

(1) Funds shall be appropriated by the Legislature to carry out sections 79-1142 to 79-1144 and 79-1147. Such funds shall be channeled through the State Department of Education. The department is authorized to expend such funds upon proper vouchers approved by the department and warrants issued by the Director of Administrative Services for financial reimbursement to school districts, educational service units, special education cooperatives created by school districts, agencies, and parents or guardians, including (a) reimbursement pursuant to section 79-1129 for actual transportation expenses per year for children with disabilities a pro rata amount which shall be determined by the State Board of Education from appropriations for special education approved by the Legislature based on all actual allowable transportation costs, (b) reimbursement for instructional aids and consultative, supervisory, research, and testing services to school districts, and (c) reimbursement for salaries, wages, maintenance, supplies, travel, and other expenses essential to carrying out the provisions for special education programs. Minor building modifications shall not be eligible for state reimbursement as an allowable expense. Applications for state reimbursement for actual transportation expenses shall be submitted to the department annually on a date and on forms prescribed by the department. Amendments to applications for actual transportation expenses shall be submitted on dates prescribed by the department during the school year in which the original application was made.

(2) Any adjustment of payments pursuant to section 79-1065 caused by the failure of a school district to meet federal spending requirements under the federal Individuals with Disabilities Education Act as such act existed on January 1, 2017, may be used by the department to reimburse the United States Department of Education in the amount of the federal funds awarded to such school district or the amount of such adjustment, whichever is less.

Source: Laws 1949, c. 131, § 8, p. 345; Laws 1963, c. 256, § 1, p. 777; Laws 1967, c. 526, § 4, p. 1749; Laws 1971, LB 178, § 1; Laws 1971, LB 977, § 2; Laws 1972, LB 690, § 5; Laws 1973, LB 102, § 2; Laws 1974, LB 92, § 2; Laws 1986, LB 1093, § 1; Laws 1986, LB 942, § 6; Laws 1986, LB 1177, § 20; R.S.Supp., 1986, § 43-611; Laws 1987, LB 367, § 33; Laws 1992, Third Spec. Sess., LB 15, § 1; Laws 1993, LB 597, § 1; Laws 1994, LB 858, § 12; Laws 1995, LB 742, § 7; R.S.Supp., 1995, § 79-3333; Laws 1996, LB 900, § 826; Laws 1997, LB 346, § 32; Laws 1999, LB 813, § 44; Laws 2017, LB512, § 20.

Operative date May 23, 2017.

CHAPTER 80

SERVICEMEMBERS AND VETERANS

Article.

3. Nebraska Veterans Services Act. 80-301.01 to 80-336.
4. Veterans Aid. 80-414.

ARTICLE 3

NEBRASKA VETERANS SERVICES ACT

Section

- 80-301.01. Act, how cited.
- 80-301.03. Terms, defined.
- 80-314. Veterans homes; director; duties; rules and regulations.
- 80-315. Nebraska veterans homes; establishment.
- 80-316. Veterans homes; purpose; admission; requirements.
- 80-317. Nebraska veterans homes; Veterans' Homes Board; rules of membership; application.
- 80-319. Veterans' Homes Board; duties; powers; meetings.
- 80-320. Director; rules and regulations.
- 80-321. Member; payment for care; public expense.
- 80-322. Reimbursement of costs.
- 80-322.01. Department of Veterans' Affairs Cash Fund; created; investment.
- 80-332. Employees of Division of Veterans' Homes of Department of Health and Human Services; transfer; how treated.
- 80-333. Contracts and other documents; how treated.
- 80-334. Existing suits and proceedings; how treated.
- 80-335. Law; how construed.
- 80-336. Property; funds; appropriations; effect of transfer.

80-301.01 Act, how cited.

Sections 80-301.01 to 80-336 shall be known and may be cited as the Nebraska Veterans Services Act.

Source: Laws 2017, LB340, § 1.
Operative date July 1, 2017.

80-301.03 Terms, defined.

For purposes of the Nebraska Veterans Services Act:

- (1) Department means the Department of Veterans' Affairs;
- (2) Director means the Director of Veterans' Affairs; and
- (3) Veterans homes means the homes listed in section 80-315.

Source: Laws 2017, LB340, § 2.
Operative date July 1, 2017.

80-314 Veterans homes; director; duties; rules and regulations.

Effective July 1, 2017, all programs, services, and duties of the Division of Veterans' Homes of the Department of Health and Human Services shall be transferred to the Department of Veterans' Affairs. The department shall be responsible for the management and administration of the veterans homes and

the treatment of the members thereof, define the duties of the officers, fix their compensation, and adopt and promulgate rules and regulations. The director shall develop member grievance procedures, family support programs, volunteer support, policy, and internal standards. The director shall have access to all confidential information relating to members' care.

Source: Laws 1887, c. 82, § 6, p. 626; Laws 1891, c. 49, § 3, p. 343; Laws 1893, c. 33, § 1, p. 361; Laws 1905, c. 145, § 2, p. 586; R.S.1913, § 7305; C.S.1922, § 6960; Laws 1923, c. 183, § 1, p. 424; C.S. 1929, § 80-304; R.S.1943, § 80-304; Laws 1949, c. 272, § 3(1), p. 893; Laws 1959, c. 420, § 2, p. 1416; Laws 1980, LB 184, § 3; Laws 1996, LB 1044, § 831; R.S.1943, (1996), § 80-304; Laws 1997, LB 396, § 3; Laws 2007, LB296, § 718; Laws 2017, LB340, § 3.

Operative date July 1, 2017.

80-315 Nebraska veterans homes; establishment.

The Grand Island Veterans' Home, the Norfolk Veterans' Home, the Eastern Nebraska Veterans' Home, and the Western Nebraska Veterans' Home are established. The State of Nebraska shall maintain the homes as provided in the Nebraska Veterans Services Act.

Source: Laws 1887, c. 82, § 1, p. 622; Laws 1889, c. 85, § 1, p. 569; Laws 1891, c. 49, § 1, p. 340; Laws 1901, c. 71, § 1, p. 458; R.S.1913, § 7302; Laws 1919, c. 157, § 1, p. 354; C.S.1922, § 6957; C.S. 1929, § 80-301; Laws 1931, c. 153, § 1, p. 412; Laws 1935, c. 172, § 1, p. 627; C.S.Supp.,1941, § 80-301; Laws 1943, c. 211, § 1, p. 696; R.S.1943, § 80-301; Laws 1949, c. 272, § 1, p. 891; Laws 1953, c. 325, § 1, p. 1075; Laws 1959, c. 421, § 1, p. 1417; Laws 1969, c. 753, § 1, p. 2833; Laws 1969, c. 584, § 93, p. 2402; Laws 1971, LB 334, § 1; Laws 1973, LB 33, § 1; Laws 1975, LB 90, § 2; Laws 1979, LB 80, § 112; Laws 1980, LB 184, § 1; Laws 1981, LB 351, § 1; Laws 1991, LB 2, § 23; Laws 1994, LB 1066, § 95; Laws 1994, LB 1194, § 16; R.S.1943, (1996), § 80-301; Laws 1997, LB 396, § 4; Laws 2006, LB 994, § 110; Laws 2017, LB340, § 4.

Operative date July 1, 2017.

80-316 Veterans homes; purpose; admission; requirements.

(1) The department shall provide domiciliary and nursing home care and subsistence to:

(a) All persons who served on active duty in the armed forces of the United States other than active duty for training and who were discharged or otherwise separated with a characterization of honorable or general (under honorable conditions) if, at the time of making an application for admission to one of the Nebraska veterans homes:

(i) The applicant has been a bona fide resident of the State of Nebraska for at least two years;

(ii) The applicant has become disabled due to service, old age, or otherwise to an extent that it would prevent such applicant from earning a livelihood; and

(iii) The applicant's income from all sources is such that the applicant would be dependent wholly or partially upon public charities for support or the type of care needed is available only at a state institution;

(b) The spouse of any such person admitted to one of the homes who has attained the age of fifty years and has been married to such member for at least two years before his or her entrance into the home;

(c) Subject to subsection (2) of this section, the surviving spouses and parents of eligible servicemen and servicewomen as defined in subdivision (a) of this subsection who died while in the service of the United States or who have since died of a service-connected disability as determined by the United States Department of Veterans Affairs; and

(d) Subject to subsection (2) of this section, the surviving spouses of eligible servicemen or servicewomen as defined in subdivision (a) of this subsection who have since died.

(2) The surviving spouses and parents referred to in subdivision (1)(c) or (d) of this section shall be eligible for such care and subsistence if, at the time of applying, they:

(a) Have been bona fide residents of the State of Nebraska for at least two years;

(b) Have attained the age of fifty years;

(c) Are unable to earn a livelihood; and

(d) Are dependent wholly or partially upon public charities or the type of care needed is available only at a state institution.

(3) No one admitted to one of the Nebraska veterans homes under conditions enumerated in this section shall have a vested right to continued residence in such home if such person ceases to meet any of the eligibility requirements of this section, except that no person who has been regularly admitted shall be denied continued residence solely because of his or her marriage to a member of one of the homes.

Source: Laws 1997, LB 396, § 5; Laws 2005, LB 54, § 26; Laws 2007, LB296, § 719; Laws 2009, LB488, § 1; Laws 2017, LB340, § 5.
Operative date July 1, 2017.

80-317 Nebraska veterans homes; Veterans' Homes Board; rules of membership; application.

The Veterans' Homes Board shall prescribe rules of membership in the Nebraska veterans homes in accordance with the Nebraska Veterans Services Act. An application for membership in a Nebraska veterans home shall be made to a county veterans service officer, to a recognized veterans organization as defined in subdivision (1) of section 80-401.01, or to a Nebraska veterans home, and such officer, organization, or Nebraska veterans home shall coordinate the required financial and medical information and, if necessary, provide an opinion regarding its validity. The county veterans service officer, recognized veterans organization, or Nebraska veterans home shall at once forward the application together with a finding in regard to the condition of the applicant to the board, whose duty it is to receive, review, and act upon applications for membership. During the interim between meetings of the board, the secretary

of the board is authorized to adjudicate applications, subject to the approval of the full board at its next meeting.

Source: Laws 1887, c. 82, § 1, p. 622; Laws 1889, c. 85, § 1, p. 569; Laws 1891, c. 49, § 1, p. 340; Laws 1901, c. 71, § 1, p. 458; R.S.1913, § 7302; Laws 1919, c. 157, § 1, p. 354; C.S.1922, § 6957; C.S. 1929, § 80-301; Laws 1931, c. 153, § 1, p. 412; Laws 1935, c. 172, § 1, p. 627; C.S.Supp.,1941, § 80-301; Laws 1943, c. 211, § 1, p. 696; R.S.1943, § 80-301; Laws 1949, c. 272, § 1, p. 891; Laws 1953, c. 325, § 1, p. 1075; Laws 1959, c. 421, § 1, p. 1417; Laws 1969, c. 753, § 1, p. 2833; Laws 1969, c. 584, § 93, p. 2402; Laws 1971, LB 334, § 1; Laws 1973, LB 33, § 1; Laws 1975, LB 90, § 2; Laws 1980, LB 184, § 2; Laws 1995, LB 64, § 1; R.S.1943, (1996), § 80-302; Laws 1997, LB 396, § 6; Laws 2007, LB296, § 720; Laws 2012, LB795, § 1; Laws 2017, LB340, § 6.
Operative date July 1, 2017.

Cross References

For official name of homes, see section 83-107.01.

80-319 Veterans' Homes Board; duties; powers; meetings.

The Veterans' Homes Board shall meet at least quarterly and at other times at the request of either the chairperson or the secretary of the board at a site selected by the secretary after consultation with the chairperson. The board shall review all applications submitted for admission to the Nebraska veterans homes system and shall make all final determinations regarding admission, or continued admission, to one of the homes. The board may check periodically on members of the Nebraska veterans homes to determine whether or not their physical or financial status has so changed since admission that they should no longer be maintained there. The board has power to subpoena witnesses and take testimony under oath relative to the duties of the board. No specified amount, either as to income or accumulated reserve, shall be arbitrarily fixed for determining the eligibility of an applicant to membership or to continuing rights of membership, but each case shall be considered solely on its merits and the evidence presented. The department shall consult with the board prior to denying further residence to members the board finds should no longer be supported there.

Source: Laws 1949, c. 272, § 4(2), p. 894; Laws 1953, c. 325, § 2, p. 1076; Laws 1971, LB 334, § 3; Laws 1980, LB 184, § 6; Laws 1996, LB 1044, § 832; R.S.1943, (1996), § 80-306; Laws 1997, LB 396, § 8; Laws 2007, LB296, § 722; Laws 2017, LB340, § 7.
Operative date July 1, 2017.

80-320 Director; rules and regulations.

(1) Nothing in the Nebraska Veterans Services Act shall be construed as limiting the authority vested with the director to adopt and promulgate rules and regulations, not inconsistent with the act, for the administration of the Nebraska veterans homes. The department, in conjunction and after consultation with the Veterans' Homes Board, shall adopt and promulgate rules and regulations governing admission to and administration of the homes.

(2) All rules, regulations, and orders of the Division of Veterans' Homes of the Department of Health and Human Services or its predecessor agencies adopted

prior to July 1, 2017, in connection with the powers, duties, and functions transferred to the Department of Veterans' Affairs pursuant to the Nebraska Veterans Services Act, shall continue to be effective until revised, amended, repealed, or nullified pursuant to law.

Source: Laws 1909, c. 134, § 1, p. 482; R.S.1913, § 7306; C.S.1922, § 6961; C.S.1929, § 80-305; R.S.1943, § 80-305; Laws 1949, c. 272, § 4(3), p. 894; Laws 1953, c. 325, § 3, p. 1077; Laws 1980, LB 184, § 7; Laws 1996, LB 1044, § 833; R.S.1943, (1996), § 80-307; Laws 1997, LB 396, § 9; Laws 2007, LB296, § 723; Laws 2017, LB340, § 8.
Operative date July 1, 2017.

80-321 Member; payment for care; public expense.

Nothing in the Nebraska Veterans Services Act shall be construed to deny any person who has been properly admitted to one of the Nebraska veterans homes the privilege of paying the cost of his or her care, or any part thereof, if he or she so desires or if it has been determined by the Veterans' Homes Board that his or her financial status is such that he or she should no longer be maintained there at public expense.

Source: Laws 1891, c. 49, § 7, p. 346; Laws 1909, c. 134, § 1, p. 482; R.S.1913, § 7306; C.S.1922, § 6961; C.S.1929, § 80-305; R.S.1943, § 80-305; Laws 1949, c. 272, § 5, p. 895; Laws 1971, LB 334, § 4; Laws 1980, LB 184, § 8; R.S.1943, (1996), § 80-308; Laws 1997, LB 396, § 10; Laws 2007, LB296, § 724; Laws 2017, LB340, § 9.
Operative date July 1, 2017.

80-322 Reimbursement of costs.

Any veteran, spouse, surviving spouse, or parent admitted to one of the Nebraska veterans homes under section 80-316 who has an income in excess of forty dollars per month, including federal pension, compensation, or social security, or has sufficient assets will be required to reimburse the state monthly a reasonable amount for the expense of his or her maintenance. The amount shall be determined by the Veterans' Homes Board. All money paid to the state by members of the Nebraska veterans homes in compliance with this section shall be remitted to the State Treasurer for credit to the Department of Veterans' Affairs Cash Fund. The State Treasurer shall transfer any money remaining in the Health and Human Services Cash Fund on July 1, 2017, that was credited to the fund pursuant to this section to the Department of Veterans' Affairs Cash Fund.

Source: Laws 1997, LB 396, § 11; Laws 2007, LB296, § 725; Laws 2017, LB340, § 10.
Operative date July 1, 2017.

80-322.01 Department of Veterans' Affairs Cash Fund; created; investment.

The Department of Veterans' Affairs Cash Fund is created. The fund shall include money transferred pursuant to section 80-322. The department shall administer 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.

Source: Laws 2017, LB340, § 11.
Operative date July 1, 2017.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

80-332 Employees of Division of Veterans' Homes of Department of Health and Human Services; transfer; how treated.

On and after July 1, 2017, positions of employment in the Division of Veterans' Homes of the Department of Health and Human Services related to the powers, duties, and functions transferred pursuant to the Nebraska Veterans Services Act are transferred to the Department of Veterans' Affairs. For purposes of the transition, employees of the division shall be considered employees of the department and shall retain their rights under the state personnel system or pertinent bargaining agreement, and their service shall be deemed continuous. This section does not grant employees any new rights or benefits not otherwise provided by law or bargaining agreement or preclude the department or the director from exercising any of the prerogatives of management set forth in section 81-1311 or as otherwise provided by law. This section is not an amendment to or substitute for the provisions of any existing bargaining agreements.

Source: Laws 2017, LB340, § 12.
Operative date July 1, 2017.

80-333 Contracts and other documents; how treated.

On and after July 1, 2017, whenever the Division of Veterans' Homes of the Department of Health and Human Services is referred to or designated by any contract or other document in connection with the duties and functions transferred to the Department of Veterans' Affairs pursuant to the Nebraska Veterans Services Act, such reference or designation shall apply to such department. All contracts entered into by the division prior to July 1, 2017, in connection with the duties and functions transferred to the department are hereby recognized, with the department succeeding to all rights and obligations under such contracts. Any cash funds, custodial funds, gifts, trusts, grants, and any appropriations of funds from prior fiscal years available to satisfy obligations incurred under such contracts shall be transferred and appropriated to the department for the payments of such obligations. All documents and records transferred, or copies of the same, may be authenticated or certified by the department for all legal purposes.

Source: Laws 2017, LB340, § 13.
Operative date July 1, 2017.

80-334 Existing suits and proceedings; how treated.

No suit, action, or other proceeding, judicial or administrative, lawfully commenced prior to July 1, 2017, or which could have been commenced prior to that date, by or against the Division of Veterans' Homes of the Department of Health and Human Services, or the director or any employee thereof in such director's or employee's official capacity or in relation to the discharge of his or

her official duties, shall abate by reason of the transfer of duties and functions from the Division of Veterans' Homes of the Department of Health and Human Services to the Department of Veterans' Affairs.

Source: Laws 2017, LB340, § 14.
Operative date July 1, 2017.

80-335 Law; how construed.

On and after July 1, 2017, unless otherwise specified, whenever any provision of law refers to the Division of Veterans' Homes of the Department of Health and Human Services in connection with duties and functions transferred to the Department of Veterans' Affairs, such law shall be construed as referring to the department.

Source: Laws 2017, LB340, § 15.
Operative date July 1, 2017.

80-336 Property; funds; appropriations; effect of transfer.

On July 1, 2017, all items of property, real and personal, including office furniture and fixtures, books, documents, and records of the Division of Veterans' Homes of the Department of Health and Human Services pertaining to the duties and functions transferred to the Department of Veterans' Affairs pursuant to the Nebraska Veterans Services Act shall become the property of the department.

On July 1, 2017, any federal, cash, canteen, and trust funds remaining in the following program classifications shall be transferred from Agency No. 25, the Department of Health and Human Services, to Agency No. 28, the Department of Veterans' Affairs: Program No. 510, Veterans' Home System Administration; Program No. 519, Grand Island Veterans' Home; Program No. 520, Norfolk Veterans' Home; Program No. 521, Western Nebraska Veterans' Home; and Program No. 522, Eastern Nebraska Veterans' Home.

Any appropriation and salary limit provided in any legislative bill enacted by the One Hundred Fifth Legislature, First Session, to Agency No. 25, Department of Health and Human Services, in the following program classification, shall be null and void, and any such amounts are hereby appropriated to Agency No. 28, Department of Veterans' Affairs: Program No. 519, Nebraska Veterans' Homes. Any financial obligations of the Department of Health and Human Services for Program No. 519, Nebraska Veterans' Homes, that remain unpaid as of June 30, 2017, and that are subsequently certified as valid encumbrances to the accounting division of the Department of Administrative Services pursuant to sections 81-138.01 to 81-138.04, shall be paid by the Department of Veterans' Affairs from the unexpended balance of appropriations existing in such program classification on June 30, 2017.

Source: Laws 2017, LB340, § 16.
Operative date July 1, 2017.

**ARTICLE 4
VETERANS AID**

Section

80-414. Department of Veterans' Affairs; create and maintain registry; contents; notation of "veteran" on operator's license or state identification card; eligibility.

80-414 Department of Veterans' Affairs; create and maintain registry; contents; notation of "veteran" on operator's license or state identification card; eligibility.

(1) The Department of Veterans' Affairs shall create and maintain a registry of residents of Nebraska who meet the requirements of subsection (1) of section 60-3,122.04 or subsection (1) of section 60-4,189. The Department of Veterans' Affairs may adopt and promulgate rules and regulations governing the establishment and maintenance of the registry. The registry may be used to assist the department in carrying out the duties of the department and shall provide for the collection of sufficient information to identify an individual who qualifies for Military Honor Plates or a notation of "veteran" on his or her operator's license or state identification card issued by the Department of Motor Vehicles. The registry may include information such as identifying information on an individual, an individual's records on active duty or reserve duty in the armed forces of the United States, or an individual's status of active duty, reserve duty, retired, discharged, or other.

(2) Any resident of Nebraska who meets the requirements of subsection (1) of section 60-3,122.04 or subsection (1) of section 60-4,189 shall register with the Department of Veterans' Affairs using the registry created by this section before being eligible for Military Honor Plates or a notation of "veteran" on his or her operator's license or state identification card issued by the Department of Motor Vehicles. No person shall be deemed eligible until his or her status has been verified on the registry.

(3) The Department of Motor Vehicles may adopt and promulgate rules and regulations governing use of the registry of the Department of Veterans' Affairs for determination of eligibility for the issuance of Military Honor Plates or the notation of "veteran" on operators' licenses and state identification cards.

Source: Laws 2013, LB93, § 6; Laws 2014, LB383, § 11; Laws 2017, LB45, § 3.

Operative date January 1, 2018.

STATE ADMINISTRATIVE DEPARTMENTS

CHAPTER 81
STATE ADMINISTRATIVE DEPARTMENTS

Article.

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ARTICLE 1

THE GOVERNOR AND ADMINISTRATIVE DEPARTMENTS

(a) GENERAL PROVISIONS

- Section
 81-101. Executive department; civil administration vested in Governor; departments created.
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- 81-154. Materiel division; standard specifications; establish and maintain; cooperation of using agencies; competitive bids.
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(a) GENERAL PROVISIONS

81-101 Executive department; civil administration vested in Governor; departments created.

The civil administration of the laws of the state is vested in the Governor. For the purpose of aiding the Governor in the execution and administration of the laws, the executive and administrative work shall be divided into the following agencies: (1) Department of Agriculture; (2) Department of Labor; (3) Department of Transportation; (4) Department of Natural Resources; (5) Department of Banking and Finance; (6) Department of Insurance; (7) Department of Motor Vehicles; (8) Department of Administrative Services; (9) Department of Economic Development; (10) Department of Correctional Services; (11) Nebraska State Patrol; and (12) Department of Health and Human Services.

Source: Laws 1929, c. 51, § 1, p. 209; C.S.1929, § 81-101; Laws 1933, c. 149, § 1, p. 571; C.S.Supp.,1941, § 81-101; R.S.1943, § 81-101; Laws 1955, c. 329, § 4, p. 1027; Laws 1957, c. 365, § 8, p. 1236; Laws 1957, c. 366, § 51, p. 1282; Laws 1959, c. 424, § 1, p. 1423; Laws 1961, c. 415, § 29, p. 1259; Laws 1961, c. 416, § 9, p. 1267; Laws 1963, c. 504, § 1, p. 1609; Laws 1969, c. 778, § 1, p. 2949; Laws 1973, LB 563, § 16; Laws 1976, LB 561, § 4; Laws 1981, LB 541, § 4; Laws 1991, LB 58, § 2; Laws 1996, LB 1044, § 835; Laws 1999, LB 36, § 35; Laws 2000, LB 900, § 246; Laws 2007, LB296, § 726; Laws 2007, LB334, § 102; Laws 2017, LB339, § 272.

Operative date July 1, 2017.

Cross References

Department of Administrative Services, see section 81-1103.

Department of Correctional Services, see section 83-171.

Department of Economic Development, see section 81-1201.02.

Department of Environmental Quality, see section 81-1502.

Department of Health and Human Services, see section 81-3113.

Department of Revenue, see section 77-360.

Department of Veterans' Affairs, see section 80-401.02.

Military Department, see section 55-120.

Nebraska State Patrol, see section 81-2001.

State Department of Education, see section 79-301 and Article VII, section 2, Constitution of Nebraska.

81-102 Department heads; enumeration; appointment and confirmation; removal.

The Governor shall appoint heads for the various agencies listed in section 81-101, subject to confirmation by a majority vote of the members elected to the Legislature. Such appointments shall be submitted to the Legislature within sixty calendar days following the first Thursday after the first Tuesday in each odd-numbered year. The officers shall be designated as follows: (1) The Director of Agriculture for the Department of Agriculture; (2) the Commissioner of Labor for the Department of Labor; (3) the Director-State Engineer for the Department of Transportation; (4) the Director of Natural Resources for the Department of Natural Resources; (5) the Director of Banking and Finance for the Department of Banking and Finance; (6) the Director of Insurance for the Department of Insurance; (7) the Director of Motor Vehicles for the Department of Motor Vehicles; (8) the Director of Administrative Services for the Department of Administrative Services; (9) the Director of Correctional Services for the Department of Correctional Services; (10) the Director of Economic Development for the Department of Economic Development; (11) the Superintendent of Law Enforcement and Public Safety for the Nebraska State Patrol; (12) the Property Tax Administrator as the chief administrative officer of the property assessment division of the Department of Revenue; and (13) the chief executive officer for the Department of Health and Human Services. Whoever shall be so nominated by the Governor and shall fail to receive the number of votes requisite for confirmation, shall not be subject to nomination or appointment for this or any other appointive state office requiring confirmation by the Legislature during the period for which his or her appointment was sought. In case of a vacancy in any of such offices during the recess of the Legislature, the Governor shall make a temporary appointment until the next meeting of the Legislature, when he or she shall nominate some person to fill such office. Any person so nominated who is confirmed by the Legislature, shall hold his or her office during the remainder of the term if a specific term has been provided by law, otherwise during the pleasure of the Governor subject to the provisions of this section; except any such officers may be removed by the Governor pursuant to Article IV of the Constitution of Nebraska.

Source: Laws 1929, c. 51, § 2, p. 209; C.S.1929, § 81-102; Laws 1933, c. 149, § 2, p. 571; Laws 1941, c. 177, § 1, p. 695; C.S.Supp., 1941, § 81-102; R.S.1943, § 81-102; Laws 1953, c. 335, § 1, p. 1100; Laws 1957, c. 365, § 9, p. 1237; Laws 1957, c. 366, § 52, p. 1282; Laws 1961, c. 415, § 30, p. 1260; Laws 1961, c. 416, § 10, p. 1268; Laws 1963, c. 504, § 2, p. 1609; Laws 1969, c. 778, § 2, p. 2950; Laws 1969, c. 514, § 4, p. 2105; Laws 1973, LB 563, § 17; Laws 1976, LB 561, § 5; Laws 1981, LB 249, § 4; Laws 1981, LB 541, § 5; Laws 1982, LB 404, § 34; Laws 1996, LB 1044, § 836; Laws 1999, LB 36, § 36; Laws 2000, LB 900, § 247; Laws 2007,

LB296, § 727; Laws 2007, LB334, § 103; Laws 2017, LB339, § 273.

Operative date July 1, 2017.

(b) STATE BUDGET

81-125.01 State budget; include reserve.

The Governor, when preparing the budget provided for in section 81-125, and the Legislature, when preparing its proposed budget, shall include a reserve requirement, calculated pursuant to subsection (1) of section 77-2715.01, of not less than three percent of the appropriations included in such budget, except that for the biennium ending June 30, 2019, the percentage shall not be less than two and one-half percent.

Source: Laws 1982, LB 757, § 3; Laws 1983, LB 59, § 10; Laws 1985, LB 282, § 2; Laws 2017, LB331, § 43.

Effective date May 16, 2017.

(d) MATERIEL DIVISION OF ADMINISTRATIVE SERVICES

81-154 Materiel division; standard specifications; establish and maintain; cooperation of using agencies; competitive bids.

The materiel division shall establish and maintain standard specifications for personal property purchased in the name of the state. The materiel division shall enlist the cooperation and assistance of the using agencies in the establishment, maintenance, and revision of standard specifications and shall encourage and foster the use of standard specifications in order that the most efficient purchase of personal property may be continuously accomplished. All such standard specifications shall be so drawn that it will be possible for three or more manufacturers, vendors, or suppliers to submit competitive bids. If a requisition for personal property exceeds fifty thousand dollars and bids cannot be obtained from three bidders, then the standard specifications of the personal property upon which bids are sought shall be reviewed by the materiel division and the using agencies involved. If it is determined by the materiel division, because of the special nature of the personal property sought to be purchased or leased or for any other reason, that the standard specifications should remain as written, bids may be accepted from a fewer number of bidders than three with the approval of the Governor or his or her designated representative.

Source: Laws 1943, c. 215, § 10, p. 707; R.S.1943, § 81-154; Laws 1963, c. 508, § 7, p. 1618; Laws 1975, LB 359, § 6; Laws 1981, LB 381, § 3; Laws 1984, LB 933, § 12; Laws 1992, LB 1241, § 15; Laws 1997, LB 314, § 5; Laws 2000, LB 654, § 10; Laws 2007, LB256, § 4; Laws 2017, LB320, § 1.

Effective date August 24, 2017.

81-161.03 Direct purchases, contracts, or leases; approval required, when; report required; materiel division; duties; Department of Correctional Services; purchases authorized.

The materiel division may, by written order, permit purchases, contracts, or leases to be made by any using agency directly with the vendor or supplier whenever it appears to the satisfaction of the materiel division that, because of

the unique nature of the personal property, the price in connection therewith, the quantity to be purchased, the location of the using agency, the time of the use of the personal property, or any other circumstance, the interests of the state will be served better by purchasing or contracting direct than through the materiel division.

Such permission shall be revocable and shall be operative for a period not exceeding twelve months from the date of issue. Using agencies receiving such permission shall report their acts and expenditures under such orders to the materiel division in writing and furnish proper evidence that competition has been secured at such time and covering such period as may be required by the materiel division.

The materiel division shall adopt and promulgate rules and regulations establishing criteria which must be met by any agency seeking direct market purchase authorization. Purchases for miscellaneous needs may be made directly by any agency without prior approval from the materiel division for purchases of less than twenty-five thousand dollars if the agency has completed a certification program as prescribed by the materiel division.

The Department of Correctional Services may purchase raw materials, supplies, component parts, and equipment perishables directly for industries established pursuant to section 83-183, whether such purchases are made to fill specific orders or for general inventories. Any such purchase shall not exceed fifty thousand dollars. The department shall comply with the bidding process of the materiel division and shall be subject to audit by the materiel division for such purchases.

Source: Laws 1943, c. 215, § 16, p. 709; R.S.1943, § 81-160; Laws 1963, c. 508, § 12, p. 1620; Laws 1975, LB 359, § 9; Laws 1975, LB 447, § 5; Laws 1981, LB 381, § 7; Laws 1984, LB 933, § 13; Laws 1987, LB 354, § 1; Laws 1992, LB 1241, § 18; Laws 1997, LB 314, § 6; Laws 2000, LB 654, § 16; Laws 2007, LB256, § 5; Laws 2016, LB1080, § 1; Laws 2017, LB320, § 2.
Effective date August 24, 2017.

81-161.04 Materiel division; surplus property; sale; procedure; proceeds of sale, how credited.

(1) Whenever any using agency has any personal property for which it no longer has any need or use, it shall notify the materiel division in writing setting forth a description of the property and the approximate length of time that the property has been in the possession of the using agency. The materiel division shall appraise the property and notify all other using agencies of the state that the materiel division has the property for sale and that the property can be bought at the appraised price. No property will be sold until first offered to using agencies as provided by this section unless the property is unusable. If the materiel division fails to receive an offer from any using agency, it may sell or dispose of the property by any method which is most advantageous to the State of Nebraska, including auction, sealed bid, private or public sale, or trade-in for other property, with priorities given to the other political subdivisions. All sales shall be made in the name of the State of Nebraska. The materiel division shall charge an administrative fee for the disposition of surplus property. Such administrative fee shall be a percentage of the amount of the sale of the surplus

property. In the event surplus property is determined to have no market value, the materiel administrator may waive the administrative fee.

(2) Except as otherwise provided in this subsection, the proceeds of the sales shall be deposited with the State Treasurer and credited to the General Fund unless the using agency certifies to the materiel division that the property was purchased in part or in total from either cash accounts or federal funds or from a percentage of such accounts or funds, in which case the proceeds of the sale to that extent shall be credited to the cash or federal account in the percentage used in originally purchasing the property. The cost of selling surplus property shall be deducted from the proceeds of the surplus property sold. The proceeds received from the sale of passenger-carrying motor vehicles originally purchased with money from the General Fund, other than passenger-carrying motor vehicles used by the Nebraska State Patrol, less selling costs, shall be deposited in the state treasury and credited by the State Treasurer to the Transportation Services Bureau Revolving Fund. The proceeds received from the sale of passenger-carrying motor vehicles used by the Nebraska State Patrol, less selling costs, shall be deposited in the state treasury and credited by the State Treasurer to the Nebraska State Patrol Vehicle Replacement Cash Fund. The proceeds received from the sale of micrographic equipment, other than that of the University of Nebraska and state colleges, less selling costs, shall be deposited in the state treasury and credited by the State Treasurer to the Records Management Micrographics Services Revolving Fund. The proceeds received from the sale of aircraft, less selling costs, shall be deposited in the state treasury and credited by the State Treasurer to the Aeronautics Cash Fund.

Source: Laws 1943, c. 215, § 9, p. 706; R.S.1943, § 81-153; Laws 1947, c. 310, § 1(2), p. 943; Laws 1951, c. 313, § 1, p. 1071; R.R.S.1943, § 81-153.01; Laws 1963, c. 508, § 13, p. 1621; Laws 1969, c. 781, § 1, p. 2958; Laws 1972, LB 1452, § 1; Laws 1975, LB 447, § 6; Laws 1979, LB 559, § 17; Laws 1979, LB 590, § 1; Laws 1995, LB 381, § 1; Laws 2000, LB 654, § 17; Laws 2017, LB339, § 274.

Operative date July 1, 2017.

81-161.05 Materiel administrator or employee; financial or beneficial personal interest forbidden; gifts and rebates prohibited; violations; penalty.

Neither the materiel administrator nor any employee under his or her direction shall be financially interested or have any beneficial personal interest, directly or indirectly, in the purchase or leasing of any personal property nor in any firm, partnership, limited liability company, corporation, or association furnishing personal property. No such person shall receive or accept directly or indirectly from any person, firm, limited liability company, or corporation submitting any bid or to whom a contract may be awarded by rebate, gift, or otherwise, any money or other thing of value whatsoever or any promise, obligation, or contract for future reward, or compensation. Any person who violates this section shall be guilty of a Class IV felony and shall be subject to forfeiture of his or her office or position.

Source: Laws 1963, c. 508, § 14, p. 1621; Laws 1975, LB 359, § 10; Laws 1977, LB 39, § 265; Laws 1992, LB 1241, § 19; Laws 1993, LB 121, § 523; Laws 2017, LB320, § 3.
Effective date August 24, 2017.

(f) DEFERRED BUILDING RENEWAL AND MAINTENANCE

81-179 Building Renewal Allocation Fund; created; use; investment.

(1) There is hereby created under the control of the Governor, for allocation to building renewal projects of the various agencies, a fund to be known as the Building Renewal Allocation Fund. The fund shall contain the revenue from the special privilege tax as provided in section 77-2602 and such other money as is appropriated by the Legislature. Such appropriation is declared to consist of building renewal funds which shall be kept separate and distinct from the program continuation funds and project construction funds.

(2) Separate subfunds, subprograms, projects, or accounts shall be established to separately account for any expenditures on state buildings or facilities to comply with the federal Americans with Disabilities Act of 1990. A minimal amount of the funds contained in the subfunds, subprograms, projects, or accounts may be used for planning and evaluation of buildings and facilities.

(3) The budget division of the Department of Administrative Services may administratively transfer funds to appropriate accounting entities to correctly account for the operating expenditures. A separate fund, cash fund, project, or other account may be administratively established for such purpose.

(4) Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(5) The State Treasurer shall transfer seven hundred eighty-three thousand six hundred sixty-seven dollars from the Building Renewal Allocation Fund to the General Fund on or after June 15, 2018, but before June 30, 2018, on such date as directed by the budget administrator of the budget division of the Department of Administrative Services.

(6) The State Treasurer shall transfer two hundred thousand dollars from the Building Renewal Allocation Fund to the General Fund on or after June 15, 2019, but before June 30, 2019, on such date as directed by the budget administrator of the budget division of the Department of Administrative Services.

(7) The State Treasurer shall transfer one million seven hundred sixteen thousand three hundred thirty-three dollars from the Building Renewal Allocation Fund to the Accounting Division Cash Fund on July 1, 2017, or as soon thereafter as administratively possible.

(8) The State Treasurer shall transfer two million three hundred thousand dollars from the Building Renewal Allocation Fund to the Accounting Division Cash Fund on July 1, 2018, or as soon thereafter as administratively possible.

Source: Laws 1977, LB 309, § 7; Laws 1993, LB 369, § 3; Laws 1994, LB 1066, § 96; Laws 1995, LB 530, § 2; Laws 1996, LB 1190, § 16; Laws 1998, LB 1100, § 15; Laws 2000, LB 1349, § 2; Laws 2002, LB 1310, § 11; Laws 2003, LB 410, § 1; Laws 2004, LB 1090, § 1; Laws 2007, LB323, § 2; Laws 2017, LB331, § 44.
Effective date May 16, 2017.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

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 Transportation, (iv) Game and Parks Commission, or (v) 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) The State Treasurer shall transfer three million four hundred thirty-two thousand six hundred sixty-seven dollars from the State Building Renewal Assessment Fund to the Accounting Division Cash Fund on July 1, 2017, or as soon thereafter as administratively possible.

(5) The State Treasurer shall transfer four million six hundred thousand dollars from the State Building Renewal Assessment Fund to the Accounting Division Cash Fund on July 1, 2018, or as soon thereafter as administratively possible.

(6) Any money in the State Building Renewal Assessment 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; Laws 2017, LB331, § 45; Laws 2017, LB339, § 275.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB331, section 45, with LB339, section 275, to reflect all amendments.

Note: Changes made by LB331 became effective May 16, 2017. Changes made by LB339 became operative July 1, 2017.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

ARTICLE 2

DEPARTMENT OF AGRICULTURE

(m) SEEDS

Section

- 81-2,155. Hybrid seed corn; practices forbidden.
 81-2,156. Hybrid seed corn; cross, defined.
 81-2,157. Hybrid seed corn; violations; penalty; enforcement action; Director of Agriculture; duties.

(x) NEBRASKA PURE FOOD ACT

- 81-2,239. Nebraska Pure Food Act; provisions included; how cited.
 81-2,240. Definitions, where found.
 81-2,243.01. Egg handler, defined.
 81-2,245. Food delivery service, defined.
 81-2,262. Code and practice; where filed.
 81-2,263. Inconsistencies; sections control.
 81-2,270. Food establishment, food processing plant, or salvage operation; permits; application; contents; fees; late fee; exemptions.
 81-2,270.01. Eggs.
 81-2,271. Food establishment, food processing plant, or salvage operation; permit; posting; food delivery service; location; change of ownership or location; duties; movement authorized; mobile food unit or pushcart; copy of permit.
 81-2,272.31. Water supply; requirements.
 81-2,281. Department; enforce act; powers; contract for conduct of certain regulatory functions; exemption from inspection fee; inspections; how conducted; by whom.
 81-2,288. Department; adopt rules and regulations; contracts with federal agencies authorized; exemptions from act.

(m) SEEDS

81-2,155 Hybrid seed corn; practices forbidden.

It shall be unlawful for any person, firm, corporation or its agents or representatives to sell, offer or expose for sale, or falsely mark or tag, within the State of Nebraska, any seed corn as hybrid unless it is seed of the first generation of a cross involving two, three, or four different inbred lines of corn or their combinations.

Source: Laws 1937, c. 4, § 1, p. 56; C.S.Supp.,1941, § 81-1823; R.S.1943, § 81-2,155; Laws 2017, LB276, § 1.
 Effective date August 24, 2017.

81-2,156 Hybrid seed corn; cross, defined.

The cross mentioned in section 81-2,155 shall be produced by cross fertilization performed by a method of proper isolation in time or distance and controlled either by hand, by detasseling at the proper times, or by utilizing male sterility systems.

Source: Laws 1937, c. 4, § 2, p. 56; C.S.Supp.,1941, § 81-1824; R.S.1943, § 81-2,156; Laws 2017, LB276, § 2.
 Effective date August 24, 2017.

81-2,157 Hybrid seed corn; violations; penalty; enforcement action; Director of Agriculture; duties.

(1) Any person who violates any of the provisions of sections 81-2,155 and 81-2,156 shall be guilty of a Class III misdemeanor.

(2) In addition to the criminal penalty provided under subsection (1) of this section, a restraining order or a temporary, permanent, or mandatory injunction may be imposed against any person to restrain the commission or continuance of any act in violation of any of the provisions of sections 81-2,155 and 81-2,156. The district court of the county where such act is occurring or about to occur shall have jurisdiction to grant such relief upon good cause shown. Relief may be granted notwithstanding the existence of any other remedy at law and shall be granted without bond.

(3) Whenever the Director of Agriculture has a reasonable belief that the commission or continuance of any act is in violation of sections 81-2,155 and 81-2,156, the director shall report such belief to the Attorney General or the county attorney of the county in which such act is occurring or about to occur. Upon satisfactory information provided by the director, the Attorney General or the appropriate county attorney may cause appropriate proceedings pursuant to this section to be initiated without delay.

Source: Laws 1937, c. 4, § 3, p. 56; C.S.Supp.,1941, § 81-1825; R.S.1943, § 81-2,157; Laws 1977, LB 39, § 282; Laws 2017, LB276, § 3. Effective date August 24, 2017.

(x) NEBRASKA PURE FOOD ACT

81-2,239 Nebraska Pure Food Act; provisions included; how cited.

Sections 81-2,239 to 81-2,292 and the provisions of the Food Code and the Current Good Manufacturing Practice In Manufacturing, Packing, or Holding Human Food adopted by reference in sections 81-2,257.01 and 81-2,259, shall be known and may be cited as the Nebraska Pure Food Act.

Source: Laws 1981, LB 487, § 5; Laws 1989, LB 548, § 3; R.S.Supp.,1990, § 81-216.01; Laws 1991, LB 358, § 8; Laws 1992, LB 366, § 55; Laws 1997, LB 199, § 3; Laws 1999, LB 474, § 1; Laws 2003, LB 250, § 3; Laws 2004, LB 1045, § 1; Laws 2005, LB 131, § 1; Laws 2007, LB74, § 1; Laws 2012, LB771, § 1; Laws 2016, LB798, § 1; Laws 2017, LB134, § 1. Effective date August 24, 2017.

81-2,240 Definitions, where found.

For purposes of the Nebraska Pure Food Act, unless the context otherwise requires, the definitions found in sections 81-2,241 to 81-2,254 shall be used. In addition, the definitions found in the code and practice adopted by reference in sections 81-2,257.01 and 81-2,259 shall be used.

Source: Laws 1981, LB 487, § 6; Laws 1989, LB 548, § 4; R.S.Supp.,1990, § 81-216.02; Laws 1991, LB 358, § 9; Laws 1992, LB 366, § 56; Laws 1997, LB 199, § 4; Laws 1999, LB 474, § 2; Laws 2004, LB 1045, § 2; Laws 2005, LB 131, § 2; Laws 2016, LB798, § 2; Laws 2017, LB134, § 2. Effective date August 24, 2017.

81-2,243.01 Egg handler, defined.

Egg handler shall mean any person who engages in any business in commerce which involves buying or selling any shell eggs or processing any shell egg products and who is not a producer with production from a flock of three thousand hens or less. Egg handler shall include persons who assemble, collect, break, process, grade, package, or wholesale shell eggs. The term does not include a person whose primary food-related business activity is not egg handling.

Source: Laws 2017, LB134, § 3.
Effective date August 24, 2017.

81-2,245 Food delivery service, defined.

Food delivery service shall mean an operation that only meets the definition of food establishment by relinquishing possession of food to a consumer through a delivery service including home delivery of grocery orders, restaurant takeout orders, or other delivery services provided by a common or contract carrier.

Source: Laws 2017, LB134, § 4.
Effective date August 24, 2017.

81-2,262 Code and practice; where filed.

Copies of the code and practice adopted by reference pursuant to sections 81-2,257.01 and 81-2,259 shall be filed in the offices of the Secretary of State, Clerk of the Legislature, and department.

Source: Laws 1981, LB 487, § 24; R.S.1943, (1987), § 81-216.20; Laws 1991, LB 358, § 31; Laws 1997, LB 199, § 19; Laws 1999, LB 474, § 9; Laws 2017, LB134, § 5.
Effective date August 24, 2017.

81-2,263 Inconsistencies; sections control.

If there is an inconsistency between sections 81-2,239 to 81-2,292 and any code adopted by reference, the requirements of the sections shall control.

Source: Laws 1991, LB 358, § 32; Laws 1997, LB 199, § 20; Laws 2003, LB 250, § 7; Laws 2017, LB134, § 6.
Effective date August 24, 2017.

81-2,270 Food establishment, food processing plant, or salvage operation; permits; application; contents; fees; late fee; exemptions.

(1) No person shall operate: (a) A food establishment; (b) a food processing plant; or (c) a salvage operation, without a valid permit which sets forth the types of operation occurring within the establishment.

(2) Application for a permit shall be made to the director on forms prescribed and furnished by the department. Such application shall include the applicant's full name and mailing address, the names and addresses of any partners, members, or corporate officers, the name and address of the person authorized by the applicant to receive the notices and orders of the department as provided in the Nebraska Pure Food Act, whether the applicant is an individual, partnership, limited liability company, corporation, or other legal entity, the location and type of proposed establishment or operation, and the signature of

the applicant. Application for a permit shall be made prior to the operation of a food establishment, food processing plant, or salvage operation. The application shall be accompanied by an initial permit fee and an initial inspection fee in the same amount as the annual inspection fee if inspections are required to be done by the department. If the food establishment, food processing plant, or salvage operation has been in operation prior to applying for a permit or notifying the regulatory authority, the applicant shall pay an additional fee of sixty dollars.

(3) Payment of the initial permit fee, the initial inspection fee, and the fee for failing to apply for a permit prior to operation shall not preclude payment of the annual inspection fees due on August 1 of each year. Except as provided in subsections (7) through (10) of this section and subsection (2) of section 81-2,281, a permit holder shall pay annual inspection fees on or before August 1 of each year regardless of when the initial permit was obtained.

(4)(a) The director shall set the initial permit fee and the annual inspection fees on or before July 1 of each fiscal year to meet the criteria in this subsection. The director may raise or lower the fees each year, but the fees shall not exceed the maximum fees listed in subdivision (4)(b) of this section. The director shall determine the fees based on estimated annual revenue and fiscal year-end cash fund balance as follows:

(i) The estimated annual revenue shall not be greater than one hundred seven percent of program cash fund appropriations allocated for the Nebraska Pure Food Act;

(ii) The estimated fiscal year-end cash fund balance shall not be greater than seventeen percent of program cash fund appropriations allocated for the act; and

(iii) All fee increases or decreases shall be equally distributed between all categories.

(b) The maximum fees are:

Food Handling Activity	Initial Permit Fee	First Food Preparation Area Annual Inspection Fee	Additional Food Preparation Area Annual Inspection Fee (per area)	No Food Preparation Area, Unit Or Units Annual Inspection Fee
Convenience Store	\$86.19	\$86.19	\$43.09	N/A
Itinerant Food Vendor	\$86.19	\$86.19	\$43.09	N/A
Licensed Beverage Establishment	\$86.19	\$86.19	\$43.09	N/A
Limited Food Service Establishment	\$86.19	\$86.19	\$43.09	N/A
Temporary Food Establishment	\$86.19	\$86.19	\$43.09	N/A
Food Delivery Service	\$86.19	N/A	N/A	\$17.23
Mobile Food Unit (for each unit)	\$86.19	N/A	N/A	\$43.09
Pushcart (for each unit)	\$86.19	N/A	N/A	\$17.23
Vending Machine Operations:	\$86.19			
One to ten units		N/A	N/A	\$17.23

Food Handling Activity	Initial Permit Fee	First Food Preparation Area Annual Inspection Fee	Additional Food Preparation Area Annual Inspection Fee (per area)	No Food Preparation Area, Unit Or Units Annual Inspection Fee
Eleven to twenty units		N/A	N/A	\$34.46
Twenty-one to thirty units		N/A	N/A	\$51.69
Thirty-one to forty units		N/A	N/A	\$68.92
Over forty units		N/A	N/A	\$86.15
Food Processing Plant	\$86.19	\$120.64	\$43.09	N/A
Salvage Operation	\$86.19	\$120.64	\$43.09	N/A
Commissary	\$86.19	\$120.64	\$43.09	N/A
All Other Food Establishments	\$86.19	\$120.64	\$43.09	N/A

(5) If a food establishment is engaged in more than one food handling activity listed in subsection (4) of this section, the inspection fee charged shall be based upon the primary activity conducted within the food establishment as determined by the department and any fees assessed for each additional food preparation area within the primary establishment as determined by the department.

(6) If a person fails to pay the inspection fee for more than one month after the fee is due, such person shall pay a late fee equal to fifty percent of the total fee for the first month that the fee is late and one hundred percent for the second month that the fee is late. The purpose of the late fee is to cover the administrative costs associated with collecting fees. All money collected as a late fee shall be remitted to the State Treasurer for credit to the Pure Food Cash Fund.

(7) An educational institution, health care facility, nursing home, or governmental organization operating any type of food establishment, other than a mobile food unit or pushcart, is exempt from the requirements in subsections (1) through (6) of this section.

(8) A food establishment which produces eggs and only stores, packages, sells, delivers, or otherwise provides for human consumption the eggs it produces, or only stores, packages, sells, delivers, or otherwise provides for human consumption eggs produced from no more than four producers at the same time, is exempt from the requirements of subsections (1) through (6) of this section. Any food establishment with a valid egg handler license and for which all fees have been paid prior to August 24, 2017, is exempt from the permit and inspection fee requirements of the Nebraska Pure Food Act until August 1, 2018.

(9) A food establishment or food processing plant holding a permit under the Nebraska Milk Act is exempt from the requirements of subsections (1) through (6) of this section.

(10) A single event food vendor or a religious, charitable, or fraternal organization operating any type of temporary food establishment, mobile food unit, or pushcart is exempt from the requirements of subsections (1) through (6)

of this section. Any such organization operating any nontemporary food establishment prior to July 1, 1985, is exempt from the requirements of subsection (2) of this section.

Source: Laws 1981, LB 487, § 25; Laws 1982, LB 547, § 15; Laws 1985, LB 460, § 9; R.S.1943, (1987), § 81-216.21; Laws 1991, LB 358, § 39; Laws 1993, LB 121, § 526; Laws 1997, LB 199, § 23; Laws 1999, LB 474, § 10; Laws 2003, LB 250, § 8; Laws 2004, LB 1045, § 5; Laws 2007, LB74, § 5; Laws 2007, LB111, § 29; Laws 2012, LB771, § 5; Laws 2017, LB134, § 7.
Effective date August 24, 2017.

Cross References

Nebraska Milk Act, see section 2-3965.

81-2,270.01 Eggs.

Any person who for remuneration packs and sells, offers for sale, barter, or otherwise provides eggs for human consumption shall comply with all applicable requirements set forth in rules and regulations adopted and promulgated by the department and shall establish the source of the eggs by labeling the eggs with a packer identification number assigned by the department or the United States Department of Agriculture.

Source: Laws 2017, LB134, § 8.
Effective date August 24, 2017.

81-2,271 Food establishment, food processing plant, or salvage operation; permit; posting; food delivery service; location; change of ownership or location; duties; movement authorized; mobile food unit or pushcart; copy of permit.

(1) The permit required by section 81-2,270 shall be posted in a location in the food establishment, food processing plant, or salvage operation which is conspicuous to the public. A salvage operation shall also have a copy of the permit in each vehicle. For a food delivery service, the location shall be a permanent address where the permitholder may be contacted.

(2) The permit is not transferable to any other person or location. Any permit issued lapses automatically upon a change of ownership or location except as provided in subsection (3) of this section. The permitholder shall notify the department in writing at least thirty days prior to any change in ownership, name, or address. The permitholder shall notify the department in writing before there is a change of the name or address of the person authorized to receive the notices and orders of the department. When an establishment is to be permanently closed, the permitholder shall return the permit to the department within one week after the closing.

(3) A mobile food unit, pushcart, or vending machine may be moved if the permitholder is able to provide the location of such unit, pushcart, or machine to the regulatory authority upon request and the person authorized by the permitholder to receive notices and orders of the department maintains a permanent mailing address on file with the department. A food delivery service shall upon request provide the department with information regarding the location of all conveyances it controls.

(4) Every mobile food unit or pushcart operator shall have a copy of their permit to operate available at the mobile food unit or pushcart when in operation.

Source: Laws 1991, LB 358, § 40; Laws 1997, LB 199, § 25; Laws 2012, LB771, § 6; Laws 2017, LB134, § 9.
Effective date August 24, 2017.

81-2,272.31 Water supply; requirements.

Except in response to a temporary interruption of a water supply in the food establishment, any food establishment which is not a food delivery service, mobile food unit, or temporary food establishment shall:

- (1) Have water under pressure provided to all fixtures, equipment, and nonfood equipment that are required to use water;
- (2) Receive water through the use of an approved water main;
- (3) Have a permanent plumbing system; and
- (4) Have at least one toilet which is permanent, convenient, and accessible.

Source: Laws 2003, LB 250, § 19; Laws 2017, LB134, § 10.
Effective date August 24, 2017.

81-2,281 Department; enforce act; powers; contract for conduct of certain regulatory functions; exemption from inspection fee; inspections; how conducted; by whom.

(1) The department shall enforce the Nebraska Pure Food Act and any rule or regulation adopted and promulgated pursuant to such act. The department may:

(a) Enter at reasonable times and in a reasonable manner, without being subject to any action for trespass or damages if reasonable care is exercised, any food establishment, food processing plant, or salvage operation to inspect all food, structures, vehicles, equipment, packing materials, containers, records, and labels on such property. The department may inspect and examine all records and property relating to compliance with the Nebraska Pure Food Act. Such records and property shall be made available to the department for review at all reasonable times;

(b) In a reasonable manner, hold for inspection and take samples of any food which may not be in compliance with the Nebraska Pure Food Act;

(c) Inspect at any time or place food that is being shipped into or through the state and take any enforcement action authorized under the Nebraska Pure Food Act; and

(d) Obtain an inspection warrant in the manner prescribed in sections 29-830 to 29-835 from a court of record if any person refuses to allow the department to inspect pursuant to this subsection.

(2) In addition to its authority provided in subsection (1) of this section, the department may contract with any political subdivision or state agency it deems qualified to conduct any or all regulatory functions authorized pursuant to the act except those functions relating to the issuance, suspension, or revocation of permits or any order of probation. Holders of permits issued pursuant to the act who are regularly inspected by political subdivisions under contract with the department shall be exempt from the inspection fees prescribed in section

81-2,270 if such holders pay license or inspection fees to the political subdivision performing the inspections.

(3) It shall be the responsibility of the regulatory authority to inspect food establishments and food processing plants as often as required by the act. An inspection of a salvage operation shall be performed at least once every three hundred sixty-five days of operation. Additional inspections shall be performed as often as is necessary for the efficient and effective enforcement of the act.

(4) All inspections conducted pursuant to the act shall be performed by persons who are provisional environmental health specialists or registered environmental health specialists as defined in section 38-1305 or 38-1306.

(5) Duly authorized personnel of the regulatory authority after showing proper identification shall have access at all reasonable times to food establishments, food processing plants, or salvage operations required by the act to obtain a permit to perform authorized regulatory functions. Such functions shall include, but not be limited to, inspections, checking records maintained in the establishment or other locations to obtain information pertaining to food and supplies purchased, received, used, sold, or distributed, copying and photographing violative conditions, and examining and sampling food. When samples are taken, the inspectors shall pay or offer to pay for samples taken. The authorized personnel shall also have access to the records of salvage operations pertaining to distressed salvageable and salvaged merchandise purchased, received, used, sold, or distributed.

(6) Regulatory activities performed by a political subdivision or state agency under contract shall conform with the provisions of the act and such activities shall have the same effect as those performed by the department. Any interference with the regulatory authority's duty to inspect shall be an interference with the department's duties for the purposes of section 81-2,273.

Source: Laws 1981, LB 487, § 31; Laws 1991, LB 703, § 66; R.S.1943, (1987), § 81-216.27; Laws 1991, LB 358, § 50; Laws 1997, LB 199, § 58; Laws 1999, LB 474, § 16; Laws 2007, LB463, § 1311; Laws 2017, LB134, § 11.
Effective date August 24, 2017.

81-2,288 Department; adopt rules and regulations; contracts with federal agencies authorized; exemptions from act.

(1) The department may adopt and promulgate rules and regulations to aid in the administration and enforcement of the Nebraska Pure Food Act.

(2) The department may adopt and promulgate rules and regulations to provide for source labeling on eggs which are packaged. The department may establish standards, grades, and weight classes for eggs.

(3) The department may contract with agencies of the federal government for the performance by the department of inspections and other regulatory functions at food establishments, food processing plants, or salvage operations within the state which are subject to federal jurisdiction and may receive federal funds for work performed under such contracts.

(4) Except as provided in subsection (3) of this section, the provisions of the act shall not apply to establishments or specific portions of establishments

regularly inspected for proper sanitation by an agency of the federal government.

Source: Laws 1981, LB 487, § 38; R.S.1943, (1987), § 81-216.34; Laws 1991, LB 358, § 57; Laws 1997, LB 199, § 60; Laws 2017, LB134, § 12.
Effective date August 24, 2017.

ARTICLE 4

DEPARTMENT OF LABOR

Section

- 81-402. Repealed. Laws 2017, LB172, § 89.
81-405. Mechanical Safety Inspection Fund; created; use; investment.
81-406. Contractor and Professional Employer Organization Registration Cash Fund; created; use; investment.

81-402 Repealed. Laws 2017, LB172, § 89.
Operative date January 1, 2018.

81-405 Mechanical Safety Inspection Fund; created; use; investment.

The Mechanical Safety Inspection Fund is created. All fees collected by the Department of Labor pursuant to the Nebraska Amusement Ride Act and the Conveyance Safety Act shall be remitted to the State Treasurer for credit to the Mechanical Safety Inspection Fund. Fees so collected shall be used for administering the provisions of the Nebraska Amusement Ride Act and the Conveyance Safety Act. Any money in the Mechanical Safety Inspection Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. Money in the Mechanical Safety Inspection Fund may be transferred to the General Fund at the direction of the Legislature.

The State Treasurer shall transfer one hundred fifty thousand dollars from the Mechanical Safety Inspection Fund to the General Fund on or before June 15, 2018, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

Source: Laws 2007, LB265, § 24; Laws 2017, LB331, § 46.
Effective date May 16, 2017.

Cross References

Conveyance Safety Act, see section 48-2501.
Nebraska Amusement Ride Act, see section 48-1801.
Nebraska Capital Expansion Act, see section 72-1269.
Nebraska State Funds Investment Act, see section 72-1260.

81-406 Contractor and Professional Employer Organization Registration Cash Fund; created; use; investment.

The Contractor and Professional Employer Organization Registration Cash Fund is created. The fund shall be administered by the Department of Labor and shall consist of fees collected by the department pursuant to the Farm Labor Contractors Act, the Contractor Registration Act, and the Professional Employer Organization Registration Act and such sums as are appropriated to the fund by the Legislature. The fund shall be used for enforcing and administering the Farm Labor Contractors Act, the Contractor Registration Act, the

Employee Classification Act, and the Professional Employer Organization Registration 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. Money in the Contractor and Professional Employer Organization Registration Cash Fund may be transferred to the General Fund at the direction of the Legislature.

The State Treasurer shall transfer one million seven hundred thousand dollars from the Contractor and Professional Employer Organization Registration Cash Fund to the General Fund on or before June 15, 2018, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

Source: Laws 2016, LB270, § 1; Laws 2017, LB331, § 47.
Effective date May 16, 2017.

Cross References

Contractor Registration Act, see section 48-2101.
Employee Classification Act, see section 48-2901.
Farm Labor Contractors Act, see section 48-1701.
Nebraska Capital Expansion Act, see section 72-1269.
Nebraska State Funds Investment Act, see section 72-1260.
Professional Employer Organization Registration Act, see section 48-2701.

ARTICLE 5

STATE FIRE MARSHAL

(b) GENERAL PROVISIONS

Section

- 81-513. Repealed. Laws 2017, LB371, § 3.
- 81-514. Repealed. Laws 2017, LB371, § 3.
- 81-515. Repealed. Laws 2017, LB371, § 3.
- 81-516. Repealed. Laws 2017, LB371, § 3.
- 81-517. Repealed. Laws 2017, LB371, § 3.
- 81-518. Repealed. Laws 2017, LB371, § 3.
- 81-519. Repealed. Laws 2017, LB371, § 3.
- 81-526. State Fire Marshal; investigations; duty of county attorney to act.

(b) GENERAL PROVISIONS

81-513 Repealed. Laws 2017, LB371, § 3.

81-514 Repealed. Laws 2017, LB371, § 3.

81-515 Repealed. Laws 2017, LB371, § 3.

81-516 Repealed. Laws 2017, LB371, § 3.

81-517 Repealed. Laws 2017, LB371, § 3.

81-518 Repealed. Laws 2017, LB371, § 3.

81-519 Repealed. Laws 2017, LB371, § 3.

81-526 State Fire Marshal; investigations; duty of county attorney to act.

The county attorney of any county, upon request of the State Fire Marshal, or his or her deputies or assistants, shall (1) assist such officers in the investigation of any fire which, in their opinion, is of suspicious origin and (2) act as attorney for such officers in all court proceedings in connection with the enforcement of

the Petroleum Products and Hazardous Substances Storage and Handling Act when, in the exercise of a reasonable discretion, the county attorney shall determine that the evidence is sufficient to justify the bringing of such court proceedings.

Source: Laws 1925, c. 183, § 25, p. 489; C.S.1929, § 81-5525; R.S.1943, § 81-526; Laws 1945, c. 228, § 1, p. 675; Laws 1986, LB 217, § 13; Laws 2017, LB371, § 1.
Effective date August 24, 2017.

Cross References

Petroleum Products and Hazardous Substances Storage and Handling Act, see section 81-15,117.

ARTICLE 6

HEALTH AND HUMAN SERVICES

(h) RESEARCH GRANTS

Section

81-638. Cancer and smoking disease research; appropriation; distribution; contracts; requirements.

(h) RESEARCH GRANTS

81-638 Cancer and smoking disease research; appropriation; distribution; contracts; requirements.

(1) Subject to subsection (4) of this section, the Legislature shall appropriate for each year from the Health and Human Services Cash Fund to the department an amount derived from one cent of the cigarette tax imposed by section 77-2602, less any amount appropriated from the fund specifically to the University of Nebraska Eppley Institute for Research in Cancer and Allied Diseases. The department shall, after deducting expenses incurred in the administration of such funds, distribute such funds exclusively for grants and contracts for research of cancer and smoking diseases, for funding the cancer registry prescribed in sections 81-642 to 81-650, and for associated expenses due to the establishment and maintenance of such cancer registry. Not more than two hundred thousand dollars shall be appropriated for funding the cancer registry and associated expenses. The University of Nebraska may receive such grants and contracts, and other postsecondary institutions having colleges of medicine located in the State of Nebraska may receive such contracts.

(2) Subject to subsection (4) of this section, the Legislature shall appropriate for each year from the Health and Human Services Cash Fund to the department for cancer research an amount derived from two cents of the cigarette tax imposed by section 77-2602 to be used exclusively for grants and contracts for research on cancer and smoking diseases. No amount shall be appropriated or used pursuant to this subsection for the operation and associated expenses of the cancer registry. Not more than one-half of the funds appropriated pursuant to this subsection shall be distributed to the University of Nebraska Medical Center for research in cancer and allied diseases and the University of Nebraska Eppley Institute for Research in Cancer and Allied Diseases. The remaining funds available pursuant to this subsection shall be distributed for contracts with other postsecondary educational institutions having colleges of medicine

located in Nebraska which have cancer research programs for the purpose of conducting research in cancer and allied diseases.

(3) Any contract between the department and another postsecondary educational institution for cancer research under subsection (2) of this section shall provide that:

(a) Any money appropriated for such contract shall only be used for cancer research and shall not be used to support any other program in the institution;

(b) Full and detailed reporting of the expenditure of all funds under the contract is required. The report shall include, but not be limited to, separate accounting for personal services, equipment purchases or leases, and supplies. Such reports shall be made available electronically to the Legislature; and

(c) No money appropriated for such contract shall be spent for travel, building construction, or any other purpose not directly related to the research that is the subject of the contract.

(4) The State Treasurer shall transfer seven million dollars from the Health and Human Services Cash Fund to the General Fund on or before June 30, 2018, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services. It is the intent of the Legislature that the transfer to the General Fund in this subsection be from funds credited to the Cancer Research subfund of the Health and Human Services Cash Fund which were in excess of appropriations established in subsections (1) and (2) of this section.

Source: Laws 1981, LB 506, § 2; Laws 1983, LB 192, § 2; Laws 1986, LB 258, § 33; Laws 1986, LB 925, § 1; Laws 1991, LB 703, § 67; Laws 1993, LB 595, § 3; Laws 1996, LB 1044, § 847; Laws 2007, LB296, § 736; Laws 2012, LB782, § 167; Laws 2017, LB331, § 48.
Effective date May 16, 2017.

ARTICLE 7

DEPARTMENT OF TRANSPORTATION

(a) GENERAL POWERS

Section

- 81-701.01. Department of Transportation; Director-State Engineer; control, management, supervision, administration.
- 81-701.02. Director-State Engineer; powers; duties.
- 81-701.03. Department of Transportation; assume highway safety program of Department of Motor Vehicles; reference to Department of Roads in contracts or other documents; actions and proceedings; how treated; provisions of law; how construed.
- 81-701.04. Department of Transportation; fees; deposited with State Treasurer; credited to Highway Cash Fund.
- 81-701.05. Nebraska Railway Council agreement with railroad; oversight.

(d) STATE WAYSIDE AREAS

- 81-710. State wayside areas; powers and duties of department; rules and regulations; contracts authorized.

(a) GENERAL POWERS

81-701.01 Department of Transportation; Director-State Engineer; control, management, supervision, administration.

The Director-State Engineer shall have full control, management, supervision, administration, and direction of the Department of Transportation. All powers and duties lawfully conferred upon the department shall be exercised under the direction of the Director-State Engineer.

Source: Laws 1955, c. 338, § 1, p. 1050; Laws 1957, c. 365, § 11, p. 1238; Laws 2017, LB339, § 276.
Operative date July 1, 2017.

81-701.02 Director-State Engineer; powers; duties.

The Director-State Engineer, for the Department of Transportation, shall:

- (1) Have charge of the records of the department;
- (2) Cause accurate and complete books of account to be kept;
- (3) Supervise the signing of vouchers and orders for supplies, materials, and any other expenditures;
- (4) Contract for consulting services;
- (5) Employ all engineers, assistants, clerks, agents, and other employees required for the proper transaction of the business of the office or of the department and fix their titles, determine their duties and compensation, and discharge them in his or her discretion; and
- (6) Sign and execute or supervise the signing and executing of all documents and papers, including contracts and agreements for highway construction and the purchase of machinery, materials, and supplies.

Source: Laws 1955, c. 338, § 2, p. 1050; Laws 1957, c. 365, § 12, p. 1238; Laws 2017, LB339, § 277.
Operative date July 1, 2017.

Cross References

Geographic Information Systems Council, member of, see section 86-570.

Salary, see section 81-103.

State Emergency Response Commission, member of, see section 81-15,210.

State Highway Commission, member of, see section 39-1101.

81-701.03 Department of Transportation; assume highway safety program of Department of Motor Vehicles; reference to Department of Roads in contracts or other documents; actions and proceedings; how treated; provisions of law; how construed.

(1) The Department of Transportation shall assume responsibility for the powers and duties of the highway safety program of the Department of Motor Vehicles, except that the Department of Motor Vehicles shall retain jurisdiction over the Motorcycle Safety Education Act.

(2) On and after July 1, 2017, whenever the Department of Roads is referred to or designated by any contract or other document in connection with the duties and functions of the Department of Transportation, such reference or designation shall apply to the Department of Transportation. All contracts entered into by the Department of Roads prior to July 1, 2017, are hereby recognized, with the Department of Transportation retaining all rights and obligations under such contracts. Any cash funds, custodial funds, gifts, trusts, grants, and any appropriations of funds from prior fiscal years available to satisfy obligations incurred under such contracts shall be appropriated to the Department of Transportation for the payments of such obligations. All docu-

ments and records transferred, or copies of the same, may be authenticated or certified by the Department of Transportation for all legal purposes.

(3) No suit, action, or other proceeding, judicial or administrative, lawfully commenced prior to July 1, 2017, or which could have been commenced prior to that date, by or against the Department of Roads, or the Director-State Engineer or any employee thereof in such Director-State Engineer's or employee's official capacity or in relation to the discharge of his or her official duties, shall abate by reason of the change of name of the Department of Roads to the Department of Transportation.

(4) On and after July 1, 2017, unless otherwise specified, whenever any provision of law refers to the Department of Roads in connection with duties and functions of the Department of Transportation, such law shall be construed as referring to the Department of Transportation.

Source: Laws 2009, LB219, § 2; Laws 2017, LB339, § 278.
Operative date July 1, 2017.

Cross References

Motorecycle Safety Education Act, see section 60-2120.

81-701.04 Department of Transportation; fees; deposited with State Treasurer; credited to Highway Cash Fund.

There shall be paid to the Department of Transportation in advance for the services of the department, or any officer or employee thereof by the party demanding or necessitating the service, the following fees: For typing a transcript or copy of any instrument recorded or filed in any office of the department, fifteen cents for each one hundred words; for blueprint copy of any map or drawing, or photostatic copy of any record, a reasonable sum to be fixed by the department in an amount estimated to cover the actual cost of preparing such a reproduction; for other copies of drawing, two dollars per hour for the time actually employed; and for certificate and seal, one dollar. The Director-State Engineer shall keep a record of all fees received. Such fees shall be currently deposited with the State Treasurer by the Director-State Engineer for the use of the Highway Cash Fund and the Director-State Engineer shall take his or her receipt therefor and file the same with the records of his or her office.

Source: Laws 1957, c. 365, § 23, p. 1241; Laws 1961, c. 181, § 12, p. 543;
Laws 2017, LB339, § 279.
Operative date July 1, 2017.

Cross References

For other provisions for fees, see section 25-1280.

81-701.05 Nebraska Railway Council agreement with railroad; oversight.

The Department of Transportation 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; Laws 2017, LB339, § 280.
Operative date July 1, 2017.

(d) STATE WAYSIDE AREAS

81-710 State wayside areas; powers and duties of department; rules and regulations; contracts authorized.

The Department of Transportation shall establish, operate, and maintain state wayside areas. Pursuant to the Administrative Procedure Act, the department may adopt and promulgate rules and regulations necessary to govern the use of state wayside areas and may establish fees for services, including overnight camping.

The department may contract with public or private entities for the operation and maintenance of state wayside areas.

If the department determines that an area is no longer suited or needed as a state wayside area, the department may close such area or any part thereof and declare such area or facilities as surplus. The department shall offer to convey the surplus land or facilities to all local political subdivisions in the vicinity, and if such offers are rejected, the department may sell such lands and facilities.

Source: Laws 1983, LB 610, § 7; Laws 2014, LB757, § 2; Laws 2017, LB339, § 281.

Operative date July 1, 2017.

Cross References

Administrative Procedure Act, see section 84-920.

ARTICLE 8

INDEPENDENT BOARDS AND COMMISSIONS

(g) REAL ESTATE COMMISSION

Section

- 81-885.13. License; conditions for issuance; enumerated; examination; fingerprinting; criminal history record information check; courses of study.
- 81-885.15. Fees; deposited in State Real Estate Commission's Fund; investment.
- 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.
- 81-885.21. Broker; separate trust account; notify commission where maintained; examination by representative of commission; exemption.
- 81-885.24. Commission; investigative powers; disciplinary powers; civil fine; violations of unfair trade practices.

(i) LAND SURVEYING

- 81-8,122.01. Land survey; filing; contents.

(p) TORT CLAIMS, STATE CLAIMS BOARD, AND RISK MANAGEMENT PROGRAM

- 81-8,219. State Tort Claims Act; claims exempt.

(y) NEBRASKA SESQUICENTENNIAL COMMISSION

- 81-8,310. Nebraska Sesquicentennial Commission; duties; powers; report.

(g) REAL ESTATE COMMISSION

81-885.13 License; conditions for issuance; enumerated; examination; fingerprinting; criminal history record information check; courses of study.

(1) No broker's or salesperson's license shall be issued to any person who has not attained the age of nineteen years. No broker's or salesperson's license shall

be issued to any person who is not a high school graduate or the holder of a certificate of high school equivalency.

(2) Each applicant for a salesperson's license shall furnish evidence that he or she has completed two courses in real estate subjects, approved by the commission, composed of not less than sixty class hours of study or, in lieu thereof, courses delivered in a distance education format approved by the commission.

(3) Each applicant for a broker's license shall either (a) have first served actively for two years as a licensed salesperson or broker and shall furnish evidence of completion of sixty class hours in addition to the hours required by subsection (2) of this section in a course of study approved by the commission or, in lieu thereof, courses delivered in a distance education format approved by the commission, or (b) furnish a certificate that he or she has passed a course of at least eighteen credit hours in subjects related to real estate at an accredited university or college, or completed six courses in real estate subjects composed of not less than one hundred eighty class hours in a course of study approved by the commission or, in lieu thereof, courses delivered in a distance education format approved by the commission.

(4) Each applicant for a broker's license must pass a written examination covering generally the matters confronting real estate brokers, and each applicant for a salesperson's license must pass a written examination covering generally the matters confronting real estate salespersons. Such examination may be taken before the commission or any person designated by the commission. Failure to pass the examination shall be grounds for denial of a license without further hearing. Within thirty days after passing the examination the applicant must complete all requirements necessary for the issuance of a license. The commission may prepare and distribute to licensees under the Nebraska Real Estate License Act informational material deemed of assistance in the conduct of their business.

(5) An applicant for an original broker's or salesperson's license shall be subject to fingerprinting and a check of his or her criminal history record information maintained by the Federal Bureau of Investigation through the Nebraska State Patrol. After filing application for a license, each applicant shall furnish directly to the Nebraska State Patrol, or to a fingerprint processing service that may be selected by the commission for this purpose, a full set of fingerprints to enable a criminal background investigation to be conducted. The applicant shall request that the Nebraska State Patrol submit the fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The applicant shall pay the actual cost, if any, of the fingerprinting and check of his or her criminal history record information. The applicant shall authorize release of the national criminal history record check to the commission.

(6) Courses of study, referred to in subsections (2) and (3) of this section, shall include courses offered by private proprietary real estate schools when such courses are prescribed by the commission and are taught by instructors approved by the commission. The commission shall monitor schools offering approved real estate courses and for good cause shall have authority to suspend or withdraw approval of such courses or instructors.

Source: Laws 1973, LB 68, § 13; Laws 1973, LB 580, § 1; Laws 1978, LB 361, § 6; Laws 1980, LB 936, § 1; Laws 1983, LB 182, § 12;

Laws 2002, LB 863, § 14; Laws 2003, LB 60, § 1; Laws 2014, LB687, § 2; Laws 2017, LB16, § 1.
Operative date August 24, 2017.

81-885.15 Fees; deposited in State Real Estate Commission's Fund; investment.

All fees collected under the Nebraska Real Estate License Act shall be deposited in the state treasury in a fund to be known as the State Real Estate Commission's Fund. The commission may use such part of the money in this fund as is necessary to be used by it in the administration and enforcement of the act. Transfers may be made from the fund to the General Fund at the direction of the Legislature through June 30, 2019. The State Real Estate Commission's Fund shall be paid out only upon proper vouchers and upon warrants issued by the Director of Administrative Services and countersigned by the State Treasurer, as provided by law. The expenses of conducting the office must always be kept within the income collected and deposited with the State Treasurer by such commission and such office, and the expense thereof shall not be supported or paid from any other state fund. Any money in the State Real Estate Commission's 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 two hundred thousand dollars from the State Real Estate Commission's Fund to the General Fund on or before June 30, 2018, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services. The State Treasurer shall transfer two hundred thousand dollars from the State Real Estate Commission's Fund to the General Fund on or before June 30, 2019, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

Source: Laws 1973, LB 68, § 15; Laws 1983, LB 182, § 14; Laws 2009, LB30, § 6; Laws 2009, First Spec. Sess., LB3, § 68; Laws 2017, LB331, § 49.
Effective date May 16, 2017.

Cross References

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

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 a nonresident applicant, he or she shall: (a) File with the commission a duly certified copy of the license issued to the applicant by his or her resident regulatory jurisdiction or provide verification of such licensure to the commission; (b) pay to the commission the nonresident license fee as provided in section 81-885.14 for the obtaining of a broker's or salesperson's license; and (c) provide to the commission adequate proof of completion of a three-hour class approved by the commission specific to the Nebraska Real Estate License Act and sections 76-2401 to 76-2430.

(4) An applicant for an original nonresident broker's or salesperson's license shall be subject to fingerprinting and a check of his or her criminal history record information maintained by the Federal Bureau of Investigation through the Nebraska State Patrol. After filing application for a license, each applicant shall furnish directly to the Nebraska State Patrol, or to a fingerprint processing service that may be selected by the commission for this purpose, a full set of fingerprints to enable a criminal background investigation to be conducted. The applicant shall request that the Nebraska State Patrol submit the fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The applicant shall pay the actual cost, if any, of the fingerprinting and check of his or her criminal history record information. The applicant shall authorize release of the national criminal history record check to the commission.

(5) Nothing in this section shall preclude the commission from entering into reciprocal agreements with other regulatory jurisdictions when such agreements are necessary to provide Nebraska residents authority to secure licenses in other regulatory jurisdictions.

(6) Nonresident licenses granted as provided in this section shall remain in force for only as long as the requirements of issuing and maintaining a license are met unless (a) suspended or revoked by the commission for just cause or (b) lapsed for failure to pay the annual renewal fee.

(7) Prior to the issuance of any license to a nonresident applicant, he or she shall file an affidavit with the commission certifying that the applicant has reviewed and is familiar with the Nebraska Real Estate License Act and the rules and regulations of the commission and agrees to be bound by the act, rules, and regulations.

Source: Laws 1973, LB 68, § 17; Laws 1980, LB 936, § 3; Laws 1983, LB 182, § 15; Laws 1983, LB 447, § 95; Laws 1990, LB 350, § 7; Laws 2002, LB 863, § 15; Laws 2003, LB 60, § 2; Laws 2006, LB

819, § 2; Laws 2008, LB715, § 1; Laws 2011, LB25, § 16; Laws 2014, LB687, § 3; Laws 2017, LB16, § 2.
Operative date August 24, 2017.

81-885.19 License; form; broker's branch office; license; fee.

(1) The commission shall prescribe the forms of brokers' and salespersons' licenses.

(2) If a broker maintains more than one place of business within the state, he or she shall obtain a branch office license for each branch office so maintained by him or her. The commission shall issue a branch office license upon the payment of an annual fee to be established by the commission of not more than fifty dollars per license. The broker or an associate broker shall be the manager of a branch office.

(3) The commission shall provide for verification of the current status of licenses electronically or by other means readily available to the public.

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; Laws 2017, LB16, § 3.

Operative date August 24, 2017.

81-885.21 Broker; separate trust account; notify commission where maintained; examination by representative of commission; exemption.

(1) Except as provided in subsection (7) of this section, 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. Such trust account may be either an interest-bearing or a non-interest-bearing account. Any broker using an interest-bearing account shall comply with subsection (6) of this section.

(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) If the trust account is an interest-bearing account, as authorized under subsection (1) of this section, the interest from the interest-bearing account may

be distributed or otherwise accrue only to nonprofit organizations that promote housing in Nebraska and that are exempt from the payment of federal income taxes. A broker may use an interest-bearing account for a transaction only if the use of such account for purposes of promoting housing in Nebraska has been approved by all parties whose money will be deposited into such account. The commission may further define policies and procedures for the processing of and distributions from interest-bearing trust accounts by rule and regulation.

(7) The commission may adopt and promulgate rules and regulations to exempt active brokers who have no trust account activity and no anticipated trust account activity from the trust account requirements of this section.

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; Laws 2013, LB72, § 1; Laws 2017, LB16, § 4.
Operative date March 30, 2017.

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;

(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;

(31) Failing by a team leader to provide a current list of all team members to his or her designated broker;

(32) Failing by a designated broker to maintain a record of all team leaders and team members working under him or her;

(33) Utilizing advertising which does not prominently display the name under which the designated broker does business as filed with the commission;

(34) Utilizing team advertising or a team name suggesting the team is an independent real estate brokerage; or

(35) Charging or collecting, as part or all of his or her compensation or consideration, 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 until the transaction has been consummated or terminated. However, a payment for goods or services rendered by a third party on behalf of the client shall not be considered compensation or consideration if such payment does not include any profit, compensation, or payment for services rendered by the broker and the broker retains a record of the payment to the third party for such goods or services.

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; Laws 2016, LB678, § 4; Laws 2017, LB16, § 5.
Operative date August 24, 2017.

(i) LAND SURVEYING

81-8,122.01 Land survey; filing; contents.

Whenever a survey has been executed by a land surveyor who is registered under the Land Surveyors Regulation Act, a record of such survey bearing the signature and seal of the land surveyor shall be filed in the survey record repository established pursuant to section 84-412 if such survey meets applicable regulations. Surveys which are within the corporate limits of a city with a population in excess of fifteen thousand inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census and do not reference, recover, retrace, or reestablish the original government corners or lines or do not create a new subdivision are not required to be filed in the survey record repository but shall be filed in the county surveyor's office in the county where the land is located if they meet applicable regulations. If no regular office is maintained in the county courthouse for the county surveyor, it shall be filed in the survey record repository. The record of survey shall be filed within ninety days after the completion of the survey, or within any extension of time granted by the office in which it is required to be filed for reasonable cause, and shall consist of the following minimum data: (1) Plat of the tract surveyed; (2) legal description of the tract surveyed; (3) description of all corners found; (4) description of all corners set; (5) ties to any section corners, quarter corners, or quarter-quarter corners found or set; (6) plat or record distances as well as field measurements; and (7) date of completion of survey. The record of survey so filed shall become an official record of survey, and shall be presumptive evidence of the facts stated therein, unless the land surveyor filing the survey shall be interested in the same. Plats or maps which are prepared only for the purpose of showing the location of improvements on existing lots, which are not represented as surveys or land surveys and no corners are established or reestablished, shall be specifically exempt from all requirements of this section.

Source: Laws 1969, c. 764, § 1, p. 2893; Laws 1982, LB 127, § 11; Laws 2015, LB138, § 14; Laws 2017, LB113, § 56.
Effective date August 24, 2017.

(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 except when such title is issued upon an application filed electronically by an approved licensed dealer participating in the electronic dealer services system pursuant to section 60-1507;

(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; Laws 2017, LB263, § 99.

Operative date August 24, 2017.

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.

(y) **NEBRASKA SESQUICENTENNIAL COMMISSION**

81-8,310 Nebraska Sesquicentennial Commission; duties; powers; report.

(1) The Nebraska Sesquicentennial Commission shall develop programs and plans for official observance of the one hundred fiftieth anniversary of Nebraska statehood in 2017. The commission shall work closely with various state agencies, boards, commissions, and political subdivisions, including the State Department of Education, the Department of Transportation, the Nebraska State Historical Society, the Nebraska State Fair Board, the Game and Parks Commission, and the Nebraska Tourism Commission, to execute commemorative events and to implement educational activities with emphasis on events and activities that promote Nebraska and its economy by focusing on the state's history, cultural diversity, and unique geography. The commission may also seek the guidance and support of any other groups or organizations the commission deems necessary or helpful in fulfilling its purpose.

(2) The commission may employ personnel, contract for services, and receive, expend, and allocate gifts, grants, and donations to aid in the performance of its duties. The commission is empowered to expend and allocate any appropriations authorized by the Legislature to carry out the purposes of sections 81-8,309 and 81-8,310.

(3) The commission shall expend and allocate at least five percent of the money in the Nebraska 150 Sesquicentennial Plate Proceeds Fund on January 1, 2017, for awarding one or more grants to any person who applies to the commission for support for a local sesquicentennial event or project according to standards and guidelines determined by the commission.

(4) The commission shall report electronically to the Legislature on or before July 1 in 2016, 2017, and 2018 detailing the expenditures made from the fund pursuant to this section.

Source: Laws 2014, LB744, § 2; Laws 2015, LB220, § 10; Laws 2017, LB339, § 282.

Operative date July 1, 2017.

ARTICLE 9

STATE COOPERATION WITH FEDERAL GOVERNMENT

Section

81-916. Property and assets relating to surplus and excess property programs; transferred to Department of Correctional Services; when.

81-917. Surplus and excess property program; employees of Department of Transportation; transferred to Department of Correctional Services; conditions; benefits.

81-916 Property and assets relating to surplus and excess property programs; transferred to Department of Correctional Services; when.

Effective July 1, 1982, all property, assets, and liabilities relating to those federal surplus and excess property programs which are consolidated by Public Law 94-519 and operated by the Department of Transportation shall be transferred to the Department of Correctional Services.

Source: Laws 1977, LB 548, § 4; Laws 1981, LB 536, § 4; Laws 1982, LB 767, § 4; Laws 2017, LB339, § 283.
Operative date July 1, 2017.

81-917 Surplus and excess property program; employees of Department of Transportation; transferred to Department of Correctional Services; conditions; benefits.

All employees employed in those federal surplus and excess property programs which are consolidated by Public Law 94-519 and have been transferred to the Department of Transportation may be transferred to the Department of Correctional Services. All employees so transferred shall be: (1) Employed under and compensated through the State Personnel System; and (2) considered as new employees solely for purposes of performance evaluation and subject to all applicable policies and procedures for such transfer. All employees so transferred shall keep all accrued benefits such as sick leave, vacation leave, and retirement benefits after such transfer has been completed.

Source: Laws 1977, LB 548, § 11; Laws 1981, LB 536, § 5; Laws 1982, LB 767, § 5; Laws 2017, LB339, § 284.
Operative date July 1, 2017.

ARTICLE 11**DEPARTMENT OF ADMINISTRATIVE SERVICES**

(a) GENERAL PROVISIONS

Section	
81-1108.05.	Shared Services Revolving Fund; created; use; investment.
81-1108.15.	State building division; functions and responsibilities; facilities planning, construction, and administration.
81-1108.22.	State building division; responsibility; office space outside the State Capitol; rental; approval; required; lease contract; filed; administrator; duties; State Building Revolving Fund; created; use; investment; applicability of section, when.
81-1108.43.	Capital construction project; prohibited acts; exceptions; warrant; when issued.
81-1110.07.	Accounting Division Cash Fund; created; use; investment.
81-1114.	Department of Administrative Services; building division; powers, duties, and responsibilities.
81-1118.	Materiel division; established; duties; administrator; branches; established.
81-1119.	Real property; purchases authorized.
81-1120.22.	Director of Communications; develop system of billings and charges; payment; deposit.
81-1120.23.	Repealed. Laws 2017, LB3, § 3.

(a) GENERAL PROVISIONS

81-1108.05 Shared Services Revolving Fund; created; use; investment.

There is hereby created the Shared Services Revolving Fund. The fund shall be administered by the Department of Administrative Services. The fund shall

consist of money received from state agencies, boards, commissions, political subdivisions, and other governmental entities for shared services provided by the department. Shared services include, but are not limited to, human resource management including payroll processing, process improvement projects, and financial services. Billings for shared services shall be adequate to cover actual and necessary expenses associated with providing these services. The fund shall be used to pay for the administrative expenses incurred by the department to provide such services. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 2017, LB331, § 12.

Effective date May 16, 2017.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-1108.15 State building division; functions and responsibilities; facilities planning, construction, and administration.

(1) Except as provided in the Nebraska State Capitol Preservation and Restoration Act, the division shall have the primary functions and responsibilities of statewide facilities planning, facilities construction, and facilities administration and shall adopt and promulgate rules and regulations to carry out this section.

(2) Facilities planning shall include the following responsibilities and duties:

(a) To maintain utilization records of all state-owned, state-occupied, and vacant facilities;

(b) To coordinate comprehensive capital facilities planning;

(c) To define and review program statements based on space utilization standards;

(d) To prepare or review planning and construction documents;

(e) To develop and maintain time-cost schedules for capital construction projects;

(f) To assist the Governor and the Legislative Fiscal Analyst in the preparation of the capital construction budget recommendations;

(g) To maintain a complete inventory of all state-owned, state-occupied, and vacant sites and structures and to review the proposals for naming such sites and structures;

(h) To determine space needs of all state agencies and establish space-allocation standards; and

(i) To cause a state comprehensive capital facilities plan to be developed.

(3) Facilities construction shall include the following powers and duties:

(a) To maintain close contact with and conduct inspections of each project so as to assure execution of time-cost schedules and efficient contract performance if such project's total design and construction cost is equal to or greater than the project cost set by subdivision (1)(a) of section 81-1108.43 as adjusted by subsection (2) of section 81-1108.43;

(b) To perform final acceptance inspections and evaluations; and

(c) To coordinate all change or modification orders and progress payment orders.

(4) Facilities administration shall include the following powers and duties:

(a) To serve as state leasing administrator or agent for all facilities to be leased for use by the state and for all state-owned facilities to be rented to state agencies or other parties subject to section 81-1108.22. The division shall remit the proceeds from any rentals of state-owned facilities to the State Treasurer for credit to the State Building Revolving Fund and the State Building Renewal Assessment Fund;

(b) To provide all maintenance, repairs, custodial duties, security, and administration for all buildings and grounds owned or leased by the State of Nebraska except as provided in subsections (5) and (6) of this section;

(c) To be responsible for adequate parking and the designation of parking stalls or spaces, including access aisles, in offstreet parking facilities for the exclusive use of handicapped or disabled or temporarily handicapped or disabled persons pursuant to section 18-1737;

(d) To ensure that all state-owned, state-occupied, and vacant facilities are maintained or utilized to their maximum capacity or to dispose of such facilities through lease, sale, or demolition;

(e) To submit electronically an annual report to the Appropriations Committee of the Legislature and the Committee on Building Maintenance regarding the amount of property leased by the state and the availability of state-owned property for the needs of state agencies;

(f) To report monthly time-cost data on projects to the Governor and the Clerk of the Legislature. The report submitted to the Clerk of the Legislature shall be submitted electronically;

(g) To administer the State Emergency Capital Construction Contingency Fund;

(h) To submit status reports to the Governor and the Legislative Fiscal Analyst after each quarter of a construction project is completed detailing change orders and expenditures to date. The report submitted to the Legislative Fiscal Analyst shall be submitted electronically. Such reports shall be required on all projects costing an amount equal to or greater than the amount set forth in subdivision (1)(a) of section 81-1108.43 as adjusted by subsection (2) of section 81-1108.43 and on such other projects as may be designated by the division; and

(i) To submit a final report on each project to the Governor and the Legislative Fiscal Analyst. The report submitted to the Legislative Fiscal Analyst shall be submitted electronically. Such report shall include, but not be limited to, a comparison of final costs and appropriations made for the project, change orders, and modifications and whether the construction complied with the related approved program statement. Such reports shall be required on all projects costing an amount equal to or greater than the amount set forth in subdivision (1)(a) of section 81-1108.43 as adjusted by subsection (2) of section 81-1108.43 and on such other projects as may be designated by the division.

(5) Subdivisions (4)(b), (c), and (d) of this section shall not apply to (a) state-owned facilities to be rented to state agencies or other parties by the University of Nebraska, the Nebraska state colleges, the Department of Transportation, and the Board of Educational Lands and Funds, (b) buildings and grounds

owned or leased for use by the University of Nebraska, the Nebraska state colleges, and the Board of Educational Lands and Funds, (c) buildings and grounds owned, leased, or operated by the Department of Correctional Services, (d) facilities to be leased for nonoffice use by the Department of Transportation, (e) buildings or grounds owned or leased by the Game and Parks Commission if the application of such subdivisions to the buildings or grounds would result in ineligibility for or repayment of federal funding, (f) buildings or grounds of the state park system, state recreation areas, state historical parks, state wildlife management areas, or state recreational trails, or (g) other buildings or grounds owned or leased by the State of Nebraska which are specifically exempted by the division because the application of such subdivisions would result in the ineligibility for federal funding or would result in hardship on an agency, board, or commission due to other exceptional or unusual circumstances, except that nothing in this subdivision shall prohibit the assessment of building rental depreciation charges to tenants of facilities owned by the state and under the direct control and maintenance of the division.

(6) Security for all buildings and grounds owned or leased by the State of Nebraska in Lincoln, Nebraska, except the buildings and grounds described in subsection (5) of this section, shall be the responsibility of the Nebraska State Patrol. The Nebraska State Patrol shall consult with the Governor, the Chief Justice, the Executive Board of the Legislative Council, and the State Capitol Administrator regarding security policy within the State Capitol and capitol grounds.

(7) Each member of the Legislature shall receive an electronic copy of the reports required by subdivisions (4)(f), (h), and (i) of this section by making a request for them to the State Building Administrator. The information on such reports shall be submitted to the division by the agency responsible for the project.

Source: Laws 1974, LB 1048, § 6; Laws 1976, LB 1006, § 9; Laws 1979, LB 322, § 47; Laws 1981, LB 381, § 19; Laws 1987, LB 32, § 2; Laws 1992, LB 1241, § 21; Laws 1995, LB 530, § 5; Laws 1998, LB 299, § 4; Laws 2000, LB 1216, § 25; Laws 2001, LB 666, § 2; Laws 2001, LB 809, § 10; Laws 2004, LB 439, § 18; Laws 2004, LB 1092, § 8; Laws 2012, LB782, § 180; Laws 2016, LB978, § 2; Laws 2017, LB320, § 4; Laws 2017, LB339, § 285.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB320, section 4, with LB339, section 285, to reflect all amendments.

Note: Changes made by LB339 became operative July 1, 2017. Changes made by LB320 became effective August 24, 2017.

Cross References

Nebraska State Capitol Preservation and Restoration Act, see section 72-2201.

81-1108.22 State building division; responsibility; office space outside the State Capitol; rental; approval; required; lease contract; filed; administrator; duties; State Building Revolving Fund; created; use; investment; applicability of section, when.

(1) The division shall have the responsibility of providing office space in leased and state-owned buildings in the proximity of the State Capitol and in other locations.

(2) When any board, agency, commission, or department of the state government not otherwise specifically authorized by law desires to use funds available for the purpose of renting office space outside of the State Capitol, it shall

submit a request to the Director of Administrative Services. If the director approves the lease, the terms and location shall be approved by the director and the administrator in writing and the leases shall be entered into and administered by the administrator on behalf of the board, agency, commission, or department. A copy of all such lease contracts shall be kept on file by the state building division and shall be open to inspection by the Legislature and the public during normal business hours.

(3)(a) The administrator shall develop a system of charges to cover basic rental, maintenance, renovations, and operation of such leased and owned properties. The charges to state agencies, boards, commissions, or departments of state government shall be paid from funds available for the purpose of renting space on a regular basis and placed, as applicable, in the State Building Revolving Fund and the State Building Renewal Assessment Fund. The administrator shall make payments for basic rentals, renovations, and maintenance and operational costs of all leased and owned buildings from the State Building Revolving Fund except for expenses relating to security provided by the Nebraska State Patrol as provided in subdivision (b) of this subsection.

(b) The State Building Revolving Fund is created. The fund shall be administered by the administrator. The fund shall consist of rental charges and other receipts collected pursuant to contractual agreements between the state building division and other entities as authorized by law. The fund shall only be used to support the operation of the state building division as provided by law, except that the Legislature shall make fund transfers each fiscal year through the budget process from the State Building Revolving Fund to the Capitol Security Revolving Fund to help pay non-general-fund costs associated with the operation of the state capitol security division of the Nebraska State Patrol. Any money in the State Building 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.

(4) The charges for such leased and owned properties shall only be adjusted by the administrator on July 1. Prior to any adjustment in the system of charges, the Department of Administrative Services, on or before December 1 of the year preceding the effective date of such adjustment, shall provide electronic notification to the Committee on Building Maintenance, the Clerk of the Legislature, and the Legislative Fiscal Analyst of the proposed adjustment to the system of charges.

(5) Commencing on April 18, 1992, all leases of real property entered into by any state agency, board, commission, or department shall be subject to this section. Leases held by a state agency, board, commission, or department on such date shall be valid until the lease contract is terminated or is subject to renewal. The division shall monitor all such leases and determine when the lease is subject to renewal. Once the determination is made, the division shall cancel the lease as of the renewal date and shall treat the need of the agency, board, commission, or department as an original request for space and subject to this section. This subsection shall not apply to (a) state-owned facilities to be rented to state agencies or other parties by the University of Nebraska, the Nebraska state colleges, the Department of Transportation, and the Board of Educational Lands and Funds, (b) facilities to be leased for use by the University of Nebraska, the Nebraska state colleges, and the Board of Educational Lands and Funds, (c) facilities to be leased for nonoffice use by the Department of Transportation, or (d) facilities controlled by the State Department of

Education, which were formerly controlled by the Nebraska School for the Visually Handicapped, to be rented to state agencies or other parties by the department.

Source: Laws 1961, c. 353, § 1, p. 1113; Laws 1963, c. 421, § 1, p. 1347; R.R.S.1943, § 72-701.08; Laws 1974, LB 1048, § 13; Laws 1975, LB 359, § 13; Laws 1979, LB 576, § 5; Laws 1992, LB 1241, § 23; Laws 1995, LB 530, § 11; Laws 1998, LB 1100, § 22; Laws 1999, LB 813, § 57; Laws 2004, LB 439, § 22; Laws 2004, LB 1092, § 9; Laws 2007, LB322, § 26; Laws 2012, LB782, § 181; Laws 2017, LB339, § 286.

Operative date July 1, 2017.

Cross References

Committee on Building Maintenance, see section 81-185.

Nebraska Capital Expansion Act, see section 72-1269.

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

81-1108.43 Capital construction project; prohibited acts; exceptions; warrant; when issued.

(1) No state agency or department shall:

(a) Perform for itself any of the services normally performed by a professional engineer or architect in the preparation of plans and specifications for the construction, reconstruction, or alteration of any building or in the administration of the construction documents and final approval of the project when the total project cost is four hundred thousand dollars or more; and

(b) Employ its own work force for any such construction, reconstruction, or alteration of capital facilities when the total project cost is fifty thousand dollars or more.

(2) The Department of Administrative Services shall adjust the dollar amounts in subsection (1) of this section every four years beginning January 1, 2002, to account for inflationary and market changes. The adjustments shall be based on percentage changes in a construction cost index and any other published index relevant to operations and utilities costs, as selected by the department.

(3) This section shall not apply to the Department of Transportation or to any public power district, public power and irrigation district, irrigation district, or metropolitan utilities district. If, during the program statement review provided for under section 81-1108.41, it is determined that existing or standard plans and specifications are available or required for the project, the division may authorize an exemption from this section. The Director of Administrative Services shall not issue any warrant in payment for any work on a capital construction project unless the state agency or department files a certificate that it has complied with the provisions of this section.

Source: Laws 1969, c. 772, § 6, p. 2924; R.R.S.1943, § 81-1108.08; Laws 1974, LB 1048, § 36; Laws 1979, LB 38, § 2; Laws 1995, LB 530, § 15; Laws 1997, LB 622, § 122; Laws 1998, LB 1129, § 21; Laws 2007, LB256, § 13; Laws 2016, LB978, § 3; Laws 2017, LB339, § 287.

Operative date July 1, 2017.

81-1110.07 Accounting Division Cash Fund; created; use; investment.

There is hereby created the Accounting Division Cash Fund. The fund shall be administered by the Department of Administrative Services. The fund shall consist of funds transferred from the State Building Renewal Assessment Fund and the Building Renewal Allocation Fund. The Accounting Division Cash Fund shall be used to finance the consolidation, implementation, operation, and migration of the state's existing enterprise resourcing planning (ERP) platform, the human resource management platform, an eProcurement platform, and other financial record-keeping platforms to an off-premise software driven platform or platforms. 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 2017, LB331, § 15.
Effective date May 16, 2017.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-1114 Department of Administrative Services; building division; powers, duties, and responsibilities.

The building division shall have the following powers, duties, and responsibilities:

(1) Shall prepare, for submittal to the Governor and to the office of the Legislative Fiscal Analyst, analyses of the cost of every desired land and building acquisition, new building construction, either underway or proposed, major repair or remodeling of new, newly acquired, or existing buildings, and each and every structural improvement to land, utilities, roads, walks, and parking lots, costing four hundred thousand dollars or more, but excluding right-of-way projects of the Department of Transportation. The analyses submitted to the Legislative Fiscal Analyst shall be submitted electronically. The Department of Administrative Services shall adjust the dollar amount in this section every four years beginning January 1, 2002, to account for inflationary and market changes. The adjustment shall be based on percentage changes in a construction cost index and any other published index relevant to operations and utilities costs, as selected by the department;

(2) Shall record the relationship between the proposed capital facilities and the individual or departmental agencies' operating programs with particular attention to needs of immediate or future operations of the department or agency submitting such plan;

(3) Shall make recommendations to the Governor, the committee of the Legislature which shall from time to time have responsibility for preparing recommendations for appropriations, and the individual department or agency concerned, on the probable costs of such acquisition, construction, repair, or remodeling. The recommendations submitted to the committee shall be submitted electronically; and

(4) Shall require the submission by each department and agency of the state of copies of all written contracts for acquisition, construction, repair, or remodeling, including federal contracts, before such contracts are executed by the executive officer of the state authorized to execute such contracts, and shall

maintain copies of such contracts on file for inspection by the Legislative Fiscal Analyst.

Source: Laws 1965, c. 538, § 14, p. 1699; Laws 1967, c. 594, § 2, p. 2024; Laws 1969, c. 804, § 8, p. 3036; Laws 1981, LB 381, § 25; Laws 1998, LB 1129, § 22; Laws 2003, LB 410, § 10; Laws 2012, LB782, § 185; Laws 2017, LB339, § 288.
Operative date July 1, 2017.

81-1118 Materiel division; established; duties; administrator; branches; established.

The materiel division of the Department of Administrative Services is hereby established and shall be managed by the materiel administrator.

There are hereby established the following seven branches of the materiel division of the Department of Administrative Services which shall have the following duties, powers, and responsibilities:

(1) The office supplies bureau shall be responsible for providing office supplies, paper, and forms to using agencies;

(2) Central mail shall be responsible for all mailing operations, transportation of material, tracking shipments, and making freight claims;

(3) The print shop shall be responsible for specifications and for receiving bids and placing orders to the lowest and best commercial bidder for all printing and reproduction operations for the state. The print shop shall also be responsible for coordinating all existing printing and reproduction operations of the state;

(4) Copy services shall be responsible for the purchasing and placement of all copier requirements;

(5) The state purchasing bureau shall be responsible for all purchases by all state agencies other than the University of Nebraska. The materiel division shall administer the public notice and bidding procedures and any other areas designated by the Director of Administrative Services to carry out the lease or purchase of personal property. All purchases of and contracts for materials, supplies, or equipment and all leases of personal property shall be made in the following manner except in emergencies approved by the Governor:

(a) By a competitive formal sealed bidding process through the materiel division in all cases in which the purchases are of estimated value exceeding fifty thousand dollars;

(b) By a competitive informal bidding process through the materiel division in all cases in which the purchases are of estimated value equal to or exceeding twenty-five thousand dollars but equal to or less than fifty thousand dollars;

(c) By unrestricted open market purchases through the materiel division in all cases in which purchases are of estimated value of less than twenty-five thousand dollars;

(d) All requisitions for whatever purpose coming to the state purchasing bureau shall be in conformance with the approved budget of the requisitioning department or agency;

(e) All contracts for purchases and leases shall be bid as a single whole item. In no case shall contracts be divided or fractionated in order to produce several

contracts which are of an estimated value below that required for competitive bidding; and

(f) No contract for purchase or lease shall be amended to extend the duration of the contract for a period of more than fifty percent of the initial contract term. Following the adoption of any amendment to extend the contract for a period of fifty percent or less of the initial contract term, no further extensions of the original contract shall be permitted. This subdivision (f) does not prohibit the exercise of any renewal option expressly provided in the original contract;

(6) The state recycling office shall be responsible for the administration and operation of the State Government Recycling Management Act; and

(7) State surplus property shall be responsible for the disposition of the state's surplus property and the maintenance of all inventory records.

Nothing in this section shall be construed to require that works of art must be procured through the materiel division.

Source: Laws 1965, c. 538, § 18, p. 1705; Laws 1969, c. 780, § 4, p. 2955; Laws 1974, LB 1054, § 32; Laws 1975, LB 359, § 14; Laws 1975, LB 447, § 8; Laws 1981, LB 381, § 29; Laws 1992, LB 1241, § 27; Laws 1997, LB 314, § 11; Laws 1998, LB 1129, § 24; Laws 2000, LB 654, § 26; Laws 2003, LB 626, § 10; Laws 2017, LB151, § 6; Laws 2017, LB320, § 5.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB151, section 6, with LB320, section 5, to reflect all amendments.

Note: Changes made by LB151 became effective April 28, 2017. Changes made by LB320 became effective August 24, 2017.

Cross References

State Government Recycling Management Act, see section 81-1183.

81-1119 Real property; purchases authorized.

The Department of Administrative Services may purchase real property needed by the state which costs an amount equal to or less than ten percent of the amount set forth in subdivision (1)(a) of section 81-1108.43 as adjusted by subsection (2) of section 81-1108.43 without legislative approval or a specific appropriation for such purchase unless the purchase is made to evade the dollar limitation in this section and additional unapproved purchases will be made which, when considered together, would exceed the dollar limitation.

Source: Laws 1992, LB 1241, § 29; Laws 2017, LB320, § 6.
Effective date August 24, 2017.

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. Beginning July 1, 2011, all payments shall be credited to the Communications Revolving Fund. Beginning July 1, 2011, all collections for

payment of telephone expenses shall be credited to the Communications Revolving Fund.

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; Laws 2017, LB3, § 1. Effective date August 24, 2017.

81-1120.23 Repealed. Laws 2017, LB3, § 3.

ARTICLE 12

DEPARTMENT OF ECONOMIC DEVELOPMENT

(a) GENERAL PROVISIONS

Section

81-1201.15. Business Recruitment Division; duties; information withheld from public.
81-1201.20. Department; adopt rules and regulations.

(e) RURAL WORKFORCE HOUSING INVESTMENT ACT

81-1226. Act, how cited.
81-1227. Legislative findings.
81-1228. Terms, defined.
81-1229. Workforce housing grant program; established; workforce housing grant; application; form; award; considerations; nonprofit organization; duties.
81-1230. Rural Workforce Housing Investment Fund; created; use; investment; return of grant funds; when required.
81-1231. Nonprofit development organization; annual report; contents; final report; failure to file; civil penalty.
81-1232. Department; duties; powers.
81-1233. Report to Legislature and Governor; contents; confidential.
81-1234. Rules and regulations.

(r) SMALL BUSINESS INNOVATION ACT

81-12,136. Repealed. Laws 2017, LB5, § 1.
81-12,137. Repealed. Laws 2017, LB5, § 1.
81-12,138. Repealed. Laws 2017, LB5, § 1.
81-12,139. Repealed. Laws 2017, LB5, § 1.
81-12,140. Repealed. Laws 2017, LB5, § 1.
81-12,141. Repealed. Laws 2017, LB5, § 1.
81-12,142. Repealed. Laws 2017, LB5, § 1.
81-12,143. Repealed. Laws 2017, LB5, § 1.

(t) BUSINESS INNOVATION ACT

81-12,152. Act, how cited.
81-12,153. Terms, defined.
81-12,154. Purpose of act.
81-12,155.01. Bioscience Innovation Program; provide financial assistance.
81-12,156. Funding; preference.
81-12,160. Financial assistance program to commercialize product or process; established; purpose; funds; match required; limitation; contract with venture development organization.
81-12,162. Small business investment program; established; award; criteria; considerations; funds; match required; department; contracts authorized; limitation.
81-12,163.01. Bioscience Innovation Cash Fund; created; use; investment.

(a) GENERAL PROVISIONS

81-1201.15 Business Recruitment Division; duties; information withheld from public.

(1) The primary responsibility of the Business Recruitment Division shall be the creation of jobs through the attraction of business to the state. The division shall develop a program of assistance to local governments, chambers of commerce, development organizations, and other entities involved in attracting new value-adding industries. Activities shall include, but not be limited to, industrial recruitment, marketing, international investment attraction, and technical assistance to community organizations in their recruitment efforts.

(2) Information regarding business recruitment, location, relocation, and expansion projects conducted by or with the assistance of the Business Recruitment Division may be withheld from the public until a public announcement by an authorized representative of the business or the Department of Economic Development is made about the project or until negotiations between the business and the division or other governmental entity regarding the project have been completed, whichever is earlier.

Source: Laws 1986, LB 965, § 15; Laws 1989, LB 639, § 5; Laws 2017, LB217, § 32.

Operative date August 24, 2017.

81-1201.20 Department; adopt rules and regulations.

The department may adopt and promulgate rules and regulations to carry out sections 81-1201.01 to 81-1201.20.

Source: Laws 1986, LB 965, § 20; Laws 2017, LB217, § 33.

Operative date August 24, 2017.

(e) RURAL WORKFORCE HOUSING INVESTMENT ACT

81-1226 Act, how cited.

Sections 81-1226 to 81-1234 shall be known and may be cited as the Rural Workforce Housing Investment Act.

Source: Laws 2017, LB518, § 1.

Effective date August 24, 2017.

81-1227 Legislative findings.

The Legislature finds that:

(1) Current economic conditions and limited availability of modern housing units impact the ability of Nebraska's rural communities to recruit and retain a world-class workforce. A lack of workforce housing affects the ability of communities to maintain and develop viable, stable, and thriving economies. A housing shortage in rural areas also impacts the ability of local private, nonprofit, and public employers to grow and prosper;

(2) Impediments exist to the construction, rehabilitation, and financing of rural workforce housing. There is a shortage of contractors willing to develop new housing units in rural communities. Developers and contractors perceive increased risk associated with housing development in rural areas. Today's worker who is considering a job in a rural area has different expectations about

the type and style of housing he or she desires. Costs for new housing in rural areas generally continue to grow faster than Nebraska incomes and the cost of living; and

(3) In order to develop attractive housing options that lead to the recruitment and retention of a world-class workforce in Nebraska's rural communities, it is the intent of the Legislature to use new and existing resources to support creation of workforce housing investment funds. Such funds will be used to encourage development of workforce housing in Nebraska's rural and under-served regions.

Source: Laws 2017, LB518, § 2.

Effective date August 24, 2017.

81-1228 Terms, defined.

For purposes of the Rural Workforce Housing Investment Act:

- (1) Department means the Department of Economic Development;
- (2) Director means the Director of Economic Development;
- (3) Eligible activities of a nonprofit development organization means:
 - (a) New construction of owner-occupied or rental housing in a community with demonstrated workforce housing needs;
 - (b) Substantial repair or rehabilitation of dilapidated housing stock; or
 - (c) Upper-story housing development;
- (4) HOME funds means funds awarded as formula grants under the HOME Investment Partnerships Program administered by the United States Department of Housing and Urban Development;
- (5) Matching funds means dollars contributed by individuals, businesses, foundations, local and regional political subdivisions, or other nonprofit organizations to a workforce housing investment fund administered by a nonprofit development organization;
- (6) Nonprofit development organization means a regional or statewide nonprofit development organization approved by the director;
- (7) Qualified activities include, but are not limited to, purchase and rental guarantees, loan guarantees, loan participations, and other credit enhancements or any other form of assistance designed to reduce the cost of workforce housing related to eligible activities of the nonprofit development organization;
- (8) Qualified investment means a cash investment in a workforce housing investment fund administered by a nonprofit development organization;
- (9) Rural community means any municipality in a county with a population of fewer than one hundred thousand inhabitants as determined by the most recent federal decennial census;
- (10) Workforce housing means:
 - (a) Housing that meets the needs of today's working families;
 - (b) Housing that is attractive to new residents considering relocation to a rural community;
 - (c) Owner-occupied housing units that cost not more than two hundred seventy-five thousand dollars to construct or rental housing units that cost not more than two hundred thousand dollars per unit to construct. For purposes of this subdivision (c), housing unit costs shall be updated annually by the

department based upon the most recent increase or decrease in the Producer Price Index for all commodities, published by the United States Department of Labor, Bureau of Labor Statistics;

(d) Owner-occupied and rental housing units for which the cost to substantially rehabilitate exceeds fifty percent of a unit's assessed value;

(e) Upper-story housing; and

(f) Housing that does not receive federal or state low-income housing tax credits, community development block grants, HOME funds, or funds from the Affordable Housing Trust Fund; and

(11) Workforce housing investment fund means a fund that has been created by a nonprofit development organization and certified by the director to encourage development of workforce housing in rural communities.

Source: Laws 2017, LB518, § 3.

Effective date August 24, 2017.

81-1229 Workforce housing grant program; established; workforce housing grant; application; form; award; considerations; nonprofit organization; duties.

(1) The director shall establish a workforce housing grant program to foster and support the development of workforce housing in rural communities.

(2) A nonprofit development organization may apply to the director for approval of a workforce housing grant for a workforce housing investment fund. The application shall be in a form and manner prescribed by the director. Through fiscal year 2020-21, grants shall be awarded by the director on a competitive basis until grant funds are no longer available. Grant maximums shall not exceed one million dollars to any one nonprofit development organization over a two-year period, with no more than two million dollars cumulative for any single grantee through fiscal year 2020-21. Grants shall require a minimum one-to-one in matching funds to be considered a qualified grant application. Unallocated workforce housing grant funds held by the department shall be rolled to the next program year.

(3) Grants shall be awarded based upon:

(a) A demonstrated and ongoing housing need as identified by a recent housing study;

(b) A community or region that has a low unemployment rate and is having difficulty attracting workers and filling employment positions;

(c) A community or region that exhibits a demonstrated commitment to growing its housing stock;

(d) Projects that can reasonably be ready for occupancy in a period of twenty-four months; and

(e) A demonstrated ability to grow and manage a workforce housing investment fund.

(4) A workforce housing investment fund shall be required to receive annual certification from the department.

(5) A nonprofit development organization shall:

(a) Invest or intend to invest in workforce housing eligible activities;

(b) Use any fees, interest, loan repayments, or other funds it received as a result of the administration of the grant to support qualified activities; and

(c) Have an active board of directors with expertise in development, construction, and finance that meets at least quarterly to approve all qualified investments made by the nonprofit development organization. A nonprofit development organization shall have a formal plan and proven expertise to invest unused workforce housing investment fund balances and shall have an annual audit of all financial records conducted by an independent certified public accountant.

Source: Laws 2017, LB518, § 4.
Effective date August 24, 2017.

81-1230 Rural Workforce Housing Investment Fund; created; use; investment; return of grant funds; when required.

(1) The Rural Workforce Housing Investment Fund is created. Funding for the grant program described in section 81-1229 shall come from the Rural Workforce Housing Investment Fund. The Rural Workforce Housing Investment Fund may include revenue from appropriations from the Legislature, grants, private contributions, and other sources. In addition, the State Treasurer shall make a one-time transfer of seven million three hundred thousand dollars on or before October 1, 2017, from the Affordable Housing Trust Fund to the Rural Workforce Housing Investment Fund. Any money in the Rural Workforce Housing Investment Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) The department shall administer the Rural Workforce Housing Investment Fund and may seek additional private or nonstate funds to use in the grant program, including, but not limited to, contributions from the Nebraska Investment Finance Authority and other interested parties.

(3) Interest earned by the department on grant funds shall be applied to the grant program.

(4) If a nonprofit development organization fails to engage in the initial qualified activity within twenty-four months after receiving initial grant funding, the nonprofit development organization shall return the grant funds to the department for credit to the Affordable Housing Trust Fund.

(5) If a nonprofit development organization fails to allocate any remaining initial grant funding on a qualified activity within twenty-four months after engaging in the initial qualified activity, the nonprofit development organization shall return such unallocated grant funds to the department for credit to the Rural Workforce Housing Investment Fund.

(6) Beginning July 1, 2022, any funds held by the department in the Rural Workforce Housing Investment Fund shall be transferred to the Affordable Housing Trust Fund.

Source: Laws 2017, LB518, § 5.
Effective date August 24, 2017.

Cross References

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

81-1231 Nonprofit development organization; annual report; contents; final report; failure to file; civil penalty.

(1) Each nonprofit development organization shall submit an annual report to the director to be included as a part of the department's annual status report required under section 81-1201.11. The report shall certify that the nonprofit development organization meets the requirements of the Rural Workforce Housing Investment Act and shall include a breakdown of program activities.

(2) The annual report shall include, but not necessarily be limited to:

(a) The name and geographical location of the reporting nonprofit development organization;

(b) The number, amount, and type of workforce housing investment funds invested in qualified activities;

(c) The number, geographical location, type, and amount of investments made;

(d) A summary of matching funds and where such matching funds were generated; and

(e) The results of the annual audit required under subsection (5) of section 81-1229.

(3) If a nonprofit development organization ceases administration of a workforce housing investment fund, it shall file a final report with the director in a form and manner required by the director. Before July 1, 2022, any unallocated grant funds shall be returned to the department for credit to the Rural Workforce Housing Investment Fund. On and after July 1, 2022, any unallocated grant funds shall be returned to the department for credit to the Affordable Housing Trust Fund.

(4) If a nonprofit development organization fails to file a complete annual report by February 15, the director may, in his or her discretion, impose a civil penalty of not more than five thousand dollars for such violation. All money collected by the department pursuant to this subsection shall be remitted to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

Source: Laws 2017, LB518, § 6.

Effective date August 24, 2017.

81-1232 Department; duties; powers.

(1) The department shall use its best efforts to assure that grant funds awarded to nonprofit development organizations are targeted to the geographic communities or regions with the most pressing economic and employment needs.

(2) The department shall use its best efforts to assure that the allocation of grant funds provides equitable access to the benefits provided by the Rural Workforce Housing Investment Act to all eligible geographical areas.

(3) The department may contract with a statewide public or private nonprofit organization which shall serve as agent for the department to help carry out the purposes and requirements of the Rural Workforce Housing Investment Act. The department or its agent may only use for expenses that portion of the funds available for the workforce housing grant program through the Rural Work-

force Housing Investment Fund necessary to cover the actual costs of administering the program, including, but not limited to, the hiring of staff.

Source: Laws 2017, LB518, § 7.

Effective date August 24, 2017.

81-1233 Report to Legislature and Governor; contents; confidential.

(1) As part of the department's annual status report required under section 81-1201.11, the department shall submit a report to the Legislature and the Governor that includes, but is not necessarily limited to:

(a) The number and geographical location of nonprofit development organizations establishing workforce housing investment funds;

(b) The number, amount, and type of workforce housing investment funds invested in qualified activities; and

(c) The number, geographical location, type, and amount of investments made by each nonprofit development organization.

(2) The report to the Legislature shall be submitted electronically.

(3) Information received, developed, created, or otherwise maintained by the department in administering and enforcing the Rural Workforce Housing Investment Act, other than information required to be included in the report to be submitted by the department to the Governor and Legislature pursuant to this section, may be deemed confidential by the department and not considered public records subject to disclosure pursuant to sections 84-712 to 84-712.09.

Source: Laws 2017, LB518, § 8.

Effective date August 24, 2017.

81-1234 Rules and regulations.

The department may adopt and promulgate rules and regulations to administer and enforce the Rural Workforce Housing Investment Act.

Source: Laws 2017, LB518, § 9.

Effective date August 24, 2017.

(r) SMALL BUSINESS INNOVATION ACT

81-12,136 Repealed. Laws 2017, LB5, § 1.

81-12,137 Repealed. Laws 2017, LB5, § 1.

81-12,138 Repealed. Laws 2017, LB5, § 1.

81-12,139 Repealed. Laws 2017, LB5, § 1.

81-12,140 Repealed. Laws 2017, LB5, § 1.

81-12,141 Repealed. Laws 2017, LB5, § 1.

81-12,142 Repealed. Laws 2017, LB5, § 1.

81-12,143 Repealed. Laws 2017, LB5, § 1.

(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; Laws 2017, LB641, § 3.
Operative date August 24, 2017.
Termination date December 1, 2021.

81-12,153 Terms, defined.

For purposes of the Business Innovation Act:

- (1) Department means the Department of Economic Development;
- (2) Federal grant program means the federal Small Business Administration's Small Business Innovation Research grant program or Small Business Technology Transfer grant program;
- (3) Microenterprise means a for-profit business entity with not more than ten full-time equivalent employees;
- (4) Prototype means an original model on which something is patterned by a resident of Nebraska or a company located in Nebraska; and
- (5) 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; Laws 2015, LB449, § 1; Laws 2017, LB217, § 34.
Operative date August 24, 2017.
Termination date December 1, 2021.

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 for innovation in biosciences;
- (6) Establish a financial assistance program pursuant to section 81-12,160 to identify commercial products and processes;

(7) 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;

(8) Provide support and funding pursuant to section 81-12,162 for microlending and microenterprise entities; and

(9) Provide support for locally owned and operated Nebraska-based, high growth businesses by providing technical resources to foster development, growth, and high wage creation. For purposes of this subdivision, Nebraska-based, high growth business means a corporation, partnership, limited liability company, limited partnership, or limited liability partnership registered with the Secretary of State that has two to fifty employees and has annual sales of no less than five hundred thousand dollars and no more than two million five hundred thousand dollars.

Source: Laws 2011, LB387, § 3; Laws 2014, LB1114, § 2; Laws 2017, LB641, § 4.

Operative date August 24, 2017.

Termination date December 1, 2021.

81-12,155.01 Bioscience Innovation Program; provide financial assistance.

(1) The department shall establish a Bioscience Innovation Program under the Business Innovation Act. The purpose of this program is to provide financial assistance to:

(a) Support small enterprise formation in the bioscience sector of Nebraska's rural and urban economies;

(b) Support the development of bioscience communities and economic opportunity through innovation in biofuels, biosensors, and biotechnology as it relates to animals, equipment, humans, industry, research, medical and health information, medical and health products, medical and health services, medical diagnostics, medical therapeutics, and pharmaceuticals;

(c) Enhance the creation of high-wage bioscience jobs to employ graduates of postsecondary educational institutions in Nebraska and to attract graduate students from other states;

(d) Encourage the development of new technologies in the bioscience sector and the creation of new startup businesses focused on bioscience;

(e) Leverage the state's agricultural sector to support the development of emerging bioscience technologies impacting livestock operations and crop production; and

(f) Leverage the bioscience research and development conducted at postsecondary educational institutions in Nebraska to create private-sector bioscience enterprises.

(2) Private bioscience businesses and enterprises operating in Nebraska shall be eligible for financial assistance as described in sections 81-12,157, 81-12,158, 81-12,160, and 81-12,161. A bioscience business or enterprise receiving financial assistance pursuant to any of such sections shall provide a match of one hundred percent for such assistance.

(3) The program shall terminate when the fund created under section 81-12,163.01 terminates.

Source: Laws 2017, LB641, § 2.
Operative date August 24, 2017.
Termination date December 1, 2021.

81-12,156 Funding; preference.

When selecting projects for funding under the Business Innovation Act, the department shall give a preference to projects located in whole or in part within an enterprise zone designated pursuant to the Enterprise Zone Act.

Source: Laws 2011, LB387, § 5; Laws 2014, LB800, § 8; Laws 2017, LB217, § 35.
Operative date August 24, 2017.
Termination date December 1, 2021.

Cross References

Enterprise Zone Act, see section 13-2101.01.

81-12,160 Financial assistance program to commercialize product or process; established; purpose; funds; match required; limitation; contract with venture development organization.

(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. Each year the department may award up to four million dollars under this section.

(5) Financial assistance provided under this section shall be expended within twenty-four months after the date of the awarding decision.

(6) To carry out this section, the department shall contract with one statewide venture development organization that is incorporated in the State of Nebraska

and exempt for federal tax purposes under section 501(c)(3) of the Internal Revenue Code.

Source: Laws 2011, LB387, § 9; Laws 2015, LB449, § 5; Laws 2016, LB1093, § 3; Laws 2017, LB331, § 50.

Effective date May 16, 2017.

Termination date December 1, 2021.

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) Microloan funds shall be disbursed in microloans which do not exceed one hundred thousand dollars or used to capitalize loan-loss reserve funds for such loans; and

(c) A minimum of fifty percent of the microloan funds shall be used by a microenterprise development assistance organization for small business technical assistance.

The department shall contract with a statewide microenterprise development assistance organization to carry out this section.

(5) Each year the department may award up to two million dollars under this section.

Source: Laws 2011, LB387, § 11; Laws 2015, LB449, § 7; Laws 2016, LB1093, § 4; Laws 2017, LB331, § 51.

Effective date May 16, 2017.

Termination date December 1, 2021.

81-12,163.01 Bioscience Innovation Cash Fund; created; use; investment.

(1) The Bioscience Innovation Cash Fund is created. The fund shall be administered by the department to provide financial assistance to bioscience-related businesses applying for financial assistance under the Business Innovation Act. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) The State 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) beginning October 1, 2017, received by the department as repayments of loans from the Nebraska Progress Loan Fund as authorized by the federal State Small Business Credit Initiative Act of 2010, 12 U.S.C. 5701 et seq., as such act existed on January 1, 2017.

(3) Money in the fund shall be expended by the department for the purpose of carrying out the Bioscience Innovation Program.

(4) Up to five percent of the fund may be used by the department for administrative expenses.

(5) The fund shall terminate on exhaustion of its funds following receipt of the final loan repayment provided for in subdivision (2)(b) of this section.

Source: Laws 2017, LB641, § 1.
 Operative date August 24, 2017.
 Termination date December 1, 2021.

Cross References

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

**ARTICLE 13
 PERSONNEL**

(a) STATE PERSONNEL SERVICE

Section

- 81-1316. State Personnel System; exemptions.
- 81-1348. Suggestion Award Board; created; membership; expenses; rules and regulations.

(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; and (v) the Director of Public Health of the Division of Public Health;
 - (u) The chief medical officer established under section 81-3115, the Administrator of the Office of Juvenile Services, and the chief executive officers of the Beatrice State Developmental Center, Lincoln Regional Center, Norfolk Regional Center, Hastings Regional Center, Grand Island Veterans' Home, Norfolk Veterans' Home, Eastern Nebraska Veterans' Home, Western Nebraska Veterans' Home, Youth Rehabilitation and Treatment Center-Kearney, and Youth Rehabilitation and Treatment Center-Geneva;
 - (v) The chief executive officers of all facilities operated by the Department of Correctional Services and the medical director for the department appointed pursuant to section 83-4,156;
 - (w) All personnel employed as pharmacists, physicians, psychiatrists, or psychologists by the Department of Correctional Services;
 - (x) All personnel employed as pharmacists, physicians, psychiatrists, psychologists, service area administrators, or facility operating officers of the Department of Health and Human Services;
 - (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	40
over 5000	50

The purpose of having such noncovered positions shall be to allow agency heads the opportunity to recruit, hire, and supervise critical, confidential, or policymaking personnel without restrictions from selection procedures, compensation rules, career protections, and grievance privileges. Persons holding the noncovered positions shall serve at the pleasure of the agency head and shall be paid salaries set by the agency head. An agency with over five thousand employees shall provide notice in writing to the Health and Human Services Committee of the Legislature when forty noncovered positions have been filled by the agency head pursuant to this subsection.

(3) No changes to this section or to the number of noncovered positions within an agency shall affect the status of personnel employed on the date the changes become operative without their prior written agreement. A state employee’s career protections or coverage by personnel rules and regulations shall not be revoked by redesignation of the employee’s position as a noncovered position without the prior written agreement of such employee.

Source: Laws 1967, c. 573, § 16, p. 1896; Laws 1969, c. 802, § 8, p. 3025; Laws 1971, LB 637, § 1; Laws 1987, LB 491, § 13; Laws 1988, LB 1106, § 1; Laws 1996, LB 1044, § 867; Laws 1998, LB 1073, § 165; Laws 2000, LB 654, § 41; Laws 2002, LB 876, § 86; Laws 2002, LB 1062, § 65; Laws 2003, LB 85, § 3; Laws 2003, LB 245, § 16; Laws 2006, LB 994, § 114; Laws 2007, LB296, § 756; Laws 2008, LB745, § 1; Laws 2008, LB965, § 23; Laws 2011, LB218, § 1; Laws 2017, LB340, § 17.
Operative date July 1, 2017.

Cross References

For other exemptions, see sections 49-14,121 and 72-1242.

81-1348 Suggestion Award Board; created; membership; expenses; rules and regulations.

There is hereby created the Suggestion Award Board. The membership of such board shall consist of the Director of Personnel, the Director of Administrative Services, the Auditor of Public Accounts or his or her designee, and three persons, each to serve a term of three years, selected and appointed by the Governor from the bargaining units listed in section 81-1373, except that the first three appointments made after February 23, 2000, shall be for terms of one year, two years, and three years, as designated by the Governor. Of the persons selected from such bargaining units, one person shall be selected from each of such bargaining units as follows:

- (1) The first term from the bargaining units listed in subdivisions (1)(a), (b), and (l) of such section;
- (2) The second term from the bargaining units listed in subdivisions (1)(c), (d), and (g) of such section;
- (3) The third term from the bargaining units listed in subdivisions (1)(e), (f), and (h) of such section; and
- (4) The fourth term from the bargaining units listed in subdivisions (1)(i), (j), and (k) of such section.

After the fourth term, the appointments shall be made starting from subdivision (1) of this section and following the same sequence.

Whenever a vacancy occurs on the board for any reason, the Governor shall appoint an individual to fill such vacancy from the same bargaining unit in which the vacancy exists.

The members shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177.

The board shall adopt and promulgate rules and regulations to aid in carrying out sections 81-1350 and 81-1351.

Source: Laws 1978, LB 286, § 3; Laws 1993, LB 44, § 15; Laws 1995, LB 395, § 3; Laws 2000, LB 654, § 42; Laws 2017, LB151, § 7.
Effective date April 28, 2017.

ARTICLE 14

LAW ENFORCEMENT

(b) COMMISSION ON LAW ENFORCEMENT AND CRIMINAL JUSTICE

Section

81-1417. Commission; members; qualifications; appointment; terms; special committee.

(c) HUMAN TRAFFICKING

81-1430. Task force; established; members; terms; duties; quorum; report; Department of Labor; posters.

(b) COMMISSION ON LAW ENFORCEMENT AND CRIMINAL JUSTICE

81-1417 Commission; members; qualifications; appointment; terms; special committee.

(1) The Nebraska Commission on Law Enforcement and Criminal Justice shall consist of nineteen members. The membership shall include the Governor, the Attorney General, the Superintendent of Law Enforcement and Public Safety, the Director of Correctional Services, the chief of police or director of public safety of a city of more than two hundred thousand inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census, the chief of police or director of public safety of a city of two hundred thousand inhabitants or less as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census, a county sheriff, a county attorney, a county commissioner, a mayor or city manager, a person involved with the control or prevention of juvenile delinquency, the chairperson of the Nebraska Police Standards Advisory Council, the chairperson of the Nebraska Coalition for Juvenile Justice, and six mem-

bers, at least one of whom shall be a woman, from the public at large. The seven members of the council shall also be considered members of the commission acting as a special committee of the commission with limited powers and duties. A member of the commission may serve concurrently as a member of the council.

(2) The Governor may increase the membership of the commission at any time if such increase is necessary to comply with the provisions of any federal act providing funds for law enforcement or delinquency prevention purposes. Such members of the commission appointed by the Governor shall serve for terms of six years from January 1 next succeeding their appointments.

(3) Except for the Governor, the Attorney General, the Superintendent of Law Enforcement and Public Safety, the Director of Correctional Services, the chairperson of the Nebraska Police Standards Advisory Council, and the chairperson of the Nebraska Coalition for Juvenile Justice, the members of the commission shall be appointed by the Governor. The membership of the commission shall represent varying geographic areas and large and small governmental subdivisions.

Source: Laws 1969, c. 774, § 3, p. 2932; Laws 1994, LB 971, § 11; Laws 2002, LB 93, § 24; Laws 2013, LB561, § 63; Laws 2017, LB113, § 57.

Effective date August 24, 2017.

(c) HUMAN TRAFFICKING

81-1430 Task force; established; members; terms; duties; quorum; report; Department of Labor; posters.

(1) A task force is hereby established within the Nebraska Commission on Law Enforcement and Criminal Justice for the purposes of investigating and studying human trafficking, the methods for advertising human trafficking services, and the victimization of individuals coerced to participate in human trafficking.

(2) The task force shall examine the extent to which human trafficking is prevalent in this state, the scope of efforts being taken to prevent human trafficking from occurring, and the services available to victims of human trafficking in this state. The task force shall utilize information and research available from the Innocence Lost National Initiative. The task force shall research and recommend a model of rehabilitative services for victims of human trafficking that includes input from the areas of law enforcement, social services, the legal profession, the judiciary, mental health, and immigration. The task force shall also investigate the limitations upon victims who wish to come forward and seek medical attention; investigate the potential to stop human trafficking; and investigate the potential to promote recovery, to protect families and children who may be profoundly impacted by such abuse, and to save lives.

(3)(a) The Department of Labor shall work with the task force to develop or select informational posters for placement around the state. The posters shall be in English, Spanish, and any other language deemed appropriate by the task force. The posters shall include a toll-free telephone number a person may call for assistance, preferably the National Human Trafficking Resource Center Hotline (888)373-7888.

(b) Posters shall be placed in rest stops and strip clubs. The task force shall work with local businesses and nonprofit entities associated with the prevention of human trafficking to voluntarily place additional signs in high schools, postsecondary educational institutions, gas stations, hotels, hospitals, health care clinics, urgent care centers, airports, train stations, bus stations, and other locations around the state deemed appropriate by the task force.

(4) The task force shall consist of the following members:

(a) The Attorney General or his or her designee;

(b) The executive director of the Nebraska Commission on Law Enforcement and Criminal Justice;

(c) The Superintendent of Law Enforcement and Public Safety or his or her designee;

(d) The Director of Correctional Services or his or her designee;

(e) The chief of police or director of public safety of a city of two hundred thousand inhabitants or more as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census;

(f) The chief of police or director of public safety of a city of less than two hundred thousand inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census;

(g) A county sheriff;

(h) A county attorney;

(i) A county commissioner;

(j) A mayor or city manager;

(k) A person involved with the control or prevention of juvenile delinquency;

(l) A person involved with the control or prevention of child abuse;

(m) The Commissioner of Education or his or her designee;

(n) The director of the Commission on Latino-Americans or his or her designee; and

(o) Six members, at least three of whom shall be women, from the public at large.

(5) The Governor shall appoint the members of the task force listed in subdivisions (4)(e) through (l) and (o) of this section for terms as provided in subsection (6) of this section. The membership of the task force shall represent varying geographic areas and large and small political subdivisions. One member from the public at large shall be a professional representing child welfare, and one member of the public at large shall represent juvenile pretrial diversion programs.

(6) The members of the task force appointed by the Governor shall serve six-year terms, except that of the members first appointed, four shall serve initial two-year terms, four shall serve initial four-year terms, and six shall serve initial six-year terms from January 1 next succeeding their appointments. Thereafter, all members shall serve six-year terms. A member may be reappointed at the expiration of his or her term. Any vacancy occurring otherwise than by expiration of a term shall be filled for the balance of the unexpired term in the same manner as the original appointment.

(7) No member shall serve beyond the time when he or she holds the office, employment, or status by reason of which he or she was initially eligible for appointment. Any member of the task force appointed by the Governor may be removed from the task force for cause upon notice and an opportunity to be heard at a public hearing. One of the causes for removal shall be absence from three regularly scheduled meetings of the task force during any six-month period when the member has failed to advise the task force in advance of such meeting that he or she will be absent and stating a reason therefor.

(8) The chairperson of the task force shall be designated by the Governor to serve at the pleasure of the Governor. The chairperson shall be the chief executive officer of the task force but may delegate such of his or her duties to other members of the task force as may be authorized by the task force.

(9) Notwithstanding any provision of law, ordinance, or charter provision to the contrary, membership on the task force shall not disqualify any member from holding any other public office or employment or cause the forfeiture thereof.

(10) The members of the task force shall serve on the task force without compensation, but they shall be entitled to receive reimbursement for any actual expenses incurred as necessary incident to such service as provided in sections 81-1174 to 81-1177.

(11) Eleven members of the task force shall constitute a quorum for the transaction of any business or the exercise of any power of the task force. The task force shall have the power to act by a majority of the members present at any meeting at which a quorum is in attendance.

(12) Every July 1 and December 1, the task force shall report electronically to the Clerk of the Legislature the results of its investigation and study and its recommendations, if any, together with drafts of legislation necessary to carry its recommendations into effect by filing the report with the clerk.

Source: Laws 2012, LB1145, § 2; Laws 2013, LB222, § 37; Laws 2013, LB255, § 12; Laws 2017, LB113, § 58.
Effective date August 24, 2017.

ARTICLE 15

ENVIRONMENTAL PROTECTION

(b) LITTER REDUCTION AND RECYCLING ACT

Section

81-1558. Nebraska Litter Reduction and Recycling Fund; created; use; investment.

(k) WASTEWATER TREATMENT FACILITIES CONSTRUCTION ASSISTANCE ACT
81-15,153. Department; powers and duties.

(n) NEBRASKA ENVIRONMENTAL TRUST ACT

81-15,175. Fund allocations; board; powers and duties; grant award to Water Resources Cash Fund; payments; legislative intent; additional grant; additional reporting.

(b) LITTER REDUCTION AND RECYCLING ACT

81-1558 Nebraska Litter Reduction and Recycling Fund; created; use; investment.

There is hereby created within the state treasury a fund to be known as the Nebraska Litter Reduction and Recycling Fund. The proceeds of the fee

imposed by sections 81-1559 to 81-1560.02, money received by the department as gifts, donations, or contributions toward the goals stated in section 81-1535, and money received by the department for nonprofit activities concerning litter reduction and recycling, including, but not limited to, honoraria, literature furnished by the department, and funds realized as reimbursement for expenses in conducting educational forums, shall be remitted to the State Treasurer for credit to such fund to be used for the administration and enforcement of the Nebraska Litter Reduction and Recycling Act. Transfers may be made from the fund to the General Fund at the direction of the Legislature. Any money in the Nebraska Litter Reduction and Recycling 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 1979, LB 120, § 25; Laws 1981, LB 253, § 15; Laws 1993, LB 203, § 11; Laws 1994, LB 1066, § 113; Laws 1999, LB 592, § 2; Laws 2017, LB331, § 52.
Effective date May 16, 2017.
Termination date October 30, 2020.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

(k) **WASTEWATER TREATMENT FACILITIES
CONSTRUCTION ASSISTANCE ACT**

81-15,153 Department; powers and duties.

The department shall have the following powers and duties:

(1) The power to establish a program to make loans to municipalities or to counties, individually or jointly, for construction or modification of publicly owned wastewater treatment works in accordance with the Wastewater Treatment Facilities Construction Assistance Act and the rules and regulations of the council adopted and promulgated pursuant to such act;

(2) The power to establish a program to make loans to municipalities or to counties for construction, rehabilitation, operation, or maintenance of nonpoint source control systems in accordance with the Wastewater Treatment Facilities Construction Assistance Act and the rules and regulations of the council adopted and promulgated pursuant to such act;

(3) The power, if so authorized by the council pursuant to section 81-15,152, to execute and deliver documents obligating the Wastewater Treatment Facilities Construction Loan Fund and the assets thereof to the extent permitted by section 81-15,151 to repay, with interest, loans to or deposits into the fund and to execute and deliver documents pledging to the extent permitted by section 81-15,151 all or part of the fund and its assets to secure, directly or indirectly, the loans or deposits;

(4) The power to establish the linked deposit program to promote loans for construction, rehabilitation, operation, or maintenance of nonpoint source control systems in accordance with the Wastewater Treatment Facilities Construction Assistance Act and the rules and regulations adopted and promulgated pursuant to such act;

(5) The duty to prepare an annual report for the Governor and the Legislature containing information which shows the financial status of the program. The report submitted to the Legislature shall be submitted electronically;

(6) The duty to establish fiscal controls and accounting procedures sufficient to assure proper accounting during appropriate accounting periods, including the following:

(a) Accounting from the Nebraska Investment Finance Authority for the costs associated with the issuance of bonds pursuant to the act;

(b) Accounting for payments or deposits received by the fund;

(c) Accounting for disbursements made by the fund; and

(d) Balancing the fund at the beginning and end of the accounting period;

(7) The duty to establish financial capability requirements that assure sufficient revenue to operate and maintain a facility for its useful life and to repay the loan for such facility;

(8) The power to determine the rate of interest to be charged on a loan in accordance with the rules and regulations adopted and promulgated by the council;

(9) The power to refinance debt obligations of municipalities in accordance with the rules and regulations adopted and promulgated by the council;

(10) The power to enter into required agreements with the United States Environmental Protection Agency pursuant to the Clean Water Act;

(11) The power to enter into agreements to provide grants concurrent with loans to municipalities with populations of ten thousand inhabitants or less as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census which demonstrate serious financial hardships. The department may authorize grants for up to one-half of the eligible project cost. Such grants shall contain a provision that payment of the amount allocated is conditional upon the availability of appropriated funds;

(12) The power to authorize emergency grants to municipalities with wastewater treatment facilities which have been damaged or destroyed by natural disaster or other unanticipated actions or circumstances. Such grants shall not be used for routine repair or maintenance of facilities;

(13) The power to provide financial assistance to municipalities with populations of ten thousand inhabitants or less as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census for completion of engineering studies, research projects, investigating low-cost options for achieving compliance with the Clean Water Act, encouraging wastewater reuse, and conducting other studies for the purpose of enhancing the ability of communities to meet the requirements of the Clean Water Act. The department may authorize financial assistance for up to ninety percent of the eligible project cost. Such state allocation shall contain a provision that payment of the amount obligated is conditional upon the availability of appropriated funds;

(14) The power to provide grants or an additional interest subsidy on loans for municipalities if the project contains a sustainable community feature, measurable energy-use reductions, or low-impact development or if there are any special assistance needs as determined under section 81-1517; and

(15) Such other powers as may be necessary and appropriate for the exercise of the duties created under the Wastewater Treatment Facilities Construction Assistance Act.

Source: Laws 1988, LB 766, § 7; Laws 1989, LB 311, § 11; Laws 1993, LB 3, § 69; Laws 1994, LB 1139, § 42; Laws 1996, LB 1226, § 26; Laws 2000, LB 1234, § 15; Laws 2003, LB 164, § 2; Laws 2008, LB726, § 2; Laws 2012, LB782, § 203; Laws 2014, LB514, § 7; Laws 2015, LB413, § 8; Laws 2017, LB113, § 59.
Effective date August 24, 2017.

(n) NEBRASKA ENVIRONMENTAL TRUST ACT

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 a three-year grant that would begin in fiscal year 2017-18 and such application shall be awarded fifty priority points in the ranking process as set forth in subdivision (2)(h) of this section if the following criteria are met:

(a) The Natural Resources Committee of the Legislature has examined options for water funding and has submitted a report electronically to the Clerk of the Legislature and the Governor by December 1, 2012, setting forth:

(i) An outline and priority listing of water management and funding needs in Nebraska, including instream flows, residential, agricultural, recreational, and municipal needs, interstate obligations, water quality issues, and natural habitats preservation;

(ii) An outline of statewide funding options which create a dedicated, sustainable funding source to meet the needs set forth in the report; and

(iii) Recommendations for legislation;

(b) The projects and activities funded by the department through grants from the Nebraska Environmental Trust Fund under this section have resulted in enhanced streamflows, reduced consumptive uses of water, recharged ground water, supported wildlife habitat, or otherwise contributed towards conserving, enhancing, and restoring Nebraska's ground water and surface water resources. On or before July 1, 2014, the department shall submit electronically a report to the Natural Resources Committee of the Legislature providing demonstrable evidence of the benefits accrued from such projects and activities; and

(c) In addition to the grant reporting requirements of the trust, on or before July 1, 2014, the department provides to the board a report which includes documentation that:

(i) Expenditures from the Water Resources Cash Fund made to natural resources districts have met the matching fund requirements provided in subdivision (5)(a) of section 61-218;

(ii) Ten percent or less of the matching fund requirements has been provided by in-kind contributions for expenses incurred for projects enumerated in the grant application. In-kind contributions shall not include land or land rights; and

(iii) All other projects and activities funded by the department through grants from the Nebraska Environmental Trust Fund under this section were matched not less than forty percent of the project or activity cost by other funding sources.

(5) The board may establish a subcommittee to rate grant applications. If the board uses a subcommittee, the meetings of such subcommittee shall be subject to the Open Meetings Act. The subcommittee shall (a) use the rating systems established by the board under subsection (2) of this section, (b) assign a numeric value to each rating criterion, combine these values into a total score for each application, and rank the applications by the total scores, (c) recommend an amount of funding for each application, which amount may be more or less than the requested amount, and (d) submit the ranked list and recommended funding to the board for its approval or disapproval.

(6) The board may commit funds to multiyear projects, subject to available funds and appropriations. No commitment shall exceed three years without formal action by the board to renew the grant or contract. Multiyear commitments may be exempt from the rating process except for the initial application and requests to renew the commitment.

(7) The board shall adopt and promulgate rules and regulations and publish guidelines governing allocations from the fund. The board shall conduct annual reviews of existing projects for compliance with project goals and grant requirements.

(8) Every five years the board may evaluate the long-term effects of the projects it funds. The evaluation may assess a sample of such projects. The board may hire an independent consultant to conduct the evaluation and may report the evaluation findings to the Legislature and the Governor. The report submitted to the Legislature shall be submitted electronically.

Source: Laws 1992, LB 1257, § 52; Laws 1993, LB 138, § 81; Laws 2000, LB 957, § 12; Laws 2002, LB 1003, § 51; Laws 2004, LB 832, § 2; Laws 2011, LB229, § 3; Laws 2011, LB366, § 1; Laws 2012, LB782, § 204; Laws 2017, LB331, § 53.
Effective date May 16, 2017.

Cross References

Open Meetings Act, see section 84-1407.

ARTICLE 17

NEBRASKA CONSULTANTS' COMPETITIVE NEGOTIATION ACT

Section
81-1711. Department of Administrative Services; Department of Transportation;
project; procedures.

81-1711 Department of Administrative Services; Department of Transportation; project; procedures.

The Department of Administrative Services shall, with the advice of each agency, prescribe by administrative rules procedures for the determination of a

project under its jurisdiction. The Department of Transportation shall prescribe such procedures for highway construction projects. Such procedures may include:

- (1) Determination of a project which constitutes a grouping of minor construction, rehabilitation, or renovation activities; and
- (2) Determination of a project which constitutes a grouping of substantially similar construction, rehabilitation, or renovation activities.

Source: Laws 1978, LB 715, § 11; Laws 2017, LB339, § 289.
Operative date July 1, 2017.

ARTICLE 20

NEBRASKA STATE PATROL

(a) GENERAL PROVISIONS

Section

- 81-2004.09. Combined Law Enforcement Information Network Cash Fund; created; use; investment.
- 81-2004.10. Treasury Agency Forfeitures Cash Fund; created; use; investment.

(b) RETIREMENT SYSTEM

- 81-2014. Terms, defined.
- 81-2025. Retirement; conditions; deferment of payment; board; duties.
- 81-2034. Retirement; method of crediting for military service; effect.

(a) GENERAL PROVISIONS

81-2004.09 Combined Law Enforcement Information Network Cash Fund; created; use; investment.

There is hereby created the Combined Law Enforcement Information Network Cash Fund. The fund shall be maintained by the Nebraska State Patrol and administered by the Superintendent of Law Enforcement and Public Safety. The fund shall consist of fees collected by the Nebraska State Patrol from users of the network and shall be used to pay the costs of operating, maintaining, and enhancing the network. 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 2017, LB331, § 13.
Effective date May 16, 2017.

Cross References

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

81-2004.10 Treasury Agency Forfeitures Cash Fund; created; use; investment.

There is hereby created the Treasury Agency Forfeitures Cash Fund. All forfeitures and proceeds received by the Nebraska State Patrol under the federal equitable sharing provisions distributed by federal Treasury agencies as of July 1, 2017, shall be deposited in the fund. This section shall not apply to funds otherwise subject to sections 28-431 and 28-1439.02. The fund shall be used only in accordance with the applicable requirements of the federal government. The fund shall be administered by the Superintendent of Law Enforcement and Public Safety. 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 2017, LB331, § 14.
Effective date May 16, 2017.

Cross References

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

(b) RETIREMENT SYSTEM

81-2014 Terms, defined.

For purposes of the Nebraska State Patrol Retirement Act:

(1)(a) Actuarial equivalent means the equality in value of the aggregate amounts expected to be received under different forms of payment or to be received at an earlier retirement age than the normal retirement age.

(b) For an officer hired before July 1, 2017, the determinations shall be based on the 1994 Group Annuity Mortality Table reflecting sex-distinct factors blended using seventy-five percent of the male table and twenty-five percent of the female table. An interest rate of eight percent per annum shall be reflected in making the determinations until such percent is amended by the Legislature.

(c) For an officer hired on or after July 1, 2017, or rehired on or after July 1, 2017, after termination of employment and being paid a retirement benefit, the determinations shall be based on a unisex mortality table and an interest rate specified by the board. Both the mortality table and the interest rate shall be recommended by the actuary and approved by the board following an actuarial experience study, a benefit adequacy study, or a plan valuation. The mortality table, interest rate, and actuarial factors in effect on the officer's retirement date will be used to calculate actuarial equivalency of any retirement benefit. Such interest rate may be, but is not required to be, equal to the assumed rate of return;

(2) Board means the Public Employees Retirement Board;

(3)(a)(i) Compensation means gross wages or salaries payable to the member for personal services performed during the plan year. Compensation does not include insurance premiums converted into cash payments, reimbursement for expenses incurred, fringe benefits, per diems, or bonuses for services not actually rendered, including, but not limited to, early retirement inducements, cash awards, and severance pay, except for retroactive salary payments paid pursuant to court order, arbitration, or litigation and grievance settlements. Compensation includes overtime pay, member retirement contributions, and amounts contributed by the member to plans under sections 125 and 457 of the Internal Revenue Code as defined in section 49-801.01 or any other section of the code which defers or excludes such amounts from income.

(ii) For any officer employed on or prior to January 4, 1979, compensation includes compensation for unused sick leave or unused vacation leave converted to cash payments.

(iii) For any officer employed after January 4, 1979, and prior to July 1, 2016, compensation does not include compensation for unused sick leave or unused vacation leave converted to cash payments and includes compensation for

unused holiday compensatory time and unused compensatory time converted to cash payments.

(iv) For any officer employed on or after July 1, 2016, compensation does not include compensation for unused sick leave, unused vacation leave, unused holiday compensatory time, unused compensatory time, or any other type of unused leave, compensatory time, or similar benefits, converted to cash payments.

(b) Compensation in excess of the limitations set forth in section 401(a)(17) of the Internal Revenue Code as defined in section 49-801.01 shall be disregarded. For an employee who was a member of the retirement system before the first plan year beginning after December 31, 1995, the limitation on compensation shall not be less than the amount which was allowed to be taken into account under the retirement system as in effect on July 1, 1993;

(4) Creditable service means service granted pursuant to section 81-2034 and all service rendered while a contributing member of the retirement system. Creditable service includes working days, sick days, vacation days, holidays, and any other leave days for which the officer is paid regular wages except as specifically provided in the Nebraska State Patrol Retirement Act. Creditable service does not include eligibility and vesting credit nor service years for which member contributions are withdrawn and not repaid;

(5) Current benefit means the initial benefit increased by all adjustments made pursuant to the Nebraska State Patrol Retirement Act;

(6) DROP means the deferred retirement option plan as provided in section 81-2041;

(7) DROP account means an individual DROP participant's defined contribution account under section 414(k) of the Internal Revenue Code;

(8) DROP period means the amount of time the member elects to participate in DROP which shall be for a period not to exceed five years from and after the date of the member's DROP election;

(9) Eligibility and vesting credit means credit for years, or a fraction of a year, of participation in a Nebraska government plan for purposes of determining eligibility for benefits under the Nebraska State Patrol Retirement Act. Such credit shall be used toward the vesting percentage pursuant to subsection (2) of section 81-2031 but shall not be included as years of service in the benefit calculation;

(10) Hire date or date of hire means the first day of compensated service subject to retirement contributions;

(11) Initial benefit means the retirement benefit calculated at the time of retirement;

(12) Officer means law enforcement officer as defined in section 81-1401 and as provided for in sections 81-2001 to 81-2009, but does not include a law enforcement officer who has been granted an appointment conditioned on satisfactory completion of a training program approved by the Nebraska Police Standards Advisory Council;

(13) Plan year means the twelve-month period beginning on July 1 and ending on June 30 of the following year;

(14) Regular interest means interest fixed at a rate equal to the daily treasury yield curve for one-year treasury securities, as published by the Secretary of the

Treasury of the United States, that applies on July 1 of each year, which may be credited monthly, quarterly, semiannually, or annually as the board may direct;

(15) Retirement application means the form approved and provided by the retirement system for acceptance of a member's request for either regular or disability retirement;

(16) Retirement date means (a) the first day of the month following the date upon which a member's request for retirement is received on a retirement application if the member is eligible for retirement and has terminated employment or (b) the first day of the month following termination of employment if the member is eligible for retirement and has filed an application but has not yet terminated employment;

(17) Retirement system or system means the Nebraska State Patrol Retirement System as provided in the act;

(18) Service means employment as a member of the Nebraska State Patrol and shall not be deemed to be interrupted by (a) temporary or seasonal suspension of service that does not terminate the employee's employment, (b) leave of absence authorized by the employer for a period not exceeding twelve months, (c) leave of absence because of disability, or (d) military service, when properly authorized by the board. Service does not include any period of disability for which disability retirement benefits are received under subsection (1) of section 81-2025;

(19) Surviving spouse means (a) the spouse married to the member on the date of the member's death if married for at least one year prior to death or if married on the date of the member's retirement or (b) the spouse or former spouse of the member if survivorship rights are provided under a qualified domestic relations order filed with the board pursuant to the Spousal Pension Rights Act. The spouse or former spouse shall supersede the spouse married to the member on the date of the member's death as provided under a qualified domestic relations order. If the benefits payable to the spouse or former spouse under a qualified domestic relations order are less than the value of benefits entitled to the surviving spouse, the spouse married to the member on the date of the member's death shall be the surviving spouse for the balance of the benefits; and

(20) Termination of employment occurs on the date on which the Nebraska State Patrol determines that the officer's employer-employee relationship with the patrol is dissolved. The Nebraska State Patrol shall notify the board of the date on which such a termination has occurred. Termination of employment does not include ceasing employment with the Nebraska State Patrol if the officer returns to regular employment with the Nebraska State Patrol or another agency of the State of Nebraska and there are less than one hundred twenty days between the date when the employee's employer-employee relationship ceased and the date when the employer-employee relationship commenced with the Nebraska State Patrol or another state agency. Termination of employment does not occur upon an officer's participation in DROP pursuant to section 81-2041. It is the responsibility of the employer that is involved in the termination of employment to notify the board of such change in employment and provide the board with such information as the board deems necessary. If the board determines that termination of employment has not occurred and a retirement benefit has been paid to a member of the retirement system

pursuant to section 81-2026, the board shall require the member who has received such benefit to repay the benefit to the retirement system.

Source: Laws 1947, c. 211, § 1, p. 687; Laws 1969, c. 511, § 1, p. 2092; R.S.1943, (1978), § 60-441; Laws 1989, LB 506, § 13; Laws 1991, LB 549, § 47; Laws 1994, LB 833, § 34; Laws 1995, LB 501, § 7; Laws 1996, LB 700, § 13; Laws 1996, LB 847, § 34; Laws 1996, LB 1076, § 32; Laws 1996, LB 1273, § 27; Laws 1997, LB 624, § 27; Laws 1999, LB 674, § 7; Laws 2000, LB 1192, § 19; Laws 2001, LB 408, § 19; Laws 2002, LB 470, § 7; Laws 2003, LB 451, § 21; Laws 2007, LB324, § 1; Laws 2012, LB916, § 28; Laws 2013, LB263, § 30; Laws 2016, LB467, § 1; Laws 2017, LB415, § 42.

Effective date May 24, 2017.

Cross References

Spousal Pension Rights Act, see section 42-1101.

81-2025 Retirement; conditions; deferment of payment; board; duties.

(1) Every officer who has been in the employ of the state as such and who becomes disabled and physically unfit to perform the duties of an officer shall be entitled to retire and receive an annuity as provided by law.

(2) Every officer who has been in the employ of the state as such for ten years or more, as calculated in section 81-2033, and has attained the age of fifty years or more shall be entitled to retire and receive an annuity as provided by law. The right to retire at the age of fifty years shall be at the option of the officer but such retirement shall be mandatory upon the officer attaining the age of sixty years.

(3) Any officer who has attained the age of sixty years upon his or her separation from state service but who has not been in the employ of the state for ten years as such shall be entitled to the annuity as provided for in the Nebraska State Patrol Retirement Act.

(4) Every officer who has been in the employ of the state as such for twenty-five years or more, as calculated in section 81-2033, and has attained the age of fifty years shall be entitled to retire and receive an annuity as provided by law. The right to retire at the age of fifty years with twenty-five years or more of creditable service shall be at the option of the officer but such retirement shall be mandatory upon the officer attaining the age of sixty years.

(5) Every officer who has been in the employ of the state as such for thirty years or more, as calculated in section 81-2033, shall be entitled to retire and receive an annuity as provided by law. The right to retire with thirty years or more of creditable service shall be at the option of the officer but such retirement shall be mandatory upon the officer attaining the age of sixty years.

(6) Payment of any benefit provided under the act may not be deferred later than April 1 of the year following the year in which the officer has both attained at least age seventy and one-half years and terminated his or her employment with the Nebraska State Patrol.

(7) The effective date of retirement payments shall be the first day of the month following (a) the date a member qualifies for retirement as provided in this section or (b) the date upon which a member's request for retirement is received on an application form provided by the system, whichever is later. An

application may be filed no more than one hundred twenty days in advance of qualifying for retirement.

(8) The board shall make reasonable efforts to locate the officer or the officer's beneficiary and distribute benefits by the required beginning date as specified by section 401(a)(9) of the Internal Revenue Code and the regulations issued thereunder. If the board is unable to make such a distribution, the account shall be distributed pursuant to the Uniform Disposition of Unclaimed Property Act and no amounts may be applied to increase the benefits any officer would otherwise receive under the Nebraska State Patrol Retirement Act.

Source: Laws 1947, c. 211, § 12(1), p. 690; Laws 1953, c. 333, § 1, p. 1093; Laws 1969, c. 510, § 3, p. 2090; Laws 1969, c. 511, § 7, p. 2095; Laws 1975, LB 235, § 2; R.S.1943, (1978), § 60-452; Laws 1986, LB 311, § 25; Laws 1989, LB 506, § 15; Laws 1990, LB 953, § 1; Laws 1993, LB 724, § 15; Laws 1994, LB 833, § 40; Laws 1994, LB 1306, § 5; Laws 1997, LB 623, § 35; Laws 1997, LB 624, § 30; Laws 2003, LB 451, § 22; Laws 2017, LB415, § 43.

Effective date May 24, 2017.

Cross References

Uniform Disposition of Unclaimed Property Act, see section 69-1329.

81-2034 Retirement; method of crediting for military service; effect.

(1)(a) Any officer of the Nebraska State Patrol who is reemployed pursuant to 38 U.S.C. 4301 et seq., shall be treated as not having incurred a break in service by reason of the officer's period of military service. Such military service shall be credited for purposes of determining the nonforfeitability of the officer's accrued benefits and the accrual of benefits under the plan.

(b) The state shall be liable for funding any obligation of the plan to provide benefits based upon such period of military service. To satisfy the liability, the Nebraska State Patrol shall pay to the retirement system an amount equal to:

(i) The sum of the officer and employer contributions that would have been paid during such period of military service; and

(ii) Any actuarial costs necessary to fund the obligation of the plan to provide benefits based upon such period of military service. For the purposes of determining the amount of such liability and obligation of the plan, earnings and forfeitures, gains and losses, regular interest, or interest credits that would have accrued on the officer and employer contributions that are paid by the Nebraska State Patrol pursuant to this section shall not be included.

(c) The amount required in subdivision (b) of this subsection shall be paid to the retirement system as soon as reasonably practicable following the date of reemployment, but must be paid within eighteen months of the date the board notifies the Nebraska State Patrol of the amount due. If the Nebraska State Patrol fails to pay the required amount within such eighteen-month period, then the Nebraska State Patrol is also responsible for any actuarial costs and interest on actuarial costs that accrue from eighteen months after the date the Nebraska State Patrol is notified by the board until the date the amount is paid.

(d) The board may adopt and promulgate rules and regulations to carry out this subsection, including, but not limited to, rules and regulations on:

- (i) How and when the officer and Nebraska State Patrol must notify the retirement system of a period of military service;
- (ii) The acceptable methods of payment;
- (iii) Determining the service and compensation upon which the contributions must be made;
- (iv) Accelerating the payment from the employer due to unforeseen circumstances that occur before payment is made pursuant to this section, including, but not limited to, the officer's termination or retirement or the employer's reorganization, consolidation, merger, or closing; and
- (v) The documentation required to substantiate that the officer was reemployed pursuant to 38 U.S.C. 4301 et seq.

(2) This section only applies to military service that falls within the definition of uniformed service under 38 U.S.C. 4301 et seq. Military service does not include service provided pursuant to sections 55-101 to 55-181.

Source: Laws 1949, c. 177, § 1, p. 481; Laws 1967, c. 391, § 5, p. 1216; Laws 1971, LB 987, § 15; R.S.1943, (1978), § 60-461; Laws 1991, LB 549, § 59; Laws 1996, LB 847, § 38; Laws 2017, LB415, § 44.

Effective date May 24, 2017.

ARTICLE 21

STATE ELECTRICAL DIVISION

Section

- 81-2102. Terms, defined.
- 81-2104. State Electrical Board; powers enumerated.
- 81-2107. Electrical contractor license; applicant; qualifications; Class B electrical contractor license and Class B master electrician license; restriction on license.
- 81-2109. Journeyman electrician license; residential journeyman electrician license; qualifications; Class B journeyman electrician license; restriction on license.
- 81-2110. Installer; license; rights and privileges.

81-2102 Terms, defined.

For purposes of the State Electrical Act, unless the context otherwise requires:

(1) Apprentice electrician means any person, other than a licensee, who, as such person's principal occupation, is engaged in learning and assisting in the installation, alteration, and repair of electrical equipment as an employee of a licensee and who is registered with the board. For purposes of this subdivision, persons who are not engaged in the installation, alteration, or repair of electrical wiring and apparatus, either inside or outside buildings, shall not be considered apprentice electricians;

(2) Board means the State Electrical Board;

(3) Class A master electrician means a person having the necessary qualifications, training, experience, and technical knowledge to properly plan, lay out, and supervise the installation of wiring, apparatus, and equipment for electric light, heat, power, and other purposes and who is licensed by the board;

(4) Class B electrical contractor means a person having the necessary qualifications, training, experience, and technical knowledge to properly plan,

lay out, install, and supervise the installation of wiring, apparatus, and equipment for systems of not over four hundred ampere capacity for light, heat, power, and other purposes in any structure used and maintained as a residential dwelling but not larger than a four-family dwelling located in any municipality which has a population of less than one hundred thousand inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census and who is licensed by the board;

(5) Class B journeyman electrician means a person having the necessary qualifications, training, experience, and technical knowledge to wire for or install electrical wiring, apparatus, and equipment for systems of not over four hundred ampere capacity for light, heat, power, and other purposes in any structure used and maintained as a residential dwelling but not larger than a four-family dwelling located in any municipality which has a population of less than one hundred thousand inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census and who is licensed by the board;

(6) Class B master electrician means a person having the necessary qualifications, training, experience, and technical knowledge to properly plan, lay out, and supervise the installation of wiring, apparatus, and equipment for systems of not over four hundred ampere capacity for light, heat, power, and other purposes in any structure used and maintained as a residential dwelling but not larger than a four-family dwelling located in any municipality which has a population of less than one hundred thousand inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census and who is licensed by the board;

(7) Commercial installation means an installation intended for commerce, but does not include a residential installation;

(8) Electrical contractor means a person having the necessary qualifications, training, experience, and technical knowledge to properly plan, lay out, install, and supervise the installation of wiring, apparatus, and equipment for electric light, heat, power, and other purposes and who is licensed by the board;

(9) Fire alarm installer means any person having the necessary qualifications, training, and experience to plan, lay out, and install electrical wiring, apparatus, and equipment for only those components of fire alarm systems that operate at fifty volts or less and who is licensed by the board;

(10) Industrial installation means an installation intended for use in the manufacture or processing of products involving systematic labor or habitual employment and includes installations in which agricultural or other products are habitually or customarily processed or stored for others, either by buying or reselling on a fee basis;

(11) Installer means a person who has the necessary qualifications, training, experience, and technical knowledge to properly lay out and install electrical wiring, apparatus, and equipment for major electrical home appliances on the load side of the main service in any municipality which has a population of less than one hundred thousand inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census and who is licensed by the board;

(12) Inspector means a person certified as an electrical inspector upon such reasonable conditions as may be adopted by the board. The board may permit more than one class of electrical inspector;

(13) Journeyman electrician means a person having the necessary qualifications, training, experience, and technical knowledge to wire for or install electrical wiring, apparatus, and equipment and to supervise apprentice electricians and who is licensed by the board;

(14) New electrical installation means the installation of wiring, apparatus, and equipment for electric light, heat, power, and other purposes;

(15) Public-use building or facility means any building or facility designated for public use;

(16) Residential installation means an installation intended for a single-family or two-family residential dwelling or a multi-family residential dwelling not larger than three stories in height;

(17) Residential journeyman electrician means a person having the necessary qualifications, training, experience, and technical knowledge to wire for or install electrical wiring, apparatus, and equipment for residential installations and to supervise apprentice electricians and who is licensed by the board;

(18) Routine maintenance means the repair or replacement of existing electrical apparatus and equipment of the same size and type for which no changes in wiring are made; and

(19) Special electrician means a person having the necessary qualifications, training, and experience in wiring or installing special classes of electrical wiring, apparatus, equipment, or installations which shall include irrigation system wiring, well pump wiring, air conditioning and refrigeration installation, and sign installation and who is licensed by the board.

Source: Laws 1975, LB 525, § 2; Laws 1978, LB 833, § 2; Laws 1981, LB 67, § 1; R.S.Supp., 1981, § 81-572; Laws 1993, LB 193, § 2; Laws 2003, LB 126, § 2; Laws 2004, LB 914, § 1; Laws 2017, LB 113, § 60.

Effective date August 24, 2017.

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 2017, Publication Number 70-2017, 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; Laws 2014, LB863, § 28; Laws 2017, LB455, § 1.
Effective date August 24, 2017.

81-2107 Electrical contractor license; applicant; qualifications; Class B electrical contractor license and Class B master electrician license; restriction on license.

(1) An applicant for an electrical contractor license shall (a) be a graduate of a four-year electrical course in an accredited college or university, (b) have at least one year's experience, acceptable to the board, as a journeyman electrician, or (c) have at least five years' experience, acceptable to the board, in planning for, laying out, supervising, and installing wiring, apparatus, or equipment for electrical light, heat, and power.

(2) A Class B electrical contractor license and a Class B master electrician license shall be valid only in regard to systems of not over four hundred amperes in capacity in structures used and maintained as residential dwellings but not larger than four-family dwellings located in any municipality which has a population of less than one hundred thousand inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census.

Source: Laws 1975, LB 525, § 9; Laws 1978, LB 833, § 6; R.S.Supp.,1980, § 81-578; Laws 1993, LB 193, § 7; Laws 2003, LB 126, § 6; Laws 2017, LB113, § 61.
Effective date August 24, 2017.

81-2109 Journeyman electrician license; residential journeyman electrician license; qualifications; Class B journeyman electrician license; restriction on license.

(1) An applicant for a journeyman electrician license shall have at least four years' experience, acceptable to the board, in the electrical trade. Registration as an apprentice electrician for those years shall, on the approval of the board, constitute evidence of such experience. The board may by rule or regulation provide for the allowance of one year of experience credit for successful completion of a two-year post-high school electrical course approved by the board.

(2) On and after July 16, 2004, an applicant for a residential journeyman electrician license shall have at least three years' experience, acceptable to the board, in the electrical trade. Registration as an apprentice electrician for those years shall, on the approval of the board, constitute evidence of such experience. The board may by rule or regulation provide for the allowance of one year of experience credit for successful completion of a two-year post-high school electrical course approved by the board. A residential journeyman electrician license shall be valid only for residential installations.

(3) A Class B journeyman electrician license shall be valid only for electrical systems of not over four hundred amperes in capacity in structures used and maintained as residential dwellings but not larger than four-family dwellings located in any municipality which has a population of less than one hundred thousand inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census.

Source: Laws 1975, LB 525, § 10; R.S.1943, (1976), § 81-580; Laws 1993, LB 193, § 9; Laws 2004, LB 914, § 3; Laws 2017, LB113, § 62.
Effective date August 24, 2017.

81-2110 Installer; license; rights and privileges.

Any person holding an installer license may lay out and install electrical wiring, apparatus, and equipment for major electrical home appliances on the load side of the main service in any municipality having a population of less than one hundred thousand inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census.

Source: Laws 1975, LB 525, § 11; R.S.1943, (1976), § 81-581; Laws 1993, LB 193, § 10; Laws 2017, LB113, § 63.
Effective date August 24, 2017.

ARTICLE 22
AGING SERVICES

(a) NEBRASKA COMMUNITY AGING SERVICES ACT

Section

81-2210. Community aging services, defined.

(b) CARE MANAGEMENT SERVICES

81-2233. Repealed. Laws 2017, LB417, § 25.

(f) NEBRASKA SENIOR VOLUNTEER PROGRAM ACT

81-2273. Act, how cited.

81-2274. Purpose of act.

81-2275. Terms, defined.

81-2276. Repealed. Laws 2017, LB417, § 25.

81-2277. Repealed. Laws 2017, LB417, § 25.

81-2278. Repealed. Laws 2017, LB417, § 25.

81-2279. Senior volunteers; benefits.

81-2280. Repealed. Laws 2017, LB417, § 25.

81-2281. Grants; amount.

81-2283. Rules and regulations.

(a) NEBRASKA COMMUNITY AGING SERVICES ACT

81-2210 Community aging services, defined.

Community aging services means those activities and services which fulfill the goals of the Nebraska Community Aging Services Act, which are necessary to promote, restore, or support self-sufficiency and independence for older persons, and which include: (1) Congregate activities, including, but not limited to, senior centers, group meals, volunteerism, adult day services, and recreation; and (2) individual services, including, but not limited to, specialized transportation, meals-on-wheels, home handyman services, home health care services, legal services, counseling related to problems of aging or encouraging access to aging services, and senior volunteer services.

Source: Laws 1982, LB 404, § 10; Laws 1991, LB 58, § 10; Laws 2000, LB 819, § 156; Laws 2000, LB 1101, § 1; Laws 2017, LB417, § 17.

Effective date August 24, 2017.

(b) CARE MANAGEMENT SERVICES

81-2233 Repealed. Laws 2017, LB417, § 25.

(f) NEBRASKA SENIOR VOLUNTEER PROGRAM ACT

81-2273 Act, how cited.

Sections 81-2273 to 81-2283 shall be known and may be cited as the Nebraska Senior Volunteer Program Act.

Source: Laws 2000, LB 1101, § 2; Laws 2017, LB417, § 18.

Effective date August 24, 2017.

81-2274 Purpose of act.

The purpose of the Nebraska Senior Volunteer Program Act is to provide volunteer community service opportunities for older persons following priori-

ties outlined in the federal Older Americans Act of 1965, as the act existed on January 1, 2017.

Source: Laws 2000, LB 1101, § 3; Laws 2017, LB417, § 19.
Effective date August 24, 2017.

81-2275 Terms, defined.

For purposes of the Nebraska Senior Volunteer Program Act:

- (1) Department means the Department of Health and Human Services; and
- (2) Senior volunteer means an individual who is sixty years of age or older.

Source: Laws 2000, LB 1101, § 4; Laws 2017, LB417, § 20.
Effective date August 24, 2017.

81-2276 Repealed. Laws 2017, LB417, § 25.

81-2277 Repealed. Laws 2017, LB417, § 25.

81-2278 Repealed. Laws 2017, LB417, § 25.

81-2279 Senior volunteers; benefits.

(1) A senior volunteer may receive (a) transportation expenses for transportation to and from their residences and the place where services are to be rendered, (b) one free meal when reasonably available during each day that services are rendered, and (c) an annual physical examination.

(2) A senior volunteer shall receive motor vehicle accident and liability insurance coverage.

Source: Laws 2000, LB 1101, § 8; Laws 2017, LB417, § 21.
Effective date August 24, 2017.

81-2280 Repealed. Laws 2017, LB417, § 25.

81-2281 Grants; amount.

(1) The department shall make annual grants in an amount not to exceed twenty-five thousand dollars.

(2) As a condition to receiving a grant, an applicant shall obtain at least ten percent matching funds from local sources.

Source: Laws 2000, LB 1101, § 10; Laws 2017, LB417, § 22.
Effective date August 24, 2017.

81-2283 Rules and regulations.

The department shall adopt and promulgate rules and regulations to carry out the Nebraska Senior Volunteer Program Act.

Source: Laws 2000, LB 1101, § 12; Laws 2017, LB417, § 23.
Effective date August 24, 2017.

ARTICLE 25

COMMISSION ON INDIAN AFFAIRS

Section

81-2517. Native American Scholarship and Leadership Fund; created; use; investment.

81-2517 Native American Scholarship and Leadership Fund; created; use; investment.

The Native American Scholarship and Leadership Fund is created. The fund shall be administered by the Commission on Indian Affairs and shall consist of money credited to the fund pursuant to section 60-3,235. The commission shall use the fund to provide scholarships to Native Americans to attend a postsecondary educational institution in this state and to provide other leadership opportunities to Native Americans as determined by the commission. 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 2017, LB263, § 100.
Operative date August 24, 2017.

Cross References

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

ARTICLE 28**RAILROAD RIGHT-OF-WAY**

Section

81-2801. Railroad right-of-way; acquisition by state agency; approval of Legislature; exception.

81-2801 Railroad right-of-way; acquisition by state agency; approval of Legislature; exception.

No agency of this state shall purchase, lease, or acquire real estate from any railroad over a right-of-way outside of incorporated cities and villages which has been permitted to be abandoned by a federal agency without prior approval by the Legislature of such purchase, lease, or acquisition, except that (1) the Game and Parks Commission may acquire all or any part of a railroad right-of-way proposed to be abandoned for interim trail use pursuant to sections 37-303 and 37-914 and (2) the Department of Transportation may acquire such real estate solely for the purpose of highway construction or improvements when such right-of-way is adjacent to an existing state highway or when such right-of-way is needed to maintain existing improvements that have previously been located upon such right-of-way through agreements, easements, or leases. Real estate acquired by the department pursuant to this section which is in excess of that needed or is deemed no longer necessary shall be disposed of as provided for in section 39-1325.

Source: Laws 1971, LB 662, § 2; Laws 1983, LB 119, § 1; R.S.1943, (1990), § 74-424; Laws 1994, LB 414, § 4; Laws 1996, LB 584, § 21; Laws 1998, LB 922, § 410; Laws 2017, LB339, § 290.
Operative date July 1, 2017.

ARTICLE 31**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

Section

81-3113. Department of Health and Human Services created; divisions.
81-3116. Responsibilities of divisions.

81-3113 Department of Health and Human Services created; divisions.

The Department of Health and Human Services is created. The department shall have five divisions to be known as (1) the Division of Behavioral Health, (2) the Division of Children and Family Services, (3) the Division of Developmental Disabilities, (4) the Division of Medicaid and Long-Term Care, and (5) the Division of Public Health.

Source: Laws 2007, LB296, § 4; Laws 2017, LB340, § 18.
Operative date July 1, 2017.

81-3116 Responsibilities of divisions.

The responsibilities of the divisions created in section 81-3113 include, but are not limited to, the following:

(1) The Division of Behavioral Health shall administer (a) the state hospitals for the mentally ill designated in section 83-305 and (b) publicly funded community-based behavioral health services;

(2) The Division of Children and Family Services shall administer (a) protection and safety programs and services, including child welfare programs and services and the Office of Juvenile Services, (b) economic and family support programs and services, and (c) service areas as may be designated by the chief executive officer or by the Director of Children and Family Services under authority of the chief executive officer, except that on and after September 1, 2012, the western, central, and northern service areas shall be aligned to be coterminous with the district court judicial districts described in section 24-301.02;

(3) The Division of Developmental Disabilities shall administer (a) the Beatrice State Developmental Center and (b) publicly funded community-based developmental disabilities services;

(4) The Division of Medicaid and Long-Term Care shall administer (a) the medical assistance program also known as medicaid, (b) aging services, and (c) other related programs and services; and

(5) The Division of Public Health shall administer (a) preventive and community health programs and services, (b) the regulation and licensure of health-related professions and occupations, and (c) the regulation and licensure of health care facilities and health care services.

Source: Laws 2007, LB296, § 7; Laws 2012, LB961, § 4; Laws 2017, LB340, § 19.
Operative date July 1, 2017.

ARTICLE 34**ENGINEERS AND ARCHITECTS REGULATION ACT**

Section

81-3432. Engineers and Architects Regulation Fund; created; use; investment.

81-3432 Engineers and Architects Regulation Fund; created; use; investment.

The Engineers and Architects Regulation Fund is created. The secretary of the board shall receive and account for all money derived from the operation of

the Engineers and Architects Regulation Act and shall remit the money to the State Treasurer for credit to the Engineers and Architects Regulation Fund. All expenses certified by the board as properly and necessarily incurred in the discharge of duties, including compensation and administrative staff, and any expense incident to the administration of the act relating to other states shall be paid out of the fund. Debt repayments payable pursuant to section 81-3432.01 shall be paid out of the fund. Warrants for the payment of expenses shall be issued by the Director of Administrative Services and paid by the State Treasurer upon presentation of vouchers regularly drawn by the chairperson and secretary of the board and approved by the board. At no time shall the total amount of warrants exceed the total amount of the fees collected under the act and to the credit of the fund. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. Money in the Engineers and Architects Regulation Fund may be transferred to the General Fund at the direction of the Legislature.

The State Treasurer shall transfer three hundred thousand dollars from the Engineers and Architects Regulation Fund to the General Fund on or before June 15, 2018, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

Source: Laws 1997, LB 622, § 32; Laws 2009, LB446, § 2; Laws 2009, First Spec. Sess., LB3, § 86; Laws 2015, LB23, § 28; Laws 2017, LB331, § 54.
Effective date May 16, 2017.

Cross References

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

ARTICLE 37

NEBRASKA VISITORS DEVELOPMENT ACT

Section

- 81-3701. Act, how cited.
- 81-3702. Act; purposes.
- 81-3703. Definitions, where found.
- 81-3709.01. Tourism industry, defined.
- 81-3710. Nebraska Tourism Commission; created; members; terms.
- 81-3711. Commission; duties.
- 81-3711.01. Significant tourism attractions; commission; powers and duties; appoint special committee; Department of Transportation; duties.
- 81-3712. Travel and Tourism Division of Department of Economic Development; transition of employees.
- 81-3713. Commission; statewide strategic plan; duties.
- 81-3714. State Visitors Promotion Cash Fund; created; uses; investment.
- 81-3721. Commission; contracts authorized.
- 81-3724. Tax Commissioner; adopt rules and regulations.
- 81-3725. Marketing assistance grants; applicant; duties; innovative tourism grants; technical review committee; duties; final report.
- 81-3727. Repealed. Laws 2017, LB222, § 14.

81-3701 Act, how cited.

Sections 81-3701 to 81-3726 shall be known and may be cited as the Nebraska Visitors Development Act.

Source: Laws 1980, LB 499, § 19; Laws 1988, LB 797, § 10; R.S.1943, (2008), § 81-1263; Laws 2012, LB1053, § 1; Laws 2015, LB449, § 10; Laws 2017, LB222, § 1.
Effective date August 24, 2017.

81-3702 Act; purposes.

The purposes of the Nebraska Visitors Development Act are (1) to create the Nebraska Tourism Commission to promote Nebraska as a tourism destination and to administer programs to attract an increasing number of visitors to Nebraska and further the use of travel and tourism facilities in Nebraska, (2) to provide for a lodging tax on hotels for the purpose of establishing a State Visitors Promotion Cash Fund, and (3) to authorize the governing body of any county to appoint a visitors committee and impose a lodging tax on hotels for the purpose of establishing a County Visitors Promotion Fund and a County Visitors Improvement Fund.

Source: Laws 1980, LB 499, § 1; Laws 1988, LB 797, § 1; Laws 1989, LB 262, § 1; Laws 2003, LB 726, § 1; R.S.1943, (2008), § 81-1245; Laws 2012, LB1053, § 2; Laws 2017, LB222, § 2.
Effective date August 24, 2017.

81-3703 Definitions, where found.

For purposes of the Nebraska Visitors Development Act, unless the context otherwise requires, the definitions found in sections 81-3704 to 81-3709.01 apply.

Source: Laws 1980, LB 499, § 2; Laws 1988, LB 797, § 2; R.S.1943, (2008), § 81-1246; Laws 2012, LB1053, § 3; Laws 2015, LB449, § 11; Laws 2017, LB222, § 3.
Effective date August 24, 2017.

81-3709.01 Tourism industry, defined.

Tourism industry includes any person or other entity, whether for-profit or not-for-profit, that promotes an activity, an event, or a site which attracts both in-state and out-of-state visitors, including, but not limited to, a chamber of commerce, a convention and visitors bureau, the hospitality industry, the food and beverage industry, the hotel industry, a passenger transportation provider, any business or organization engaged in recreational, historical, cultural, artistic, or entertainment pursuits, and any person who owns or operates any such activity, event, or site.

Source: Laws 2017, LB222, § 4.
Effective date August 24, 2017.

81-3710 Nebraska Tourism Commission; created; members; terms.

(1) The Nebraska Tourism Commission is created. The terms of the members serving pursuant to subsection (2) of this section terminate thirty days after August 24, 2017. The terms of the members serving pursuant to subsection (3) of this section begin thirty days after August 24, 2017.

(2) Until thirty days after August 24, 2017, the commission shall consist of the following members:

- (a) One representative from the Game and Parks Commission;
- (b) One representative from the Nebraska Travel Association;
- (c) One representative from the Nebraska Hotel and Motel Association;
- (d) One representative from a tourism attraction that records at least two thousand out-of-state visitors per year;
- (e) One representative from the Nebraska Association of Convention and Visitors Bureaus;
- (f) One representative from the Western Nebraska Tourism Coalition;
- (g) One representative who resides in eastern Nebraska and is employed by a business that derives a majority of its revenue from out-of-state visitors;
- (h) One representative from the Central Nebraska Tourism Partnership; and
- (i) One representative of a business that derives a majority of its revenue from out-of-state visitors.

(3)(a) The Governor shall, within thirty days after August 24, 2017, appoint the members of the commission to begin serving at such time, prior to approval by the Legislature. The members shall consist of eleven residents of the State of Nebraska. Four of the members shall have professional, volunteer, or public service experience that contributes to the fiduciary and governance duties of the commission. Seven of the members shall be affiliated with the tourism industry. One member shall be appointed from each of the eleven districts designated in subdivision (b) of this subsection.

(b) For purposes of this section, the state is hereby divided into eleven districts. The limits and designations of the eleven districts shall be as follows:

- (i) District No. 1. Douglas County;
- (ii) District No. 2. Lancaster County;
- (iii) District No. 3. The counties of Richardson, Pawnee, Nemaha, Johnson, Otoe, Gage, Saline, and Jefferson;
- (iv) District No. 4. The counties of Cass and Sarpy;
- (v) District No. 5. The counties of Saunders, Washington, Dodge, Colfax, Stanton, Cuming, Burt, Thurston, Wayne, Cedar, Dixon, and Dakota;
- (vi) District No. 6. The counties of Butler, Polk, Platte, Merrick, Nance, Boone, Madison, Pierce, Antelope, Knox, Holt, and Boyd;
- (vii) District No. 7. The counties of Thayer, Nuckolls, Webster, Adams, Clay, Fillmore, Seward, York, Hamilton, Franklin, and Harlan;
- (viii) District No. 8. The counties of Kearney, Phelps, Hall, Howard, Greeley, Wheeler, Buffalo, Sherman, Valley, and Garfield;
- (ix) District No. 9. The counties of Lincoln, Keya Paha, Rock, Brown, Loup, Blaine, Custer, Logan, McPherson, Arthur, Grant, Hooker, Thomas, and Cherry;
- (x) District No. 10. The counties of Furnas, Red Willow, Hitchcock, Dundy, Chase, Hayes, Frontier, Gosper, Dawson, Perkins, and Keith; and
- (xi) District No. 11. The counties of Deuel, Garden, Sheridan, Cheyenne, Morrill, Box Butte, Dawes, Sioux, Scotts Bluff, Banner, and Kimball.

(c) The Governor shall appoint members representing district numbers 1, 6, 8, and 11 to serve for terms ending April 1, 2019; members representing district numbers 2, 5, 7, and 10 to serve for terms ending April 1, 2021; and members representing district numbers 3, 4, and 9 to serve for terms ending April 1, 2023. The terms of their successors shall be four years. The Governor shall appoint their successors with the approval of the majority of the members of the Legislature. A person appointed to serve pursuant to this subsection may serve only two successive terms.

Source: Laws 2012, LB1053, § 10; Laws 2017, LB222, § 5.
Effective date August 24, 2017.

81-3711 Commission; duties.

The commission shall:

- (1) Administer the Nebraska Visitors Development Act;
- (2) Prepare and approve a budget;
- (3) Elect a chairperson and vice-chairperson;
- (4) Procure and evaluate data and information necessary for the proper administration of the act;
- (5) Appoint an executive director at a salary to be fixed by the commission to conduct the day-to-day operations of the commission;
- (6) Employ personnel and contract for services which are necessary for the proper operation of the commission;
- (7) Establish a means by which any interested person has the opportunity at least annually to offer his or her ideas and suggestions relative to the commission's duties for the upcoming year;
- (8) Authorize the expenditure of funds and contracting of expenditures to carry out the act;
- (9) Keep minutes of its meetings and other books and records which clearly reflect all of the actions and transactions of the commission and keep such records open to examination during normal business hours;
- (10) Prohibit any funds appropriated to the commission from being expended directly or indirectly to promote or oppose any candidate for public office or to influence state or federal legislation;
- (11) Have authority to mark significant tourism attractions as provided in section 81-3711.01;
- (12) Adopt and promulgate rules and regulations to carry out the Nebraska Visitors Development Act;
- (13) Develop and administer a program to provide promotional services, technical assistance, and state aid to local governments and the tourism industry;
- (14) Establish written policies and procedures governing the executive director and the personnel of the commission in the expenditure and use of funds appropriated to the commission;
- (15) Cooperate with federal, state, and local governments and private individuals and organizations to carry out any of the functions of the commission and purposes of the Nebraska Visitors Development Act; and

(16) Actively coordinate and develop working partnerships with other state agencies, including, but not limited to, the Commission on Indian Affairs, the Department of Economic Development, the Game and Parks Commission, the Nebraska Arts Council, the Nebraska State Historical Society, and the University of Nebraska.

Source: Laws 2012, LB1053, § 11; Laws 2015, LB449, § 14; Laws 2017, LB222, § 6.

Effective date August 24, 2017.

81-3711.01 Significant tourism attractions; commission; powers and duties; appoint special committee; Department of Transportation; duties.

(1) The commission may mark significant tourism attractions in Nebraska.

(2) The commission may (a) determine what tourism attractions are significant to the State of Nebraska, (b) expend funds for the purchase of highway tourism markers, (c) designate the approximate location of highway tourism markers, (d) preserve, replace, or modify highway tourism markers, and (e) accept gifts and encourage local participation in and contribution to the erection of highway tourism markers through the use of gifts and matching-fund agreements. Such funds shall be deposited into the State Visitors Promotion Cash Fund. The commission shall not expend funds for the purchase of highway tourism markers until funding has been secured through gifts or otherwise.

(3) The commission may appoint and delegate to a special committee the duties of research and investigation to assist in the determination of tourism attractions that should be designated by highway tourism markers. The Department of Transportation shall erect and maintain highway tourism markers and shall determine the exact location of highway tourism markers with consideration given for the safety and welfare of the public.

(4) The commission may secure payment to the state for the actual replacement cost of any highway tourism markers damaged or destroyed, accidentally or otherwise. Any funds so collected shall be remitted to the State Treasurer for credit to the State Visitors Promotion Cash Fund for the procurement of highway tourism markers.

(5) Nothing in this section shall be construed to restrict the placement of any marker or signage on private property.

Source: Laws 2015, LB449, § 13; Laws 2017, LB339, § 291.

Operative date July 1, 2017.

81-3712 Travel and Tourism Division of Department of Economic Development; transition of employees.

For purposes of transition, employees of the Travel and Tourism Division of the Department of Economic Development shall be considered employees of the commission and shall retain their rights under the state personnel system or pertinent bargaining agreement, and their service shall be deemed continuous. This section does not grant employees any new rights or benefits not otherwise provided by law or bargaining agreement or preclude the commission from exercising any of the prerogatives of management set forth in section 81-1311

or as otherwise provided by law. This section is not an amendment to or substitute for the provisions of any existing bargaining agreements.

Source: Laws 2012, LB1053, § 12; Laws 2017, LB222, § 7.
Effective date August 24, 2017.

81-3713 Commission; statewide strategic plan; duties.

The commission shall develop a statewide strategic plan to cultivate and promote tourism in Nebraska. The commission shall review the plan annually and update as necessary. The plan shall include:

- (1) A review of revenue in the State Visitors Promotion Cash Fund available for tourism development at the state level;
- (2) An examination of best management practices for the tourism industry;
- (3) Marketing strategies for promoting tourism;
- (4) Methods to expand existing tourism capacity which may include encouraging regional cooperation, collaboration, or privatization; and
- (5) Recommended strategies to provide technical assistance, marketing services, and state aid to local governments and the tourism industry in Nebraska.

Source: Laws 1986, LB 965, § 13; Laws 2011, LB684, § 1; R.S.1943, (2008), § 81-1201.13; Laws 2012, LB782, § 193; Laws 2012, LB1053, § 13; Laws 2017, LB222, § 8.
Effective date August 24, 2017.

81-3714 State Visitors Promotion Cash Fund; created; uses; investment.

The State Visitors Promotion Cash Fund is created. The fund shall be administered by the commission. The fund shall consist of revenue deposited into the fund pursuant to section 81-3715 and money donated as gifts, bequests, or other contributions from public or private entities. Funds made available by any department or agency of the United States may also be credited to the fund if so directed by such department or agency. The commission shall use the proceeds of the fund to generally promote, encourage, and attract visitors to and within the State of Nebraska, to erect and replace highway tourism markers, to enhance the use of travel and tourism facilities within the state, to provide grants to communities and organizations, and to contract with the Department of Administrative Services to provide support services to the commission, including, but not limited to, accounting and personnel functions. The proceeds of the fund shall be in addition to funds appropriated to the commission from the General Fund. Any money in the State Visitors Promotion 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 1980, LB 499, § 8; R.S.1943, (2008), § 81-1252; Laws 2012, LB1053, § 14; Laws 2015, LB449, § 15; Laws 2016, LB957, § 9; Laws 2017, LB222, § 9.
Effective date August 24, 2017.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-3721 Commission; contracts authorized.

All contracts awarded by the commission shall be subject to sections 73-501 to 73-510. The commission shall comply with the rules, regulations, procedures, and guidelines established by the Department of Administrative Services for contracts.

Source: Laws 1980, LB 499, § 15; Laws 1988, LB 797, § 7; R.S.1943, (2008), § 81-1259; Laws 2012, LB1053, § 21; Laws 2017, LB222, § 10.
Effective date August 24, 2017.

81-3724 Tax Commissioner; adopt rules and regulations.

The Tax Commissioner shall adopt and promulgate rules and regulations to carry out the collection of lodging taxes under the Nebraska Visitors Development Act.

Source: Laws 1980, LB 499, § 18; Laws 1988, LB 797, § 9; R.S.1943, (2008), § 81-1262; Laws 2012, LB1053, § 24; Laws 2017, LB222, § 11.
Effective date August 24, 2017.

81-3725 Marketing assistance grants; applicant; duties; innovative tourism grants; technical review committee; duties; final report.

(1) The commission shall develop a program to provide marketing assistance grants to communities and organizations hosting national or international-caliber events held in Nebraska that have the potential to attract a significant percentage of out-of-state visitors and to generate favorable national or international press coverage for Nebraska.

(2) A community or organization applying for a marketing assistance grant shall provide a plan to the commission that includes: (a) Documentation that the event will attract out-of-state visitors; (b) details regarding the type of marketing that would be carried out with state funds; (c) methodologies used to track the impact of marketing efforts and the number of out-of-state visitors attending the event; and (d) details regarding the potential national or international press coverage that will be generated by the event.

(3) The commission shall develop a program to provide innovative tourism grants to communities or organizations that provide tourism and visitor promotion services, host events, or promote attractions which result in either (a) an increased number of nonlocal, instate visitors or (b) an increased number of both nonlocal, instate visitors and out-of-state visitors. Innovative tourism grants may include, but not be limited to, marketing assistance, planning assistance, basic support, and regional cooperation. Innovative tourism grants shall not be used for equipment or capital facility development or improvements.

(4) The executive director shall convene a technical review committee of no fewer than three individuals representing the public sector, the private sector, and citizens at large. The technical review committee and the executive director shall review and score applications for marketing assistance grants and innovative tourism grants and forward recommendations to the commission for approval by the commission or a subcommittee of the commission.

(5) Communities and organizations receiving marketing assistance grants or innovative tourism grants authorized under this section shall provide a final

report to the commission within ninety days after the completion date of the event that includes event attendance, the use of funds, and marketing impact information.

(6) The commission shall adopt and promulgate rules and regulations governing the grant programs authorized under this section.

Source: Laws 2015, LB449, § 16; Laws 2017, LB222, § 12.
Effective date August 24, 2017.

81-3727 Repealed. Laws 2017, LB222, § 14.

CHAPTER 82

STATE CULTURE AND HISTORY

Article.

1. Nebraska State Historical Society. 82-120.
3. Nebraska Arts Council. 82-331.
5. Nebraska Archaeological Resources Preservation Act. 82-505.

ARTICLE 1

NEBRASKA STATE HISTORICAL SOCIETY

Section

82-120. Nebraska State Historical Society; selection of projects; procurement of Highway Historical Markers; purchase, gift, or eminent domain; erection and maintenance.

82-120 Nebraska State Historical Society; selection of projects; procurement of Highway Historical Markers; purchase, gift, or eminent domain; erection and maintenance.

The Nebraska State Historical Society shall have authority to determine what historical events, personalities, sites, and traditions are of importance to the State of Nebraska and to justify the expenditure of public funds for the purchase of markers of uniform style, to be known as Highway Historical Markers; to procure such markers by expending any funds specifically appropriated by the Legislature for such purpose and to designate the approximate location of such markers; to preserve present markers; to accept gifts; and have power of eminent domain to be exercised as provided in sections 76-704 to 76-724. The Department of Transportation shall erect and maintain such markers and shall determine the exact location of such markers, having due regard for the safety and welfare of the motoring public.

Source: Laws 1957, c. 384, § 2, p. 1340; Laws 1959, c. 441, § 3, p. 1483; R.R.S.1943, § 82-202; Laws 1969, c. 811, § 2, p. 3048; Laws 2017, LB339, § 292.

Operative date July 1, 2017.

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 one million dollars from the General Fund to the Nebraska Cultural Preservation Endowment Fund on December 31, 2013, (b) an amount not to exceed five hundred thousand dollars from the General Fund to the Nebraska Cultural Preservation Endowment Fund on December 31, 2014, (c) an amount not to exceed seven hundred fifty thousand dollars from the General Fund to the Nebraska Cultural Preservation Endowment Fund on December 31 of 2015 and 2016, and (d) an amount not to exceed five hundred thousand dollars from the General Fund to the Nebraska Cultural Preservation Endowment Fund annually on December 31 beginning in 2019 and continuing through December 31, 2028.

(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. For purposes of this section, new money means a contribution to a qualified endowment generated after July 1, 2011. Contributions not fully matched by state funds shall be carried forward to succeeding years and remain available to provide a dollar-for-dollar match for state funds. For an endowment to be a qualified endowment (a) the endowment must meet the standards set by the Nebraska Arts Council or Nebraska Humanities Council, (b) the endowment must be intended for long-term stabilization of the organization, and (c) the funds of the endowment must be endowed and only the earnings thereon expended. 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. State 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; Laws 2012, LB969, § 11; Laws 2013, LB199, § 39; Laws 2016, LB957, § 12; Laws 2017, LB331, § 55.
Effective date May 16, 2017.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

ARTICLE 5

NEBRASKA ARCHAEOLOGICAL RESOURCES PRESERVATION ACT

Section

82-505. State or state-funded undertaking; notice required; exemption from act; act, how construed.

82-505 State or state-funded undertaking; notice required; exemption from act; act, how construed.

(1) Except as provided in subsection (2) of this section, the head of any state agency having jurisdiction over a proposed state or state-funded undertaking, which has potential to affect archaeological resources or sites, shall, prior to the approval of the expenditure of any state funds on the undertaking, notify the State Archaeology Office of the undertaking and cooperate with the office to identify and develop measures to mitigate the effect of the undertaking on any archaeological site or resource that is included in or eligible for inclusion in the National Register of Historic Places.

(2) The Department of Transportation shall be exempt from the provisions of the Nebraska Archaeological Resources Preservation Act as long as a cooperative agreement exists between the Department of Transportation and the Nebraska State Historical Society which ensures that all highway construction projects meet federal historic preservation legislation and regulations, and such federal preservation legislation and regulations fulfill or exceed the objectives and standards of the act.

(3) Nothing in the Nebraska Archaeological Resources Preservation Act shall be construed to abridge the rights of private property owners and in no case shall a private property owner be required to pay for activities undertaken by the State Archaeology Office.

Source: Laws 2005, LB 211, § 5; Laws 2017, LB339, § 293.
Operative date July 1, 2017.

CHAPTER 83

STATE INSTITUTIONS

Article.

1. Management.
 - (a) General Provisions. 83-107.01 to 83-123.
 - (c) Property and Supplies. 83-137.
 - (f) Correctional Services, Parole, and Pardons. 83-1,105.01 to 83-1,132.
4. Penal and Correctional Institutions.
 - (l) Incarceration Work Camps. 83-4,143.
9. Department of Correctional Services.
 - (j) Lethal Injection. 83-964 to 83-972.
12. Developmental Disabilities Services. 83-1201 to 83-1216.01.

ARTICLE 1

MANAGEMENT

(a) GENERAL PROVISIONS

Section

- 83-107.01. Department of Health and Human Services; official names of institutions under supervision.
- 83-108. Department of Health and Human Services; institutions controlled.
- 83-123. Department of Correctional Services; license plates; materials; Department of Motor Vehicles; duties.

(c) PROPERTY AND SUPPLIES

- 83-137. State institutions; adjacent highways; improvement.

(f) CORRECTIONAL SERVICES, PAROLE, AND PARDONS

- 83-1,105.01. Repealed. Laws 2015, LB 268, § 35; Laws 2015, LB 605, § 112; Referendum 2016, No. 426.
- 83-1,110.02. Medical parole; eligibility; conditions; term.
- 83-1,132. Committed offender under sentence of death; application for exercise of pardon authority by Board of Pardons; denial; date of execution; fix.

(a) GENERAL PROVISIONS

83-107.01 Department of Health and Human Services; official names of institutions under supervision.

The official names of the state institutions under the supervision of the Department of Health and Human Services shall be as follows: (1) Beatrice State Developmental Center, (2) Lincoln Regional Center, (3) Norfolk Regional Center, (4) Hastings Regional Center, (5) Youth Rehabilitation and Treatment Center-Kearney, and (6) Youth Rehabilitation and Treatment Center-Geneva.

Source: Laws 1945, c. 250, § 1, p. 786; Laws 1949, c. 291, § 1, p. 994; Laws 1951, c. 318, § 1, p. 1086; Laws 1955, c. 341, § 2, p. 1055; Laws 1959, c. 418, § 9, p. 1403; Laws 1959, c. 419, § 10, p. 1412; Laws 1961, c. 416, § 12, p. 1269; Laws 1963, c. 528, § 2, p. 1656; Laws 1969, c. 814, § 6, p. 3061; Laws 1969, c. 818, § 7, p. 3117; Laws 1972, LB 1253, § 1; Laws 1973, LB 563, § 19; Laws 1975, LB 466, § 1; Laws 1976, LB 974, § 1; Laws 1996, LB 1044, § 896; Laws 1997, LB 396, § 22; Laws 1998, LB 1073, § 167;

Laws 2006, LB 994, § 146; Laws 2007, LB296, § 779; Laws 2017, LB340, § 20.

Operative date July 1, 2017.

Cross References

For provisions relating to the Beatrice State Developmental Center, see sections 83-217 to 83-227.02.

For provisions relating to the state hospitals for the mentally ill, see sections 83-305 to 83-357.

83-108 Department of Health and Human Services; institutions controlled.

The Department of Health and Human Services shall have oversight and general control of the Beatrice State Developmental Center, the hospitals for the mentally ill, such skilled nursing care and intermediate care facilities as may be established by the department, facilities and programs operated by the Office of Juvenile Services, and all charitable institutions.

Source: Laws 1913, c. 179, § 9, p. 537; R.S.1913, § 7187; C.S.1922, § 6838; C.S.1929, § 83-109; Laws 1935, c. 185, § 1, p. 685; C.S.Supp.,1941, § 83-109; R.S.1943, § 83-108; Laws 1949, c. 291, § 2, p. 994; Laws 1959, c. 442, § 1, p. 1485; Laws 1959, c. 418, § 13, p. 1405; Laws 1959, c. 419, § 11, p. 1412; Laws 1961, c. 416, § 14, p. 1270; Laws 1963, c. 526, § 3, p. 1649; Laws 1963, c. 528, § 3, p. 1656; Laws 1969, c. 814, § 7, p. 3061; Laws 1973, LB 563, § 20; Laws 1973, LB 536, § 2; Laws 1996, LB 1044, § 897; Laws 1997, LB 396, § 23; Laws 2017, LB340, § 21.
Operative date July 1, 2017.

83-123 Department of Correctional Services; license plates; materials; Department of Motor Vehicles; duties.

(1) Out of the fund appropriated by the Legislature, the Department of Correctional Services shall purchase the materials for and manufacture the license plates each year for the various counties and the Department of Motor Vehicles. The Department of Motor Vehicles shall furnish to the Department of Correctional Services the information concerning license plates through a secure process and system, together with the number of plates to be manufactured for each county and the Department of Motor Vehicles for the current licensing year.

(2) The Department of Correctional Services shall deliver the license plates each year as directed by the Department of Motor Vehicles through a secure process and system.

Source: Laws 1931, c. 22, § 2, p. 95; C.S.Supp.,1941, § 83-137; R.S.1943, § 83-123; Laws 1951, c. 319, § 2, p. 1091; Laws 1953, c. 207, § 14, p. 730; Laws 1959, c. 442, § 3, p. 1486; Laws 1959, c. 284, § 5, p. 1078; Laws 1969, c. 497, § 2, p. 2067; Laws 1993, LB 31, § 24; Laws 1993, LB 112, § 46; Laws 2009, LB49, § 9; Laws 2017, LB263, § 101.

Operative date January 1, 2019.

(c) PROPERTY AND SUPPLIES

83-137 State institutions; adjacent highways; improvement.

Upon written request being filed with the Department of Transportation by the chief executive officer of any state institution, located more than one-half

mile and not exceeding three miles from a railroad unloading track or permanent highway leading to a railroad unloading track, requesting aid for the improvement of a highway connecting the institution with the permanent highway or railroad unloading track, the department shall make a careful estimate of the cost of improving the highway, and the amount of the special benefits to abutting property, together with the excess of the cost of the improvement above the benefits. If the local authorities in charge of the highway shall adequately provide for the payment of the special benefits and one-half of the excess of the cost of the improvement, the department shall pay the remaining one-half of the excess from funds appropriated for that purpose.

Source: Laws 1919, c. 215, § 2, p. 927; C.S.1922, § 6862; C.S.1929, § 83-133; R.S.1943, § 83-137; Laws 2017, LB339, § 294.
Operative date July 1, 2017.

Cross References

Procedure for acquiring institutional land for county roads and state highways, see sections 39-1323 and 39-1703.

(f) CORRECTIONAL SERVICES, PAROLE, AND PARDONS

83-1,105.01 Repealed. Laws 2015, LB 268, § 35; Laws 2015, LB 605, § 112; Referendum 2016, No. 426.

Note: Section 83-1,105.01 was repealed by Laws 2015, LB 268, section 35, and Laws 2015, LB 605, section 112. Although the repeal of section 83-1,105.01 by Laws 2015, LB 268, was not effective because of the vote on the referendum at the November 2016 general election, section 83-1,105.01 remains repealed as a result of Laws 2015, LB 605, section 112.

83-1,110.02 Medical parole; eligibility; conditions; term.

(1) A committed offender who is otherwise eligible for parole, who is not under sentence of death or of life imprisonment, and who because of an existing medical or physical condition is determined by the department to be terminally ill or permanently incapacitated may be considered for medical parole by the board. A committed offender may be eligible for medical parole in addition to any other parole. The department shall identify committed offenders who may be eligible for medical parole based upon their medical records.

(2) The board shall decide to grant medical parole only after a review of the medical, institutional, and criminal records of the committed offender and such additional medical evidence from board-ordered examinations or investigations as the board in its discretion determines to be necessary. The decision to grant medical parole and to establish conditions of release on medical parole in addition to the conditions stated in subsection (3) of this section is within the sole discretion of the board.

(3) As conditions of release on medical parole, the board shall require that the committed offender agree to placement for medical treatment and that he or she be placed for a definite or indefinite period of time in a hospital, a hospice, or another housing accommodation suitable to his or her medical condition, including, but not limited to, his or her family's home, as specified by the board.

(4) The parole term of a medical parolee shall be for the remainder of his or her sentence as reduced by any adjustment for good conduct pursuant to the Nebraska Treatment and Corrections Act.

Source: Laws 2005, LB 538, § 25; Laws 2015, LB268, § 32; Referendum 2016, No. 426.

Note: The changes made to section 83-1,110.02 by Laws 2015, LB 268, section 32, have been omitted because of the vote on the referendum at the November 2016 general election.

83-1,132 Committed offender under sentence of death; application for exercise of pardon authority by Board of Pardons; denial; date of execution; fix.

Whenever an application for exercise of the pardon authority is filed with the secretary of the Board of Pardons by a committed offender who is under a sentence of death, the sentence shall not be carried out until the board rules upon such application. If the board denies the relief requested it may set the time and date of execution and refuse to accept for filing further applications from such offender.

Source: Laws 1969, c. 817, § 63, p. 3104; Laws 2015, LB268, § 35; Referendum 2016, No. 426.

Note: The repeal of section 83-1,132 by Laws 2015, LB 268, section 35, is not effective because of the vote on the referendum at the November 2016 general election.

ARTICLE 4

PENAL AND CORRECTIONAL INSTITUTIONS

(I) INCARCERATION WORK CAMPS

Section

83-4,143. Eligibility for incarceration work camp; court, Board of Parole, or Director of Correctional Services; considerations; duration.

(I) INCARCERATION WORK CAMPS

83-4,143 Eligibility for incarceration work camp; court, Board of Parole, or Director of Correctional Services; considerations; duration.

(1) It is the intent of the Legislature that the court target the felony offender (a) who is eligible and by virtue of his or her criminogenic needs is suitable to be sentenced to intensive supervision probation with placement at the incarceration work camp, (b) for whom the court finds that other conditions of a sentence of intensive supervision probation, in and of themselves, are not suitable, and (c) who, without the existence of an incarceration work camp, would, in all likelihood, be sentenced to prison.

(2) When the court is of the opinion that imprisonment is appropriate, but that a brief and intensive period of regimented, structured, and disciplined programming within a secure facility may better serve the interests of society, the court may place an offender in an incarceration work camp for a period not to exceed one hundred eighty days as a condition of a sentence of intensive supervision probation. The court may consider such placement if the offender (a) is a male or female offender convicted of a felony offense in a district court, (b) is medically and mentally fit to participate, with allowances given for reasonable accommodation as determined by medical and mental health professionals, and (c) has not previously been incarcerated for a violent felony crime. Offenders convicted of a crime under sections 28-319 to 28-322.04 or of any capital crime are not eligible to be placed in an incarceration work camp.

(3) It is also the intent of the Legislature that the Board of Parole may recommend placement of felony offenders at the incarceration work camp. The offenders recommended by the board shall be offenders currently housed at other Department of Correctional Services adult correctional facilities and shall complete the incarceration work camp programming prior to release on parole.

(4) When the Board of Parole is of the opinion that a felony offender currently incarcerated in a Department of Correctional Services adult correctional facility may benefit from a brief and intensive period of regimented, structured, and disciplined programming immediately prior to release on parole, the board may direct placement of such an offender in an incarceration work camp for a period not to exceed one hundred eighty days as a condition of release on parole. The board may consider such placement if the felony offender (a) is medically and mentally fit to participate, with allowances given for reasonable accommodation as determined by medical and mental health professionals, and (b) has not previously been incarcerated for a violent felony crime. Offenders convicted of a crime under sections 28-319 to 28-322.04 or of any capital crime are not eligible to be placed in an incarceration work camp.

(5) The Director of Correctional Services may assign a felony offender to an incarceration work camp if he or she believes it is in the best interests of the felony offender and of society, except that offenders convicted of a crime under sections 28-319 to 28-321 or of any capital crime are not eligible to be assigned to an incarceration work camp pursuant to this subsection.

Source: Laws 1997, LB 882, § 3; Laws 2000, LB 288, § 1; Laws 2005, LB 538, § 28; Laws 2006, LB 1199, § 104; Laws 2007, LB83, § 2; Laws 2009, LB97, § 29; Laws 2009, LB274, § 2; Laws 2015, LB268, § 33; Referendum 2016, No. 426.

Note: The changes made to section 83-4,143 by Laws 2015, LB 268, section 33, have been omitted because of the vote on the referendum at the November 2016 general election.

ARTICLE 9

DEPARTMENT OF CORRECTIONAL SERVICES

(j) LETHAL INJECTION

Section

- 83-964. Sentence of death; how enforced.
- 83-965. Director of Correctional Services; written execution protocol; contents.
- 83-966. Lethal injection; participation of professional; how treated under other law.
- 83-967. Director of Correctional Services; administration of substances; execution team; confidentiality.
- 83-968. Method of execution declared unconstitutional; effect on sentence.
- 83-969. Punishment inflicted; exclude view of persons; exception.
- 83-970. Execution; persons permitted.
- 83-971. Director of Correctional Services; military force necessary to carry out punishment; inform Governor.
- 83-972. Director of Correctional Services; inflict punishment; return of proceedings; clerk of court; duty.

(j) LETHAL INJECTION

83-964 Sentence of death; how enforced.

A sentence of death shall be enforced by the intravenous injection of a substance or substances in a quantity sufficient to cause death. The lethal substance or substances shall be administered in compliance with an execution protocol created and maintained by the Department of Correctional Services.

Source: Laws 1973, LB 268, § 17; R.S.1943, (2008), § 29-2532; Laws 2009, LB36, § 9; Laws 2015, LB268, § 35; Referendum 2016, No. 426.

Note: The repeal of section 83-964 by Laws 2015, LB 268, section 35, is not effective because of the vote on the referendum at the November 2016 general election.

83-965 Director of Correctional Services; written execution protocol; contents.

(1) A sentence of death shall be enforced by the Director of Correctional Services. Upon receipt of an execution warrant, the director shall proceed at the time named in the warrant to enforce the sentence, unless the director is informed that enforcement of the sentence has been stayed by competent judicial authority, the sentence has been commuted, or the conviction has been pardoned.

(2) The director shall create, modify, and maintain a written execution protocol describing the process and procedures by which an execution will be carried out consistent with this section. The director shall (a) select the substance or substances to be employed in an execution by lethal injection, (b) create a documented process for obtaining the necessary substances, (c) designate an execution team composed of one or more executioners and any other personnel deemed necessary to effectively and securely conduct an execution, (d) describe the respective responsibilities of each member of the execution team, (e) describe the training required of each member of the execution team, and (f) perform or authorize any other details deemed necessary and appropriate by the director.

(3) The execution protocol shall require that the first or only substance injected be capable of rendering the convicted person unconscious and that a determination sufficient to reasonably verify that the convicted person is unconscious be made before the administration of any additional substances, if any.

Source: Laws 2009, LB36, § 10; Laws 2015, LB268, § 35; Referendum 2016, No. 426.

Note: The repeal of section 83-965 by Laws 2015, LB 268, section 35, is not effective because of the vote on the referendum at the November 2016 general election.

83-966 Lethal injection; participation of professional; how treated under other law.

Notwithstanding any other provision of law:

(1) Any prescription, preparation, compounding, dispensing, obtaining, or administration of the substances deemed necessary to perform a lethal injection shall not constitute the practice of medicine or any other profession relating to health care which is subject by law to regulation, licensure, or certification;

(2) A pharmacist or pharmaceutical supplier may dispense the designated substances, without a prescription, to the Director of Correctional Services or the director's designee upon production of a written request from the director for the designated substances necessary to conduct an execution;

(3) Obtaining, preparing, compounding, dispensing, and administering the substance or substances designated by the execution protocol does not violate the Uniform Controlled Substances Act or sections 71-2501 to 71-2512; and

(4) If a person who is a member of the execution team is licensed by a board or department, the licensing board or department shall not censure, reprimand, suspend, revoke, or take any other disciplinary action against that person's license as a result of that person's participation in a court-ordered execution.

Source: Laws 2009, LB36, § 11; Laws 2015, LB268, § 35; Referendum 2016, No. 426.

Note: The repeal of section 83-966 by Laws 2015, LB 268, section 35, is not effective because of the vote on the referendum at the November 2016 general election.

Cross References

Uniform Controlled Substances Act, see section 28-401.01.

83-967 Director of Correctional Services; administration of substances; execution team; confidentiality.

(1) The Director of Correctional Services may designate any person qualified under the terms of the execution protocol to administer to the convicted person the substances necessary to comply with the execution protocol.

(2) The identity of all members of the execution team, and any information reasonably calculated to lead to the identity of such members, shall be confidential and exempt from disclosure pursuant to sections 84-712 to 84-712.09 and shall not be subject to discovery or introduction as evidence in any civil proceeding unless extraordinary good cause is shown and a protective order is issued by a district court limiting dissemination of such information.

Source: Laws 2009, LB36, § 12; Laws 2015, LB268, § 35; Referendum 2016, No. 426.

Note: The repeal of section 83-967 by Laws 2015, LB 268, section 35, is not effective because of the vote on the referendum at the November 2016 general election.

83-968 Method of execution declared unconstitutional; effect on sentence.

No death sentence shall be voided or reduced as a result of a determination that a method of execution was declared unconstitutional under the Constitution of Nebraska or the Constitution of the United States. In any case in which an execution method is declared unconstitutional, the death sentence shall remain in force until the sentence can be lawfully executed by any valid method of execution.

Source: Laws 2009, LB36, § 13; Laws 2015, LB268, § 35; Referendum 2016, No. 426.

Note: The repeal of section 83-968 by Laws 2015, LB 268, section 35, is not effective because of the vote on the referendum at the November 2016 general election.

83-969 Punishment inflicted; exclude view of persons; exception.

When any convicted person is sentenced to death, such punishment shall be inflicted at a Department of Correctional Services facility under the supervision of the Director of Correctional Services and in such a manner as to exclude the view of all persons except those permitted to be present as provided in sections 83-970 and 83-971.

Source: Laws 1973, LB 268, § 18; R.S.1943, (2008), § 29-2533; Laws 2009, LB36, § 14; Laws 2015, LB268, § 35; Referendum 2016, No. 426.

Note: The repeal of section 83-969 by Laws 2015, LB 268, section 35, is not effective because of the vote on the referendum at the November 2016 general election.

83-970 Execution; persons permitted.

Besides the Director of Correctional Services and those persons required to be present under the execution protocol, the following persons, and no others, except as provided in section 83-971, may be present at the execution: (1) The member of the clergy in attendance upon the convicted person; (2) no more than three persons selected by the convicted person; (3) no more than three

persons representing the victim or victims of the crime; and (4) such other persons, not exceeding six in number, as the director may designate. At least two persons designated by the director shall be professional members of the Nebraska news media.

Source: Laws 1973, LB 268, § 19; R.S.1943, (2008), § 29-2534; Laws 2009, LB36, § 15; Laws 2015, LB268, § 35; Referendum 2016, No. 426.

Note: The repeal of section 83-970 by Laws 2015, LB 268, section 35, is not effective because of the vote on the referendum at the November 2016 general election.

83-971 Director of Correctional Services; military force necessary to carry out punishment; inform Governor.

Whenever the Director of Correctional Services shall deem the presence of a military force necessary to carry into effect the provisions of sections 83-964 and 83-969, he or she shall make the fact known to the Governor of the state, who is hereby authorized to call out so much of the military force of the state as in his or her judgment may be necessary for the purpose.

Source: Laws 1973, LB 268, § 20; R.S.1943, (2008), § 29-2535; Laws 2009, LB36, § 16; Laws 2015, LB268, § 35; Referendum 2016, No. 426.

Note: The repeal of section 83-971 by Laws 2015, LB 268, section 35, is not effective because of the vote on the referendum at the November 2016 general election.

83-972 Director of Correctional Services; inflict punishment; return of proceedings; clerk of court; duty.

Whenever the Director of Correctional Services shall inflict the punishment of death upon a convicted person, in obedience to the command of the court, he or she shall make return of his or her proceedings as soon as may be to the clerk of the court where the conviction was had, and the clerk shall subjoin the return to the record of conviction and sentence.

Source: Laws 1973, LB 268, § 21; R.S.1943, (2008), § 29-2536; Laws 2009, LB36, § 17; Laws 2015, LB268, § 35; Referendum 2016, No. 426.

Note: The repeal of section 83-972 by Laws 2015, LB 268, section 35, is not effective because of the vote on the referendum at the November 2016 general election.

ARTICLE 12

DEVELOPMENTAL DISABILITIES SERVICES

Section

- 83-1201. Act, how cited.
- 83-1202. Legislative intent.
- 83-1209. Director; duties.
- 83-1212.01. Advisory Committee on Developmental Disabilities; created; members; expenses; duties.
- 83-1213. Repealed. Laws 2017, LB333, § 13.
- 83-1216. Department; duties; services; legislative intent; priorities.
- 83-1216.01. Quality management and improvement plan; purpose; contents; implementation report.

83-1201 Act, how cited.

Sections 83-1201 to 83-1227 shall be known and may be cited as the Developmental Disabilities Services Act.

Source: Laws 1991, LB 830, § 1; Laws 1994, LB 1136, § 1; Laws 1997, LB 852, § 1; Laws 2016, LB895, § 1; Laws 2016, LB1039, § 3; Laws 2017, LB333, § 3.
Operative date May 24, 2017.

83-1202 Legislative intent.

It is the intent of the Legislature that:

- (1) All persons with developmental disabilities shall receive services and assistance which present opportunities to increase their independence, productivity, and integration into the community;
- (2) All persons with developmental disabilities shall have access to a full array of services appropriate for them as individuals;
- (3) All persons with developmental disabilities shall have a right to live, work, and recreate with people who are not disabled;
- (4) All persons with developmental disabilities shall be served in their communities and should only be served by specialized programs when their needs cannot be met through general services available to all persons, including those without disabilities;
- (5) All persons with developmental disabilities shall have the right to receive age-appropriate services consistent with their individual needs, potentials, and abilities;
- (6) All persons with developmental disabilities shall be afforded the same rights, dignity, and respect as members of society who are not disabled; and
- (7) Persons who deliver services to persons with developmental disabilities shall be assured a uniform system of compensation and training and a full range of work-site enhancements which attract and retain qualified employees.

Source: Laws 1991, LB 830, § 2; Laws 2017, LB333, § 4.
Operative date May 24, 2017.

83-1209 Director; duties.

To carry out the policies and purposes of the Developmental Disabilities Services Act, the director shall:

- (1) Ensure effective management by (a) determining whether applicants are eligible for specialized services, (b) authorizing service delivery for eligible persons, (c) ensuring that services are available, accessible, and coordinated, (d) ensuring that eligible persons have their needs assessed by a team process, have individual program plans developed by a team process to address assessed needs, which plans incorporate the input of the individual and the family, and have services delivered in accordance with the program plan, (e) having the amount of funding for specialized services determined by an objective assessment process, (f) providing information and referral services to persons with developmental disabilities and their families, (g) promoting the development of pilot projects of high quality, cost-efficient services provided by specialized programs, and (h) administering the Beatrice State Developmental Center;
- (2) Ensure a coordinated statewide response by (a) developing a comprehensive and integrated statewide plan for specialized services to persons with

developmental disabilities in conjunction with state and local officials, designated advocates for such persons, service providers, and the general public, (b) reporting biennially to the Legislature, the Governor, service providers, and the public on persons served and progress made toward meeting requirements of the plan, and (c) creating a statewide registry of persons eligible for specialized services. The report submitted to the Legislature shall be submitted electronically;

(3) Ensure specialized services which are efficient and individualized by (a) developing a written policy which ensures the adequate and equitable distribution of fiscal resources based upon a consistent rationale for reimbursement that allows funding to follow service recipients as their service needs change and which also includes a plan for funding shortfalls and (b) administering all state and federal funds as may be allowed by law;

(4) Ensure maximum quality of services by (a) developing a due process mechanism for resolution of disputes, (b) coordinating the development and implementation of a quality management and improvement plan as described in section 83-1216.01, (c) developing certification and accreditation requirements for service providers, (d) providing technical assistance to local service providers, and (e) providing eligible persons, their families, and the designated protection and advocacy system authorized pursuant to the Developmental Disabilities Assistance and Bill of Rights Act of 2000, 42 U.S.C. 15001 et seq., with copies of all reports resulting from surveys of providers of specialized services conducted as part of the certification and accreditation process; and

(5) Establish and staff a developmental disabilities division which shall assist in carrying out the policies and purposes of the Developmental Disabilities Services Act.

Source: Laws 1991, LB 830, § 9; Laws 2004, LB 297, § 2; Laws 2009, LB288, § 40; Laws 2012, LB782, § 220; Laws 2017, LB333, § 5. Operative date October 1, 2017.

83-1212.01 Advisory Committee on Developmental Disabilities; created; members; expenses; duties.

(1) There is hereby created the Advisory Committee on Developmental Disabilities. The advisory committee shall consist of a representative of a statewide advocacy organization for persons with developmental disabilities and their families, a representative of Nebraska's designated protection and advocacy organization, a representative of the Nebraska Planning Council on Developmental Disabilities, a representative of the University Center for Excellence in Developmental Disability Education, Research and Service as defined in section 68-1114, and not more than fifteen additional members. At least fifty-one percent of the members shall be persons with developmental disabilities and family members of persons with developmental disabilities.

(2) The members shall be appointed by the Governor for staggered terms of three years. Any vacancy shall be filled by the Governor for the remainder of the term. One of the members shall be designated as chairperson by the Governor. Members shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177.

(3) The advisory committee shall advise the department regarding all aspects of the funding and delivery of services to persons with developmental disabilities.

(4) The advisory committee shall (a) provide sufficient oversight to ensure that persons placed in the custody of the department under the Developmental Disabilities Court-Ordered Custody Act are receiving the least restrictive treatment and services necessary and (b) oversee the design and implementation of the quality management and improvement plan described in section 83-1216.01.

(5) The department shall inform the advisory committee of proposed systemic changes to services for persons with developmental disabilities at least thirty days prior to implementation of the changes so that the advisory committee may provide for a response to the proposed changes. If the director determines that circumstances require implementation of the changes prior to such notice, the department shall inform the advisory committee as soon as possible. The advisory committee, in partnership with the director, shall establish criteria for the process of providing the information and receiving the response.

Source: Laws 1994, LB 1136, § 4; Laws 2005, LB 206, § 35; Laws 2017, LB333, § 6.

Operative date August 24, 2017.

Cross References

Developmental Disabilities Court-Ordered Custody Act, see section 71-1101.

83-1213 Repealed. Laws 2017, LB333, § 13.

Operative date October 1, 2017.

83-1216 Department; duties; services; legislative intent; priorities.

(1) The department shall administer the medicaid home and community-based services waivers upon application approval by the federal Centers for Medicare and Medicaid Services. Beginning July 1, 2019, persons determined to be eligible for specialized services who on or after September 6, 1993, graduate from high school, reach the age of twenty-one years, or are currently receiving services shall receive services in accordance with the Developmental Disabilities Services Act. The amount of funding for any person receiving services shall be determined using an objective assessment process developed by the department and approved by the federal Centers for Medicare and Medicaid Services.

(2) The department shall provide directly or by contract service coordination to Nebraska residents found to be eligible for specialized services.

(3) It is the intent of the Legislature that the department take all possible steps to maximize federal funding. All Nebraska residents eligible for funding for specialized services through the department shall apply for and accept any federal medicaid benefits for which they may be eligible and benefits from other funding sources within the department, the State Department of Education, specifically including the Division of Rehabilitation Services, and other agencies to the maximum extent possible.

(4) The priorities for funding the medicaid home and community-based services waivers under this section are as follows:

(a) The first funding priority of the state shall be responding to the needs of persons with developmental disabilities in immediate crisis due to caregiver death, homelessness, or a threat to the life and safety of the person;

(b) The second funding priority of the state in responding to the needs of persons with developmental disabilities shall be for persons that have resided in

an institutional setting for a period of at least twelve consecutive months and who are requesting community-based services;

(c) The third funding priority of the state in responding to the needs of persons with developmental disabilities shall be for serving wards of the department or persons placed under the supervision of the Office of Probation Administration by the Nebraska court system who are transitioning upon age nineteen with no other alternatives as determined by the department to support residential services necessary to pursue economic self-sufficiency;

(d) The fourth funding priority of the state in responding to the needs of persons with developmental disabilities shall be for serving persons transitioning from the education system upon attaining twenty-one years of age to maintain skills and receive the day services necessary to pursue economic self-sufficiency; and

(e) The fifth funding priority of the state in responding to the needs of persons with developmental disabilities shall be for serving all other persons by date of application.

Source: Laws 1991, LB 830, § 16; Laws 1992, Third Spec. Sess., LB 4, § 1; Laws 1994, LB 1136, § 5; Laws 1996, LB 1044, § 975; Laws 2004, LB 297, § 3; Laws 2007, LB296, § 809; Laws 2017, LB333, § 7.

Operative date May 24, 2017.

83-1216.01 Quality management and improvement plan; purpose; contents; implementation report.

(1)(a) The department shall, with the assistance and support of the Advisory Committee on Developmental Disabilities, develop and implement a quality management and improvement plan to promote and monitor quality relating to services and quality of life for persons with developmental disabilities.

(b) The purpose of the quality management and improvement plan is to provide information necessary for an accurate assessment of the quality and effectiveness of services for persons with developmental disabilities and their families and the delivery of such services, with special attention to the impact that the services have on the quality of life of recipients and their families.

(c) The quality management and improvement plan shall reflect national best practice for services for persons with developmental disabilities and their families as determined by the department with the assistance of the advisory committee.

(d) The quality management and improvement plan shall assess, through both quantitative and qualitative means, (i) the quality of services provided to persons with developmental disabilities and their families, (ii) the ability of the services provided to meet the needs of the recipients of the services, (iii) the effect of the services to support or improve the quality of life of the recipients of the services, and (iv) the satisfaction of the recipients with the process of determination of eligibility and the process of delivery of the services. In order to develop the quality management and improvement plan, the department shall use procedures to collect data from recipients of services for persons with disabilities and their families by relying on external, independent evaluators who are not employed by the department. The quality management and improvement plan shall give significance to input gathered from recipients of

services for persons with developmental disabilities and families of such recipients and include information gathered from the department.

(e) The quality management and improvement plan shall include recommendations for improvements to the types of services and the delivery of services for persons with developmental disabilities and their families.

(2) The department shall provide a quality management plan electronically to the Legislature no later than September 30, 2017. In the plan the department shall detail its approach to ensuring a sustainable, continuous, quality improvement management system for the delivery of services for persons with developmental disabilities and their families that incorporates responsibilities of the department and recipients.

(3) The department shall issue an implementation report regarding the quality management and improvement plan and publish it on the web site of the department and provide it electronically to the Legislature on or before December 30, 2017, and March 30, 2018. Beginning in 2018, the department shall annually provide a report regarding outcomes, improvement priorities, and activities of the department during the previous fiscal year. The report shall be published on the web site of the department and shall be provided electronically to the Legislature on or before September 30.

Source: Laws 2017, LB333, § 8.

Operative date May 24, 2017.

CHAPTER 84

STATE OFFICERS

Article.

3. Auditor of Public Accounts. 84-304 to 84-321.
6. State Treasurer. 84-612.
9. Rules of Administrative Agencies.
 - (a) Administrative Procedure Act. 84-901 to 84-907.06.
12. Public Records.
 - (a) Records Management Act. 84-1205.01.
13. State Employees Retirement Act. 84-1301 to 84-1325.
14. Public Meetings. 84-1411.
15. Public Employees Retirement Board. 84-1503.

ARTICLE 3

AUDITOR OF PUBLIC ACCOUNTS

Section

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| 84-304. | Auditor; powers and duties; assistant deputies; qualifications; powers and duties. |
| 84-304.02. | Auditor; audit, financial, accounting, or retirement system plan reports; written review; copies; disposition. |
| 84-305. | Public entity; access to records; procedure; Auditor of Public Accounts; powers; nonpublic information shall not be made public. |
| 84-311. | Reports and working papers; disclosure status; penalty. |
| 84-321. | Auditor of Public Accounts Cash Fund; created; use. |

84-304 Auditor; powers and duties; assistant deputies; qualifications; powers and duties.

It shall be the duty of the Auditor of Public Accounts:

(1) To give information electronically to the Legislature, whenever required, upon any subject relating to the fiscal affairs of the state or with regard to any duty of his or her office;

(2) To furnish offices for himself or herself and all fuel, lights, books, blanks, forms, paper, and stationery required for the proper discharge of the duties of his or her office;

(3)(a) To examine or cause to be examined, at such time as he or she shall determine, books, accounts, vouchers, records, and expenditures of all state officers, state bureaus, state boards, state commissioners, the state library, societies and associations supported by the state, state institutions, state colleges, and the University of Nebraska, except when required to be performed by other officers or persons. Such examinations shall be done in accordance with generally accepted government auditing standards for financial audits and attestation engagements set forth in Government Auditing Standards (2011 Revision), published by the Comptroller General of the United States, Government Accountability Office, and except as provided in subdivision (10) of this section, subdivision (16) of section 50-1205, and section 84-322, shall not include performance audits, whether conducted pursuant to attestation engagements or performance audit standards as set forth in Government Auditing

Standards (2011 Revision), published by the Comptroller General of the United States, Government Accountability Office.

(b) Any entity, excluding the state colleges and the University of Nebraska, that is audited or examined pursuant to subdivision (3)(a) of this section and that is the subject of a comment and recommendation in a management letter or report issued by the Auditor of Public Accounts shall, on or before six months after the issuance of such letter or report, provide to the Auditor of Public Accounts a detailed written description of any corrective action taken or to be taken in response to the comment and recommendation. The Auditor of Public Accounts may investigate and evaluate the corrective action. The Auditor of Public Accounts shall then electronically submit a report of any findings of such investigation and evaluation to the Governor, the appropriate standing committee of the Legislature, and the Appropriations Committee of the Legislature. The Auditor of Public Accounts shall also ensure that the report is delivered to the Appropriations Committee for entry into the record during the committee's budget hearing process;

(4)(a) To examine or cause to be examined, at the expense of the political subdivision, when the Auditor of Public Accounts determines such examination necessary or when requested by the political subdivision, the books, accounts, vouchers, records, and expenditures of any agricultural association formed under Chapter 2, article 20, any county agricultural society, any joint airport authority formed under the Joint Airport Authorities Act, any city or county airport authority, any bridge commission created pursuant to section 39-868, any cemetery district, any community redevelopment authority or limited community redevelopment authority established under the Community Development Law, any development district, any drainage district, any health district, any local public health department as defined in section 71-1626, any historical society, any hospital authority or district, any county hospital, any housing agency as defined in section 71-1575, any irrigation district, any county or municipal library, any community mental health center, any railroad transportation safety district, any rural water district, any township, Wyuka Cemetery, the Educational Service Unit Coordinating Council, any entity created pursuant to the Interlocal Cooperation Act, any educational service unit, any village, any service contractor or subrecipient of state or federal funds, any political subdivision with the authority to levy a property tax or a toll, or any entity created pursuant to the Joint Public Agency Act.

For purposes of this subdivision, service contractor or subrecipient means any nonprofit entity that expends state or federal funds to carry out a state or federal program or function, but it does not include an individual who is a direct beneficiary of such a program or function or a licensed health care provider or facility receiving direct payment for medical services provided for a specific individual.

(b) The Auditor of Public Accounts may waive the audit requirement of subdivision (4)(a) of this section upon the submission by the political subdivision of a written request in a form prescribed by the auditor. The auditor shall notify the political subdivision in writing of the approval or denial of the request for a waiver.

(c) Through December 31, 2017, the Auditor of Public Accounts may conduct audits under this subdivision for purposes of sections 2-3228, 12-101, 13-2402,

14-567, 14-1805.01, 14-2111, 15-1017, 16-1017, 16-1037, 19-3501, 23-1118, 23-3526, 71-1631.02, and 79-987.

(d) Beginning on May 24, 2017, the Auditor of Public Accounts may conduct audits under this subdivision for purposes of sections 13-2402, 14-567, 14-1805.01, 14-2111, 15-1017, 16-1017, 16-1037, 71-1631.02, and 79-987 and shall prescribe the form for the annual reports required in each of such sections. Such annual reports shall be published annually on the web site of the Auditor of Public Accounts;

(5) To report promptly to the Governor and the appropriate standing committee of the Legislature the fiscal condition shown by such examinations conducted by the auditor, including any irregularities or misconduct of officers or employees, any misappropriation or misuse of public funds or property, and any improper system or method of bookkeeping or condition of accounts. The report submitted to the committee shall be submitted electronically. In addition, if, in the normal course of conducting an audit in accordance with subdivision (3) of this section, the auditor discovers any potential problems related to the effectiveness, efficiency, or performance of state programs, he or she shall immediately report them electronically to the Legislative Performance Audit Committee which may investigate the issue further, report it electronically to the appropriate standing committee of the Legislature, or both;

(6)(a) To examine or cause to be examined the books, accounts, vouchers, records, and expenditures of a fire protection district. The expense of the examination shall be paid by the political subdivision.

(b) Whenever the expenditures of a fire protection district are one hundred fifty thousand dollars or less per fiscal year, the fire protection district shall be audited no more than once every five years except as directed by the board of directors of the fire protection district or unless the auditor receives a verifiable report from a third party indicating any irregularities or misconduct of officers or employees of the fire protection district, any misappropriation or misuse of public funds or property, or any improper system or method of bookkeeping or condition of accounts of the fire protection district. In the absence of such a report, the auditor may waive the five-year audit requirement upon the submission of a written request by the fire protection district in a form prescribed by the auditor. The auditor shall notify the fire protection district in writing of the approval or denial of a request for waiver of the five-year audit requirement. Upon approval of the request for waiver of the five-year audit requirement, a new five-year audit period shall begin.

(c) Whenever the expenditures of a fire protection district exceed one hundred fifty thousand dollars in a fiscal year, the auditor may waive the audit requirement upon the submission of a written request by the fire protection district in a form prescribed by the auditor. The auditor shall notify the fire protection district in writing of the approval or denial of a request for waiver. Upon approval of the request for waiver, a new five-year audit period shall begin for the fire protection district if its expenditures are one hundred fifty thousand dollars or less per fiscal year in subsequent years;

(7) To appoint two or more assistant deputies (a) whose entire time shall be devoted to the service of the state as directed by the auditor, (b) who shall be certified public accountants with at least five years' experience, (c) who shall be selected without regard to party affiliation or to place of residence at the time of appointment, (d) who shall promptly report to the auditor the fiscal condi-

tion shown by each examination, including any irregularities or misconduct of officers or employees, any misappropriation or misuse of public funds or property, and any improper system or method of bookkeeping or condition of accounts, and it shall be the duty of the auditor to file promptly with the Governor a duplicate of such report, and (e) who shall qualify by taking an oath which shall be filed in the office of the Secretary of State;

(8) To conduct audits and related activities for state agencies, political subdivisions of this state, or grantees of federal funds disbursed by a receiving agency on a contractual or other basis for reimbursement to assure proper accounting by all such agencies, political subdivisions, and grantees for funds appropriated by the Legislature and federal funds disbursed by any receiving agency. The auditor may contract with any political subdivision to perform the audit of such political subdivision required by or provided for in section 23-1608 or 79-1229 or this section and charge the political subdivision for conducting the audit. The fees charged by the auditor for conducting audits on a contractual basis shall be in an amount sufficient to pay the cost of the audit. The fees remitted to the auditor for such audits and services shall be deposited in the Auditor of Public Accounts Cash Fund;

(9) To develop and maintain an annual budget and actual financial information reporting system for political subdivisions that is accessible online by the public;

(10) When authorized, to conduct joint audits with the Legislative Performance Audit Committee as described in section 50-1205; and

(11) Unless otherwise specifically provided, to assess the interest rate on delinquent payments of any fees for audits and services owing to the Auditor of Public Accounts at a rate of fourteen percent per annum from the date of billing unless paid within thirty days after the date of billing. For an entity created pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act, any participating public agencies shall be jointly and severally liable for the fees and interest owed if such entity is defunct or unable to pay.

Source: R.S.1866, c. 4, § 4, p. 20; Laws 1907, c. 140, § 1, p. 447; R.S.1913, § 5546; C.S.1922, § 4848; C.S.1929, § 84-304; Laws 1939, c. 28, § 4, p. 142; C.S.Supp.,1941, § 84-304; R.S.1943, § 84-304; Laws 1951, c. 339, § 1, p. 1121; Laws 1953, c. 322, § 2, p. 1065; Laws 1965, c. 538, § 30, p. 1715; Laws 1965, c. 459, § 26, p. 1465; Laws 1967, c. 36, § 8, p. 164; Laws 1974, LB 280, § 3; Laws 1976, LB 759, § 2; Laws 1977, LB 193, § 4; Laws 1979, LB 414, § 5; Laws 1984, LB 473, § 25; Laws 1985, Second Spec. Sess., LB 29, § 5; Laws 1987, LB 183, § 6; Laws 1992, LB 573, § 14; Laws 1993, LB 579, § 4; Laws 1993, LB 516, § 4; Laws 1995, LB 205, § 1; Laws 1995, LB 509, § 1; Laws 1995, LB 572, § 1; Laws 1996, LB 900, § 1069; Laws 1997, LB 250, § 24; Laws 2000, LB 968, § 84; Laws 2000, LB 1304, § 1; Laws 2002, LB 568, § 11; Laws 2003, LB 607, § 20; Laws 2004, LB 1005, § 136; Laws 2004, LB 1118, § 3; Laws 2006, LB 588, § 10; Laws 2007, LB603, § 31; Laws 2008, LB822, § 4; Laws 2012, LB782, § 222; Laws 2013, LB40, § 3; Laws 2014, LB759, § 21; Laws 2015, LB539, § 8; Laws 2017, LB151, § 8; Laws 2017, LB415, § 45.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB151, section 8, with LB415, section 45, to reflect all amendments.

Note: Changes made by LB151 became effective April 28, 2017. Changes made by LB415 became effective May 24, 2017.

Cross References

Interlocal Cooperation Act, see section 13-801.

Joint Airport Authorities Act, see section 3-716.

Joint Public Agency Act, see section 13-2501.

Successors, duties relating to, see section 84-604.

Tax returns, audited when, see section 77-27,119.

84-304.02 Auditor; audit, financial, accounting, or retirement system plan reports; written review; copies; disposition.

The Auditor of Public Accounts, or a person designated by him or her, may prepare a written review of all audit, accounting, or financial reports required to be filed by a political subdivision of the state with the Auditor of Public Accounts and of public retirement system plan reports required to be submitted to the Auditor of Public Accounts pursuant to sections 2-3228, 12-101, 14-567, 14-1805.01, 14-2111, 15-1017, 16-1017, 16-1037, 19-3501, 23-1118, 23-3526, 71-1631.02, 79-987, and 84-304 and cause one copy of such written review to be mailed to the political subdivision involved and one copy to the accountant who prepared the report. Such written review shall specifically set forth wherein the audit, accounting, financial, or retirement system plan report fails to comply with the applicable minimum standards and the necessary action to be taken to bring the report into compliance with such standards. The Auditor of Public Accounts may, upon continued failure to comply with such standards, refuse to accept for filing an audit, accounting, financial, or retirement system plan report or any future report submitted for filing by any political subdivision.

Source: Laws 1974, LB 922, § 2; Laws 1993, LB 310, § 16; Laws 2011, LB474, § 13; Laws 2015, LB539, § 9; Laws 2017, LB415, § 46.
Effective date May 24, 2017.

84-305 Public entity; access to records; procedure; Auditor of Public Accounts; powers; nonpublic information shall not be made public.

(1) The Auditor of Public Accounts shall have access to any and all information and records, confidential or otherwise, of any public entity, in whatever form or mode the records may be, unless the auditor is denied such access by federal law or explicitly named and denied such access by state law. If such a law exists, the public entity shall provide the auditor with a written explanation of its inability to produce such information and records and, after reasonable accommodations are made, shall grant the auditor access to all information and records or portions thereof that can legally be reviewed.

(2) Upon receipt of a written request by the Auditor of Public Accounts for access to any information or records, the public entity shall provide to the auditor as soon as is practicable and without delay, but not more than three business days after actual receipt of the request, either (a) the requested materials or (b)(i) if there is a legal basis for refusal to comply with the request, a written denial of the request together with the information specified in subsection (1) of this section or (ii) if the entire request cannot with reasonable good faith efforts be fulfilled within three business days after actual receipt of the request due to the significant difficulty or the extensiveness of the request, a written explanation, including the earliest practicable date for fulfilling the request, and an opportunity for the auditor to modify or prioritize the items

within the request. No delay due to the significant difficulty or the extensiveness of any request for access to information or records shall exceed three calendar weeks after actual receipt of such request by any public entity. The three business days shall be computed by excluding the day the request is received, after which the designated period of time begins to run. Business day does not include a Saturday, a Sunday, or a day during which the offices of the custodian of the public records are closed.

(3) When any employee of the Auditor of Public Accounts conducts an audit or examination of any public entity, the public entity shall provide suitable accommodations for such employee of the auditor at the location where the requested information and records are kept or stored. Such accommodations shall include desks or tables and chairs, electrical outlets, and Internet access if such access is available.

(4) The Auditor of Public Accounts may issue subpoenas to compel the attendance of witnesses and the production of any papers, books, accounts, documents, and testimony, and cause the depositions of witnesses either residing within or without the state to be taken in the manner prescribed by law for taking depositions in civil actions in the district court.

(5) In case of disobedience on the part of any person to comply with any subpoena issued by the Auditor of Public Accounts or of the refusal of any witness to testify on any matters regarding which he or she may be lawfully interrogated, the district court of Lancaster County or the judge thereof, on application of the Auditor of Public Accounts, shall compel obedience by proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from such court or a refusal to testify therein.

(6) If a witness refuses to testify before the Auditor of Public Accounts on the basis of the privilege against self-incrimination, the Auditor of Public Accounts may request a court order pursuant to sections 29-2011.02 and 29-2011.03.

(7) No provisions of state law shall be construed to change the nonpublic nature of the data obtained as a result of the access. When an audit or investigative finding emanates from nonpublic data which is nonpublic pursuant to federal or state law, all the nonpublic information shall not be made public.

Source: Laws 1995, LB 509, § 4; Laws 2015, LB539, § 10; Laws 2017, LB151, § 9.

Effective date April 28, 2017.

84-311 Reports and working papers; disclosure status; penalty.

(1)(a) All final audit reports issued by the Auditor of Public Accounts shall be maintained permanently as a public record in the office of the Auditor of Public Accounts.

(b) Working papers and other audit files maintained by the Auditor of Public Accounts are not public records and are exempt from sections 84-712 to 84-712.05. The information contained in working papers and audit files prepared pursuant to a specific audit is not subject to disclosure except to a county attorney or the Attorney General in connection with an investigation made or action taken in the course of the attorney's official duties or to the Legislative Performance Audit Committee in the course of the committee's official duties

and pursuant to the requirements of subdivision (16) of section 50-1205 or subdivision (5) of section 84-304.

(c) A public entity being audited and any federal agency that has made a grant to such public entity shall also have access to the relevant working papers and audit files, except that such access shall not include information that would disclose or otherwise indicate the identity of any individual who has confidentially provided the Auditor of Public Accounts with allegations of wrongdoing regarding, or other information pertaining to, the public entity being audited.

(d) The Auditor of Public Accounts may, at his or her discretion, share working papers, other than personal information and telephone records, with the Legislative Council. The Auditor of Public Accounts may, at his or her discretion, share working papers with the Attorney General, the Internal Revenue Service, the Tax Commissioner, the Federal Bureau of Investigation, a law enforcement agency as defined in section 28-359, and the Nebraska Accountability and Disclosure Commission. The working papers may be shared with such entities during an ongoing audit or after the final audit report is issued. The Auditor of Public Accounts shall not, under the authority granted in this subdivision, reveal sealed or confidential court records contained in working papers.

(e) For purposes of this subsection, working papers means those documents containing evidence to support the auditor's findings, opinions, conclusions, and judgments and includes the collection of evidence prepared or obtained by the auditor during the audit.

(f) The Auditor of Public Accounts may make the working papers available for purposes of an external quality control review as required by generally accepted government auditing standards. However, any reports made from such external quality control review shall not make public any information which would be considered confidential under this section when in the possession of the Auditor of Public Accounts.

(2) If the Auditor of Public Accounts or any employee of the Auditor of Public Accounts knowingly divulges or makes known in any manner not permitted by law any record, document, or information, the disclosure of which is restricted by law, he or she is subject to the same penalties provided in section 84-712.09.

Source: Laws 1995, LB 509, § 5; Laws 2004, LB 902, § 1; Laws 2006, LB 588, § 11; Laws 2015, LB539, § 12; Laws 2017, LB151, § 10.
Effective date April 28, 2017.

84-321 Auditor of Public Accounts Cash Fund; created; use.

There is hereby created in the office of the Auditor of Public Accounts a cash fund to be known as the Auditor of Public Accounts Cash Fund. The fund shall be used for payment for services performed by the Auditor of Public Accounts for state agencies, political subdivisions, and grantees of federal funds disbursed by a receiving agency for which he or she is entitled to reimbursement on a contractual or other basis for such reimbursement.

Source: Laws 1972, LB 1283, § 1; Laws 1976, LB 759, § 3; Laws 2017, LB151, § 11.
Effective date April 28, 2017.

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 not to exceed forty-three million fifteen thousand four hundred fifty-nine dollars in total from the Cash Reserve Fund to the Nebraska Capital Construction Fund between July 1, 2013, and June 30, 2018.

(5) The State Treasurer shall transfer the following amounts from the Cash Reserve Fund to the Nebraska Capital Construction Fund on such dates as directed by the budget administrator of the budget division of the Department of Administrative Services:

(a) Seven million eight hundred four thousand two hundred ninety-two dollars on or after June 15, 2016, but before June 30, 2016;

(b) Ten million five thousand one hundred twenty-nine dollars on or after June 15, 2019, but before June 30, 2019; and

(c) Ten million four hundred thirty-one thousand five hundred eighty-five dollars on or after June 15, 2021, but before June 30, 2021.

(6) The State Treasurer shall transfer seventy-five million two hundred fifteen thousand three hundred thirteen dollars from the Cash Reserve Fund to the Nebraska Capital Construction Fund on or before July 31, 2017, on such date as directed by the budget administrator of the budget division of the Department of Administrative Services.

(7) The State Treasurer shall transfer thirty-one million dollars from the Cash Reserve Fund to the General Fund after July 1, 2017, but before July 15, 2017, on such date as directed by the budget administrator of the budget division of the Department of Administrative Services.

(8) The State Treasurer shall transfer thirty-one million dollars from the Cash Reserve Fund to the General Fund after October 1, 2017, but before October 15, 2017, on such date as directed by the budget administrator of the budget division of the Department of Administrative Services.

(9) The State Treasurer shall transfer thirty-one million dollars from the Cash Reserve Fund to the General Fund after January 1, 2018, but before January 15, 2018, on such date as directed by the budget administrator of the budget division of the Department of Administrative Services.

(10) The State Treasurer shall transfer thirty-two million dollars from the Cash Reserve Fund to the General Fund after April 1, 2018, but before April 15, 2018, on such date as directed by the budget administrator of the budget division of the Department of Administrative Services.

(11) The State Treasurer shall transfer forty-eight million dollars from the Cash Reserve Fund to the General Fund after March 1, 2019, but before March 15, 2019, on such date as directed by the budget administrator of the budget division of the Department of Administrative Services.

Source: Laws 1983, LB 59, § 5; Laws 1985, LB 713, § 2; Laws 1985, LB 501, § 2; Laws 1986, LB 739, § 1; Laws 1986, LB 870, § 1; Laws 1987, LB 131, § 1; Laws 1988, LB 1091, § 4; Laws 1989, LB 310, § 1; Laws 1991, LB 857, § 1; Laws 1991, LB 783, § 33; Laws 1992, LB 1268, § 1; Laws 1993, LB 38, § 4; Laws 1994, LB 1045, § 1; Laws 1996, LB 1290, § 6; Laws 1997, LB 401, § 5; Laws 1998, LB 63, § 1; Laws 1998, LB 988, § 1; Laws 1998, LB 1104, § 30; Laws 1998, LB 1134, § 5; Laws 1998, LB 1219, § 23; Laws 1999, LB 881, § 9; Laws 2000, LB 1214, § 2; Laws 2001, LB 541, § 6; Laws 2002, LB 1310, § 20; Laws 2003, LB 790, § 74; Laws 2003, LB 798, § 1; Laws 2004, LB 1090, § 2; Laws 2005, LB 427, § 2; Laws 2006, LB 1131, § 1; Laws 2006, LB 1256, § 9; Laws 2007, LB323, § 3; Laws 2008, LB846, § 21; Laws 2008, LB1094, § 8; Laws 2008, LB1116, § 9; Laws 2008, LB1165, § 2; Laws 2009, LB456, § 3; Laws 2009, First Spec. Sess., LB2, § 7; Laws 2010, LB317, § 1; Laws 2011, LB379, § 2; Laws 2012, LB131, § 1; Laws 2013, LB200, § 1; Laws 2014, LB130, § 2; Laws 2014, LB1016, § 3; Laws 2015, LB662, § 1; Laws 2016, LB957, § 13; Laws 2016, LB960, § 31; Laws 2017, LB332, § 1.
Effective date May 16, 2017.

ARTICLE 9

RULES OF ADMINISTRATIVE AGENCIES

(a) ADMINISTRATIVE PROCEDURE ACT

- Section 84-901. Terms, defined.
- 84-901.03. Agency; guidance document; issuance; availability; notice; request to revise or repeal; response; agency publish index.
- 84-907.03. Secretary of State Administration Cash Fund; created; use; investment.
- 84-907.06. Adoption, amendment, or repeal of rule or regulation; notice to Executive Board of the Legislative Council and Secretary of State.

(a) ADMINISTRATIVE PROCEDURE ACT

84-901 Terms, defined.

For purposes of the Administrative Procedure Act:

(1) Agency shall mean each board, commission, department, officer, division, or other administrative office or unit of the state government authorized by law to make rules and regulations, except the Adjutant General’s office as provided

in Chapter 55, the courts including the Nebraska Workers' Compensation Court, the Commission of Industrial Relations, the Legislature, and the Secretary of State with respect to the duties imposed by the act;

(2) Rule or regulation shall mean any standard of general application adopted by an agency in accordance with the authority conferred by statute and includes, but is not limited to, the amendment or repeal of a rule or regulation. Rule or regulation shall not include (a) internal procedural documents which provide guidance to staff on agency organization and operations, lacking the force of law, and not relied upon to bind the public, (b) guidance documents as issued by an agency in accordance with section 84-901.03, and (c) forms and instructions developed by an agency. For purposes of the act, every standard which prescribes a penalty shall be presumed to have general applicability and any standard affecting private rights, private interests, or procedures available to the public is presumed to be relied upon to bind the public. Nothing in this section shall be interpreted to require an agency to adopt and promulgate rules and regulations when statute authorizes but does not require it;

(3) Contested case shall mean a proceeding before an agency in which the legal rights, duties, or privileges of specific parties are required by law or constitutional right to be determined after an agency hearing;

(4) Ex parte communication shall mean an oral or written communication which is not on the record in a contested case with respect to which reasonable notice to all parties was not given. Filing and notice of filing provided under subdivision (6)(d) of section 84-914 shall not be considered on the record and reasonable notice for purposes of this subdivision. Ex parte communication shall not include:

(a) Communications which do not pertain to the merits of a contested case;

(b) Communications required for the disposition of ex parte matters as authorized by law;

(c) Communications in a ratemaking or rulemaking proceeding; and

(d) Communications to which all parties have given consent;

(5) Guidance document shall mean any statement developed by an agency which lacks the force of law but provides information or direction of general application to the public to interpret or implement statutes or such agency's rules or regulations. A guidance document is binding on an agency until amended by the agency. A guidance document shall not give rise to any legal right or duty or be treated as authority for any standard, requirement, or policy. Internal procedural documents which provide guidance to staff on agency organization and operations shall not be considered guidance documents; and

(6) Hearing officer shall mean the person or persons conducting a hearing, contested case, or other proceeding pursuant to the act, whether designated as the presiding officer, administrative law judge, or some other title designation.

Source: Laws 1945, c. 255, § 1, p. 795; Laws 1947, c. 350, § 1, p. 1097; Laws 1951, c. 342, § 1, p. 1128; Laws 1959, c. 456, § 1, p. 1510; Laws 1974, LB 819, § 11; Laws 1978, LB 44, § 1; Laws 1981, LB 130, § 1; Laws 1986, LB 992, § 1; Laws 1987, LB 253, § 1; Laws 1994, LB 414, § 135; Laws 1994, LB 446, § 14; Laws 2016, LB867, § 4; Laws 2017, LB209, § 1.

Effective date August 24, 2017.

84-901.03 Agency; guidance document; issuance; availability; notice; request to revise or repeal; response; agency publish index.

(1) Upon the issuance of a guidance document, an agency shall make such document available at one public location and on the agency's web site. The agency shall also publish on its web site an index summarizing the subject matter of all currently applicable rules and regulations and guidance documents. Such agency shall provide the index electronically to the Clerk of the Legislature by December 31 of each year.

(2) An agency shall ensure that the first page of each guidance document includes the following notice: This guidance document is advisory in nature but is binding on an agency until amended by such agency. A guidance document does not include internal procedural documents that only affect the internal operations of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules and regulations made in accordance with the Administrative Procedure Act. If you believe that this guidance document imposes additional requirements or penalties on regulated parties, you may request a review of the document.

(3) A person may request in writing that an agency revise or repeal a guidance document or convert a guidance document into a rule or regulation. No later than sixty calendar days after the agency receives such a request, the agency shall advise the requestor in writing of its decision to (a) revise or repeal the guidance document, (b) initiate a proceeding to consider a revision or repeal of a guidance document, (c) initiate the rulemaking or regulationmaking process to convert the guidance document into a rule or regulation, or (d) deny the request and state the reason for the denial.

(4) All decisions made by an agency under this section shall be made available at one public location and on the agency's web site.

Source: Laws 2016, LB867, § 5; Laws 2017, LB209, § 2.
Effective date August 24, 2017.

84-907.03 Secretary of State Administration Cash Fund; created; use; investment.

There is hereby created the Secretary of State Administration Cash Fund. The fund shall consist of revenue received to defray costs as authorized in sections 25-3308 and 84-901 to 84-908. The revenue shall be collected by the Secretary of State and remitted to the State Treasurer for credit to the fund. The fund shall be used to (1) offset expenses incurred as a result of sections 84-901 to 84-908, (2) administer the Nebraska Uniform Athlete Agents Act, and (3) administer the Nonrecourse Civil Litigation 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 1994, LB 1194, § 8; Laws 1995, LB 7, § 148; Laws 2003, LB 228, § 15; Laws 2009, LB292, § 20; Laws 2010, LB1094, § 10; Laws 2017, LB280, § 4.
Effective date May 13, 2017.

Cross References

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

Nebraska Uniform Athlete Agents Act, see section 48-2601.
Nonrecourse Civil Litigation Act, see section 25-3301.

84-907.06 Adoption, amendment, or repeal of rule or regulation; notice to Executive Board of the Legislative Council and Secretary of State.

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 requests approval from the Governor for an emergency rule or regulation under section 84-901.04, the agency shall send to the Executive Board of the Legislative Council and to the Secretary of State to be made available to the public by means which include, but are not limited to, publication on the Secretary of State’s web site, if applicable, (a) a copy of the hearing notice required by section 84-907, (b) a draft copy of the rule or regulation, and (c) the information provided to the Governor pursuant to section 84-907.09.

Source: Laws 1994, LB 446, § 24; Laws 2005, LB 373, § 5; Laws 2012, LB782, § 228; Laws 2013, LB222, § 43; Laws 2016, LB867, § 12; Laws 2017, LB464, § 1.
Effective date May 11, 2017.

**ARTICLE 12
PUBLIC RECORDS**

(a) RECORDS MANAGEMENT ACT

Section
84-1205.01. Repealed. Laws 2017, LB644, § 21.

(a) RECORDS MANAGEMENT ACT

84-1205.01 Repealed. Laws 2017, LB644, § 21.

**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.
- 84-1319. Future service retirement benefits; when payable; how computed; selection of annuity; board; deferment of benefits; certain required minimum distributions; election authorized.
- 84-1323.01. Employee; retirement; disability; medical examination; waiver.
- 84-1325. Employees; military service; credit; payments.

84-1301 Terms, defined.

For purposes of the State Employees Retirement Act, unless the context otherwise requires:

(1)(a) Actuarial equivalent means the equality in value of the aggregate amounts expected to be received under different forms of an annuity payment.

(b) For an employee hired prior to January 1, 2018, the mortality assumption used for purposes of converting the member cash balance account shall be the

1994 Group Annuity Mortality Table using a unisex rate that is fifty percent male and fifty percent female. For purposes of converting the member cash balance account attributable to contributions made prior to January 1, 1984, that were transferred pursuant to the act, the 1994 Group Annuity Mortality Table for males shall be used.

(c) For an employee hired on or after January 1, 2018, or rehired on or after January 1, 2018, after termination of employment and being paid a retirement benefit, the mortality assumption used for purposes of converting the member cash balance account shall be a unisex mortality table that is recommended by the actuary and approved by the board following an actuarial experience study, a benefit adequacy study, or a plan valuation. The mortality table and actuarial factors in effect on the member's retirement date will be used to calculate the actuarial equivalency of any retirement benefit;

(2) Annuity means equal monthly payments provided by the retirement system to a member or beneficiary under forms determined by the board beginning the first day of the month after an annuity election is received in the office of the Nebraska Public Employees Retirement Systems or the first day of the month after the employee's termination of employment, whichever is later. The last payment shall be at the end of the calendar month in which the member dies or in accordance with the payment option chosen by the member;

(3) Annuity start date means the date upon which a member's annuity is first effective and shall be the first day of the month following the member's termination or following the date the application is received by the board, whichever is later;

(4) Cash balance benefit means a member's retirement benefit that is equal to an amount based on annual employee contribution credits plus interest credits and, if vested, employer contribution credits plus interest credits and dividend amounts credited in accordance with subdivision (4)(c) of section 84-1319;

(5)(a) Compensation means gross wages or salaries payable to the member for personal services performed during the plan year. Compensation does not include insurance premiums converted into cash payments, reimbursement for expenses incurred, fringe benefits, per diems, or bonuses for services not actually rendered, including, but not limited to, early retirement inducements, cash awards, and severance pay, except for retroactive salary payments paid pursuant to court order, arbitration, or litigation and grievance settlements. Compensation includes overtime pay, member retirement contributions, and amounts contributed by the member to plans under sections 125, 403(b), and 457 of the Internal Revenue Code or any other section of the code which defers or excludes such amounts from income.

(b) Compensation in excess of the limitations set forth in section 401(a)(17) of the Internal Revenue Code shall be disregarded. For an employee who was a member of the retirement system before the first plan year beginning after December 31, 1995, the limitation on compensation shall not be less than the amount which was allowed to be taken into account under the retirement system as in effect on July 1, 1993;

(6) date of disability means the date on which a member is determined to be disabled by the board;

(7) Defined contribution benefit means a member's retirement benefit from a money purchase plan in which member benefits equal annual contributions and

earnings pursuant to section 84-1310 and, if vested, employer contributions and earnings pursuant to section 84-1311;

(8) Disability means an inability to engage in any substantially gainful activity by reason of any medically determinable physical or mental impairment which was initially diagnosed or became disabling while the member was an active participant in the plan and which can be expected to result in death or to be of long-continued and indefinite duration;

(9) Employee means any 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, as such section existed prior to January 1, 2018, is terminated, such employees shall become employees for purposes of the State Employees Retirement Act on the first day of the first pay period following the termination of such contributory retirement plan or contract, (g) employees of the State Board of Agriculture who are not members of the state retirement system on July 1, 1982, (h) the Nebraska National Guard air and army technicians, (i) persons 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) Hire date or date of hire means the first day of compensated service subject to retirement contributions;

(18) Interest credit rate means the greater of (a) five percent or (b) the applicable federal mid-term rate, as published by the Internal Revenue Service as of the first day of the calendar quarter for which interest credits are credited, plus one and one-half percent, such rate to be compounded annually;

(19) Interest credits means the amounts credited to the employee cash balance account and the employer cash balance account at the end of each day. Such interest credit for each account shall be determined by applying the daily portion of the interest credit rate to the account balance at the end of the previous day. Such interest credits shall continue to be credited to the employee cash balance account and the employer cash balance account after a member ceases to be an employee, except that no such credit shall be made with respect to the employee cash balance account and the employer cash balance account for any day beginning on or after the member's date of final account value. If benefits payable to the member's surviving spouse or beneficiary are delayed after the member's death, interest credits shall continue to be credited to the employee cash balance account and the employer cash balance account until such surviving spouse or beneficiary commences receipt of a distribution from the plan;

(20) Member cash balance account means an account equal to the sum of the employee cash balance account and, if vested, the employer cash balance account and dividend amounts credited in accordance with subdivision (4)(c) of section 84-1319;

(21) One-year break in service means a plan year during which the member has not completed more than five hundred hours of service;

(22) Participation means qualifying for and making the required deposits to the retirement system during the course of a plan year;

(23) Part-time employee means an employee who is employed to work less than one-half of the regularly scheduled hours during each pay period;

(24) Plan year means the twelve-month period beginning on January 1 and ending on December 31;

(25) Prior service means service before January 1, 1964;

(26) Regular interest means the rate of interest earned each calendar year commencing January 1, 1975, as determined by the retirement board in conformity with actual and expected earnings on the investments through December 31, 1984;

(27) Required contribution means the deduction to be made from the compensation of employees as provided in section 84-1308;

(28) Retirement means qualifying for and accepting the retirement benefit granted under the State Employees Retirement Act after terminating employment;

(29) Retirement application means the form approved and provided by the retirement system for acceptance of a member's request for either regular or disability retirement;

(30) Retirement board or board means the Public Employees Retirement Board;

(31) Retirement date means (a) the first day of the month following the date upon which a member's request for retirement is received on a retirement application if the member is eligible for retirement and has terminated employment or (b) the first day of the month following termination of employment if the member is eligible for retirement and has filed an application but has not yet terminated employment;

(32) Retirement system means the State Employees Retirement System of the State of Nebraska;

(33) 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;

(34) 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;

(35) 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;

(36) Termination of employment occurs on the date on which the agency which employs the member determines that the member's employer-employee relationship with the State of Nebraska is dissolved. The agency which employs the member shall notify the board of the date on which such a termination has occurred. Termination of employment does not occur if an employee whose

employer-employee relationship with the State of Nebraska is dissolved enters into an employer-employee relationship with the same or another agency of the State of Nebraska and there are less than one hundred twenty days between the date when the employee's employer-employee relationship ceased with the state and the date when the employer-employee relationship commenced with the same or another agency. It is the responsibility of the employer that is involved in the termination of employment to notify the board of such change in employment and provide the board with such information as the board deems necessary. If the board determines that termination of employment has not occurred and a retirement benefit has been paid to a member of the retirement system pursuant to section 84-1321, the board shall require the member who has received such benefit to repay the benefit to the retirement system; and

(37) Vesting credit means credit for years, or a fraction of a year, of participation in another Nebraska governmental plan for purposes of determining vesting of the employer account.

Source: Laws 1963, c. 532, § 1, p. 1667; Laws 1965, c. 574, § 1, p. 1864; Laws 1965, c. 573, § 1, p. 1861; Laws 1969, c. 584, § 116, p. 2420; Laws 1971, LB 987, § 33; Laws 1973, LB 498, § 1; Laws 1974, LB 905, § 8; Laws 1980, LB 818, § 3; Laws 1982, LB 942, § 8; Laws 1983, LB 223, § 4; Laws 1984, LB 747, § 6; Laws 1984, LB 751, § 1; Laws 1986, LB 325, § 15; Laws 1986, LB 529, § 54; Laws 1986, LB 311, § 29; Laws 1989, LB 506, § 19; Laws 1991, LB 549, § 60; Laws 1993, LB 417, § 6; Laws 1994, LB 1068, § 4; Laws 1996, LB 847, § 41; Laws 1996, LB 900, § 1070; Laws 1996, LB 1076, § 37; Laws 1996, LB 1273, § 30; Laws 1997, LB 624, § 35; Laws 1998, LB 1191, § 69; Laws 1999, LB 703, § 20; Laws 2000, LB 1192, § 22; Laws 2002, LB 407, § 54; Laws 2002, LB 470, § 10; Laws 2002, LB 687, § 18; Laws 2003, LB 451, § 23; Laws 2004, LB 1097, § 32; Laws 2006, LB 366, § 7; Laws 2006, LB 1019, § 14; Laws 2011, LB509, § 44; Laws 2012, LB916, § 33; Laws 2013, LB263, § 35; Laws 2017, LB172, § 85; Laws 2017, LB415, § 47.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB172, section 85, with LB415, section 47, to reflect all amendments.

Note: Changes made by LB415 became effective May 24, 2017. Changes made by LB172 became operative January 1, 2018.

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 within the first thirty days of employment. An employee who exercises the option to

begin participation in the retirement system pursuant to this section shall remain in the retirement system until his or her termination of employment or retirement, regardless of any change of status as a permanent or temporary employee.

(3) On and after July 1, 2010, no employee shall be authorized to participate in the retirement system provided for in the State Employees Retirement Act unless the employee (a) is a United States citizen or (b) is a qualified alien under the federal Immigration and Nationality Act, 8 U.S.C. 1101 et seq., as such act existed on January 1, 2009, and is lawfully present in the United States.

(4) For purposes of this section, (a) permanent full-time employees includes employees of the Legislature or Legislative Council who work one-half or more of the regularly scheduled hours during each pay period of the legislative session and (b) permanent part-time employees includes employees of the Legislature or Legislative Council who work less than one-half of the regularly scheduled hours during each pay period of the legislative session.

(5)(a) Within the first one hundred eighty days of employment, a full-time employee may apply to the board for vesting credit for years of participation in another Nebraska governmental plan, as defined by section 414(d) of the Internal Revenue Code. During the years of participation in the other Nebraska governmental plan, the employee must have been a full-time employee, as defined in the Nebraska governmental plan in which the credit was earned. The board may adopt and promulgate rules and regulations governing the assessment and granting of vesting credit.

(b) If the contributory retirement plan or contract let pursuant to section 48-609, as such section existed prior to January 1, 2018, is terminated, employees of the Department of Labor who are active participants in such contributory retirement plan or contract on the date of termination of such plan or contract shall be granted vesting credit for their years of participation in such plan or contract.

(6) Any employee who qualifies for membership in the retirement system pursuant to this section may not be disqualified for membership in the retirement system solely because such employee also maintains separate employment which qualifies the employee for membership in another public retirement system, nor may membership in this retirement system disqualify such an employee from membership in another public employment system solely by reason of separate employment which qualifies such employee for membership in this retirement system.

(7) State agencies shall ensure that employees authorized to participate in the retirement system pursuant to this section shall enroll and make required contributions to the retirement system immediately upon becoming an employee. Information necessary to determine membership in the retirement system shall be provided by the employer.

Source: Laws 1963, c. 532, § 7, p. 1670; Laws 1969, c. 842, § 1, p. 3177; Laws 1973, LB 492, § 1; Laws 1983, LB 219, § 1; Laws 1986, LB 325, § 16; Laws 1986, LB 311, § 30; Laws 1990, LB 834, § 1; Laws 1995, LB 501, § 11; Laws 1996, LB 1076, § 38; Laws 1997, LB 624, § 36; Laws 1998, LB 1191, § 71; Laws 1999, LB 703, § 21; Laws 2000, LB 1192, § 24; Laws 2002, LB 407, § 55; Laws 2002, LB 687, § 20; Laws 2004, LB 1097, § 33; Laws 2006, LB

366, § 8; Laws 2008, LB1147, § 13; Laws 2009, LB188, § 10; Laws 2010, LB950, § 21; Laws 2011, LB509, § 45; Laws 2013, LB263, § 36; Laws 2017, LB172, § 86.
Operative date January 1, 2018.

84-1309.02 Cash balance benefit; election; effect; administrative services agreements; authorized.

(1) It is the intent of the Legislature that, in order to improve the competitiveness of the retirement plan for state employees, a cash balance benefit shall be added to the State Employees Retirement Act on and after January 1, 2003. Each member who is employed and participating in the retirement system prior to January 1, 2003, may either elect to continue participation in the defined contribution benefit as provided in the act prior to January 1, 2003, or elect to participate in the cash balance benefit as set forth in this section. An active member shall make a one-time election beginning September 1, 2012, through October 31, 2012, in order to participate in the cash balance benefit. If no such election is made, the member shall be treated as though he or she elected to continue participating in the defined contribution benefit as provided in the act prior to January 1, 2003. Members who elect to participate in the cash balance benefit beginning September 1, 2012, through October 31, 2012, shall commence participation in the cash balance benefit on January 2, 2013. Any member who made the election prior to April 7, 2012, does not have to make another election of the cash balance benefit beginning September 1, 2012, through October 31, 2012.

(2) For a member employed and participating in the retirement system beginning on and after January 1, 2003, or a member employed and participating in the retirement system on January 1, 2003, who, prior to April 7, 2012, or beginning September 1, 2012, through October 31, 2012, elects to convert his or her employee and employer accounts to the cash balance benefit:

(a) Except as provided in subdivision (2)(b) of section 84-1321.01, the employee cash balance account within the State Employees Retirement Fund shall, at any time, be equal to the following:

(i) The initial employee account balance, if any, transferred from the defined contribution plan account described in section 84-1310; plus

(ii) Employee contribution credits deposited in accordance with section 84-1308; plus

(iii) Interest credits credited in accordance with subdivision (19) of section 84-1301; plus

(iv) Dividend amounts credited in accordance with subdivision (4)(c) of section 84-1319; and

(b) The employer cash balance account shall, at any time, be equal to the following:

(i) The initial employer account balance, if any, transferred from the defined contribution plan account described in section 84-1311; plus

(ii) Employer contribution credits deposited in accordance with section 84-1309; plus

(iii) Interest credits credited in accordance with subdivision (19) of section 84-1301; plus

(iv) Dividend amounts credited in accordance with subdivision (4)(c) of section 84-1319.

(3) In order to carry out the provisions of this section, the board may enter into administrative services agreements for accounting or record-keeping services. No agreement shall be entered into unless the board determines that it will result in administrative economy and will be in the best interests of the state and its participating employees. The board may develop a schedule for the allocation of the administrative services agreements costs for accounting or record-keeping services and may assess the costs so that each member pays a reasonable fee as determined by the board.

Source: Laws 2002, LB 687, § 21; Laws 2003, LB 451, § 25; Laws 2005, LB 364, § 17; Laws 2006, LB 366, § 10; Laws 2006, LB 1019, § 16; Laws 2007, LB328, § 7; Laws 2009, LB188, § 11; Laws 2010, LB950, § 22; Laws 2011, LB509, § 46; Laws 2012, LB916, § 35; Laws 2017, LB415, § 48.

Effective date May 24, 2017.

84-1319 Future service retirement benefits; when payable; how computed; selection of annuity; board; deferment of benefits; certain required minimum distributions; election authorized.

(1) The future service retirement benefit shall be an annuity, payable monthly with the first payment made no earlier than the annuity start date, which shall be the actuarial equivalent of the retirement value as specified in section 84-1318 based on factors determined by the board, except that gender shall not be a factor when determining the amount of such payments except as provided in this section.

Except as provided in section 42-1107, at any time before the annuity start date, the retiring employee may choose to receive his or her annuity either in the form of an annuity as provided under subsection (4) of this section or any optional form that is determined acceptable by the board.

Except as provided in section 42-1107, in lieu of the future service retirement annuity, a retiring employee may receive a benefit not to exceed the amount in his or her employer and employee accounts as of the date of final account value payable in a lump sum and, if the employee chooses not to receive the entire amount in such accounts, an annuity equal to the actuarial equivalent of the remainder of the retirement value, and the employee may choose any form of such annuity as provided for by the board.

In any case, the amount of the monthly payment shall be such that the annuity chosen shall be the actuarial equivalent of the retirement value as specified in section 84-1318 except as provided in this section.

(2) Except as provided in subsection (4) of this section, the monthly annuity income payable to a member retiring on or after January 1, 1984, shall be as follows:

He or she shall receive at retirement the amount which may be purchased by the accumulated contributions based on annuity rates in effect on the annuity start date which do not utilize gender as a factor, except that such amounts shall not be less than the retirement income which can be provided by the sum of the amounts derived pursuant to subdivisions (a) and (b) of this subsection as follows:

(a) The income provided by the accumulated contributions made prior to January 1, 1984, based on male annuity purchase rates in effect on the date of purchase; and

(b) The income provided by the accumulated contributions made on and after January 1, 1984, based on the annuity purchase rates in effect on the date of purchase which do not use gender as a factor.

(3) Any amounts, in excess of contributions, which may be required in order to purchase the retirement income specified in subsection (2) of this section shall be withdrawn from the State Equal Retirement Benefit Fund.

(4)(a) The normal form of payment shall be a single life annuity with five-year certain, which is an annuity payable monthly during the remainder of the member's life with the provision that, in the event of his or her death before sixty monthly payments have been made, the monthly payments will be continued to his or her estate or to the beneficiary he or she has designated until sixty monthly payments have been made in total. Such annuity shall be equal to the actuarial equivalent of the member cash balance account or the sum of the employee and employer accounts, whichever is applicable, as of the date of final account value. As a part of the annuity, the normal form of payment may include a two and one-half percent cost-of-living adjustment purchased by the member, if the member elects such a payment option.

Except as provided in section 42-1107, a member may elect a lump-sum distribution of his or her member cash balance account as of the date of final account value upon termination of service or retirement.

For a member employed and participating in the retirement system prior to January 1, 2003, who has elected to participate in the cash balance benefit pursuant to section 84-1309.02, or for a member employed and participating in the retirement system beginning on and after January 1, 2003, the balance of his or her member cash balance account as of the date of final account value shall be converted to an annuity using an interest rate that is recommended by the actuary and approved by the board following an actuarial experience study, a benefit adequacy study, or a plan valuation. The interest rate and actuarial factors in effect on the member's retirement date will be used to calculate actuarial equivalency of any retirement benefit. Such interest rate may be, but is not required to be, equal to the assumed rate of return.

For an employee who is a member prior to January 1, 2003, who has elected not to participate in the cash balance benefit pursuant to section 84-1309.02, and who, at the time of retirement, chooses the annuity option rather than the lump-sum option, his or her employee and employer accounts as of the date of final account value shall be converted to an annuity using an interest rate that is equal to the lesser of (i) the Pension Benefit Guaranty Corporation initial interest rate for valuing annuities for terminating plans as of the beginning of the year during which payment begins plus three-fourths of one percent or (ii) the interest rate to calculate the retirement benefits for the cash balance plan members.

(b) For the calendar year beginning January 1, 2003, and each calendar year thereafter, the actuary for the board shall perform an actuarial valuation of the system using the entry age actuarial cost method. Under this method, the actuarially required funding rate is equal to the normal cost rate plus the contribution rate necessary to amortize the unfunded actuarial accrued liability on a level-payment basis. The normal cost under this method shall be deter-

mined for each individual member on a level percentage of salary basis. The normal cost amount is then summed for all members. The initial unfunded actual accrued liability as of January 1, 2003, if any, shall be amortized over a twenty-five-year period. During each subsequent actuarial valuation, changes in the unfunded actuarial accrued liability due to changes in benefits, actuarial assumptions, the asset valuation method, or actuarial gains or losses shall be measured and amortized over a twenty-five-year period beginning on the valuation date of such change. If the unfunded actuarial accrued liability under the entry age actuarial cost method is zero or less than zero on an actuarial valuation date, then all prior unfunded actuarial accrued liabilities shall be considered fully funded and the unfunded actuarial accrued liability shall be reinitialized and amortized over a twenty-five-year period as of the actuarial valuation date. If the actuarially required contribution rate exceeds the rate of all contributions required pursuant to the State Employees Retirement Act, there shall be a supplemental appropriation sufficient to pay for the difference between the actuarially required contribution rate and the rate of all contributions required pursuant to the act.

(c) If the unfunded accrued actuarial liability under the entry age actuarial cost method is less than zero on an actuarial valuation date, and on the basis of all data in the possession of the retirement board, including such mortality and other tables as are recommended by the actuary engaged by the retirement board and adopted by the retirement board, the retirement board may elect to pay a dividend to all members participating in the cash balance option in an amount that would not increase the actuarial contribution rate above ninety percent of the actual contribution rate. Dividends shall be credited to the employee cash balance account and the employer cash balance account based on the account balances on the actuarial valuation date. In the event a dividend is granted and paid after the actuarial valuation date, interest for the period from the actuarial valuation date until the dividend is actually paid shall be paid on the dividend amount. The interest rate shall be the interest credit rate earned on regular contributions.

(5) At the option of the retiring member, any lump sum or annuity provided under this section or section 84-1320 may be deferred to commence at any time, except that no benefit shall be deferred later than April 1 of the year following the year in which the employee has both attained at least seventy and one-half years of age and has terminated his or her employment with the state. Such election by the retiring member may be made at any time prior to the commencement of the lump-sum or annuity payments.

(6) A participant or beneficiary who would have been required to receive required minimum distributions for 2009 but for the enactment of section 401(a)(9)(H) of the Internal Revenue Code, and who would have satisfied that requirement by receiving distributions that are either equal to the 2009 required minimum distributions or one or more payments in a series of substantially equal distributions, including the 2009 required minimum distribution, made at least annually and expected to last for the life or life expectancy of the participant, the joint lives or joint life expectancy of the participant and the participant's designated beneficiary, or for a period of at least ten years, shall receive those distributions for 2009 unless the participant or beneficiary chooses not to receive such distributions. Participants and beneficiaries shall be given

the opportunity to elect to stop receiving the distributions described in this subsection.

Source: Laws 1963, c. 532, § 19, p. 1674; Laws 1973, LB 498, § 5; Laws 1983, LB 210, § 2; Laws 1984, LB 751, § 7; Laws 1986, LB 325, § 18; Laws 1986, LB 311, § 33; Laws 1987, LB 308, § 1; Laws 1987, LB 60, § 4; Laws 1991, LB 549, § 70; Laws 1992, LB 543, § 2; Laws 1994, LB 1306, § 8; Laws 1996, LB 1273, § 31; Laws 2002, LB 687, § 27; Laws 2003, LB 451, § 29; Laws 2006, LB 1019, § 17; Laws 2007, LB328, § 9; Laws 2009, LB188, § 14; Laws 2012, LB916, § 39; Laws 2013, LB263, § 40; Laws 2017, LB415, § 49.

Effective date May 24, 2017.

84-1323.01 Employee; retirement; disability; medical examination; waiver.

(1) Any member who is an employee, disregarding the length of service, may be retired as a result of disability either upon the member's own application or upon the application of the member's employer or any person acting in the member's behalf. Before any member may be so retired, a medical examination shall be made at the expense of the retirement system, which examination shall be conducted by a disinterested physician legally authorized to practice medicine under the laws of the state in which he or she practices, such physician to be selected by the retirement board, and the physician shall certify to the board that the member suffers from an inability to engage in any substantially gainful activity by reason of any medically determinable physical or mental impairment which was initially diagnosed or became disabling while the member was an active participant in the plan and which can be expected to result in death or to be of long-continued and indefinite duration. The medical examination may be waived if, in the judgment of the retirement board, extraordinary circumstances exist which preclude substantial gainful activity by the member. Such circumstances shall include hospice placement or similar confinement for a terminal illness or injury. The application for disability retirement shall be made within one year of termination of employment.

(2) The retirement board may require any disability beneficiary who has not attained the age of fifty-five years to undergo a medical examination at the expense of the board once each year. If any disability beneficiary refuses to undergo such an examination, the disability retirement benefit may be discontinued by the board.

(3) The retirement board may adopt and promulgate rules and regulations and prescribe the necessary forms to carry out this section.

Source: Laws 1973, LB 498, § 8; Laws 1993, LB 417, § 8; Laws 1997, LB 623, § 44; Laws 1999, LB 703, § 25; Laws 2001, LB 408, § 29; Laws 2010, LB950, § 27; Laws 2017, LB415, § 50.

Effective date May 24, 2017.

84-1325 Employees; military service; credit; payments.

(1)(a) For military service beginning on or after December 12, 1994, but before January 1, 2018, any employee who, while an employee, entered into and served in the armed forces of the United States and who within ninety days after honorable discharge or honorable separation from active duty again became an employee shall be credited, for the purposes of the provisions of

section 84-1317, with all the time actually served in the armed forces as if such person had been an employee throughout such service in the armed forces pursuant to the terms and conditions of subdivision (b) of this subsection.

(b) Under such rules and regulations as the retirement board adopts and promulgates, any employee who is reemployed pursuant to 38 U.S.C. 4301 et seq., may pay to the retirement system an amount equal to the sum of all deductions which would have been made from the employee's compensation during such period of military service. Payment shall be made within the period required by law, not to exceed five years. To the extent that payment is made, (i) the employee shall be treated as not having incurred a break in service by reason of the employee's period of military service, (ii) the period of military service shall be credited for the purposes of determining the nonforfeitability of the employee's accrued benefits and the accrual of benefits under the plan, and (iii) the employer shall allocate the amount of employer contributions to the employee's employer account in the same manner and to the same extent the allocation occurs for other employees during the period of service. For purposes of employee and employer contributions under this subsection, the employee's compensation during the period of military service shall be the rate the employee would have received but for the military service or, if not reasonably determinable, the average rate the employee received during the twelve-month period immediately preceding military service.

(c) The employer shall pick up the employee contributions made through irrevocable payroll deduction authorizations pursuant to this subsection, and the contributions so picked up shall be treated as employer contributions in the same manner as contributions picked up under subsection (1) of section 84-1308.

(2)(a) For military service beginning on or after January 1, 2018, any employee who is reemployed pursuant to 38 U.S.C. 4301 et seq., shall be treated as not having incurred a break in service by reason of the employee's period of military service. Such military service shall be credited for purposes of determining the nonforfeitability of the employee's accrued benefits and the accrual of benefits under the plan.

(b) The agency employing the employee shall be liable for funding any obligation of the plan to provide benefits based upon such period of military service. To satisfy the liability, the agency employing the employee shall pay to the retirement system an amount equal to:

(i) The sum of the employee and employer contributions that would have been paid during such period of military service; and

(ii) Any actuarial costs necessary to fund the obligation of the plan to provide benefits based upon such period of military service. For the purposes of determining the amount of such liability and obligation of the plan, earnings and forfeitures, gains and losses, regular interest, interest credits, or dividends that would have accrued on the employee and employer contributions that are paid by the employer pursuant to this section shall not be included.

(c) The amount required pursuant to subdivision (b) of this subsection shall be paid to the retirement system as soon as reasonably practicable following the date of reemployment, but must be paid within eighteen months of the date the board notifies the employer of the amount due. If the employer fails to pay the required amount within such eighteen-month period, then the employer is also responsible for any actuarial costs and interest on actuarial costs that accrue

from eighteen months after the date the employer is notified by the board until the date the amount is paid.

(d) The retirement board may adopt and promulgate rules and regulations to carry out this subsection, including, but not limited to, rules and regulations on:

(i) How and when the employee and employer must notify the retirement system of a period of military service;

(ii) The acceptable methods of payment;

(iii) Determining the service and compensation upon which the contributions must be made;

(iv) Accelerating the payment from the employer due to unforeseen circumstances that occur before payment is made pursuant to this section, including, but not limited to, the employee's termination or retirement or the employer's reorganization, consolidation, merger, or closing; and

(v) The documentation required to substantiate that the individual was reemployed pursuant to 38 U.S.C. 4301 et seq.

(3) This section only applies to military service that falls within the definition of uniformed service under 38 U.S.C. 4301 et seq. Military service does not include service provided pursuant to sections 55-101 to 55-181.

Source: Laws 1963, c. 532, § 25, p. 1676; Laws 1994, LB 833, § 52; Laws 1996, LB 847, § 47; Laws 1999, LB 703, § 26; Laws 2004, LB 1097, § 37; Laws 2017, LB415, § 51.
Effective date May 24, 2017.

ARTICLE 14

PUBLIC MEETINGS

Section

84-1411. Meetings of public body; notice; contents; when available; right to modify; duties concerning notice; videoconferencing or telephone conferencing authorized; emergency meeting without notice; appearance before public body.

84-1411 Meetings of public body; notice; contents; when available; right to modify; duties concerning notice; videoconferencing or telephone conferencing authorized; emergency meeting without notice; appearance before public body.

(1) Each public body shall give reasonable advance publicized notice of the time and place of each meeting by a method designated by each public body and recorded in its minutes. Such notice shall be transmitted to all members of the public body and to the public. Such notice shall contain an agenda of subjects known at the time of the publicized notice or a statement that the agenda, which shall be kept continually current, shall be readily available for public inspection at the principal office of the public body during normal business hours. Agenda items shall be sufficiently descriptive to give the public reasonable notice of the matters to be considered at the meeting. Except for items of an emergency nature, the agenda shall not be altered later than (a) twenty-four hours before the scheduled commencement of the meeting or (b) forty-eight hours before the scheduled commencement of a meeting of a city council or village board scheduled outside the corporate limits of the municipality. The public body shall have the right to modify the agenda to include items of an emergency nature only at such public meeting.

(2) A meeting of a state agency, state board, state commission, state council, or state committee, of an advisory committee of any such state entity, of an organization created under the Interlocal Cooperation Act, the Joint Public Agency Act, or the Municipal Cooperative Financing Act, of the governing body of a public power district having a chartered territory of more than one county in this state, of the governing body of a public power and irrigation district having a chartered territory of more than one county in this state, of a board of an educational service unit, of the Educational Service Unit Coordinating Council, of the governing body of a risk management pool or its advisory committees organized in accordance with the Intergovernmental Risk Management Act, or of a community college board of governors may be held by means of videoconferencing or, in the case of the Judicial Resources Commission in those cases specified in section 24-1204, by telephone conference, if:

(a) Reasonable advance publicized notice is given;

(b) Reasonable arrangements are made to accommodate the public's right to attend, hear, and speak at the meeting, including seating, recordation by audio or visual recording devices, and a reasonable opportunity for input such as public comment or questions to at least the same extent as would be provided if videoconferencing or telephone conferencing was not used;

(c) At least one copy of all documents being considered is available to the public at each site of the videoconference or telephone conference;

(d) At least one member of the state entity, advisory committee, board, council, or governing body is present at each site of the videoconference or telephone conference; and

(e) No more than one-half of the state entity's, advisory committee's, board's, council's, or governing body's meetings in a calendar year are held by videoconference or telephone conference.

Videoconferencing, telephone conferencing, or conferencing by other electronic communication shall not be used to circumvent any of the public government purposes established in the Open Meetings Act.

(3) A meeting of a board of an educational service unit, of the Educational Service Unit Coordinating Council, of the governing body of an entity formed under the Interlocal Cooperation Act, the Joint Public Agency Act, or the Municipal Cooperative Financing Act, of the governing body of a risk management pool or its advisory committees organized in accordance with the Intergovernmental Risk Management Act, of a community college board of governors, of the governing body of a public power district, of the governing body of a public power and irrigation district, or of the Nebraska Brand Committee may be held by telephone conference call if:

(a) The territory represented by the educational service unit, member educational service units, community college board of governors, public power district, public power and irrigation district, Nebraska Brand Committee, or member public agencies of the entity or pool covers more than one county;

(b) Reasonable advance publicized notice is given which identifies each telephone conference location at which an educational service unit board member, a council member, a member of a community college board of governors, a member of the governing body of a public power district, a member of the governing body of a public power and irrigation district, a

member of the Nebraska Brand Committee, or a member of the entity's or pool's governing body will be present;

(c) All telephone conference meeting sites identified in the notice are located within public buildings used by members of the educational service unit board, council, community college board of governors, governing body of the public power district, governing body of the public power and irrigation district, Nebraska Brand Committee, or entity or pool or at a place which will accommodate the anticipated audience;

(d) Reasonable arrangements are made to accommodate the public's right to attend, hear, and speak at the meeting, including seating, recordation by audio recording devices, and a reasonable opportunity for input such as public comment or questions to at least the same extent as would be provided if a telephone conference call was not used;

(e) At least one copy of all documents being considered is available to the public at each site of the telephone conference call;

(f) At least one member of the educational service unit board, council, community college board of governors, governing body of the public power district, governing body of the public power and irrigation district, Nebraska Brand Committee, or governing body of the entity or pool is present at each site of the telephone conference call identified in the public notice;

(g) The telephone conference call lasts no more than two hours; and

(h) No more than one-half of the board's, council's, governing body's, committee's, entity's, or pool's meetings in a calendar year are held by telephone conference call, except that a governing body of a risk management pool that meets at least quarterly and the advisory committees of the governing body may each hold more than one-half of its meetings by telephone conference call if the governing body's quarterly meetings are not held by telephone conference call or videoconferencing.

Nothing in this subsection shall prevent the participation of consultants, members of the press, and other nonmembers of the governing body at sites not identified in the public notice. Telephone conference calls, emails, faxes, or other electronic communication shall not be used to circumvent any of the public government purposes established in the Open Meetings Act.

(4) The secretary or other designee of each public body shall maintain a list of the news media requesting notification of meetings and shall make reasonable efforts to provide advance notification to them of the time and place of each meeting and the subjects to be discussed at that meeting.

(5) When it is necessary to hold an emergency meeting without reasonable advance public notice, the nature of the emergency shall be stated in the minutes and any formal action taken in such meeting shall pertain only to the emergency. Such emergency meetings may be held by means of electronic or telecommunication equipment. The provisions of subsection (4) of this section shall be complied with in conducting emergency meetings. Complete minutes of such emergency meetings specifying the nature of the emergency and any formal action taken at the meeting shall be made available to the public by no later than the end of the next regular business day.

(6) A public body may allow a member of the public or any other witness other than a member of the public body to appear before the public body by means of video or telecommunications equipment.

Source: Laws 1975, LB 325, § 4; Laws 1983, LB 43, § 3; Laws 1987, LB 663, § 25; Laws 1993, LB 635, § 2; Laws 1996, LB 469, § 6; Laws 1996, LB 1161, § 1; Laws 1999, LB 47, § 2; Laws 1999, LB 87, § 100; Laws 1999, LB 461, § 1; Laws 2000, LB 968, § 85; Laws 2004, LB 821, § 38; Laws 2004, LB 1179, § 2; Laws 2006, LB 898, § 2; Laws 2007, LB199, § 9; Laws 2009, LB361, § 2; Laws 2012, LB735, § 1; Laws 2013, LB510, § 1; Laws 2017, LB318, § 1.

Effective date May 13, 2017.

Cross References

Intergovernmental Risk Management Act, see section 44-4301.

Interlocal Cooperation Act, see section 13-801.

Joint Public Agency Act, see section 13-2501.

Municipal Cooperative Financing Act, see section 18-2401.

ARTICLE 15

PUBLIC EMPLOYEES RETIREMENT BOARD

Section

84-1503. Board; duties; director; duties.

84-1503 Board; duties; director; duties.

(1) It shall be the duty of the Public Employees Retirement Board:

(a) To administer the retirement systems provided for in the County Employees Retirement Act, the Judges Retirement Act, the Nebraska State Patrol Retirement Act, the School Employees Retirement Act, and the State Employees Retirement Act. The agency for the administration of the retirement systems and under the direction of the board shall be known and may be cited as the Nebraska Public Employees Retirement Systems;

(b) To appoint a director to administer the systems under the direction of the board. The appointment shall be subject to the approval of the Governor and a majority of the Legislature. The director shall be qualified by training and have at least five years of experience in the administration of a qualified public or private employee retirement plan. The director shall not be a member of the board. The salary of the director shall be set by the board. The director shall serve without term and may be removed by the board;

(c) To provide for an equitable allocation of expenses among the retirement systems administered by the board, and all expenses shall be provided from the investment income earned by the various retirement funds unless alternative sources of funds to pay expenses are specified by law;

(d) To administer the deferred compensation program authorized in section 84-1504;

(e) To hire an attorney, admitted to the Nebraska State Bar Association, to advise the board in the administration of the retirement systems listed in subdivision (a) of this subsection;

(f) To hire an internal auditor to perform the duties described in section 84-1503.04 who meets the minimum standards as described in section 84-304.03;

(g) To adopt and implement procedures for reporting information by employers, as well as testing and monitoring procedures in order to verify the accuracy of such information. The information necessary to determine membership shall be provided by the employer. The board 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 through December 31, 2017.

(2) In administering the retirement systems listed in subdivision (1)(a) of this section, it shall be the duty of the board:

(a) To determine, based on information provided by the employer, the prior service annuity, if any, for each person who is an employee of the county on the date of adoption of the retirement system;

(b) To determine the eligibility of an individual to be a member of the retirement system and other questions of fact in the event of a dispute between an individual and the individual's employer;

(c) To adopt and promulgate rules and regulations for the management of the board;

(d) To keep a complete record of all proceedings taken at any meeting of the board;

(e) To obtain, by a competitive, formal, and sealed bidding process through the materiel division of the Department of Administrative Services, actuarial services on behalf of the State of Nebraska as may be necessary in the administration and development of the retirement systems, including, but not limited to, preparation of an annual actuarial valuation report of each of the defined benefit and cash balance plans administered by the board. Such annual valuation reports shall be presented by the actuary to the Nebraska Retirement Systems Committee of the Legislature at a public hearing or hearings. Any contract for actuarial services shall contain a provision allowing the actuary, without prior approval of the board, to perform actuarial studies of the systems as requested by entities other than the board, if notice, which does not identify the entity or substance of the request, is given to the board, all costs are paid by the requesting entity, results are provided to the board, the Nebraska Retirement Systems Committee of the Legislature, and the Legislative Fiscal Analyst upon being made public, and such actuarial studies do not interfere with the actuary's ongoing responsibility to the board. The term of the contract shall be for up to three years. A competitive, formal, and sealed bidding process shall be completed at least once every three years, unless the board determines that such a process would not be cost effective under the circumstances and that the actuarial services performed have been satisfactory, in which case the contract may also contain an option for renewal without a competitive, formal, and sealed bidding process for up to three additional years. An actuary under

contract for the State of Nebraska shall be a member of the American Academy of Actuaries and meet the academy's qualification standards to render a statement of actuarial opinion;

(f) To direct the State Treasurer to transfer funds, as an expense of the retirement systems, to the Legislative Council Retirement Study Fund. Such transfer shall occur beginning on or after July 1, 2005, and at intervals of not less than five years and not more than fifteen years and shall be in such amounts as the Legislature shall direct;

(g) To adopt and promulgate rules and regulations to carry out the provisions of each retirement system described in subdivision (1)(a) of this section, which includes, but is not limited to, the crediting of military service, direct rollover distributions, and the acceptance of rollovers;

(h) To obtain, 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, 2020, and from time to time thereafter at the request of the Nebraska Retirement Systems Committee of the Legislature, to be completed not more than every four years but not less than every ten years. The compliance audit shall be in addition to the annual audit conducted by the Auditor of Public Accounts. The compliance audit shall include, but not be limited to, an examination of records, files, and other documents and an evaluation of all policies and procedures to determine compliance with all state and federal laws. A copy of the compliance audit shall be given to the Governor, the board, and the Nebraska Retirement Systems Committee of the Legislature and shall be presented to the committee at a public hearing;

(i) To adopt and promulgate rules and regulations for the adjustment of contributions or benefits, which includes, but is not limited to: (i) The procedures for refunding contributions, adjusting future contributions or benefit payments, and requiring additional contributions or repayment of benefits; (ii) the process for a member, member's beneficiary, employee, or employer to dispute an adjustment to contributions or benefits; (iii) establishing materiality and de minimus amounts for agency transactions, adjustments, and inactive account closures; and (iv) notice provided to all affected persons. Following an adjustment, a timely notice shall be sent that describes the adjustment and the process for disputing an adjustment to contributions or benefits;

(j) To make a thorough investigation through the director or the director's designee, of any overpayment of a benefit, when in the judgment of the director such investigation is necessary, including, but not limited to, circumstances in which benefit payments are made after the death of a member or beneficiary and the retirement system is not made aware of such member's or beneficiary's death. In connection with any such investigation, the board, through the director or the director's designee, shall have the power to compel the attendance of witnesses and the production of books, papers, records, and documents, whether in hardcopy, electronic form, or otherwise, and issue subpoenas for such purposes. Such subpoenas shall be served in the same manner and have the same effect as subpoenas from district courts; and

(k) To administer all retirement system plans in a manner which will maintain each plan's status as a qualified plan pursuant to the Internal Revenue Code, as defined in section 49-801.01, including: Section 401(a)(9) of the Internal Revenue Code relating to the time and manner in which benefits are

required to be distributed, including the incidental death benefit distribution requirement of section 401(a)(9)(G) of the Internal Revenue Code; section 401(a)(25) of the Internal Revenue Code relating to the specification of actuarial assumptions; section 401(a)(31) of the Internal Revenue Code relating to direct rollover distributions from eligible retirement plans; section 401(a)(37) of the Internal Revenue Code relating to the death benefit of a member whose death occurs while performing qualified military service; and section 401(a) of the Internal Revenue Code by meeting the requirements of section 414(d) of the Internal Revenue Code relating to the establishment of retirement plans for governmental employees of a state or political subdivision thereof. The board 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.

(4)(a) Beginning in 2016, and at least every four years thereafter in even-numbered years or at the request of the Nebraska Retirement Systems Committee of the Legislature, the board shall obtain an experience study. Within thirty business days after presentation of the experience study to the board, the actuary shall present the study to the Nebraska Retirement Systems Committee at a public hearing. If the board does not adopt all of the recommendations in the experience study, the board shall provide a written explanation of its decision to the Nebraska Retirement Systems Committee and the Governor. The explanation shall be delivered within ten business days after formal action by the board to not adopt one or more of the recommendations.

(b) The director shall provide an electronic copy of the first draft and a final draft of the experience study and annual valuation reports to the Nebraska Retirement Systems Committee and the Governor when the director receives the drafts from the actuary. The drafts shall be deemed confidential information. The draft copies obtained by the Nebraska Retirement Systems Committee and the Governor pursuant to this section shall not be considered public records subject to sections 84-712 to 84-712.09.

(c) For purposes of this subsection, business days shall be computed by excluding the day the request is received, after which the designated period of time begins to run. A business day shall not include a Saturday or a Sunday or a day during which the Nebraska Public Employees Retirement Systems office is closed.

(5) It shall be the duty of the board to direct the State Treasurer to transfer funds, as an expense of the retirement system provided for under the Class V School Employees Retirement Act, to and from the Class V Retirement System Payment Processing Fund and the Class V School Employees Retirement Fund for the benefit of a retirement system provided for under the Class V School

Employees Retirement Act to implement the provisions of section 79-986. The agency for the administration of this provision and under the direction of the board shall be known and may be cited as the Nebraska Public Employees Retirement Systems.

Source: Laws 1971, LB 987, § 3; Laws 1973, LB 216, § 3; Laws 1973, LB 498, § 10; Laws 1979, LB 416, § 3; Laws 1983, LB 70, § 1; Laws 1984, LB 751, § 13; Laws 1986, LB 311, § 40; Laws 1987, LB 549, § 14; Laws 1988, LB 1170, § 22; Laws 1991, LB 549, § 74; Laws 1992, LB 672, § 33; Laws 1994, LB 833, § 54; Laws 1994, LB 1306, § 11; Laws 1995, LB 502, § 3; Laws 1996, LB 847, § 52; Laws 1996, LB 1076, § 44; Laws 1998, LB 1191, § 78; Laws 1999, LB 849, § 33; Laws 2000, LB 1192, § 25; Laws 2001, LB 808, § 21; Laws 2002, LB 407, § 63; Laws 2003, LB 451, § 35; Laws 2005, LB 503, § 19; Laws 2011, LB474, § 14; Laws 2011, LB509, § 51; Laws 2012, LB916, § 43; Laws 2013, LB263, § 43; Laws 2014, LB1042, § 11; Laws 2015, LB40, § 16; Laws 2016, LB447, § 47; Laws 2017, LB415, § 52.
Effective date May 24, 2017.

Cross References

Class V School Employees Retirement Act, see section 79-978.01.

County Employees Retirement Act, see section 23-2331.

Judges Retirement Act, see section 24-701.01.

Nebraska State Patrol Retirement Act, see section 81-2014.01.

School Employees Retirement Act, see section 79-901.

State Employees Retirement Act, see section 84-1331.

CHAPTER 85

STATE UNIVERSITY, STATE COLLEGES, AND POSTSECONDARY EDUCATION

Article.

1. University of Nebraska. 85-173 to 85-175.
3. State Colleges. 85-308.
5. Tuition and Fees at State Educational Institutions. 85-502.01.
9. Postsecondary Education.
 - (b) Role and Mission Assignments. 85-917 to 85-949.
10. Nebraska Safety Center. 85-1008.
14. Coordinating Commission for Postsecondary Education.
 - (a) Coordinating Commission for Postsecondary Education Act. 85-1414.01.
24. Postsecondary Institution Act. 85-2401 to 85-2428.

ARTICLE 1

UNIVERSITY OF NEBRASKA

Section

- 85-173. Defunct postsecondary institution; records; University of Nebraska-Lincoln; depository.
- 85-174. Defunct postsecondary institution; records; duties of registrar.
- 85-175. Repealed. Laws 2017, LB512, § 42.

85-173 Defunct postsecondary institution; records; University of Nebraska-Lincoln; depository.

(1) Except as provided in subsection (2) of this section, the trustees or officers of any postsecondary institution, upon going out of existence or ceasing to function as a postsecondary institution, may turn over its student records to the central depository maintained by the office of registrar of the University of Nebraska-Lincoln as provided in section 85-174.

(2) The trustees or officers of any for-profit postsecondary institution as defined in section 85-2403, upon going out of existence or ceasing to function as a postsecondary institution, shall turn over its student records to the central depository maintained by the office of registrar of the University of Nebraska-Lincoln as provided in section 85-174.

Source: Laws 1937, c. 179, § 1, p. 709; C.S.Supp.,1941, § 85-179; R.S. 1943, § 85-173; Laws 2017, LB512, § 21.

Operative date September 1, 2017.

85-174 Defunct postsecondary institution; records; duties of registrar.

The office of registrar of the University of Nebraska-Lincoln is hereby designated the central depository for the records of postsecondary institutions in this state that have ceased to exist or may cease to exist in the future. The registrar of the University of Nebraska-Lincoln shall, where possible, collect the records of such extinct postsecondary institution and have the supervision, care, custody, and control of such records. The registrar having the records of such postsecondary institutions, if any, shall, when requested, prepare tran-

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scripts of such records which may at any time become necessary to the former student for further scholastic work at other postsecondary institutions or for certification for teaching or other professional positions. Whenever such transcript is made, and after it has been compared with the original, it shall be certified by the registrar and shall thereafter be considered and accepted as evidence and, for all other purposes, the same as the original could be. For the preparation of such transcript, the registrar may charge a nominal fee for services rendered.

Source: Laws 1937, c. 179, § 2, p. 709; C.S.Supp.,1941, § 85-180; R.S. 1943, § 85-174; Laws 2017, LB512, § 22.
Operative date September 1, 2017.

85-175 Repealed. Laws 2017, LB512, § 42.
Operative date September 1, 2017.

**ARTICLE 3
STATE COLLEGES**

Section
85-308. State colleges; purpose; courses.

85-308 State colleges; purpose; courses.

The purpose of the state colleges is the training and instruction of persons, both male and female, in the arts of teaching and managing schools, the principles and practice of the various branches of learning taught in our public schools, and the arts and sciences generally. The Board of Trustees of the Nebraska State Colleges shall have power to prescribe, for the state colleges, such courses of instruction as will best fit such persons for teaching and managing the public schools, and their instruction in the arts and sciences generally as provided in sections 85-194, 85-308, 85-606.01, 85-917 to 85-966, and 85-1511.

Source: Laws 1881, c. 78, sub. XIII, § 15, p. 376; R.S.1913, § 7072; Laws 1921, c. 65, § 1, p. 252; C.S.1922, § 6707; C.S.1929, § 85-316; Laws 1937, c. 212, § 5, p. 850; C.S.Supp.,1941, § 85-316; R.S. 1943, § 85-308; Laws 1949, c. 315, § 2(1), p. 1035; Laws 1969, c. 852, § 7, p. 3202; Laws 1978, LB 756, § 55; Laws 1996, LB 900, § 1078; Laws 2017, LB512, § 23.
Operative date May 23, 2017.

**ARTICLE 5
TUITION AND FEES AT STATE EDUCATIONAL INSTITUTIONS**

Section
85-502.01. Public college or university; veteran; spouse or dependent of veteran;
eligible recipient under federal law; resident student; requirements.

85-502.01 Public college or university; veteran; spouse or dependent of veteran; eligible recipient under federal law; resident student; requirements.

(1) A person who enrolls in a public college or university in this state and who is a veteran as defined in Title 38 of the United States Code and was discharged or released from a period of not fewer than ninety days of service in

the active military, naval, or air service less than three years before the date of initial enrollment, a spouse or dependent of such a veteran, or an eligible recipient entitled to educational assistance as provided in 38 U.S.C. 3319 while the transferor is on active duty in the uniformed services or as provided in 38 U.S.C. 3311(b)(9), as such sections existed on January 1, 2017, shall be considered a resident student notwithstanding the provisions of section 85-502 if the person is (a) registered to vote in Nebraska and (b) demonstrates objective evidence of intent to be a resident of Nebraska.

(2) A person who is otherwise described in subsection (1) of this section and is under eighteen years of age is not required to comply with subdivision (1)(a) of this section.

(3) For purposes of this section, objective evidence of intent to be a resident of Nebraska includes either a Nebraska driver’s license or state identification card or a Nebraska motor vehicle registration.

Source: Laws 2014, LB740, § 1; Laws 2015, LB109, § 1; Laws 2017, LB512, § 24.

Operative date May 23, 2017.

ARTICLE 9

POSTSECONDARY EDUCATION

(b) ROLE AND MISSION ASSIGNMENTS

Section

85-917. Legislative intent.

85-933. Expenditures in conflict with role and mission assignments; prohibited.

85-949. State college system; role and mission assignments; board of trustees; adopt policies.

(b) ROLE AND MISSION ASSIGNMENTS

85-917 Legislative intent.

The Legislature hereby declares that it is the intent and purpose of sections 85-194, 85-308, 85-606.01, 85-917 to 85-966, and 85-1511 to provide statements of role and mission for the state’s systems and institutions of postsecondary education which will:

- (1) Provide for a coordinated state system of postsecondary education;
- (2) Provide for the maintenance and development of quality postsecondary educational programs and services for all citizens in all regions of the state;
- (3) Insure student and community access to comprehensive educational programs;
- (4) Limit unnecessary program and facility duplication through a coordinated planning and review process;
- (5) Encourage statewide long-term academic and fiscal planning for postsecondary education in the state;
- (6) Establish a legislative review process to insure that (a) role and mission statements are updated as necessary and (b) postsecondary institutions are complying with role and mission assignments and are serving a valuable purpose to the state within their current role and mission assignments; and
- (7) Provide a mechanism for (a) implementing an extensive change in the scope, role, and mission of a campus, (b) closing a campus, (c) merging

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campuses, and (d) changing a campus to serve a completely different public purpose.

Source: Laws 1978, LB 756, § 1; Laws 1984, LB 981, § 18; Laws 1996, LB 900, § 1080; Laws 2017, LB512, § 25.
Operative date May 23, 2017.

85-933 Expenditures in conflict with role and mission assignments; prohibited.

No funds generated or received from a General Fund appropriation, state aid assistance program, or receipts from a tax levy authorized by statute shall be expended in support of programs or activities which are in conflict with the role and mission assignments applicable to the University of Nebraska, state colleges, or community colleges under sections 85-194, 85-308, 85-606.01, 85-917 to 85-966, and 85-1511.

Source: Laws 1978, LB 756, § 17; Laws 1979, LB 187, § 261; Laws 1996, LB 900, § 1081; Laws 2017, LB512, § 26.
Operative date May 23, 2017.

85-949 State college system; role and mission assignments; board of trustees; adopt policies.

The role and mission assignments enumerated in sections 85-950 to 85-958 shall apply to the state college system and its institutions. Such assignments shall prohibit, limit, or restrict only those programs or services provided for under such sections. The Board of Trustees of the Nebraska State Colleges shall adopt and promulgate policies and procedures necessary to assure compliance with sections 85-194, 85-308, 85-606.01, 85-917 to 85-966, and 85-1511.

Source: Laws 1978, LB 756, § 33; Laws 1996, LB 900, § 1082; Laws 2017, LB512, § 27.
Operative date May 23, 2017.

ARTICLE 10

NEBRASKA SAFETY CENTER

Section

85-1008. Nebraska Safety Center Advisory Council; membership; appointment.

85-1008 Nebraska Safety Center Advisory Council; membership; appointment.

(1) To assist the center in carrying out its purposes and functions, the Board of Regents may establish a Nebraska Safety Center Advisory Council composed of the following members:

- (a) One representative from the Department of Transportation;
- (b) One representative from the Department of Motor Vehicles;
- (c) One representative from the State Department of Education;
- (d) One representative from the Game and Parks Commission;
- (e) One representative from the Department of Labor;
- (f) One person representing the community college areas;
- (g) One person representing private business and industry;

- (h) One person representing the University of Nebraska;
 - (i) One person representing the medical profession;
 - (j) One person representing the area of law enforcement in this state;
 - (k) One person representing the Safety Council of Nebraska, Inc.;
 - (l) One person representing the area of transportation;
 - (m) One person representative of emergency medical services;
 - (n) One person representing the judiciary in the State of Nebraska;
 - (o) One person representing city government;
 - (p) One person representing county government;
 - (q) One person representing the area of agriculture;
 - (r) One person representing the local public school system;
 - (s) One person representing fire safety;
 - (t) One representative of the Coordinating Commission for Postsecondary Education;
 - (u) One person representing the Red Cross; and
 - (v) One person representing the state colleges.
- (2) Representatives selected to serve on the council shall have appropriate education, training, and experience in the field of fire safety, industrial safety, recreational safety, domestic safety, or traffic safety.

Source: Laws 1978, LB 693, § 8; Laws 1991, LB 663, § 124; Laws 1994, LB 683, § 14; Laws 2009, LB299, § 1; Laws 2017, LB339, § 295. Operative date July 1, 2017.

ARTICLE 14

COORDINATING COMMISSION FOR POSTSECONDARY EDUCATION

(a) COORDINATING COMMISSION FOR POSTSECONDARY EDUCATION ACT

Section

85-1414.01. Oral health care; practice of dentistry; legislative intent; Oral Health Training and Services Fund; created; use; investment; contracts authorized; duties.

(a) COORDINATING COMMISSION FOR POSTSECONDARY EDUCATION ACT

85-1414.01 Oral health care; practice of dentistry; legislative intent; Oral Health Training and Services Fund; created; use; investment; contracts authorized; duties.

(1) The Legislature finds that:

(a) The availability and accessibility of quality, affordable oral health care for all residents of the State of Nebraska is a matter of public concern and represents a compelling need affecting the general welfare of all residents;

(b) The development and sustainability of a skilled workforce in the practice of dentistry is a public health priority for the State of Nebraska; and

(c) According to research sponsored by the Office of Oral Health and Dentistry of the Department of Health and Human Services, the Nebraska Rural Health Advisory Commission, and the Health Professions Tracking Ser-

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vice of the College of Public Health of the University of Nebraska Medical Center:

(i) A majority of the ninety-three counties of the State of Nebraska are general dentistry shortage areas as designated by the Nebraska Rural Health Advisory Commission and more than twenty percent of the ninety-three counties have no dentist;

(ii) Eighty-two counties are shortage areas in pediatric dentistry as designated by the Nebraska Rural Health Advisory Commission;

(iii) The uneven distribution of dentists in the State of Nebraska is a public health concern and twenty-four percent of the dentists in Nebraska are estimated to be planning to retire by 2017;

(iv) Sixty percent of the children in the State of Nebraska experience dental disease by the time they are in the third grade; and

(v) It is estimated that more than twenty-five thousand children attending public schools in Omaha, Nebraska, do not have a means of continuing dental care.

(2) It is the intent of the Legislature to provide for the development of a skilled and diverse workforce in the practice of dentistry and oral health care in order to provide for the oral health of all residents of Nebraska, to assist in dispersing the workforce to address the disparities of the at-risk populations in the state, and to focus efforts in areas and demographic groups in which access to a skilled workforce in the practice of dentistry and oral health care is most needed. In order to accomplish these goals, the Legislature recognizes that it is necessary to contract with professional dental education institutions committed to addressing the critical oral health care needs of the residents of Nebraska.

(3) The Oral Health Training and Services Fund is created. The Coordinating Commission for Postsecondary Education shall administer the fund to contract for reduced-fee and charitable oral health services, oral health workforce development, and oral health services using telehealth as defined in section 71-8503 for the residents of Nebraska. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(4) To be eligible to enter into a contract under this section, an applicant shall be a corporation exempt for federal tax purposes under section 501(c)(3) of the Internal Revenue Code and shall submit a plan to the commission as prescribed in subsection (5) of this section to provide oral health training, including assistance for the graduation of dental students at a Nebraska dental college, to provide discounted or charitable oral health services focusing on lower-income and at-risk populations within the state, and to target the unmet oral health care needs of residents of Nebraska. In addition, the applicant shall submit at least five letters of intent with school districts or federally qualified health centers as defined in section 1905(l)(2)(B) of the federal Social Security Act, 42 U.S.C. 1396d(l)(2)(B), as such act and section existed on January 1, 2010, in at least five different counties throughout the state to provide discounted or charitable oral health services for a minimum of ten years. An application to enter into a contract under this section shall be made no later than January 1, 2017.

(5) The plan shall include (a) a proposal to provide oral health training at a reduced fee to students in dental education programs who agree to practice

dentistry for at least five years after graduation in a dental health profession shortage area designated by the Nebraska Rural Health Advisory Commission pursuant to section 71-5665, (b) a proposal to provide discounted or charitable oral health services for a minimum of ten years to residents of Nebraska, and (c) a proposal to provide oral health services to residents of Nebraska using telehealth as defined in section 71-8503.

(6) Any party entering into a contract under this section shall agree that any funds disbursed pursuant to the contract shall only be used for services and equipment related to the proposals in the plan and shall not be used for any other program operated by the contracting party. If any of the funds disbursed pursuant to the contract are used for equipment, such funds shall only be used for patient-centered oral health care equipment, including, but not limited to, dental chairs for patients, lighting for examination and procedure rooms, and other equipment used for oral health services for patients and for training students in dental education programs, and shall not be used for travel, construction, or any other purpose not directly related to the proposals in the plan.

(7) The contract shall require matching funds from other sources in a four-to-one ratio with the funds to be disbursed under the contract. The party entering into the contract shall specify the source and amount of all matching funds. No applicant shall receive an award amount under a contract under this section of more than eight million dollars. If more than one applicant meets the requirements of this section to enter into a contract and provides evidence that private or other funds have been received by the applicant as matching funds for such a contract in an amount greater than or equal to sixteen million dollars, each of such applicants shall receive an award amount under a contract equal to eight million dollars divided by the number of such applicants. If one of such applicants qualifies for a contract award amount of less than four million dollars, any other such applicant may receive a contract award amount up to eight million dollars minus the amount awarded to the applicant qualifying for less than four million dollars. The contract amount shall be awarded first to the applicant qualifying for the lowest contract award amount. The contract shall require full and detailed reporting of the expenditure of funds disbursed pursuant to the contract. Any party entering into a contract under this section shall report electronically to the Legislature within one hundred twenty days after the expenditure of the funds disbursed pursuant to the contract detailing the nature of the expenditures made as a result of the contract. In addition, any party entering into a contract under this section shall report electronically to the Legislature on an annual basis the charitable oral health services provided in school districts and federally qualified health centers and the number of recipients and the placements of students receiving oral health training at a reduced fee in dental education programs.

(8) The State Treasurer shall transfer the June 30, 2017, unobligated balance in the Oral Health Training and Services Fund to the Cash Reserve Fund on such date as directed by the budget administrator of the budget division of the Department of Administrative Services.

Source: Laws 2015, LB661, § 39; Laws 2017, LB331, § 56.
Effective date May 16, 2017.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

ARTICLE 24

POSTSECONDARY INSTITUTION ACT

Section

- 85-2401. Act, how cited.
- 85-2403. Terms, defined.
- 85-2405. Commission; powers and duties.
- 85-2422. Guaranty Recovery Cash Fund; established; use; investment.
- 85-2423. Commission; assess for-profit postsecondary institution; failure to comply; effect.
- 85-2424. Bond or other security agreement.
- 85-2425. Release of bond or other security agreement.
- 85-2426. Guaranty Recovery Cash Fund; use; claim.
- 85-2427. Reference to Guaranty Recovery Cash Fund authorized.
- 85-2428. Commission; report; contents.

85-2401 Act, how cited.

Sections 85-2401 to 85-2428 shall be known and may be cited as the Postsecondary Institution Act.

Source: Laws 2011, LB637, § 1; Laws 2017, LB512, § 28.
Operative date September 1, 2017.

85-2403 Terms, defined.

For purposes of the Postsecondary Institution Act:

(1) Authorization to operate means either an authorization to operate on a continuing basis or a recurrent authorization to operate;

(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 and once such authorization has been issued it continues indefinitely unless otherwise suspended, revoked, or terminated, including such authorizations previously deemed to be effective as of May 5, 2011, pursuant to the Postsecondary Institution Act for private and out-of-state public postsecondary institutions that had been continuously offering four-year undergraduate programs with a physical presence in the state for at least twenty academic years and for Nebraska public postsecondary institutions;

(3) Branch facility means a facility in Nebraska (a) which is separate from a principal facility, (b) which offers a full program and full student services, (c) which is under the supervision of an onsite director or administrator, and (d)(i) the ownership, management, and control of which are the same as the principal facility, which principal facility is responsible for the delivery of all services, or (ii) at which education is offered by a franchisee of a franchisor authorized to operate as a postsecondary institution by the act;

(4) Commission means the Coordinating Commission for Postsecondary Education;

(5) Executive director means the executive director of the commission or his or her designee;

(6) For-profit postsecondary institution means any private postsecondary institution that is not exempt for federal tax purposes under section 501(c)(3) of the Internal Revenue Code as defined in section 49-801.01;

(7) Nebraska public postsecondary institution means any public postsecondary institution established, operated, and governed by this state or any of its political subdivisions;

(8) Out-of-state public postsecondary institution means any public postsecondary institution established, operated, and governed by another state or any of its political subdivisions;

(9)(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 and the institution offers no more than two courses as defined by the commission in a calendar year;

(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;

(10) Postsecondary institution means any institution with a physical presence in Nebraska that provides postsecondary education and is exempt from the Private Postsecondary Career School Act;

(11) Principal facility means the primary physical presence in Nebraska of a postsecondary institution;

(12) Private postsecondary institution means any Nebraska or out-of-state nonpublic postsecondary institution including any for-profit postsecondary institution or nonprofit postsecondary institution; and

(13) Recurrent authorization to operate means approval by the commission to operate a postsecondary institution in this state until a renewal of such authorization is required.

Source: Laws 2011, LB637, § 3; Laws 2012, LB1104, § 13; Laws 2013, LB331, § 3; Laws 2017, LB512, § 29.
Operative date September 1, 2017.

Cross References

Private Postsecondary Career School Act, see section 85-1601.

85-2405 Commission; powers and duties.

The commission has the following powers and duties:

(1) To establish levels for recurrent authorizations to operate based on institutional offerings;

(2) To receive, investigate as it may deem necessary, and act upon applications for a recurrent authorization to operate and applications to renew a recurrent 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 which has an authorization to operate;

(4) To maintain a list of postsecondary institutions which have authorization to operate, which list shall be made available to the public;

(5) After consultation with the State Department of Education regarding the potential impact of such agreement and any modifications thereto on Nebraska students who may participate in distance education offered by out-of-state private postsecondary career schools, to enter into interstate reciprocity agreements for the provision of postsecondary distance education across state boundaries;

(6) To administer interstate reciprocity agreements entered into pursuant to subdivision (5) of this section and to approve or disapprove, consistent with such agreements, participation in such agreements by postsecondary institutions that have their principal place of business in Nebraska and that choose to participate in such agreements;

(7) To establish a notification process when a postsecondary institution which has an authorization to operate changes its address or adds instructional sites within this state;

(8) To conduct site visits of postsecondary institutions to carry out the Postsecondary Institution Act;

(9) To establish fees for applications for a recurrent authorization to operate, applications to renew or modify a recurrent authorization to operate, and applications to participate or continue participation in an interstate postsecondary distance education reciprocity agreement, which fees shall be not more than the cost of reviewing and evaluating the applications;

(10) To receive, evaluate, approve, and pay claims pursuant to section 85-2426, assess for-profit postsecondary institutions pursuant to section 85-2423, and administer the Guaranty Recovery Cash Fund;

(11) To investigate any violations of the act by a postsecondary institution; and

(12) To adopt and promulgate rules, regulations, and procedures to administer the act and the Guaranty Recovery Cash Fund.

Source: Laws 2011, LB637, § 5; Laws 2012, LB1104, § 14; Laws 2013, LB331, § 4; Laws 2014, LB967, § 27; Laws 2017, LB512, § 30. Operative date September 1, 2017.

85-2422 Guaranty Recovery Cash Fund; established; use; investment.

The Guaranty Recovery Cash Fund is hereby established. The fund shall receive assessments imposed by the commission pursuant to section 85-2423 and shall be used by the commission to pay claims authorized pursuant to section 85-2426. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. Any interest earned on the money in the fund shall accrue to the fund.

Source: Laws 2017, LB512, § 31.
Operative date September 1, 2017.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

85-2423 Commission; assess for-profit postsecondary institution; failure to comply; effect.

(1) The commission shall annually assess each for-profit postsecondary institution one-tenth of one percent of the prior school year's gross tuition revenue until the Guaranty Recovery Cash Fund reaches the minimum fund level. The fund shall be maintained at a minimum fund level of two hundred fifty thousand dollars and a maximum fund level of five hundred thousand dollars. At any time when the fund drops below the minimum fund level, the commission may resume the assessment. Funds in excess of the maximum fund level shall be used as directed by the commission to provide grants or scholarships for students attending for-profit postsecondary institutions in Nebraska.

(2) The commission shall require documentation from each for-profit postsecondary institution to verify the tuition revenue collected by the institution and to determine the amount of the assessment under this section.

(3) Any for-profit postsecondary institution applying for an initial recurrent authorization to operate shall not be assessed under this section for the first year of operation but shall be assessed each year thereafter for four years or until the fund reaches the minimum fund level, whichever occurs last, and shall maintain the surety bond or other security required by section 85-2424.

(4) If a for-profit postsecondary institution fails to comply with this section, its authorization to operate shall be subject to revocation.

(5) The commission shall remit all funds collected pursuant to this section to the State Treasurer for credit to the Guaranty Recovery Cash Fund.

Source: Laws 2017, LB512, § 32.
Operative date September 1, 2017.

85-2424 Bond or other security agreement.

Until the Guaranty Recovery Cash Fund initially reaches the minimum fund level prescribed in section 85-2423, when an application is made for an initial recurrent authorization to operate, the commission may require any for-profit postsecondary institution making such application to file with the commission a good and sufficient surety bond or other security agreement in a penal amount deemed satisfactory by the commission. Such bond or other security shall cover both principal and branch facilities. The bond or agreement shall be executed by the applicant as principal and by a surety company qualified and authorized to do business in the state. The bond or agreement shall be conditioned to provide indemnification to any student or enrollee or his or her parent or guardian determined to have suffered loss or damage by the termination of operations by the for-profit postsecondary institution. The surety shall pay any final judgment rendered by any court of this state having jurisdiction upon receipt of written notification of the judgment. Regardless of the number of years that such bond or agreement is in force, the aggregate liability of the surety thereon shall in no event exceed the penal sum of the bond or agreement. The bond or agreement may be continuous.

Source: Laws 2017, LB512, § 33.

Operative date September 1, 2017.

85-2425 Release of bond or other security agreement.

(1) Until the Guaranty Recovery Cash Fund initially reaches the minimum fund level prescribed in section 85-2423, the bond or other security agreement of an institution provided for in section 85-2424 shall cover the period of the recurrent authorization to operate except when a surety is released as provided in this section.

(2) A bond or other security agreement filed under section 85-2424 may be released after such surety serves written notice on the commission thirty days prior to the release. Such release shall not discharge or otherwise affect any claim previously or subsequently filed by a student or enrollee or his or her parent or guardian provided for in section 85-2426 for the termination of operations by the for-profit postsecondary institution during the term for which tuition has been paid while the bond or agreement was in force.

(3) During the term of the bond or agreement and upon forfeiture of the bond or agreement, the commission retains a property interest in the surety's guarantee of payment under the bond or agreement which is not affected by the bankruptcy, insolvency, or other financial incapacity of the operator or principal on the bond or agreement.

Source: Laws 2017, LB512, § 34.

Operative date September 1, 2017.

85-2426 Guaranty Recovery Cash Fund; use; claim.

(1) The money in the Guaranty Recovery Cash Fund shall be used in the following order of priority:

(a) To reimburse any student injured by the termination of operations by a for-profit postsecondary institution on or after September 1, 2017, for the cost of tuition and fees. A student injured by the termination of operations by a for-profit postsecondary institution means (i) a student who has paid tuition and fees to the institution for which classes were offered but not finished due to termination of operations, (ii) a student who has paid tuition and fees to the

institution for which classes were not offered and no refunds were made, and (iii) a student who ceased to be enrolled in classes at an institution while the institution was in operation and to whom a refund of unearned tuition and fees became due from the institution after the institution terminated operations and no refunds were made within the institution's required time period following the student's withdrawal from the institution;

(b) To reimburse any former student of a for-profit postsecondary institution that has terminated operations on or after September 1, 2017, for the cost of obtaining such student's student records;

(c) To reimburse the University of Nebraska for reasonable expenses directly associated with the storage and maintenance of academic records pursuant to sections 85-173 and 85-174 of those students adversely affected by termination of operations by a for-profit postsecondary institution; and

(d) To reimburse the Nebraska Opportunity Grant Fund for any funds distributed to a for-profit postsecondary institution for an academic term that was not completed by students receiving awards under the Nebraska Opportunity Grant Act due to the termination of operations by a for-profit postsecondary institution after September 1, 2017, to the extent such funds are not returned to the Nebraska Opportunity Grant Fund by the for-profit postsecondary institution.

(2) No claim shall be allowed unless the claim is submitted within one year after the termination of operations by the for-profit postsecondary institution and there are sufficient funds available in the Guaranty Recovery Cash Fund to pay the claim.

Source: Laws 2017, LB512, § 35.

Operative date September 1, 2017.

Cross References

Nebraska Opportunity Grant Act, see section 85-1901.

85-2427 Reference to Guaranty Recovery Cash Fund authorized.

A for-profit postsecondary institution may include references to the Guaranty Recovery Cash Fund in advertising or information provided to students or prospective students. Any such reference shall clearly describe the protection and limitations prescribed in section 85-2426 and the relevant rules and regulations adopted and promulgated by the commission.

Source: Laws 2017, LB512, § 36.

Operative date September 1, 2017.

85-2428 Commission; report; contents.

On or before November 1 of each year, the commission shall submit electronically a report to the Governor and the Legislature containing:

- (1) The number of claims made against the Guaranty Recovery Cash Fund;
- (2) The institutions against which the claims are made;
- (3) The number of claims that are approved and the associated payouts from the funds;
- (4) The number of claims that are denied; and

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(5) The amount of money in the Guaranty Recovery Cash Fund used to reimburse the Nebraska Opportunity Grant Fund.

Source: Laws 2017, LB512, § 37.

Operative date September 1, 2017.

CHAPTER 86

TELECOMMUNICATIONS AND TECHNOLOGY

Article.

3. Universal Service.
 - (b) Nebraska Telecommunications Universal Service Fund Act. 86-324.
4. Public Safety Systems.
 - (c) Enhanced Wireless 911 Services. 86-463.
7. Telecommunications Rights-of-Way. 86-707.

ARTICLE 3

UNIVERSAL SERVICE

(b) NEBRASKA TELECOMMUNICATIONS UNIVERSAL SERVICE FUND ACT

Section

86-324. Nebraska Telecommunications Universal Service Fund; created; use; investment; commission; powers; administrative fine.

(b) NEBRASKA TELECOMMUNICATIONS UNIVERSAL SERVICE FUND ACT

86-324 Nebraska Telecommunications Universal Service Fund; created; use; investment; commission; powers; administrative fine.

(1) The Nebraska Telecommunications Universal Service Fund is hereby created. The fund shall provide the assistance necessary to make universal access to telecommunications services available to all persons in the state consistent with the policies set forth in the Nebraska Telecommunications Universal Service Fund Act. Only eligible telecommunications companies designated by the commission shall be eligible to receive support to serve high-cost areas from the fund. A telecommunications company that receives such support shall use that support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. Any such support should be explicit and sufficient to achieve the purpose of the act.

(2) Notwithstanding the provisions of section 86-124, in addition to other provisions of the act, and to the extent not prohibited by federal law, the commission:

(a) Shall have authority and power to subject eligible telecommunications companies to service quality, customer service, and billing regulations. Such regulations shall apply only to the extent of any telecommunications services or offerings made by an eligible telecommunications company which are eligible for support by the fund. The commission shall be reimbursed from the fund for all costs related to drafting, implementing, and enforcing the regulations and any other services provided on behalf of customers pursuant to this subdivision;

(b) Shall have authority and power to issue orders carrying out its responsibilities and to review the compliance of any eligible telecommunications company receiving support for continued compliance with any such orders or regulations adopted pursuant to the act;

(c) May withhold all or a portion of the funds to be distributed from any telecommunications company failing to continue compliance with the commission's orders or regulations;

(d) Shall require every telecommunications company to contribute to any universal service mechanism established by the commission pursuant to state law. The commission shall require, as reasonably necessary, an annual audit of any telecommunications company to be performed by a third-party certified public accountant to insure the billing, collection, and remittance of a surcharge for universal service. The costs of any audit required pursuant to this subdivision shall be paid by the telecommunications company being audited;

(e) Shall require an audit of information provided by a telecommunications company to be performed by a third-party certified public accountant for purposes of calculating universal service fund payments to such telecommunications company. The costs of any audit required pursuant to this subdivision shall be paid by the telecommunications company being audited; and

(f) May administratively fine pursuant to section 75-156 any person who violates the Nebraska Telecommunications Universal Service Fund Act.

(3) Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act, and for the period July 1, 2017, through June 30, 2019, any interest earned by the fund shall be credited to the General Fund.

Source: Laws 1997, LB 686, § 5; Laws 1999, LB 514, § 5; Laws 2000, LB 1285, § 23; Laws 2001, LB 389, § 4; R.S.Supp.,2001, § 86-1405; Laws 2002, LB 1105, § 202; Laws 2002, LB 1211, § 13; Laws 2002, Second Spec. Sess., LB 37, § 1; Laws 2017, LB331, § 57. Effective date May 16, 2017.

Cross References

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

ARTICLE 4

PUBLIC SAFETY SYSTEMS

(c) ENHANCED WIRELESS 911 SERVICES

Section
 86-463. Enhanced Wireless 911 Fund; created; use; investment.

(c) ENHANCED WIRELESS 911 SERVICES

86-463 Enhanced Wireless 911 Fund; created; use; investment.

The Enhanced Wireless 911 Fund is created. The fund shall consist of the surcharges credited to the fund, any money appropriated by the Legislature, any federal funds received for wireless emergency communication except as otherwise provided in section 86-1028, and any other funds designated for credit to the fund. Money in the fund shall be used for the costs of administering the fund and the purposes specified in section 86-465 unless otherwise directed by federal law with respect to any federal funds. Money shall be transferred from the fund to the 911 Service System Fund at the direction of

the Legislature. Within five days after April 19, 2016, the State Treasurer shall transfer two million one hundred thirty-eight thousand three hundred thirty-seven dollars from the Enhanced Wireless 911 Fund to the 911 Service System Fund. On or before July 5, 2017, the State Treasurer shall transfer one million nine hundred eighty-eight thousand seven hundred ninety dollars from the Enhanced Wireless 911 Fund to the 911 Service System Fund. The costs of administering the Enhanced Wireless 911 Fund shall be kept to a minimum. The money in the Enhanced Wireless 911 Fund shall not be subject to any fiscal-year limitation or lapse provision of unexpended balance at the end of any fiscal year or biennium. Any money in the Enhanced Wireless 911 Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act, and for the period July 1, 2017, through June 30, 2019, any interest earned by the fund shall be credited to the General Fund.

Source: Laws 2001, LB 585, § 8; R.S.Supp.,2001, § 86-2208; Laws 2002, LB 1105, § 264; Laws 2006, LB 1222, § 10; Laws 2009, First Spec. Sess., LB3, § 98; Laws 2016, LB938, § 33; Laws 2017, LB331, § 58.

Effective date May 16, 2017.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

ARTICLE 7

TELECOMMUNICATIONS RIGHTS-OF-WAY

Section

86-707. Right-of-way; state and federal highways; regulation by Department of Transportation.

86-707 Right-of-way; state and federal highways; regulation by Department of Transportation.

If the right to construct, operate, and maintain the telecommunications lines and related facilities is granted along, upon, across, or under a state or federal highway, the location and installation of such lines and related facilities, insofar as they pertain to the present and future use of the right-of-way for highway purposes, is subject to rules and regulations of the Department of Transportation. If the future use of the state or federal highway requires the moving or relocating of the facilities, such facilities shall be removed or relocated by the owner at the owner's cost and expense and as directed by the Department of Transportation except as provided by section 39-1304.02.

Source: Laws 1943, c. 231, § 1, p. 778; R.S.1943, § 86-303.01; Laws 1957, c. 171, § 3, p. 592; Laws 1999, LB 496, § 4; R.S.1943, (1999), § 86-303.01; Laws 2002, LB 1105, § 412; Laws 2017, LB339, § 296.

Operative date July 1, 2017.

CHAPTER 90 SPECIAL ACTS

Article.

2. Specific Conveyances. 90-203 to 90-260.

ARTICLE 2 SPECIFIC CONVEYANCES

Section

- 90-203. Conveyance to Northeast Community College Area; donation of land.
 90-238. Department of Transportation; acquire described property.
 90-260. Game and Parks Commission; convey described property.

90-203 Conveyance to Northeast Community College Area; donation of land.

(1) For purposes of this section, qualified property means the 43.55 acres that were deemed to be not needed for state purposes pursuant to section 90-202 and were deemed to be excess land by the Vacant Building and Excess Land Committee.

(2) Notwithstanding sections 72-811 to 72-818 or any other provision of law, the Director of Administrative Services shall, within thirty days after April 28, 2017, submit a request to the Legislature and the Governor asking for authorization to convey the qualified property to the Northeast Community College Area as a donation so that the qualified property may be used for the purpose of development of the Northeast Community College Technology Park.

(3) Approval of the Governor and the Legislature or, if the Legislature is not in session, the Executive Board of the Legislative Council shall be required to donate the qualified property to the Northeast Community College Area.

(4) If the Northeast Community College Area sells the qualified property within ten years after it is donated pursuant to this section, all proceeds of the sale shall be remitted to the State Treasurer for credit to the General Fund.

Source: Laws 2017, LB376, § 1.
 Effective date April 28, 2017.

90-238 Department of Transportation; acquire described property.

The Department of Transportation is authorized to acquire from the Chicago and North Western Transportation Company its abandoned right-of-way described as follows: All of Chicago and North Western Transportation Company abandoned right-of-way in section 34, township 15 north, range 7 east, Saunders County, Nebraska. The department is also authorized to acquire all rights, interests, and titles related to such abandoned right-of-way.

Source: Laws 1984, LB 853, § 1; Laws 2017, LB339, § 297.
 Operative date July 1, 2017.

90-260 Game and Parks Commission; convey described property.

The Game and Parks Commission is authorized and directed to convey to the Department of Transportation the following described real estate situated in the county of Dawson, in the State of Nebraska, to wit: A tract of land located in the northeast quarter of section 20, township 9 north, range 21 west of the 6th principal meridian, Dawson County, Nebraska, described as follows: Beginning at the northeast corner of section 20; thence westerly on the north line of the northeast quarter of section 20 a distance of 2,360.8 feet; thence southeasterly 133 degrees, 47 minutes left a distance of 34.3 feet; thence continuing southeasterly 21 degrees, 49 minutes left a distance of 107.5 feet; thence continuing southeasterly 21 degrees, 49 minutes right a distance of 734.9 feet to point of curvature; thence continuing southeasterly on a 718.5-foot radius curve to the left (initial tangent of which coincides with the last-described course) a distance of 331.3 feet to point of tangency; thence continuing southeasterly tangent, a distance of 787.3 feet; thence continuing southeasterly 2 degrees, 11 minutes left a distance of 686.6 feet to a point on the east line of the northeast quarter; thence northerly on the east line a distance of 1,256.9 feet to the point of beginning, containing 39.04 acres, more or less.

Source: Laws 1991, LB 500, § 1; Laws 2017, LB339, § 298.
Operative date July 1, 2017.

UNIFORM COMMERCIAL CODE

Article.

9. Secured Transactions.

Part 5. Filing.

Subpart 2. Duties and Operation of Filing Office. 9-531.

ARTICLE 9

SECURED TRANSACTIONS

Part 5. FILING

Subpart 2. DUTIES AND OPERATION OF FILING OFFICE

Section

9-531. Uniform Commercial Code Cash Fund; created; use; Secretary of State; duties; fees.

Part 5

FILING

Subpart 2

DUTIES AND OPERATION OF FILING OFFICE

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, the Address Confidentiality Act, 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; Laws 2017, LB280, § 5.

Effective date May 13, 2017.

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UNIFORM COMMERCIAL CODE

Cross References

Address Confidentiality Act, see section 42-1201.

APPENDIX

APPENDIX

CLASSIFICATION OF PENALTIES

CLASS I FELONY

Death

28-303 Murder in the first degree

CLASS IA FELONY

Life imprisonment (persons 18 years old or older)

Maximum for persons under 18 years old—life imprisonment

Minimum for persons under 18 years old—forty years' imprisonment

28-202 Criminal conspiracy to commit a Class IA felony
28-303 Murder in the first degree
28-313 Kidnapping
28-391 Murder of an unborn child in the first degree
28-1223 Using explosives to damage or destroy property resulting in death
28-1224 Using explosives to kill or injure any person resulting in death

CLASS IB FELONY

Maximum—life imprisonment

Minimum—twenty years' imprisonment

28-111 Sexual assault of a child in the first degree committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111 Sexual assault of a child in the second or third degree, with prior sexual assault convictions, committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-115 Sexual assault of a child in the second or third degree, with prior sexual assault conviction, committed against a pregnant woman
28-115 Sexual assault of a child in the first degree committed against a pregnant woman
28-202 Criminal conspiracy to commit a Class IB felony
28-304 Murder in the second degree
28-319.01 Sexual assault of a child in the first degree
28-319.01 Sexual assault of a child in the first degree with prior sexual assault conviction
28-392 Murder of an unborn child in the second degree
28-416 Knowingly or intentionally manufacturing, distributing, delivering, dispensing, or possessing with intent to manufacture, distribute, deliver, or dispense amphetamine or methamphetamine in a quantity of 140 grams or more
28-416 Offenses relating to amphetamine or methamphetamine in a quantity of at least 10 grams but less than 28 grams, second or subsequent offense involving minors or near youth facilities
28-416 Offenses relating to amphetamine or methamphetamine in a quantity of 28 grams or more involving minors or near youth facilities
28-416 Possessing a firearm while violating prohibition on the manufacture, distribution, delivery, dispensing, or possession of amphetamine or

APPENDIX

CLASS IB FELONY

	methamphetamine in a quantity of at least 28 grams
28-416	Knowingly or intentionally manufacturing, distributing, delivering, dispensing, or possessing with intent to manufacture, distribute, deliver, or dispense cocaine or any mixture containing cocaine, or base cocaine (crack) or any mixture containing base cocaine, in a quantity of 140 grams or more
28-416	Knowingly or intentionally manufacturing, distributing, delivering, dispensing, or possessing with intent to manufacture, distribute, deliver, or dispense heroin or any mixture containing heroin in a quantity of 140 grams or more
28-416	Offenses relating to cocaine or base cocaine (crack) in a quantity of 28 grams or more involving minors or near youth facilities
28-416	Offenses relating to cocaine or base cocaine (crack) in a quantity of at least 10 grams but less than 28 grams, second or subsequent offense involving minors or near youth facilities
28-416	Possessing a firearm while violating prohibition on the manufacture, distribution, delivery, dispensing, or possession of cocaine or any mixture containing cocaine, or base cocaine (crack) or any mixture containing base cocaine, in a quantity of 28 grams or more
28-416	Offenses relating to heroin in a quantity of 28 grams or more involving minors or near youth facilities
28-416	Offenses relating to heroin in a quantity of at least 10 grams but less than 28 grams, second or subsequent offense involving minors or near youth facilities
28-416	Possessing a firearm while violating prohibition on the manufacture, distribution, delivery, dispensing, or possession of heroin or any mixture containing heroin in a quantity of at least 28 grams
28-457	Permitting a child or vulnerable adult to inhale, have contact with, or ingest methamphetamine resulting in death
28-707	Child abuse committed knowingly and intentionally and resulting in death
28-831	Labor trafficking or sex trafficking of a minor
28-1206	Possession of a firearm by a prohibited person, second or subsequent offense
28-1356	Obtaining a real property interest or establishing or operating an enterprise by means of racketeering activity punishable as a Class I, IA, or IB felony

CLASS IC FELONY

Maximum—fifty years' imprisonment

Mandatory minimum—five years' imprisonment

28-115	Assault on an officer, an emergency responder, a state correctional employee, a Department of Health and Human Services employee, or a health care professional in the first degree committed against a pregnant woman
28-202	Criminal conspiracy to commit a Class IC felony
28-320.01	Sexual assault of a child in the second degree with prior sexual assault conviction
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

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CLASS IC FELONY

28-416	Knowingly or intentionally manufacturing, distributing, delivering, dispensing, or possessing with intent to manufacture, distribute, deliver, or dispense cocaine or any mixture containing cocaine, or base cocaine (crack) or any mixture containing base cocaine, in a quantity of at least 28 grams but less than 140 grams
28-416	Knowingly or intentionally manufacturing, distributing, delivering, dispensing, or possessing with intent to manufacture, distribute, deliver, or dispense heroin or any mixture containing heroin in a quantity of at least 28 grams but less than 140 grams
28-416	Offenses relating to cocaine or base cocaine (crack) in a quantity of at least 10 grams but less than 28 grams, first offense involving minors or near youth facilities
28-416	Offenses relating to heroin in a quantity of at least 10 grams but less than 28 grams, first offense involving minors or near youth facilities
28-416	Possessing a firearm while violating prohibition on the manufacture, distribution, delivery, dispensing, or possession of cocaine or any mixture containing cocaine, or base cocaine (crack) or any mixture containing base cocaine, in a quantity of at least 10 grams but less than 28 grams
28-416	Possessing a firearm while violating prohibition on the manufacture, distribution, delivery, dispensing, or possession of heroin or any mixture containing heroin in a quantity of at least 10 grams but less than 28 grams
28-416	Manufacture, distribute, deliver, dispense, or possess exceptionally hazardous drug in Schedule I, II, or III of section 28-405, second or subsequent offense involving minors or near youth facilities
28-416	Knowingly or intentionally manufacturing, distributing, delivering, dispensing, or possessing with intent to manufacture, distribute, deliver, or dispense amphetamine or methamphetamine in a quantity of at least 28 grams but less than 140 grams
28-416	Offenses relating to amphetamine or methamphetamine in a quantity of at least 10 grams but less than 28 grams, first offense involving minors or near youth facilities
28-416	Possessing a firearm while violating prohibition on the manufacture, distribution, delivery, dispensing, or possession of amphetamine or methamphetamine in a quantity of at least 10 grams but less than 28 grams
28-813.01	Possession of visual depiction of sexually explicit conduct containing a child by a person with previous conviction
28-1205	Use of firearm to commit a felony
28-1212.04	Discharge of firearm within certain cities or counties from vehicle or proximity of vehicle at a person, structure, vehicle, or aircraft
28-1463.04	Child pornography by person with previous conviction
28-1463.05	Possession of child pornography with intent to distribute by person with previous conviction

CLASS ID FELONY

Maximum—fifty years' imprisonment

Mandatory minimum—three years' imprisonment

28-111	Assault in the first degree committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Kidnapping (certain situations) committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual

APPENDIX

CLASS ID FELONY

	orientation, age, or disability or because of his or her association with such a person
28-111	Sexual assault in the first degree committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Arson in the first degree committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Sexual assault of a child in the second degree, first offense, committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-115	Assault in the first degree committed against a pregnant woman
28-115	Assault on an officer, an emergency responder, a state correctional employee, a Department of Health and Human Services employee, or a health care professional in the second degree committed against a pregnant woman
28-115	Sexual assault in the first degree committed against a pregnant woman
28-115	Sexual assault of a child in the second degree, first offense, committed against a pregnant woman
28-115	Domestic assault in the first degree, second or subsequent offense against same intimate partner, committed against a pregnant woman
28-115	Certain acts of assault, terroristic threats, kidnapping, or false imprisonment committed by legally confined person against a pregnant woman
28-202	Criminal conspiracy to commit a Class ID felony
28-320.02	Sexual assault of minor or person believed to be a minor lured by electronic communication device, first offense
28-416	Knowingly or intentionally manufacturing, distributing, delivering, dispensing, or possessing with intent to manufacture, distribute, deliver, or dispense cocaine or any mixture containing cocaine, or base cocaine (crack) or any mixture containing base cocaine, in a quantity of at least 10 grams but less than 28 grams
28-416	Knowingly or intentionally manufacturing, distributing, delivering, dispensing, or possessing with intent to manufacture, distribute, deliver, or dispense heroin or any mixture containing heroin in a quantity of at least 10 grams but less than 28 grams
28-416	Knowingly or intentionally manufacturing, distributing, delivering, dispensing, or possessing with intent to manufacture, distribute, deliver, or dispense amphetamine or methamphetamine in a quantity of at least 10 grams but less than 28 grams
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

APPENDIX

CLASS ID FELONY

28-929	Assault on an officer, an emergency responder, a state correctional employee, a Department of Health and Human Services employee, or a health care professional in the first degree
28-1206	Possession of a firearm by a prohibited person, first offense
28-1212.02	Unlawful discharge of firearm at an occupied building, vehicle, or aircraft
28-1463.04	Child pornography by person 19 years old or older

CLASS II FELONY

Maximum—fifty years' imprisonment

Minimum—one year imprisonment

28-111	Assault in the second degree committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Manslaughter committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Sexual assault in the second degree committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Arson in the second degree committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-115	Assault in the second degree committed against a pregnant woman
28-115	Assault with a deadly or dangerous weapon by a legally confined person committed against a pregnant woman
28-115	Sexual assault in the second degree committed against a pregnant woman
28-115	Sexual abuse of an inmate or parolee in the first degree committed against a pregnant woman
28-115	Sexual abuse of a protected individual, first degree, committed against a pregnant woman
28-115	Domestic assault in the first degree, first offense, committed against a pregnant woman
28-115	Domestic assault in the second degree, second or subsequent offense against same intimate partner, committed against a pregnant woman
28-201	Criminal attempt to commit a Class I, IA, IB, IC, or ID felony
28-202	Criminal conspiracy to commit a Class I or II felony
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

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CLASS II FELONY

	substances in Schedule I, II, or III of section 28-405, first offense involving minors or near youth facilities
28-416	Possessing a firearm while violating prohibition on the manufacture, distribution, delivery, dispensing, or possession of certain controlled substances in Schedule I, II, or III of section 28-405
28-502	Arson in the first degree
28-638	Criminal impersonation by falsely representing business or engaging in profession, business, or occupation without license if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was \$5,000 or more, second or subsequent offense
28-638	Criminal impersonation by providing false identification information to court or law enforcement officer, third or subsequent offense
28-639	Identity theft if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was \$5,000 or more, second or subsequent offense
28-707	Child abuse committed knowingly and intentionally and resulting in serious bodily injury
28-802	Pandering
28-831	Labor trafficking or sex trafficking
28-930	Assault on an officer, an emergency responder, a state correctional employee, a Department of Health and Human Services employee, or a health care professional in the second degree
28-933	Certain acts of assault, terroristic threats, kidnapping, or false imprisonment committed by legally confined person
28-1205	Possession of firearm during commission of a felony
28-1205	Use of deadly weapon other than a firearm to commit a felony
28-1222	Using explosives to commit a felony, second or subsequent offense
28-1223	Using explosives to damage or destroy property resulting in personal injury
28-1224	Using explosives to kill or injure any person resulting in personal injury
30-3432	Sign or alter without authority or alter, forge, conceal, or destroy a power of attorney for health care or conceal or destroy a revocation with the intent and effect of withholding or withdrawing life-sustaining procedures or nutrition or hydration
60-690	Aiding or abetting a violation of Nebraska Rules of the Road
60-6,197.03	Operation of a motor vehicle while under the influence of alcoholic liquor or of any drug or refusing chemical test, fifth or subsequent offense committed with .15 gram alcohol concentration
70-2105	Destroy, damage, or cause loss to nuclear electrical generating facility or steal or render nuclear fuel unusable or unsafe

CLASS IIA FELONY

Maximum—twenty years' imprisonment
Minimum—none

28-201	Attempt to commit a Class II felony
28-204	Harboring, concealing, or aiding a felon who committed a Class I, IA, IB, IC, or ID felony
28-305	Manslaughter
28-306	Motor vehicle homicide by person driving under the influence of alcohol or drugs with no prior conviction
28-309	Assault in the second degree

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CLASS IIA FELONY

28-310.01	Strangulation using dangerous instrument, resulting in serious bodily injury, or after previous strangulation conviction
28-311	Criminal child enticement with previous conviction of enumerated crimes
28-311.08	Distributing or making public a recording of another without his or her consent or knowledge when in a state of undress in a place of solitude or seclusion or when the recording shows another's intimate area
28-320	Sexual assault in the second degree
28-322.02	Sexual abuse of inmate or parolee in the first degree
28-322.04	Sexual abuse of a protected individual in the first degree
28-323	Domestic assault in the first degree, first offense
28-323	Domestic assault in the second degree, second or subsequent offense
28-393	Manslaughter of unborn child
28-394	Motor vehicle homicide of unborn child by person driving under the influence of alcohol or drugs with prior conviction of driving under the influence
28-397	Assault of unborn child in the first degree
28-416	Manufacture, distribute, deliver, dispense, or possess certain controlled substances in Schedule I, II, or III of section 28-405
28-416	Manufacture, distribute, deliver, dispense, or possess controlled substances in Schedule IV or V of section 28-405, second or subsequent offense involving minors or near youth facilities
28-507	Burglary
28-518	Theft, value \$5,000 or more
28-603	Forgery in the second degree, face value \$5,000 or more
28-611	Issuing or passing bad check or other instrument, amount of \$5,000 or more
28-611.01	Issuing a no-account check, amount less than \$1,500 or more, second or subsequent offense
28-620	Unauthorized use or uses of financial transaction device, total value more than \$5,000, within six months from first unauthorized use
28-621	Criminal possession of four or more financial transaction devices
28-622	Unlawful circulation of a financial transaction device in the first degree
28-627	Unlawful manufacture of a financial transaction device
28-638	Criminal impersonation by falsely representing business or engaging in profession, business, or occupation without license if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was \$5,000 or more, second or subsequent offense
28-639	Identity theft if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was \$5,000 or more, first offense
28-703	Incest with a person under 18 years old
28-707	Child abuse committed negligently resulting in death
28-813.01	Possession by a person 19 years old or older of visual depiction of sexually explicit conduct containing a child
28-831	Knowingly benefitting from or participating in a labor trafficking or sex trafficking venture
28-912	Escape using force, threat, deadly weapon, or dangerous instrument
28-932	Assault with a deadly or dangerous weapon by a legally confined person
28-1212.03	Possession, receipt, retention, or disposal of a stolen firearm knowing or believing it to be stolen
28-1222	Using explosives to commit a felony, first offense

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CLASS IIA FELONY

28-1224	Using explosives to kill or injure any person unless personal injury or death occurs
28-1463.05	Possession of child pornography with intent to distribute by person 19 years old or older
29-4011	Failure by felony sex offender to register under Sex Offender Registration Act, second or subsequent offense
60-6,197.03	Operation of a motor vehicle while under the influence of alcoholic liquor or of any drug or refusing chemical test, fourth offense committed with .15 gram alcohol concentration
60-6,197.03	Operation of a motor vehicle while under the influence of alcoholic liquor or of any drug or refusing chemical test, fifth or subsequent offense
60-6,197.06	Operating a motor vehicle when operator's license has been revoked for driving under the influence, second or subsequent offense

CLASS III FELONY

Maximum—four years' imprisonment and two years' post-release supervision or twenty-five thousand dollars' fine, or both
Minimum—none for imprisonment and nine months' post-release supervision if imprisonment is imposed

8-138	Officer, agent, or employee accepting or receiving deposits on behalf of insolvent bank
8-139	Acting or attempting to act as active executive officer of a bank when license has been revoked or authority has been suspended
8-175	Banks, false entry or statements, offenses relating to records
8-224.01	Substitution or investment of estate or trust assets for or in securities of the trust company controlling the estate or trust; loans of trust company assets to trust company officials or employees
8-702	Bank continuing to do business after charter is forfeited
9-814	Altering lottery tickets to defraud under State Lottery Act
24-216	Clerk of the Supreme Court intentionally making a false report under oath, perjury
25-2310	Fraudulently invoking privilege of proceeding in forma pauperis
28-107	Felony defined outside of criminal code
28-111	Terroristic threats committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Stalking, certain situations or subsequent conviction within 7 years, committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	False imprisonment in the first degree committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Sexual assault of a child in the third degree, first offense, committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-115	Assault by legally confined person without a deadly weapon committed against a pregnant woman
28-115	Sexual assault of a child in the third degree, first offense, committed

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CLASS III FELONY

	against a pregnant woman
28-115	Domestic assault in the second degree, first offense, committed against a pregnant woman
28-115	Assault on an officer, an emergency responder, a state correctional employee, a Department of Health and Human Services employee, or a health care professional in the third degree committed against a pregnant woman
28-115	Assault on an officer, an emergency responder, a state correctional employee, a Department of Health and Human Services employee, or a health care professional using a motor vehicle committed against a pregnant woman
28-115	Causing serious bodily injury to a pregnant woman while driving while intoxicated
28-115	Sexual abuse of an inmate or parolee in the second degree committed against a pregnant woman
28-115	Sexual abuse of a protected individual, second degree, committed against a pregnant woman
28-115	Domestic assault in the third degree involving bodily injury, second or subsequent offense against same intimate partner, committed against a pregnant woman
28-202	Criminal conspiracy to commit a Class III felony
28-310.01	Strangulation without dangerous instrument
28-328	Performance of partial-birth abortion
28-342	Sale, transfer, distribution, or giving away of live or viable aborted child or consenting to, aiding, or abetting the same
28-416	Manufacture, distribute, deliver, dispense, or possess controlled substances in Schedule IV or V of section 28-405, first offense involving minors or near youth facilities
28-416	Possessing a firearm while violating prohibition on the manufacture, distribution, delivery, dispensing, or possession of controlled substances in Schedule IV or V of section 28-405
28-503	Arson in the second degree
28-602	Forgery in the first degree
28-611.01	Issuing a no-account check in an amount of \$5,000 or more, first offense
28-611.01	Issuing a no-account check in an amount of \$1,500 or more, second or subsequent offense
28-625	Criminal sale of two or more blank financial transaction devices
28-631	Committing a fraudulent insurance act when the amount involved is \$5,000 or more, first offense
28-638	Criminal impersonation by falsely representing business or engaging in profession, business, or occupation without license if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was \$5,000 or more, first offense
28-638	Criminal impersonation by falsely representing business or engaging in profession, business, or occupation without license if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was \$1,500 or more but less than \$5,000, second or subsequent offense
28-638	Criminal impersonation by providing false identification information to court or law enforcement officer, second offense
28-639	Identity theft if the credit, money, goods, services, or other thing of value

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	that was gained or was attempted to be gained was \$1,500 or more but less than \$5,000, second or subsequent offense
28-703	Incest with a person under 18 years old
28-804	Keeping a place of prostitution used by a person under 18 years old practicing prostitution
28-912	Escape when detained or under arrest on a felony charge
28-912	Escape, public servant concerned in detention permits another to escape
28-915	Perjury and subornation of perjury
28-1102	Promoting gambling in the first degree, third or subsequent offense
28-1105.01	Gambling debt collection
28-1204.01	Unlawful transfer of a firearm to a juvenile
28-1205	Possession of deadly weapon other than a firearm during commission of a felony
28-1206	Possession of deadly weapon other than a firearm by a prohibited person
28-1207	Possession of a defaced firearm
28-1208	Defacing a firearm
28-1223	Using explosives to damage or destroy property unless personal injury or death occurs
28-1344	Unauthorized access to a computer which deprives another of property or services or obtains property or services of another with value of \$5,000 or more
28-1345	Unauthorized access to a computer which causes damages of \$5,000 or more
28-1356	Obtaining a real property interest or establishing or operating an enterprise by means of racketeering activity or unlawful debt collection
28-1423	Swearing falsely regarding sales of tobacco
28-1463.04	Child pornography by person under 19 years old
30-2219	Falsifying representation under Uniform Probate Code
30-24,125	False statement regarding personal property of decedent
30-24,129	False statement regarding real property of decedent
32-1514	Forging candidate filing form for election nomination
32-1516	Forging initials or signatures on official ballots or falsifying, destroying, or suppressing candidate filing forms
32-1517	Employer penalizing employee for serving as election official
32-1522	Unlawful distribution of ballots or other election supplies by election official, printer, or custodian of supplies
38-140	Violation of cease and desist order prohibiting the unauthorized practice of a credentialed profession or unauthorized operation of a credentialed business under Uniform Credentialing Act
38-1,124	Violation of cease and desist order prohibiting the unauthorized practice of a credentialed profession or unauthorized operation of a credentialed business under Uniform Credentialing Act
44-10,108	Fraudulent statement in report or statement for benefits from a fraternal benefit society
54-1,123	Selling livestock without evidence of ownership
54-1,124	Branding another's livestock, defacing marks
54-1,125	Forging or altering livestock ownership document when value is \$1,000 or more
57-1211	Intentionally making false oath to uranium severance tax return or report
60-169	False statement on affidavit of affixture for mobile home or manufactured home

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CLASS III FELONY

60-690	Aiding or abetting a violation of Nebraska Rules of the Road
60-698	Motor vehicle accident resulting in serious bodily injury or death, violation of duty to stop
66-727	Violation of motor fuel tax laws when the amount involved is \$5,000 or more, provisions relating to evasion of tax, keeping books and records, making false statements
71-7462	Wholesale drug distribution in violation of Wholesale Drug Distributor Licensing Act
71-8929	Veterinary drug distribution in violation of Veterinary Drug Distribution Licensing Act
75-151	Violation by officer or agent of common carriers in consolidation or increase in stock, issuance of securities
77-5016.01	Falsifying a representation before the Tax Equalization and Review Commission
79-541	School district meeting or election, false oath
83-174.05	Failure to comply with community supervision, second or subsequent offense
83-184	Escape from custody (certain situations)

CLASS IIIA FELONY

Maximum—three years' imprisonment and eighteen months' post-release supervision or ten thousand dollars' fine, or both

Minimum—none for imprisonment and nine months' post-release supervision if imprisonment is imposed

28-111	Arson in the third degree, damages of \$1,500 or more, committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Criminal mischief, pecuniary loss in excess of \$5,000 or substantial disruption of public communication or utility, committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Unauthorized application of graffiti, second or subsequent offense, committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-115	Domestic assault in the third degree in a menacing manner, committed against a pregnant woman
28-115	Assault in the third degree (certain situations) committed against a pregnant woman
28-115	Sexual assault in the third degree committed against a pregnant woman
28-115	Domestic assault in the third degree, first offense involving bodily injury, committed against a pregnant woman
28-204	Harboring, concealing, or aiding a felon who committed a Class II or IIA felony
28-306	Motor vehicle homicide by person driving in a reckless manner
28-311	Criminal child enticement
28-311.01	Terroristic threats
28-311.04	Stalking (certain situations)
28-314	False imprisonment in the first degree

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CLASS IIIA FELONY

28-320.01	Sexual assault of a child in the third degree, first offense
28-322.03	Sexual abuse of an inmate or parolee in the second degree
28-322.04	Sexual abuse of a protected individual in the second degree
28-323	Domestic assault in the third degree, second or subsequent offense (certain situations)
28-386	Knowing and intentional abuse, neglect, or exploitation of a vulnerable or senior adult
28-394	Motor vehicle homicide of an unborn child by person driving in a reckless manner
28-394	Motor vehicle homicide of an unborn child by person driving under the influence of alcohol or drugs with no prior conviction
28-398	Assault of an unborn child in the second degree
28-416	Manufacture, distribute, deliver, dispense, or possess controlled substances in Schedule IV or V of section 28-405
28-457	Permitting a child or vulnerable adult to ingest methamphetamine, second or subsequent offense
28-457	Permitting a child or vulnerable adult to inhale, have contact with, or ingest methamphetamine causing serious bodily injury
28-634	Unlawful use 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
28-707	Child abuse committed negligently, resulting in serious bodily injury but not death
28-904	Resisting arrest, second or subsequent offense
28-904	Resisting arrest using deadly or dangerous weapon
28-931	Assault on an officer, an emergency responder, a state correctional employee, a Department of Health and Human Services employee, or a health care professional in the third degree
28-931.01	Assault on an officer, an emergency responder, a state correctional employee, a Department of Health and Human Services employee, or a health care professional using a motor vehicle
28-932	Assault by legally confined person without a deadly weapon
28-934	Assault with a bodily fluid against a public safety officer with knowledge that bodily fluid was infected with HIV, Hep B, or Hep C
28-1005	Dogfighting, cockfighting, bearbaiting, etc., promoter, owner, employee, property owner, or spectator
28-1009	Cruel mistreatment of animal not involving torture or mutilation, second or subsequent offense
28-1009	Cruel mistreatment of animal involving torture or mutilation
28-1009	Harassment of police animal resulting in death of animal
28-1463.05	Possession of child pornography with intent to distribute by person under 19 years old
29-4011	Failure by felony sex offender to register under Sex Offender Registration Act, first offense
29-4011	Failure by misdemeanor sex offender to register under Sex Offender Registration Act, second or subsequent offense
53-180.05	Knowingly and intentionally dispensing alcohol in any manner to minors or incompetents resulting in serious bodily injury or death caused by the minors' consumption or impaired condition
60-690	Aiding or abetting a violation of Nebraska Rules of the Road

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60-698	Motor vehicle accident resulting in injury other than serious bodily injury, violation of duty to stop
60-6,197.03	Operation of a motor vehicle while under the influence of alcoholic liquor or of any drug or refusing chemical test, third offense committed with .15 gram alcohol concentration
60-6,197.03	Operation of a motor vehicle while under the influence of alcoholic liquor or of any drug or refusing chemical test, fourth offense committed with less than .15 gram alcohol concentration
60-6,198	Causing serious bodily injury to person or unborn child while driving while intoxicated
71-4839	Knowingly purchase or sell a body part for transplantation, therapy, research, or education if removal is to occur after death
71-4840	Intentionally falsifying, forging, concealing, defacing, or obliterating a document related to anatomical gifts for financial gain

CLASS IV FELONY

Maximum—two years' imprisonment and twelve months' post-release supervision or ten thousand dollars' fine, or both
Minimum—none for imprisonment and nine months' post-release supervision if imprisonment is imposed

2-1825	Forge, counterfeit, or use without authorization an inspection legend or certificate of Director of Agriculture on potatoes
8-103	Department of Banking and Finance personnel borrowing money from certain financial institutions or aiding or abetting such violation
8-133	Pledging bank assets for making or retaining a deposit in bank or accepting such pledge of assets
8-133	Overpayment of interest to bank officer or employee
8-133	Request or receipt of overpayment of interest by bank officer or employee
8-142	Bank officer, employee, director, or agent violating loan limits resulting in insolvency of bank
8-143.01	Illegal bank loans to executive officers, directors, or shareholders
8-147	Banks, illegal transfer of assets, limitation on amounts of loans and investments
8-1,139	Financial institutions, misappropriation of funds or assets
8-225	Trust companies, false statement or book entry, destruction or secretion of records
8-333	Building and loan association, false statement or book entry
8-1117	Violation of Securities Act of Nebraska or any rule or regulation under the act
8-1729	Willful violation of Commodity Code or rule, regulation, or order under the code
9-262	Second or subsequent violation of Nebraska Bingo Act when not otherwise specified
9-262	Specified violations of Nebraska Bingo Act
9-262	Intentionally employing or possessing device to facilitate cheating at bingo or using any fraud in connection with a bingo game, gain of \$1,500 or more
9-352	Second or subsequent violation of Nebraska Pickle Card Lottery Act when not otherwise specified
9-352	Specified violations of Nebraska Pickle Card Lottery Act
9-352	Intentionally employing or possessing device to facilitate cheating at

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	lottery by sale of pickle cards or using any fraud in connection with such lottery, gain of \$1,500 or more
9-434	Second or subsequent violation of Nebraska Lottery and Raffle Act when not otherwise specified
9-434	Specified violations of Nebraska Lottery and Raffle Act
9-434	Intentionally employing or possessing device to facilitate cheating at lottery or raffle, or using any fraud in connection with such lottery or raffle, gain of \$1,500 or more
9-652	Second or subsequent violation of Nebraska County and City Lottery Act when not otherwise specified
9-652	Specified violations of Nebraska County and City Lottery Act
9-652	Intentionally employing or possessing device to facilitate cheating at keno, or using any fraud in connection with keno, gain of \$1,500 or more
9-814	Providing false information pursuant to State Lottery Act
10-509	Funding bonds of counties, fraudulent issue or use
11-101.02	False statement in oath of office
23-135.01	False claim against county when value is \$1,500 or more
23-3113	County purchasing agent or staff member violating County Purchasing Act
25-1630	Tampering with jury list
25-1635	Illegal disclosure of juror names
28-111	Assault in the third degree (certain situations) committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Stalking, first offense or certain situations, committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	False imprisonment in the second degree committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Sexual assault in the third degree committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Arson in the third degree, damages \$500 or more but less than \$1,500, committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Criminal mischief, pecuniary loss of \$1,500 or more but less than \$5,000, committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Criminal trespass in the first degree committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-201	Criminal attempt to commit certain Class III or IIIA felonies
28-202	Criminal conspiracy to commit a Class IV felony
28-204	Harboring, concealing, or aiding a felon who committed a Class III or IIIA

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	felony
28-204	Obstructing the apprehension of a felon who committed a felony other than a Class IV felony
28-205	Aiding consummation of felony
28-307	Assisting suicide
28-311.08	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
28-311.08	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, subsequent offense
28-311.08	Knowingly photograph, film, record, or live broadcast an image of the intimate area of any other person without his or her knowledge and consent when his or her intimate area would not be generally visible to the public, subsequent offense
28-311.11	Knowingly violating a sexual assault protection order after service or notice, second violation within a twelve-month period, or any third or subsequent violation whenever committed
28-316	Violation of custody with intent to deprive custodian of custody of child
28-323	Domestic assault in the third degree by intentionally and knowingly causing bodily injury to his or her intimate partner or by threatening an intimate partner with imminent bodily injury, second or subsequent offense
28-332	Abortion violations
28-335	Abortion by other than licensed physician
28-335	Physician knowingly or recklessly performs, induces, or attempts to perform or induce abortion without being physically present
28-336	Abortion by other than accepted medical procedures
28-346	Use of premature infant aborted alive for experimentation
28-3,108	Intentional or reckless performance of or attempt to perform abortion in violation of Pain-Capable Unborn Child Protection Act
28-412	Unlawful prescription of narcotic drugs for detoxification or maintenance treatment
28-416	Knowingly or intentionally unlawfully possessing controlled substance other than marijuana or synthetically produced cannabinoids
28-416	Knowingly or intentionally possessing more than one pound of marijuana
28-416	Possession of money used or intended to be used to violate provisions relating to controlled substances
28-418	Knowing or intentional violation of Uniform Controlled Substances Act
28-451	Possession of anhydrous ammonia with intent to manufacture methamphetamine
28-452	Possession of ephedrine, pseudoephedrine, or phenylpropanolamine with intent to manufacture methamphetamine
28-457	Permitting a child or vulnerable adult to inhale or have contact with methamphetamine, second or subsequent offense
28-471	Offer, display, market, advertise for sale, or sell a lookalike substance
28-504	Arson in the third degree, damages of \$1,500 or more
28-505	Burning to defraud insurer
28-508	Possession of burglar's tools
28-514	Theft of lost, mislaid, or misdelivered property when value is over \$5,000
28-516	Unauthorized use of a propelled vehicle, third or subsequent offense

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CLASS IV FELONY

28-518	Theft when value is \$1,500 or more but less than \$5,000
28-518	Theft when value is more than \$500 but less than \$1,500, second or subsequent offense
28-518	Theft when value is \$500 or less, third or subsequent offense
28-519	Criminal mischief, pecuniary loss of \$5,000 or more or substantial disruption of public communication or utility service
28-524	Unauthorized application of graffiti, second or subsequent offense
28-603	Forgery in the second degree when face value is \$1,500 or more but less than \$5,000
28-604	Criminal possession of a forged instrument prohibited by section 28-602
28-604	Criminal possession of a forged instrument prohibited by section 28-603, amount or value is \$5,000 or more
28-605	Criminal possession of written instrument forgery devices
28-611	Issuing a bad check or other order in an amount of \$1,500 or more but less than \$5,000
28-611	Issuing a bad check or other order in an amount under \$500, second or subsequent offense
28-611	Issuing or passing a bad check or other instrument in amount of \$500 or more but less than \$1,500, second or subsequent offense
28-611.01	Issuing a no-account check in an amount of \$1,500 or more but less than \$5,000, first offense
28-611.01	Issuing a no-account check in an amount under \$1,500, second or subsequent offense
28-612	False statement or book entry in or destruction or secretion of records of financial institution or organization
28-619	Issuing two or more false financial statements to obtain two or more financial transaction devices
28-620	Unauthorized use of a financial transaction device when total value is \$1,500 or more but less than \$5,000 within a six-month period
28-621	Criminal possession of two or three financial transaction devices
28-623	Unlawful circulation of a financial transaction device in the second degree
28-624	Criminal possession of two or more blank financial transaction devices
28-625	Criminal sale of one blank financial transaction device
28-626	Criminal possession of a financial transaction forgery device
28-628	Laundering of sales forms
28-629	Unlawful acquisition of sales form processing services
28-630	Unlawful factoring of a financial transaction device
28-631	Committing a fraudulent insurance act when the amount involved is \$1,500 or more but less than \$5,000
28-631	Committing a fraudulent insurance act when the amount involved is \$500 or more but less than \$1,500, second or subsequent offense
28-631	Committing a fraudulent insurance act with intent to defraud or deceive
28-634	Unlawful use 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 \$1,500 or more but less than \$5,000, first offense
28-638	Criminal impersonation by falsely representing business or engaging in profession, business, or occupation without license if the credit, money, goods, services, or other thing of value that was gained or was attempted

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	to be gained was \$500 or more but less than \$1,500, second or subsequent offense
28-638	Criminal impersonation by falsely representing business or engaging in profession, business, or occupation without license if no credit, money, goods, services, or other thing of value was gained or was attempted to be gained, or if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was less than \$500, third or subsequent offense
28-638	Criminal impersonation by providing false identification information to court or law enforcement officer, first offense
28-639	Identity theft if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was \$1,500 or more but less than \$5,000, first offense
28-639	Identity theft if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was \$500 or more but less than \$1,500, second or subsequent offense
28-639	Identity theft if no credit, money, goods, services, or other thing of value was gained or was attempted to be gained, or if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was less than \$500, third or subsequent offense
28-640	Identity fraud, second or subsequent offense
28-706	Criminal nonsupport in violation of a court order
28-801.01	Solicitation of prostitution, second or subsequent offense
28-801.01	Solicitation of prostitution with person under 18 years old, first offense
28-804	Keeping a place of prostitution used by person 18 years old or older practicing prostitution
28-813.01	Possession by a minor of visual depiction of sexually explicit conduct containing a child
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
28-935	Fraudulently filing a financing statement, lien, or document
28-1009	Abandonment or cruel neglect of animal resulting in serious injury, illness, or death
28-1102	Promoting gambling in the first degree, second offense
28-1202	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

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28-1217	Unlawful sale of explosives
28-1219	Explosives, obtaining a permit through false representations
28-1220	Possession of a destructive device
28-1221	Threatening the use of explosives or placing a false bomb
28-1301	Removing, abandoning, or concealing human skeletal remains or burial goods
28-1307	Sell or offer for sale diseased meat
28-1343.01	Unauthorized computer access creating grave risk of death
28-1344	Unauthorized access to a computer which deprives another of property or services or obtains property or services of another with value of \$1,500 or more but less than \$5,000
28-1345	Unauthorized access to a computer causing damages of \$1,500 or more but less than \$5,000
28-1351	Unlawful membership recruitment for an organization or association engaged in criminal acts
28-1469	Operation of aircraft while under the influence of alcohol or drugs, third or subsequent offense
28-1482	Unlawful paramilitary activities
29-908	Failing to appear when on bail for felony offense
32-312	Election falsification on voter registration
32-330	Election falsification for unlawful use of list of registered voters
32-915	Election falsification on provisional ballot
32-939	Election falsification on registering or voting outside the country
32-939.02	Election falsification on ballot to vote early
32-947	Election falsification on ballot to vote early
32-949	Election falsification on ballot to vote early
32-1502	Election falsification
32-1503	Elections, unlawful registration acts
32-1504	Elections, neglect of duty, corruption, or fraud by deputy registrar
32-1508	Election registration, perjury by voter
32-1526	Fraudulent voting by election official
32-1529	Resident of another state voting in this state
32-1530	Voting by ineligible person
32-1531	Voting outside county of residence
32-1532	Aiding unlawful voting
32-1533	Procuring another to vote in county other than that of residence
32-1534	Voting more than once in same election
32-1537	Employer coercing political action of employees
32-1538	Deceiving illiterate elector
32-1539	Violations relating to ballots for early voting
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

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32-1551	Special elections by mail, specified violations
37-554	Prohibited use of explosives or poisons in waters of state
37-1288	Forgery of motorboat title or certificate or use of false name in bill of sale or sworn statement of ownership
37-1298	Knowingly transfer motorboat without salvage certificate of title
38-1,117	False or forged document or fraud in procuring license, certificate, or registration to practice a health profession, aiding or abetting person practicing without a credential, or impersonating a credentialed person
38-2052	Person purporting to be a physician's assistant when not licensed
38-3130	Psychologist filing false diploma, license of another, or forged affidavit of identification
42-924	Knowingly violating a protection order issued pursuant to domestic abuse or harassment case with a prior conviction for violating a protection order
44-165	Financial conglomerate or its directors, officers, employees, or agents violating supervision requirements
44-3,121	Borrowing or rental of securities of insurance company by member, director, or attorney
44-2146	Willful violation of Insurance Holding Company System Act
44-2147	Willful filing of false report under Insurance Holding Company System Act
45-191.03	Loan broker collecting advance fee in excess of \$300 and other violations of loan broker provisions
45-926	Operating delayed deposit services business without license
46-155	Irrigation districts, officers interested in contracts, accepting bribes or gratuities
48-654.01	Engaging in business practices to avoid higher combined tax rates under the Employment Security Law
49-1476.01	Campaign contributions or expenditures by state lottery contractor
49-14,134	Filing false statement, report, or verification under Nebraska Political Accountability and Disclosure Act
49-14,135	Perjury before Nebraska Accountability and Disclosure Commission
53-1,100	Manufacturing spirits without a license, second or subsequent offense
54-1,125	Using false document of livestock ownership
54-1,125	Forging or altering livestock ownership document when value is over \$300 but less than \$1,000
54-622.01	Owner of dangerous dog which inflicts serious bodily injury, second or subsequent offense
54-753.05	Importation of livestock in violation of an embargo issued by State Veterinarian
54-903	Intentionally, knowingly, or recklessly abandon or cruelly neglect livestock animal resulting in serious injury or illness or death of the livestock animal
54-903	Cruelly mistreat a livestock animal, second or subsequent offense
54-1808	Violation of Nebraska Livestock Sellers Protective Act
54-1913	Violation of Nebraska Meat and Poultry Inspection Law with intent to defraud or by distributing adulterated article
57-719	Preparation or presentation of false or fraudulent oil and gas severance tax document
59-801	Unlawful restraint of trade or commerce
59-802	Unlawful monopolizing of trade or commerce
59-805	Unlawful restraint of trade; underselling

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59-815	Corporation or other association engaged in unlawful restraint of trade
59-825	Refusal to attend and testify in restraint of trade proceedings
59-1522	Unlawful sale and distribution of cigarettes
59-1757	Violations in sales or leases of seller-assisted marketing plans
60-176	Knowing transfer of wrecked, damaged, or destroyed motor vehicle, all-terrain vehicle, or minibike without appropriate certificate of title
60-179	Fraud or forgery in obtaining certificate of title to motor vehicle, all-terrain vehicle, or minibike
60-196	Violating laws relating to odometers
60-492	Impersonating an officer under Motor Vehicle Operator's License Act
60-4,111.01	Trade, sell, or share machine-readable information encoded on driver's license or state identification card
60-4,111.01	Compile, store, or preserve machine-readable information encoded on driver's license or state identification card without authorization
60-4,111.01	Intentional or grossly negligent programming by the programmer which allows for the storage of more than the age and identification number from machine-readable information encoded on driver's license or state identification card or wrongfully certifying the software
60-4,111.01	Retailer or seller knowingly storing more information than authorized from the machine-readable information encoded on driver's license or state identification card
60-4,111.01	Unauthorized trading, selling, sharing, use for marketing or sales, or reporting of scanned, compiled, stored, or preserved machine-readable information encoded on driver's license or state identification card
60-690	Aiding or abetting a violation of Nebraska Rules of the Road
60-6,197.06	Operating a motor vehicle when operator's license has been revoked for driving under the influence, first offense
60-6,211.11	Operating a motor vehicle while under the influence after tampering with or circumventing an ignition interlock device installed under a court order or Department of Motor Vehicles order while the order is in effect or operating a motor vehicle while under the influence which is not equipped with an ignition interlock device in violation of a court order or Department of Motor Vehicles order
60-1416	Acting as auction, motor vehicle, motorcycle, trailer, or wrecker or salvage dealer, manufacturer, factory representative, or distributor without license
60-2912	Misrepresenting identity or making false statement on application submitted under Uniform Motor Vehicle Records Disclosure Act
66-727	Violations of motor fuel tax laws when the amount involved is less than \$5,000, provisions relating to evasion of tax, keeping books and records, making false statements
66-727	Violations of motor fuel tax laws, including making returns and reports, assignment of licenses and permits, payment of tax
66-1226	Selling automotive spark ignition engine fuels not within specifications, second or subsequent offense
66-1822	False or fraudulent entries in books of a jurisdictional utility
68-1017	Obtaining through fraud assistance to aged, blind, or disabled persons, aid to dependent children, or supplemental nutrition assistance program benefits when value is \$1,500 or more
68-1017.01	Unlawful use, alteration, or transfer of supplemental nutrition assistance program benefits when value is \$1,500 or more
68-1017.01	Unlawful possession or redemption of supplemental nutrition assistance

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	program benefits when value is \$1,500 or more
68-1017.01	Unlawful possession of blank supplemental nutrition assistance program authorizations
69-109	Sale or transfer of personal property with security interest without consent
69-2408	Providing false information on an application for a certificate to purchase a handgun
69-2420	Unlawful acts relating to purchase of a handgun
69-2421	Unlawful sale or delivery of a handgun
69-2422	Knowingly and intentionally obtaining a handgun for purposes of unlawful transfer of the handgun
69-2430	Falsified concealed handgun permit application
69-2709	Knowingly submit false information regarding cigarette and tobacco sales
70-508	False statement on sale, lease, or transfer of public electric plant
70-511	Excessive promotion expenses on sale of public electric plant
70-514	Failure to file statement of expenditures related to transfer of electric plant facilities or filing false statement
70-2104	Damage, injure, destroy, or attempt to damage, injure, or destroy equipment or structures owned and used by public power suppliers to generate, transmit, or distribute electricity or otherwise interrupt the generation, transmission, or distribution of electricity by a public power supplier
71-649	Vital statistics, unlawful acts
71-2228	Illegal receipt of food supplement benefits when value is \$1,500 or more
71-2229	Unlawful use, alteration, or transfer of food instruments or food supplements when value is \$1,500 or more
71-2229	Unlawful possession or redemption of food supplement benefits when value is \$1,500 or more
71-2229	Unlawful possession of blank authorization to participate in the WIC program or CSF program
71-6312	Unlawfully engaging in an asbestos project without a valid license or using unlicensed employees subsequent to the levy of a civil penalty, second or subsequent offense
71-6329	Engaging in a lead abatement project or lead-based paint profession without a valid license or using unlicensed employees after assessment of a civil penalty, second or subsequent offense
71-6329	Conducting a lead abatement project or lead-based paint profession training program without departmental accreditation after assessment of a civil penalty, second or subsequent offense
71-6329	Issuing fraudulent licenses under Residential Lead-Based Paint Professions Practice Act after assessment of a civil penalty, second or subsequent offense
75-909	Violation of Grain Dealer Act
76-2325.01	Interference with utility poles and wires or transmission of light, heat, power, or telecommunications, loss of \$1,500 or more or substantial disruption of service
76-2728	Violation of Nebraska Foreclosure Protection Act
77-2310	Unlawful removal of state funds or illegal profits by State Treasurer
77-2323	Violation of provisions on deposit of county funds
77-2325	Unlawful removal of county funds or illegal profits by county treasurers
77-2381	Violation of provisions on deposit of local hospital district funds
77-2383	Unlawful removal of funds or illegal profits by secretary-treasurer of local

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	hospital district
77-2614	Altered, forged, or counterfeited stamp, license, permit, or cigarette tax meter impression for sale of cigarettes
77-2615	Violation of cigarette tax provisions when not otherwise specified
77-2615	Evasion of cigarette tax provisions, affixing unauthorized stamp, or sales or possession of cigarettes of manufacturer not in directory
77-2713	Failure to collect or false returns on sales and use tax
77-27,113	Evasion of income tax
77-27,114	Failure to collect or account for income taxes
77-27,116	False return on income tax
77-27,119	Unauthorized disclosure of confidential tax information by current or former officers or employees of the Auditor of Public Accounts or the office of Legislative Audit
77-4024	Violation of Tobacco Products Tax Act or evasion of act
77-4309	Dealer distributing or possessing marijuana or a controlled substance without affixing the official stamp, label, or other indicium
77-5544	Unlawful disclosure of confidential information by qualified independent accounting firm under Invest Nebraska Act
81-161.05	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 while under the influence with disabled, bypassed, or altered ignition interlock device or without an ignition interlock device or permit in violation of board order
83-1,133	Threatening or attempting to influence a member of the Board of Pardons
83-417	Allowing a committed offender to escape or be visited without approval
83-443	Financial interest in convict labor
83-912	Director or employee of Department of Correctional Services receiving prohibited gift or gratuity
86-290	Intercepting or interfering with wire, electronic, or oral communication
86-295	Unlawful tampering with communications equipment or transmissions
86-296	Shipping or manufacturing devices capable of intercepting certain communications
86-2,102	Interference with satellite transmissions or operation
86-2,104	Unauthorized access to electronic communication services
87-303.09	Violation of court order or written assurance of voluntary compliance under Uniform Deceptive Trade Practices Act
88-543	Issuing a receipt for grain not received, improperly recording grain as received or loaded, or creating a post-direct delivery storage position without proper documentation or grain in storage
88-545	Violation of Grain Warehouse Act when not otherwise specified

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UNCLASSIFIED FELONIES, see section 28-107

- 69-110 Removal from county of personal property subject to a security interest with intent to deprive of security interest
–fine of not more than one thousand dollars
–imprisonment of not more than ten years
- 77-27,119 Unauthorized disclosure of confidential tax information by Tax Commissioner, officer, employee, or third-party auditor
–fine of not less than one hundred dollars nor more than five hundred dollars
–imprisonment of not more than five years
–both
- 77-3210 Receipt of profit from rental, management, or disposition of Land Reutilization Authority lands
–imprisonment of not less than two years nor more than five years
- 83-1,124 Parolee leaving state without permission
–imprisonment of not more than five years

OTHER MANDATORY MINIMUMS:

- 29-2221 Habitual criminal

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Maximum—not more than one year imprisonment, or one thousand dollars’ fine, or both

Minimum—none

- 2-1215 Conducting horseracing or betting on horseraces without license or violating horseracing provisions
- 2-1218 Drugging horses or permitting drugged horses to run in a horserace
- 2-2647 Violation of Pesticide Act, second or subsequent offense
- 8-119 Officers of corporation filing false statement for banking purposes
- 8-142 Bank officer, employee, director, or agent violating loan limits by \$40,000 or more or resulting in monetary loss of over \$20,000 to bank
- 8-145 Improper solicitation or receipt of benefits, unlawful inducement for bank loan
- 8-189 Attempting to prevent Department of Banking and Finance from taking possession of insolvent or unlawfully operated bank
- 8-1,138 Violation of a final order issued by Director of Banking and Finance
- 8-224.01 Division of fees for legal services by a trust company attorney
- 8-2745 Acting without license or intentionally falsifying records in violation of Nebraska Money Transmitters Act
- 9-230 Unlawfully conducting or awarding a prize at a bingo game, second or subsequent offense
- 9-262 Intentionally employing or possessing device to facilitate cheating at bingo or using any fraud in connection with a bingo game, gain of \$500 or more but less than \$1,500
- 9-266 Disclosure by Tax Commissioner or employee of reports or records of a licensed distributor or manufacturer under Nebraska Bingo Act
- 9-351 Unlawfully possessing pickle cards or conducting a pickle card lottery
- 9-352 Intentionally employing or possessing device to facilitate cheating at lottery by sale of pickle cards or using any fraud in connection with such lottery, gain of \$500 or more but less than \$1,500
- 9-356 Disclosure by Tax Commissioner or employee of returns or reports of licensed distributor or manufacturer under Nebraska Pickle Card Lottery

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	Act
9-434	Intentionally employing or possessing device to facilitate cheating at lottery or raffle or using any fraud in connection with such lottery or raffle, gain of \$500 or more but less than \$1,500
9-652	Intentionally employing or possessing device to facilitate cheating at keno or using any fraud in connection with keno, gain of \$500 or more but less than \$1,500
9-653	Disclosure by Tax Commissioner or employee of reports or records of a licensed manufacturer-distributor under Nebraska County and City Lottery Act
9-814	Sale of lottery tickets under State Lottery Act without authorization or at other than the established price
9-814	Release of information obtained from background investigation under State Lottery Act
10-807	Misrepresentations for aid from county aid bonds
18-2532	Initiative and referendum, making false affidavit or taking false oath
18-2533	Initiative and referendum, destruction, falsification, or suppression of a petition
18-2534	Initiative and referendum petition, signing by person not registered to vote or paying for or deceiving another to sign a petition
18-2535	Initiative and referendum, failure by city clerk to comply or unreasonable delay in complying with statutes
20-334	Willful failure to obey a subpoena or order or intentionally mislead another in proceedings under Nebraska Fair Housing Act
20-344	Coerce, intimidate, threaten, or interfere with the exercise or enjoyment of rights under Nebraska Fair Housing Act
20-411	Physician or health care provider failing to transfer care of patient under declaration or living will
20-411	Physician failing to record a living will or a determination of a terminal condition or persistent vegetative state
20-411	Concealing, canceling, defacing, obliterating, falsifying, or forging a living will
20-411	Concealing, falsifying, or forging a revocation of a living will
20-411	Requiring or prohibiting a living will for health care services or insurance
20-411	Coercing or fraudulently inducing an individual to make a living will
21-212	Signing a false document under Nebraska Model Business Corporation Act with intent to file with the Secretary of State
21-1912	Signing a false document under Nebraska Nonprofit Corporation Act with intent to file with the Secretary of State
28-107	Misdemeanor defined outside of criminal code
28-111	Arson in the third degree, damages less than \$500, committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Assault in the third degree (certain situations) committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Criminal mischief, pecuniary loss of \$500 or more but less than \$1,500, committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or

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	because of his or her association with such a person
28-111	Criminal trespass in the second degree (certain situations) committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-115	Assault in the third degree (certain situations) committed against a pregnant woman
28-201	Criminal attempt to commit a Class IV felony
28-204	Harboring, concealing, or aiding a felon who committed a Class IV felony
28-204	Obstructing the apprehension of a felon who committed a Class IV felony
28-301	Compounding a felony
28-306	Motor vehicle homicide by person not under the influence of alcohol or drugs or not driving in a reckless manner
28-310	Assault in the third degree (certain situations)
28-311.04	Stalking (certain situations)
28-311.08	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, first offense
28-311.08	Knowingly photograph, film, record, or live broadcast an image of the intimate area of any other person without his or her knowledge and consent when his or her intimate area would not be generally visible to the public, first offense
28-311.11	Knowingly violating a sexual assault protection order after service or notice, first violation or second violation more than twelve months after first violation
28-315	False imprisonment in the second degree
28-320	Sexual assault in the third degree
28-323	Domestic assault in the third degree by intentionally and knowingly causing bodily injury to his or her intimate partner or by threatening an intimate partner with imminent bodily injury, first offense
28-323	Domestic assault in the third degree by threatening an intimate partner in a menacing manner
28-394	Motor vehicle homicide of an unborn child by person not under the influence of alcohol or drugs or not driving in a reckless manner
28-399	Assault of an unborn child in the third degree
28-443	Delivering drug paraphernalia to a minor
28-457	Permitting a child or vulnerable adult to inhale, have contact with, or ingest methamphetamine, first offense
28-504	Arson in the third degree, damages \$500 or more but less than \$1,500
28-514	Theft of lost, mislaid, or misdelivered property when value is \$1,500 or more but not more than \$5,000
28-514	Theft of lost, mislaid, or misdelivered property when value is more than \$500 but less than \$1,500, second or subsequent offense
28-514	Theft of lost, mislaid, or misdelivered property when value is \$500 or less, third or subsequent offense
28-516	Unauthorized use of a propelled vehicle, second offense
28-518	Theft when value is more than \$500 but less than \$1,500
28-518	Theft when value is \$500 or less, second offense
28-519	Criminal mischief, pecuniary loss of \$1,500 or more but less than \$5,000
28-520	Criminal trespass in the first degree
28-523	Littering, third or subsequent offense

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28-603	Forgery in the second degree when face value is \$500 or more but less than \$1,500
28-604	Criminal possession of a forged instrument prohibited by section 28-603, value is \$1,500 or more but less than \$5,000
28-607	Making, using, or uttering of slugs of value of \$100 or more
28-610	Impersonating a peace officer
28-611	Issuing a bad check or other order in an amount of \$500 or more but less than \$1,500, first offense
28-611.01	Issuing a no-account check in an amount of \$500 or more but less than \$1,500, first offense
28-613	Commercial bribery or breach of duty to act disinterestedly
28-616	Altering an identification number
28-617	Receiving an altered article
28-619	Issuing a false financial statement to obtain a financial transaction device
28-620	Unauthorized use of a financial transaction device when total value is \$500 or more but less than \$1,500 within a six-month period
28-624	Criminal possession of a blank financial transaction device
28-631	Possessing fake or counterfeit insurance policies, certificates, identification cards, or binders with intent to defraud or deceive
28-631	Committing a fraudulent insurance act when the amount involved is \$500 or more but less than \$1,500, first offense
28-633	Printing more than the last 5 digits of a payment card account number upon a receipt provided to payment card holder, second or subsequent offense
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 \$500 or more but less than \$1,500, first offense
28-638	Criminal impersonation by falsely representing business or engaging in profession, business, or occupation without license if no credit, money, goods, services, or other thing of value was gained or was attempted to be gained, or if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was less than \$500, second offense
28-638	Criminal impersonation by providing false identification information to employer to obtain employment, second or subsequent offense
28-639	Identity theft if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was \$500 or more but less than \$1,500, first offense
28-639	Identity theft if no credit, money, goods, services, or other thing of value was gained or was attempted to be gained, or if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was less than \$500, second offense
28-640	Identity fraud, first offense
28-701	Bigamy
28-705	Abandonment of spouse, child, or dependent stepchild
28-707	Child abuse committed negligently, not resulting in serious bodily injury or death
28-709	Contributing to the delinquency of a child
28-801	Prostitution by person 18 years old or older, third or subsequent offense

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28-801.01	Solicitation of prostitution with person 18 years old or older, first offense
28-805	Debauching a minor
28-808	Obscene literature and material, sell or possess with intent to sell to minor
28-809	Obscene motion picture, show, or presentation, admission of minor
28-813	Prepare, distribute, order, produce, exhibit, or promote obscene literature or material
28-901	Obstructing government operations
28-904	Resisting arrest, first offense
28-905	Operating a motor vehicle to avoid arrest which is a first offense, does not result in death or injury, or does not involve willful reckless driving
28-905	Operating a boat to avoid arrest for misdemeanor or ordinance violation
28-906	Obstructing a peace officer, judge, or police animal
28-907	False reporting (certain situations)
28-908	Interference with firefighter on official duty
28-909	Falsifying records of a public utility
28-913	Introducing escape implements
28-915.01	False statement under oath or affirmation or in an unsworn declaration under the requirements of the Uniform Unsworn Foreign Declarations Act 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
28-1344	Unauthorized access to a computer which deprives another of property or services or obtains property or services of another with value of \$500 or more but less than \$1,500
28-1345	Unauthorized access to a computer which causes damages of \$500 or more but less than \$1,500
28-1346	Unauthorized access to or use of a computer to obtain confidential information, second or subsequent offense
29-1926	Improper release or use of a videotape of a child victim or child witness
30-3432	Altering, forging, concealing, or destroying a power of attorney for health care or a revocation of a power of attorney for health care

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30-3432	Physician or health care provider willfully preventing transfer of care of principal under durable power of attorney for health care
32-1518	Election officials, violation of duties imposed by election laws
32-1522	Unlawful printing, possession, or use of ballots
32-1546	Signing petition without being registered to vote
37-504	Unlawfully hunt, trap, or possess mountain sheep
37-615	Taking wildlife or applying for permit with a suspended or revoked permit
37-618	Possession of suspended or revoked permit to hunt, fish, or harvest fur
37-809	Unlawful acts relating to endangered or threatened species of wildlife or wild plants
37-1254.10	Operating a motorboat or personal watercraft while during a period of court-ordered prohibition for operating under the influence of alcohol or drugs or for refusal to submit to a chemical test for operating a motorboat or personal watercraft while under the influence of alcohol or drugs, second or subsequent offense
37-1254.12	Operating a motorboat or personal watercraft while under the influence of alcohol or drugs or refusing to submit to a chemical test for operating a motorboat or personal watercraft while under the influence of alcohol or drugs, second or subsequent offense
38-1,106	Disclosure of confidential complaints, investigational records, or reports regarding violation of Uniform Credentialing Act
39-310	Depositing materials on roads or ditches, third or subsequent offense
39-311	Placing burning materials or items likely to cause injury on highways, third or subsequent offense
42-113	Failing to file and record or filing false marriage certificate or illegally joining others in marriage
42-924	Knowingly violating a protection order issued pursuant to domestic abuse or harassment case, first offense
44-10,108	Making a fraudulent statement to a fraternal benefit society
44-2007	Violation of Unauthorized Insurers Act
44-4806	Failing to cooperate with, obstructing, interfering with, or violating any order issued by the Director of Insurance under Nebraska Insurers Supervision, Rehabilitation, and Liquidation Act
45-191.03	Loan broker collecting advance fee of \$300 or less or failing to make required filings
45-747	Engaging in mortgage banking or mortgage loan originating if convicted of certain misdemeanors or a felony
45-1015	Acting without license under Nebraska Installment Loan Act
46-1141	Unlawful tampering with or damaging chemigation equipment
48-125.01	Attempted avoidance of payment of workers' compensation benefits
48-145.01	Failure to comply with workers' compensation insurance required of employers
48-211	Failure or refusal to supply laborer's service letter
48-821	Interfere with or coerce others to strike or otherwise hinder governmental service
48-1908	Drug or alcohol tests, altering results
48-1909	Drug or alcohol tests, tampering with body fluids
48-2615	Athlete agent violating Nebraska Uniform Athlete Agents Act
48-2711	Violations relating to professional employer organizations
53-173	Unlicensed person selling a powdered alcohol product
53-180.05	Creation or alteration of identification for sale or delivery to a person

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	under twenty-one years old
53-180.05	Dispensing alcohol in any manner to minors or incompetents not resulting in serious bodily injury or death
53-1,100	Manufacturing spirits without a license, first offense
54-1,125	Forging or altering livestock ownership document when value is \$300 or less
54-622.01	Owner of dangerous dog which inflicts serious bodily injury, first offense
54-634	Violation of Commercial Dog and Cat Operator Inspection Act
54-750	Harboring or prohibited sale of diseased animals, second or subsequent offense
54-751	Violation of rules and regulations relating to Exotic Animal Auction or Exchange Venue Act or provisions on diseased animals and disposal of carcasses, second or subsequent offense
54-752	Violation of Exotic Animal Auction or Exchange Venue Act or provisions relating to diseased animals and disposal of carcasses, second or subsequent offense
54-771	Failure by herd owner or custodian to develop or follow a herd plan relating to livestock anthrax
54-778	Failure to comply with Anthrax Control Act
54-781	Violation of Anthrax Control Act when not otherwise specified
54-903	Intentionally, knowingly, or recklessly abandon or cruelly neglect livestock animal not resulting in serious injury or illness or death of the livestock animal
54-903	Cruelly mistreat a livestock animal, first offense
54-909	Violating court order not to own or possess a livestock animal for at least five years after the date of conviction for second or subsequent offense of cruel mistreatment of an animal or for intentionally, knowingly, or recklessly abandoning or cruelly neglecting livestock animal resulting in serious injury or illness or death of the livestock animal
54-911	Intentionally trip or cause to fall, or lasso or rope the legs of, any equine by any means for the purpose of entertainment, sport, practice, or contest
54-912	Intentionally trip, cause to fall, or drag any bovine by its tail by any means for the purpose of entertainment, sport, practice, or contest
59-505	Unlawful discrimination in sales or purchases of products, commodities, or property
60-484.02	Disclosure of digital image or signature by Department of Motor Vehicles, law enforcement, or Secretary of State's office
60-4,108	Operating motor vehicle in violation of court order or while operator's license is revoked or impounded, fourth or subsequent offense
60-559	Forging or filing a forged document for proof of financial responsibility for a motor vehicle
60-690	Aiding or abetting a violation of Nebraska Rules of the Road
60-696	Second or subsequent conviction in 12 years for failure of driver to stop and report a motor vehicle accident
60-6,197.03	Operation of a motor vehicle while under the influence of alcoholic liquor or of any drug or refusing chemical test, second offense committed with .15 gram alcohol concentration
60-6,211.11	Operating a motor vehicle after tampering with or circumventing an ignition interlock device installed under a court order or Department of Motor Vehicles order while the order is in effect or operating a motor vehicle which is not equipped with an ignition interlock device in violation

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	of a court order or Department of Motor Vehicles order
60-6,218	Reckless driving or willful reckless driving, third or subsequent offense
60-2912	Disclosure of sensitive personal information by Department of Motor Vehicles
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
71-1950	Violation of Children's Residential Facilities and Placing Licensure Act
71-4608	Illegal manufacture or sale of manufactured homes or recreational vehicles
71-4608	Violation of manufactured home or recreational vehicle standards endangering the safety of a purchaser
71-6312	Unlawfully engaging in an asbestos project without a valid license or using unlicensed employees subsequent to the levy of a civil penalty, first offense
71-6329	Engaging in a lead abatement project or lead-based paint profession without a valid license or using unlicensed employees after assessment of a civil penalty, first offense
71-6329	Conducting a lead abatement project or lead-based paint profession training program without departmental accreditation after assessment of a civil penalty, first offense
71-6329	Issuing fraudulent licenses under Residential Lead-Based Paint Professions Practice Act after assessment of a civil penalty, first offense
74-921	Operating a locomotive or acting as the conductor while intoxicated
75-127	Unjust discrimination or prohibited practice in rates by common carrier, shipper, or consignee
76-1315	Violation of laws on retirement communities and subdivisions
76-1722	Unlawful time-share interval disposition or violating time-share laws
76-2325.01	Interference with utility poles and wires or transmission of light, heat, power, or telecommunications, loss of \$500 or more but less than \$1,500 (certain situations)
77-1816	Fraudulent sales of real property for delinquent real estate taxes
77-2115	Disclosure of confidential information on estate or generation-skipping transfer tax records
77-2326	Failure to act regarding deposit of county funds by county treasurers
77-2384	Secretary-treasurer of local hospital district, failure to comply with provisions on deposit of public funds
77-2704.33	Failure of a contractor or taxpayer to pay certain sales taxes of \$300 or

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	more
77-2711	Wrongful disclosure of records and reports relating to sales and use tax
77-2711	Disclosure of taxpayer information by employees or former employees of the office of Legislative Audit or the Auditor of Public Accounts or certain municipalities
77-3522	Oath or affirmation regarding false or fraudulent application for homestead exemption
77-5016	False statement to Tax Equalization and Review Commission
81-829.73	Fraudulently or willfully making a misstatement of fact in connection with an application for financial assistance under Emergency Management Act
81-1508.01	Violations of solid waste and livestock waste laws and regulations
81-1717	Unlawful soliciting of professional services under Nebraska Consultants' Competitive Negotiation Act
81-1718	Professional making unlawful solicitation under Nebraska Consultants' Competitive Negotiation Act
81-1719	Agency official making unlawful solicitation under Nebraska Consultants' Competitive Negotiation Act
81-1830	False claim under Nebraska Crime Victim's Reparations Act
81-2143	Violation of State Electrical Act
81-3442	Violation of Engineers and Architects Regulation Act, first offense
81-3535	Unauthorized practice of geology, second or subsequent offense
83-1,127.02	Operation of vehicle with disabled, bypassed, or altered ignition interlock device or without an ignition interlock device or permit in violation of board order
86-234	Violation of Telemarketing and Prize Promotions Act
86-290	Intercepting or interfering with certain wire, electronic, or oral communication
86-298	Unlawful use of pen register or trap-and-trace device
86-2,104	Unlawful access to electronic communication service
88-548	Illegal use of grain probes
89-1,101	Violation of Weights and Measures Act or order of Department of Agriculture, second or subsequent offense

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**Maximum—six months' imprisonment, or one thousand dollars' fine, or both
Minimum—none**

1-166	Accountants, persons using titles, initials, trade names when not qualified or authorized to do so
2-10,115	Specified violations of Plant Protection and Plant Pest Act, second or subsequent offense
2-1221	Receipt or delivery of certain off-track wagers
2-1811	Violation of Nebraska Potato Development Act
2-4327	Violation of Agricultural Liming Materials Act, second or subsequent offense
3-152	Violation of State Aeronautics Act or any rules, regulations, or orders related thereto
8-109	Financial institution examiner failing to report bank insolvency or unsafe condition
8-118	Promoting the organization of a corporation to conduct the business of banking or selling stock prior to issuance of charter
8-142	Bank officer, employee, director, or agent violating loan limits by \$20,000

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	or more but less than \$40,000 or resulting in monetary loss of \$10,000 or more but less than \$20,000
9-262	Intentionally employing or possessing device to facilitate cheating at bingo or using any fraud in connection with a bingo game, gain of less than \$500
9-345.03	Unlawfully placing a pickle card dispensing device in operation
9-352	Intentionally employing or possessing device to facilitate cheating at lottery by sale of pickle cards or using any fraud in connection with such lottery, gain of less than \$500
9-434	Intentionally employing or possessing device to facilitate cheating at lottery or raffle or using any fraud in connection with such lottery or raffle, gain of less than \$500
9-513	Violation of Nebraska Small Lottery and Raffle Act, second or subsequent offense
9-652	Intentionally employing or possessing device to facilitate cheating at keno, or using any fraud in connection with keno, gain of less than \$500
9-701	Violation of provisions relating to gift enterprises
9-814	Failure by lottery game retailer to maintain and make available records of separate accounts under State Lottery Act
9-814	Knowingly sell lottery tickets to person less than 19 years old
12-1118	False or fraudulent reporting or any violation under Burial Pre-Need Sale Act
14-415	Violation of building ordinance or regulations in city of the metropolitan class, third or subsequent offense within two years of prior offense
22-303	Relocation of county seats, refusal by officers to move offices and records
23-135.01	False claim against county when value is \$500 or more but less than \$1,500
23-2325	False or fraudulent acts to defraud the Retirement System for Nebraska Counties
23-2544	Violation of county personnel provisions for counties with population under 150,000
23-3596	Board of trustees of hospital authority, pecuniary interest in contracts
24-711	False or fraudulent acts to defraud the Nebraska Judges Retirement System
28-111	Criminal mischief, pecuniary loss is less than \$500, committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Criminal trespass in the second degree (certain situations) committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Unauthorized application of graffiti, first offense, committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-201	Criminal attempt to commit a Class I misdemeanor
28-310	Assault in the third degree (certain situations)
28-311.06	Hazing
28-311.09	Violation of harassment protection order
28-316	Violation of custody without intent to deprive custodian of custody of child
28-339	Discrimination against person refusing to participate in an abortion

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28-344	Violation of provisions relating to abortion reporting forms
28-442	Unlawful possession or manufacture of drug paraphernalia
28-445	Manufacture or delivery of an imitation controlled substance, second or subsequent offense
28-504	Third degree arson, damages less than \$500
28-511.03	Possession in store of security device countermeasure
28-514	Theft of lost, mislaid, or misdelivered property when value is more than \$500 but less than \$1,500
28-514	Theft of lost, mislaid, or misdelivered property when value is \$500 or less, second offense
28-515.01	Fraudulently obtaining telecommunications service
28-518	Theft when value is \$500 or less
28-519	Criminal mischief, pecuniary loss of \$500 or more but less than \$1,500
28-521	Criminal trespass in the second degree (certain situations)
28-523	Littering, second offense
28-603	Second degree forgery, value less than \$500
28-604	Criminal possession of a forged instrument prohibited by section 28-603, value is \$500 or more but less than \$1,500
28-607	Making, using, or uttering of slugs of value less than \$100
28-611	Issuing a bad check or other order in an amount of less than \$500, first offense
28-611	Issuing bad check or other order with insufficient funds
28-611.01	Issuing a no-account check in an amount of less than \$500, first offense
28-614	Tampering with a publicly exhibited contest
28-620	Unauthorized use of a financial transaction device when total value is less than \$500 within a six-month period
28-631	Committing a fraudulent insurance act when the amount involved is less than \$500
28-638	Criminal impersonation by falsely representing business or engaging in profession, business, or occupation without license if no credit, money, goods, services, or other thing of value was gained or was attempted to be gained, or if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was less than \$500, first offense
28-638	Criminal impersonation by providing false identification information to employer to obtain employment, first offense
28-639	Identity theft if no credit, money, goods, services, or other thing of value was gained or was attempted to be gained, or if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was less than \$500, first offense
28-706	Criminal nonsupport not in violation of court order
28-801	Prostitution by person 18 years old or older, first or second offense
28-806	Public indecency
28-811	Obscene literature, material, etc., false representation of age by minor, parent, or guardian, unlawful employment of minor
28-903	Refusing to aid a peace officer
28-910	Filing false reports with regulatory bodies
28-911	Abuse of public records
28-915.01	False statement under oath or affirmation or in an unsworn declaration under the requirements of the Uniform Unsworn Foreign Declarations Act if statement is required by law to be sworn or affirmed
28-924	Official misconduct

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28-926	Oppression under color of office
28-927	Neglecting to serve warrant if offense for warrant is a felony
28-1103	Promoting gambling in the second degree
28-1105	Possession of gambling records in the first degree
28-1107	Possession of a gambling device
28-1218	Use of explosives without a permit if eligible for a permit
28-1233	Failure to notify fire protection district of use or storage of explosive material over one pound
28-1240	Unlawful transportation of anhydrous ammonia
28-1304.01	Unlawful use of liquified remains of dead animals
28-1311	Interference with public service companies
28-1326	Unlawful transfer of recorded sound
28-1326	Sell, distribute, circulate, offer for sale, or possess for sale recorded sounds without proper label
28-1343.01	Unauthorized computer access compromising security of data
28-1344	Unauthorized access to a computer which deprives another of property or services or obtains property or services of another with value less than \$500
28-1345	Unauthorized access to a computer which causes damages of less than \$500
28-1346	Unauthorized access to or use of a computer to obtain confidential information, first offense
28-1347	Unauthorized access to or use of a computer, second or subsequent offense
29-739	Extradition and detainer, unlawful delivery of accused persons
29-908	Failing to appear when on bail for misdemeanor or ordinance violation
30-2602.01	Violating an ex parte order regarding a ward's or protected person's safety, health, or financial welfare
32-1536	Bribery or threats used to procure vote of another
37-401	Violation of hunting, fishing, and fur-harvesting permits
37-410	Obtaining or aiding another to obtain a permit to hunt, fish, or harvest fur unlawfully or by false pretenses or misuse of permit
37-411	Hunting, fishing, or fur-harvesting without permit
37-447	Violation of rules, regulations, and commission orders under Game Law regarding hunting, transportation, and possession of deer
37-449	Violation of rules and regulations under Game Law regarding hunting antelope
37-479	Luring or enticing wildlife into a domesticated cervine animal facility
37-4,108	Violating commercial put-and-take fishery licensure requirements
37-504	Unlawfully hunt, trap, or possess elk
37-509	Violations relating to hunting or harassing birds, fish, or other animals from aircraft
37-524.01	Release, kill, wound, or attempt to kill or wound a pig for amusement or profit
37-554	Use of explosives in water to remove obstructions without permission
37-555	Polluting waters of state
37-556	Polluting waters of state with carcasses
37-573	Hunt or enable another to hunt through the Internet or host hunting through the Internet
37-809	Violation of restrictions on endangered or threatened species
37-1254.12	Operating a motorboat or personal watercraft while under the influence of alcohol or drugs or refusing to submit to a chemical test for operating a

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	motorboat or personal watercraft while under the influence of alcohol or drugs, first offense
37-1272	Reckless or negligent operation of motorboat, water skis, surfboard, etc.
37-12,110	Violation of provisions relating to abandonment of motorboats
38-1,118	Violation of Uniform Credentialing Act when not otherwise specified, second or subsequent offense
38-1,133	Failure of insurer to report violations of Uniform Credentialing Act, second or subsequent offense
38-1424	Willful malpractice, solicitation of business, and other unprofessional conduct in the practice of funeral directing and embalming
38-28,103	Violations of Pharmacy Practice Act except as otherwise specifically provided
38-3130	Representing oneself as a psychologist or practicing psychology without a license
39-310	Depositing materials on roads or ditches, second offense
39-311	Placing burning materials or items likely to cause injury on highways, second offense
39-2612	Illegal location of junkyard
42-357	Knowingly violating a restraining order relating to dissolution of marriage
42-1204	False or incorrect information on application to restrict disclosure of applicant's address
43-2,107	Violation of restraining or other court order under Nebraska Juvenile Code
44-3,156	Violations of provisions permitting purchase of workers' compensation insurance by associations
44-1209	Reciprocal insurance, violations by attorney in fact
45-208	Violation of maximum rate of time-price differential, revolving charge agreements
45-343	Installment sales, failure to obtain license
45-343	Violation of Nebraska Installment Sales Act
45-747	Engaging in mortgage banking or mortgage loan originating without a license or registration
45-814	Violation of Credit Services Organization Act
45-1037	Violations regarding installment loans
46-254	Interfering with closed waterworks, taking water without authority
46-263.01	Molesting or damaging water flow measuring devices
46-807	Unlawful diversion or drainage of natural lakes
46-1119	Violation of emergency permit provisions of Nebraska Chemigation Act
46-1139	Unlawfully engaging in chemigation without a chemigation permit
46-1140	Unlawfully engaging in chemigation with a suspended or revoked chemigation permit
46-1239	Violating the licensure requirements of Water Well Standards and Contractors' Practice Act
48-144.04	Failing, neglecting, or refusing to file reports required by Nebraska Workers' Compensation Court
48-146.03	Unlawfully requiring employee to pay deductible amount under workers' compensation policy or requiring or attempting to require employee to give up right of selection of physician
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

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48-424	Violations involving health and safety regulations
48-434	Violations of safety requirements in construction of buildings
48-437	Unauthorized manipulation of overhead high voltage conductors or other components
48-645	Unlawful waiver of or deductions for unemployment compensation or discrimination in hire or tenure
48-910	Violation of laws relating to secondary boycotts
48-1714	Violation by farm labor contractor or applicant for farm labor contractor license
48-1714	Violations related to farm labor contractor licenses
48-1816	Violation of Nebraska Amusement Ride Act
48-2533	Install a conveyance in violation of Conveyance Safety Act
50-1215	Obstruct, hinder, delay, or mislead a legislative performance audit or preaudit inquiry
52-124	Failure to discharge construction liens, failure to apply payments for lawful claims
53-111	Nebraska Liquor Control Commission, gifts or gratuities forbidden
53-164.02	Evasion of liquor tax
53-186.01	Permitting consumption of liquor in unlicensed public places, second or subsequent offense
53-187	Nonbeverage liquor licensee giving or selling liquor fit for beverage purposes, second or subsequent offense
53-1,100	Violation of Nebraska Liquor Control Act, second or subsequent offense
54-1,125	Using false evidence of ownership of livestock
54-1,126	Violation of Livestock Brand Act when not otherwise specified
54-415	Estrays, illegal sale, disposition of proceeds
54-706.05	Interfere with or obstruct inspections or tests under Bovine Tuberculosis Act
54-706.08	Prevent testing of or remove animal quarantined under Bovine Tuberculosis Act
54-706.10	Interfere with or obstruct confining of affected herds or examinations or tests under Bovine Tuberculosis Act
54-706.17	Other violation of Bovine Tuberculosis Act or rules and regulations
54-750	Harboring or prohibited sale of diseased animals, first offense
54-751	Violation of rules and regulations relating to Exotic Animal Auction or Exchange Venue Act or provisions on diseased animals and disposal of carcasses, first offense
54-752	Violation of Exotic Animal Auction or Exchange Venue Act or provisions relating to diseased animals and disposal of carcasses, first offense
54-796	Violation of Animal Importation Act, second or subsequent offense
54-861	Violation of Commercial Feed Act, second or subsequent offense
54-1171	Violation of Livestock Auction Market Act
54-1181.01	Person engaging in livestock commerce violating veterinarian inspection provisions
54-1811	Illegal purchase of slaughter livestock
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

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54-22,100	Violation of Pseudorabies Control and Eradication Act, second or subsequent offense
54-2323	Violation of Domesticated Cervine Animal Act, second or subsequent offense
54-2761	Violation of Scrapie Control and Eradication Act, second or subsequent offense
55-142	Trespassing on place of military duty, obstructing person in military duty, disrupting orderly discharge of military duty, disturbing or preventing passage of military troops
55-175	Refusal by restaurant, hotel, or public facility to serve person wearing prescribed National Guard uniform
55-428	Code of military justice, witness failure to appear
57-915	Violation of oil and gas conservation laws
60-3,167	Operating or allowing the operation of motor vehicle or trailer without proof of financial responsibility
60-4,108	Operating motor vehicle in violation of court order or while operator's license is revoked or impounded, first, second, or third offense
60-4,109	Operating motor vehicle in violation of court order or while operator's license is revoked or impounded for violation of city or village ordinance
60-4,141.01	Operating commercial motor vehicle while operator's license is suspended, revoked, or canceled or while subject to disqualification or an out-of-service order
60-690	Aiding or abetting a violation of Nebraska Rules of the Road
60-696	Failure of driver to stop and report a motor vehicle accident, first offense in 12 years
60-6,130	Unlawful removal or possession of sign or traffic control or surveillance device
60-6,130	Willfully or maliciously injuring, defacing, altering, or knocking down any sign, traffic control device, or traffic surveillance device
60-6,195	Speed competition or drag racing on highways
60-6,217	Reckless driving or willful reckless driving, second offense
60-6,288.01	Failure to notify local authorities prior to moving a building or object over a certain size on a county or township road
60-6,299	Violation of or failure to obtain permit to move building or other object on highway
60-6,336	Snowmobile contest on highway without permission, second or subsequent offense within one year
60-6,343	Violation of provisions relating to snowmobiles, second or subsequent offense within one year
60-6,362	Violation of all-terrain vehicle requirements, second or subsequent offense within one year
60-1911	Violating laws relating to abandoned 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
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

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	sales of unstamped cigarettes or cigarettes from manufacturer not in directory, second or subsequent offense
69-2709	Knowing or intentional cigarette sales or purchases from unlicensed stamping agent or without appropriate stamp or reporting requirements, second or subsequent offense
71-962	Filing petition with false allegations or depriving a subject of rights under Nebraska Mental Health Commitment Act or Sex Offender Commitment Act
71-962	Willful violation involving records under Nebraska Mental Health Commitment Act or Sex Offender Commitment Act
71-15,141	Approve, sign, or file a local housing agency annual report which is materially false or misleading
71-1805	Sale and distribution of pathogenic microorganisms
71-2416	Violation of Emergency Box Drug Act
71-2482	Violation involving adulterated or misbranded drugs, second or subsequent offense
71-2512	Violation of Poison Control Act when not otherwise specified, second offense
71-3213	Violation of laws pertaining to private detectives
72-245	Waste, trespass, or destruction of trees on school lands
72-313	Violation of mineral or water rights on state lands
72-802	Violation of plans, specifications, bids, or appropriations on public buildings
75-127	Unjust discrimination or prohibited practices in rates by officers, agents, or employees of a common carrier
75-428	Failure of railroad to provide transfer facilities at intersections upon order of 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 employees retirement system
79-992.02	False or fraudulent acts to defraud the school employees retirement system of a Class V school district
79-9,107	Illegal interest in investment of school employees retirement system funds
80-405	Obtaining veterans relief by fraud
81-2,162.17	Violation of Nebraska Commercial Fertilizer and Soil Conditioner Act
81-885.45	Acting as real estate broker, salesperson, or subdivider without license or certificate or under suspended license or certificate

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CLASS II MISDEMEANOR

81-8,254	Obstruct, hinder, or mislead Public Counsel in inquiries
81-1023	Use of improperly marked or equipped state-owned vehicle
81-1117.03	Prohibited release of state computer file data
81-1933	Truth and deception examination, unlawful use by employer
81-1935	Violation of provisions on truth and deception examinations
81-2038	False or fraudulent acts to defraud the Nebraska State Patrol Retirement System
81-3535	Unauthorized practice of geology, first offense
84-305.01	Willfully obstruct, hinder, delay, or mislead the Auditor of Public Accounts in accessing records or information of a public entity when conducting an audit, examination, or related activity
84-1327	False or fraudulent acts to defraud the State Employees Retirement System
85-1650	Violating private postsecondary career school provisions
86-607	Discrimination in rates by telegraph companies
86-608	Failure by telegraph companies to provide newspapers equal facilities
87-303.08	Violation of Uniform Deceptive Trade Practices Act when not otherwise specified

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
3-408	Violation of provisions regulating obstructions to aircraft by structures or towers
3-504	Violation of city airport authority regulations
3-613	Violation of county airport authority regulations
4-106	Alien elected to office in labor or educational organization
7-101	Unauthorized practice of law
8-127	Violation of inspection provisions for list of bank stockholders
8-142	Bank officer, employee, director, or agent violating loan limits by \$10,000 or more but less than \$20,000 or resulting in monetary loss of less than \$10,000 to bank or no monetary loss
8-1,119	Violation of Nebraska Banking Act when not otherwise specified
8-2745	Violation of Nebraska Money Transmitters Act, other than acting without license or intentionally falsifying records
9-230	Unlawfully conducting or awarding a prize at a bingo game, first offense
9-422	Unlawfully conducting a lottery or raffle
12-1205	Failing to report the presence and location of human skeletal remains or burial goods associated with an unmarked human burial
13-1617	Violation of confidentiality requirements of Political Subdivisions Self-Funding Benefits Act
14-224	City council, officers, and employees receiving or soliciting gifts

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CLASS III MISDEMEANOR

14-2149	Violations relating to gas and water utilities in cities of the metropolitan class
18-305	Telephone company providing special rates to city or village officer or such officer accepting special rates
18-306	Electric company providing special rates to city or village officer
18-307	City or village officer accepting electric service at special rates
18-308	Water company providing special rates to city or village officer or such officer accepting special rates
18-1741.05	Failure to appear or comply with handicapped parking citation
18-2715	Unauthorized disclosure of confidential business information under city ordinance pursuant to Local Option Municipal Economic Development Act
19-2906	Disclosures by accountant of results of examination of municipal accounts
20-129	Interfering with rights of blind, deaf, or physically disabled persons and with admittance to or enjoyment of public facilities
20-129	Interfering with rights of a service animal trainer and with admittance to or enjoyment of public facilities
21-622	Illegal use of society emblems
23-114.05	Violation of county zoning regulations
23-135.01	False claim against county when value is less than \$500
23-350	Failing to file or filing false or incorrect inventory statement by county officers or members of county board
28-201	Criminal attempt to commit a Class II misdemeanor
28-384	Failure to make report under Adult Protective Services Act
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
28-444	Drug paraphernalia advertisement prohibited
28-445	Manufacture or delivery of an imitation controlled substance, first offense
28-450	Unlawful sale, distribution, or transfer of ephedrine, pseudoephedrine, or phenylpropanolamine for use as a precursor to a controlled substance or with reckless disregard as to its use
28-456.01	Purchase, receive, or otherwise acquire pseudoephedrine base or phenylpropanolamine base over authorized limits, second or subsequent offense
28-514	Theft of lost, mislaid, or misdelivered property when value is \$500 or less, first offense
28-515.02	Theft of utility service and interference with utility meter
28-516	Unauthorized use of a propelled vehicle, first offense
28-519	Criminal mischief, pecuniary loss of less than \$500
28-521	Criminal trespass in the second degree (certain situations)

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CLASS III MISDEMEANOR

28-523	Littering, first offense
28-524	Unauthorized application of graffiti, first offense
28-604	Criminal possession of forged instrument, face value less than \$500
28-606	Criminal simulation of antiquity, rarity, source, or composition
28-609	Impersonating a public servant
28-621	Criminal possession of one financial transaction device
28-633	Printing more than the last 5 digits of a payment card account number upon a receipt provided to payment card holder, first offense
28-717	Willful failure to report abused or neglected children
28-730	Unlawful disclosures by a child abuse and neglect team member
28-902	Failure to report 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 or cigarette, vapor, or alternative nicotine products to minors
28-1420	Sale or purchase for resale of tobacco without license
28-1425	Licensee selling or furnishing tobacco or cigarette, vapor, or alternative nicotine products to minors
28-1429.02	Dispensing cigarettes or other tobacco products or vapor or alternative nicotine products from vending machines or similar devices in certain

APPENDIX

CLASS III MISDEMEANOR

	locations
28-1429.03	Sell or distribute cigarettes, cigars, vapor products, alternative nicotine products, or tobacco in any form whatever through a self-service display
28-1467	Operation of aircraft while under the influence of alcohol or drugs, first offense
28-1468	Operation of aircraft while under the influence of alcohol or drugs, second offense
28-1478	Deceptive or misleading advertising
29-817	Disclosing of search warrant prior to its execution
29-835	Refusing to permit, interfering with, or preventing inspection pursuant to inspection warrant
29-4110	Unlawful possession of DNA samples or records
29-4111	Unlawful disclosure of DNA samples or records
32-1501	Interfering or refusing to comply with election requirements of Secretary of State
32-1505	Deputy registrar drinking liquor at or bringing liquor to place of voter registration
32-1506	Theft, destruction, removal, or falsification of voter registration and election records
32-1510	Hindering voter registration
32-1511	Obstructing deputy registrars at voter registration
32-1513	Bribery involving candidate filing forms and nominating petitions
32-1515	Wrongfully or willfully suppressing election nomination papers
32-1517	Service as election official, threat of discharge or coercion by employer
32-1519	Misconduct or neglect of duty by election official
32-1521	Printing or distribution of election ballots by other than election officials
32-1528	Voting outside of resident precinct, school district, or village
32-1549	Failing to appear or comply with citation issued under Election Act
35-520	False alarm or report of fire in rural fire protection district or area
35-801	Knowingly accepting, transferring, selling, or offering to sell or purchase firefighting clothing or equipment which does not meet standards
37-248	Violation of Game Law when not otherwise specified
37-314	Violation of rules, regulations, and commission orders under Game Law regarding seasons and other restrictions on taking wildlife
37-336	Violation of provisions for state wildlife management areas
37-348	Violation of provisions for state park system
37-406	Duplication of electronically issued license, permit, or stamp under Game Law
37-410	Obtaining permit to hunt, fish, or harvest fur by false pretenses or misuse of permit
37-410	Receipt of fur-harvesting permit by nonresident less than 16 years old without written parental permission
37-450	Violation of rules and regulations under Game Law regarding hunting elk
37-451	Violation of rules and regulations under Game Law regarding hunting mountain sheep
37-461	Violating permit to take or destroy muskrats or beavers or selling or using muskrats, beavers, or parts thereof without permit
37-462	Performing taxidermy services without permit and failure to keep complete records
37-501	Taking or possessing a greater number of game than allowed under Game Law

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CLASS III MISDEMEANOR

37-504	Hunting, trapping, or possessing animals or birds out of season
37-504	Unlawfully taking or possessing game other than elk
37-505	Unlawful purchase, sale, or barter of animals, birds, or fish or parts thereof
37-507	Abandonment, waste, or failure to dispose of fish, birds, or animals
37-508	Storing game or fish in cold storage after prescribed storage season or without proper tags
37-510	Violating game shipment requirements
37-511	Violating importation restrictions on game shipments
37-512	Violating regulations relating to the shipment of raw fur
37-513	Shooting at wildlife from highway
37-514	Hunting wildlife with artificial light
37-515	Hunting, driving, or stirring up game birds or animals with aircraft or boat
37-521	Use of aircraft, vessel, vehicle, or other equipment to harass certain game animals
37-522	Carrying loaded shotgun in or on vehicle on highway
37-523	Unlawful hunting with a rifle within 200 yards of inhabited dwelling or livestock feedlot
37-523	Unlawful hunting without a rifle or trapping within 100 yards of inhabited dwelling or livestock feedlot
37-523	Unlawful trapping within 200 yards of livestock passage
37-524.02	Refusal to permit inspection, decontamination, or treatment of conveyance for aquatic invasive species
37-525	Taking game birds or game animals during closed season while training or running dogs
37-525	Running dogs on private property without permission
37-526	Unlawful use or possession of ferrets
37-531	Unlawful use of explosive traps or poison gas on wild animals
37-532	Setting an unmarked trap
37-533	Violating restrictions on hunting fur-bearing animals and disturbing their nests, dens, and holes
37-535	Hunting game from propelled boat or watercraft
37-536	Hunting game birds with certain weapons
37-537	Baiting game birds
37-538	Hunting game birds from vehicle
37-539	Taking or destroying nests or eggs of game birds
37-543	Unlawful taking of fish
37-545	Unlawful removal of fish from privately owned pond and violations of commercial fishing permits
37-546	Unlawful taking, use, or possession of baitfish
37-548	Release, importation, exportation, or commercial exploitation of wildlife or aquatic invasive species
37-552	Failure to maintain fish screens in good repair
37-557	Disturbing hatching boxes and nursery ponds
37-570	Knowing and intentional interference or attempt to interfere with hunting, trapping, fishing, or associated activity
37-605	Failure to appear on an alleged violation of Game Law
37-703	Defacing a sign at a game reserve, bird refuge, or wild fowl sanctuary
37-705	Disturbing or otherwise violating provisions relating to reserves, sanctuaries, and closed waters
37-709	Hunting, carrying firearms, or operating a motorboat in state game refuges
37-727	Violation of provisions for hunting, fishing, or trapping on privately

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	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 Transportation
39-310	Depositing materials on roads or ditches, first offense
39-311	Placing burning materials or items likely to cause injury on highways, first offense
39-806	Destroying bridge or landmark
39-1335	Illegal use of adjoining property for access to state highway
39-1362	Digging up or crossing state highway
39-1412	Loads exceeding posted capacity on county bridges
39-1806	Refusal of access to lands for placement of snow fences, willful or malicious damage thereto
39-1810	Livestock lanes, driving livestock on adjacent highways
39-1815	Leaving gates open on road over private property
43-257	Detaining or placing a juvenile in violation of certain Nebraska Juvenile Code provisions
43-709	Illegal placement of children
43-1310	Unauthorized disclosure of confidential information regarding foster children and their parents or relatives
43-1414	Violation of genetic paternity testing provisions, second or subsequent offense
43-3001	Public disclosure of confidential information received concerning a child who is or may be in state custody
43-3327	Unauthorized disclosure or release of confidential information regarding a child support order
43-3714	Violation of confidentiality provisions of Court Appointed Special Advocate Act
44-394	Violation of Chapter 44 when not otherwise specified
44-530	Violation of Standardized Health Claim Form Act
44-1113	Violation of Viatical Settlements Act
44-3721	Violation of Motor Club Services Act
44-5508	Surplus lines licensee placing coverage with a nonadmitted insurer or placing nonadmitted insurance with or procuring nonadmitted insurance from a nonadmitted insurer
45-601	Operating a collection agency business without a license or violation of Collection Agency Act
45-740	Residential mortgage loan violations by licensee
45-1023	Making a false statement to secure a loan
46-263	Neglecting or preventing delivery of irrigation water
46-1142	Failure to provide notice of a chemigation accident

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CLASS III MISDEMEANOR

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
49-1492	Prohibited practices of a lobbyist
49-1492.01	Violation of gift reporting requirements by certain entities

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49-14,101	Conflicts of interest, prohibited acts of public official, employee, candidate, and other individuals
49-14,101.01	Public official or employee using office, confidential information, personnel, property, or funds for financial gain or improperly using public communication system or public official or immediate family member accepting gift of travel or lodging if made for immediate family member to accompany the public official
49-14,103.04	Knowing violation of conflict of interest prohibitions
49-14,104	Official or full-time employee of executive branch representing a person or acting as an expert witness
49-14,115	Unlawful disclosure of confidential information by member or employee of Nebraska Accountability and Disclosure Commission
49-14,135	Violation of confidentiality of proceedings of Nebraska Accountability and Disclosure Commission
50-1213	Divulging confidential information or records relating to a legislative performance audit or preaudit inquiry
50-1214	Taking personnel action against a state employee providing information pursuant to Legislative Performance Audit Act
53-167.02	Violations relating to beer keg identification numbers
53-167.03	Tamper with, alter, or remove beer keg identification number or possess beer container with altered or removed keg identification number
53-180.05	Misrepresentation of age by minor to obtain or attempt to obtain alcoholic liquor
53-180.05	Minor over 18 years old and under 21 years old in possession of alcoholic liquor
53-180.05	Parent or guardian knowingly permitting minor to violate alcoholic liquor laws
53-181	Minor 18 years old or younger in possession of alcoholic liquor
53-186.01	Consumption of liquor in unlicensed public places
54-796	Violation of Animal Importation Act, first offense
54-904	Indecency with a livestock animal
54-1711	Livestock dealer violating provisions of Nebraska Livestock Dealer Licensing Act
54-1913	Meat and poultry inspector, officer, or employee accepting bribes
54-2288	Violation of quarantine requirements under Pseudorabies Control and Eradication Act, first offense
57-507	Unlawful use of liquefied petroleum gas cylinders
57-1106	Willfully and maliciously breaking, injuring, damaging, or interfering with oil or gas pipeline, plant, or equipment
60-142	Using a bill of sale for a parts vehicle to transfer ownership of any vehicle other than a parts vehicle
60-180	Prohibited acts relating to certificates of title for motor vehicles, all-terrain vehicles, or minibikes
60-3,113.07	Knowingly provide false information on an application for a handicapped or disabled parking permit
60-3,170	Violation of Motor Vehicle Registration Act when not otherwise specified
60-3,171	Fraud in registration of motor vehicle or trailer
60-3,176	Disclosure of information regarding undercover license plates to unauthorized individual
60-3,206	Violation of International Registration Plan Act
60-480.01	Disclosure of information regarding undercover drivers' licenses to

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CLASS III MISDEMEANOR

	unauthorized individual
60-4,108	Operating motor vehicle while operator's license is suspended or after revocation or impoundment but before licensure
60-4,109	Operating motor vehicle while operator's license is suspended or after revocation or impoundment but before licensure for violation of city or village ordinance
60-4,111	Violation of Motor Vehicle Operator's License Act when not otherwise specified
60-4,118	Failure to surrender operator's license or appear before examiner regarding determination of physical or mental competence
60-4,140	Commercial driver, multiple operators' licenses
60-4,141	Operation of commercial motor vehicle outside operator's license or permit classification
60-4,146.01	Violation of privileges conferred by commercial drivers' licenses
60-4,159	Commercial driver, failure to provide notifications relating to conviction or disqualification
60-4,161	Commercial driver, failure to provide information to prospective employer
60-4,162	Employer failing to require information or allowing commercial driver to violate highway-rail grade crossing, out-of-service order, or licensing provisions
60-4,170	Failure to surrender commercial driver's license or CLP-commercial learner's permit
60-4,179	Violation of driver training instructor or school provisions
60-4,184	Failure to surrender operator's license for loss of license under point system
60-4,186	Illegal operation of motor vehicle under period of license revocation for loss of license under point system
60-558	Failure to return motor vehicle license or registration to Department of Motor Vehicles for violation of financial responsibility provisions
60-560	Violation of Motor Vehicle Safety Responsibility Act when not otherwise specified
60-678	Operation of vehicles in certain public places where prohibited, where not permitted, without permission, or in a dangerous manner
60-690	Aiding or abetting a violation of Nebraska Rules of the Road
60-6,110	Failing to obey lawful order of law enforcement officer given under Nebraska Rules of the Road to apprehend violator
60-6,130	Willful damage or destruction of road signs, monuments, traffic control or surveillance devices by shooting upon highway
60-6,211.11	Operating a motor vehicle with an ignition interlock device in violation of court order or Department of Motor Vehicles order unless otherwise specified
60-6,215	Reckless driving, first offense
60-6,216	Willful reckless driving, first offense
60-6,222	Violations in connection with headlights and taillights
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

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60-6,291	Exceeding limitations on width, length, height, or weight of motor vehicles when not otherwise specified
60-6,303	Refusal to weigh vehicle or lighten load
60-6,336	Snowmobile contest on highway without permission, first offense within one year
60-6,343	Violation of provisions relating to snowmobiles, first offense within one year
60-6,352	Illegal operation of minibikes on state highway
60-6,353	Operating a minibike in a place, at a time, or in a manner not permitted by regulatory authority
60-6,362	Violation of all-terrain vehicle requirements, first offense within one year
60-1307	Failing to appear at hearing for violations discovered at weigh stations
60-1308	Failure to comply with weigh station requirements
60-1309	Resisting arrest or disobeying order of carrier enforcement officer at weigh station
60-1418	Violating conditions of a motor vehicle sale
62-304	Limitation upon negotiation of tuition notes or contracts of business colleges
64-105.03	Unauthorized practice of law by notary public
66-107	Illegal use of containers for gasoline or kerosene
68-314	Unlawful use and disclosure of books and records of Department of Health and Human Services
68-1017	Obtaining through fraud assistance to aged, blind, or disabled persons, aid to dependent children, or supplemental nutrition assistance program benefits when value is \$500 or more but less than \$1,500
68-1017.01	Unlawful use, alteration, or transfer of supplemental nutrition assistance program benefits when value is \$500 or more but less than \$1,500
68-1017.01	Unlawful possession or redemption of supplemental nutrition assistance program benefits when value is \$500 or more but less than \$1,500
69-2012	Violation of Degradable Products Act
69-2443	Carrying concealed handgun at prohibited site or while under the influence, first offense
69-2443	Failure to report discharge of concealed handgun, first offense
69-2443	Failure to carry or display concealed handgun permit, first offense
69-2443	Failure to inform peace officer of concealed handgun, first offense
69-2709	Selling, possessing, or distributing cigarettes in violation of stamping requirements
71-220	Violation of barbering provisions
71-506	Willful or malicious disclosure of confidential reports, notifications, and investigations relating to communicable diseases
71-542	Unauthorized disclosure of confidential immunization information
71-613	Violation of provisions on vital statistics
71-1371	Violation of Cremation of Human Remains Act
71-1631.01	Violating regulation for protecting public health and preventing communicable diseases
71-1905	Violations regarding children in foster care
71-2228	Illegal receipt of food supplement benefits when value is \$500 or more but less than \$1,500
71-2229	Using, altering, or transferring food instruments or food supplements when value is \$500 or more but less than \$1,500
71-2229	Illegal possession or redemption of food supplement benefits when value

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	is \$500 or more but less than \$1,500
71-2482	Violation involving adulterated or misbranded drugs, first offense
71-2482	Violation of provisions relating to drugs which are not controlled substances
71-2510.01	Use of arsenic or strychnine in embalming fluids, violations of labeling requirements
71-2512	Violation of Poison Control Act when not otherwise specified, first offense
71-4632	Mobile home parks established, conducted, operated, or maintained without license, nuisance
71-6741	Violation of Medication Aide Act
71-6907	Performing an abortion in violation of parental consent provisions, knowingly and intentionally or with reckless disregard
71-6907	Unauthorized person providing consent for an abortion
71-6907	Coercing a pregnant woman to have an abortion
74-609.01	Hunting on railroad right-of-way without permission
74-1331	Failure to construct, maintain, and repair railroad bridges in compliance with law
75-114	Refusal to allow access to 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 or real property associate
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
81-829.41	Unauthorized release of information from emergency management registry
81-8,127	Unlawful practice of land surveying or use of title
81-8,142	Violation of provisions relating to the State Athletic Commissioner
81-8,205	Unlawful practice as a professional landscape architect
81-1508.01	Knowing and willful violation of Environmental Protection Act, Integrated Solid Waste Management Act, or Livestock Waste Management Act when not otherwise specified
81-2008	Failure to obey rules or orders of or resisting arrest by Nebraska State Patrol
82-111	Destroy, deface, remove, or injure monuments marking Oregon Trail

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CLASS III MISDEMEANOR

82-507	Knowingly and willfully appropriate, excavate, injure, or destroy any archaeological resource on public land without written permission from the State Archaeology Office
82-508	Enter or attempt to enter upon the lands of another without permission and intentionally appropriate, excavate, injure, or destroy any archaeological resource or any archaeological site
84-311	Disclosure of restricted information by the Auditor of Public Accounts or an employee of the auditor
84-316	Taking personnel action against a state or public employee for providing information to the Auditor of Public Accounts
84-712.09	Violation of provisions for access to public records
84-1213	Mutilation, transfer, removal, damage, or destruction of or refusal to return government records
84-1414	Unlawful action by members of public bodies in public meetings, second or subsequent offense
86-290	Intercepting or interfering with certain wire, electronic, or oral communication
86-606	Unlawful delay or disclosure of telegraph dispatches
89-1,101	Violation of Weights and Measures Act or order of Department of Agriculture, first offense
90-104	Use of state banner as advertisement or trademark

CLASS IIIA MISDEMEANOR

Maximum—seven days' imprisonment, five hundred dollars' fine, or both

Minimum—none

28-416	Knowingly or intentionally possessing one ounce or less of marijuana or any substance containing a quantifiable amount of a material, compound, mixture, or preparation containing any quantity of synthetically produced cannabinoids, third or subsequent offense
53-173	Knowingly or intentionally possessing powdered alcohol, third or subsequent offense
54-623	Owning a dangerous dog within 10 years after conviction of violating dangerous dog laws
54-623	Dangerous dog attacking or biting a person when owner of dog has a prior conviction for violating dangerous dog laws
60-690	Aiding or abetting a violation of Nebraska Rules of the Road
60-6,196.01	Driving under the influence with a prior felony DUI conviction
60-6,275	Operating or possessing radar transmission device while operating motor vehicle
60-6,378	Failure to move over, proceed with due care and caution, or follow officer's directions when passing a stopped emergency or road assistance vehicle, second or subsequent offense
77-2704.33	Failure of a contractor or taxpayer to pay certain sales taxes of less than \$300
79-1602	Transmitting or providing for transmission of false school information when electing not to meet school accreditation or approval requirements
89-1,107	Use of a grain moisture measuring device which has not been tested
89-1,108	Violation of laws on grain moisture measuring devices

CLASS IV MISDEMEANOR

Maximum—no imprisonment, five hundred dollars' fine

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CLASS IV MISDEMEANOR

Minimum—none

2-220.03	Failure to file specified security or certificates by carnival companies, booking agencies, or shows for state and county fairs
2-957	Unlawful movement of article through which noxious weeds may be disseminated
2-963	Violation of provisions relating to weed control
2-10,115	Specified violations of Plant Protection and Plant Pest Act, first offense
2-1207	Knowingly aiding or abetting a minor to make a parimutuel wager
2-1806	Engaging in business as a potato shipper without a license
2-1807	Failure by potato shipper to file statement or pay tax
2-3109	Violation of Nebraska Soil and Plant Analysis Laboratory Act when not otherwise specified
2-3223.01	Failure to file audit of natural resources district
2-4327	Violation of Agricultural Liming Materials Act, first offense
3-330	Violation of Airport Zoning Act
9-513	Violation of Nebraska Small Lottery and Raffle Act, first offense
9-814	Purchase of state lottery ticket by person less than 19 years old
12-512.07	Violations in administering perpetual care trust funds for cemeteries
12-617	Violation relating to perpetual care trust funds for public mausoleums and other burial structures
12-1115	Failure to surrender a license under Burial Pre-Need Sale Act
14-415	Violation of building ordinance or regulations in city of the metropolitan class, first or second offense
19-1847	Violation of Civil Service Act
20-149	Failure of consumer reporting agency to provide reports to consumers, protected consumers, or representatives
23-387	Violation of provisions relating to community antenna television service
23-919	Violation of County Budget Act of 1937
23-1507	Failure of register of deeds to perform duties
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
28-1357	Distribute or sell a novelty lighter without a child safety feature

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CLASS IV MISDEMEANOR

28-1405	Failure to acquire locksmith registration certificate
29-3527	Unlawful access to or dissemination of criminal history record information
32-1507	Elections, false representation of political party affiliation
32-1517	Refusing to serve as election official
32-1520	Printing or distribution of illegal ballots
32-1547	Elections, filing for more than one elective office
36-213.01	Unlawful assignment or notice of assignment of wages of head of family
37-403	Violation of farm or ranch land hunting permit exemption
37-463	Dealing in raw furs without fur buyer's permit, failure to keep complete records of furs bought or sold
37-471	Violation relating to aquatic organisms raised under an aquaculture permit
37-482	Keeping wild birds or animals in captivity without permit
37-4,103	Unlawfully taking, maintaining, or selling raptors
37-524	Importation, possession, or release of certain wild or nonnative animals or aquatic invasive species
37-528	Administering a drug to wildlife
37-558	Placing harmful matter into waters stocked by Game and Parks Commission
37-1238.02	Failure of vessel to comply with order of officer to stop
37-1271	Violation of certain provisions of State Boat Act
38-28,115	Violation of Nebraska Drug Product Selection Act or rules and regulations under the 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 of more than \$250

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CLASS IV MISDEMEANOR

49-1474.01	Violation of distribution requirements for political material
53-149	Providing false information regarding alcohol retailer's accounts with alcoholic liquor wholesale licensee in connection with sale of retailer's business
53-173	Knowingly or intentionally possessing powdered alcohol, second offense
53-186.01	Permitting consumption of liquor in unlicensed public places, first offense
53-187	Nonbeverage liquor licensee giving or selling liquor fit for beverage purposes, first offense
53-194.03	Importation of alcohol for personal use in certain quantities
53-1,100	Violation of Nebraska Liquor Control Act, first offense
54-315	Leaving well or pitfall uncovered, failure to decommission inactive well
54-613	Allowing dogs to run at large, damage property, injure persons, or kill animals
54-622	Violation of restrictions on dangerous dogs
54-753.04	Unlawful feeding of garbage to animals
54-861	Violation of Commercial Feed Act, first offense
54-861	Improper use of trade secrets in violation of Commercial Feed Act
54-909	Violating court order not to own or possess a livestock animal after the date of conviction for indecency with a livestock animal, first offense cruel mistreatment of an animal, or intentionally, knowingly, or recklessly abandoning or cruelly neglecting livestock animal not resulting in serious injury or illness or death of the livestock animal
54-1371	Failure by owner to carry out brucellosis testing responsibilities
54-1377	Diversion of livestock from particular destination without permission or removing or altering livestock identification for such purposes
54-1384	Violation of Nebraska Bovine Brucellosis Act when not otherwise specified
54-1605	Violation of accreditation provisions for specific pathogen-free swine
54-22,100	Violation of Pseudorabies Control and Eradication Act, first offense
54-2323	Violation of Domesticated Cervine Animal Act, first offense
54-2612	Unlawful sale of swine by packer
54-2615	False reporting of swine by packer
54-2622	Unlawful sale of cattle by packer
54-2625	False reporting of cattle by packer
54-2761	Violation of Scrapie Control and Eradication Act, first offense
55-165	Discriminating against an employee who is a member of the reserve military forces
55-166	Discharging employee who is a member of the National Guard or armed forces of the United States for military service
57-516	Violation of provisions relating to sale of liquefied petroleum gas
57-719	Violating or aiding and abetting violations of oil and gas severance tax laws
57-1213	Failure or refusal to make uranium severance tax return or report
60-3,168	Failure to have and keep liability insurance or other proof of financial responsibility on motor vehicle
60-3,169	Unauthorized use of vehicle registered as farm truck
60-3,172	Registration of motor vehicle or trailer in location other than that authorized by law
60-3,173	Improper increase of gross weight or failure to pay registration fee on commercial trucks and truck-tractors
60-3,174	Improper use of a vehicle with a special equipment license plate

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CLASS IV MISDEMEANOR

60-4,129	Violation involving use of an employment driving permit
60-4,130	Failure to surrender an employment driving permit
60-4,130.01	Violation involving use of a medical hardship driving permit
60-690	Aiding or abetting a violation of Nebraska Rules of the Road
60-6,175	Improperly passing a school bus with warning signals flashing or stop signal arm extended
60-6,197.01	Failure to report unauthorized use of immobilized vehicle
60-6,292	Violation of requirements for extra-long vehicle combinations
60-6,302	Unlawful repositioning fifth-wheel connection device of truck-tractor and semitrailer combination
60-6,304	Operation of vehicle improperly constructed or loaded or with cargo or contents not properly secured
60-6,304	Spilling manure or urine from an empty livestock vehicle in a city of the metropolitan class
60-1407.02	Unauthorized use of sales tax permit relating to sale of vehicle or trailer
63-103	Printing copies of a publication in excess of the authorized quantity
66-495.01	Unlawfully using or selling diesel fuel or refusing an inspection
66-6,115	Fueling a motor vehicle with untaxed compressed fuel
66-727	Failure to obtain license as required under motor fuel tax laws
66-727	Failure to produce motor fuel license or permit for inspection
66-1521	Sell, distribute, deliver, or use petroleum as a producer, refiner, importer, distributor, wholesaler, or supplier without a license
68-1017	Obtaining through fraud assistance to aged, blind, or disabled persons, aid to dependent children, or supplemental nutrition assistance program benefits when value is less than \$500
68-1017.01	Unlawful use, alteration, or transfer of supplemental nutrition assistance program benefits when value is less than \$500
68-1017.01	Unlawful possession or redemption of supplemental nutrition assistance program benefits when value is less than \$500
69-1808	Violation of American Indian Arts and Crafts Sales Act
69-2709	Knowing or intentional cigarette sales report, tax, or stamp violations or sales of unstamped cigarettes or cigarettes from manufacturer not in directory, first offense
69-2709	Knowing or intentional cigarette sales or purchases from unlicensed stamping agent or without appropriate stamp or reporting requirements, first offense
71-1563	Modular housing unit sold or leased without official seal
71-1613	Violation of provisions relating to district health boards
71-1914.03	Providing unlicensed child care when a license is required
71-2096	Interfere with enforcement of provisions relating to health care facility receivership proceedings
71-2228	Illegal receipt of food supplement benefits when value is less than \$500
71-2229	Using, altering, or transferring food instruments or food supplements when value is less than \$500
71-2229	Illegal possession or redemption of food supplement benefits when value is less than \$500
71-3517	Violation of Radiation Control Act
71-4632	Mobile home parks established, conducted, operated, or maintained without license
71-5312	Violation of Nebraska Safe Drinking Water Act
71-5733	Smoking in place of employment or public place, second or subsequent

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CLASS IV MISDEMEANOR

	offense
71-5733	Proprietor violating Nebraska Clean Indoor Air Act, second or subsequent offense
71-5870	Engaging in activity prohibited by Nebraska Health Care Certificate of Need Act
71-8711	Disclose actions, decisions, proceedings, discussions, or deliberations of patient safety organization meeting
73-105	Violation of laws on public lettings
74-1323	Failure to comply with order by Public Service Commission to store or park railroad cars safe distance from crossing
75-117	Refusal to comply with an order of 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
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

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CLASS V MISDEMEANOR

	resources district recreation area
2-3293	Smoking and use of fire or fireworks in a natural resources district recreation area
2-3294	Pets or other animals in a natural resources district recreation area
2-3295	Hunting, fishing, trapping, or using weapons in a natural resources district recreation area
2-3296	Conducting prohibited water-related activities in a natural resources district recreation area
2-3297	Destruction or removal of property, constructing a structure, or trespassing in a natural resources district recreation area
2-3298	Abandoning vehicle in a natural resources district recreation area
2-3299	Unauthorized sale or trading of goods in a natural resources district recreation area
2-32,100	Violation of traffic rules in a natural resources district recreation area
2-3974	Violation of Nebraska Milk Act or impeding or attempting to impede enforcement of the act
7-111	Practice of law by certain judges, clerks, sheriffs, or other officials
8-113	Unauthorized use of the word "bank"
8-114	Unauthorized conduct of banking business
8-226	Unauthorized use of the words "trust", "trust company", "trust association", or "trust fund"
8-305	Unauthorized use of "building and loan" or "savings and loan" or any combination of such words in corporate name
8-829	Collecting certain charges on personal loans by banks and trust companies
13-510	Illegal obligation of funds in county budget during emergency
16-230	Violation of ordinances regulating drainage, litter, and growth of grass, weeds, and worthless vegetation
17-563	Violation of ordinances regulating drainage, litter, and growth of grass, weeds, and worthless vegetation
18-312	Cities, villages, and their officers entering into compensation contracts contingent upon elections
21-1306	Unauthorized use of the word "cooperative"
21-1728	Unlawful use of the words "credit union" or representing oneself or conducting business as a credit union
23-808	Operating pool or billiard hall or bowling alley outside of municipality without a county license
23-813	Operating roadhouse, dance hall, carnival, show, amusement park, or other place of public amusement outside of municipality without a county license
23-817	Violation of law regulating places of amusement
23-1612	Audit of county offices, refusal to exhibit records
24-216	Clerk of Supreme Court, fees, neglect or fraud in report
28-3,107	Intentional or reckless falsification of report required under Pain-Capable Unborn Child Protection Act
28-725	Unauthorized release of child abuse or neglect information
28-1018	Selling puppy or kitten under 8 weeks old without its mother
28-1255	Sale, possession, or use of flying lantern-type devices
28-1305	Putting carcass or putrid animal substance in a public place
28-1306	Railroads bringing unclean stock cars into state
28-1308	Watering livestock at private tank without permission
28-1347	Unauthorized access to or use of a computer, first offense

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CLASS V MISDEMEANOR

28-1418	Smoking or other use of tobacco by minors or use of vapor or other alternative nicotine products by minors
28-1427	Minor misrepresenting age to obtain tobacco or cigarette, vapor, or alternative nicotine products
28-1472	Failure to submit to preliminary breath test for operation of aircraft while under influence of alcohol or drugs
28-1483	Sale of certain donated food
31-435	Neglect of duty by officers of drainage districts
32-228	Failure to serve as an election official in counties having an election commissioner
32-236	Failure to serve as an election official in counties that do not have an election commissioner
32-241	Taking personnel actions against employee serving as an election official
32-1523	Obstructing entrance to polling place
32-1524	Electioneering by election official
32-1524	Electioneering or soliciting at or near polling place
32-1525	Exit interviews with voters near polling place on election day
32-1527	Voter voting ballot, unlawful acts
32-1535	Unlawful removal of ballot from polling place
33-132	Failure or neglect to charge, keep current account of, report, or pay over fees by any officer
37-305	Violation of rules and regulations for camping areas
37-306	Violation of rules and regulations for fire safety
37-307	Violation of rules and regulations for animals on state property
37-308	Violation of rules and regulations for hunting, fishing, trapping, and use of weapons on state property
37-309	Violation of rules and regulations for water-related recreational activities on state property
37-310	Violation of rules and regulations for real and personal property on state property
37-311	Violation of rules and regulations for vendors on state property
37-313	Violation of rules and regulations for traffic on state property under Game and Parks Commission jurisdiction
37-321	Fishing violation in emergency created by drying up of waters
37-349	Use of state park name for commercial purposes
37-428	Obtaining habitat stamps, aquatic habitat stamps, or migratory waterfowl stamps by false pretenses or misuse of stamps
37-433	Violation of provisions on habitat stamps or aquatic habitat stamps
37-443	Entry by a motor vehicle to a park permit area without a valid park permit
37-476	Violation of aquaculture provisions
37-504	Unlawfully taking, possessing, or destroying certain birds, eggs, or nests
37-527	Failure to display required amount of hunter orange material when hunting
37-541	Kill, injure, or detain carrier pigeons or removing identification therefrom
37-553	Violation by owner of dam to maintain water flow for fish
37-609	Resisting officer or employee of the Game and Parks Commission
37-610	Falsely representing oneself as officer or employee of the Game and Parks Commission
37-728	False statements about fishing on privately owned land
37-1270	Violation of State Boat Act when not otherwise specified
37-12,107	Destroy, deface, or remove any part of unattended or abandoned motorboat

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CLASS V MISDEMEANOR

39-221	Illegal advertising outside right-of-way on state highways
39-301	Injuring or obstructing public roads
39-303	Injuring or obstructing sidewalks or bridges
39-304	Injuring roads, bridges, gates, milestones, or other fixtures
39-305	Plowing up public highway
39-306	Willful neglect of duty by road overseer or other such officer
39-307	Building barbed wire fence which obstructs highway without guards
39-308	Failure of property owner to remove plant which obstructs view of roadway within 10 days after notice
39-312	Illegal camping on highways, roadside areas, or parks unless designated as campsites or violating camping regulations
39-313	Hunting on freeway or private land without permission
39-808	Unlawful signs or advertising on bridges or culverts
39-1012	Illegal location of rural mail boxes
39-1801	Removing or interfering with barricades on county and township roads
39-1816	Illegal parking of vehicles on county road right-of-way
42-918	Unlawful disclosure of confidential information under Protection from Domestic Abuse Act
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 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
59-1503	Unlawful acts by retailers or wholesalers in sales of cigarettes
60-196	Failure to retain a true copy of an odometer statement for five years
60-3,135.01	Unlawful ownership or operation of a motor vehicle with special interest motor vehicle license plates
60-3,166	Dealer, prospective buyer, or finance company operating motor vehicle or trailer without registration, transporter plate, or manufacturer plates and failing to keep records
60-3,175	Violation of registration and use provisions relating to historical vehicles
60-4,164	Refusal of commercial driver to submit to preliminary breath test for driving under the influence of alcohol

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CLASS V MISDEMEANOR

60-690	Aiding or abetting a violation of Nebraska Rules of the Road
60-699	Failure to report vehicle accident or give correct information
60-6,197.04	Refusal to submit to preliminary breath test for driving under the influence of alcohol
60-6,211.05	Failure by ignition interlock service facility to notify probation office, court, or Department of Motor Vehicles of evidence of tampering with or circumvention of an ignition interlock device
60-6,224	Failure to dim motor vehicle headlights
60-6,239	Failure to equip or display motor vehicles required to have clearance lights, flares, reflectors, or red flags
60-6,240	Willful removal of red flags or flares before driver of vehicle is ready to proceed
60-6,247	Operation of buses or trucks without power brakes, auxiliary brakes, or standard booster brake equipment
60-6,248	Selling hydraulic brake fluid that does not meet requirements
60-6,258	Owning or operating a motor vehicle with illegal sunscreening or glazing material on windshield or windows
60-6,266	Sale of motor vehicle which does not comply with occupant protection system (seat belt) requirements
60-6,287	Operating a motor vehicle which is equipped to enable the driver to watch television while driving
60-6,319	Commercial dealer selling bicycle which fails to comply with requirements
60-6,373	Operation of diesel-powered motor vehicle in violation of controls on smoke emission and noise
60-1411.04	Unlawful advertising of motor vehicles
60-1808	Violation of laws relating to motor vehicle camper units
60-1908	Destroying, defacing, or removing parts of abandoned motor vehicles
61-211	Managers or operators of interstate ditches failing to install measuring devices and furnish daily gauge height reports
69-208	Violation of laws relating to pawnbrokers and dealers in secondhand goods
69-1005	Violation of requirements for sale at auction of commercial chicks and poultry
69-1007	Failure to keep records on sale of poultry
69-1008	False representation in sale of poultry
69-1102	Failing to comply with labeling requirements on binder twine
70-409	Violation of rate regulations by electric companies
70-624	Failure of chief executive officer to publish salaries of public power district officers
71-503	Physician failing to report existence of contagious disease, illness, or poisoning
71-506	Violation of prevention and testing provisions for contagious and infectious diseases
71-1006	Violation of laws relating to disposal of dead bodies
71-1571	Installation of 4 or more showers or bathtubs without scald prevention device
71-3107	Violation of laws relating to recreation camps
71-4410	Violation of rabies control provisions
71-5733	Smoking in place of employment or public place, first offense
71-5733	Proprietor violating Nebraska Clean Indoor Air Act, first offense

APPENDIX

CLASS V MISDEMEANOR

74-593	Using track motor cars on rail lines without headlights or rear lights
74-605	Failure of railroad to report or care for injured animals
74-1308	Failure of Railroad Transportation Safety District treasurer to file report or neglect of duties or refusal by district officials to allow inspection of records
74-1340	Failure, neglect, or refusal to comply with order of Department of Transportation regarding railroad crossings
75-429	Failure of railroad to maintain or operate switch stand lights and signals
76-247	Register of deeds giving certified copy of power of attorney which has been revoked without stating fact of revocation in certificate
76-2,122	Acting as real estate closing agent without license or without complying with law
77-2105	Failure to furnish information or reports for estate or generation-skipping transfer taxes
77-5016.08	Prohibited acts relating to subpoenas, testimony, and depositions in Tax Equalization and Review Commission proceedings
79-223	Violation of student immunization requirements
79-253	Violation regarding physical examinations of students
79-571	Disorderly conduct at school district meetings
79-581	Failure by secretary of Class 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
79-949	Failure or refusal to furnish information to retirement board for school employees retirement
79-992.02	Willful failure or refusal to furnish information to board of trustees under the Class V School Employees Retirement Act
79-1084	Secretary of Class III school board failing or neglecting to publish budget documents
79-1086	Secretary of Class V school board failing or neglecting to publish budget documents
81-520	Failure to comply with order of State Fire Marshal to remove or abate fire hazards
81-522	Failure of city or county authorities to investigate and report fires
81-538	Violation of State Fire Marshal or fire abatement provisions when not otherwise specified
81-5,146	Violation of smoke detector provisions
81-5,163	Water-based fire protection system contractor failing to comply with requirements
81-649.02	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

APPENDIX

CLASS V MISDEMEANOR

- 83-356 Mistreatment of mentally ill persons
- 86-161 Failure of telecommunications company to file territorial maps
- 86-609 Unlawful telegraph dispatch activities
- 88-549 Failure of warehouse licensee to send written notice to person storing grain of amount, location, and fees

CLASS W MISDEMEANOR

First Conviction:

Maximum—sixty days' imprisonment and five hundred dollars' fine

Mandatory minimum—seven days' imprisonment and five hundred dollars' fine

Second Conviction:

Maximum—six months' imprisonment and five hundred dollars' fine

Mandatory minimum—thirty days' imprisonment and five hundred dollars' fine

Third Conviction:

Maximum—one year imprisonment and one thousand dollars' fine

Mandatory minimum—ninety days' imprisonment and one thousand dollars' fine

- 60-690 Aiding or abetting a violation of Nebraska Rules of the Road which is a Class W misdemeanor
- 60-6,197.03 Operation of a motor vehicle while under the influence of alcoholic liquor or of any drug committed with less than .15 gram alcohol concentration
- 60-6,197.03 Operation of a motor vehicle while under the influence of alcoholic liquor or of any drug committed with .15 gram alcohol concentration, first offense only
- 60-6,197.03 Refusal to submit to chemical blood, breath, or urine test

UNCLASSIFIED MISDEMEANORS, see section 28-107

- 14-227 Failure to remit fines, penalties, and forfeitures to city treasurer
 - fine of not more than one thousand dollars
 - imprisonment of not more than six months
- 14-229 City officer or employee exerting influence regarding political views
 - fine of not more than one hundred dollars
 - imprisonment of not more than thirty days
- 15-215 Using unsafe building for the assembly of more than 12 persons
 - fine of not more than two hundred dollars
- 16-233 Using unsafe building for the assembly of more than 12 persons
 - fine of not more than two hundred dollars
- 16-706 Unauthorized use of city funds by city council member or city officer
 - fine of twenty-five dollars plus costs of prosecution
- 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

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UNCLASSIFIED MISDEMEANORS, see section 28-107

- 19-913 Violation of zoning laws and ordinances and building regulations
 - fine of not more than one hundred dollars
 - imprisonment of not more than thirty days
- 19-1104 Failure of city or village clerk or treasurer to publish council proceedings or fiscal statement
 - fine of not more than twenty-five dollars and removal from office
- 20-124 Interference with freedom of speech and access to public accommodation
 - fine of not more than one hundred dollars
 - imprisonment of not more than six months
 - both
- 20-140 Equal Opportunity Commission officer or employee revealing unlawful discrimination complaint or investigation
 - fine of not more than one hundred dollars
 - imprisonment of not more than thirty days
- 23-2533 Willful violation of County Civil Service Act
 - fine of not more than five hundred dollars
 - imprisonment of not more than six months
 - both
- 25-2231 Constable acting outside of jurisdiction
 - fine of not less than ten dollars nor more than one hundred dollars
 - imprisonment of not more than ten days
- 29-426 Failure to appear or comply with citation for traffic or other offense
 - fine of not more than five hundred dollars
 - imprisonment of not more than three months
 - both
- 31-134 Obstructing drainage ditch
 - fine of not less than ten dollars nor more than fifty dollars
- 31-221 Injuring or obstructing watercourse, drain, or ditch
 - fine of not less than twenty-five dollars nor more than one hundred dollars
 - imprisonment of not more than thirty days
- 31-226 Failure to clear watercourse, drain, or ditch after notice
 - fine of not more than ten dollars
- 31-366 Willfully obstruct, injure, or destroy ditch, drain, watercourse, or dike of drainage district
 - fine of not more than one hundred dollars
- 31-445 Obstruct ditch, drain, or watercourse or injure dike, levee, or other work of drainage district
 - fine of not more than one hundred dollars
 - imprisonment of not more than six months
- 31-507.01 Connection to sanitary sewer without permit
 - fine of not less than twenty-five dollars nor more than one hundred dollars
- 33-153 Failure to report and remit fees to county for taking acknowledgments, oaths, and affirmations
 - fine of not more than one hundred dollars
- 44-2504 Domestic insurer transacting unauthorized insurance business in reciprocal state
 - fine of not more than ten thousand dollars
- 54-1365 Violation of Nebraska Swine Brucellosis Act when not otherwise specified
 - fine of not less than one hundred dollars nor more than five hundred dollars
 - imprisonment of not more than thirty days
 - both

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UNCLASSIFIED MISDEMEANORS, see section 28-107

- 55-112 Failure to return or illegal use of military property
 - fine of not more than fifty dollars
- 60-684 Refusal to sign traffic citation
 - fine of not more than five hundred dollars
 - imprisonment of not more than three months
 - both
- 69-111 Security interest in personal property, failure to account or produce for inspection
 - fine of not less than five dollars nor more than one hundred dollars
 - imprisonment of not more than thirty days
- 74-918 Failure by railroad to supply drinking water and toilet facilities
 - fine of not less than one hundred dollars nor more than five hundred dollars
- 75-130 Failure by witness to testify or comply with subpoena of Public Service Commission
 - fine of not more than five thousand dollars
- 76-215 Failure to furnish real estate transfer tax statement
 - fine of not less than ten dollars nor more than five hundred dollars
- 76-218 Violations involving acknowledging and recording instruments of conveyance
 - fine of not more than five hundred dollars
 - imprisonment of not more than one year
- 76-239.05 Failure to apply construction financing for labor and materials
 - fine of not less than one hundred dollars nor more than one thousand dollars
 - imprisonment of not more than six months
 - both
- 76-2,108 Defrauding another by making a dual contract for purchase of real property or inducing the extension of credit
 - fine of not less than one hundred dollars nor more than five hundred dollars
 - imprisonment of not less than five days nor more than thirty days
 - both
- 77-1250.02 Owner, lessee, or manager of aircraft hangar or land upon which is parked or located any aircraft report aircraft to the county assessor
 - fine of not more than fifty dollars
- 77-1313 Failure of county officer to assist county assessor in assessment of property
 - fine of not less than fifty dollars nor more than five hundred dollars
- 77-1613.02 County assessor willfully reducing or increasing valuation of property without approval of county board of equalization
 - fine of not less than twenty dollars nor more than one hundred dollars
- 77-1918 County officers failing to perform duties related to foreclosure
 - removal from office
- 77-2703 Seller fails or refuses to furnish certified statement regarding a motor vehicle, motorboat, all-terrain vehicle, or utility-type vehicle transaction
 - fine of not less than twenty-five dollars nor more than one hundred dollars
- 77-2706 Giving a resale certificate to avoid sales tax
- 79-2,103 Soliciting membership in fraternity, society, or other association on school grounds
 - fine of not less than two dollars nor more than ten dollars
- 81-171 Using state mailing room or postage metering machine for private mail
 - fine of not less than twenty dollars nor more than one hundred dollars
- 83-114 Officer or employee interfering in an official Department of Health and Human Services investigation
 - fine of not less than ten dollars nor more than one hundred dollars

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UNCLASSIFIED MISDEMEANORS, see section 28-107

- 84-732 Governor or Attorney General knowingly failing or refusing to implement laws
- fine of one hundred dollars
 - impeachment

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ACTS, CODES, AND OTHER NAMED LAWS

NAME OF ACT	WHERE CITED
Compassion and Care for Medically Challenging Pregnancies Act	71-5001
Dialysis Patient Care Technician Registration Act	38-3701
Ground Emergency Medical Transport Act	68-977
Nebraska Senior Volunteer Program Act	81-2273
Nebraska Veterans Services Act	80-301.01
Palliative Care and Quality of Life Act	71-4501
Radon Resistant New Construction Act	76-3501
Riverfront Development District Act	19-5301
Rural Workforce Housing Investment Act	81-1226
Self-Service Storage Facilities Act	76-1601
State Aeronautics Act	3-154
Student Online Personal Protection Act	79-2,153
Unclaimed Life Insurance Benefits Act	44-3001
Uniform Unsworn Foreign Declarations Act	49-1801

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CROSS REFERENCE TABLE

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Showing LB section number to statute section number

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		3 Omitted		15 38-1127.01	LB 45	§ 1 60-3,122.03
		4 Omitted		16 38-1130		2 60-3,122.04
LB 2	§ 1	54-857		17 38-1131		3 80-414
		2 Omitted		18 38-1132		4 Omitted
		3 Omitted		19 38-1136.01		5 Omitted
LB 3	§ 1	81-1120.22		20 38-1135	LB 46	§ 1 60-301
		2 Omitted		21 38-1136		2 60-393
		3 Omitted		22 38-1152		3 60-395
LB 4		Omitted		23 Omitted		4 60-396
LB 5		Omitted		24 Omitted		5 60-3,104
LB 8	§ 1	43-253	LB 18A	Omitted		6 60-3,130.04
		2 43-286	LB 19	§ 1 38-2058		7 60-3,232
		3 43-286.01		2 Omitted		8 60-3,233
		4 Omitted	LB 20	§ 1 77-3508		9 Omitted
LB 9	§ 1	76-3501		2 Omitted	LB 46A	Omitted
		2 76-3502		3 Omitted	LB 56	§ 1 1-136.02
		3 76-3503	LB 22	Omitted		2 Omitted
		4 76-3504	LB 29	§ 1 72-1249	LB 57	§ 1 28-915
		5 76-3505		2 79-9,115		2 28-915.01
LB 10	§ 1	43-2,119		3 Omitted		3 49-1801
		2 Omitted	LB 34	§ 1 32-610		4 49-1802
		3 Omitted		2 Omitted		5 49-1803
		4 Omitted	LB 35	§ 1 21-201		6 49-1804
LB 10A		Omitted		2 21-214		7 49-1805
LB 11	§ 1	29-1816		3 21-217		8 49-1806
		2 43-274		4 21-220		9 49-1807
		3 Omitted		5 21-254		10 Omitted
LB 16	§ 1	81-885.13		6 21-255	LB 62	Omitted
		2 81-885.17		7 21-264	LB 63	§ 1 77-2704.10
		3 81-885.19		8 21-265		2 Omitted
		4 81-885.21		9 21-266		3 Omitted
		5 81-885.24		10 21-271	LB 72	§ 1 13-402
		6 Omitted		11 21-271.01		2 Omitted
		7 Omitted		12 21-275	LB 74	§ 1 16-130
		8 Omitted		13 21-283		2 17-407
		9 Omitted		14 21-285		3 17-1002
LB 18	§ 1	38-1101		15 21-2,103		4 18-3001
		2 38-1102		16 21-2,113		5 Omitted
		3 38-1102.01		17 21-2,114	LB 80	§ 1 23-2519
		4 38-1107		18 21-2,120		2 Omitted
		5 38-1111.01		19 21-2,123	LB 85	§ 1 32-602
		6 38-1107.01		20 21-2,124		2 32-607
		7 38-1111.02		21 21-2,171		3 49-1401
		8 38-1107.02		22 21-2,172		4 49-14,142
		9 38-1116		23 21-2,173		5 49-14,123
		10 38-1118.01		24 21-2,197		6 Omitted
		11 38-1118.02		25 21-2,201	LB 86	§ 1 39-810
		12 38-1118.03		26 21-2,222		2 Omitted

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	4	38-3604	62	38-2028	10	19-5310
	5	38-3605	63	38-2034	11	19-5311
	6	38-3606	64	38-2049	12	19-5312
	7	38-3607	65	38-2125	13	19-5313
	8	38-3608	66	38-2130	14	19-5314
	9	38-3609	67	38-2201	15	19-5315
	10	38-3610	68	38-2211	16	19-5316
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	13	38-3613	71	38-2220	19	19-4031
	14	38-3614	72	38-2223	20	Omitted
	15	38-3615	73	38-2225	21	Omitted
	16	38-3616	74	38-2238	LB 99	§ 1
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	18	38-3618	76	38-2314.01	3	21-2,130
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	25	38-3625	83	38-2523	10	67-448.02
	26	71-1795.01	84	38-2609	LB 113	§ 1
	27	71-1795.02	85	38-2707	2	10-119
	28	38-101	86	38-2853	3	12-401
	29	38-105	87	38-2924	4	13-2705
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	31	38-121	89	38-3212	6	14-101.01
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	35	38-208	93	Omitted	10	16-101
	36	38-319	94	Omitted	11	16-222.02
	37	38-413	95	Omitted	12	16-901
	38	38-517	96	Omitted	13	17-101
	39	38-518	97	Omitted	14	17-201
	40	38-615	LB 91	§ 1	15	17-301
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	46	38-10,132	LB 91A	Omitted	20	17-1001
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	48	38-1217		2	18-1753	
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	51	38-1421	LB 94	§ 1	24	19-414
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		39 39-207		15 17-119		73 17-210
		40 39-1328.01		16 17-120		74 17-211
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		59 81-15,153		35 17-143		93 17-230
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	130 17-512		188 17-564		246 17-910
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	133 17-515		191 17-567		249 17-913
	134 17-516		192 17-568		250 17-914
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	144 17-527		202 17-603		260 17-925
	145 17-528		203 17-604		261 17-925.01
	146 17-528.02		204 17-605		262 17-925.02
	147 17-528.03		205 17-606		263 17-925.03
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	153 17-529.06		211 17-612		269 17-936
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	157 17-531		215 17-616		273 17-940
	158 17-532		216 17-701		274 17-941
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			19	8-118		77 8-182
			20	8-119		78 8-183
			21	8-120		79 8-183.04
			22	8-122		80 8-183.05
			23	8-124		81 8-184
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			28	8-128		86 8-189
			29	8-129		87 8-190
			30	8-130		88 8-191
			31	8-132		89 8-192
			32	8-133		90 8-193
			33	8-135		91 8-194
			34	8-137		92 8-195
			35	8-138		93 8-196
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			46	8-148.02		104 8-1,107
			47	8-148.04		105 8-1,108
			48	8-148.05		106 8-1,109
			49	8-148.07		107 8-1,110
			50	8-148.08		108 8-1,111
			51	8-148.09		109 8-1,112
			52	8-150		110 8-1,113
			53	8-152		111 8-1,115
			54	8-153		112 8-1,116
			55	8-157		113 8-1,117
			56	8-157.01		114 8-1,118
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	120	8-1,128	10	8-1109.01	20	71-475	
	121	8-1,129	11	8-1109.02	21	71-2412	
	122	8-1,131	12	8-1110	22	71-2413	
	123	8-1,133	13	8-1111	23	71-2445	
	124	8-1,134	14	8-1115	24	71-2478	
	125	8-1,135	15	8-1116	25	71-2479	
	126	8-1,136	16	8-1117	26	Omitted	
	127	8-1,137	17	8-1118	27	Omitted	
	128	8-1,138	18	8-1120	28	Omitted	
	129	8-1,139	19	8-1122.01	LB 171	Omitted	
	130	8-1,140	20	8-1123	LB 172	§ 1	8-716
	131	8-206	21	Omitted		2	25-1912
	132	8-207		Omitted		3	48-301
	133	8-318	LB 149			4	48-601
	134	8-355	LB 151	§ 1	13-506	5	48-602
	135	8-601		2	13-511	6	48-603.01
	136	8-602		3	13-513	7	48-604
	137	8-603		4	35-507	8	48-606
	138	8-701		5	73-506	9	48-606.01
	139	8-702		6	81-1118	10	48-609
	140	8-815		7	81-1348	11	48-612
	141	8-820		8	84-304	12	48-612.01
	142	8-822		9	84-305	13	48-613
	143	8-826		10	84-311	14	48-614
	144	8-828		11	84-321	15	48-616
	145	8-1401		12	Omitted	16	48-617
	146	8-2401	LB 152	§ 1	25-2154	17	48-618
	147	9-701		2	33-109	18	48-619
	148	21-1770		3	52-1004	19	48-620
	149	21-17,115		4	77-3903	20	48-621
	150	28-612		5	Omitted	21	48-622.01
	151	30-2602.02	LB 154	§ 1	46-1657	22	48-622.02
	152	30-2640		2	Omitted	23	48-622.03
	153	45-335	LB 159	§ 1	14-537	24	48-623
	154	45-902		2	Omitted	25	48-624
	155	45-919		3	Omitted	26	48-625
	156	45-1002	LB 161	§ 1	77-5726	27	48-626
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	158	49-1497		3	Omitted	29	48-627.01
	159	Omitted	LB 166	§ 1	28-410	30	48-628
	160	Omitted		2	28-411	31	48-628.01
	161	Omitted		3	28-414	32	48-628.02
	162	Omitted		4	28-414.01	33	48-628.03
	163	Omitted		5	28-414.03	34	48-628.04
	164	Omitted		6	28-442	35	48-628.05
LB 142	§ 1	52-1307		7	38-1,124	36	48-628.06
	2	52-1603		8	38-1,125	37	48-628.07
	3	Omitted		9	38-2801	38	48-628.08
	4	Omitted		10	38-2802	39	48-628.09
LB 148	§ 1	8-1101		11	38-2836.01	40	48-628.10
	2	8-1101.01		12	38-2843.01	41	48-628.11
	3	8-1102		13	38-2848	42	48-628.12
	4	8-1103		14	38-2866.01	43	48-628.13
	5	8-1106		15	38-2867.03	44	48-628.14
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	49 48-629.01		2 Omitted	29	77-6306
	50 48-630	LB 195	§ 1 71-7001	30	77-6307
	51 48-631	LB 200	§ 1 23-1901	31	79-1016
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	54 48-635		4 39-1506	34	81-12,153
	55 48-637		5 Omitted	35	81-12,156
	56 48-638	LB 203	§ 1 48-626	36	Omitted
	57 48-643		2 48-627	37	Omitted
	58 48-644		3 48-628	38	Omitted
	59 48-645		4 48-632	39	Omitted
	60 48-647		5 Omitted	40	Omitted
	61 48-648	LB 204	§ 1 24-1106	41	Omitted
	62 48-648.02		2 25-511	LB 222	§ 1 81-3701
	63 48-649		3 25-1332	2	81-3702
	64 48-649.01		4 Omitted	3	81-3703
	65 48-649.02	LB 207	§ 1 43-4301	4	81-3709.01
	66 48-649.03		2 43-4318	5	81-3710
	67 48-649.04		3 43-4323	6	81-3711
	68 48-650		4 43-4325	7	81-3712
	69 48-651		5 43-4327	8	81-3713
	70 48-652		6 43-4328	9	81-3714
	71 48-654		7 43-4332	10	81-3721
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	75 48-660.01		3 Omitted	14	Omitted
	76 48-662	LB 210	§ 1 50-1205.01	LB 223	§ 1 71-2454
	77 48-663		2 50-1210	2	Omitted
	78 48-663.01		3 Omitted	3	Omitted
	79 48-664	LB 217	§ 1 9-433	LB 225	§ 1 28-712
	80 48-665		2 13-509	2	28-712.01
	81 48-675		3 58-708	3	28-718
	82 48-679		4 69-2710.01	4	43-2,108
	83 48-682		5 77-1333	5	43-1306
	84 48-2903		6 77-1359	6	43-1318
	85 84-1301		7 77-1832	7	43-4218
	86 84-1307		8 77-1833	8	43-4701
	87 Omitted		9 77-1837.01	9	43-4702
	88 Omitted		10 77-2503	10	43-4703
	89 Omitted		11 77-2506	11	43-4704
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	3 43-2924		15 77-27,222	15	43-4715
	4 Omitted		16 77-2756	16	43-4714
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	2 Omitted		19 77-27,238	19	Omitted
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	2 45-191.01		21 77-3517	21	Omitted
	3 45-191.04		22 77-4212	LB 225A	Omitted
	4 Omitted		23 77-5725	LB 231	§ 1 44-4059
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		2	12-1114	19	60-164.01	77	60-1507
		3	Omitted	20	60-166	78	60-2904
LB 241	§	1	44-905	21	60-168.02	79	60-2907
		2	Omitted	22	60-192	80	75-110
LB 253	§	1	23-3637	23	60-301	81	75-128
		2	Omitted	24	60-302	82	75-303.01
LB 255	§	1	38-3701	25	60-317	83	75-303.02
		2	38-3702	26	60-335.01	84	75-303.03
		3	38-3703	27	60-336.01	85	75-306
		4	38-3704	28	60-363	86	75-309
		5	38-3705	29	60-372	87	75-311
		6	38-3706	30	60-385	88	75-363
		7	38-3707	31	60-386	89	75-364
		8	38-101	32	60-393	90	75-366
		9	38-121	33	60-394	91	75-369.03
		10	38-186	34	60-395	92	75-392
		11	71-448	35	60-396	93	75-393
		12	Omitted	36	60-3,104	94	76-2316
		13	Omitted	37	60-3,104.01	95	76-2319
LB 255A			Omitted	38	60-3,113.04	96	76-2320
LB 257	§	1	25-229	39	60-3,118	97	76-2325
		2	Omitted	40	60-3,120	98	77-2703
LB 259	§	1	25-1577	41	60-3,121	99	81-8,219
		2	29-901	42	60-3,122	100	81-2517
		3	29-901.01	43	60-3,122.02	101	83-123
		4	29-1823	44	60-3,122.04	102	Omitted
		5	29-2206	45	60-3,123	103	Omitted
		6	29-2206.01	46	60-3,124	104	Omitted
		7	29-2277	47	60-3,125	105	Omitted
		8	29-2278	48	60-3,126	106	Omitted
		9	29-2279	49	60-3,128	107	Omitted
		10	29-2404	50	60-3,130.04	LB 263A	Omitted
		11	29-2412	51	60-3,135.01	LB 264	§ 1 48-721
		12	29-2208	52	60-3,141		2 Omitted
		13	60-4,100	53	60-3,151	LB 267	§ 1 71-468
		14	60-692	54	60-3,184		2 Omitted
		15	Omitted	55	60-3,193.01	LB 268	§ 1 24-517
		16	Omitted	56	60-3,224		2 25-2154
		17	Omitted	57	60-3,227		3 30-2483
LB 259A			Omitted	58	60-3,229		4 30-3880
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		2	37-1201	60	60-3,234		6 30-3882
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		6	37-1287	64	60-483		10 68-901
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		8	60-102	66	60-4,109		12 68-990
		9	60-119.02	67	60-4,147.02		13 68-991
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		14	60-149	72	60-628.01		18 Omitted
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	8	Omitted		2	Omitted		42	77-27,132
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	5	Omitted		4	81-1108.15		47	81-406
	6	Omitted		5	81-1118		48	81-638
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	2	81-2,156		7	Omitted		50	81-12,160
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	4	Omitted		2	71-4502		52	81-1558
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	2	42-1204		4	71-4504		54	81-3432
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	2	28-101		3	Omitted	LB 332	§ 1	84-612
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	4	28-311.11		5	Omitted		3	Omitted
	5	28-311.12		6	Omitted	LB 333	§ 1	71-1107
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	7	28-802		8	Omitted		3	83-1201
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	9	28-831		10	Omitted		5	83-1209
	10	28-1206		11	Omitted		6	83-1212.01
	11	29-404.02		12	81-1108.05		7	83-1216
	12	29-422		13	81-2004.09		8	83-1216.01
	13	42-903		14	81-2004.10		9	Omitted
	14	42-924		15	81-1110.07		10	Omitted
	15	42-925		16	2-1222		11	Omitted
	16	43-254		17	7-209		12	Omitted
	17	43-283.01		18	12-1301		13	Omitted
	18	43-292.02		19	19-102		14	Omitted
	19	43-1303		20	19-103		15	Omitted
	20	43-1411.01		21	29-4115.01	LB 335	§ 1	43-536
	21	43-1609		22	37-327.02		2	Omitted
	22	43-1611		23	47-632		3	Omitted
	23	43-2933		24	48-1,116	LB 339	§ 1	3-101
	24	Omitted		25	48-735.01		2	3-102
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	2	Omitted		28	60-6,211.05		5	3-105
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	3	Omitted		31	66-204		8	3-108
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	15 3-116		73 13-520		131 39-1353
	16 3-117		74 13-912		132 39-1359.01
	17 3-118		75 13-1203		133 39-1363
	18 3-119		76 13-1210		134 39-1364
	19 3-120		77 13-1212		135 39-1365.01
	20 3-121		78 14-2113		136 39-1365.02
	21 3-123		79 18-601		137 39-1390
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	39 3-146		97 39-216		155 39-2118
	40 3-147		98 39-217		156 39-2120
	41 3-148		99 39-218		157 39-2121
	42 3-149		100 39-219		158 39-2124
	43 3-152		101 39-220		159 39-2215
	44 3-154		102 39-221		160 39-2224
	45 3-155		103 39-222		161 39-2305
	46 3-156		104 39-223		162 39-2310
	47 3-157		105 39-224		163 39-2504
	48 3-158		106 39-225		164 39-2505
	49 3-159		107 39-308		165 39-2507
	50 3-160		108 39-311		166 39-2508
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	56 3-201.01		114 39-847		172 39-2702
	57 3-215		115 39-847.01		173 39-2802
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	60 3-227		118 39-1011		176 49-506
	61 3-228		119 39-1101		177 49-617
	62 3-239		120 39-1110		178 55-181
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189	60-6,103	247	72-221		4 80-315
190	60-6,106	248	72-221.01		5 80-316
191	60-6,107	249	72-817		6 80-317
192	60-6,115	250	73-507		7 80-319
193	60-6,118	251	74-1310		8 80-320
194	60-6,120	252	74-1314		9 80-321
195	60-6,126.01	253	74-1318		10 80-322
196	60-6,129	254	74-1319		11 80-322.01
197	60-6,130	255	74-1331		12 80-332
198	60-6,137	256	74-1332		13 80-333
199	60-6,138	257	74-1333		14 80-334
200	60-6,139	258	74-1334		15 80-335
201	60-6,144	259	74-1335		16 80-336
202	60-6,145	260	74-1336		17 81-1316
203	60-6,153	261	74-1338		18 81-3113
204	60-6,154	262	74-1340		19 81-3116
205	60-6,159	263	74-1341		20 83-107.01
206	60-6,164	264	74-1342		21 83-108
207	60-6,166	265	74-1343		22 Omitted
208	60-6,167	266	75-713		23 Omitted
209	60-6,171	267	75-716		24 Omitted
210	60-6,176	268	76-1224	LB 346	§ 1 60-373
211	60-6,177	269	77-3442		2 60-3,116
212	60-6,186	270	77-3443		3 60-1403.01
213	60-6,188	271	79-604		4 60-1406
214	60-6,189	272	81-101		5 60-1407
215	60-6,190	273	81-102		6 60-1410
216	60-6,193	274	81-161.04		7 60-1411
217	60-6,230	275	81-188.01		8 60-1411.01
218	60-6,250	276	81-701.01		9 60-1411.02
219	60-6,267	277	81-701.02		10 60-1413
220	60-6,288	278	81-701.03		11 60-1416
221	60-6,292	279	81-701.04		12 Omitted
222	60-6,294	280	81-701.05	LB 371	§ 1 81-526
223	60-6,297	281	81-710		2 Omitted
224	60-6,298	282	81-8,310		3 Omitted
225	60-6,299	283	81-916	LB 375	§ 1 21-1701
226	60-6,301	284	81-917		2 21-1708.01
227	60-6,311	285	81-1108.15		3 21-1709
228	60-6,314	286	81-1108.22		4 21-1724
229	60-6,335	287	81-1108.43		5 21-1736
230	60-6,376	288	81-1114		6 21-1740
231	60-6,378	289	81-1711		7 21-1741
232	60-6,380	290	81-2801		8 21-1782
233	60-1301	291	81-3711.01		9 Omitted
234	60-1302	292	82-120		10 Omitted
235	60-1303	293	82-505	LB 376	§ 1 90-203
236	60-3101	294	83-137		2 Omitted
237	66-489.02	295	85-1008	LB 382	§ 1 13-518
238	66-4,100	296	86-707		2 13-519
239	66-4,144	297	90-238		3 Omitted
240	66-6,109.02	298	90-260		4 Omitted
241	66-738	299	Omitted		5 Omitted
242	66-821	300	Omitted	LB 383	§ 1 18-2102.01
243	66-822	301	Omitted		2 18-2715

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	2017 First Session	2017 Supplement	2017 First Session	2017 Supplement	2017 First Session	2017 Supplement
		3 19-926		44 81-2034		5 32-312
		4 Omitted		45 84-304		6 32-404
LB 406	§	1 44-516		46 84-304.02		7 32-566
		2 44-522		47 84-1301		8 32-573
		3 44-523		48 84-1309.02		9 32-601
		4 Omitted		49 84-1319		10 32-802
LB 407	§	1 50-601		50 84-1323.01		11 32-915
		2 50-602		51 84-1325		12 32-939
		3 50-603		52 84-1503		13 32-939.02
LB 409	§	1 77-3446		53 Omitted		14 32-947
		2 79-1009		54 Omitted		15 49-1494
		3 79-1015.01		55 Omitted		16 Omitted
		4 79-10,145		56 Omitted	LB 455	§ 1 81-2104
		5 Omitted	LB 415A	Omitted		2 Omitted
		6 Omitted	LB 417	§ 1 13-308	LB 458	§ 1 23-3104
LB 415	§	1 2-3228		2 28-372		2 Omitted
		2 12-101		3 38-101	LB 463	§ 1 12-401
		3 14-567		4 38-123		2 Omitted
		4 14-1805.01		5 43-296	LB 464	§ 1 84-907.06
		5 14-2111		6 43-4406		2 Omitted
		6 15-1017		7 68-908		3 Omitted
		7 16-1017		8 68-909	LB 476	§ 1 21-19,163
		8 16-1037		9 68-949		2 Omitted
		9 19-3501		10 71-806	LB 478	§ 1 28-1206
		10 23-1118		11 71-810		2 Omitted
		11 23-2301		12 71-1904		3 Omitted
		12 23-2308.01		13 71-6038	LB 481	§ 1 38-2801
		13 23-2315.01		14 71-6039		2 38-2802
		14 23-2317		15 71-6039.06		3 38-2807.01
		15 23-2323.01		16 71-6603		4 38-2807.02
		16 23-2334		17 81-2210		5 38-2807.03
		17 23-3526		18 81-2273		6 38-2810.01
		18 24-701		19 81-2274		7 38-2818.02
		19 24-708		20 81-2275		8 38-2818.03
		20 24-710.01		21 81-2279		9 38-2821.01
		21 24-710.04		22 81-2281		10 38-2823.01
		22 24-710.15		23 81-2283		11 38-2825.02
		23 71-1631.02		24 Omitted		12 38-28,109
		24 79-902		25 Omitted		13 38-28,111
		25 79-904.01	LB 427	§ 1 79-2,149		14 38-28,112
		26 79-921		2 79-2,150		15 38-28,113
		27 79-926		3 79-2,151		16 38-28,116
		28 79-931		4 79-2,152		17 Omitted
		29 79-933.08		5 20-170		18 Omitted
		30 79-934		6 Omitted	LB 487	§ 1 25-21,280
		31 79-951	LB 430	§ 1 71-3505		2 28-101
		32 79-954		2 Omitted		3 28-401
		33 79-958	LB 432	§ 1 13-508		4 28-401.01
		34 79-978		2 Omitted		5 28-405
		35 79-978.01		3 Omitted		6 28-416
		36 79-987		4 Omitted		7 28-441
		37 79-992	LB 444	§ 1 44-314		8 28-472
		38 79-992.01		2 48-101.01		9 28-470
		39 79-992.02		3 Omitted		10 Omitted
		40 79-9,100.01	LB 451	§ 1 18-2713	LB 492	§ 1 76-1601
		41 79-9,105		2 32-208		2 76-1602
		42 81-2014		3 32-301		3 76-1603
		43 81-2025		4 32-304		4 76-1604

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	2017 First Session	2017 Supplement		2017 First Session	2017 Supplement		2017 First Session	2017 Supplement
		5 76-1605		29	85-2403		3	68-978
		6 76-1606		30	85-2405		4	68-979
		7 76-1607		31	85-2422		5	68-980
		8 76-1608		32	85-2423		6	68-981
		9 76-1609		33	85-2424		7	68-982
		10 37-1278		34	85-2425		8	68-983
		11 37-1283		35	85-2426		9	68-984
		12 60-149		36	85-2427		10	68-985
		13 60-166		37	85-2428		11	68-986
		14 Omitted		38	Omitted		12	68-987
LB 506	§	1 71-5001		39	Omitted		13	68-988
		2 71-5002		40	Omitted		14	Omitted
		3 71-5003		41	Omitted	LB 578A		Omitted
		4 71-5004		42	Omitted	LB 584	§	1 39-1811
		5 71-3407		43	Omitted			2 Omitted
		6 Omitted	LB 512A		Omitted	LB 590	§	1 71-6403
LB 508	§	1 23-2503	LB 517	§	1 30-2333			2 71-6405
		2 23-2518			2 30-2353			3 71-6406
		3 23-2520			3 30-2715			4 Omitted
		4 23-2521			4 30-2715.01			5 Omitted
		5 Omitted			5 30-2742	LB 600	§	1 54-179
LB 509	§	1 25-1223			6 30-3854			2 54-189
		2 25-1224			7 76-3415			3 54-191
		3 25-1226			8 Omitted			4 54-192
		4 25-1228	LB 518	§	1 81-1226			5 54-195
		5 29-1901			2 81-1227			6 54-198
		6 29-1903			3 81-1228			7 54-1,100
		7 Omitted			4 81-1229			8 54-1,105
		8 Omitted			5 81-1230			9 54-1,110
LB 509A		Omitted			6 81-1231			10 54-1,111
LB 512	§	1 79-2,153			7 81-1232			11 54-1,115
		2 79-2,154			8 81-1233			12 54-1,119
		3 79-2,155			9 81-1234			13 Omitted
		4 79-10,146			10 58-703			14 Omitted
		5 9-812			11 Omitted	LB 605	§	1 68-1804
		6 77-3442	LB 518A		Omitted			2 Omitted
		7 79-237	LB 519	§	1 48-652			3 Omitted
		8 79-2,144			2 Omitted	LB 624	§	1 23-3211
		9 79-319	LB 535	§	1 23-1503.01			2 Omitted
		10 79-746			2 76-214	LB 625	§	1 13-3201
		11 79-8,142			3 Omitted			2 13-3202
		12 79-1003	LB 539	§	1 47-901			3 13-3203
		13 79-1007.11			2 47-905			4 13-3204
		14 79-1017.01			3 47-912			5 13-3205
		15 79-1028.01			4 47-920			6 13-3206
		16 79-1054			5 Omitted			7 13-3207
		17 79-1065			6 Omitted			8 13-3208
		18 79-10,141	LB 558	§	1 28-1201			9 13-3209
		19 79-1108.02			2 Omitted			10 13-3210
		20 79-1144	LB 566	§	1 37-1601			11 13-3211
		21 85-173			2 37-504			12 Omitted
		22 85-174			3 37-513			13 Omitted
		23 85-308			4 37-614			14 Omitted
		24 85-502.01			5 37-615	LB 639	§	1 48-225
		25 85-917			6 37-617			2 48-226
		26 85-933			7 Omitted			3 Omitted
		27 85-949	LB 578	§	1 68-901	LB 641	§	1 81-12,163.01
		28 85-2401			2 68-977			2 81-12,155.01

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	2017 First Session	2017 Supplement		2017 First Session	2017 Supplement		2017 First Session	2017 Supplement
		3 81-12,152		7 44-5230			18 68-1108	
		4 81-12,154		8 44-5255			19 71-457	
		5 50-435		9 44-5258			20 Omitted	
		6 Omitted		10 44-5266			21 Omitted	
		7 Omitted		11 60-4,105	LB 645	§ 1	79-1118.01	
LB 641A		Omitted		12 60-4,114		2	Omitted	
LB 644	§ 1	2-301		13 60-4,118	LB 647	§ 1	24-201.01	
	2	2-3815		14 60-4,118.03		2	Omitted	
	3	32-204		15 60-4,146		3	Omitted	
	4	38-2701		16 68-909		4	Omitted	
	5	38-2703		17 68-949	LB 647A		Omitted	
	6	44-5224						

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APPENDIX

CROSS REFERENCE TABLE

Legislative Bills, One Hundred Fifth Legislature
First Session, 2017

Showing the date each act went into effect.
Convened January 4, 2017, and adjourned May 23, 2017.

LB No.	Effective Date	LB No.	Effective Date
1	August 24, 2017	74	August 24, 2017
2	August 24, 2017	80	August 24, 2017
3	August 24, 2017	85	August 24, 2017
4	August 24, 2017	86	August 24, 2017
5	August 24, 2017	88	Sections 70, 95, and 96 of
8	August 24, 2017		this act become operative
9	August 24, 2017		on November 1, 2017.
10	July 1, 2017		Sections 1, 2, 3, 4, 5, 6, 7,
	(operative date)		8, 9, 10, 11, 12, 13, 14,
10A	July 1, 2017		15, 16, 17, 18, 19, 20, 21,
	(operative date)		22, 23, 24, 25, 53, 54, 67,
11	August 24, 2017		68, 69, 74, and 94 of this
16	Sections 1, 2, 3, 5, and 8		act become operative on
	of this act become		August 24, 2017. The
	operative on August 24,		other sections of this act
	2017. The other sections		become operative on
	of this act become		April 26, 2017.
	operative on March 30,	91	July 1, 2018
	2017.		(operative date)
18	January 1, 2018	91A	August 24, 2017
	(operative date)	92	August 24, 2017
18A	August 24, 2017	94	August 24, 2017
19	August 24, 2017	97	August 24, 2017
20	January 1, 2018	99	August 24, 2017
	(operative date)	113	August 24, 2017
22	February 16, 2017	119	February 16, 2017
29	August 24, 2017	122	August 24, 2017
34	August 24, 2017	131	August 24, 2017
35	January 1, 2018	132	August 24, 2017
	(operative date)	133	August 24, 2017
45	January 1, 2018	134	August 24, 2017
	(operative date)	137	January 1, 2018
46	August 24, 2017		(operative date)
46A	August 24, 2017	138	May 11, 2017
56	August 24, 2017	140	Sections 1, 2, 3, 4, 5, 6, 7,
57	August 24, 2017		8, 9, 10, 11, 12, 13, 14,
62	August 24, 2017		15, 16, 17, 18, 19, 20, 21,
63	October 1, 2017		22, 23, 24, 25, 26, 27, 28,
	(operative date)		29, 30, 31, 32, 33, 34, 35,
72	August 24, 2017		36, 37, 38, 39, 40, 41, 42,

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LB No.	Effective Date	LB No.	Effective Date
	43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 131, 132, 133, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 161, and 163 of this act become operative on August 24, 2017. The other sections of this act become operative on March 30, 2017.	204	August 24, 2017
		207	August 24, 2017
		209	August 24, 2017
		210	August 24, 2017
		217	Sections 1, 2, 3, 4, 6, 10, 11, 12, 13, 16, 17, 18, 19, 20, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 37, and 40 of this act become operative on August 24, 2017. Sections 21 and 38 of this act become operative on January 1, 2018. The other sections of this act become operative on April 28, 2017.
		222	August 24, 2017
		223	May 10, 2017
		225	Sections 3 and 18 of this act become operative on September 3, 2017. The other sections of this act become operative on April 28, 2017.
		225A	April 28, 2017
142	May 11, 2017	231	August 24, 2017
148	August 24, 2017	234	May 11, 2017
149	May 13, 2017	239	August 24, 2017
151	April 28, 2017	241	August 24, 2017
152	August 24, 2017	253	August 24, 2017
154	August 24, 2017	255	May 11, 2017
159	May 11, 2017	255A	May 11, 2017
161	August 24, 2017	257	August 24, 2017
166	April 28, 2017	259	Sections 5, 6, 7, 8, 9, 10, 12, 13, 14, and 17 of this act become operative on July 1, 2019. The other sections of this act become operative on August 24, 2017.
171	May 13, 2017		
172	January 1, 2018 (operative date)		
176	August 24, 2017		
180	August 24, 2017		
180A	August 24, 2017	259A	August 24, 2017
182	August 24, 2017	263	Sections 5, 6, 17, 20, 22, 52, 101, and 104 of this act become operative on January 1, 2019. Sections 1, 2, 3, 4, 7, 8, 9, 10, 11, 13, 14, 15, 16, 18, 19, 21,
184	August 24, 2017		
185	August 24, 2017		
186	August 24, 2017		
195	August 24, 2017		
200	August 24, 2017		
203	August 24, 2017		

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LB No.	Effective Date	LB No.	Effective Date
	23, 24, 26, 29, 30, 32, 33, 34, 35, 36, 37, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 54, 56, 57, 59, 60, 61, 64, 65, 66, 68, 69, 71, 73, 74, 75, 76, 77, 78, 79, 94, 95, 96, 97, 98, 99, 100, and 105 of this act become operative on August 24, 2017. The other sections of this act become operative on April 28, 2017.		August 24, 2017. The other sections of this act become operative on May 24, 2017.
263A	April 28, 2017	335	May 13, 2017
264	August 24, 2017	339	July 1, 2017 (operative date)
267	August 24, 2017	340	July 1, 2017 (operative date)
268	August 24, 2017	346	August 24, 2017
268A	July 1, 2017 (operative date)	371	August 24, 2017
271	August 24, 2017	375	August 24, 2017
274	August 24, 2017	376	April 28, 2017
276	August 24, 2017	382	July 1, 2017 (operative date)
280	May 13, 2017	383	August 24, 2017
289	August 24, 2017	406	August 24, 2017
289A	August 24, 2017	407	August 24, 2017
300	August 24, 2017	409	May 11, 2017
306	August 24, 2017	415	May 24, 2017
307	August 24, 2017	415A	May 24, 2017
315	August 24, 2017	417	August 24, 2017
317	August 24, 2017	427	August 24, 2017
318	May 13, 2017	430	August 24, 2017
320	August 24, 2017	432	July 1, 2017 (operative date)
323	August 24, 2017	444	August 24, 2017
327	July 1, 2017 (operative date)	451	August 24, 2017
328	July 1, 2017 (operative date)	455	August 24, 2017
329	July 1, 2017 (operative date)	458	August 24, 2017
330	July 1, 2017 (operative date)	463	August 24, 2017
331	May 16, 2017	464	May 11, 2017
332	May 16, 2017	476	August 24, 2017
333	Sections 5, 10, and 13 of this act become operative on October 1, 2017. Sections 6 and 11 of this act become operative on	478	May 10, 2017
		481	January 1, 2018 (operative date)
		487	August 24, 2017
		492	August 24, 2017
		506	August 24, 2017
		508	August 24, 2017
		509	August 24, 2017
		509A	August 24, 2017
		512	Sections 1, 2, 3, 4, 6, 11, 15, 21, 22, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 40, and 42 of this act become operative on September 1, 2017. The other sections

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LB No.	Effective Date	LB No.	Effective Date
	of this act become operative on May 23, 2017.	600	August 24, 2017
512A	July 1, 2017 (operative date)	605	May 10, 2017
517	August 24, 2017	624	January 1, 2018 (operative date)
518	August 24, 2017	625	April 28, 2017
518A	August 24, 2017	639	August 24, 2017
519	August 24, 2017	641	August 24, 2017 (operative date)
535	August 24, 2017	641A	August 24, 2017
539	April 28, 2017	644	August 24, 2017
558	August 24, 2017	645	August 24, 2017
566	August 24, 2017	647	July 1, 2017 (operative date)
578	August 24, 2017	647A	July 1, 2017 (operative date)
578A	August 24, 2017		
584	August 24, 2017		
590	April 28, 2017		