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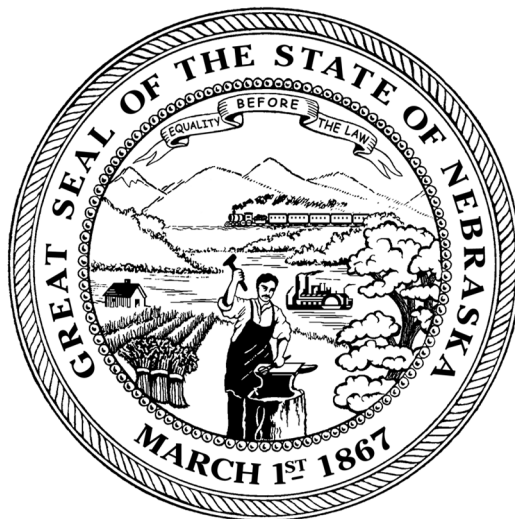
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REVISED STATUTES OF NEBRASKA

2021 SUPPLEMENT

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CHAPTERS 71 TO UCC AND APPENDIX, INCLUSIVE



CITE AS FOLLOWS

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CHAPTER 71

PUBLIC HEALTH AND WELFARE

Article.

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ARTICLE 6

VITAL STATISTICS

Section

71-614. Marriage licenses; amendment; department; county clerk; duties.

71-614 Marriage licenses; amendment; department; county clerk; duties.

As soon as possible after completion of an amendment to a marriage license by the department, the department shall forward a noncertified copy of the marriage license reflecting the amendment to the county clerk of the county in which the license was filed. Upon receipt of the amended copy, the county clerk shall make the necessary changes on the marriage license on file in his or her office to reflect the amendment.

Source: Laws 1919, c. 190, tit. VI, art. II, div. IX, § 16, p. 784; C.S.1922, § 8246; Laws 1927, c. 166, § 10, p. 452; C.S.1929, § 71-2418; R.S.1943, § 71-614; Laws 1959, c. 323, § 2, p. 1180; Laws 1967, c. 443, § 1, p. 1383; Laws 1967, c. 444, § 1, p. 1385; Laws 1977, LB 73, § 1; Laws 1986, LB 525, § 13; Laws 1992, LB 1019, § 53; Laws 1996, LB 1044, § 525; Laws 1997, LB 307, § 141; Laws 2007, LB296, § 414; Laws 2021, LB93, § 1.
Effective date August 28, 2021.

ARTICLE 8

BEHAVIORAL HEALTH SERVICES

Section

- 71-808. Regional behavioral health authority; established; regional governing board; matching funds; requirements.
- 71-812. Behavioral Health Services Fund; created; use; investment.

71-808 Regional behavioral health authority; established; regional governing board; matching funds; requirements.

(1) A regional behavioral health authority shall be established in each behavioral health region by counties acting under provisions of the Interlocal Cooperation Act. Each regional behavioral health authority shall be governed by a regional governing board consisting of one county board member from each county in the region. Board members shall serve for staggered terms of three years and until their successors are appointed and qualified. Board members shall serve without compensation but shall be reimbursed for expenses as provided in sections 81-1174 to 81-1177.

(2) The regional governing board shall appoint a regional administrator who shall be responsible for the administration and management of the regional behavioral health authority. Each regional behavioral health authority shall encourage and facilitate the involvement of consumers in all aspects of service planning and delivery within the region and shall coordinate such activities with the office of consumer affairs within the division. Each regional behavioral health authority shall establish and utilize a regional advisory committee consisting of consumers, providers, and other interested parties and may establish and utilize such other task forces, subcommittees, or other committees as it deems necessary and appropriate to carry out its duties under this section.

(3) Each county in a behavioral health region shall provide funding for the operation of the behavioral health authority and for the provision of behavioral health services in the region. The total amount of funding provided by counties under this subsection shall be equal to one dollar for every three dollars from the General Fund. The division shall annually certify the total amount of county matching funds to be provided. At least forty percent of such amount shall consist of local and county tax revenue, and the remainder shall consist of other nonfederal sources. The regional governing board of each behavioral health authority, in consultation with all counties in the region, shall determine the amount of funding to be provided by each county under this subsection. For purposes of calculating the amount of county matching funds under this subsection, the amount of General Funds shall exclude:

(a) An amount equal to two million five hundred ninety-nine thousand six hundred sixty dollars from the General Fund each year, beginning on July 1, 2021;

(b) Any General Funds transferred from regional centers for the provision of community-based behavioral health services after July 1, 2004; and

(c) Funds received by a regional behavioral health authority for the provision of behavioral health services to children under section 71-826.

Source: Laws 2004, LB 1083, § 8; Laws 2009, LB603, § 4; Laws 2020, LB381, § 61; Laws 2021, LB384, § 10.
Effective date April 27, 2021.

Cross References

Interlocal Cooperation Act, see section 13-801.

71-812 Behavioral Health Services Fund; created; use; investment.

(1) The Behavioral Health Services Fund is created. The fund shall be administered by the division and shall contain cash funds appropriated by the Legislature or otherwise received by the department for the provision of behavioral health services from any other public or private source and directed by the Legislature for credit to the fund.

(2) The fund shall be used to encourage and facilitate the statewide development and provision of community-based behavioral health services, including, but not limited to, (a) the provision of grants, loans, and other assistance for such purpose and (b) reimbursement to providers of such services.

(3)(a) Money transferred to the fund under section 76-903 shall be used for housing-related assistance for very low-income adults with serious mental illness, except that if the division determines that all housing-related assistance obligations under this subsection have been fully satisfied, the division may distribute any excess, up to twenty percent of such money, to regional behavioral health authorities for acquisition or rehabilitation of housing to assist such persons. The division shall manage and distribute such funds based upon a formula established by the division, in consultation with regional behavioral health authorities and the department, in a manner consistent with and reasonably calculated to promote the purposes of the public behavioral health system enumerated in section 71-803. The division shall contract with each regional behavioral health authority for the provision of such assistance. Each regional behavioral health authority may contract with qualifying public, private, or nonprofit entities for the provision of such assistance.

(b) For purposes of this subsection:

(i) Adult with serious mental illness means a person eighteen years of age or older who has, or at any time during the immediately preceding twelve months has had, a diagnosable mental, behavioral, or emotional disorder of sufficient duration to meet diagnostic criteria identified in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders and which has resulted in functional impairment that substantially interferes with or limits one or more major life functions. Serious mental illness does not include DSM V codes, substance abuse disorders, or developmental disabilities unless such conditions exist concurrently with a diagnosable serious mental illness;

(ii) Housing-related assistance includes rental payments, utility payments, security and utility deposits, landlord risk mitigation payments, and other related costs and payments;

(iii) Landlord risk mitigation payment means a payment provided to a landlord who leases or rents property to a very low-income adult with serious mental illness which may be used to pay for excessive damage to the rental property, any lost rent, any legal fees incurred by the landlord in excess of the security deposit, or any other expenses incurred by the landlord as a result of leasing or renting the property to such individual; and

(iv) Very low-income means a household income of fifty percent or less of the applicable median family income estimate as established by the United States Department of Housing and Urban Development.

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

Source: Laws 2004, LB 1083, § 12; Laws 2005, LB 40, § 5; Laws 2007, LB296, § 459; Laws 2021, LB384, § 11.
Effective date April 27, 2021.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

ARTICLE 19

CARE OF CHILDREN

(b) CHILD CARE LICENSURE

Section

71-1910. Terms, defined.

(d) STEP UP TO QUALITY CHILD CARE ACT

71-1958. Quality scale rating; application; assignment of rating.

(b) CHILD CARE LICENSURE

71-1910 Terms, defined.

For purposes of the Child Care Licensing Act, unless the context otherwise requires:

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

(2)(a) Program means the provision of services in lieu of parental supervision for children under thirteen years of age for compensation, either directly or indirectly, on the average of less than twelve hours per day, but more than two hours per week, and includes any employer-sponsored child care, family child care home, child care center, school-age child care program, school-age services pursuant to section 79-1104, or preschool or nursery school.

(b) Program does not include casual care at irregular intervals, a recreation camp as defined in section 81-15,271, a recreation facility, center, or program operated by a political or governmental subdivision pursuant to the authority provided in section 13-304, classes or services provided by a religious organization other than child care or a preschool or nursery school, a preschool program conducted in a school approved pursuant to section 79-318, services provided only to school-age children during the summer and other extended breaks in the school year, or foster care as defined in section 71-1901.

Source: Laws 1984, LB 130, § 3; Laws 1986, LB 68, § 1; Laws 1987, LB 472, § 1; Laws 1991, LB 836, § 29; Laws 1995, LB 401, § 31; Laws 1995, LB 451, § 9; Laws 1996, LB 900, § 1058; Laws 1996, LB 1044, § 588; Laws 1997, LB 307, § 176; Laws 1997, LB 310, § 5; Laws 1999, LB 594, § 51; Laws 2004, LB 1005, § 69; Laws 2006, LB 994, § 97; Laws 2007, LB296, § 499; Laws 2008, LB928, § 19; Laws 2021, LB148, § 68.
Operative date July 1, 2021.

(d) STEP UP TO QUALITY CHILD CARE ACT

71-1958 Quality scale rating; application; assignment of rating.

(1) Quality rating criteria shall be used as provided in this section to assign a quality scale rating to each applicable child care or early childhood education program if the program applies under section 71-1957 to participate in the quality rating and improvement system developed pursuant to section 71-1955.

(2) Licensure under the Child Care Licensing Act for a program which serves children from birth to kindergarten-entrance age shall be sufficient criteria to be rated at step one.

(3) Meeting criteria established by the State Department of Education for a prekindergarten service or prekindergarten program established pursuant to section 79-1104 and reporting to the Nebraska Early Childhood Professional Record System created under section 71-1962 shall be sufficient criteria to be rated at step three.

(4) Meeting performance standards required by the federal government for a federal Head Start program or Early Head Start program and reporting to the Nebraska Early Childhood Professional Record System created under section 71-1962 shall be sufficient criteria to be rated at step three.

(5) Accreditation by a nationally recognized accrediting body approved by the State Department of Education and reporting to the Nebraska Early Childhood Professional Record System created under section 71-1962 shall be sufficient criteria to be rated at step three.

(6) A participating applicable child care or early childhood education program operating under a provisional license shall have a quality scale rating at step one even if it meets other quality rating criteria. A participating applicable child care or early childhood education program in good standing operating under a provisional license due to a change in license type may be rated above step one. If a participating applicable child care or early childhood education program is at a quality scale rating higher than step one and the program's license is placed on disciplinary limitation, probation, or suspension, such program shall have its quality scale rating changed to step one. If an applicable child care or early childhood education program's license is revoked, the program is not eligible to participate in or receive a quality scale rating under the quality rating and improvement system until the program has an operating license which is in full force and effect.

Source: Laws 2013, LB507, § 7; Laws 2016, LB1066, § 1; Laws 2021, LB351, § 1.

Effective date August 28, 2021.

Cross References

Child Care Licensing Act, see section 71-1908.

ARTICLE 26**STATE BOARD OF HEALTH**

Section

- 71-2618. Water samples; analyses; fees; testing; agreements; certification; standards; fees; existing rules, regulations, certifications; agreements, forms of approval, suits, other proceedings; how treated.
- 71-2619. Laboratory supplies and services; fees; establish; disposition.

Section

71-2621. Fees; laboratory tests and services; credited to Health and Human Services Cash Fund.

71-2622. Transferred to section 81-15,292.

71-2618 Water samples; analyses; fees; testing; agreements; certification; standards; fees; existing rules, regulations, certifications; agreements, forms of approval, suits, other proceedings; how treated.

(1) For purposes of the Nebraska Safe Drinking Water Act, the Director of Public Health of the Department of Health and Human Services may establish and collect fees for making laboratory analyses of water samples pursuant to sections 71-2619 to 71-2621, except that subsection (6) of section 71-2619 shall not apply for purposes of the Nebraska Safe Drinking Water Act. Inspection fees for making other laboratory agreements shall be established and collected pursuant to sections 71-2619 to 71-2621.

(2)(a) The Director of Public Health of the Department of Health and Human Services shall certify and enter into authorization agreements with laboratories to perform tests on water that is intended for human consumption, including the tests required by the director for compliance and monitoring purposes. The director shall establish, through rules and regulations, standards for certification. Such standards (i) may include requirements for staffing, equipment, procedures, and methodology for conducting laboratory tests, quality assurance and quality control procedures, and communication of test results, (ii) shall provide for certification of independent laboratories to test samples provided by public water systems for all acute toxins for which the department tests such samples, including, but not limited to, coliform, nitrates, inorganic chemicals, organic chemicals, radionuclides, and any other acute toxins for which the department tests such samples, and (iii) shall be consistent with requirements for performing laboratory tests established by the United States Environmental Protection Agency to the extent such requirements are consistent with state law. The director may accept accreditation by a recognized independent accreditation body, public agency, or federal program which has standards that are at least as stringent as those established pursuant to this section. The director may adopt and promulgate rules and regulations which list accreditation bodies, public agencies, and federal programs that may be accepted as evidence that a laboratory meets the standards for certification. Inspection fees and fees for certifying other laboratories shall be established and collected to defray the cost of the inspections and certification as provided in sections 71-2619 to 71-2621.

(b) Laboratories shall be allowed to test water samples which are not compliance samples by testing methods other than the methods and procedures required to be used on compliance samples by rules and regulations of the department. For purposes of this section, compliance sample means a water sample required under the Nebraska Safe Drinking Water Act and rules and regulations of the department to determine whether a public water system meets current drinking water standards.

(3) All rules and regulations adopted prior to July 1, 2021, under subdivision (1)(b) or subsection (2) of section 71-5306 shall continue to be effective to the extent not in conflict with the changes made by Laws 2021, LB148, and until amended or repealed by the department.

(4) All certifications, agreements, or other forms of approval issued prior to July 1, 2021, in accordance with subdivision (1)(b) or subsection (2) of section 71-5306 shall remain valid as issued for purposes of the changes made by Laws 2021, LB148, unless revoked or otherwise terminated by law.

(5) Any suit, action, or other proceeding, judicial or administrative, which was lawfully commenced prior to July 1, 2021, under subdivision (1)(b) or subsection (2) of section 71-5306 shall be subject to the provisions of such section as they existed prior to July 1, 2021.

Source: Laws 2021, LB148, § 71.

Operative date July 1, 2021.

Cross References

Nebraska Safe Drinking Water Act, see section 71-5313.

71-2619 Laboratory supplies and services; fees; establish; disposition.

(1) The Department of Health and Human Services may by regulation establish fees to defray the costs of providing specimen containers, shipping outfits, and related supplies and fees to defray the costs of certain laboratory examinations as requested by individuals, firms, corporations, or governmental agencies in the state. Fees for the provision of certain classes of shipping outfits or specimen containers shall be no more than the actual cost of materials, labor, and delivery. Fees for the provision of shipping outfits may be made when no charge is made for service.

(2) Fees may be established by regulation for chemical or microbiological examinations of various categories of water samples. Fees established for examination of water to ascertain qualities for domestic, culinary, and associated uses shall be set to defray no more than the actual cost of the tests in the following categories: (a) Inorganic chemical assays; (b) organic pollutants; and (c) bacteriological examination to indicate sanitary quality as coliform density by membrane filter test or equivalent test.

(3) Fees for examinations of water from lakes, streams, impoundments, or similar sources, from wastewaters, or from ground water for industrial or agricultural purposes may be charged in amounts established by regulation but shall not exceed one and one-half times the limits set by regulation for examination of domestic waters.

(4) Fees may be established by regulation for chemical or microbiological examinations of various categories of samples to defray no more than the actual cost of testing. Such fees may be charged for:

- (a) Any specimen submitted for radiochemical analysis or characterization;
- (b) Any material submitted for chemical characterization or quantitation; and
- (c) Any material submitted for microbiological characterization.

(5) Fees may be established by regulation for the examinations of certain categories of biological and clinical specimens to defray no more than the actual costs of testing. Such fees may be charged for examinations pursuant to law or regulation of:

- (a) Any specimen submitted for chemical examination for assessment of health status or functional impairment;
- (b) Any specimen submitted for microbiological examination which is not related to direct human contact with the microbiological agent; and

(c) A specimen submitted for microbiological examination or procedure by an individual, firm, corporation, or governmental unit other than the department.

(6) The department shall not charge fees for tests that include microbiological isolation, identification examination, or other laboratory examination for the following:

(a) A contagious disease when the department is authorized by law or regulation to directly supervise the prevention, control, or surveillance of such contagious disease;

(b) Any emergency when the health of the people of any part of the state is menaced or exposed pursuant to section 71-502; and

(c) When adopting or enforcing special quarantine and sanitary regulations authorized by the department.

(7) Combinations of different tests or groups of tests submitted together may be offered at rates less than those set for individual tests as allowed in this section and shall defray the actual costs.

(8) Fees may be established by regulation to defray no more than the actual costs of certifying laboratories, inspecting laboratories, and making laboratory agreements between the department and laboratories other than the Department of Health and Human Services, Division of Public Health, Environmental Laboratory for the purpose of conducting analyses of drinking water as prescribed in section 71-2618. For each laboratory applying for certification, fees shall include (a) an annual fee not to exceed one thousand eight hundred dollars per laboratory and (b) an inspection fee not to exceed three thousand dollars per certification period for each laboratory located in this state.

(9) All fees collected pursuant to this section shall be remitted to the State Treasurer for credit to the Health and Human Services Cash Fund.

Source: Laws 1973, LB 583, § 2; Laws 1983, LB 617, § 21; Laws 1986, LB 1047, § 4; Laws 1996, LB 1044, § 636; Laws 2007, LB296, § 552; Laws 2008, LB928, § 20; Laws 2021, LB148, § 69.
Operative date July 1, 2021.

71-2621 Fees; laboratory tests and services; credited to Health and Human Services Cash Fund.

All fees collected for laboratory tests and services pursuant to sections 71-2618 to 71-2620 shall be remitted to the State Treasurer for credit to the Health and Human Services Cash Fund, which shall be used to partially defray the costs of labor, operations, supplies, and materials in the operations of the Department of Health and Human Services, Division of Public Health, Environmental Laboratory.

Source: Laws 1973, LB 583, § 4; Laws 1996, LB 1044, § 638; Laws 2007, LB296, § 554; Laws 2008, LB928, § 22; Laws 2021, LB148, § 70.

71-2622 Transferred to section 81-15,292.

ARTICLE 27

HEALTH CARE CRISIS PROTOCOL ACT

Section

- 71-2701. Act, how cited.
 71-2702. Health care crisis protocol, defined.
 71-2703. Health care crisis protocol; activated; when.
 71-2704. Health care providers; standards; effect of health care crisis protocol.
 71-2705. Health care crisis protocol; hospital; Department of Health and Human Services; duties.

71-2701 Act, how cited.

Sections 71-2701 to 71-2705 shall be known and may be cited as the Health Care Crisis Protocol Act.

Source: Laws 2021, LB139, § 5.
 Effective date May 26, 2021.

Cross References

COVID-19 Liability Act, see section 25-3601.

71-2702 Health care crisis protocol, defined.

For purposes of the Health Care Crisis Protocol Act, health care crisis protocol means the plans and protocols for triage and the application of medical services and resources for critically ill patients in the event that the demand for medical services and resources exceeds supply as a result of a pervasive or catastrophic disaster as provided in the Health Care Crisis Protocol for the State of Nebraska published by the Nebraska Medical Emergency Operations Center, dated May 10, 2021.

Source: Laws 2021, LB139, § 6.
 Effective date May 26, 2021.

Cross References

COVID-19 Liability Act, see section 25-3601.

71-2703 Health care crisis protocol; activated; when.

The health care crisis protocol may be activated only in extraordinary circumstances when the level of demand for medical services and resources exceeds the available resources required to deliver the generally accepted standard of care and crisis operations will be in effect for a sustained period.

Source: Laws 2021, LB139, § 7.
 Effective date May 26, 2021.

Cross References

COVID-19 Liability Act, see section 25-3601.

71-2704 Health care providers; standards; effect of health care crisis protocol.

The health care crisis protocol does not change or alter the standard for malpractice or professional negligence for health care providers set forth in section 44-2810.

Source: Laws 2021, LB139, § 8.
 Effective date May 26, 2021.

Cross References

COVID-19 Liability Act, see section 25-3601.

71-2705 Health care crisis protocol; hospital; Department of Health and Human Services; duties.

(1) Each hospital shall have the health care crisis protocol available for inspection by the public.

(2) The Department of Health and Human Services shall publish a copy of the health care crisis protocol on the department’s website for inspection by the public.

(3) For purposes of this section, hospital means a hospital licensed under the Health Care Facility Licensure Act.

Source: Laws 2021, LB139, § 9.
Effective date May 26, 2021.

Cross References

COVID-19 Liability Act, see section 25-3601.

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

ARTICLE 31

RECREATION CAMPS

Section

- 71-3101. Transferred to section 81-15,271.
- 71-3102. Transferred to section 81-15,272.
- 71-3103. Transferred to section 81-15,273.
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- 71-3105. Transferred to section 81-15,275.
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71-3101 Transferred to section 81-15,271.

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71-3103 Transferred to section 81-15,273.

71-3104 Transferred to section 81-15,274.

71-3105 Transferred to section 81-15,275.

71-3106 Transferred to section 81-15,276.

71-3107 Transferred to section 81-15,277.

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 the Municipal Initiative and Referendum Act. 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; Laws 2021, LB163, § 200.
Effective date August 28, 2021.

Cross References

Municipal Initiative and Referendum Act, see section 18-2501.

ARTICLE 42

STROKE SYSTEM OF CARE ACT

Section

71-4201. Act, how cited.

71-4210. Statewide stroke data registry; data collection and release; powers and duties.

71-4201 Act, how cited.

Sections 71-4201 to 71-4210 shall be known and may be cited as the Stroke System of Care Act.

Source: Laws 2016, LB722, § 1; Laws 2021, LB476, § 1.
Effective date August 28, 2021.

71-4210 Statewide stroke data registry; data collection and release; powers and duties.

(1) The department in conjunction with the stroke system of care task force shall establish and implement an improvement plan for a comprehensive stroke system for stroke response and treatment. The department shall:

(a) Maintain a statewide stroke data registry that utilizes the American Heart Association's Get with the Guidelines stroke data set or a data tool with equivalent data measures and with confidentiality standards consistent with federal and state law and other health information and data collection, storage, and sharing requirements of the department;

(b) Require comprehensive stroke centers, thrombectomy-capable stroke centers, and primary stroke centers, and encourage other hospitals and emergency medical services, to report data consistent with nationally recognized guidelines on the treatment of individuals with a suspected stroke and transient ischemic attack within the state;

(c) Encourage sharing of information and data among health care providers on ways to improve the quality of care for stroke patients within the state; and

(d) Facilitate the communication and analysis of health information and data among health care professionals who provide care for stroke patients.

(2) The department shall establish a data oversight process for stroke response and treatment. The department shall provide for (a) the analysis of data generated by the stroke registry on stroke response and treatment and (b) the identification of potential interventions to improve stroke care in geographic areas or regions of the state.

(3) All data and information developed or collected pursuant to the Stroke System of Care Act registry and the receipt and release of data from the Stroke System of Care Act registry is subject to and shall comply with sections 81-663 to 81-675. For purposes of the Stroke System of Care Act registry, data may be released as Class I data, Class II data, Class III data, or Class IV data as classified in section 81-667.

Source: Laws 2021, LB476, § 2.

Effective date August 28, 2021.

ARTICLE 43 SWIMMING POOLS

Section

71-4301. Transferred to section 81-15,264.

71-4302. Transferred to section 81-15,265.

71-4303. Transferred to section 81-15,266.

71-4304. Transferred to section 81-15,267.

71-4305. Transferred to section 81-15,268.

71-4306. Transferred to section 81-15,269.

71-4307. Transferred to section 81-15,270.

71-4301 Transferred to section 81-15,264.

71-4302 Transferred to section 81-15,265.

71-4303 Transferred to section 81-15,266.

71-4304 Transferred to section 81-15,267.

71-4305 Transferred to section 81-15,268.

71-4306 Transferred to section 81-15,269.

71-4307 Transferred to section 81-15,270.

ARTICLE 46

**MANUFACTURED HOMES, RECREATIONAL VEHICLES,
AND MOBILE HOME PARKS**

(b) MOBILE HOME PARKS

Section

- 71-4621. Transferred to section 81-15,279.
- 71-4622. Transferred to section 81-15,280.
- 71-4623. Transferred to section 81-15,281.
- 71-4624. Transferred to section 81-15,282.
- 71-4625. Transferred to section 81-15,283.
- 71-4626. Transferred to section 81-15,284.
- 71-4627. Transferred to section 81-15,285.
- 71-4629. Transferred to section 81-15,286.
- 71-4630. Transferred to section 81-15,287.
- 71-4631. Transferred to section 81-15,288.
- 71-4632. Transferred to section 81-15,289.
- 71-4633. Transferred to section 81-15,290.
- 71-4634. Transferred to section 81-15,278.
- 71-4635. Transferred to section 81-15,291.

(b) MOBILE HOME PARKS

71-4621 Transferred to section 81-15,279.

71-4622 Transferred to section 81-15,280.

71-4623 Transferred to section 81-15,281.

71-4624 Transferred to section 81-15,282.

71-4625 Transferred to section 81-15,283.

71-4626 Transferred to section 81-15,284.

71-4627 Transferred to section 81-15,285.

71-4629 Transferred to section 81-15,286.

71-4630 Transferred to section 81-15,287.

71-4631 Transferred to section 81-15,288.

71-4632 Transferred to section 81-15,289.

71-4633 Transferred to section 81-15,290.

71-4634 Transferred to section 81-15,278.

71-4635 Transferred to section 81-15,291.

ARTICLE 53

DRINKING WATER

(a) NEBRASKA SAFE DRINKING WATER ACT

Section

- 71-5301. Terms, defined.
- 71-5301.01. Use of lead-free materials; rules and regulations.
- 71-5302. Drinking water and monitoring standards; harmful materials; how determined; applicability; priority system.
- 71-5304. Rules and regulations; construction and operation of system; objectives.
- 71-5306. Director; powers and duties; Safe Drinking Water Act Cash Fund; created; use; investment.
- 71-5308. License; application; fees; renewal.
- 71-5309. Qualifications of operators of public water system; licenses; issuance; rules and regulations; expired license; relicensure; department; powers and duties; disciplinary action; grounds.
- 71-5310. Director; authorize variances or exemptions to standards; procedure.
- 71-5312.01. Existing rules, regulations, licenses, certificates, forms of approval, suits, other proceedings; how treated.

(a) NEBRASKA SAFE DRINKING WATER ACT

71-5301 Terms, defined.

For purposes of the Nebraska Safe Drinking Water Act, unless the context otherwise requires:

- (1) Council means the Advisory Council on Public Water Supply;
- (2) Department means the Department of Environment and Energy;
- (3) Director means the Director of Environment and Energy or his or her authorized representative;
- (4) Designated agent means any political subdivision or corporate entity having the demonstrated capability and authority to carry out in whole or in part the Nebraska Safe Drinking Water Act and with which the director has consummated a legal and binding contract covering specifically delegated responsibilities;
- (5) Major construction, extension, or alteration means those structural changes that affect the source of supply, treatment processes, or transmission of water to service areas but does not include the extension of service mains within established service areas;
- (6) Operator means the individual or individuals responsible for the continued performance of the water supply system or any part of such system during assigned duty hours;
- (7) Owner means any person owning or operating a public water system;
- (8) Person means any individual, corporation, firm, partnership, limited liability company, association, company, trust, estate, public or private institution, group, agency, political subdivision, or other entity or any legal successor, representative, agent, or agency of any of such entities;
- (9) Water supply system means all sources of water and their surroundings under the control of one owner and includes all structures, conduits, and appurtenances by means of which such water is collected, treated, stored, or delivered except service pipes between street mains and buildings and the plumbing within or in connection with the buildings served;

(10)(a) Public water system means a system for providing the public with water for human consumption through pipes or other constructed conveyances, if such system has at least fifteen service connections or regularly serves an average of at least twenty-five individuals daily at least sixty days per year. Public water system includes (i) any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system and (ii) any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. Public water system does not include a special irrigation district. A public water system is either a community water system or a noncommunity water system.

(b) Service connection does not include a connection to a system that delivers water by a constructed conveyance other than a pipe if (i) the water is used exclusively for purposes other than residential uses, consisting of drinking, bathing, cooking, and other similar uses, (ii) the department determines that alternative water to achieve the equivalent level of public health protection provided by the Nebraska Safe Drinking Water Act and rules and regulations under the act is provided for residential or similar uses for drinking and cooking, or (iii) the department determines that the water provided for residential or similar uses for drinking, cooking, and bathing is centrally treated or treated at the point of entry by the provider, a pass-through entity, or the user to achieve the equivalent level of protection provided by the Nebraska Safe Drinking Water Act and the rules and regulations under the act.

(c) Special irrigation district means an irrigation district in existence prior to May 18, 1994, that provides primarily agricultural service through a piped water system with only incidental residential or similar use if the system or the residential or similar users of the system comply with exclusion provisions of subdivision (b)(ii) or (iii) of this subdivision;

(11) Drinking water standards means rules and regulations adopted and promulgated pursuant to section 71-5302 which (a) establish maximum levels for harmful materials which, in the judgment of the director, may have an adverse effect on the health of persons and (b) apply only to public water systems;

(12) Lead free means (a) not containing more than two-tenths percent lead when used with respect to solder and flux and (b) not containing more than a weighted average of twenty-five hundredths percent lead when used with respect to the wetted surfaces of pipes, pipe fittings, plumbing fittings, and fixtures;

(13) Community water system means a public water system that (a) serves at least fifteen service connections used by year-round residents of the area served by the system or (b) regularly serves at least twenty-five year-round residents;

(14) Noncommunity water system means a public water system that is not a community water system;

(15) Nontransient noncommunity water system means a public water system that is not a community water system and that regularly serves at least twenty-five of the same individuals over six months per year; and

(16) Federal Safe Drinking Water Act means the federal Safe Drinking Water Act, 42 U.S.C. 300f et seq., as the act existed on January 1, 2021.

Source: Laws 1976, LB 821, § 1; Laws 1988, LB 383, § 1; Laws 1993, LB 121, § 441; Laws 1996, LB 1044, § 712; Laws 1997, LB 517,

§ 17; Laws 2001, LB 667, § 28; Laws 2003, LB 31, § 3; Laws 2004, LB 1005, § 98; Laws 2007, LB296, § 608; Laws 2007, LB463, § 1223; Laws 2012, LB723, § 1; Laws 2016, LB899, § 1; Laws 2021, LB148, § 72.

Operative date July 1, 2021.

71-5301.01 Use of lead-free materials; rules and regulations.

The director may adopt and promulgate rules and regulations regarding the use of lead-free materials in public water systems in compliance with standards established in accordance with the federal Safe Drinking Water Act.

Source: Laws 1988, LB 383, § 2; Laws 2001, LB 667, § 29; Laws 2016, LB899, § 2; Laws 2021, LB148, § 73.

Operative date July 1, 2021.

71-5302 Drinking water and monitoring standards; harmful materials; how determined; applicability; priority system.

(1) The director shall adopt and promulgate necessary minimum drinking water standards, in the form of rules and regulations, to insure that drinking water supplied to consumers through all public water systems shall not contain amounts of chemical, radiological, physical, or bacteriological material determined by the director to be harmful to human health.

(2) The director may adopt and promulgate rules and regulations to require the monitoring of drinking water supplied to consumers through public water systems for chemical, radiological, physical, or bacteriological material determined by the director to be potentially harmful to human health.

(3) In determining what materials are harmful or potentially harmful to human health and in setting maximum levels for such harmful materials, the director shall be guided by:

(a) General knowledge of the medical profession and related scientific fields as to materials and substances which are harmful to humans if ingested through drinking water; and

(b) General knowledge of the medical profession and related scientific fields as to the maximum amounts of such harmful materials which may be ingested by human beings, over varying lengths of time, without resultant adverse effects on health.

(4) Subject to section 71-5310, state drinking water standards shall apply to each public water system in the state, except that such standards shall not apply to a public water system:

(a) Which consists only of distribution and storage facilities and does not have any collection and treatment facilities;

(b) Which obtains all of its water from, but is not owned or operated by, a public water system to which such standards apply;

(c) Which does not sell water to any person; and

(d) Which is not a carrier which conveys passengers in interstate commerce.

(5) The director may adopt alternative monitoring requirements for public water systems in accordance with section 1418 of the federal Safe Drinking Water Act.

(6) The director may adopt a system for the ranking of safe drinking water projects with known needs or for which loan applications have been received by the director. In establishing the ranking system the director shall consider, among other things, the risk to human health, compliance with the federal Safe Drinking Water Act, and assistance to systems most in need based upon affordability criteria adopted by the director. This priority system shall be reviewed annually by the director.

Source: Laws 1976, LB 821, § 2; Laws 1988, LB 383, § 3; Laws 1997, LB 517, § 18; Laws 2001, LB 667, § 30; Laws 2007, LB296, § 609; Laws 2019, LB302, § 90; Laws 2021, LB148, § 74.
Operative date July 1, 2021.

Cross References

Drinking water, standards for pesticide levels, see section 2-2626.

71-5304 Rules and regulations; construction and operation of system; objectives.

(1) The director shall adopt and promulgate, as necessary, minimum rules and regulations governing the siting, design, construction, alteration, classification, and operation of public water systems to insure that such public water systems shall not contain amounts of chemical, radiological, physical, or bacteriological materials which are determined by the director, pursuant to section 71-5302, to be harmful to the physical health of human beings. In adopting such rules and regulations, the director shall attempt to meet the following objectives:

(a) Insure that facilities are physically separated, to the greatest extent possible, from water or land areas which contain high levels of materials which are harmful to humans;

(b) Insure that such facilities, and all parts thereof, are physically sealed so that leakage of harmful materials into the public water system itself from sources outside the system shall not occur;

(c) Insure that all materials which are used in the construction of a system shall not place harmful materials into the public water system;

(d) Insure that all chemicals or other substances used to treat and purify water are free from harmful materials; and

(e) Insure, to the greatest extent possible, that such rules and regulations will allow uninterrupted and efficient operation of public water systems.

(2) The rules and regulations may contain differences and distinctions based on one or more of the following: Physical size of the facilities, number of persons served, system classification, source of water, treatment technique and purpose, and distribution complexity, so long as the objectives of this section are met.

Source: Laws 1976, LB 821, § 4; Laws 2001, LB 667, § 32; Laws 2003, LB 31, § 5; Laws 2021, LB148, § 75.
Operative date July 1, 2021.

71-5306 Director; powers and duties; Safe Drinking Water Act Cash Fund; created; use; investment.

(1) To carry out the provisions and purposes of the Nebraska Safe Drinking Water Act, the director may:

(a) Enter into agreements, contracts, or cooperative arrangements, under such terms as are deemed appropriate, with other state, federal, or interstate agencies or with municipalities, educational institutions, local health departments, or other organizations, entities, or individuals;

(b) Require all laboratory analyses to be performed at the Department of Health and Human Services, Division of Public Health, Environmental Laboratory, or at any other certified laboratory which has entered into an agreement for such services with the Department of Health and Human Services pursuant to section 71-2618;

(c) Receive financial and technical assistance from an agency of the federal government or from any other public or private agency;

(d) Enter the premises of a public water system at any time for the purpose of conducting monitoring, making inspections, or collecting water samples for analysis;

(e) Delegate those responsibilities and duties as deemed appropriate for the purpose of administering the requirements of the Nebraska Safe Drinking Water Act, including entering into agreements with designated agents which shall perform specifically delegated responsibilities and possess specifically delegated powers;

(f) Require the owner and operator of a public water system to establish and maintain records, make reports, and provide information as the department may reasonably require by regulation to enable it to determine whether such owner or operator has acted or is acting in compliance with the Nebraska Safe Drinking Water Act and rules and regulations adopted pursuant thereto. The department or its designated agent shall have access at all times to such records and reports; and

(g) Assess by regulation a fee for any review of plans and specifications pertaining to a public water system governed by section 71-5305 in order to defray no more than the actual cost of the services provided.

(2) All fees collected by the department pursuant to this section shall be remitted to the State Treasurer for credit to the Safe Drinking Water Act Cash Fund, which is hereby created. Such fund shall be used by the department for the purpose of administering the Nebraska Safe Drinking Water 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 1976, LB 821, § 6; Laws 1986, LB 1047, § 7; Laws 1996, LB 1044, § 716; Laws 2000, LB 1115, § 78; Laws 2001, LB 667, § 37; Laws 2003, LB 242, § 130; Laws 2007, LB296, § 615; Laws 2008, LB928, § 30; Laws 2016, LB19, § 1; Laws 2021, LB148, § 76.

Operative date July 1, 2021.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

71-5308 License; application; fees; renewal.

(1) An applicant shall submit an application and the applicable fees for a license to act as a licensed operator of a public water system to the department.

(2) The director shall adopt and promulgate rules and regulations to establish and collect fees to cover all reasonable and necessary costs of licensing activities, including a reasonable reserve. If an application for a license is denied or withdrawn, the department may retain a portion of the fee to cover the costs of the application process. The fees shall be waived for initial licenses for low-income individuals, military families, and young workers as those terms are defined in the Uniform Credentialing Act.

(3) The director shall remit fees collected under the Nebraska Safe Drinking Water Act to the State Treasurer for credit to the Safe Drinking Water Act Cash Fund.

(4) A license shall expire on December 31 of odd-numbered years. The director may renew a license upon application by the licensee, payment of the applicable fees, and a determination by the director that the licensee has complied with the act and the rules and regulations adopted and promulgated under the act.

Source: Laws 1976, LB 821, § 8; Laws 1997, LB 752, § 190; Laws 2001, LB 667, § 39; Laws 2002, LB 1021, § 90; Laws 2003, LB 242, § 131; Laws 2007, LB463, § 1227; Laws 2021, LB148, § 77.
Operative date July 1, 2021.

Cross References

Uniform Credentialing Act, see section 38-101.

71-5309 Qualifications of operators of public water system; licenses; issuance; rules and regulations; expired license; relicensure; department; powers and duties; disciplinary action; grounds.

(1) The director shall adopt and promulgate, as necessary, minimum rules and regulations governing the qualifications of operators of public water systems. In adopting such rules and regulations, the director shall give consideration to the levels of training and experience which are required, in the opinion of the director, to insure to the greatest extent possible that the public water systems shall be operated in such a manner that (a) maximum efficiency can be attained, (b) interruptions in service will not occur, (c) chemical treatment of the water will be adequate to maintain purity and safety, and (d) harmful materials will not enter the public water system.

(2) The director may require, by rule and regulation, that the applicant for a license successfully pass an examination on the subject of operation of a public water system. The rules and regulations, and any tests so administered, may set out different requirements for public water systems based on one or more of the following: Physical size of the facilities, number of persons served, system classification, source of water, treatment technique and purpose, and distribution complexity, so long as the criteria set forth in this section are followed.

(3) An applicant for a license as a public water system operator under the Nebraska Safe Drinking Water Act who previously held a license or certification as a public water system operator under the act and whose license or certification expired two years or more prior to the date of application shall take the examination required to be taken by an applicant for an initial license under the act. The department's review of the application for licensure by an

applicant under this subsection shall include the results of such examination and the applicant's experience and training. The department may by rules and regulations establish requirements for relicensure under the act which are more stringent for applicants whose license is expired or has been revoked or suspended than those for applicants for initial licensure.

(4) The director may adopt and promulgate rules and regulations as necessary to establish procedures for licensing, including, but not limited to, issuance of temporary or emergency licenses, reinstatement of licenses, and reciprocal licensure agreements with other states.

(5) The director may deny, revoke, or suspend a license after notice and an opportunity for a hearing. Grounds for denial, revocation, or suspension include, but are not limited to, (a) fraud or deception by the applicant or licensee, (b) failure to use reasonable care in the performance of licensed activities, (c) inability of the applicant or licensee to perform licensed activities properly, (d) failure to maintain the minimum requirements for licensure or operation established by the act or the rules and regulations adopted and promulgated under the act, or (e) any other violation of the act or the rules and regulations adopted and promulgated under the act.

Source: Laws 1976, LB 821, § 9; Laws 1988, LB 383, § 7; Laws 2001, LB 667, § 40; Laws 2003, LB 31, § 6; Laws 2007, LB463, § 1228; Laws 2009, LB288, § 35; Laws 2021, LB148, § 78.
Operative date July 1, 2021.

71-5310 Director; authorize variances or exemptions to standards; procedure.

(1) The director, with the approval of the council, may authorize variances or exemptions from the drinking water standards issued pursuant to section 71-5302 under conditions and in such manner as they deem necessary and desirable. Such variances or exemptions shall be permitted under conditions and in a manner which are not less stringent than the conditions under, and the manner in which, variances and exemptions may be granted under the federal Safe Drinking Water Act.

(2) Prior to granting a variance or an exemption, the director shall provide notice, in a newspaper of general circulation serving the area served by the public water system, of the proposed exemption or variance and that interested persons may request a public hearing on the proposed exemption or variance. The director may require the system to provide other appropriate notice necessary to provide adequate notice to persons served by the system.

(3) If a public hearing is requested, the director shall set a time and place for the hearing and such hearing shall be held before the department prior to the variance or exemption being issued. Frivolous and insubstantial requests for a hearing may be denied by the director. An exemption or variance shall be conditioned on monitoring, testing, analyzing, or other requirements to insure the protection of the public health. A variance or an exemption granted shall include a schedule of compliance under which the public water system is required to meet each contaminant level or treatment technique requirement for which a variance or an exemption is granted within a reasonable time as specified by the director with the approval of the council.

Source: Laws 1976, LB 821, § 10; Laws 1988, LB 383, § 8; Laws 1996, LB 1044, § 717; Laws 2001, LB 667, § 41; Laws 2002, LB 1062, § 54; Laws 2007, LB296, § 616; Laws 2021, LB148, § 79.
Operative date July 1, 2021.

71-5312.01 Existing rules, regulations, licenses, certificates, forms of approval, suits, other proceedings; how treated.

(1) All rules and regulations adopted prior to July 1, 2021, under the Nebraska Safe Drinking Water Act shall continue to be effective to the extent not in conflict with the changes made by Laws 2021, LB148.

(2) All licenses, certificates, or other forms of approval issued prior to July 1, 2021, in accordance with the Nebraska Safe Drinking Water Act shall remain valid as issued for purposes of the changes made by Laws 2021, LB148, unless revoked or otherwise terminated by law.

(3) Any suit, action, or other proceeding, judicial or administrative, which was lawfully commenced prior to July 1, 2021, under the Nebraska Safe Drinking Water Act shall be subject to the provisions of the act as they existed prior to July 1, 2021.

Source: Laws 2007, LB463, § 1230; Laws 2021, LB148, § 80.
Operative date July 1, 2021.

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), 2018 edition, except section 101.4.3 and chapter 29, published by the International Code Council, except that (i) section 305.2.3 applies to a facility having twelve or fewer children and (ii) section 310.4.1 applies to a care facility for twelve or fewer persons;

(b) The International Residential Code (IRC), 2018 edition, except section R313 and chapters 25 through 33, published by the International Code Council;

(c) The International Existing Building Code, 2018 edition, except section 809, published by the International Code Council; and

(d) The Uniform Plumbing Code, 2018 edition, designated by the American National Standards Institute as an American National Standard.

(2) The codes adopted by reference in subsection (1) of this section and the minimum standards for radon resistant new construction adopted under section 76-3504 shall constitute the state building code except as amended pursuant to the Building Construction Act or as otherwise authorized by state law.

Source: Laws 1987, LB 227, § 3; Laws 1993, LB 319, § 1; Laws 1996, LB 1304, § 4; Laws 2003, LB 643, § 1; Laws 2010, LB799, § 1; Laws 2011, LB546, § 1; Laws 2015, LB540, § 1; Laws 2017, LB590, § 1; Laws 2019, LB130, § 1; Laws 2019, LB348, § 1; Laws 2019, LB405, § 1; Laws 2021, LB131, § 21.
Operative date August 28, 2021.

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. The state building code shall be the legally applicable code in all buildings and structures owned by the state or any state agency regardless of whether the state, state agency, or applicable county, city, or village has provided for the administration or enforcement of 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; Laws 2021, LB131, § 22.
Operative date August 28, 2021.

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)(a) Any county, city, or village may enact, administer, or enforce a local building or construction code if or as long as such county, city, or village:

(i) Adopts the state building code; or

(ii) Adopts a building or construction code that conforms generally with the state building code.

(b) If a county, city, or village does not adopt a code as authorized under subdivision (a) of this subsection within two years after an update to the state building code, the state building code shall apply in the county, city, or village, except that such code shall not apply to construction on a farm or for farm purposes.

(2) A local building or construction code shall be deemed to conform generally with the state building code if it:

(a) Adopts a special or differing building standard by amending, modifying, or deleting any portion of the state building code in order to reduce unnecessary costs of construction, increase safety, durability, or efficiency, establish best building or construction practices within the county, city, or village, or address special local conditions within the county, city, or village;

(b) Adopts any supplement, new edition, appendix, or component or combination of components of the state building code;

(c) Adopts any of the following:

- (i) Section 305 or 310 of the 2018 edition of the International Building Code without the exceptions described in subdivision (1)(a) of section 71-6403;
 - (ii) Section 101.4.3 or any portion of chapter 29 of the 2018 edition of the International Building Code;
 - (iii) Section R313 or any portion of chapters 25 through 33 of the 2018 edition of the International Residential Code; or
 - (iv) Section 809 of the 2018 edition of the International Existing Building Code;
- (d) Adopts a plumbing code, an electrical code, a fire prevention code, or any other standard code as authorized under section 14-419, 15-905, 18-132, or 23-172;
 - (e) Adopts a local energy code as authorized under section 81-1618; or
 - (f) Adopts minimum standards for radon resistant new construction which meet the minimum standards adopted under section 76-3504.
- (3) A local building or construction code shall not be deemed to conform generally with the state building code if it:
- (a) Includes a prior edition of any component or combination of components of the state building code; or
 - (b) Does not include minimum standards for radon resistant new construction that meet the minimum standards adopted under section 76-3504.
- (4) A county, city, or village shall notify the Department of Environment and Energy if it amends or modifies its local building or construction code in such a way as to delete any portion of (a) chapter 13 of the 2018 edition of the International Building Code or (b) chapter 11 of the 2018 edition of the International Residential Code. The notification shall be made within thirty days after the adoption of such amendment or modification.
- (5) A county, city, or village shall not adopt or enforce a local building or construction code other than as provided by this section.
- (6) A county, city, or village which adopts or enforces a local building or construction code under this section shall regularly update its code. For purposes of this section, a code shall be deemed to be regularly updated if the most recently enacted state building code or a code that conforms generally with the state building code is adopted by the county, city, or village within two years after an update to the state building code.
- (7) A county, city, or village may adopt amendments for the proper administration and enforcement of its local building or construction code including organization of enforcement, qualifications of staff members, examination of plans, inspections, appeals, permits, and fees. Any amendment adopted pursuant to this section shall be published separately from the local building or construction code. Any local building or construction code adopted under subdivision (1)(a) of this section or the state building code if applicable under subdivision (1)(b) of this section shall be the legally applicable code regardless of whether the county, city, or village has provided for the administration or enforcement of its local building or construction code under this subsection.
- (8) A county, city, or village which adopts one or more standard codes as part of its local building or construction code under this section shall keep at least one copy of each adopted code, or portion thereof, for use and examination by

the public in the office of the clerk of the county, city, or village prior to the adoption of the code and as long as such code is in effect.

(9) Notwithstanding the provisions of the Building Construction Act, a public building of any political subdivision shall be built in accordance with the applicable local building or construction code. Fees, if any, for services which monitor a builder's application of codes shall be negotiable between the political subdivisions involved, but such fees shall not exceed the actual expenses incurred by the county, city, or village doing the monitoring.

Source: Laws 1987, LB 227, § 6; Laws 1993, LB 319, § 4; Laws 2010, LB799, § 4; Laws 2011, LB546, § 3; Laws 2015, LB540, § 2; Laws 2016, LB704, § 214; Laws 2017, LB590, § 3; Laws 2019, LB96, § 2; Laws 2019, LB130, § 3; Laws 2019, LB348, § 2; Laws 2019, LB405, § 2; Laws 2021, LB131, § 23.

Operative date August 28, 2021.

ARTICLE 76

HEALTH CARE

(b) NEBRASKA HEALTH CARE FUNDING ACT

Section

71-7611. Nebraska Health Care Cash Fund; created; use; investment; report.

(b) NEBRASKA HEALTH CARE FUNDING ACT

71-7611 Nebraska Health Care Cash Fund; created; use; investment; report.

(1) The Nebraska Health Care Cash Fund is created. The State Treasurer shall transfer (a) sixty million three hundred thousand dollars on or before July 15, 2014, (b) sixty million three hundred fifty thousand dollars on or before July 15, 2015, (c) sixty million three hundred fifty thousand dollars on or before July 15, 2016, (d) sixty million seven hundred thousand dollars on or before July 15, 2017, (e) five hundred thousand dollars on or before May 15, 2018, (f) sixty-one million six hundred thousand dollars on or before July 15, 2018, (g) sixty-two million dollars on or before July 15, 2019, (h) sixty-one million four hundred fifty thousand dollars on or before July 15, 2020, and (i) fifty-one million dollars on or before every July 15 thereafter from the Nebraska Medicaid Intergovernmental Trust Fund and the Nebraska Tobacco Settlement Trust Fund to the Nebraska Health Care Cash Fund, except that such amount shall be reduced by the amount of the unobligated balance in the Nebraska Health Care Cash Fund at the time the transfer is made. The state investment officer shall advise the State Treasurer on the amounts to be transferred first from the Nebraska Medicaid Intergovernmental Trust Fund until the fund balance is depleted and from the Nebraska Tobacco Settlement Trust Fund thereafter in order to sustain such transfers in perpetuity. The state investment officer shall report electronically to the Legislature on or before October 1 of every even-numbered year on the sustainability of such transfers. The Nebraska Health Care Cash Fund shall also include money received pursuant to section 77-2602. Except as otherwise provided by law, no more than the amounts specified in this subsection may be appropriated or transferred from the Nebraska Health Care Cash Fund in any fiscal year.

The State Treasurer shall transfer ten million dollars from the Nebraska Medicaid Intergovernmental Trust Fund to the General Fund on June 28, 2018, and June 28, 2019.

Except as otherwise provided in subsection (6) of this section, it is the intent of the Legislature that no additional programs are funded through the Nebraska Health Care Cash Fund until funding for all programs with an appropriation from the fund during FY2012-13 are restored to their FY2012-13 levels.

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

(3) The University of Nebraska and postsecondary educational institutions having colleges of medicine in Nebraska and their affiliated research hospitals in Nebraska, as a condition of receiving any funds appropriated or transferred from the Nebraska Health Care Cash Fund, shall not discriminate against any person on the basis of sexual orientation.

(4) The State Treasurer shall transfer fifty thousand dollars on or before July 15, 2016, from the Nebraska Health Care Cash Fund to the Board of Regents of the University of Nebraska for the University of Nebraska Medical Center. It is the intent of the Legislature that these funds be used by the College of Public Health for workforce training.

(5) It is the intent of the Legislature that the cost of the staff and operating costs necessary to carry out the changes made by Laws 2018, LB439, and not covered by fees or federal funds shall be funded from the Nebraska Health Care Cash Fund for fiscal years 2018-19 and 2019-20.

(6) It is the intent of the Legislature to fund the grants to be awarded pursuant to section 75-1101 with the Nebraska Health Care Cash Fund for FY2019-20 and FY2020-21.

Source: Laws 1998, LB 1070, § 7; Laws 2000, LB 1427, § 9; Laws 2001, LB 692, § 18; Laws 2003, LB 412, § 8; Laws 2004, LB 1091, § 7; Laws 2005, LB 426, § 12; Laws 2007, LB322, § 19; Laws 2007, LB482, § 6; Laws 2008, LB480, § 2; Laws 2008, LB830, § 9; Laws 2008, LB961, § 5; Laws 2009, LB27, § 7; Laws 2009, LB316, § 19; Laws 2012, LB782, § 125; Laws 2012, LB969, § 9; Laws 2013, LB199, § 29; Laws 2014, LB906, § 18; Laws 2015, LB390, § 12; Laws 2015, LB661, § 32; Laws 2017, LB331, § 38; Laws 2018, LB439, § 9; Laws 2018, LB793, § 10; Laws 2018, LB945, § 17; Laws 2019, LB298, § 17; Laws 2019, LB481, § 7; Laws 2019, LB570, § 1; Laws 2019, LB600, § 19; Laws 2019, LB641, § 2; Laws 2021, LB384, § 12.

Effective date April 27, 2021.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

ARTICLE 85

TELEHEALTH SERVICES

(a) NEBRASKA TELEHEALTH ACT

Section

71-8503. Terms, defined.

71-8505. Written information; signed statement or verbal consent; requirements.

(a) NEBRASKA TELEHEALTH ACT

71-8503 Terms, defined.

For purposes of the Nebraska Telehealth Act:

- (1) Department means the Department of Health and Human Services;
- (2) Health care practitioner means a Nebraska medicaid-enrolled provider who is licensed, registered, or certified to practice in this state by the department;
- (3)(a) Telehealth means the use of medical information electronically exchanged from one site to another, whether synchronously or asynchronously, to aid a health care practitioner in the diagnosis or treatment of a patient.
(b) Telehealth includes (i) services originating from a patient's home or any other location where such patient is located, (ii) asynchronous services involving the acquisition and storage of medical information at one site that is then forwarded to or retrieved by a health care practitioner at another site for medical evaluation, and (iii) telemonitoring.
(c) Telehealth also includes audio-only services for the delivery of individual behavioral health services for an established patient, when appropriate, or crisis management and intervention for an established patient as allowed by federal law;
- (4) Telehealth consultation means any contact between a patient and a health care practitioner relating to the health care diagnosis or treatment of such patient through telehealth; and
- (5) Telemonitoring means the remote monitoring of a patient's vital signs, biometric data, or subjective data by a monitoring device which transmits such data electronically to a health care practitioner for analysis and storage.

Source: Laws 1999, LB 559, § 3; Laws 2007, LB296, § 695; Laws 2014, LB1076, § 1; Laws 2021, LB400, § 3.
Effective date August 28, 2021.

71-8505 Written information; signed statement or verbal consent; requirements.

- (1) Prior to an initial telehealth consultation under section 71-8506, a health care practitioner who delivers a health care service to a patient through telehealth shall ensure that the following written information is provided to the patient:
 - (a) A statement that the patient retains the option to refuse the telehealth consultation at any time without affecting the patient's right to future care or treatment and without risking the loss or withdrawal of any program benefits to which the patient would otherwise be entitled;
 - (b) A statement that all existing confidentiality protections shall apply to the telehealth consultation;
 - (c) A statement that the patient shall have access to all medical information resulting from the telehealth consultation as provided by law for patient access to his or her medical records; and
 - (d) A statement that dissemination of any patient identifiable images or information from the telehealth consultation to researchers or other entities shall not occur without the written consent of the patient.

(2) The patient shall sign a statement prior to or during an initial telehealth consultation, or give verbal consent during the telehealth consultation, indicating that the patient understands the written information provided pursuant to subsection (1) of this section and that this information has been discussed with the health care practitioner or the practitioner’s designee. The signed statement may be collected by paper or electronic signature and shall become a part of the patient’s medical record. If the patient gives verbal consent during the initial telehealth consultation, the signed statement shall be collected within ten days after such telehealth consultation.

(3) If the patient is a minor or is incapacitated or mentally incompetent such that he or she is unable to sign the statement or give verbal consent as required by subsection (2) of this section, such statement shall be signed, or such verbal consent given, by the patient’s legally authorized representative.

(4) This section shall not apply in an emergency situation in which the patient is unable to sign the statement or give verbal consent as required by subsection (2) of this section and the patient’s legally authorized representative is unavailable.

Source: Laws 1999, LB 559, § 5; Laws 2021, LB400, § 4.
Effective date August 28, 2021.

ARTICLE 89

VETERINARY DRUG DISTRIBUTION LICENSING ACT

Section
71-8901. Act, how cited.
71-8922.01. Veterinary legend drug; deceased prescriber; effect on distribution; limitations.

71-8901 Act, how cited.

Sections 71-8901 to 71-8929 shall be known and may be cited as the Veterinary Drug Distribution Licensing Act.

Source: Laws 2008, LB1022, § 1; Laws 2021, LB252, § 1.
Effective date August 28, 2021.

71-8922.01 Veterinary legend drug; deceased prescriber; effect on distribution; limitations.

(1) Except as otherwise provided in this section, a veterinary drug distributor may refill and distribute a veterinary legend drug pursuant to a veterinary drug order issued on or after August 28, 2021, by a veterinarian licensed in this state pursuant to a bona fide veterinarian-client-patient relationship without the prescriber’s authorization if the prescriber is deceased and continuation of the veterinary legend drug is necessary for the animal’s health, safety, and welfare.

(2) A refill under this section shall be limited in quantity to the amount sufficient to maintain the animal’s health, safety, and welfare until a bona fide veterinarian-client-patient relationship can be established with a licensed veterinarian, but in no event shall the quantity exceed a thirty-day supply.

(3) If a licensed veterinarian indicates on a veterinary drug order that no emergency refills are authorized, a veterinary drug distributor shall not dispense under this section pursuant to that veterinary drug order.

(4) This section does not apply to controlled substances.

(5) A veterinary drug distributor shall not be required to refill any veterinary drug order under this section and shall not be liable for any damages resulting from refilling a veterinary drug order issued by a licensed veterinarian under this section unless such damages are a result of the gross negligence of the veterinary drug distributor.

Source: Laws 2021, LB252, § 2.

Effective date August 28, 2021.

CHAPTER 72

PUBLIC LANDS, BUILDINGS, AND FUNDS

Article.

- 2. School Lands and Funds. 72-232 to 72-235.
- 7. State Capital and Capitol Building. 72-729.01.
- 10. Building Funds. 72-1005.
- 12. Investment of State Funds.
 - (a) Nebraska State Funds Investment Act. 72-1237 to 72-1250.01.

ARTICLE 2

SCHOOL LANDS AND FUNDS

Section

- 72-232. School lands; rules and regulations; soil conservation program.
- 72-233. School lands; application for lease; manner of leasing; bidding; conditions of lease.
- 72-234. School lands; lease; terms; period of lease.
- 72-234.01. Repealed. Laws 2021, LB528, § 74.
- 72-235. School lands; lease; default; notice; forfeiture.

72-232 School lands; rules and regulations; soil conservation program.

The Board of Educational Lands and Funds shall have authority to adopt such rules and regulations as it shall deem necessary in the leasing of school lands and to prescribe such terms and conditions of the lease, not inconsistent with sections 72-205, 72-232 to 72-235, 72-240.02 to 72-240.05, and 72-242, as it shall deem necessary to protect the interests of the state. The board shall adopt and enforce a soil conservation program. Failure of the lessee to utilize the land for the purpose for which the land was leased or to observe and carry out soil conservation requirements as provided in the rules and regulations of the board shall be cause for cancellation of the lease.

Source: Laws 1899, c. 69, § 15, p. 306; R.S.1913, § 5861; C.S.1922, § 5197; C.S.1929, § 72-217; Laws 1935, c. 163, § 10, p. 602; C.S.Supp.,1941, § 72-217; Laws 1943, c. 159, § 1(1), p. 570; R.S.1943, § 72-232; Laws 1947, c. 235, § 3, p. 744; Laws 1961, c. 349, § 1, p. 1108; Laws 1965, c. 438, § 1, p. 1391; Laws 1974, LB 894, § 1; Laws 1993, LB 121, § 457; Laws 1999, LB 779, § 23; Laws 2021, LB528, § 13.
Operative date August 28, 2021.

72-233 School lands; application for lease; manner of leasing; bidding; conditions of lease.

Applications to lease any school lands shall be made to the Board of Educational Lands and Funds. Each such application shall contain an affidavit that the applicant desires to lease and operate such land for the applicant's own use and benefit and that the applicant will not sublease or otherwise dispose of the same without the written approval of the board and will commit no waste or damage on the land nor permit others to do so. The Board of Educational Lands and Funds may, at least once in each year, designate a day and hour for

offering, in a public manner in the respective counties, lease contracts on all the educational lands in each respective county which may be subject to lease at the time of such offering. The offering shall be announced in a public manner by publishing a notice thereof three weeks preceding the auction in one or more of the legal newspapers published or of general circulation in the county in which the unleased land is located. If the board is unable to have a representative attend the offering, the county treasurer may, upon the direction of the board, act for it. Adjournments may be taken from day to day until all of the lands have been offered. No lease shall be sublet or assigned without the written approval of the board.

Source: Laws 1899, c. 69, § 15, p. 306; R.S.1913, § 5861; C.S.1922, § 5197; C.S.1929, § 72-217; Laws 1935, c. 163, § 10, p. 602; C.S.Supp.,1941, § 72-217; Laws 1943, c. 159, § 1(2), p. 571; R.S.1943, § 72-233; Laws 1947, c. 235, § 4, p. 745; Laws 1963, c. 416, § 1, p. 1337; Laws 1967, c. 466, § 7, p. 1447; Laws 1993, LB 121, § 458; Laws 1999, LB 779, § 24; Laws 2021, LB528, § 14.

Operative date August 28, 2021.

72-234 School lands; lease; terms; period of lease.

The board shall, if the foregoing proceedings appear to be regular, issue to the applicant a lease on the land. Each lease shall contain a covenant or provision (1) that the Board of Educational Lands and Funds may, whenever such board deems it to be for the best interest of the state, adjust the rental of such lands; (2) that the lessee will not sublease or otherwise dispose of such lands without the written consent of the board and will commit no waste or damage on the land nor permit others to do so; (3) that the lessee will observe and carry out soil conservation requirements according to the rules and regulations of the board; (4) that the lessee will pay for the use of such lands the fair market rental as determined by the board; (5) that, upon a failure to pay any rental for a period of sixty days from the time the payment becomes due or upon failure to perform any of the covenants of the lease, the lease may be forfeited and fully set aside, as provided for in sections 72-235 to 72-239; (6) that the lessee will promptly pay the rental semiannually in advance; (7) that in the event the lessee shall fail to pay rental in advance by the due date, interest shall be assessed at an annual interest rate of nine percent until such time as the rent is paid; and (8) that the premises will be surrendered at the expiration of the lease, unless renewed, or upon violation of any of the terms of the lease. Leases shall be for periods of five to twelve years less the period intervening between the date of the execution of the lease and December 31 of the previous year. The board may offer a lease for a period of less than five years if a lease failed to generate interest at an auction and if the board agrees that reducing the minimum lease term will attract a bid or bids for such a lease. When two or more contiguous tracts are under separate lease with different expiration dates, the board may, if it is deemed to be in the best interest of the state, offer leases for less than twelve years on tracts having the earlier lease expiration date, to coincide with the last expiring lease, in order that all contiguous lands eventually may be offered under one lease.

Source: Laws 1899, c. 69, § 15, p. 306; R.S.1913, § 5861; C.S.1922, § 5197; C.S.1929, § 72-217; Laws 1935, c. 163, § 10, p. 602; C.S.Supp.,1941, § 72-217; Laws 1943, c. 159, § 1(2), p. 572;

R.S.1943, § 72-234; Laws 1947, c. 235, § 5, p. 746; Laws 1949, c. 212, § 6, p. 604; Laws 1965, c. 438, § 2, p. 1392; Laws 1967, c. 466, § 9, p. 1449; Laws 1974, LB 894, § 2; Laws 1999, LB 779, § 25; Laws 2021, LB528, § 15.
Operative date August 28, 2021.

72-234.01 Repealed. Laws 2021, LB528, § 74.
Operative date August 28, 2021.

72-235 School lands; lease; default; notice; forfeiture.

If any lessee of educational lands fails to perform any of the covenants of the lease or is in default of semiannual rental due the state for a period of sixty days, the Board of Educational Lands and Funds may forfeit the lease of such person. If the lessee is in default in the payment of rental, the board may cause notice to be given such delinquent lessee in accordance with section 72-236 that, if such delinquency is not paid within thirty days from the date of service of such notice by either registered or certified mail or the date of the first publication of such notice, his or her lease will be declared forfeited. If the amounts due are not paid within such time, the board may declare the lease forfeited and the land described therein shall revert to the state. Before a forfeiture of a lease shall be declared for a failure to perform the covenants of the lease other than the payment of rentals, the board shall give notice of such proposed forfeiture to such lessee, or to his or her personal representative or next of kin if he or she is dead, by either registered or certified mail, setting forth a time such a lessee, or his or her personal representative or next of kin, may show cause and have a hearing as to whether or not such lease shall be forfeited. The order of forfeiture shall be entered upon the records of the board. The board is required to serve such notice of delinquency and proceed with the forfeiture, as stated in such notice, at least once in each year. The provisions of this section and sections 72-236 to 72-239 shall apply to all lands heretofore or hereinafter leased as educational lands of this state.

Source: Laws 1899, c. 69, § 17, p. 309; Laws 1903, c. 100, § 1, p. 571; R.S.1913, § 5863; C.S.1922, § 5199; Laws 1927, c. 192, § 1, p. 548; C.S.1929, § 72-219; Laws 1935, c. 163, § 12, p. 605; C.S.Supp.,1941, § 72-219; R.S.1943, § 72-235; Laws 1947, c. 235, § 6, p. 747; Laws 1957, c. 242, § 54, p. 863; Laws 1961, c. 351, § 2, p. 1110; Laws 1999, LB 779, § 26; Laws 2021, LB528, § 16.
Operative date August 28, 2021.

ARTICLE 7

STATE CAPITAL AND CAPITOL BUILDING

Section
72-729.01. Hall of Fame Trust Fund; created; use; investment.

72-729.01 Hall of Fame Trust Fund; created; use; investment.

There is hereby created the Hall of Fame Trust Fund to be administered by the Nebraska Hall of Fame Commission for the purpose of the creation, design, size, configuration, and placement of busts or other appropriate objects as authorized in section 72-729. Deposits to such fund shall include money

received from public donation and from funds appropriated specifically for such purpose by the Legislature. It is the intent of the Legislature that ten thousand dollars be transferred from the General Fund to the Hall of Fame Trust Fund annually beginning with fiscal year 2021-22. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1973, LB 282, § 1; Laws 1998, LB 1129, § 8; Laws 2021, LB384, § 13.
Effective date April 27, 2021.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

**ARTICLE 10
BUILDING FUNDS**

Section
72-1005. Repealed. Laws 2021, LB509, § 25.

72-1005 Repealed. Laws 2021, LB509, § 25.

**ARTICLE 12
INVESTMENT OF STATE FUNDS**

(a) NEBRASKA STATE FUNDS INVESTMENT ACT

Section
72-1237. Nebraska Investment Council; created; members; appointment; term; vacancy; immunity.
72-1249.02. State Investment Officer's Cash Fund; created; allocation of charges to funds managed; costs; how paid.
72-1250.01. Cash funds deposited with fiscal agent; constitute investment made by state investment officer.

(a) NEBRASKA STATE FUNDS INVESTMENT ACT

72-1237 Nebraska Investment Council; created; members; appointment; term; vacancy; immunity.

(1)(a) The Nebraska Investment Council is created. For purposes of the Nebraska State Funds Investment Act, council means the Nebraska Investment Council. The council shall consist of five members, appointed by the Governor with the approval of the Legislature. The State Treasurer, the director of the Nebraska Public Employees Retirement Systems, and except as provided in subdivision (1)(b) of this section, beginning January 1, 2017, the administrator of each retirement system provided for under the Class V School Employees Retirement Act shall serve as nonvoting, ex officio members. One of the appointed members shall be designated chairperson by the Governor.

(b) Beginning September 1, 2024, the director of the Nebraska Public Employees Retirement Systems shall also represent each retirement system provided for under the Class V School Employees Retirement Act.

(2) Each of the appointed members of the council shall serve for a term of five years that begins on January 1 and may be removed by the Governor for

cause after notice and an opportunity to be heard. A member may serve until his or her successor's appointment is effective. A member may be reappointed. A successor shall be appointed in the same manner as provided for the members first appointed, and in case of a vacancy caused by death, resignation, or otherwise, the Governor shall appoint a qualified person to fill the vacancy for the unexpired term.

(3) No member of the council shall be personally liable, except in cases of willful dishonesty, gross negligence, or intentional violation of law, for actions relating to his or her duties as a member of the council.

Source: Laws 1969, c. 584, § 1, p. 2350; Laws 1991, LB 368, § 1; Laws 1991, LB 549, § 20; Laws 1996, LB 847, § 18; Laws 2002, LB 407, § 17; Laws 2006, LB 1019, § 7; Laws 2016, LB447, § 2; Laws 2021, LB147, § 1.
Effective date May 27, 2021.

Cross References

Class V School Employees Retirement Act, see section 79-978.01.

72-1249.02 State Investment Officer's Cash Fund; created; allocation of charges to funds managed; costs; how paid.

The State Investment Officer's Cash Fund is created. A pro rata share of the budget appropriated for the council shall be charged to the income of each fund managed, and such charges shall be transferred to the State Investment Officer's Cash Fund. The allocation of charges may be made by any method determined to be reasonably related to actual costs incurred by the council. Approval of the agencies and boards administering these funds shall not be required.

It is the intent of this section to have funds managed by the state investment officer pay a pro rata share of the investment management expense when this is not prohibited by statute or the constitution.

Management, custodial, and service costs which are a direct expense of state funds may be paid from the income of such funds when this is not prohibited by statute or the Constitution of Nebraska. For purposes of this section, management, custodial, and service costs shall include, but not be limited to, 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.

Beginning on March 31, 2016, a pro rata share of the budget appropriated for the council shall be charged to the income of the Class V School Employees Retirement Fund, and such charges shall be transferred to the State Investment Officer's Cash Fund. The allocation of charges among a retirement system provided for under the Class V School Employees Retirement Act and the other funds managed by the council may be made by any method determined to be reasonably related to actual costs incurred by the council. Approval of the board of education, the board of trustees, or the retirement board, as defined in section 79-978 and as provided for in section 79-980, shall not be required.

Source: Laws 1983, LB 468, § 1; Laws 1987, LB 31, § 2; Laws 1987, LB 786, § 1; Laws 2002, LB 407, § 20; Laws 2016, LB447, § 7; Laws 2021, LB147, § 2.
Effective date May 27, 2021.

Cross References

Class V School Employees Retirement Act, see section 79-978.01.

72-1250.01 Cash funds deposited with fiscal agent; constitute investment made by state investment officer.

Whenever cash funds belonging to the State of Nebraska shall be deposited with any fiscal agent authorized by section 72-1250, the holding thereof shall be and constitute an investment made pursuant to direction of the state investment officer for purposes of subdivision (7) of section 84-602.

Source: Laws 1974, LB 925, § 2; Laws 2021, LB509, § 8.
Effective date August 28, 2021.

Cross References

State Treasurer, duties, see section 84-602.

CHAPTER 75

PUBLIC SERVICE COMMISSION

Article.

1. Organization and Composition, Regulatory Scope, and Procedure. 75-101.01, 75-101.02.
3. Motor Carriers.
 - (e) Safety Regulations. 75-363 to 75-366.
 - (l) Unified Carrier Registration Plan and Agreement. 75-392 to 75-3,100.

ARTICLE 1

ORGANIZATION AND COMPOSITION, REGULATORY SCOPE, AND PROCEDURE

Section

- 75-101.01 Public Service Commission; districts; numbers; boundaries; established by maps; Clerk of Legislature; Secretary of State; duties.
- 75-101.02 Public Service Commission; districts; population figures and maps; basis.

75-101.01 Public Service Commission; districts; numbers; boundaries; established by maps; Clerk of Legislature; Secretary of State; duties.

(1) Based on the 2020 Census of Population by the United States Department of Commerce, Bureau of the Census, the State of Nebraska is hereby divided into five public service commissioner districts, and each public service commissioner district shall be entitled to one member.

(2) The numbers and boundaries of the districts are designated and established by maps identified and labeled as maps PSC21-39001, PSC21-39001-1, PSC21-39001-2, PSC21-39001-3, PSC21-39001-4, and PSC21-39001-5, filed with the Clerk of the Legislature, and incorporated by reference as part of Laws 2021, LB5, One Hundred Seventh Legislature, First Special Session.

(3)(a) The Clerk of the Legislature shall transfer possession of the maps referred to in subsection (2) of this section to the Secretary of State on October 1, 2021.

(b) When questions of interpretation of district boundaries arise, the maps referred to in subsection (2) of this section in possession of the Secretary of State shall serve as the indication of the legislative intent in drawing the district boundaries.

(c) Each election commissioner or county clerk shall obtain copies of the maps referred to in subsection (2) of this section for the election commissioner's or clerk's county from the Secretary of State.

(d) The Secretary of State shall also have available for viewing on his or her website the maps referred to in subsection (2) of this section identifying the boundaries for the districts.

Source: Laws 1963, c. 174, § 1, p. 596; Laws 1971, LB 955, § 1; Laws 1981, LB 551, § 1; R.S.1943, (1987), § 5-107; Laws 1991, LB

§ 75-101.01

PUBLIC SERVICE COMMISSION

618, § 1; Laws 2001, LB 855, § 2; Laws 2011, LB700, § 1; Laws 2021, First Spec. Sess., LB5, § 1.
Effective date October 1, 2021.

75-101.02 Public Service Commission; districts; population figures and maps; basis.

For purposes of section 75-101.01, the Legislature adopts the official population figures and maps from the 2020 Census Redistricting (Public Law 94-171) TIGER/Line Shapefiles published by the United States Department of Commerce, Bureau of the Census.

Source: Laws 1971, LB 955, § 2; Laws 1981, LB 551, § 2; R.S.1943, (1987), § 5-107.01; Laws 1991, LB 618, § 2; Laws 2001, LB 855, § 3; Laws 2011, LB700, § 2; Laws 2021, First Spec. Sess., LB5, § 2.
Effective date October 1, 2021.

ARTICLE 3

MOTOR CARRIERS

(e) SAFETY REGULATIONS

Section
75-363. Federal motor carrier safety regulations; provisions adopted; exceptions.
75-364. Additional federal motor carrier regulations; provisions adopted.
75-366. Enforcement powers.

(l) UNIFIED CARRIER REGISTRATION PLAN AND AGREEMENT

75-392. Terms, defined.
75-393. Unified carrier registration plan and agreement; director; powers.
75-3,100. Registration; suspend, revoke, cancel, or refuse to issue or renew; conditions; notice; hearing; petition.

(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, 2021, are adopted as Nebraska law.

(2) Except as otherwise provided in this section, the regulations shall be applicable to:

(a) All motor carriers, drivers, and vehicles to which the federal regulations apply; and

(b) All motor carriers transporting persons or property in intrastate commerce to include:

(i) All vehicles of such motor carriers with a gross vehicle weight rating, gross combination weight rating, gross vehicle weight, or gross combination weight over ten thousand pounds;

(ii) All vehicles of such motor carriers designed or used to transport more than eight passengers, including the driver, for compensation, or designed or used to transport more than fifteen passengers, including the driver, and not used to transport passengers for compensation;

(iii) All vehicles of such motor carriers transporting hazardous materials required to be placarded pursuant to section 75-364; and

(iv) All drivers of such motor carriers if the drivers are operating a commercial motor vehicle as defined in section 60-465 which requires a commercial driver's license.

(3) The Legislature hereby adopts, as modified in this section, the following parts of Title 49 of the Code of Federal Regulations:

(a) Part 382 - CONTROLLED SUBSTANCES AND ALCOHOL USE AND TESTING;

(b) Part 385 - SAFETY FITNESS PROCEDURES;

(c) Part 386 - RULES OF PRACTICE FOR FMCSA PROCEEDINGS;

(d) Part 387 - MINIMUM LEVELS OF FINANCIAL RESPONSIBILITY FOR MOTOR CARRIERS;

(e) Part 390 - FEDERAL MOTOR CARRIER SAFETY REGULATIONS; GENERAL;

(f) Part 391 - QUALIFICATIONS OF DRIVERS AND LONGER COMBINATION VEHICLE (LCV) DRIVER INSTRUCTORS;

(g) Part 392 - DRIVING OF COMMERCIAL MOTOR VEHICLES;

(h) Part 393 - PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION;

(i) Part 395 - HOURS OF SERVICE OF DRIVERS;

(j) Part 396 - INSPECTION, REPAIR, AND MAINTENANCE;

(k) Part 397 - TRANSPORTATION OF HAZARDOUS MATERIALS; DRIVING AND PARKING RULES; and

(l) Part 398 - TRANSPORTATION OF MIGRANT WORKERS.

(4) The provisions of subpart E - Physical Qualifications And Examinations of 49 C.F.R. part 391 - QUALIFICATIONS OF DRIVERS AND LONGER COMBINATION VEHICLE (LCV) DRIVER INSTRUCTORS shall not apply to any driver subject to this section who: (a) Operates a commercial motor vehicle exclusively in intrastate commerce; and (b) holds, or has held, a commercial driver's license issued by this state prior to July 30, 1996.

(5) The regulations adopted in subsection (3) of this section shall not apply to farm trucks registered pursuant to section 60-3,146 with a gross weight of sixteen tons or less. The following parts and sections of 49 C.F.R. chapter III shall not apply to drivers of farm trucks registered pursuant to section 60-3,146 and operated solely in intrastate commerce:

(a) All of part 391;

(b) Section 395.8 of part 395; and

(c) Section 396.11 of part 396.

(6) The following parts and subparts of 49 C.F.R. chapter III shall not apply to the operation of covered farm vehicles:

(a) Part 382 - CONTROLLED SUBSTANCES AND ALCOHOL USE AND TESTING;

(b) Part 391, subpart E - Physical Qualifications and Examinations;

(c) Part 395 - HOURS OF SERVICE OF DRIVERS; and

(d) Part 396 - INSPECTION, REPAIR, AND MAINTENANCE.

(7) Part 393 - PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION and Part 396 - INSPECTION, REPAIR, AND MAINTENANCE shall not apply to fertilizer and agricultural chemical application and distribution equipment transported in units with a capacity of three thousand five hundred gallons or less.

(8) For purposes of this section, intrastate motor carriers shall not include any motor carrier or driver excepted from 49 C.F.R. chapter III by section 390.3(f) of part 390.

(9)(a) Part 395 - HOURS OF SERVICE OF DRIVERS shall apply to motor carriers and drivers who engage in intrastate commerce as defined in section 75-362, except that no motor carrier who engages in intrastate commerce shall permit or require any driver used by it to drive nor shall any driver drive:

(i) More than twelve hours following ten consecutive hours off duty; or

(ii) For any period after having been on duty sixteen hours following ten consecutive hours off duty.

(b) No motor carrier who engages in intrastate commerce shall permit or require a driver of a commercial motor vehicle, regardless of the number of motor carriers using the driver's services, to drive, nor shall any driver of a commercial motor vehicle drive, for any period after:

(i) Having been on duty seventy hours in any seven consecutive days if the employing motor carrier does not operate every day of the week; or

(ii) Having been on duty eighty hours in any period of eight consecutive days if the employing motor carrier operates motor vehicles every day of the week.

(10) Part 395 - HOURS OF SERVICE OF DRIVERS, as adopted in subsections (3) and (9) of this section, shall not apply to drivers transporting agricultural commodities or farm supplies for agricultural purposes during planting and harvesting season when:

(a) The transportation of such agricultural commodities is from the source of the commodities to a location within a one-hundred-fifty-air-mile radius of the source of the commodities;

(b) The transportation of such farm supplies is from a wholesale or retail distribution point of the farm supplies to a farm or other location where the farm supplies are intended to be used which is within a one-hundred-fifty-air-mile radius of the wholesale or retail distribution point; or

(c) The transportation of such farm supplies is from a wholesale distribution point of the farm supplies to a retail distribution point of the farm supplies which is within a one-hundred-fifty-air-mile radius of the wholesale distribution point.

(11) 49 C.F.R. 390.21 - Marking of self-propelled CMVs and intermodal equipment shall not apply to farm trucks and farm truck-tractors registered pursuant to section 60-3,146 and operated solely in intrastate commerce.

(12) 49 C.F.R. 392.9a - Operating authority shall not apply to Nebraska motor carriers operating commercial motor vehicles solely in intrastate commerce.

(13) No motor carrier shall permit or require a driver of a commercial motor vehicle to violate, and no driver of a commercial motor vehicle shall violate, any out-of-service order.

Source: Laws 1986, LB 301, § 1; Laws 1987, LB 224, § 23; Laws 1988, LB 884, § 1; Laws 1989, LB 285, § 140; Laws 1990, LB 980,

§ 29; Laws 1991, LB 854, § 3; Laws 1993, LB 410, § 1; Laws 1994, LB 1061, § 5; Laws 1995, LB 461, § 1; Laws 1996, LB 938, § 4; Laws 1997, LB 722, § 1; Laws 1998, LB 1056, § 8; Laws 1999, LB 161, § 1; Laws 1999, LB 704, § 49; Laws 2000, LB 1361, § 11; Laws 2001, LB 375, § 1; Laws 2002, LB 499, § 5; Laws 2003, LB 480, § 2; Laws 2004, LB 878, § 1; Laws 2005, LB 83, § 1; Laws 2005, LB 274, § 271; Laws 2006, LB 1007, § 13; Laws 2007, LB239, § 8; Laws 2008, LB756, § 28; Laws 2008, LB845, § 1; Laws 2009, LB48, § 1; Laws 2009, LB331, § 15; Laws 2010, LB725, § 3; Laws 2010, LB805, § 13; Laws 2011, LB178, § 21; Laws 2011, LB212, § 7; Laws 2012, LB751, § 49; Laws 2013, LB35, § 6; Laws 2014, LB983, § 61; Laws 2015, LB313, § 7; Laws 2016, LB929, § 11; Laws 2017, LB263, § 88; Laws 2018, LB909, § 121; Laws 2019, LB79, § 22; Laws 2020, LB944, § 78; Laws 2021, LB149, § 21.
Effective date August 28, 2021.

Cross References

Violation of section, penalty, see section 75-367.

75-364 Additional federal motor carrier regulations; provisions adopted.

The parts, subparts, and sections of Title 49 of the Code of Federal Regulations listed below, or any other parts, subparts, and sections referred to by such parts, subparts, and sections, in existence and effective as of January 1, 2021, are adopted as part of Nebraska law and shall be applicable to all motor carriers whether engaged in interstate or intrastate commerce, drivers of such motor carriers, and vehicles of such motor carriers:

- (1) Part 107 - HAZARDOUS MATERIALS PROGRAM PROCEDURES, subpart F - Registration of Cargo Tank and Cargo Tank Motor Vehicle Manufacturers, Assemblers, Repairers, Inspectors, Testers, and Design Certifying Engineers;
- (2) Part 107 - HAZARDOUS MATERIALS PROGRAM PROCEDURES, subpart G - Registration of Persons Who Offer or Transport Hazardous Materials;
- (3) Part 171 - GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS;
- (4) Part 172 - HAZARDOUS MATERIALS TABLE, SPECIAL PROVISIONS, HAZARDOUS MATERIALS COMMUNICATIONS, EMERGENCY RESPONSE INFORMATION, TRAINING REQUIREMENTS, AND SECURITY PLANS;
- (5) Part 173 - SHIPPERS - GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS;
- (6) Part 177 - CARRIAGE BY PUBLIC HIGHWAY;
- (7) Part 178 - SPECIFICATIONS FOR PACKAGINGS; and
- (8) Part 180 - CONTINUING QUALIFICATION AND MAINTENANCE OF PACKAGINGS.

Source: Laws 1986, LB 301, § 2; Laws 1987, LB 538, § 1; Laws 1988, LB 884, § 2; Laws 1990, LB 980, § 30; Laws 1991, LB 854, § 4; Laws 1993, LB 410, § 2; Laws 1994, LB 1061, § 6; Laws 1995, LB 461, § 2; Laws 1996, LB 938, § 5; Laws 1997, LB 722, § 2; Laws 1998, LB 1056, § 9; Laws 1999, LB 161, § 2; Laws 2000, LB 1361, § 12; Laws 2001, LB 375, § 2; Laws 2002, LB 499, § 6;

Laws 2003, LB 480, § 3; Laws 2004, LB 878, § 2; Laws 2005, LB 83, § 2; Laws 2006, LB 1007, § 15; Laws 2007, LB239, § 9; Laws 2008, LB756, § 29; Laws 2009, LB48, § 2; Laws 2009, LB331, § 16; Laws 2010, LB805, § 14; Laws 2011, LB178, § 22; Laws 2011, LB212, § 8; Laws 2012, LB751, § 50; Laws 2013, LB35, § 7; Laws 2014, LB983, § 62; Laws 2015, LB313, § 8; Laws 2016, LB929, § 12; Laws 2017, LB263, § 89; Laws 2018, LB909, § 122; Laws 2019, LB79, § 23; Laws 2020, LB944, § 79; Laws 2021, LB149, § 22.

Effective date August 28, 2021.

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, 2021, and federal hazardous materials regulations, as such regulations existed on January 1, 2021, and is authorized to enter upon, inspect, and examine any and all lands, buildings, and equipment of any motor carrier, any shipper, and any other person subject to the federal Interstate Commerce Act, the federal Department of Transportation Act, and other related federal laws and to inspect and copy any and all accounts, books, records, memoranda, correspondence, and other documents of a motor carrier, a shipper, and any other person subject to Chapter 75, article 3, for the purposes of enforcing Chapter 75, article 3. To promote uniformity of enforcement, the carrier enforcement division of the Nebraska State Patrol shall cooperate and consult with the Public Service Commission and the Division of Motor Carrier Services.

Source: Laws 1986, LB 301, § 4; Laws 1987, LB 538, § 2; Laws 1990, LB 980, § 31; Laws 1995, LB 424, § 48; Laws 1996, LB 1218, § 60; Laws 2002, LB 93, § 18; Laws 2003, LB 480, § 4; Laws 2012, LB751, § 51; Laws 2013, LB35, § 8; Laws 2014, LB983, § 63; Laws 2015, LB313, § 9; Laws 2016, LB929, § 13; Laws 2017, LB263, § 90; Laws 2018, LB909, § 123; Laws 2019, LB79, § 24; Laws 2020, LB944, § 80; Laws 2021, LB149, § 23.

Effective date August 28, 2021.

(I) UNIFIED CARRIER REGISTRATION PLAN AND AGREEMENT

75-392 Terms, defined.

For purposes of sections 75-392 to 75-3,100:

- (1) Director means the Director of Motor Vehicles;
- (2) Division means the Division of Motor Carrier Services of the Department of Motor Vehicles; and
- (3) Unified carrier registration plan and agreement means the plan and agreement established and authorized pursuant to 49 U.S.C. 14504a, as such section existed on January 1, 2021.

Source: Laws 2007, LB358, § 1; Laws 2014, LB776, § 7; Laws 2016, LB929, § 14; Laws 2017, LB263, § 92; Laws 2018, LB909,

§ 125; Laws 2019, LB79, § 25; Laws 2020, LB944, § 83; Laws 2021, LB149, § 24.

Effective date August 28, 2021.

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, 2021, and may file on behalf of this state the plan required by such plan and agreement for enforcement of the act in this state.

Source: Laws 2007, LB358, § 2; Laws 2009, LB331, § 19; Laws 2011, LB212, § 9; Laws 2012, LB751, § 52; Laws 2013, LB35, § 9; Laws 2014, LB776, § 8; Laws 2015, LB313, § 10; Laws 2016, LB929, § 15; Laws 2017, LB263, § 93; Laws 2018, LB909, § 126; Laws 2019, LB79, § 26; Laws 2020, LB944, § 84; Laws 2021, LB149, § 25.

Effective date August 28, 2021.

75-3,100 Registration; suspend, revoke, cancel, or refuse to issue or renew; conditions; notice; hearing; petition.

(1) The director may suspend, revoke, cancel, or refuse to issue or renew a registration pursuant to the unified carrier registration plan and agreement:

(a) If the applicant or registrant has had his or her license issued under the International Fuel Tax Agreement Act revoked or the director refused to issue or refused to renew such license;

(b) If the applicant's or registrant's registration certificate issued pursuant to the International Registration Plan Act has been suspended, revoked, or canceled or the director refused to issue or renew such certificate; or

(c) If the applicant or registrant is in violation of sections 75-392 to 75-3,100.

(2) Prior to taking any action pursuant to subsection (1) of this section, the director shall notify and advise the applicant or registrant of the proposed action and the reasons for such action in writing, by regular United States mail, to the last-known business address as shown on the application for the registration or renewal. The notice shall also include an advisement of the procedures in subsection (3) of this section.

(3) The applicant or registrant may, within thirty days after the mailing of the notice, petition the director in writing for a hearing to contest the proposed action. The hearing shall be commenced in accordance with the Administrative Procedure Act. If a petition is filed, the director shall, within twenty days after receipt of the petition, set a hearing date at which the applicant or registrant may show cause why the proposed action should not be taken. The director shall give the applicant or registrant reasonable notice of the time and place of the hearing. If the director's decision is adverse to the applicant or registrant, such person may appeal the decision in accordance with the Administrative Procedure Act.

(4) The filing of the petition shall stay any action by the director until a hearing is held and a final decision and order is issued.

(5) If no petition is filed at the expiration of thirty days after the date on which the notification was mailed, the director may take the proposed action described in the notice.

(6) If, in the judgment of the director, the applicant or registrant has complied with or is no longer in violation of the provisions for which the director took action under this section, the director may reinstate the registration without delay.

Source: Laws 2020, LB944, § 87; Laws 2021, LB113, § 33.
Operative date August 28, 2021.

Cross References

Administrative Procedure Act, see section 84-920.

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

International Registration Plan Act, see section 60-3,192.

CHAPTER 76

REAL PROPERTY

Article.

- 2. Conveyances.
 - (u) Uniform Easement Relocation Act. 76-2,127 to 76-2,140.
- 7. Eminent Domain. 76-711.
- 10. Trust Deeds. 76-1011 to 76-1018.
- 14. Landlord and Tenant.
 - (a) Uniform Residential Landlord and Tenant Act. 76-1401 to 76-1443.
 - (b) Mobile Home Landlord and Tenant Act. 76-1485 to 76-14,101.
- 22. Real Property Appraiser Act. 76-2203.01 to 76-2232.
- 36. Home Inspection. 76-3601 to 76-3606.

ARTICLE 2

CONVEYANCES

(u) UNIFORM EASEMENT RELOCATION ACT

Section

- 76-2,127. Short title.
- 76-2,128. Definitions.
- 76-2,129. Scope; exclusions.
- 76-2,130. Right of servient estate owner to relocate easement.
- 76-2,131. Commencement of civil action.
- 76-2,132. Required findings; order.
- 76-2,133. Expenses of relocation.
- 76-2,134. Duty to act in good faith.
- 76-2,135. Relocation affidavit.
- 76-2,136. Limited effect of relocation.
- 76-2,137. Nonwaiver.
- 76-2,138. Uniformity of application and construction.
- 76-2,139. Relation to Electronic Signatures in Global and National Commerce Act.
- 76-2,140. Act; applicability.

(u) UNIFORM EASEMENT RELOCATION ACT

76-2,127 Short title.

Sections 76-2,127 to 76-2,140 shall be known and may be cited as the Uniform Easement Relocation Act.

Source: Laws 2021, LB501, § 64.
Effective date August 28, 2021.

76-2,128 Definitions.

In the Uniform Easement Relocation Act:

- (1) Appurtenant easement means an easement tied to or dependent on ownership or occupancy of a unit or a parcel of real property.
- (2) Conservation easement means a nonpossessory property interest created for one or more of the following conservation purposes:
 - (A) retaining or protecting the natural, scenic, wildlife, wildlife-habitat, biological, ecological, or open-space values of real property;

(B) ensuring the availability of real property for agricultural, forest, outdoor-recreational, or open-space uses;

(C) protecting natural resources, including wetlands, grasslands, and riparian areas;

(D) maintaining or enhancing air or water quality;

(E) preserving the historical, architectural, archeological, paleontological, or cultural aspects of real property; or

(F) any other purpose under the Conservation and Preservation Easements Act.

(3) Dominant estate means an estate or interest in real property benefited by an appurtenant easement.

(4) Easement means a nonpossessory property interest that:

(A) provides a right to enter, use, or enjoy real property owned by or in the possession of another; and

(B) imposes on the owner or possessor a duty not to interfere with the entry, use, or enjoyment permitted by the instrument creating the easement or, in the case of an easement not established by express grant or reservation, the entry, use, or enjoyment authorized by law.

(5) Easement holder means:

(A) in the case of an appurtenant easement, the dominant estate owner; or

(B) in the case of an easement in gross, public utility easement, conservation easement, or negative easement, the grantee of the easement or a successor.

(6) Easement in gross means an easement not tied to or dependent on ownership or occupancy of a unit or a parcel of real property.

(7) Lessee of record means a person holding a lessee's interest under a recorded lease or memorandum of lease.

(8) Negative easement means a nonpossessory property interest whose primary purpose is to impose on a servient estate owner a duty not to engage in a specified use of the estate.

(9) Person means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity.

(10) Public utility easement means a nonpossessory property interest in which the easement holder is a publicly regulated or publicly owned utility under federal law or law of this state or a municipality. The term includes an easement benefiting an intrastate utility, an interstate utility, or a utility cooperative.

(11) Real property means an estate or interest in, over, or under land, including structures, fixtures, and other things that by custom, usage, or law pass with a conveyance of land whether or not described or mentioned in the contract of sale or instrument of conveyance. The term includes the interest of a lessor and lessee and, unless the interest is personal property under law of this state other than the Uniform Easement Relocation Act, an interest in a common interest community.

(12) Record, used as a noun, means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(13) Security instrument means a mortgage, deed of trust, security deed, contract for deed, lease, or other record that creates or provides for an interest in real property to secure payment or performance of an obligation, whether by acquisition or retention of a lien, a lessor's interest under a lease, or title to the real property. The term includes:

(A) a security instrument that also creates or provides for a security interest in personal property;

(B) a modification or amendment of a security instrument; and

(C) a record creating a lien on real property to secure an obligation under a covenant running with the real property or owed by a unit owner to a common interest community association.

(14) Security interest holder of record means a person holding an interest in real property created by a recorded security instrument.

(15) Servient estate means an estate or interest in real property that is burdened by an easement.

(16) Title evidence means a title insurance policy, preliminary title report or binder, title insurance commitment, abstract of title, attorney's opinion of title based on examination of public records or an abstract of title, or any other means of reporting the state of title to real property which is customary in the locality.

(17) Unit means a physical portion of a common interest community designated for separate ownership or occupancy with boundaries described in a declaration establishing the common interest community.

(18) Utility cooperative means a nonprofit entity whose purpose is to deliver a utility service, such as electricity, oil, natural gas, water, sanitary sewer, storm water, or telecommunications, to its customers or members and includes an electric cooperative, rural electric cooperative, rural water district, and rural water association.

Source: Laws 2021, LB501, § 65.

Effective date August 28, 2021.

Cross References

Conservation and Preservation Easements Act, see section 76-2,118.

76-2,129 Scope; exclusions.

(a) Except as otherwise provided in subsection (b) of this section, the Uniform Easement Relocation Act applies to an easement established by express grant or reservation or by prescription, implication, necessity, estoppel, or other method.

(b) The Uniform Easement Relocation Act may not be used to relocate:

(1) a public utility easement, conservation easement, or negative easement;

(2) an easement or right-of-way held by a public power and irrigation district, irrigation district, reclamation district, or canal company; or

(3) an easement if the proposed location would encroach on an area of an estate burdened by a conservation easement or would interfere with the use or enjoyment of a public utility easement or an easement appurtenant to a conservation easement.

(c) The Uniform Easement Relocation Act does not apply to relocation of an easement by consent.

Source: Laws 2021, LB501, § 66.
Effective date August 28, 2021.

76-2,130 Right of servient estate owner to relocate easement.

A servient estate owner may relocate an easement under the Uniform Easement Relocation Act only if the relocation does not materially:

- (1) lessen the utility of the easement;
- (2) after the relocation, increase the burden on the easement holder in its reasonable use and enjoyment of the easement;
- (3) impair an affirmative, easement-related purpose for which the easement was created;
- (4) during or after the relocation, impair the safety of the easement holder or another entitled to use and enjoy the easement;
- (5) during the relocation, disrupt the use and enjoyment of the easement by the easement holder or another entitled to use and enjoy the easement, unless the servient estate owner substantially mitigates the duration and nature of the disruption;
- (6) impair the physical condition, use, or value of the dominant estate or improvements on the dominant estate; or
- (7) impair the value of the collateral of a security interest holder of record in the servient estate or dominant estate, impair a real property interest of a lessee of record in the dominant estate, or impair a recorded real property interest of any other person in the servient estate or dominant estate.

Source: Laws 2021, LB501, § 67.
Effective date August 28, 2021.

76-2,131 Commencement of civil action.

(a) To obtain an order to relocate an easement under the Uniform Easement Relocation Act, a servient estate owner must commence a civil action.

(b) A servient estate owner that commences a civil action under subsection (a) of this section:

- (1) shall serve a summons and complaint on:
 - (A) the easement holder whose easement is the subject of the relocation;
 - (B) a security interest holder of record of an interest in the servient estate or dominant estate;
 - (C) a lessee of record of an interest in the dominant estate; and
 - (D) except as otherwise provided in subdivision (2) of this subsection, any other owner of a recorded real property interest if the relocation would encroach on an area of the servient estate or dominant estate burdened by the interest; and
- (2) is not required to serve a summons and complaint on the owner of a recorded real property interest in oil, gas, or minerals unless the interest includes an easement to facilitate oil, gas, or mineral development.

(c) A complaint under this section must state:

- (1) the intent of the servient estate owner to seek the relocation;
- (2) the nature, extent, and anticipated dates of commencement and completion of the proposed relocation;
- (3) the current and proposed locations of the easement;
- (4) the reason the easement is eligible for relocation under section 76-2,129;
- (5) the reason the proposed relocation satisfies the conditions for relocation under section 76-2,130; and

(6) that the servient estate owner has made a reasonable attempt to notify the holders of any public utility easement, conservation easement, or negative easement on the servient estate or dominant estate of the proposed relocation.

(d) At any time before the court renders a final order in an action under subsection (a) of this section, a person served under subdivision (b)(1)(B), (C), or (D) of this section may file a document, in recordable form, that waives its rights to contest or obtain relief in connection with the relocation or subordinates its interests to the relocation. On filing of the document, the court may order that the person is not required to answer or participate further in the action.

Source: Laws 2021, LB501, § 68.
Effective date August 28, 2021.

76-2,132 Required findings; order.

(a) The court may not approve relocation of an easement under the Uniform Easement Relocation Act unless the servient estate owner:

(1) establishes that the easement is eligible for relocation under section 76-2,129; and

(2) satisfies the conditions for relocation under section 76-2,130.

(b) An order under the Uniform Easement Relocation Act approving relocation of an easement must:

(1) state that the order is issued in accordance with the Uniform Easement Relocation Act;

(2) recite the recording data of the instrument creating the easement, if any, any amendments, and any notice as described under sections 76-288 to 76-298;

(3) identify the immediately preceding location of the easement;

(4) describe in a legally sufficient manner the new location of the easement;

(5) describe mitigation required of the servient estate owner during relocation;

(6) refer in detail to the plans and specifications of improvements necessary for the easement holder to enter, use, and enjoy the easement in the new location;

(7) specify conditions to be satisfied by the servient estate owner to relocate the easement and construct improvements necessary for the easement holder to enter, use, and enjoy the easement in the new location;

(8) include a provision for payment by the servient estate owner of expenses under section 76-2,133;

(9) include a provision for compliance by the parties with the obligation of good faith under section 76-2,134; and

(10) instruct the servient estate owner to record an affidavit, if required under subsection (a) of section 76-2,135, when the servient estate owner substantially completes relocation.

(c) An order under subsection (b) of this section may include any other provision consistent with the Uniform Easement Relocation Act for the fair and equitable relocation of the easement.

(d) Before a servient estate owner proceeds with relocation of an easement under the Uniform Easement Relocation Act, the owner must record, in the land records of each jurisdiction where the servient estate is located, a certified copy of the order under subsection (b) of this section.

Source: Laws 2021, LB501, § 69.
Effective date August 28, 2021.

76-2,133 Expenses of relocation.

A servient estate owner is responsible for reasonable expenses of relocation of an easement under the Uniform Easement Relocation Act, including the expense of:

(1) constructing improvements on the servient estate or dominant estate in accordance with an order under section 76-2,132;

(2) during the relocation, mitigating disruption in the use and enjoyment of the easement by the easement holder or another person entitled to use and enjoy the easement;

(3) obtaining a governmental approval or permit to relocate the easement and construct necessary improvements;

(4) preparing and recording the certified copy required by subsection (d) of section 76-2,132 and any other document required to be recorded;

(5) any title work required to complete the relocation or required by a party to the civil action as a result of the relocation;

(6) applicable premiums for title insurance related to the relocation;

(7) any expert necessary to review plans and specifications for an improvement to be constructed in the relocated easement or on the dominant estate and to confirm compliance with the plans and specifications referred to in the order under subdivision (b)(6) of section 76-2,132;

(8) payment of any maintenance cost associated with the relocated easement which is greater than the maintenance cost associated with the easement before relocation; and

(9) obtaining any third-party consent required to relocate the easement.

Source: Laws 2021, LB501, § 70.
Effective date August 28, 2021.

76-2,134 Duty to act in good faith.

After the court, under section 76-2,132, approves relocation of an easement and the servient estate owner commences the relocation, the servient estate owner, the easement holder, and other parties in the civil action shall act in

good faith to facilitate the relocation in compliance with the Uniform Easement Relocation Act.

Source: Laws 2021, LB501, § 71.
Effective date August 28, 2021.

76-2,135 Relocation affidavit.

(a) If an order under section 76-2,132 requires the construction of an improvement as a condition for relocation of an easement, relocation is substantially complete, and the easement holder is able to enter, use, and enjoy the easement in the new location, the servient estate owner shall:

- (1) record, in the land records of each jurisdiction where the servient estate is located, an affidavit certifying that the easement has been relocated; and
- (2) send, by certified mail, a copy of the recorded affidavit to the easement holder and parties to the civil action.

(b) Until an affidavit under subsection (a) of this section is recorded and sent, the easement holder may enter, use, and enjoy the easement in the current location, subject to the court's order under section 76-2,132 approving relocation.

(c) If an order under section 76-2,132 does not require an improvement to be constructed as a condition of the relocation, recording the order under subsection (d) of section 76-2,132 constitutes relocation.

Source: Laws 2021, LB501, § 72.
Effective date August 28, 2021.

76-2,136 Limited effect of relocation.

(a) Relocation of an easement under the Uniform Easement Relocation Act:

- (1) is not a new transfer or a new grant of an interest in the servient estate or the dominant estate;
- (2) is not a breach or default of, and does not trigger, a due-on-sale clause or other transfer-restriction clause under a security instrument, except as otherwise determined by a court under law other than the Uniform Easement Relocation Act;
- (3) is not a breach or default of a lease, except as otherwise determined by a court under law other than the Uniform Easement Relocation Act;
- (4) is not a breach or default by the servient estate owner of a recorded document affected by the relocation, except as otherwise determined by a court under law other than the Uniform Easement Relocation Act;
- (5) does not affect the priority of the easement with respect to other recorded real property interests burdening the area of the servient estate where the easement was located before the relocation; and
- (6) is not a fraudulent conveyance or voidable transaction under law.

(b) The Uniform Easement Relocation Act does not affect any other method of relocating an easement permitted under law of this state other than the Uniform Easement Relocation Act.

Source: Laws 2021, LB501, § 73.
Effective date August 28, 2021.

76-2,137 Nonwaiver.

The right of a servient estate owner to relocate an easement under the Uniform Easement Relocation Act may not be waived, excluded, or restricted by agreement even if:

- (1) the instrument creating the easement prohibits relocation or contains a waiver, exclusion, or restriction of the Uniform Easement Relocation Act;
- (2) the instrument creating the easement requires consent of the easement holder to amend the terms of the easement; or
- (3) the location of the easement is fixed by the instrument creating the easement, another agreement, previous conduct, acquiescence, estoppel, or implication.

Source: Laws 2021, LB501, § 74.
Effective date August 28, 2021.

76-2,138 Uniformity of application and construction.

In applying and construing the Uniform Easement Relocation Act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among the states that enact it.

Source: Laws 2021, LB501, § 75.
Effective date August 28, 2021.

76-2,139 Relation to Electronic Signatures in Global and National Commerce Act.

The Uniform Easement Relocation Act modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. 7001 et seq., 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 2021, LB501, § 76.
Effective date August 28, 2021.

76-2,140 Act; applicability.

The Uniform Easement Relocation Act applies to an easement created before, on, or after August 28, 2021.

Source: Laws 2021, LB501, § 77.
Effective date August 28, 2021.

ARTICLE 7**EMINENT DOMAIN**

Section

76-711. Condemner; interest in property; deposit of awards; abandonment; appeal; interest; writ of assistance; removal of property; liability.

76-711 Condemner; interest in property; deposit of awards; abandonment; appeal; interest; writ of assistance; removal of property; liability.

The condemner shall not acquire any interest in or right to possession of the property condemned until he or she has deposited with the court the amount of the condemnation award in effect at the time the deposit is made. The

condemner shall have sixty days from the date of the award of the appraisers to deposit with the court the amount of the award or the proceeding will be considered as abandoned. When the amount of the award is deposited with the court by the condemner, the condemner shall be deemed to have accepted the award unless he or she gives notice of appeal from the award of the appraisers pursuant to section 76-715. If the proceeding is abandoned, proceedings may not again be instituted by the condemner to condemn the property within two years from the date of abandonment.

If an appeal is taken from the award of the appraisers by the condemnee and the condemnee obtains a greater amount than that allowed by the appraisers, the condemnee shall be entitled to interest from the date of the deposit at the rate provided in section 45-104.02, as such rate may from time to time be adjusted, compounded annually, on the amount finally allowed, less interest at the same rate on the amount withdrawn or on the amount which the condemner offers to stipulate for withdrawal as provided by section 76-719.01. If an appeal is taken from the award of the appraisers by the condemner, the condemnee shall be entitled to interest from the date of deposit at the rate provided in section 45-104.02, as such rate may from time to time be adjusted, compounded annually, on the amount finally allowed, less interest at the same rate on the amount withdrawn or on the amount which the condemner offers to stipulate for withdrawal as agreed to by the condemnee as provided by section 76-719.01.

Upon deposit of the condemnation award with the court, the condemner shall be entitled to a writ of assistance to place him or her in possession of the property condemned and the condemnee shall be liable for diminution in the value of the property caused by the condemnee's purposeful removal of real or personal property not previously agreed to in writing by the condemner and condemnee from the condemned property.

Source: Laws 1951, c. 101, § 11, p. 454; Laws 1959, c. 351, § 1, p. 1240; Laws 1961, c. 369, § 1, p. 1141; Laws 1971, LB 191, § 1; Laws 1982, LB 705, § 1; Laws 1987, LB 601, § 5; Laws 1990, LB 1153, § 59; Laws 1992, Fourth Spec. Sess., LB 1, § 12; Laws 2021, LB355, § 5.
Effective date August 28, 2021.

ARTICLE 10 TRUST DEEDS

Section	
76-1011.	Sale of trust property; proceeds of sale; disposition.
76-1011.01.	Sale of trust property; proceeds of sale; disposition; objecting party; attorney's fees and costs.
76-1018.	Act, how cited.

76-1011 Sale of trust property; proceeds of sale; disposition.

(1) The trustee shall apply the proceeds of the trustee's sale in the following order of priority:

(a) First, the proceeds shall be applied to the costs and expenses of exercising the power of sale and of the sale, including the payment of the trustee's fees actually incurred not to exceed the amount which may be provided for in the trust deed;

(b) Second, the proceeds shall be applied to payment of the obligation secured by the trust deed;

(c) Third, the proceeds shall be applied to the payment of junior trust deeds, mortgages, or other lienholders; and

(d) Fourth, the balance of the proceeds, if any, shall be applied to the person or persons legally entitled to any remaining proceeds.

(2) Whether the proceeds are disbursed by the trustee pursuant to subsection (1) of this section or pursuant to an action described in section 76-1011.01, the payment of any attorney’s fees and costs incurred by the trustee in connection with the distribution of the proceeds of the trustee’s sale shall be deducted from the proceeds prior to the payment of junior trust deeds, mortgages, or other lien holders, or to any other person or persons legally entitled thereto.

Source: Laws 1965, c. 451, § 11, p. 1430; Laws 1984, LB 679, § 22; Laws 2021, LB503, § 2.
Effective date August 28, 2021.

76-1011.01 Sale of trust property; proceeds of sale; disposition; objecting party; attorney’s fees and costs.

If a court enters a judgment in favor of the holder of a trust deed, mortgage, or other lien in any interpleader action, action for declaratory judgment, or any other similar action resulting from an objection to or the uncertainty of the proposed payment of proceeds of the trustee’s sale by the trustee to such holders of trust deeds, mortgages, or other liens, the court shall order the objecting party or parties who, without a good-faith reason, objected to the proposed payment of proceeds of the trustee’s sale by the trustee, to pay the reasonable attorney’s fees and court costs of any such holder.

Source: Laws 2021, LB503, § 1.
Effective date August 28, 2021.

76-1018 Act, how cited.

Sections 76-1001 to 76-1018 shall be known and may be cited as Nebraska Trust Deeds Act.

Source: Laws 1965, c. 451, § 17, p. 1433; Laws 1994, LB 1275, § 8; Laws 2021, LB503, § 3.
Effective date August 28, 2021.

ARTICLE 14

LANDLORD AND TENANT

(a) UNIFORM RESIDENTIAL LANDLORD AND TENANT ACT

Section	
76-1401.	Act, how cited.
76-1410.	Terms, defined.
76-1416.	Security deposits; prepaid rent.
76-1423.	Access.
76-1431.	Noncompliance; failure to pay rent; effect; violent criminal activity upon premises; landlord; powers; exceptions.
76-1431.01.	Tenant; victim of an act of domestic violence; release from rental agreement; conditions; effect.
76-1441.	Complaint for restitution; filing; contents.
76-1442.01.	Summons; alternative method of service; affidavit; contents.

- Section
76-1443. Continuance; when.
 (b) MOBILE HOME LANDLORD AND TENANT ACT
- 76-1485. Rental deposit; return; withholdings; considered abandoned property;
 when.
- 76-1486. Rental deposit; failure to provide written statement; effect.
- 76-1489. Rental deposit; unlawful retention; damages.
- 76-14,101. Noncompliance by tenant; landlord's rights.

(a) UNIFORM RESIDENTIAL LANDLORD AND TENANT ACT

76-1401 Act, how cited.

Sections 76-1401 to 76-1449 shall be known and may be cited as the Uniform Residential Landlord and Tenant Act.

Source: Laws 1974, LB 293, § 1; Laws 1991, LB 324, § 1; Laws 2021, LB320, § 2.
Effective date August 28, 2021.

76-1410 Terms, defined.

Subject to additional definitions contained in the Uniform Residential Landlord and Tenant Act and unless the context otherwise requires:

(1) Act of domestic violence means abuse as defined in section 42-903, sexual assault under sections 28-319 to 28-320.01, domestic assault under section 28-323, stalking under section 28-311.03, labor or sex trafficking under section 28-831, and knowing and intentional abuse, neglect, or exploitation of a vulnerable adult or senior adult under section 28-386.

(2) Action includes recoupment, counterclaim, setoff, suit in equity, and any other proceeding in which rights are determined, including an action for possession.

(3) Building and housing codes include any law, ordinance, or governmental regulation concerning fitness for habitation, or the construction, maintenance, operation, occupancy, use, or appearance of any premises, or dwelling unit. Minimum housing code shall be limited to those laws, resolutions, or ordinances or regulations, or portions thereof, dealing specifically with health and minimum standards of fitness for habitation.

(4) Dwelling unit means a structure or the part of a structure that is used as a home, residence, or sleeping place by one person who maintains a household or by two or more persons who maintain a common household.

(5) Good faith means honesty in fact in the conduct of the transaction concerned.

(6) Household member means a child or adult, other than the perpetrator of an act of domestic violence, who resides with a tenant.

(7) Landlord means the owner, lessor, or sublessor of the dwelling unit or the building of which it is a part, and it also means a manager of the premises who fails to disclose as required by section 76-1417.

(8) Organization includes a corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership, limited liability company, or association, two or more persons having a joint or common interest, and any other legal or commercial entity.

(9) Owner means one or more persons, jointly or severally, in whom is vested (a) all or part of the legal title to property, or (b) all or part of the beneficial ownership and a right to present use and enjoyment of the premises; and the term includes a mortgagee in possession.

(10) Person includes an individual, limited liability company, or organization.

(11) Qualified third party means an organization that (a) is a nonprofit organization organized under section 501(c)(3) of the Internal Revenue Code or a federally recognized Indian tribe whose governmental body is within the borders of Nebraska and (b) has an affiliation agreement with the Department of Health and Human Services to provide services to victims of domestic violence and sexual assault under the Protection from Domestic Abuse Act.

(12) Premises means a dwelling unit and the structure of which it is a part and facilities and appurtenances therein and grounds, areas, and facilities held out for the use of tenants generally or whose use is promised to the tenant.

(13) Rent means all payments to be made to the landlord under the rental agreement.

(14) Rental agreement means all agreements, written or oral, between a landlord and tenant, and valid rules and regulations adopted under section 76-1422 embodying the terms and conditions concerning the use and occupancy of a dwelling unit and premises.

(15) Roomer means a person occupying a dwelling unit that lacks a major bathroom or kitchen facility, in a structure where one or more major facilities are used in common by occupants of the dwelling units. Major facility in the case of a bathroom means toilet, or either a bath or shower, and in the case of a kitchen means refrigerator, stove, or sink.

(16) Single-family residence means a structure maintained and used as a single dwelling unit. Notwithstanding that a dwelling unit shares one or more walls with another dwelling unit, it is a single-family residence if it has direct access to a street or thoroughfare and shares neither heating facilities, hot water equipment, nor any other essential facility or service with any other dwelling unit.

(17) Tenant means a person entitled under a rental agreement to occupy a dwelling unit to the exclusion of others.

Source: Laws 1974, LB 293, § 10; Laws 1993, LB 121, § 484; Laws 2021, LB320, § 3.

Effective date August 28, 2021.

76-1416 Security deposits; prepaid rent.

(1) A landlord may not demand or receive security, however denominated, in an amount or value in excess of one month's periodic rent, except that a pet deposit not in excess of one-fourth of one month's periodic rent may be demanded or received when appropriate, but this subsection shall not be applicable to housing agencies organized or existing under the Nebraska Housing Agency Act.

(2) Upon termination of the tenancy, property or money held by the landlord as prepaid rent and security may be applied to the payment of rent and the amount of damages which the landlord has suffered by reason of the tenant's noncompliance with the rental agreement or section 76-1421. The balance, if any, and a written itemization shall be delivered or mailed to the tenant within

fourteen days after the date of termination of the tenancy. If no mailing address or instructions are provided by the tenant to the landlord, the landlord shall mail, by first-class mail, the balance of the security deposit to be returned, if any, and a written itemization of the amount of the security deposit not returned to the tenant's last-known mailing address. If the mailing is returned as undeliverable, or if the returned balance of the security deposit remains outstanding for one year, it shall be considered abandoned property to be reported and paid to the State Treasurer in accordance with the Uniform Disposition of Unclaimed Property Act.

(3) If the landlord fails to comply with subsection (2) of this section, the tenant may recover the property and money due him or her, court costs, and reasonable attorney's fees. In addition, if the landlord's failure to comply with subsection (2) of this section is willful and not in good faith, the tenant may recover an amount equal to one month's periodic rent or two times the amount of the security deposit, whichever is less, as liquidated damages.

(4) This section does not preclude the landlord or tenant from recovering other damages to which he or she may be entitled under the Uniform Residential Landlord and Tenant Act. However, a tenant shall not be liable for damages directly related to the tenant's removal from the premises by order of any governmental entity as a result of the premises not being fit for habitation due to the negligence or neglect of the landlord.

(5) The holder of the landlord's interest in the premises at the time of the termination of the tenancy is bound by this section.

Source: Laws 1974, LB 293, § 16; Laws 1999, LB 105, § 99; Laws 2001, LB 7, § 12; Laws 2019, LB433, § 1; Laws 2021, LB532, § 7.
Effective date August 28, 2021.

Cross References

Nebraska Housing Agency Act, see section 71-1572.
Uniform Disposition of Unclaimed Property Act, see section 69-1329.

76-1423 Access.

(1) The tenant shall not unreasonably withhold consent to the landlord to enter into the dwelling unit in order to inspect the premises, make necessary or agreed repairs, decorations, alterations, or improvements, supply necessary or agreed services, or exhibit the dwelling unit to prospective or actual purchasers, mortgagees, tenants, workmen, or contractors.

(2) The landlord may enter the dwelling unit without consent of the tenant in case of emergency.

(3) The landlord shall not abuse the right of access or use it to harass the tenant. Except in case of emergency or if it is impracticable to do so, the landlord shall:

(a) Give the tenant at least twenty-four hours' written notice of the landlord's intent to enter. Such notice shall be provided to each individual unit and include the intended purpose for entry and a reasonable period during which the landlord anticipates making entry; and

(b) Enter only at reasonable times.

(4) The landlord has no other right of access except by court order, as permitted by subsection (2) of section 76-1432, or if the tenant has abandoned or surrendered the premises.

Source: Laws 1974, LB 293, § 23; Laws 2021, LB320, § 4.

Effective date August 28, 2021.

76-1431 Noncompliance; failure to pay rent; effect; violent criminal activity upon premises; landlord; powers; exceptions.

(1) Except as provided in the Uniform Residential Landlord and Tenant Act, if there is a noncompliance with section 76-1421 materially affecting health and safety or a material noncompliance by the tenant with the rental agreement or any separate agreement, the landlord may deliver a written notice to the tenant specifying the acts and omissions constituting the breach and that the rental agreement will terminate upon a date not less than thirty days after receipt of the notice if the breach is not remedied in fourteen days, and the rental agreement shall terminate as provided in the notice subject to the following. If the breach is remediable by repairs or the payment of damages or otherwise and the tenant adequately remedies the breach prior to the date specified in the notice, the rental agreement will not terminate. If substantially the same act or omission which constituted a prior noncompliance of which notice was given recurs within six months, the landlord may terminate the rental agreement upon at least fourteen days' written notice specifying the breach and the date of termination of the rental agreement.

(2) If rent is unpaid when due and the tenant fails to pay rent within seven calendar days after written notice by the landlord of nonpayment and his or her intention to terminate the rental agreement if the rent is not paid within that period of time, the landlord may terminate the rental agreement.

(3) Except as provided in the Uniform Residential Landlord and Tenant Act, the landlord may recover damages and obtain injunctive relief for any noncompliance by the tenant with the rental agreement or section 76-1421. If the tenant's noncompliance is willful, the landlord may recover reasonable attorney's fees.

(4) Notwithstanding subsections (1) and (2) of this section or section 25-21,221, and except as provided in subsection (5) of this section, a landlord may, after five days' written notice of termination of the rental agreement and without the right of the tenant to cure the default, file suit and have judgment against any tenant or occupant for recovery of possession of the premises if the tenant, occupant, member of the tenant's household, guest, or other person who is under the tenant's control or who is present upon the premises with the tenant's consent, engages in any violent criminal activity on the premises, the illegal sale of any controlled substance on the premises, or any other activity that threatens the health or safety of other tenants, the landlord, or the landlord's employees or agents. Such activity shall include, but not be limited to, any of the following activities of the tenant, occupant, member of the tenant's household, guest, or other person who is under the tenant's control or who is present upon the premises with the tenant's consent: (a) Physical assault or the threat of physical assault; (b) illegal use of a firearm or other weapon or the threat of illegal use of a firearm or other weapon; (c) possession of a controlled substance if the tenant knew or should have known of the possession, unless such controlled substance was obtained directly from or pursuant

to a medical order issued by a practitioner legally authorized to prescribe while acting in the course of his or her professional practice; or (d) any other activity or threatened activity which would otherwise threaten the health or safety of any person or involving threatened, imminent, or actual damage to the property.

(5)(a) A landlord shall not take action under subsection (4) of this section if the violent criminal activity, illegal sale of any controlled substance, or other activity that threatens the health or safety of other tenants, the landlord, or the landlord's employees or agents, as set forth in subsection (4) of this section, is conducted by a person on the premises other than the tenant or a household member and the tenant or household member takes at least one of the following measures:

(i) The tenant or household member seeks a protective order, restraining order, or other similar relief which would apply to the person conducting such activity;

(ii) The tenant or household member reports such activity to a law enforcement agency in an effort to initiate a criminal action against the person conducting the activity; or

(iii) If the activity is an act of domestic violence, the tenant or household member receives certification of the activity from a qualified third party as set forth in the housing protection provisions of the federal Violence Against Women Reauthorization Act of 2013.

(b) This subsection shall not apply to a tenant who is a perpetrator of an act of domestic violence. If both the victim who takes measures under this subsection and perpetrator of an act of domestic violence are parties to a rental agreement, a landlord shall only take action under subsection (4) of this section against the perpetrator.

Source: Laws 1974, LB 293, § 31; Laws 2001, LB 7, § 18; Laws 2016, LB221, § 4; Laws 2019, LB433, § 2; Laws 2021, LB320, § 5.
Effective date August 28, 2021.

76-1431.01 Tenant; victim of an act of domestic violence; release from rental agreement; conditions; effect.

(1) A tenant who is a victim of an act of domestic violence or whose household member is a victim of an act of domestic violence may obtain a release from a rental agreement if the tenant or household member has:

(a) Obtained a protective order, restraining order, or other similar relief which applies to the perpetrator of the act of domestic violence; or

(b) Obtained certification confirming domestic violence as set forth in subdivision (5)(a)(iii) of section 76-1431.

(2) To obtain a release from a rental agreement under this section, the tenant shall:

(a) Provide to the landlord a copy of the documentation described in subsection (1) of this section; and

(b) Provide to the landlord a written notice containing:

(i) The date on which the tenant wishes the release to be effective. Such date shall be at least fourteen days after the date the tenant provides the documentation and written notice and no more than thirty days after such date; and

(ii) The names of any household members to be released in addition to the tenant.

(3) The tenant shall remain liable for rent for the month in which the tenant terminated the rental agreement.

(4) A tenant and any household member who is released from a rental agreement pursuant to this section:

(a) Are not liable for rent or damages to the premises incurred after the release date; and

(b) Are not subject to any fee solely because of termination of the rental agreement.

(5) Other tenants who are parties to the rental agreement, other than household members of a tenant released under this section, are not released pursuant to this section from their obligations under the rental agreement or the Uniform Residential Landlord and Tenant Act.

(6) A tenant who is a perpetrator of an act of domestic violence may not obtain a release from a rental agreement under this section.

Source: Laws 2021, LB320, § 6.

Effective date August 28, 2021.

76-1441 Complaint for restitution; filing; contents.

(1) The person seeking possession shall file a complaint for restitution with the clerk of the district or county court. The complaint shall contain (a) the specific statutory authority under which possession is sought; (b) the facts, with particularity, on which he or she seeks to recover; (c) a reasonably accurate description of the premises; and (d) the requisite compliance with the notice provisions of the Uniform Residential Landlord and Tenant Act. The complaint may notify the tenant that personal property remains on the premises and that it may be disposed of pursuant to section 69-2308 or subsection (5) of section 76-1414. The complaint may also contain other causes of action relating to the tenancy, but such causes of action shall be answered and tried separately, if requested by either party in writing.

(2) The person seeking possession pursuant to subsection (4) of section 76-1431 shall include in the complaint the incident or incidents giving rise to the suit for recovery of possession.

Source: Laws 1974, LB 293, § 41; Laws 1984, LB 13, § 85; Laws 1995, LB 175, § 2; Laws 2002, LB 876, § 81; Laws 2016, LB221, § 5; Laws 2021, LB320, § 7.

Effective date August 28, 2021.

76-1442.01 Summons; alternative method of service; affidavit; contents.

When authorized by section 76-1442, service of a summons issued under such section may be made by posting a copy on the front door of the dwelling unit and mailing a copy by first-class mail to the defendant's last-known address. The plaintiff shall file an affidavit with the court describing the diligent efforts made to serve the summons in the manner provided in sections 25-505.01 to 25-516.01, the reasons why such service was unsuccessful, and that service was made by posting the summons on the front door of the

dwelling unit and mailing a copy by first-class mail to the defendant's last-known address.

Source: Laws 1991, LB 324, § 4; Laws 2021, LB320, § 8.
Effective date August 28, 2021.

76-1443 Continuance; when.

The court may grant a continuance for good cause shown by either party, but no subsequent continuance shall be granted except by agreement or unless extraordinary cause be shown to the court. For any subsequent continuance extending the initial trial date into the next periodic rental period, the court may require a tenant to deposit with the clerk of the court such rental payments as accrue during the pendency of the suit.

Source: Laws 1974, LB 293, § 43; Laws 2021, LB320, § 9.
Effective date August 28, 2021.

(b) MOBILE HOME LANDLORD AND TENANT ACT

76-1485 Rental deposit; return; withholdings; considered abandoned property; when.

(1) A landlord shall, within fourteen days from the date of termination of the tenancy, return the rental deposit to the tenant or furnish to the tenant a written statement showing the specific reason for withholding all or any portion of the rental deposit. If no mailing address or delivery instructions are provided by the tenant to the landlord, the landlord shall mail, by first-class mail, the balance of the rental deposit to be returned, if any, and the written statement regarding any amounts withheld to the tenant's last-known mailing address. If the mailing is returned as undeliverable, or if the returned balance of the rental deposit remains outstanding for one year, it shall be considered abandoned property to be reported to the State Treasurer in accordance with the Uniform Disposition of Unclaimed Property Act. The landlord may withhold from the rental deposit only such amounts as are reasonable:

- (a) To remedy a tenant's default in the payment of rent or of other funds due to the landlord pursuant to the rental agreement; and
- (b) To restore the mobile home space to its condition at the commencement of the tenancy, ordinary wear and tear excepted.

(2) In an action concerning the rental deposit, the burden of proving, by a preponderance of the evidence, the reason for withholding all or any portion of the rental deposit shall be on the landlord.

Source: Laws 1984, LB 916, § 36; Laws 2021, LB320, § 10.
Effective date August 28, 2021.

Cross References

Uniform Disposition of Unclaimed Property Act, see section 69-1329.

76-1486 Rental deposit; failure to provide written statement; effect.

A landlord who fails to provide a written statement as required by section 76-1485 shall forfeit all rights to withhold any portion of the rental deposit.

Source: Laws 1984, LB 916, § 37; Laws 2021, LB320, § 11.
Effective date August 28, 2021.

76-1489 Rental deposit; unlawful retention; damages.

If a landlord retains all or any portion of a rental deposit in violation of sections 76-1483 to 76-1488, the tenant may recover the amount of the rental deposit due to the tenant, court costs, and reasonable attorney's fees. In addition, if the landlord's retention of the rental deposit or any portion thereof is willful and not in good faith, the tenant may recover an amount equal to one month's periodic rent or two times the amount of the rental deposit, whichever is less, as liquidated damages.

Source: Laws 1984, LB 916, § 40; Laws 2021, LB320, § 12.
Effective date August 28, 2021.

76-14,101 Noncompliance by tenant; landlord's rights.

(1) If there is a noncompliance with section 76-1493 materially affecting health and safety or a material noncompliance by the tenant with the rental agreement, the landlord may deliver a written notice to the tenant specifying the acts and omissions constituting the breach and that the rental agreement will terminate upon a date not less than thirty days after receipt of the notice. Only in the event the breach is remediable by repairs or the payment of damages and the tenant adequately remedies the breach or takes reasonable steps to remedy it prior to the date specified in the notice, the rental agreement shall not terminate.

(2) If rent is unpaid when due and the tenant fails to pay rent within seven days after written notice by the landlord of nonpayment and of the landlord's intention to terminate the rental agreement if the rent is not paid within that period of time, the landlord may terminate the rental agreement.

(3) A landlord may recover damages, obtain injunctive relief, or recover possession of the mobile home space by an action in forcible detainer for any material noncompliance by the tenant with the rental agreement or section 76-1493 by bringing an action for possession in the manner described in sections 76-1440 to 76-1447.

(4) The remedy provided in subsection (3) of this section shall be in addition to any right of a landlord arising under subsection (1) of this section.

Source: Laws 1984, LB 916, § 52; Laws 2021, LB320, § 13.
Effective date August 28, 2021.

ARTICLE 22**REAL PROPERTY APPRAISER ACT**

Section

- 76-2203.01. Accredited degree-awarding community college, college, or university, defined.
- 76-2207.30. Financial Institutions Reform, Recovery, and Enforcement Act of 1989, defined.
- 76-2218.02. Uniform Standards of Professional Appraisal Practice, defined.
- 76-2221. Act; exemptions.
- 76-2228.01. Trainee real property appraiser; applicant; qualifications; fingerprints; national criminal history record check; upgraded credential; requirements; scope of practice.
- 76-2228.02. Trainee real property appraiser; direct supervision; supervisory real property appraiser; qualifications; disciplinary action; effect; appraisal experience log.

- Section
 76-2230. Credential as a licensed residential real property appraiser; applicant; qualifications; fingerprints; national criminal history record check; upgraded credential; requirements; scope of practice.
 76-2231.01. Credential as a certified residential real property appraiser; applicant; qualifications; fingerprints; national criminal history record check; upgraded credential; requirements; scope of practice.
 76-2232. Credential as a certified general real property appraiser; applicant; qualifications; fingerprints; national criminal history record check; scope of practice.

76-2203.01 Accredited degree-awarding community college, college, or university, defined.

Accredited degree-awarding community college, college, or university means an institution that is approved or accredited by an accreditation association or agency recognized by the United States Secretary of Education.

Source: Laws 2014, LB717, § 4; Laws 2021, LB528, § 17.
 Operative date August 28, 2021.

76-2207.30 Financial Institutions Reform, Recovery, and Enforcement Act of 1989, defined.

Financial Institutions Reform, Recovery, and Enforcement Act of 1989 means the act as it existed on January 1, 2021.

Source: Laws 2014, LB717, § 8; R.S.Supp.,2014, § 76-2212.02; Laws 2015, LB139, § 22; Laws 2016, LB731, § 3; R.S.Supp.,2016, § 76-2207.14; Laws 2018, LB741, § 19; Laws 2019, LB77, § 2; Laws 2020, LB808, § 61; Laws 2021, LB23, § 1.
 Effective date March 18, 2021.

76-2218.02 Uniform Standards of Professional Appraisal Practice, defined.

Uniform Standards of Professional Appraisal Practice means the standards adopted and promulgated by The Appraisal Foundation as the standards existed on January 1, 2021.

Source: Laws 2001, LB 162, § 11; R.S.1943, (2003), § 76-2218.01; Laws 2006, LB 778, § 31; Laws 2007, LB186, § 5; Laws 2008, LB1011, § 2; Laws 2010, LB931, § 4; Laws 2012, LB714, § 2; Laws 2014, LB717, § 10; R.S.Supp.,2014, § 76-2213.01; Laws 2015, LB139, § 36; Laws 2016, LB731, § 6; Laws 2018, LB741, § 24; Laws 2020, LB808, § 66; Laws 2021, LB23, § 2.
 Effective date March 18, 2021.

76-2221 Act; exemptions.

The Real Property Appraiser Act shall not apply to:

- (1) Any person who is a salaried employee of (a) the federal government, (b) any agency of the state government or a political subdivision which appraises real estate, (c) any insurance company authorized to do business in this state, or (d) any bank, savings bank, savings and loan association, building and loan association, credit union, or small loan company licensed by this state or supervised or regulated by or through federal enactments covering financial institutions who renders an estimate or opinion of value of real estate or any interest in real estate when such estimate or opinion is rendered in connection

with the salaried employee's employment for an entity listed in subdivisions (a) through (d) of this subdivision, except that any salaried employee of the entities listed in subdivisions (a) through (d) of this subdivision who signs a report as a credentialed real property appraiser shall be subject to the act and the Uniform Standards of Professional Appraisal Practice. Any salaried employee of the entities listed in subdivisions (a) through (d) of this subdivision who is a credentialed real property appraiser and who does not sign a report as a credentialed real property appraiser shall include the following disclosure prominently with such report: This opinion of value may not meet the minimum standards contained in the Uniform Standards of Professional Appraisal Practice and is not governed by the Real Property Appraiser Act;

(2) A person referred to in subsection (1) of section 81-885.16;

(3) Any person who provides assistance (a) in obtaining the data upon which assignment results are based, (b) in the physical preparation of a report, such as taking photographs, preparing charts, maps, or graphs, or typing or printing the report, or (c) that does not directly involve the exercise of judgment in arriving at the assignment results set forth in the report;

(4) Any owner of real estate, employee of the owner, or attorney licensed to practice law in this state representing the owner who renders an estimate or opinion of value of the real estate or any interest in the real estate when such estimate or opinion is for the purpose of real estate taxation, or any other person who renders such an estimate or opinion of value when that estimate or opinion requires a specialized knowledge that a real property appraiser would not have, except that a real property appraiser or a person licensed under the Nebraska Real Estate License Act is not exempt under this subdivision;

(5) Any owner of real estate, employee of the owner, or attorney licensed to practice law in this state representing the owner who renders an estimate or opinion of value of real estate or any interest in real estate or damages thereto when such estimate or opinion is offered as testimony in any condemnation proceeding, or any other person who renders such an estimate or opinion when that estimate or opinion requires a specialized knowledge that a real property appraiser would not have, except that a real property appraiser or a person licensed under the Nebraska Real Estate License Act is not exempt under this subdivision;

(6) Any owner of real estate, employee of the owner, or attorney licensed to practice law in this state representing the owner who renders an estimate or opinion of value of the real estate or any interest in the real estate when such estimate or opinion is offered in connection with a legal matter involving real property;

(7) Any person appointed by a county board of equalization to act as a referee pursuant to section 77-1502.01, except that any person who also practices as an independent real property appraiser for others shall be subject to the Real Property Appraiser Act and shall be credentialed prior to engaging in such other real property appraisal practice. Any real property appraiser appointed to act as a referee pursuant to section 77-1502.01 and who prepares a report for the county board of equalization shall not sign such report as a credentialed real property appraiser and shall include the following disclosure prominently with such report: This opinion of value may not meet the minimum standards contained in the Uniform Standards of Professional Appraisal Practice and is not governed by the Real Property Appraiser Act;

(8) Any person who is appointed to serve as an appraiser pursuant to section 76-706, except that if such person is a credential holder, he or she shall (a) be subject to the scope of practice applicable to his or her classification of credential and (b) comply with the Uniform Standards of Professional Appraisal Practice, excluding standards 1 through 10; or

(9) Any person, including an independent contractor, retained by a county to assist in the appraisal of real property as performed by the county assessor of such county subject to the standards established by the Tax Commissioner pursuant to section 77-1301.01. A person so retained shall be under the direction and responsibility of the county assessor.

Source: Laws 1990, LB 1153, § 21; Laws 1991, LB 203, § 22; Laws 1994, LB 1107, § 17; Laws 1999, LB 618, § 5; Laws 2001, LB 162, § 13; Laws 2003, LB 131, § 35; Laws 2005, LB 676, § 1; Laws 2006, LB 778, § 41; Laws 2008, LB1011, § 4; Laws 2010, LB931, § 6; Laws 2015, LB139, § 41; Laws 2016, LB729, § 2; Laws 2016, LB731, § 7; Laws 2018, LB741, § 27; Laws 2020, LB808, § 70; Laws 2021, LB23, § 3.
Effective date March 18, 2021.

Cross References

Nebraska Real Estate License Act, see section 81-885.

76-2228.01 Trainee real property appraiser; applicant; qualifications; fingerprints; national criminal history record check; upgraded credential; requirements; scope of practice.

(1) To qualify for a credential as a trainee real property appraiser, an applicant shall:

- (a) Be at least nineteen years of age;
- (b) Hold a high school diploma or a certificate of high school equivalency or have education acceptable to the Real Property Appraiser Board;
- (c)(i) Have successfully completed and passed examination for no fewer than seventy-five class hours in Real Property Appraiser Board-approved qualifying education courses conducted by education providers as prescribed by rules and regulations of the Real Property Appraiser Board and completed the fifteen-hour National Uniform Standards of Professional Appraisal Practice Course. Each course shall include a proctored, closed-book examination pertinent to the material presented. Except for the fifteen-hour National Uniform Standards of Professional Appraisal Practice Course, which shall be completed within the two-year period immediately preceding submission of the application, all class hours shall be completed within the five-year period immediately preceding submission of the application; or
- (ii) Hold a degree in real estate from an accredited degree-awarding college or university that has had all or part of its curriculum approved by the Appraiser Qualifications Board as required core curriculum or the equivalent as determined by the Appraiser Qualifications Board. The degree shall be conferred within the five-year period immediately preceding submission of the application. If the degree in real estate or equivalent as approved by the Appraiser Qualifications Board does not satisfy all required qualifying education for credentialing, the remaining class hours shall be completed in Real

Property Appraiser Board-approved qualifying education pursuant to subdivision (c)(i) of this subsection;

(d) As prescribed by rules and regulations of the Real Property Appraiser Board, successfully complete a Real Property Appraiser Board-approved supervisory real property appraiser and trainee course within one year immediately preceding the date of application; and

(e) Submit two copies of legible ink-rolled fingerprint cards or equivalent electronic fingerprint submissions to the Real Property Appraiser Board for delivery to the Nebraska State Patrol in a form approved by both the Nebraska State Patrol and the Federal Bureau of Investigation. A fingerprint-based national criminal history record check shall be conducted through the Nebraska State Patrol and the Federal Bureau of Investigation with such record check to be carried out by the Real Property Appraiser Board.

(2) Prior to engaging in real property appraisal practice, a trainee real property appraiser shall submit a written request for supervisory real property appraiser approval on a form approved by the board. The request for supervisory real property appraiser approval may be made at the time of application or any time after approval as a trainee real property appraiser.

(3) To qualify for an upgraded credential, a trainee real property appraiser shall satisfy the appropriate requirements as follows:

(a) Submit two copies of legible ink-rolled fingerprint cards or equivalent electronic fingerprint submissions to the Real Property Appraiser Board for delivery to the Nebraska State Patrol in a form approved by both the Nebraska State Patrol and the Federal Bureau of Investigation. A fingerprint-based national criminal history record check shall be conducted through the Nebraska State Patrol and the Federal Bureau of Investigation with such record check to be carried out by the Real Property Appraiser Board; and

(b) Within the twelve months following approval of the applicant's education and experience by the Real Property Appraiser Board for an upgraded credential, pass an appropriate examination approved by the Appraiser Qualifications Board for that upgraded credential, prescribed by rules and regulations of the Real Property Appraiser Board, and administered by a contracted testing service.

(4) To qualify for a credential as a licensed residential real property appraiser, a trainee real property appraiser shall:

(a) Successfully complete and pass proctored, closed-book examinations for no fewer than seventy-five additional class hours in board-approved qualifying education courses conducted by education providers as prescribed by rules and regulations of the board, or hold a degree in real estate from an accredited degree-awarding college or university or equivalent pursuant to subdivision (1)(c)(ii) of section 76-2230; and

(b) Meet the experience requirements pursuant to subdivision (1)(d) of section 76-2230.

(5) To qualify for a credential as a certified residential real property appraiser, a trainee real property appraiser shall:

(a) Meet the postsecondary educational requirements pursuant to subdivisions (1)(b) and (c) of section 76-2231.01;

(b) Successfully complete and pass proctored, closed-book examinations for no fewer than one hundred twenty-five additional class hours in board-ap-

proved qualifying education courses conducted by education providers as prescribed by rules and regulations of the board, or hold a degree in real estate from an accredited degree-awarding college or university or equivalent pursuant to subdivision (1)(d)(ii) of section 76-2231.01; and

(c) Meet the experience requirements pursuant to subdivision (1)(e) of section 76-2231.01.

(6) To qualify for a credential as a certified general real property appraiser, a trainee real property appraiser shall:

(a) Meet the postsecondary educational requirements pursuant to subdivisions (1)(b) and (c) of section 76-2232;

(b) Successfully complete and pass proctored, closed-book examinations for no fewer than two hundred twenty-five additional class hours in board-approved qualifying education courses conducted by education providers as prescribed by rules and regulations of the board, or hold a degree in real estate from an accredited degree-awarding college or university or equivalent pursuant to subdivision (1)(d)(ii) of section 76-2232; and

(c) Meet the experience requirements pursuant to subdivision (1)(e) of section 76-2232.

(7) The scope of practice for the trainee real property appraiser shall be limited to real property appraisal practice assignments that the supervisory certified real property appraiser is permitted to engage in by his or her current credential and that the supervisory real property appraiser is competent to engage in.

Source: Laws 2006, LB 778, § 49; Laws 2007, LB186, § 12; Laws 2010, LB931, § 10; Laws 2012, LB714, § 4; Laws 2014, LB717, § 15; Laws 2015, LB139, § 47; Laws 2016, LB731, § 11; Laws 2019, LB77, § 4; Laws 2020, LB808, § 73; Laws 2021, LB23, § 4. Effective date March 18, 2021.

76-2228.02 Trainee real property appraiser; direct supervision; supervisory real property appraiser; qualifications; disciplinary action; effect; appraisal experience log.

(1) Each trainee real property appraiser's experience shall be subject to direct supervision by a supervisory real property appraiser. To qualify as a supervisory real property appraiser, a real property appraiser shall:

(a) Be a certified residential real property appraiser or certified general real property appraiser in good standing;

(b) Have held a certified real property appraiser credential in this state, or the equivalent in any other jurisdiction, for a minimum of three years immediately preceding the date of the written request for approval as supervisory real property appraiser;

(c) Have not successfully completed disciplinary action by the board or any other jurisdiction, which action limited the real property appraiser's legal eligibility to engage in real property appraisal practice within three years immediately preceding the date the written request for approval as supervisory real property appraiser is submitted by the applicant or trainee real property appraiser on a form approved by the board;

(d) As prescribed by rules and regulations of the board, have successfully completed a board-approved supervisory real property appraiser and trainee course preceding the date the written request for approval as supervisory real property appraiser is submitted by the applicant or trainee real property appraiser on a form approved by the board; and

(e) Certify that he or she understands his or her responsibilities and obligations under the Real Property Appraiser Act as a supervisory real property appraiser and applies his or her signature to the written request for approval as supervisory real property appraiser submitted by the applicant or trainee real property appraiser.

(2) The supervisory real property appraiser shall be responsible for the training and direct supervision of the trainee real property appraiser's experience by:

(a) Accepting responsibility for the report by applying his or her signature and certifying that the report is in compliance with the Uniform Standards of Professional Appraisal Practice;

(b) Reviewing the trainee real property appraiser reports; and

(c) Personally inspecting each appraised property with the trainee real property appraiser as is consistent with his or her scope of practice until the supervisory real property appraiser determines that the trainee real property appraiser is competent in accordance with the competency rule of the Uniform Standards of Professional Appraisal Practice.

(3) A certified real property appraiser disciplined by the board or any other appraiser regulatory agency in another jurisdiction, which discipline may or may not have limited the real property appraiser's legal eligibility to engage in real property appraisal practice, shall not be eligible as a supervisory real property appraiser as of the date disciplinary action was imposed against the appraiser by the board or any other appraiser regulatory agency. The certified real property appraiser shall be considered to be in good standing and eligible as a supervisory real property appraiser upon the successful completion of disciplinary action that does not limit the real property appraiser's legal eligibility to engage in real property appraisal practice, or three years after the successful completion of disciplinary action that limits the real property appraiser's legal eligibility to engage in real property appraisal practice. Any action taken by the board or any other appraiser regulatory agency in another jurisdiction, which may or may not limit the real property appraiser's legal eligibility to engage in real property appraisal practice, involving any jurisdiction's isolated administrative responsibilities including, but not limited to, late payment of fees related to credentialing, failure to timely renew a credential, or failure to provide notification of a change in contact information, is not disciplinary action for the purpose of this subsection.

(4) The trainee real property appraiser may have more than one supervisory real property appraiser, but a supervisory real property appraiser may not supervise more than three trainee real property appraisers at one time.

(5) As prescribed by rules and regulations of the board, an appraisal experience log shall be maintained jointly by the supervisory real property appraiser and the trainee real property appraiser.

Source: Laws 2014, LB717, § 16; Laws 2015, LB139, § 48; Laws 2018, LB17, § 1; Laws 2019, LB77, § 5; Laws 2020, LB808, § 74; Laws 2021, LB23, § 5.

Effective date March 18, 2021.

76-2230 Credential as a licensed residential real property appraiser; applicant; qualifications; fingerprints; national criminal history record check; upgraded credential; requirements; scope of practice.

(1) To qualify for a credential as a licensed residential real property appraiser, an applicant shall:

- (a) Be at least nineteen years of age;
- (b) Hold a high school diploma or a certificate of high school equivalency or have education acceptable to the Real Property Appraiser Board;
- (c)(i) Have successfully completed and passed examination for no fewer than one hundred fifty class hours in Real Property Appraiser Board-approved qualifying education courses conducted by education providers as prescribed by rules and regulations of the Real Property Appraiser Board and completed the fifteen-hour National Uniform Standards of Professional Appraisal Practice Course. Each course shall include a proctored, closed-book examination pertinent to the material presented; or
 - (ii) Hold a degree in real estate from an accredited degree-awarding college or university that has had all or part of its curriculum approved by the Appraiser Qualifications Board as required core curriculum or the equivalent as determined by the Appraiser Qualifications Board. If the degree in real estate or equivalent as approved by the Appraiser Qualifications Board does not satisfy all required qualifying education for credentialing, the remaining class hours shall be completed in Real Property Appraiser Board-approved qualifying education pursuant to subdivision (c)(i) of this subsection;
- (d) Have no fewer than one thousand hours of experience as prescribed by rules and regulations of the Real Property Appraiser Board. The required experience shall be acceptable to the Real Property Appraiser Board and subject to review and determination as to conformity with the Uniform Standards of Professional Appraisal Practice. The experience shall have occurred during a period of no fewer than six months;
- (e) Submit two copies of legible ink-rolled fingerprint cards or equivalent electronic fingerprint submissions to the Real Property Appraiser Board for delivery to the Nebraska State Patrol in a form approved by both the Nebraska State Patrol and the Federal Bureau of Investigation. A fingerprint-based national criminal history record check shall be conducted through the Nebraska State Patrol and the Federal Bureau of Investigation with such record check to be carried out by the Real Property Appraiser Board; and
- (f) Within the twelve months following approval of the applicant's education and experience by the Real Property Appraiser Board, pass a licensed residential real property appraiser examination, certified residential real property appraiser examination, or certified general real property appraiser examination, approved by the Appraiser Qualifications Board, prescribed by rules and regulations of the Real Property Appraiser Board, and administered by a contracted testing service.

(2) To qualify for an upgraded credential, a licensed residential real property appraiser shall satisfy the appropriate requirements as follows:

- (a) Submit two copies of legible ink-rolled fingerprint cards or equivalent electronic fingerprint submissions to the Real Property Appraiser Board for delivery to the Nebraska State Patrol in a form approved by both the Nebraska State Patrol and the Federal Bureau of Investigation. A fingerprint-based

national criminal history record check shall be conducted through the Nebraska State Patrol and the Federal Bureau of Investigation with such record check to be carried out by the Real Property Appraiser Board; and

(b) Within the twelve months following approval of the applicant's education and experience by the Real Property Appraiser Board for an upgraded credential, pass an appropriate examination approved by the Appraiser Qualifications Board for that upgraded credential, prescribed by rules and regulations of the Real Property Appraiser Board, and administered by a contracted testing service.

(3) To qualify for a credential as a certified residential real property appraiser, a licensed residential real property appraiser shall:

(a)(i) Meet the postsecondary educational requirements pursuant to subdivisions (1)(b) and (c) of section 76-2231.01; or

(ii)(A) Have held a credential as a licensed residential real property appraiser for a minimum of five years; and

(B) Not have been subject to a nonappealable disciplinary action by the board or any other jurisdiction, which action limited the real property appraiser's legal eligibility to engage in real property appraisal practice within five years immediately preceding the date of application for the certified residential real property appraiser credential;

(b) Successfully complete and pass proctored, closed-book examinations for no fewer than fifty additional class hours in board-approved qualifying education courses conducted by education providers as prescribed by rules and regulations of the board, or hold a degree in real estate from an accredited degree-awarding college or university or equivalent pursuant to subdivision (1)(d)(ii) of section 76-2231.01; and

(c) Meet the experience requirements pursuant to subdivision (1)(e) of section 76-2231.01.

(4) To qualify for a credential as a certified general real property appraiser, a licensed residential real property appraiser shall:

(a) Meet the postsecondary educational requirements pursuant to subdivisions (1)(b) and (c) of section 76-2232;

(b) Successfully complete and pass proctored, closed-book examinations for no fewer than one hundred fifty additional class hours in board-approved qualifying education courses conducted by education providers as prescribed by rules and regulations of the board, or hold a degree in real estate from an accredited degree-awarding college or university or equivalent pursuant to subdivision (1)(d)(ii) of section 76-2232; and

(c) Meet the experience requirements pursuant to subdivision (1)(e) of section 76-2232.

(5) An appraiser holding a valid licensed residential real property appraiser credential shall satisfy the requirements for the trainee real property appraiser credential for a downgraded credential.

(6) The scope of practice for a licensed residential real property appraiser shall be limited to real property appraisal practice concerning noncomplex residential real property or real estate having no more than four units, if any, with a transaction value of less than one million dollars and complex residential real property or real estate having no more than four units, if any, with a

transaction value of less than four hundred thousand dollars. The appraisal of subdivisions for which a development analysis or appraisal is necessary is not included in the scope of practice for a licensed residential real property appraiser.

Source: Laws 1990, LB 1153, § 30; Laws 1991, LB 203, § 33; Laws 1994, LB 1107, § 28; Laws 1997, LB 29, § 1; Laws 1997, LB 752, § 205; Laws 2001, LB 162, § 22; Laws 2006, LB 778, § 52; Laws 2007, LB186, § 15; Laws 2008, LB1011, § 10; Laws 2010, LB931, § 13; Laws 2012, LB714, § 6; Laws 2014, LB717, § 17; Laws 2015, LB139, § 49; Laws 2016, LB731, § 12; Laws 2019, LB77, § 6; Laws 2020, LB808, § 75; Laws 2021, LB23, § 6.
Effective date March 18, 2021.

76-2231.01 Credential as a certified residential real property appraiser; applicant; qualifications; fingerprints; national criminal history record check; upgraded credential; requirements; scope of practice.

(1) To qualify for a credential as a certified residential real property appraiser, an applicant shall:

(a) Be at least nineteen years of age;

(b)(i) Hold a bachelor's degree, or higher, from an accredited degree-awarding college or university;

(ii) Hold an associate's degree from an accredited degree-awarding community college, college, or university in the study of business administration, accounting, finance, economics, or real estate;

(iii) Successfully complete thirty semester hours of college-level education from an accredited degree-awarding community college, college, or university that includes:

(A) Three semester hours in each of the following: English composition; microeconomics; macroeconomics; finance; algebra, geometry, or higher mathematics; statistics; computer science; and business law or real estate law; and

(B) Three semester hours each in two elective courses in any of the topics listed in subdivision (b)(iii)(A) of this subsection, or in accounting, geography, agricultural economics, business management, or real estate;

(iv) Successfully complete thirty semester hours of the College-Level Examination Program from an accredited degree-awarding community college, college, or university that includes three semester hours in each of the following subject matter areas: College algebra; college composition; college composition modular; college mathematics; principles of macroeconomics; principles of microeconomics; introductory business law; and information systems; or

(v) Successfully complete any combination of subdivisions (b)(iii) and (iv) of this subsection that ensures coverage of all topics and hours identified in subdivision (b)(iii) of this subsection;

(c) Have his or her education evaluated for equivalency by one of the following if the college degree is from a foreign country:

(i) An accredited degree-awarding college or university;

(ii) A foreign degree credential evaluation service company that is a member of the National Association of Credential Evaluation Services; or

(iii) A foreign degree credential evaluation service company that provides equivalency evaluation reports accepted by an accredited degree-awarding college or university;

(d)(i) Have successfully completed and passed examination for no fewer than two hundred class hours in Real Property Appraiser Board-approved qualifying education courses conducted by education providers as prescribed by rules and regulations of the Real Property Appraiser Board and completed the fifteen-hour National Uniform Standards of Professional Appraisal Practice Course. Each course shall include a proctored, closed-book examination pertinent to the material presented; or

(ii) Hold a degree in real estate from an accredited degree-awarding college or university that has had all or part of its curriculum approved by the Appraiser Qualifications Board as required core curriculum or the equivalent as determined by the Appraiser Qualifications Board. If the degree in real estate or equivalent as approved by the Appraiser Qualifications Board does not satisfy all required qualifying education for credentialing, the remaining class hours shall be completed in Real Property Appraiser Board-approved qualifying education pursuant to subdivision (d)(i) of this subsection;

(e) Have no fewer than one thousand five hundred hours of experience as prescribed by rules and regulations of the Real Property Appraiser Board. The required experience shall be acceptable to the Real Property Appraiser Board and subject to review and determination as to conformity with the Uniform Standards of Professional Appraisal Practice. The experience shall have occurred during a period of no fewer than twelve months;

(f) Submit two copies of legible ink-rolled fingerprint cards or equivalent electronic fingerprint submissions to the Real Property Appraiser Board for delivery to the Nebraska State Patrol in a form approved by both the Nebraska State Patrol and the Federal Bureau of Investigation. A fingerprint-based national criminal history record check shall be conducted through the Nebraska State Patrol and the Federal Bureau of Investigation with such record check to be carried out by the Real Property Appraiser Board; and

(g) Within the twelve months following approval of the applicant's education and experience by the Real Property Appraiser Board, pass a certified residential real property appraiser examination or certified general real property appraiser examination, approved by the Appraiser Qualifications Board, prescribed by rules and regulations of the Real Property Appraiser Board, and administered by a contracted testing service.

(2) To qualify for an upgraded credential, a certified residential real property appraiser shall satisfy the following requirements:

(a) Submit two copies of legible ink-rolled fingerprint cards or equivalent electronic fingerprint submissions to the Real Property Appraiser Board for delivery to the Nebraska State Patrol in a form approved by both the Nebraska State Patrol and the Federal Bureau of Investigation. A fingerprint-based national criminal history record check shall be conducted through the Nebraska State Patrol and the Federal Bureau of Investigation with such record check to be carried out by the Real Property Appraiser Board; and

(b) Within the twelve months following approval of the applicant's education and experience by the Real Property Appraiser Board for an upgrade to a certified general real property appraiser credential, pass a certified general real property appraiser examination approved by the Appraiser Qualifications

Board, prescribed by rules and regulations of the Real Property Appraiser Board, and administered by a contracted testing service.

(3) To qualify for a credential as a certified general real property appraiser, a certified residential real property appraiser shall:

(a) Meet the postsecondary educational requirements pursuant to subdivisions (1)(b) and (c) of section 76-2232;

(b) Successfully complete and pass proctored, closed-book examinations for no fewer than one hundred additional class hours in board-approved qualifying education courses conducted by education providers as prescribed by rules and regulations of the board, or hold a degree in real estate from an accredited degree-awarding college or university or equivalent pursuant to subdivision (1)(d)(ii) of section 76-2232; and

(c) Meet the experience requirements pursuant to subdivision (1)(e) of section 76-2232.

(4) A certified residential real property appraiser shall satisfy the requirements for the trainee real property appraiser credential and licensed residential real property appraiser credential for a downgraded credential. If requested, evidence acceptable to the Real Property Appraiser Board concerning the experience shall be presented along with an application in the form of written reports or file memoranda.

(5) The scope of practice for a certified residential real property appraiser shall be limited to real property appraisal practice concerning residential real property or real estate having no more than four residential units, if any, without regard to transaction value or complexity. The appraisal of subdivisions for which a development analysis or appraisal is necessary is not included in the scope of practice for a certified residential real property appraiser.

Source: Laws 1994, LB 1107, § 29; Laws 1997, LB 29, § 2; Laws 1997, LB 752, § 206; Laws 2001, LB 162, § 23; Laws 2006, LB 778, § 53; Laws 2007, LB186, § 16; Laws 2008, LB1011, § 11; Laws 2010, LB931, § 14; Laws 2012, LB714, § 7; Laws 2014, LB717, § 18; Laws 2015, LB139, § 50; Laws 2016, LB731, § 13; Laws 2019, LB77, § 7; Laws 2020, LB808, § 76; Laws 2021, LB23, § 7.

Effective date March 18, 2021.

76-2232 Credential as a certified general real property appraiser; applicant; qualifications; fingerprints; national criminal history record check; scope of practice.

(1) To qualify for a credential as a certified general real property appraiser, an applicant shall:

(a) Be at least nineteen years of age;

(b) Hold a bachelor's degree, or higher, from an accredited degree-awarding college or university;

(c) Have his or her education evaluated for equivalency by one of the following if the college degree is from a foreign country:

(i) An accredited degree-awarding college or university;

(ii) A foreign degree credential evaluation service company that is a member of the National Association of Credential Evaluation Services; or

(iii) A foreign degree credential evaluation service company that provides equivalency evaluation reports accepted by an accredited degree-awarding college or university;

(d)(i) Have successfully completed and passed examination for no fewer than three hundred class hours in Real Property Appraiser Board-approved qualifying education courses conducted by education providers as prescribed by rules and regulations of the Real Property Appraiser Board and completed the fifteen-hour National Uniform Standards of Professional Appraisal Practice Course. Each course shall include a proctored, closed-book examination pertinent to the material presented; or

(ii) Hold a degree in real estate from an accredited degree-awarding college or university that has had all or part of its curriculum approved by the Appraiser Qualifications Board as required core curriculum or the equivalent as determined by the Appraiser Qualifications Board. If the degree in real estate or equivalent as approved by the Appraiser Qualifications Board does not satisfy all required qualifying education for credentialing, the remaining class hours shall be completed in Real Property Appraiser Board-approved qualifying education pursuant to subdivision (d)(i) of this subsection;

(e) Have no fewer than three thousand hours of experience, of which one thousand five hundred hours shall be in nonresidential appraisal work, as prescribed by rules and regulations of the Real Property Appraiser Board. The required experience shall be acceptable to the Real Property Appraiser Board and subject to review and determination as to conformity with the Uniform Standards of Professional Appraisal Practice. The experience shall have occurred during a period of no fewer than eighteen months;

(f) Submit two copies of legible ink-rolled fingerprint cards or equivalent electronic fingerprint submissions to the Real Property Appraiser Board for delivery to the Nebraska State Patrol in a form approved by both the Nebraska State Patrol and the Federal Bureau of Investigation. A fingerprint-based national criminal history record check shall be conducted through the Nebraska State Patrol and the Federal Bureau of Investigation with such record check to be carried out by the Real Property Appraiser Board; and

(g) Within the twelve months following approval of the applicant's education and experience by the Real Property Appraiser Board, pass a certified general real property appraiser examination, approved by the Appraiser Qualifications Board, prescribed by rules and regulations of the Real Property Appraiser Board, and administered by a contracted testing service.

(2) A certified general real property appraiser shall satisfy the requirements for the trainee real property appraiser credential, licensed residential real property appraiser credential, and certified residential real property appraiser credential for a downgraded credential. If requested, evidence acceptable to the Real Property Appraiser Board concerning the experience shall be presented along with an application in the form of written reports or file memoranda.

(3) The scope of practice for the certified general real property appraiser shall include real property appraisal practice concerning all types of real property or real estate that appraiser is competent to engage in.

Source: Laws 1990, LB 1153, § 32; Laws 1991, LB 203, § 34; Laws 1994, LB 1107, § 30; Laws 1997, LB 29, § 3; Laws 1997, LB 752, § 207; Laws 2001, LB 162, § 24; Laws 2006, LB 778, § 54; Laws 2007, LB186, § 17; Laws 2008, LB1011, § 12; Laws 2010, LB931,

§ 15; Laws 2012, LB714, § 8; Laws 2014, LB717, § 19; Laws 2015, LB139, § 51; Laws 2016, LB731, § 14; Laws 2019, LB77, § 8; Laws 2020, LB808, § 77; Laws 2021, LB23, § 8.
Effective date March 18, 2021.

ARTICLE 36
HOME INSPECTION

Section

- 76-3601. Terms, defined.
76-3602. Registration; required, when; signature requirements; registration, contents.
76-3603. Fee; certificate of insurance.
76-3604. Required information; report changes.
76-3605. Violation; penalty.
76-3606. Rules and regulations.

76-3601 Terms, defined.

For purposes of sections 76-3601 to 76-3606:

(1) Home inspection means the process by which a home inspector examines the observable systems and components of improvements to residential real property that are readily accessible to such inspector;

(2) Home inspector means a person who, for compensation, conducts a home inspection; and

(3) Residential real property means a structure used or intended to be used as a residence and consisting of one to four family dwelling units.

Source: Laws 2021, LB423, § 1.

Operative date January 1, 2023.

76-3602 Registration; required, when; signature requirements; registration, contents.

Before conducting home inspections in this state and in each even-numbered year, a home inspector shall register with the Secretary of State. If the home inspector is an individual, the home inspector shall sign such registration. If the home inspector is a firm, partnership, corporation, company, association, limited liability company, or other legal entity, an officer or agent of the home inspector shall sign such registration. Such registration shall include:

(1) The name of the home inspector if the home inspector is an individual or the name of the legal entity under which such home inspector proposes to register and transact business in this state;

(2) The address of the home office of the home inspector;

(3) The name and address of the agent for service of process on the home inspector; and

(4) Any national certification relating to home inspection currently held by the home inspector.

Source: Laws 2021, LB423, § 2.

Operative date January 1, 2023.

76-3603 Fee; certificate of insurance.

At the time of registration pursuant to section 76-3602, a home inspector shall:

(1) Pay a registration fee to the Secretary of State. The Secretary of State shall set such registration fee in an amount sufficient to defray the administrative costs of registration but not to exceed three hundred dollars. The Secretary of State shall remit such registration fee to the State Treasurer for credit to the Secretary of State Cash Fund; and

(2) Provide to the Secretary of State a certificate of insurance evidencing coverage in an amount of not less than two hundred fifty thousand dollars for general liability.

Source: Laws 2021, LB423, § 3.
Operative date January 1, 2023.

76-3604 Required information; report changes.

A home inspector shall report a change in information required by section 76-3602 or 76-3603 within thirty business days of such change.

Source: Laws 2021, LB423, § 4.
Operative date January 1, 2023.

76-3605 Violation; penalty.

Any violation of sections 76-3602 to 76-3604 shall be a Class IV misdemeanor.

Source: Laws 2021, LB423, § 5.
Operative date January 1, 2023.

76-3606 Rules and regulations.

The Secretary of State may adopt and promulgate rules and regulations to carry out sections 76-3601 to 76-3606.

Source: Laws 2021, LB423, § 6.
Operative date January 1, 2023.

CHAPTER 77

REVENUE AND TAXATION

Article.

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ARTICLE 2

PROPERTY TAXABLE, EXEMPTIONS, LIENS

Section

- 77-201. Property taxable; valuation; classification.
- 77-202.01. Property taxable; tax exemptions; application; requirements; waiver of deadline; penalty; lien.
- 77-202.05. Property taxable; exempt status; Tax Commissioner; forms; prescribe; contents.
- 77-202.09. Cemetery organization; exemption; application; procedure; late filing.

77-201 Property taxable; valuation; classification.

(1) Except as provided in subsections (2) through (4) of this section, all real property in this state, not expressly exempt therefrom, shall be subject to taxation and shall be valued at its actual value.

(2) Agricultural land and horticultural land as defined in section 77-1359 shall constitute a separate and distinct class of property for purposes of

property taxation, shall be subject to taxation, unless expressly exempt from taxation, and shall be valued at seventy-five percent of its actual value, except that for school district taxes levied to pay the principal and interest on bonds that are approved by a vote of the people on or after January 1, 2022, such land shall be valued at fifty percent of its actual value.

(3) Agricultural land and horticultural land actively devoted to agricultural or horticultural purposes which has value for purposes other than agricultural or horticultural uses and which meets the qualifications for special valuation under section 77-1344 shall constitute a separate and distinct class of property for purposes of property taxation, shall be subject to taxation, and shall be valued for taxation at seventy-five percent of its special valuation as defined in section 77-1343, except that for school district taxes levied to pay the principal and interest on bonds that are approved by a vote of the people on or after January 1, 2022, such land shall be valued at fifty percent of its special valuation as defined in section 77-1343.

(4) Historically significant real property which meets the qualifications for historic rehabilitation valuation under sections 77-1385 to 77-1394 shall be valued for taxation as provided in such sections.

(5) Tangible personal property, not including motor vehicles, trailers, and semitrailers registered for operation on the highways of this state, shall constitute a separate and distinct class of property for purposes of property taxation, shall be subject to taxation, unless expressly exempt from taxation, and shall be valued at its net book value. Tangible personal property transferred as a gift or devise or as part of a transaction which is not a purchase shall be subject to taxation based upon the date the property was acquired by the previous owner and at the previous owner's Nebraska adjusted basis. Tangible personal property acquired as replacement property for converted property shall be subject to taxation based upon the date the converted property was acquired and at the Nebraska adjusted basis of the converted property unless insurance proceeds are payable by reason of the conversion. For purposes of this subsection, (a) converted property means tangible personal property which is compulsorily or involuntarily converted as a result of its destruction in whole or in part, theft, seizure, requisition, or condemnation, or the threat or imminence thereof, and no gain or loss is recognized for federal or state income tax purposes by the holder of the property as a result of the conversion and (b) replacement property means tangible personal property acquired within two years after the close of the calendar year in which tangible personal property was converted and which is, except for date of construction or manufacture, substantially the same as the converted property.

Source: Laws 1903, c. 73, § 12, p. 390; R.S.1913, § 6300; Laws 1921, c. 133, art. II, § 1, p. 546; C.S.1922, § 5820; C.S.1929, § 77-201; Laws 1939, c. 102, § 1, p. 461; C.S.Supp.,1941, § 77-201; R.S. 1943, § 77-201; Laws 1953, c. 265, § 1, p. 877; Laws 1955, c. 289, § 2, p. 918; Laws 1957, c. 320, § 2, p. 1138; Laws 1959, c. 353, § 1, p. 1244; Laws 1979, LB 187, § 191; Laws 1985, LB 30, § 2; Laws 1985, LB 271, § 2; Laws 1986, LB 816, § 1; Laws 1989, LB 361, § 5; Laws 1991, LB 404, § 2; Laws 1991, LB 320, § 2; Laws 1992, LB 1063, § 52; Laws 1992, Second Spec. Sess., LB 1, § 50; Laws 1997, LB 269, § 34; Laws 1997, LB 270, § 11; Laws 1997, LB 271, § 38; Laws 2004, LB 973, § 6; Laws 2005, LB 66, § 11; Laws 2006, LB 808, § 24; Laws 2006, LB 968, § 2;

Laws 2007, LB166, § 3; Laws 2009, LB166, § 4; Laws 2016, LB775, § 2; Laws 2021, LB2, § 1.
Operative date January 1, 2022.

77-202.01 Property taxable; tax exemptions; application; requirements; waiver of deadline; penalty; lien.

(1) Any organization or society seeking a tax exemption provided in subdivisions (1)(c) and (d) of section 77-202 for any real or tangible personal property, except real property used for cemetery purposes, shall apply for exemption to the county assessor on or before December 31 of the year preceding the year for which the exemption is sought on forms prescribed by the Tax Commissioner. Applications that lack an estimated valuation, or any other required information, shall result in the denial of the requested exemption. The county assessor shall examine the application and recommend either taxable or exempt for the real property or tangible personal property to the county board of equalization on or before March 1 following. Notice that a list of the applications from organizations seeking tax exemption, descriptions of the property, and recommendations of the county assessor are available in the county assessor's office shall be published in a newspaper of general circulation in the county at least ten days prior to consideration of any application by the county board of equalization.

(2) Any organization or society which fails to file an exemption application on or before December 31 may apply on or before June 30 to the county assessor. The organization or society shall also file in writing a request with the county board of equalization for a waiver so that the county assessor may consider the application for exemption. The county board of equalization shall grant the waiver upon a finding that good cause exists for the failure to make application on or before December 31. When the waiver is granted, the county assessor shall examine the application and recommend either taxable or exempt for the real property or tangible personal property to the county board of equalization and shall assess a penalty against the property of ten percent of the tax that would have been assessed had the waiver been denied or one hundred dollars, whichever is less, for each calendar month or fraction thereof for which the filing of the exemption application missed the December 31 deadline. The penalty shall be collected and distributed in the same manner as a tax on the property and interest shall be assessed at the rate specified in section 45-104.01, as such rate may from time to time be adjusted by the Legislature, from the date the tax would have been delinquent until paid. The penalty shall also become a lien in the same manner as a tax pursuant to section 77-203.

Source: Laws 1963, c. 441, § 1, p. 1460; Laws 1969, c. 639, § 1, p. 2552; Laws 1980, LB 688, § 1; Laws 1984, LB 835, § 2; Laws 1986, LB 817, § 1; Laws 1993, LB 346, § 7; Laws 1993, LB 345, § 4; Laws 1995, LB 490, § 28; Laws 1996, LB 1122, § 1; Laws 1997, LB 270, § 12; Laws 1997, LB 271, § 40; Laws 1999, LB 194, § 10; Laws 1999, LB 271, § 5; Laws 2000, LB 968, § 26; Laws 2007, LB334, § 15; Laws 2021, LB63, § 1; Laws 2021, LB521, § 1.
Effective date August 28, 2021.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB63, section 1, with LB521, section 1, to reflect all amendments.

77-202.05 Property taxable; exempt status; Tax Commissioner; forms; prescribe; contents.

The Tax Commissioner shall prescribe forms for distribution to the county assessors on which persons, corporations, and organizations may apply for tax-exempt status for real or tangible personal property. The forms shall include the following information:

- (1) Name of owner or owners of the property, and if a corporation, the names of the officers and directors, and place of incorporation;
- (2) Legal description of real property and a general description as to class and use of all tangible personal property;
- (3) The precise statutory provision under which exempt status for such property is claimed; and
- (4) An estimated valuation for the property.

Source: Laws 1963, c. 441, § 5, p. 1461; Laws 1969, c. 643, § 1, p. 2557; Laws 1995, LB 490, § 32; Laws 1997, LB 271, § 44; Laws 2000, LB 968, § 30; Laws 2007, LB334, § 19; Laws 2021, LB521, § 2. Effective date August 28, 2021.

77-202.09 Cemetery organization; exemption; application; procedure; late filing.

Any cemetery organization seeking a tax exemption for any real property used to maintain areas set apart for the interment of human dead shall apply for exemption to the county assessor on forms prescribed by the Tax Commissioner. An application for a tax exemption shall be made on or before December 31 of the year preceding the year for which the exemption is sought. The county assessor shall examine the application and recommend either taxable or exempt to the county board of equalization on or before March 1 following. If a cemetery organization seeks a tax exemption for any real or tangible personal property acquired for or converted to exempt use on or after January 1, the organization shall make application for exemption on or before July 1. The procedure for reviewing the application shall be the same as for other exemptions pursuant to subdivisions (1)(c) and (d) of section 77-202. Any cemetery organization which fails to file on or before December 31 for exemption may apply on or before June 30 pursuant to subsection (2) of section 77-202.01, and the penalty and procedures specified in section 77-202.01 shall apply.

Source: Laws 1997, LB 270, § 16; Laws 1999, LB 271, § 7; Laws 2007, LB334, § 20; Laws 2010, LB708, § 2; Laws 2021, LB63, § 2. Effective date August 28, 2021.

ARTICLE 3**DEPARTMENT OF REVENUE**

Section

- 77-382. Department; tax expenditure report; prepare; contents.
77-3,119. Tax Commissioner; certify population of cities and villages.

77-382 Department; tax expenditure report; prepare; contents.

- (1) The department shall prepare a tax expenditure report describing (a) the basic provisions of the Nebraska tax laws, (b) the actual or estimated revenue loss caused by the exemptions, deductions, exclusions, deferrals, credits, and

preferential rates in effect on July 1 of each year and allowed under Nebraska's tax structure and in the property tax, (c) the actual or estimated revenue loss caused by failure to impose sales and use tax on services purchased for nonbusiness use, and (d) the elements which make up the tax base for state and local income, including income, sales and use, property, and miscellaneous taxes.

(2) The department shall review the major tax exemptions for which state general funds are used to reduce the impact of revenue lost due to a tax expenditure. The report shall indicate an estimate of the amount of the reduction in revenue resulting from the operation of all tax expenditures. The report shall list each tax expenditure relating to sales and use tax under the following categories:

(a) Agriculture, which shall include a separate listing for the following items: Agricultural machinery; agricultural chemicals; seeds sold to commercial producers; water for irrigation and manufacturing; commercial artificial insemination; mineral oil as dust suppressant; animal grooming; oxygen for use in aquaculture; animal life whose products constitute food for human consumption; and grains;

(b) Business across state lines, which shall include a separate listing for the following items: Property shipped out-of-state; fabrication labor for items to be shipped out-of-state; property to be transported out-of-state; property purchased in other states to be used in Nebraska; aircraft delivery to an out-of-state resident or business; state reciprocal agreements for industrial machinery; and property taxed in another state;

(c) Common carrier and logistics, which shall include a separate listing for the following items: Railroad rolling stock and repair parts and services; common or contract carriers and repair parts and services; common or contract carrier accessories; and common or contract carrier safety equipment;

(d) Consumer goods, which shall include a separate listing for the following items: Motor vehicles and motorboat trade-ins; merchandise trade-ins; certain medical equipment and medicine; newspapers; laundromats; telefloral deliveries; motor vehicle discounts for the disabled; and political campaign fundraisers;

(e) Energy, which shall include a separate listing for the following items: Motor fuels; energy used in industry; energy used in agriculture; aviation fuel; and minerals, oil, and gas severed from real property;

(f) Food, which shall include a separate listing for the following items: Food for home consumption; Supplemental Nutrition Assistance Program; school lunches; meals sold by hospitals; meals sold by institutions at a flat rate; food for the elderly, handicapped, and Supplemental Security Income recipients; and meals sold by churches;

(g) General business, which shall include a separate listing for the following items: Component and ingredient parts; manufacturing machinery; containers; film rentals; molds and dies; syndicated programming; intercompany sales; intercompany leases; sale of a business or farm machinery; and transfer of property in a change of business ownership;

(h) Lodging and shelter, which shall include a separate listing for the following item: Room rentals by certain institutions;

(i) Miscellaneous, which shall include a separate listing for the following items: Cash discounts and coupons; separately stated finance charges; casual sales; lease-to-purchase agreements; and separately stated taxes;

(j) Nonprofits, governments, and exempt entities, which shall include a separate listing for the following items: Purchases by political subdivisions of the state; purchases by churches and nonprofit colleges and medical facilities; purchasing agents for public real estate construction improvements; contractor as purchasing agent for public agencies; Nebraska lottery; admissions to school events; sales on Native American Indian reservations; school-supporting fund-raisers; fine art purchases by a museum; purchases by the Nebraska State Fair Board; purchases by the Nebraska Investment Finance Authority and licensees of the State Racing and Gaming Commission; purchases by the United States Government; public records; and sales by religious organizations;

(k) Recent sales tax expenditures, which shall include a separate listing for each sales tax expenditure created by statute or rule and regulation after July 19, 2012;

(l) Services purchased for nonbusiness use, which shall include a separate listing for each such service, including, but not limited to, the following items: Motor vehicle cleaning, maintenance, and repair services; cleaning and repair of clothing; cleaning, maintenance, and repair of other tangible personal property; maintenance, painting, and repair of real property; entertainment admissions; personal care services; lawn care, gardening, and landscaping services; pet-related services; storage and moving services; household utilities; other personal services; taxi, limousine, and other transportation services; legal services; accounting services; other professional services; and other real estate services; and

(m) Telecommunications, which shall include a separate listing for the following items: Telecommunications access charges; prepaid calling arrangements; conference bridging services; and nonvoice data services.

(3) It is the intent of the Legislature that nothing in the Tax Expenditure Reporting Act shall cause the valuation or assessment of any property exempt from taxation on the basis of its use exclusively for religious, educational, or charitable purposes.

Source: Laws 1979, LB 17, § 4; R.S.Supp.,1979, § 77-356; Laws 1980, LB 834, § 23; Laws 1991, LB 82, § 2; Laws 2012, LB962, § 1; Laws 2013, LB629, § 1; Laws 2014, LB989, § 1; Laws 2021, LB561, § 47.

Effective date May 26, 2021.

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 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; Laws 2021, LB509, § 9.
Effective date August 28, 2021.

ARTICLE 11

NEW MARKETS JOB GROWTH INVESTMENT ACT

Section	
77-1101.	Act, how cited.
77-1101.01.	Act; purposes.
77-1102.	Definitions, where found.
77-1110.	Qualified equity investment, defined.
77-1112.01.	2021 allocation, defined.
77-1112.02.	2021 federal notice, defined.
77-1115.	Tax Commissioner; limit tax credit utilization.
77-1116.	Qualified community development entity; application; deadline; form; contents; Tax Commissioner; grant or deny; notice of certification; lapse of certification; when.
77-1117.	Recapture of tax credit.
77-1120.	Qualified community development entity; report to Tax Commissioner; Tax Commissioner; report to Legislature.

77-1101 Act, how cited.

Sections 77-1101 to 77-1120 shall be known and may be cited as the New Markets Job Growth Investment Act.

Source: Laws 2012, LB1128, § 1; Laws 2021, LB682, § 1.
Effective date May 26, 2021.

77-1101.01 Act; purposes.

The purposes of the New Markets Job Growth Investment Act are to:

- (1) Provide access to capital to small businesses that are not otherwise able to receive affordable financing;
- (2) Attract investment dollars from the New Markets Tax Credit Program of the United States Department of the Treasury; and
- (3) Ensure Nebraska small businesses have access to capital to retain and add jobs.

Source: Laws 2021, LB682, § 2.
Effective date May 26, 2021.

77-1102 Definitions, where found.

For purposes of the New Markets Job Growth Investment Act, the definitions in sections 77-1103 to 77-1112.02 apply.

Source: Laws 2012, LB1128, § 2; Laws 2021, LB682, § 3.
Effective date May 26, 2021.

77-1110 Qualified equity investment, defined.

(1) Qualified equity investment means any equity investment in, or long-term debt security issued by, a qualified community development entity that:

(a) Is acquired after January 1, 2012, at its original issuance solely in exchange for cash;

(b) Has at least eighty-five percent, or one hundred percent with respect to the 2021 allocation, of its cash purchase price used by the issuer to make qualified low-income community investments in qualified active low-income community businesses located in this state by the first anniversary of the initial credit allowance date;

(c) Is designated by the issuer as a qualified equity investment and, with respect to awards of the 2021 allocation pursuant to subsection (6) of section 77-1116, is designated by the issuer as a qualified equity investment under section 45D of the Internal Revenue Code of 1986, as amended; and

(d) Is certified by the Tax Commissioner as not exceeding the limitation contained in section 77-1115.

(2) The term includes any qualified equity investment that does not meet the requirements of subdivision (1)(a) of this section if such investment was a qualified equity investment in the hands of a prior holder.

Source: Laws 2012, LB1128, § 10; Laws 2021, LB682, § 4.
Effective date May 26, 2021.

77-1112.01 2021 allocation, defined.

2021 allocation means a monetary amount of qualified equity investments to be awarded by the Tax Commissioner after the 2021 federal notice under the New Markets Job Growth Investment Act that results in a maximum tax credit utilization in any fiscal year of no more than fifteen million dollars of new tax credits.

Source: Laws 2021, LB682, § 5.
Effective date May 26, 2021.

77-1112.02 2021 federal notice, defined.

2021 federal notice means the announcement by the Community Development Financial Institutions Fund of the United States Department of the Treasury of allocation awards under a notice of funding availability that was published in the Federal Register in September 2020.

Source: Laws 2021, LB682, § 6.
Effective date May 26, 2021.

77-1115 Tax Commissioner; limit tax credit utilization.

The Tax Commissioner shall limit the monetary amount of qualified equity investments permitted under the New Markets Job Growth Investment Act to a level necessary to limit tax credit utilization in any fiscal year at no more than fifteen million dollars of new tax credits, exclusive of tax credits acquired with respect to qualified equity investments issued under the 2021 allocation. Such limitation on qualified equity investments shall be based on the anticipated

utilization of credits without regard to the potential for taxpayers to carry forward tax credits to later tax years.

Source: Laws 2012, LB1128, § 15; Laws 2021, LB682, § 7.
Effective date May 26, 2021.

77-1116 Qualified community development entity; application; deadline; form; contents; Tax Commissioner; grant or deny; notice of certification; lapse of certification; when.

(1) A qualified community development entity that seeks to have an equity investment or long-term debt security designated as a qualified equity investment and eligible for tax credits under the New Markets Job Growth Investment Act shall apply to the Tax Commissioner. There shall be no new applications for such designation filed under this section after December 31, 2029. The Tax Commissioner shall begin accepting applications with respect to the 2021 allocation not less than thirty days or more than forty-five days after the 2021 federal notice.

(2) The qualified community development entity shall submit an application on a form that the Tax Commissioner provides that includes:

(a) Evidence of the entity's certification as a qualified community development entity, including evidence of the service area of the entity that includes this state;

(b) A copy of the allocation agreement executed by the entity, or its controlling entity, and the Community Development Financial Institutions Fund referred to in section 77-1109;

(c) A certificate executed by an executive officer of the entity attesting that the allocation agreement remains in effect and has not been revoked or canceled by the Community Development Financial Institutions Fund referred to in section 77-1109;

(d) A description of the proposed amount, structure, and purchaser of the equity investment or long-term debt security;

(e) Identifying information for any taxpayer eligible to utilize tax credits earned as a result of the issuance of the qualified equity investment;

(f) Information regarding the proposed use of proceeds from the issuance of the qualified equity investment;

(g) A nonrefundable application fee of five thousand dollars; and

(h) With respect to applications for the 2021 allocation, the amount of qualified equity investment authority the applicant agrees to designate as a federal qualified equity investment under section 45D of the Internal Revenue Code of 1986, as amended, including a copy of the screen shot from the Community Development Financial Institutions Fund's Allocation Tracking System of the applicant's remaining federal qualified equity investment authority.

(3) Within thirty days after receipt of a completed application containing the information necessary for the Tax Commissioner to certify a potential qualified equity investment, including the payment of the application fee, the Tax Commissioner shall grant or deny the application in full or in part. If the Tax Commissioner denies any part of the application, the Tax Commissioner shall inform the qualified community development entity of the grounds for the

denial. If the qualified community development entity provides any additional information required by the Tax Commissioner or otherwise completes its application within fifteen days after the notice of denial, the application shall be considered completed as of the original date of submission. If the qualified community development entity fails to provide the information or complete its application within the fifteen-day period, the application remains denied and must be resubmitted in full with a new submission date.

(4) If the application is deemed complete, the Tax Commissioner shall certify the proposed equity investment or long-term debt security as a qualified equity investment that is eligible for tax credits, subject to the limitations contained in section 77-1115. The Tax Commissioner shall provide written notice of the certification to the qualified community development entity. The notice shall include the names of those taxpayers who are eligible to utilize the credits and their respective credit amounts. If the names of the taxpayers who are eligible to utilize the credits change due to a transfer of a qualified equity investment or a change in an allocation pursuant to section 77-1114, the qualified community development entity shall notify the Tax Commissioner of such change.

(5) Except as provided in subsection (6) of this section, the Tax Commissioner shall certify qualified equity investments in the order applications are received. Applications received on the same day shall be deemed to have been received simultaneously. For applications received on the same day and deemed complete, the Tax Commissioner shall certify, consistent with remaining tax credit capacity, qualified equity investments in proportionate percentages based upon the ratio of the amount of qualified equity investment requested in an application to the total amount of qualified equity investments requested in all applications received on the same day.

(6) With respect to applications for the 2021 allocation, the Tax Commissioner shall certify applications by applicants that agree to designate qualified equity investments as federal qualified equity investments in accordance with subdivision (2)(h) of this section in proportionate percentages based upon the ratio of the amount of qualified equity investments requested in an application to be designated as federal qualified equity investments to the total amount of qualified equity investments to be designated as federal qualified equity investments requested in all applications received on the same day.

(7) Once the Tax Commissioner has certified qualified equity investments that, on a cumulative basis, are eligible for the maximum limitation contained in section 77-1115 or the maximum amount of qualified equity investments authorized pursuant to the 2021 allocation, the Tax Commissioner may not certify any more qualified equity investments for that fiscal year. If a pending request cannot be fully certified, the Tax Commissioner shall certify the portion that may be certified unless the qualified community development entity elects to withdraw its request rather than receive partial credit.

(8) Within thirty days after receiving notice of certification, the qualified community development entity shall issue the qualified equity investment and receive cash in the amount of the certified amount and, with respect to the 2021 allocation, designate the required amount of qualified equity investment authority as a federal qualified equity investment. The qualified community development entity shall provide the Tax Commissioner with evidence of the receipt of the cash investment within ten business days after receipt and, with respect to the 2021 allocation, provide evidence that the required amount of

qualified equity investment authority was designated as a federal qualified equity investment. If the qualified community development entity does not receive the cash investment and issue the qualified equity investment within thirty days after receipt of the certification notice and, with respect to the 2021 allocation, make the required federal qualified equity investment designation, the certification shall lapse and the entity may not issue the qualified equity investment without reapplying to the Tax Commissioner for certification. A certification that lapses reverts back to the Tax Commissioner and may be reissued only in accordance with the application process outlined in this section.

Source: Laws 2012, LB1128, § 16; Laws 2015, LB538, § 9; Laws 2016, LB1022, § 3; Laws 2021, LB682, § 8.
Effective date May 26, 2021.

77-1117 Recapture of tax credit.

The Tax Commissioner shall recapture, from the taxpayer that claimed the credit on a return, the tax credit allowed under the New Markets Job Growth Investment Act if:

(1) Any amount of the federal tax credit available with respect to a qualified equity investment that is eligible for a tax credit under this section is recaptured under section 45D of the Internal Revenue Code of 1986, as amended. In such case the state's recapture shall be proportionate to the federal recapture with respect to such qualified equity investment;

(2) The issuer redeems or makes principal repayment with respect to a qualified equity investment prior to the seventh credit allowance date. In such case recapture shall be proportionate to the amount of the redemption or repayment with respect to such qualified equity investment; or

(3) The issuer fails to invest and satisfy the requirements of subdivision (1)(b) of section 77-1110 and maintain such level of investment in qualified low-income community investments in Nebraska until the last credit allowance date for the qualified equity investment. For purposes of this section, an investment shall be considered held by an issuer even if the investment has been sold or repaid if the issuer reinvests an amount equal to the capital returned to or recovered by the issuer from the original investment, exclusive of any profits realized, in another qualified low-income community investment within twelve months of the receipt of such capital. With respect to the 2021 allocation, amounts received periodically by a qualified community development entity shall be treated as maintained in qualified low-income community investments if the amounts are reinvested in one or more qualified low-income community investments by the end of the following calendar year. An issuer shall not be required to reinvest capital returned from qualified low-income community investments after the sixth credit allowance date, the proceeds of which were used to make the qualified low-income community investment, and the qualified low-income community investment shall be considered held by the issuer through the seventh credit allowance date.

Source: Laws 2012, LB1128, § 17; Laws 2021, LB682, § 9.
Effective date May 26, 2021.

77-1120 Qualified community development entity; report to Tax Commissioner; Tax Commissioner; report to Legislature.

(1) A qualified community development entity that has received an allocation of qualified equity investment authority pursuant to the 2021 allocation shall submit an annual report to the Tax Commissioner on or before the last day of February following the second through seventh credit allowance dates. The annual report shall provide documentation as to the qualified community development entity's qualified low-income community investments and include all of the following:

(a) A bank statement evidencing each qualified low-income community investment;

(b) The name, location, and industry of each qualified active low-income community business receiving a qualified low-income community investment; and

(c) The number of jobs created or retained as a result of each qualified low-income community investment.

(2) The Tax Commissioner shall electronically submit a report to the Legislature on or before April 1, 2022, and on or before each April 1 thereafter through April 1, 2028, with respect to the 2021 allocation. The report shall include all of the following:

(a) The name and number of all of the qualified community development entities approved to participate in the 2021 allocation;

(b) The amount of qualified low-income community investments made by the qualified community development entities;

(c) The location of each qualified active low-income community business; and

(d) The number of jobs created or retained as a result of each qualified low-income community investment.

Source: Laws 2021, LB682, § 10.

Effective date May 26, 2021.

ARTICLE 13

ASSESSMENT OF PROPERTY

Section

77-1344. Agricultural or horticultural land; special valuation; when applicable.

77-1344 Agricultural or horticultural land; special valuation; when applicable.

(1) Agricultural or horticultural land which has an actual value as defined in section 77-112 reflecting purposes or uses other than agricultural or horticultural purposes or uses shall be assessed as provided in subsection (3) of section 77-201 if the land meets the qualifications of this subsection and an application for such special valuation is filed and approved pursuant to section 77-1345. In order for the land to qualify for special valuation, all of the following criteria shall be met: (a) The land must be located outside the corporate boundaries of any sanitary and improvement district, city, or village except as provided in subsection (2) of this section; and (b) the land must be agricultural or horticultural land. If the land consists of five contiguous acres or less, the owner or lessee of the land must also provide an Internal Revenue Service Schedule F documenting a profit or loss from farming for two out of the last three years in order for such land to qualify for special valuation.

(2) Special valuation may be applicable to agricultural or horticultural land included within the corporate boundaries of a city or village if:

(a) The land is subject to a conservation or preservation easement as provided in the Conservation and Preservation Easements Act and the governing body of the city or village approves the agreement creating the easement;

(b) The land is subject to air installation compatible use zone regulations; or

(c) The land is within a flood plain.

(3) The eligibility of land for the special valuation provisions of this section shall be determined each year as of January 1. If the land so qualified becomes disqualified on or before December 31 of that year, it shall continue to receive the special valuation until January 1 of the year following.

(4) The special valuation placed on such land by the county assessor under this section shall be subject to equalization by the county board of equalization and the Tax Equalization and Review Commission.

Source: Laws 1974, LB 359, § 2; Laws 1983, LB 26, § 2; Laws 1985, LB 271, § 16; Laws 1989, LB 361, § 10; Laws 1991, LB 320, § 5; Laws 1996, LB 934, § 2; Laws 1996, LB 1039, § 1; Laws 1997, LB 270, § 76; Laws 1998, LB 611, § 3; Laws 2000, LB 968, § 49; Laws 2001, LB 170, § 10; Laws 2004, LB 973, § 26; Laws 2005, LB 261, § 5; Laws 2006, LB 808, § 28; Laws 2007, LB166, § 6; Laws 2009, LB166, § 10; Laws 2019, LB185, § 1; Laws 2021, LB9, § 2.

Effective date May 6, 2021.

Cross References

Conservation and Preservation Easements Act, see section 76-2,118.

ARTICLE 15

EQUALIZATION BY COUNTY BOARD

Section

77-1502. Board; protests; form; report; notification.

77-1502 Board; protests; form; report; notification.

(1) The county board of equalization shall meet for the purpose of reviewing and deciding written protests filed pursuant to this section beginning on or after June 1 and ending on or before July 25 of each year. Protests regarding real property shall be signed and filed after the county assessor's completion of the real property assessment roll required by section 77-1315 and on or before June 30. For protests of real property, a protest shall be filed for each parcel. Protests regarding taxable tangible personal property returns filed pursuant to section 77-1229 from January 1 through May 1 shall be signed and filed on or before June 30. The county board in a county with a population of more than one hundred thousand inhabitants based upon the most recent federal decennial census may adopt a resolution to extend the deadline for hearing protests from July 25 to August 10. The resolution must be adopted before July 25 and it will affect the time for hearing protests for that year only. By adopting such resolution, such county waives any right to petition the Tax Equalization and Review Commission for adjustment of a class or subclass of real property under section 77-1504.01 for that year.

(2) Each protest shall be made on a form prescribed by the Tax Commissioner, signed, and filed with the county clerk of the county where the property is assessed. It shall be acceptable for a county to create its own form, including an electronic form, as long as the form captures the information required by this subsection. The protest shall contain or have attached a statement of the reason or reasons why the requested change should be made, including the requested valuation, and a description of the property to which the protest applies. If the property is real property, a description adequate to identify each parcel shall be provided. If the property is tangible personal property, a physical description of the property under protest shall be provided. If the protest does not contain or have attached the statement of the reason or reasons for the protest, including the requested valuation, or the applicable description of the property, the protest shall be dismissed by the county board of equalization. Counties may make reasonable efforts to contact protesters who have timely filed a protest but have either filed incomplete information or not used the required form. The protest shall also indicate whether the person signing the protest is an owner of the property or a person authorized to protest on behalf of the owner. If the person signing the protest is a person authorized to protest on behalf of the owner, such person shall provide the authorization with the protest. If the person signing the protest is not an owner of the property or a person authorized to protest on behalf of the owner, the county clerk shall mail a copy of the protest to the owner of the property at the address to which the property tax statements are mailed.

(3) Beginning January 1, 2014, in counties with a population of at least one hundred fifty thousand inhabitants according to the most recent federal decennial census, for a protest regarding real property, each protester shall be afforded the opportunity to meet in person with the county board of equalization or a referee appointed under section 77-1502.01 to provide information relevant to the protested property value.

(4) No hearing of the county board of equalization on a protest filed under this section shall be held before a single commissioner or supervisor.

(5) The county clerk or county assessor shall prepare a separate report on each protest. The report shall include (a) a description adequate to identify the real property or a physical description of the tangible personal property to which the protest applies, (b) any recommendation of the county assessor for action on the protest, (c) if a referee is used, the recommendation of the referee, (d) the date the county board of equalization heard the protest, (e) the decision made by the county board of equalization, (f) the date of the decision, and (g) the date notice of the decision was mailed to the protester. The report shall contain, or have attached to it, a statement, signed by the chairperson of the county board of equalization, describing the basis upon which the board's decision was made. The report shall have attached to it a copy of that portion of the property record file which substantiates calculation of the protested value unless the county assessor certifies to the county board of equalization that a copy is maintained in either electronic or paper form in his or her office. One copy of the report, if prepared by the county clerk, shall be given to the county assessor on or before August 2. The county assessor shall have no authority to make a change in the assessment rolls until there is in his or her possession a report which has been completed in the manner specified in this section. If the county assessor deems a report submitted by the county clerk incomplete, the

county assessor shall return the same to the county clerk for proper preparation.

(6) On or before August 2, or on or before August 18 in a county that has adopted a resolution to extend the deadline for hearing protests, the county clerk shall mail to the protester written notice of the board’s decision. The notice shall contain a statement advising the protester that a report of the board’s decision is available at the county clerk’s or county assessor’s office, whichever is appropriate. If the protester is not an owner of the property involved in the protest or a person authorized to protest on behalf of the owner, the county clerk shall also mail written notice of the board’s decision to the owner of such property at the address to which the property tax statements are mailed.

Source: Laws 1903, c. 73, § 121, p. 428; Laws 1905, c. 112, § 1, p. 515; Laws 1909, c. 112, § 1, p. 444; Laws 1911, c. 104, § 14, p. 379; R.S.1913, § 6437; C.S.1922, § 5972; C.S.1929, § 77-1702; R.S. 1943, § 77-1502; Laws 1947, c. 251, § 36, p. 826; Laws 1949, c. 233, § 1, p. 644; Laws 1953, c. 274, § 1, p. 899; Laws 1959, c. 355, § 25, p. 1267; Laws 1959, c. 371, § 1, p. 1307; Laws 1961, c. 377, § 6, p. 1158; Laws 1961, c. 384, § 1, p. 1177; Laws 1972, LB 1342, § 1; Laws 1975, LB 312, § 1; Laws 1984, LB 660, § 2; Laws 1986, LB 174, § 1; Laws 1986, LB 817, § 13; Laws 1987, LB 508, § 44; Laws 1992, LB 1063, § 124; Laws 1992, Second Spec. Sess., LB 1, § 97; Laws 1994, LB 902, § 21; Laws 1995, LB 452, § 23; Laws 1995, LB 490, § 147; Laws 1997, LB 270, § 86; Laws 2003, LB 292, § 12; Laws 2004, LB 973, § 33; Laws 2005, LB 283, § 2; Laws 2005, LB 299, § 1; Laws 2006, LB 808, § 37; Laws 2008, LB965, § 15; Laws 2009, LB166, § 15; Laws 2010, LB877, § 4; Laws 2011, LB384, § 14; Laws 2018, LB885, § 1; Laws 2021, LB291, § 1.
Operative date January 1, 2022.

ARTICLE 16

LEVY AND TAX LIST

Section	
77-1601.	County tax levy; by whom made; when; what included; correction of clerical error; procedure.
77-1601.02.	Transferred to section 77-1632.
77-1630.	Property Tax Request Act, how cited.
77-1631.	Terms, defined.
77-1632.	Property tax request; procedure; public hearing; resolution or ordinance; contents.
77-1633.	Property tax request; increase by more than allowable growth percentage; notice and hearing; resolution or ordinance; requirements; certification; county clerk; duties.
77-1634.	Failure to comply with act; effect.

77-1601 County tax levy; by whom made; when; what included; correction of clerical error; procedure.

(1) The county board of equalization shall each year, on or before October 20, levy the necessary taxes for the current year if within the limit of the law. The levy shall include an amount for operation of all functions of county government and shall also include all levies necessary to fund tax requests that are

authorized as provided in sections 77-3442 to 77-3444, including requests certified under the Property Tax Request Act.

(2) On or before November 5, the county board of equalization upon its own motion may act to correct a clerical error which has resulted in the calculation of an incorrect levy by any entity with a tax request as provided in sections 77-3442 to 77-3444, including requests certified under the Property Tax Request Act. The county board of equalization shall hold a public hearing to determine what adjustment to the levy is proper, legal, or necessary. Notice shall be provided to the governing body of each political subdivision affected by the error. Notice of the hearing as required by section 84-1411 shall include the following: (a) The time and place of the hearing, (b) the dollar amount at issue, and (c) a statement setting forth the nature of the error.

(3) Upon the conclusion of the hearing, the county board of equalization shall issue a corrected levy if it determines that an error was made in the original levy which warrants correction. The county board of equalization shall then order (a) the county assessor, county clerk, and county treasurer to revise assessment books, unit valuation ledgers, tax statements, and any other tax records to reflect the correction made and (b) the recertification of the information provided to the Property Tax Administrator pursuant to section 77-1613.01.

Source: Laws 1903, c. 73, § 136, p. 436; Laws 1905, c. 111, § 4, p. 513; Laws 1907, c. 101, § 1, p. 352; R.S.1913, § 6456; Laws 1915, c. 109, § 1, p. 257; Laws 1921, c. 136, § 1, p. 599; C.S.1922, § 5979; Laws 1927, c. 176, § 1, p. 514; Laws 1929, c. 181, § 1, p. 639; C.S.1929, § 77-1801; Laws 1931, c. 137, § 1, p. 381; Laws 1933, c. 133, § 1, p. 510; Laws 1935, c. 52, § 1, p. 179; Laws 1937, c. 172, § 1, p. 679; C.S.Supp.,1941, § 77-1801; R.S.1943, § 77-1601; Laws 1947, c. 250, § 30, p. 799; Laws 1947, c. 251, § 40, p. 828; Laws 1949, c. 234, § 1, p. 645; Laws 1953, c. 275, § 1, p. 900; Laws 1965, c. 470, § 1, p. 1517; Laws 1965, c. 477, § 2, p. 1538; Laws 1969, c. 656, § 2, p. 2574; Laws 1980, LB 766, § 1; Laws 1992, LB 1063, § 130; Laws 1992, Second Spec. Sess., LB 1, § 103; Laws 1993, LB 734, § 49; Laws 1995, LB 167, § 1; Laws 1995, LB 452, § 29; Laws 1995, LB 490, § 157; Laws 1996, LB 693, § 11; Laws 1996, LB 1085, § 56; Laws 1997, LB 269, § 41; Laws 1998, LB 306, § 23; Laws 2003, LB 191, § 1; Laws 2021, LB644, § 19.
Operative date January 1, 2022.

Cross References

Property Tax Request Act, see section 77-1630.

77-1601.02 Transferred to section 77-1632.

77-1630 Property Tax Request Act, how cited.

Sections 77-1630 to 77-1634 shall be known and may be cited as the Property Tax Request Act.

Source: Laws 2021, LB644, § 1.
Operative date January 1, 2022.

77-1631 Terms, defined.

For purposes of the Property Tax Request Act:

- (1) Allowable growth percentage means a percentage equal to the sum of (a) two percent plus (b) the political subdivision's real growth percentage;
- (2) Excess value means an amount equal to the assessed value of the real property included in a tax increment financing project minus the redevelopment project valuation for such real property;
- (3) Property tax request means the total amount of property taxes requested to be raised for a political subdivision through the levy imposed pursuant to section 77-1601;
- (4) Real growth percentage means the percentage obtained by dividing (a) the political subdivision's real growth value by (b) the political subdivision's total real property valuation from the prior year;
- (5) Real growth value means and includes:
 - (a) The increase in a political subdivision's real property valuation from the prior year to the current year due to (i) improvements to real property as a result of new construction and additions to existing buildings, (ii) any other improvements to real property which increase the value of such property, (iii) annexation of real property by the political subdivision, and (iv) a change in the use of real property; and
 - (b) The annual increase in the excess value for any tax increment financing project located in the political subdivision;
- (6) Redevelopment project valuation has the same meaning as in section 18-2103; and
- (7) Tax increment financing project means a redevelopment project as defined in section 18-2103 that is financed through the division of taxes as provided in section 18-2147.

Source: Laws 2021, LB644, § 2.

Operative date January 1, 2022.

77-1632 Property tax request; procedure; public hearing; resolution or ordinance; contents.

(1) If the annual assessment of property would result in an increase in the total property taxes levied by a county, city, village, school district, learning community, sanitary and improvement district, natural resources district, educational service unit, or community college, as determined using the previous year's rate of levy, such political subdivision's property tax request for the current year shall be no more than its property tax request in the prior year, and the political subdivision's rate of levy for the current year shall be decreased accordingly when such rate is set by the county board of equalization pursuant to section 77-1601. The governing body of the political subdivision shall pass a resolution or ordinance to set the amount of its property tax request after holding the public hearing required in subsection (3) of this section. If the governing body of a political subdivision seeks to set its property tax request at an amount that exceeds its property tax request in the prior year, it may do so after holding the public hearing required in subsection (3) of this section and by passing a resolution or ordinance that complies with subsection (4) of this section. If any county, city, school district, or community college seeks to increase its property tax request by more than the allowable growth percentage, such political subdivision shall comply with the requirements of

section 77-1633 in lieu of the requirements in subsections (3) and (4) of this section.

(2) If the annual assessment of property would result in no change or a decrease in the total property taxes levied by a county, city, village, school district, learning community, sanitary and improvement district, natural resources district, educational service unit, or community college, as determined using the previous year's rate of levy, such political subdivision's property tax request for the current year shall be no more than its property tax request in the prior year, and the political subdivision's rate of levy for the current year shall be adjusted accordingly when such rate is set by the county board of equalization pursuant to section 77-1601. The governing body of the political subdivision shall pass a resolution or ordinance to set the amount of its property tax request after holding the public hearing required in subsection (3) of this section. If the governing body of a political subdivision seeks to set its property tax request at an amount that exceeds its property tax request in the prior year, it may do so after holding the public hearing required in subsection (3) of this section and by passing a resolution or ordinance that complies with subsection (4) of this section. If any county, city, school district, or community college seeks to increase its property tax request by more than the allowable growth percentage, such political subdivision shall comply with the requirements of section 77-1633 in lieu of the requirements in subsections (3) and (4) of this section.

(3) The resolution or ordinance required under this section shall only be passed after a special public hearing called for such purpose is held and after notice is published in a newspaper of general circulation in the area of the political subdivision at least four calendar days prior to the hearing. For purposes of such notice, the four calendar days shall include the day of publication but not the day of hearing. If the political subdivision's total operating budget, not including reserves, does not exceed ten thousand dollars per year or twenty thousand dollars per biennial period, the notice may be posted at the governing body's principal headquarters. The hearing notice shall contain the following information: The certified taxable valuation under section 13-509 for the prior year, the certified taxable valuation under section 13-509 for the current year, and the percentage increase or decrease in such valuations from the prior year to the current year; the dollar amount of the prior year's tax request and the property tax rate that was necessary to fund that tax request; the property tax rate that would be necessary to fund last year's tax request if applied to the current year's valuation; the proposed dollar amount of the tax request for the current year and the property tax rate that will be necessary to fund that tax request; the percentage increase or decrease in the property tax rate from the prior year to the current year; and the percentage increase or decrease in the total operating budget from the prior year to the current year.

(4) Any resolution or ordinance setting a political subdivision's property tax request under this section at an amount that exceeds the political subdivision's property tax request in the prior year shall include, but not be limited to, the following information:

- (a) The name of the political subdivision;
- (b) The amount of the property tax request;
- (c) The following statements:

- (i) The total assessed value of property differs from last year’s total assessed value by percent;
 - (ii) The tax rate which would levy the same amount of property taxes as last year, when multiplied by the new total assessed value of property, would be \$. per \$100 of assessed value;
 - (iii) The (name of political subdivision) proposes to adopt a property tax request that will cause its tax rate to be \$. per \$100 of assessed value; and
 - (iv) Based on the proposed property tax request and changes in other revenue, the total operating budget of (name of political subdivision) will (increase or decrease) last year’s budget by percent; and
 - (d) The record vote of the governing body in passing such resolution or ordinance.
- (5) Any resolution or ordinance setting a property tax request under this section shall be certified and forwarded to the county clerk on or before October 15 of the year for which the tax request is to apply.

Source: Laws 1996, LB 693, § 10; Laws 1996, LB 1085, § 55; Laws 1997, LB 269, § 43; Laws 1998, LB 306, § 24; Laws 2001, LB 797, § 3; Laws 2006, LB 1024, § 5; Laws 2019, LB103, § 1; Laws 2019, LB212, § 4; R.S.Supp.,2020, § 77-1601.02; Laws 2021, LB528, § 18; Laws 2021, LB644, § 3.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB528, section 18, with LB644, section 3, to reflect all amendments.

Note: Changes made by LB528 became operative August 28, 2021. Changes made by LB644 became operative January 1, 2022.

77-1633 Property tax request; increase by more than allowable growth percentage; notice and hearing; resolution or ordinance; requirements; certification; county clerk; duties.

- (1) For purposes of this section, political subdivision means any county, city, school district, or community college.
- (2) If any political subdivision seeks to increase its property tax request by more than the allowable growth percentage, such political subdivision may do so if:
 - (a) A public hearing is held and notice of such hearing is provided in compliance with subsection (3) of this section; and
 - (b) The governing body of such political subdivision passes a resolution or an ordinance that complies with subsection (4) of this section.
- (3)(a) Each political subdivision within a county that seeks to increase its property tax request by more than the allowable growth percentage shall participate in a joint public hearing. Each such political subdivision shall designate one representative to attend the joint public hearing on behalf of the political subdivision. If a political subdivision includes area in more than one county, the political subdivision shall be deemed to be within the county in which the political subdivision’s principal headquarters are located. At such hearing, there shall be no items on the agenda other than discussion on each political subdivision’s intent to increase its property tax request by more than the allowable growth percentage.

(b) The joint public hearing shall be held on or after September 17 and prior to September 29 and before any of the participating political subdivisions file their adopted budget statement pursuant to section 13-508.

(c) The joint public hearing shall be held after 6 p.m. local time on the relevant date.

(d) At the joint public hearing, the representative of each political subdivision shall give a brief presentation on the political subdivision's intent to increase its property tax request by more than the allowable growth percentage and the effect of such request on the political subdivision's budget. The presentation shall include:

- (i) The name of the political subdivision;
- (ii) The amount of the property tax request; and
- (iii) The following statements:

(A) The total assessed value of property differs from last year's total assessed value by percent;

(B) The tax rate which would levy the same amount of property taxes as last year, when multiplied by the new total assessed value of property, would be \$. per \$100 of assessed value;

(C) The (name of political subdivision) proposes to adopt a property tax request that will cause its tax rate to be \$. per \$100 of assessed value;

(D) Based on the proposed property tax request and changes in other revenue, the total operating budget of (name of political subdivision) will exceed last year's by percent; and

(E) To obtain more information regarding the increase in the property tax request, citizens may contact the (name of political subdivision) at (telephone number and email address of political subdivision).

(e) Any member of the public shall be allowed to speak at the joint public hearing and shall be given a reasonable amount of time to do so.

(f) Notice of the joint public hearing shall be provided:

(i) By sending a postcard to all affected property taxpayers. The postcard shall be sent to the name and address to which the property tax statement is mailed;

(ii) By posting notice of the hearing on the home page of the relevant county's website, except that this requirement shall only apply if the county has a population of more than twenty-five thousand inhabitants; and

(iii) By publishing notice of the hearing in a legal newspaper in or of general circulation in the relevant county.

(g) Each political subdivision that participates in the joint public hearing shall send the information prescribed in subdivision (3)(h) of this section to the county clerk by September 5. The county clerk shall transmit the information to the county assessor no later than September 10. The county clerk shall notify each participating political subdivision of the date, time, and location of the joint public hearing. The county assessor shall mail the postcards required in this subsection. Such postcards shall be mailed at least seven calendar days before the joint public hearing. The cost of creating and mailing the postcards, including staff time, materials, and postage, shall be divided among the political subdivisions participating in the joint public hearing.

(h) The postcard sent under this subsection and the notice posted on the county's website, if required under subdivision (3)(f)(ii) of this section, and published in the newspaper shall include the date, time, and location for the joint public hearing, a listing of and telephone number for each political subdivision that will be participating in the joint public hearing, and the amount of each participating political subdivision's property tax request. The postcard shall also contain the following information:

(i) The following words in capitalized type at the top of the postcard: NOTICE OF PROPOSED TAX INCREASE;

(ii) The name of the county that will hold the joint public hearing, which shall appear directly underneath the capitalized words described in subdivision (3)(h)(i) of this section;

(iii) The following statement: The following political subdivisions are proposing a revenue increase as a result of property taxes in (insert current tax year). This notice contains estimates of the tax on your property and the proposed tax increase on your property as a result of this revenue increase. These estimates are calculated on the basis of the proposed (insert current tax year) data. The actual tax on your property and tax increase on your property may vary from these estimates.

(iv) The parcel number for the property;

(v) The name of the property owner and the address of the property;

(vi) The property's assessed value in the previous tax year;

(vii) The amount of property taxes due in the previous tax year for each participating political subdivision;

(viii) The property's assessed value for the current tax year;

(ix) The amount of property taxes due for the current tax year for each participating political subdivision;

(x) The change in the amount of property taxes due for each participating political subdivision from the previous tax year to the current tax year; and

(xi) The following statement: To obtain more information regarding the tax increase, citizens may contact the political subdivision at the telephone number provided in this notice.

(4) After the joint public hearing required in subsection (3) of this section, the governing body of each participating political subdivision shall pass an ordinance or resolution to set such political subdivision's property tax request. If the political subdivision is increasing its property tax request over the amount from the prior year, including any increase in excess of the allowable growth percentage, then such ordinance or resolution shall include, but not be limited to, the following information:

(a) The name of the political subdivision;

(b) The amount of the property tax request;

(c) The following statements:

(i) The total assessed value of property differs from last year's total assessed value by percent;

(ii) The tax rate which would levy the same amount of property taxes as last year, when multiplied by the new total assessed value of property, would be \$. per \$100 of assessed value;

(iii) The (name of political subdivision) proposes to adopt a property tax request that will cause its tax rate to be \$. per \$100 of assessed value; and

(iv) Based on the proposed property tax request and changes in other revenue, the total operating budget of (name of political subdivision) will exceed last year’s by percent; and

(d) The record vote of the governing body in passing such resolution or ordinance.

(5) Any resolution or ordinance setting a property tax request under this section shall be certified and forwarded to the county clerk on or before October 15 of the year for which the tax request is to apply.

(6) The county clerk, or his or her designee, shall prepare a report which shall include (a) the names of the representatives of the political subdivisions participating in the joint public hearing and (b) the name and address of each individual who spoke at the joint public hearing, unless the address requirement is waived to protect the security of the individual, and the name of any organization represented by each such individual. Such report shall be delivered to the political subdivisions participating in the joint public hearing within ten days after such hearing.

Source: Laws 2021, LB644, § 4.
Operative date January 1, 2022.

77-1634 Failure to comply with act; effect.

(1) Except as provided in subsection (2) of this section, any levy which is not in compliance with the Property Tax Request Act and section 77-1601 shall be construed as an unauthorized levy under section 77-1606.

(2) An inadvertent failure to comply with the Property Tax Request Act shall not invalidate a political subdivision’s property tax request or constitute an unauthorized levy under section 77-1606. The failure of a taxpayer to receive a postcard as required under the act shall not invalidate a political subdivision’s property tax request or constitute an unauthorized levy under section 77-1606.

Source: Laws 2021, LB644, § 5.
Operative date January 1, 2022.

ARTICLE 17

COLLECTION OF TAXES

Section

- 77-1736.06. Property tax refund; procedure.
- 77-1776. Overpayment due to clerical error or mistake; return by political subdivision; how treated.
- 77-1785. Residential real property; sale; proration of taxes due.

77-1736.06 Property tax refund; procedure.

The following procedure shall apply when making a property tax refund:

(1) Within thirty days of the entry of a final nonappealable order, an unprotested determination of a county assessor, an unappealed decision of a county board of equalization, or other final action requiring a refund of real or personal property taxes paid or, for property valued by the state, within thirty days of a recertification of value by the Property Tax Administrator pursuant to

section 77-1775 or 77-1775.01, the county assessor shall determine the amount of refund due the person entitled to the refund, certify that amount to the county treasurer, and send a copy of such certification to the person entitled to the refund. Within thirty days from the date the county assessor certifies the amount of the refund, the county treasurer shall notify each political subdivision, including any school district receiving a distribution pursuant to section 79-1073 and any land bank receiving real property taxes pursuant to subdivision (3)(a) of section 18-3411, of its respective share of the refund, except that for any political subdivision whose share of the refund is two hundred dollars or less, the county board may waive this notice requirement. Notification shall be by first-class mail, postage prepaid, to the last-known address of record of the political subdivision. The county treasurer shall pay the refund from funds in his or her possession belonging to any political subdivision, including any school district receiving a distribution pursuant to section 79-1073 and any land bank receiving real property taxes pursuant to subdivision (3)(a) of section 18-3411, which received any part of the tax or penalty being refunded. If sufficient funds are not available, the county treasurer shall register the refund or portion thereof which remains unpaid as a claim against such political subdivision and shall issue the person entitled to the refund a receipt for the registration of the claim;

(2) The refund of a tax or penalty or the receipt for the registration of a claim made or issued pursuant to this section shall be satisfied in full as soon as practicable. If a receipt for the registration of a claim is given:

(a) The governing body of the political subdivision shall make provisions in its next budget for the amount of such claim; or

(b) If mutually agreed to by the governing body of the political subdivision and the person holding the receipt, such receipt shall be applied to satisfy any tax levied or assessed by that political subdivision which becomes due from the person holding the receipt until the claim is satisfied in full;

(3) The county treasurer shall mail the refund or the receipt by first-class mail, postage prepaid, to the last-known address of the person entitled thereto. Multiple refunds to the same person may be combined into one refund. If a refund is not claimed by June 1 of the year following the year of mailing, the refund shall be canceled and the resultant amount credited to the various funds originally charged;

(4) When the refund involves property valued by the state, the Tax Commissioner shall be authorized to negotiate a settlement of the amount of the refund or claim due pursuant to this section on behalf of the political subdivision from which such refund or claim is due. Any political subdivision which does not agree with the settlement terms as negotiated may reject such terms, and the refund or claim due from the political subdivision then shall be satisfied as set forth in this section as if no such negotiation had occurred;

(5) In the event that the Legislature appropriates state funds to be disbursed for the purposes of satisfying all or any portion of any refund or claim, the Tax Commissioner shall order the county treasurer to disburse such refund amounts directly to the persons entitled to the refund in partial or total satisfaction of such persons' claims. The county treasurer shall disburse such amounts within forty-five days after receipt thereof;

(6) If all or any portion of the refund is reduced by way of settlement or forgiveness by the person entitled to the refund, the proportionate amount of

the refund that was paid by an appropriation of state funds shall be reimbursed by the county treasurer to the State Treasurer within forty-five days after receipt of the settlement agreement or receipt of the forgiven refund. The amount so reimbursed shall be credited to the General Fund; and

(7) For any refund or claim due under this section, interest shall accrue on the unpaid balance at the rate of nine percent beginning thirty days after the date the county assessor certifies the amount of refund based upon the final nonappealable order or other action approving the refund.

Source: Laws 1991, LB 829, § 15; Laws 1992, LB 1063, § 138; Laws 1992, Second Spec. Sess., LB 1, § 111; Laws 1993, LB 555, § 1; Laws 1995, LB 490, § 167; Laws 2007, LB334, § 82; Laws 2008, LB965, § 18; Laws 2010, LB1070, § 3; Laws 2013, LB97, § 19; Laws 2016, LB1067, § 9; Laws 2020, LB424, § 19; Laws 2021, LB644, § 20.

Operative date January 1, 2022.

77-1776 Overpayment due to clerical error or mistake; return by political subdivision; how treated.

Any political subdivision which has received proceeds from a levy imposed on all taxable property within an entire county which is in excess of that requested by the political subdivision under the Property Tax Request Act as a result of a clerical error or mistake shall, in the fiscal year following receipt, return the excess tax collections, net of the collection fee, to the county. By July 31 of the fiscal year following the receipt of any excess tax collections, the county treasurer shall certify to the political subdivision the amount to be returned. Such excess tax collections shall be restricted funds in the budget of the county that receives the funds under section 13-518.

Source: Laws 1999, LB 36, § 1; Laws 2021, LB644, § 21.

Operative date January 1, 2022.

Cross References

Property Tax Request Act, see section 77-1630.

77-1785 Residential real property; sale; proration of taxes due.

Whenever residential real property is sold, the property taxes due on such real property for the year in which the sale occurred shall be prorated based on the number of days the buyer and seller owned the property during such year, unless the buyer and seller have agreed to a different proration of such property taxes.

Source: Laws 2021, LB466, § 1.

Effective date August 28, 2021.

ARTICLE 22

WARRANTS

Section

77-2205. Warrants; payment; time limitation; file claim with State Claims Board.

77-2205 Warrants; payment; time limitation; file claim with State Claims Board.

The State Treasurer shall not pay any warrant which is presented to him or her for payment more than two years after the date of its issuance if issued

prior to October 1, 1992, or one year after the date of its issuance if issued on or after October 1, 1992, and any such warrant shall cease to be an obligation of the State of Nebraska and shall be charged off upon the books of the State Treasurer. Except as otherwise provided by law, the amount stated on such warrant shall be credited to the General Fund. Such warrant may, however, thereafter be presented to the State Claims Board which may approve a claim pursuant to the State Miscellaneous Claims Act for the amount of the warrant.

Source: Laws 1907, c. 158, § 1, p. 492; R.S.1913, § 6644; C.S.1922, § 6175; C.S.1929, § 77-2403; R.S.1943, § 77-2205; Laws 1945, c. 195, § 1, p. 598; Laws 1988, LB 864, § 12; Laws 1992, LB 982, § 1; Laws 2021, LB509, § 10.
Effective date August 28, 2021.

Cross References

State Miscellaneous Claims Act, see section 81-8,294.

ARTICLE 23

DEPOSIT AND INVESTMENT OF PUBLIC FUNDS

(b) PUBLIC FUNDS DEPOSIT SECURITY ACT

Section

- 77-2391. Security; delivery requirements; perfection.
- 77-2393. Withdrawal of securities; when; effect.
- 77-2394. Deposit guaranty bond; statement required.
- 77-2395. Custodial official; duties.
- 77-2397. Depositories of public money or public funds; powers.
- 77-2399. Governmental unit; deposits in excess of insured amount; security interest; rights.
- 77-23,100. Deposits in excess of insured or guaranteed amount; qualified trustee; duties.
- 77-23,101. Qualified trustee; requirements.
- 77-23,102. Default; procedure.
- 77-23,105. Reports required.
- 77-23,106. Public money or public funds; prompt payment.

(b) PUBLIC FUNDS DEPOSIT SECURITY ACT

77-2391 Security; delivery requirements; perfection.

(1) Securities pledged or securities in which a security interest has been granted pursuant to section 77-2389 shall be delivered to and held by a federal reserve bank or by a branch of a federal reserve bank, a federal home loan bank, or another responsible bank, capital stock financial institution, or qualifying mutual financial institution, including a bank, capital stock financial institution, or qualifying mutual financial institution chartered by a foreign state agency as defined in subdivision (13) of section 8-101.03, or trust company, other than the pledgor or the bank, capital stock financial institution, or qualifying mutual financial institution granting the security interest, as designated by the governing authority, with appropriate joint custody and the pledge agreement or security interest as described in subsection (2) of this section, in a form approved by the governing authority.

(2) The delivery by the bank, capital stock financial institution, or qualifying mutual financial institution designated as a depository to the custodial official of a written receipt or acknowledgment from a federal reserve bank or branch

of a federal reserve bank, a federal home loan bank, or another bank, capital stock financial institution, or qualifying mutual financial institution, including a bank, capital stock financial institution, or qualifying mutual financial institution chartered by a foreign state agency as defined in subdivision (13) of section 8-101.03, or trust company, other than the bank, capital stock financial institution, or qualifying mutual financial institution granting the security interest, that includes the title of such custodial official, describes the securities identified on the books or records of the depository, and provides that the securities or the proceeds of the securities will be delivered only upon the surrender of the written receipt or the acknowledgment duly executed by the custodial official designated on the written receipt or the acknowledgment and by the authorized representative of the depository shall, together with the custodial official's actual and continued possession of the written receipt or acknowledgment, constitute a valid and perfected security interest in favor of the custodial official in and to the identified securities.

(3) Articles 8 and 9, Uniform Commercial Code, shall not apply to any security interest arising under this section.

Source: Laws 1996, LB 1274, § 6; Laws 1997, LB 275, § 3; Laws 1999, LB 550, § 44; Laws 2000, LB 932, § 41; Laws 2001, LB 362, § 86; Laws 2021, LB66, § 1.
Effective date April 1, 2021.

77-2393 Withdrawal of securities; when; effect.

A bank, capital stock financial institution, or qualifying mutual financial institution which has furnished securities pursuant to the Public Funds Deposit Security Act may withdraw all or any part of such securities upon repayment to the custodial official, director, or administrator, as applicable, of the amount of the securities thus withdrawn, and thereupon the custodial official, director, or administrator, as applicable, shall be empowered to assign such securities to the owner thereof. All interest coupons attached to securities furnished under the act shall be detached by the holder or qualified trustee thirty days before maturity and returned to such bank, capital stock financial institution, or qualifying mutual financial institution.

Source: Laws 1996, LB 1274, § 8; Laws 2001, LB 362, § 88; Laws 2021, LB66, § 2.
Effective date April 1, 2021.

77-2394 Deposit guaranty bond; statement required.

A bank, capital stock financial institution, or qualifying mutual financial institution provides a deposit guaranty bond pursuant to the Public Funds Deposit Security Act if it issues a deposit guaranty bond which runs to the director or custodial official, as applicable, and which is conditioned that the bank, capital stock financial institution, or qualifying mutual financial institution shall, upon written request by the director or custodial official, as applicable, at the end of each and every month, render to the director or custodial official, as applicable, a statement showing the daily balances and the amounts of public money or public funds of the governing authority held by it during the month and how credited. The public money or public funds shall be paid

promptly on the order of the custodial official depositing the public money or public funds.

Source: Laws 1996, LB 1274, § 9; Laws 2001, LB 362, § 89; Laws 2019, LB622, § 5; Laws 2021, LB66, § 3.
Effective date April 1, 2021.

77-2395 Custodial official; duties.

(1) If a bank, capital stock financial institution, or qualifying mutual financial institution designated as a depository provides a deposit guaranty bond or furnishes securities or any combination thereof, pursuant to section 77-2389, the custodial official shall not have on deposit in such depository any public money or public funds in excess of the amount insured or guaranteed by the Federal Deposit Insurance Corporation, unless and until the depository has provided a deposit guaranty bond or furnished securities, or any combination thereof, to the custodial official, and the total value of such deposit guaranty bond and the market value of such securities are in an amount not less than one hundred two percent of the amount on deposit which is in excess of the amount so insured or guaranteed.

(2) If a bank, capital stock financial institution, or qualifying mutual financial institution designated as a depository provides a deposit guaranty bond or furnishes securities or any combination thereof, pursuant to subsection (1) of section 77-2398, the governmental unit shall not have on deposit in such depository any public money or public funds in excess of the amount insured or guaranteed by the Federal Deposit Insurance Corporation, unless and until the depository has provided a deposit guaranty bond or furnished securities, or any combination thereof, pursuant to the Public Funds Deposit Security Act, and the total value of such deposit guaranty bond and the aggregate market value of the pool of such securities so provided are in an amount not less than one hundred two percent of the amount on deposit which is in excess of the amount so insured or guaranteed.

Source: Laws 1996, LB 1274, § 10; Laws 2000, LB 932, § 42; Laws 2001, LB 362, § 90; Laws 2009, LB259, § 30; Laws 2019, LB622, § 6; Laws 2021, LB66, § 4.
Effective date April 1, 2021.

77-2397 Depositories of public money or public funds; powers.

All depositories of public money or public funds belonging to the State of Nebraska or the political subdivisions in this state shall have full authority to deposit, pledge, or grant a security interest in their assets or to provide a deposit guaranty bond, or any combination thereof, for the security and payment for all such deposits and accretions. The State of Nebraska and any political subdivision in this state and the director, administrator, or custodial official, as applicable, are given the right and authority to accept such deposit, pledge, or grant of a security interest in assets or the provision of a deposit guaranty bond, or any combination thereof.

Source: Laws 1996, LB 1274, § 12; Laws 2019, LB622, § 8; Laws 2021, LB66, § 5.
Effective date April 1, 2021.

77-2399 Governmental unit; deposits in excess of insured amount; security interest; rights.

(1) Each governmental unit depositing public money or public funds in a bank, capital stock financial institution, or qualifying mutual financial institution shall have an undivided beneficial interest under the deposit guaranty bond provided and an undivided security interest in the pool of securities deposited, pledged, or in which a security interest is granted by such bank, capital stock financial institution, or qualifying mutual financial institution pursuant to subsection (1) of section 77-2398 in the proportion that the total amount of the governmental unit's public money or public funds held deposited in such bank, capital stock financial institution, or qualifying mutual financial institution secured by the deposit guaranty bond or by the pool of securities, or any combination thereof, bears to the total amount of public money or public funds so secured.

(2) The delivery by the bank, capital stock financial institution, or qualifying mutual financial institution designated as a depository to the director or administrator of a written receipt or acknowledgment from a federal reserve bank or branch of a federal reserve bank, a federal home loan bank, or another responsible bank which is authorized to exercise trust powers, capital stock financial institution which is authorized to exercise trust powers, or qualifying mutual financial institution which is authorized to exercise trust powers, including a bank which is authorized to exercise trust powers, capital stock financial institution which is authorized to exercise trust powers, or qualifying mutual financial institution which is authorized to exercise trust powers chartered by a foreign state agency as defined in subdivision (13) of section 8-101.03, or trust company other than the bank, capital stock financial institution, or qualifying mutual financial institution granting the security interest, that includes the name of the director or administrator, describes the securities identified on the books or records of the depository, and provides that the securities or the proceeds of the securities will be delivered only upon the surrender of the written receipt or acknowledgment duly executed by the director or administrator designated on the written receipt or acknowledgment and by the authorized representative of the depository shall, together with the director's or administrator's actual and continued possession of the written receipt or acknowledgment, constitute a valid and perfected security interest in favor of the director or administrator in and to the identified securities.

(3) Articles 8 and 9, Uniform Commercial Code, shall not apply to any security interest arising under this section.

Source: Laws 2000, LB 932, § 44; Laws 2001, LB 362, § 93; Laws 2019, LB622, § 10; Laws 2021, LB66, § 6.
Effective date April 1, 2021.

77-23,100 Deposits in excess of insured or guaranteed amount; qualified trustee; duties.

(1) Any bank, capital stock financial institution, or qualifying mutual financial institution in which public money or public funds have been deposited which satisfies its requirement to secure the deposit of public money or public funds in excess of the amount insured or guaranteed by the Federal Deposit Insurance Corporation, in whole or in part, by the deposit, pledge, or granting of a security interest in a single pool of securities shall designate a qualified trustee

and place with the trustee for holding the securities so deposited, pledged, or in which a security interest has been granted pursuant to subsection (1) of section 77-2398, subject to the order of the director or the administrator. The bank, capital stock financial institution, or qualifying mutual financial institution shall give written notice of the designation of the qualified trustee to any governmental unit depositing public money or public funds for which such securities are deposited, pledged, or in which a security interest has been granted, and if an affiliate of the bank, capital stock financial institution, or qualifying mutual financial institution is to serve as the qualified trustee, the notice shall disclose the affiliate relationship and shall be given prior to designation of the qualified trustee. The director or administrator shall accept the written receipt of the qualified trustee describing the pool of securities so deposited, pledged, or in which a security interest has been granted by the bank, capital stock financial institution, or qualifying mutual financial institution, a copy of which shall also be delivered to the bank, capital stock financial institution, or qualifying mutual financial institution.

(2) Any bank, capital stock financial institution, or qualifying mutual financial institution which satisfies its requirement to secure the deposit of public money or public funds in excess of the amount insured or guaranteed by the Federal Deposit Insurance Corporation under the Public Funds Deposit Security Act, in whole or in part, by providing a deposit guaranty bond pursuant to the provisions of subsection (1) of section 77-2398, shall designate the director and cause to be issued a deposit guaranty bond which runs to the director acting for the benefit of the governmental units having public money or public funds on deposit with such bank, capital stock financial institution, or qualifying mutual financial institution and which is conditioned that the bank, capital stock financial institution, or qualifying mutual financial institution shall render to the administrator the statement required under subsection (3) of this section.

(3) Each bank, capital stock financial institution, or qualifying mutual financial institution which satisfies its requirement to secure the deposit of public money or public funds in excess of the amount insured or guaranteed by the Federal Deposit Insurance Corporation by providing a deposit guaranty bond or by depositing, pledging, or granting a security interest in a single pool of securities, or any combination thereof, shall, on or before the tenth day of each month, render to the administrator a statement showing as of the last business day of the previous month (a) the amount of public money or public funds deposited in such bank, capital stock financial institution, or qualifying mutual financial institution that is not insured or guaranteed by the Federal Deposit Insurance Corporation (i) by each governmental unit separately and (ii) by all governmental units in the aggregate and (b) the total value of the deposit guaranty bond and the aggregate market value of the pool of securities deposited, pledged, or in which a security interest has been granted pursuant to subsection (1) of section 77-2398. The director shall be authorized, acting for the benefit of the governmental units having public money or public funds on deposit with such bank, capital stock financial institution, or qualifying mutual financial institution, to take any and all actions necessary to take title to or to effect a first perfected security interest in the securities deposited, pledged, or in which a security interest is granted.

(4) Within twenty days after the deadline for receiving the statement required under subsection (3) of this section from a bank, capital stock financial institution, or qualifying mutual financial institution, the administrator shall

provide a report to each governmental unit listed in such statement reflecting (a) the amount of public money or public funds deposited in such bank, capital stock financial institution, or qualifying mutual financial institution by each governmental unit as of the last business day of the previous month that is not insured or guaranteed by the Federal Deposit Insurance Corporation and that is secured pursuant to subsection (1) of section 77-2398 and (b) the total value of the deposit guaranty bond and the aggregate market value of the pool of securities deposited, pledged, or in which a security interest is granted pursuant to subsection (1) of section 77-2398 as of the last business day of the previous month. The report shall clearly notify the governmental unit if the value of the deposit guaranty bond provided or the securities deposited, pledged, or in which a security interest has been granted, or any combination thereof, do not meet the statutory requirement. The report required by this subsection shall be deemed to have been provided to a governmental unit upon posting of the report by the administrator on its website for access by governmental units participating under the single bank pooled method if the governmental unit has agreed in advance to receive such report by accessing the administrator's website.

Source: Laws 2000, LB 932, § 45; Laws 2001, LB 362, § 94; Laws 2009, LB259, § 32; Laws 2019, LB622, § 11; Laws 2020, LB909, § 53; Laws 2021, LB66, § 7.

Effective date April 1, 2021.

77-23,101 Qualified trustee; requirements.

Any Federal Reserve Bank, branch of a Federal Reserve Bank, a federal home loan bank, or another responsible bank which is authorized to exercise trust powers, capital stock financial institution which is authorized to exercise trust powers, or qualifying mutual financial institution which is authorized to exercise trust powers, including a bank which is authorized to exercise trust powers, capital stock financial institution which is authorized to exercise trust powers, or qualifying mutual financial institution which is authorized to exercise trust powers chartered by a foreign state agency as defined in subdivision (13) of section 8-101.03, or trust company, other than the pledgor or the bank, capital stock financial institution, or qualifying mutual financial institution providing the deposit guaranty bond or granting the security interest, is qualified to act as a qualified trustee for the receipt of a deposit guaranty bond or the holding of securities under section 77-23,100. The bank, capital stock financial institution, or qualifying mutual financial institution in which public money or public funds are deposited may at any time substitute, exchange, or release securities deposited with a qualified trustee if such substitution, exchange, or release does not reduce the aggregate market value of the pool of securities to an amount that is less than one hundred two percent of the total amount of public money or public funds less the portion of such public money or public funds insured or guaranteed by the Federal Deposit Insurance Corporation. The bank, capital stock financial institution, or qualifying mutual financial institution in which public money or public funds are deposited may at any time reduce the amount of the deposit guaranty bond if the reduction does not reduce the total combined value of the deposit guaranty bond and the aggregate market value of the pool of securities to an amount less than one hundred two percent of the total amount of public money or public funds less

the portion of such public money or public funds insured or guaranteed by the Federal Deposit Insurance Corporation.

Source: Laws 2000, LB 932, § 46; Laws 2001, LB 362, § 95; Laws 2009, LB259, § 33; Laws 2019, LB622, § 12; Laws 2021, LB66, § 8.
Effective date April 1, 2021.

77-23,102 Default; procedure.

(1) When the director determines that a bank, capital stock financial institution, or qualifying mutual financial institution which secures the deposit of public money or public funds using the single bank pooled method has experienced an event of default the director shall proceed in the following manner: (a) The director shall ascertain the aggregate amounts of public money or public funds secured pursuant to subsection (1) of section 77-2398 and deposited in the bank, capital stock financial institution, or qualifying mutual financial institution which has defaulted, as disclosed by the records of such bank, capital stock financial institution, or qualifying mutual financial institution. The director shall determine for each governmental unit for whom public money or public funds are deposited in the defaulting bank, capital stock financial institution, or qualifying mutual financial institution the accounts and amount of federal deposit insurance or guarantee that is available for each account. The director shall then determine for each such governmental unit the amount of public money or public funds not insured or guaranteed by the Federal Deposit Insurance Corporation and the amount of the deposit guaranty bond or pool of securities pledged, deposited, or in which a security interest has been granted, or any combination thereof, to secure such public money or public funds. Upon completion of this analysis, the director shall provide each such governmental unit with a statement that reports the amount of public money or public funds deposited by the governmental unit in the defaulting bank, capital stock financial institution, or qualifying mutual financial institution, the amount of public money or public funds that may be insured or guaranteed by the Federal Deposit Insurance Corporation, and the amount of public money or public funds secured by a deposit guaranty bond or secured by a pool of securities, or any combination thereof, pursuant to subsection (1) of section 77-2398. Each such governmental unit shall verify this information from his or her records within ten business days after receiving the report and information from the director; and (b) upon receipt of a verified report from such governmental unit and if the defaulting bank, capital stock financial institution, or qualifying mutual financial institution is to be liquidated or if for any other reason the director determines that public money or public funds are not likely to be promptly paid upon demand, the director shall proceed to enforce the deposit guaranty bond and liquidate the pool of securities held to secure the deposit of public money or public funds and shall repay each governmental unit for the public money or public funds not insured or guaranteed by the Federal Deposit Insurance Corporation deposited in the bank, capital stock financial institution, or qualifying mutual financial institution by the governmental unit. In the event that the amount of the deposit guaranty bond or the proceeds of the securities held by the director after liquidation is insufficient to cover all public money or public funds not insured or guaranteed by the Federal Deposit Insurance Corporation for all governmental units for whom the director serves, the director shall pay out to each governmental unit available amounts pro rata in accordance with the respective public money or

public funds not insured or guaranteed by the Federal Deposit Insurance Corporation for each such governmental unit.

(2) In the event that a federal deposit insurance agency is appointed and acts as a liquidator or receiver of any bank, capital stock financial institution, or qualifying mutual financial institution under state or federal law, those duties under this section that are specified to be performed by the director in the event of default may be delegated to and performed by such federal deposit insurance agency.

Source: Laws 2000, LB 932, § 47; Laws 2001, LB 362, § 96; Laws 2009, LB259, § 34; Laws 2019, LB622, § 13; Laws 2021, LB66, § 9.
Effective date April 1, 2021.

77-23,105 Reports required.

Upon request of a governmental unit, a bank, capital stock financial institution, or qualifying mutual financial institution shall report as of the date of such request the amount of public money or public funds deposited in such bank, capital stock financial institution, or qualifying mutual financial institution that is not insured or guaranteed by the Federal Deposit Insurance Corporation (1) by the governmental unit making the request and (2) by all other governmental units and secured pursuant to subsection (1) of section 77-2398, and the total value of the deposit guaranty bond or the aggregate market value of the pool of securities deposited, pledged, or in which a security interest has been granted to secure public money or public funds held by the bank, capital stock financial institution, or qualifying mutual financial institution, including those deposited by the governmental unit. Upon request of a governmental unit, a qualified trustee shall report as of the date of such request the total value of the deposit guaranty bond or the aggregate market value of the pool of securities deposited, pledged, or in which a security interest has been granted by the bank, capital stock financial institution, or qualifying mutual financial institution and shall provide an itemized list of the securities in the pool. Such reports shall be made on or before the date the governmental unit specifies.

Source: Laws 2000, LB 932, § 50; Laws 2001, LB 362, § 99; Laws 2009, LB259, § 35; Laws 2021, LB66, § 10.
Effective date April 1, 2021.

77-23,106 Public money or public funds; prompt payment.

The public money or public funds in the bank, capital stock financial institution, or qualifying mutual financial institution shall be paid promptly on the order of the custodial official or governmental unit depositing the public money or public funds in such bank, capital stock financial institution, or qualifying mutual financial institution.

Source: Laws 2000, LB 932, § 51; Laws 2001, LB 362, § 100; Laws 2021, LB66, § 11.
Effective date April 1, 2021.

ARTICLE 26 CIGARETTE TAX

Section
77-2602. Cigarette tax; rate; disposition of proceeds; priority.

77-2602 Cigarette tax; rate; disposition of proceeds; priority.

(1) Every stamping agent engaged in distributing or selling cigarettes at wholesale in this state shall pay to the Tax Commissioner of this state a special privilege tax. This shall be in addition to all other taxes. It shall be paid prior to or at the time of the sale, gift, or delivery to the retail dealer in the several amounts as follows: On each package of cigarettes containing not more than twenty cigarettes, sixty-four cents per package; and on packages containing more than twenty cigarettes, the same tax as provided on packages containing not more than twenty cigarettes for the first twenty cigarettes in each package and a tax of one-twentieth of the tax on the first twenty cigarettes on each cigarette in excess of twenty cigarettes in each package.

(2) Beginning October 1, 2004, the State Treasurer shall place the equivalent of forty-nine cents of such tax in the General Fund. For purposes of this section, the equivalent of a specified number of cents of the tax shall mean that portion of the proceeds of the tax equal to the specified number divided by the tax rate per package of cigarettes containing not more than twenty cigarettes.

(3) The State Treasurer shall distribute the remaining proceeds of such tax as follows:

(a) Beginning July 1, 1980, the State Treasurer shall place the equivalent of one cent of such tax in the Nebraska Outdoor Recreation Development Cash Fund. For fiscal year distributions occurring after FY1998-99, the distribution under this subdivision shall not be less than the amount distributed under this subdivision for FY1997-98. Any money needed to increase the amount distributed under this subdivision to the FY1997-98 amount shall reduce the distribution to the General Fund;

(b) Beginning July 1, 1993, the State Treasurer shall place the equivalent of three cents of such tax in the Health and Human Services Cash Fund to carry out sections 81-637 to 81-640. For fiscal year distributions occurring after FY1998-99, the distribution under this subdivision shall not be less than the amount distributed under this subdivision for FY1997-98. Any money needed to increase the amount distributed under this subdivision to the FY1997-98 amount shall reduce the distribution to the General Fund;

(c) Beginning October 1, 2002, and continuing until all the purposes of the Deferred Building Renewal Act have been fulfilled, the State Treasurer shall place the equivalent of seven cents of such tax in the Building Renewal Allocation Fund. The distribution under this subdivision shall not be less than the amount distributed under this subdivision for FY1997-98. Any money needed to increase the amount distributed under this subdivision to the FY1997-98 amount shall reduce the distribution to the General Fund;

(d) Beginning July 1, 2016, and every fiscal year thereafter, the State Treasurer shall place the equivalent of three million eight hundred twenty thousand dollars of such tax in the Nebraska Public Safety Communication System Cash Fund. If necessary, the State Treasurer shall reduce the distribution of tax proceeds to the General Fund pursuant to subsection (2) of this section by such amount required to fulfill the distribution pursuant to this subdivision; and

(e) Beginning July 1, 2016, and every fiscal year thereafter, the State Treasurer shall place the equivalent of one million two hundred fifty thousand

dollars of such tax in the Nebraska Health Care Cash Fund. If necessary, the State Treasurer shall reduce the distribution of tax proceeds to the General Fund pursuant to subsection (2) of this section by such amount required to fulfill the distribution pursuant to this subdivision.

(4) If, after distributing the proceeds of such tax pursuant to subsections (2) and (3) of this section, any proceeds of such tax remain, the State Treasurer shall place such remainder in the Nebraska Capital Construction Fund.

(5) The Legislature hereby finds and determines that the projects funded from the Building Renewal Allocation Fund are of critical importance to the State of Nebraska. It is the intent of the Legislature that the allocations and appropriations made by the Legislature to such fund not be reduced until all contracts and securities relating to the construction and financing of the projects or portions of the projects funded from such fund are completed or paid, and that until such time any reductions in the cigarette tax rate made by the Legislature shall be simultaneously accompanied by equivalent reductions in the amount dedicated to the General Fund from cigarette tax revenue. Any provision made by the Legislature for distribution of the proceeds of the cigarette tax for projects or programs other than those to (a) the General Fund, (b) the Nebraska Outdoor Recreation Development Cash Fund, (c) the Health and Human Services Cash Fund, (d) the Building Renewal Allocation Fund, (e) the Nebraska Public Safety Communication System Cash Fund, and (f) the Nebraska Health Care Cash Fund shall not be made a higher priority than or an equal priority to any of the programs or projects specified in subdivisions (a) through (f) of this subsection.

Source: Laws 1947, c. 267, § 2, p. 861; Laws 1957, c. 341, § 1, p. 1179; Laws 1963, c. 457, § 1, p. 1483; Laws 1965, c. 501, § 2, p. 1595; Laws 1965, c. 500, § 1, p. 1590; Laws 1969, c. 645, § 10, p. 2562; Laws 1971, LB 87, § 1; Laws 1972, LB 1433, § 1; Laws 1973, LB 447, § 5; Laws 1974, LB 945, § 9; Laws 1975, Spec. Sess., LB 6, § 67; Laws 1976, LB 1004, § 24; Laws 1976, LB 1006, § 6; Laws 1978, LB 109, § 3; Laws 1981, LB 506, § 5; Laws 1982, LB 753, § 1; Laws 1983, LB 192, § 1; Laws 1983, LB 410, § 1; Laws 1983, LB 469, § 4; Laws 1984, LB 862, § 1; Laws 1985, LB 728, § 1; Laws 1985, LB 653A, § 1; Laws 1985, Second Spec. Sess., LB 3, § 1; Laws 1986, LB 258, § 16; Laws 1986, LB 842, § 1; Laws 1987, LB 730, § 27; Laws 1987, LB 218, § 1; Laws 1989, LB 683, § 1; Laws 1990, LB 1220, § 1; Laws 1991, LB 703, § 65; Laws 1992, Third Spec. Sess., LB 9, § 1; Laws 1992, Third Spec. Sess., LB 11, § 1; Laws 1993, LB 22, § 1; Laws 1993, LB 595, § 2; Laws 1994, LB 961, § 8; Laws 1996, LB 1044, § 795; Laws 1996, LB 1190, § 15; Laws 1998, LB 1107, § 2; Laws 1999, LB 683, § 1; Laws 2000, LB 1349, § 1; Laws 2001, LB 657, § 5; Laws 2002, LB 1085, § 1; Laws 2003, LB 440, § 2; Laws 2003, LB 759, § 3; Laws 2005, LB 426, § 15; Laws 2007, LB296, § 703; Laws 2007, LB322, § 20; Laws 2011, LB590, § 20; Laws 2015, LB661, § 33; Laws 2019, LB193, § 242; Laws 2021, LB509, § 11.

Effective date August 28, 2021.

Cross References

Deferred Building Renewal Act, see section 81-190.

ARTICLE 27

SALES AND INCOME TAX

(a) ACT, RATES, AND DEFINITIONS

Section

- 77-2701. Act, how cited.
 77-2701.04. Definitions, where found.
 77-2701.16. Gross receipts, defined.
 77-2701.41. Taxpayer, defined.

(b) SALES AND USE TAX

- 77-2704.12. Nonprofit religious, service, educational, or medical organization; exemption; purchasing agents.
 77-2704.20. Purchases by licensees of the State Racing and Gaming Commission; exemption.
 77-2704.36. Agricultural machinery and equipment; exemption.
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 77-2713. Sales and use tax; failure to collect; false return; violations; penalty; statute of limitations.

(c) INCOME TAX

- 77-2715.07. Income tax credits.
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(d) GENERAL PROVISIONS

- 77-27,132. Revenue Distribution Fund; created; use; collections under act; disposition.

(e) GOVERNMENTAL SUBDIVISION AID

- 77-27,139.04. Aid to municipalities; funds; how distributed.

(g) LOCAL OPTION REVENUE ACT

- 77-27,144. Municipalities; sales and use tax; Tax Commissioner; collection; distribution; refunds; notice; deductions; qualifying business; duty to provide information.

(q) COUNTY LICENSE OR OCCUPATION TAX ON ADMISSIONS

- 77-27,223. County; license or occupation tax; authorized; election.

(a) ACT, RATES, AND DEFINITIONS

77-2701 Act, how cited.

Sections 77-2701 to 77-27,135.01, 77-27,222, 77-27,235, 77-27,236, 77-27,238, and 77-27,239 shall be known and may be cited as the Nebraska Revenue Act of 1967.

Source: Laws 1967, c. 487, § 1, p. 1533; Laws 1984, LB 1124, § 2; Laws 1985, LB 715, § 1; Laws 1985, LB 273, § 40; Laws 1987, LB 773, § 1; Laws 1987, LB 772, § 1; Laws 1987, LB 775, § 14; Laws

1987, LB 523, § 12; Laws 1989, LB 714, § 1; Laws 1989, LB 762, § 9; Laws 1991, LB 444, § 1; Laws 1991, LB 773, § 6; Laws 1991, LB 829, § 19; Laws 1992, LB 871, § 3; Laws 1992, LB 1063, § 180; Laws 1992, Second Spec. Sess., LB 1, § 153; Laws 1992, Fourth Spec. Sess., LB 1, § 22; Laws 1993, LB 138, § 69; Laws 1993, LB 240, § 1; Laws 1993, LB 345, § 14; Laws 1993, LB 587, § 20; Laws 1993, LB 815, § 22; Laws 1994, LB 901, § 1; Laws 1994, LB 938, § 1; Laws 1995, LB 430, § 2; Laws 1996, LB 106, § 2; Laws 1997, LB 182A, § 1; Laws 1998, LB 924, § 27; Laws 2001, LB 172, § 10; Laws 2001, LB 433, § 2; Laws 2002, LB 57, § 2; Laws 2002, LB 947, § 3; Laws 2003, LB 72, § 1; Laws 2003, LB 168, § 1; Laws 2003, LB 282, § 6; Laws 2003, LB 759, § 4; Laws 2004, LB 1017, § 2; Laws 2005, LB 28, § 1; Laws 2005, LB 312, § 6; Laws 2006, LB 872, § 1; Laws 2006, LB 968, § 3; Laws 2006, LB 1189, § 1; Laws 2007, LB223, § 3; Laws 2007, LB343, § 1; Laws 2007, LB367, § 9; Laws 2008, LB916, § 5; Laws 2009, LB9, § 2; Laws 2012, LB727, § 34; Laws 2012, LB830, § 1; Laws 2012, LB970, § 1; Laws 2012, LB1080, § 2; Laws 2014, LB96, § 1; Laws 2014, LB867, § 8; Laws 2015, LB3, § 1; Laws 2015, LB419, § 1; Laws 2016, LB774, § 2; Laws 2017, LB217, § 14; Laws 2019, LB57, § 2; Laws 2021, LB26, § 1; Laws 2021, LB595, § 2.

Operative date October 1, 2021.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB26, section 1, with LB595, section 2, to reflect all amendments.

77-2701.04 Definitions, where found.

For purposes of sections 77-2701.04 to 77-2713 and 77-27,239, unless the context otherwise requires, the definitions found in sections 77-2701.05 to 77-2701.55 shall be used.

Source: Laws 1992, LB 871, § 4; Laws 1992, Fourth Spec. Sess., LB 1, § 23; Laws 1993, LB 345, § 15; Laws 1998, LB 924, § 28; R.S.Supp.,2002, § 77-2702.03; Laws 2003, LB 282, § 8; Laws 2003, LB 759, § 6; Laws 2004, LB 1017, § 3; Laws 2005, LB 312, § 7; Laws 2006, LB 968, § 4; Laws 2006, LB 1189, § 2; Laws 2007, LB223, § 4; Laws 2007, LB367, § 10; Laws 2008, LB916, § 6; Laws 2009, LB9, § 3; Laws 2012, LB727, § 35; Laws 2012, LB830, § 2; Laws 2012, LB1080, § 3; Laws 2014, LB96, § 2; Laws 2014, LB867, § 9; Laws 2015, LB419, § 2; Laws 2019, LB57, § 3; Laws 2021, LB26, § 2; Laws 2021, LB595, § 3.

Operative date October 1, 2021.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB26, section 2, with LB595, section 3, to reflect all amendments.

77-2701.16 Gross receipts, defined.

(1) Gross receipts means the total amount of the sale or lease or rental price, as the case may be, of the retail sales of retailers.

(2) Gross receipts of every person engaged as a public utility specified in this subsection, as a community antenna television service operator, or as a satellite service operator or any person involved in connecting and installing services defined in subdivision (2)(a), (b), or (d) of this section means:

(a)(i) In the furnishing of telephone communication service, other than mobile telecommunications service as described in section 77-2703.04, the gross income received from furnishing ancillary services, except for conference bridging services, and intrastate telecommunications services, except for value-added, nonvoice data service.

(ii) In the furnishing of mobile telecommunications service as described in section 77-2703.04, the gross income received from furnishing mobile telecommunications service that originates and terminates in the same state to a customer with a place of primary use in Nebraska;

(b) In the furnishing of telegraph service, the gross income received from the furnishing of intrastate telegraph services;

(c)(i) In the furnishing of gas, sewer, water, and electricity service, other than electricity service to a customer-generator as defined in section 70-2002, the gross income received from the furnishing of such services upon billings or statements rendered to consumers for such utility services.

(ii) In the furnishing of electricity service to a customer-generator as defined in section 70-2002, the net energy use upon billings or statements rendered to customer-generators for such electricity service;

(d) In the furnishing of community antenna television service or satellite service, the gross income received from the furnishing of such community antenna television service as regulated under sections 18-2201 to 18-2205 or 23-383 to 23-388 or satellite service; and

(e) The gross income received from the provision, installation, construction, servicing, or removal of property used in conjunction with the furnishing, installing, or connecting of any public utility services specified in subdivision (2)(a) or (b) of this section or community antenna television service or satellite service specified in subdivision (2)(d) of this section, except when acting as a subcontractor for a public utility, this subdivision does not apply to the gross income received by a contractor electing to be treated as a consumer of building materials under subdivision (2) or (3) of section 77-2701.10 for any such services performed on the customer's side of the utility demarcation point. This subdivision also does not apply to:

(i) The gross income received by a political subdivision of the state, an electric cooperative, or an electric membership association for the lease or use of, or by a contractor for the construction of or services provided on, electric generation, transmission, distribution, or street lighting structures or facilities owned by a political subdivision of the state, an electric cooperative, or an electric membership association; or

(ii) The gross income received for the lease or use of towers or other structures primarily used in conjunction with the furnishing of (A) Internet access services, (B) agricultural global positioning system locating services, or (C) over-the-air radio and television broadcasting licensed by the Federal Communications Commission, including antennas and studio transmitter link systems. For purposes of this subdivision, studio transmitter link system means a system which serves as a conduit to deliver audio from its origin in a studio to a broadcast transmitter.

(3) Gross receipts of every person engaged in selling, leasing, or otherwise providing intellectual or entertainment property means:

(a) In the furnishing of computer software, the gross income received, including the charges for coding, punching, or otherwise producing any computer software and the charges for the tapes, disks, punched cards, or other properties furnished by the seller; and

(b) In the furnishing of videotapes, movie film, satellite programming, satellite programming service, and satellite television signal descrambling or decoding devices, the gross income received from the license, franchise, or other method establishing the charge.

(4) Gross receipts for providing a service means:

(a) The gross income received for building cleaning and maintenance, pest control, and security;

(b) The gross income received for motor vehicle washing, waxing, towing, and painting;

(c) The gross income received for computer software training;

(d) The gross income received for installing and applying tangible personal property if the sale of the property is subject to tax. If any or all of the charge for installation is free to the customer and is paid by a third-party service provider to the installer, any tax due on that part of the activation commission, finder's fee, installation charge, or similar payment made by the third-party service provider shall be paid and remitted by the third-party service provider;

(e) The gross income received for services of recreational vehicle parks;

(f) The gross income received for labor for repair or maintenance services performed with regard to tangible personal property the sale of which would be subject to sales and use taxes, excluding motor vehicles, except as otherwise provided in section 77-2704.26 or 77-2704.50;

(g) The gross income received for animal specialty services except (i) veterinary services, (ii) specialty services performed on livestock as defined in section 54-183, and (iii) animal grooming performed by a licensed veterinarian or a licensed veterinary technician in conjunction with medical treatment; and

(h) The gross income received for detective services.

(5) Gross receipts includes the sale of admissions. When an admission to an activity or a membership constituting an admission is combined with the solicitation of a contribution, the portion or the amount charged representing the fair market price of the admission shall be considered a retail sale subject to the tax imposed by section 77-2703. The organization conducting the activity shall determine the amount properly attributable to the purchase of the privilege, benefit, or other consideration in advance, and such amount shall be clearly indicated on any ticket, receipt, or other evidence issued in connection with the payment.

(6) Gross receipts includes the sale of live plants incorporated into real estate except when such incorporation is incidental to the transfer of an improvement upon real estate or the real estate.

(7) Gross receipts includes the sale of any building materials annexed to real estate by a person electing to be taxed as a retailer pursuant to subdivision (1) of section 77-2701.10.

(8) Gross receipts includes the sale of and recharge of prepaid calling service and prepaid wireless calling service.

(9) Gross receipts includes the retail sale of digital audio works, digital audiovisual works, digital codes, and digital books delivered electronically if the products are taxable when delivered on tangible storage media. A sale includes the transfer of a permanent right of use, the transfer of a right of use that terminates on some condition, and the transfer of a right of use conditioned upon the receipt of continued payments.

(10) Gross receipts includes any receipts from sales of tangible personal property made over a multivendor marketplace platform that acts as the intermediary by facilitating sales between a seller and the purchaser and that, either directly or indirectly through agreements or arrangements with third parties, collects payment from the purchaser and transmits payment to the seller.

(11) Gross receipts does not include:

(a) The amount of any rebate granted by a motor vehicle or motorboat manufacturer or dealer at the time of sale of the motor vehicle or motorboat, which rebate functions as a discount from the sales price of the motor vehicle or motorboat; or

(b) The price of property or services returned or rejected by customers when the full sales price is refunded either in cash or credit.

Source: Laws 1992, LB 871, § 8; Laws 1993, LB 345, § 18; Laws 1994, LB 123, § 21; Laws 1994, LB 901, § 2; Laws 1994, LB 977, § 1; Laws 1994, LB 1087, § 1; Laws 1996, LB 106, § 3; Laws 1999, LB 214, § 1; Laws 2002, LB 947, § 4; Laws 2002, LB 1085, § 3; R.S.Supp.,2002, § 77-2702.07; Laws 2003, LB 282, § 20; Laws 2003, LB 759, § 8; Laws 2004, LB 1017, § 7; Laws 2005, LB 216, § 4; Laws 2005, LB 753, § 1; Laws 2007, LB367, § 13; Laws 2008, LB916, § 7; Laws 2009, LB165, § 5; Laws 2009, LB 587, § 1; Laws 2012, LB727, § 38; Laws 2013, LB90, § 1; Laws 2019, LB218, § 3; Laws 2019, LB284, § 2; Laws 2020, LB923, § 1; Laws 2021, LB595, § 4.

Operative date October 1, 2021.

77-2701.41 Taxpayer, defined.

Taxpayer means any person subject to a tax imposed by sections 77-2701 to 77-2713.

Source: Laws 1992, LB 871, § 23; R.S.1943, (1996), § 77-2702.22; Laws 2003, LB 282, § 45; Laws 2021, LB26, § 3; Laws 2021, LB595, § 5.

Operative date October 1, 2021.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB26, section 3, with LB595, section 5, to reflect all amendments.

(b) SALES AND USE TAX

77-2704.12 Nonprofit religious, service, educational, or medical organization; exemption; purchasing agents.

(1) Sales and use taxes shall not be imposed on the gross receipts from the sale, lease, or rental of and the storage, use, or other consumption in this state of purchases by (a) any nonprofit organization created exclusively for religious purposes, (b) any nonprofit organization providing services exclusively to the

blind, (c) any nonprofit private educational institution established under sections 79-1601 to 79-1607, (d) any accredited, nonprofit, privately controlled college or university with its primary campus physically located in Nebraska, (e) any nonprofit (i) hospital, (ii) health clinic when one or more hospitals or the parent corporations of the hospitals own or control the health clinic for the purpose of reducing the cost of health services or when the health clinic receives federal funds through the United States Public Health Service for the purpose of serving populations that are medically underserved, (iii) skilled nursing facility, (iv) intermediate care facility, (v) assisted-living facility, (vi) intermediate care facility for persons with developmental disabilities, (vii) nursing facility, (viii) home health agency, (ix) hospice or hospice service, (x) respite care service, (xi) mental health substance use treatment center licensed under the Health Care Facility Licensure Act, or (xii) center for independent living as defined in 29 U.S.C. 796a, (f) any nonprofit licensed residential child-caring agency, (g) any nonprofit licensed child-placing agency, or (h) any nonprofit organization certified by the Department of Health and Human Services to provide community-based services for persons with developmental disabilities.

(2) Any organization listed in subsection (1) of this section shall apply for an exemption on forms provided by the Tax Commissioner. The application shall be approved and a numbered certificate of exemption received by the applicant organization in order to be exempt from the sales and use tax.

(3) The appointment of purchasing agents shall be recognized for the purpose of altering the status of the construction contractor as the ultimate consumer of building materials which are physically annexed to the structure and which subsequently belong to the owner of the organization or institution. The appointment of purchasing agents shall be in writing and occur prior to having any building materials annexed to real estate in the construction, improvement, or repair. The contractor who has been appointed as a purchasing agent may apply for a refund of or use as a credit against a future use tax liability the tax paid on inventory items annexed to real estate in the construction, improvement, or repair of a project for a licensed not-for-profit institution.

(4) Any organization listed in subsection (1) of this section which enters into a contract of construction, improvement, or repair upon property annexed to real estate without first issuing a purchasing agent authorization to a contractor or repairperson prior to the building materials being annexed to real estate in the project may apply to the Tax Commissioner for a refund of any sales and use tax paid by the contractor or repairperson on the building materials physically annexed to real estate in the construction, improvement, or repair.

(5) Any person purchasing, storing, using, or otherwise consuming building materials in the performance of any construction, improvement, or repair by or for any institution enumerated in subsection (1) of this section which is licensed upon completion although not licensed at the time of construction or improvement, which building materials are annexed to real estate and which subsequently belong to the owner of the institution, shall pay any applicable sales or use tax thereon. Upon becoming licensed and receiving a numbered certificate of exemption, the institution organized not for profit shall be entitled to a refund of the amount of taxes so paid in the performance of such construction, improvement, or repair and shall submit whatever evidence is required by the Tax Commissioner sufficient to establish the total sales and use tax paid upon

the building materials physically annexed to real estate in the construction, improvement, or repair.

Source: Laws 1992, LB 871, § 36; Laws 1993, LB 345, § 42; Laws 1994, LB 977, § 3; Laws 1996, LB 900, § 1063; Laws 2000, LB 819, § 151; Laws 2002, LB 989, § 18; Laws 2004, LB 841, § 1; Laws 2004, LB 1017, § 13; Laws 2005, LB 216, § 6; Laws 2006, LB 1189, § 5; Laws 2008, LB575, § 1; Laws 2011, LB637, § 24; Laws 2012, LB40, § 1; Laws 2012, LB1097, § 1; Laws 2013, LB23, § 43; Laws 2013, LB265, § 46; Laws 2016, LB774, § 3; Laws 2018, LB1034, § 71; Laws 2021, LB528, § 19.
Operative date August 28, 2021.

Cross References

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

77-2704.20 Purchases by licensees of the State Racing and Gaming Commission; 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 purchases made by licensees of the State Racing and Gaming Commission.

Source: Laws 1992, LB 871, § 50; Initiative Law 2020, No. 430, § 11; Laws 2021, LB561, § 48.
Effective date May 26, 2021.

77-2704.36 Agricultural machinery and equipment; exemption.

(1) Sales and use tax shall not be imposed on the gross receipts from the sale, lease, or rental of depreciable agricultural machinery and equipment purchased, leased, or rented on or after January 1, 1993, for use in commercial agriculture.

(2) For purposes of this section:

(a) Agricultural machinery and equipment means tangible personal property that is used directly in (i) cultivating or harvesting a crop, (ii) raising or caring for animal life, (iii) protecting the health and welfare of animal life, including fans, curtains, and climate control equipment within livestock buildings, or (iv) collecting or processing an agricultural product on a farm or ranch, regardless of the degree of attachment to any real property; and

(b) Agricultural machinery and equipment includes, but is not limited to, header trailers, head haulers, header transports, and seed tender trailers and excludes any current tractor model as defined in section 2-2701.01 not permitted for sale in Nebraska pursuant to sections 2-2701 to 2-2711.

Source: Laws 1992, Fourth Spec. Sess., LB 1, § 24; Laws 2004, LB 1017, § 17; Laws 2012, LB907, § 6; Laws 2021, LB595, § 6.
Operative date October 1, 2021.

77-2704.68 Residential water service; 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 residential water service.

Source: Laws 2021, LB26, § 4.
Operative date October 1, 2021.

77-2704.69 Catalysts, chemicals, and materials used in the process of manufacturing ethyl alcohol; 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 all catalysts, chemicals, and materials used in the process of manufacturing ethyl alcohol and the production of coproducts.

Source: Laws 2021, LB595, § 7.

Operative date October 1, 2021.

77-2711 Sales and use tax; Tax Commissioner; enforcement; records; retain; reports; wrongful disclosures; exceptions; information provided to municipality; penalty; waiver; streamlined sales and use tax agreement; confidentiality rights.

(1)(a) The Tax Commissioner shall enforce sections 77-2701.04 to 77-2713 and may prescribe, adopt, and enforce rules and regulations relating to the administration and enforcement of such sections.

(b) The Tax Commissioner may prescribe the extent to which any ruling or regulation shall be applied without retroactive effect.

(2) The Tax Commissioner may employ accountants, auditors, investigators, assistants, and clerks necessary for the efficient administration of the Nebraska Revenue Act of 1967 and may delegate authority to his or her representatives to conduct hearings, prescribe regulations, or perform any other duties imposed by such act.

(3)(a) Every seller, every retailer, and every person storing, using, or otherwise consuming in this state property purchased from a retailer shall keep such records, receipts, invoices, and other pertinent papers in such form as the Tax Commissioner may reasonably require.

(b) Every such seller, retailer, or person shall keep such records for not less than three years from the making of such records unless the Tax Commissioner in writing sooner authorized their destruction.

(4) The Tax Commissioner or any person authorized in writing by him or her may examine the books, papers, records, and equipment of any person selling property and any person liable for the use tax and may investigate the character of the business of the person in order to verify the accuracy of any return made or, if no return is made by the person, to ascertain and determine the amount required to be paid. In the examination of any person selling property or of any person liable for the use tax, an inquiry shall be made as to the accuracy of the reporting of city and county sales and use taxes for which the person is liable under the Local Option Revenue Act or sections 13-319, 13-324, 13-2813, and 77-6403 and the accuracy of the allocation made between the various counties, cities, villages, and municipal counties of the tax due. The Tax Commissioner may make or cause to be made copies of resale or exemption certificates and may pay a reasonable amount to the person having custody of the records for providing such copies.

(5) The taxpayer shall have the right to keep or store his or her records at a point outside this state and shall make his or her records available to the Tax Commissioner at all times.

(6) In administration of the use tax, the Tax Commissioner may require the filing of reports by any person or class of persons having in his, her, or their

possession or custody information relating to sales of property, the storage, use, or other consumption of which is subject to the tax. The report shall be filed when the Tax Commissioner requires and shall set forth the names and addresses of purchasers of the property, the sales price of the property, the date of sale, and such other information as the Tax Commissioner may require.

(7) It shall be a Class I misdemeanor for the Tax Commissioner or any official or employee of the Tax Commissioner, the State Treasurer, or the Department of Administrative Services to make known in any manner whatever the business affairs, operations, or information obtained by an investigation of records and activities of any retailer or any other person visited or examined in the discharge of official duty or the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed in any return, or to permit any return or copy thereof, or any book containing any abstract or particulars thereof to be seen or examined by any person not connected with the Tax Commissioner. Nothing in this section shall be construed to prohibit (a) the delivery to a taxpayer, his or her duly authorized representative, or his or her successors, receivers, trustees, executors, administrators, assignees, or guarantors, if directly interested, of a certified copy of any return or report in connection with his or her tax, (b) the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof, (c) the inspection by the Attorney General, other legal representative of the state, or county attorney of the reports or returns of any taxpayer when either (i) information on the reports or returns is considered by the Attorney General to be relevant to any action or proceeding instituted by the taxpayer or against whom an action or proceeding is being considered or has been commenced by any state agency or the county or (ii) the taxpayer has instituted an action to review the tax based thereon or an action or proceeding against the taxpayer for collection of tax or failure to comply with the Nebraska Revenue Act of 1967 is being considered or has been commenced, (d) the furnishing of any information to the United States Government or to states allowing similar privileges to the Tax Commissioner, (e) the disclosure of information and records to a collection agency contracting with the Tax Commissioner pursuant to sections 77-377.01 to 77-377.04, (f) the disclosure to another party to a transaction of information and records concerning the transaction between the taxpayer and the other party, (g) the disclosure of information pursuant to section 77-27,195, 77-5731, 77-6837, 77-6839, or 77-6928, or (h) the disclosure of information to the Department of Labor necessary for the administration of the Employment Security Law, the Contractor Registration Act, or the Employee Classification Act.

(8) Notwithstanding the provisions of subsection (7) of this section, the Tax Commissioner may permit the Postal Inspector of the United States Postal Service or his or her delegates to inspect the reports or returns of any person filed pursuant to the Nebraska Revenue Act of 1967 when information on the reports or returns is relevant to any action or proceeding instituted or being considered by the United States Postal Service against such person for the fraudulent use of the mails to carry and deliver false and fraudulent tax returns to the Tax Commissioner with the intent to defraud the State of Nebraska or to evade the payment of Nebraska state taxes.

(9) Notwithstanding the provisions of subsection (7) of this section, the Tax Commissioner may permit other tax officials of this state to inspect the tax returns, reports, and applications filed under sections 77-2701.04 to 77-2713,

but such inspection shall be permitted only for purposes of enforcing a tax law and only to the extent and under the conditions prescribed by the rules and regulations of the Tax Commissioner.

(10) Notwithstanding the provisions of subsection (7) of this section, the Tax Commissioner may, upon request, provide the county board of any county which has exercised the authority granted by section 81-3716 with a list of the names and addresses of the hotels located within the county for which lodging sales tax returns have been filed or for which lodging sales taxes have been remitted for the county's County Visitors Promotion Fund under the Nebraska Visitors Development Act.

The information provided by the Tax Commissioner shall indicate only the names and addresses of the hotels located within the requesting county for which lodging sales tax returns have been filed for a specified period and the fact that lodging sales taxes remitted by or on behalf of the hotel have constituted a portion of the total sum remitted by the state to the county for a specified period under the provisions of the Nebraska Visitors Development Act. No additional information shall be revealed.

(11)(a) Notwithstanding the provisions of subsection (7) of this section, the Tax Commissioner shall, upon written request by the Auditor of Public Accounts or the office of Legislative Audit, make tax returns and tax return information open to inspection by or disclosure to the Auditor of Public Accounts or employees of the office of Legislative Audit for the purpose of and to the extent necessary in making an audit of the Department of Revenue pursuant to section 50-1205 or 84-304. Confidential tax returns and tax return information shall be audited only upon the premises of the Department of Revenue. All audit workpapers pertaining to the audit of the Department of Revenue shall be stored in a secure place in the Department of Revenue.

(b) No employee of the Auditor of Public Accounts or the office of Legislative Audit shall disclose to any person, other than another Auditor of Public Accounts or office employee whose official duties require such disclosure, any return or return information described in the Nebraska Revenue Act of 1967 in a form which can be associated with or otherwise identify, directly or indirectly, a particular taxpayer.

(c) Any person who violates the provisions of this subsection shall be guilty of a Class I misdemeanor. For purposes of this subsection, employee includes a former Auditor of Public Accounts or office of Legislative Audit employee.

(12) For purposes of this subsection and subsections (11) and (14) of this section:

(a) Disclosure means the making known to any person in any manner a tax return or return information;

(b) Return information means:

(i) A taxpayer's identification number and (A) the nature, source, or amount of his or her income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax withheld, deficiencies, overassessments, or tax payments, whether the taxpayer's return was, is being, or will be examined or subject to other investigation or processing or (B) any other data received by, recorded by, prepared by, furnished to, or collected by the Tax Commissioner with respect to a return or the determination of the existence or

possible existence of liability or the amount of liability of any person for any tax, penalty, interest, fine, forfeiture, or other imposition or offense; and

(ii) Any part of any written determination or any background file document relating to such written determination; and

(c) Tax return or return means any tax or information return or claim for refund required by, provided for, or permitted under sections 77-2701 to 77-2713 which is filed with the Tax Commissioner by, on behalf of, or with respect to any person and any amendment or supplement thereto, including supporting schedules, attachments, or lists which are supplemental to or part of the filed return.

(13) Notwithstanding the provisions of subsection (7) of this section, the Tax Commissioner shall, upon request, provide any municipality which has adopted the local option sales tax under the Local Option Revenue Act with a list of the names and addresses of the retailers which have collected the local option sales tax for the municipality. The request may be made annually and shall be submitted to the Tax Commissioner on or before June 30 of each year. The information provided by the Tax Commissioner shall indicate only the names and addresses of the retailers. The Tax Commissioner may provide additional information to a municipality so long as the information does not include any data detailing the specific revenue, expenses, or operations of any particular business.

(14)(a) Notwithstanding the provisions of subsection (7) of this section, the Tax Commissioner shall, upon written request, provide an individual certified under subdivision (b) of this subsection representing a municipality which has adopted the local option sales and use tax under the Local Option Revenue Act with confidential sales and use tax returns and sales and use tax return information regarding taxpayers that possess a sales tax permit and the amounts remitted by such permit holders at locations within the boundaries of the requesting municipality or with confidential business use tax returns and business use tax return information regarding taxpayers that file a Nebraska and Local Business Use Tax Return and the amounts remitted by such taxpayers at locations within the boundaries of the requesting municipality. Any written request pursuant to this subsection shall provide the Department of Revenue with no less than ten business days to prepare the sales and use tax returns and sales and use tax return information requested. The individual certified under subdivision (b) of this subsection shall review such returns and return information only upon the premises of the department, except that such limitation shall not apply if the certifying municipality has an agreement in effect under the Nebraska Advantage Transformational Tourism and Redevelopment Act. In such case, the individual certified under subdivision (b) of this subsection may request that copies of such returns and return information be sent to him or her by electronic transmission, secured in a manner as determined by the Tax Commissioner.

(b) Each municipality that seeks to request information under subdivision (a) of this subsection shall certify to the Department of Revenue one individual who is authorized by such municipality to make such request and review the documents described in subdivision (a) of this subsection. The individual may be a municipal employee or an individual who contracts with the requesting municipality to provide financial, accounting, or other administrative services.

(c) No individual certified by a municipality pursuant to subdivision (b) of this subsection shall disclose to any person any information obtained pursuant to a review under this subsection. An individual certified by a municipality pursuant to subdivision (b) of this subsection shall remain subject to this subsection after he or she (i) is no longer certified or (ii) is no longer in the employment of or under contract with the certifying municipality.

(d) Any person who violates the provisions of this subsection shall be guilty of a Class I misdemeanor.

(e) The Department of Revenue shall not be held liable by any person for an impermissible disclosure by a municipality or any agent or employee thereof of any information obtained pursuant to a review under this subsection.

(15) In all proceedings under the Nebraska Revenue Act of 1967, the Tax Commissioner may act for and on behalf of the people of the State of Nebraska. The Tax Commissioner in his or her discretion may waive all or part of any penalties provided by the provisions of such act or interest on delinquent taxes specified in section 45-104.02, as such rate may from time to time be adjusted.

(16)(a) The purpose of this subsection is to set forth the state's policy for the protection of the confidentiality rights of all participants in the system operated pursuant to the streamlined sales and use tax agreement and of the privacy interests of consumers who deal with model 1 sellers.

(b) For purposes of this subsection:

(i) Anonymous data means information that does not identify a person;

(ii) Confidential taxpayer information means all information that is protected under a member state's laws, regulations, and privileges; and

(iii) Personally identifiable information means information that identifies a person.

(c) The state agrees that a fundamental precept for model 1 sellers is to preserve the privacy of consumers by protecting their anonymity. With very limited exceptions, a certified service provider shall perform its tax calculation, remittance, and reporting functions without retaining the personally identifiable information of consumers.

(d) The governing board of the member states in the streamlined sales and use tax agreement may certify a certified service provider only if that certified service provider certifies that:

(i) Its system has been designed and tested to ensure that the fundamental precept of anonymity is respected;

(ii) Personally identifiable information is only used and retained to the extent necessary for the administration of model 1 with respect to exempt purchasers;

(iii) It provides consumers clear and conspicuous notice of its information practices, including what information it collects, how it collects the information, how it uses the information, how long, if at all, it retains the information, and whether it discloses the information to member states. Such notice shall be satisfied by a written privacy policy statement accessible by the public on the website of the certified service provider;

(iv) Its collection, use, and retention of personally identifiable information is limited to that required by the member states to ensure the validity of exemptions from taxation that are claimed by reason of a consumer's status or the intended use of the goods or services purchased; and

(v) It provides adequate technical, physical, and administrative safeguards so as to protect personally identifiable information from unauthorized access and disclosure.

(e) The state shall provide public notification to consumers, including exempt purchasers, of the state's practices relating to the collection, use, and retention of personally identifiable information.

(f) When any personally identifiable information that has been collected and retained is no longer required for the purposes set forth in subdivision (16)(d)(iv) of this section, such information shall no longer be retained by the member states.

(g) When personally identifiable information regarding an individual is retained by or on behalf of the state, it shall provide reasonable access by such individual to his or her own information in the state's possession and a right to correct any inaccurately recorded information.

(h) If anyone other than a member state, or a person authorized by that state's law or the agreement, seeks to discover personally identifiable information, the state from whom the information is sought should make a reasonable and timely effort to notify the individual of such request.

(i) This privacy policy is subject to enforcement by the Attorney General.

(j) All other laws and regulations regarding the collection, use, and maintenance of confidential taxpayer information remain fully applicable and binding. Without limitation, this subsection does not enlarge or limit the state's authority to:

(i) Conduct audits or other reviews as provided under the agreement and state law;

(ii) Provide records pursuant to the federal Freedom of Information Act, disclosure laws with governmental agencies, or other regulations;

(iii) Prevent, consistent with state law, disclosure of confidential taxpayer information;

(iv) Prevent, consistent with federal law, disclosure or misuse of federal return information obtained under a disclosure agreement with the Internal Revenue Service; and

(v) Collect, disclose, disseminate, or otherwise use anonymous data for governmental purposes.

Source: Laws 1967, c. 487, § 11, p. 1566; Laws 1969, c. 683, § 7, p. 2641; Laws 1977, LB 39, § 239; Laws 1981, LB 170, § 6; Laws 1982, LB 705, § 2; Laws 1984, LB 962, § 12; Laws 1985, LB 344, § 4; Laws 1987, LB 523, § 17; Laws 1991, LB 773, § 10; Laws 1992, LB 871, § 61; Laws 1992, Fourth Spec. Sess., LB 1, § 31; Laws 1993, LB 345, § 60; Laws 1994, LB 1175, § 1; Laws 1995, LB 134, § 3; Laws 1996, LB 1177, § 18; Laws 2001, LB 142, § 56; Laws 2003, LB 282, § 73; Laws 2005, LB 216, § 9; Laws 2005, LB 312, § 11; Laws 2006, LB 588, § 8; Laws 2007, LB94, § 1; Laws 2007, LB223, § 9; Laws 2008, LB914, § 8; Laws 2009, LB165, § 10; Laws 2010, LB563, § 14; Laws 2010, LB879, § 9; Laws 2012, LB209, § 1; Laws 2012, LB1053, § 25; Laws 2013, LB39, § 12; Laws 2014, LB867, § 15; Laws 2015, LB539, § 6;

Laws 2016, LB1022, § 4; Laws 2019, LB472, § 14; Laws 2020, LB236, § 1; Laws 2020, LB1107, § 129; Laws 2021, LB26, § 5; Laws 2021, LB544, § 31; Laws 2021, LB595, § 8.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB26, section 5, with LB544, section 31, and LB595, section 8, to reflect all amendments.

Note: Changes made by LB26 and LB595 became operative October 1, 2021. Changes made by LB544 became operative January 1, 2022.

Cross References

Contractor Registration Act, see section 48-2101.

Employee Classification Act, see section 48-2901.

Employment Security Law, see section 48-601.

Local Option Revenue Act, see section 77-27,148.

Nebraska Advantage Transformational Tourism and Redevelopment Act, see section 77-1001.

Nebraska Visitors Development Act, see section 81-3701.

77-2713 Sales and use tax; failure to collect; false return; violations; penalty; statute of limitations.

(1) Any person required under the provisions of sections 77-2701.04 to 77-2713 to collect, account for, or pay over any tax imposed by the Nebraska Revenue Act of 1967 who willfully fails to collect or truthfully account for or pay over such tax and any person who willfully attempts in any manner to evade any tax imposed by such provisions of such act or the payment thereof shall, in addition to other penalties provided by law, be guilty of a Class IV felony.

(2) Any person who willfully aids or assists in, procures, counsels, or advises the preparation or presentation of a false or fraudulent return, affidavit, claim, or document under or in connection with any matter arising under sections 77-2701.04 to 77-2713 shall, whether or not such falsity or fraud is with the knowledge or consent of the person authorized or required to present such return, affidavit, claim, or document, be guilty of a Class IV felony.

(3) A person who engages in business as a retailer in this state without a permit or permits or after a permit has been suspended and each officer of any corporation which so engages in business shall be guilty of a Class IV misdemeanor. Each day of such operation shall constitute a separate offense.

(4) Any person who gives a resale certificate to the seller for property which he or she knows, at the time of purchase, is purchased for the purpose of use rather than for the purpose of resale, lease, or rental by him or her in the regular course of business shall be guilty of a Class IV misdemeanor.

(5) Any violation of the provisions of sections 77-2701.04 to 77-2713, except as otherwise provided, shall be a Class IV misdemeanor.

(6) Any prosecution under sections 77-2701.04 to 77-2713 shall be instituted within three years after the commission of the offense. If such offense is the failure to do an act required by any of such sections to be done before a certain date, a prosecution for such offense may be commenced not later than three years after such date. The failure to do any act required by sections 77-2701.04 to 77-2713 shall be deemed an act committed in part at the principal office of the Tax Commissioner. Any prosecution under the provisions of the Nebraska Revenue Act of 1967 may be conducted in any county where the person or corporation to whose liability the proceeding relates resides or has a place of business or in any county in which such criminal act is committed. The Attorney General shall have concurrent jurisdiction with the county attorney in

the prosecution of any offenses under the provisions of the Nebraska Revenue Act of 1967.

Source: Laws 1967, c. 487, § 13, p. 1574; Laws 1977, LB 39, § 240; Laws 1989, LB 459, § 1; Laws 1992, LB 871, § 62; Laws 2003, LB 282, § 78; Laws 2021, LB26, § 6; Laws 2021, LB595, § 9.
Operative date October 1, 2021.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB26, section 6, with LB595, section 9, to reflect all amendments.

(c) INCOME TAX

77-2715.07 Income tax credits.

(1) There shall be allowed to qualified resident individuals as a nonrefundable credit against the income tax imposed by the Nebraska Revenue Act of 1967:

(a) A credit equal to the federal credit allowed under section 22 of the Internal Revenue Code; and

(b) A credit for taxes paid to another state as provided in section 77-2730.

(2) There shall be allowed to qualified resident individuals against the income tax imposed by the Nebraska Revenue Act of 1967:

(a) For returns filed reporting federal adjusted gross incomes of greater than twenty-nine thousand dollars, a nonrefundable credit equal to twenty-five percent of the federal credit allowed under section 21 of the Internal Revenue Code of 1986, as amended, except that for taxable years beginning or deemed to begin on or after January 1, 2015, such nonrefundable credit shall be allowed only if the individual would have received the federal credit allowed under section 21 of the code after adding back in any carryforward of a net operating loss that was deducted pursuant to such section in determining eligibility for the federal credit;

(b) For returns filed reporting federal adjusted gross income of twenty-nine thousand dollars or less, a refundable credit equal to a percentage of the federal credit allowable under section 21 of the Internal Revenue Code of 1986, as amended, whether or not the federal credit was limited by the federal tax liability. The percentage of the federal credit shall be one hundred percent for incomes not greater than twenty-two thousand dollars, and the percentage shall be reduced by ten percent for each one thousand dollars, or fraction thereof, by which the reported federal adjusted gross income exceeds twenty-two thousand dollars, except that for taxable years beginning or deemed to begin on or after January 1, 2015, such refundable credit shall be allowed only if the individual would have received the federal credit allowed under section 21 of the code after adding back in any carryforward of a net operating loss that was deducted pursuant to such section in determining eligibility for the federal credit;

(c) A refundable credit as provided in section 77-5209.01 for individuals who qualify for an income tax credit as a qualified beginning farmer or livestock producer under the Beginning Farmer Tax Credit Act for all taxable years beginning or deemed to begin on or after January 1, 2006, under the Internal Revenue Code of 1986, as amended;

(d) A refundable credit for individuals who qualify for an income tax credit under the Angel Investment Tax Credit Act, the Nebraska Advantage Microenterprise Tax Credit Act, the Nebraska Advantage Research and Development Act, or the Volunteer Emergency Responders Incentive Act; and

(e) A refundable credit equal to ten percent of the federal credit allowed under section 32 of the Internal Revenue Code of 1986, as amended, except that for taxable years beginning or deemed to begin on or after January 1, 2015, such refundable credit shall be allowed only if the individual would have received the federal credit allowed under section 32 of the code after adding back in any carryforward of a net operating loss that was deducted pursuant to such section in determining eligibility for the federal credit.

(3) There shall be allowed to all individuals as a nonrefundable credit against the income tax imposed by the Nebraska Revenue Act of 1967:

(a) A credit for personal exemptions allowed under section 77-2716.01;

(b) A credit for contributions to certified community betterment programs as provided in the Community Development Assistance Act. Each partner, each shareholder of an electing subchapter S corporation, each beneficiary of an estate or trust, or each member of a limited liability company shall report his or her share of the credit in the same manner and proportion as he or she reports the partnership, subchapter S corporation, estate, trust, or limited liability company income;

(c) A credit for investment in a biodiesel facility as provided in section 77-27,236;

(d) A credit as provided in the New Markets Job Growth Investment Act;

(e) A credit as provided in the Nebraska Job Creation and Mainstreet Revitalization Act;

(f) A credit to employers as provided in section 77-27,238; and

(g) A credit as provided in the Affordable Housing Tax Credit Act.

(4) There shall be allowed as a credit against the income tax imposed by the Nebraska Revenue Act of 1967:

(a) A credit to all resident estates and trusts for taxes paid to another state as provided in section 77-2730;

(b) A credit to all estates and trusts for contributions to certified community betterment programs as provided in the Community Development Assistance Act; and

(c) A refundable credit for individuals who qualify for an income tax credit as an owner of agricultural assets under the Beginning Farmer Tax Credit Act for all taxable years beginning or deemed to begin on or after January 1, 2009, under the Internal Revenue Code of 1986, as amended. The credit allowed for each partner, shareholder, member, or beneficiary of a partnership, corporation, limited liability company, or estate or trust qualifying for an income tax credit as an owner of agricultural assets under the Beginning Farmer Tax Credit Act shall be equal to the partner's, shareholder's, member's, or beneficiary's portion of the amount of tax credit distributed pursuant to subsection (6) of section 77-5211.

(5)(a) For all taxable years beginning on or after January 1, 2007, and before January 1, 2009, under the Internal Revenue Code of 1986, as amended, there shall be allowed to each partner, shareholder, member, or beneficiary of a partnership, subchapter S corporation, limited liability company, or estate or trust a nonrefundable credit against the income tax imposed by the Nebraska Revenue Act of 1967 equal to fifty percent of the partner's, shareholder's,

member's, or beneficiary's portion of the amount of franchise tax paid to the state under sections 77-3801 to 77-3807 by a financial institution.

(b) For all taxable years beginning on or after January 1, 2009, under the Internal Revenue Code of 1986, as amended, there shall be allowed to each partner, shareholder, member, or beneficiary of a partnership, subchapter S corporation, limited liability company, or estate or trust a nonrefundable credit against the income tax imposed by the Nebraska Revenue Act of 1967 equal to the partner's, shareholder's, member's, or beneficiary's portion of the amount of franchise tax paid to the state under sections 77-3801 to 77-3807 by a financial institution.

(c) Each partner, shareholder, member, or beneficiary shall report his or her share of the credit in the same manner and proportion as he or she reports the partnership, subchapter S corporation, limited liability company, or estate or trust income. If any partner, shareholder, member, or beneficiary cannot fully utilize the credit for that year, the credit may not be carried forward or back.

(6) There shall be allowed to all individuals nonrefundable credits against the income tax imposed by the Nebraska Revenue Act of 1967 as provided in section 77-3604 and refundable credits against the income tax imposed by the Nebraska Revenue Act of 1967 as provided in section 77-3605.

(7)(a) For taxable years beginning or deemed to begin on or after January 1, 2020, and before January 1, 2026, under the Internal Revenue Code of 1986, as amended, a nonrefundable credit against the income tax imposed by the Nebraska Revenue Act of 1967 in the amount of five thousand dollars shall be allowed to any individual who purchases a residence during the taxable year if such residence:

(i) Is located within an area that has been declared an extremely blighted area under section 18-2101.02;

(ii) Is the individual's primary residence; and

(iii) Was not purchased from a family member of the individual or a family member of the individual's spouse.

(b) The credit provided in this subsection shall be claimed for the taxable year in which the residence is purchased. If the individual cannot fully utilize the credit for such year, the credit may be carried forward to subsequent taxable years until fully utilized.

(c) No more than one credit may be claimed under this subsection with respect to a single residence.

(d) The credit provided in this subsection shall be subject to recapture by the Department of Revenue if the individual claiming the credit sells or otherwise transfers the residence or quits using the residence as his or her primary residence within five years after the end of the taxable year in which the credit was claimed.

(e) For purposes of this subsection, family member means an individual's spouse, child, parent, brother, sister, grandchild, or grandparent, whether by blood, marriage, or adoption.

(8) There shall be allowed to all individuals refundable credits against the income tax imposed by the Nebraska Revenue Act of 1967 as provided in the Nebraska Property Tax Incentive Act and the Renewable Chemical Production Tax Credit Act.

(9)(a) For taxable years beginning or deemed to begin on or after January 1, 2022, under the Internal Revenue Code of 1986, as amended, a refundable credit against the income tax imposed by the Nebraska Revenue Act of 1967 shall be allowed to the parent of a stillborn child if:

(i) A fetal death certificate is filed pursuant to subsection (1) of section 71-606 for such child;

(ii) Such child had advanced to at least the twentieth week of gestation; and

(iii) Such child would have been a dependent of the individual claiming the credit.

(b) The amount of the credit shall be two thousand dollars.

(c) The credit shall be allowed for the taxable year in which the stillbirth occurred.

Source: Laws 1987, LB 773, § 6; Laws 1989, LB 739, § 2; Laws 1993, LB 5, § 3; Laws 1993, LB 121, § 503; Laws 1993, LB 240, § 4; Laws 1993, LB 815, § 23; Laws 1994, LB 977, § 12; Laws 1996, LB 898, § 5; Laws 1998, LB 1028, § 2; Laws 1999, LB 630, § 1; Laws 2001, LB 433, § 4; Laws 2005, LB 312, § 12; Laws 2006, LB 968, § 8; Laws 2006, LB 990, § 1; Laws 2007, LB343, § 3; Laws 2007, LB367, § 20; Laws 2007, LB456, § 1; Laws 2009, LB165, § 12; Laws 2011, LB389, § 12; Laws 2012, LB1128, § 22; Laws 2014, LB191, § 17; Laws 2015, LB591, § 12; Laws 2016, LB774, § 7; Laws 2016, LB884, § 19; Laws 2016, LB886, § 6; Laws 2016, LB889, § 10; Laws 2019, LB86, § 10; Laws 2019, LB560, § 1; Laws 2020, LB1107, § 130; Laws 2021, LB432, § 11.

Operative date August 28, 2021.

Cross References

Affordable Housing Tax Credit Act, see section 77-2501.

Angel Investment Tax Credit Act, see section 77-6301.

Beginning Farmer Tax Credit Act, see section 77-5201.

Community Development Assistance Act, see section 13-201.

Nebraska Advantage Microenterprise Tax Credit Act, see section 77-5901.

Nebraska Advantage Research and Development Act, see section 77-5801.

Nebraska Job Creation and Mainstreet Revitalization Act, see section 77-2901.

Nebraska Property Tax Incentive Act, see section 77-6701.

New Markets Job Growth Investment Act, see section 77-1101.

Renewable Chemical Production Tax Credit Act, see section 77-6601.

Volunteer Emergency Responders Incentive Act, see section 77-3101.

77-2716 Income tax; adjustments.

(1) The following adjustments to federal adjusted gross income or, for corporations and fiduciaries, federal taxable income shall be made for interest or dividends received:

(a)(i) There shall be subtracted interest or dividends received by the owner of obligations of the United States and its territories and possessions or of any authority, commission, or instrumentality of the United States to the extent includable in gross income for federal income tax purposes but exempt from state income taxes under the laws of the United States; and

(ii) There shall be subtracted interest received by the owner of obligations of the State of Nebraska or its political subdivisions or authorities which are Build America Bonds to the extent includable in gross income for federal income tax purposes;

(b) There shall be subtracted that portion of the total dividends and other income received from a regulated investment company which is attributable to obligations described in subdivision (a) of this subsection as reported to the recipient by the regulated investment company;

(c) There shall be added interest or dividends received by the owner of obligations of the District of Columbia, other states of the United States, or their political subdivisions, authorities, commissions, or instrumentalities to the extent excluded in the computation of gross income for federal income tax purposes except that such interest or dividends shall not be added if received by a corporation which is a regulated investment company;

(d) There shall be added that portion of the total dividends and other income received from a regulated investment company which is attributable to obligations described in subdivision (c) of this subsection and excluded for federal income tax purposes as reported to the recipient by the regulated investment company; and

(e)(i) Any amount subtracted under this subsection shall be reduced by any interest on indebtedness incurred to carry the obligations or securities described in this subsection or the investment in the regulated investment company and by any expenses incurred in the production of interest or dividend income described in this subsection to the extent that such expenses, including amortizable bond premiums, are deductible in determining federal taxable income.

(ii) Any amount added under this subsection shall be reduced by any expenses incurred in the production of such income to the extent disallowed in the computation of federal taxable income.

(2) There shall be allowed a net operating loss derived from or connected with Nebraska sources computed under rules and regulations adopted and promulgated by the Tax Commissioner consistent, to the extent possible under the Nebraska Revenue Act of 1967, with the laws of the United States. For a resident individual, estate, or trust, the net operating loss computed on the federal income tax return shall be adjusted by the modifications contained in this section. For a nonresident individual, estate, or trust or for a partial-year resident individual, the net operating loss computed on the federal return shall be adjusted by the modifications contained in this section and any carryovers or carrybacks shall be limited to the portion of the loss derived from or connected with Nebraska sources.

(3) There shall be subtracted from federal adjusted gross income for all taxable years beginning on or after January 1, 1987, the amount of any state income tax refund to the extent such refund was deducted under the Internal Revenue Code, was not allowed in the computation of the tax due under the Nebraska Revenue Act of 1967, and is included in federal adjusted gross income.

(4) Federal adjusted gross income, or, for a fiduciary, federal taxable income shall be modified to exclude the portion of the income or loss received from a small business corporation with an election in effect under subchapter S of the Internal Revenue Code or from a limited liability company organized pursuant to the Nebraska Uniform Limited Liability Company Act that is not derived from or connected with Nebraska sources as determined in section 77-2734.01.

(5) There shall be subtracted from federal adjusted gross income or, for corporations and fiduciaries, federal taxable income dividends received or

deemed to be received from corporations which are not subject to the Internal Revenue Code.

(6) There shall be subtracted from federal taxable income a portion of the income earned by a corporation subject to the Internal Revenue Code of 1986 that is actually taxed by a foreign country or one of its political subdivisions at a rate in excess of the maximum federal tax rate for corporations. The taxpayer may make the computation for each foreign country or for groups of foreign countries. The portion of the taxes that may be deducted shall be computed in the following manner:

(a) The amount of federal taxable income from operations within a foreign taxing jurisdiction shall be reduced by the amount of taxes actually paid to the foreign jurisdiction that are not deductible solely because the foreign tax credit was elected on the federal income tax return;

(b) The amount of after-tax income shall be divided by one minus the maximum tax rate for corporations in the Internal Revenue Code; and

(c) The result of the calculation in subdivision (b) of this subsection shall be subtracted from the amount of federal taxable income used in subdivision (a) of this subsection. The result of such calculation, if greater than zero, shall be subtracted from federal taxable income.

(7) Federal adjusted gross income shall be modified to exclude any amount repaid by the taxpayer for which a reduction in federal tax is allowed under section 1341(a)(5) of the Internal Revenue Code.

(8)(a) Federal adjusted gross income or, for corporations and fiduciaries, federal taxable income shall be reduced, to the extent included, by income from interest, earnings, and state contributions received from the Nebraska educational savings plan trust created in sections 85-1801 to 85-1817 and any account established under the achieving a better life experience program as provided in sections 77-1401 to 77-1409.

(b) Federal adjusted gross income or, for corporations and fiduciaries, federal taxable income shall be reduced by any contributions as a participant in the Nebraska educational savings plan trust or contributions to an account established under the achieving a better life experience program made for the benefit of a beneficiary as provided in sections 77-1401 to 77-1409, to the extent not deducted for federal income tax purposes, but not to exceed five thousand dollars per married filing separate return or ten thousand dollars for any other return. With respect to a qualified rollover within the meaning of section 529 of the Internal Revenue Code from another state's plan, any interest, earnings, and state contributions received from the other state's educational savings plan which is qualified under section 529 of the code shall qualify for the reduction provided in this subdivision. For contributions by a custodian of a custodial account including rollovers from another custodial account, the reduction shall only apply to funds added to the custodial account after January 1, 2014.

(c) For taxable years beginning or deemed to begin on or after January 1, 2021, under the Internal Revenue Code of 1986, as amended, federal adjusted gross income shall be reduced, to the extent included in the adjusted gross income of an individual, by the amount of any contribution made by the individual's employer into an account under the Nebraska educational savings plan trust owned by the individual, not to exceed five thousand dollars per married filing separate return or ten thousand dollars for any other return.

(d) Federal adjusted gross income or, for corporations and fiduciaries, federal taxable income shall be increased by:

(i) The amount resulting from the cancellation of a participation agreement refunded to the taxpayer as a participant in the Nebraska educational savings plan trust to the extent previously deducted under subdivision (8)(b) of this section; and

(ii) The amount of any withdrawals by the owner of an account established under the achieving a better life experience program as provided in sections 77-1401 to 77-1409 for nonqualified expenses to the extent previously deducted under subdivision (8)(b) of this section.

(9)(a) For income tax returns filed after September 10, 2001, for taxable years beginning or deemed to begin before January 1, 2006, under the Internal Revenue Code of 1986, as amended, federal adjusted gross income or, for corporations and fiduciaries, federal taxable income shall be increased by eighty-five percent of any amount of any federal bonus depreciation received under the federal Job Creation and Worker Assistance Act of 2002 or the federal Jobs and Growth Tax Act of 2003, under section 168(k) or section 1400L of the Internal Revenue Code of 1986, as amended, for assets placed in service after September 10, 2001, and before December 31, 2005.

(b) For a partnership, limited liability company, cooperative, including any cooperative exempt from income taxes under section 521 of the Internal Revenue Code of 1986, as amended, limited cooperative association, subchapter S corporation, or joint venture, the increase shall be distributed to the partners, members, shareholders, patrons, or beneficiaries in the same manner as income is distributed for use against their income tax liabilities.

(c) For a corporation with a unitary business having activity both inside and outside the state, the increase shall be apportioned to Nebraska in the same manner as income is apportioned to the state by section 77-2734.05.

(d) The amount of bonus depreciation added to federal adjusted gross income or, for corporations and fiduciaries, federal taxable income by this subsection shall be subtracted in a later taxable year. Twenty percent of the total amount of bonus depreciation added back by this subsection for tax years beginning or deemed to begin before January 1, 2003, under the Internal Revenue Code of 1986, as amended, may be subtracted in the first taxable year beginning or deemed to begin on or after January 1, 2005, under the Internal Revenue Code of 1986, as amended, and twenty percent in each of the next four following taxable years. Twenty percent of the total amount of bonus depreciation added back by this subsection for tax years beginning or deemed to begin on or after January 1, 2003, may be subtracted in the first taxable year beginning or deemed to begin on or after January 1, 2006, under the Internal Revenue Code of 1986, as amended, and twenty percent in each of the next four following taxable years.

(10) For taxable years beginning or deemed to begin on or after January 1, 2003, and before January 1, 2006, under the Internal Revenue Code of 1986, as amended, federal adjusted gross income or, for corporations and fiduciaries, federal taxable income shall be increased by the amount of any capital investment that is expensed under section 179 of the Internal Revenue Code of 1986, as amended, that is in excess of twenty-five thousand dollars that is allowed under the federal Jobs and Growth Tax Act of 2003. Twenty percent of the total amount of expensing added back by this subsection for tax years beginning or

deemed to begin on or after January 1, 2003, may be subtracted in the first taxable year beginning or deemed to begin on or after January 1, 2006, under the Internal Revenue Code of 1986, as amended, and twenty percent in each of the next four following tax years.

(11)(a) For taxable years beginning or deemed to begin before January 1, 2018, under the Internal Revenue Code of 1986, as amended, federal adjusted gross income shall be reduced by contributions, up to two thousand dollars per married filing jointly return or one thousand dollars for any other return, and any investment earnings made as a participant in the Nebraska long-term care savings plan under the Long-Term Care Savings Plan Act, to the extent not deducted for federal income tax purposes.

(b) For taxable years beginning or deemed to begin before January 1, 2018, under the Internal Revenue Code of 1986, as amended, federal adjusted gross income shall be increased by the withdrawals made as a participant in the Nebraska long-term care savings plan under the act by a person who is not a qualified individual or for any reason other than transfer of funds to a spouse, long-term care expenses, long-term care insurance premiums, or death of the participant, including withdrawals made by reason of cancellation of the participation agreement, to the extent previously deducted as a contribution or as investment earnings.

(12) There shall be added to federal adjusted gross income for individuals, estates, and trusts any amount taken as a credit for franchise tax paid by a financial institution under sections 77-3801 to 77-3807 as allowed by subsection (5) of section 77-2715.07.

(13)(a) For taxable years beginning or deemed to begin on or after January 1, 2015, under the Internal Revenue Code of 1986, as amended, federal adjusted gross income shall be reduced by the amount received as benefits under the federal Social Security Act which are included in the federal adjusted gross income if:

(i) For taxpayers filing a married filing joint return, federal adjusted gross income is fifty-eight thousand dollars or less; or

(ii) For taxpayers filing any other return, federal adjusted gross income is forty-three thousand dollars or less.

(b) For taxable years beginning or deemed to begin on or after January 1, 2020, under the Internal Revenue Code of 1986, as amended, the Tax Commissioner shall adjust the dollar amounts provided in subdivisions (13)(a)(i) and (ii) of this section by the same percentage used to adjust individual income tax brackets under subsection (3) of section 77-2715.03.

(c) For taxable years beginning or deemed to begin on or after January 1, 2021, under the Internal Revenue Code of 1986, as amended, a taxpayer may claim the reduction to federal adjusted gross income allowed under this subsection or the reduction to federal adjusted gross income allowed under subsection (14) of this section, whichever provides the greater reduction.

(14)(a) For taxable years beginning or deemed to begin on or after January 1, 2021, under the Internal Revenue Code of 1986, as amended, federal adjusted gross income shall be reduced by a percentage of the social security benefits that are received and included in federal adjusted gross income. The pertinent percentage shall be:

(i) Five percent for taxable years beginning or deemed to begin on or after January 1, 2021, and before January 1, 2022, under the Internal Revenue Code of 1986, as amended;

(ii) Twenty percent for taxable years beginning or deemed to begin on or after January 1, 2022, and before January 1, 2023, under the Internal Revenue Code of 1986, as amended;

(iii) Thirty percent for taxable years beginning or deemed to begin on or after January 1, 2023, and before January 1, 2024, under the Internal Revenue Code of 1986, as amended;

(iv) Forty percent for taxable years beginning or deemed to begin on or after January 1, 2024, and before January 1, 2025, under the Internal Revenue Code of 1986, as amended; and

(v) Fifty percent for taxable years beginning or deemed to begin on or after January 1, 2025, under the Internal Revenue Code of 1986, as amended.

(b) It is the intent of the Legislature to enact legislation within five years after August 28, 2021, to increase the percentage of social security benefits that are excluded under this subsection to (i) sixty percent for taxable years beginning or deemed to begin on or after January 1, 2026, and before January 1, 2027, under the Internal Revenue Code of 1986, as amended, (ii) seventy percent for taxable years beginning or deemed to begin on or after January 1, 2027, and before January 1, 2028, under the Internal Revenue Code of 1986, as amended, (iii) eighty percent for taxable years beginning or deemed to begin on or after January 1, 2028, and before January 1, 2029, under the Internal Revenue Code of 1986, as amended, (iv) ninety percent for taxable years beginning or deemed to begin on or after January 1, 2029, and before January 1, 2030, under the Internal Revenue Code of 1986, as amended, and (v) one hundred percent for taxable years beginning or deemed to begin on or after January 1, 2030, under the Internal Revenue Code of 1986, as amended.

(c) For purposes of this subsection, social security benefits means benefits received under the federal Social Security Act.

(d) For taxable years beginning or deemed to begin on or after January 1, 2021, under the Internal Revenue Code of 1986, as amended, a taxpayer may claim the reduction to federal adjusted gross income allowed under this subsection or the reduction to federal adjusted gross income allowed under subsection (13) of this section, whichever provides the greater reduction.

(15)(a) For taxable years beginning or deemed to begin on or after January 1, 2015, and before January 1, 2022, under the Internal Revenue Code of 1986, as amended, an individual may make a one-time election within two calendar years after the date of his or her retirement from the military to exclude income received as a military retirement benefit by the individual to the extent included in federal adjusted gross income and as provided in this subdivision. The individual may elect to exclude forty percent of his or her military retirement benefit income for seven consecutive taxable years beginning with the year in which the election is made or may elect to exclude fifteen percent of his or her military retirement benefit income for all taxable years beginning with the year in which he or she turns sixty-seven years of age.

(b) For taxable years beginning or deemed to begin on or after January 1, 2022, under the Internal Revenue Code of 1986, as amended, an individual may

exclude one hundred percent of the military retirement benefit income received by such individual to the extent included in federal adjusted gross income.

(c) For purposes of this subsection, military retirement benefit means retirement benefits that are periodic payments attributable to service in the uniformed services of the United States for personal services performed by an individual prior to his or her retirement. The term includes retirement benefits described in this subdivision that are reported to the individual on either:

(i) An Internal Revenue Service Form 1099-R received from the United States Department of Defense; or

(ii) An Internal Revenue Service Form 1099-R received from the United States Office of Personnel Management.

(16) For taxable years beginning or deemed to begin on or after January 1, 2021, under the Internal Revenue Code of 1986, as amended, federal adjusted gross income shall be reduced by the amount received as a Segal AmeriCorps Education Award, to the extent such amount is included in federal adjusted gross income.

(17) For taxable years beginning or deemed to begin on or after January 1, 2022, under the Internal Revenue Code of 1986, as amended, federal adjusted gross income shall be reduced by the amount received by or on behalf of a firefighter for cancer benefits under the Firefighter Cancer Benefits Act to the extent included in federal adjusted gross income.

Source: Laws 1967, c. 487, § 16, p. 1579; Laws 1983, LB 619, § 1; Laws 1984, LB 962, § 15; Laws 1984, LB 1124, § 3; Laws 1985, LB 273, § 50; Laws 1986, LB 774, § 9; Laws 1987, LB 523, § 20; Laws 1987, LB 773, § 9; Laws 1989, LB 458, § 2; Laws 1989, LB 459, § 3; Laws 1991, LB 773, § 13; Laws 1993, LB 121, § 504; Laws 1994, LB 977, § 13; Laws 1997, LB 401, § 2; Laws 1998, LB 1028, § 3; Laws 2000, LB 1003, § 15; Laws 2002, LB 1085, § 18; Laws 2003, LB 596, § 1; Laws 2005, LB 216, § 10; Laws 2006, LB 965, § 6; Laws 2006, LB 968, § 9; Laws 2007, LB338, § 1; Laws 2007, LB368, § 135; Laws 2007, LB456, § 2; Laws 2010, LB197, § 1; Laws 2010, LB888, § 104; Laws 2013, LB283, § 6; Laws 2013, LB296, § 1; Laws 2014, LB987, § 2; Laws 2015, LB591, § 13; Laws 2016, LB756, § 1; Laws 2016, LB776, § 3; Laws 2018, LB738, § 1; Laws 2019, LB610, § 7; Laws 2020, LB153, § 1; Laws 2020, LB477, § 1; Laws 2020, LB1042, § 2; Laws 2021, LB64, § 1; Laws 2021, LB387, § 1; Laws 2021, LB432, § 12.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB64, section 1, with LB387, section 1, and LB432, section 12, to reflect all amendments.

Note: Changes made by LB64 and LB387 became effective August 28, 2021. Changes made by LB432 became operative August 28, 2021.

Cross References

Firefighter Cancer Benefits Act, see section 35-1002.

Long-Term Care Savings Plan Act, see section 77-6101.

Nebraska Uniform Limited Liability Company Act, see section 21-101.

77-2734.02 Corporate taxpayer; income tax rate; how determined.

(1) Except as provided in subsection (2) of this section, a tax is hereby imposed on the taxable income of every corporate taxpayer that is doing business in this state:

(a) For taxable years beginning or deemed to begin before January 1, 2013, at a rate equal to one hundred fifty and eight-tenths percent of the primary rate imposed on individuals under section 77-2701.01 on the first one hundred thousand dollars of taxable income and at the rate of two hundred eleven percent of such rate on all taxable income in excess of one hundred thousand dollars. The resultant rates shall be rounded to the nearest one hundredth of one percent;

(b) For taxable years beginning or deemed to begin on or after January 1, 2013, and before January 1, 2022, at a rate equal to 5.58 percent on the first one hundred thousand dollars of taxable income and at the rate of 7.81 percent on all taxable income in excess of one hundred thousand dollars;

(c) For taxable years beginning or deemed to begin on or after January 1, 2022, and before January 1, 2023, at a rate equal to 5.58 percent on the first one hundred thousand dollars of taxable income and at the rate of 7.50 percent on all taxable income in excess of one hundred thousand dollars; and

(d) For taxable years beginning or deemed to begin on or after January 1, 2023, at a rate equal to 5.58 percent on the first one hundred thousand dollars of taxable income and at the rate of 7.25 percent on all taxable income in excess of one hundred thousand dollars.

It is the intent of the Legislature to enact legislation after August 28, 2021, to lower the tax rate applicable to income in excess of one hundred thousand dollars to 7.00 percent for taxable years beginning or deemed to begin on or after January 1, 2024, and before January 1, 2025, and to 6.84 percent for taxable years beginning or deemed to begin on or after January 1, 2025.

For corporate taxpayers with a fiscal year that does not coincide with the calendar year, the individual rate used for this subsection shall be the rate in effect on the first day, or the day deemed to be the first day, of the taxable year.

(2) An insurance company shall be subject to taxation at the lesser of the rate described in subsection (1) of this section or the rate of tax imposed by the state or country in which the insurance company is domiciled if the insurance company can establish to the satisfaction of the Tax Commissioner that it is domiciled in a state or country other than Nebraska that imposes on Nebraska domiciled insurance companies a retaliatory tax against the tax described in subsection (1) of this section.

(3) For a corporate taxpayer that is subject to tax in another state, its taxable income shall be the portion of the taxpayer's federal taxable income, as adjusted, that is determined to be connected with the taxpayer's operations in this state pursuant to sections 77-2734.05 to 77-2734.15.

(4) Each corporate taxpayer shall file only one income tax return for each taxable year.

Source: Laws 1984, LB 1124, § 5; Laws 1987, LB 773, § 19; Laws 1995, LB 300, § 2; Laws 2008, LB888, § 1; Laws 2012, LB970, § 9; Laws 2021, LB432, § 13.
Operative date August 28, 2021.

77-27,119 Income tax; Tax Commissioner; administer and enforce sections; prescribe forms; content; examination of return or report; uniform school district numbering system; audit by Auditor of Public Accounts or office of Legislative Audit; wrongful disclosure; exception; penalty.

(1) The Tax Commissioner shall administer and enforce the income tax imposed by sections 77-2714 to 77-27,135, and he or she is authorized to conduct hearings, to adopt and promulgate such rules and regulations, and to require such facts and information to be reported as he or she may deem necessary to enforce the income tax provisions of such sections, except that such rules, regulations, and reports shall not be inconsistent with the laws of this state or the laws of the United States. The Tax Commissioner may for enforcement and administrative purposes divide the state into a reasonable number of districts in which branch offices may be maintained.

(2)(a) The Tax Commissioner may prescribe the form and contents of any return or other document required to be filed under the income tax provisions. Such return or other document shall be compatible as to form and content with the return or document required by the laws of the United States. The form shall have a place where the taxpayer shall designate the school district in which he or she lives and the county in which the school district is headquartered. The Tax Commissioner shall adopt and promulgate such rules and regulations as may be necessary to insure compliance with this requirement.

(b) The State Department of Education, with the assistance and cooperation of the Department of Revenue, shall develop a uniform system for numbering all school districts in the state. Such system shall be consistent with the data processing needs of the Department of Revenue and shall be used for the school district identification required by subdivision (a) of this subsection.

(c) The proper filing of an income tax return shall consist of the submission of such form as prescribed by the Tax Commissioner or an exact facsimile thereof with sufficient information provided by the taxpayer on the face of the form from which to compute the actual tax liability. Each taxpayer shall include such taxpayer's correct social security number or state identification number and the school district identification number of the school district in which the taxpayer resides on the face of the form. A filing is deemed to occur when the required information is provided.

(3) The Tax Commissioner, for the purpose of ascertaining the correctness of any return or other document required to be filed under the income tax provisions, for the purpose of determining corporate income, individual income, and withholding tax due, or for the purpose of making an estimate of taxable income of any person, shall have the power to examine or to cause to have examined, by any agent or representative designated by him or her for that purpose, any books, papers, records, or memoranda bearing upon such matters and may by summons require the attendance of the person responsible for rendering such return or other document or remitting any tax, or any officer or employee of such person, or the attendance of any other person having knowledge in the premises, and may take testimony and require proof material for his or her information, with power to administer oaths or affirmations to such person or persons.

(4) The time and place of examination pursuant to this section shall be such time and place as may be fixed by the Tax Commissioner and as are reasonable under the circumstances. In the case of a summons, the date fixed for appearance before the Tax Commissioner shall not be less than twenty days from the time of service of the summons.

(5) No taxpayer shall be subjected to unreasonable or unnecessary examinations or investigations.

(6) Except in accordance with proper judicial order or as otherwise provided by law, it shall be unlawful for the Tax Commissioner, any officer or employee of the Tax Commissioner, any person engaged or retained by the Tax Commissioner on an independent contract basis, any person who pursuant to this section is permitted to inspect any report or return or to whom a copy, an abstract, or a portion of any report or return is furnished, any employee of the State Treasurer or the Department of Administrative Services, or any other person to divulge, make known, or use in any manner the amount of income or any particulars set forth or disclosed in any report or return required except for the purpose of enforcing sections 77-2714 to 77-27,135. The officers charged with the custody of such reports and returns shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the Tax Commissioner in an action or proceeding under the provisions of the tax law to which he or she is a party or on behalf of any party to any action or proceeding under such sections when the reports or facts shown thereby are directly involved in such action or proceeding, in either of which events the court may require the production of, and may admit in evidence, so much of such reports or of the facts shown thereby as are pertinent to the action or proceeding and no more. Nothing in this section shall be construed (a) to prohibit the delivery to a taxpayer, his or her duly authorized representative, or his or her successors, receivers, trustees, personal representatives, administrators, assignees, or guarantors, if directly interested, of a certified copy of any return or report in connection with his or her tax, (b) to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof, (c) to prohibit the inspection by the Attorney General, other legal representatives of the state, or a county attorney of the report or return of any taxpayer who brings an action to review the tax based thereon, against whom an action or proceeding for collection of tax has been instituted, or against whom an action, proceeding, or prosecution for failure to comply with the Nebraska Revenue Act of 1967 is being considered or has been commenced, (d) to prohibit furnishing to the Nebraska Workers' Compensation Court the names, addresses, and identification numbers of employers, and such information shall be furnished on request of the court, (e) to prohibit the disclosure of information and records to a collection agency contracting with the Tax Commissioner pursuant to sections 77-377.01 to 77-377.04, (f) to prohibit the disclosure of information pursuant to section 77-27,195, 77-4110, 77-5731, 77-6521, 77-6837, 77-6839, or 77-6928, (g) to prohibit the disclosure to the Public Employees Retirement Board of the addresses of individuals who are members of the retirement systems administered by the board, and such information shall be furnished to the board solely for purposes of its administration of the retirement systems upon written request, which request shall include the name and social security number of each individual for whom an address is requested, (h) to prohibit the disclosure of information to the Department of Labor necessary for the administration of the Employment Security Law, the Contractor Registration Act, or the Employee Classification Act, (i) to prohibit the disclosure to the Department of Motor Vehicles of tax return information pertaining to individuals, corporations, and businesses determined by the Department of Motor Vehicles to be delinquent in the payment of amounts due under agreements pursuant to the International Fuel Tax Agreement Act, and such disclosure shall be strictly limited to information necessary for the administration of the act, (j) to prohibit the disclosure under section 42-358.08, 43-512.06, or

43-3327 to any court-appointed individuals, the county attorney, any authorized attorney, or the Department of Health and Human Services of an absent parent's address, social security number, amount of income, health insurance information, and employer's name and address for the exclusive purpose of establishing and collecting child, spousal, or medical support, (k) to prohibit the disclosure of information to the Department of Insurance, the Nebraska State Historical Society, or the State Historic Preservation Officer as necessary to carry out the Department of Revenue's responsibilities under the Nebraska Job Creation and Mainstreet Revitalization Act, or (l) to prohibit the disclosure to the Department of Insurance of information pertaining to authorization for, and use of, tax credits under the New Markets Job Growth Investment Act. Information so obtained shall be used for no other purpose. Any person who violates this subsection shall be guilty of a felony and shall upon conviction thereof be fined not less than one hundred dollars nor more than five hundred dollars, or be imprisoned not more than five years, or be both so fined and imprisoned, in the discretion of the court and shall be assessed the costs of prosecution. If the offender is an officer or employee of the state, he or she shall be dismissed from office and be ineligible to hold any public office in this state for a period of two years thereafter.

(7) Reports and returns required to be filed under income tax provisions of sections 77-2714 to 77-27,135 shall be preserved until the Tax Commissioner orders them to be destroyed.

(8) Notwithstanding the provisions of subsection (6) of this section, the Tax Commissioner may permit the Secretary of the Treasury of the United States or his or her delegates or the proper officer of any state imposing an income tax, or the authorized representative of either such officer, to inspect the income tax returns of any taxpayer or may furnish to such officer or his or her authorized representative an abstract of the return of income of any taxpayer or supply him or her with information concerning an item of income contained in any return or disclosed by the report of any investigation of the income or return of income of any taxpayer, but such permission shall be granted only if the statutes of the United States or of such other state, as the case may be, grant substantially similar privileges to the Tax Commissioner of this state as the officer charged with the administration of the income tax imposed by sections 77-2714 to 77-27,135.

(9) Notwithstanding the provisions of subsection (6) of this section, the Tax Commissioner may permit the Postal Inspector of the United States Postal Service or his or her delegates to inspect the reports or returns of any person filed pursuant to the Nebraska Revenue Act of 1967 when information on the reports or returns is relevant to any action or proceeding instituted or being considered by the United States Postal Service against such person for the fraudulent use of the mails to carry and deliver false and fraudulent tax returns to the Tax Commissioner with the intent to defraud the State of Nebraska or to evade the payment of Nebraska state taxes.

(10)(a) Notwithstanding the provisions of subsection (6) of this section, the Tax Commissioner shall, upon written request by the Auditor of Public Accounts or the office of Legislative Audit, make tax returns and tax return information open to inspection by or disclosure to officers and employees of the Auditor of Public Accounts or employees of the office of Legislative Audit for the purpose of and to the extent necessary in making an audit of the Department of Revenue pursuant to section 50-1205 or 84-304. The Auditor of Public

Accounts or office of Legislative Audit shall statistically and randomly select the tax returns and tax return information to be audited based upon a computer tape provided by the Department of Revenue which contains only total population documents without specific identification of taxpayers. The Tax Commissioner shall have the authority to approve the statistical sampling method used by the Auditor of Public Accounts or office of Legislative Audit. Confidential tax returns and tax return information shall be audited only upon the premises of the Department of Revenue. All audit workpapers pertaining to the audit of the Department of Revenue shall be stored in a secure place in the Department of Revenue.

(b) When selecting tax returns or tax return information for a performance audit of a tax incentive program, the office of Legislative Audit shall select the tax returns or tax return information for either all or a statistically and randomly selected sample of taxpayers who have applied for or who have qualified for benefits under the tax incentive program that is the subject of the audit. When the office of Legislative Audit reports on its review of tax returns and tax return information, it shall comply with subdivision (10)(c) of this section.

(c) No officer or employee of the Auditor of Public Accounts or office of Legislative Audit employee shall disclose to any person, other than another officer or employee of the Auditor of Public Accounts or office of Legislative Audit whose official duties require such disclosure, any return or return information described in the Nebraska Revenue Act of 1967 in a form which can be associated with or otherwise identify, directly or indirectly, a particular taxpayer.

(d) Any person who violates the provisions of this subsection shall be guilty of a Class IV felony and, in the discretion of the court, may be assessed the costs of prosecution. The guilty officer or employee shall be dismissed from employment and be ineligible to hold any position of employment with the State of Nebraska for a period of two years thereafter. For purposes of this subsection, officer or employee shall include a former officer or employee of the Auditor of Public Accounts or former employee of the office of Legislative Audit.

(11) For purposes of subsections (10) through (13) of this section:

(a) Tax returns shall mean any tax or information return or claim for refund required by, provided for, or permitted under sections 77-2714 to 77-27,135 which is filed with the Tax Commissioner by, on behalf of, or with respect to any person and any amendment or supplement thereto, including supporting schedules, attachments, or lists which are supplemental to or part of the filed return;

(b) Return information shall mean:

(i) A taxpayer's identification number and (A) the nature, source, or amount of his or her income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax withheld, deficiencies, overassessments, or tax payments, whether the taxpayer's return was, is being, or will be examined or subject to other investigation or processing or (B) any other data received by, recorded by, prepared by, furnished to, or collected by the Tax Commissioner with respect to a return or the determination of the existence or possible existence of liability or the amount of liability of any person for any tax, penalty, interest, fine, forfeiture, or other imposition or offense; and

(ii) Any part of any written determination or any background file document relating to such written determination; and

(c) Disclosures shall mean the making known to any person in any manner a return or return information.

(12) The Auditor of Public Accounts shall (a) notify the Tax Commissioner in writing thirty days prior to the beginning of an audit of his or her intent to conduct an audit, (b) provide an audit plan, and (c) provide a list of the tax returns and tax return information identified for inspection during the audit. The office of Legislative Audit shall notify the Tax Commissioner of the intent to conduct an audit and of the scope of the audit as provided in section 50-1209.

(13) The Auditor of Public Accounts or the office of Legislative Audit shall, as a condition for receiving tax returns and tax return information: (a) Subject employees involved in the audit to the same confidential information safeguards and disclosure procedures as required of Department of Revenue employees; (b) establish and maintain a permanent system of standardized records with respect to any request for tax returns or tax return information, the reason for such request, and the date of such request and any disclosure of the tax return or tax return information; (c) establish and maintain a secure area or place in the Department of Revenue in which the tax returns, tax return information, or audit workpapers shall be stored; (d) restrict access to the tax returns or tax return information only to persons whose duties or responsibilities require access; (e) provide such other safeguards as the Tax Commissioner determines to be necessary or appropriate to protect the confidentiality of the tax returns or tax return information; (f) provide a report to the Tax Commissioner which describes the procedures established and utilized by the Auditor of Public Accounts or office of Legislative Audit for insuring the confidentiality of tax returns, tax return information, and audit workpapers; and (g) upon completion of use of such returns or tax return information, return to the Tax Commissioner such returns or tax return information, along with any copies.

(14) The Tax Commissioner may permit other tax officials of this state to inspect the tax returns and reports filed under sections 77-2714 to 77-27,135, but such inspection shall be permitted only for purposes of enforcing a tax law and only to the extent and under the conditions prescribed by the rules and regulations of the Tax Commissioner.

(15) The Tax Commissioner shall compile the school district information required by subsection (2) of this section. Insofar as it is possible, such compilation shall include, but not be limited to, the total adjusted gross income of each school district in the state. The Tax Commissioner shall adopt and promulgate such rules and regulations as may be necessary to insure that such compilation does not violate the confidentiality of any individual income tax return nor conflict with any other provisions of state or federal law.

Source: Laws 1967, c. 487, § 119, p. 1628; Laws 1969, c. 694, § 1, p. 2689; Laws 1971, LB 527, § 1; Laws 1971, LB 571, § 1; Laws 1973, LB 526, § 6; Laws 1979, LB 302, § 1; Laws 1981, LB 170, § 7; Laws 1984, LB 962, § 32; Laws 1985, LB 273, § 68; Laws 1985, LB 344, § 8; Laws 1985, LB 345, § 1; Laws 1989, LB 611, § 3; Laws 1990, LB 431, § 1; Laws 1991, LB 549, § 22; Laws 1993, LB 46, § 17; Laws 1993, LB 345, § 72; Laws 1997, LB 129, § 2; Laws 1997, LB 720, § 23; Laws 1997, LB 806, § 3; Laws 2002, LB 989, § 19; Laws 2005, LB 216, § 18; Laws 2005, LB

312, § 15; Laws 2006, LB 588, § 9; Laws 2006, LB 956, § 11; Laws 2008, LB915, § 6; Laws 2010, LB563, § 15; Laws 2010, LB879, § 17; Laws 2013, LB39, § 13; Laws 2014, LB191, § 20; Laws 2014, LB851, § 14; Laws 2015, LB539, § 7; Laws 2016, LB1022, § 5; Laws 2020, LB1107, § 133; Laws 2021, LB528, § 20; Laws 2021, LB544, § 32.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB528, section 20, with LB544, section 32, to reflect all amendments.

Note: Changes made by LB528 became operative August 28, 2021. Changes made by LB544 became operative January 1, 2022.

Cross References

Contractor Registration Act, see section 48-2101.

Employee Classification Act, see section 48-2901.

Employment Security Law, see section 48-601.

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

Nebraska Job Creation and Mainstreet Revitalization Act, see section 77-2901.

New Markets Job Growth Investment Act, see section 77-1101.

(d) GENERAL PROVISIONS

77-27,132 Revenue Distribution Fund; created; use; collections under act; disposition.

(1) There is hereby created a fund to be designated the Revenue Distribution Fund which shall be set apart and maintained by the Tax Commissioner. Revenue not required to be credited to the General Fund or any other specified fund may be credited to the Revenue Distribution Fund. Credits and refunds of such revenue shall be paid from the Revenue Distribution Fund. The balance of the amount credited, after credits and refunds, shall be allocated as provided by the statutes creating such revenue.

(2) The Tax Commissioner shall pay to a depository bank designated by the State Treasurer all amounts collected under the Nebraska Revenue Act of 1967. The Tax Commissioner shall present to the State Treasurer bank receipts showing amounts so deposited in the bank, and of the amounts so deposited the State Treasurer shall:

(a) For transactions occurring on or after October 1, 2014, and before October 1, 2027, credit to the Game and Parks Commission Capital Maintenance Fund all of the proceeds of the sales and use taxes imposed pursuant to section 77-2703 on the sale or lease of motorboats as defined in section 37-1204, personal watercraft as defined in section 37-1204.01, all-terrain vehicles as defined in section 60-103, and utility-type vehicles as defined in section 60-135.01;

(b) Credit to the Highway Trust Fund all of the proceeds of the sales and use taxes derived from the sale or lease for periods of more than thirty-one days of motor vehicles, trailers, and semitrailers, except that the proceeds equal to any sales tax rate provided for in section 77-2701.02 that is in excess of five percent derived from the sale or lease for periods of more than thirty-one days of motor vehicles, trailers, and semitrailers shall be credited to the Highway Allocation Fund;

(c) For transactions occurring on or after July 1, 2013, and before July 1, 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; Laws 2021, LB595, § 10.

Operative date August 28, 2021.

(e) GOVERNMENTAL SUBDIVISION AID

77-27,139.04 Aid to municipalities; funds; how distributed.

The Department of Revenue shall determine the amount to be distributed to the various municipalities and certify such amounts by voucher to the Director of Administrative Services. The Municipal Equalization Fund shall be distributed on or before the first day of October, January, April, and July of each state fiscal year beginning in fiscal year 1998-99. The director shall, upon receipt of such notification and vouchers, pay the amounts electronically from funds appropriated. The proceeds of the payments received by the various municipalities shall be credited to the general fund of the municipality.

Source: Laws 1996, LB 1177, § 4; Laws 2021, LB509, § 12.

Effective date August 28, 2021.

(g) LOCAL OPTION REVENUE ACT

77-27,144 Municipalities; sales and use tax; Tax Commissioner; collection; distribution; refunds; notice; deductions; qualifying business; duty to provide information.

(1) The Tax Commissioner shall collect the tax imposed by any incorporated municipality concurrently with collection of a state tax in the same manner as the state tax is collected. The Tax Commissioner shall remit monthly the proceeds of the tax to the incorporated municipalities levying the tax, after deducting the amount of refunds made and three percent of the remainder to be credited to the Municipal Equalization Fund.

(2) Deductions for a refund made pursuant to section 77-4105, 77-4106, 77-5725, or 77-5726 shall be delayed for one year after the refund has been made to the taxpayer. The Department of Revenue shall notify the municipality liable for a refund exceeding one thousand five hundred dollars of the pending refund, the amount of the refund, and the month in which the deduction will be made or begin, except that if the amount of a refund claimed under section 77-4105, 77-4106, 77-5725, or 77-5726 exceeds twenty-five percent of the municipality's total sales and use tax receipts, net of any refunds or sales tax

collection fees, for the municipality's prior fiscal year, the department shall deduct the refund over the period of one year in equal monthly amounts beginning after the one-year notification period required by this subsection. This subsection applies to refunds owed by cities of the first class, cities of the second class, and villages. This subsection applies to refunds beginning January 1, 2014.

(3) Deductions for a refund made pursuant to the ImagiNE Nebraska Act shall be delayed as provided in this subsection after the refund has been made to the taxpayer. The Department of Revenue shall notify each municipality liable for a refund exceeding one thousand five hundred dollars of the pending refund and the amount of the refund claimed under the ImagiNE Nebraska Act. The notification shall be made by March 1 of each year beginning in 2021 and shall be used to establish the refund amount for the following calendar year. The notification shall include any excess or underpayment from the prior calendar year. The department shall deduct the refund over a period of one year in equal monthly amounts beginning in January following the notification. This subsection applies to total annual refunds exceeding one million dollars or twenty-five percent of the municipality's total sales and use tax receipts for the prior fiscal year, whichever is the lesser amount.

(4) Deductions for a refund made pursuant to the Urban Redevelopment Act shall be delayed as provided in this subsection after the refund has been made to the taxpayer. The Department of Revenue shall notify each municipality liable for a refund exceeding one thousand five hundred dollars of the pending refund and the amount of the refund claimed under the Urban Redevelopment Act. The notification shall be made by March 1 of each year beginning in 2022 and shall be used to establish the refund amount for the following calendar year. The notification shall include any excess or underpayment from the prior calendar year. The department shall deduct the refund over a period of one year in equal monthly amounts beginning in January following the notification. This subsection applies to total annual refunds exceeding one million dollars or twenty-five percent of the municipality's total sales and use tax receipts for the prior fiscal year, whichever is the lesser amount.

(5) The Tax Commissioner shall keep full and accurate records of all money received and distributed under the provisions of the Local Option Revenue Act. When proceeds of a tax levy are received but the identity of the incorporated municipality which levied the tax is unknown and is not identified within six months after receipt, the amount shall be credited to the Municipal Equalization Fund. The municipality may request the names and addresses of the retailers which have collected the tax as provided in subsection (13) of section 77-2711 and may certify an individual to request and review confidential sales and use tax returns and sales and use tax return information as provided in subsection (14) of section 77-2711.

(6)(a) Every qualifying business that has filed an application to receive tax incentives under the Employment and Investment Growth Act, the Nebraska Advantage Act, the ImagiNE Nebraska Act, or the Urban Redevelopment Act shall, with respect to such acts, provide annually to each municipality, in aggregate data, the maximum amount the qualifying business is eligible to receive in the current year in refunds of local sales and use taxes of the municipality and exemptions for the previous year, and the estimate of annual refunds of local sales and use taxes of the municipality and exemptions such business intends to claim in each future year. Such information shall be kept

confidential by the municipality unless publicly disclosed previously by the taxpayer or by the State of Nebraska.

(b) For purposes of this subsection, municipality means a municipality that has adopted the local option sales and use tax under the Local Option Revenue Act and to which the qualifying business has paid such sales and use tax.

(c) The qualifying business shall provide the information to the municipality on or before June 30 of each year.

(d) Any amounts held by a municipality to make sales and use tax refunds under the Employment and Investment Growth Act, the Nebraska Advantage Act, the ImagiNE Nebraska Act, and the Urban Redevelopment Act shall not count toward any budgeted restricted funds limitation as provided in section 13-519 or toward any cash reserve limitation as provided in section 13-504.

Source: Laws 1969, c. 629, § 3, p. 2530; Laws 1971, LB 53, § 10; Laws 1976, LB 868, § 2; Laws 1996, LB 1177, § 19; Laws 1998, LB 1104, § 13; Laws 2007, LB94, § 2; Laws 2012, LB209, § 2; Laws 2014, LB867, § 16; Laws 2014, LB1067, § 1; Laws 2020, LB1107, § 134; Laws 2021, LB544, § 33.
Operative date January 1, 2022.

Cross References

Employment and Investment Growth Act, see section 77-4101.

ImagiNE Nebraska Act, see section 77-6801.

Local Option Revenue Act, see section 77-27,148.

Nebraska Advantage Act, see section 77-5701.

Urban Redevelopment Act, see section 77-6901.

(q) COUNTY LICENSE OR OCCUPATION TAX ON ADMISSIONS

77-27,223 County; license or occupation tax; authorized; election.

A county may raise revenue by levying and collecting a license or occupation tax on any person, partnership, limited liability company, corporation, or business engaged in the sale of admissions to recreational, cultural, entertainment, or concert events that are subject to sales tax under sections 77-2701.04 to 77-2713 that occur outside any incorporated municipality, but within the boundary limits of the county. The tax shall be uniform in respect to the class upon which it is imposed. The tax shall be based upon a certain percentage of gross receipts from sales in the county of the person, partnership, limited liability company, corporation, or business, and may include sales of other goods and services at such locations and events, not to exceed one and one-half percent. A county may not impose the tax on sales that are within an incorporated city or village. No county shall levy and collect a license or occupation tax under this section unless approved by a majority of those voting on the question at a special, primary, or general election.

Source: Laws 2002, LB 259, § 1; Laws 2003, LB 282, § 83; Laws 2021, LB26, § 7; Laws 2021, LB595, § 11.
Operative date October 1, 2021.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB26, section 7, with LB595, section 11, to reflect all amendments.

ARTICLE 30

MECHANICAL AMUSEMENT DEVICE TAX ACT

Section

77-3001. Terms, defined.

77-3001 Terms, defined.

For purposes of the Mechanical Amusement Device Tax Act, unless the context otherwise requires:

(1) Cash device means any mechanical amusement device capable of awarding (a) cash, (b) anything redeemable for cash, (c) gift cards, credit, or other instruments which have a value denominated by reference to an amount of currency, or (d) anything redeemable for anything described in subdivision (c) of this subdivision;

(2) Department means the Department of Revenue;

(3) Distributor means any person who sells, leases, or delivers possession or custody of a machine or mechanical device to operators thereof for a consideration either directly or indirectly received;

(4) Mechanical amusement device means any machine which, upon insertion of a coin, currency, credit card, or substitute into the machine, operates or may be operated or used for a game, contest, or amusement of any description, such as, by way of example, but not by way of limitation, pinball games, shuffleboard, bowling games, radio-ray rifle games, baseball, football, racing, boxing games, electronic video games of skill, and coin-operated pool tables. Mechanical amusement device also includes game and draw lotteries and coin-operated automatic musical devices. Mechanical amusement device does not mean vending machines which dispense tangible personal property, devices located in private homes for private use, pickle card dispensing devices which are required to be registered with the department pursuant to section 9-345.03, gaming devices or limited gaming devices as defined in and operated pursuant to the Nebraska Racetrack Gaming Act, or devices which are mechanically constructed in a manner that would render their operation illegal under the laws of the State of Nebraska;

(5) Operator means any person who operates a place of business in which a machine or device owned by him or her is physically located or any person who places and who either directly or indirectly controls or manages any machine or device;

(6) Person means an individual, partnership, limited liability company, society, association, joint-stock company, corporation, estate, receiver, lessee, trustee, assignee, referee, or other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of individuals;

(7) Whenever in the act, the words machine or device are used, they refer to mechanical amusement device;

(8) Whenever in the act, the words electronic video games of skill, games of skill, or skill-based devices are used, they refer to mechanical amusement devices which produce an outcome predominantly caused by skill and not chance; and

(9) Whenever in the act, the words machine, device, person, operator, or distributor are used, the words in the singular include the plural and in the plural include the singular.

Source: Laws 1969, c. 635, § 1, p. 2541; Laws 1977, LB 353, § 1; Laws 1993, LB 121, § 514; Laws 1997, LB 317, § 1; Initiative Law 2020, No. 430, § 12; Laws 2021, LB1, § 1.
Effective date March 18, 2021.

Cross References

Nebraska Racetrack Gaming Act, see section 9-1101.

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.

(d) LIMITATION ON PROPERTY TAXES

77-3442 Property tax levies; maximum levy; exceptions.

(1) Property tax levies for the support of local governments for fiscal years beginning on or after July 1, 1998, shall be limited to the amounts set forth in this section except as provided in section 77-3444.

(2)(a) Except as provided in subdivisions (2)(b) and (2)(e) of this section, school districts and multiple-district school systems may levy a maximum levy of one dollar and five cents per one hundred dollars of taxable valuation of property subject to the levy.

(b) For each fiscal year prior to fiscal year 2017-18, learning communities may levy a maximum levy for the general fund budgets of member school districts of ninety-five cents per one hundred dollars of taxable valuation of property subject to the levy. The proceeds from the levy pursuant to this subdivision shall be distributed pursuant to section 79-1073.

(c) Except as provided in subdivision (2)(e) of this section, for each fiscal year prior to fiscal year 2017-18, school districts that are members of learning communities may levy for purposes of such districts' general fund budget and special building funds a maximum combined levy of the difference of one dollar and five cents on each one hundred dollars of taxable property subject to the levy minus the learning community levy pursuant to subdivision (2)(b) of this section for such learning community.

(d) Excluded from the limitations in subdivisions (2)(a) and (2)(c) of this section are (i) amounts levied to pay for current and future sums agreed to be paid by a school district to certificated employees in exchange for a voluntary termination of employment occurring prior to September 1, 2017, (ii) amounts levied by a school district otherwise at the maximum levy pursuant to subdivision (2)(a) of this section to pay for current and future qualified voluntary termination incentives for certificated teachers pursuant to subsection (3) of section 79-8,142 that are not otherwise included in an exclusion pursuant to subdivision (2)(d) of this section, (iii) amounts levied by a school district

otherwise at the maximum levy pursuant to subdivision (2)(a) of this section to pay for seventy-five percent of the current and future sums agreed to be paid to certificated employees in exchange for a voluntary termination of employment occurring between September 1, 2017, and August 31, 2018, as a result of a collective-bargaining agreement in force and effect on September 1, 2017, that are not otherwise included in an exclusion pursuant to subdivision (2)(d) of this section, (iv) amounts levied by a school district otherwise at the maximum levy pursuant to subdivision (2)(a) of this section to pay for fifty percent of the current and future sums agreed to be paid to certificated employees in exchange for a voluntary termination of employment occurring between September 1, 2018, and August 31, 2019, as a result of a collective-bargaining agreement in force and effect on September 1, 2017, that are not otherwise included in an exclusion pursuant to subdivision (2)(d) of this section, (v) amounts levied by a school district otherwise at the maximum levy pursuant to subdivision (2)(a) of this section to pay for twenty-five percent of the current and future sums agreed to be paid to certificated employees in exchange for a voluntary termination of employment occurring between September 1, 2019, and August 31, 2020, as a result of a collective-bargaining agreement in force and effect on September 1, 2017, that are not otherwise included in an exclusion pursuant to subdivision (2)(d) of this section, (vi) amounts levied in compliance with sections 79-10,110 and 79-10,110.02, and (vii) amounts levied to pay for special building funds and sinking funds established for projects commenced prior to April 1, 1996, for construction, expansion, or alteration of school district buildings. For purposes of this subsection, commenced means any action taken by the school board on the record which commits the board to expend district funds in planning, constructing, or carrying out the project.

(e) Federal aid school districts may exceed the maximum levy prescribed by subdivision (2)(a) or (2)(c) of this section only to the extent necessary to qualify to receive federal aid pursuant to Title VIII of Public Law 103-382, as such title existed on September 1, 2001. For purposes of this subdivision, federal aid school district means any school district which receives ten percent or more of the revenue for its general fund budget from federal government sources pursuant to Title VIII of Public Law 103-382, as such title existed on September 1, 2001.

(f) For each fiscal year, learning communities may levy a maximum levy of one-half cent on each one hundred dollars of taxable property subject to the levy for elementary learning center facility leases, for remodeling of leased elementary learning center facilities, and for up to fifty percent of the estimated cost for focus school or program capital projects approved by the learning community coordinating council pursuant to section 79-2111.

(g) For each fiscal year, learning communities may levy a maximum levy of one and one-half cents on each one hundred dollars of taxable property subject to the levy for early childhood education programs for children in poverty, for elementary learning center employees, for contracts with other entities or individuals who are not employees of the learning community for elementary learning center programs and services, and for pilot projects, except that no more than ten percent of such levy may be used for elementary learning center employees.

(3) For each fiscal year, community college areas may levy the levies provided in subdivisions (2)(a) through (c) of section 85-1517, in accordance with the provisions of such subdivisions. A community college area may exceed

the levy provided in subdivision (2)(b) of section 85-1517 by the amount necessary to retire general obligation bonds assumed by the community college area or issued pursuant to section 85-1515 according to the terms of such bonds or for any obligation pursuant to section 85-1535 entered into prior to January 1, 1997.

(4)(a) Natural resources districts may levy a maximum levy of four and one-half cents per one hundred dollars of taxable valuation of property subject to the levy.

(b) Natural resources districts shall also have the power and authority to levy a tax equal to the dollar amount by which their restricted funds budgeted to administer and implement ground water management activities and integrated management activities under the Nebraska Ground Water Management and Protection Act exceed their restricted funds budgeted to administer and implement ground water management activities and integrated management activities for FY2003-04, not to exceed one cent on each one hundred dollars of taxable valuation annually on all of the taxable property within the district.

(c) In addition, natural resources districts located in a river basin, subbasin, or reach that has been determined to be fully appropriated pursuant to section 46-714 or designated as overappropriated pursuant to section 46-713 by the Department of Natural Resources shall also have the power and authority to levy a tax equal to the dollar amount by which their restricted funds budgeted to administer and implement ground water management activities and integrated management activities under the Nebraska Ground Water Management and Protection Act exceed their restricted funds budgeted to administer and implement ground water management activities and integrated management activities for FY2005-06, not to exceed three cents on each one hundred dollars of taxable valuation on all of the taxable property within the district for fiscal year 2006-07 and each fiscal year thereafter through fiscal year 2017-18.

(5) Any educational service unit authorized to levy a property tax pursuant to section 79-1225 may levy a maximum levy of one and one-half cents per one hundred dollars of taxable valuation of property subject to the levy.

(6)(a) Incorporated cities and villages which are not within the boundaries of a municipal county may levy a maximum levy of forty-five cents per one hundred dollars of taxable valuation of property subject to the levy plus an additional five cents per one hundred dollars of taxable valuation to provide financing for the municipality's share of revenue required under an agreement or agreements executed pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act. The maximum levy shall include amounts levied to pay for sums to support a library pursuant to section 51-201, museum pursuant to section 51-501, visiting community nurse, home health nurse, or home health agency pursuant to section 71-1637, or statue, memorial, or monument pursuant to section 80-202.

(b) Incorporated cities and villages which are within the boundaries of a municipal county may levy a maximum levy of ninety cents per one hundred dollars of taxable valuation of property subject to the levy. The maximum levy shall include amounts paid to a municipal county for county services, amounts levied to pay for sums to support a library pursuant to section 51-201, a museum pursuant to section 51-501, a visiting community nurse, home health nurse, or home health agency pursuant to section 71-1637, or a statue, memorial, or monument pursuant to section 80-202.

(7) Sanitary and improvement districts which have been in existence for more than five years may levy a maximum levy of forty cents per one hundred dollars of taxable valuation of property subject to the levy, and sanitary and improvement districts which have been in existence for five years or less shall not have a maximum levy. Unconsolidated sanitary and improvement districts which have been in existence for more than five years and are located in a municipal county may levy a maximum of eighty-five cents per hundred dollars of taxable valuation of property subject to the levy.

(8) Counties may levy or authorize a maximum levy of fifty cents per one hundred dollars of taxable valuation of property subject to the levy, except that five cents per one hundred dollars of taxable valuation of property subject to the levy may only be levied to provide financing for the county's share of revenue required under an agreement or agreements executed pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act. The maximum levy shall include amounts levied to pay for sums to support a library pursuant to section 51-201 or museum pursuant to section 51-501. The county may allocate up to fifteen cents of its authority to other political subdivisions subject to allocation of property tax authority under subsection (1) of section 77-3443 and not specifically covered in this section to levy taxes as authorized by law which do not collectively exceed fifteen cents per one hundred dollars of taxable valuation on any parcel or item of taxable property. The county may allocate to one or more other political subdivisions subject to allocation of property tax authority by the county under subsection (1) of section 77-3443 some or all of the county's five cents per one hundred dollars of valuation authorized for support of an agreement or agreements to be levied by the political subdivision for the purpose of supporting that political subdivision's share of revenue required under an agreement or agreements executed pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act. If an allocation by a county would cause another county to exceed its levy authority under this section, the second county may exceed the levy authority in order to levy the amount allocated.

(9) Municipal counties may levy or authorize a maximum levy of one dollar per one hundred dollars of taxable valuation of property subject to the levy. The municipal county may allocate levy authority to any political subdivision or entity subject to allocation under section 77-3443.

(10) Beginning July 1, 2016, rural and suburban fire protection districts may levy a maximum levy of ten and one-half cents per one hundred dollars of taxable valuation of property subject to the levy if (a) such district is located in a county that had a levy pursuant to subsection (8) of this section in the previous year of at least forty cents per one hundred dollars of taxable valuation of property subject to the levy or (b) such district had a levy request pursuant to section 77-3443 in any of the three previous years and the county board of the county in which the greatest portion of the valuation of such district is located did not authorize any levy authority to such district in such year.

(11) A regional metropolitan transit authority may levy a maximum levy of ten cents per one hundred dollars of taxable valuation of property subject to the levy for each fiscal year that commences on the January 1 that follows the effective date of the conversion of the transit authority established under the Transit Authority Law into the regional metropolitan transit authority.

(12) Property tax levies (a) for judgments, except judgments or orders from the Commission of Industrial Relations, obtained against a political subdivision which require or obligate a political subdivision to pay such judgment, to the extent such judgment is not paid by liability insurance coverage of a political subdivision, (b) for preexisting lease-purchase contracts approved prior to July 1, 1998, (c) for bonds as defined in section 10-134 approved according to law and secured by a levy on property except as provided in section 44-4317 for bonded indebtedness issued by educational service units and school districts, (d) for payments by a public airport to retire interest-free loans from the Division of Aeronautics of the Department of Transportation in lieu of bonded indebtedness at a lower cost to the public airport, and (e) to pay for cancer benefits provided on or after January 1, 2022, pursuant to the Firefighter Cancer Benefits Act are not included in the levy limits established by this section.

(13) The limitations on tax levies provided in this section are to include all other general or special levies provided by law. Notwithstanding other provisions of law, the only exceptions to the limits in this section are those provided by or authorized by sections 77-3442 to 77-3444.

(14) Tax levies in excess of the limitations in this section shall be considered unauthorized levies under section 77-1606 unless approved under section 77-3444.

(15) For purposes of sections 77-3442 to 77-3444, political subdivision means a political subdivision of this state and a county agricultural society.

(16) For school districts that file a binding resolution on or before May 9, 2008, with the county assessors, county clerks, and county treasurers for all counties in which the school district has territory pursuant to subsection (7) of section 79-458, if the combined levies, except levies for bonded indebtedness approved by the voters of the school district and levies for the refinancing of such bonded indebtedness, are in excess of the greater of (a) one dollar and twenty cents per one hundred dollars of taxable valuation of property subject to the levy or (b) the maximum levy authorized by a vote pursuant to section 77-3444, all school district levies, except levies for bonded indebtedness approved by the voters of the school district and levies for the refinancing of such bonded indebtedness, shall be considered unauthorized levies under section 77-1606.

Source: Laws 1996, LB 1114, § 1; Laws 1997, LB 269, § 56; Laws 1998, LB 306, § 36; Laws 1998, LB 1104, § 17; Laws 1999, LB 87, § 87; Laws 1999, LB 141, § 11; Laws 1999, LB 437, § 26; Laws 2001, LB 142, § 57; Laws 2002, LB 568, § 9; Laws 2002, LB 898, § 1; Laws 2002, LB 1085, § 19; Laws 2003, LB 540, § 2; Laws 2004, LB 962, § 110; Laws 2004, LB 1093, § 1; Laws 2005, LB 38, § 2; Laws 2006, LB 968, § 12; Laws 2006, LB 1024, § 14; Laws 2006, LB 1226, § 30; Laws 2007, LB342, § 31; Laws 2007, LB641, § 4; Laws 2007, LB701, § 33; Laws 2008, LB988, § 2; Laws 2008, LB1154, § 5; Laws 2009, LB121, § 11; Laws 2010, LB1070, § 4; Laws 2010, LB1072, § 3; Laws 2011, LB59, § 2; Laws 2011, LB400, § 2; Laws 2012, LB946, § 10; Laws 2012, LB1104, § 1; Laws 2013, LB585, § 1; Laws 2015, LB261, § 13; Laws 2015, LB325, § 7; Laws 2016, LB959, § 1; Laws 2016, LB1067, § 10; Laws 2017, LB339, § 269; Laws 2017, LB512, § 6;

Laws 2019, LB63, § 6; Laws 2019, LB492, § 42; Laws 2021, LB432, § 14.

Operative date August 28, 2021.

Cross References

Firefighter Cancer Benefits Act, see section 35-1002.

Interlocal Cooperation Act, see section 13-801.

Joint Public Agency Act, see section 13-2501.

Nebraska Ground Water Management and Protection Act, see section 46-701.

Transit Authority Law, see section 14-1826.

77-3443 Other political subdivisions; levy limit; levy request; governing body; duties; allocation of levy.

(1) All political subdivisions, other than (a) school districts, community colleges, natural resources districts, educational service units, cities, villages, counties, municipal counties, rural and suburban fire protection districts that have levy authority pursuant to subsection (10) of section 77-3442, and sanitary and improvement districts and (b) political subdivisions subject to municipal allocation under subsection (2) of this section, may levy taxes as authorized by law which are authorized by the county board of the county or the council of a municipal county in which the greatest portion of the valuation is located, which are counted in the county or municipal county levy limit provided in section 77-3442, and which do not collectively total more than fifteen cents per one hundred dollars of taxable valuation on any parcel or item of taxable property for all governments for which allocations are made by the municipality, county, or municipal county, except that such limitation shall not apply to property tax levies for preexisting lease-purchase contracts approved prior to July 1, 1998, for bonded indebtedness approved according to law and secured by a levy on property, and for payments by a public airport to retire interest-free loans from the Division of Aeronautics of the Department of Transportation in lieu of bonded indebtedness at a lower cost to the public airport. The county board or council shall review and approve or disapprove the levy request of all political subdivisions subject to this subsection. The county board or council may approve all or a portion of the levy request and may approve a levy request that would allow the requesting political subdivision to levy a tax at a levy greater than that permitted by law. Unless a transit authority elects to convert to a regional metropolitan transit authority in accordance with the Regional Metropolitan Transit Authority Act, and for each fiscal year of such a transit authority until the first fiscal year commencing after the effective date of such conversion, the county board of a county or the council of a municipal county which contains a transit authority established pursuant to the Transit Authority Law shall allocate no less than three cents per one hundred dollars of taxable property within the city or municipal county subject to the levy to the transit authority if requested by such authority. For any political subdivision subject to this subsection that receives taxes from more than one county or municipal county, the levy shall be allocated only by the county or municipal county in which the greatest portion of the valuation is located. The county board of equalization shall certify all levies by October 20 to insure that the taxes levied by political subdivisions subject to this subsection do not exceed the allowable limit for any parcel or item of taxable property. The levy allocated by the county or municipal county may be exceeded as provided in section 77-3444.

(2) All city airport authorities established under the Cities Airport Authorities Act, community redevelopment authorities established under the Community

Development Law, transit authorities established under the Transit Authority Law unless and until the first fiscal year commencing after the effective date of any conversion by such a transit authority into a regional metropolitan transit authority pursuant to the Regional Metropolitan Transit Authority Act, and offstreet parking districts established under the Offstreet Parking District Act may be allocated property taxes as authorized by law which are authorized by the city, village, or municipal county and are counted in the city or village levy limit or municipal county levy limit provided by section 77-3442, except that such limitation shall not apply to property tax levies for preexisting lease-purchase contracts approved prior to July 1, 1998, for bonded indebtedness approved according to law and secured by a levy on property, and for payments by a public airport to retire interest-free loans from the Division of Aeronautics of the Department of Transportation in lieu of bonded indebtedness at a lower cost to the public airport. For offstreet parking districts established under the Offstreet Parking District Act, the tax shall be counted in the allocation by the city proportionately, by dividing the total taxable valuation of the taxable property within the district by the total taxable valuation of the taxable property within the city multiplied by the levy of the district. Unless a transit authority elects to convert into a regional metropolitan transit authority pursuant to the Regional Metropolitan Transit Authority Act, and for each fiscal year of such a transit authority until the first fiscal year commencing after the effective date of such conversion, the city council of a city which has established a transit authority pursuant to the Transit Authority Law or the council of a municipal county which contains a transit authority shall allocate no less than three cents per one hundred dollars of taxable property subject to the levy to the transit authority if requested by such authority. The city council, village board, or council shall review and approve or disapprove the levy request of the political subdivisions subject to this subsection. The city council, village board, or council may approve all or a portion of the levy request and may approve a levy request that would allow a levy greater than that permitted by law. The levy allocated by the municipality or municipal county may be exceeded as provided in section 77-3444.

(3) On or before August 1, all political subdivisions subject to county, municipal, or municipal county levy authority under this section shall submit a preliminary request for levy allocation to the county board, city council, village board, or council that is responsible for levying such taxes. The preliminary request of the political subdivision shall be in the form of a resolution adopted by a majority vote of members present of the political subdivision's governing body. The failure of a political subdivision to make a preliminary request shall preclude such political subdivision from using procedures set forth in section 77-3444 to exceed the final levy allocation as determined in subsection (4) of this section.

(4) Each county board, city council, village board, or council shall (a) adopt a resolution by a majority vote of members present which determines a final allocation of levy authority to its political subdivisions and (b) forward a copy of such resolution to the chairperson of the governing body of each of its political subdivisions. No final levy allocation shall be changed after September 1 except by agreement between both the county board, city council, village board, or council which determined the amount of the final levy allocation and the

governing body of the political subdivision whose final levy allocation is at issue.

Source: Laws 1996, LB 1114, § 2; Laws 1997, LB 269, § 57; Laws 1998, LB 306, § 37; Laws 1999, LB 141, § 12; Laws 2001, LB 142, § 58; Laws 2002, LB 994, § 26; Laws 2015, LB325, § 8; Laws 2017, LB339, § 270; Laws 2019, LB492, § 43; Laws 2021, LB644, § 22.
Operative date January 1, 2022.

Cross References

Cities Airport Authorities Act, see section 3-514.
Community Development Law, see section 18-2101.
Offstreet Parking District Act, see section 19-3301.
Regional Metropolitan Transit Authority Act, see section 18-801.
Transit Authority Law, see section 14-1826.

**ARTICLE 35
HOMESTEAD EXEMPTION**

Section
77-3512. Homestead; exemption; application; when filed.
77-3514.01. Homestead; exemption; late application because of medical condition or death of spouse; filing; form; county assessor; powers and duties; rejection; notice; hearing.
77-3517. Homestead; application for exemption; county assessor; Tax Commissioner; duties; refunds; liens; interest.
77-3523. Homestead; exemption; county treasurer and county assessor; certify tax revenue lost within county; reimbursed; manner; distribution.

77-3512 Homestead; exemption; application; when filed.

It shall be the duty of each owner who wants a homestead exemption under section 77-3506, 77-3507, or 77-3508 to file an application therefor with the county assessor of the county in which the homestead is located after February 1 and on or before June 30 of each year. Failure to do so shall constitute a waiver of the exemption for that year, except that:

- (1) The county board of the county in which the homestead is located may, by majority vote, extend the deadline for an applicant to on or before July 20. An extension shall not be granted to an applicant who received an extension in the immediately preceding year;
- (2) An owner may file a late application pursuant to section 77-3514.01 if he or she includes documentation of a medical condition which impaired the owner's ability to file the application in a timely manner; and
- (3) An owner may file a late application pursuant to section 77-3514.01 if he or she includes a copy of the death certificate of a spouse who died during the year for which the exemption is requested.

Source: Laws 1979, LB 65, § 12; Laws 1980, LB 647, § 7; Laws 1983, LB 195, § 5; Laws 1983, LB 396, § 2; Laws 1984, LB 809, § 8; Laws 1985, Second Spec. Sess., LB 6, § 4; Laws 1989, LB 84, § 12; Laws 1991, LB 9, § 5; Laws 1991, LB 773, § 21; Laws 1995, LB 133, § 1; Laws 1996, LB 1039, § 5; Laws 1997, LB 397, § 27; Laws 2003, LB 192, § 2; Laws 2009, LB94, § 3; Laws 2014,

LB1087, § 12; Laws 2018, LB1089, § 15; Laws 2021, LB313, § 1.

Effective date August 28, 2021.

77-3514.01 Homestead; exemption; late application because of medical condition or death of spouse; filing; form; county assessor; powers and duties; rejection; notice; hearing.

(1) A late application filed pursuant to section 77-3512 because of a medical condition which impaired the claimant's ability to apply in a timely manner shall only be for the current tax year. The late application shall be filed with the county assessor on or before June 30 of the year in which the real estate taxes levied on the property for the current year become delinquent.

(2) A late application filed pursuant to section 77-3512 because of the death of a spouse during the year for which the exemption is requested shall only be for the current tax year. The late application shall be filed with the county assessor on or before June 30 of the year in which the real estate taxes levied on the property for the current year become delinquent.

(3) Applications filed under subsection (1) of this section shall include certification of the medical condition affecting the filing from a physician, physician assistant, or advanced practice registered nurse. The medical certification shall be made on forms prescribed by the Tax Commissioner.

(4) Applications filed under subsection (2) of this section shall include a copy of the death certificate of the deceased spouse.

(5) The county assessor shall approve or reject the late filing within thirty days of receipt of the late filing. If approved, the county assessor shall mark it approved and sign the application. In case he or she finds that the exemption should not be allowed by reason of not being in conformity to law, the county assessor shall mark the application as rejected and state the reason for rejection and sign the application. In any case when the county assessor rejects an exemption, he or she shall notify the applicant of such action by mailing written notice to the applicant at the address shown in the application. The notice shall be on forms prescribed by the Tax Commissioner. In any case when the county assessor rejects an exemption, such applicant may obtain a hearing before the county board of equalization in the manner described by section 77-3519.

Source: Laws 2009, LB94, § 7; Laws 2018, LB1089, § 18; Laws 2021, LB313, § 2.

Effective date August 28, 2021.

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 under section 77-3512 shall be processed in a similar manner after approval by the county assessor. If the Tax Commissioner approves a late application after any of the real estate taxes in question become delinquent, such delinquency and any interest associated with the amount of the approved exemption shall be removed from the tax rolls of the county within thirty days after the county assessor receives notice from the Tax Commissioner of the approved exemption.

(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 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; Laws 2021, LB313, § 3.

Effective date August 28, 2021.

77-3523 Homestead; exemption; county treasurer and county assessor; certify tax revenue lost within county; reimbursed; manner; distribution.

The county treasurer and county assessor shall, on or before November 30 of each year, certify to the Tax Commissioner the total tax revenue that will be lost to all taxing agencies within the county from taxes levied and assessed in that year because of exemptions allowed under sections 77-3501 to 77-3529. The county treasurer and county assessor may amend the certification to show any change or correction in the total tax that will be lost until May 30 of the next succeeding year. If a homestead exemption is approved, denied, or corrected by the Tax Commissioner under subsection (2) of section 77-3517 after May 1 of the next year, the county treasurer and county assessor shall prepare and submit amended reports to the Tax Commissioner and the political subdivisions covering any affected year and shall adjust the reimbursement to the county and the other political subdivisions by adjusting the reimbursement due under this section in later years. The Tax Commissioner shall, on or before January 1 next following such certification or within thirty days of any amendment to the certification, notify the Director of Administrative Services of the amount so certified to be reimbursed by the state. Reimbursement of the funds lost shall be made to each county according to the certification and shall be distributed in six as nearly as possible equal monthly payments on the last business day of each month beginning in January. The Director of Administrative Services shall, on the last business day of each month, issue payments by electronic funds transfer. Out of the amount so received the county treasurer shall distribute to each of the taxing agencies within his or her county the full amount so lost by such agency, except that one percent of such amount shall be deposited in the county general fund and that the amount due a Class V school district shall be paid to the district and the county shall be compensated pursuant to section 14-554. Each taxing agency shall, in preparing its annual or biennial budget, take into account the amount to be received under this section.

Source: Laws 1979, LB 65, § 23; Laws 1983, LB 494, § 7; Laws 1986, LB 1258, § 10; Laws 1987, LB 376A, § 16; Laws 1994, LB 902, § 42; Laws 1995, LB 499, § 3; Laws 1996, LB 1040, § 5; Laws 1997, LB 397, § 32; Laws 2000, LB 1116, § 17; Laws 2009, LB166, § 18; Laws 2014, LB1087, § 19; Laws 2018, LB1089, § 21; Laws 2021, LB509, § 13.

Effective date August 28, 2021.

ARTICLE 42

PROPERTY TAX CREDIT ACT

Section

77-4212. Property tax credit; county treasurer; duties; disbursement to counties; Property Tax Administrator; State Treasurer; duties.

77-4212 Property tax credit; county treasurer; duties; disbursement to counties; Property Tax Administrator; State Treasurer; duties.

(1) For tax year 2007, the amount of relief granted under the Property Tax Credit Act shall be one hundred five million dollars. For tax year 2008, the

amount of relief granted under the act shall be one hundred fifteen million dollars. It is the intent of the Legislature to fund the Property Tax Credit Act for tax years after tax year 2008 using available revenue. For tax year 2017, the amount of relief granted under the act shall be two hundred twenty-four million dollars. For tax year 2020 and each tax year thereafter, the minimum amount of relief granted under the act shall be two hundred seventy-five million dollars. If money is transferred or credited to the Property Tax Credit Cash Fund pursuant to any other state law, such amount shall be added to the minimum amount required under this subsection when determining the total amount of relief granted under the act. The relief shall be in the form of a property tax credit which appears on the property tax statement.

(2)(a) For tax years prior to tax year 2017, to determine the amount of the property tax credit, the county treasurer shall multiply the amount disbursed to the county under subdivision (4)(a) of this section by the ratio of the real property valuation of the parcel to the total real property valuation in the county. The amount determined shall be the property tax credit for the property.

(b) Beginning with tax year 2017, to determine the amount of the property tax credit, the county treasurer shall multiply the amount disbursed to the county under subdivision (4)(b) of this section by the ratio of the credit allocation valuation of the parcel to the total credit allocation valuation in the county. The amount determined shall be the property tax credit for the property.

(3) If the real property owner qualifies for a homestead exemption under sections 77-3501 to 77-3529, the owner shall also be qualified for the relief provided in the act to the extent of any remaining liability after calculation of the relief provided by the homestead exemption. If the credit results in a property tax liability on the homestead that is less than zero, the amount of the credit which cannot be used by the taxpayer shall be returned to the Property Tax Administrator by July 1 of the year the amount disbursed to the county was disbursed. The Property Tax Administrator shall immediately credit any funds returned under this subsection to the Property Tax Credit Cash Fund. Upon the return of any funds under this subsection, the county treasurer shall electronically file a report with the Property Tax Administrator, on a form prescribed by the Tax Commissioner, indicating the amount of funds distributed to each taxing unit in the county in the year the funds were returned, any collection fee retained by the county in such year, and the amount of unused credits returned.

(4)(a) For tax years prior to tax year 2017, the amount disbursed to each county shall be equal to the amount available for disbursement determined under subsection (1) of this section multiplied by the ratio of the real property valuation in the county to the real property valuation in the state. By September 15, the Property Tax Administrator shall determine the amount to be disbursed under this subdivision to each county and certify such amounts to the State Treasurer and to each county. The disbursements to the counties shall occur in two equal payments, the first on or before January 31 and the second on or before April 1. After retaining one percent of the receipts for costs, the county treasurer shall allocate the remaining receipts to each taxing unit levying taxes on taxable property in the tax district in which the real property is located in the same proportion that the levy of such taxing unit bears to the total levy on taxable property of all the taxing units in the tax district in which the real property is located.

(b) Beginning with tax year 2017, the amount disbursed to each county shall be equal to the amount available for disbursement determined under subsection (1) of this section multiplied by the ratio of the credit allocation valuation in the county to the credit allocation valuation in the state. By September 15, the Property Tax Administrator shall determine the amount to be disbursed under this subdivision to each county and certify such amounts to the State Treasurer and to each county. The disbursements to the counties shall occur in two equal payments, the first on or before January 31 and the second on or before April 1. After retaining one percent of the receipts for costs, the county treasurer shall allocate the remaining receipts to each taxing unit based on its share of the credits granted to all taxpayers in the taxing unit.

(5) For purposes of this section, credit allocation valuation means the taxable value for all real property except agricultural land and horticultural land, one hundred twenty percent of taxable value for agricultural land and horticultural land that is not subject to special valuation, and one hundred twenty percent of taxable value for agricultural land and horticultural land that is subject to special valuation.

(6) The State Treasurer shall transfer from the General Fund to the Property Tax Credit Cash Fund one hundred five million dollars by August 1, 2007, and one hundred fifteen million dollars by August 1, 2008.

(7) The Legislature shall have the power to transfer funds from the Property Tax Credit Cash Fund to the General Fund.

Source: Laws 2007, LB367, § 4; Laws 2014, LB1087, § 21; Laws 2016, LB958, § 1; Laws 2017, LB217, § 22; Laws 2020, LB1107, § 136; Laws 2021, LB509, § 14.
Effective date August 28, 2021.

ARTICLE 46

REVENUE FORECASTING

Section

- 77-4602. Actual General Fund net receipts; public statement by Tax Commissioner; Tax Commissioner; duties; transfer of funds; when.
77-4603. Special session of Legislature; new certification required; recertification; when.

77-4602 Actual General Fund net receipts; public statement by Tax Commissioner; Tax Commissioner; duties; transfer of funds; when.

(1) Within fifteen days after the end of each month, the Tax Commissioner shall provide a public statement of actual General Fund net receipts, a comparison of such actual net receipts to the monthly estimated net receipts from the most recent forecast provided by the Nebraska Economic Forecasting Advisory Board pursuant to section 77-27,158, and a comparison of such actual net receipts to the monthly actual net receipts for the same month of the previous fiscal year.

(2) Within fifteen days after the end of each fiscal year, the public statement shall also include (a) a summary of actual General Fund net receipts and estimated General Fund net receipts for the fiscal year as certified pursuant to sections 77-4601 and 77-4603 and (b) a comparison of the actual General Fund net receipts for the fiscal year to the actual General Fund net receipts for the previous fiscal year.

(3)(a) Within fifteen days after the end of fiscal year 2020-21 and each fiscal year thereafter through fiscal year 2022-23, the Tax Commissioner shall determine the balance of the Cash Reserve Fund.

(b) If the balance of the Cash Reserve Fund is less than five hundred million dollars:

(i) The Tax Commissioner shall determine:

(A) Actual General Fund net receipts for the most recently completed fiscal year minus estimated General Fund net receipts for such fiscal year as certified pursuant to sections 77-4601 and 77-4603; and

(B) Actual General Fund net receipts for the most recently completed fiscal year minus one hundred three and one-half percent of actual General Fund net receipts for the prior fiscal year.

(ii) If the amounts calculated under subdivisions (3)(b)(i)(A) and (3)(b)(i)(B) of this section are both positive numbers, the Tax Commissioner shall certify (A) the amount determined under subdivision (3)(b)(i)(A) of this section and (B) fifty percent of the amount determined under subdivision (3)(b)(i)(B) of this section to the State Treasurer. The State Treasurer shall transfer the difference between the two certified amounts to the Cash Reserve Fund.

(iii) If the amount calculated under subdivision (3)(b)(i)(A) of this section is a positive number but the amount calculated under subdivision (3)(b)(i)(B) of this section is a negative number, the Tax Commissioner shall certify the amount determined under subdivision (3)(b)(i)(A) of this section to the State Treasurer and the State Treasurer shall transfer such certified amount to the Cash Reserve Fund.

(c) If the balance of the Cash Reserve Fund is five hundred million dollars or more:

(i) The Tax Commissioner shall determine:

(A) Actual General Fund net receipts for the most recently completed fiscal year minus estimated General Fund net receipts for such fiscal year as certified pursuant to sections 77-4601 and 77-4603; and

(B) Actual General Fund net receipts for the most recently completed fiscal year minus one hundred three and one-half percent of actual General Fund net receipts for the prior fiscal year.

(ii) If the amounts calculated under subdivisions (3)(c)(i)(A) and (3)(c)(i)(B) of this section are both positive numbers, the Tax Commissioner shall certify (A) the amount determined under subdivision (3)(c)(i)(A) of this section and (B) the amount determined under subdivision (3)(c)(i)(B) of this section to the State Treasurer. The State Treasurer shall transfer the difference between the two certified amounts to the Cash Reserve Fund.

(iii) If the amount calculated under subdivision (3)(c)(i)(A) of this section is a positive number but the amount calculated under subdivision (3)(c)(i)(B) of this section is a negative number, the Tax Commissioner shall certify the amount determined under subdivision (3)(c)(i)(A) of this section to the State Treasurer and the State Treasurer shall transfer such certified amount to the Cash Reserve Fund.

(4)(a) Within fifteen days after the end of fiscal year 2023-24 and each fiscal year thereafter, the Tax Commissioner shall determine the following:

(i) Actual General Fund net receipts for the most recently completed fiscal year minus estimated General Fund net receipts for such fiscal year as certified pursuant to sections 77-4601 and 77-4603; and

(ii) Fifty percent of the product of actual General Fund net receipts for the most recently completed fiscal year times the difference between the annual percentage increase in the actual General Fund net receipts for the most recently completed fiscal year and the average annual percentage increase in the actual General Fund net receipts over the twenty previous fiscal years, excluding the year in which the annual percentage change in actual General Fund net receipts is the lowest.

(b) If the number determined under subdivision (4)(a)(i) of this section is a positive number, the Tax Commissioner shall immediately certify the greater of the two numbers determined under subdivision (4)(a) of this section to the director. The State Treasurer shall transfer the certified amount from the General Fund to the Cash Reserve Fund upon certification by the director of such amount. The transfer shall be made according to the following schedule:

(i) An amount equal to the amount determined under subdivision (4)(a)(i) of this section shall be transferred immediately; and

(ii) The remainder, if any, shall be transferred by the end of the subsequent fiscal year.

(c) If the transfer required under subdivision (4)(b) of this section causes the balance in the Cash Reserve Fund to exceed sixteen percent of the total budgeted General Fund expenditures for the current fiscal year, such transfer shall be reduced so that the balance of the Cash Reserve Fund does not exceed such amount.

(d) Nothing in this subsection prohibits the balance in the Cash Reserve Fund from exceeding sixteen percent of the total budgeted General Fund expenditures each fiscal year if the Legislature determines it necessary to prepare for and respond to budgetary requirements which may include, but are not limited to, capital construction projects and responses to emergencies.

Source: Laws 1993, LB 38, § 2; Laws 1996, LB 1290, § 4; Laws 2019, LB638, § 1; Laws 2020, LB1107, § 137; Laws 2021, LB180, § 1.
Effective date August 28, 2021.

77-4603 Special session of Legislature; new certification required; recertification; when.

(1) If an estimate of General Fund net receipts is changed in a regular or extraordinary meeting of the Nebraska Economic Forecasting Advisory Board and such change results in a special session of the Legislature to revise current fiscal year General Fund appropriations, the Tax Commissioner and the Legislative Fiscal Analyst shall certify the monthly receipt estimates, taking into consideration the most recent estimate of General Fund net receipts made by the Nebraska Economic Forecasting Advisory Board plus legislation enacted which has an impact on receipts that was not included in the forecast. The new monthly certification shall be made by the fifteenth day of the month following the adjournment of the special session of the Legislature.

(2) If an estimate of General Fund net receipts is reduced in a regular or extraordinary meeting of the Nebraska Economic Forecasting Advisory Board, the Tax Commissioner and the Legislative Fiscal Analyst shall recertify the

monthly receipt estimates, taking into consideration the most recent estimate of General Fund net receipts made by the Nebraska Economic Forecasting Advisory Board plus legislation enacted which has an impact on receipts that was not included in the forecast. The new monthly certification shall be made by the fifteenth day of the month following the meeting of the Nebraska Economic Forecasting Advisory Board.

(3) The new certified annual and monthly receipt estimates shall be used for the public statements required under subsection (2) of section 77-4602.

Source: Laws 1993, LB 38, § 3; Laws 1996, LB 1290, § 5; Laws 2021, LB180, § 2.

Effective date August 28, 2021.

ARTICLE 50

TAX EQUALIZATION AND REVIEW COMMISSION ACT

Section

77-5023. Commission; power to change value; acceptable range.

77-5023 Commission; power to change value; acceptable range.

(1) Pursuant to section 77-5022, the commission shall have the power to increase or decrease the value of a class or subclass of real property in any county or taxing authority or of real property valued by the state so that all classes or subclasses of real property in all counties fall within an acceptable range.

(2) An acceptable range is the percentage of variation from a standard for valuation as measured by an established indicator of central tendency of assessment. Acceptable ranges are: (a) For agricultural land and horticultural land as defined in section 77-1359, sixty-nine to seventy-five percent of actual value, except that for school district taxes levied to pay the principal and interest on bonds that are approved by a vote of the people on or after January 1, 2022, the acceptable range is forty-four to fifty percent of actual value; (b) for lands receiving special valuation, sixty-nine to seventy-five percent of special valuation as defined in section 77-1343, except that for school district taxes levied to pay the principal and interest on bonds that are approved by a vote of the people on or after January 1, 2022, the acceptable range is forty-four to fifty percent of special valuation as defined in section 77-1343; and (c) for all other real property, ninety-two to one hundred percent of actual value.

(3) Any increase or decrease shall cause the level of value determined by the commission to be at the midpoint of the applicable acceptable range.

(4) Any decrease or increase to a subclass of property shall also cause the level of value determined by the commission for the class from which the subclass is drawn to be within the applicable acceptable range.

(5) Whether or not the level of value determined by the commission falls within an acceptable range or at the midpoint of an acceptable range may be determined to a reasonable degree of certainty relying upon generally accepted mass appraisal techniques.

Source: Laws 1903, c. 73, § 130, p. 434; R.S.1913, § 6447; Laws 1921, c. 133, art. XI, § 4, p. 591; C.S.1922, § 5901; C.S.1929, § 77-1004; Laws 1933, c. 129, § 1, p. 505; C.S.Supp.,1941, § 77-1004; R.S. 1943, § 77-506; Laws 1955, c. 289, § 4, p. 918; Laws 1957, c.

323, § 1, p. 1145; Laws 1957, c. 320, § 3, p. 1139; Laws 1979, LB 187, § 193; Laws 1985, LB 268, § 2; Laws 1987, LB 508, § 19; Laws 1992, LB 1063, § 58; Laws 1992, Second Spec. Sess., LB 1, § 56; Laws 1995, LB 137, § 1; R.S.1943, (1996), § 77-506; Laws 1997, LB 397, § 41; Laws 2000, LB 968, § 77; Laws 2001, LB 170, § 23; Laws 2003, LB 291, § 13; Laws 2004, LB 973, § 64; Laws 2006, LB 808, § 44; Laws 2006, LB 968, § 15; Laws 2007, LB167, § 9; Laws 2009, LB166, § 20; Laws 2021, LB2, § 2.
Operative date January 1, 2022.

ARTICLE 52

BEGINNING FARMER TAX CREDIT ACT

Section

77-5208. Board; meetings; application; approval; deadline.

77-5208 Board; meetings; application; approval; deadline.

The board shall meet at least twice during the year. The board shall review pending applications in order to approve and certify beginning farmers and livestock producers as eligible for the programs provided by the board, to approve and certify owners of agricultural assets as eligible for the tax credits authorized by sections 77-5211 to 77-5213, and to approve and certify qualified beginning farmers and livestock producers as eligible for the tax credit authorized by section 77-5209.01 and for qualification to claim an exemption of taxable tangible personal property as provided by section 77-5209.02. No new applications for any such programs, tax credits, or exemptions shall be approved or certified by the board after December 31, 2025. Any action taken by the board regarding approval and certification of program eligibility, granting of tax credits, or termination of rental agreements shall require the affirmative vote of at least four members of the board.

Source: Laws 1999, LB 630, § 9; Laws 2006, LB 990, § 10; Laws 2008, LB1027, § 6; Laws 2015, LB538, § 12; Laws 2016, LB1022, § 8; Laws 2021, LB432, § 15.

Operative date August 28, 2021.

ARTICLE 59

NEBRASKA ADVANTAGE MICROENTERPRISE TAX CREDIT ACT

Section

77-5903. Terms, defined.

77-5905. Applications; approval; limit.

77-5906. Tax credit; amount; claim; expiration; interest.

77-5907. Report; joint hearing.

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, (b) an individual and a corporation if more than fifty percent in value of the outstanding stock of the corporation is owned, directly or indirectly, by or for such individual, (c) a fiduciary of a trust and a corporation if more than fifty percent in value of the outstanding stock of the corporation is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust, (d) a corporation and a partnership if the same persons own (i) more than fifty percent in value of the outstanding stock of the corporation and (ii) more than fifty percent of the capital interest, or the profits interest, in the partnership, (e) a subchapter S corporation and another subchapter S corporation if the same persons own more than fifty percent in value of the outstanding stock of each corporation, (f) a subchapter S corporation and a C corporation if the same persons own more than fifty percent in value of the outstanding stock of each corporation, (g) a partnership and a person owning, directly or indirectly, more than fifty percent of the capital interest, or the profits interest, in such partnership, (h) two partnerships in which the same persons own, directly or indirectly, more than fifty percent of the capital interests or profits interests, and (i) any individual who is a 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.

The changes made to this section by Laws 2021, LB366, shall apply to all applications for benefits received on or after August 28, 2021.

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; Laws 2021, LB366, § 1.

Effective date August 28, 2021.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

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, 2032. 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, the Nebraska Advantage Rural Development Act, the ImagiNE Nebraska Act, or the Urban Redevelopment 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; Laws 2020, LB1107, § 138; Laws 2021, LB366, § 2; Laws 2021, LB544, § 34.

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Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB366, section 2, with LB544, section 34, to reflect all amendments.

Note: Changes made by LB366 became effective August 28, 2021. Changes made by LB544 became operative January 1, 2022.

Cross References

Employment and Investment Growth Act, see section 77-4101.

Imagine Nebraska Act, see section 77-6801.

Nebraska Advantage Act, see section 77-5701.

Nebraska Advantage Rural Development Act, see section 77-27,187.

Urban Redevelopment Act, see section 77-6901.

77-5906 Tax credit; amount; claim; expiration; interest.

(1) Taxpayers shall be entitled to refundable tax credits for the taxpayer's new investment or new employment in the microbusiness during the tax year. The tax credits shall be equal to:

- (a) Twenty percent of the taxpayer's new investment; and
- (b) Twenty percent of the taxpayer's new employment.

(2) The total amount of tax credits shall not exceed the amount of tentative tax credits approved by the department under section 77-5905.

(3) The taxpayer shall claim the tax credit by filing a form developed by the Tax Commissioner and attaching the tentative tax credit certification granted by the department. Tentative tax credits expire after the end of the tax year following the year the tentative tax credit was certified.

(4) The total lifetime tax credits claimed by any one taxpayer and any related person under the Nebraska Advantage Microenterprise Tax Credit Act shall be limited to twenty thousand dollars.

(5) Interest shall not be allowed on any taxes refunded under the act.

(6) The changes made to this section by Laws 2021, LB366, shall apply to all applications for benefits received on or after August 28, 2021.

Source: Laws 2005, LB 312, § 71; Laws 2009, LB164, § 12; Laws 2021, LB366, § 3.

Effective date August 28, 2021.

77-5907 Report; joint hearing.

(1) The Tax Commissioner shall prepare a report identifying the following aggregate amounts for the previous calendar year: (a) The amount of projected employment and investment anticipated by taxpayers receiving tentative tax credits and the tentative tax credits granted; (b) the actual amount of employment and investment made by taxpayers that were granted tentative tax credits in the previous calendar year; (c) the tax credits used; and (d) the tentative tax credits that expired. The report shall be issued on or before July 15, 2007, and each July 15 thereafter. The Department of Revenue shall, on or before September 1 of each year, appear at a joint hearing of the Appropriations Committee of the Legislature and the Revenue Committee of the Legislature and present the report. Any supplemental information requested by three or more committee members shall be presented within thirty days after the request.

(2) Beginning with applications filed on or after August 28, 2021, the report shall provide information on project-specific total credits used every two years for each approved application and shall disclose (a) the identity of the taxpayer, (b) the location or locations where the taxpayer is earning credits, (c) the new investment or new employment that was actually produced by the taxpayer to

earn credits, and (d) the total credits used during the immediately preceding two years, expressed as a single, aggregated total.

(3) No information shall be provided in the report that is protected by state or federal confidentiality laws.

Source: Laws 2005, LB 312, § 72; Laws 2013, LB612, § 9; Laws 2021, LB366, § 4.
Effective date August 28, 2021.

ARTICLE 67

NEBRASKA PROPERTY TAX INCENTIVE ACT

Section

77-6703. Tax credit for school district taxes paid.

77-6703 Tax credit for school district taxes paid.

(1) For taxable years beginning or deemed to begin on or after January 1, 2020, under the Internal Revenue Code of 1986, as amended, there shall be allowed to each eligible taxpayer a refundable credit against the income tax imposed by the Nebraska Revenue Act of 1967 or against the franchise tax imposed by sections 77-3801 to 77-3807. The credit shall be equal to the credit percentage for the taxable year, as set by the department under subsection (2) of this section, multiplied by the amount of school district taxes paid by the eligible taxpayer during such taxable year.

(2)(a) For taxable years beginning or deemed to begin during calendar year 2020, the department shall set the credit percentage so that the total amount of credits for such taxable years shall be one hundred twenty-five million dollars;

(b) For taxable years beginning or deemed to begin during calendar year 2021, the department shall set the credit percentage so that the total amount of credits for such taxable years shall be one hundred twenty-five million dollars plus either (i) the amount calculated for such calendar year under subdivision (3)(b)(ii)(B) of section 77-4602 or (ii) the amount calculated for such calendar year under subdivision (3)(c)(ii)(B) of section 77-4602, whichever is applicable;

(c) For taxable years beginning or deemed to begin during calendar year 2022, the department shall set the credit percentage so that the total amount of credits for such taxable years shall be the maximum amount of credits allowed under subdivision (2)(b) of this section plus either (i) the amount calculated for such calendar year under subdivision (3)(b)(ii)(B) of section 77-4602 or (ii) the amount calculated for such calendar year under subdivision (3)(c)(ii)(B) of section 77-4602, whichever is applicable;

(d) For taxable years beginning or deemed to begin during calendar year 2023, the department shall set the credit percentage so that the total amount of credits for such taxable years shall be the maximum amount of credits allowed under subdivision (2)(c) of this section plus either (i) the amount calculated for such calendar year under subdivision (3)(b)(ii)(B) of section 77-4602 or (ii) the amount calculated for such calendar year under subdivision (3)(c)(ii)(B) of section 77-4602, whichever is applicable;

(e) For taxable years beginning or deemed to begin during calendar year 2024, the department shall set the credit percentage so that the total amount of credits for such taxable years shall be three hundred seventy-five million dollars; and

(f) For taxable years beginning or deemed to begin during calendar year 2025 and each calendar year thereafter, the department shall set the credit percentage so that the total amount of credits for such taxable years shall be the maximum amount of credits allowed in the prior year increased by the allowable growth percentage.

(3) If the school district taxes are paid by a corporation having an election in effect under subchapter S of the Internal Revenue Code, a partnership, a limited liability company, a trust, or an estate, the amount of school district taxes paid during the taxable year may be allocated to the shareholders, partners, members, or beneficiaries in the same proportion that income is distributed for taxable years beginning or deemed to begin before January 1, 2021, under the Internal Revenue Code of 1986, as amended. The department shall provide forms and schedules necessary for verifying eligibility for the credit provided in this section and for allocating the school district taxes paid. For taxable years beginning or deemed to begin on or after January 1, 2021, under the Internal Revenue Code of 1986, as amended, the refundable credit shall be claimed by the corporation having an election in effect under subchapter S of the Internal Revenue Code, the partnership, the limited liability company, the trust, or the estate that paid the school district taxes.

(4) For any fiscal year or short year taxpayer, the credit may be claimed in the first taxable year that begins following the calendar year for which the credit percentage was determined. The credit shall be taken for the school district taxes paid by the taxpayer during the immediately preceding calendar year.

(5) For the first taxable year beginning or deemed to begin on or after January 1, 2021, and before January 1, 2022, under the Internal Revenue Code of 1986, as amended, for a corporation having an election in effect under subchapter S of the Internal Revenue Code, a partnership, a limited liability company, a trust, or an estate that paid school district taxes in calendar year 2020 but did not claim the credit directly or allocate such school district taxes to the shareholders, partners, members, or beneficiaries as permitted under subsection (3) of this section, there shall be allowed an additional refundable credit. This credit shall be equal to six percent, multiplied by the amount of school district taxes paid during 2020 by the eligible taxpayer.

Source: Laws 2020, LB1107, § 113; Laws 2021, LB181, § 1.
Operative date January 1, 2020.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

ARTICLE 68

IMAGINE NEBRASKA ACT

Section

77-6810. Equivalent employees, defined.
77-6818. Qualified location, defined.

77-6810 Equivalent employees, defined.

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. Only the hours paid to employees who were employed in Nebraska

and subject to the Nebraska income tax on compensation received from the taxpayer shall be included in such computation. A salaried employee who receives a predetermined amount of compensation each pay period on a weekly or less frequent basis is deemed to have been paid for forty hours per week during the pay period.

Source: Laws 2020, LB1107, § 10; Laws 2021, LB18, § 1.
Effective date May 26, 2021.

77-6818 Qualified location, defined.

(1) Qualified location means a location at which the majority of the business activities conducted are within one or more of the following NAICS codes or the following descriptions:

(a) Manufacturing - 31, 32, or 33, including pre-production services;

(b) Testing Laboratories - 541380;

(c) Rail Transportation - 482;

(d) Truck Transportation - 484;

(e) Insurance Carriers - 5241;

(f) Wired Telecommunications Carriers - 517311;

(g) Wireless Telecommunications Carriers (except Satellite) - 517312;

(h) Telemarketing Bureaus and Other Contact Centers - 561422;

(i) Data Processing, Hosting, and Related Services - 518210;

(j) Computer Facilities Management Services - 541513;

(k) Warehousing and Storage - 4931;

(l) The administrative management of the taxpayer's activities, including headquarter facilities relating to such activities, or the administrative management of any of the activities of any business entity or entities in which the taxpayer or a group of its owners hold any direct or indirect ownership interest of at least ten percent, including headquarter facilities relating to such activities;

(m) Logistics Facilities - Portions of NAICS 488210, 488310, and 488490 dealing with independently operated trucking terminals, independently operated railroad and railway terminals, and waterfront terminal and port facility operations;

(n) Services provided on aircraft brought into this state by an individual who is a resident of another state or any other person who has a business location in another state when the aircraft is not to be registered or based in this state and will not remain in this state more than ten days after the service is completed;

(o) The conducting of research, development, or testing, or any combination thereof, for scientific, agricultural, animal husbandry, food product, industrial, or technology purposes;

(p) The production of electricity by using one or more sources of renewable energy to produce electricity for sale. For purposes of this subdivision, sources of renewable energy includes, but is not limited to, wind, solar, energy storage, geothermal, hydroelectric, biomass, nuclear, and transmutation of elements;

(q) Computer Systems Design and Related Services - 5415;

(r) The performance of financial services. For purposes of this subdivision, financial services includes only financial services provided by any financial institution subject to tax under Chapter 77, article 38, or any person or entity licensed by the Department of Banking and Finance or the federal Securities and Exchange Commission;

(s) Postharvest Crop Activities (except Cotton Ginning) - 115114; or

(t) The processing of tangible personal property. For purposes of this subdivision, processing means to subject to a particular method, system, or technique of preparation, handling, or other treatment designed to prepare tangible personal property for market, manufacture, or other commercial use which does not result in the transformation of such property into a substantially different character.

(2)(a) Qualified location also includes any other business location if at least seventy-five percent of the revenue derived at the location is from sales to customers who are not related persons which are delivered or provided from the qualified location to a location that is not within Nebraska according to the sourcing rules in subsections (2) and (3) of section 77-2734.14. Intermediate sales to related persons are included as sales to customers delivered or provided to a location outside Nebraska if the related person delivers or provides the goods or services to a location outside Nebraska. Even if a location meets the seventy-five percent requirement of this subdivision, such location shall not constitute a qualified location under this subdivision if the majority of the business activities conducted at such location are within any of the following NAICS codes or any combination thereof:

(i) Agriculture, Forestry, Fishing and Hunting - 11, excluding NAICS code 115114;

(ii) Transportation and Warehousing - 48-49;

(iii) Information - 51;

(iv) Utilities - 22;

(v) Mining, Quarrying, and Oil and Gas Extraction - 21;

(vi) Public Administration - 92; or

(vii) Construction - 23.

(b) The director may adopt and promulgate rules and regulations establishing an alternative method in circumstances in which subdivision (2)(a) of this section does not accurately reflect the out-of-state sales taking place at locations within Nebraska for a particular industry.

(3) The determination of the majority of the business activities shall be made based on the number of employees working in the respective business activities. The director may adopt and promulgate rules and regulations establishing an alternative method in circumstances in which other factors provide a better reflection of business activities.

(4) The delineation of the types of business activities which enable a location to constitute a qualified location is based on the state's intention to attract certain types of business activities and to responsibly accomplish the purposes of the ImagiNE Nebraska Act by directing the state's incentive capabilities towards business activities which, due to their national nature, could locate outside of Nebraska and which therefore would, through the use of incentives, be motivated to locate in Nebraska. By listing specific types of business

activities in subsection (1) of this section, the state has determined such business activities by their nature meet these objectives. By specifying the national nature of a taxpayer's revenue in subsection (2) of this section, the state has determined that certain other types of business activities can meet these objectives.

Source: Laws 2020, LB1107, § 18; Laws 2021, LB18, § 2; Laws 2021, LB84, § 2.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB18, section 2, with LB84, section 2, to reflect all amendments.

Note: Changes made by LB18 became effective May 26, 2021. Changes made by LB84 became effective August 28, 2021.

ARTICLE 69

URBAN REDEVELOPMENT ACT

Section

- 77-6901. Act, how cited.
- 77-6902. Definitions, where found.
- 77-6903. Additional definitions.
- 77-6904. Base year, defined.
- 77-6905. Base-year employee, defined.
- 77-6906. Economic redevelopment area, defined.
- 77-6907. Equivalent employees, defined.
- 77-6908. Investment, defined.
- 77-6909. Nebraska statewide average hourly wage for any year, defined.
- 77-6910. Number of new employees, defined.
- 77-6911. Performance period, defined.
- 77-6912. Qualified location, defined.
- 77-6913. Qualified property, defined.
- 77-6914. Ramp-up period, defined.
- 77-6915. Related taxpayers, defined.
- 77-6916. Taxpayer, defined.
- 77-6917. Wages, defined.
- 77-6918. Year, defined.
- 77-6919. Incentives; application; contents; fee; approval; conditions; agreement; confidentiality.
- 77-6920. Tax credits; conditions; amounts; teleworker; treatment.
- 77-6921. Existing business acquisition, disposal, reorganization, or relocation; computation; certain transactions excluded.
- 77-6922. Tax credits; use.
- 77-6923. Tax credits; recapture; amount; deadline.
- 77-6924. Employees; verification of status required; exclusions.
- 77-6925. Incentives; transfer; when.
- 77-6926. Refunds; interest not allowable.
- 77-6927. Base-year employment levels; review and certification; effect.
- 77-6928. Reports.

77-6901 Act, how cited.

Sections 77-6901 to 77-6928 shall be known and may be cited as the Urban Redevelopment Act.

Source: Laws 2021, LB544, § 1.
Operative date January 1, 2022.

77-6902 Definitions, where found.

For purposes of the Urban Redevelopment Act, the definitions found in sections 77-6903 to 77-6918 shall be used.

Source: Laws 2021, LB544, § 2.
Operative date January 1, 2022.

77-6903 Additional definitions.

Any term has the same meaning as used in the Nebraska Revenue Act of 1967.

Source: Laws 2021, LB544, § 3.
Operative date January 1, 2022.

77-6904 Base year, defined.

Base year means the year immediately preceding the year of application, except that if the year of application is 2021, the base year is either 2019 or 2020, whichever year the applicant had the larger number of equivalent employees at the qualified location.

Source: Laws 2021, LB544, § 4.
Operative date January 1, 2022.

77-6905 Base-year employee, defined.

Base-year employee means any individual who was employed in Nebraska and subject to the Nebraska income tax on compensation received from the taxpayer or its predecessors during the base year and who is employed at the qualified location.

Source: Laws 2021, LB544, § 5.
Operative date January 1, 2022.

77-6906 Economic redevelopment area, defined.

Economic redevelopment area means an area in the State of Nebraska in which:

- (1) The average rate of unemployment in the area during the period covered by the most recent federal decennial census or American Community Survey 5-Year Estimate by the United States Bureau of the Census is at least one hundred fifty percent of the average rate of unemployment in the state during the same period; and
- (2) The average poverty rate in the area is twenty percent or more for the federal census tract in the area.

Source: Laws 2021, LB544, § 6.
Operative date January 1, 2022.

77-6907 Equivalent employees, defined.

Equivalent employees means the number of employees computed by dividing the total hours paid in a year to employees by the product of forty times the number of weeks in a year. Only the hours paid to employees who are residents of this state shall be included in such computation. A salaried employee who receives a predetermined amount of compensation each pay period on a weekly or less frequent basis is deemed to have been paid for forty hours per week during the pay period.

Source: Laws 2021, LB544, § 7.
Operative date January 1, 2022.

77-6908 Investment, defined.

Investment means the value of qualified property incorporated into or used at the qualified location. For qualified property owned by the taxpayer, the value shall be the original cost of the property. For qualified property rented by the taxpayer, the average net annual rent shall be multiplied by the number of years of the lease for which the taxpayer was originally bound, not to exceed ten years. The rental of land included in and incidental to the leasing of a building shall not be excluded from the computation. For purposes of this section, original cost means the amount required to be capitalized for depreciation, amortization, or other recovery under the Internal Revenue Code of 1986, as amended. Any amount, including the labor of the taxpayer, that is capitalized as a part of the cost of the qualified property or that is written off under section 179 of the Internal Revenue Code of 1986, as amended, shall be considered part of the original cost.

Source: Laws 2021, LB544, § 8.
Operative date January 1, 2022.

77-6909 Nebraska statewide average hourly wage for any year, defined.

Nebraska statewide average hourly wage for any year means the most recent statewide average hourly wage paid by all employers in all counties in Nebraska as calculated by the Office of Labor Market Information of the Department of Labor using annual data from the Quarterly Census of Employment and Wages by October 1 of the year prior to application. Hourly wages shall be calculated by dividing the reported average annual weekly wage by forty.

Source: Laws 2021, LB544, § 9.
Operative date January 1, 2022.

77-6910 Number of new employees, defined.

Number of new employees means the number of equivalent employees that are employed at the qualified location during a year that are in excess of the number of base-year employees.

Source: Laws 2021, LB544, § 10.
Operative date January 1, 2022.

77-6911 Performance period, defined.

Performance period means the year during which the required increases in employment and investment were met or exceeded and each year thereafter until the end of the third year after the year the required increases were met or exceeded.

Source: Laws 2021, LB544, § 11.
Operative date January 1, 2022.

77-6912 Qualified location, defined.

Qualified location means any location in a city of the metropolitan class or a city of the primary class that is used or will be used by the taxpayer to conduct business activities and that is located within an economic redevelopment area. More than one qualified location may be part of the same project.

Source: Laws 2021, LB544, § 12.
Operative date January 1, 2022.

77-6913 Qualified property, defined.

Qualified property means any tangible property of a type subject to depreciation, amortization, or other recovery under the Internal Revenue Code of 1986, as amended, or the components of such property, that will be located and used at the qualified location. Qualified property does not include (1) aircraft, barges, motor vehicles, railroad rolling stock, or watercraft or (2) property that is rented by the taxpayer qualifying under the Urban Redevelopment Act to another person.

Source: Laws 2021, LB544, § 13.
Operative date January 1, 2022.

77-6914 Ramp-up period, defined.

Ramp-up period means two years from the date the complete application was filed with the Director of Economic Development.

Source: Laws 2021, LB544, § 14.
Operative date January 1, 2022.

77-6915 Related taxpayers, defined.

Related taxpayers shall include any corporations that are part of a unitary business under the Nebraska Revenue Act of 1967 but are not part of the same corporate taxpayer, any business entities that are not corporations but which would be a part of the unitary business if they were corporations, and any business entities if at least fifty percent of such entities are owned by the same persons or related taxpayers and family members as defined in the ownership attribution rules of the Internal Revenue Code of 1986, as amended.

Source: Laws 2021, LB544, § 15.
Operative date January 1, 2022.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

77-6916 Taxpayer, defined.

Taxpayer means any person subject to sales and use taxes under the Nebraska Revenue Act of 1967 and subject to withholding under section 77-2753 and any entity that is or would otherwise be a member of the same unitary group, if incorporated, that is subject to such sales and use taxes and such withholding. Taxpayer does not include a political subdivision or an organization that is exempt from income taxes under section 501(a) of the Internal Revenue Code of 1986, as amended. For purposes of this section, political subdivision includes any public corporation created for the benefit of a political subdivision and any group of political subdivisions forming a joint public agency, organized by interlocal agreement, or utilizing any other method of joint action.

Source: Laws 2021, LB544, § 16.
Operative date January 1, 2022.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

77-6917 Wages, defined.

Wages means the wages and other payments subject to the federal medicare tax.

Source: Laws 2021, LB544, § 17.
Operative date January 1, 2022.

77-6918 Year, defined.

Year means the taxable year of the taxpayer.

Source: Laws 2021, LB544, § 18.
Operative date January 1, 2022.

77-6919 Incentives; application; contents; fee; approval; conditions; agreement; confidentiality.

(1) To earn the incentives set forth in the Urban Redevelopment Act, the taxpayer shall file an application for an agreement with the Director of Economic Development.

(2) The application shall:

(a) Identify the taxpayer applying for incentives;

(b) Identify the location where the new investment and employment will occur, including documentation to show that such location is a qualified location;

(c) State the estimated, projected amount of new investment and the estimated, projected number of new equivalent employees; and

(d) Include an application fee of five hundred dollars. The fee shall be remitted to the State Treasurer for credit to the Nebraska Incentives Fund.

(3) Subject to the limit in subsection (4) of this section, the director shall approve the application and authorize the total amount of incentives expected to be earned as a result of the project if he or she is satisfied that the plan in the application defines a project that meets the requirements established in section 77-6920 and such requirements will be reached within the required time period.

(4) The director shall not approve further applications once the expected incentives from the approved projects total eight million dollars. All but one hundred dollars of the application fee shall be refunded to the applicant if the application is not approved for any reason.

(5) Applications for incentives shall be considered in the order in which they are received.

(6) The director has ninety days to approve a complete application.

(7) After approval, the taxpayer and the director shall enter into a written agreement. As part of such agreement, the taxpayer shall agree to complete the project and the director, on behalf of the State of Nebraska, shall designate the approved plans of the taxpayer as a project and, in consideration of the taxpayer's agreement, agree to allow the taxpayer to use the incentives contained in the Urban Redevelopment Act up to the total amount that were authorized by the director at the time of approval. The application and all supporting documentation, to the extent approved, shall be considered a part of the agreement. The agreement shall state:

(a) The levels of employment and investment required by the act for the project;

- (b) The time period under the act in which the required levels must be met;
- (c) The documentation the taxpayer will need to supply when claiming an incentive under the act;
- (d) The date the application was filed; and
- (e) The maximum amount of incentives authorized.

(8) The application, the agreement, all supporting information, and all other information reported to the Director of Economic Development shall be kept confidential by the director, except for the name of the taxpayer, the location of the project, the estimated amounts of increased employment and investment stated in the application, the date of the complete application, the date the agreement was signed, and the information required to be reported by section 77-6928. The application, the agreement, and all supporting information shall be provided by the director to the Department of Revenue. The director shall disclose, to any municipalities in which project locations exist, the approval of an application and the execution of an agreement under this section. The Tax Commissioner shall also notify each municipality of the amount and taxpayer identity for each refund of local option sales and use taxes of the municipality within thirty days after the refund is allowed or approved. Disclosures shall be kept confidential by the municipality unless publicly disclosed previously by the taxpayer or by the State of Nebraska.

(9) There shall be no new applications for incentives filed under this section after December 31, 2031.

Source: Laws 2021, LB544, § 19.

Operative date January 1, 2022.

77-6920 Tax credits; conditions; amounts; teleworker; treatment.

(1) A tax credit shall be allowed to any taxpayer who has an approved application pursuant to the Urban Redevelopment Act if the taxpayer:

(a) Attains a cumulative investment in qualified property of at least one hundred fifty thousand dollars and hires at least five new employees at the qualified location before the end of the ramp-up period; and

(b) Pays a minimum qualifying wage of seventy percent of the Nebraska statewide average hourly wage to the new equivalent employees for whom tax incentives are sought under the Urban Redevelopment Act.

(2) A tax credit shall be allowed to any taxpayer who has an approved application pursuant to the Urban Redevelopment Act if the taxpayer attains a cumulative investment in qualified property of at least fifty thousand dollars at the qualified location before the end of the ramp-up period.

(3) Subject to subsection (5) of this section, the amount of the credit allowed under subsection (1) of this section shall be:

(a) Three thousand dollars for each new equivalent employee, except that such amount shall be increased by one thousand dollars for each equivalent employee who lives in an economic redevelopment area; and

(b) Two thousand seven hundred fifty dollars for each fifty thousand dollars of increased investment.

(4) Subject to subsection (5) of this section, the amount of the credit allowed under subsection (2) of this section shall be five percent of the investment.

(5) A taxpayer may qualify for a credit under either subsection (1) or (2) of this section, but cannot qualify for a credit under both such subsections. The credit shall not exceed fifty thousand dollars. The taxpayer shall receive such credit for each year of the performance period that the taxpayer is at or above the required levels of employment and cumulative investment.

(6) A taxpayer shall not qualify for any credits under the Urban Redevelopment Act if the taxpayer is receiving any benefits under any other tax incentive program offered by the State of Nebraska.

(7) A teleworker working from his or her residence shall not be considered an equivalent employee of the taxpayer for purposes of the Urban Redevelopment Act unless the teleworker's residence is located in the economic redevelopment area in which the taxpayer's qualified location is located.

Source: Laws 2021, LB544, § 20.

Operative date January 1, 2022.

77-6921 Existing business acquisition, disposal, reorganization, or relocation; computation; certain transactions excluded.

(1)(a) If the taxpayer acquires an existing business, the increases in investment and employment shall be computed as though the taxpayer had owned the business for the entire taxable year preceding the date of application.

(b) If the taxpayer disposes of an existing business and the new owner maintains the minimum increases in investment and employment required to create incentives, the taxpayer shall not be required to make any repayment under section 77-6923 solely because of the disposition of the business.

(2) If the structure of a business is reorganized, the taxpayer shall compute the increases on a consistent basis for all periods.

(3) If the taxpayer moves a business from one qualified location to another qualified location and the business was operated in a qualified location during the taxable year preceding the date of application, the increases in investment and employment shall be computed as though the taxpayer had operated the business at the new location for the entire taxable year preceding the date of application.

(4) If the taxpayer enters into any of the following transactions, the transaction shall be presumed to be a transaction entered into for the purpose of generating benefits under the Urban Redevelopment Act and shall not be allowed in the computation of any benefit or the meeting of any required levels under the agreement except as specifically provided in this subsection:

(a) The purchase or lease of any property that was previously owned by the taxpayer who filed the application or a related taxpayer unless the first purchase by either the taxpayer who filed the application or a related taxpayer was first placed in service at a qualified location after the beginning of the taxable year the application was filed;

(b) The renegotiation of any lease in existence during the taxable year the application was filed which does not materially change any of the terms of the lease other than the expiration date;

(c) The purchase or lease of any property from a related taxpayer, except that the taxpayer who filed the application will be allowed any benefits under the act to which the related taxpayer would have been entitled on the purchase or lease of the property if the related taxpayer was considered the taxpayer; and

(d) Any transaction entered into primarily for the purpose of receiving benefits under the act which is without a business purpose and does not result in increased economic activity in the state.

Source: Laws 2021, LB544, § 21.

Operative date January 1, 2022.

77-6922 Tax credits; use.

(1) The credits allowed under section 77-6920 may be used:

(a) To obtain a refund of sales and use taxes paid under the Local Option Revenue Act, the Nebraska Revenue Act of 1967, the Qualified Judgment Payment Act, and sections 13-319, 13-324, and 13-2813;

(b) As a refundable income tax credit claimed on an income tax return of the taxpayer. The return need not reflect any income tax liability owed by the taxpayer;

(c) To reduce the taxpayer's income tax withholding employer or payor tax liability under section 77-2756 or 77-2757. 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. The amount of credits used against income tax withholding shall not exceed the withholding attributable to the number of new equivalent employees employed by the taxpayer. If the amount of credit used by the taxpayer against income tax withholding exceeds such 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; and

(d) 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, for real property at a qualified location that is acquired by the taxpayer 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.

(2) A claim for the credit may be filed quarterly for refund of the sales and use taxes paid, either directly or indirectly, after the filing of the income tax return for the taxable year in which the credit was first allowed.

(3) Once the taxpayer attains the required levels of employment and investment, the taxpayer shall be entitled to a refund of all sales and use taxes paid, either directly or indirectly, under the Local Option Revenue Act, the Nebraska Revenue Act of 1967, the Qualified Judgment Payment Act, and sections 13-319, 13-324, and 13-2813 on the qualifying investment.

(4) For purposes of subsections (2) and (3) of this section, the taxpayer shall be deemed to have paid indirectly any sales or use taxes paid by a contractor with a purchasing agent agreement on building materials annexed to an improvement to real estate built for the taxpayer. The contractor shall certify to

the taxpayer the amount of the sales and use taxes paid on the building materials, or the taxpayer, with the permission of the Director of Economic Development and a certification from the contractor that sales and use taxes were paid on all building materials, may presume that fifty percent of the cost of the improvement was for building materials annexed to real estate on which the tax was paid.

(5) Credits distributed to a partner, limited liability company member, shareholder, or beneficiary under section 77-6925 may be used against the income tax liability of the partner, member, shareholder, or beneficiary receiving the credits.

Source: Laws 2021, LB544, § 22.
Operative date January 1, 2022.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.
Qualified Judgment Payment Act, see section 77-6401.

77-6923 Tax credits; recapture; amount; deadline.

(1) If the taxpayer fails to maintain employment and investment levels at or above the levels required in the agreement for the entire performance period, any refunds or reduction in tax allowed under the Urban Redevelopment Act shall be partially recaptured from the taxpayer. The amount of the recapture for each incentive shall be a percentage equal to the number of years the taxpayer did not maintain the required levels of investment or employment divided by the number of years of the performance period, with such percentage then multiplied by the refunds or reductions in tax allowed.

(2) Any refund or reduction in tax due, to the extent required to be recaptured, shall be deemed to be an underpayment of the tax and shall be immediately due and payable. When tax incentives were received in more than one year, the incentives received in the most recent year shall be recovered first and then the incentives received in earlier years up to the extent of the required recapture.

(3) Notwithstanding any other limitations contained in the laws of this state, collection of any taxes deemed to be underpayments by this section shall be allowed for a period of three years after the end of the performance period or three calendar years after the incentive was allowed, whichever is later.

(4) The recapture required by this section shall not occur if the failure to maintain the required levels of employment or investment was caused by an act of God or a national emergency.

Source: Laws 2021, LB544, § 23.
Operative date January 1, 2022.

77-6924 Employees; verification of status required; exclusions.

(1) The Director of Economic Development shall not approve or grant to any person any tax incentive under the Urban Redevelopment Act unless the taxpayer provides evidence satisfactory to the director that the taxpayer electronically verified the work eligibility status of all newly hired employees employed in Nebraska.

(2) For purposes of calculating any tax incentive available under the act, the director shall exclude hours worked and compensation paid to an employee

that is not eligible to work in Nebraska as verified under subsection (1) of this section.

Source: Laws 2021, LB544, § 24.
Operative date January 1, 2022.

77-6925 Incentives; transfer; when.

The incentives allowed under the Urban Redevelopment Act shall not be transferable except in the following situations:

(1) Any credit allowable to a partnership, a limited liability company, a subchapter S corporation, a cooperative, including a cooperative exempt under section 521 of the Internal Revenue Code of 1986, as amended, a limited cooperative association, or an estate or trust may be distributed to the partners, limited liability company members, shareholders, patrons, limited cooperative association members, or beneficiaries. Any credit distributed shall be distributed in the same manner as income is distributed. A credit distributed shall be considered a credit used and the partnership, limited liability company, subchapter S corporation, cooperative, limited cooperative association, estate, or trust shall be liable for any repayment under section 77-6923;

(2) The incentives previously allowed and the future allowance of incentives may be transferred when a project covered by an agreement is transferred by sale or lease to another taxpayer or in an acquisition of assets qualifying under section 381 of the Internal Revenue Code of 1986, as amended. The acquiring taxpayer, as of the date of notification of the Director of Economic Development of the completed transfer, shall be entitled to any unused credits and to any future incentives allowable under the act. The acquiring taxpayer shall be liable for any repayment that becomes due after the date of the transfer with respect to any benefits received either before or after the transfer; and

(3) If a taxpayer allowed a credit under section 77-6920 dies and there is credit remaining after the filing of the final return for the taxpayer, the personal representative shall determine the distribution of the credit with the initial fiduciary return filed for the estate. The determination of the distribution of the credit may be changed only after obtaining the permission of the director.

Source: Laws 2021, LB544, § 25.
Operative date January 1, 2022.

77-6926 Refunds; interest not allowable.

Interest shall not be allowable on any refunds paid because of benefits earned under the Urban Redevelopment Act.

Source: Laws 2021, LB544, § 26.
Operative date January 1, 2022.

77-6927 Base-year employment levels; review and certification; effect.

(1) The taxpayer may request the Tax Commissioner to review and certify the taxpayer's base-year employment levels. Upon a request for such review, the Tax Commissioner shall be given access to the employment and business records of the taxpayer and must complete the review within ninety days after the request. If the Tax Commissioner requests, by mail or by electronic means, additional information or clarification from the taxpayer in order to make his or her determination, the ninety-day period shall be tolled from the time the

Tax Commissioner makes the request to the time he or she receives the requested information or clarification from the taxpayer. The taxpayer and the Tax Commissioner may also agree to extend the ninety-day period. If the Tax Commissioner fails to make his or her determination within the prescribed ninety-day period, the certification is deemed approved.

(2) Upon review, the Tax Commissioner may approve or amend the taxpayer's base-year employment levels based upon the employment and business records provided by the taxpayer. Once the Tax Commissioner certifies the employment levels, the certification is binding on the Department of Revenue when the taxpayer claims benefits on a return to the extent the information provided by the taxpayer was accurate and to the extent such information is not affected by any of the situations described in section 77-6921.

(3) If the taxpayer does not request review and certification of employment levels under this section, such levels are subject to later audit by the Department of Revenue.

Source: Laws 2021, LB544, § 27.

Operative date January 1, 2022.

77-6928 Reports.

(1) On or before July 15, 2024, and on or before July 15 of each year thereafter, the Director of Economic Development shall prepare a report that includes:

(a) The total amount of investment at qualified locations in the previous calendar year by taxpayers who are receiving incentives pursuant to the Urban Redevelopment Act;

(b) The total number of equivalent employees added in the previous calendar year by taxpayers who are receiving incentives pursuant to the act; and

(c) The total amount of credits claimed and refunds approved in the previous calendar year under the act.

(2) The report shall also provide information on project-specific total incentives used every two years for each approved project, including (a) the identity of the taxpayer, (b) the qualified location of the project, and (c) the total credits used and refunds approved during the immediately preceding two years expressed as a single, aggregated total. The incentive information required to be reported under this subsection shall not be reported for the first year the taxpayer attains the required employment and investment thresholds. The information on first-year incentives used shall be combined with and reported as part of the second year. Thereafter, the information on incentives used for succeeding years shall be reported for each project every two years and shall include information on two years of credits used and refunds approved. The incentives used shall include incentives that have been approved by the Director of Economic Development, but not necessarily received, during the previous two calendar years.

(3) On or before September 1, 2024, and on or before September 1 of each year thereafter, the Department of Economic Development shall present the report electronically to the Appropriations Committee of the Legislature. Any supplemental information requested by three or more committee members shall be presented within thirty days after the request.

(4) No information shall be provided in the report that is protected by state or federal confidentiality laws.

Source: Laws 2021, LB544, § 28.
Operative date January 1, 2022.

SCHOOLS

CHAPTER 79
SCHOOLS

Article.

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ARTICLE 2

PROVISIONS RELATING TO STUDENTS

(a) COMPULSORY EDUCATION

Section
79-202.

Compulsory attendance; withdrawal of child from school; exempt from mandatory attendance; exit interview; withdrawal form; validity; child at least sixteen years of age; other enrollment options; later enrollment; effect; Commissioner of Education; duties.

Section

(q) STATE SCHOOL SECURITY DIRECTOR

79-2,144. State school security director; duties.

(a) COMPULSORY EDUCATION

79-202 Compulsory attendance; withdrawal of child from school; exempt from mandatory attendance; exit interview; withdrawal form; validity; child at least sixteen years of age; other enrollment options; later enrollment; effect; Commissioner of Education; duties.

(1) A person who has legal or actual charge or control of a child who is at least sixteen years of age but less than eighteen years of age may withdraw such child from school before graduation and be exempt from the mandatory attendance requirements of section 79-201 if an exit interview is conducted and the withdrawal form is signed as required by subsections (2) through (5) of this section for a child enrolled in a public, private, denominational, or parochial school or if a signed release form is filed with the Commissioner of Education as required by subsection (6) of this section for a child enrolled in a school that elects pursuant to section 79-1601 not to meet accreditation or approval requirements.

(2) Upon the written request of any person who has legal or actual charge or control of a child who is at least sixteen years of age but less than eighteen years of age, the superintendent of a school district or the superintendent's designee shall conduct an exit interview if the child (a) is enrolled in a school operated by the school district or (b) resides in the school district and is enrolled in a private, denominational, or parochial school.

(3) The superintendent or the superintendent's designee shall set the time and place for the exit interview which shall be personally attended by: (a) The child, unless the withdrawal is being requested due to an illness of the child making attendance at the exit interview impossible or impracticable; (b) the person who has legal or actual charge or control of the child who requested the exit interview; (c) the superintendent or the superintendent's designee; (d) the child's principal or the principal's designee if the child at the time of the exit interview is enrolled in a school operated by the school district; and (e) any other person requested by any of the required parties who agrees to attend the exit interview and is available at the time designated for the exit interview which may include, but need not be limited to, other school district personnel or the child's principal or such principal's designee if the child is enrolled in a private, denominational, or parochial school.

(4) At the exit interview, the person making the written request pursuant to subsection (2) of this section shall present evidence that (a) the person has legal or actual charge or control of the child and (b) the child would be withdrawing due to either (i) financial hardships requiring the child to be employed to support the child's family or one or more dependents of the child or (ii) an illness of the child making attendance impossible or impracticable. The superintendent or superintendent's designee shall identify all known alternative educational opportunities, including vocational courses of study, that are available to the child in the school district and how withdrawing from school is likely to reduce potential future earnings for the child and increase the likelihood of the child being unemployed in the future. Any other relevant

information may be presented and discussed by any of the parties in attendance.

(5)(a) At the conclusion of the exit interview, the person making the written request pursuant to subsection (2) of this section may sign the withdrawal form provided by the school district agreeing to the withdrawal of the child or may rescind the written request for the withdrawal.

(b) Any withdrawal form signed by the person making the written request pursuant to subsection (2) of this section shall be valid only if (i) the child signs the form unless the withdrawal is being requested due to an illness of the child making attendance at the exit interview impossible or impracticable and (ii) the superintendent or superintendent’s designee signs the form acknowledging that the interview was held, the required information was provided and discussed at the interview, and, in the opinion of the superintendent or the superintendent’s designee, the person making the written request pursuant to subsection (2) of this section does in fact have legal or actual charge or control of the child and the child is experiencing either (A) financial hardships requiring the child to be employed to support the child’s family or one or more dependents of the child or (B) an illness making attendance impossible or impracticable.

(6) A person who has legal or actual charge or control of the child who is at least sixteen years of age but less than eighteen years of age may withdraw such a child before graduation and be exempt from the mandatory attendance requirements of section 79-201 if such child has been enrolled in a school that elects pursuant to section 79-1601 not to meet the accreditation or approval requirements by filing with the State Department of Education a signed release on a form prescribed by the Commissioner of Education.

(7) A child who has been withdrawn from school pursuant to this section may enroll in a school district at a later date as provided in section 79-215 or may enroll in a private, denominational, or parochial school or a school which elects pursuant to section 79-1601 not to meet accreditation or approval requirements. Any such enrollment shall void the withdrawal form previously entered, and the provisions of sections 79-201 to 79-210 shall apply to the child.

(8) The commissioner shall prescribe the required form for withdrawals pursuant to this section and determine and direct either that (a) withdrawal forms of school districts for any child who is withdrawn from school pursuant to this section and subdivision (3)(c) of section 79-201 shall be provided annually to the department or (b) data regarding such students shall be collected under subsection (2) of section 79-528.

Source: Laws 2012, LB996, § 2; Laws 2021, LB528, § 21.
Operative date August 28, 2021.

(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;

(10) Recommending curricular and extracurricular materials to assist school districts in preventing and responding to cyberbullying and digital citizenship issues; and

(11) Carrying out the department's responsibilities under the School Safety and Security Reporting System Act.

Source: Laws 2014, LB923, § 2; Laws 2015, LB525, § 5; Laws 2017, LB512, § 8; Laws 2021, LB322, § 8.
Operative date July 1, 2021.

Cross References

School Safety and Security Reporting System Act, see section 79-3101.

ARTICLE 3

STATE DEPARTMENT OF EDUCATION

(a) DEPARTMENTAL STRUCTURE AND DUTIES

Section

79-302.01. Statewide and school district data; access; State Department of Education; establish and maintain website.

(b) COMMISSIONER OF EDUCATION

79-308. Teacher's institutes and conferences; organization; supervision; grant funding to implement evaluation model and training.

79-309.01. Commissioner of Education; duties; use of funds.

(c) STATE BOARD OF EDUCATION

79-311. State Board of Education; districts; numbers; boundaries; established by maps; Clerk of Legislature; Secretary of State; duties.

Section
79-312. State Board of Education districts; population figures and maps; basis.

(a) DEPARTMENTAL STRUCTURE AND DUTIES

79-302.01 Statewide and school district data; access; State Department of Education; establish and maintain website.

The State Department of Education shall establish and maintain a website that allows the public to access statewide and school district data regarding, at a minimum: Total receipts and receipts classified by source as local, county, state, federal, or other; total expenditures and expenditures classified by functions as determined by the department; cost per pupil as determined pursuant to section 79-598; and performance as reported pursuant to section 79-760.06.

Source: Laws 2021, LB528, § 5.
Operative date August 28, 2021.

(b) COMMISSIONER OF EDUCATION

79-308 Teacher's institutes and conferences; organization; supervision; grant funding to implement evaluation model and training.

(1) The Commissioner of Education shall organize institutes and conferences at such times and places as he or she deems practicable. He or she shall, as far as practicable, attend such institutes and conferences, provide proper instructors for the same, and in other ways seek to improve the efficiency of teachers and advance the cause of education in the state.

(2) The Legislature finds that (a) an educator-effectiveness system includes a quality evaluation system with the primary goal of improving instruction and learning in every school district and (b) school districts have an opportunity to receive training on the quality evaluation models.

(3) Beginning with the 2016-17 school year through the 2020-21 school year, school districts may apply to the State Department of Education for grant funding for a period of up to two years to implement an evaluation model for effective educators and to obtain the necessary training for administrators and teachers for such model.

Source: Laws 1881, c. 78, subdivision VIII, § 2, p. 363; R.S.1913, § 6899; C.S.1922, § 6475; C.S.1929, § 79-1602; R.S.1943, § 79-1605; Laws 1949, c. 256, § 25, p. 700; R.S.1943, (1994), § 79-304; Laws 1996, LB 900, § 136; Laws 2015, LB525, § 7; Laws 2021, LB528, § 22.
Operative date August 28, 2021.

79-309.01 Commissioner of Education; duties; use of funds.

(1) The Commissioner of Education shall use the separate accounting provided by the State Treasurer through 2020 under subdivision (1)(b) of section 79-1035 to determine the amount that is attributable to income from solar or wind agreements on school lands. This amount shall provide funds for the grants described in section 79-308 through the 2020-21 school year.

(2) On or before June 30, 2022, any unencumbered and unspent funds from any separate accounting provided by the State Treasurer under subdivision (1)(b) of section 79-1035 shall be transferred to the temporary school fund.

(3) For purposes of this section, agreement means any lease, easement, covenant, or other such contractual arrangement.

Source: Laws 2010, LB1014, § 1; Laws 2012, LB828, § 19; Laws 2015, LB525, § 8; Laws 2021, LB528, § 23.

Operative date August 28, 2021.

(c) STATE BOARD OF EDUCATION

79-311 State Board of Education; districts; numbers; boundaries; established by maps; Clerk of Legislature; Secretary of State; duties.

(1) For the purpose of section 79-310, the state is divided into eight districts. Each district shall be entitled to one member on the board.

(2) The numbers and boundaries of the districts are designated and established by maps identified and labeled as maps ED21-39003, ED21-39003-1, ED21-39003-2, ED21-39003-3, ED21-39003-4, ED21-39003-5, ED21-39003-6, ED21-39003-7, and ED21-39003-8, filed with the Clerk of the Legislature, and incorporated by reference as part of Laws 2021, LB7, One Hundred Seventh Legislature, First Special Session.

(3)(a) The Clerk of the Legislature shall transfer possession of the maps referred to in subsection (2) of this section to the Secretary of State on October 1, 2021.

(b) When questions of interpretation of district boundaries arise, the maps referred to in subsection (2) of this section in possession of the Secretary of State shall serve as the indication of the legislative intent in drawing the district boundaries.

(c) Each election commissioner or county clerk shall obtain copies of the maps referred to in subsection (2) of this section for the election commissioner's or clerk's county from the Secretary of State.

(d) The Secretary of State shall also have available for viewing on his or her website the maps referred to in subsection (2) of this section identifying the boundaries for the districts.

Source: Laws 1967, c. 527, § 2, p. 1751; Laws 1971, LB 735, § 1; Laws 1981, LB 554, § 1; Laws 1991, LB 619, § 2; R.S.1943, (1994), § 79-322.01; Laws 1996, LB 900, § 139; Laws 2001, LB 856, § 2; Laws 2011, LB702, § 1; Laws 2021, First Spec. Sess., LB7, § 1. Effective date October 1, 2021.

79-312 State Board of Education districts; population figures and maps; basis.

For purposes of section 79-311, the Legislature adopts the official population figures and maps from the 2020 Census Redistricting (Public Law 94-171) TIGER/Line Shapefiles published by the United States Department of Commerce, Bureau of the Census.

Source: Laws 1971, LB 735, § 2; Laws 1981, LB 554, § 2; Laws 1991, LB 619, § 3; R.S.1943, (1994), § 79-322.02; Laws 1996, LB 900, § 140; Laws 2001, LB 856, § 3; Laws 2011, LB702, § 2; Laws 2021, First Spec. Sess., LB7, § 2. Effective date October 1, 2021.

ARTICLE 4

SCHOOL ORGANIZATION AND REORGANIZATION

(c) PETITION PROCESS FOR REORGANIZATION

Section

79-422. Change in boundary lines; bonded indebtedness; treatment.

(d) REORGANIZATION OF SCHOOL DISTRICTS ACT

79-433. Terms, defined.

79-449. Plan of reorganization; two or more districts; indebtedness.

(c) PETITION PROCESS FOR REORGANIZATION

79-422 Change in boundary lines; bonded indebtedness; treatment.

Bonded indebtedness approved by legal voters prior to any change in school district boundary lines pursuant to sections 79-413 to 79-421 shall remain the obligation of the school district voting such bonds unless otherwise specified in the petitions. When a district is dissolved by petitions and the area is attached to two or more districts, the petitions shall specify the disposition of assets and unbonded obligations of the original district.

Source: Laws 1971, LB 468, § 10; Laws 1990, LB 259, § 11; Laws 1993, LB 348, § 13; R.S.1943, (1994), § 79-402.11; Laws 1996, LB 900, § 171; Laws 2005, LB 126, § 22; Referendum 2006, No. 422; Laws 2021, LB528, § 24.
Operative date August 28, 2021.

(d) REORGANIZATION OF SCHOOL DISTRICTS ACT

79-433 Terms, defined.

For purposes of the Reorganization of School Districts Act, unless the context otherwise requires:

(1) Reorganization of school districts means the formation of new school districts, the alteration of boundaries of established school districts that are not members of a learning community, and the dissolution or disorganization of established school districts through or by means of any one or combination of the methods set out in section 79-434; and

(2) State committee means the State Committee for the Reorganization of School Districts created by section 79-435.

Source: Laws 1949, c. 249, § 1, p. 673; Laws 1963, c. 479, § 1, p. 1536; Laws 1990, LB 259, § 12; R.S.1943, (1994), § 79-426.01; Laws 1996, LB 900, § 182; Laws 1999, LB 272, § 41; Laws 2005, LB 126, § 24; Laws 2006, LB 1024, § 27; Referendum 2006, No. 422; Laws 2021, LB528, § 25.
Operative date August 28, 2021.

79-449 Plan of reorganization; two or more districts; indebtedness.

Whenever two or more school districts are involved in a reorganization plan, the old districts shall continue to be responsible for any indebtedness incurred before the reorganization takes place unless a different arrangement is included in the plan voted upon by the people.

Source: Laws 1949, c. 249, § 16, p. 679; Laws 1959, c. 387, § 3, p. 1341; R.S.Supp.,1961, § 79-426.16; Laws 1963, c. 479, § 11, p. 1544;

Laws 1971, LB 292, § 6; Laws 1990, LB 259, § 15; R.S.1943, (1994), § 79-426.17; Laws 1996, LB 900, § 198; Laws 2005, LB 126, § 29; Referendum 2006, No. 422; Laws 2021, LB528, § 26. Operative date August 28, 2021.

**ARTICLE 5
SCHOOL BOARDS**

(b) SCHOOL BOARD DUTIES

Section
79-538. Student identification cards; requirements.

(b) SCHOOL BOARD DUTIES

79-538 Student identification cards; requirements.

Beginning with the 2022-23 school year, each school board shall require that the telephone number for a national suicide prevention hotline, a local suicide prevention hotline, or a crisis text line is printed on each new student identification card issued to a student enrolled in a middle school grade or a high school grade, as defined by such school board, in a school under the authority of such school board. Nothing in this section shall be construed to require the issuance of student identification cards to students in any school.

Source: Laws 2021, LB528, § 68.
Operative date August 28, 2021.

**ARTICLE 6
SCHOOL TRANSPORTATION**

Section
79-611. Students; transportation; transportation allowance; when authorized; limitations; board; authorize service.

79-611 Students; transportation; transportation allowance; when authorized; limitations; board; authorize service.

(1) The school board of any school district shall provide free transportation, partially provide free transportation, or pay an allowance for transportation in lieu of free transportation as follows:

(a) When a student attends an elementary school in his or her own school district and lives more than four miles from such elementary school as measured by the shortest route that must actually and necessarily be traveled by motor vehicle to reach the student’s residence;

(b) When a student is required to attend an elementary school outside of his or her own school district and lives more than four miles from such elementary school as measured by the shortest route that must actually and necessarily be traveled by motor vehicle to reach the student’s residence;

(c) When a student attends a secondary school in his or her own Class III school district and lives more than four miles from such secondary school as measured by the shortest route that must actually and necessarily be traveled by motor vehicle to reach the student’s residence. This subdivision does not apply to any elementary-only school district that merged with a high-school-only school district to form a new Class III school district on or after January 1, 1997, and before June 16, 2006; and

(d) When a student, other than a student in grades ten through twelve in a Class V school district, attends an elementary or junior high school in his or her own Class V school district and lives more than four miles from such elementary or junior high school as measured by the shortest route that must actually and necessarily be traveled by motor vehicle to reach the student's residence.

(2)(a) For school years prior to school year 2017-18 and as required pursuant to subsection (3) of section 79-241, the school board of any school district that is a member of a learning community shall provide free transportation for a student who resides in such learning community and attends school in such school district if (i) the student is transferring pursuant to the open enrollment provisions of section 79-2110, qualifies for free or reduced-price lunches, lives more than one mile from the school to which he or she transfers, and is not otherwise disqualified under subdivision (2)(c) of this section, (ii) the student is transferring pursuant to the open enrollment provisions of section 79-2110, is a student who contributes to the socioeconomic diversity of enrollment at the school building he or she attends, lives more than one mile from the school to which he or she transfers, and is not otherwise disqualified under subdivision (2)(c) of this section, (iii) the student is attending a focus school or program and lives more than one mile from the school building housing the focus school or program, or (iv) the student is attending a magnet school or program and lives more than one mile from the magnet school or the school housing the magnet program.

(b) For purposes of this subsection, student who contributes to the socioeconomic diversity of enrollment at the school building he or she attends has the definition found in section 79-2110. This subsection does not prohibit a school district that is a member of a learning community from providing transportation to any intradistrict student.

(c) For any student who resides within a learning community and transfers to another school building pursuant to the open enrollment provisions of section 79-2110 and who had not been accepted for open enrollment into any school building within such school district prior to September 6, 2013, the school board is exempt from the requirement of subdivision (2)(a) of this section if (i) the student is transferring to another school building within his or her home school district or (ii) the student is transferring to a school building in a school district that does not share a common border with his or her home school district.

(3) The transportation allowance which may be paid to the parent, custodial parent, or guardian of students qualifying for free transportation pursuant to subsection (1) or (2) of this section shall equal two hundred eighty-five percent of the mileage rate provided in section 81-1176, multiplied by each mile actually and necessarily traveled, on each day of attendance, beyond which the one-way distance from the residence of the student to the school exceeds three miles. Such transportation allowance does not apply to students residing in a learning community who qualify for free or reduced-price lunches.

(4) Whenever students from more than one family travel to school in the same vehicle, the transportation allowance prescribed in subsection (3) of this section shall be payable as follows:

(a) To the parent, custodial parent, or guardian providing transportation for students from other families, one hundred percent of the amount prescribed in subsection (3) of this section for the transportation of students of such parent's,

custodial parent's, or guardian's own family and an additional five percent for students of each other family not to exceed a maximum of one hundred twenty-five percent of the amount determined pursuant to subsection (3) of this section; and

(b) To the parent, custodial parent, or guardian not providing transportation for students of other families, two hundred eighty-five percent of the mileage rate provided in section 81-1176 multiplied by each mile actually and necessarily traveled, on each day of attendance, from the residence of the student to the pick-up point at which students transfer to the vehicle of a parent, custodial parent, or guardian described in subdivision (a) of this subsection.

(5) When a student who qualifies under the mileage requirements of subsection (1) of this section lives more than three miles from the location where the student must be picked up and dropped off in order to access school-provided free transportation, as measured by the shortest route that must actually and necessarily be traveled by motor vehicle between his or her residence and such location, such school-provided transportation shall be deemed partially provided free transportation. School districts partially providing free transportation shall pay an allowance to the student's parent or guardian equal to two hundred eighty-five percent of the mileage rate provided in section 81-1176 multiplied by each mile actually and necessarily traveled, on each day of attendance, beyond which the one-way distance from the residence of the student to the location where the student must be picked up and dropped off exceeds three miles.

(6) The board may authorize school-provided transportation to any student who does not qualify under the mileage requirements of subsection (1) of this section and may charge a fee to the parent or guardian of the student for such service. No transportation payments shall be made to a family for mileage not actually traveled by such family. The number of days the student has attended school shall be reported monthly by the teacher to the board of such public school district.

(7) No more than one allowance shall be made to a family irrespective of the number of students in a family being transported to school.

(8) No student shall be exempt from school attendance on account of distance from the school.

Source: Laws 1927, c. 84, § 1, p. 251; Laws 1929, c. 92, § 1, p. 348; C.S.1929, § 79-1902; Laws 1931, c. 149, § 1, p. 405; Laws 1941, c. 163, § 1, p. 650; C.S.Supp.,1941, § 79-1902; R.S.1943, § 79-1907; Laws 1949, c. 256, § 128, p. 735; Laws 1951, c. 276, § 6, p. 930; Laws 1955, c. 315, § 9, p. 979; Laws 1963, c. 483, § 1, p. 1553; Laws 1969, c. 717, § 1, p. 2743; Laws 1969, c. 718, § 1, p. 2744; Laws 1969, c. 719, § 1, p. 2746; Laws 1976, LB 852, § 1; Laws 1977, LB 117, § 1; Laws 1977, LB 33, § 10; Laws 1979, LB 425, § 1; Laws 1980, LB 867, § 2; Laws 1981, LB 204, § 156; Laws 1981, LB 316, § 3; Laws 1986, LB 419, § 1; Laws 1987, LB 200, § 1; Laws 1990, LB 259, § 22; Laws 1990, LB 1059, § 38; Laws 1993, LB 348, § 21; Laws 1994, LB 1311, § 1; R.S.1943, (1994), § 79-490; Laws 1996, LB 900, § 372; Laws 1997, LB 710, § 4; Laws 1997, LB 806, § 28; Laws 1999, LB 272, § 84; Laws 2003, LB 394, § 7; Laws 2005, LB 126, § 42; Laws 2006, LB 1024, § 56; Referendum 2006, No. 422; Laws 2007,

LB641, § 10; Laws 2008, LB1154, § 8; Laws 2009, LB549, § 25; Laws 2013, LB410, § 8; Laws 2013, LB585, § 2; Laws 2016, LB1067, § 29; Laws 2018, LB377, § 58; Laws 2021, LB528, § 27.

Operative date August 28, 2021.

ARTICLE 7

ACCREDITATION, CURRICULUM, AND INSTRUCTION

(d) HIGH SCHOOL GRADUATION REQUIREMENTS AND EQUIVALENCY DIPLOMA

Section

79-729. High school students; graduation requirements.

(i) QUALITY EDUCATION ACCOUNTABILITY ACT

79-759. Standard college admission test; administered; expense.

79-760.01. Academic content standards; State Board of Education; duties.

79-760.05. Student achievement; student discipline; statewide systems for tracking individual students; State Board of Education; duties; school districts; schools; provide data; analysis and reports.

79-760.06. Accountability system; combine multiple indicators; State Department of Education; powers; duties; designation of priority schools.

(d) HIGH SCHOOL GRADUATION REQUIREMENTS AND EQUIVALENCY DIPLOMA

79-729 High school students; graduation requirements.

The Legislature recognizes the importance of assuring that all persons who graduate from Nebraska high schools possess certain minimum levels of knowledge, skills, and understanding. Each high school student shall complete a minimum of two hundred high school credit hours prior to graduation. At least eighty percent of the minimum credit hours shall be core curriculum courses prescribed by the State Board of Education. Beginning in school year 2023-24, at least five of the minimum credit hours shall be a high school course in personal finance or financial literacy. The State Board of Education may establish recommended statewide graduation guidelines. This section does not apply to high school students whose individualized education programs prescribe a different course of instruction. This section does not prohibit the governing board of any high school from prescribing specific graduation guidelines as long as such guidelines do not conflict with this section. For purposes of this section, high school means grades nine through twelve and credit hour shall be defined by appropriate rules and regulations of the State Board of Education but shall not be less than the amount of credit given for successful completion of a course which meets at least one period per week for at least one semester.

Source: Laws 1984, LB 994, § 8; R.S.1943, (1994), § 79-4,140.03; Laws 1996, LB 900, § 403; Laws 2021, LB452, § 5.

Effective date August 28, 2021.

Cross References

Financial Literacy Act, see section 79-3001.

(i) QUALITY EDUCATION ACCOUNTABILITY ACT

79-759 Standard college admission test; administered; expense.

No later than the 2017-18 school year, the State Department of Education shall administer a standard college admission test, selected by the State Board of Education, to students in the eleventh grade attending a public school in the state in lieu of the assessment for the one grade in high school as required under section 79-760.03. The department shall pay the expenses of administering such college admission test.

Source: Laws 2011, LB637, § 26; Laws 2012, LB782, § 151; Laws 2014, LB967, § 7; Laws 2016, LB930, § 2; Laws 2021, LB528, § 28.
Operative date May 26, 2021.

79-760.01 Academic content standards; State Board of Education; duties.

(1) The State Board of Education shall adopt measurable academic content standards for at least the grade levels required for statewide assessment pursuant to section 79-760.03. The standards shall cover the subject areas of reading, writing, mathematics, science, and social studies.

(2) The board shall also adopt measurable academic content standards for financial literacy as part of the social studies standards.

(3) Academic content standards adopted or recommended pursuant to this section shall be sufficiently clear and measurable to be used for testing student performance with respect to mastery of the content described in the state standards.

(4) The State Board of Education shall develop a plan to review and update standards for each subject area every seven years. The state board plan shall include a review of commonly accepted standards adopted by school districts.

Source: Laws 2000, LB 812, § 2; Laws 2007, LB653, § 5; Laws 2008, LB1157, § 2; Laws 2015, LB525, § 11; Laws 2021, LB452, § 6.
Effective date August 28, 2021.

Cross References

Financial Literacy Act, see section 79-3001.

79-760.05 Student achievement; student discipline; statewide systems for tracking individual students; State Board of Education; duties; school districts; schools; provide data; analysis and reports.

(1) The State Board of Education shall implement a statewide system for tracking individual student achievement, using the student identifier system of the State Department of Education, that can be aggregated to track student progress by demographic characteristics, including, but not limited to, race, poverty, high mobility, attendance, and limited English proficiency, on available measures of student achievement which include, but need not be limited to, national assessment instruments, state assessment instruments, and the indicators used in the accountability system required pursuant to section 79-760.06. Such a system shall be designed so as to aggregate student data by available educational input characteristics, which may include class size, teacher education, teacher experience, special education, early childhood programs, federal programs, and other targeted education programs. School districts shall provide the department with individual student achievement data from assessment instruments required pursuant to section 79-760.03 in order to implement the statewide system.

(2)(a) On or before August 1, 2022, the state board shall also implement a statewide system for tracking individual student discipline, using the student identifier system of the department, that can be aggregated to track student discipline by type of discipline and demographic characteristics, including, but not limited to, race, poverty, high mobility, attendance, disability, and limited English proficiency. The state board shall cause each school district to report, by individual student, any:

(i) Act resulting in an in-school suspension, a short-term suspension, a long-term suspension, a one-semester expulsion, a two-semester expulsion, an assignment to an alternative school or alternative-learning program, the use of physical intervention with such student, or the restraint or seclusion of such student;

(ii) Offense constituting grounds for a long-term suspension, an expulsion, or a mandatory reassignment pursuant to section 79-267, regardless of consequences assigned; and

(iii) Act resulting in law enforcement involvement, including any incident reported to law enforcement or to an onsite school resource officer, and any school-related citation or arrest.

(b) For purposes of this subsection, school-related citation or arrest shall include a citation or arrest of a student for any activity conducted on school grounds; in a vehicle owned, leased, or contracted by a school being used for a school purpose or in a vehicle being driven for a school purpose by a school employee or by such employee's designee; or at a school-sponsored activity or athletic event.

(c) The system for tracking individual student discipline may also be used to record other disciplinary incidents.

(d) Each school shall designate at least one discipline data coordinator for the purposes of gathering and reporting the discipline data required pursuant to this subsection.

(3) The department shall annually analyze and report on student achievement and on student discipline for the state, each school district, each public school, and each learning community aggregated by the demographic characteristics described in subsection (1) of this section. The department shall report the findings to the Governor, the Legislature, school districts, educational service units, and each learning community. The report submitted to the Legislature shall be submitted electronically. Such analysis shall include aggregated data that would indicate differences in achievement and differences in student discipline due to available educational input characteristics described in subsection (1) of this section. Such analysis shall include indicators of progress toward state achievement goals for students in poverty, limited English proficient students, students with disabilities, and highly mobile students.

Source: Laws 2007, LB653, § 8; Laws 2008, LB1157, § 5; Laws 2011, LB333, § 5; Laws 2012, LB782, § 153; Laws 2012, LB870, § 3; Laws 2021, LB154, § 1.
Effective date August 28, 2021.

79-760.06 Accountability system; combine multiple indicators; State Department of Education; powers; duties; designation of priority schools.

(1) The State Board of Education shall establish an accountability system to be used to measure the performance of individual public schools and school districts. The accountability system shall combine multiple indicators, including, but not limited to, graduation rates, student growth and student improvement on the assessment instruments provided in section 79-760.03, student discipline, and other indicators of the performance of public schools and school districts as established by the state board.

(2) The indicators selected by the state board for the accountability system shall be combined annually into a school performance score and district performance score. The state board shall establish levels of performance based upon school performance scores and district performance scores in order to annually classify and report the performance of public schools and school districts beginning with the reporting of data from school year 2014-15. The department shall classify and report the performance of public schools and school districts annually on or before December 31 of each calendar year.

(3) The state board shall designate priority schools based on such classification. Schools designated as priority schools shall be at the lowest performance level at the time of the initial priority school designation. Schools designated as priority schools shall remain priority schools until such designation is removed by the state board. No less than three schools may have a priority school designation at one time. Schools designated as priority schools shall be subject to the requirements of section 79-760.07. The State Department of Education shall annually report the performance level of individual public schools and school districts as part of the statewide assessment and reporting system.

Source: Laws 2012, LB870, § 2; Laws 2014, LB438, § 2; Laws 2015, LB525, § 13; Laws 2018, LB1081, § 8; Laws 2018, LB1110, § 1; Laws 2021, LB154, § 2.
Effective date August 28, 2021.

ARTICLE 8

TEACHERS AND ADMINISTRATORS

(a) CERTIFICATES

Section

79-813. Teachers' and administrators' certificates or permits; military spouses; applicants by reciprocity; requirements.

(p) EXCELLENCE IN TEACHING ACT

79-8,133. Attracting Excellence to Teaching Program; created; terms, defined.
79-8,137.01. Enhancing Excellence in Teaching Program; created; terms, defined.
79-8,137.05. Excellence in Teaching Cash Fund; created; use; investment.

(s) ALTERNATIVE CERTIFICATION FOR QUALITY TEACHERS ACT

79-8,143. Act, how cited.
79-8,144. Legislative findings and declarations.
79-8,145. Temporary certificate to teach; issuance; terms and conditions.

(a) CERTIFICATES

79-813 Teachers' and administrators' certificates or permits; military spouses; applicants by reciprocity; requirements.

(1)(a) The board shall authorize the issuance of a certificate or permit to any applicant for such certificate or permit who:

- (i) Is a military spouse;
- (ii) Holds a valid certificate or permit currently in force in another state to teach, administer, or provide special services;
- (iii) Has held such certificate or permit for at least one year;
- (iv) Is in good standing in all states where a certificate or permit to teach, administer, or provide special services is held;
- (v) Does not have any pending investigations or complaints against any such certificate or permit;
- (vi) Meets all residency and background check requirements otherwise required for a Nebraska certificate or permit; and
- (vii) Pays any applicable fees.

(b) The commissioner shall verify that the applicant for a certificate or permit under this subsection meets the requirements of subdivisions (a)(iv) and (v) of this subsection. Such applicant shall not be required to meet the human relations training requirement under section 79-808 to obtain such certification or permit. Such certificate or permit shall be valid for at least three years and shall include the same or similar endorsements to teach in all subject areas for which the applicant had been certified to teach in such other state if a similar endorsement is offered in Nebraska.

(c) A preliminary permit shall be issued to an applicant upon submission of the application, payment of the applicable fees, and the successful completion of the criminal history record information check as provided in section 79-814.01. The preliminary permit shall remain in force until the commissioner completes the review of all requirements in subdivision (1)(a) of this section and either issues a certificate or permit or notifies the applicant of the reason such certificate or permit cannot be issued.

(d) The board shall adopt and promulgate rules and regulations to (i) expedite the processing of an application submitted under this subsection by an applicant whose spouse is serving on active duty at the time of such submission and (ii) specify the documentation necessary to establish the applicant's status as a spouse of a person who is serving on active duty at the time of such submission.

(e) For purposes of this subsection:

(i) Active duty means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. chapters 1209 and 1211; and

(ii) Military spouse has the same meaning as in section 38-118.01.

(2) In addition to certificates and permits issued pursuant to subsection (1) of this section, the board may authorize the issuance of certificates or permits to applicants who hold a valid certificate or permit currently in force in another state if the requirements for the certificate or permit held by the applicant are comparable and equivalent to those required for a similar type of certificate or permit issued under sections 79-806 to 79-815.

Source: Laws 1963, c. 491, § 8, p. 1571; Laws 1988, LB 802, § 26; R.S.1943, (1994), § 79-1247.10; Laws 1996, LB 900, § 443; Laws 2003, LB 685, § 12; Laws 2021, LB389, § 1.
Effective date August 28, 2021.

(p) EXCELLENCE IN TEACHING ACT

79-8,133 Attracting Excellence to Teaching Program; created; terms, defined.

The Attracting Excellence to Teaching Program is created. For purposes of the Attracting Excellence to Teaching Program:

- (1) Department means the State Department of Education;
- (2) Eligible institution means a not-for-profit college or university which (a) is located in Nebraska, (b) is accredited by an accrediting agency recognized by the United States Department of Education as determined to be acceptable by the State Board of Education, (c) has a teacher education program, and (d) if a privately funded college or university, has not opted out of the program pursuant to rules and regulations;
- (3) Eligible student means an individual who (a) is a full-time student, (b) is enrolled in an eligible institution in an undergraduate or a graduate teacher education program working toward his or her initial certificate to teach in Nebraska, (c) if enrolled at a state-funded eligible institution, is a resident student as described in section 85-502 or, if enrolled in a privately funded eligible institution, would be deemed a resident student if enrolled in a state-funded eligible institution, (d) for applicants applying for the first time on or after April 23, 2009, is a student majoring in a shortage area, and (e) for applicants applying to receive a loan during fiscal year 2011-12 or 2012-13, is a student who previously received a loan pursuant to the Attracting Excellence to Teaching Program in the fiscal year immediately preceding the fiscal year in which the new loan would be received;
- (4) Full-time student means, in the aggregate, the equivalent of a student who in a twelve-month period is enrolled in twenty-four semester credit hours for undergraduate students or eighteen semester credit hours for graduate students of classroom, laboratory, clinical, practicum, or independent study course work;
- (5) Majoring in a shortage area means pursuing a degree which will allow an individual to be properly endorsed to teach in a shortage area;
- (6) Shortage area means a secular field of teaching for which there is a shortage, as determined by the department, of properly endorsed teachers at the time the borrower first receives funds pursuant to the program; and
- (7) Teacher education program means a program of study approved by the State Board of Education pursuant to subdivision (5)(g) of section 79-318.

Source: Laws 2000, LB 1399, § 16; Laws 2003, LB 685, § 20; Laws 2009, LB547, § 4; Laws 2011, LB333, § 6; Laws 2014, LB967, § 8; Laws 2021, LB528, § 32.
Operative date August 28, 2021.

79-8,137.01 Enhancing Excellence in Teaching Program; created; terms, defined.

The Enhancing Excellence in Teaching Program is created. For purposes of the Enhancing Excellence in Teaching Program:

- (1) Department means the State Department of Education;
- (2) Eligible graduate program means a program of study offered by an eligible institution which results in obtaining a graduate degree or a graduate

course of study leading to an endorsement in a shortage area specified by the State Board of Education;

(3) Eligible institution means a not-for-profit college or university which (a) is located in Nebraska, (b) is accredited by an accrediting agency recognized by the United States Department of Education as determined to be acceptable by the State Board of Education, (c) has a teacher education program, and (d) if a privately funded college or university, has not opted out of the Enhancing Excellence in Teaching Program pursuant to rules and regulations;

(4) Eligible student means an individual who (a) is a certificated teacher employed to teach in an approved or accredited school in Nebraska, (b) is enrolled in an eligible graduate program, (c) if enrolled at a state-funded eligible institution, is a resident student as described in section 85-502 or, if enrolled in a privately funded eligible institution, would be deemed a resident student if enrolled in a state-funded eligible institution, (d) is majoring in a shortage area, curriculum and instruction, a subject area in which the individual already holds a secular teaching endorsement, or a subject area that will result in an additional secular teaching endorsement which the superintendent of the school district or head administrator of the private, denominational, or parochial school employing the individual believes will be beneficial to the students of such school district or school as evidenced by a statement signed by the superintendent or head administrator, and (e) is applying for a loan pursuant to the Enhancing Excellence in Teaching Program to be received at a time other than during fiscal year 2011-12 or 2012-13;

(5) Majoring in a shortage area or subject area means pursuing a degree or course of study which will allow an individual to be properly endorsed to teach in such shortage area or subject area; and

(6) Shortage area means a secular field of teaching or endorsement area for which there is a shortage, as determined by the department, of properly endorsed teachers at the time the borrower first receives funds pursuant to the Enhancing Excellence in Teaching Program.

Source: Laws 2009, LB547, § 8; Laws 2010, LB1071, § 8; Laws 2011, LB333, § 7; Laws 2014, LB967, § 9; Laws 2015, LB519, § 5; Laws 2016, LB1066, § 13; Laws 2021, LB528, § 33.
Operative date August 28, 2021.

79-8,137.05 Excellence in Teaching Cash Fund; created; use; investment.

(1) The Excellence in Teaching Cash Fund is created. The fund shall consist of appropriations by the Legislature, transfers pursuant to section 9-812, and loan repayments, penalties, and interest payments received in the course of administering the Attracting Excellence to Teaching Program and the Enhancing Excellence in Teaching Program.

(2) For all fiscal years, the department shall allocate on an annual basis up to four hundred thousand dollars in the aggregate of the funds to be distributed for the Attracting Excellence to Teaching Program to all eligible institutions according to the distribution formula as determined by rule and regulation. The eligible institutions shall act as agents of the department in the distribution of the funds for the Attracting Excellence to Teaching Program to eligible students. The department shall allocate on an annual basis up to eight hundred thousand dollars of the remaining available funds to be distributed to eligible students for the Enhancing Excellence in Teaching Program. Funding amounts

granted in excess of one million two hundred thousand dollars shall be evenly divided for distribution between the two programs.

(3) Any money in the Excellence in Teaching Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 2000, LB 1399, § 19; Laws 2001, Spec. Sess., LB 3, § 6; R.S.1943, (2008), § 79-8,136; Laws 2009, LB547, § 12; Laws 2011, LB333, § 8; Laws 2014, LB967, § 10; Laws 2015, LB519, § 9; Laws 2021, LB528, § 34.
Operative date May 26, 2021.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

(s) ALTERNATIVE CERTIFICATION FOR QUALITY TEACHERS ACT

79-8,143 Act, how cited.

Sections 79-8,143 to 79-8,145 shall be known and may be cited as the Alternative Certification for Quality Teachers Act.

Source: Laws 2021, LB528, § 29.
Operative date August 28, 2021.

79-8,144 Legislative findings and declarations.

The Legislature finds and declares that:

(1) Like many other states, Nebraska is facing a teacher and substitute teacher shortage;

(2) Mandatory training days and family leave policies draw many regular teachers out of their classrooms, causing schools to hire substitute teachers;

(3) The Internal Revenue Service requires a separation period for recently retired teachers who may otherwise be interested in returning to the classroom as a substitute teacher;

(4) In the fall of 2016, the State Department of Education conducted a teacher vacancy survey of all school districts, educational service units, and nonpublic school systems;

(5) Such survey showed that the state continues to have hundreds of unfilled teaching positions across the state;

(6) The most widely reported solution for filling teaching vacancies was to hire an individual who holds a transitional, provisional, or temporary teaching certificate; and

(7) Filling teaching vacancies and having an adequate number of substitute teachers is imperative for delivering a high-quality learning experience to students.

Source: Laws 2021, LB528, § 30.
Operative date August 28, 2021.

79-8,145 Temporary certificate to teach; issuance; terms and conditions.

(1) In addition to certificates issued pursuant to sections 79-806 to 79-815:

(a) The Commissioner of Education shall, subject to the provisions of subsection (3) of this section, grant a temporary certificate to teach on a full-time basis to any applicant who:

(i) Has completed a teacher education program at a standard institution of higher education as defined in section 79-807; and

(ii) Currently possesses a certificate to teach in good standing from another state; and

(b) The commissioner may, subject to the provisions of subsection (3) of this section, grant a temporary certificate to teach on a full-time basis to any applicant who:

(i) Has earned and been awarded a bachelor's degree, graduate degree, or professional degree from a college or university accredited by an accrediting organization recognized by the United States Department of Education; and

(ii) Has satisfactorily demonstrated basic skills competency and passed any appropriate subject area examination as designated by the State Board of Education.

(2) Any temporary certificate to teach issued pursuant to this section shall be valid for a period not to exceed two years, during which the holder of such temporary certificate must obtain a certificate to teach pursuant to sections 79-806 to 79-815 by completing the requirements contained in such sections.

(3) Issuance of a temporary certificate to teach pursuant to this section shall be subject to a criminal history record information check pursuant to section 79-814.01 and payment of any required fees.

Source: Laws 2021, LB528, § 31.
Operative date August 28, 2021.

ARTICLE 9

SCHOOL EMPLOYEES RETIREMENT SYSTEMS

(a) EMPLOYEES OF OTHER THAN CLASS V DISTRICT

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79-966.	School Retirement Fund; state deposits and transfers; amount; determination; contingent state deposit; how calculated; hearing.
79-966.01.	School Retirement Fund; annual actuarial valuations; powers and duties.
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(b) EMPLOYEES RETIREMENT SYSTEM IN CLASS V DISTRICTS

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79-979.	Class V school district; employees' retirement system; established.
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79-979.02.	Employees retirement system; immunity from liability, when.
79-980.	Employees retirement system; administration; board of trustees; members; terms; vacancy; expenses; liability; termination; effect.

§ 79-902**SCHOOLS**

Section	
79-981.	Employees retirement system; board of trustees; board of education; rules and regulations; transition of administration; employees compensation; records required; investment expenses.
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79-982.01.	Employees retirement system; board of trustees; board of education; fiduciaries; duties.
79-982.02.	Employees retirement system; administration; transition; investment of assets; plan for transition of investment authority; contents; board of trustees; duties; costs, fees, and expenses; state investment officer; report.
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79-991.	Employees retirement system; member; prior service credit; how obtained.
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79-992.02.	False or fraudulent claim or benefit application; prohibited acts; penalty.
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79-9,115.	Class V School Employees Retirement Fund; created; use; expenses; payment.
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79-9,123.	Work plan; billing for work; payment.
79-9,124.	Work plan; additional examination and evaluation; by whom; contents; expenses; compliance audit report; additional issues; powers and duties.

(a) EMPLOYEES OF OTHER THAN CLASS V DISTRICT**79-902 Terms, defined.**

For purposes of the School Employees Retirement Act, unless the context otherwise requires:

(1) Accumulated contributions means the sum of all amounts deducted from the compensation of a member and credited to his or her individual account in the School Retirement Fund together with regular interest thereon, compounded monthly, quarterly, semiannually, or annually;

(2)(a) Actuarial equivalent means the equality in value of the aggregate amounts expected to be received under different forms of payment.

(b) For a school employee hired before July 1, 2017, the determinations shall be based on the 1994 Group Annuity Mortality Table reflecting sex-distinct factors blended using twenty-five percent of the male table and seventy-five percent of the female table. An interest rate of eight percent per annum shall be reflected in making these determinations except when a lump-sum settlement is made to an estate.

(c) For a school employee hired on or after July 1, 2017, or rehired on or after July 1, 2017, after termination of employment and being paid a retirement benefit or taking a refund of contributions, the determinations shall be based on a unisex mortality table and an interest rate specified by the board. Both the mortality table and the interest rate shall be recommended by the actuary and approved by the retirement board following an actuarial experience study, a benefit adequacy study, or a plan valuation. The mortality table, interest rate, and actuarial factors in effect on the school employee's retirement date will be used to calculate actuarial equivalency of any retirement benefit. Such interest rate may be, but is not required to be, equal to the assumed rate.

(d) If the lump-sum settlement is made to an estate, the interest rate will be determined by the AAA-rated segment of the Bloomberg Barclays Long U.S. Corporate Bond Index as of the prior June 30, rounded to the next lower quarter percent. If the AAA-rated segment of the Bloomberg Barclays Long U.S. Corporate Bond Index is discontinued or replaced, a substitute index shall be selected by the board which shall be a reasonably representative index;

(3) Beneficiary means any person in receipt of a school retirement allowance or other benefit provided by the act;

(4)(a) Compensation means gross wages or salaries payable to the member for personal services performed during the plan year and includes (i) overtime pay, (ii) member retirement contributions, (iii) retroactive salary payments paid pursuant to court order, arbitration, or litigation and grievance settlements, and (iv) amounts contributed by the member to plans under sections 125, 403(b), and 457 of the Internal Revenue Code as defined in section 49-801.01 or any other section of the code which defers or excludes such amounts from income.

(b) Compensation does not include (i) fraudulently obtained amounts as determined by the retirement board, (ii) amounts for accrued unused sick leave or accrued unused vacation leave converted to cash payments, (iii) insurance premiums converted into cash payments, (iv) reimbursement for expenses incurred, (v) fringe benefits, (vi) per diems paid as expenses, (vii) bonuses for services not actually rendered, (viii) early retirement inducements, (ix) cash awards, (x) severance pay, or (xi) employer contributions made for the purposes of separation payments made at retirement.

(c) Compensation in excess of the limitations set forth in section 401(a)(17) of the Internal Revenue Code as defined in section 49-801.01 shall be disregarded. For an employee who was a member of the retirement system before the first plan year beginning after December 31, 1995, the limitation on compensation

shall not be less than the amount which was allowed to be taken into account under the retirement system as in effect on July 1, 1993;

(5) County school official means (a) until July 1, 2000, the county superintendent or district superintendent and any person serving in his or her office who is required by law to have a teacher's certificate and (b) on or after July 1, 2000, the county superintendent, county school administrator, or district superintendent and any person serving in his or her office who is required by law to have a teacher's certificate;

(6)(a) Creditable service means prior service for which credit is granted under sections 79-926 to 79-929, service credit purchased under sections 79-933.03 to 79-933.06 and 79-933.08, and all service rendered while a contributing member of the retirement system; and

(b) Creditable service includes working days, sick days, vacation days, holidays, and any other leave days for which the employee is paid regular wages as part of the employee's agreement with the employer. Creditable service does not include lump-sum payments to the employee upon termination or retirement in lieu of accrued benefits for such days, eligibility and vesting credit, service years for which member contributions are withdrawn and not repaid by the member, service rendered for which the retirement board determines that the member was paid less in compensation than the minimum wage as provided in the Wage and Hour Act, service which the board determines was rendered with the intent to defraud the retirement system, or service provided to an employer in a retirement system established pursuant to the Class V School Employees Retirement Act;

(7) Current benefit means the initial benefit increased by all adjustments made pursuant to the School Employees Retirement Act;

(8) Disability means an inability to engage in any substantially gainful activity by reason of any medically determinable physical or mental impairment which was initially diagnosed or became disabling while the member was an active participant in the plan and which can be expected to result in death or be of a long-continued and indefinite duration;

(9) Disability retirement allowance means the annuity paid to a person upon retirement for disability under section 79-952;

(10) Disability retirement date means the first day of the month following the date upon which a member's request for disability retirement is received on a retirement application provided by the retirement system if the member has terminated employment in the school system and has complied with sections 79-951 to 79-954 as such sections refer to disability retirement;

(11) Early retirement inducement means, but is not limited to:

(a) A benefit, bonus, or payment to a member in exchange for an agreement by the member to terminate from employment;

(b) A benefit, bonus, or payment paid to a member in addition to the member's retirement benefit;

(c) Lump-sum or installment cash payments, except payments for accrued unused leave converted to cash payments;

(d) An additional salary or wage component of any kind that is being paid as an incentive to leave employment and not for personal services performed for which creditable service is granted;

(e) Partial or full employer payment of a member's health, dental, life, or long-term disability insurance benefits or cash in lieu of such insurance benefits that extend beyond the member's termination of employment and contract of employment dates. This subdivision does not apply to any period during which the member is contributing to the retirement system and being awarded creditable service; and

(f) Any other form of separation payments made by an employer to a member at termination, including, but not limited to, purchasing retirement annuity contracts for the member pursuant to section 79-514, depositing money for the member in an account established under section 403(b) of the Internal Revenue Code except for payments for accrued unused leave, or purchasing service credit for the member pursuant to section 79-933.08;

(12) Eligibility and vesting credit means credit for years, or a fraction of a year, of participation in a Nebraska government plan for purposes of determining eligibility for benefits under the School Employees Retirement Act. Such credit shall not be included as years of creditable service in the benefit calculation;

(13) Emeritus member means a person (a) who has entered retirement under the 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 beginning date means, for purposes of the deferral of distributions, April 1 of the year following the calendar year in which a member has:

(a)(i) Terminated employment with all employers participating in the plan; and

(ii)(A) Attained at least seventy and one-half years of age for a member who attained seventy and one-half years of age on or before December 31, 2019; or

(B) Attained at least seventy-two years of age for a member who attained seventy and one-half years of age on or after January 1, 2020; or

(b)(i) Terminated employment with all employers participating in the plan; and

(ii) Otherwise reached the date specified by section 401(a)(9) of the Internal Revenue Code and the regulations issued thereunder;

(28) Required deposit means the deduction from a member's compensation as provided for in section 79-958 which shall be deposited in the School Retirement Fund;

(29) Retirement means qualifying for and accepting a school or disability retirement allowance granted under the School Employees Retirement Act;

(30) Retirement application means the form approved and provided by the retirement system for acceptance of a member's request for either regular or disability retirement;

(31) Retirement board or board means the Public Employees Retirement Board;

(32) Retirement date means (a) if the member has terminated employment, the first day of the month following the date upon which a member's request for retirement is received on a retirement application provided by the retirement system or (b) if the member has filed a retirement application but has not yet terminated employment, the first day of the month following the date on which the member terminates employment. An application may be filed no more than one hundred twenty days prior to the effective date of the member's initial benefit;

(33) Retirement system means the School Employees Retirement System of the State of Nebraska;

(34) Savings annuity means payments for life, made in equal monthly payments, derived from the accumulated contributions of a member;

(35) School employee means a contributing member who earns service credit pursuant to section 79-927. For purposes of this section, contributing member means the following persons who receive compensation from a public school: (a) Regular employees; (b) regular employees having retired pursuant to the School Employees Retirement Act who subsequently provide compensated service on a regular basis in any capacity; and (c) regular employees hired by a public school on an ongoing basis to assume the duties of other regular employees who are temporarily absent. Substitute employees, temporary employees, and employees who have not attained the age of eighteen years shall not be considered school employees;

(36) School 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;

(37) 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;

(38) Service means employment as a school employee and shall not be deemed interrupted by (a) termination at the end of the school year of the contract of employment of an employee in a public school if the employee enters into a contract of employment in any public school, except a school in a Class V school district, for the following school year, (b) temporary or seasonal suspension of service that does not terminate the employee's employment, (c) leave of absence authorized by the employer for a period not exceeding twelve months, (d) leave of absence because of disability, or (e) military service when properly authorized by the retirement board. Service does not include any period of disability for which disability retirement benefits are received under sections 79-951 to 79-953;

(39) Service annuity means payments for life, made in equal monthly installments, derived from appropriations made by the State of Nebraska to the retirement system;

(40) State deposit means the deposit by the state in the retirement system on behalf of any member;

(41) State school official means the Commissioner of Education and his or her professional staff who are required by law or by the State Department of Education to hold a certificate as such term is defined in section 79-807;

(42) Substitute employee means a person hired by a public school as a temporary employee to assume the duties of regular employees due to a temporary absence of any regular employees. Substitute employee does not mean a person hired as a regular employee on an ongoing basis to assume the duties of other regular employees who are temporarily absent;

(43) Surviving spouse means (a) the spouse married to the member on the date of the member's death or (b) the spouse or former spouse of the member if survivorship rights are provided under a qualified domestic relations order filed with the board pursuant to the Spousal Pension Rights Act. The spouse or former spouse shall supersede the spouse married to the member on the date of the member's death as provided under a qualified domestic relations order. If the benefits payable to the spouse or former spouse under a qualified domestic relations order are less than the value of benefits entitled to the surviving spouse, the spouse married to the member on the date of the member's death shall be the surviving spouse for the balance of the benefits;

(44) Temporary employee means an employee hired by a public school who is not a regular employee and who is hired to provide service for a limited period of time to accomplish a specific purpose or task. When such specific purpose or task is complete, the employment of such temporary employee shall terminate and in no case shall the temporary employment period exceed one year in duration;

(45)(a) Termination of employment occurs on the date on which the member experiences a bona fide separation from service of employment with the member's employer, the date of which separation is determined by the end of

the member's contractual agreement or, if there is no contract or only partial fulfillment of a contract, by the employer.

(b) A member shall not be deemed to have terminated employment if the member subsequently provides service to any employer participating in the retirement system provided for in the School Employees Retirement Act within one hundred eighty days after ceasing employment unless such service is:

(i) Bona fide unpaid voluntary service or substitute service, provided on an intermittent basis. For purposes of this subdivision, (A) intermittent basis means service provided on a day-to-day basis that is not greater than eight days of service during a calendar month and (B) day of service means any length of substitute service or unpaid voluntary service provided during a single calendar day; or

(ii) As provided in subsection (2) of section 79-920.

(c) A member shall not be deemed to have terminated employment if the board determines based on facts and circumstances (i) that a claimed termination was not a bona fide separation from service with the employer or (ii) that a member was compensated for a full contractual period when the member terminated prior to the end date of the contract.

(d) Nothing in this subdivision precludes an employer from adopting a policy which limits or denies employees who have terminated employment from providing voluntary or substitute service within one hundred eighty days after termination; and

(46) Voluntary service or volunteer means providing bona fide unpaid service to any employer.

Source: Laws 1945, c. 219, § 1, p. 638; R.S.Supp.,1947, § 79-2901; Laws 1949, c. 256, § 435, p. 840; Laws 1953, c. 315, § 1, p. 1042; Laws 1961, c. 410, § 1, p. 1229; Laws 1963, c. 469, § 7, p. 1506; Laws 1963, c. 495, § 1, p. 1580; Laws 1965, c. 530, § 1, p. 1663; Laws 1965, c. 531, § 1, p. 1671; Laws 1967, c. 546, § 2, p. 1798; Laws 1969, c. 584, § 84, p. 2396; Laws 1969, c. 735, § 1, p. 2773; Laws 1971, LB 987, § 16; Laws 1975, LB 50, § 1; Laws 1984, LB 971, § 1; Laws 1985, LB 350, § 1; Laws 1986, LB 325, § 1; Laws 1986, LB 311, § 14; Laws 1987, LB 549, § 1; Laws 1988, LB 551, § 10; Laws 1988, LB 1170, § 1; Laws 1989, LB 506, § 9; Laws 1991, LB 549, § 24; Laws 1992, LB 1001, § 32; Laws 1994, LB 833, § 28; Laws 1996, LB 700, § 5; Laws 1996, LB 847, § 27; R.S.1943, (1994), § 79-1501; Laws 1996, LB 900, § 537; Laws 1996, LB 1076, § 13; Laws 1996, LB 1273, § 23; Laws 1997, LB 347, § 26; Laws 1997, LB 623, § 12; Laws 1997, LB 624, § 16; Laws 1997, LB 724, § 3; Laws 1998, LB 1191, § 45; Laws 1999, LB 272, § 91; Laws 1999, LB 538, § 1; Laws 1999, LB 674, § 3; Laws 2000, LB 1192, § 9; Laws 2001, LB 408, § 13; Laws 2002, LB 407, § 22; Laws 2003, LB 451, § 18; Laws 2005, LB 329, § 2; Laws 2005, LB 364, § 8; Laws 2005, LB 503, § 8; Laws 2006, LB 1019, § 8; Laws 2010, LB950, § 11; Laws 2011, LB509, § 17; Laws 2012, LB916, § 19; Laws 2013, LB263, § 13; Laws 2013, LB553, § 3; Laws 2014, LB1042, § 1; Laws 2015, LB446, § 1; Laws 2016, LB790, § 4; Laws 2017, LB415, § 24; Laws 2018,

LB1005, § 18; Laws 2019, LB34, § 10; Laws 2020, LB1054, § 7;
Laws 2021, LB147, § 3.
Effective date May 27, 2021.

Cross References

Class V School Employees Retirement Act, see section 79-978.01.
Public Employees Retirement Board, see sections 84-1501 to 84-1513.
Spousal Pension Rights Act, see section 42-1101.
Wage and Hour Act, see section 48-1209.

79-916 Retirement system; membership; member of any other system; transfer of funds; when; Service Annuity Fund; created; use; investment.

(1)(a) On July 1, 2004, the board shall transfer from the School Retirement Fund to the Service Annuity Fund an amount equal to the funded ratio of the retirement system which is equal to the market value of the retirement system assets divided by the actuarial accrued liability of the retirement system, times the actuarial accrued liability of the service annuity, as determined pursuant to section 79-966.01, of the employees who are members of the retirement system established pursuant to the Class V School Employees Retirement Act. Beginning July 1, 2013, such actuarial accrued liability shall be determined for each employee on a level percentage of salary basis. On or before July 1 of each fiscal year, the state shall transfer into the Service Annuity Fund such amounts as may be necessary to pay the normal cost and amortize the unfunded actuarial accrued liability of the service annuity, as determined pursuant to section 79-966.01, as of the end of the previous fiscal year of the employees who are members of the retirement system established pursuant to the Class V School Employees Retirement Act. Based on the fiscal year of the retirement system established pursuant to the Class V School Employees Retirement Act, the administrator of such system shall provide all membership information needed for the actuary engaged by the retirement board to determine the normal cost and the amortization payment of the unfunded actuarial accrued liability, as determined pursuant to section 79-966.01, to be paid by the state to the Service Annuity Fund each fiscal year as required by this subdivision.

(b) At the time of retirement of any employee who is a member of the retirement system established pursuant to the Class V School Employees Retirement Act and who was hired prior to July 1, 2016, the retirement board shall, upon receipt of a certification of the administrator of such retirement system of the name, identification number, date of birth, retirement date, last date of employment, type of retirement, and number of years of service credited to such eligible employee at the date of retirement, transfer from the Service Annuity Fund to the Class V school district for transfer to the retirement system the actuarial accrued liability of the service annuity to be paid to the Class V school district by the state for transfer to the eligible employee for the years of service thus certified as provided for members of the School Employees Retirement System of the State of Nebraska under sections 79-933 and 79-952. Such transfer of the actuarial accrued liability to the Class V school district for transfer to the retirement system established pursuant to the Class V School Employees Retirement Act shall be in lieu of the payment of the service annuity to which the employee would be entitled.

(c) The Service Annuity Fund is created. The fund shall consist of the amounts paid by the state and transferred from the School Retirement Fund to the Class V school district for transfer to the retirement system pursuant to this

section to pay the service annuity to the Class V school district for transfer to employees who are members of the retirement system established pursuant to the Class V School Employees Retirement Act. Any money in the Service Annuity Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) In addition to the transfer of the actuarial accrued liability of the service annuity pursuant to subsection (1) of this section, the state shall also transfer to the funds of the Class V school district for transfer to the district's retirement system an amount determined by multiplying the compensation of all members of such retirement system by the percent specified in subsection (2) of section 79-966 for determining the amount of the state's payment to the School Retirement Fund plus the amount determined under subdivision (1)(b) of section 79-966. The transfer shall be made annually on or before July 1 of each fiscal year.

Source: Laws 1945, c. 219, § 12, p. 642; R.S.Supp., 1947, § 79-2912; Laws 1949, c. 256, § 446, p. 845; Laws 1951, c. 292, § 1, p. 970; Laws 1965, c. 530, § 2, p. 1667; Laws 1967, c. 547, § 2, p. 1810; Laws 1967, c. 546, § 5, p. 1802; Laws 1969, c. 735, § 3, p. 2777; Laws 1971, LB 987, § 21; Laws 1984, LB 457, § 1; Laws 1987, LB 549, § 3; Laws 1988, LB 1170, § 2; Laws 1991, LB 549, § 30; R.S. 1943, (1994), § 79-1512; Laws 1996, LB 900, § 551; Laws 1997, LB 623, § 14; Laws 1998, LB 1191, § 48; Laws 2002, LB 407, § 24; Laws 2004, LB 1097, § 23; Laws 2011, LB509, § 21; Laws 2013, LB553, § 4; Laws 2016, LB447, § 8; Laws 2021, LB147, § 4.

Effective date May 27, 2021.

Cross References

Class V School Employees Retirement Act, see section 79-978.01.

Nebraska Capital Expansion Act, see section 72-1269.

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

79-956 Death of member before retirement; contributions; how treated; direct transfer to retirement plan; death while performing qualified military service; additional death benefit.

(1)(a) Except as provided in section 42-1107, if a member dies before the member's retirement date, the member's accumulated contributions shall be paid pursuant to section 79-969.

(b) Except for payment to an alternative payee pursuant to a qualified domestic relations order, if no legal representative or beneficiary applies for such accumulated contributions, the contributions shall be distributed in accordance with the Uniform Disposition of Unclaimed Property Act.

(2) When the deceased member has twenty years or more of creditable service regardless of age or dies on or after his or her sixty-fifth birthday and leaves a surviving spouse who has been designated by the member as the sole surviving primary beneficiary, on forms provided by the board, as of the date of the member's death, such beneficiary may elect, within twelve months after the death of the member, to receive (a) a refund of the member's contribution account balance, including interest, plus an additional one hundred one percent of the member's contribution account balance, including interest, or (b) an

annuity which shall be equal to the amount that would have accrued to the member had he or she elected to have the retirement annuity paid as a one-hundred-percent joint and survivor annuity payable as long as either the member or the member's spouse should survive and had the member retired (i) on the date of death if his or her age at death is sixty-five years or more or (ii) at age sixty-five years if his or her age at death is less than sixty-five years.

(3) When the deceased member who was a school employee on or after May 1, 2001, has not less than five years of creditable service and less than twenty years of creditable service and dies before his or her sixty-fifth birthday and leaves a surviving spouse who has been designated in writing as beneficiary and who, as of the date of the member's death, is the sole surviving primary beneficiary, such beneficiary may elect, within twelve months after the death of the member, to receive (a) a refund of the member's contribution account balance with interest plus an additional one hundred one percent of the member's contribution account balance with interest or (b) an annuity payable monthly for the surviving spouse's lifetime which shall be equal to the benefit amount that had accrued to the member at the date of the member's death, commencing when the member would have reached age sixty, or the member's age at death if greater, reduced by three percent for each year payments commence before the member would have reached age sixty-five, and adjusted for payment in the form of a one-hundred-percent joint and survivor annuity.

(4)(a) If the requirements of subsection (2) or (3) of this section are not met, a lump sum equal to all contributions to the fund made by such member plus regular interest shall be paid pursuant to section 79-969.

(b) An application for benefits under subsection (2) or (3) of this section shall be deemed to have been timely filed if the application is received by the retirement system within twelve months after the date of the death of the member.

(5) Benefits to which a surviving spouse, beneficiary, or estate of a member shall be entitled pursuant to this section shall commence immediately upon the death of such member.

(6) A lump-sum death benefit paid to the member's beneficiary, other than the member's estate, that is an eligible distribution may be distributed in the form of a direct transfer to a retirement plan eligible to receive such transfer under the provisions of the Internal Revenue Code.

(7) For any member whose death occurs on or after January 1, 2007, while performing qualified military service as defined in section 414(u) of the Internal Revenue Code, the member's beneficiary shall be entitled to any additional death benefit that would have been provided, other than the accrual of any benefit relating to the period of qualified military service. The additional death benefit shall be determined as if the member had returned to employment with the employer and such employment had terminated on the date of the member's death.

Source: Laws 1945, c. 219, § 29, p. 648; R.S.Supp., 1947, § 79-2929; Laws 1949, c. 256, § 462, p. 850; Laws 1951, c. 293, § 3, p. 972; Laws 1969, c. 735, § 8, p. 2781; Laws 1975, LB 50, § 5; Laws 1976, LB 645, § 1; Laws 1981, LB 128, § 1; Laws 1986, LB 325, § 9; Laws 1987, LB 549, § 10; Laws 1988, LB 1170, § 5; Laws 1990, LB 903, § 1; Laws 1994, LB 833, § 32; R.S.1943, (1994), § 79-1528; Laws 1996, LB 900, § 591; Laws 1996, LB 1273, § 25; Laws

2000, LB 1192, § 16; Laws 2001, LB 711, § 4; Laws 2003, LB 451, § 20; Laws 2007, LB508, § 2; Laws 2012, LB916, § 23; Laws 2013, LB263, § 18; Laws 2019, LB34, § 15; Laws 2021, LB532, § 8.

Effective date August 28, 2021.

Cross References

Uniform Disposition of Unclaimed Property Act, see section 69-1329.

79-966 School Retirement Fund; state deposits and transfers; amount; determination; contingent state deposit; how calculated; hearing.

(1)(a) On the basis of all data in the possession of the retirement board, including such mortality and other tables as are recommended by the actuary engaged by the retirement board and adopted by the retirement board, the retirement board shall annually, on or before July 1, determine the state deposit to be made by the state in the School Retirement Fund for that fiscal year. The amount of such state deposit shall be determined pursuant to section 79-966.01. The retirement board shall thereupon certify the amount of such state deposit, and on the warrant of the Director of Administrative Services, the State Treasurer shall, as of July 1 of such year, transfer from funds appropriated by the state for that purpose to the School Retirement Fund the amount of such state deposit.

(b) Beginning July 1, 2016, the contingent state transfer described in this subsection shall be calculated as a percent of compensation of all members of the retirement system. For any year in which a deposit is made to the School Retirement Fund under this subsection, if the actuary for a retirement system provided for under the Class V School Employees Retirement Act determines that the actuarially required contribution rate, for the fiscal year of the retirement system that begins before the state deposit, exceeds the rate of all contributions required pursuant to the Class V School Employees Retirement Act, using the amortization period specified in section 79-966.01, the Class V district school board may request a public hearing of the Appropriations Committee of the Legislature to ask the state to transfer to the Class V school district for transfer to the funds of the retirement system provided for under the Class V School Employees Retirement Act an amount determined by multiplying the compensation of all members of such retirement system by the lesser of the percent of compensation transferred into the School Retirement Fund under this subsection or the percent of compensation of the members of the retirement system provided for under the Class V School Employees Retirement Act needed to meet the actuarially required contribution rate for such system, using the amortization period specified in section 79-966.01. Any additional amount of transfer so calculated, recommended by the Appropriations Committee of the Legislature, and approved by the Legislature, shall be added to the two percent specified in subsection (2) of this section for the amount required by subsection (2) of section 79-916 to be transferred to the Class V school district, which shall transfer such amount to the funds of the retirement system provided for under the Class V School Employees Retirement Act.

(2) For each fiscal year beginning July 1, 2014, in addition to the state transfers required by subsections (1) and (3) of this section, the state shall

transfer into the School Retirement Fund an amount equal to two percent of the compensation of all members of the retirement system.

(3) In addition to the state deposits and transfers required by subsections (1) and (2) of this section, beginning on July 1, 2005, and each fiscal year thereafter for employees who become members prior to July 1, 2016, the state shall transfer into the Service Annuity Fund such amounts as may be necessary to pay the normal cost and amortize the unfunded actuarial accrued liability of the service annuity benefit established pursuant to sections 79-933 and 79-952 as accrued through the end of the previous fiscal year of the school employees who are members of the retirement system established pursuant to the Class V School Employees Retirement Act.

Source: Laws 1945, c. 219, § 41, p. 651; R.S.Supp., 1947, § 79-2941; Laws 1949, c. 256, § 474, p. 853; Laws 1965, c. 530, § 4, p. 1668; Laws 1969, c. 735, § 12, p. 2782; Laws 1971, LB 987, § 25; Laws 1981, LB 248, § 3; Laws 1984, LB 457, § 5; Laws 1988, LB 1170, § 10; R.S. 1943, (1994), § 79-1540; Laws 1996, LB 900, § 601; Laws 2002, LB 407, § 39; Laws 2004, LB 1097, § 29; Laws 2009, LB 187, § 2; Laws 2011, LB 382, § 2; Laws 2013, LB 553, § 9; Laws 2016, LB 447, § 13; Laws 2021, LB 17, § 12; Laws 2021, LB 147, § 5.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB17, section 12, with LB147, section 5, to reflect all amendments.

Note: Changes made by LB17 became effective May 6, 2021. Changes made by LB147 became effective May 27, 2021.

Cross References

Class V School Employees Retirement Act, see section 79-978.01.

79-966.01 School Retirement Fund; annual actuarial valuations; powers and duties.

(1) Prior to July 1, 2021:

(a) Beginning July 1, 2013, and each fiscal year thereafter, the board shall cause an annual actuarial valuation to be performed that will value the plan assets for the year and ascertain the contributions required for such fiscal year. The actuary for the board shall perform the annual valuation of the system on the basis of actuarial assumptions recommended by the actuary, approved by the board, and kept on file with the board 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 percentage of salary basis. The normal cost under this method shall be determined for each individual member on a level percentage of salary basis. The normal cost amount is then summed for all members;

(b) Beginning July 1, 2006, any existing unfunded liabilities shall be reinitialized and amortized over a thirty-year period, and during each subsequent actuarial valuation through June 30, 2021, 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 thirty-year period beginning on the valuation date of such change;

(c) If the unfunded actuarial accrued liability under the entry age actuarial cost method is zero or less than zero on an actuarial valuation date, then all prior unfunded actuarial accrued liabilities shall be considered fully funded and

the unfunded actuarial accrued liability shall be reinitialized and amortized over a thirty-year period as of the actuarial valuation date; and

(d) If the actuarially required contribution rate exceeds the rate of all contributions required pursuant to the School Employees Retirement Act, the actuary shall determine the added contributions required to be paid by the State of Nebraska that constitute the difference between the actuarially required contribution rate and the rate of all other required contributions.

(2) Beginning July 1, 2021, and each fiscal year thereafter:

(a) The board shall cause an annual actuarial valuation to be performed that will value the plan assets for the year and ascertain the contributions required for such fiscal year. The actuary for the board shall perform the annual valuation of the system on the basis of actuarial assumptions recommended by the actuary, approved by the board, and kept on file with the board using the entry age actuarial cost method. Under such 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 percentage of salary basis. The normal cost under such method shall be determined for each individual member on a level percentage of salary basis. The normal cost amount is then summed for all members;

(b) Any 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;

(c) 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; and

(d) If the actuarially required contribution rate exceeds the rate of all contributions required pursuant to the School Employees Retirement Act, the actuary shall determine the added contributions required to be paid by the State of Nebraska that constitute the difference between the actuarially required contribution rate and the rate of all other required contributions.

(3) Upon the recommendation of the actuary to the board, and after the board notifies the Nebraska Retirement Systems Committee of the Legislature, the board may combine or offset certain amortization bases to reduce future volatility of the actuarial contribution rate. Such notification to the committee shall be in writing and include, at a minimum, the actuary's projection of the contributions to fund the plan if the combination or offset were not implemented, the actuary's projection of the contributions to fund the plan if the combination or offset were implemented, and the actuary's explanation of why the combination or offset is in the best interests of the plan at the proposed time.

Source: Laws 2002, LB 407, § 38; Laws 2006, LB 1019, § 9; Laws 2013, LB553, § 10; Laws 2021, LB17, § 13.
Effective date May 6, 2021.

79-972.01 School Retirement Fund; created; use.

The School Retirement Fund is created. The required deposits of an employer, the state, and the employees shall be credited to the fund and all savings annuities, service annuities, and formula annuities shall be paid from the fund as provided in the School Employees Retirement Act. Subfunds may be established as necessary. Any unexpended balance existing on June 30, 2002, in the School Employers Deposit Account, the Service Annuity Account, the School Employees Savings Account, the Annuity Reserve Account, and the School Employees Retirement System Reserve Fund shall be transferred to the School Retirement Fund.

Source: Laws 2002, LB 407, § 42; Laws 2021, LB147, § 6.
Effective date May 27, 2021.

(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:

(i) For members hired before July 1, 2018, 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

(ii) For members hired on or after July 1, 2018, or rehired on or after July 1, 2018, 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 (A) the board until September 1, 2024, or (B) the retirement board beginning on September 1, 2024. Both the mortality table and the interest rate shall be recommended by the actuary retained pursuant to section 79-984 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 member's retirement date shall be used to calculate the actuarial equivalency of any retirement benefit. Such interest rate may be, but is not required to be, equal to the assumed rate; and

(b) For joint and survivorship annuities:

(i) For members hired before July 1, 2018, 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; and

(ii) For members hired on or after July 1, 2018, or rehired on or after July 1, 2018, 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 (A) the board until September 1, 2024, or (B) the retirement board beginning on September 1, 2024. Both the mortality table and the interest rate shall be recommended by the actuary retained pursuant to section 79-984 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 member's retirement date shall be used to calculate the actuarial equivalency of any retirement benefit. Such interest rate may be, but is not required to be, equal to the assumed rate;

(4) Administrator of the retirement system or administrator means (a) until September 1, 2024, the person administering the retirement system who is appointed by the board or (b) beginning on September 1, 2024, the director appointed by the retirement board pursuant to section 84-1503;

(5) Annuitant means any member receiving an allowance;

(6) Annuity means annual payments, for both prior service and membership service, for life as provided in the Class V School Employees Retirement Act;

(7) Audit year means the period beginning January 1 in any year and ending on December 31 of that same year, which is the period of time used in the preparation of (a) the annual actuarial analysis and valuation and (b) a financial audit of the retirement system, including the investments of the retirement system;

(8) Beneficiary means any person entitled to receive or receiving a benefit by reason of the death of a member;

(9) Board means the board of trustees until July 1, 2021, and the board of education beginning July 1, 2021, and until September 1, 2024;

(10) Board of education means the board or boards of education of a school district or districts;

(11) Board of trustees means:

(a) Until September 1, 2024, the entity established pursuant to section 79-980; and

(b) Beginning September 1, 2024, the board of education shall be deemed to be the successor in interest for all liability associated with the actions or inactions of the entity identified under subdivision (11)(a) of this section and as specified in the Class V School Employees Retirement Act;

(12)(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;

(13) Council means the Nebraska Investment Council created and acting pursuant to section 72-1237;

(14) Creditable service means the sum of the membership service and the prior service, measured in one-tenth-year increments;

(15) 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;

(16) Early retirement inducement means, but is not limited to:

(a) A benefit, bonus, or payment to a member by an employer 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 by an employer in addition to the member's retirement benefit;

(c) Lump-sum or installment cash payments by an employer, except payments for accrued unused leave converted to cash payments;

(d) An additional salary or wage component of any kind that is being paid by an employer 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;

(17) Employee means the following enumerated persons receiving compensation from the school district: (a) Teachers, other than substitutes, employed on a written contract basis; (b) administrators employed on a written contract, agreement, or document basis; and (c) regular employees;

(18) Employer means a school district participating in a retirement system established pursuant to the Class V School Employees Retirement Act;

(19) Fiscal year means the period beginning September 1 in any year and ending on August 31 of the next succeeding year;

(20) Hire date or date of hire means the first day of compensated service subject to retirement contributions;

(21) 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;

(22) 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;

(23) 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 an 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;

(24) 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;

(25) 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;

(26) Participation means qualifying for and making required deposits to the retirement system during the course of a fiscal year;

(27) Primary beneficiary means the person or persons entitled to receive or receiving a benefit by reason of the death of a member;

(28) 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;

(29)(a) Regular employee means a person hired on a full-time basis, which basis shall contemplate a work week of not less than thirty hours, and who is not (i) a teacher employed on a written contract basis or (ii) an administrator employed on a written contract, agreement, or document basis.

(b) Effective September 1, 2021, a person hired by an employer or under contract to provide service for less than thirty hours per week but who provides service for an average of thirty hours or more per week in each calendar month of any three calendar months of a fiscal year shall, beginning with the next full payroll period, commence contributions and shall be deemed a regular employee;

(30) 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;

(31) Retirement allowance means the total annual retirement benefit payable to a member for service or disability;

(32) Retirement application means beginning on and after September 1, 2024, the form approved and provided by the retirement system for acceptance of a member's request for either regular or disability retirement;

(33) Retirement board means the Public Employees Retirement Board created and acting pursuant to section 84-1501;

(34) Retirement date means the date of retirement of a member for service or disability as fixed by (a) the board for retirements occurring prior to September 1, 2024, or (b) the retirement board for retirements occurring on or after September 1, 2024;

(35) 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;

(36) 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;

(37) School district means an employer participating in a retirement system established pursuant to the Class V School Employees Retirement Act;

(38) Solvency means the rate of all contributions required pursuant to the Class V School Employees Retirement Act is equal to or greater than the actuarially required contribution rate as annotated in the most recent valuation report prepared by the actuary retained for the retirement system as provided in section 79-984;

(39) State investment officer means the person appointed by the council pursuant to section 72-1240 and acting pursuant to the Nebraska State Funds Investment Act;

(40) 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;

(41)(a) Termination of employment occurs on the date on which the member experiences a bona fide separation from service of employment with the member's employer, the date of which separation is determined by the end of the member's contractual agreement or, if there is no contract or only partial fulfillment of a contract, by an employer. A member shall not be deemed to have terminated employment if the member subsequently provides service to an employer within one hundred eighty days after ceasing employment unless such service is:

(i) Bona fide unpaid voluntary service;

(ii) Substitute service provided on an intermittent basis. For purposes of this subdivision, (A) intermittent basis means service provided on a day-to-day basis that is not greater than eight days of service during a calendar month and (B) day of service means any length of substitute service provided during a single calendar day; or

(iii) Temporary service following a bona fide separation of service of not less than thirty calendar days and which is provided to accomplish a specific purpose or task for a limited period not to exceed one year.

(b) A member shall not be deemed to have terminated employment if the board determines that, based on the facts and circumstances, (i) a claimed termination was not a bona fide separation from service with the employer or (ii) a member was compensated for a full contractual period when the member terminated prior to the end date of the member's employment as determined by the member's contract or labor agreement.

(c) 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;

(42) 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;

(43) Transfer of management means the transition and transfer of the general management, administration, and operation of the retirement system from the board of trustees, board of education, and school district to the retirement board as described in the Class V School Employees Retirement Act. Transfer of management does not include:

(a) Transfer of the school district's funding obligations described in the Class V School Employees Retirement Act or assumption of financial liability for such funding obligations by (i) the State of Nebraska, (ii) the retirement board, (iii) the Nebraska Public Employees Retirement Systems, (iv) any other state entity with duties related to administration of the retirement system, or (v) the council for its investment duties regarding the assets of the retirement system; or

(b) Merger or consolidation of any Class V school employees retirement system established under the Class V School Employees Retirement Act with the School Employees Retirement System of the State of Nebraska or any other retirement system administered by the retirement board;

- (44) Trustee means a trustee provided for in section 79-980; and
- (45) 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; Laws 2018, LB1005, § 31; Laws 2021, LB147, § 7.
Effective date May 27, 2021.

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 79-9,124 shall be known and may be cited as the Class V School Employees Retirement Act.

Source: Laws 1998, LB 497, § 7; Laws 2011, LB509, § 33; Laws 2016, LB447, § 15; Laws 2017, LB415, § 35; Laws 2019, LB31, § 1; Laws 2019, LB34, § 17; Laws 2021, LB147, § 8.
Effective date May 27, 2021.

79-979 Class V school district; employees' retirement system; established.

(1) Prior to September 13, 1997, in each Class V school district in the State of Nebraska there is hereby established a separate retirement system for all employees of such school district. Such system shall be for the purpose of providing retirement benefits for all employees of the school district as provided in the Class V School Employees Retirement Act. The system shall be known as School Employees' Retirement System of (corporate name of the school district as described in section 79-405). All of its business shall be transacted, all of its funds shall be invested, and all of its cash and securities and other property shall be held in trust on behalf of the retirement system for the purposes set forth in the act. Such funds shall be kept separate from all other funds of the school district and shall be used for no other purpose.

(2) Except as provided in subsection (3) of this section, if any new Class V school districts are formed after September 13, 1997, such new Class V school district shall elect to become or remain a part of the retirement system established pursuant to the School Employees Retirement Act.

(3) Any new Class V school districts formed pursuant to the Learning Community Reorganization Act shall continue to participate in the retirement system established pursuant to the Class V School Employees Retirement Act if such new Class V school district was formed at least in part by territory that

had been in a Class V school district that participated in the retirement system established pursuant to the Class V School Employees Retirement Act.

Source: Laws 1951, c. 274, § 2, p. 912; Laws 1988, LB 1142, § 10; R.S.1943, (1994), § 79-1033; Laws 1996, LB 900, § 614; Laws 1997, LB 623, § 29; Laws 1997, LB 624, § 22; Laws 1998, LB 497, § 8; Laws 2006, LB 1024, § 60; Laws 2016, LB447, § 16; Laws 2021, LB147, § 9.
Effective date May 27, 2021.

Cross References

Learning Community Reorganization Act, see section 79-4,117.

School Employees Retirement Act, see section 79-901.

79-979.01 Employees retirement system; transition and transfer of management and general administration; plan; consistent with work plan; powers and duties; costs, fees, and expenses.

(1)(a) The board of trustees or its designee, the school district, the board of education or its designee, and the retirement board shall enter into a plan for the transition and transfer of management and general administration of the retirement system from the board of trustees, the school district, and board of education to the retirement board.

(b) The plan shall be consistent with the applicable requirements and recommendations of the work plan submitted to the Clerk of the Legislature as required by section 79-9,121. The plan shall be completed no later than December 31, 2021, and shall also address additional duties, obligations, and examinations related to the transition and transfer of management of the retirement system to the retirement board as described in the Class V School Employees Retirement Act as amended by Laws 2021, LB147. A copy of the plan described in this section shall be filed with the Nebraska Retirement Systems Committee of the Legislature and the Governor upon completion.

(2) The board of trustees, the school district, and the board of education shall timely provide to the retirement board all records, documents, member and annuitant data, agreements, accounting and recordkeeping systems, information technology, and other information related to the administration of the retirement system as may be necessary or appropriate for the performance and completion of the work plan required by section 79-9,121, the plan described in subsection (1) of this section, and any other duties and obligations related to the transition and transfer of management and general administration of the retirement system requested by the director of the Nebraska Public Employees Retirement Systems.

(3)(a) All costs, fees, and expenses incurred by the retirement board on or after May 27, 2021, until September 1, 2025, related to the transition and transfer of management and general administration of the retirement system to the retirement board shall be paid by an employer of the retirement system.

(b) The retirement board may bill an employer of the retirement system monthly for all services and expenses relating to the work performed as required in the Class V School Employees Retirement Act by the retirement board and the Nebraska Public Employees Retirement Systems staff, consultants, and contractors. An employer shall remit payment as provided in section 79-9,122 and within the time period and in the manner negotiated in the

transition and transfer of management and administration plan entered into pursuant to this section.

(4) No later than September 1, 2024, except for information technology stabilization work performed until September 1, 2025, the retirement board or its designee shall complete the applicable requirements and carry out recommendations consistent with the work plan and the plan entered into as described in subsection (1) of this section for the transition and transfer of management and general administration of the retirement system to the retirement board that was submitted to the Clerk of the Legislature as required by section 79-9,121. The retirement board is authorized to perform such tasks, enter into contracts for services, access and copy administrative and computer systems and records of the retirement system, and generally perform and take all other action it determines necessary or appropriate to transfer the management and general administration of the retirement system to the retirement board.

(5)(a) Beginning September 1, 2024, the school district and board of education shall not have any duty or authority for management, operation, or general administration of the retirement system except for reporting requirements and funding obligations as described in the Class V School Employees Retirement Act.

(b) On and after such date, the retirement board, acting through the director of the Nebraska Public Employees Retirement Systems, shall have the duty and authority for the management, operation, and general administration of the retirement system. Such duty and authority of the retirement board and its officers, employees, or assigns does not include financial responsibility or liability for funding obligations of the retirement system which remain the responsibility of the school district as described in the Class V School Employees Retirement Act.

Source: Laws 2021, LB147, § 16.

Effective date May 27, 2021.

79-979.02 Employees retirement system; immunity from liability, when.

(1) Beginning September 1, 2024, the State of Nebraska, the retirement board, the Nebraska Public Employees Retirement Systems, and their respective officers, members, employees, and agents shall be indemnified and held harmless by the school district and board of education from any and all liabilities, claims, suits, losses, damages, and costs that arise from, or are reasonably related to, any conduct, decision, action, inaction, or omission of the board of trustees, the board of education, or the school district or any consequences arising thereof during the course of performing their respective duties and responsibilities for, or actions or services related to or in support of, the retirement system under the Class V School Employees Retirement Act prior to September 1, 2024.

(2) The school district of a retirement system described under the Class V School Employees Retirement Act shall remain at all times and in all circumstances solely liable for all funding obligations and responsibilities as described in the act.

(3) At no time and under no circumstances shall the State of Nebraska, the Nebraska Public Employees Retirement Systems, the retirement board, or any other state entity or its officers, employees, or assigns with duties related to the

Class V school employees retirement system be liable for any funding obligations of any Class V school employees retirement system.

(4) The retirement board shall not be liable for any acts or omissions occurring prior to September 1, 2024, in the administration of the Class V School Employees Retirement Act and made at the direction of or by the board of trustees or its employees, the school district or its employees, or the board of education.

(5) A member of the board of education, the board of trustees, or the retirement board shall not be personally liable for any action related to such board member's retirement duties except in cases of willful dishonesty, gross negligence, or intentional violation of law.

(6) Except as otherwise provided in this section, the school district shall not be liable for any act or omission in the administration of the Class V School Employees Retirement Act made at the direction of the retirement board or the administrator of the Nebraska Public Employees Retirement Systems or its employees on and after September 1, 2024.

Source: Laws 2021, LB147, § 17.

Effective date May 27, 2021.

79-980 Employees retirement system; administration; board of trustees; members; terms; vacancy; expenses; liability; termination; effect.

(1) Until July 1, 2021:

(a) At any time that the retirement system consists of only one Class V school district, the general administration of the retirement system is hereby vested in the board of trustees;

(b) Beginning July 1, 2016, the board of trustees shall consist of the following individuals: (i) Two members of the retirement system who are certificated staff elected by the members of the retirement system who are certificated staff; (ii) one member of the retirement system who is classified staff elected by the members of the retirement system who are classified staff; (iii) one member of the retirement system who is an annuitant elected by the members of the retirement system who are annuitants; (iv) the superintendent of schools or his or her designee to serve as a voting, ex officio trustee; and (v) two business persons approved by the board of education qualified in financial affairs who are not members of the retirement system. The business person trustees shall be recommended to four-year terms by the trustees who are not business persons, and the appointments shall be approved by the board of education. The elections of the trustees who are members of the retirement system shall be arranged for, managed, and conducted by the board of trustees and, after the initial terms as otherwise designated, shall be for terms of four years. One certificated staff trustee serving on July 1, 2016, will continue serving until an elected certificated staff trustee will take position effective July 1, 2017; the second certificated staff trustee serving on July 1, 2016, will continue serving until a second elected certificated staff trustee will take position July 1, 2018; the classified staff trustee serving on July 1, 2016, will continue serving until an elected classified staff trustee will take position July 1, 2019; the annuitant member trustee serving on July 1, 2016, will continue serving until an elected annuitant member trustee will take position July 1, 2020; one business member trustee serving on July 1, 2016, will continue serving until a new term of office begins effective July 1, 2018; and the second business member trustee serving

on July 1, 2016, will continue serving until a new term of office begins effective July 1, 2020. The terms of the elected trustees shall be fixed so that one member trustee election shall be held each year. The board of trustees shall appoint a qualified individual to fill any vacancy on the board of trustees for the remainder of the unexpired term. No vacancy or vacancies on the board of trustees shall impair the power of the remaining trustees to administer the retirement system pending the filling of such vacancy or vacancies. The trustees shall serve without compensation, but shall be reimbursed from the funds of the retirement system for expenses that they may incur through service on the board of trustees as provided in sections 81-1174 to 81-1177. A trustee shall serve until a successor qualifies, except that a trustee who is a member of the retirement system shall be disqualified as a trustee immediately upon ceasing to be a member of the retirement system. The terms of all trustees under this subsection shall end on June 30, 2021. Each trustee shall be entitled to one vote on the board of trustees, and four trustees shall constitute a quorum for the transaction of any business. The board of trustees and the administrator of the retirement system shall administer the retirement system in compliance with the tax-qualification requirements applicable to government retirement plans under section 401(a) of 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; and 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. No member of the board of education or board of trustees shall be personally liable, except in cases of willful dishonesty, gross negligence, or intentional violations of law, for actions relating to his or her retirement system duties; and

(c) Beginning July 1, 2016, and until July 1, 2021, the board of education shall not have any duty or responsibility for the general administration of the retirement system, including the determination and calculation of the benefits of any member or beneficiary, except as may specifically be provided in the Class V School Employees Retirement Act.

(2) Beginning July 1, 2021, and until September 1, 2024:

(a) At any time that the retirement system consists of only one Class V school district, the general administration of the retirement system is hereby vested in the board of education;

(b)(i) The board of education, by a majority vote of all its members, shall appoint seven trustees to serve as executive officers to administer the Class V School Employees Retirement Act. Such trustees shall consist of (A) the superintendent of the school district or his or her designee to serve as a voting, ex officio trustee, (B) two members of the retirement system, one of whom shall be a teacher, (C) two members of the board of education, and (D) two trustees who are business persons qualified in financial affairs and who are not members of the retirement system. Each trustee shall be entitled to one vote on the board of trustees. The board of education shall take action within fifteen days of May 27, 2021, to appoint the new members of the board of trustees as

required in this section. The new members shall begin their service on the board of trustees on July 1, 2021;

(ii) Except for the initial appointments made immediately following May 27, 2021, the term of a trustee shall be one fiscal year except the terms of the two trustees who are not members of the board of education or the retirement system shall each be three fiscal years or until September 1, 2024, whichever is later. A trustee shall serve until a successor qualifies, except a trustee who is a member of the board of education shall be disqualified as a trustee immediately upon ceasing to be a member of the board of education. No vacancy on the board of trustees shall impair the power of the remaining trustees to administer the retirement system pending the filling of such vacancy; and

(iii) The trustees shall serve without compensation, but shall be reimbursed from the funds of the retirement system for expenses that they may incur through service as trustees as provided in sections 81-1174 to 81-1177;

(c) In addition to duties and responsibilities as otherwise described in the Class V School Employees Retirement Act, the board of trustees shall, as directed by the board of education, facilitate the transition and transfer of management and general administration of the retirement system effective September 1, 2024, to the retirement board;

(d) The board of trustees and the administrator of the retirement system, shall administer the retirement system in compliance with the tax-qualification requirements applicable to government retirement plans under section 401(a) of the Internal Revenue Code, as defined in section 49-801.01, including, but not limited to: 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; and 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

(e) No member of the board of education or board of trustees shall be personally liable, except in cases of willful dishonesty, gross negligence, or intentional violations of law, for actions relating to such member's retirement system duties.

(3)(a) Effective September 1, 2024, the board of trustees described in subsection (2) of this section shall terminate, the terms of the trustees shall end, and the retirement board shall assume administration of the retirement system. Administration by the retirement board does not include financial responsibility or liability of the funding obligation for the retirement system which remain with the school district as described in the Class V School Employees Retirement Act, nor does it include responsibility for investment of funds, which authority and responsibility shall be retained by the council and the state investment officer.

(b) On and after such date, the retirement board shall have the duties and authorities provided to the retirement board in section 84-1503 for the administration of the retirement system, and its administrative duties shall be performed by the Nebraska Public Employees Retirement Systems under the direction of the retirement board.

(4) Until July 1, 2021:

(a) At any time that the retirement system consists of more than one Class V school district, the general administration of the retirement system is hereby vested in the board of trustees;

(b) The board of trustees shall consist of the following individuals: (i) Two members of the retirement system who are certificated staff elected by the members of the retirement system who are certificated staff; (ii) one member of the retirement system who is classified staff elected by the members of the retirement system who are classified staff; (iii) one member of the retirement system who is an annuitant elected by the members of the retirement system who are annuitants; (iv) the superintendent of each of the school districts represented in the retirement system or his or her designee to serve as a voting, ex officio trustee; and (v) two business persons approved by the board of education qualified in financial affairs who are not members of the retirement system. The elections of the trustees who are members of the retirement system shall be arranged for, managed, and conducted by the board of trustees and, after the initial terms as otherwise designated, shall be for terms of four years. The business person trustees shall be recommended to four-year terms by the trustees who are not business persons, and the appointments shall be approved by the board of education. The board of trustees shall appoint a qualified individual to fill any vacancy on the board of trustees for the remainder of the unexpired term. No vacancy or vacancies on the board of trustees shall impair the power of the remaining trustees to administer the retirement system pending the filling of such vacancy or vacancies. The trustees shall serve without compensation, but shall be reimbursed from the funds of the retirement system for expenses that they may incur through service on the board of trustees as provided in sections 81-1174 to 81-1177. A trustee shall serve until a successor qualifies, except that a trustee who is a member of the retirement system shall be disqualified as a trustee immediately upon ceasing to be a member of the retirement system. The terms of all trustees under this subsection shall end on June 30, 2021. Each trustee shall be entitled to one vote on the board of trustees, and four trustees shall constitute a quorum for the transaction of any business. The board of trustees and the administrator of the retirement system shall administer the retirement system in compliance with the tax-qualification requirements applicable to government retirement plans under section 401(a) of 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; and 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. No member of the board of education or board of trustees shall be personally liable, except in cases of willful dishonesty, gross negligence, or intentional violations of law, for actions relating to his or her retirement system duties; and

(c) The board of education shall not have any duty or responsibility for the general administration of the retirement system, including the determination

and calculation of the benefits of any member or beneficiary, except as may specifically be provided in the Class V School Employees Retirement Act.

(5) Beginning July 1, 2021, and until September 1, 2024:

(a) At any time that the retirement system consists of more than one Class V school district, the general administration of the retirement system is hereby vested in the board of education;

(b)(i) The board of education, by a majority vote of all its members, shall appoint seven trustees to serve as executive officers to administer the Class V School Employees Retirement Act. Such trustees shall consist of (A) the superintendent of such school district or his or her designee to serve as a voting, ex officio trustee, (B) two members of the retirement system, one of whom shall be a teacher, (C) two members of the board of education, and (D) two trustees who are business persons qualified in financial affairs and who are not members of the retirement system. Each trustee shall be entitled to one vote on the board of trustees. The board of education shall take action within fifteen days of May 27, 2021, to appoint the new members of the board of trustees as required in this section. The new members shall begin their service on the board of trustees on July 1, 2021;

(ii) Except for the initial appointments made immediately following May 27, 2021, the term of a trustee shall be one fiscal year except the terms of the two trustees who are not members of the board of education or the retirement system shall each be three fiscal years or until September 1, 2024, whichever is later. A trustee shall serve until a successor qualifies, except a trustee who is a member of the board of education shall be disqualified as a trustee immediately upon ceasing to be a member of the board of education. No vacancy on the board of trustees shall impair the power of the remaining trustees to administer the retirement system pending the filling of such vacancy; and

(iii) The trustees shall serve without compensation, but shall be reimbursed from the funds of the retirement system for expenses that they may incur through service as trustees as provided in sections 81-1174 to 81-1177;

(c) The board of education shall have the duty and responsibility for the general administration of the retirement system except as specifically provided in the Class V School Employees Retirement Act;

(d) In addition to duties and responsibilities as otherwise described in the Class V School Employees Retirement Act, the board of trustees shall, as directed by the board of education, facilitate the transition and transfer of management and general administration of the retirement system effective September 1, 2024, to the retirement board;

(e) The board of trustees and the administrator of the retirement system, shall administer the retirement system in compliance with the tax-qualification requirements applicable to government retirement plans under section 401(a) of the Internal Revenue Code, as defined in section 49-801.01, including, but not limited to: 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; and 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

(f) No member of the board of education or board of trustees shall be personally liable, except in cases of willful dishonesty, gross negligence, or intentional violations of law, for actions relating to such member's retirement system duties.

(6)(a) Effective September 1, 2024, the board of trustees described in subsection (5) of this section shall terminate, the terms of the trustees shall end, and the retirement board shall assume administration of the retirement system. Administration by the retirement board does not include financial responsibility or liability of the funding obligation for the retirement system which remain with the school district as described in the Class V School Employees Retirement Act, nor does it include responsibility for investment of funds, which authority and responsibility shall be retained by the council and the state investment officer.

(b) On and after such date, the retirement board shall have the duties and authorities provided to the retirement board in section 84-1503 for the administration of the retirement system, and its administrative duties shall be performed by the Nebraska Public Employees Retirement Systems under the direction of the retirement board.

Source: Laws 1951, c. 274, § 3, p. 913; Laws 1963, c. 490, § 1, p. 1564; Laws 1979, LB 135, § 1; Laws 1981, LB 204, § 157; Laws 1993, LB 107, § 2; Laws 1995, LB 505, § 2; R.S.Supp., 1995, § 79-1034; Laws 1996, LB 900, § 615; Laws 1998, LB 497, § 9; Laws 2001, LB 711, § 5; Laws 2006, LB 1024, § 61; Laws 2012, LB 916, § 24; Laws 2014, LB 1042, § 8; Laws 2016, LB 447, § 17; Laws 2021, LB 147, § 10.

Effective date May 27, 2021.

79-981 Employees retirement system; board of trustees; board of education; rules and regulations; transition of administration; employees compensation; records required; investment expenses.

(1) Until July 1, 2021:

(a) The board of trustees shall from time to time establish rules and regulations for the administration of the retirement system and for the transaction of its business and shall appoint an administrator of the retirement system;

(b) The board of trustees may contract for such medical and other services as shall be required to transact the business of the retirement system;

(c) Beginning on March 31, 2016, neither the board of education nor the board of trustees shall establish any further rules or regulations related to the investment of the assets of the retirement system without first consulting with the state investment officer. Beginning January 1, 2017, all rules and regulations adopted and promulgated under this section related to the investment of assets of the retirement system terminate;

(d) Compensation for all persons employed by the board of trustees and all other expenses of the board of trustees necessary for the proper and efficient operation of the retirement system shall be paid in such amounts as the board of trustees determines and approves; and

(e) In addition to such duties and other duties arising out of the Class V School Employees Retirement Act not specifically reserved or assigned to others, the board of education shall maintain a separate account of each member's retirement account information as indicated in section 79-989, the record of which shall be available in a timely manner to the member and the board of trustees upon request. The board of trustees shall compile such data as may be necessary for the required actuarial valuation, consider and pass on all applications for annuities or other benefits and have examinations made when advisable of persons receiving disability benefits, and direct and determine all policies necessary in the administration of the act.

(2) Beginning July 1, 2021, and until September 1, 2024:

(a) The board of education shall:

(i) Establish rules and regulations for the administration of the retirement system, transaction of its business, and to facilitate the transition and transfer of management and general administration of the retirement system effective September 1, 2024, to the retirement board;

(ii) Direct the board of trustees to establish policies and rules and regulations for the transaction of its business and administration of the retirement system and to facilitate the transition and transfer of management and general administration of the retirement system effective September 1, 2024, to the retirement board; and

(iii) Appoint an administrator of the retirement system;

(b) The board of education may contract for such medical and other services as shall be required to transact the business of the retirement system;

(c) Compensation for all persons employed by the board of education and all other expenses of the board of trustees necessary for the proper and efficient operation of the retirement system shall be paid in such amounts as the board of education determines and approves; and

(d) In addition to such duties and other duties arising out of the Class V School Employees Retirement Act not specifically reserved or assigned to others, the board of education shall:

(i) Maintain a separate account of each member's contributions, the record of which shall be available to the member and the board of trustees in a timely manner upon request;

(ii) Compile such data as may be necessary for the required actuarial valuation;

(iii) Consider and pass on all applications for annuities or other benefits;

(iv) Have examinations made when advisable of persons receiving disability benefits; and

(v) Direct and determine all policies necessary in the administration of the Class V School Employees Retirement Act.

(3) Beginning September 1, 2024, the retirement board shall:

(a) Administer the retirement system pursuant to its duties in section 84-1503 and the provisions of the Class V School Employees Retirement Act;

(b) Maintain a separate account of each member's retirement account information as indicated in section 79-989, which shall be available to the member;

(c) Compile such data as may be necessary for the required actuarial valuation;

(d) Consider and vote on all applications for annuities or other benefits;

(e) Have examinations made when advisable of persons receiving disability benefits; and

(f) Direct and determine all policies and procedures necessary in the administration of the Class V School Employees Retirement Act.

(4) All expenses on and after January 1, 2017, related to the investment of the assets of the retirement system shall be paid in such amounts as the state investment officer determines and approves.

Source: Laws 1951, c. 274, § 4, p. 913; Laws 1985, LB 215, § 2; Laws 1991, LB 350, § 2; R.S.1943, (1994), § 79-1035; Laws 1996, LB 900, § 616; Laws 1998, LB 497, § 10; Laws 2001, LB 711, § 6; Laws 2006, LB 1024, § 62; Laws 2016, LB447, § 18; Laws 2021, LB147, § 11.

Effective date May 27, 2021.

79-982 Employees retirement system; board of trustees; meetings; duties; transition; termination.

(1) Until July 1, 2021, the board of trustees shall (a) hold regular meetings annually and such special meetings at such times as may be deemed necessary, which meetings shall be open to the public, (b) keep a record of all the proceedings of such meetings, (c) prior to January 1, 2017, and subject to the approval of the board of education, invest all cash income not required for current payments in securities of the type provided in section 79-9,107 and so reinvest the proceeds from the sale or redemption of investments, and (d) supervise the affairs of the retirement system related to the administration of benefits and approve any changes in the administration of the retirement system essential to the actuarial requirements of the retirement system.

(2) Beginning July 1, 2021, until September 1, 2024, the board of trustees, as directed by the board of education shall (a) hold regular meetings annually and such special meetings at such times as may be deemed necessary, which meetings shall be open to the public, (b) keep a record of all the proceedings of such meetings, (c) supervise the affairs of the retirement system related to the administration of benefits and recommend to the board of education any changes in the administration of the retirement system essential to the actuarial requirements of the retirement system, and (d) facilitate the transition and transfer of management and general administration of the retirement system to the retirement board effective September 1, 2024.

(3) Effective September 1, 2024, the board of trustees shall not have any duty or responsibility for the general administration of the retirement system, and the board of trustees and the terms of the members shall terminate.

Source: Laws 1951, c. 274, § 5, p. 914; Laws 1955, c. 321, § 1, p. 992; Laws 1979, LB 187, § 242; Laws 1993, LB 107, § 3; R.S.1943, (1994), § 79-1036; Laws 1996, LB 900, § 617; Laws 2001, LB 711, § 7; Laws 2016, LB447, § 19; Laws 2021, LB147, § 12.

Effective date May 27, 2021.

79-982.01 Employees retirement system; board of trustees; board of education; fiduciaries; duties.

(1) The members of the board of trustees shall have the responsibility for the administration of the retirement system pursuant to section 79-982 until September 1, 2024.

(2)(a) Until September 1, 2024, the board of trustees shall be deemed fiduciaries with respect to the administration of the retirement system, and shall be held to the standard of conduct of a fiduciary specified in subdivision (b) of this subsection.

(b) As fiduciaries, the members of the board of trustees shall:

(i) Discharge their duties with respect to the retirement system solely in the interests of the members and beneficiaries of the retirement system for the exclusive purposes of providing benefits to members and members' beneficiaries and defraying reasonable expenses incurred within the limitations and according to the powers, duties, and purposes prescribed by law at the time such duties are discharged;

(ii) Not have a duty in their official capacity to seek the enhancement of plan benefits through the legislative process if such benefits are not already contained within the plan documents; and

(iii) Act with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.

(3)(a) Beginning July 1, 2021, and until September 1, 2024, the members of the board of education shall:

(i) Have the responsibility for the administration of the retirement system pursuant to section 79-982;

(ii) Be deemed fiduciaries with respect to the administration of the retirement system; and

(iii) Be held to the standard of conduct of a fiduciary specified in subdivision (b) of this subsection.

(b) As fiduciaries, the members of the board of education shall:

(i) Discharge their duties with respect to the retirement system solely in the interests of the members and beneficiaries of the retirement system for the exclusive purposes of providing benefits to members and members' beneficiaries and defraying reasonable expenses incurred within the limitations and according to the powers, duties, and purposes prescribed by law at the time such duties are discharged;

(ii) Not have a duty in their official capacity to seek the enhancement of plan benefits through the legislative process if such benefits are not already contained within the plan documents; and

(iii) Act with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.

Source: Laws 2016, LB447, § 20; Laws 2021, LB147, § 13.
Effective date May 27, 2021.

79-982.02 Employees retirement system; administration; transition; investment of assets; plan for transition of investment authority; contents; board of trustees; duties; costs, fees, and expenses; state investment officer; report.

(1)(a) Beginning January 1, 2017, the board of trustees, the board of education, and beginning September 1, 2024, the retirement board shall not have the duty or authority to invest the assets of the retirement system, and the council and the state investment officer shall have the duty and authority to invest such assets in accordance with the Nebraska State Funds Investment Act. Until September 1, 2024, the board shall be responsible for administering the noninvestment affairs of the retirement system, including the payment of plan benefits and management of the actuarial requirements of the retirement system.

(b) Beginning September 1, 2024, the retirement board shall be responsible for administering the noninvestment affairs of the retirement system including the disbursement of plan benefits and management of the actuarial requirements of the retirement system. Administration does not include financial responsibility or liability for the funding obligation for the retirement system which remain with the school district as described in the Class V School Employees Retirement Act.

(2) On or before July 1, 2016, the board of trustees, or its designee, and the state investment officer shall enter into a plan for the transition of the investment authority from the board of trustees to the council. The plan shall include, but not be limited to, the following items:

(a) The board of trustees shall provide to the state investment officer by July 1, 2016, an accounting of the assets in the retirement system and a detailed description of the investments;

(b) The board of trustees shall provide to the state investment officer by July 1, 2016, a list containing the name, mailing address, telephone number, and email address of all managers, advisers, and custodians who are providing services related to the assets of the retirement system;

(c) The board of trustees shall provide to the state investment officer by July 1, 2016, a copy of all agreements and instruments related to the investment, management, and custody of the assets;

(d) The board of trustees shall assign investment authority and responsibility for investment-related agreements and instruments to the council by January 1, 2017, as determined by the state investment officer in his or her sole discretion;

(e) The board of trustees shall provide to the state investment officer by July 1, 2016, a copy of the most recent asset liability study, and in its sole discretion, the council may require the preparation of an updated asset liability study;

(f) The board of trustees shall provide to the state investment officer by July 1, 2016, a copy of the most recent actuarial valuation and audited certified annual financial report of the plan; and

(g) The state investment officer and the board of trustees shall identify items that will need to be addressed prior to the transition of investment authority on January 1, 2017.

(3) All costs, fees, and expenses incurred after March 31, 2016, related to the transition of the investment authority on January 1, 2017, from the board of trustees and the board of education to the council and the state investment officer shall be paid from the assets of a retirement system provided for under

the Class V School Employees Retirement Act and to the extent such costs, fees, and expenses are incurred by the council or the state investment officer, they shall be paid in accordance with sections 72-1249 and 72-1249.02.

(4) The state investment officer shall provide a quarterly report to the board until September 1, 2024, and beginning September 1, 2024, to the retirement board regarding the assets of the retirement system and related costs, fees, and expenses.

Source: Laws 2016, LB447, § 21; Laws 2021, LB147, § 14.
Effective date May 27, 2021.

Cross References

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

79-983 Employees retirement system; administrator; appointment; termination; retirement system staff.

(1) Until July 1, 2021, the administrator of the retirement system shall be appointed by the board of trustees and approved by the board of education and shall serve at the pleasure of the board of trustees. Beginning July 1, 2021, the administrator of the retirement system shall be appointed by the board of education. The administrator shall hire, dismiss, and otherwise supervise the other staff of the retirement system as approved and directed by the board, shall keep the minutes and records of the retirement system, shall be the executive officer in charge of the administration of the detailed affairs of the retirement system, and shall perform such other duties as may be assigned by the board. The administrator and retirement system staff shall be employees of the Class V school district, with compensation and the benefits as available to school district employees determined by the board. The retirement system shall reimburse the Class V school district for all employee costs of salary, employment taxes, and benefits provided to the administrator and retirement system staff. The administrator shall serve as a nonvoting, ex officio member of the council and shall not be deemed a fiduciary of the council.

(2) Effective September 1, 2024, the position of the administrator and all retirement system staff positions shall terminate. The administrator duties shall be assumed by the director appointed by the retirement board pursuant to section 84-1503.

Source: Laws 1951, c. 274, § 6, p. 915; Laws 1991, LB 350, § 3; R.S.1943, (1994), § 79-1037; Laws 1996, LB 900, § 618; Laws 2006, LB 1024, § 63; Laws 2016, LB447, § 22; Laws 2021, LB147, § 15.
Effective date May 27, 2021.

79-984 Employees retirement system; actuary; duties.

(1) Until July 1, 2021, the board of trustees shall contract for the services of an actuary who shall be the technical advisor of the board of trustees on matters regarding the operation of the retirement system. The selection of the actuary shall be approved by the board of education. The actuary shall (a) make a general investigation of the operation of the retirement system annually, which investigation shall cover mortality, retirement, disability, employment, turnover, interest, and earnable compensation, and (b) recommend tables to be used for all required actuarial calculations. The actuary shall perform such other duties as may be assigned by the board of trustees.

(2) Beginning July 1, 2021, and until September 1, 2024, the board of education shall contract for the services of an actuary who shall be the technical advisor of the board of education and the board of trustees on matters regarding the operation of the retirement system. The actuary shall:

(a) Make a general investigation of the operation of the retirement system annually, which investigation shall cover mortality, retirement, disability, employment, turnover, interest, and earnable compensation;

(b) Recommend tables to be used for all required actuarial calculations; and

(c) Perform such other duties as may be assigned by the board of education.

(3) Beginning September 1, 2024, the retirement board shall select and appoint the actuary for the retirement system pursuant to section 84-1503.

Source: Laws 1951, c. 274, § 7, p. 915; R.S.1943, (1994), § 79-1038; Laws 1996, LB 900, § 619; Laws 1998, LB 497, § 11; Laws 2001, LB 711, § 8; Laws 2006, LB 1024, § 64; Laws 2013, LB263, § 21; Laws 2016, LB447, § 23; Laws 2021, LB147, § 18.
Effective date May 27, 2021.

79-985 Employees retirement system; legal advisor.

The board may contract for the services of a legal advisor to the board of trustees until September 1, 2024. Beginning September 1, 2024, the attorney hired by the retirement board pursuant to section 84-1503 shall also advise such board regarding the administration of the retirement system.

Source: Laws 1951, c. 274, § 8, p. 915; R.S.1943, (1994), § 79-1039; Laws 1996, LB 900, § 620; Laws 2006, LB 1024, § 65; Laws 2016, LB447, § 24; Laws 2021, LB147, § 19.
Effective date May 27, 2021.

79-986 Employees retirement system; State Treasurer as treasurer; when; school district; duties.

(1) The State Treasurer shall (a) act as treasurer of the retirement system and the official custodian of the cash and securities belonging to such retirement system, (b) provide adequate safe deposit facilities for the preservation of such securities, and (c) hold such cash and securities subject to the order of the council.

(2) The school district and the Nebraska Public Employees Retirement Systems, as applicable, shall receive all items of taxes or cash belonging to the retirement system as specified in the Class V School Employees Retirement Act and shall deposit in banks approved by the State Treasurer all such amounts in trust or custodial accounts. Notwithstanding any limitations elsewhere imposed by statute on the location of the retirement system's depository bank, such limitations shall not apply to the use of depository banks for the custody of the system's cash, securities, and other investments.

(3) The State Treasurer as treasurer of the retirement system shall make payments to the school district upon request of the administrator of a retirement system provided for under the Class V School Employees Retirement Act and as directed by the Nebraska Public Employees Retirement Systems. The school district shall use payments received from the State Treasurer to make payments for purposes specified in the Class V School Employees Retirement Act.

(4) Beginning September 1, 2024, the State Treasurer as treasurer of the retirement system shall disburse money from funds in his or her custody belonging to the retirement system for the purposes specified in the Class V School Employees Retirement Act. The State Treasurer, along with the Director of Administrative Services, shall make such disbursements upon vouchers signed by a person authorized by the retirement board.

(5) All banks and custodians which receive and hold securities and investments for the retirement system may hold and evidence such securities by book entry account rather than obtaining and retaining the original certificate, indenture, or governing instrument for such security.

Source: Laws 1951, c. 274, § 9, p. 915; Laws 1988, LB 1142, § 11; Laws 1995, LB 505, § 3; Laws 1996, LB 604, § 11; R.S.Supp., 1995, § 79-1040; Laws 1996, LB 900, § 621; Laws 1997, LB 623, § 30; Laws 1998, LB 497, § 12; Laws 2006, LB 1024, § 66; Laws 2016, LB447, § 25; Laws 2021, LB147, § 20.
Effective date May 27, 2021.

79-987 Employees retirement system; audits; cost; report; school district; reporting and filing requirements.

(1)(a) Until January 1, 2022, 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.

(b) Beginning January 1, 2022, and each January 1 through January 1, 2024, it shall be the duty of the Auditor of Public Accounts to make an annual audit of the immediately preceding audit year of the condition of the retirement system. The auditor shall report such audit no later than July 1, 2022, and on each July 1 through July 1, 2024, and shall electronically submit the audit report to the board of trustees, the board of education, the retirement board, the Nebraska Retirement Systems Committee of the Legislature, and the Clerk of the Legislature. The cost of each such annual audit shall be charged to the retirement system. At the request of the Nebraska Retirement Systems Committee of the Legislature, the Auditor of Public Accounts, or the auditor's designee, shall present the audit report to the committee at a public hearing.

(c) Following transfer of management of the retirement system to the Public Employees Retirement Board on September 1, 2024, the Auditor of Public Accounts shall make an annual audit of the retirement system beginning January 1, 2025, and electronically submit an annual report to the Clerk of the Legislature of its condition. Expenses of the audits shall be paid from the Class V School Expense Fund.

(2)(a) Beginning May 1, 2018, and until July 1, 2021, 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.

(b) Beginning July 1, 2021, through July 1, 2024, the board shall file with the Auditor of Public Accounts an electronic copy of the annual actuarial investigation of the retirement system prepared pursuant to section 79-984 and submit electronically a copy of such investigation to the Nebraska Retirement Systems Committee of the Legislature.

(3) Beginning July 1, 2021, each school district with a retirement system under the Class V School Employees Retirement Act shall comply with the reporting and filing requirements set forth in section 13-2402.

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; Laws 2021, LB147, § 21.
Effective date May 27, 2021.

79-987.01 Contract of employment; contents.

Beginning January 1, 2023, every contract of employment with an employee shall specify (1) the contractual period of employment, including the starting and ending dates of the contract, and (2) that it is subject to the provisions of the Class V School Employees Retirement Act.

Source: Laws 2021, LB147, § 23.
Effective date May 27, 2021.

79-989 Employees retirement system; board of education; records available; administrator; powers and duties; information not considered public record.

(1) The board of education shall have available records showing the name, address, title, social security number, beneficiary records, annual compensation, sex, date of birth, length of creditable and noncreditable service in hours, standard hours, and contract days, bargaining unit, and annual contributions of each employee entitled to membership in the retirement system and such other information as may be reasonably requested by the board of trustees until September 1, 2024, and by the retirement board beginning September 1, 2024, regarding such member as may be necessary for actuarial study and valuation and the administration of the retirement system. This information shall be available in a timely manner to the board or retirement board, as applicable, upon request.

(2) Beginning September 1, 2024:

(a)(i) The administrator of the retirement system shall keep a complete record of all members with respect to name, current address, age, contributions, and any other facts and information as may be necessary in the administration of the Class V School Employees Retirement Act. The information in the records

shall be provided by an employer in an accurate and verifiable form, as specified by the administrator; and

(ii) The administrator shall, from time to time, carry out testing procedures pursuant to section 84-1512 to verify the accuracy of such facts and information. For the purpose of obtaining such facts and information, the administrator shall have access to the records of an employer and the holder of the records shall comply with a request by the administrator for access by providing such facts and information to the administrator in a timely manner. A certified copy of a birth certificate or delayed birth certificate shall be prima facie evidence of the age of the person named in the certificate;

(b) An employer and every employee shall send to the director of the Nebraska Public Employees Retirement Systems, as specified in this section, upon request and in the manner required by the director, such information as he or she may require (i) for the identification of employees and (ii) for the determination of the membership of the retirement system and the obligations of an employer and employee to the retirement system; and

(c) The administrator shall develop and implement an employer education program using principles generally accepted by public employee retirement systems so an employer has the knowledge and information necessary to prepare and file reports as the retirement board requires.

(3) The information maintained by the board of education and obtained from the board by the board of trustees or information obtained and maintained by the retirement board for the administration of the retirement system pursuant to this section shall not be considered public records subject to sections 84-712 to 84-712.09, except that the following information shall be considered public records: The member's name, the date the member's participation in the retirement system commenced, and the date the member's participation in the retirement system ended, if applicable.

Source: Laws 1951, c. 274, § 11, p. 917; R.S.1943, (1994), § 79-1042; Laws 1996, LB 900, § 624; Laws 2016, LB447, § 27; Laws 2019, LB33, § 5; Laws 2021, LB147, § 22.
Effective date May 27, 2021.

79-990 Employees retirement system; time served in armed forces or on leave of absence; resignation for maternity purposes; effect.

(1) Any member who is eligible for reemployment on or after December 12, 1994, pursuant to 38 U.S.C. 4301 et seq., as adopted under section 55-161, or who is eligible for reemployment under section 55-160 may pay to the retirement system after the date of his or her return from active military service, and within the period required by law, not to exceed five years, an amount equal to the sum of all deductions which would have been made from the salary which he or she would have received during the period of military service for which creditable service is desired. If such payment is made, the member shall be entitled to credit for membership service in determining his or her annuity for the period for which contributions have been made and the board of education shall be responsible for any funding necessary to provide for the benefit which is attributable to this increase in the member's creditable service. The member's payments shall be paid as the board may direct until September 1, 2024, and as the retirement board may direct beginning September 1, 2024, through direct payments to the retirement system or on an installment basis pursuant to

a binding irrevocable payroll deduction authorization between the member and the school district. Creditable service may be purchased only in one-tenth-year increments, starting with the most recent years' salary.

(2) Under such rules and regulations as the board may direct until September 1, 2024, and as the retirement board may direct beginning September 1, 2024, any member who was away from his or her position while on a leave of absence from such position authorized by the board of education of the school district by which he or she was employed at the time of such leave of absence or pursuant to any contractual agreement entered into by such school district may receive credit for any or all time he or she was on leave of absence. Such time shall be included in creditable service when determining eligibility for death, disability, termination, and retirement benefits. The member who receives the credit shall earn benefits during the leave based on salary at the level received immediately prior to the leave of absence. Such credit shall be received if such member pays into the retirement system (a) an amount equal to the sum of the deductions from his or her salary for the portion of the leave for which creditable service is desired, (b) any contribution which the school district would have been required to make for the portion of the leave for which creditable service is desired had he or she continued to receive salary at the level received immediately prior to the leave of absence, and (c) interest on these combined payments from the date such deductions would have been made to the date of repayment determined by using the rate of interest for interest on such purchases of service credit. Such amounts shall be paid as the board may direct until September 1, 2024, and as the retirement board may direct beginning September 1, 2024, through direct payments to the retirement system or on an installment basis pursuant to a binding irrevocable payroll deduction authorization between the member and the school district over a period not to exceed five years from the date of the termination of his or her leave of absence. Interest on any delayed payment 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, and if payments are made on an installment basis, creditable service will be credited only as payment has been made to the retirement system to purchase each additional one-tenth-year increment. Leave of absence shall be construed to include, but not be limited to, sabbaticals, maternity leave, exchange teaching programs, full-time leave as an elected official of a professional association or collective-bargaining unit, or leave of absence to pursue further education or study. A leave of absence granted pursuant to this section shall not exceed four years in length, and in order to receive credit for the leave of absence, the member must have returned to employment with the school district within one year after termination of the leave of absence.

(3) Until one year after May 2, 2001, any member currently employed by the school district who resigned from full-time employment with the school district for maternity purposes prior to September 1, 1979, and was reemployed as a full-time employee by the school district before the end of the school year following the school year of such member's resignation may have such absence treated as though the absence was a leave of absence described in subsection (2) of this section. The period of such absence for maternity purposes shall be included in creditable service when determining the member's eligibility for death, disability, termination, and retirement benefits if the member submits

satisfactory proof to the board of education that the prior resignation was for maternity purposes and the member complies with the payment provisions of subsection (2) of this section before the one-year anniversary of May 2, 2001.

Source: Laws 1951, c. 274, § 12, p. 917; Laws 1981, LB 369, § 1; Laws 1982, LB 131, § 3; Laws 1988, LB 551, § 3; Laws 1991, LB 350, § 4; Laws 1992, LB 1001, § 21; Laws 1993, LB 107, § 4; Laws 1995, LB 505, § 4; Laws 1996, LB 847, § 26; R.S.Supp., 1995, § 79-1043; Laws 1996, LB 900, § 625; Laws 1996, LB 1076, § 12; Laws 2001, LB 711, § 10; Laws 2002, LB 722, § 7; Laws 2005, LB 364, § 12; Laws 2010, LB950, § 18; Laws 2013, LB263, § 23; Laws 2016, LB447, § 28; Laws 2021, LB147, § 24.
Effective date May 27, 2021.

79-991 Employees retirement system; member; prior service credit; how obtained.

(1) An employee who becomes a member without prior service credit may purchase prior service credit, not to exceed the lesser of ten years or the member's years of membership service, for the period of service the member was employed by a school district or by an educational service unit and which is not used in the calculation of any retirement or disability benefit having been paid, being paid, or payable in the future to such member under any defined benefit retirement system or program maintained by such other school district or educational service unit. The purchase of prior service credit shall be made in accordance with and subject to the following requirements:

(a) A member who desires to purchase prior service credit shall make written application to the administrator of the retirement system that includes all information and documentation determined by the administrator as necessary to verify the member's prior service and qualification to purchase the prior service credit. Such application shall include the member's written authorization for the administrator to request and receive from any of the member's former employers verification of the member's prior service, salary, and other information for determining the member's eligibility to purchase prior service credit. Before prior service credit may be purchased, the administrator shall have received verification of the member's salary in each year with the other school district or educational service unit and confirmation that the prior service to be purchased by the member is not also credited in the calculation of a retirement or disability benefit for such member under another defined benefit retirement system or program. The member's application to purchase prior service credit may be made at any time before the fifth anniversary of the member's membership in the retirement system or, if earlier, the member's termination of employment with the school district;

(b) The member shall pay to the retirement system the total amount he or she would have contributed to the retirement system had he or she been a member of the retirement system during the period for which prior service is being purchased, together with interest thereon as determined using the rate of interest for the purchase of prior service credit. Such payment shall be based on the most recent years' salary the member earned in another school district or educational service unit if the salary is verified by the other school district or educational service unit or, if not, the payment shall be based on the member's annual salary at the time he or she became a member;

(c) Payments by the member for the purchase of the prior service credit shall be paid as the board may direct until September 1, 2024, and as the retirement board may direct beginning September 1, 2024, through direct payments to the retirement system or on an installment basis pursuant to a binding irrevocable payroll deduction authorization between the member and the school district over a period not to exceed five years from the date of membership. Interest on delayed payments shall be at the rate of interest for determining interest on delayed payments by members to the retirement system. In the event the member terminates employment with the school district for any reason before full payment for the prior service has been made, the remaining installments shall be immediately due and payable to the retirement system. Prior service credit may be purchased only in one-tenth-year increments, and if payments are made on an installment basis, the prior service will be credited only as payment has been made to the retirement system. If the prior service to be purchased by the member exceeds the member's membership service at the time of application or any subsequent date, such excess prior service shall be credited to the member only as the member completes and is credited additional membership service, in one-tenth-year increments, notwithstanding the member's payment for such prior service credit. If the member retires or terminates employment before completing sufficient membership service to permit all of the excess prior service that has been purchased by the member to be credited to such member, the retirement system shall refund to the member, or to the member's beneficiary if the member's termination is due to his or her death, the payments that have been made to the retirement system for such uncredited prior service, together with regular interest on such refund; and

(d) The school district shall contribute to the retirement system an amount equal to the amount paid by each member for the purchase of prior service credit at the time such payments are made by such member.

(2) Any employee who became a member before July 1, 2014, and who has five or more years of creditable service and any employee who became a member for the first time on or after July 1, 2014, and who has ten or more years of creditable service, excluding in either case years of prior service acquired pursuant to section 79-990, 79-994, 79-995, or 79-997, or subsection (1) of this section, may elect to purchase up to a total of five years of additional creditable service under the retirement system, and upon such purchase the member shall be given the same status as though he or she had been a member of the retirement system for such additional number of years, except as otherwise specifically provided in the Class V School Employees Retirement Act. Creditable service may be purchased only in one-tenth-year increments. The amount to be paid to the retirement system for such creditable service shall be equal to the actuarial cost to the retirement system of the increased benefits attributable to such additional creditable service as determined by the retirement system's actuary at the time of the purchase pursuant to actuarial assumptions and methods adopted by the board until September 1, 2024, and as adopted by the retirement board beginning September 1, 2024. The election to purchase additional creditable service may be made at any time before the member's termination of employment, and all payments for the purchase of such creditable service must be completed within five years after the election or before the member's termination or retirement, whichever event occurs first. Payment shall be made as the board may direct until September 1, 2024, and as the retirement board may direct beginning September 1, 2024, through a single

payment to the retirement system, on an installment basis, including payments pursuant to a binding irrevocable payroll deduction authorization between the member and the school district, or by such other method approved by the board or the retirement board, as applicable, and permitted by law. If payments are made on an installment basis, creditable service will be credited only as payment has been made to the retirement system to purchase each additional one-tenth-year increment. Interest shall be charged on installment payments at the rate of interest for determining interest on delayed payments by members to the retirement system.

Source: Laws 1951, c. 274, § 14, p. 918; Laws 1953, c. 308, § 3, p. 1029; Laws 1982, LB 131, § 5; Laws 1987, LB 298, § 8; Laws 1988, LB 551, § 4; Laws 1992, LB 1001, § 23; Laws 1993, LB 107, § 5; Laws 1995, LB 505, § 6; R.S.Supp.,1995, § 79-1045; Laws 1996, LB 900, § 626; Laws 1997, LB 624, § 24; Laws 1998, LB 497, § 15; Laws 2005, LB 364, § 13; Laws 2013, LB263, § 24; Laws 2014, LB1042, § 10; Laws 2016, LB447, § 29; Laws 2021, LB147, § 25.

Effective date May 27, 2021.

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 may direct until September 1, 2024, and as the retirement board may direct beginning September 1, 2024, 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 as designated by the board until September 1, 2024, and as designated by the retirement board beginning September 1, 2024.

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; Laws 2021, LB147, § 26.

Effective date May 27, 2021.

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)(i) Until September 1, 2024, notify the administrator and the board of trustees in writing of the date upon which a termination of employment has occurred and provide the administrator and the board of trustees with such information as the board of trustees deems necessary; and

(ii) Beginning September 1, 2024, notify the retirement board in writing of the date upon which a termination of employment has occurred and provide the administrator and the board with such information as the administrator and the board deem necessary;

(b)(i) Until September 1, 2024, notify the administrator and the board of trustees in writing whether or not a member accepted and received an early retirement inducement; and

(ii) Beginning September 1, 2024, notify the retirement board 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 an 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 (a) to the administrator and the board of trustees until September 1, 2024, and (b) to the retirement board beginning September 1, 2024, upon the member's termination, under penalty of prosecution pursuant to section 79-992.02, completed certification on forms prescribed by the administrator and the board of trustees or the retirement board, as applicable, stating whether or not the member accepted and received an early retirement inducement from his or her employer.

(3) Until September 1, 2024, and except as provided in section 79-981, the board of trustees, and, beginning September 1, 2024, the retirement board, may adopt and promulgate rules and regulations and prescribe forms as the board of trustees or the retirement board, as applicable, determines appropriate in order to carry out this section and to ensure full disclosure and reporting by an 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; Laws 2021, LB147, § 27.

Effective date May 27, 2021.

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 (a) administrator and the board until September 1, 2024, and (b) retirement board

beginning September 1, 2024, 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 (a) administrator and the board of trustees until September 1, 2024, and (b) retirement board beginning September 1, 2024, 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; Laws 2021, LB147, § 28.
Effective date May 27, 2021.

79-998 Additional service credits; accept payments and rollovers; limitations; how treated; tax consequences; direct transfer to retirement plan.

(1) The retirement system may accept as payment for additional service credit that is purchased pursuant to sections 79-990 to 79-992 an eligible rollover distribution from or on behalf of the member who is making payments for such service credit if the eligible rollover distribution does not exceed the amount of payment required for the service credit being purchased by the member. The eligible rollover distribution may be contributed to the retirement system by the member or directly transferred from the plan that is making the eligible rollover distribution on behalf of the member. Contribution by a member pursuant to this section may only be made in the form of a cash contribution. For purposes of this section, an eligible rollover distribution means all or any portion of an amount that qualifies as an eligible rollover distribution under the Internal Revenue Code from:

(a) A plan of another employer which is qualified under section 401(a) or 403(a) of the Internal Revenue Code;

(b) An annuity contract or custodial account described in section 403(b) of the Internal Revenue Code;

(c) An eligible deferred compensation plan under section 457(b) of the Internal Revenue Code which is maintained by a governmental employer described in section 457(e)(1)(A) of the Internal Revenue Code; or

(d) An individual retirement account or annuity described in section 408(a) or section 408(b) of the Internal Revenue Code that is eligible to be rolled over to an employer plan under the Internal Revenue Code.

(2) The retirement system may accept as payment for service credit that is purchased pursuant to sections 79-990 to 79-992 a direct trustee-to-trustee transfer from an eligible deferred compensation plan as described in section 457(e)(17) of the Internal Revenue Code on behalf of a member who is making payments for such service credit if the amount transferred from the eligible deferred compensation plan does not exceed the amount of payment required for the service credit being purchased and the purchase of such service credit qualifies as the purchase of permissive service credit by the member as defined in section 415(n)(3) of the Internal Revenue Code.

(3) Until September 1, 2024, the board, and, beginning September 1, 2024, the retirement board, may establish rules, regulations, and limitations on the

eligible rollover distributions and direct trustee-to-trustee transfers that may be accepted by the retirement system pursuant to this section, including restrictions on the type of assets that may be transferred to the retirement system.

(4) Cash and other properties contributed or transferred to the retirement system pursuant to this section shall be deposited and held as a commingled asset of the retirement system and shall not be separately accounted for or invested for the member's benefit. Contributions or direct transfers made by or on behalf of any member pursuant to this section shall be treated as qualifying payments under sections 79-990 to 79-992 and as employee contributions for all other purposes of the Class V School Employees Retirement Act except in determining federal and state tax treatment of distributions from the system.

(5) The retirement system, the board of education, the board of trustees, the retirement board, and their respective members, officers, and employees shall have no responsibility or liability with respect to the federal and state income tax consequences of any contribution or transfer to the retirement system pursuant to this section. Until September 1, 2024, the board, and, beginning September 1, 2024, the retirement board, may require as a condition to the retirement system's acceptance of any rollover contribution or transfer satisfactory evidence that the proposed contribution or transfer is a qualifying rollover contribution or trustee-to-trustee transfer under the Internal Revenue Code and reasonable releases or indemnifications from the member against any and all liabilities which may in any way be connected with such contribution or transfer.

(6) Effective January 1, 1993, any member who is to receive an eligible rollover distribution, as defined in the Internal Revenue Code, from the retirement system may, in accordance with such rules, regulations, and limitations as may be established by the board or the retirement board, as applicable, elect to have such distribution made in the form of a direct transfer to a retirement plan eligible to receive such transfer under the provisions of the Internal Revenue Code. Any such election shall be made in the form and within the time periods established by the board or the retirement board, as applicable.

(7) A member's surviving spouse or former spouse who is an alternate payee under a qualified domestic relations order and, on or after September 1, 2010, any designated beneficiary of a member who is not a surviving spouse or former spouse who is entitled to receive an eligible rollover distribution from the retirement system may, in accordance with such rules, regulations, and limitations as may be established by the board or the retirement board, as applicable, elect to have such distribution made in the form of a direct transfer to a retirement plan eligible to receive such transfer under the provisions of the Internal Revenue Code.

(8) An eligible rollover distribution on behalf of a designated beneficiary of a member who is not a surviving spouse or former spouse of the member may be transferred to an individual retirement account or annuity described in section 408(a) or section 408(b) of the Internal Revenue Code that is established for the purpose of receiving the distribution on behalf of the designated beneficiary and that will be treated as an inherited individual retirement account or individual retirement annuity described in section 408(d)(3)(C) of the Internal Revenue Code.

(9) All distributions from the retirement system shall be subject to all withholdings required by federal or state tax laws.

Source: Laws 1992, LB 1001, § 27; Laws 1993, LB 107, § 10; Laws 1995, LB 574, § 76; R.S.Supp.,1995, § 79-1049.06; Laws 1996, LB 900, § 633; Laws 1998, LB 497, § 20; Laws 2001, LB 711, § 12; Laws 2002, LB 407, § 47; Laws 2012, LB916, § 25; Laws 2016, LB447, § 32; Laws 2021, LB147, § 29.
Effective date May 27, 2021.

79-9,102 Employees retirement system; annuity or other benefit; limitations.

(1) Notwithstanding any other provision of the Class V School Employees Retirement Act, no member or beneficiary of the retirement system shall receive in any calendar year an annuity or other benefit which would exceed the maximum benefit permitted under section 415 of the Internal Revenue Code, or any successor provision and the regulations issued thereunder, as they may be amended from time to time, and as adjusted as of January 1 of each calendar year to the dollar limitation as determined for such year by the Commissioner of Internal Revenue pursuant to section 415(d) of the Internal Revenue Code to reflect cost-of-living adjustments, and the amount of benefit to be paid to any member or beneficiary by the retirement system shall be adjusted each calendar year, if necessary, to conform with the maximum benefit permitted under section 415 of the Internal Revenue Code. The cost-of-living adjustment to the maximum benefit permitted under section 415 of the Internal Revenue Code shall apply to determining the maximum benefit of a member who severed employment or commenced receiving benefits prior to the effective date of the adjustment.

(2) Any payments provided for by sections 79-990, 79-991, and 79-992 for the purchase or restoration of creditable service shall be subject to the limitations of section 415 of the Internal Revenue Code on annual additions to the retirement system. Until September 1, 2024, the board, and, beginning September 1, 2024, the retirement board, may suspend payments, alter installment periods, or, if such suspension or alteration is not possible, deny the purchase of all or a portion of the creditable service desired to be purchased, as necessary to comply with the requirements of section 415 of the Internal Revenue Code.

(3) This section is intended to meet and incorporate the requirements of section 415 of the Internal Revenue Code and regulations under that section that are applicable to governmental plans and shall be construed in accordance with section 415 of the Internal Revenue Code and the regulations issued thereunder and shall, by this reference, incorporate any subsequent changes made to such section as the same may apply to the retirement system.

Source: Laws 1985, LB 215, § 8; Laws 1995, LB 574, § 75; R.S.Supp.,1995, § 79-1046.01; Laws 1996, LB 900, § 637; Laws 1997, LB 623, § 31; Laws 1998, LB 497, § 22; Laws 2013, LB263, § 27; Laws 2016, LB447, § 35; Laws 2021, LB147, § 30.
Effective date May 27, 2021.

79-9,103 Annuity payment; cost-of-living adjustments; additional adjustments.

(1) Any annuity paid on or after September 1, 1983, to a member who retired prior to February 21, 1982, pursuant to the Class V School Employees Retirement Act, or to such member's beneficiary, or to a person who retired under the provisions of the retirement system established by statute for employees of Class V school districts in effect prior to September 1, 1951, or to such person's beneficiary, shall be adjusted by the increase in the cost of living or wage levels between the effective date of retirement and June 30, 1983, except that such increase shall not exceed the sum of one dollar and fifty cents per month for each year of creditable service and one dollar per month for each completed year of retirement as measured from the effective date of retirement to June 30, 1983. No separate adjustment in such annuity shall be made as a result of the changes made in section 79-9,113 pursuant to Laws 1983, LB 488. If a joint and survivor annuity was elected, the increase shall be actuarially adjusted so that the joint and survivor annuity remains the actuarial equivalent of the life annuity otherwise payable.

(2) In addition to the cost-of-living adjustment provided in subsection (1) of this section, any annuity paid on or after September 1, 1986, pursuant to the act or pursuant to the provisions of the retirement system established by statute for employees of Class V school districts in effect prior to September 1, 1951, and on which the first payment was dated on or before September 1, 1985, shall be adjusted by the increase in the cost of living or wage levels between the effective date of retirement and June 30, 1986, except that such increase shall not exceed (a) three and one-half percent for annuities first paid on or after September 1, 1984, (b) seven percent for annuities first paid on or after September 1, 1983, but before September 1, 1984, or (c) ten and one-half percent for all other annuities.

(3) In addition to the cost-of-living adjustments provided in subsections (1) and (2) of this section, any annuity paid on or after September 1, 1989, pursuant to the act or pursuant to the provisions of the retirement system established by statute for employees of Class V school districts in effect prior to September 1, 1951, and on which the first payment was dated on or before September 1, 1988, shall be adjusted by the increase in the cost of living or wage levels between the effective date of retirement and June 30, 1989, except that such increase shall not exceed (a) three percent for annuities first paid on or after September 1, 1987, (b) six percent for annuities first paid on or after September 1, 1986, but before September 1, 1987, or (c) nine percent for all other annuities.

(4) In addition to the cost-of-living adjustments provided in subsections (1), (2), and (3) of this section, any annuity paid on or after September 1, 1992, pursuant to the act or pursuant to the provisions of the retirement system established by statute for employees of Class V school districts in effect prior to September 1, 1951, and on which the first payment was dated on or before October 1, 1991, shall be adjusted by the increase in the cost of living or wage levels between the effective date of retirement and June 30, 1992, except that such increase shall not exceed (a) three percent for annuities first paid after October 1, 1990, (b) six percent for annuities first paid after October 1, 1989, but on or before October 1, 1990, or (c) nine percent for all other annuities.

(5) In addition to the cost-of-living adjustments provided in subsections (1), (2), (3), and (4) of this section, any annuity paid on or after September 1, 1995, pursuant to the act or pursuant to the provisions of the retirement system established by statute for employees of Class V school districts in effect prior to

September 1, 1951, and on which the first payment was dated on or before October 1, 1994, shall be adjusted by the increase in the cost of living or wage levels between the effective date of retirement and June 30, 1995, except that such increase shall not exceed (a) three percent for annuities first paid after October 1, 1993, (b) six percent for annuities first paid after October 1, 1992, but on or before October 1, 1993, or (c) nine percent for all other annuities.

(6) In addition to the cost-of-living adjustments provided in subsections (1), (2), (3), (4), and (5) of this section, any annuity paid pursuant to the act or pursuant to the provisions of the retirement system established by statute for employees of Class V school districts in effect prior to September 1, 1951, and on which the first payment was dated on or before October 1, 1994, shall be subject to adjustment to equal the greater of (a) the annuity payable to the member or beneficiary as adjusted, if applicable, under the provisions of subsection (1), (2), (3), (4), or (5) of this section or (b) ninety percent of the annuity which results when the original annuity that was paid to the member or beneficiary (before any cost-of-living adjustments under this section), is adjusted by the increase in the cost of living or wage levels between the commencement date of the annuity and June 30, 1995.

(7) In addition to the cost-of-living adjustments provided in subsections (1), (2), (3), (4), (5), and (6) of this section, any annuity paid on or after September 1, 1998, pursuant to the act or pursuant to the provisions of the retirement system established by statute for employees of Class V school districts in effect prior to September 1, 1951, and on which the first payment was dated on or before October 3, 1997, shall be adjusted by the increase in the cost of living or wage levels between the effective date of retirement and June 30, 1998, except that such increase shall not exceed (a) three percent for annuities first paid after October 1, 1996, (b) six percent for annuities first paid after October 1, 1995, but on or before October 1, 1996, or (c) nine percent for all other annuities.

(8) Beginning January 1, 2000, and on January 1 of every year thereafter, for employees of Class V school districts who were members prior to July 1, 2013, a cost-of-living adjustment shall be made for any annuity being paid pursuant to the act, or pursuant to the provisions of the retirement system established by statute for employees of Class V school districts in effect prior to September 1, 1951, and on which the first payment was dated on or before October 3 preceding such January 1 adjustment date. The cost-of-living adjustment for any such annuity shall be the lesser of (a) one and one-half percent or (b) the increase in the consumer price index from the date such annuity first became payable through the August 31 preceding the January 1 adjustment date as reduced by the aggregate cost-of-living adjustments previously made to the annuity pursuant to this section.

(9) Beginning January 1, 2014, and on January 1 of every year thereafter, for employees of Class V school districts who became members on or after July 1, 2013, a cost-of-living adjustment shall be made for any annuity being paid pursuant to the act and on which the first payment was dated on or before October 3 preceding such January 1 adjustment date. The cost-of-living adjustment for any such annuity shall be the lesser of (a) one percent or (b) the increase in the consumer price index from the date such annuity first became payable through the August 31 preceding the January 1 adjustment date as reduced by the aggregate cost-of-living adjustments previously made to the annuity pursuant to this section.

(10) Beginning September 1, 1999, the actuary shall make an annual valuation of the assets and liabilities of the system. If the annual valuation made by the actuary, as approved by the board of trustees, indicates that the system has sufficient actuarial surplus to provide for a cost-of-living adjustment in addition to the adjustment made pursuant to subsection (8) or (9) of this section, the board of trustees may, in its discretion, declare by resolution that each annuity being paid pursuant to the act, or pursuant to the provisions of the retirement system established by statute for employees of Class V school districts in effect prior to September 1, 1951, and on which the first payment was dated on or before October 3 of the year such resolution is adopted, shall be increased beginning as of the January 1 following the date of the board of trustees' resolution by such percentage as may be declared by the board of trustees, except that such increase for any such annuity shall not exceed the increase in the consumer price index from the date such annuity first became payable through the applicable valuation date as reduced by the aggregate cost-of-living adjustments previously made to the annuity pursuant to this section.

(11) Except for the adjustments pursuant to subsection (13) of this section, the consumer price index to be used for determining any cost-of-living adjustment under this section shall be the Consumer Price Index - All Urban Consumers, as published by the Bureau of Labor Statistics of the United States Department of Labor. If this consumer price index is discontinued or replaced, a substitute index published by the United States Department of Labor shall be selected by the board if before September 1, 2024, or by the retirement board if on or after September 1, 2024. Any substitute index selected shall be a reasonable representative measurement of the cost of living for retired employees. An annuity as increased by any cost-of-living adjustment made under this section shall be considered the base annuity amount for the purpose of future adjustments pursuant to this section. In no event shall any cost-of-living adjustment be deemed to affect or increase the amount of the base retirement annuity of a member as determined under section 79-999 or 79-9,100.

(12) Any decision or determination by the board or retirement board, as applicable, (a) to declare or not declare a cost-of-living adjustment, (b) as to whether the annual valuation indicates a sufficient actuarial surplus to provide for a cost-of-living adjustment, or (c) pursuant to the selection of a substitute index shall be made in the sole, absolute, and final discretion of the board or retirement board, as applicable, and shall not be subject to challenge by any member or beneficiary. In no event shall the Legislature be constrained or limited in amending the system or increasing the benefits of members under the system, nor shall the board or retirement board, as applicable, be constrained from supporting any such change to the system, notwithstanding the effect of any such change upon the actuarial surplus of the system and the ability of the board or retirement board, as applicable, to declare future cost-of-living adjustments.

(13) The Legislature finds and declares that there exists in this state a pressing need to attract and retain qualified and dedicated public school employees and that one of the factors prospective public school employees consider when seeking or continuing public school employment is the retirement system and benefits the employment provides. The Legislature further finds that over the past decades, as reflected by the Medical Price Index published by the United States Department of Labor, the cost of medical care, including the cost of medications and insurance coverages, has increased at a

rate in excess of that by which the Consumer Price Index - All Urban Consumers has increased. The Legislature further finds and declares that there accordingly exists a need to adjust the amount of retirement benefits paid to retired public school employees in order to assist them in meeting the increased cost of medical care. Therefor, in addition to the cost-of-living adjustments provided in subsections (1) through (12) of this section, commencing on October 3, 2001, and on October 3 of every year thereafter, a medical cost-of-living adjustment shall be paid to any annuitant who became a member prior to July 1, 2016, and has been paid an annuity from the retirement system for at least ten years through the October 3 adjustment date. The cost-of-living adjustment shall be paid in the form of a supplemental annuity providing monthly payments equal to the amount which results when (a) the fraction, not to exceed one, that results when the annuitant's years of creditable service at his or her retirement date is divided by twenty, is multiplied by (b) the product of ten dollars times the number of years, including attained one-half years, that such annuitant has received annuity payments from the retirement system through the October 3 adjustment date. The supplemental annuity being paid to an annuitant shall increase by ten dollars on October 3 of each subsequent year to reflect the additional year of annuity payments to the annuitant until the total amount of the supplemental annuity is two hundred fifty dollars. In no event shall the medical cost-of-living adjustment for any annuitant pursuant to this subsection result in the payment of a supplemental annuity exceeding two hundred fifty dollars per month. The supplemental annuity paid to an annuitant pursuant to this subsection shall cease at the death of the annuitant regardless of the form of retirement annuity being paid to the annuitant at the time of his or her death.

Source: Laws 1983, LB 488, § 2; Laws 1986, LB 1048, § 5; Laws 1989, LB 237, § 8; Laws 1992, LB 1001, § 26; Laws 1993, LB 107, § 11; Laws 1995, LB 505, § 9; R.S.Supp.,1995, § 79-1056.06; Laws 1996, LB 900, § 638; Laws 1998, LB 497, § 23; Laws 2001, LB 711, § 14; Laws 2013, LB553, § 12; Laws 2016, LB447, § 36; Laws 2021, LB147, § 31.
Effective date May 27, 2021.

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 until September 1, 2024, and by the retirement board beginning September 1, 2024. 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 or retirement board, as applicable, 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 or retirement board, as applicable, 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 or retirement board, as applicable, 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 or retirement board, as applicable, 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 or the retirement board, as applicable, 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 or the retirement board, as applicable, or (b) the date the member elects to end the deferred disability retirement and begin to receive his or her retirement annuity. The board or the retirement board, as applicable, 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 or the retirement board, as applicable, deter-

mines 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 or the retirement board, as applicable, 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; Laws 2021, LB147, § 32.

Effective date May 27, 2021.

79-9,107 Employees retirement system; funds; investment; violations; penalty.

The funds of the retirement system which are not required for current operations shall be invested and reinvested (1) before January 1, 2017, by the board of trustees subject to the approval of the board of education or Class V Retirement System Board as provided in sections 79-9,108 to 79-9,111 and (2) on and after January 1, 2017, by the council and the state investment officer in accordance with the Nebraska State Funds Investment Act without the approval of the board of education, board of trustees, or retirement board, as applicable. Except as otherwise provided in the Class V School Employees Retirement Act, no trustee and no member of the board of education shall have any direct interest in the income, gains, or profits of any investment made by the board of trustees, nor shall any such person receive any pay or emolument for services in connection with any such investment. Neither the state investment officer nor any trustee, member of the board of education, member of the retirement board, nor member of the council shall become an endorser or surety or in any manner an obligor for money loaned by or borrowed from the retirement system. Any person who violates any of these restrictions shall be guilty of a Class II misdemeanor.

Source: Laws 1951, c. 274, § 20, p. 921; Laws 1967, c. 545, § 1, p. 1791; Laws 1977, LB 39, § 257; Laws 1986, LB 1048, § 1; Laws 1989, LB 237, § 4; R.S.1943, (1994), § 79-1051; Laws 1996, LB 900, § 642; Laws 1998, LB 497, § 25; Laws 2006, LB 1024, § 67; Laws 2016, LB447, § 38; Laws 2021, LB147, § 33.

Effective date May 27, 2021.

Cross References

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

79-9,108 Employees retirement system; funds; investment.

(1) Prior to January 1, 2017, the board of trustees, with approval of the board of education or Class V Retirement System Board, shall invest and reinvest funds of the retirement system. Beginning January 1, 2017, the funds of the retirement system shall be invested and reinvested solely by the council and the state investment officer in accordance with the Nebraska State Funds Investment Act.

(2) Prior to January 1, 2017, a professional investment manager may be employed by the board of trustees subject to approval of the board of education or Class V Retirement System Board. The professional investment manager shall be responsible for the purchase, sale, exchange, investment, or reinvestment of such funds subject to guidelines determined by the board of trustees. Prior to January 1, 2017, the trustees shall each month submit a report to the board of education or Class V Retirement System Board with respect to the investment of funds. The board of education or Class V Retirement System Board shall approve or disapprove the investments in the report, and in the event of disapproval of any investment, the board of trustees shall direct the sale of all or part of such investment or establish future policy with respect to that type of investment. Beginning January 1, 2017, the funds of the retirement system shall be invested and reinvested by the council and the state investment officer, who may employ advisers, counsel, managers, and other professionals in accordance with the Nebraska State Funds Investment Act.

(3) Beginning January 1, 2017, the board of trustees, the board of education, and the retirement board shall not have any duty, responsibility, or authority for the investment and reinvestment of the funds of the retirement system, or any investment decision, contract, rule, or regulation related thereto.

Source: Laws 1967, c. 545, § 2, p. 1791; Laws 1991, LB 350, § 7; R.S.1943, (1994), § 79-1051.01; Laws 1996, LB 900, § 643; Laws 2006, LB 1024, § 68; Laws 2016, LB447, § 39; Laws 2021, LB147, § 34.

Effective date May 27, 2021.

Cross References

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

79-9,113 Employees retirement system; required contributions; payment; membership service annuity; computations.

(1)(a) Commencing September 1, 1969, all employees of the school district shall contribute an amount equal to the membership contribution which shall be two and three-fourths percent of the first seven thousand eight hundred dollars of salary or wages earned each fiscal year and five percent of salary or wages earned above that amount in the same fiscal year. Commencing September 1, 1976, all employees of the school district shall contribute an amount equal to the membership contribution which shall be two and nine-tenths percent of the first seven thousand eight hundred dollars of salary or wages earned each fiscal year and five and twenty-five hundredths percent of salary or wages earned above that amount in the same fiscal year. Commencing on September 1, 1982, all employees of the school district shall contribute an

amount equal to the membership contribution which shall be four and nine-tenths percent of the compensation earned in each fiscal year. Commencing September 1, 1989, all employees of the school district shall contribute an amount equal to the membership contribution which shall be five and eight-tenths percent of the compensation earned in each fiscal year. Commencing September 1, 1995, all employees of the school district shall contribute an amount equal to the membership contribution which shall be six and three-tenths percent of the compensation earned in each fiscal year. Commencing September 1, 2007, all employees of the school district shall contribute an amount equal to the membership contribution which shall be seven and three-tenths percent of the compensation paid in each fiscal year. Commencing September 1, 2009, all employees of the school district shall contribute an amount equal to the membership contribution which shall be eight and three-tenths percent of the compensation paid in each fiscal year. Commencing September 1, 2011, all employees of the school district shall contribute an amount equal to the membership contribution which shall be nine and three-tenths percent of the compensation paid in each fiscal year. Commencing September 1, 2013, all employees of the school district shall contribute an amount equal to the membership contribution which shall be nine and seventy-eight hundredths percent of the compensation paid in each fiscal year.

(b) The contributions by the school district in any fiscal year beginning on or after September 1, 1999, shall be the greater of (i) one hundred percent of the contributions by the employees for such fiscal year or (ii) such amount as may be necessary to maintain the solvency of the system, as determined annually by the board of education upon recommendation of the actuary and the board of trustees.

(c) The contributions by the school district in any fiscal year beginning on or after September 1, 2007, and prior to September 1, 2018, shall be the greater of (i) one hundred one percent of the contributions by the employees for such fiscal year or (ii) such amount as may be necessary to maintain the solvency of the system, as determined annually by the board of education upon recommendation of the actuary retained by the board of trustees and after considering any amounts that will be, or are expected to be, transferred to the system pursuant to subdivision (1)(b) of section 79-966. The amount necessary to maintain the solvency of the system as determined in subdivision (ii) of this subdivision (c) shall be transmitted by the school district to the account of the retirement system no later than August 31, 2018. The school district contributions specified in subdivision (i) of this subdivision (c) shall be made monthly and shall be immediately transmitted to the account of the retirement system.

(d) The contributions by the school district in any fiscal year beginning on or after September 1, 2018, and prior to September 1, 2024, shall be the greater of (i) one hundred one percent of the contributions by the employees for such fiscal year or (ii) such amount as may be necessary to maintain the solvency of the system, as determined annually by the board of education upon recommendation of the actuary retained by the board of trustees and after considering any amounts pursuant to subdivision (1)(b) of section 79-966 that will be, or are expected to be, transferred to the school district by the State Treasurer. The amount necessary to maintain the solvency of the system as determined in subdivision (ii) of this subdivision (d) shall be transmitted by the school district to the account of the retirement system no later than August 31, 2019, and each August 31 thereafter. The school district contributions specified in subdivision

(i) of this subdivision (d) shall be made monthly and shall be immediately transmitted to the account of the retirement system.

(e) The contributions by the school district in any fiscal year beginning on or after September 1, 2024, shall be the greater of:

(i) One hundred one percent of the contributions by the employees for such fiscal year; or

(ii) Such amount as may be necessary to maintain the solvency of the system, as determined annually by the board of education upon recommendation of the actuary retained by the retirement board pursuant to section 79-984 and after considering any amounts pursuant to subdivision (1)(b) of section 79-966 that will be, or are expected to be, transferred to the school district by the State Treasurer for transfer by the school district to the retirement system.

(f) The amount necessary to maintain the solvency of the system as determined in subdivision (1)(e)(ii) of this section shall be transmitted by the school district to the Class V School Employees Retirement Fund no later than August 31, 2025, and each August 31 thereafter.

(g) The school district contributions specified in subdivision (1)(e)(i) of this section shall be made monthly and shall be immediately transmitted to the Class V School Employees Retirement Fund.

(h) Nothing in this section prohibits the school district from making other contributions in addition to the contributions required pursuant to this section.

(i) The employee's contribution shall be made in the form of a monthly deduction from compensation as provided in subsection (2) of this section and shall be immediately transmitted to the account of the retirement system. Every employee who is a member of the system shall be deemed to consent and agree to such deductions and shall receipt in full for compensation, and payment to such employee of compensation less such deduction shall constitute a full and complete discharge of all claims and demands whatsoever for services rendered by such employee during the period covered by such payment except as to benefits provided under the Class V School Employees Retirement Act.

(j) After September 1, 1963, and prior to September 1, 1969, all employees shall be credited with a membership service annuity which shall be nine-tenths of one percent of salary or wage covered by old age and survivors insurance and one and one-half percent of salary or wages above that amount, except that those employees who retire on or after August 31, 1969, shall be credited with a membership service annuity which shall be one percent of salary or wages covered by old age and survivors insurance and one and sixty-five hundredths percent of salary or wages above that amount for service performed after September 1, 1963, and prior to September 1, 1969. Commencing September 1, 1969, all employees shall be credited with a membership service annuity which shall be one percent of the first seven thousand eight hundred dollars of salary or wages earned by the employee during each fiscal year and one and sixty-five hundredths percent of salary or wages earned above that amount in the same fiscal year, except that all employees retiring on or after August 31, 1976, shall be credited with a membership service annuity which shall be one and forty-four hundredths percent of the first seven thousand eight hundred dollars of salary or wages earned by the employee during such fiscal year and two and four-tenths percent of salary or wages earned above that amount in the same fiscal year, and the retirement annuities of employees who have not retired prior to September 1, 1963, and who elected under the provisions of section

79-988 as such section existed immediately prior to February 20, 1982, not to become members of the system shall not be less than they would have been had they remained under any preexisting system to date of retirement.

(k) Members of this system having the service qualifications of members of the School Employees Retirement System of the State of Nebraska, as provided by section 79-926, who are members of the retirement system established pursuant to the Class V School Employees Retirement Act prior to July 1, 2016, shall receive the state service annuity provided by sections 79-933 to 79-935 and 79-951.

(2) The school district shall pick up the employee contributions required by this section for all compensation paid on or after January 1, 1985, and the contributions so picked up shall be treated as employer contributions in determining federal tax treatment under the Internal Revenue Code, except that the school district shall continue to withhold federal income taxes based upon these contributions until the Internal Revenue Service or the federal courts rule that, pursuant to section 414(h) of the Internal Revenue Code, these contributions shall not be included as gross income of the employee until such time as they are distributed or made available. The school district shall pay these employee contributions from the same source of funds which is used in paying earnings to the employee. The school district shall pick up these contributions by a salary deduction either through a reduction in the cash salary of the employee or a combination of a reduction in salary and offset against a future salary increase. Beginning September 1, 1995, the school district shall also pick up any contributions required by sections 79-990, 79-991, and 79-992 which are made under an irrevocable payroll deduction authorization between the member and the school district, and the contributions so picked up shall be treated as employer contributions in determining federal tax treatment under the Internal Revenue Code, except that the school district shall continue to withhold federal and state income taxes based upon these contributions until the Internal Revenue Service rules that, pursuant to section 414(h) of the Internal Revenue Code, these contributions shall not be included as gross income of the employee until such time as they are distributed from the system. Employee contributions picked up shall be treated for all purposes of the Class V School Employees Retirement Act in the same manner and to the extent as employee contributions made prior to the date picked up.

Source: Laws 1951, c. 274, § 25, p. 923; Laws 1953, c. 308, § 4, p. 1029; Laws 1955, c. 321, § 3, p. 993; Laws 1963, c. 490, § 5, p. 1567; Laws 1969, c. 724, § 2, p. 2755; Laws 1972, LB 1116, § 3; Laws 1976, LB 994, § 3; Laws 1982, LB 131, § 12; Laws 1983, LB 488, § 1; Laws 1984, LB 218, § 3; Laws 1989, LB 237, § 7; Laws 1995, LB 505, § 8; Laws 1995, LB 574, § 77; R.S.Supp., 1995, § 79-1056; Laws 1996, LB 900, § 648; Laws 1997, LB 623, § 33; Laws 1998, LB 497, § 26; Laws 1998, LB 1191, § 63; Laws 2000, LB 155, § 5; Laws 2007, LB 596, § 3; Laws 2009, LB 187, § 3; Laws 2011, LB 382, § 4; Laws 2011, LB 509, § 35; Laws 2013, LB 553, § 14; Laws 2016, LB 447, § 42; Laws 2018, LB 1005, § 32; Laws 2021, LB 147, § 35.
Effective date May 27, 2021.

Cross References

For provisions of federal Social Security Act, see Chapter 68, article 6.

79-9,113.01 Employer; deduction; remittance; late fees; interest charge.

(1) An employer shall deduct and withhold an amount pursuant to section 79-9,113 from the compensation of an employee on each payroll period after such employee becomes a member of the retirement system. An employer shall transmit periodically, as directed by and in such form as is approved by the retirement board, such amounts and any information required by the retirement board. The retirement board shall immediately transmit to the State Treasurer all payments received.

(2) The retirement board may charge an employer a late administrative processing fee not to exceed twenty-five dollars if the information required by this section and the contributions from an employer consistent with the dates and frequency of transmittal as specified in section 79-9,113 are delinquent or are not timely received by the retirement board. In addition, the retirement board may charge an employer a late fee of thirty-eight thousandths of one percent of the amount required to be submitted pursuant to this section for each day such amount has not been received. The late fee may be used to make a member's account whole for any costs that may have been incurred by the member due to the late receipt of contributions. The retirement board shall charge an employer an amount equal to the interest which would have accrued if the delinquent report causes the employee to lose interest on his or her account. The proceeds of the interest charge shall be used to reimburse the account of each employee deprived of interest by the delay.

Source: Laws 2021, LB147, § 38.

Effective date May 27, 2021.

79-9,115 Class V School Employees Retirement Fund; created; use; expenses; payment.

(1) The Class V School Employees Retirement Fund is created.

(2) Until September 1, 2024, except as provided in this section:

(a) 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;

(b) Such clerical work shall be performed by employees of the school district or districts;

(c) 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; and

(d) 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.

(3)(a) Beginning September 1, 2024, the required deposits of the school district and the amounts transferred to the school district by the State Treasurer for transmission to the retirement system and required deposits of the employees shall be credited to the Class V School Employees Retirement Fund and all allowances, annuities, and other benefits shall be paid from such fund

as directed by the retirement board as provided in the Class V School Employees Retirement Act.

(b) The account of each member in the Class V School Employees Retirement Fund shall be credited with regular interest earned monthly, quarterly, semiannually, or annually as the retirement board may direct.

(4) 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 or the retirement board, as applicable.

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; Laws 2021, LB147, § 36.
Effective date May 27, 2021.

79-9,115.01 Class V School Expense Fund; created; use.

The Class V School Expense Fund is created. Beginning September 1, 2024, the fund shall be credited with money from the retirement system assets and income sufficient to pay the pro rata share of administrative expenses incurred as directed by the retirement board for the proper administration of the Class V School Employees Retirement Act and as necessary in connection with the administration and operation of the retirement system.

Source: Laws 2021, LB147, § 37.
Effective date May 27, 2021.

79-9,115.02 Class V School Expense Fund; Class V School Employees Retirement Fund; assets; investment.

Beginning September 1, 2024, all assets of the retirement system shall be credited, according to the purpose for which they are held, to the Class V School Expense Fund or to the Class V School Employees Retirement Fund. Any money in the funds available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 2021, LB147, § 39.
Effective date May 27, 2021.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

79-9,117 Preretirement planning program; for whom; required information; funding; attendance; fee.

(1) Until September 1, 2024, the board of trustees, and beginning September 1, 2024, the retirement board, shall establish a comprehensive preretirement planning program for school employees who are members of the retirement system. The program shall provide information and advice regarding the many changes employees face upon retirement, including, but not limited to, changes

in physical and mental health, housing, family life, leisure activity, and retirement income.

(2) The preretirement planning program shall be available to all employees who have attained the age of fifty years or are within five years of qualifying for retirement or early retirement under their retirement systems.

(3) The preretirement planning program shall include information on the federal and state income tax consequences of the various annuity or retirement benefit options available to the employee, information on social security benefits, information on various local, state, and federal government programs and programs in the private sector designed to assist elderly persons, and information and advice the board of trustees or retirement board, as applicable, deems valuable in assisting employees in the transition from public employment to retirement.

(4) The board of trustees or retirement board, as applicable, shall work with any governmental agency, including political subdivisions or bodies whose services or expertise may enhance the development or implementation of the preretirement planning program.

(5) The costs of the preretirement planning program shall be charged back to the retirement system.

(6) An employer shall provide each eligible employee leave with pay to attend up to two preretirement planning programs. For purposes of this subsection, leave with pay means a day off paid by an employer and does not mean vacation, sick, personal, or compensatory time. An employee may choose to attend a program more than twice, but such leave shall be at the expense of the employee and shall be at the discretion of the employer. An eligible employee shall not be entitled to attend more than one preretirement planning program per fiscal year prior to actual election of retirement.

(7) A nominal registration fee may be charged each person attending a preretirement planning program to cover the costs for meals, meeting rooms, or other expenses incurred under such program.

Source: Laws 2011, LB509, § 36; Laws 2013, LB263, § 28; Laws 2016, LB447, § 44; Laws 2021, LB147, § 40.
Effective date May 27, 2021.

79-9,122 Class V School Employees Retirement System Management Work Plan Fund; created; use; investment.

(1) The Class V School Employees Retirement System Management Work Plan Fund is created. The purpose of the fund is to transfer funds as specified in this section. The fund shall consist of the amounts transferred from an employer of any Class V school employees retirement system established under the Class V School Employees Retirement Act for all work performed by the Public Employees Retirement Board for services and related expenses in completion of the work described in sections 79-979.01, 79-9,121, and 79-9,124. The fund shall be administered by the Nebraska Public Employees Retirement Systems. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) An employer of any Class V school employees retirement system established under the Class V School Employees Retirement Act shall remit the

payments described in subsection (3) of section 79-9,121, subsection (3) of section 79-979.01, and section 79-9,124 to the State Treasurer for credit to the Class V School Employees Retirement System Management Work Plan Fund for all work performed by the retirement board for (a) services and related expenses in completion of the work plan, (b) additional identification and examination of issues as required under section 79-9,124, and (c) the transfer of management of the retirement system to the retirement board.

Source: Laws 2019, LB31, § 4; Laws 2021, LB147, § 41.
Effective date May 27, 2021.

Cross References

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

79-9,123 Work plan; billing for work; payment.

(1) The administrator and board of trustees of any Class V school employees retirement system established under the Class V School Employees Retirement Act may quarterly bill the employer of such Class V school employees retirement system for all work performed and expenses incurred by the administrator, staff, and any consultants of the Class V school employees retirement system in response to requests for records, documents, data, or other information from the Nebraska Public Employees Retirement Systems or the retirement board in completion of the work plan described in section 79-9,121.

(2)(a) The retirement board may bill an employer of any Class V school employees retirement system monthly for all work performed and expenses incurred pursuant to section 79-9,124.

(b) The administrator and board of trustees of any Class V school employees retirement system established under the Class V School Employees Retirement Act may bill the employer of such Class V school employees retirement system monthly for all work performed and expenses incurred by the administrator, staff, and any consultants of the Class V school employees retirement system for the transition and transfer of management and general administration of such retirement system to the retirement board as described in section 79-979.01.

(3) An employer of a retirement system shall remit payment pursuant to this section to the board of trustees within forty-five calendar days after receipt of each monthly bill and to the retirement board within the time period and in the manner negotiated in the transition and transfer of management and administration plan entered into pursuant to section 79-979.01.

Source: Laws 2019, LB31, § 5; Laws 2021, LB147, § 42.
Effective date May 27, 2021.

79-9,124 Work plan; additional examination and evaluation; by whom; contents; expenses; compliance audit report; additional issues; powers and duties.

(1) The Legislature finds that following completion and submission of the work plan by the retirement board pursuant to section 79-9,121, additional issues have emerged related to transfer of the management of any Class V school employees retirement system to the retirement board. Further examination and evaluation are necessary and shall be completed by the entities described in this section. Such additional examination and evaluation shall include, but not be limited to:

(a) Completion of a compliance audit of the retirement system as described in this section;

(b) Completion of the audits of the retirement system by the Auditor of Public Accounts pursuant to subsection (1)(b) of section 79-987; and

(c) Identification and examination of issues by the retirement board as described in subsection (8) of this section.

(2) The board of trustees shall obtain a compliance audit of the retirement system to be completed no later than November 15, 2021. The compliance audit shall be in addition to the annual audit conducted by the Auditor of Public Accounts pursuant to subsection (1)(b) of section 79-987.

(3) The compliance audit shall include an examination of records, files, and any other documents or resources of the retirement system and an evaluation of all policies and procedures of the retirement system, the school district, the board of education, and the board of trustees related to the administration and operation of the retirement system to determine compliance with all state and federal laws. The compliance audit shall also include, but not be limited to, an examination and evaluation of:

(a) Eligibility and enrollment to ensure eligible individuals are properly and timely enrolled in the plan;

(b) Contributions, compensation, service hours, and other records to ensure that members are making the correct contributions, that only eligible compensation and eligible service hours are reported at the time and in the manner specified in plan documents, and that only the authorized interest is being recorded;

(c) Termination of employment to ensure that only terminated members are taking distributions from the plan at the time and in the manner specified in the plan documents;

(d) Reemployment after retirement to ensure that retirees and members who have terminated employment who reemploy have complied with plan documents;

(e) Benefit calculations and benefit payments to ensure that the correct benefits are calculated for members and paid on a timely basis; and

(f) Disability retirements to ensure:

(i) The determination of the member's disability status and any accrual of additional disability benefits due to deferred distribution of such benefits are conducted in accordance with the act; and

(ii) The amount of the disability retirement benefits is correctly calculated for members and paid on a timely basis.

(4) The examination of each of the issues listed in subsection (3) of this section shall also include, but not be limited to, a review of:

(a) The plan documents and training that the retirement system has provided to the staff of the retirement system and employees who provide services to the retirement system to ensure proper compliance with the procedures and processes;

(b) Oversight practices or processes used by the board of trustees and administrator of the retirement system to identify whether the employer properly followed the plan documents; and

(c) Practices and processes used by the board of trustees and administrator of the retirement system to correct any errors made.

(5) The board of trustees, the board of education, the school district, and the retirement system shall provide:

(a) The compliance auditors with the documents identified in this section and access to personnel who perform or have knowledge of duties related to the practices, procedures, operations, and administration of the retirement system to facilitate timely completion of the compliance audit; and

(b) The Auditor of Public Accounts with documents and access to personnel as requested by the auditor to facilitate timely completion of the audit required by subsection (1)(b) of section 79-987.

(6) Expenses related to obtaining the compliance audit shall be charged to the retirement system.

(7) The board of trustees shall submit an electronic copy of the compliance audit report to the Clerk of the Legislature, the board of education, the Nebraska Retirement Systems Committee of the Legislature, the Governor, and the retirement board no later than November 15, 2021. The compliance audit report shall be presented to the Nebraska Retirement Systems Committee of the Legislature at a public hearing.

(8)(a) The Public Employees Retirement Board shall identify and examine additional issues which have emerged since the completion of the work plan conducted pursuant to section 79-9,121. Such identification and examination shall include, but are not limited to, issues related to the transition and transfer of management of any Class V school employees retirement system to the retirement board and the board's duties to administer such retirement system pursuant to section 84-1503 in a manner which will maintain the transferred retirement system plan's status as a qualified plan and address any concerns in meeting the retirement board's fiduciary duties and responsibilities pursuant to section 84-1503.02.

(b) The retirement board may retain the services of consultants, if necessary, to carry out its responsibilities under this subsection.

(c) The retirement board shall timely respond to any written communications from the Nebraska Retirement Systems Committee of the Legislature regarding its ongoing examinations under this subsection and advise the committee if additional areas of examination related to the transfer of management as required under this section should be addressed.

(d) The retirement board may bill an employer of any Class V school employees retirement system established under the Class V School Employees Retirement Act on a monthly basis as provided in section 79-9,123 for all services and related expenses incurred in carrying out its responsibilities under this section.

Source: Laws 2021, LB147, § 43.
Effective date May 27, 2021.

ARTICLE 10

SCHOOL TAXATION, FINANCE, AND FACILITIES

(a) TAX EQUITY AND EDUCATIONAL OPPORTUNITIES SUPPORT ACT

Section

- 79-1003. Terms, defined.
- 79-1007.11. School district formula need; calculation.
- 79-1023. School district; general fund budget of expenditures; limitation; department; certification.

(b) SCHOOL FUNDS

- 79-1034. Repealed. Laws 2021, LB509, § 25.
- 79-1035. School funds; apportionment by Commissioner of Education; basis.
- 79-1044. Forest reserve funds; distribution for schools and roads; how made.
- 79-1047. Public grazing funds; distribution to counties; how made.
- 79-1051. Flood control funds; apportionment by Commissioner of Education.
- 79-1065.02. State aid payments; payments of core services and technology infrastructure funds; adjustments; application; calculation.

(c) SCHOOL TAXATION

- 79-1074. School district or learning community; taxable property; certification.
- 79-1075. School district; tax levy; certification.

(d) SCHOOL BUDGETS AND ACCOUNTING

- 79-1084. Class III school district; school board; budget; tax; levy; publication of expenditures; violation; penalty; duty of county board.
- 79-1085. Class IV school district; board of education; budget estimate and statement; tax levy; authorized.

(e) SITE AND FACILITIES ACQUISITION, MAINTENANCE, AND DISPOSITION

- 79-10,110.03. Commercial air filters; pilot program; legislative intent; report; rules and regulations.
- 79-10,119. School district; real estate for future sites outside district; annexation; effect.

(j) LEARNING COMMUNITY TRANSITION AID

- 79-10,145. Repealed. Laws 2021, LB528, § 73.

(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 the difference of the general fund operating expenditures increased by the cost growth factor calculated pursuant to section 79-1007.10, minus the transportation allowance, special receipts allowance, poverty allowance, limited English proficiency allowance, distance education and telecommunications allowance, elementary site allowance, summer school allowance, community achievement plan allowance, and focus school and program allowance;

(2) Adjusted valuation means the assessed valuation of taxable property of each local system in the state, adjusted pursuant to the adjustment factors described in section 79-1016. Adjusted valuation means the adjusted valuation for the property tax year ending during the school fiscal year immediately preceding the school fiscal year in which the aid based upon that value is to be paid. For purposes of determining the local effort rate yield pursuant to section 79-1015.01, adjusted valuation does not include the value of any property

which a court, by a final judgment from which no appeal is taken, has declared to be nontaxable or exempt from taxation;

(3) Allocated income tax funds means the amount of assistance paid to a local system pursuant to section 79-1005.01;

(4) Average daily membership means the average daily membership for grades kindergarten through twelve attributable to the local system, as provided in each district's annual statistical summary, and includes the proportionate share of students enrolled in a public school instructional program on less than a full-time basis;

(5) Base fiscal year means the first school fiscal year following the school fiscal year in which the reorganization or unification occurred;

(6) Board means the school board of each school district;

(7) Categorical funds means funds limited to a specific purpose by federal or state law, including, but not limited to, Title I funds, Title VI funds, federal career and technical education funds, federal school lunch funds, Indian education funds, Head Start funds, and funds received prior to July 1, 2022, from the Nebraska Education Improvement Fund;

(8) Consolidate means to voluntarily reduce the number of school districts providing education to a grade group and does not include dissolution pursuant to section 79-498;

(9) Converted contract means an expired contract that was in effect for at least fifteen school years beginning prior to school year 2012-13 for the education of students in a nonresident district in exchange for tuition from the resident district when the expiration of such contract results in the nonresident district educating students, who would have been covered by the contract if the contract were still in effect, as option students pursuant to the enrollment option program established in section 79-234;

(10) Converted contract option student means a student who will be an option student pursuant to the enrollment option program established in section 79-234 for the school fiscal year for which aid is being calculated and who would have been covered by a converted contract if the contract were still in effect and such school fiscal year is the first school fiscal year for which such contract is not in effect;

(11) Department means the State Department of Education;

(12) District means any school district or unified system as defined in section 79-4,108;

(13) Ensuing school fiscal year means the school fiscal year following the current school fiscal year;

(14) Equalization aid means the amount of assistance calculated to be paid to a local system pursuant to section 79-1008.01;

(15) Fall membership means the total membership in kindergarten through grade twelve attributable to the local system as reported on the fall school district membership reports for each district pursuant to section 79-528;

(16) Fiscal year means the state fiscal year which is the period from July 1 to the following June 30;

(17) Formula students means:

(a) For state aid certified pursuant to section 79-1022, the sum of the product of fall membership from the school fiscal year immediately preceding the

school fiscal year in which the aid is to be paid multiplied by the average ratio of average daily membership to fall membership for the second school fiscal year immediately preceding the school fiscal year in which the aid is to be paid and the prior two school fiscal years plus sixty percent of the qualified early childhood education fall membership plus tuitioned students from the school fiscal year immediately preceding the school fiscal year in which aid is to be paid minus the product of the number of students enrolled in kindergarten that is not full-day kindergarten from the fall membership multiplied by 0.5; and

(b) For the final calculation of state aid pursuant to section 79-1065, the sum of average daily membership plus sixty percent of the qualified early childhood education average daily membership plus tuitioned students minus the product of the number of students enrolled in kindergarten that is not full-day kindergarten from the average daily membership multiplied by 0.5 from the school fiscal year immediately preceding the school fiscal year in which aid was paid;

(18) Free lunch and free milk calculated students means, using the most recent data available on November 1 of the school fiscal year immediately preceding the school fiscal year in which aid is to be paid, (a) for schools that did not provide free meals to all students pursuant to the community eligibility provision, students who individually qualified for free lunches or free milk pursuant to the federal Richard B. Russell National School Lunch Act, 42 U.S.C. 1751 et seq., and the federal Child Nutrition Act of 1966, 42 U.S.C. 1771 et seq., as such acts and sections existed on January 1, 2021, and rules and regulations adopted thereunder, plus (b) for schools that provided free meals to all students pursuant to the community eligibility provision, 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 calculated students for any school pursuant to subdivision (18)(b) 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) Full-day kindergarten means kindergarten offered by a district for at least one thousand thirty-two instructional hours;

(20) General fund budget of expenditures means the total budget of disbursements and transfers for general fund purposes as certified in the budget statement adopted pursuant to the Nebraska Budget Act, except that for purposes of the limitation imposed in section 79-1023, the general fund budget of expenditures does not include any special grant funds, exclusive of local matching funds, received by a district;

(21) General fund expenditures means all expenditures from the general fund;

(22) General fund operating expenditures means, for state aid calculated for each school fiscal year, 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, sum-

mer 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 to other school districts, tuition paid to postsecondary institutions for college credit, 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) expenditures to pay for incentives agreed to be paid by a school district to certificated employees in exchange for a voluntary termination of employment for which the State Board of Education approved an exclusion pursuant to subdivision (1)(h), (i), (j), or (k) of section 79-1028.01, (f)(i) expenditures to pay for employer contributions pursuant to subsection (2) of section 79-958 to the School Employees Retirement System of the State of Nebraska to the extent that such expenditures exceed the employer contributions under such subsection that would have been made at a contribution rate of seven and thirty-five hundredths percent or (ii) expenditures to pay for school district contributions pursuant to subdivision (1)(c)(i) or (1)(d)(i) of section 79-9,113 to the retirement system established pursuant to the Class V School Employees Retirement Act to the extent that such expenditures exceed the school district contributions under such subdivision that would have been made at a contribution rate of seven and thirty-seven hundredths percent, and (g) any amounts paid by the district for lobbyist fees and expenses reported to the Clerk of the Legislature pursuant to section 49-1483.

For purposes of this subdivision (22) of this section, receipts from levy override elections shall equal ninety-nine percent of the difference of the total general fund levy minus a levy of one dollar and five cents per one hundred dollars of taxable valuation multiplied by the assessed valuation for school districts that have voted pursuant to section 77-3444 to override the maximum levy provided pursuant to section 77-3442;

(23) 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;

(24) 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;

(25) 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;

(26) Local system means a unified system or a school district;

(27) Low-income child means a child under nineteen years of age living in a household having an annual adjusted gross income for the second calendar year preceding the beginning of the school fiscal year for which aid is being calculated equal to or less than the maximum household income 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, 2021, 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;

(28) 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;

(29) 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;

(30) Poverty students means 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;

(31) Qualified early childhood education average daily membership means the product of the average daily membership 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;

(32) Qualified early childhood education fall membership means the product of membership on October 1 of each school year of students who will be eligible to attend kindergarten the following school year and are enrolled in an early childhood education program approved by the department pursuant to section 79-1103 for such school district for such school year multiplied by the ratio of the planned instructional hours of the program divided by one thousand thirty-two if: (a) The program is receiving a grant pursuant to such section for the third year; (b) the program has already received grants pursuant to such section for three years; or (c) the program has been approved pursuant to subsection (5) of section 79-1103 for such school year and the two preceding school years, including any such students in portions of any of such programs receiving an expansion grant;

(33) Regular route transportation means the transportation of students on regularly scheduled daily routes to and from the schools such students attend;

(34) Reorganized district means any district involved in a consolidation and currently educating students following consolidation;

(35) School year or school fiscal year means the fiscal year of a school district as defined in section 79-1091;

(36) 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 and the next closest high school 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 and the next closest high school 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 is located in the local system;

(37) Special education means specially designed kindergarten through grade twelve instruction pursuant to section 79-1125, and includes special education transportation;

(38) 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;

(39) State aid means the amount of assistance paid to a district pursuant to the Tax Equity and Educational Opportunities Support Act;

(40) State board means the State Board of Education;

(41) State support means all funds provided to districts by the State of Nebraska for the general fund support of elementary and secondary education;

(42) 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;

(43) 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;

(44) Teacher has the definition found in section 79-101;

(45) 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;

(46) 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;

(47) Unadjusted poverty students means the greater of the number of low-income students or the free lunch and free milk calculated students in a district; and

(48) 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 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 and the next closest high school 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 and the next closest high school on paved roads.

Source: Laws 1990, LB 1059, § 3; Laws 1991, LB 511, § 71; Laws 1992, LB 245, § 76; Laws 1994, LB 1290, § 3; Laws 1995, LB 840, § 4; R.S.Supp., 1995, § 79-3803; Laws 1996, LB 900, § 654; Laws 1996, LB 1050, § 12; Laws 1997, LB 347, § 29; Laws 1997, LB 710, § 5; Laws 1997, LB 713, § 1; Laws 1997, LB 806, § 31; Laws 1998, LB 306, § 42; Laws 1998, LB 1134, § 2; Laws 1998, LB 1219, § 15; Laws 1998, LB 1229, § 3; Laws 1998, Spec. Sess., LB 1, § 15; Laws 1999, LB 149, § 3; Laws 1999, LB 813, § 19; Laws 2001, LB 313, § 1; Laws 2001, LB 797, § 18; Laws 2001, LB 833, § 4; Laws 2002, LB 898, § 3; Laws 2005, LB 126, § 45; Laws 2005, LB 577, § 1; Laws 2006, LB 1024, § 73; Laws 2006, LB 1208, § 4; Referendum 2006, No. 422; Laws 2007, LB641, § 13; Laws 2008, LB988, § 9; Laws 2009, LB545, § 4; Laws 2009, LB549, § 26; Laws 2009, First Spec. Sess., LB5, § 3; Laws 2010, LB1071, § 12; Laws 2011, LB18, § 2; Laws 2011, LB235, § 5; Laws 2011, LB382, § 5; Laws 2011, LB509, § 38; Laws 2013, LB407, § 2; Laws 2013, LB553, § 15; Laws 2014, LB967, § 11; Laws 2015, LB519, § 12; Laws 2015, LB525, § 17; Laws 2016, LB959, § 2; Laws 2016, LB1066, § 16; Laws 2016, LB1067, § 32; Laws 2017, LB512, § 12; Laws 2018, LB377, § 62; Laws 2018, LB1005, § 33; Laws 2018, LB1081, § 11; Laws 2019, LB675, § 5; Laws 2021, LB528, § 35.

Operative date August 28, 2021.

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.

79-1007.11 School district formula need; calculation.

(1) Except as otherwise provided in this section, 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.

(2) If the formula need calculated for a school district pursuant to subsection (1) 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.

(3) If the formula need calculated for a school district pursuant to subsection (1) 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.

(4) For purposes of subsections (2) and (3) 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; Laws 2021, LB528, § 36.

Operative date August 28, 2021.

79-1023 School district; general fund budget of expenditures; limitation; department; certification.

(1) On or before May 1, 2020, and on or before March 1 of each year thereafter, the department shall determine and certify to each school district budget authority for the general fund budget of expenditures for the ensuing school fiscal year.

(2) Except as provided in sections 79-1028.01, 79-1029, 79-1030, and 81-829.51, each school district shall have budget authority for the general fund budget of expenditures equal to the greater of (a) the general fund budget of expenditures for the immediately preceding school fiscal year minus exclusions pursuant to subsection (1) of section 79-1028.01 for such school fiscal year with the difference increased by the basic allowable growth rate for the school fiscal

year for which budget authority is being calculated, (b) the general fund budget of expenditures for the immediately preceding school fiscal year minus exclusions pursuant to subsection (1) of section 79-1028.01 for such school fiscal year with the difference increased by an amount equal to any student growth adjustment calculated for the school fiscal year for which budget authority is being calculated, or (c) one hundred ten percent of formula need for the school fiscal year for which budget authority is being calculated minus the special education budget of expenditures as filed on the school district budget statement on or before September 30 for the immediately preceding school fiscal year, which special education budget of expenditures is increased by the basic allowable growth rate for the school fiscal year for which budget authority is being calculated.

(3) For any school fiscal year for which the budget authority for the general fund budget of expenditures for a school district is based on a student growth adjustment, the budget authority for the general fund budget of expenditures for such school district shall be adjusted in future years to reflect any student growth adjustment corrections related to such student growth adjustment.

Source: Laws 1990, LB 1059, § 14; Laws 1991, LB 829, § 33; Laws 1992, LB 1063, § 202; Laws 1992, Second Spec. Sess., LB 1, § 173; Laws 1995, LB 613, § 3; Laws 1996, LB 299, § 27; R.S.Supp., 1995, § 79-3814; Laws 1996, LB 900, § 669; Laws 1998, LB 989, § 8; Laws 2003, LB 67, § 13; Laws 2008, LB988, § 43; Laws 2009, LB61, § 2; Laws 2009, LB545, § 16; Laws 2009, LB548, § 2; Laws 2009, First Spec. Sess., LB5, § 11; Laws 2010, LB711, § 3; Laws 2010, LB1071, § 20; Laws 2011, LB18, § 8; Laws 2011, LB235, § 19; Laws 2012, LB633, § 3; Laws 2013, LB408, § 2; Laws 2014, LB838, § 2; Laws 2015, LB283, § 3; Laws 2017, LB119, § 3; Laws 2019, LB430, § 3; Laws 2020, LB880, § 3; Laws 2021, LB644, § 23.
Operative date January 1, 2022.

Cross References

Retirement expenditures, not exempt from limitations, see section 79-977.

(b) SCHOOL FUNDS

79-1034 Repealed. Laws 2021, LB509, § 25.

79-1035 School funds; apportionment by Commissioner of Education; basis.

(1)(a) The State Treasurer shall, on or before January 25 of each year, make a complete exhibit of all money belonging to the permanent school fund and the temporary school fund as returned to him or her from the several counties, together with the amount derived from other sources, and deliver such exhibit duly certified to the Commissioner of Education and the chairperson of the Education Committee of the Legislature.

(b) Through 2021, the exhibit required in subdivision (1)(a) of this section shall include a separate accounting, not to exceed an amount of ten million dollars, of the income from solar and wind agreements on school lands. The amount of income from solar and wind agreements on school lands shall be used to fund the grants described in section 79-308. The Board of Educational Lands and Funds shall provide the State Treasurer with the information

necessary to make the exhibit required by this subsection. Separate accounting shall not be made for income from solar or wind agreements on school lands that exceeds the sum of ten million dollars.

(2) On or before February 25 following receipt of the exhibit from the State Treasurer pursuant to subsection (1) of this section, the Commissioner of Education shall make the apportionment of the temporary school fund to each school district as follows: From the whole amount, there shall be paid to those districts in which there are school or saline lands, which lands are used for a public purpose, an amount in lieu of tax money that would be raised if such lands were taxable, to be fixed in the manner prescribed in section 79-1036; and the remainder shall be apportioned to the districts according to the pro rata enumeration of children who are five through eighteen years of age in each district last returned from the school district. The calculation of apportionment for each school fiscal year shall include any corrections to the prior school fiscal year's apportionment.

(3) The Commissioner of Education shall certify the amount of the apportionment of the temporary school fund as provided in subsection (2) of this section to the Director of Administrative Services. The Director of Administrative Services shall issue payments to the various districts for the respective amounts so certified by the Commissioner of Education.

(4) For purposes of this section, agreement means any lease, easement, covenant, or other such contractual arrangement.

Source: Laws 1881, c. 78, subdivision XI, § 3, p. 369; R.S.1913, § 6930; Laws 1915, c. 122, § 1, p. 280; C.S.1922, § 6513; C.S.1929, § 79-2002; Laws 1933, c. 144, § 3, p. 558; C.S.Supp.,1941, § 79-2002; R.S.1943, § 79-2002; Laws 1945, c. 210, § 1, p. 622; Laws 1949, c. 256, § 377, p. 817; Laws 1957, c. 359, § 1, p. 1217; Laws 1963, c. 493, § 1, p. 1575; Laws 1971, LB 1002, § 1; Laws 1989, LB 487, § 9; Laws 1990, LB 1090, § 22; Laws 1994, LB 858, § 10; R.S.1943, (1994), § 79-1302; Laws 1996, LB 900, § 681; Laws 1997, LB 345, § 30; Laws 1997, LB 710, § 19; Laws 1999, LB 272, § 95; Laws 2001, LB 797, § 31; Laws 2010, LB1014, § 4; Laws 2012, LB828, § 20; Laws 2015, LB525, § 24; Laws 2021, LB509, § 15; Laws 2021, LB528, § 37.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB509, section 15, with LB528, section 37, to reflect all amendments.

Note: Changes made by LB509 became effective August 28, 2021. Changes made by LB528 became operative August 28, 2021.

79-1044 Forest reserve funds; distribution for schools and roads; how made.

The forest reserve funds, annually paid into the state treasury by the United States Government under an act of Congress approved June 30, 1906, shall be distributed among the counties of the state entitled to such funds for the benefit of the public schools and the public roads of such counties based upon information provided by the United States Department of the Interior. The Commissioner of Education shall, on or before August 5, make apportionment of such funds to such counties according to the number of acres of forest reserve in each county and certify the apportionment of each county to the county treasurer of the proper county and to the Director of Administrative

Services. The director shall make payments to the various counties for the amount specified by the commissioner.

Source: Laws 1907, c. 143, § 1, p. 453; R.S.1913, § 6938; C.S.1922, § 6521; C.S.1929, § 79-2010; R.S.1943, § 79-2010; Laws 1947, c. 284, § 1, p. 892; Laws 1949, c. 256, § 384, p. 820; R.S.1943, (1994), § 79-1309; Laws 1996, LB 900, § 690; Laws 1999, LB 272, § 99; Laws 2001, LB 797, § 33; Laws 2011, LB333, § 11; Laws 2021, LB509, § 16.
Effective date August 28, 2021.

79-1047 Public grazing funds; distribution to counties; how made.

The public grazing funds, annually paid to the state treasury by the United States Government under the federal Taylor Grazing Act, 43 U.S.C. 315i, as such act existed on May 8, 2001, shall be distributed among the counties of the state entitled to such funds for the benefit of the school districts of such counties based upon information provided by the United States Department of the Interior. The Commissioner of Education shall, on or before August 5, make apportionment of such funds to such counties according to the number of acres of grazing land in each county and certify the apportionment of each county to the county treasurer of the proper county and to the Director of Administrative Services. The director shall make payments to the various counties for the amount so specified by the Commissioner of Education.

Source: Laws 1947, c. 300, § 1, p. 916; R.S.Supp.,1947, § 79-2013; Laws 1949, c. 256, § 387, p. 821; Laws 1951, c. 289, § 1, p. 956; R.S.1943, (1994), § 79-1312; Laws 1996, LB 900, § 693; Laws 1999, LB 272, § 102; Laws 2001, LB 797, § 34; Laws 2011, LB333, § 12; Laws 2021, LB509, § 17.
Effective date August 28, 2021.

79-1051 Flood control funds; apportionment by Commissioner of Education.

The distribution of the funds received by the State Treasurer under section 79-1049 shall be made based upon information provided by the United States Department of the Interior. The Commissioner of Education shall, on or before August 5, make apportionment of such funds to the counties entitled thereto in accordance with section 79-1050 and certify the apportionment of each county to the county treasurer of the proper county and to the Director of Administrative Services. The director shall make payments to the various counties for the amount specified by the commissioner.

Source: Laws 1949, c. 251, § 3, p. 683; R.S.1943, (1994), § 79-1317; Laws 1996, LB 900, § 697; Laws 1999, LB 272, § 104; Laws 2001, LB 797, § 35; Laws 2011, LB333, § 13; Laws 2021, LB509, § 18.
Effective date August 28, 2021.

79-1065.02 State aid payments; payments of core services and technology infrastructure funds; adjustments; application; calculation.

(1) State aid payments pursuant to the Tax Equity and Educational Opportunities Support Act and payments of core services and technology infrastructure funds pursuant to section 79-1241.03 shall be adjusted when property within the boundaries of a school district or educational service unit is transferred to

another school district or educational service unit in response to annexation of the transferred property by a city or village.

(2)(a) For a school district to qualify for additional state aid pursuant to this section, the school district from which property is being transferred shall apply on a form prescribed by the State Department of Education on or before August 20 preceding the first school fiscal year for which the property will not be available for taxation for the school district's general fund levy.

(b) For an educational service unit to qualify for additional core services and technology infrastructure funds pursuant to this section, the educational service unit from which property is being transferred shall apply on a form prescribed by the State Department of Education on or before August 20 preceding the first school fiscal year for which the property will not be available for taxation for the educational service unit's general fund levy.

(3)(a) Upon receipt of an application from a school district, the department, with the assistance of the Property Tax Administrator, shall calculate the amount of additional state aid, if any, that the local system, as defined in section 79-1003, for the applicant school district would have received for such school fiscal year if the adjusted valuation for the transferred property had not been included in the adjusted valuation of such local system for the calculation of state aid for such school fiscal year. On or before September 20 of such school fiscal year, the department shall certify to the applicant school district the amount of additional state aid, if any, such school district will receive. Except as otherwise provided in this subdivision, if such school district receives a lump-sum payment pursuant to subsection (2) of section 79-1022, such lump-sum payment shall be increased by the amount of additional state aid. Except as otherwise provided in this subdivision, if such school district does not receive a lump-sum payment pursuant to subsection (2) of section 79-1022, state aid payments shall be increased by one-tenth of the amount of additional state aid for each of the ten state aid payments for such school fiscal year. If a portion of the total reduction calculated pursuant to subdivision (4)(a) of this section for local systems receiving valuation in the transfer of property that is the subject of the application is delayed until future years, the additional state aid to be paid in the school fiscal year described in subdivision (2)(a) of this section shall be reduced by the amount of the total reduction that is delayed until future years. The amount of the reduction shall be paid as additional aid in the next school fiscal year.

(b) Upon receipt of an application from an educational service unit, the department, with the assistance of the Property Tax Administrator, shall calculate the amount of additional core services and technology infrastructure funds, if any, that such educational service unit would have received for such school fiscal year if the adjusted valuation for the transferred property had not been included in the adjusted valuation of such educational service unit for the calculation of core services and technology infrastructure funds for such school fiscal year. On or before September 20 of such school fiscal year, the department shall certify to the applicant educational service unit the amount of additional core services and technology infrastructure funds, if any, such educational service unit will receive. Except as otherwise provided in this subdivision, payments of core services and technology infrastructure funds shall be increased by one-tenth of the amount of any additional core services and technology infrastructure funds for each of the ten payments of core services and technology infrastructure funds for such school fiscal year. If a portion of

the total reduction calculated pursuant to subdivision (4)(b) of this section for an educational service unit receiving valuation in the transfer of property that is the subject of the application is delayed until future years, the additional state aid or core services and technology infrastructure funds to be paid to the applicant educational service unit in the school fiscal year described in subdivision (2)(b) of this section shall be reduced by the amount of the total reduction that is delayed until future years. The amount of the reduction shall be paid as additional core services and technology infrastructure funds to such educational service unit in the next school fiscal year.

(4)(a) The state aid payments shall be reduced for the school districts of each receiving local system. An amount equal to the additional state aid calculated pursuant to subdivision (3)(a) of this section for the local system of an applicant school district shall be attributed to the local systems receiving valuation in such transfer based upon the ratio of the adjusted valuation received by each local system divided by the total adjusted valuation transferred from the applicant school district. For any school district of a receiving local system that receives a lump-sum payment pursuant to subsection (2) of section 79-1022, such lump-sum payment shall be reduced by the amount attributed to the receiving local system. For any school district of a receiving local system that does not receive a lump-sum payment pursuant to subsection (2) of section 79-1022, state aid payments shall be reduced by one-tenth of the amount attributed to such receiving local system for each of the ten state aid payments for such school fiscal year. If the total reduction is greater than the total state aid payments for such school fiscal year, the remainder shall be subtracted from state aid payments in future school fiscal years until the total reduction has been subtracted from state aid payments. On or before September 20 of such school fiscal year, the department shall certify to each school district of the receiving local system the amount of the reduction in state aid.

(b) Core services and technology infrastructure funds shall be reduced for each receiving educational service unit. An amount equal to the additional core services and technology infrastructure funds calculated pursuant to subdivision (3)(b) of this section for the applicant educational service unit shall be attributed to the educational service units receiving valuation in such transfer based upon the ratio of the adjusted valuation received by each educational service unit divided by the total adjusted valuation transferred from the applicant educational service unit. Core services and technology infrastructure funds shall be reduced by one-tenth of the amount attributed to any such receiving educational service unit for each of the ten payments of core services and technology infrastructure funds for such school fiscal year. If the total reduction is greater than the total payments of core services and technology infrastructure funds for any such educational service unit for such school fiscal year, the remainder shall be subtracted from payments of core services and technology infrastructure funds in future school fiscal years until the total reduction has been subtracted from such payments. On or before September 20 of such school fiscal year, the department shall certify to the receiving educational service units the amount of the reduction in core services and technology infrastructure funds.

(5) For purposes of the final calculation of state aid for school districts pursuant to section 79-1065, the adjusted valuation of the property that was transferred shall also be transferred for purposes of adjusted valuation for the final calculation of state aid. For determining adjustments in state aid pursuant

to section 79-1065, the final calculation of state aid shall be compared to the state aid certified for such school fiscal year combined with any adjustments in state aid payments and transfers from other districts pursuant to this section.

Source: Laws 2005, LB 198, § 1; Laws 2018, LB377, § 67; Laws 2021, LB528, § 38.
Operative date August 28, 2021.

Cross References

Tax Equity and Educational Opportunities Support Act, see section 79-1001.

(c) SCHOOL TAXATION

79-1074 School district or learning community; taxable property; certification.

The county clerk of any county in which a part of a school district or learning community is located shall, on or before the date prescribed in subsection (1) of section 13-509, certify the taxable valuation of all taxable property of such part of the school district or learning community to the clerk of the headquarters county in which the schoolhouse or the administrative office of the school district or learning community is located.

Source: Laws 1907, c. 118, § 1, p. 398; Laws 1913, c. 6, § 1, p. 64; R.S.1913, § 6741; C.S.1922, § 6282; C.S.1929, § 79-214; R.S. 1943, § 79-213; Laws 1947, c. 272, § 1, p. 876; Laws 1949, c. 256, § 72, p. 717; Laws 1979, LB 187, § 228; Laws 1992, LB 719A, § 184; Laws 1992, LB 1001, § 14; Laws 1993, LB 348, § 15; R.S.1943, (1994), § 79-433; Laws 1996, LB 900, § 720; Laws 2006, LB 1024, § 95; Laws 2019, LB524, § 2; Laws 2021, LB528, § 39.
Operative date August 28, 2021.

79-1075 School district; tax levy; certification.

The county board of the county in which is located the administrative office of any school district shall make a levy for the school district as may be necessary, and the county clerk of that headquarters county shall certify the levy, on or before the date prescribed in section 77-1601, to the county clerk of each county in which is situated any portion of the school district. This section shall apply to all taxes levied on behalf of school districts, including, but not limited to, taxes authorized by sections 10-304, 10-711, 77-1601, 79-747, 79-1084, 79-1085, 79-1086, 79-10,100, 79-10,110, 79-10,110.02, 79-10,118, 79-10,120, and 79-10,126.

Source: Laws 1907, c. 118, § 2, p. 398; Laws 1913, c. 6, § 2, p. 64; R.S.1913, § 6742; C.S.1922, § 6283; C.S.1929, § 79-215; R.S. 1943, § 79-214; Laws 1949, c. 256, § 73, p. 717; Laws 1971, LB 292, § 7; Laws 1992, LB 1001, § 15; Laws 1993, LB 348, § 16; R.S.1943, (1994), § 79-434; Laws 1996, LB 900, § 721; Laws 2001, LB 711, § 17; Laws 2006, LB 1024, § 96; Laws 2016, LB 959, § 8; Laws 2016, LB1067, § 49; Laws 2018, LB377, § 69; Laws 2021, LB528, § 40.
Operative date August 28, 2021.

Cross References

For joint recreation facilities in conjunction with city of the second class, see sections 17-156 to 17-162.

(d) SCHOOL BUDGETS AND ACCOUNTING

79-1084 Class III school district; school board; budget; tax; levy; publication of expenditures; violation; penalty; duty of county board.

The school board of a Class III school district shall annually, on or before September 30, report in writing to the county board and, for years prior to 2017, the learning community coordinating council if the school district is a member of a learning community the entire revenue raised by taxation and all other sources and received by the school board for the previous school fiscal year and a budget for the ensuing school fiscal year broken down generally as follows: (1) The amount of funds required for the support of the schools during the ensuing school fiscal year; (2) the amount of funds required for the purchase of school sites; (3) the amount of funds required for the erection of school buildings; (4) the amount of funds required for the payment of interest upon all bonds issued for school purposes; and (5) the amount of funds required for the creation of a sinking fund for the payment of such indebtedness. The secretary shall publish, within ten days after the filing of such budget, a copy of the fund summary pages of the budget one time at the legal rate prescribed for the publication of legal notices in a legal newspaper published in and of general circulation in such city or village or, if none is published in such city or village, in a legal newspaper of general circulation in the city or village. The secretary of the school board failing or neglecting to comply with this section shall be deemed guilty of a Class V misdemeanor and, in the discretion of the court, the judgment of conviction may provide for the removal from office of such secretary for such failure or neglect. For Class III school districts that are not members of a learning community, the county board shall levy and collect such taxes as are necessary to provide the amount of revenue from property taxes as indicated by all the data contained in the budget and the certificate prescribed by this section, at the time and in the manner provided in section 77-1601.

Source: Laws 1881, c. 78, subdivision XIV, § 23, p. 385; Laws 1885, c. 80, § 1, p. 329; Laws 1893, c. 31, § 2, p. 358; R.S.1913, § 6670; C.S.1922, § 6604; C.S.1929, § 79-2522; R.S.1943, § 79-2527; Laws 1947, c. 292, § 1, p. 904; Laws 1949, c. 256, § 243, p. 771; Laws 1959, c. 404, § 1, p. 1366; Laws 1972, LB 1070, § 2; Laws 1986, LB 960, § 42; Laws 1988, LB 1193, § 1; Laws 1993, LB 734, § 51; Laws 1995, LB 452, § 32; R.S.Supp.,1995, § 79-810; Laws 1996, LB 900, § 730; Laws 1997, LB 710, § 22; Laws 1998, Spec. Sess., LB 1, § 43; Laws 2006, LB 1024, § 98; Laws 2009, LB549, § 35; Laws 2016, LB1067, § 51; Laws 2021, LB644, § 24.

Operative date January 1, 2022.

Cross References

For legal rate for publications, see section 33-141.

79-1085 Class IV school district; board of education; budget estimate and statement; tax levy; authorized.

The board of education of a Class IV school district, on or before September 30 of each year, shall make or cause to be made and report to the county board an estimate of the amount of funds required for the fiscal year next ensuing: (1) For the payment of interest on bonds issued by the district; (2) to provide a sinking fund for the payment of bonds issued by the district; (3) to provide for the purchase and betterment of school sites and the remodeling, erection, and equipment, but not replacement, of buildings, new and old; (4) to provide the necessary funds, premiums, contributions, and expenses in connection with a retirement, annuity, insurance, or other benefit plan adopted by the board of education for its present and future employees after their retirement, or any reasonable classification thereof; and (5) to provide for the support of schools, being the running expenses and miscellaneous and all other expenses for such year.

The estimate shall be accompanied by a budget statement prepared in accordance with good accounting practices and showing probable revenue from all sources, expenditures, and available balances upon which such estimate was based. The estimate and the budget statement may include such items as the board of education deems necessary to maintain adequate working balances of cash at all times and to take into account the expenses and delays in the collection of taxes. The county board shall levy the rate of tax necessary to provide the amounts so reported by the board of education and collect such taxes in like manner as other taxes are levied and collected.

Source: Laws 1917, c. 225, § 20, p. 554; Laws 1921, c. 83, § 1, p. 297; C.S.1922, § 6629; C.S.1929, § 79-2620; R.S.1943, § 79-2620; Laws 1949, c. 256, § 246, p. 773; Laws 1957, c. 353, § 1, p. 1199; Laws 1963, c. 489, § 2, p. 1562; Laws 1972, LB 1070, § 3; Laws 1979, LB 187, § 238; Laws 1988, LB 1193, § 2; Laws 1992, LB 1063, § 197; Laws 1992, Second Spec. Sess., LB 1, § 168; Laws 1993, LB 734, § 52; Laws 1995, LB 452, § 33; R.S.Supp.,1995, § 79-903; Laws 1996, LB 900, § 731; Laws 2021, LB644, § 25. Operative date January 1, 2022.

(e) SITE AND FACILITIES ACQUISITION,
MAINTENANCE, AND DISPOSITION

79-10,110.03 Commercial air filters; pilot program; legislative intent; report; rules and regulations.

(1) The State Department of Education shall develop and implement a pilot program to study the efficacy of commercial air filters in classrooms to remove common pollutants and particulate matter and their impact on academic and behavioral performance.

(2) It is the intent of the Legislature that:

(a) The pilot program development and implementation be completed in consultation with the University of Nebraska;

(b) The study be two years in duration over school years 2021-22 and 2022-23;

(c) The pilot program include fifty participating schools with six participating classrooms in each participating school;

(d) Participating schools voluntarily agree to participate in the pilot program;

(e) Participating classrooms be used to educate students in any grade between, and including, grades 3 through 8;

(f) No more than fifty percent of participating schools be selected from the same school district; and

(g) Fifty percent of the participating classrooms be randomly assigned to the control group.

(3) Upon conclusion of the pilot program, the department shall electronically report the results to the Clerk of the Legislature and to the Education Committee of the Legislature.

(4) The State Board of Education may adopt and promulgate rules and regulations to carry out this section.

Source: Laws 2021, LB630, § 1.
Effective date August 28, 2021.

79-10,119 School district; real estate for future sites outside district; annexation; effect.

A school district may purchase, acquire, own, manage, and hold title to real estate for future school sites which at the time of such purchasing or acquiring is outside such school district in a territory not more than three miles beyond the limits of such district but contiguous thereto. Such district shall not erect school buildings on the real estate prior to the inclusion of such real estate within the boundaries of such a school district. If the real estate so acquired adjoins the purchaser’s district, the acquisition of the real estate constitutes an annexation of such real estate to the purchaser’s district. The intervention of a street, road, or highway between the real estate to be acquired and the purchaser’s district does not preclude such real estate from being considered as adjoining the purchaser’s district.

Source: Laws 1955, c. 309, § 2, p. 953; Laws 1957, c. 349, § 1, p. 1193; R.S.1943, (1994), § 79-543; Laws 1996, LB 900, § 765; Laws 2021, LB528, § 41.
Operative date August 28, 2021.

(j) LEARNING COMMUNITY TRANSITION AID

79-10,145 Repealed. Laws 2021, LB528, § 73.
Operative date May 26, 2021.

**ARTICLE 12
EDUCATIONAL SERVICE UNITS ACT**

Section	
79-1201.01.	Terms, defined.
79-1217.	Governing board; name; members; election; qualification; vacancy; expenses.
79-1218.	Board; meetings; organization; duties.
79-1225.	Governing board; tax; levy; limitation; exception; proceeds; when remitted.
79-1241.03.	Distribution of funds; certification by department to educational service unit and learning community; distribution.

79-1201.01 Terms, defined.

For purposes of the Educational Service Units Act and section 79-1337:

(1) Distance education course means a course with at least one student in any of grades kindergarten through twelve who is in a different location than the teacher and taught by a teacher employed by an educational entity utilizing either two-way interactive video or the Internet without two-way interactive video. Distance education course includes a dual-enrollment course with at least one student who is in a different location than the teacher and taught by a teacher employed by an educational entity utilizing either two-way interactive video or the Internet without two-way interactive video;

(2) Dual-enrollment course means a course taught to students for credit at both a high school and a postsecondary educational institution;

(3) Educational entity means a school district, a private, denominational, or parochial school, an educational service unit, a community college, a state college, the University of Nebraska, or a nonprofit private postsecondary educational institution;

(4) Elementary distance education course means a distance education course which is delivered utilizing two-way interactive video to students who are enrolled in any of grades kindergarten through eight;

(5) Network Nebraska means the network created pursuant to section 86-5,100;

(6) Qualified distance education course means a distance education course which meets any applicable rules and regulations of the State Department of Education, is offered for one semester of high school credit or the equivalent, and for which all of the participating educational entities are required to have access to Network Nebraska;

(7) Technical training means training to equip educators with knowledge about the skills and tools necessary to infuse technological resources and software applications into the curriculum to be used in classrooms with and by students and includes, but is not limited to, computer workstation troubleshooting, distance education, educational software, Internet resources, local area network management, multimedia presentation tools, and strategic planning;

(8) Technology includes technical training and technology infrastructure;

(9) Technology infrastructure means hardware-related items necessary for schools to interact electronically throughout the state, including, but not limited to, physical connections, wiring, servers, routers, switches, domain name service, and operating systems and human resources necessary to maintain infrastructure, including, but not limited to, systems engineers, programmers, webmasters, and help desk staff; and

(10) Two-way interactive video distance education course means a distance education course in which a teacher delivers instruction to students in a different location than the teacher using two-way interactive video on at least two different days per week during the course.

Source: Laws 1999, LB 386, § 3; Laws 2007, LB603, § 9; Laws 2021, LB528, § 42.
Operative date May 26, 2021.

79-1217 Governing board; name; members; election; qualification; vacancy; expenses.

(1) All educational service units shall be governed by a board to be known as the Board of Educational Service Unit No. Until the first Thursday

after the first Tuesday in January 2009, the educational service unit board, except the board of an educational service unit with only one member school district, shall be composed of one member from each county and four members at large, all of whom shall reside within the geographical boundaries of the educational service unit, but no more than two of the members at large shall be appointed or elected from the same county unless any one county within the educational service unit has a population in excess of one hundred fifty thousand inhabitants or the educational service unit consists of only one county. Beginning on the first Thursday after the first Tuesday in January 2009, the educational service unit board, except the board of an educational service unit with only one member school district, shall be composed of one member elected to represent each election district established pursuant to section 79-1217.01. Successors to the members initially appointed pursuant to section 79-1212 shall be elected pursuant to section 32-515.

(2) Vacancies in office shall occur as set forth in section 32-560, except as otherwise provided in section 79-1212 regarding the requirement to live in the district represented, or in the case of absences, unless excused by a majority of the remaining members of the board, when a member is absent from the geographical boundaries of the educational service unit for a continuous period of sixty days at one time or from more than two consecutive regular meetings of the board. Whenever any vacancy occurs on the board, the remaining members of such board shall appoint an individual residing within the election district of the educational service unit for which the vacancy exists and meeting the qualifications for the office to fill such vacancy for the balance of the unexpired term. The board shall file written notice of such appointment with the Secretary of State.

(3) Members of the board shall receive no compensation for their services but shall be reimbursed for the expenses incurred in the performance of their duties under the Educational Service Units Act as provided in sections 81-1174 to 81-1177.

(4) Any joint school district located in two or more counties shall be considered a part of the educational service unit in which the greater number of school-age children of such joint school district reside.

(5) The administrator of each educational service unit, prior to July 1 of each year in which a statewide primary election is to be held, shall certify to the election commissioner or county clerk of each county located within the unit the corporate name of each school district, as described in section 79-405, located within the county. If a school district is a joint school district located in two or more counties, the administrator shall certify to each election commissioner or county clerk the educational service unit of which the school district is considered to be a part.

(6) An educational service unit may consist of a single school district if the single school district is either a Class IV or Class V school district. An educational service unit with only one member school district shall be governed by the school board of such school district and shall participate in one or more of the statewide projects managed by the Educational Service Unit Coordinating Council.

Source: Laws 1965, c. 504, § 3, p. 1608; Laws 1967, c. 560, § 1, p. 1844; Laws 1969, c. 747, § 2, p. 2818; Laws 1969, c. 746, § 8, p. 2814; Laws 1977, LB 201, § 17; Laws 1978, LB 632, § 10; Laws 1981,

LB 204, § 163; Laws 1987, LB 688, § 16; Laws 1988, LB 1142, § 12; Laws 1991, LB 511, § 65; Laws 1992, LB 245, § 70; Laws 1992, LB 1063, § 200; Laws 1992, Second Spec. Sess., LB 1, § 171; Laws 1994, LB 76, § 607; R.S.1943, (1994), § 79-2203; Laws 1996, LB 900, § 934; Laws 1997, LB 345, § 47; Laws 1997, LB 347, § 47; Laws 2001, LB 797, § 49; Laws 2002, LB 647, § 2; Laws 2007, LB603, § 14; Laws 2010, LB965, § 2; Laws 2012, LB446, § 1; Laws 2018, LB377, § 83; Laws 2020, LB381, § 95; Laws 2021, LB285, § 19.
Effective date May 27, 2021.

79-1218 Board; meetings; organization; duties.

The board of each educational service unit shall meet and organize by naming one of its members as president, one as vice president, and one as secretary. The board shall employ a treasurer who shall be paid a salary to be fixed by the board.

The board of the educational service unit shall determine the participation of the educational service unit in providing supplementary educational services. If the board of the educational service unit does not provide supplementary educational services, it shall meet during each succeeding January to determine the participation in providing supplementary educational services for that calendar year. Meetings may be held by means of virtual conferencing in accordance with subsection (2) of section 84-1411.

Source: Laws 1965, c. 504, § 4, p. 1610; Laws 1969, c. 748, § 1, p. 2822; Laws 1969, c. 746, § 5, p. 2811; Laws 1987, LB 688, § 20; R.S.1943, (1994), § 79-2204; Laws 1996, LB 900, § 935; Laws 2009, LB361, § 1; Laws 2021, LB83, § 8.
Effective date April 22, 2021.

79-1225 Governing board; tax; levy; limitation; exception; proceeds; when remitted.

(1) After the adoption of its budget statement, the board for each educational service unit, except as provided in subsection (2) of this section, may levy a tax in the amount which it requires under its adopted budget statement to be received from taxation. The levy shall be subject to the limits established by section 77-3442. The amount of such levy shall be certified by the secretary of the educational service unit board to the county board of equalization of each county in which any part of the geographical area of the educational service unit is located on or before September 30 of each year. Such tax shall be levied and assessed in the same manner as other property taxes and entered on the books of the county treasurer. The proceeds of such tax, as collected, shall be remitted to the treasurer of the board on or before the fifteenth day of each month or more frequently as provided in section 77-1759.

(2) For fiscal year 2013-14 and each fiscal year thereafter, only an educational service unit which has four or more member school districts or an educational service unit composed of a single Class IV or Class V school district may levy a tax on the taxable value of the taxable property within the geographic boundaries of the educational service unit.

Source: Laws 1965, c. 504, § 10, p. 1612; Laws 1969, c. 145, § 47, p. 700; Laws 1969, c. 746, § 7, p. 2813; Laws 1977, LB 391, § 2; Laws

1979, LB 178, § 2; Laws 1979, LB 187, § 248; Laws 1980, LB 599, § 15; Laws 1992, LB 1063, § 201; Laws 1992, Second Spec. Sess., LB 1, § 172; Laws 1993, LB 348, § 50; Laws 1993, LB 452, § 3; Laws 1993, LB 734, § 53; Laws 1995, LB 452, § 34; R.S.Supp., 1995, § 79-2210; Laws 1996, LB 900, § 942; Laws 1996, LB 1114, § 67; Laws 1999, LB 141, § 14; Laws 1999, LB 287, § 3; Laws 1999, LB 386, § 4; Laws 2008, LB1154, § 14; Laws 2012, LB446, § 2; Laws 2021, LB644, § 26.
Operative date January 1, 2022.

79-1241.03 Distribution of funds; certification by department to educational service unit and learning community; distribution.

(1) Two percent of the appropriation for core services and technology infrastructure funds shall be transferred to the Educational Service Unit Coordinating Council. The remainder of such funds shall be distributed pursuant to subsections (2) through (5) of this section.

(2)(a) The distance education and telecommunications allowance for each educational service unit shall equal eighty-five percent of the difference of the costs for telecommunications services, for access to data transmission networks that transmit data to and from the educational service unit, and for the transmission of data on such networks paid by the educational service unit as reported on the annual financial report for the most recently available complete data year minus the receipts from the federal Universal Service Fund pursuant to 47 U.S.C. 254, as such section existed on January 1, 2021, for the educational service unit as reported on the annual financial report for the most recently available complete data year and minus any receipts from school districts or other educational entities for payment of such costs as reported on the annual financial report of the educational service unit.

(b) The base allocation of each educational service unit shall equal two and one-half percent of the funds appropriated for distribution pursuant to this section.

(c) The satellite office allocation for each educational service unit shall equal one percent of the funds appropriated for distribution pursuant to this section for each office of the educational service unit, except the educational service unit headquarters, up to the maximum number of satellite offices. The maximum number of satellite offices used for the calculation of the satellite office allocation for any educational service unit shall equal the difference of the ratio of the number of square miles within the boundaries of the educational service unit divided by four thousand minus one with the result rounded to the closest whole number.

(d) The statewide adjusted valuation shall equal the total adjusted valuation for all member districts of educational service units pursuant to section 79-1016 used for the calculation of state aid for school districts pursuant to the Tax Equity and Educational Opportunities Support Act for the school fiscal year for which the distribution is being calculated pursuant to this section.

(e) The adjusted valuation for each educational service unit shall equal the total adjusted valuation of the member school districts pursuant to section 79-1016 used for the calculation of state aid for school districts pursuant to the act for the school fiscal year for which the distribution is being calculated pursuant to this section, except that such adjusted valuation for member school

districts that are also member districts of a learning community shall be reduced by ten percent. The adjusted valuation for each learning community shall equal ten percent of the total adjusted valuation of the member school districts pursuant to section 79-1016 used for the calculation of state aid for school districts pursuant to the act for the school fiscal year for which the distribution is being calculated pursuant to this section.

(f) The local effort rate shall equal \$0.0135 per one hundred dollars of adjusted valuation.

(g) The statewide student allocation shall equal the difference of the sum of the amount appropriated for distribution pursuant to this section plus the product of the statewide adjusted valuation multiplied by the local effort rate minus the distance education and telecommunications allowance, base allocation, and satellite office allocation for all educational service units and minus any adjustments required by subsection (4) of this section.

(h) The sparsity adjustment for each educational service unit and learning community shall equal the sum of one plus one-tenth of the ratio of the square miles within the boundaries of the educational service unit divided by the fall membership of the member school districts for the school fiscal year immediately preceding the school fiscal year for which the distribution is being calculated pursuant to this section.

(i) The adjusted students for each multidistrict educational service unit shall equal the fall membership for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated of the member school districts that will not be members of a learning community and ninety percent of the fall membership for such school fiscal year of the member school districts that will be members of a learning community pursuant to this section multiplied by the sparsity adjustment for the educational service unit. The adjusted students for each single-district educational service unit shall equal ninety-five percent of the fall membership for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated if the member school district will not be a member of a learning community and eighty-five percent of the fall membership for such school fiscal year if the member school district will be a member of a learning community pursuant to this section, multiplied by the sparsity adjustment for the educational service unit. The adjusted students for each learning community shall equal ten percent of the fall membership for such school fiscal year of the member school districts multiplied by the sparsity adjustment for the learning community.

(j) The per student allocation shall equal the statewide student allocation divided by the total adjusted students for all educational service units and learning communities.

(k) The student allocation for each educational service unit and learning community shall equal the per student allocation multiplied by the adjusted students for the educational service unit or learning community.

(l) The needs for each educational service unit shall equal the sum of the distance education and telecommunications allowance, base allocation, satellite office allocation, and student allocation for the educational service unit and the needs for each learning community shall equal the student allocation for the learning community.

(m) The distribution of core services and technology infrastructure funds for each educational service unit and learning community shall equal the needs for

each educational service unit or learning community minus the product of the adjusted valuation for the educational service unit or learning community multiplied by the local effort rate.

(3) If an educational service unit is the result of a merger or received new member school districts from another educational service unit, the educational service unit shall be considered a new educational service unit for purposes of this section. For each new educational service unit, the needs minus the distance education and telecommunications allowance for such new educational service unit shall, for each of the three fiscal years following the fiscal year in which the merger takes place or the new member school districts are received, equal an amount not less than the needs minus the distance education and telecommunications allowance for the portions of the educational service units transferred to the new educational service unit for the fiscal year immediately preceding the merger or receipt of new member school districts, except that if the total amount available to be distributed pursuant to subsections (2) through (5) of this section for the year for which needs are being calculated is less than the total amount distributed pursuant to such subsections for the fiscal year immediately preceding the merger or receipt of new member school districts, the minimum needs minus the distance education and telecommunications allowance for each educational service unit pursuant to this subsection shall be reduced by a percentage equal to the ratio of such difference divided by the total amount distributed pursuant to subsections (2) through (5) of this section for the fiscal year immediately preceding the merger or receipt of new member school districts. The needs minus the distance education and telecommunications allowance for the portions of educational service units transferred to the new educational service unit for the fiscal year immediately preceding a merger or receipt of new member school districts shall equal the needs minus the distance education and telecommunications allowance calculated for such fiscal year pursuant to subsections (2) through (5) of this section for any educational service unit affected by the merger or the transfer of school districts multiplied by a ratio equal to the valuation that was transferred to the new educational service unit for which the minimum is being calculated divided by the total valuation of the educational service unit transferring the territory.

(4) If the minimum needs minus the distance education and telecommunications allowance pursuant to subsection (3) of this section for any educational service unit exceeds the amount that would otherwise be calculated for such educational service unit pursuant to subsection (2) of this section, the statewide student allocation shall be reduced such that the total amount to be distributed pursuant to this section equals the appropriation for core services and technology infrastructure funds and no educational service unit has needs minus the distance education and telecommunications allowance less than the greater of any minimum amounts calculated for such educational service unit pursuant to subsection (3) of this section.

(5) The State Department of Education shall certify the distribution of core services and technology infrastructure funds pursuant to subsections (2) through (5) of this section to each educational service unit and learning community on or before July 1 of each year for the following school fiscal year. Except as otherwise provided in this subsection, any funds appropriated for distribution pursuant to 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 school fiscal year and ending in June. Payments to educational service units pursuant to this section shall be used for core services and technology infrastructure with the approval of representatives of two-thirds of the member school districts of the educational service unit, representing a majority of the adjusted students in the member school districts used in calculations pursuant to this section for such funds. The valuation of individual school districts shall not be considered in the utilization of such core services or technology infrastructure funds by member school districts for funds received after July 1, 2010. Funds distributed to learning communities shall be used for evaluation and research pursuant to section 79-2104.02 with the approval of the learning community coordinating council.

(6) For purposes of this section, the determination of whether or not a school district will be a member of an educational service unit or a learning community shall be based on the information available May 1 for the following school fiscal year.

(7) It is the intent of the Legislature that:

(a) Funding for core services and technology infrastructure for each educational service unit consist of both amounts received pursuant to this section and an amount greater than or equal to the product of the adjusted valuation for the educational service unit multiplied by the local effort rate; and

(b) Each multidistrict educational service unit use an amount equal to at least five percent of such funding for core services and technology infrastructure for cooperative projects between member school districts and that each such educational service unit use an amount equal to at least five percent of such funding for core services and technology infrastructure for statewide projects managed by the Educational Service Unit Coordinating Council.

Source: Laws 2007, LB603, § 24; Laws 2008, LB1154, § 15; Laws 2009, LB549, § 48; Laws 2010, LB1070, § 11; Laws 2012, LB446, § 3; Laws 2016, LB1067, § 59; Laws 2021, LB528, § 43.
Operative date August 28, 2021.

Cross References

Tax Equity and Educational Opportunities Support Act, see section 79-1001.

ARTICLE 13

EDUCATIONAL TECHNOLOGY AND TELECOMMUNICATIONS

(c) DISTANCE EDUCATION

Section

79-1336. Repealed. Laws 2021, LB528, § 73.

79-1337. Distance education incentives; application; contents; calculation of incentives; denial of incentives; appeal.

(c) DISTANCE EDUCATION

79-1336 Repealed. Laws 2021, LB528, § 73.

Operative date May 26, 2021.

79-1337 Distance education incentives; application; contents; calculation of incentives; denial of incentives; appeal.

(1) For fiscal years 2007-08 through 2023-24, the State Department of Education shall provide distance education incentives to school districts and

educational service units for qualified distance education courses coordinated through the Educational Service Unit Coordinating Council as provided in this section. Through fiscal year 2015-16, funding for such distance education incentives shall come from the Education Innovation Fund. For fiscal years 2016-17 through 2023-24, funding for such distance education incentives shall come from the Nebraska Education Improvement Fund.

(2) School districts and educational service units shall apply for incentives annually through calendar year 2023 to the department on or before August 1 on a form specified by the department. The application shall:

(a) For school districts, specify (i) the qualified distance education courses which were received by students in the membership of the district in the then-current school fiscal year and which were not taught by a teacher employed by the school district and (ii) for each such course (A) the number of students in the membership of the district who received the course, (B) the educational entity employing the teacher, and (C) whether the course was a two-way interactive video distance education course; and

(b) For school districts and educational service units, specify (i) the qualified distance education courses which were received by students in the membership of another educational entity in the then-current school fiscal year and which were taught by a teacher employed by the school district or educational service unit, (ii) for each such course for school districts, the number of students in the membership of the district who received the course, and (iii) for each such course (A) the other educational entities in which students received the course and how many students received the course at such educational entities, (B) any school district that is sparse or very sparse as such terms are defined in section 79-1003 that had at least one student in the membership who received the course, and (C) whether the course was a two-way interactive video distance education course.

(3) On or before September 1 of each year through calendar year 2023, the department shall certify the incentives for each school district and educational service unit which shall be paid on or before October 1 of such year. The incentives for each district shall be calculated as follows:

(a) Each district shall receive distance education units for each qualified distance education course as follows:

(i) One distance education unit for each qualified distance education course received as reported pursuant to subdivision (2)(a) of this section if the course was a two-way interactive video distance education course;

(ii) One distance education unit for each qualified distance education course sent as reported pursuant to subdivision (2)(b) of this section if the course was not received by at least one student who was in the membership of another school district which was sparse or very sparse;

(iii) One distance education unit for each qualified distance education course sent as reported pursuant to subdivision (2)(b) of this section if the course was received by at least one student who was in the membership of another school district which was sparse or very sparse, but the course was not a two-way interactive video distance education course; and

(iv) Two distance education units for each qualified distance education course sent as reported pursuant to subdivision (2)(b) of this section if the course was received by at least one student who was in the membership of another school

district which was sparse or very sparse and the course was a two-way interactive video distance education course;

(b) The difference of the amount available for distribution pursuant to subdivision (4)(f) of section 9-812 in the Nebraska Education Improvement Fund on the August 1 when the applications were due shall be divided by the number of distance education units to determine the incentive per distance education unit, except that the incentive per distance education unit shall not equal an amount greater than one thousand dollars; and

(c) The incentives for each school district shall equal the number of distance education units calculated for the school district multiplied by the incentive per distance education unit.

(4) If there are additional funds available for distribution after incentives calculated pursuant to subsections (1) through (3) of this section, school districts and educational service units may qualify for additional incentives for elementary distance education courses. Such incentives shall be calculated for sending and receiving school districts and educational service units as follows:

(a) The per-hour incentives shall equal the funds available for distribution after incentives calculated pursuant to subsections (1) through (3) of this section divided by the sum of the hours of elementary distance education courses sent or received for each school district and educational service unit submitting an application, except that the per-hour incentives shall not be greater than ten dollars; and

(b) The elementary distance education incentives for each school district and educational service unit shall equal the per-hour incentive multiplied by the hours of elementary distance education courses sent or received by the school district or educational service unit.

(5) The department may verify any or all application information using annual curriculum reports and may request such verification from the council.

(6) On or before October 1 of each year through calendar year 2023, a school district or educational service unit may appeal the denial of incentives for any course by the department to the State Board of Education. The board shall allow a representative of the school district or educational service unit an opportunity to present information concerning the appeal to the board at the November board meeting. If the board finds that the course meets the requirements of this section, the department shall pay the district from the Nebraska Education Improvement Fund as soon as practical in an amount for which the district or educational service unit should have qualified based on the incentive per distance education unit used in the original certification of incentives pursuant to this section.

(7) The State Board of Education shall adopt and promulgate rules and regulations to carry out this section.

Source: Laws 2006, LB 1208, § 23; Laws 2007, LB603, § 30; Laws 2008, LB988, § 53; Laws 2014, LB967, § 23; Laws 2015, LB519, § 25; Laws 2021, LB528, § 44.
Operative date May 26, 2021.

ARTICLE 16**PRIVATE, DENOMINATIONAL, OR PAROCHIAL SCHOOLS**

Section

79-1605. Private, denominational, or parochial schools; inspection by public school official; when required.

79-1605 Private, denominational, or parochial schools; inspection by public school official; when required.

The superintendent of the school district in which any private, denominational, or parochial school is located, which school is not otherwise inspected by an area or diocesan representative holding a Nebraska certificate to administer, shall inspect such schools and report to the proper officers any evidence of failure to observe any of the provisions of sections 79-1601 to 79-1607. The Commissioner of Education, when in his or her judgment it is deemed advisable, may appoint a public school official other than such superintendent, including a member of the State Department of Education, for such inspections. Such appointee shall hold a Nebraska certificate to administer. The State Board of Education shall require the superintendents and appointed public school officials to make such inspections at least twice a year, and the school officers of such schools and the teachers giving instruction in such schools shall permit such inspection and assist and cooperate in the making of the same.

Source: Laws 1919, c. 155, § 6, p. 349; Laws 1921, c. 53, § 1(m), p. 231; C.S.1922, § 6508k; C.S.1929, § 79-1911; R.S.1943, § 79-1918; Laws 1949, c. 256, § 510, p. 865; Laws 1971, LB 254, § 1; Laws 1973, LB 395, § 1; Laws 1978, LB 441, § 1; R.S.1943, (1994), § 79-1705; Laws 1996, LB 900, § 1008; Laws 1999, LB 272, § 114; Laws 2003, LB 685, § 26; Laws 2021, LB528, § 45.
Operative date August 28, 2021.

ARTICLE 21**LEARNING COMMUNITY**

Section

79-2104.02. Learning community coordinating council; use of funds; report.
79-2118. Diversity plan; contents; approval; report.

79-2104.02 Learning community coordinating council; use of funds; report.

Each learning community coordinating council shall use any funds received pursuant to section 79-1241.03 for evaluation of programs related to the community achievement plan developed with the assistance of the student achievement coordinator or other department staff designated by the Commissioner of Education and evaluation and research regarding the progress of the learning community pursuant to plans developed by the learning community coordinating council with assistance from the Educational Service Unit Coordinating Council and adjusted on an ongoing basis. The evaluation regarding the progress of the learning community shall be conducted by one or more other entities or individuals who are not employees of the learning community and shall measure progress toward the goals and objectives of the learning community, which goals and objectives shall include reduction of excessive absenteeism of students in the member school districts of the learning community and closing academic achievement gaps based on socioeconomic status, and the

effectiveness of the approaches used by the learning community or pilot project to reach such goals and objectives. Any research conducted pursuant to this section shall also be related to such goals and objectives or programs related to the community achievement plan. Each learning community shall report evaluation and research results electronically to the Education Committee of the Legislature on or before February 1 of each year.

Source: Laws 2010, LB1070, § 17; Laws 2011, LB333, § 16; Laws 2011, LB463, § 21; Laws 2012, LB782, § 162; Laws 2013, LB410, § 15; Laws 2016, LB1067, § 64; Laws 2018, LB1081, § 18; Laws 2021, LB528, § 46.

Operative date August 28, 2021.

79-2118 Diversity plan; contents; approval; report.

(1) Each learning community, together with its member school districts, shall develop a diversity plan to provide educational opportunities pursuant to sections 79-769 and 79-2110 in each subcouncil district designed to attract students from diverse backgrounds, which plan may be revised from time to time. The initial diversity plan shall be completed by December 31 of the year the initial learning community coordinating council for the learning community takes office. The goal of the diversity plan shall be to increase the socioeconomic diversity of enrollment at each grade level in each school building within the learning community.

(2) Each diversity plan for a learning community shall include specific provisions relating to each subcouncil district within such learning community. The specific provisions relating to each subcouncil district shall be approved by both the achievement subcouncil for such district and by the learning community coordinating council.

(3) The learning community coordinating council shall report electronically to the Education Committee of the Legislature on or before February 1 of each odd-numbered year on the diversity and changes in diversity at each grade level in each school building within the learning community and on the academic achievement for different demographic groups in each school building within the learning community.

Source: Laws 2007, LB641, § 51; Laws 2008, LB1154, § 26; Laws 2009, LB392, § 19; Laws 2012, LB782, § 163; Laws 2013, LB410, § 16; Laws 2021, LB528, § 47.

Operative date August 28, 2021.

ARTICLE 22

**INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY
FOR MILITARY CHILDREN**

Section

79-2204. State Council on Educational Opportunity for Military Children; created; members; terms; expenses; duties; meetings.

79-2204 State Council on Educational Opportunity for Military Children; created; members; terms; expenses; duties; meetings.

(1) The State Council on Educational Opportunity for Military Children is created within the department. The council shall consist of:

- (a) The following ex officio members:
- (i) The Commissioner of Education;
 - (ii) The chairperson of the Education Committee of the Legislature, who shall serve as a nonvoting member of the council;
 - (iii) The compact commissioner appointed pursuant to section 79-2205; and
 - (iv) The military family education liaison, who shall serve as a member of the council after his or her appointment pursuant to subsection (3) of this section; and
- (b) The following members appointed by the State Board of Education:
- (i) The superintendent of a school district that has a high concentration of children of military families; and
 - (ii) A representative of a military installation located in this state.
- (2) The members of the council appointed by the State Board of Education shall serve three-year terms. Vacancies in the council shall be filled in the same manner as the initial appointments. The members of the council shall be reimbursed for expenses as provided in sections 81-1174 to 81-1177.
- (3) The council shall have the following duties:
- (a) To advise the department with regard to the state's participation in and compliance with the Interstate Compact on Educational Opportunity for Military Children; and
 - (b) To appoint a military family education liaison to assist families and the state in implementing the compact.
- (4) When the council holds a single meeting in a calendar year, that meeting may be held by virtual conferencing as defined in section 84-1409.

Source: Laws 2011, LB575, § 4; Laws 2015, LB525, § 31; Laws 2020, LB381, § 97; Laws 2021, LB83, § 9.
Effective date April 22, 2021.

ARTICLE 26

NEBRASKA READING IMPROVEMENT ACT

Section

- 79-2603. Approved reading assessment; school district administer.
79-2605. Supplemental reading intervention program; school district; duties.
79-2606. Notification to parent or guardian; individualized reading improvement plan.

79-2603 Approved reading assessment; school district administer.

(1) Each school district shall administer an approved reading assessment three times during the school year to all students in kindergarten through grade three, except for any student receiving specialized instruction for limited English proficiency who has been receiving such instruction for less than two years, any student receiving special education services for whom such assessment would conflict with the individualized education plan, and any student receiving services under a plan pursuant to the requirements of section 504 of the federal Rehabilitation Act of 1973, 29 U.S.C. 794, or Title II of the federal Americans with Disabilities Act of 1990, 42 U.S.C. 12131 to 12165, as such acts and sections existed on January 1, 2021, for whom such assessment would conflict with such section 504 or Title II plan. The first administration of such assessment for kindergarten students shall occur within the first forty-five

calendar days that school is in session of each school year and for all other grades within the first thirty calendar days that school is in session of each school year.

(2) For purposes of the Nebraska Reading Improvement Act, an approved reading assessment means an assessment of student reading skills approved by the State Department of Education which:

(a) Measures progress toward proficiency in the reading skills assessed pursuant to subsection (5) of section 79-760.03 on the statewide assessment of reading for grade three;

(b) Is valid and reliable;

(c) Is aligned with academic content standards for reading adopted by either the State Board of Education pursuant to section 79-760.01 or the school district administering such assessment pursuant to section 79-760.02;

(d) Allows teachers access to results in a reasonable time period as established by the department, not to exceed fifteen contract days; and

(e) Is commercially available and complies with requirements established by the department.

(3) On or before March 1, 2019, and on or before each March 1 thereafter, the department shall make public the list of approved reading assessments for the subsequent school year and the threshold level of performance for each such assessment. A student performing below the threshold level shall be identified as having a reading deficiency for purposes of the Nebraska Reading Improvement Act.

(4) Diagnostic assessments used within a supplemental reading intervention program do not require department approval.

Source: Laws 2018, LB1081, § 22; Laws 2021, LB528, § 48.

Operative date August 28, 2021.

79-2605 Supplemental reading intervention program; school district; duties.

(1) Each school district shall provide a supplemental reading intervention program for the purpose of ensuring that students can read at or above grade level at the end of third grade. School districts may work collaboratively with a reading specialist at the State Department of Education, with educational service units, with learning communities, or through interlocal agreements to develop and provide such supplemental reading intervention programs. Each supplemental reading intervention program shall be:

(a) Provided to any student identified as having a reading deficiency;

(b) Implemented during regular school hours in addition to regularly scheduled reading instruction unless otherwise agreed to by a parent or guardian; and

(c) Made available as a summer reading program between each school year for any student who has been enrolled in grade one, grade two, or grade three or in a higher grade and is identified as continuing to have a reading deficiency at the conclusion of the school year preceding such summer reading program. Such summer reading program may be (i) held in conjunction with existing summer programs in the school district, (ii) held in a community reading program not affiliated with the school district, or (iii) offered online.

(2) The supplemental reading intervention program may also include:

- (a) Reading intervention practices that are evidence-based;
- (b) Diagnostic assessments to identify specific skill-based strengths and weaknesses a student may have;
- (c) Frequent monitoring of student progress throughout the school year with instruction adjusted accordingly;
- (d) Intensive intervention using strategies selected from the following list to match the weaknesses identified in the diagnostic assessment:
 - (i) Development in phonemic awareness, phonics, fluency, vocabulary, and reading comprehension;
 - (ii) Explicit and systematic instruction with detailed explanations, extensive opportunities for guided practice, and opportunities for error corrections and feedback; or
 - (iii) Daily targeted individual or small-group reading intervention based on student needs as determined by diagnostic assessment data subject to planned extracurricular school activities;
- (e) Strategies and resources to assist with reading skills at home, including parent-training workshops and suggestions for parent-guided home reading; or
- (f) Access to before-school or after-school supplemental reading intervention with a teacher or tutor who has specialized training in reading intervention.

Source: Laws 2018, LB1081, § 24; Laws 2021, LB528, § 49.

Operative date August 28, 2021.

79-2606 Notification to parent or guardian; individualized reading improvement plan.

(1) The school of any student who is identified as having a reading deficiency shall notify such student's parents or guardians either in writing or by electronic communication no later than fifteen working days after the identification of the reading deficiency that the student has been identified as having a reading deficiency and that an individualized reading improvement plan will be established and shared with the parents or guardians.

(2) Any student who is identified as having a reading deficiency shall receive an individualized reading improvement plan, which shall include a supplemental reading intervention program, no later than thirty days after the identification of such reading deficiency. The reading improvement plan may be created by the teacher, the principal, other pertinent school personnel, and the parents or guardians of the student and shall describe the reading intervention services the student will receive through the supplemental reading intervention program pursuant to section 79-2605 to remedy such reading deficiency. Each such student shall receive reading intervention services through the supplemental reading intervention program pursuant to section 79-2605 until the student is no longer identified as having a reading deficiency.

Source: Laws 2018, LB1081, § 25; Laws 2021, LB528, § 50.

Operative date August 28, 2021.

ARTICLE 28

PURPLE STAR SCHOOLS ACT

Section
79-2801. Act, how cited.

Section

79-2802. Terms, defined.

79-2803. Purple star school; annual designation; qualifications.

79-2804. Rules and regulations.

79-2801 Act, how cited.

Sections 79-2801 to 79-2804 shall be known and may be cited as the Purple Star Schools Act.

Source: Laws 2021, LB5, § 1.

Effective date August 28, 2021.

79-2802 Terms, defined.

For purposes of the Purple Star Schools Act:

(1) Military-connected student means a student who:

(a) Is a dependent of a current or former member or reserve member serving in the Nebraska National Guard or the United States Army, Navy, Air Force, Marine Corps, Coast Guard, or Space Force; or

(b) Was a dependent of a member or reserve member who served in the Nebraska National Guard or the United States Army, Navy, Air Force, Marine Corps, Coast Guard, or Space Force who was killed in the line of duty during such service; and

(2) School means any public, private, denominational, or parochial school in this state.

Source: Laws 2021, LB5, § 2.

Effective date August 28, 2021.

79-2803 Purple star school; annual designation; qualifications.

(1) The State Board of Education may annually designate any school as a purple star school if such school applies for such designation in the manner prescribed by the board and meets the qualifications in subsection (2) of this section.

(2) To qualify as a purple star school, a school shall:

(a) Designate a staff member as a military liaison, whose duties shall include, but not be limited to:

(i) Identifying military-connected students enrolled in the school;

(ii) Serving as a point of contact in the school for military-connected students and their families;

(iii) Determining the appropriate school services available to military-connected students; and

(iv) Assisting in the coordination of school programs relevant to military-connected students;

(b) Maintain an easily accessible web page on the school's website that includes resources for military-connected students and their families, including information regarding:

(i) Relocation to, enrollment at, registration at, and transferring records to the school;

(ii) Academic planning, course sequences, and advanced classes available at the school;

(iii) Counseling and other support services available for military-connected students enrolled at the school; and

(iv) Contact information for the military liaison designated under subdivision (2)(a) of this section and the duties of the military liaison under such subdivision;

(c) Maintain a transition program led by students, where appropriate, that assists military-connected students in transitioning into the school;

(d) Offer professional development for staff members on issues related to military-connected students; and

(e) Do at least one of the following:

(i) Post a resolution showing support for military-connected students and their families on the school's website;

(ii) Recognize April as the Military Child Month or November as Military Family Month with relevant events hosted by the school; or

(iii) Partner with a local military installation that provides opportunities for active duty military members to volunteer at the school, speak at an assembly, or host field trips for students.

(3) A public school may partner with its school district to comply with requirements under subdivision (2)(b), (d), or (e) of this section.

Source: Laws 2021, LB5, § 3.
Effective date August 28, 2021.

79-2804 Rules and regulations.

The State Board of Education may adopt and promulgate rules and regulations to carry out the Purple Star Schools Act.

Source: Laws 2021, LB5, § 4.
Effective date August 28, 2021.

ARTICLE 29

NEBRASKA FARM-TO-SCHOOL PROGRAM ACT

Section

79-2901. Act, how cited.

79-2902. Terms, defined.

79-2903. Farm-to-school program; established.

79-2904. Farm-to-school program; purpose; activities.

79-2905. State Department of Education; employ coordinator; duties.

79-2906. Department of Agriculture; State Department of Education; cooperation.

79-2907. Funding; legislative intent.

79-2901 Act, how cited.

Sections 79-2901 to 79-2907 shall be known and may be cited as the Nebraska Farm-to-School Program Act.

Source: Laws 2021, LB396, § 1.
Effective date August 28, 2021.

79-2902 Terms, defined.

For purposes of sections 79-2901 to 79-2907:

- (1) Food means an agricultural commodity or product, whether raw or processed, that is produced and marketed for human consumption; and
- (2) Program means the Nebraska farm-to-school program as established in section 79-2903.

Source: Laws 2021, LB396, § 2.

Effective date August 28, 2021.

79-2903 Farm-to-school program; established.

A Nebraska farm-to-school program is established to be administered on a statewide basis by the State Department of Education.

Source: Laws 2021, LB396, § 3.

Effective date August 28, 2021.

79-2904 Farm-to-school program; purpose; activities.

(1) The program shall provide for the purchase of locally and regionally produced or processed food in order to improve child nutrition and strengthen local and regional farm economies.

(2) The program shall link elementary and secondary public and nonpublic schools in this state with Nebraska farms in a manner that provides schools with fresh and minimally processed food for inclusion in school meals and snacks, encourages children to develop healthy eating habits, and improves the incomes of Nebraska farmers who will enjoy direct access to consumer markets.

(3) The program may include activities that provide students with hands-on learning opportunities, including, but not limited to, farm visits, cooking demonstrations, and school gardening and composting programs, and that integrate nutrition and agricultural education into the school curricula.

Source: Laws 2021, LB396, § 4.

Effective date August 28, 2021.

79-2905 State Department of Education; employ coordinator; duties.

The State Department of Education shall employ a coordinator to administer the program. The duties of such coordinator shall include:

(1) Identifying and promoting the critical ways for local communities to participate in the program and advise communities on needed strategies, plans, and action to administer the program;

(2) Establishing a partnership with public agencies and nonprofit organizations to implement a public engagement campaign and establish a structure to facilitate communication between farmers and schools;

(3) Providing leadership at the state level to encourage schools to develop and improve school nutrition plans using locally or regionally grown or locally or regionally processed food;

(4) Conducting workshops and training sessions and providing technical assistance to school food services, farmers, processors, and distributors regarding the demand for and the availability of Nebraska food products, and assisting persons seeking to participate in the program;

(5) Providing information regarding the program in an electronic format on the websites for the State Department of Education and the Department of Agriculture; and

(6) Seeking financial or in-kind contributions to support the program.

Source: Laws 2021, LB396, § 5.
Effective date August 28, 2021.

79-2906 Department of Agriculture; State Department of Education; cooperation.

The Department of Agriculture and the State Department of Education shall cooperate in administering the program and shall each provide professional consultation and staff support.

Source: Laws 2021, LB396, § 6.
Effective date August 28, 2021.

79-2907 Funding; legislative intent.

It is the intent of the Legislature to appropriate one hundred thousand dollars from the General Fund to the State Department of Education each fiscal year. Such funds shall be used for purposes of supporting the program, including, but not limited to, salaries, support, maintenance, and miscellaneous purposes.

Source: Laws 2021, LB396, § 7.
Effective date August 28, 2021.

ARTICLE 30

FINANCIAL LITERACY ACT

Section

- 79-3001. Act, how cited.
- 79-3002. Financial literacy, defined.
- 79-3003. Financial literacy instruction; required; high school course; requirements.
- 79-3004. Annual financial literacy status report.

79-3001 Act, how cited.

Sections 79-3001 to 79-3004 shall be known and may be cited as the Financial Literacy Act.

Source: Laws 2021, LB452, § 1.
Effective date August 28, 2021.

79-3002 Financial literacy, defined.

For purposes of the Financial Literacy Act, financial literacy includes, but is not limited to, knowledge and skills regarding budget and financial record keeping; banking; taxes; establishing, building, maintaining, and monitoring credit; debt; savings; risk management; insurance; and investment strategies.

Source: Laws 2021, LB452, § 2.
Effective date August 28, 2021.

79-3003 Financial literacy instruction; required; high school course; requirements.

Beginning with school year 2023-24, each school district, in consultation with the State Department of Education, shall include financial literacy instruc-

tion, as appropriate, in the instructional program of its elementary and middle schools and require each student to complete at least one five-credit high school course in personal finance or financial literacy prior to graduation.

Source: Laws 2021, LB452, § 3.
Effective date August 28, 2021.

79-3004 Annual financial literacy status report.

On or before December 31, 2024, and on or before December 31 of each year thereafter, in order to promote and support financial literacy education, each school district shall provide an annual financial literacy status report to its school board, including, but not limited to, student progress in financial literacy courses and other district determined measures of financial literacy progress from the previous school year.

Source: Laws 2021, LB452, § 4.
Effective date August 28, 2021.

ARTICLE 31

SCHOOL SAFETY AND SECURITY REPORTING SYSTEM ACT

Section

- 79-3101. Act, how cited.
- 79-3102. Legislative findings.
- 79-3103. Terms, defined.
- 79-3104. Safe2HelpNE report line; department; duties; contact; confidentiality; report line staff; duties.
- 79-3105. Threat assessment team; training.
- 79-3106. Funding; legislative intent; report.
- 79-3107. Rules and regulations.

79-3101 Act, how cited.

Sections 79-3101 to 79-3107 shall be known and may be cited as the School Safety and Security Reporting System Act.

Source: Laws 2021, LB322, § 1.
Operative date July 1, 2021.

79-3102 Legislative findings.

The Legislature finds that the COVID-19 pandemic has impacted the health and well-being of students throughout Nebraska, resulting in the need for a scalable support system and report line to enhance the safety and well-being of students in each elementary and secondary school.

Source: Laws 2021, LB322, § 2.
Operative date July 1, 2021.

79-3103 Terms, defined.

For purposes of the School Safety and Security Reporting System Act:

(1) Concerning behavior includes, but is not limited to, suicide, bullying, stalking behavior, cyber or electronic harassment, bomb threat, family violence, physical or sexual abuse, threat to property, behavior indicative of terrorism, assault or attack, inappropriate weapons use, concern about mental health or substance use, sexual exploitation or predation, and any direct or indirect threatening statement;

(2) Department means the State Department of Education or the state school security director;

(3) Mental health professional means a school psychologist, social worker, or licensed mental health professional;

(4) Report line staff means the staff of the Safe2HelpNE report line as provided in subsection (4) of section 79-3104;

(5) Safe2HelpNE report line means the reporting system established pursuant to section 79-3104;

(6) Threat assessment means an evidence-based process to reduce potential risks and incidents of violence resulting in harm to one or more persons or school property; and

(7) Threat assessment team means a school-based team of at least five members who have completed the training required pursuant to section 79-3105 and includes, but is not limited to, the principal or principal's designee, a mental health professional, and a member of the school staff.

Source: Laws 2021, LB322, § 3.

Operative date July 1, 2021.

79-3104 Safe2HelpNE report line; department; duties; contact; confidentiality; report line staff; duties.

(1) The department shall establish the Safe2HelpNE report line as a state-wide, anonymous reporting system to support threat assessment teams and reduce potential risks and incidents of violence resulting in harm to self, others, or school property.

(2) The Safe2HelpNE report line shall be multi-modal to allow students, school staff, parents, and community members to anonymously report concerns and information about concerning behavior or possible harm to persons or property by telephone call, mobile application, website, or email without charge. The Safe2HelpNE report line shall be available to any public or nonpublic school that has a threat assessment team and that maintains a current list of the contact information for at least five team members designated to receive alerts from staff at any time of the day or night.

(3) Except as otherwise required by law, the identity of any individual who contacts the Safe2HelpNE report line shall be confidential and shall not be revealed.

(4) The Safe2HelpNE report line shall be staffed seven days per week and twenty-four hours per day by professionals trained to receive concerns, use de-escalation techniques to minimize law enforcement involvement, and alert the appropriate threat assessment team for review, assessment, and action to protect persons and property. The report line staff shall also be trained in threat assessment and management processes, suicide prevention, recognizing mental illness and emotional disturbance, and applicable confidentiality and privacy laws. The report line staff shall have access to clinical consultation and support seven days per week and twenty-four hours per day from a licensed mental health professional.

(5) The report line staff shall immediately alert the appropriate threat assessment team of any concern directly regarding a student, school staff member, or school property or that is likely to impact a student, school staff member, or school property. If there is an immediate life safety concern,

emergency services shall be contacted prior to any threat assessment team. Each alert that is not referred to emergency services, law enforcement, or child protective services shall be assessed by the threat assessment team receiving such alert. If a threat assessment team decides a report regarding a student is credible, a representative of the school administration shall, within a reasonable period of time, attempt to notify a parent or guardian of the student except when such notification could reasonably be believed to contribute to the endangerment of the student or others. Such notification or attempted notification shall be documented in a manner prescribed by the department.

(6) The department shall track and evaluate the effectiveness and usage of the Safe2HelpNE report line. The report line staff shall report the number of calls received, disposition of calls, referrals made to threat assessment teams, and other metrics as determined by and in the manner prescribed by the department.

(7) Any information or material in the possession of the threat assessment team shall remain separate from educational records and shall be considered security records.

Source: Laws 2021, LB322, § 4.
Operative date July 1, 2021.

79-3105 Threat assessment team; training.

The department shall provide training for the members of any threat assessment team serving a public or nonpublic school. Such training shall provide the knowledge and skill to allow threat assessment teams to work collaboratively to conduct threat assessments, engage in crisis intervention, increase awareness of concerning behavior among school staff, students, and the public, and interrupt violence in the planning stage to thwart potential harm to persons and property.

Source: Laws 2021, LB322, § 5.
Operative date July 1, 2021.

79-3106 Funding; legislative intent; report.

It is the intent of the Legislature that federal funds shall be used to implement the School Safety and Security Reporting System Act for fiscal years 2021-22, 2022-23, and 2023-24. The Commissioner of Education shall electronically report data, a cost-benefit analysis, and a funding recommendation regarding the continued viability of the Safe2HelpNE report line to the Appropriations Committee of the Legislature and the Education Committee of the Legislature on or before January 5, 2024.

Source: Laws 2021, LB322, § 6.
Operative date July 1, 2021.

79-3107 Rules and regulations.

The department may adopt and promulgate rules and regulations to carry out the School Safety and Security Reporting System Act.

Source: Laws 2021, LB322, § 7.
Operative date July 1, 2021.

ARTICLE 32

SEIZURE SAFE SCHOOLS ACT

Section

- 79-3201. Act, how cited.
79-3202. Seizure action plan, defined.
79-3203. Seizure rescue medication; medication prescribed to treat seizure disorder symptoms; school employee; training; requirements; administration; parent or guardian; authorization, statement, seizure action plan.
79-3204. Seizure disorder materials; review by school employees; when required.
79-3205. Seizure action plan; student; permission granted.
79-3206. School; school employee; immunity.
79-3207. Rules and regulations.

79-3201 Act, how cited.

Sections 79-3201 to 79-3207 shall be known and may be cited as the Seizure Safe Schools Act.

Source: Laws 2021, LB639, § 1.
Effective date August 28, 2021.

79-3202 Seizure action plan, defined.

For purposes of the Seizure Safe Schools Act, seizure action plan means a written, individualized health plan designed to acknowledge and prepare for the health care needs of a student diagnosed with a seizure disorder.

Source: Laws 2021, LB639, § 2.
Effective date August 28, 2021.

79-3203 Seizure rescue medication; medication prescribed to treat seizure disorder symptoms; school employee; training; requirements; administration; parent or guardian; authorization, statement, seizure action plan.

(1)(a) For school year 2022-23 and each school year thereafter, each approved or accredited public, private, denominational, or parochial school shall have at least one school employee at each school who has met the training requirements necessary to administer or assist with the self-administration of a seizure rescue medication or medication prescribed to treat seizure disorder symptoms as approved by the United States Food and Drug Administration.

(b) For a school employee assigned the duties under subdivision (a) of this subsection, the training shall include instruction in administering seizure medications, recognizing the signs and symptoms of seizures, and responding to such signs and symptoms with the appropriate steps.

(c) Any training programs or guidelines adopted by any state agency for the training of school employees under this subsection shall be consistent with training programs and guidelines developed by a nationally recognized organization focused on epilepsy.

(2) Prior to the administration of a seizure rescue medication or medication prescribed to treat seizure disorder symptoms by a school employee, a student's parent or guardian shall:

(a) Provide the school with a written authorization to administer the medication at school;

(b) Provide a written statement from the student's health care practitioner containing the following information:

- (i) The student's name;
 - (ii) The name and purpose of the medication;
 - (iii) The prescribed dosage;
 - (iv) The route of administration;
 - (v) The frequency that the medication may be administered; and
 - (vi) The circumstances under which the medication may be administered;
- (c) Provide the medication to the school in its unopened, sealed package with the intact label affixed by the dispensing pharmacy; and
- (d) Collaborate with school employees to create a seizure action plan.

(3)(a) The authorization, statement, and seizure action plan required in subsection (2) of this section shall be kept on file in the office of the school nurse or school administrator.

(b) Each seizure action plan shall be distributed to any school personnel or volunteers responsible for the supervision or care of the student for whom such seizure action plan was created.

(4) Any authorization provided by a parent or guardian under this section shall be effective for the school year in which it is provided and shall be renewed each following school year upon fulfilling the requirements of subsection (2) of this section.

(5) The requirements of this section shall apply only to schools that have a student enrolled who has a seizure disorder and has a seizure rescue medication or medication prescribed to treat seizure disorder symptoms.

Source: Laws 2021, LB639, § 3.

Effective date August 28, 2021.

79-3204 Seizure disorder materials; review by school employees; when required.

Beginning with school year 2022-23, in addition to any other professional development and collegial planning activities for certificated school employees, each certificated school employee shall participate in a minimum of one hour of self-study review of seizure disorder materials at least once in every two school years.

Source: Laws 2021, LB639, § 4.

Effective date August 28, 2021.

79-3205 Seizure action plan; student; permission granted.

If specified in a student's seizure action plan, such student shall be permitted to possess the supplies, equipment, and medication necessary to treat a seizure disorder in accordance with such seizure action plan.

Source: Laws 2021, LB639, § 5.

Effective date August 28, 2021.

79-3206 School; school employee; immunity.

(1) A school or school employee who acts in compliance with the Seizure Safe Schools Act shall not be liable for damages related to the care of a

student's seizure disorder unless such damages resulted from an act of willful or wanton misconduct by the school or school employee.

(2) A school employee shall not be subject to any disciplinary proceeding related to an act taken in compliance with the Seizure Safe Schools Act unless such action constitutes willful or wanton misconduct.

Source: Laws 2021, LB639, § 6.
Effective date August 28, 2021.

79-3207 Rules and regulations.

The State Board of Education shall adopt and promulgate rules and regulations to carry out the Seizure Safe Schools Act, including, but not limited to:

- (1) Requirements for training programs for school employees;
- (2) Procedures for the development of seizure action plans; and
- (3) The content of seizure action plans.

Source: Laws 2021, LB639, § 7.
Effective date August 28, 2021.

CHAPTER 80

SERVICEMEMBERS AND VETERANS

Article.

1. County Veterans Service Committee. 80-107.
4. Veterans Aid. 80-414.
9. Education Assistance for Military Personnel. 80-901 to 80-903.

ARTICLE 1

COUNTY VETERANS SERVICE COMMITTEE

Section

80-107. Veterans graves, markers; furnish, when.

80-107 Veterans graves, markers; furnish, when.

(1) The county boards of the several counties in this state shall, upon the application of the county veterans service committee, procure for and furnish to such committee some suitable and appropriate metal marker for the grave of each and every person described in subsection (2) of this section, to be placed on the grave of such soldier for the purpose of permanently marking and designating the grave for memorial purposes.

(2) A grave shall be marked pursuant to this section if the deceased person:

- (a)(i) Served in the active duty armed forces of the United States or the reserve forces of the United States;
- (ii) Served in the Nebraska National Guard in active duty federal service; or
- (iii) Served in the Nebraska National Guard on or after July 1, 1973;
- (b) Was discharged or otherwise separated with a characterization of honorable or general (under honorable conditions); and
- (c) Is buried within the county.

Source: Laws 1909, c. 135, § 1, p. 483; R.S.1913, § 7161; C.S.1922, § 6807; C.S.1929, § 80-110; R.S.1943, § 80-107; Laws 1953, c. 324, § 6, p. 1073; Laws 2005, LB 54, § 25; Laws 2021, LB261, § 1.

Effective date August 28, 2021.

ARTICLE 4

VETERANS AID

Section

80-414. Department of Veterans' Affairs; create and maintain registry; contents; military license plates; veteran designation on operator's license or state identification card; eligibility.

80-414 Department of Veterans' Affairs; create and maintain registry; contents; military license plates; veteran designation on operator's license or state identification card; eligibility.

(1) The Department of Veterans' Affairs shall create and maintain a registry of residents of Nebraska who meet the requirements for:

- (a) Gold Star Family license plates under section 60-3,122.02;
- (b) Military Honor Plates under section 60-3,122.04;
- (c) Prisoner-of-war license plates under section 60-3,123;
- (d) Disabled veteran license plates under section 60-3,124;
- (e) Purple Heart license plates under section 60-3,125; and
- (f) A veteran designation on an operator's license or a state identification card under section 60-4,189.

(2) 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 a license plate or designation listed in subsection (1) of this section. 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.

(3) Any resident of Nebraska who meets the requirements for a license plate or designation listed in subsection (1) of this section shall register with the Department of Veterans' Affairs using the registry created by this section before being eligible for such license plate or designation. No person shall be deemed eligible until his or her status has been verified on the registry.

(4) 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 a license plate or designation listed in subsection (1) of this section.

(5) The eligibility requirements described in section 60-4,189 that are used in determining eligibility for a veteran designation on an operator's license or a state identification card shall apply only for purposes of such section and shall not apply in determining veteran status for any other purpose.

Source: Laws 2013, LB93, § 6; Laws 2014, LB383, § 11; Laws 2017, LB45, § 3; Laws 2019, LB192, § 5; Laws 2021, LB78, § 5.
Operative date January 1, 2022.

ARTICLE 9

EDUCATION ASSISTANCE FOR MILITARY PERSONNEL

Section

- 80-901. Member of Active Selected Reserve; tuition credit; amount; duration.
- 80-902. Tuition credit; conditions.
- 80-903. Member of Active Selected Reserve; responsibility to obtain certificate of performance; prerequisite to tuition credit.

80-901 Member of Active Selected Reserve; tuition credit; amount; duration.

Any Nebraska resident who is a member of a Nebraska-based unit of the Active Selected Reserve of the armed forces of the United States, who meets the requirements set forth in section 80-902 and complies with section 80-903, and who enrolls in any state-supported university, college, or community college in this state shall be entitled to a credit of (1) seventy-five percent of the resident tuition charges of such school for a diploma, certificate, associate degree, or

baccalaureate degree program or (2) fifty percent of the resident tuition charges of such school for a graduate or professional degree program. Such entitlement shall be continuous so long as the member maintains satisfactory service in the Active Selected Reserve and pursues a course of study in a manner which satisfies the normal requirements of the university, college, or community college.

Source: Laws 1976, LB 266, § 1; Laws 2021, LB4, § 1.
Effective date August 28, 2021.

80-902 Tuition credit; conditions.

(1) In order to qualify for the tuition credit provided for in section 80-901, a member of the Active Selected Reserve shall have agreed to serve a minimum of three years in the reserve and pursue a course of study leading to a diploma, certificate, associate degree, baccalaureate degree, graduate degree, or professional degree.

(2) There shall be no lifetime limit on tuition credit for any qualifying member.

(3) Such entitlement shall not be granted to more than two hundred individuals in any calendar year.

Source: Laws 1976, LB 266, § 2; Laws 2021, LB4, § 2.
Effective date August 28, 2021.

80-903 Member of Active Selected Reserve; responsibility to obtain certificate of performance; prerequisite to tuition credit.

It shall be the responsibility of the individual member of the Active Selected Reserve to obtain a certificate from the member's commanding officer attesting to the member's satisfactory performance and to submit it to the Director of Veterans' Affairs who, if finding that granting the entitlement will not exceed the limitation of entitlements provided in section 80-902, shall endorse the certificate of performance as approved and return it to the member for presentation to the college or university in order to obtain tuition credit upon initial enrollment. Such certification, without the necessity of endorsement by the Director of Veterans' Affairs, shall be accomplished and presented at the time of enrollment for each subsequent term for which tuition credit is requested.

Source: Laws 1976, LB 266, § 3; Laws 2021, LB4, § 3.
Effective date August 28, 2021.

STATE ADMINISTRATIVE DEPARTMENTS

CHAPTER 81
STATE ADMINISTRATIVE DEPARTMENTS

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ARTICLE 1

THE GOVERNOR AND ADMINISTRATIVE DEPARTMENTS

(a) GENERAL PROVISIONS

Section

81-118. Departments; receipts; payment to treasury; expenditures; when authorized.

(a) GENERAL PROVISIONS

81-118 Departments; receipts; payment to treasury; expenditures; when authorized.

The gross amount of money received by every department, from whatever source, belonging to or for the use of the state, shall be paid into the state treasury in accordance with section 84-710, without any deduction on account of salaries, fees, costs, charges, expenses, or claims of any description whatever. No money belonging to or for the use of the state shall be expended or applied by any department except in consequence of an appropriation made by law and upon the warrant of the Director of Administrative Services.

Source: Laws 1919, c. 190, § 19, p. 440; C.S.1922, § 7260; C.S.1929, § 81-120; R.S.1943, § 81-118; Laws 2021, LB509, § 19.
Effective date August 28, 2021.

ARTICLE 2**DEPARTMENT OF AGRICULTURE**

(n) COMMERCIAL FERTILIZER AND SOIL CONDITIONER

Section

81-2,162.06. Commercial fertilizer and soil conditioner; inspection fee; amount; tonnage report; additional administrative fee; confidential information.

(n) COMMERCIAL FERTILIZER AND SOIL CONDITIONER

81-2,162.06 Commercial fertilizer and soil conditioner; inspection fee; amount; tonnage report; additional administrative fee; confidential information.

(1) There shall be paid to the director, for all commercial fertilizers and soil conditioners distributed in this state to the ultimate user, except custom-blended products, an inspection fee at the rate fixed by the director but not exceeding fifteen cents per ton. The fee shall be paid by the person distributing the product to the ultimate user.

(2) The director may increase or decrease the inspection fee each July 1, but such fee shall not exceed the maximum rate established in subsection (1) of this section. The director shall determine the fee based on the estimated annual revenue and fiscal year-end fund balance determined as follows:

(a) The estimated annual revenue shall not be greater than one hundred seven percent of the program cash fund appropriations allocated for the Nebraska Commercial Fertilizer and Soil Conditioner Act; and

(b) The estimated fiscal year-end cash fund balance shall not be greater than seventeen percent of the program cash fund appropriations allocated for the Nebraska Commercial Fertilizer and Soil Conditioner Act.

(3) Payment of the inspection fee shall be evidenced by a statement made with documents showing that fees corresponding to the tonnage were received by the director.

(4) Every person who distributes commercial fertilizer or soil conditioners to the ultimate user in this state shall file, not later than the last day of January and July of each year, a semiannual tonnage report on forms provided by the department setting forth the number of net tons of commercial fertilizer and soil conditioners distributed in this state during the preceding six-month

period, which report shall cover the periods from July 1 to December 31 and January 1 to June 30, and such other information as the director shall deem necessary. All persons required to be licensed pursuant to the Nebraska Commercial Fertilizer and Soil Conditioner Act shall file such report regardless of whether any inspection fee is due. Upon filing the report, such person shall pay the inspection fee at the rate prescribed pursuant to subsection (1) of this section. The minimum inspection fee required pursuant to this section shall be five dollars, and no inspection fee shall be paid more than once for any one product.

(5) If a person fails to report and pay the fee required by subsection (4) of this section by January 31 and July 31, the fee shall be considered delinquent and the person owing the fee shall pay an additional administrative fee of twenty-five percent of the delinquent amount for each month it remains unpaid, not to exceed one hundred percent of the original amount due. The department may waive the additional administrative fee based upon the existence and extent of any mitigating circumstances that have resulted in the late payment of such fee. The purpose of the additional administrative fee is to cover the administrative costs associated with collecting fees and all money collected as an additional administrative fee shall be remitted to the State Treasurer for credit to the Fertilizers and Soil Conditioners Administrative Fund. Failure to make an accurate statement of tonnage or to pay the inspection fee or comply as provided in this subsection shall constitute sufficient cause for the cancellation of all product registrations, licenses, or both on file for such person.

(6) No information furnished to the department under this section shall be disclosed in such a way as to reveal the operation of any person.

Source: Laws 1955, c. 334, § 6, p. 1041; Laws 1965, c. 8, § 47, p. 117; Laws 1969, c. 791, § 2, p. 2996; Laws 1975, LB 333, § 6; Laws 1977, LB 91, § 3; Laws 1980, LB 889, § 4; Laws 1989, LB 38, § 7; Laws 1992, LB 366, § 29; Laws 2015, LB93, § 4; Laws 2021, LB90, § 2.

Effective date August 28, 2021.

ARTICLE 5

STATE FIRE MARSHAL

(b) GENERAL PROVISIONS

Section	
81-502.	State Fire Marshal; fire prevention and safety; duties; delegation of authority to local fire prevention personnel.
81-503.01.	State Fire Code; State Fire Marshal; duties; contents; enforcement; plans; review; late penalty.
81-505.01.	State Fire Marshal; establish and assess fees; procedures.
81-532.	Firefighters; report regarding; contents.
81-534.	Repealed. Laws 2021, LB37, § 8.
81-538.	Violations; penalty.

(c) NATURAL GAS PIPELINE SAFETY

81-551.	State Fire Marshal; duties; powers.
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(g) SMOKE DETECTORS

81-5,136.	Repealed. Laws 2021, LB37, § 8.
81-5,137.	Repealed. Laws 2021, LB37, § 8.

(k) BOILER INSPECTION ACT

81-5,167.	State boiler inspector; deputy inspectors; qualifications; bond or insurance.
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(b) GENERAL PROVISIONS

81-502 State Fire Marshal; fire prevention and safety; duties; delegation of authority to local fire prevention personnel.

(1) It shall be the duty of the State Fire Marshal, under authority of the Governor:

(a) To enforce all laws of the state relating to the suppression of arson and investigation of the cause, origin, and circumstances of fires;

(b) To promote safety and reduce loss by fire; and

(c) To make an investigation for fire safety of the premises and facilities of:

(i) Liquor establishments for which a license or renewal of a license is sought, upon request of the Nebraska Liquor Control Commission, pursuant to section 53-119.01;

(ii) Licensed foster care facilities or applicants for licenses for foster care facilities, upon request by the Department of Health and Human Services, pursuant to section 71-1903;

(iii) Upon request of the Department of Health and Human Services, licensed providers of programs or applicants for licenses to provide such programs pursuant to section 71-1913 and licensed residential child-caring agencies or applicants for such licensure pursuant to section 71-1934. The State Fire Marshal shall report the results of the investigation to the department within thirty days after receipt of the request from the department;

(iv) Licensed hospitals, skilled nursing facilities, intermediate care facilities, or other health care facilities which are licensed under the Health Care Facility Licensure Act or applicants for licenses for such facilities or institutions, upon request by the Department of Health and Human Services, pursuant to section 71-441; and

(v) Mobile home parks for which a license or renewal of a license is sought, upon request of the Department of Environment and Energy, pursuant to section 81-15,291.

(2) The State Fire Marshal may enter into contracts with private individuals or other agencies, boards, commissions, or governmental bodies for the purpose of carrying out his or her duties and responsibilities pursuant to the Arson Reporting Immunity Act, the Nebraska Natural Gas Pipeline Safety Act of 1969, and sections 81-502 to 81-538, 81-5,132 to 81-5,146, and 81-5,151 to 81-5,157.

(3) The State Fire Marshal may delegate the authority set forth in this section and section 81-503.01 to qualified local fire prevention personnel. The State Fire Marshal may overrule a decision, act, or policy of the local fire prevention personnel. When the State Fire Marshal overrules the local personnel, such local personnel may follow the appeals procedure established by sections 81-502.01 to 81-502.03. Such delegation of authority may be revoked by the State Fire Marshal for cause upon thirty days' notice after a hearing.

(4) The State Fire Marshal, first assistant fire marshal, and deputies shall have such other powers and perform such other duties as are set forth in sections 81-501.01 to 81-531 and 81-5,151 to 81-5,157 and as may be conferred and imposed by law.

Source: Laws 1925, c. 183, § 2, p. 479; C.S.1929, § 81-5502; R.S.1943, § 81-502; Laws 1947, c. 313, § 1, p. 949; Laws 1967, c. 446, § 3,

p. 1389; Laws 1969, c. 794, § 1, p. 3000; Laws 1972, LB 782, § 1; Laws 1973, LB 180, § 1; Laws 1976, LB 986, § 3; Laws 1981, LB 266, § 2; Laws 1982, LB 792, § 1; Laws 1983, LB 498, § 5; Laws 1984, LB 130, § 15; Laws 1985, LB 253, § 9; Laws 1986, LB 217, § 12; Laws 1987, LB 459, § 6; Laws 1989, LB 215, § 18; Laws 1993, LB 251, § 4; Laws 1993, LB 348, § 79; Laws 1993, LB 377, § 7; Laws 1995, LB 401, § 44; Laws 1996, LB 1044, § 837; Laws 1997, LB 307, § 215; Laws 1999, LB 594, § 70; Laws 2000, LB 819, § 153; Laws 2007, LB296, § 728; Laws 2013, LB265, § 47; Laws 2018, LB889, § 1; Laws 2021, LB148, § 81.

Operative date July 1, 2021.

Cross References

Arson Reporting Immunity Act, see section 81-5,115.

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

Inspection of businesses credentialed under the Uniform Credentialing Act, see section 38-139.

Motor vehicle fuel, aboveground tanks, powers, see section 81-1577.01.

Nebraska Natural Gas Pipeline Safety Act of 1969, see section 81-552.

81-503.01 State Fire Code; State Fire Marshal; duties; contents; enforcement; plans; review; late penalty.

(1) The State Fire Marshal shall adopt and promulgate rules and regulations constituting a State Fire Code. At a minimum, the State Fire Code shall cover:

- (a) The prevention of fires;
- (b) The storage, sale, and use of flammable liquids, combustibles, and fireworks;
- (c) Electrical wiring and heating, protection equipment devices, materials, furnishings, and other safeguards within structures necessary to promote safety and reduce loss by fire;
- (d) The means and adequacy of exits, in case of fire, in assembly, educational, institutional, residential, mercantile, office, storage, and industrial-type occupancies as such structures are defined in the State Fire Code;
- (e) All other buildings, structures, and enclosures in which numbers of persons congregate from time to time for any purpose, whether privately or publicly owned;
- (f) Design, construction, location, installation, and operation of equipment for storing, handling, and utilization of liquefied petroleum gases, specifying the odorization of such gases and the degree thereof;
- (g) Chemicals, prozylin plastics, X-ray nitrocellulose films, or any other hazardous material that may now or hereafter exist;
- (h) Tanks used for the storage of regulated substances pursuant to the Petroleum Products and Hazardous Substances Storage and Handling Act; and
- (i) Accessibility standards and specifications adopted pursuant to section 81-5,147.

(2) Not later than July 1, 2019, the rules and regulations adopted and promulgated as part of the State Fire Code shall conform generally to the standards recommended by the National Fire Protection Association, Pamphlet Number 1, known as the Fire Code, 2012 edition, the National Fire Protection Association, Pamphlet Number 101, known as the Life Safety Code, 2012 edition, and associated pamphlets, but not when doing so would impose an

unduly severe or costly burden without substantially contributing to the safety of persons or property.

(3) The State Fire Marshal shall enforce the State Fire Code through inspections, code compliance, and orders. Plans for compliance with the State Fire Code shall be reviewed by the State Fire Marshal. Plans submitted after remodeling or construction has begun shall be accompanied by a penalty of fifty dollars in addition to the plan review fee established pursuant to subdivision (4)(a) of section 81-505.01.

(4) Rules and regulations adopted and promulgated as part of the State Fire Code shall apply to sites or structures in public ownership listed on the National Register of Historic Places but without destroying the historic quality thereof.

Source: Laws 2018, LB889, § 3; Laws 2021, LB37, § 2.
Effective date August 28, 2021.

Cross References

Petroleum Products and Hazardous Substances Storage and Handling Act, see section 81-15,117.

81-505.01 State Fire Marshal; establish and assess fees; procedures.

(1) The State Fire Marshal shall establish and assess fees not to exceed the actual costs for the performance of services by the State Fire Marshal or by qualified local fire prevention personnel to whom the State Fire Marshal has delegated authority to perform such services. Prior to establishing or altering such fees, the State Fire Marshal shall hold a public hearing on the question of the adoption of or change in fees. Notice of such hearing shall be given at least thirty days prior thereto (a) by publication in a newspaper having general circulation in the state and (b) by notifying in writing the head of any agency or department having jurisdiction over facilities that would be subject to the fees. Fees for services performed by the State Fire Marshal shall be paid to the State Fire Marshal and shall be remitted to the State Treasurer for credit to the State Fire Marshal Cash Fund. Fees for services performed by local fire prevention personnel shall be paid directly to the office of the local fire prevention personnel.

(2) The fee for inspection for fire safety of any premises or facility pursuant to section 81-502 or 81-503.01 shall be not less than twenty-five nor more than one hundred fifty dollars and shall be paid by the licensee or applicant for a license. The fee for inspection for fire safety of the same premises or facility made within twelve months after the last prior inspection shall be not less than twenty-five nor more than one hundred fifty dollars and shall be paid by the licensee or applicant for a license. The fees for inspection for fire safety of foster family homes as defined in section 71-1901 may be paid by the Department of Health and Human Services.

(3) The fee for providing investigation reports to insurance companies shall not exceed three dollars for each report provided. The State Fire Marshal may charge an amount not to exceed the actual cost of preparation for any other approved information release.

(4)(a) The State Fire Marshal shall charge a fee for reviewing plans, blueprints, and shop drawings to determine compliance with rules and regulations adopted and promulgated pursuant to section 81-503.01 or 81-5,147. The State Fire Marshal shall establish such fee in rules and regulations adopted and

promulgated to be effective on January 1, 2022. Such fee shall meet the costs of administering the plan review requirement found in sections 81-503.01 and 81-5,147 but shall not exceed five hundred dollars. The fee schedule as it existed prior to August 28, 2021, shall be used through December 31, 2021.

(b) The fees established pursuant to subdivision (a) of this subsection shall not be assessed or collected by any political subdivision to which the State Fire Marshal has delegated the authority to conduct such review and which reviews plans, blueprints, or shop drawings to determine compliance with such political subdivision's own fire safety regulations. Nothing in this subdivision shall be construed to prohibit such political subdivision from assessing or collecting a fee set by its governing board for such review.

(c) An additional fee equal to fifty percent of the fee charged pursuant to subdivision (a) of this subsection shall be assessed for reviewing plans, blueprints, and shop drawings to determine compliance with the accessibility standards and specifications adopted pursuant to section 81-5,147, except that the additional fee assessed pursuant to this subdivision shall not exceed two hundred fifty dollars.

Source: Laws 1983, LB 498, § 7; Laws 1986, LB 471, § 1; Laws 1988, LB 893, § 10; Laws 1988, LB 930, § 3; Laws 1993, LB 251, § 6; Laws 1993, LB 377, § 8; Laws 1996, LB 1044, § 839; Laws 1997, LB 307, § 216; Laws 2013, LB265, § 48; Laws 2019, LB195, § 3; Laws 2021, LB37, § 3.

Effective date August 28, 2021.

81-532 Firefighters; report regarding; contents.

The State Fire Marshal shall create a report regarding firefighters including the (1) type of department, including fire and rescue and fire only, (2) number of firefighters, including paid, paid per call, and unpaid, (3) department classification, including all paid departments, all volunteer departments, and all combination paid and volunteer departments, and (4) number of fire stations.

Source: Laws 2021, LB432, § 16.

Operative date August 28, 2021.

81-534 Repealed. Laws 2021, LB37, § 8.

81-538 Violations; penalty.

Anyone violating any of the provisions of sections 81-501.01 to 81-531, for which no other specific penalty is provided, shall be deemed guilty of a Class V misdemeanor, and each day's noncompliance shall constitute a separate offense.

Source: Laws 1919, c. 190, tit. V, art. XXI, § 14, p. 749; C.S.1922, § 8158; C.S.1929, § 81-5537; R.S.1943, § 81-538; Laws 1947, c. 313, § 2, p. 950; Laws 1977, LB 39, § 290; Laws 1980, LB 810, § 1; Laws 1985, LB 40, § 1; Laws 2021, LB37, § 4.

Effective date August 28, 2021.

(c) NATURAL GAS PIPELINE SAFETY

81-551 State Fire Marshal; duties; powers.

The duties and powers of the State Fire Marshal and of his or her deputies and assistants prescribed in sections 81-509 to 81-523, 81-526, 81-527, 81-531,

81-538, and 81-5,151 to 81-5,157 and the Petroleum Products and Hazardous Substances Storage and Handling Act shall not be applicable to the Nebraska Natural Gas Pipeline Safety Act of 1969.

Source: Laws 1969, c. 763, § 13, p. 2892; Laws 1986, LB 217, § 14; Laws 1988, LB 893, § 17; Laws 1993, LB 348, § 85; Laws 2021, LB37, § 5.

Effective date August 28, 2021.

Cross References

Petroleum Products and Hazardous Substances Storage and Handling Act, see section 81-15,117.

(g) SMOKE DETECTORS

81-5,136 Repealed. Laws 2021, LB37, § 8.

81-5,137 Repealed. Laws 2021, LB37, § 8.

(k) BOILER INSPECTION ACT

81-5,167 State boiler inspector; deputy inspectors; qualifications; bond or insurance.

(1) The State Fire Marshal shall employ a state boiler inspector who shall work under the direct supervision of the State Fire Marshal or his or her designee. The state boiler inspector shall:

(a) Be a practical boilermaker, technical engineer, operating engineer, or boiler inspector;

(b) Hold an "AI" or "IS" Commission from the National Board of Boiler and Pressure Vessel Inspectors;

(c) Be qualified by not less than ten years' experience in the construction, installation, repair, inspection, or operation of boilers, steam generators, and superheaters;

(d) Have a knowledge of the operation and use of boilers, steam generators, and superheaters for the generating of steam for power, heating, or other purposes; and

(e) Neither directly nor indirectly be interested in the manufacture, ownership, or agency of boilers, steam generators, and superheaters.

(2) The State Fire Marshal may hire deputy inspectors as necessary to carry out the Boiler Inspection Act. Deputy inspectors shall hold an "IS" Commission from the National Board of Boiler and Pressure Vessel Inspectors or acquire the same within twelve months of hire. Such deputy inspectors shall otherwise be subject to and governed by the same rules and regulations applicable to and governing the acts and conduct of the state boiler inspector.

(3) Before entering upon his or her duties under the Boiler Inspection Act, the state boiler inspector and each deputy inspector shall be bonded or insured as required by section 11-201.

Source: Laws 1943, c. 112, § 1, p. 392; R.S.1943, § 48-701; Laws 1978, LB 653, § 12; R.S.1943, (1984), § 48-701; Laws 1987, LB 462, § 3; Laws 1998, LB 395, § 12; Laws 1999, LB 66, § 1; Laws

2004, LB 884, § 23; Laws 2017, LB264, § 1; R.S.Supp.,2018, § 48-721; Laws 2019, LB301, § 3; Laws 2021, LB37, § 6.
Effective date August 28, 2021.

ARTICLE 6

HEALTH AND HUMAN SERVICES

(l) MEDICAL RECORDS AND HEALTH INFORMATION

Section

81-664. Terms, defined.

(r) POPULATION HEALTH INFORMATION

81-6,125. Act; purpose; designated health information exchange; duties; health care facility; health insurance plan; participation required; terms and conditions; individuals; opt out.

(s) HEALTH INFORMATION TECHNOLOGY BOARD

81-6,128. Health Information Technology Board; duties; meetings; annual report.

(l) MEDICAL RECORDS AND HEALTH INFORMATION

81-664 Terms, defined.

For purposes of sections 81-663 to 81-675:

(1) Aggregate data means data contained in the medical record and health information registries maintained by the department which is compiled in a statistical format and which does not include patient-identifying data;

(2) Approved researcher means an individual or entity which is approved by the department pursuant to section 81-666 to obtain access to data contained in the medical record and health information registries maintained by the department to assist in the scientific or medical research for the prevention, cure, or control of a disease or injury process;

(3) Case-specific data means data contained in the medical record and health information registries concerning a specific individual other than patient-identifying data;

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

(5) Medical record and health information registry means the system of reporting certain medical conditions occurring in this state, as prescribed by law, which are reported and recorded in order to achieve the goals of prevention, cure, and control through research and education, and includes the birth defects registry established in section 71-646, the cancer registry established in sections 81-642 to 81-650, the brain injury registry established in the Brain Injury Registry Act, the Parkinson's Disease Registry established in the Parkinson's Disease Registry Act, and the statewide stroke data registry established in the Stroke System of Care Act;

(6) Patient-identifying data means the patient's name, address, record number, symbol, or other identifying particular assigned to or related to an individual patient; and

(7) Research means study specific to the diseases or injuries for which access to data is requested and which is dedicated to the prevention, cure, or control of the diseases or injuries.

Source: Laws 1993, LB 536, § 2; Laws 1996, LB 496, § 17; Laws 1996, LB 1044, § 854; Laws 2001, LB 152, § 3; Laws 2001, LB 209,

§ 34; Laws 2007, LB296, § 744; Laws 2008, LB928, § 41; Laws 2021, LB476, § 3.
Effective date August 28, 2021.

Cross References

Brain Injury Registry Act, see section 81-653.

Parkinson's Disease Registry Act, see section 81-697.

Stroke System of Care Act, see section 71-4201.

(r) POPULATION HEALTH INFORMATION

81-6,125 Act; purpose; designated health information exchange; duties; health care facility; health insurance plan; participation required; terms and conditions; individuals; opt out.

(1) The purpose of the Population Health Information Act is to designate a health information exchange to provide the data infrastructure needed to assist in creating a healthier Nebraska and operating the electronic health records initiative.

(2) The designated health information exchange shall:

(a) Aggregate clinical information from health care entities needed to support the operation of the medical assistance program under the Medical Assistance Act;

(b) Act as the designated entity for purposes of access to and analysis of health data;

(c) Collect and analyze data for purposes of informing the Legislature, the department, health care providers, and health care entities as to the cost of, access to, and quality of health care in Nebraska;

(d) Act as a collector and reporter of public health data for registry submissions, electronic laboratory reporting, immunization reporting, and syndromic surveillance from an electronic health record, which does not include claims data; and

(e) Enable any health care provider or health care entity to access information available within the designated health information exchange to evaluate and monitor care and treatment of a patient in accordance with the privacy and security provisions set forth in the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191.

(3)(a) On or before September 30, 2021, each health care facility listed in subdivision (b) of this subsection shall participate in the designated health information exchange through sharing of clinical information. Such clinical information shall include the clinical data that the health care facility captured in its existing electronic health record as permitted by state and federal laws, rules, and regulations. Any patient health information shared with the designated health information exchange as determined by policies adopted by the Health Information Technology Board shall be provided in accordance with the privacy and security provisions set forth in the federal Health Insurance Portability and Accountability Act of 1996 and regulations adopted under the act.

(b) This subsection applies to an ambulatory surgical center, a critical access hospital, a general acute hospital, a health clinic, a hospital, an intermediate care facility, a long-term care hospital, a mental health substance use treatment center, a PACE center, a pharmacy, a psychiatric or mental hospital, a public

health clinic, or a rehabilitation hospital, as such terms are defined in the Health Care Facility Licensure Act, or a diagnostic, laboratory, or imaging center.

(c) This subsection does not apply to (i) a state-owned or state-operated facility or (ii) an assisted-living facility, a nursing facility, or a skilled nursing facility, as such terms are defined in the Health Care Facility Licensure Act.

(d) Any connection established by July 1, 2021, between a health care facility and the designated health information exchange to facilitate such participation shall be at no cost to the participating health care facility.

(e) A health care facility may apply to the board for a waiver from the requirement to participate under this subsection due to a technological burden. The board shall review the application and determine whether to waive the requirement. If the board waives the requirement for a health care facility, the board shall review the waiver annually to determine if the health care facility continues to qualify for the waiver.

(f) The board shall not require a health care facility to purchase or contract for an electronic records management system or service.

(4)(a) On or before January 1, 2022, each health insurance plan shall participate in the designated health information exchange through sharing of information. Subject to subsection (5) of this section, such information shall be determined by policies adopted by the Health Information Technology Board.

(b) For purposes of this subsection:

(i) Health insurance plan includes any group or individual sickness and accident insurance policy, health maintenance organization contract, subscriber contract, employee medical, surgical, or hospital care benefit plan, or self-funded employee benefit plan to the extent not preempted by federal law; and

(ii) Health insurance plan does not include (A) accident-only, disability-income, hospital confinement indemnity, dental, hearing, vision, or credit insurance, (B) coverage issued as a supplement to liability insurance, (C) insurance provided as a supplement to medicare, (D) insurance arising from workers' compensation provisions, (E) automobile medical payment insurance, (F) insurance policies that provide coverage for a specified disease or any other limited benefit coverage, or (G) insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in any liability insurance policy.

(5) The designated health information exchange and the department shall enter into an agreement to allow the designated health information exchange to collect, aggregate, analyze, report, and release de-identified data, as defined by the federal Health Insurance Portability and Accountability Act of 1996, that is derived from the administration of the medical assistance program. Such written agreement shall be executed no later than September 30, 2021.

(6) In addition to the right to opt out as provided in section 71-2454, an individual shall have the right to opt out of the designated health information exchange or the sharing of information required under subsections (3) and (4) of this section. The designated health information exchange shall adopt a patient opt-out policy consistent with the federal Health Insurance Portability

and Accountability Act of 1996 and other applicable federal requirements. Such policy shall not apply to mandatory public health reporting requirements.

Source: Laws 2020, LB1183, § 3; Laws 2021, LB411, § 1.
Effective date May 25, 2021.

Cross References

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

Medical Assistance Act, see section 68-901.

(s) HEALTH INFORMATION TECHNOLOGY BOARD

81-6,128 Health Information Technology Board; duties; meetings; annual report.

(1) The Health Information Technology Board shall:

(a) Establish criteria for data collection and disbursement by the statewide health information exchange described in section 71-2455 and the prescription drug monitoring program created under section 71-2454 to improve the quality of information provided to clinicians;

(b) Evaluate and ensure that the statewide health information exchange is meeting technological standards for reporting of data for the prescription drug monitoring program, including the data to be collected and reported and the frequency of data collection and disbursement;

(c) Provide the governance oversight necessary to ensure that any health information in the statewide health information exchange and the prescription drug monitoring program may be accessed, used, or disclosed only in accordance with the privacy and security protections set forth in the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, and regulations promulgated thereunder. All protected health information is privileged, is not a public record, and may be withheld from the public pursuant to section 84-712.05; and

(d) Provide recommendations to the statewide health information exchange on any other matters referred to the board.

(2) The board shall adopt policies and procedures necessary to carry out its duties.

(3) The authority of the board to direct the use or release of data under this section or section 71-2454 shall apply only to requests submitted to the board after September 1, 2021.

(4) The board may hold meetings by telecommunication or electronic communication subject to the Open Meetings Act. Any official action or vote of the members of the board shall be preserved in the records of the board.

(5) By November 15, 2021, and November 15 of each year thereafter, the board shall develop and submit an annual report to the Governor and the Health and Human Services Committee of the Legislature regarding considerations undertaken, decisions made, accomplishments, and other relevant information. The report submitted to the Legislature shall be submitted electronically.

Source: Laws 2020, LB1183, § 6; Laws 2021, LB411, § 2.
Effective date May 25, 2021.

Cross References

Open Meetings Act, see section 84-1407.

ARTICLE 8

INDEPENDENT BOARDS AND COMMISSIONS

(j) STATE ATHLETIC COMMISSIONER

Section

- 81-8,129. State Athletic Commissioner; jurisdiction; activities covered.
 81-8,130.01. Professional matches; promoters; licenses and permits; fee.
 81-8,132. Licensee; bond; conditions.
 81-8,133. Referees; license; duties; fee.
 81-8,133.01. Other officials and contestants; license required; fees; revocation of license.
 81-8,134. Boxing, mixed martial arts, kickboxing, bare-knuckle boxing, or sparring matches; rules governing.
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 81-8,138. Contestants; compensation; when payable; fake contests.
 81-8,139. State Athletic Commissioner; rules and regulations; powers; suspension of contestant from competition; fine; hearing; notice.

(v) STATE MISCELLANEOUS CLAIMS ACT

- 81-8,297. State Claims Board; general powers.
 81-8,299. State Claims Board; powers; duties.
 81-8,300.01. Statute of limitation.
 81-8,301. Acceptance of award; effect.

(z) SEMIQUINCENTENNIAL COMMISSION

- 81-8,311. Semiquincentennial Commission; members; vacancy; termination.
 81-8,312. Semiquincentennial Commission; meeting; officers; expenses; powers and duties.
 81-8,313. Semiquincentennial; point of contact; official observance; cooperation required.
 81-8,314. Semiquincentennial Commission Fund; created; use; investment; termination.

(aa) IN THE LINE OF DUTY COMPENSATION ACT

- 81-8,315. Act, how cited.
 81-8,316. Terms, defined.
 81-8,317. Compensation; when paid; amount; treatment; payment to public safety officer's designee or heir; procedure; effect on employer.
 81-8,318. Compensation; claim; requirements; Risk Manager; State Claims Board; powers and duties.
 81-8,319. Rules and regulations.

(j) STATE ATHLETIC COMMISSIONER

81-8,129 State Athletic Commissioner; jurisdiction; activities covered.

The State Athletic Commissioner shall have sole direction, management, control, and jurisdiction over all professional mixed martial arts, professional boxing, professional kickboxing, professional bare-knuckle boxing, and professional sparring matches and exhibitions and all amateur mixed martial arts matches and exhibitions to be held within the state, except such as are conducted by universities, colleges, high schools, the military, and recognized amateur associations for contestants under sixteen years of age. No professional boxers, professional mixed martial arts contestants, professional kickboxers, professional bare-knuckle boxers, or amateur mixed martial arts contestants who have attained the age of sixteen, shall participate in a match or exhibition

for a prize or purse, or at which an admission fee is charged, either directly or indirectly, in the form of dues or otherwise, in this state except by a club, association, organization, or person licensed by the commissioner, as provided in section 81-8,130, and in pursuance of a license granted by the commissioner for such match or exhibition under section 81-8,130.01.

Source: Laws 1957, c. 382, § 2, p. 1327; Laws 1980, LB 849, § 2; Laws 2007, LB471, § 1; Laws 2012, LB869, § 1; Laws 2015, LB291, § 1; Laws 2021, LB70, § 1.
Effective date August 28, 2021.

81-8,130.01 Professional matches; promoters; licenses and permits; fee.

Licenses and permits may be issued to professional mixed martial arts, professional boxing, professional kickboxing, or professional bare-knuckle boxing promoters, whether persons, clubs, or associations, for the sole purpose of conducting professional matches under such rules and regulations as the State Athletic Commissioner shall adopt. Each application for such license shall be accompanied by a fee set by the commissioner in rule and regulation. Such fee shall be not less than one hundred dollars and not more than three hundred dollars. If the promoter is an individual, the application shall include his or her social security number.

Source: Laws 1980, LB 849, § 17; Laws 1997, LB 752, § 222; Laws 2002, LB 482, § 2; Laws 2007, LB471, § 2; Laws 2012, LB869, § 3; Laws 2015, LB291, § 2; Laws 2021, LB70, § 2.
Effective date August 28, 2021.

81-8,132 Licensee; bond; conditions.

No license shall be granted unless the licensee has executed a bond in the sum of not less than one thousand dollars in the case of amateur mixed martial arts, nor less than five thousand dollars in the case of professional mixed martial arts, professional boxing, professional kickboxing, or professional bare-knuckle boxing. The license shall be approved by the State Athletic Commissioner, conditioned on the faithful compliance by the licensee with the provisions of sections 81-8,129 to 81-8,142.01, the rules and regulations of the commissioner, and such other laws of the state as may be applicable to anything done by the licensee in pursuance of the license.

Source: Laws 1957, c. 382, § 5, p. 1328; Laws 1980, LB 849, § 5; Laws 2007, LB471, § 3; Laws 2012, LB869, § 4; Laws 2015, LB291, § 3; Laws 2021, LB70, § 3.
Effective date August 28, 2021.

81-8,133 Referees; license; duties; fee.

The State Athletic Commissioner is authorized to grant licenses to competent referees, upon an application and the payment of a fee set by the commissioner in rule and regulation. Such fee shall be not less than ten dollars and not more than forty dollars per annum. The commissioner may revoke any license so granted for such cause as may be deemed sufficient. At every professional boxing, professional mixed martial arts, professional kickboxing, professional bare-knuckle boxing, amateur mixed martial arts, or professional sparring match or exhibition, there shall be in attendance a duly licensed referee, who shall direct and control the match. The referee shall stop the match whenever

he or she deems it advisable, (1) because of the physical condition of the contestants or one of them, (2) when one of the contestants is clearly outclassed by his or her opponent, or (3) for any other sufficient reason. The referee shall, at the termination of every professional boxing, professional mixed martial arts, professional kickboxing, professional bare-knuckle boxing, amateur mixed martial arts, or professional sparring match or exhibition, indicate a winner. The fees of the referee and other licensed officials may be fixed by the commissioner and shall be paid by the licensed organization.

Source: Laws 1957, c. 382, § 6, p. 1328; Laws 1980, LB 849, § 6; Laws 2002, LB 482, § 3; Laws 2007, LB471, § 4; Laws 2012, LB869, § 5; Laws 2015, LB291, § 4; Laws 2021, LB70, § 4.
Effective date August 28, 2021.

81-8,133.01 Other officials and contestants; license required; fees; revocation of license.

The State Athletic Commissioner may grant licenses to qualified physicians, managers, matchmakers, and professional mixed martial arts, professional boxing, professional kickboxing, professional bare-knuckle boxing, or professional sparring match or exhibition judges upon an application and payment of an annual fee set by the commissioner in rule and regulation. Such fee for matchmakers shall be not less than ten dollars and not more than one hundred dollars. Such fee for physicians, managers, and professional mixed martial arts, professional boxing, professional kickboxing, professional bare-knuckle boxing, or professional sparring match or exhibition judges shall be not less than ten dollars and not more than twenty dollars. The commissioner may also grant licenses to qualified timekeepers, contestants, and seconds upon an application and payment of an annual fee set by the commissioner in rule and regulation. Such fee shall be not less than ten dollars and not more than twenty dollars. The application shall include the applicant's social security number. No person shall serve as physician, manager, matchmaker, or judge at any professional mixed martial arts, professional boxing, professional kickboxing, professional bare-knuckle boxing, or professional sparring match or exhibition who is not licensed as such. No person shall serve as timekeeper or contestant at any professional mixed martial arts, professional boxing, professional kickboxing, or professional bare-knuckle boxing match who is not licensed as such. The commissioner shall have summary authority to stop any match at which any person is serving in violation of the provisions of this section. Any license granted under the provisions of this section may be revoked for cause.

Source: Laws 1963, c. 501, § 1, p. 1604; Laws 1980, LB 849, § 7; Laws 1984, LB 980, § 1; Laws 1997, LB 752, § 223; Laws 2002, LB 482, § 4; Laws 2007, LB471, § 5; Laws 2012, LB869, § 6; Laws 2015, LB291, § 5; Laws 2021, LB70, § 5.
Effective date August 28, 2021.

81-8,134 Boxing, mixed martial arts, kickboxing, bare-knuckle boxing, or sparring matches; rules governing.

(1) Any professional boxing match, professional mixed martial arts match, professional kickboxing match, professional bare-knuckle boxing match, or amateur mixed martial arts match conducted in this state which is labeled or promoted as a championship match shall have regional or national significance

and the approval of a nationally recognized professional boxing, mixed martial arts, kickboxing, or bare-knuckle boxing association.

(2) Professional boxing, professional kickboxing, professional bare-knuckle boxing, or professional sparring matches or exhibitions shall not exceed ten rounds in length, except in a championship match, which shall not exceed fifteen rounds. No round shall be longer than three minutes. At least one minute shall intervene between rounds. Except for professional kickboxing or professional bare-knuckle boxing matches, the contestants shall wear during the contest gloves weighing at least eight ounces each.

(3) Professional mixed martial arts matches or exhibitions shall not exceed three rounds in length, except in a championship match, which shall not exceed five rounds in length. No round shall be longer than five minutes. At least one minute shall intervene between rounds.

(4) No professional boxing contestant, professional mixed martial arts contestant, professional kickboxing contestant, professional bare-knuckle boxing contestant, or amateur mixed martial arts contestant shall be allowed to participate or take part in any contest in this state unless a duly licensed physician shall certify in writing that such contestant has taken a physical examination the day of the contest and is physically fit to engage in the proposed contest.

Source: Laws 1957, c. 382, § 7, p. 1328; Laws 1980, LB 849, § 8; Laws 2007, LB471, § 6; Laws 2012, LB869, § 7; Laws 2021, LB70, § 6.

Effective date August 28, 2021.

81-8,135 Licensee; reports; contents; gross receipts tax; amounts.

Every licensee conducting or holding any professional mixed martial arts, amateur mixed martial arts, professional boxing, professional kickboxing, or professional bare-knuckle boxing match shall furnish to the State Athletic Commissioner a written report showing the articles of agreement between the contestants, the number of tickets sold for each contest, the amount of the gross receipts thereof, the gross receipts from sale of any television rights, and such other matters as the commissioner shall prescribe. Within such time the licensee shall pay to the commissioner a tax of five percent of the total gross receipts of any professional mixed martial arts, professional boxing, professional kickboxing, or professional bare-knuckle boxing match or exhibition, exclusive of state and federal taxes, except the gross receipts from sale of television rights, and five percent of such rights, and five percent of the total gross receipts of any amateur mixed martial arts match or exhibition, exclusive of state and federal taxes, except that if such match or exhibition is conducted as an incidental feature in any event or entertainment of a different character, such portion of the total receipts shall be paid to the state as the commissioner may determine, or as may be fixed by rule adopted under section 81-8,139.

Source: Laws 1957, c. 382, § 8, p. 1329; Laws 1961, c. 434, § 1, p. 1349; Laws 1963, c. 520, § 1, p. 1638; Laws 1969, c. 778, § 4, p. 2951; Laws 1980, LB 849, § 9; Laws 2007, LB471, § 7; Laws 2012, LB869, § 8; Laws 2015, LB291, § 6; Laws 2021, LB70, § 7.
Effective date August 28, 2021.

81-8,138 Contestants; compensation; when payable; fake contests.

No contestant in any match or exhibition shall be paid for services until the same are rendered, and should it be determined by the State Athletic Commissioner that a contestant did not give an honest exhibition of his or her skill, he or she shall not be paid. Any contestant who shall participate in any sham or fake professional boxing, professional mixed martial arts, professional kickboxing, professional bare-knuckle boxing, or amateur mixed martial arts match or exhibition shall be disqualified and shall not thereafter be permitted to contend in any match or exhibition in this state, and any contestant who shall participate in any sham or fake professional boxing, professional mixed martial arts, professional kickboxing, professional bare-knuckle boxing, or amateur mixed martial arts match or exhibition shall be guilty of a violation of sections 81-8,128 to 81-8,142.01.

Source: Laws 1957, c. 382, § 11, p. 1330; Laws 1980, LB 849, § 12; Laws 2007, LB471, § 8; Laws 2012, LB869, § 9; Laws 2021, LB70, § 8.

Effective date August 28, 2021.

81-8,139 State Athletic Commissioner; rules and regulations; powers; suspension of contestant from competition; fine; hearing; notice.

(1) Except as provided in subsection (2) of this section, the State Athletic Commissioner shall adopt and promulgate such rules and regulations for the administration and enforcement of sections 81-8,128 to 81-8,142.01 as he or she may deem necessary. Such rules and regulations shall include, but not be limited to, the establishment of written criteria for the granting and revoking of licenses, the setting of license fees, and the qualification requirements for those to be licensed as referees, physicians, managers, matchmakers, and professional boxing, professional mixed martial arts, professional kickboxing, professional bare-knuckle boxing, or professional sparring match or exhibition judges. He or she shall have the power and may control and limit the number of professional mixed martial arts, amateur mixed martial arts, professional boxing, professional kickboxing, professional bare-knuckle boxing, or professional sparring matches or exhibitions given, or to be held, each year, or within one week, in any city or town, or by any organization. He or she may fine any licensee, except amateur contestants, an amount not to exceed one thousand dollars and may suspend for a period, not to exceed one year, any licensee's right to participate in or conduct any match or exhibition for unsportsmanlike conduct while engaged in or arising directly from any match or exhibition, failure to compete in good faith, engaging in any sham match or exhibition, or the use of threatening and abusive language toward officials, other contestants, or spectators.

(2) The State Athletic Commissioner may adopt and promulgate rules and regulations to identify a list of substances banned for use by any amateur or professional contestant and may require any contestant to submit to a test for banned substances as a condition for allowing the contestant's participation in a match or exhibition.

(3) The State Athletic Commissioner may suspend an amateur or professional contestant from competition for a period not to exceed one year and may fine a professional contestant an amount not to exceed one thousand five hundred dollars or forty percent of the prize or purse, whichever is greater, for a first offense of failing a test for a banned substance on the list developed pursuant to

subsection (2) of this section or for refusing to submit to such a test. He or she may suspend an amateur or professional contestant from competition for a period not to exceed three years and may fine a professional contestant an amount not to exceed three thousand dollars or seventy percent of the prize or purse, whichever is greater, for any second such offense. He or she may suspend an amateur or professional contestant from competition for life and may fine a professional contestant an amount not to exceed five thousand dollars or one hundred percent of the prize or purse, whichever is greater, for any third or subsequent such offense. For purposes of determining if an offense under this subsection is a first, second, third, or subsequent offense, failing a test for banned substances and refusing to submit to such a test shall be considered the same offense.

(4) Before levying an administrative fine pursuant to this section, the State Athletic Commissioner shall set the matter for hearing. Proceedings to levy an administrative fine shall be contested cases prosecuted and appealable pursuant to the Administrative Procedure Act. At least ten days before the hearing, the State Athletic Commissioner shall serve notice of the time, date, and place of the hearing upon the licensee or other violator by personal or certified mail service.

(5) The State Athletic Commissioner shall remit any administrative fines collected under this section to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

Source: Laws 1957, c. 382, § 12, p. 1330; Laws 1975, LB 5, § 1; Laws 1980, LB 849, § 13; Laws 2002, LB 482, § 5; Laws 2007, LB471, § 9; Laws 2012, LB869, § 10; Laws 2015, LB291, § 7; Laws 2016, LB823, § 1; Laws 2021, LB70, § 9.
Effective date August 28, 2021.

Cross References

Administrative Procedure Act, see section 84-920.

(v) STATE MISCELLANEOUS CLAIMS ACT

81-8,297 State Claims Board; general powers.

The State Claims Board shall have the power and authority to receive, investigate, and otherwise carry out its duties with regard to (1) all claims under the State Miscellaneous Claims Act, (2) all claims under sections 25-1802 to 25-1807, (3) all claims under the State Contract Claims Act, (4) all claims under the In the Line of Duty Compensation Act, (5) all requests on behalf of any department, board, or commission of the state for waiver or cancellation of money or charges when necessary for fiscal or accounting procedures, and (6) all claims filed under section 66-1531. All such claims or requests and supporting documents shall be filed with the Risk Manager and shall be designated by number, name of claimant as requester, and short title. Nothing in this section shall be construed to be a waiver of the sovereign immunity of the state beyond what is otherwise provided by law.

The board shall adopt and promulgate such rules and regulations as are necessary to carry out the powers granted in this section. The Attorney General shall be the legal advisor to the board for purposes of this section and may

authorize the assistant attorney general in charge of the Claims Division to perform any of his or her duties under this section.

Source: Laws 1988, LB 864, § 47; Laws 1998, LB 1161, § 36; Laws 2021, LB255, § 6.

Operative date January 1, 2022.

Cross References

In the Line of Duty Compensation Act, see section 81-8,315.

State Contract Claims Act, see section 81-8,302.

81-8,299 State Claims Board; powers; duties.

The State Claims Board shall, for the purposes contemplated by the State Contract Claims Act, the State Miscellaneous Claims Act, the In the Line of Duty Compensation Act, and sections 25-1802 to 25-1807 and 66-1531, have the right, power, and duty to (1) administer oaths, (2) compel the attendance of witnesses and the production of books, papers, and documents and issue subpoenas for such purposes, and (3) punish the disobedience of such a subpoena or subpoenas, the refusal of a witness to be sworn or testify, or the failure to produce books, papers, and documents, as required by such subpoena or subpoenas so issued, as contempt, in the same manner as are officers who are authorized to take depositions.

Source: Laws 1943, c. 129, § 4, p. 433; R.S.1943, § 81-860; Laws 1969, c. 756, § 30, p. 2853; R.S.1943, (1987), § 81-8,238; Laws 1988, LB 864, § 49; Laws 1998, LB 1161, § 37; Laws 2021, LB255, § 7.
Operative date January 1, 2022.

Cross References

State Contract Claims Act, see section 81-8,302.

81-8,300.01 Statute of limitation.

Claims described in subdivision (4) of section 81-8,297 shall be forever barred unless the claim is filed with the Risk Manager within the time period prescribed in section 81-8,318. Claims described in subdivisions (5) and (6) of section 81-8,297 and claims relating to expiration of state warrants shall have no time bar to recovery. Except as provided in section 25-213, all other claims permitted under the State Miscellaneous Claims Act shall be forever barred unless the claim is filed with the Risk Manager within two years after the time the claim accrued.

Source: Laws 2007, LB339, § 3; Laws 2021, LB255, § 8.
Operative date January 1, 2022.

81-8,301 Acceptance of award; effect.

Any award made under the State Contract Claims Act, the State Miscellaneous Claims Act, the In the Line of Duty Compensation Act, or section 25-1806 or 66-1531 and accepted by the claimant shall be final and conclusive on all officers of the State of Nebraska except when procured by means of fraud. The acceptance by the claimant of such award shall be final and conclusive on the claimant and shall constitute a complete release by the claimant of any claim

against the state and against the employee of the state whose act or omission gave rise to the claim by reason of the same subject matter.

Source: Laws 1988, LB 864, § 51; Laws 1998, LB 1161, § 38; Laws 2021, LB255, § 9.

Operative date January 1, 2022.

Cross References

In the Line of Duty Compensation Act, see section 81-8,315.

State Contract Claims Act, see section 81-8,302.

(z) SEMIQUINCENTENNIAL COMMISSION

81-8,311 Semiquincentennial Commission; members; vacancy; termination.

(1) The Semiquincentennial Commission is created. The commission shall be housed within the Nebraska State Historical Society for administrative and budgetary purposes.

(2) The commission shall consist of seventeen members.

(3) The Legislature intends for the commission to include members from all regions of the state, representing all major interests and a diverse array of industries.

(4) The commission shall include the following members:

(a) The Director of the Nebraska State Historical Society or the designee of the director, who shall serve as the chairperson;

(b) The Director of Economic Development or the designee of such person;

(c) The Commissioner of Education or the designee of such person; and

(d) The President of the University of Nebraska or the designee of such person;

(5) The commission shall include at least one member from each of the following subdivisions to be appointed by the Governor before September 1, 2021:

(a) A Native American from a federally recognized Indian tribe, as of January 1, 2021, residing within the State of Nebraska. Such member shall be appointed from a list of five nominees submitted by the Commission on Indian Affairs;

(b) An African American who is a legal resident of the State of Nebraska. Such member shall be appointed from a list of five nominees submitted by the Commission on African American Affairs;

(c) A Latino-American who is a legal resident of the State of Nebraska. Such member shall be appointed from a list of five nominees submitted by the Commission on Latino-Americans;

(d) A curator or director of a private cultural institution as defined in section 58-807.01 or a professional historian;

(e) A member of the Nebraska Tourism Commission;

(f) A representative from the Nebraska Humanities Council;

(g) A legal resident of the first congressional district;

(h) A legal resident of the second congressional district; and

(i) A legal resident of the third congressional district.

(6) The same individual shall not fulfill the requirements of more than one subdivision of subsections (4) and (5) of this section.

(7) No more than eight of the members shall be affiliated with the same political party.

(8) Any vacancy on the commission of an appointed member occurring after the initial appointment of members shall be filled by the Governor by appointment.

(9) The commission shall terminate on June 30, 2027.

Source: Laws 2021, LB275, § 1.

Effective date May 22, 2021.

81-8,312 Semiquincentennial Commission; meeting; officers; expenses; powers and duties.

(1) The Semiquincentennial Commission shall hold its first meeting no later than September 1, 2022.

(2) The members shall select a vice-chairperson and a secretary.

(3) Members shall receive no compensation for the performance of their duties as members of the commission, except that such members shall receive reimbursement for expenses as provided in sections 81-1174 to 81-1177.

(4) The commission may employ personnel and contract for services and shall remit any gifts, grants, or donations to the State Treasurer for credit to the Semiquincentennial Commission Fund. The commission shall expend and allocate any appropriations authorized by the Legislature to carry out the purposes of the commission.

Source: Laws 2021, LB275, § 2.

Effective date May 22, 2021.

81-8,313 Semiquincentennial; point of contact; official observance; cooperation required.

(1) The Semiquincentennial Commission is the point of contact for state and national organizations and events related to the Semiquincentennial of the United States and may also seek the guidance and support of any party.

(2) The Semiquincentennial Commission shall develop programs and plans for the official observance of the two hundred fiftieth anniversary of the founding of the United States, as marked by the Declaration of Independence in 1776.

(3) The commission shall cooperate with the United States Semiquincentennial Commission and various state agencies, boards, commissions, departments, and political subdivisions in order to execute commemorative events and to implement educational activities, events, and celebrations related to the Semiquincentennial of the United States.

(4) The commission shall promote under-represented groups from the American Revolutionary War, including, but not limited to, women, American Indians, and persons of color.

Source: Laws 2021, LB275, § 3.

Effective date May 22, 2021.

81-8,314 Semiquincentennial Commission Fund; created; use; investment; termination.

(1) The Semiquincentennial Commission Fund is created. Such fund shall consist of money appropriated by the Legislature and gifts, grants, or donations from any source, including federal, state, public, and private sources.

(2) The Semiquincentennial Commission Fund shall be utilized for the purpose of administering the Semiquincentennial Commission and executing commemorative activities and implementing educational activities, events, and celebrations related to the Semiquincentennial of the United States.

(3) Money received by the Semiquincentennial Commission shall be remitted to the State Treasurer for credit to the Semiquincentennial Commission Fund. Any money in the Semiquincentennial Commission Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(4)(a) The State Treasurer shall transfer the unobligated balance in the Semiquincentennial Commission Fund to the Historical Society Fund on June 1, 2027.

(b) The Semiquincentennial Commission Fund terminates on June 30, 2027, and the State Treasurer shall transfer any money in the fund on such date to the Historical Society Fund.

Source: Laws 2021, LB275, § 4.
Effective date May 22, 2021.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

(aa) IN THE LINE OF DUTY COMPENSATION ACT**81-8,315 Act, how cited.**

Sections 81-8,315 to 81-8,319 shall be known and may be cited as the In the Line of Duty Compensation Act.

Source: Laws 2021, LB255, § 1.
Operative date January 1, 2022.

81-8,316 Terms, defined.

For purposes of the In the Line of Duty Compensation Act:

(1) Firefighter means a member of a paid or volunteer fire department in Nebraska, including a member of a rescue squad associated with a paid or volunteer fire department in Nebraska;

(2)(a) Killed in the line of duty means losing one's life as a result of an injury or illness arising on or after January 1, 2022, in connection with the active performance of duties as a public safety officer if the death occurs within three years from the date the injury was received or illness was diagnosed and if that injury or illness arose from violence or other accidental cause.

(b) Killed in the line of duty excludes death resulting from the willful misconduct or intoxication of the public safety officer;

(3) Law enforcement officer means any member of the Nebraska State Patrol, any county or deputy sheriff, or any member of the police force of any city or village;

(4) Public safety officer means:

(a) A firefighter;

(b) A law enforcement officer;

(c) A member of an emergency medical services ambulance squad operated by a political subdivision or by a private, nonprofit ambulance service, but excluding any employee of a private, for-profit ambulance service; or

(d) A correctional officer employed by a jail or by the Department of Correctional Services;

(5) Risk Manager means the Risk Manager appointed under section 81-8,239.01; and

(6) State Claims Board means the board created under section 81-8,220.

Source: Laws 2021, LB255, § 2.

Operative date January 1, 2022.

81-8,317 Compensation; when paid; amount; treatment; payment to public safety officer's designee or heir; procedure; effect on employer.

(1) If a public safety officer is killed in the line of duty, compensation shall be paid as provided in the In the Line of Duty Compensation Act to recognize the ultimate sacrifice made by such public safety officer.

(2) The amount of compensation to be paid under the act shall be as follows:

(a) For deaths occurring during calendar year 2022, the amount of such compensation shall be fifty thousand dollars; and

(b) For deaths occurring in calendar year 2023 and each calendar year thereafter, the amount of such compensation shall be equal to the compensation amount from the previous calendar year increased by the percentage increase, if any, in the Consumer Price Index for All Urban Consumers, as published by the United States Department of Labor, Bureau of Labor Statistics, for the twelve months ending on June 30 of such previous calendar year.

(3) The person entitled to receive such compensation shall be determined as follows:

(a) If the public safety officer designated a person to receive the compensation in accordance with subsection (4) of this section, the compensation shall be paid to the designated person; or

(b) If no person is designated by the public safety officer or if the designated person is not alive at the death of the public safety officer, the compensation shall be paid in accordance with the laws of this state regarding intestate succession.

(4) The Risk Manager shall prescribe a form that may be used by a public safety officer to designate a person to receive the compensation. The public safety officer shall file such form with his or her employer or, if he or she is a volunteer, with the entity for which the volunteer service is provided.

(5) Amounts paid under the In the Line of Duty Compensation Act shall not be considered:

(a) Compensation under the County Employees Retirement Act, the Judges Retirement Act, the Nebraska State Patrol Retirement Act, the School Employees Retirement Act, the State Employees Retirement Act, or any other retirement plan administered by the Public Employees Retirement Board and shall not be eligible for deferral under any deferred compensation plan administered by the Public Employees Retirement Board; or

(b) Regular pay or salary under the Police Officers Retirement Act or sections 16-1020 to 16-1042.

(6) An employer of the public safety officer shall not have any right of subrogation under section 48-118 with respect to compensation paid under the In the Line of Duty Compensation Act.

Source: Laws 2021, LB255, § 3.

Operative date January 1, 2022.

Cross References

County Employees Retirement Act, see section 23-2331.

Judges Retirement Act, see section 24-701.01.

Nebraska State Patrol Retirement Act, see section 81-2014.01.

Police Officers Retirement Act, see section 16-1001.

School Employees Retirement Act, see section 79-901.

State Employees Retirement Act, see section 84-1331.

81-8,318 Compensation; claim; requirements; Risk Manager; State Claims Board; powers and duties.

(1) To receive compensation under the In the Line of Duty Compensation Act, a claim for the compensation must be filed with the Risk Manager within one year after the date of death of the public safety officer who was killed in the line of duty. Such claim shall be on a form prescribed by the Risk Manager and shall include:

(a) The name, address, and title or position of the public safety officer who was killed in the line of duty;

(b) A copy of the form filed in accordance with subsection (4) of section 81-8,317, if any. If no such form has been filed, the claim shall include the name and address of the person or persons to whom compensation is payable under subdivision (3)(b) of section 81-8,317;

(c) A sworn statement providing a full factual account of the circumstances resulting in or the course of events causing the death of the public safety officer; and

(d) Such other information as the Risk Manager reasonably requires.

(2) The Risk Manager shall send written notice to all claimants within two weeks after the initiation of a claim indicating whether or not the claim is complete. For purposes of this subsection, a claim is complete if a claimant has submitted to the Risk Manager all documents and information required under subsection (1) of this section. If a claim is incomplete, the Risk Manager shall include in the written notice a list of the documents or information which the claimant must submit in order for the claim to be complete. If a claim is complete, the State Claims Board shall make an investigation of the claim in the manner provided in the State Miscellaneous Claims Act. Upon completion of such investigation, and no later than forty-five days after receipt of a complete claim, the State Claims Board shall approve or deny such claim in accordance with section 81-8,300 and the Risk Manager shall send written

notice to the claimant stating whether the claim has been approved or denied. If a claim is denied, the notice shall include the reason or reasons for the denial. If a claimant is dissatisfied with a denial, he or she may file an application for review with the Risk Manager in accordance with subsection (2) of section 81-8,300. If a claim is approved, compensation shall be paid to the claimants entitled to such compensation in accordance with subsection (3) of section 81-8,300.

Source: Laws 2021, LB255, § 4.
Operative date January 1, 2022.

Cross References

State Miscellaneous Claims Act, see section 81-8,294.

81-8,319 Rules and regulations.

The State Claims Board may adopt and promulgate rules and regulations to carry out the In the Line of Duty Compensation Act.

Source: Laws 2021, LB255, § 5.
Operative date January 1, 2022.

ARTICLE 12

DEPARTMENT OF ECONOMIC DEVELOPMENT

(c) NEBRASKA FILM OFFICE FUND

Section

81-1220. Nebraska Film Office Fund; created; use; investment; grant program; application; requirements.

(s) SITE AND BUILDING DEVELOPMENT ACT

81-12,146. Site and Building Development Fund; created; funding; use; investment.

81-12,147. Site and Building Development Fund; use; eligible activities.

81-12,148. Entities eligible to receive assistance; matching funds; applicability of section.

81-12,149. Department; allocate funds; qualified action plan; contents; powers of department; applicability of section.

81-12,150. Rules and regulations.

(v) NEBRASKA RURAL PROJECTS ACT

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Section

- 81-12,213. Matching funds; receipt; conditions; limitations; legislative intent regarding appropriations.
 - 81-12,214. Application; valid; when.
 - 81-12,215. Project; land on which project is situated; sale; approval required; conditions.
 - 81-12,216. Report; joint hearing.
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 - 81-12,218. Nebraska Rural Projects Fund; created; use; investment.
- (w) SHOVEL-READY CAPITAL RECOVERY AND INVESTMENT ACT
- 81-12,219. Act, how cited.
 - 81-12,220. Act; purpose.
 - 81-12,221. Terms, defined.
 - 81-12,222. Grant; application; approval; amount.
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 - 81-12,224. Shovel-Ready Capital Recovery and Investment Fund; created; use; investment.
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 - 81-12,226. Rules and regulations.

(c) NEBRASKA FILM OFFICE FUND

81-1220 Nebraska Film Office Fund; created; use; investment; grant program; application; requirements.

(1)(a) The Nebraska Film Office Fund is created. The fund shall be administered by the Department of Economic Development and used for grants for Nebraska-based films as provided in this section.

(b) The fund shall consist of funds transferred by the Legislature, gifts, grants, and bequests. It is the intent of the Legislature to transfer the unexpended and unobligated balance in the Nebraska Film Office Fund on June 30, 2025, to the General Fund.

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

(2)(a) The department shall administer a grant program for Nebraska-based films and shall require applications to be submitted to the department prior to beginning production.

(b) To be eligible for a grant under the program, the applicant shall verify that:

- (i) The film is to be produced in Nebraska;
- (ii) The film tells a Nebraska story; and
- (iii) At least fifty percent of the workforce for film production will be composed of Nebraska residents for the duration of the production except as otherwise provided in subdivision (c) of this subsection.

(c) The department may lower the fifty-percent requirement in subdivision (b)(iii) of this subsection but shall not waive the requirement. The applicant shall apply to the department to lower the requirement and provide a certification that the requirement is an unreasonable impediment to production of the film. The department shall notify the applicant of the decision under this subdivision.

(d) The department shall review each application to determine whether the film qualifies for a grant under this section and shall not award a grant that exceeds twenty-five percent of the projected production cost of the film.

Source: Laws 2018, LB945, § 8; Laws 2021, LB384, § 14.

Effective date April 27, 2021.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

(s) SITE AND BUILDING DEVELOPMENT ACT

81-12,146 Site and Building Development Fund; created; funding; use; investment.

(1) The Site and Building Development Fund is created. The fund shall receive money pursuant to section 76-903 and may include revenue from transfers by the Legislature, grants, private contributions, repayment of loans, and all other sources. The Department of Economic Development, as part of its comprehensive business development strategy, shall administer the fund. 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) It is the intent of the Legislature to transfer five million dollars from the General Fund to the Site and Building Development Fund for fiscal year 2022-23 and five million dollars from the General Fund to the Site and Building Development Fund for fiscal year 2023-24. Such money shall be placed in a subaccount of the Site and Building Development Fund and earmarked for use to fund large shovel-ready commercial and industrial sites developed under the Municipal Inland Port Authority Act.

Source: Laws 2011, LB388, § 3; Laws 2015, LB457, § 3; Laws 2021, LB156, § 14.

Effective date August 28, 2021.

Cross References

Municipal Inland Port Authority Act, see section 13-3301.

Nebraska Capital Expansion Act, see section 72-1269.

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

81-12,147 Site and Building Development Fund; use; eligible activities.

(1) Except as provided in subsection (2) of this section, the Department of Economic Development shall use the Site and Building Development Fund to finance loans, grants, subsidies, credit enhancements, and other financial assistance for industrial site and building development and for expenses of the department as appropriated by the Legislature for administering the fund. The following activities are eligible for assistance from the fund:

(a) Grants or zero-interest loans to villages, cities, or counties to acquire land, infuse infrastructure, or otherwise make large sites and buildings ready for industrial development;

(b) Matching funds for new construction, rehabilitation, or acquisition of land and buildings to assist villages, cities, and counties;

(c) Technical assistance, design and finance services, and consultation for villages, cities, and counties for the preparation and creation of industrial-ready sites and buildings;

(d) Loan guarantees for eligible projects;

(e) Projects making industrial-ready sites and buildings more accessible to business and industry;

(f) Infrastructure projects necessary for the development of industrial-ready sites and buildings;

(g) Projects that mitigate the economic impact of a closure or downsizing of a private-sector entity by making necessary improvements to buildings and infrastructure; and

(h) Public and private sector initiatives that will improve the military value of military installations by making necessary improvements to buildings and infrastructure.

(2) The Department of Economic Development shall use the subaccount of the Site and Building Development Fund described in subsection (2) of section 81-12,146 to provide financial assistance to any inland port authority created under the Municipal Inland Port Authority Act to help finance large shovel-ready commercial and industrial sites developed under such act.

Source: Laws 2011, LB388, § 4; Laws 2015, LB457, § 4; Laws 2018, LB96, § 1; Laws 2021, LB156, § 15.
Effective date August 28, 2021.

Cross References

Municipal Inland Port Authority Act, see section 13-3301.

81-12,148 Entities eligible to receive assistance; matching funds; applicability of section.

(1) Governmental subdivisions and Nebraska nonprofit organizations are eligible to receive assistance under the Site and Building Development Act. Any entity receiving assistance under the act shall provide, or cause to be provided, matching funds for the eligible activity in an amount determined by the Department of Economic Development, which amount shall be at least equal to one hundred percent of the amount of assistance provided by the Site and Building Development Fund. Nothing in the act shall be construed to allow individuals or businesses to receive direct loans from the fund.

(2) This section does not apply to any inland port authority receiving assistance under subsection (2) of section 81-12,147.

Source: Laws 2011, LB388, § 5; Laws 2021, LB156, § 16.
Effective date August 28, 2021.

81-12,149 Department; allocate funds; qualified action plan; contents; powers of department; applicability of section.

(1) During each calendar year in which funds are available from the Site and Building Development Fund for use by the Department of Economic Development, the department shall allocate a specific amount of funds, not less than forty percent, to nonmetropolitan areas. For purposes of this section, nonmetropolitan areas means counties with fewer than one hundred thousand inhabitants according to the most recent federal decennial census. In selecting projects

to receive fund assistance, the department shall develop a qualified action plan by January 1 of each even-numbered year. The plan shall give first priority to financially viable projects that have an agreement with a business that will locate a site within ninety days of the signed agreement and to financially viable projects located in whole or in part within an enterprise zone designated pursuant to the Enterprise Zone Act or an opportunity zone designated pursuant to the federal Tax Cuts and Jobs Act, Public Law 115-97. The plan shall set forth selection criteria to be used to determine priorities of the fund which are appropriate to local conditions, including the community's immediate need for site and building development, proposed increases in jobs and investment, private dollars leveraged, level of local government support and participation, and repayment, in part or in whole, of financial assistance awarded by the fund. The Director of Economic Development shall submit the plan to the Governor for approval.

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

(3) This section does not apply to any inland port authority receiving assistance under subsection (2) of section 81-12,147.

Source: Laws 2011, LB388, § 6; Laws 2013, LB78, § 14; Laws 2014, LB800, § 7; Laws 2019, LB87, § 3; Laws 2021, LB156, § 17.
Effective date August 28, 2021.

Cross References

Enterprise Zone Act, see section 13-2101.01.

81-12,150 Rules and regulations.

The Department of Economic Development may adopt and promulgate rules and regulations to carry out the Site and Building Development Act, including rules and regulations relating to reviewing inland port authority proposals pursuant to section 13-3304 and providing financial assistance to any inland port authority created under the Municipal Inland Port Authority Act.

Source: Laws 2011, LB388, § 7; Laws 2013, LB78, § 15; Laws 2021, LB156, § 18.
Effective date August 28, 2021.

Cross References

Municipal Inland Port Authority Act, see section 13-3301.

(v) NEBRASKA RURAL PROJECTS ACT

81-12,195 Act, how cited.

Sections 81-12,195 to 81-12,218 shall be known and may be cited as the Nebraska Rural Projects Act.

Source: Laws 2021, LB40, § 1.
Effective date August 28, 2021.

81-12,196 Definitions, where found.

For purposes of the Nebraska Rural Projects Act, the definitions found in sections 81-12,197 to 81-12,207 shall be used.

Source: Laws 2021, LB40, § 2.
Effective date August 28, 2021.

81-12,197 Applicant, defined.

Applicant means a nonprofit economic development corporation.

Source: Laws 2021, LB40, § 3.
Effective date August 28, 2021.

81-12,198 Applicant resources, defined.

Applicant resources means:

(1) Dollars donated to the applicant specifically for the project by any combination of one or more of the following:

- (a) An individual;
- (b) An organization that is exempt from income tax under section 501(c) of the Internal Revenue Code; or
- (c) Any nongovernmental organization; and

(2) Any direct or indirect funding for the project from any federal, state, or local government, excluding any matching funds received pursuant to the Nebraska Rural Projects Act.

Source: Laws 2021, LB40, § 4.
Effective date August 28, 2021.

81-12,199 Date of application, defined.

Date of application means the date that a completed application is filed under the Nebraska Rural Projects Act.

Source: Laws 2021, LB40, § 5.
Effective date August 28, 2021.

81-12,200 Director, defined.

Director means the Director of Economic Development.

Source: Laws 2021, LB40, § 6.
Effective date August 28, 2021.

81-12,201 Investment, defined.

Investment means the amount paid by the applicant for the project. The term includes any applicant resources received by the applicant for the project. The term does not include any matching funds received by the applicant under the Nebraska Rural Projects Act.

Source: Laws 2021, LB40, § 7.
Effective date August 28, 2021.

81-12,202 Matching funds, defined.

Matching funds means the funds provided by the State of Nebraska pursuant to section 81-12,211.

Source: Laws 2021, LB40, § 8.
Effective date August 28, 2021.

81-12,203 Project, defined.

Project means expenses incurred or to be incurred at one qualified location for site acquisition and preparation, utility extensions, and rail spur construction for the development of a new industrial rail access business park, including any such expenses incurred to assist an initial tenant at such business park that conducts business in the manufacturing, processing, distribution, or transloading trades.

Source: Laws 2021, LB40, § 9.
Effective date August 28, 2021.

81-12,204 Qualified location, defined.

Qualified location means a location within a county in this state that has a population of less than one hundred thousand inhabitants.

Source: Laws 2021, LB40, § 10.
Effective date August 28, 2021.

81-12,205 Related entity, defined.

Related entity means any entity which is a subsidiary or affiliated entity of the applicant or which has, as one of its purposes for existence, the financial support of the applicant.

Source: Laws 2021, LB40, § 11.
Effective date August 28, 2021.

81-12,206 Transformational period, defined.

Transformational period means the period of time from the date of application through the end of the tenth year after the year in which the complete application was filed with the director.

Source: Laws 2021, LB40, § 12.
Effective date August 28, 2021.

81-12,207 Year, defined.

Year means the fiscal year of the State of Nebraska.

Source: Laws 2021, LB40, § 13.
Effective date August 28, 2021.

81-12,208 Matching funds; eligibility; application; requirements; approval; deadlines.

(1) In order to be eligible to receive the matching funds allowed in the Nebraska Rural Projects Act, the applicant shall file an application with the director, on a form developed by the director, requesting an agreement.

(2) The application shall:

(a) Identify the project, including the qualified location of such project;

(b) State the estimated, projected amount of total new investment at the project, including the estimated, projected amount of applicant resources;

(c) State the E-Verify number or numbers that will be used by the applicant for employees at the qualified location as provided by the United States Citizenship and Immigration Services; and

(d) Contain a nonrefundable application fee of one thousand dollars. The director shall collect all application fees and shall remit the fees to the State Treasurer for credit to the Nebraska Rural Projects Fund.

(3) An application must be complete to establish the date of application. An application shall be considered complete once it contains the items listed in subsection (2) of this section.

(4) Once satisfied that the application is complete and that the applicant is eligible to receive the matching funds allowed in the Nebraska Rural Projects Act, the director shall approve the application.

(5) There shall be no new applications filed under this section after June 30, 2023. Any complete application filed on or before June 30, 2023, shall be considered by the director and approved if the location and applicant qualify for approval. Agreements may be executed with regard to any complete application filed on or before June 30, 2023.

Source: Laws 2021, LB40, § 14.

Effective date August 28, 2021.

81-12,209 Agreement; requirements; documentation of applicant resources.

(1) Within ninety days after approval of the application, the director shall prepare and deliver a written agreement to the applicant for the applicant's signature. The applicant and the director, on behalf of the State of Nebraska, shall enter into such written agreement. Under the agreement, the applicant shall agree to undertake the project and report all investment at the project to the director annually. The director, on behalf of the State of Nebraska, shall agree to allow the applicant to receive the matching funds allowed in the Nebraska Rural Projects Act, subject to appropriation of such funds by the Legislature. The application, and all supporting documentation, to the extent approved, shall be considered a part of the agreement. The agreement shall state:

(a) The qualified location;

(b) The total amount of matching funds approved for the project;

(c) The type of documentation the applicant will need to document its receipt of applicant resources and all other investment made under the act;

(d) The date of application;

(e) A requirement that any access to the primary rail carrier, land purchase option, or zoning approval needed to carry out the project will be secured;

(f) A requirement that the applicant be and will stay registered for the E-Verify Program provided by the United States Citizenship and Immigration Services for the duration of the project;

(g) A requirement that the applicant provide any information needed by the director to perform his or her responsibilities under the Nebraska Rural Projects Act, in the manner specified by the director;

(h) A requirement that the applicant provide an annually updated timetable showing the applicant resources donated and received and all other investment at the project, in the manner specified by the director; and

(i) A requirement that the applicant update the director annually, with its timetable or in the manner specified by the director, on any changes in plans or circumstances which it reasonably expects will affect the applicant resources or any other investment for the project.

(2) Any failure by the applicant to timely provide the updates or information required by the director or the act may result in the loss of the right to receive matching funds or, at the discretion of the director, result in the deferral of matching fund disbursements until such updates and information have been provided to the director by the applicant.

(3) The applicant shall provide documentation to the director validating the receipt of applicant resources but is not required to disclose the names of any private donors.

(4) An agreement under the Nebraska Rural Projects Act shall have a duration of no more than ten years after the date of application, consisting of up to the ten years of the transformational period, except that such agreement shall remain effective until all matching fund payments that are allowed under the act have been received.

Source: Laws 2021, LB40, § 15.
Effective date August 28, 2021.

81-12,210 Transactions or activities excluded.

The following transactions or activities shall not create investment under the Nebraska Rural Projects Act except as specifically allowed by this section:

(1) The renegotiation of any private donor commitment in existence before the date of application, except to the extent of additional donation commitments;

(2) The purchase of any property which was previously owned by the applicant or a related entity. The first purchase by either the applicant or a related entity shall be treated as investment if the item was first placed in service in the state after the date of application;

(3) The renegotiation of any agreement in existence on the date of application which does not materially change any of the material terms of the agreement shall be presumed to be a transaction entered into for the purpose of facilitating benefits under the act and shall not be allowed in the calculation of investment under the act; and

(4) Any purchase of property from a related entity, except that the applicant will be considered to have made investment under the act to the extent the related entity would have been considered to have made investment on the purchase of the property if the related entity was considered the applicant.

Source: Laws 2021, LB40, § 16.
Effective date August 28, 2021.

81-12,211 Matching funds; receipt; conditions; payment.

(1) Subject to section 81-12,213, an applicant shall be entitled to receive matching funds from the State of Nebraska as follows:

(a) For any amount of investment up to two million five hundred thousand dollars made by the applicant by the end of the transformational period, the applicant shall be entitled to receive two dollars of matching funds for each such dollar of investment; and

(b) For any amount of investment in excess of two million five hundred thousand dollars made by the applicant by the end of the transformational period, the applicant shall be entitled to receive five dollars of matching funds for each such dollar of investment.

(2) Subject to section 81-12,213, the state shall pay the available matching funds to the applicant on an annual basis.

Source: Laws 2021, LB40, § 17.

Effective date August 28, 2021.

81-12,212 Matching funds; filing required; use; repayment; interest; director; powers and duties.

(1) The right to matching funds prescribed in section 81-12,211 shall be established by filing the forms required by the director. Such forms shall be filed by the applicant on an annual basis and shall be used by the director to determine the amount of matching funds to be paid to the applicant each year. The matching funds may only be used by the applicant to pay for the project or to pay off debt financing related to the project.

(2) Interest at the rate specified in section 45-104.02, as such rate may from time to time be adjusted, shall be due by the applicant on any repayment of matching funds required under the Nebraska Rural Projects Act.

(3) All interpretations of the Nebraska Rural Projects Act shall be made by the director.

(4) An audit of a project shall be made by the director to the extent and in the manner determined by the director. The director may recover any matching funds which were erroneously allowed by issuing a repayment determination within the later of three years from the date the matching funds were paid or three years after the end of the transformational period.

(5) Any determination by the director that the applicant does not qualify, that a location is not a qualified location, that a project does not qualify, that investment does not qualify, or that matching funds must be repaid may be protested by the applicant to the director within sixty days after the mailing to the applicant of the written notice of the proposed determination by the director. If the notice of proposed determination is not protested in writing by the applicant within the sixty-day period, the proposed determination is a final determination. If the notice is protested, the director, after a formal hearing by the director or by an independent hearing officer appointed by the director, if requested by the applicant in such protest, shall issue a written order resolving such protest.

Source: Laws 2021, LB40, § 18.

Effective date August 28, 2021.

81-12,213 Matching funds; receipt; conditions; limitations; legislative intent regarding appropriations.

(1) The right to receive matching funds under the Nebraska Rural Projects Act:

(a) Shall be subject to the limitations on matching funds provided in subsections (2) through (4) of this section and any other limitations provided in the act;

(b) Shall be subject to funds being appropriated by the Legislature; and

(c) Shall not be transferable.

(2) No more than fifty million dollars of matching funds shall be paid in total under the Nebraska Rural Projects Act.

(3) No more than thirty million dollars of matching funds shall be paid for any one project.

(4) An applicant shall not receive more matching funds than the amount of matching funds approved under the applicant's agreement.

(5) For any year in which more than one applicant qualifies for matching funds, the applicant with the earlier date of application shall receive the full amount of matching funds to which he or she is entitled before any matching funds may be paid to the applicant with the later date of application. If an applicant cannot be paid in full in any given year, then the matching funds shall be paid in later years until fully funded, subject to the limitations provided in this section.

(6) It is the intent of the Legislature that all matching funds owed to applicants under agreements signed pursuant to the Nebraska Rural Projects Act shall be paid by the state in full if the applicant has met all requirements for such funds.

(7) It is further the intent of the Legislature to appropriate five million dollars for fiscal year 2021-22 and five million dollars for fiscal year 2022-23 to the Department of Economic Development for purposes of carrying out the Nebraska Rural Projects Act.

Source: Laws 2021, LB40, § 19.
Effective date August 28, 2021.

81-12,214 Application; valid; when.

Any complete application shall be considered a valid application on the date submitted for the purposes of the Nebraska Rural Projects Act.

Source: Laws 2021, LB40, § 20.
Effective date August 28, 2021.

81-12,215 Project; land on which project is situated; sale; approval required; conditions.

(1) An applicant may sell all or any part of the project authorized by the Nebraska Rural Projects Act or the land on which such project is situated to a person who is seeking to establish a business at the site of such project if the sale is approved by the director.

(2) The director shall approve a sale under this section if the director finds that the sale furthers the goals of the project and the Nebraska Rural Projects Act.

(3) Any sale under this section shall not affect any matching funds already granted to the applicant and shall not disqualify the applicant from receiving matching funds after the sale.

Source: Laws 2021, LB40, § 21.
Effective date August 28, 2021.

81-12,216 Report; joint hearing.

(1) No later than October 1, 2022, and no later than October 1 of each year thereafter, the director shall submit electronically an annual report for the previous fiscal year to the Legislature. The report shall be on a fiscal year, accrual basis that satisfies the requirements set by the Governmental Accounting Standards Board. The director shall, on or before December 15, 2022, and on or before December 15 of each year thereafter, appear at a joint hearing of the Appropriations Committee of the Legislature and the Revenue Committee of the Legislature and present the report. Any supplemental information requested by three or more committee members shall be presented within thirty days after the request.

(2) The report shall state (a) the total amount of matching funds paid by the State of Nebraska, (b) the expected amount of matching funds still to be paid by the State of Nebraska, and (c) the total investment made by the applicants.

(3) The report shall provide an explanation of the audit and review processes of the Department of Economic Development in approving and rejecting the provision of matching funds and in enforcing matching funds repayment.

(4) No information shall be provided in the report or in supplemental information that is protected by state or federal confidentiality laws. The identity of private donors shall not be included in the report.

Source: Laws 2021, LB40, § 22.
Effective date August 28, 2021.

81-12,217 Rules and regulations.

The director may adopt and promulgate all procedures and rules and regulations necessary to carry out the purposes of the Nebraska Rural Projects Act.

Source: Laws 2021, LB40, § 23.
Effective date August 28, 2021.

81-12,218 Nebraska Rural Projects Fund; created; use; investment.

(1) The Nebraska Rural Projects Fund is hereby created. The fund shall receive money from application fees paid under the Nebraska Rural Projects Act and from appropriations from the Legislature, grants, private contributions, repayments of matching funds, and all other sources. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) Distributions of matching funds shall only be made from the fund in amounts determined pursuant to subsection (1) of section 81-12,211.

Source: Laws 2021, LB40, § 24.
Effective date August 28, 2021.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

(w) SHOVEL-READY CAPITAL RECOVERY AND INVESTMENT ACT

81-12,219 Act, how cited.

Sections 81-12,219 to 81-12,226 shall be known and may be cited as the Shovel-Ready Capital Recovery and Investment Act.

Source: Laws 2021, LB566, § 1.

Effective date May 26, 2021.

81-12,220 Act; purpose.

The purpose of the Shovel-Ready Capital Recovery and Investment Act is to partner with the private sector by providing grants to qualified nonprofit organizations to assist such organizations with capital projects that have been delayed due to COVID-19 and that will provide a positive economic impact in the State of Nebraska.

Source: Laws 2021, LB566, § 2.

Effective date May 26, 2021.

81-12,221 Terms, defined.

For purposes of the Shovel-Ready Capital Recovery and Investment Act:

(1) Capital project means a construction project to build, expand, or develop a new or existing facility or facilities or restoration work on a facility designated as a National Historic Landmark;

(2) Cost, in the context of a capital project, means the cost of land, engineering, architectural planning, contract services, construction, materials, and equipment needed to complete the capital project;

(3) COVID-19 means the novel coronavirus identified as SARS-CoV-2, the disease caused by the novel coronavirus SARS-CoV-2 or a virus mutating therefrom, and the health conditions or threats associated with the disease caused by the novel coronavirus SARS-CoV-2 or a virus mutating therefrom;

(4) Department means the Department of Economic Development;

(5) Qualified nonprofit organization means a tax-exempt organization under section 501(c)(3) of the Internal Revenue Code that:

(a) Is related to arts, culture, or the humanities, including any organization formed for the purpose of developing and promoting the work of artists and the humanities in various visual and performing forms, such as film, sculpture, dance, painting, horticulture, multimedia, poetry, photography, performing arts, zoology, or botany; or

(b) Operates a sports complex;

(6) Sports complex means property that:

(a) Includes indoor areas, outdoor areas, or both;

(b) Is primarily used for competitive sports; and

(c) Contains multiple separate sports venues; and

(7) Sports venue includes, but is not limited to:

(a) A baseball field;

- (b) A softball field;
- (c) A soccer field;
- (d) An outdoor stadium primarily used for competitive sports;
- (e) An outdoor arena primarily used for competitive sports; and
- (f) An enclosed, temperature-controlled building primarily used for competitive sports.

Source: Laws 2021, LB566, § 3.
Effective date May 26, 2021.

81-12,222 Grant; application; approval; amount.

(1) Beginning July 1, 2021, through July 15, 2021, a qualified nonprofit organization may apply to the department for a grant under the Shovel-Ready Capital Recovery and Investment Act. The application shall include, but not be limited to, the following information:

- (a) A description of the qualified nonprofit organization's capital project;
- (b) The estimated cost of the capital project;
- (c) The date when the capital project was delayed due to COVID-19 and the date when the capital project is expected to begin or resume, which shall be no later than June 30, 2022; and
- (d) Documentation on the amount of funds for the capital project which have been received or will be received by the qualified nonprofit organization from private sources. Such amount shall be at least equal to the amount of any grant received under the act. The documentation provided under this subdivision does not need to identify the names of any donors.

(2) The department shall consider applications in the order in which they are received. If an applicant is a qualified nonprofit organization and otherwise qualifies for funding under the Shovel-Ready Capital Recovery and Investment Act, the department shall, subject to subsection (3) of this section, approve the application and notify the applicant of the approval.

(3) The department may approve applications within the limits of available funding. The amount of any grant approved under this section shall be equal to the amount of funds to be supplied by the qualified nonprofit organization from private sources, as documented under subdivision (1)(d) of this section, subject to the following limitations:

- (a) For any capital project with an estimated cost of less than five million dollars, the grant shall not exceed one million five hundred thousand dollars;
- (b) For any capital project with an estimated cost of at least five million dollars but less than twenty-five million dollars, the grant shall not exceed five million dollars;
- (c) For any capital project with an estimated cost of at least twenty-five million dollars but less than fifty million dollars, the grant shall not exceed ten million dollars; and
- (d) For any capital project with an estimated cost of fifty million dollars or more, the grant shall not exceed fifteen million dollars.

Source: Laws 2021, LB566, § 4.
Effective date May 26, 2021.

81-12,223 Qualified nonprofit organization; grant; requirements; repayment, when.

(1) Each qualified nonprofit organization that receives a grant under the Shovel-Ready Capital Recovery and Investment Act shall:

(a) Secure all of the private funds described in subdivision (1)(d) of section 81-12,222 through a written pledge or payment by December 31, 2021, and shall begin or resume construction on the organization's capital project by June 30, 2022; and

(b) Abide by the federal laws commonly known as the Davis-Bacon and Related Acts.

(2) Any qualified nonprofit organization that fails to meet the requirements of subsection (1) of this section shall repay any grant funds received under the act.

Source: Laws 2021, LB566, § 5.

Effective date May 26, 2021.

81-12,224 Shovel-Ready Capital Recovery and Investment Fund; created; use; investment.

The Shovel-Ready Capital Recovery and Investment Fund is created. The fund shall consist of transfers authorized by the Legislature and any gifts, grants, or bequests from any source, including federal, state, public, and private sources. The fund shall be administered by the department and shall be used to make grants under the Shovel-Ready Capital Recovery and Investment 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 2021, LB566, § 6.

Effective date May 26, 2021.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-12,225 Funding; legislative intent.

It is the intent of the Legislature to allocate fifteen million dollars from the General Fund and an additional amount of federal funds, subject to the appropriations process, up to the amount needed to fully fund all approved grants, from federal funds allocated to states pursuant to the American Rescue Plan Act of 2021 from the Coronavirus State Fiscal Recovery Fund and received by the State of Nebraska on or after May 26, 2021, if such use is permitted under section 9901 of the American Rescue Plan Act of 2021, for use by the department for purposes of carrying out the Shovel-Ready Capital Recovery and Investment Act.

Source: Laws 2021, LB566, § 7.

Effective date May 26, 2021.

81-12,226 Rules and regulations.

The department may adopt and promulgate rules and regulations to carry out the Shovel-Ready Capital Recovery and Investment Act.

Source: Laws 2021, LB566, § 8.

Effective date May 26, 2021.

**ARTICLE 13
PERSONNEL**

(a) STATE PERSONNEL SERVICE

Section

81-1316. State Personnel System; exemptions.

(a) STATE PERSONNEL SERVICE

81-1316 State Personnel System; exemptions.

(1) All agencies and personnel of state government shall be covered by sections 81-1301 to 81-1319 and shall be considered subject to the State Personnel System, except the following:

- (a) All personnel of the office of the Governor;
- (b) All personnel of the office of the Lieutenant Governor;
- (c) All personnel of the office of the Secretary of State;
- (d) All personnel of the office of the State Treasurer;
- (e) All personnel of the office of the Attorney General;
- (f) All personnel of the office of the Auditor of Public Accounts;
- (g) All personnel of the Legislature;
- (h) All personnel of the court systems;
- (i) All personnel of the Board of Educational Lands and Funds;
- (j) All personnel of the Public Service Commission;
- (k) All personnel of the Nebraska Brand Committee;
- (l) All personnel of the Commission of Industrial Relations;
- (m) All personnel of the State Department of Education;
- (n) All personnel of the Nebraska state colleges and the Board of Trustees of the Nebraska State Colleges;
- (o) All personnel of the University of Nebraska;
- (p) All personnel of the Coordinating Commission for Postsecondary Education;
- (q) All personnel of the Governor’s Policy Research Office;
- (r) All personnel of the Commission on Public Advocacy;
- (s) All agency heads;
- (t)(i) The Director of Behavioral Health of the Division of Behavioral Health;
- (ii) the Director of Children and Family Services of the Division of Children and Family Services; (iii) the Director of Developmental Disabilities of the Division of Developmental Disabilities; (iv) the Director of Medicaid and Long-Term Care of the Division of Medicaid and Long-Term Care; and (v) the Director of Public Health of the Division of Public Health;

(u) The chief medical officer established under section 81-3115, the Administrator of the Office of Juvenile Services, and the chief executive officers of the

Beatrice State Developmental Center, Lincoln Regional Center, Norfolk Regional Center, Hastings Regional Center, Grand Island Veterans' Home, Norfolk Veterans' Home, Eastern Nebraska Veterans' Home, Western Nebraska Veterans' Home, and each youth rehabilitation and treatment center;

(v) The chief executive officers of all facilities operated by the Department of Correctional Services and the medical director for the department appointed pursuant to section 83-4,156;

(w) All personnel employed as pharmacists, physicians, psychiatrists, or psychologists by the Department of Correctional Services;

(x) All personnel employed as pharmacists, physicians, psychiatrists, psychologists, service area administrators, or facility operating officers of the Department of Health and Human Services or the Department of Veterans' Affairs;

(y) Deputies and examiners of the Department of Banking and Finance and the Department of Insurance as set forth in sections 8-105 and 44-119, except for those deputies and examiners who remain in the State Personnel System;

(z) All personnel of the Tax Equalization and Review Commission; and

(aa) The associate director of the Conservation Division of the Nebraska State Historical Society and all personnel employed as a Conservator I or Conservator II of the Conservation Division of the Nebraska State Historical Society.

(2) At each agency head's discretion, up to the following number of additional positions may be exempted from the State Personnel System, based on the following agency size categories:

Number of Agency Employees	Number of Noncovered Positions
less than 25	0
25 to 100	1
101 to 250	2
251 to 500	3
501 to 1000	4
1001 to 2000	5
2001 to 3000	8
3001 to 4000	11
4001 to 5000	40
over 5000	50

The purpose of having such noncovered positions shall be to allow agency heads the opportunity to recruit, hire, and supervise critical, confidential, or policymaking personnel without restrictions from selection procedures, compensation rules, career protections, and grievance privileges. Persons holding the noncovered positions shall serve at the pleasure of the agency head and shall be paid salaries set by the agency head. An agency with over five thousand employees shall provide notice in writing to the Health and Human Services Committee of the Legislature when forty noncovered positions have been filled by the agency head pursuant to this subsection.

(3) No changes to this section or to the number of noncovered positions within an agency shall affect the status of personnel employed on the date the changes become operative without their prior written agreement. A state employee's career protections or coverage by personnel rules and regulations

shall not be revoked by redesignation of the employee’s position as a noncovered position without the prior written agreement of such employee.

Source: Laws 1967, c. 573, § 16, p. 1896; Laws 1969, c. 802, § 8, p. 3025; Laws 1971, LB 637, § 1; Laws 1987, LB 491, § 13; Laws 1988, LB 1106, § 1; Laws 1996, LB 1044, § 867; Laws 1998, LB 1073, § 165; Laws 2000, LB 654, § 41; Laws 2002, LB 876, § 86; Laws 2002, LB 1062, § 65; Laws 2003, LB 85, § 3; Laws 2003, LB 245, § 16; Laws 2006, LB 994, § 114; Laws 2007, LB296, § 756; Laws 2008, LB745, § 1; Laws 2008, LB965, § 23; Laws 2011, LB218, § 1; Laws 2017, LB340, § 17; Laws 2018, LB827, § 3; Laws 2019, LB302, § 105; Laws 2019, LB447, § 1; Laws 2021, LB273, § 6.

Effective date August 28, 2021.

Cross References

For other exemptions, see sections 49-14,121 and 72-1242.

ARTICLE 14

LAW ENFORCEMENT

(a) LAW ENFORCEMENT TRAINING

Section

- 81-1401. Terms, defined.
- 81-1403. Council; duties; law enforcement agency; duties; administrative fine.
- 81-1407. Nebraska Police Standards Advisory Council; members; qualifications; terms; appointment; removal; hearing.
- 81-1410.01. Training academies; de-escalation training.
- 81-1414. Law enforcement officers; certificate or diploma; when required; noncertified conditional officer; appointment; field training officers.
- 81-1414.07. Continuing education requirements; course offerings.
- 81-1414.11. Employment of law enforcement officer; waiver to prospective employer; contents; form; former employer; duties.
- 81-1414.12. Law enforcement officer; psychological evaluation; when required.
- 81-1414.13. Law enforcement officer; reciprocity program; approval; application; council; powers and duties.
- 81-1414.14. Law enforcement officer misconduct; complaints; policy required; investigations; agency powers and duties.
- 81-1414.15. Employment of law enforcement officer; submit personnel change in status form; record; contents; report of termination or resignation in lieu of termination.
- 81-1414.16. Law enforcement officer; chokehold prohibited; carotid restraint control hold prohibited; exceptions; report required.
- 81-1414.17. Use of excessive force; policy of intervention required; commission; duties.
- 81-1414.18. Law enforcement agencies; accreditation required; Nebraska Police Improvement and Professionalism Fund; created; use; investment; grant program for accreditation costs.
- 81-1414.19. Law enforcement officers; list on website, when; challenge; procedure.

(c) HUMAN TRAFFICKING

- 81-1430. Task force; established; members; terms; duties; quorum; report; Department of Labor; posters.

(d) LAW ENFORCEMENT RESERVE FORCES

- 81-1438. Law enforcement reserve force; members; appointment; prohibited acts; functions allowed.
- 81-1439. Law enforcement reserve force; commission; duties; delegation of responsibilities; continuing education requirements; reserve force manual; contents.

- Section
81-1440. Law enforcement reserve officers; serve as peace officers; when; restrictions.
81-1443. Law enforcement reserve officers; rights and duties when activated; weapon, when carried; subordinate to regular force officers.

(h) EMPLOYMENT RECORDS

- 81-1456. Transferred to section 81-1414.15.
81-1457. Transferred to section 81-1414.11.

(a) LAW ENFORCEMENT TRAINING

81-1401 Terms, defined.

For purposes of sections 81-1401 to 81-1414.19, unless the context otherwise requires:

- (1) Class I railroad means a rail carrier classified as Class I pursuant to 49 C.F.R. part 1201 1-1;
- (2) Commission means the Nebraska Commission on Law Enforcement and Criminal Justice;
- (3) Council means the Nebraska Police Standards Advisory Council;
- (4) Director means the director of the Nebraska Law Enforcement Training Center;
- (5) Felony means a crime punishable by imprisonment for a term of more than one year or a crime committed outside of Nebraska which would be punishable by imprisonment for a term of more than one year if committed in Nebraska;
- (6) Handgun means any firearm with a barrel less than sixteen inches in length or any firearm designed to be held and fired by the use of a single hand;
- (7) Law enforcement agency means the police department or the town marshal in incorporated municipalities, the office of sheriff in unincorporated areas, the Nebraska State Patrol, and Class I railroad police departments;
- (8)(a) Law enforcement officer means any person who has successfully completed an entry-level law enforcement certification from a training academy and who is responsible for the prevention or detection of crime or the enforcement of the penal, traffic, or highway laws of the state or any political subdivision of the state for more than one hundred hours per year and is authorized by law to make arrests and includes, but is not limited to:
 - (i) A full-time or part-time member of the Nebraska State Patrol;
 - (ii) A county sheriff;
 - (iii) A full-time or part-time employee of a county sheriff's office;
 - (iv) A full-time or part-time employee of a municipal or village police agency;
 - (v) A full-time or part-time Game and Parks Commission conservation officer;
 - (vi) A full-time or part-time deputy state sheriff;
 - (vii) A full-time employee of an organized and paid fire department of any city of the metropolitan class who is an authorized arson investigator and whose duties consist of determining the cause, origin, and circumstances of fires or explosions while on duty in the course of an investigation;
 - (viii) A member of a law enforcement reserve force appointed in accordance with section 81-1438; or

(ix) A full-time Class I railroad police officer;

(b) Law enforcement officer includes a noncertified conditional officer;

(c) Law enforcement officer does not include employees of the Department of Correctional Services, probation officers under the Nebraska Probation System, parole officers appointed by the Director of Supervision and Services of the Division of Parole Supervision, or employees of the Department of Revenue under section 77-366; and

(d) Except for a noncertified conditional officer, a law enforcement officer shall possess a valid law enforcement officer certificate or diploma, as established by the council, in order to be vested with the authority of this section;

(9) Misdemeanor crime of domestic violence has the same meaning as in section 28-1206;

(10) Noncertified conditional officer means a person appointed pursuant to subsection (6) of section 81-1414;

(11) Serious misconduct means improper or illegal actions taken by a law enforcement officer that have a rational connection with the person's fitness or capacity to serve as a law enforcement officer and includes, but is not limited to:

(a) Conviction of a felony or misdemeanor crime of domestic violence;

(b) Fabrication of evidence;

(c) Repeated substantiated allegations of the use of excessive force;

(d) Acceptance of a bribe;

(e) Commission of fraud or perjury; or

(f) Sexual assault;

(12) Training academy means the training center or such other council-approved law enforcement training facility operated and maintained by a law enforcement agency which offers certification training that meets or exceeds the certification training curriculum of the training center;

(13) Training center means the Nebraska Law Enforcement Training Center; and

(14) Training school means a public or private institution of higher education, including the University of Nebraska, the Nebraska state colleges, and the community colleges of this state, that offers training in a council-approved pre-certification course.

Source: Laws 1969, c. 773, § 1, p. 2925; Laws 1971, LB 929, § 1; Laws 1979, LB 565, § 1; Laws 1980, LB 834, § 63; Laws 1981, LB 205, § 3; Laws 1986, LB 529, § 53; Laws 1996, LB 1055, § 11; Laws 1999, LB 36, § 38; Laws 1999, LB 205, § 1; Laws 2000, LB 994, § 2; Laws 2007, LB334, § 105; Laws 2012, LB817, § 5; Laws 2013, LB538, § 1; Laws 2018, LB841, § 14; Laws 2021, LB51, § 4.

Effective date August 28, 2021.

81-1403 Council; duties; law enforcement agency; duties; administrative fine.

Subject to review and approval by the commission, the council shall:

(1) Adopt and promulgate rules and regulations for law enforcement pre-certification, certification, continuing education, and training requirements.

Such rules and regulations may include the authority to impose a fine on any individual, political subdivision, or agency who or which violates sections 81-1401 to 81-1414.19 or any rules and regulations adopted and promulgated thereunder. The fine for each separate violation of such sections or of any such rule or regulation shall not exceed either (a) a one-time maximum fine of five hundred dollars or (b) a maximum fine of one hundred dollars per day until the individual, political subdivision, or agency complies with such rules or regulations;

(2) Adopt and promulgate rules and regulations for the operation of the training center;

(3) Recommend to the executive director of the commission the names of persons to be appointed to the position of director of the training center;

(4) Establish requirements for satisfactory completion of pre-certification programs, certification programs, and advanced training programs;

(5) Issue certificates or diplomas attesting satisfactory completion of pre-certification programs, certification programs, and advanced training programs;

(6) Revoke or suspend such certificates or diplomas according to rules and regulations adopted and promulgated by the council pursuant to sections 81-1401 to 81-1414.19 for reasons which shall include, but not be limited to:

(a) Final conviction of or pleading guilty or nolo contendere to a:

(i) Felony violation of state or federal law;

(ii) Misdemeanor crime of domestic violence; or

(iii) Misdemeanor violation of state or federal law, if the violation has a rational connection with the officer's fitness or capacity to serve as a law enforcement officer;

(b) Serious misconduct; or

(c) A violation of the officer's oath of office, code of ethics, or statutory duties;

(7) The council shall adopt and promulgate rules and regulations that:

(a) Provide for the revocation of a certificate or diploma without a hearing upon the certificate or diploma holder's final conviction of or pleading guilty or nolo contendere to a felony or misdemeanor described in subdivision (6) of this section; and

(b) Include a procedure for hearing appeals of any person who feels that the revocation or suspension of his or her certificate or diploma was in error;

(8) Set the tuition and fees for the training center and all officers of other training academies not employed by that training academy's agency. The tuition and fees set for the training center pursuant to this subdivision shall be adjusted annually pursuant to the training center budget approved by the Legislature. All other tuition and fees shall be set in order to cover the costs of administering sections 81-1401 to 81-1414.19. All tuition and fees shall be remitted to the State Treasurer for credit to the Nebraska Law Enforcement Training Center Cash Fund;

(9) Annually certify any training academies providing a basic course of law enforcement training which complies with the qualifications and standards promulgated by the council and offering training that meets or exceeds training that is offered by the training center. The council shall set the maximum and

minimum applicant enrollment figures for training academies training non-agency officers;

(10) Extend the programs of the training center throughout the state on a regional basis;

(11) Establish the qualifications, standards, and continuing education requirements and provide the training required by section 81-1439; and

(12) Do all things necessary to carry out the purpose of the training center, except that functional authority for budget and personnel matters shall remain with the commission.

Any administrative fine imposed under this section shall constitute a debt to the State of Nebraska which may be collected by lien foreclosure or sued for and recovered in any proper form of action by the office of the Attorney General in the name of the State of Nebraska in the district court of the county where the final agency action was taken. All fines imposed by the council shall be remitted to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

Source: Laws 1969, c. 773, § 3, p. 2926; Laws 1971, LB 929, § 3; Laws 1984, LB 673, § 1; Laws 1988, LB 666, § 1; Laws 1994, LB 971, § 3; Laws 2000, LB 994, § 4; Laws 2005, LB 115, § 1; Laws 2011, LB390, § 16; Laws 2012, LB817, § 6; Laws 2013, LB538, § 2; Laws 2021, LB51, § 5.
Effective date August 28, 2021.

81-1407 Nebraska Police Standards Advisory Council; members; qualifications; terms; appointment; removal; hearing.

(1)(a) The Nebraska Police Standards Advisory Council shall consist of nine members appointed by the Governor.

(b) Eight of the members shall be full-time officers or employees of a law enforcement agency. Such members shall include:

(i) A representative chief of police or his or her designee from a city of the metropolitan class;

(ii) A representative chief of police or his or her designee from a city of the primary class;

(iii) A representative chief of police or his or her designee from a city of the first class;

(iv) A representative chief of police or his or her designee from a city of the second class or village;

(v) A county sheriff or his or her designee from a county having a population of forty thousand or more;

(vi) A county sheriff or his or her designee from a county having a population of forty thousand or less;

(vii) A member of the Nebraska State Patrol; and

(viii) A sworn law enforcement officer holding the rank of sergeant or below.

(c) The ninth member shall be a member of the Jail Standards Board or a person from the public at large.

(2) Except as otherwise provided in this subsection, the members of the council shall serve for terms of four years each. Within ninety days after August

28, 2021, the Governor shall appoint the new members added by Laws 2021, LB51. Of such members one shall serve a term of three years and one shall serve a term of four years. Each succeeding member shall be appointed for a term of four years. 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 remainder of the unexpired term, in the same manner as the original appointment. The council shall select one of its members as chairperson.

(3) No member of the council shall serve beyond the time when he or she holds the office or employment by reason of which he or she was initially eligible for appointment. A member may be removed from the council for cause upon notice and an opportunity to be heard at a public hearing before the Governor. After the hearing, the Governor shall file in the office of the Secretary of State a complete statement of the charges, his or her findings and disposition, together with a complete record of the proceedings.

Source: Laws 1969, c. 773, § 7, p. 2927; Laws 1994, LB 971, § 6; Laws 2021, LB51, § 6.

Effective date August 28, 2021.

81-1410.01 Training academies; de-escalation training.

As part of entry-level law enforcement certification, each training academy shall require completion of de-escalation training. The de-escalation training shall include training related to mental health behaviors, substance abuse, anti-bias, implicit bias, and communicating with a person in a crisis.

Source: Laws 2021, LB51, § 7.

Effective date August 28, 2021.

81-1414 Law enforcement officers; certificate or diploma; when required; noncertified conditional officer; appointment; field training officers.

(1) On and after January 1, 1972, law enforcement officers already serving under permanent appointment shall not be required to meet any requirement of subsection (2) of this section as a condition of tenure or continued employment.

(2) Except as provided in subsection (6) of this section, on and after January 1, 1972, no person shall receive appointment as a law enforcement officer unless such person:

(a) Has been awarded a certificate or diploma by the commission attesting to satisfactory completion of the minimum curriculum of the training center as established by the council;

(b) Has been awarded a certificate or diploma attesting to satisfactory completion of a training program approved by the council as equivalent to the curriculum in subdivision (2)(a) of this section; or

(c) Is certified as a law enforcement officer in another state and has applied, completed a reciprocity program, and been approved as provided in section 81-1414.13.

(3) The council shall deem the successful completion of the federal Bureau of Indian Affairs basic police training program as administered by the Federal Law Enforcement Training Center to constitute equivalent training under subdivision (2)(b) of this section, and officers certified by virtue of such

equivalent training may exercise full law enforcement authority exclusively on tribal lands.

(4) Law enforcement officers who are promoted in rank shall satisfactorily complete such council-approved training within one year of such promotion.

(5) At the direction of the council, the director shall issue a certificate or diploma attesting to a compliance with the requirements of subsection (2), (3), or (4) of this section to any applicant who presents evidence of satisfactory completion of a council-approved training program.

(6)(a) A person who has not been awarded such a certificate or diploma may receive an appointment as a noncertified conditional officer subject to the provisions and requirements of this subsection.

(b) A noncertified conditional officer shall meet all requirements for admission to the training center and shall immediately apply for admission to the training center and enroll in the next available basic training class.

(c) A noncertified conditional officer may interact with the public and carry a firearm only after completion of the following training:

(i) Twenty-four hours of use of force training, including defensive tactics, arrest control, handcuffing, pat down, and complete searches;

(ii) Sixteen hours of firearms training and passing the minimum requirements for the handgun qualification course as provided in section 81-1412.01;

(iii) Twelve hours of arrest and search and seizure training with Fourth Amendment and Fifth Amendment training;

(iv) Eight hours of de-escalation training;

(v) Eight hours of mental health crisis training;

(vi) Eight hours of anti-bias and implicit bias training; and

(vii) Four hours of substance abuse training.

(d) The head of the law enforcement agency employing a noncertified conditional officer shall validate the completion of the training required under subdivision (6)(c) of this section to the council and the director of the training center.

(e) A noncertified conditional officer shall not interact with the public unless such officer is under the direct supervision of a field training officer approved by the law enforcement agency employing such noncertified conditional officer.

(f) A noncertified conditional officer shall not, without direct guidance and authorization from an approved field training officer:

(i) Ride in a marked police cruiser;

(ii) Make arrests;

(iii) Interview suspects, victims, or witnesses; or

(iv) Carry out any other law enforcement function.

(g) A noncertified conditional officer may be employed for a period not to exceed sixteen consecutive weeks. The council may extend such period as follows:

(i) Upon application by a noncertified conditional officer, the council may grant an extension not to exceed two consecutive weeks for good cause shown; and

(ii) The council shall grant an extension not to exceed sixteen consecutive weeks upon finding:

(A) That the noncertified conditional officer immediately applied for admission to the training center upon appointment under this subsection;

(B) That the training center denied the officer's enrollment in the next basic training class due to class size limitations or another reason that was not the fault of the officer;

(C) That the officer is enrolled in the next available basic training class; and

(D) That such extension would not be contrary to the requirements, limitations, or intent of this subsection.

(h) Failure to follow the requirements and restrictions of this subsection shall be considered a violation of the law and neglect of duty.

(i) The council may adopt and promulgate rules and regulations as necessary to carry out this subsection, including, but not limited to, rules and regulations permitting the virtual or online completion of required training and minimum standards and qualifications for field training officers. Prior to the expiration of ninety days after any such rules and regulations adopted become effective, any certified law enforcement officer with not less than three years of experience may serve as a field training officer.

Source: Laws 1969, c. 773, § 14, p. 2930; Laws 1971, LB 929, § 7; Laws 1994, LB 971, § 10; Laws 1996, LB 1055, § 12; Laws 1997, LB 161, § 1; Laws 2000, LB 994, § 9; Laws 2012, LB817, § 10; Laws 2021, LB51, § 8.

Effective date August 28, 2021.

81-1414.07 Continuing education requirements; course offerings.

(1)(a) In order to maintain his or her professional status and serve the law enforcement profession, the community, and the residents of Nebraska, each law enforcement officer, other than a noncertified conditional officer, shall attend continuing education courses for the number of hours required in subdivision (1)(b) of this section in the areas of criminal justice and law enforcement during each calendar year beginning on January 1 and ending on December 31. A law enforcement officer is not required to meet the continuing education requirements in the year in which he or she first becomes fully certified.

(b) The number of continuing education hours required under this subsection shall be:

(i) Until January 1, 2022, twenty hours;

(ii) Beginning January 1, 2022, and until January 1, 2023, twenty-eight hours; and

(iii) Beginning January 1, 2023, thirty-two hours.

(2) The annual continuing education required by this section shall include:

(a) Refresher courses on de-escalation, mental health, and substance abuse issues;

(b) A minimum of two hours of anti-bias and implicit bias training;

(c) Firearms;

(d) Officer wellness;

(e) Legal updates, including, but not limited to, legislative changes and First Amendment and Fourth Amendment issues;

(f) Vehicular pursuit policy review; and

(g) Any other training as determined by a law enforcement agency.

(3) Continuing education courses may be offered in the form of seminars, advanced education which may include college or university classes, conferences, instruction conducted within the law enforcement officer's law enforcement agency, or instruction conducted over the Internet. Continuing education shall be of a type which has application to and seeks to maintain and improve the skills of the law enforcement officer in carrying out his or her duties and responsibilities.

Source: Laws 2012, LB817, § 13; Laws 2020, LB924, § 3; Laws 2021, LB51, § 12.

Effective date August 28, 2021.

81-1414.11 Employment of law enforcement officer; waiver to prospective employer; contents; form; former employer; duties.

(1) A person who seeks employment as a law enforcement officer in this state shall provide a signed waiver to the prospective employer upon a conditional offer of employment. The waiver must expressly allow the prospective employer to contact the person's former employer or employers and obtain from each copies of any records created under subsections (2) and (3) of section 81-1414.15 or under comparable laws in another jurisdiction. The prospective employer is responsible for providing the waiver to each former employer.

(2) The waiver required by this section shall be executed on a form provided by the commission to all agencies in this state that employ or administer oaths of office to law enforcement officers certified by the commission.

(3) Within ten calendar days after receipt of the waiver, a former employer shall provide the prospective employer, along with other information required or allowed to be provided by law, copies of any records created under subsections (2) and (3) of section 81-1414.15. The names and any identifying information in any records created under subsections (2) and (3) of this section of any individual, witness, or law enforcement officer or officers other than the person who signed the waiver shall be confidential and not disclosed to the prospective employer.

(4) A prospective employer shall not hire as a law enforcement officer a person to whom subsection (1) of this section applies unless the prospective employer receives, from each of the person's former employers whether located in Nebraska or in another jurisdiction, copies of any records created under subsections (2) and (3) of section 81-1414.15 or such other jurisdiction's comparable laws.

(5) A prospective employer shall not hire as a law enforcement officer a person to whom subsection (1) of this section applies if such person's former employer has provided notice to the commission that the person's separation from the former employer occurred under circumstances that may justify revocation of the person's certification unless the commission has reviewed the notification and issued a determination that the person shall retain such certification.

(6) For purposes of this section:

(a) Former employer means the law enforcement agency or other agency that currently employs or previously employed the person as a law enforcement officer, whether located in Nebraska or in another jurisdiction; and

(b) Prospective employer means the law enforcement agency or other agency that is considering hiring the person as a law enforcement officer.

Source: Laws 2018, LB791, § 2; R.S.Supp.,2020, § 81-1457; Laws 2021, LB51, § 9.

Effective date August 28, 2021.

81-1414.12 Law enforcement officer; psychological evaluation; when required.

(1) Prior to hiring a person as a law enforcement officer, a law enforcement agency shall, if such person has not previously worked as a law enforcement officer in Nebraska, cause such person to undergo a psychological evaluation to determine fitness for duty. The cost of such evaluation shall be the responsibility of the agency.

(2) The council may adopt and promulgate rules and regulations to carry out this section.

Source: Laws 2021, LB51, § 10.

Effective date August 28, 2021.

81-1414.13 Law enforcement officer; reciprocity program; approval; application; council; powers and duties.

(1) A person seeking certification under subdivision (2)(c) of section 81-1414 shall, in addition to any other applicable requirements of the commission or of sections 81-1401 to 81-1414.19, submit an application to the council and complete a reciprocity program as provided in this section. The application shall be made under oath and made on a form provided by the council.

(2) The applicant shall attest to the following:

(a) That the applicant's certification as a law enforcement officer has not been revoked or suspended in another jurisdiction;

(b) That the applicant has not been convicted of or pleaded guilty or nolo contendere to a:

(i) Felony violation of state or federal law;

(ii) Misdemeanor crime of domestic violence; or

(iii) Misdemeanor violation of state or federal law, if the violation has a rational connection with the officer's fitness or capacity to serve as a law enforcement officer;

(c) That the applicant has not been separated from employment or disciplined for serious misconduct or a violation of the officer's oath of office, code of ethics, or statutory duties; and

(d) Any other information deemed necessary by the council.

(3) The council shall develop or approve a reciprocity program that an applicant shall complete prior to receiving certification under this section.

(4) The council shall deny certification to an applicant under this section if the council finds that the applicant does not meet the requirements of subsection (2) of this section, has omitted information required by such subsection,

has provided false or misleading information in the application, or has not completed the reciprocity program.

(5) No law enforcement agency or other state or local agency shall hire as a law enforcement officer a person whose certification is denied under this section.

(6) The council may adopt and promulgate rules and regulations as necessary to carry out this section.

Source: Laws 2021, LB51, § 11.

Effective date August 28, 2021.

81-1414.14 Law enforcement officer misconduct; complaints; policy required; investigations; agency powers and duties.

(1) Each law enforcement agency or agency employing a law enforcement officer shall have a policy in its standard operating procedures regarding accepting and investigating complaints of law enforcement officer misconduct.

(2) If an agency receives a complaint of law enforcement misconduct which could constitute grounds for revocation or suspension under subdivision (6) of section 81-1403:

(a) The agency shall investigate the matter;

(b) The investigation shall be carried out by a law enforcement officer who has experience investigating allegations of misconduct by law enforcement officers; and

(c) The agency shall complete the investigation within one hundred days after the complaint. If criminal charges against the officer are being considered, the one-hundred-day deadline shall be tolled until a charging decision has been made and the prosecuting attorney has filed charges or declined to file charges. Upon completion of any investigation under this subsection, the agency shall report the results of the investigation to the executive director of the commission.

(3) If a law enforcement agency determines that a complaint investigated under subsection (2) of this section may be grounds for revocation of a law enforcement officer's certification, the agency shall forward the matter to the commission and the commission shall investigate such complaint. Any investigation by the commission shall be completed within one hundred eighty days after receipt of the complaint. If such investigation is not completed within one hundred eighty days, the investigation shall be deemed closed and the officer shall be notified. The commission may begin a new investigation if new information not available during the previous investigation is received and an investigation is warranted.

Source: Laws 2021, LB51, § 13.

Effective date August 28, 2021.

81-1414.15 Employment of law enforcement officer; submit personnel change in status form; record; contents; report of termination or resignation in lieu of termination.

(1) The chief of police, sheriff, Superintendent of Law Enforcement and Public Safety, or the head administrator of a law enforcement agency or an agency employing a law enforcement officer shall submit a personnel change in status form as approved by the council to the director of the training center

within seven calendar days after the date a law enforcement officer is hired by the agency or leaves employment with the agency.

(2) Each law enforcement agency or agency employing a law enforcement officer shall maintain a record regarding the reason or reasons for, and circumstances surrounding, a separation of service for each law enforcement officer employed by that agency. Such record shall be retained for five years following a law enforcement officer's separation from the agency.

(3) Each law enforcement agency or agency employing a law enforcement officer shall maintain any and all records of officer conduct which could constitute grounds for revocation or suspension of a law enforcement certification by the commission. Such record shall include any and all records of conduct which could constitute grounds for revocation or suspension under subdivision (6) of section 81-1403. Such record shall be retained for the duration of the law enforcement officer's employment with the agency and for ten years following his or her separation from the agency.

(4) The chief of police, sheriff, Superintendent of Law Enforcement and Public Safety, or the head administrator of a law enforcement agency or an agency employing a law enforcement officer shall make a report to the commission of any law enforcement officer who is terminated from employment or allowed to resign in lieu of termination for conduct described in subdivision (6) of section 81-1403. The report shall include, but not be limited to, a summary of the allegations pertaining to the officer and identification of any witnesses relevant to the allegations, and shall be filed with the commission within thirty calendar days of the termination or resignation in lieu of termination.

(5) Failure to comply with this section shall constitute neglect of duty.

Source: Laws 2018, LB791, § 1; R.S.Supp.,2020, § 81-1456; Laws 2021, LB51, § 14.
Effective date August 28, 2021.

81-1414.16 Law enforcement officer; chokehold prohibited; carotid restraint control hold prohibited; exceptions; report required.

(1) Except when the use of deadly force is authorized, a law enforcement officer shall not intentionally use a chokehold on any person.

(2) A law enforcement officer shall not intentionally use a carotid restraint control hold on any person unless:

(a) Either:

(i) The officer reasonably believes that the person will otherwise cause death or serious bodily injury to any person, including a law enforcement officer or noncertified conditional officer;

(ii) The person is actively resisting arrest in a manner that poses a risk of bodily injury to the officer or any other person; or

(iii) Deadly force is otherwise authorized; and

(b) The officer has been trained on the use of such hold.

(3) Following use of a carotid restraint control hold, a law enforcement officer shall create a report of the incident that articulates in detail the events leading to and following the use of such hold.

(4) For purposes of this section:

- (a) Bodily injury has the same meaning as in section 28-109;
- (b) Carotid restraint control hold means utilizing bilateral pressure to the sides of a person's neck, restricting the flow of oxygenated blood to the brain;
- (c) Chokehold means intentionally applying pressure to the front of the throat and cutting off air flow for a sustained amount of time; and
- (d) Serious bodily injury has the same meaning as in section 28-109.

Source: Laws 2021, LB51, § 15.

Effective date August 28, 2021.

81-1414.17 Use of excessive force; policy of intervention required; commission; duties.

On or before January 1, 2022:

(1) Each law enforcement agency shall adopt and provide to the commission for approval a policy requiring each law enforcement officer of such agency to intervene when such officer reasonably believes that another law enforcement officer is engaged in a use of excessive force; and

(2) The commission shall develop and distribute a suggested model written policy for use by law enforcement agencies, but the commission shall not mandate the adoption of the model policy except for any particular law enforcement agency which fails to timely create and provide to the commission a policy for the agency as required by this section or when the commission does not approve an agency's policy.

Source: Laws 2021, LB51, § 16.

Effective date August 28, 2021.

81-1414.18 Law enforcement agencies; accreditation required; Nebraska Police Improvement and Professionalism Fund; created; use; investment; grant program for accreditation costs.

(1)(a) On or before January 1, 2023, each law enforcement agency shall be accredited in a manner approved by the commission. A law enforcement agency shall not be accredited unless it has adopted written policies as determined by the commission and met other requirements as determined by the commission.

(b) Beginning January 1, 2023, the commission shall post on its website a list of all law enforcement agencies that are not accredited as required by this subsection. The commission shall update the list at least annually, and more frequently as the commission deems necessary.

(c) A law enforcement agency that is not accredited as required by this subsection shall be ineligible to receive loans, grants, funds, or donations administered by the commission until the commission determines that such agency has been properly accredited.

(2) The commission shall develop accreditation requirements. The commission may provide its own accreditation program and may approve accreditations provided by third-party providers.

(3) The Nebraska Police Improvement and Professionalism Fund is created. The fund shall be used to provide grants as provided in subsection (4) of this section. The State Treasurer shall credit to the fund any funds transferred or appropriated to the fund by the Legislature and funds received as gifts or grants

or other private or public funds obtained for the purposes set forth 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.

(4) The commission shall develop a grant program to award grants to law enforcement agencies to pay for costs of accreditation incurred pursuant to this section. In awarding such grants, the commission shall prioritize smaller law enforcement agencies.

(5) The commission may adopt and promulgate rules and regulations to carry out this section.

Source: Laws 2021, LB51, § 17.
Effective date August 28, 2021.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

81-1414.19 Law enforcement officers; list on website, when; challenge; procedure.

(1) On or before July 1, 2022, the commission shall post on its public website a list of all law enforcement officers who have, on or after January 1, 2021:

(a) Voluntarily surrendered their certifications or had their certifications revoked;

(b) Been convicted of or pleaded guilty or nolo contendere to a felony or a Class I misdemeanor; or

(c) Upon adjudication by the council, been found to have engaged in serious misconduct.

(2) The list provided for in this section shall be accompanied on the commission's public website by a letter that includes, for each law enforcement officer on such list:

(a) The officer's name, rank, and the law enforcement agency for which such officer works or most recently worked;

(b) A statement indicating the reason such officer's name is on the list;

(c) A description of any discipline imposed; and

(d) An affirmation, signed by the chief of police, sheriff, or the head administrator of the officer's law enforcement agency or the Superintendent of Law Enforcement and Public Safety affirming the truth and accuracy of the matters stated in the letter.

(3) Beginning July 1, 2022, any time a law enforcement officer voluntarily surrenders such officer's certification, has such certification revoked, or is adjudicated by the council to have engaged in serious misconduct, the council shall notify the commission within thirty days after such surrender, revocation, or adjudication.

(4) By July 1, 2022, the council shall establish a procedure, including an opportunity for a hearing, by which a law enforcement officer may challenge the inclusion of such officer's name on the list.

Source: Laws 2021, LB51, § 18.
Effective date August 28, 2021.

(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, strip clubs, and casinos. 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 expenses incurred 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; Laws 2020, LB381, § 117; Laws 2021, LB461, § 1.
Effective date August 28, 2021.

(d) LAW ENFORCEMENT RESERVE FORCES

81-1438 Law enforcement reserve force; members; appointment; prohibited acts; functions allowed.

(1) The governing body of any county or city of this state, other than (a) a county containing a city of the metropolitan or primary class or (b) a city of the metropolitan or primary class, may establish a law enforcement reserve force. Members of such force shall be appointed at the discretion of the governing body. The governing body may limit the size of such reserve force.

(2)(a) A member of a law enforcement reserve force appointed under this section cannot make arrests, issue citations, detain members of the public, or seize evidence without being under the direct supervision of a physically present certified law enforcement officer.

(b) A reserve officer may perform functions at the direction of the county sheriff or chief of police when under the direct supervision of the county sheriff or chief of police. Such functions shall not include making arrests, issuing citations, detaining members of the public, or seizing evidence.

(c) A reserve officer is not limited with respect to the amount of hours worked annually.

Source: Laws 1976, LB 782, § 1; Laws 2004, LB 1162, § 4; Laws 2021, LB51, § 19.
Effective date August 28, 2021.

81-1439 Law enforcement reserve force; commission; duties; delegation of responsibilities; continuing education requirements; reserve force manual; contents.

(1) The Nebraska Commission on Law Enforcement and Criminal Justice shall establish minimum physical, mental, educational, and moral qualifications for all members of any law enforcement reserve force. The commission shall also establish training and continuing education standards and be responsible for providing such training for all members. The commission shall delegate its responsibilities pursuant to this section to the Nebraska Police Standards Advisory Council.

(2) Individuals appointed to a law enforcement reserve force shall receive training through or under the supervision of the Nebraska Law Enforcement Training Center and shall achieve the minimum training standards within one year after the date of appointment. Such training may be provided by the

training center through regional workshops, training sessions, or similar means of instruction anywhere in the state.

(3) Members of the law enforcement reserve force shall be subject to the same continuing education requirements as law enforcement officers pursuant to sections 81-1401 to 81-1414.19.

(4) The governing body establishing a law enforcement reserve force shall adopt and publish a reserve force manual setting forth the minimum qualifications, training standards, standard operating procedures, and continuing education requirements for such force and such higher qualifications, standards, and operating procedures as may actually be used.

Source: Laws 1976, LB 782, § 2; Laws 1994, LB 971, § 16; Laws 2012, LB817, § 17; Laws 2021, LB51, § 20.
Effective date August 28, 2021.

81-1440 Law enforcement reserve officers; serve as peace officers; when; restrictions.

Subject to the restrictions set forth in subsection (2) of section 81-1438, law enforcement reserve officers shall serve as peace officers on the orders and at the discretion of the sheriff, the mayor, or the chief of police.

Source: Laws 1976, LB 782, § 3; Laws 2021, LB51, § 21.
Effective date August 28, 2021.

81-1443 Law enforcement reserve officers; rights and duties when activated; weapon, when carried; subordinate to regular force officers.

(1) Subject to the restrictions set forth in subsection (2) of section 81-1438, law enforcement reserve officers, upon being activated by the sheriff, the mayor, or the chief of police, and while on assigned duty, shall be vested with the same rights, privileges, obligations, and duties of any other peace officer of this state.

(2) No person appointed to the reserve force may carry a weapon or otherwise act as a peace officer until such person has been approved by the governing body. After approval, such person may carry a weapon only when authorized by the sheriff or chief of police and when discharging official duties as a duly constituted peace officer.

(3) Law enforcement reserve officers shall be subordinate to regular force officers, shall not serve as a peace officer unless under the direction of regular officers, and when serving with regular force officers shall wear no insignia of rank. Each department for which a reserve force is established shall appoint a regular force officer as the reserve force coordinating and supervising officer. Such regular officer shall report directly to the sheriff or the chief of police.

Source: Laws 1976, LB 782, § 6; Laws 2021, LB51, § 22.
Effective date August 28, 2021.

(h) EMPLOYMENT RECORDS

81-1456 Transferred to section 81-1414.15.

81-1457 Transferred to section 81-1414.11.

STATE ADMINISTRATIVE DEPARTMENTS

ARTICLE 15

ENVIRONMENT AND ENERGY

(w) ENVIRONMENTAL SAFETY ACT

Section

- 81-15,261. Environmental Safety Act, how cited.
- 81-15,262. Legislative findings.
- 81-15,263. Environmental Safety Act; terms, defined.
- 81-15,264. Swimming pool, defined.
- 81-15,265. Swimming pools; sanitary and safety requirements.
- 81-15,266. Swimming pools; construction; permit; issuance; when.
- 81-15,267. Swimming pools; permit to operate; application; requirements.
- 81-15,268. Swimming pools; inspection; records; classification; plans and specifications; fees; disposition; exception; existing rules, regulations, licenses, permits, forms of approval, suits, other proceedings; how treated.
- 81-15,269. Swimming pools; inspection; violation of sections; effect.
- 81-15,270. Swimming pools; violation; public nuisance; abatement.
- 81-15,271. Recreation camps; terms, defined.
- 81-15,272. Recreation camps; permit; application; issuance; fees; disposition.
- 81-15,273. Recreation camps; annual inspection; duty of department.
- 81-15,274. Recreation camps; permit; suspension; revocation; grounds.
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- 81-15,278. Uniform Standard Code for Mobile Home Parks, how cited.
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- 81-15,289. Mobile home parks; violations; nuisance; penalty; removal.
- 81-15,290. Mobile home parks; operation without license; action by department; burden of proof.
- 81-15,291. Mobile home parks; fire safety inspection; fee.
- 81-15,292. Private water supply; private sewage disposal facilities; inspection; fees; existing rules and regulations; how treated.

**(x) TRANSFER OF POWERS, DUTIES, AND FUNCTIONS
UNDER ENVIRONMENTAL SAFETY ACT**

- 81-15,293. Employees of Department of Health and Human Services; transfer to Department of Environment and Energy; how treated.
- 81-15,294. Appropriation and salary limit; financial obligations; how treated.
- 81-15,295. References to Department of Health and Human Services in contracts and other documents; how construed; contracts and property; how treated.
- 81-15,296. Actions and proceedings; how treated.
- 81-15,297. Provisions of law; how construed.
- 81-15,298. Property of Department of Health and Human Services; transfer to Department of Environment and Energy.

Section

(y) ENVIRONMENTAL SAFETY CASH FUND

81-15,299. Environmental Safety Cash Fund; created; use; investment.

(z) ENGINEERING PLAN REVIEW CASH FUND

81-15,300. Engineering Plan Review Cash Fund; created; use; investment.

(w) ENVIRONMENTAL SAFETY ACT

81-15,261 Environmental Safety Act, how cited.

Sections 81-15,261 to 81-15,292 shall be known and may be cited as the Environmental Safety Act.

Source: Laws 2021, LB148, § 1.
Operative date July 1, 2021.

81-15,262 Legislative findings.

The Legislature finds that:

(1) Best practices in environmental safety and protection recognize that the regulation of water supply and disposal infrastructure are connected;

(2) The proper design, construction, and monitoring of water and wastewater uses is critical for the safety and sustainability of communities in the State of Nebraska;

(3) The regulation of mobile homes, recreation camps, and swimming pools provide fundamental environmental safety for persons who use them; and

(4) Consolidating the administration of state environmental safety programs and the environmental and water programs of the United States Environmental Protection Agency delegated to the State of Nebraska into the Department of Environment and Energy will better serve the communities in the State of Nebraska.

Source: Laws 2021, LB148, § 2.
Operative date July 1, 2021.

81-15,263 Environmental Safety Act; terms, defined.

For purposes of the Environmental Safety Act:

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

(2) Director means the Director of Environment and Energy.

Source: Laws 2021, LB148, § 3.
Operative date July 1, 2021.

81-15,264 Swimming pool, defined.

For purposes of sections 81-15,264 to 81-15,270, unless the context otherwise requires:

(1) Swimming pool means any artificial basin of water modified, improved, constructed, or installed solely for the purpose of public swimming, wading, diving, recreation, or instruction;

(2) Swimming pool includes, but is not limited to, a pool serving a community, a subdivision, an apartment complex, a condominium, a club, a camp, a school, an institution, a park, a manufactured home park, a hotel, a motel, a recreational area, or a water park;

(3) Swimming pool includes a spa, hot tub, or whirlpool or similar device which (a) is designed for recreational use and not to be drained, cleaned, and refilled after each individual use and (b) may consist of elements, including, but not limited to, hydrojet circulation, hot water, cold water, mineral baths, air induction systems, or any combination thereof; and

(4) Swimming pool does not include an artificial lake, a pool at a private residence intended only for the use of the owner and guests, or a pool operated exclusively for medical treatment, physical therapy, water rescue training, or training of divers.

Source: Laws 1969, c. 760, § 1, p. 2875; Laws 2002, LB 1021, § 81; R.S.1943, (2018), § 71-4301; Laws 2021, LB148, § 4.
Operative date July 1, 2021.

81-15,265 Swimming pools; sanitary and safety requirements.

The department shall prepare, adopt, and have available minimum sanitary and safety requirements in the form of regulations for the design, construction, equipment, and operation of swimming pools and bather preparation facilities. Such requirements shall include, but not be limited to, provisions for waiver or variance of design standards and the circumstances under which such waiver or variance may be granted.

Source: Laws 1969, c. 760, § 2, p. 2876; Laws 1996, LB 1044, § 669; Laws 2002, LB 1021, § 82; Laws 2007, LB296, § 580; R.S.1943, (2018), § 71-4302; Laws 2021, LB148, § 5.
Operative date July 1, 2021.

81-15,266 Swimming pools; construction; permit; issuance; when.

No swimming pool shall be constructed after January 1, 1970, unless and until plans, specifications, and any additional information relative to such pool as may be requested by the department shall have been submitted to the department and after review by the department found to comply with the minimum sanitary and safety requirements provided in section 81-15,265 and a permit for the construction of the pool issued by the department.

Source: Laws 1969, c. 760, § 3, p. 2876; Laws 1996, LB 1044, § 670; Laws 2007, LB296, § 581; R.S.1943, (2018), § 71-4303; Laws 2021, LB148, § 6.
Operative date July 1, 2021.

81-15,267 Swimming pools; permit to operate; application; requirements.

After January 1, 1970, swimming pools shall have equipment and shall be operated so as to comply with the minimum sanitary and safety requirements provided in section 81-15,265. After such date no swimming pool shall operate until it has received a permit from the department. Application for a permit to operate shall be submitted on forms provided by the department. Swimming pools constructed prior to January 1, 1970, which do not fully comply with the minimum sanitary and safety requirements as regards design and construction may be continued in use for such period as the department may authorize if the

equipment and operation of such swimming pool comply with the minimum sanitary and safety requirements.

Source: Laws 1969, c. 760, § 4, p. 2876; Laws 1996, LB 1044, § 671; Laws 2007, LB296, § 582; R.S.1943, (2018), § 71-4304; Laws 2021, LB148, § 7.

Operative date July 1, 2021.

81-15,268 Swimming pools; inspection; records; classification; plans and specifications; fees; disposition; exception; existing rules, regulations, licenses, permits, forms of approval, suits, other proceedings; how treated.

(1) The department shall make at least one inspection every year of each swimming pool to determine that such swimming pool complies with the minimum sanitary and safety requirements.

(2) The owner and operator of any swimming pool shall submit such operation and analytical records as may be requested at any time by the department to determine the sanitary and safety condition of the swimming pool.

(3) The department shall adopt and promulgate rules and regulations which classify swimming pools on the basis of criteria deemed appropriate by the department. The department shall charge engineering firms, swimming pool owners, and other appropriate parties fees established by rules and regulations for the review of plans and specifications of a swimming pool, the issuance of a license or permit, the inspection of a swimming pool, and any other services rendered at a rate which defrays no more than the actual cost of the services provided. All fees shall be paid as a condition of annual renewal of licensure or of continuance of licensure. Fees collected under this subsection for the review of plans and specifications shall be remitted to the State Treasurer for credit to the Engineering Plan Review Cash Fund. All other fees collected under this subsection shall be remitted to the State Treasurer for credit to the Environmental Safety Cash Fund. The department shall not charge a municipal corporation an inspection fee for an inspection of a swimming pool owned by such municipal corporation.

(4) The department shall establish and collect fees for certificates of competency for swimming pool operators. All fees collected under this subsection shall be remitted to the State Treasurer for credit to the Environmental Safety Cash Fund.

(5) All rules and regulations adopted prior to July 1, 2021, under sections 81-15,264 to 81-15,270, as such sections existed prior to such date, shall continue to be effective to the extent not in conflict with the changes made by Laws 2021, LB148, until amended or repealed by the department.

(6) All licenses, permits, or other forms of approval issued prior to July 1, 2021, in accordance with sections 81-15,264 to 81-15,270, as such sections existed prior to such date, shall remain valid as issued for purposes of the changes made by Laws 2021, LB148, unless revoked or otherwise terminated by law.

(7) Any suit, action, or other proceeding, judicial or administrative, which was lawfully commenced prior to July 1, 2021, under sections 81-15,264 to

81-15,270, as such sections existed prior to such date, shall be subject to the provisions of such sections as they existed prior to July 1, 2021.

Source: Laws 1969, c. 760, § 5, p. 2876; Laws 1973, LB 583, § 12; Laws 1976, LB 440, § 1; Laws 1978, LB 812, § 2; Laws 1983, LB 617, § 23; Laws 1986, LB 1047, § 5; Laws 1996, LB 1044, § 672; Laws 2002, LB 1021, § 83; Laws 2003, LB 242, § 123; Laws 2007, LB296, § 583; Laws 2007, LB463, § 1217; R.S.1943, (2018), § 71-4305; Laws 2021, LB148, § 8.
Operative date July 1, 2021.

81-15,269 Swimming pools; inspection; violation of sections; effect.

Whenever any duly authorized representative of the department finds that a swimming pool is being constructed, equipped, or operated in violation of any of the provisions of sections 81-15,264 to 81-15,270, the department may grant such time as in its opinion may reasonably be necessary for changing the construction or providing for the proper operation of the swimming pool to meet the provisions of sections 81-15,264 to 81-15,270. If and when the duly authorized representative of the department upon inspection and investigation of a swimming pool considers that the conditions are such as to warrant prompt closing of such swimming pool until the provisions of sections 81-15,264 to 81-15,270 are complied with, the representative of the department shall notify the owner or operator of the swimming pool to prohibit any person from using the swimming pool and upon such notification to the sheriff and the county attorney of the county in which such pool is located, such county attorney and sheriff shall cause the notice of the representative of the department to be enforced. If and when the owner or operator of the pool has, in the opinion of the department, met the provisions of sections 81-15,264 to 81-15,270, the department may in writing authorize the use again of such swimming pool.

Source: Laws 1969, c. 760, § 6, p. 2876; Laws 1996, LB 1044, § 673; Laws 2007, LB296, § 584; R.S.1943, (2018), § 71-4306; Laws 2021, LB148, § 9.
Operative date July 1, 2021.

81-15,270 Swimming pools; violation; public nuisance; abatement.

Any owner or operator of a swimming pool failing to comply with any of the provisions of sections 81-15,264 to 81-15,270 shall be guilty of maintaining a public nuisance, and it shall be the duty of the county attorney of the county in which such swimming pool is located to act as provided by law for the abatement of public nuisances.

Source: Laws 1969, c. 760, § 7, p. 2877; R.S.1943, (2018), § 71-4307; Laws 2021, LB148, § 10.
Operative date July 1, 2021.

81-15,271 Recreation camps; terms, defined.

For purposes of sections 81-15,271 to 81-15,277, unless the context otherwise requires:

(1) Recreation camp means one or more temporary or permanent tents, buildings, structures, or site pads, together with the tract of land appertaining thereto, established or maintained for more than a consecutive forty-eight-hour

period as living quarters or sites used for purposes of sleeping or the preparation and the serving of food extending beyond the limits of a family group for children or adults, or both, for recreation, education, or vacation purposes, and including facilities located on either privately or publicly owned lands except hotels or inns; and

(2) Person means any individual or group of individuals, association, partnership, limited liability company, or corporation.

Source: Laws 1959, c. 328, § 1, p. 1193; Laws 1993, LB 121, § 432; Laws 1996, LB 1044, § 641; Laws 1997, LB 622, § 106; Laws 2007, LB296, § 556; R.S.1943, (2018), § 71-3101; Laws 2021, LB148, § 11.

Operative date July 1, 2021.

81-15,272 Recreation camps; permit; application; issuance; fees; disposition.

Before any person shall directly or indirectly operate a recreation camp he or she shall make an application to the department and receive a valid permit for the operation of such camp. Application for such a permit shall be made at least thirty days prior to the proposed operation of the camp and shall be on forms supplied by the department upon request. The application shall be in such form and contain such information as the department may deem necessary to its determination that the recreation camp will be operated and maintained in such a manner as to protect and preserve the health and safety of the persons using the camp and shall be accompanied by an annual fee. The department may establish fees by regulation to defray the actual costs of issuing the permit, conducting inspections, and other expenses incurred by the department in carrying out this section. If a person operates or is seeking to operate more than one recreation camp, a separate application shall be made for each camp. Such a permit shall not be transferable or assignable. A permit shall expire on March 31 of the following year after its issuance, upon a change of operator of the camp, or upon revocation. If the department finds, after investigation, that the camp or the proposed operation thereof conforms, or will conform, to the minimum standards for recreation camps, a permit on a form prescribed by the department shall be issued for operation of the camp. All fees shall be remitted to the State Treasurer for credit to the Environmental Safety Cash Fund.

Source: Laws 1959, c. 328, § 2, p. 1193; Laws 1965, c. 419, § 7, p. 1345; Laws 1978, LB 813, § 2; Laws 1996, LB 1044, § 642; Laws 1997, LB 622, § 107; Laws 1997, LB 752, § 179; Laws 2007, LB296, § 557; R.S.1943, (2018), § 71-3102; Laws 2021, LB148, § 12.
Operative date July 1, 2021.

81-15,273 Recreation camps; annual inspection; duty of department.

It shall be the duty of the department to make at least one annual inspection of each recreation camp. The duly authorized representatives of the department shall have the right of entry and access to any such camp at any reasonable time.

Where, upon inspection, it is found that there is failure to protect the health and safety of the persons using the camp, or a failure to comply with the camp regulations prescribed by the department, the department shall give notice to

the camp operator of such failure, which notice shall set forth the reason or reasons for such failure.

Source: Laws 1959, c. 328, § 3, p. 1194; R.S.1943, (2018), § 71-3103; Laws 2021, LB148, § 13.
Operative date July 1, 2021.

81-15,274 Recreation camps; permit; suspension; revocation; grounds.

(1) A permit may be temporarily suspended by the department for failure to protect the health and safety of the occupants of the camp or failure to comply with the camp regulations prescribed by the department.

(2) A permit may be revoked at any time, after notice and opportunity for a fair hearing held by the department, if it is found that the camp for which the permit is issued is maintained or operated in violation of law or of any regulations applicable to a camp or in violation of the conditions stated in the permit. A new permit shall not be issued until the department is satisfied that the camp will be operated in compliance with the law and regulations.

Source: Laws 1959, c. 328, § 4, p. 1194; Laws 1996, LB 1044, § 643; Laws 2007, LB296, § 558; R.S.1943, (2018), § 71-3104; Laws 2021, LB148, § 14.
Operative date July 1, 2021.

81-15,275 Recreation camps; rules and regulations; existing rules, regulations, permits, forms of approval, suits, other proceedings; how treated.

(1) The department is authorized to and shall formulate, adopt, publish, promulgate, and enforce such reasonable rules and regulations as it deems necessary to enforce sections 81-15,271 to 81-15,277 and to protect the health and welfare of persons in attendance at recreation camps.

(2) All rules and regulations adopted prior to July 1, 2021, under sections 81-15,271 to 81-15,277, as such sections existed prior to such date, shall continue to be effective to the extent not in conflict with the changes made by Laws 2021, LB148, and until amended or repealed by the department.

(3) All permits or other forms of approval issued prior to July 1, 2021, in accordance with sections 81-15,271 to 81-15,277, as such sections existed prior to such date, shall remain valid as issued for purposes of the changes made by Laws 2021, LB148, unless revoked or otherwise terminated by law.

(4) Any suit, action, or other proceeding, judicial or administrative, which was lawfully commenced prior to July 1, 2021, under sections 81-15,271 to 81-15,277, as such sections existed prior to such date, shall be subject to the provisions of such sections as they existed prior to July 1, 2021.

Source: Laws 1959, c. 328, § 5, p. 1194; R.S.1943, (2018), § 71-3105; Laws 2021, LB148, § 15.
Operative date July 1, 2021.

81-15,276 Recreation camps; plans; submit to department.

Properly prepared plans for all recreation camps which are hereafter constructed, reconstructed, or extensively altered shall be submitted to the depart-

ment before such work is begun. Signed approval shall be obtained from the department.

Source: Laws 1959, c. 328, § 6, p. 1194; R.S.1943, (2018), § 71-3106; Laws 2021, LB148, § 16.
Operative date July 1, 2021.

81-15,277 Recreation camps; violations; penalty.

Any person who shall violate any of the provisions of sections 81-15,271 to 81-15,277 or of the regulations or standards adopted and promulgated under such sections shall be guilty of a Class V misdemeanor.

Source: Laws 1959, c. 328, § 7, p. 1195; Laws 1977, LB 39, § 170; R.S.1943, (2018), § 71-3107; Laws 2021, LB148, § 17.
Operative date July 1, 2021.

81-15,278 Uniform Standard Code for Mobile Home Parks, how cited.

Sections 81-15,278 to 81-15,291 shall be known and may be cited as the Uniform Standard Code for Mobile Home Parks.

Source: Laws 1976, LB 91, § 14; R.S.1943, (2018), § 71-4634; Laws 2021, LB148, § 18.
Operative date July 1, 2021.

81-15,279 Mobile home parks; terms, defined.

As used in the Uniform Standard Code for Mobile Home Parks, unless the context otherwise requires:

(1) Mobile home means a movable or portable dwelling constructed to be towed on its own chassis, connected to utilities, and designed with or without a permanent foundation for year-round living. It may consist of one or more units that can be telescoped when towed and expanded later for additional capacity, or of two or more units, separately towable but designed to be joined into one integral unit. Mobile home includes a manufactured home as defined in section 71-4603;

(2) Mobile home lot means a designated portion of a mobile home park designed for the accommodation of one mobile home and its accessory buildings or structures for the exclusive use of the occupants;

(3) Mobile home park means a parcel or contiguous parcels of land which have been so designated and improved that it contains two or more mobile home lots available to the general public for the placement thereon of mobile homes for occupancy. The term mobile home park shall not be construed to include mobile homes, buildings, tents, or other structures temporarily maintained by any individual, corporation, limited liability company, company, or other entity on its own premises and used exclusively to house its own labor force; and

(4) Person means any individual, firm, partnership, limited liability company, corporation, company, association, joint-stock company or association, political subdivision, governmental agency, or other legal entity, and includes any trustee, receiver, assignee, or other legal representative thereof.

Source: Laws 1976, LB 91, § 1; Laws 1985, LB 313, § 24; Laws 1993, LB 121, § 436; Laws 1996, LB 1044, § 678; Laws 2007, LB296, § 586; R.S.1943, (2018), § 71-4621; Laws 2021, LB148, § 19.
Operative date July 1, 2021.

81-15,280 Mobile home parks; license required; term; existing licenses, forms of approval, rules, regulations, suits, other proceedings; how treated.

(1) No person shall establish, conduct, operate, or maintain a mobile home park within this state without first obtaining an annual license therefor from the department. Such license shall be issued for the calendar year applied for and shall expire at midnight on December 31 of such year.

(2) All licenses, permits, or other forms of approval issued prior to July 1, 2021, in accordance with the Uniform Standard Code for Mobile Home Parks shall remain valid as issued for purposes of the changes made by Laws 2021, LB148, unless revoked or otherwise terminated by law.

(3) All rules and regulations adopted prior to July 1, 2021, under the Uniform Standard Code for Mobile Home Parks shall continue to be effective to the extent not in conflict with the changes made by Laws 2021, LB148, and until amended or repealed by the department.

(4) Any suit, action, or other proceeding, judicial or administrative, which was lawfully commenced prior to July 1, 2021, under the Uniform Standard Code for Mobile Home Parks shall be subject to the provisions of the code as they existed prior to July 1, 2021.

Source: Laws 1976, LB 91, § 2; R.S.1943, (2018), § 71-4622; Laws 2021, LB148, § 20.
Operative date July 1, 2021.

81-15,281 Mobile home parks; license; application.

The application for such annual license to conduct, operate, and maintain a mobile home park shall be submitted in writing or by electronic format and shall include the full name and address of the applicant or applicants, the names and addresses of the partners if the applicant is a partnership, the names and addresses of the members if the applicant is a limited liability company, or the names and addresses of the officers if the applicant is a corporation, and the current or most recent occupation of the applicant at the time of the filing of the application, and such other pertinent data as the department may require by regulation.

Source: Laws 1976, LB 91, § 3; Laws 1993, LB 121, § 437; Laws 1997, LB 752, § 183; Laws 2008, LB797, § 17; R.S.1943, (2018), § 71-4623; Laws 2021, LB148, § 21.
Operative date July 1, 2021.

81-15,282 Mobile home parks; license; application; fees; disposition; inspection.

(1) The application for the first or initial annual license shall be submitted with the requirements mentioned in section 81-15,281 accompanied by the appropriate fees. The department by regulation shall charge engineering firms, mobile home park owners and operators, and other appropriate parties fees established by regulation for the review of plans and specifications of a mobile home park, the issuance of a license or permit, the inspection of a mobile home park, and any other services rendered at a rate which defrays no more than the actual costs of the services provided. All fees shall be paid as a condition of annual renewal of licensure or of continuance of licensure.

(2) Fees collected by the department under this section for the review of plans and specifications shall be remitted to the State Treasurer for credit to the Engineering Plan Review Cash Fund. All other fees collected by the department under the Uniform Standard Code for Mobile Home Parks shall be remitted to the State Treasurer for credit to the Environmental Safety Cash Fund. Money credited to the fund pursuant to this section shall be used by the department for the purpose of administering the Uniform Standard Code for Mobile Home Parks.

(3) When any application is received, the department shall cause the mobile home park and appurtenances to be inspected by representatives of the department. When such inspection has been made and the department finds that all of the provisions of the Uniform Standard Code for Mobile Home Parks and the rules, regulations, and standards of the department have been met by the applicant, the department shall issue an annual license. Inspection by the department or its authorized representatives at any time of a mobile home park shall be a condition of continued licensure.

Source: Laws 1976, LB 91, § 4; Laws 1983, LB 617, § 25; Laws 1984, LB 916, § 63; Laws 1986, LB 1047, § 6; Laws 1991, LB 703, § 51; Laws 1996, LB 1044, § 679; Laws 2007, LB296, § 587; R.S.1943, (2018), § 71-4624; Laws 2021, LB148, § 22.
Operative date July 1, 2021.

81-15,283 Mobile home parks; sanitary facilities; permit; exception; application; issuance.

No person shall construct, expand, remodel, or make alterations to the sanitary facilities in a mobile home park within this state without first obtaining a permit therefor from the department, except that no such permit shall be required in the making of minor repairs or in matters of general maintenance. The application for such permit shall be made to the department in such manner as may be prescribed by regulations of the department, which shall require the applicant to supply plans and specifications and otherwise provide a description of the nature, type, location, and extent of the sanitary facilities contemplated. When the application has been approved, the department shall issue a permit to the applicant to construct, expand, remodel, or make alterations to sanitary facilities, including water and sewage disposal, upon a mobile home park and the appurtenances thereto according to the plans and specifications and other data submitted with the approved application. No approval of plans and specifications and issuance of a permit to construct, expand, remodel, or make alterations upon a mobile home park and the appurtenances thereto by the department shall be made unless such park is in compliance with the Uniform Standard Code for Mobile Home Parks and the rules, regulations, and standards of the department. Such a permit does not relieve the applicant from obtaining building permits when located within a municipality or county having a building code or from complying with any other municipal or county resolution, ordinance, or regulation applicable thereto, and not in conflict with the Uniform Standard Code for Mobile Home Parks.

Source: Laws 1976, LB 91, § 5; R.S.1943, (2018), § 71-4625; Laws 2021, LB148, § 23.
Operative date July 1, 2021.

81-15,284 Mobile home parks; sanitary facilities permit; denial; procedures; appeal.

If the application for a permit to construct, expand, remodel, or make alterations upon a mobile home park and the appurtenances thereto, pursuant to section 81-15,283, is denied by the department, it shall so state in writing, giving the reasons for denying the application. If the objection can be corrected, the applicant may amend his or her application and resubmit it for approval. No such permit shall be denied except after due notice and opportunity for a hearing before the department pursuant to the Administrative Procedure Act. Any denial of such permit may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

Source: Laws 1976, LB 91, § 6; Laws 1988, LB 352, § 135; R.S.1943, (2018), § 71-4626; Laws 2021, LB148, § 24.
Operative date July 1, 2021.

Cross References

Administrative Procedure Act, see section 84-920.

81-15,285 Mobile home parks; permit or license approved; records.

When the department has approved an application for a permit to construct, expand, remodel, or make alterations upon a mobile home park or appurtenances thereto, pursuant to section 81-15,283, or a license to establish, conduct, operate, or maintain a mobile home park, it shall retain the original and keep a file thereof. One copy shall be returned to the applicant or his or her agent.

Source: Laws 1976, LB 91, § 7; R.S.1943, (2018), § 71-4627; Laws 2021, LB148, § 25.
Operative date July 1, 2021.

81-15,286 Mobile home parks; utility systems and sanitary conditions; standards.

The department shall adopt, promulgate, and enforce by rules and regulations standards governing utility systems and sanitary conditions for mobile home parks. The department shall not adopt or enforce by rules and regulations any design, construction, or land-use standards for any mobile home park.

Source: Laws 1976, LB 91, § 9; Laws 1997, LB 622, § 108; R.S.1943, (2018), § 71-4629; Laws 2021, LB148, § 26.
Operative date July 1, 2021.

81-15,287 Uniform Standard Code for Mobile Home Parks; applicability; certificate of exemption; procedure.

(1) The Uniform Standard Code for Mobile Home Parks shall not apply to any mobile home park located within the jurisdiction of any city, village, or county which provides for the regulation of mobile home parks by resolution, ordinance, or regulation which at a minimum is not less stringent than the then current standards and specifications, and all subsequent revisions and amendments thereto, approved, adopted, and promulgated by the department, as such standards and specifications apply to mobile home parks. No such resolution, ordinance, or regulation shall become effective until a certificate of exemption has been issued by the department. Such certificate of exemption shall be

available for inspection in the office of the city or county clerk as the case may be.

(2) If the department shall determine at any time after the issuance of such a certificate of exemption that such a resolution, ordinance, or regulation is being enforced in a manner contrary to or inconsistent with the standards mentioned in subsection (1) of this section or is otherwise being improperly enforced in any city, village, or county holding a certificate of exemption, the department may revoke the certificate of exemption and the Uniform Standard Code for Mobile Home Parks shall apply in such city, village, or county until such standards are met and enforced and a new certificate is issued.

(3) Any city, village, or county desiring a certificate of exemption shall make application for such certificate by filing a petition for a certificate of exemption with the department. The department shall promptly investigate such petition. If the recommendation of the department is against the granting of a certificate of exemption and the applicant requests that a formal hearing be held, a formal hearing shall be held on the questions of whether (a) the resolution, ordinance, or regulation is at a minimum as stringent as the standards mentioned in subsection (1) of this section, (b) the resolution, ordinance, or regulation is being enforced in a manner contrary to or inconsistent with such standards or is otherwise being improperly enforced, and (c) adequate provisions have been made for enforcement. The burden of proof thereof shall be upon the applicant. A like formal hearing shall be held upon any proposed revocation of a certificate of exemption upon the request of the holder thereof. The procedure governing hearings authorized by this subsection shall be in accordance with the Administrative Procedure Act. The decision to deny or revoke a certificate of exemption may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

Source: Laws 1976, LB 91, § 10; Laws 1988, LB 352, § 136; R.S.1943, (2018), § 71-4630; Laws 2021, LB148, § 27.
Operative date July 1, 2021.

Cross References

Administrative Procedure Act, see section 84-920.

81-15,288 Mobile home parks; licenses; issuance; denial, refusal of renewal, suspension, or revocation; civil penalty; grounds; notice; hearing; appeal.

(1) The department shall issue licenses for the establishment, operation, and maintenance of mobile home parks which are found to comply with the Uniform Standard Code for Mobile Home Parks and such rules, regulations, and standards as are lawfully adopted and promulgated by the department pursuant thereto.

(2) The department shall deny, refuse renewal of, suspend, or revoke licenses or impose a civil penalty not to exceed two thousand dollars per day on any of the following grounds:

(a) Violation of any of the provisions of the code or the rules, regulations, and standards lawfully adopted and promulgated pursuant thereto;

(b) Permitting, aiding, or abetting the commission of any unlawful act; or

(c) Conduct or utility or sanitation practices detrimental to the health or safety of residents of a mobile home park.

(3) Should the department determine to deny, refuse renewal of, suspend, or revoke a license or impose a civil penalty, it shall send to the applicant or licensee, by either certified or registered mail, a notice setting forth the specific reasons for the determination.

(4) The denial, refusal of renewal, suspension, revocation, or imposition of a civil penalty shall become final thirty days after the mailing of the notice in all cases of failure to pay the required licensure fee if not paid by the end of such period, and in all other instances unless the applicant or licensee, within such thirty-day period, shall give written notice of a desire for a hearing. Thereupon the applicant or licensee shall be given opportunity for a formal hearing before the department and shall have the right to present evidence on his or her own behalf.

(5) The procedure governing hearings authorized by this section shall be in accordance with the Administrative Procedure Act. On the basis of the evidence presented, the determination involved shall be affirmed or set aside, and a copy of such decision setting forth the findings of facts and the specific reasons upon which it is based shall be sent by either certified or registered mail to the applicant or licensee. The applicant or licensee may appeal such decision, and the appeal shall be in accordance with the Administrative Procedure Act.

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

Source: Laws 1976, LB 91, § 11; Laws 1988, LB 352, § 137; Laws 2008, LB797, § 18; R.S.1943, (2018), § 71-4631; Laws 2021, LB148, § 28.

Operative date July 1, 2021.

Cross References

Administrative Procedure Act, see section 84-920.

81-15,289 Mobile home parks; violations; nuisance; penalty; removal.

Any person who establishes, conducts, operates, or maintains a mobile home park without first obtaining a license therefor from the department as provided in the Uniform Standard Code for Mobile Home Parks shall be guilty of a Class IV misdemeanor, and each day such mobile home park shall operate without a license after a first conviction shall be considered a separate offense. Such person shall also be guilty of maintaining a nuisance pursuant to section 28-1321, and upon conviction thereof, in addition to payment of the fine, such nuisance shall be removed.

Source: Laws 1976, LB 91, § 12; Laws 1977, LB 41, § 61; Laws 1978, LB 748, § 38; R.S.1943, (2018), § 71-4632; Laws 2021, LB148, § 29.

Operative date July 1, 2021.

81-15,290 Mobile home parks; operation without license; action by department; burden of proof.

The department may, in accordance with the laws governing injunctions and other process, maintain an action in the name of the state against any person for establishing, conducting, operating, or maintaining any mobile home park without first having a license therefor from the department as provided in the Uniform Standard Code for Mobile Home Parks. In charging any defendant in

a complaint in such action, it shall be sufficient to charge that such defendant did, upon a certain day and in a certain county, establish, conduct, operate, or maintain a mobile home park without having a license to do so without averring any further or more particular facts concerning the same.

Source: Laws 1976, LB 91, § 13; R.S.1943, (2018), § 71-4633; Laws 2021, LB148, § 30.

Operative date July 1, 2021.

81-15,291 Mobile home parks; fire safety inspection; fee.

The department may request the State Fire Marshal to inspect for fire safety any mobile home park for which a license or renewal of a license is sought, pursuant to section 81-502. The State Fire Marshal shall assess a fee for such inspection pursuant to section 81-505.01 and payable by the licensee or applicant for a license. The authority to make such investigations may be delegated to qualified local fire prevention personnel pursuant to section 81-502.

Source: Laws 1983, LB 498, § 4; Laws 1996, LB 1044, § 680; Laws 2007, LB296, § 588; R.S.1943, (2018), § 71-4635; Laws 2021, LB148, § 31.

Operative date July 1, 2021.

81-15,292 Private water supply; private sewage disposal facilities; inspection; fees; existing rules and regulations; how treated.

(1) The department shall collect a fee of not less than sixty nor more than one hundred dollars, as determined by regulation, for each inspection of private water supply or private sewage disposal facilities requested of and made by the department in order for the person requesting the inspection to qualify for any type of commercial loan, guarantee, or other type of payment or benefit from any commercial agency or enterprise to the person applying for or receiving the same or to meet the requirements of any federal governmental agency, including, but not limited to, the Rural Development Agency of the United States Department of Agriculture, the Federal Housing Administration, and the United States Department of Veterans Affairs, that such an inspection be conducted as a condition of applying for or receiving any type of grant, loan, guarantee, or other type of payment or benefit from such agency to the person applying for or receiving the same. All fees collected under this subsection shall be remitted to the State Treasurer for credit to the Environmental Safety Cash Fund.

(2) The Director of Environment and Energy shall adopt and promulgate rules and regulations determining the fee required pursuant to this section.

(3) All rules and regulations adopted and promulgated prior to July 1, 2021, under this section shall continue to be effective to the extent not in conflict with the changes made by Laws 2021, LB148, until amended or repealed by the department.

Source: Laws 1973, LB 583, § 5; Laws 1978, LB 814, § 1; Laws 1983, LB 617, § 22; Laws 1991, LB 2, § 13; Laws 1996, LB 1044, § 639; Laws 2007, LB296, § 555; R.S.1943, (2018), § 71-2622; Laws 2021, LB148, § 32.

Operative date July 1, 2021.

(x) TRANSFER OF POWERS, DUTIES, AND FUNCTIONS
UNDER ENVIRONMENTAL SAFETY ACT**81-15,293 Employees of Department of Health and Human Services; transfer to Department of Environment and Energy; how treated.**

On and after July 1, 2021, positions of employment in the Department of Health and Human Services related to the powers, duties, and functions transferred to the Department of Environment and Energy pursuant to Laws 2021, LB148, are transferred to the Department of Environment and Energy. For purposes of the transition, employees of the Department of Health and Human Services shall be considered employees of the Department of Environment and Energy and shall retain their rights under the state personnel system or pertinent bargaining agreement, and their service shall be deemed continuous. This section does not grant employees any new rights or benefits not otherwise provided by law or bargaining agreement or preclude the Department of Environment and Energy or the Director of Environment and Energy 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 2021, LB148, § 33.
Operative date July 1, 2021.

81-15,294 Appropriation and salary limit; financial obligations; how treated.

Any appropriation and salary limit provided in any legislative bill enacted by the One Hundred Seventh Legislature, First Session, to Agency No. 25, Department of Health and Human Services, regarding the powers, duties, and functions transferred to the Department of Environment and Energy by Laws 2021, LB148, shall be reduced, and any such amounts are hereby appropriated to Program No. 513, Administration, in Agency No. 84, Department of Environment and Energy. Any financial obligations of the Department of Health and Human Services regarding the powers, duties, and functions transferred to the Department of Environment and Energy that remain unpaid as of June 30, 2021, and that are subsequently certified as valid encumbrances to the accounting division of the Department of Administrative Services pursuant to sections 81-138.01 to 81-138.04, shall be paid by the Department of Environment and Energy from the unexpended balance of appropriations existing in such program classification on June 30, 2021.

Source: Laws 2021, LB148, § 34.
Operative date July 1, 2021.

81-15,295 References to Department of Health and Human Services in contracts and other documents; how construed; contracts and property; how treated.

On and after July 1, 2021, whenever 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 Environment and Energy, such reference or designation shall apply to the Department of Environment and Energy. All contracts entered into by the Department of Health and Human Services prior to July 1, 2021, in connection with the duties and functions transferred to the Department of Environment and Energy are hereby recognized, with the Department of Environment and

Energy succeeding to all rights and obligations under such contracts. Any cash funds, custodial funds, gifts, trusts, grants, and any appropriations of funds from prior fiscal years available to satisfy obligations incurred under such contracts shall be transferred and appropriated to such department for the payments of such obligations. All documents and records transferred, or copies of the same, may be authenticated or certified by such department for all legal purposes.

Source: Laws 2021, LB148, § 35.
Operative date July 1, 2021.

81-15,296 Actions and proceedings; how treated.

No suit, action, or other proceeding, judicial or administrative, lawfully commenced prior to July 1, 2021, or which could have been commenced prior to that date, by or against 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 such person's official duties, shall abate by reason of the transfer of duties and functions from the Department of Health and Human Services to the Department of Environment and Energy.

Source: Laws 2021, LB148, § 36.
Operative date July 1, 2021.

81-15,297 Provisions of law; how construed.

On and after July 1, 2021, unless otherwise specified, whenever any provision of law refers to the Department of Health and Human Services in connection with duties and functions transferred to the Department of Environment and Energy, such law shall be construed as referring to the Department of Environment and Energy.

Source: Laws 2021, LB148, § 37.
Operative date July 1, 2021.

81-15,298 Property of Department of Health and Human Services; transfer to Department of Environment and Energy.

On July 1, 2021, all items of property, real and personal, including office furniture and fixtures, books, documents, and records of the Department of Health and Human Services pertaining to the duties and functions transferred to the Department of Environment and Energy pursuant to Laws 2021, LB148, shall become the property of such department.

Source: Laws 2021, LB148, § 38.
Operative date July 1, 2021.

(y) ENVIRONMENTAL SAFETY CASH FUND

81-15,299 Environmental Safety Cash Fund; created; use; investment.

There is hereby created the Environmental Safety Cash Fund which shall be used to pay the expenses of the Department of Environment and Energy related to issuance and renewal of licenses and permits and annual inspections, including sections 81-15,268, 81-15,272, 81-15,282, and 81-15,292. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State

Funds Investment Act. The State Treasurer shall transfer any money in the Health and Human Services Cash Fund pursuant to sections 81-15,268, 81-15,272, 81-15,282, and 81-15,292, as such sections existed prior to July 1, 2021, to the Environmental Safety Cash Fund on July 1, 2021.

Source: Laws 2021, LB148, § 83.
Operative date July 1, 2021.

Cross References

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

(z) ENGINEERING PLAN REVIEW CASH FUND

81-15,300 Engineering Plan Review Cash Fund; created; use; investment.

There is hereby created the Engineering Plan Review Cash Fund which shall be used to pay the expenses of the Department of Environment and Energy related to engineering reviews of plans and specifications, including those under subsection (3) of section 81-15,268 and subsection (2) of section 81-15,282. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. The State Treasurer shall transfer any money in the Health and Human Services Cash Fund pursuant to subsection (3) of section 81-15,268 and subsection (2) of section 81-15,282, as such sections existed prior to July 1, 2021, to the Engineering Plan Review Cash Fund on July 1, 2021.

Source: Laws 2021, LB148, § 84.
Operative date July 1, 2021.

Cross References

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

ARTICLE 18

CRIME VICTIMS AND WITNESSES

(a) CRIME VICTIM'S REPARATIONS

Section

- 81-1801. Terms, defined.
- 81-1807. Victim; compensation; health care provider; reimbursement; application.
- 81-1808. Victim; compensation; health care provider; reimbursement; submit medical reports; hearing officer; order.
- 81-1815. Compensation; to whom paid.
- 81-1821. Application; requirements; exceptions; statute of limitations.

(a) CRIME VICTIM'S REPARATIONS

81-1801 Terms, defined.

For purposes of the Nebraska Crime Victim's Reparations Act, unless the context otherwise requires:

- (1) Child abuse means an offense under section 28-707;
- (2) Commission shall mean the Nebraska Commission on Law Enforcement and Criminal Justice;

- (3) Committee shall mean the Crime Victim's Reparations Committee;
- (4) Dependent shall mean a relative of a deceased victim who was dependent upon the victim's income at the time of death, including a child of a victim born after a victim's death;
- (5) Domestic assault means an offense under section 28-323;
- (6) Executive director shall mean the executive director of the commission;
- (7) Health care provider means any person licensed or certified by the State of Nebraska to deliver health care under the Uniform Credentialing Act and any health care facility licensed under the Health Care Facility Licensure Act. Health care provider includes any professional corporation or other professional entity comprised of such health care providers;
- (8) Personal injury shall mean actual bodily harm;
- (9) Relative shall mean spouse, parent, grandparent, stepparent, natural born child, stepchild, adopted child, grandchild, brother, sister, half brother, half sister, or spouse's parent;
- (10) Sexual assault has the same meaning as in section 29-4309; and
- (11) Victim shall mean a person who is injured or killed as a result of conduct specified in section 81-1818.

Source: Laws 1978, LB 910, § 1; Laws 1981, LB 328, § 4; Laws 1986, LB 540, § 2; Laws 1991, LB 186, § 1; Laws 2009, LB598, § 2; Laws 2011, LB390, § 21; Laws 2021, LB497, § 1.
Effective date August 28, 2021.

Cross References

Health Care Facility Licensure Act, see section 71-401.
Uniform Credentialing Act, see section 38-101.

81-1807 Victim; compensation; health care provider; reimbursement; application.

(1) Any person who may be eligible for compensation under the Nebraska Crime Victim's Reparations Act may make application to the committee on forms provided by the committee. Such application need not be signed and acknowledged before a notary public. If the person entitled to make application is a minor or mentally incompetent, the application may be made on his or her behalf by his or her parent, guardian, or any other individual authorized to administer his or her estate. Residents and nonresidents of Nebraska who are victims of crimes committed in Nebraska shall be treated similarly in determining compensation awards under the act. A resident of Nebraska who is the victim of a crime committed in another state shall be eligible for compensation if (a) the crime would be compensable had it occurred in Nebraska and (b) the crime occurred in a state which does not have a crime victim compensation program for which the person is eligible.

(2)(a) Beginning on August 28, 2021, a health care provider may, with the permission of the victim, apply for reimbursement for health care costs incurred by the provider that are otherwise to be paid for by a victim of sexual assault, domestic assault, or child abuse and for which the provider will not otherwise receive reimbursement from private insurance, the medical assistance program established pursuant to the Medical Assistance Act, the Sexual Assault Payment Program, or any other entity, source, or fund, whether public or private.

(b) To be eligible for reimbursement under this section, such health care costs must have been incurred by the health care provider in treating or examining injuries of the victim arising out of the sexual assault, domestic assault, or child abuse. The provider shall apply to the committee on forms provided by the committee.

Source: Laws 1978, LB 910, § 7; Laws 1986, LB 540, § 8; Laws 1990, LB 87, § 4; Laws 2021, LB372, § 1; Laws 2021, LB497, § 2.
Effective date August 28, 2021.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB372, section 1, with LB497, section 2, to reflect all amendments.

Cross References

Medical Assistance Act, see section 68-901.

81-1808 Victim; compensation; health care provider; reimbursement; submit medical reports; hearing officer; order.

In order to be eligible for compensation the applicant, including a health care provider as described in section 81-1807, shall, prior to any hearing on an application, submit available reports from any physician or surgeon who has treated or examined the victim in relation to the injury for which compensation is claimed at the time of or subsequent to the victim's injury or death. If, in the opinion of the hearing officer or the committee, reports on the previous medical history of the victim, a report on the examination of the injured victim, or a report on the cause of death of the victim by an impartial medical expert would be of material aid to its determination, the hearing officer or the committee shall order the reports and examination.

Source: Laws 1978, LB 910, § 8; Laws 1986, LB 540, § 9; Laws 2021, LB497, § 3.
Effective date August 28, 2021.

81-1815 Compensation; to whom paid.

In a case in which a person is injured or killed as a result of conduct specified in the Nebraska Crime Victim's Reparations Act, or by any act of any other person which is within the description of offenses listed in such act, the committee or a hearing officer may order the payment of compensation:

- (1) To or for the benefit of the injured person;
- (2) In the case of personal injury or death of the victim, to a person responsible for the maintenance of the victim who has suffered pecuniary loss or incurred expenses as a result of the injury;
- (3) In the case of death of the victim, to or for the benefit of any one or more of the dependents of the victim; or
- (4) To a health care provider for costs incurred in treating or examining injuries of the victim arising out of the sexual assault, domestic assault, or child abuse as described in section 81-1807. Compensation paid to a victim shall not include such costs paid to a health care provider.

Source: Laws 1978, LB 910, § 15; Laws 1986, LB 540, § 16; Laws 2021, LB497, § 4.
Effective date August 28, 2021.

81-1821 Application; requirements; exceptions; statute of limitations.

(1) Except as provided in subsection (2) of this section, no order for the payment of compensation shall be entered under the Nebraska Crime Victim's Reparations Act unless the application has been submitted to the committee within two years after the date of the personal injury or death and the personal injury or death was the result of an incident or offense which had been reported to the police within three days of its occurrence or, if the incident or offense could not reasonably have been reported within that period, within three days of the time when a report could reasonably have been made.

(2) An application submitted by or for a victim of sexual assault, domestic assault, child abuse, or sex trafficking is not subject to the three-day reporting requirement in subsection (1) of this section if, prior to submitting the application the:

- (a) Applicant or victim has reported such crime to the police;
- (b) Applicant or victim has obtained a protection order related to such incident or offense; or
- (c) Victim has presented for a forensic medical exam.

Source: Laws 1978, LB 910, § 21; Laws 1986, LB 540, § 22; Laws 2021, LB372, § 2.

Effective date August 28, 2021.

ARTICLE 20**NEBRASKA STATE PATROL**

(b) RETIREMENT SYSTEM

Section

81-2014. Terms, defined.

81-2017. Retirement system; contributions; payment; funding of system; actuarial valuation; powers and duties.

(b) RETIREMENT SYSTEM

81-2014 Terms, defined.

For purposes of the Nebraska State Patrol Retirement Act:

(1)(a) Actuarial equivalent means the equality in value of the aggregate amounts expected to be received under different forms of payment or to be received at an earlier retirement age than the normal retirement age.

(b) For an officer hired before July 1, 2017, the determinations shall be based on the 1994 Group Annuity Mortality Table reflecting sex-distinct factors blended using seventy-five percent of the male table and twenty-five percent of the female table. An interest rate of eight percent per annum shall be reflected in making the determinations until such percent is amended by the Legislature.

(c) For an officer hired on or after July 1, 2017, or rehired on or after July 1, 2017, after termination of employment and being paid a retirement benefit or taking a refund of contributions, the determinations shall be based on a unisex mortality table and an interest rate specified by the board. Both the mortality table and the interest rate shall be recommended by the actuary and approved by the board following an actuarial experience study, a benefit adequacy study, or a plan valuation. The mortality table, interest rate, and actuarial factors in effect on the officer's retirement date will be used to calculate actuarial

equivalency of any retirement benefit. Such interest rate may be, but is not required to be, equal to the assumed rate of return;

(2) Board means the Public Employees Retirement Board;

(3)(a)(i) Compensation means gross wages or salaries payable to the member for personal services performed during the plan year. Compensation does not include insurance premiums converted into cash payments, reimbursement for expenses incurred, fringe benefits, per diems, or bonuses for services not actually rendered, including, but not limited to, early retirement inducements, cash awards, and severance pay, except for retroactive salary payments paid pursuant to court order, arbitration, or litigation and grievance settlements. Compensation includes overtime pay, member retirement contributions, and amounts contributed by the member to plans under sections 125 and 457 of the Internal Revenue Code as defined in section 49-801.01 or any other section of the code which defers or excludes such amounts from income.

(ii) For any officer employed on or prior to January 4, 1979, compensation includes compensation for unused sick leave or unused vacation leave converted to cash payments.

(iii) For any officer employed after January 4, 1979, and prior to July 1, 2016, compensation does not include compensation for unused sick leave or unused vacation leave converted to cash payments and includes compensation for unused holiday compensatory time and unused compensatory time converted to cash payments.

(iv) For any officer employed on or after July 1, 2016, compensation does not include compensation for unused sick leave, unused vacation leave, unused holiday compensatory time, unused compensatory time, or any other type of unused leave, compensatory time, or similar benefits, converted to cash payments.

(b) Compensation in excess of the limitations set forth in section 401(a)(17) of the Internal Revenue Code as defined in section 49-801.01 shall be disregarded. For an employee who was a member of the retirement system before the first plan year beginning after December 31, 1995, the limitation on compensation shall not be less than the amount which was allowed to be taken into account under the retirement system as in effect on July 1, 1993;

(4) Creditable service means service granted pursuant to section 81-2034 and all service rendered while a contributing member of the retirement system. Creditable service includes working days, sick days, vacation days, holidays, and any other leave days for which the officer is paid regular wages except as specifically provided in the Nebraska State Patrol Retirement Act. Creditable service does not include eligibility and vesting credit nor service years for which member contributions are withdrawn and not repaid;

(5) Current benefit means the initial benefit increased by all adjustments made pursuant to the Nebraska State Patrol Retirement Act;

(6) DROP means the deferred retirement option plan as provided in section 81-2041;

(7) DROP account means an individual DROP participant's defined contribution account under section 414(k) of the Internal Revenue Code;

(8) DROP period means the amount of time the member elects to participate in DROP which shall be for a period not to exceed five years from and after the date of the member's DROP election;

(9) Eligibility and vesting credit means credit for years, or a fraction of a year, of participation in a Nebraska government plan for purposes of determining eligibility for benefits under the Nebraska State Patrol Retirement Act. Such credit shall be used toward the vesting percentage pursuant to subsection (2) of section 81-2031 but shall not be included as years of service in the benefit calculation;

(10) Hire date or date of hire means the first day of compensated service subject to retirement contributions;

(11) Initial benefit means the retirement benefit calculated at the time of retirement;

(12) Officer means law enforcement officer as defined in section 81-1401 and as provided for in sections 81-2001 to 81-2009, but does not include a noncertified conditional officer as defined in section 81-1401;

(13) Plan year means the twelve-month period beginning on July 1 and ending on June 30 of the following year;

(14) Regular interest means interest fixed at a rate equal to the daily treasury yield curve for one-year treasury securities, as published by the Secretary of the Treasury of the United States, that applies on July 1 of each year, which may be credited monthly, quarterly, semiannually, or annually as the board may direct;

(15) Required beginning date means, for purposes of the deferral of distributions, April 1 of the year following the calendar year in which a member has:

(a)(i) Terminated employment with the State of Nebraska; and

(ii)(A) Attained at least seventy and one-half years of age for a member who attained seventy and one-half years of age on or before December 31, 2019; or

(B) Attained at least seventy-two years of age for a member who attained seventy and one-half years of age on or after January 1, 2020; or

(b)(i) Terminated employment with the State of Nebraska; and

(ii) Otherwise reached the date specified by section 401(a)(9) of the Internal Revenue Code and the regulations issued thereunder;

(16) Retirement application means the form approved and provided by the retirement system for acceptance of a member's request for either regular or disability retirement;

(17) Retirement date means (a) the first day of the month following the date upon which a member's request for retirement is received on a retirement application if the member is eligible for retirement and has terminated employment or (b) the first day of the month following termination of employment if the member is eligible for retirement and has filed an application but has not yet terminated employment;

(18) Retirement system or system means the Nebraska State Patrol Retirement System as provided in the act;

(19) Service means employment as a member of the Nebraska State Patrol and shall not be deemed to be interrupted by (a) temporary or seasonal suspension of service that does not terminate the employee's employment, (b) leave of absence authorized by the employer for a period not exceeding twelve months, (c) leave of absence because of disability, or (d) military service, when properly authorized by the board. Service does not include any period of disability for which disability retirement benefits are received under subsection (1) of section 81-2025;

(20) Surviving spouse means (a) the spouse married to the member on the date of the member's death if married for at least one year prior to death or if married on the date of the member's retirement or (b) the spouse or former spouse of the member if survivorship rights are provided under a qualified domestic relations order filed with the board pursuant to the Spousal Pension Rights Act. The spouse or former spouse shall supersede the spouse married to the member on the date of the member's death as provided under a qualified domestic relations order. If the benefits payable to the spouse or former spouse under a qualified domestic relations order are less than the value of benefits entitled to the surviving spouse, the spouse married to the member on the date of the member's death shall be the surviving spouse for the balance of the benefits; and

(21) Termination of employment occurs on the date on which the Nebraska State Patrol determines that the officer's employer-employee relationship with the patrol is dissolved. The Nebraska State Patrol shall notify the board of the date on which such a termination has occurred. Termination of employment does not include ceasing employment with the Nebraska State Patrol if the officer returns to regular employment with the Nebraska State Patrol or another agency of the State of Nebraska and there are less than one hundred twenty days between the date when the employee's employer-employee relationship ceased and the date when the employer-employee relationship commenced with the Nebraska State Patrol or another state agency. Termination of employment does not occur upon an officer's participation in DROP pursuant to section 81-2041. It is the responsibility of the employer that is involved in the termination of employment to notify the board of such change in employment and provide the board with such information as the board deems necessary. If the board determines that termination of employment has not occurred and a retirement benefit has been paid to a member of the retirement system pursuant to section 81-2026, the board shall require the member who has received such benefit to repay the benefit to the retirement system.

Source: Laws 1947, c. 211, § 1, p. 687; Laws 1969, c. 511, § 1, p. 2092; R.S.1943, (1978), § 60-441; Laws 1989, LB 506, § 13; Laws 1991, LB 549, § 47; Laws 1994, LB 833, § 34; Laws 1995, LB 501, § 7; Laws 1996, LB 700, § 13; Laws 1996, LB 847, § 34; Laws 1996, LB 1076, § 32; Laws 1996, LB 1273, § 27; Laws 1997, LB 624, § 27; Laws 1999, LB 674, § 7; Laws 2000, LB 1192, § 19; Laws 2001, LB 408, § 19; Laws 2002, LB 470, § 7; Laws 2003, LB 451, § 21; Laws 2007, LB324, § 1; Laws 2012, LB916, § 28; Laws 2013, LB263, § 30; Laws 2016, LB467, § 1; Laws 2017, LB415, § 42; Laws 2018, LB1005, § 35; Laws 2020, LB1054, § 9; Laws 2021, LB51, § 23.

Effective date August 28, 2021.

Cross References

Spousal Pension Rights Act, see section 42-1101.

81-2017 Retirement system; contributions; payment; funding of system; actuarial valuation; powers and duties.

(1) Commencing July 1, 2010, and until July 1, 2011, each officer while in the service of the Nebraska State Patrol shall pay or have paid on his or her behalf a sum equal to sixteen percent of his or her monthly compensation. Commenc-

ing July 1, 2011, and until July 1, 2013, each officer while in the service of the Nebraska State Patrol shall pay or have paid on his or her behalf a sum equal to nineteen percent of his or her monthly compensation. Commencing July 1, 2013, each officer who commenced service prior to July 1, 2016, while in the service of the Nebraska State Patrol shall pay or have paid on his or her behalf a sum equal to sixteen percent of his or her monthly compensation. Each officer who commenced service on or after July 1, 2016, while in the service of the Nebraska State Patrol shall pay or have paid on his or her behalf a sum equal to seventeen percent of his or her monthly compensation. Such amounts shall be deducted monthly by the Director of Administrative Services who shall draw a warrant monthly in the amount of the total deductions from the compensation of members of the Nebraska State Patrol in accordance with subsection (4) of this section, and the State Treasurer shall credit the amount of such warrant to the State Patrol Retirement Fund. The director shall cause a detailed report of all monthly deductions to be made each month to the board.

(2) In addition, commencing July 1, 2010, and until July 1, 2011, there shall be assessed against the appropriation of the Nebraska State Patrol a sum equal to the amount of sixteen percent of each officer's monthly compensation which shall be credited to the State Patrol Retirement Fund. Commencing July 1, 2011, and until July 1, 2013, there shall be assessed against the appropriation of the Nebraska State Patrol a sum equal to the amount of nineteen percent of each officer's monthly compensation which shall be credited to the State Patrol Retirement Fund. Commencing July 1, 2013, for each officer who commenced service prior to July 1, 2016, there shall be assessed against the appropriation of the Nebraska State Patrol a sum equal to the amount of sixteen percent of each officer's monthly compensation which shall be credited to the State Patrol Retirement Fund. Commencing July 1, 2016, for each officer who commenced service on or after July 1, 2016, there shall be assessed against the appropriation of the Nebraska State Patrol a sum equal to the amount of seventeen percent of each officer's monthly compensation which shall be credited to the State Patrol Retirement Fund. This assessment constitutes an employer match and shall be contingent upon the officer making his or her contributions to the retirement system.

(3)(a) Prior to July 1, 2021:

(i) Beginning July 1, 2002, and each fiscal year thereafter, the board shall cause an annual actuarial valuation to be performed that will value the plan assets for the year and ascertain the contributions required for such fiscal year. The actuary for the board shall perform an actuarial valuation of the system on the basis of actuarial assumptions recommended by the actuary, approved by the board, and kept on file with the board 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 percentage of salary basis. The normal cost under this method shall be determined for each individual member on a level percentage of salary basis. The normal cost amount is then summed for all members;

(ii) Beginning July 1, 2006, any existing unfunded liabilities shall be reinitialized and amortized over a thirty-year period, and during each subsequent actuarial valuation through June 30, 2021, 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 thirty-year period beginning on the valuation date of such change;

(iii) If the unfunded actuarial accrued liability under the entry age actuarial cost method is zero or less than zero on an actuarial valuation date, then all prior unfunded actuarial accrued liabilities shall be considered fully funded and the unfunded actuarial accrued liability shall be reinitialized and amortized over a thirty-year period as of the actuarial valuation date; and

(iv) If the actuarially required contribution rate exceeds the rate of all contributions required pursuant to the Nebraska State Patrol Retirement Act, there shall be a supplemental appropriation sufficient to pay for the differences between the actuarially required contribution rate and the rate of all contributions required pursuant to the act.

(b) Beginning July 1, 2021, and each fiscal year thereafter:

(i) The board shall cause an annual actuarial valuation to be performed that will value the plan assets for the year and ascertain the contributions required for such fiscal year. The actuary for the board shall perform an actuarial valuation of the system on the basis of actuarial assumptions recommended by the actuary, approved by the board, and kept on file with the board using the entry age actuarial cost method. Under such 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 percentage of salary basis. The normal cost under such method shall be determined for each individual member on a level percentage of salary basis. The normal cost amount is then summed for all members;

(ii) Any 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;

(iii) 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; and

(iv) If the actuarially required contribution rate exceeds the rate of all contributions required pursuant to the Nebraska State Patrol Retirement Act, there shall be a supplemental appropriation sufficient to pay for the differences between the actuarially required contribution rate and the rate of all contributions required pursuant to the act.

(c) Upon the recommendation of the actuary to the board, and after the board notifies the Nebraska Retirement Systems Committee of the Legislature, the board may combine or offset certain amortization bases to reduce future volatility of the actuarial contribution rate. Such notification to the committee shall be in writing and include, at a minimum, the actuary's projection of the contributions to fund the plan if the combination or offset were not implemented, the actuary's projection of the contributions to fund the plan if the combination or offset were implemented, and the actuary's explanation of why the combination or offset is in the best interests of the plan at the proposed time.

(4) The state shall pick up the member contributions required by this section for all compensation paid on or after January 1, 1985, and the contributions so picked up shall be treated as employer contributions 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 state in lieu of member contributions. The state shall pay these member contributions from the same source of funds which is used in paying earnings to the member. The state shall pick up these contributions by a compensation deduction through a reduction in the cash compensation of the member. Member contributions picked up shall be treated for all purposes of the Nebraska State Patrol Retirement Act in the same manner and to the extent as member contributions made prior to the date picked up.

Source: Laws 1947, c. 211, § 4, p. 688; Laws 1959, c. 286, § 6, p. 1085; Laws 1965, c. 387, § 1, p. 1243; Laws 1971, LB 987, § 10; Laws 1975, LB 235, § 1; R.S.1943, (1978), § 60-444; Laws 1981, LB 462, § 5; Laws 1984, LB 218, § 4; Laws 1989, LB 506, § 14; Laws 1991, LB 549, § 49; Laws 1994, LB 833, § 36; Laws 1994, LB 1287, § 1; Laws 1995, LB 369, § 6; Laws 1995, LB 574, § 81; Laws 2001, LB 408, § 21; Laws 2002, LB 407, § 50; Laws 2004, LB 514, § 1; Laws 2005, LB 503, § 12; Laws 2006, LB 1019, § 12; Laws 2007, LB324, § 4; Laws 2009, LB188, § 7; Laws 2011, LB382, § 7; Laws 2013, LB263, § 32; Laws 2013, LB553, § 17; Laws 2016, LB467, § 3; Laws 2021, LB17, § 14.
Effective date May 6, 2021.

ARTICLE 21

STATE ELECTRICAL DIVISION

Section

81-2121. Act; not applicable to certain situations; enumerated.

81-2121 Act; not applicable to certain situations; enumerated.

Nothing in the State Electrical Act shall be construed to:

(1) Require employees of municipal corporations, public power districts, public power and irrigation districts, electric membership or cooperative associations, public utility corporations, railroads, telephone or telegraph companies, or commercial or industrial companies performing manufacturing, installation, and repair work for such employer to hold licenses while acting within the scope of their employment;

(2) Require any person doing work for which a license would otherwise be required under the act to hold a license issued under the act if he or she is the holder of a valid license issued by any city or other political subdivision, so long as he or she makes electrical installations only in the jurisdictional limits of such city or political subdivision and such license issued by the city or political subdivision meets the requirements of the act;

(3) Cover the installation, maintenance, repair, or alteration of vertical transportation or passenger conveyors, elevators, moving walks, dumbwaiters, stagelifts, manlifts, or appurtenances thereto beyond the terminals of the

controllers. The licensing of elevator contractors or constructors shall not be considered a part of the licensing requirements of the act;

(4) Require a license of any person who engages any electrical appliance where approved electrical outlets are already installed;

(5) Prohibit an owner of property from performing work on his or her principal residence, if such residence is not larger than a single-family dwelling, or farm property, excluding commercial or industrial installations or installations in public-use buildings or facilities, or require such owner to be licensed under the act;

(6) Require that any person be a member of a labor union in order to be licensed; or

(7) Prohibit a pump installation contractor or pump installation supervisor licensed under the Water Well Standards and Contractors' Practice Act from wiring pumps and pumping equipment at a water well location to the first control.

Source: Laws 1975, LB 525, § 22; Laws 1978, LB 833, § 9; Laws 1981, LB 67, § 3; R.S.Supp., 1981, § 81-592; Laws 1986, LB 379, § 2; Laws 1993, LB 193, § 20; Laws 2004, LB 914, § 6; Laws 2006, LB 508, § 11; Laws 2007, LB463, § 1314; Laws 2021, LB148, § 82.

Operative date July 1, 2021.

Cross References

Water Well Standards and Contractors' Practice Act, see section 46-1201.

CHAPTER 82

STATE CULTURE AND HISTORY

Article.

1. Nebraska State Historical Society. 82-139.
3. Nebraska Arts Council. 82-331 to 82-335.
8. First Regiment Nebraska Volunteer Infantry. 82-803.

ARTICLE 1

NEBRASKA STATE HISTORICAL SOCIETY

Section

82-139. Support Nebraska History Cash Fund; created; use; investment.

82-139 Support Nebraska History Cash Fund; created; use; investment.

The Support Nebraska History Cash Fund is created. The fund shall consist of money credited to the fund under section 60-3,256 and any other gifts, bequests, grants, or other contributions or donations to the fund from public or private entities. The Nebraska State Historical Society shall administer and distribute the Support Nebraska History Cash Fund. The fund shall be expended to promote the history of Nebraska on the Internet, to support history education for children in Nebraska, and for costs directly related to the administration 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.

Source: Laws 2021, LB317, § 9.
Effective date August 28, 2021.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

ARTICLE 3

NEBRASKA ARTS COUNCIL

Section

82-331. Nebraska Cultural Preservation Endowment Fund; created; use; investment.

82-334. Support the Arts Cash Fund; created; use; investment.

82-335. Competitive grant program; eligibility for grant; priority; purpose; amount.

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) Except as provided in subsection (3) 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, (d) an amount not to exceed five hundred thousand dollars from the General Fund to the Nebraska Cultural Preservation Endowment Fund on December 31 of 2019 and 2020, and (e) an amount not to exceed one million dollars from the General Fund to the Nebraska Cultural Preservation Endowment Fund annually on December 31 beginning in 2021 and continuing through December 31, 2028.

(3) 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.

(4) 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.

(5) 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.

(6) 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; Laws 2021, LB384, § 15; Laws 2021, LB509, § 20.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB384, section 15, with LB509, section 20, to reflect all amendments.

Note: Changes made by LB384 became effective April 27, 2021. Changes made by LB509 became effective August 28, 2021.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

82-334 Support the Arts Cash Fund; created; use; investment.

(1) The Support the Arts Cash Fund is created. The fund shall consist of all money credited to the fund pursuant to section 60-3,252 and all money transferred to the fund pursuant to section 13-3108.

(2) The Nebraska Arts Council shall administer and distribute the Support the Arts Cash Fund. The fund shall be expended by the Nebraska Arts Council (a) to provide aid to communities that designate a focus area of the city for arts and cultural development, (b) to provide money for a competitive grant program that awards a grant to any creative district that meets the criteria for the competitive grant, if such program exists, (c) to provide money for the competitive grant program for cities of the first class described in section 82-335, and (d) to defray costs directly related to the administration of the fund.

(3) All money transferred to the fund pursuant to section 13-3108 shall be used for the competitive grant program for cities of the first class described in section 82-335.

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

Source: Laws 2020, LB944, § 90; Laws 2021, LB39, § 9.
Effective date May 26, 2021.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

82-335 Competitive grant program; eligibility for grant; priority; purpose; amount.

(1) The Nebraska Arts Council shall establish a competitive grant program to award grants to cities of the first class as provided in this section. The grants shall be awarded from funds transferred to the Support the Arts Cash Fund pursuant to subdivision (9)(a) of section 13-3108.

(2) A city of the first class is eligible for a grant under this section if:

(a) The city has a creative district within its boundaries that has a ten-year plan for integration of the arts intended to catalyze economic and workforce development initiatives in such city; and

(b) The city is not receiving state assistance under the Sports Arena Facility Financing Assistance Act.

(3) Priority in grant funding shall go to any city of the first class described in subsection (2) of this section whose project includes the partnership of a city convention and visitors bureau or county convention and visitors bureau.

(4) Grants under this section may fund capital assets, video projection mapping, and intangible video or audio artistic expression presentations. Grants shall not fund ongoing operational and personnel expenses of a political subdivision or nonprofit corporation, live performances, promotional or mar-

keting efforts of the creative district, legal expenses, lobbying expenses, planning expenses, architectural expenses, or engineering expenses.

(5) Any assets acquired using grant funds shall be owned by the city of the first class receiving such grant.

(6) Any grant awarded under this section must be at least equal to one million five hundred thousand dollars.

(7) For purposes of this section, creative district means a creative district established pursuant to subdivision (5) of section 82-312.

Source: Laws 2021, LB39, § 10.

Effective date May 26, 2021.

ARTICLE 8

FIRST REGIMENT NEBRASKA VOLUNTEER INFANTRY

Section

82-803. First Regiment Nebraska Volunteer Infantry at Fort Donelson Committee; created; purpose; members; meetings; duties; vacancy; report; termination.

82-803 First Regiment Nebraska Volunteer Infantry at Fort Donelson Committee; created; purpose; members; meetings; duties; vacancy; report; termination.

(1) The First Regiment Nebraska Volunteer Infantry at Fort Donelson Committee is created. The purpose of the committee is to provide for the creation, production, transportation, installation, and unveiling of the monument. The committee shall consist of: An employee of the Nebraska State Historical Society appointed by the Secretary of State; two members of the public who are members of a local Civil War round table organization appointed by the Secretary of State; a professor of history from the University of Nebraska appointed by the Secretary of State; and, as a nonvoting, ex officio member, the Chairperson of the Government, Military and Veterans Affairs Committee of the Legislature or his or her designee.

(2) The members of the committee shall elect a chairperson and vice-chairperson from among its appointed members during the first meeting. A member may be reelected to serve as chairperson or vice-chairperson. The committee shall meet at least twice each calendar year. A majority of the members of the committee shall constitute a quorum.

(3) The committee may conduct its meetings by virtual conferencing as defined in section 84-1409, if practicable.

(4) The First Regiment Nebraska Volunteer Infantry at Fort Donelson Committee shall, in conformance with regulations of the Fort Donelson National Battlefield:

(a) Select a designer, sculptor, and mason, as appropriate, to create a monument and approve the design of the monument;

(b) Approve the production of the monument;

(c) Approve the method of transportation of the monument to the battlefield and its installation;

(d) Approve the unveiling ceremony for the monument; and

(e) Approve any other action the committee determines is necessary to achieve its purpose.

(5) If there is a vacancy on the committee, the Secretary of State shall fill such vacancy by appointing a member to serve during the unexpired term of the member whose office has become vacant.

(6) Members of the committee shall not be paid.

(7) The committee shall issue electronically a report to the Government, Military and Veterans Affairs Committee of the Legislature on the progress of the creation, production, and installation of the monument and any other information the committee deems necessary before December 31 of each year.

(8) The committee shall terminate upon the completion of its purpose.

Source: Laws 2020, LB850, § 3; Laws 2021, LB35, § 1; Laws 2021, LB83, § 10.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB35, section 1, with LB83, section 10, to reflect all amendments.

Note: Changes made by LB35 became effective August 28, 2021. Changes made by LB83 became effective April 22, 2021.

CHAPTER 83

STATE INSTITUTIONS

Article.

1. Management.
 - (a) General Provisions. 83-102 to 83-109.
3. Hospitals.
 - (b) State Hospitals for the Mentally Ill. 83-305.
 - (d) Cost of Patient Care. 83-363, 83-364.
9. Department of Correctional Services.
 - (k) Prison Overcrowding. 83-973.
12. Developmental Disabilities Services. 83-1225.

ARTICLE 1

MANAGEMENT

(a) GENERAL PROVISIONS

Section	
83-102.	Youth rehabilitation and treatment centers; placement; programming and services provided; accreditation; report.
83-104.	State institutions; annual physical review; report.
83-106.	Inpatient adolescent psychiatric unit; needs assessment and cost analysis; contract; report.
83-107.01.	Department of Health and Human Services; official names of institutions under supervision; youth rehabilitation and treatment centers; gender separation; requirements; treatment; legislative intent.
83-109.	Patients and residents; admission to state institutions; records; to whom accessible; transfers; investigations; appeals.

(a) GENERAL PROVISIONS

83-102 Youth rehabilitation and treatment centers; placement; programming and services provided; accreditation; report.

(1) Youth rehabilitation and treatment centers shall be operated to provide programming and services to rehabilitate and treat juveniles committed under the Nebraska Juvenile Code. Each youth rehabilitation and treatment center shall be considered a separate placement. Each youth rehabilitation and treatment center shall provide:

- (a) Safe and sanitary space for sleeping, hygiene, education, programming, treatment, recreation, and visitation for each juvenile;
- (b) Health care and medical services;
- (c) Appropriate physical separation and segregation of juveniles based on gender;
- (d) Sufficient staffing to comply with state and federal law and protect the safety and security of each juvenile;
- (e) Training that is specific to the population being served at the youth rehabilitation and treatment center;
- (f) A facility administrator for each youth rehabilitation and treatment center who has the sole responsibility for administration of a single youth rehabilitation and treatment center;

(g) An evaluation process for the development of an individualized treatment plan within fourteen days after admission to the youth rehabilitation and treatment center;

(h) An age-appropriate and developmentally appropriate education program for each juvenile that can award relevant and necessary credits toward high school graduation that will be accepted by any public school district in the State of Nebraska. Juveniles committed to the youth rehabilitation and treatment centers are entitled to receive an appropriate education equivalent to educational opportunities offered within the regular settings of public school districts across the State of Nebraska;

(i) A case management and coordination process, designed to assure appropriate reintegration of the juvenile with his or her family, school, and community;

(j) Compliance with the requirements stated in Title XIX and Title IV-E of the federal Social Security Act, as such act existed on January 1, 2020, the Special Education Act, or other funding guidelines as appropriate;

(k) Research-based or evidence-based programming for all juveniles that includes a strong academic program and classes in health education, living skills, vocational training, behavior management and modification, money management, family and parent responsibilities, substance use awareness, physical education, job skills training, and job placement assistance; and

(l) Research-based or evidence-based treatment service for behavioral impairment, severe emotional disturbance, sex offender behavior, other mental health or psychiatric disorder, drug and alcohol addiction, physical or sexual abuse, and any other treatment indicated by a juvenile's individualized treatment plan.

(2) Each youth rehabilitation and treatment center shall be accredited by a nationally recognized entity that provides accreditation for juvenile facilities and shall maintain accreditation as provided in section 79-703 to provide an age-appropriate and developmentally appropriate education program.

(3) Each youth rehabilitation and treatment center shall electronically submit a report of its activities for the preceding fiscal year to the Clerk of the Legislature on or before July 15 of each year beginning on July 15, 2021. The annual report shall include, but not be limited to, the following information:

(a) Data on the population served, including, but not limited to, admissions, average daily census, average length of stay, race, and ethnicity;

(b) An overview of programming and services; and

(c) An overview of any facility issues or facility improvements.

Source: Laws 2020, LB1140, § 1; Laws 2021, LB428, § 3.
Operative date August 28, 2021.

Cross References

Special Education Act, see section 79-1110.

83-104 State institutions; annual physical review; report.

(1)(a) The office of Public Counsel shall conduct an annual physical review of the following state institutions:

(i) The Youth Rehabilitation and Treatment Center-Geneva;

(ii) The Youth Rehabilitation and Treatment Center-Kearney;

(iii) Any other facility operated and utilized as a youth rehabilitation and treatment center;

(iv) The Hastings Regional Center;

(v) The Lincoln Regional Center;

(vi) The Norfolk Regional Center; and

(vii) The Beatrice State Developmental Center.

(b) Such physical review may include a review of the condition of buildings and grounds and the physical wear and tear of buildings, fixtures, equipment, furniture, security systems, and any improvements to the facility.

(2) The office of Public Counsel shall report to the Legislature on the condition of such state institutions. The report shall be due on or before March 15, 2021, for the 2020 calendar year, and on or before December 15 of each year beginning in 2021, for the period beginning with December 1 of the prior year through November 30 of the then current year. Such report shall include, for each state institution listed in subdivision (1)(a) of this section:

(a) The findings and observations from the annual physical review;

(b) Recent inspection reports regarding the facility;

(c) Staffing information, listed separately for each state institution, including, but not limited to:

(i) The number of assaults on staff;

(ii) Staffing levels;

(iii) Staff retention rates; and

(iv) Staff turnover rates, including unfilled and vacant positions; and

(d) The number of reports received by the office of Public Counsel for each institution and any systemic issues identified as a result of such physical review.

Source: Laws 2020, LB1144, § 15; Laws 2021, LB273, § 7.

Effective date August 28, 2021.

83-106 Inpatient adolescent psychiatric unit; needs assessment and cost analysis; contract; report.

(1) The Department of Health and Human Services shall contract for the completion of a needs assessment and cost analysis for the establishment of an inpatient adolescent psychiatric unit housed within the Lincoln Regional Center. The department shall contract with an outside consultant with expertise in needs assessment and cost analysis of health care facilities within sixty days after May 26, 2021, for the purpose of conducting such assessment and analysis.

(2) The department shall submit a report electronically to the Health and Human Services Committee of the Legislature and the Clerk of the Legislature on or before December 1, 2021. Such report shall contain the following information:

(a) A needs assessment, including the number of adolescents expected to use such inpatient adolescent psychiatric unit;

(b) The cost of opening an existing facility at the Lincoln Regional Center for use as an inpatient adolescent psychiatric unit;

(c) The cost of reopening the facility at the Lincoln Regional Center, including the costs for necessary construction, upgrades, or repairs;

(d) Annual operating costs of such unit, including, but not limited to, any federal funds available to operate the unit in addition to General Fund appropriations; and

(e) Cost savings realized by moving adolescents from out-of-state institutions back to Nebraska for treatment at such unit.

(3) For purposes of this section, adolescent means a person under the jurisdiction of the juvenile court.

Source: Laws 2020, LB1140, § 9; Laws 2021, LB428, § 4.
Operative date May 26, 2021.

83-107.01 Department of Health and Human Services; official names of institutions under supervision; youth rehabilitation and treatment centers; gender separation; requirements; treatment; legislative intent.

(1) The official names of the state institutions under the supervision of the Department of Health and Human Services shall be as follows: (a) Beatrice State Developmental Center, (b) Lincoln Regional Center, (c) Norfolk Regional Center, (d) Hastings Regional Center, (e) Youth Rehabilitation and Treatment Center-Kearney, and (f) Youth Rehabilitation and Treatment Center-Geneva.

(2)(a) This subsection applies beginning July 1, 2021.

(b) Except as provided in subdivision (2)(e) of this section, so long as the department operates the Youth Rehabilitation and Treatment Center-Kearney, such institution shall be used for the treatment of boys only.

(c) Except as provided in subdivision (2)(e) of this section, so long as the department operates the Youth Rehabilitation and Treatment Center-Geneva, such institution shall be used for the treatment of girls only.

(d) For any other facility operated and utilized as a youth rehabilitation and treatment center in compliance with state law, the department shall ensure safe and appropriate gender separation.

(e) In the event of an emergency, the department may use the Youth Rehabilitation and Treatment Center-Kearney, the Youth Rehabilitation and Treatment Center-Geneva, or another facility operated and utilized as a youth rehabilitation and treatment center in compliance with state law for the treatment of juveniles of both genders for up to seven days. During any such use the department shall ensure safe and appropriate gender separation.

(f) For purposes of this section, emergency means a public health emergency or a situation including fire, flood, tornado, natural disaster, or damage to the institution that renders an institution uninhabitable. Emergency does not include inadequate staffing.

(3) It is the intent of the Legislature that no institution under the supervision of the Department of Health and Human Services at which the department provides inpatient or subacute substance abuse or behavioral health residential treatment for juveniles under the jurisdiction of a juvenile court shall delay such treatment to a juvenile when such treatment has been determined neces-

sary under subsection (2) of section 43-407 or has been ordered by a juvenile court.

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; Laws 2020, LB1188, § 16; Laws 2021, LB273, § 8; Laws 2021, LB428, § 5.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB273, section 8, with LB428, section 5, to reflect all amendments.

Note: Changes made by LB273 became effective August 28, 2021. Changes made by LB428 became operative August 28, 2021.

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.

83-109 Patients and residents; admission to state institutions; records; to whom accessible; transfers; investigations; appeals.

(1) The Department of Health and Human Services shall have general control over the admission of patients and residents to all institutions over which it has jurisdiction. Each individual shall be assigned to the institution best adapted to care for him or her.

(2) A record of every patient or resident of every institution shall be kept complete from the date of his or her entrance to the date of his or her discharge or death. Such records shall be accessible only (a) to the department, a legislative committee, the Governor, any federal agency requiring medical records to adjudicate claims for federal benefits, and any public or private agency under contract to provide facilities, programs, and patient services, (b) upon order of a judge, court, or mental health board, (c) in accordance with sections 20-161 to 20-166, (d) to the Nebraska State Patrol pursuant to section 69-2409.01, (e) to those portions of the record required to be released to a victim as defined in section 29-119 in order to comply with the victim notification requirements pursuant to subsections (4) and (5) of section 81-1850, (f) to law enforcement and county attorneys when a crime occurs on the premises of an institution, (g) upon request when a patient or resident has been deceased for fifty years or more, (h) to current treatment providers, or (i) to treatment providers for coordination of care related to transfer or discharge. In addition, a patient or resident or his or her legally authorized representative may authorize the specific release of his or her records, or portions thereof, by filing with the department a signed written consent.

(3) Transfers of patients or residents from one institution to another shall be within the exclusive jurisdiction of the department and shall be recorded in the office of the department, with the reasons for such transfers.

(4) When the department is unable to assign a patient to a regional center or commit him or her to any other institution at the time of application, a record thereof shall be kept and the patient accepted at the earliest practicable date.

(5) The superintendents of the regional centers and Beatrice State Developmental Center shall notify the department immediately whenever there is any question regarding the propriety of the commitment, detention, transfer, or placement of any person admitted to a state institution. The department shall then investigate the matter and take such action as shall be proper. Any interested party who is not satisfied with such action may appeal such action, and the appeal shall be in accordance with the Administrative Procedure Act.

(6) The department shall have full authority on its own suggestion or upon the application of any interested person to investigate the physical and mental status of any patient or resident of any regional center or the Beatrice State Developmental Center. If upon such investigation the department considers such patient or resident fit to be released from the regional center or Beatrice State Developmental Center, it shall cause such patient or resident to be discharged or released on convalescent leave.

Source: Laws 1913, c. 179, § 27, p. 546; R.S.1913, § 7205; C.S.1922, § 6856; C.S.1929, § 83-127; R.S.1943, § 83-109; Laws 1961, c. 416, § 15, p. 1270; Laws 1963, c. 525, § 1, p. 1645; Laws 1971, LB 419, § 1; Laws 1975, LB 206, § 1; Laws 1979, LB 322, § 61; Laws 1981, LB 545, § 39; Laws 1985, LB 315, § 1; Laws 1988, LB 697, § 7; Laws 1988, LB 352, § 182; Laws 1996, LB 1044, § 899; Laws 1996, LB 1055, § 16; Laws 1997, LB 325, § 2; Laws 2016, LB816, § 2; Laws 2021, LB296, § 1.
Effective date August 28, 2021.

Cross References

Administrative Procedure Act, see section 84-920.

Burial of dead from state institutions, portion of Wyuka Cemetery reserved for, see section 12-102.

**ARTICLE 3
HOSPITALS**

(b) STATE HOSPITALS FOR THE MENTALLY ILL

Section

83-305. State hospitals for the mentally ill; official titles.

(d) COST OF PATIENT CARE

83-363. Terms, defined.

83-364. Cost of patient care; liability of patient and relatives.

(b) STATE HOSPITALS FOR THE MENTALLY ILL

83-305 State hospitals for the mentally ill; official titles.

The state hospital established in Lancaster County for the treatment of mental illnesses shall be known as the Lincoln Regional Center. The state hospital established in Madison County shall be known as the Norfolk Regional Center.

Source: Laws 1921, c. 162, § 1, p. 656; C.S.1922, § 6950; C.S.1929, § 83-755; Laws 1935, c. 185, § 3, p. 686; C.S.Supp.,1941, § 83-755; R.S.1943, § 83-305; Laws 1953, c. 345, § 1, p. 1120; Laws 1969, c. 818, § 11, p. 3119; Laws 1973, LB 536, § 4; Laws 1975, LB 466, § 2; Laws 1996, LB 1155, § 85; Laws 2004, LB 1083, § 129; Laws 2021, LB401, § 1.
Effective date August 28, 2021.

Cross References

Convicted sex offenders, evaluation and treatment, see section 29-2925 et seq.

Mentally ill veterans, care and treatment of, see sections 80-601 to 80-606.

Mentally incompetent persons:

Becoming incompetent after commission of crime, procedure, see section 29-1822.

Insanity as defense in criminal cases, procedure, see section 29-2203.

State institutions, official names, see section 83-107.01.

(d) COST OF PATIENT CARE

83-363 Terms, defined.

As used in sections 83-227.01, 83-227.02, 83-350, and 83-363 to 83-380, unless the context otherwise requires:

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

(2) State institution means the state hospitals at Lincoln and Norfolk, the Beatrice State Developmental Center, and such other institutions as may hereafter be established by the Legislature for the care and treatment of persons with a mental disorder or persons with an intellectual disability;

(3) Relative means the spouse of a patient or, if the patient has no spouse and is under the age of majority at the time he or she is admitted, the parents of a patient in a state institution; and

(4) Parents means either or both of a patient's natural parents unless such patient has been legally adopted by other parents, in which case parents means either or both of the adoptive parents.

Source: Laws 1969, c. 812, § 1, p. 3051; Laws 1975, LB 466, § 6; Laws 1986, LB 1177, § 46; Laws 1996, LB 1044, § 947; Laws 2007, LB296, § 790; Laws 2013, LB23, § 52; Laws 2021, LB401, § 2.
Effective date August 28, 2021.

83-364 Cost of patient care; liability of patient and relatives.

When any person is admitted to a state institution or other inpatient treatment facility pursuant to an order of a mental health board under the Nebraska Mental Health Commitment Act or the Sex Offender Commitment Act or receives treatment prescribed by such institution or facility following release or without being admitted as a resident patient, the patient and the patient's relatives shall be liable for the cost of the care, support, maintenance, and treatment of such person to the extent and in the manner provided by sections 83-227.01, 83-227.02, 83-350, and 83-363 to 83-380. Such sections also shall apply to persons admitted to a state institution as transferees from any state penal institution or youth rehabilitation and treatment center but only after the expiration of the time for which the transferees were originally sentenced or committed.

Source: Laws 1969, c. 812, § 2, p. 3052; Laws 1994, LB 988, § 30; Laws 2004, LB 1083, § 140; Laws 2006, LB 1199, § 102; Laws 2021, LB273, § 9.
Effective date August 28, 2021.

Cross References

For other provisions relating to patient expenses, see sections 83-348 to 83-355.

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

Sex Offender Commitment Act, see section 71-1201.

ARTICLE 9

DEPARTMENT OF CORRECTIONAL SERVICES

(k) PRISON OVERCROWDING

Section

83-973. Prison Overcrowding Contingency Fund; created; use; investment; study of inmate classification.

(k) PRISON OVERCROWDING

83-973 Prison Overcrowding Contingency Fund; created; use; investment; study of inmate classification.

The Prison Overcrowding Contingency Fund is created. The State Treasurer shall transfer fifteen million dollars from the General Fund to the Prison Overcrowding Contingency Fund on or before July 15, 2021, on such date as directed by the budget administrator of the budget division of the Department of Administrative Services. It is the intent of the Legislature that these funds remain in the Prison Overcrowding Contingency Fund until sufficient details are provided to the Legislature regarding plans to reduce prison overcrowding, except that the fund may be used for purposes of a study of inmate classification within the Department of Correctional 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 2021, LB384, § 28.
Effective date April 27, 2021.

Cross References

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

ARTICLE 12

DEVELOPMENTAL DISABILITIES SERVICES

Section

83-1225. School district; provide transition services; enumerated.

83-1225 School district; provide transition services; enumerated.

Each school district shall provide transition services for each student with a developmental disability no later than when the student reaches fourteen years of age and until the student graduates from a special education program or no longer meets the definition of a child with a disability pursuant to section 79-1117. Transition services shall consist of a coordinated set of activities for a student, designed within an outcome-oriented process, which promotes movement from school to postschool activities, including postsecondary education, vocational training, integrated employment, continuing and adult education, adult services, independent living, and community participation. The coordinated set of activities shall be based upon the individual student's needs, taking into account the student's preferences and interests, and shall include instruction, community experiences, the development of employment and other postschool adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation. The transition team shall designate

one or more specialized service providers to develop a plan for the student's transition to adult specialized services.

Source: Laws 1991, LB 830, § 25; Laws 1996, LB 900, § 1068; Laws 2019, LB675, § 55; Laws 2021, LB527, § 1.
Effective date August 28, 2021.

CHAPTER 84

STATE OFFICERS

Article.

- 3. Auditor of Public Accounts. 84-304 to 84-305.02.
- 6. State Treasurer. 84-602 to 84-612.
- 7. General Provisions as to State Officers. 84-710, 84-712.05.
- 14. Public Meetings. 84-1409 to 84-1415.
- 15. Public Employees Retirement Board. 84-1501, 84-1503.

ARTICLE 3

AUDITOR OF PUBLIC ACCOUNTS

Section

- 84-304. Auditor; powers and duties; assistant deputies; qualifications; powers and duties.
- 84-304.01. Auditor; audit, financial, or accounting reports; minimum standards; establish; political subdivisions; failure to file report; late fee; performance audits.
- 84-305.01. Audit report; working papers and audit files; access; request; failure to comply; late fee; refuse report; deficiency; powers and duties.
- 84-305.02. Prohibited acts; penalty.

84-304 Auditor; powers and duties; assistant deputies; qualifications; powers and duties.

It shall be the duty of the Auditor of Public Accounts:

(1) To give information electronically to the Legislature, whenever required, upon any subject relating to the fiscal affairs of the state or with regard to any duty of his or her office;

(2) To furnish offices for himself or herself and all fuel, lights, books, blanks, forms, paper, and stationery required for the proper discharge of the duties of his or her office;

(3)(a) To examine or cause to be examined, at such time as he or she shall determine, books, accounts, vouchers, records, and expenditures of all state officers, state bureaus, state boards, state commissioners, the state library, societies and associations supported by the state, state institutions, state colleges, and the University of Nebraska, except when required to be performed by other officers or persons. Such examinations shall be done in accordance with generally accepted government auditing standards for financial audits and attestation engagements set forth in Government Auditing Standards (2011 Revision for audit periods ending before June 30, 2020, or 2018 Revision for audit periods ending on or after June 30, 2020), published by the Comptroller General of the United States, Government Accountability Office, and except as provided in subdivision (11) of this section, subdivision (16) of section 50-1205, and section 84-322, shall not include performance audits, whether conducted pursuant to attestation engagements or performance audit standards as set forth in Government Auditing Standards (2018 Revision), published by the Comptroller General of the United States, Government Accountability Office.

(b) Any entity, excluding the state colleges and the University of Nebraska, that is audited or examined pursuant to subdivision (3)(a) of this section and that is the subject of a comment and recommendation in a management letter or report issued by the Auditor of Public Accounts shall, on or before six months after the issuance of such letter or report, provide to the Auditor of Public Accounts a detailed written description of any corrective action taken or to be taken in response to the comment and recommendation. The Auditor of Public Accounts may investigate and evaluate the corrective action. The Auditor of Public Accounts shall then electronically submit a report of any findings of such investigation and evaluation to the Governor, the appropriate standing committee of the Legislature, and the Appropriations Committee of the Legislature. The Auditor of Public Accounts shall also ensure that the report is delivered to the Appropriations Committee for entry into the record during the committee's budget hearing process;

(4)(a) To examine or cause to be examined, at the expense of the political subdivision, when the Auditor of Public Accounts determines such examination necessary or when requested by the political subdivision, the books, accounts, vouchers, records, and expenditures of any agricultural association formed under Chapter 2, article 20, any county agricultural society, any joint airport authority formed under the Joint Airport Authorities Act, any city or county airport authority, any bridge commission created pursuant to section 39-868, any cemetery district, any community redevelopment authority or limited community redevelopment authority established under the Community Development Law, any development district, any drainage district, any health district, any local public health department as defined in section 71-1626, any historical society, any hospital authority or district, any county hospital, any housing agency as defined in section 71-1575, any irrigation district, any county or municipal library, any community mental health center, any railroad transportation safety district, any rural water district, any township, Wyuka Cemetery, the Educational Service Unit Coordinating Council, any entity created pursuant to the Interlocal Cooperation Act, any educational service unit, any village, any service contractor or subrecipient of state or federal funds, any political subdivision with the authority to levy a property tax or a toll, or any entity created pursuant to the Joint Public Agency Act.

For purposes of this subdivision, service contractor or subrecipient means any nonprofit entity that expends state or federal funds to carry out a state or federal program or function, but it does not include an individual who is a direct beneficiary of such a program or function or a licensed health care provider or facility receiving direct payment for medical services provided for a specific individual.

(b) The Auditor of Public Accounts may waive the audit requirement of subdivision (4)(a) of this section upon the submission by the political subdivision of a written request in a form prescribed by the auditor. The auditor shall notify the political subdivision in writing of the approval or denial of the request for a waiver.

(c) Through December 31, 2017, the Auditor of Public Accounts may conduct audits under this subdivision for purposes of sections 2-3228, 12-101, 13-2402, 14-567, 14-1805.01, 14-2111, 16-1017, 16-1037, 19-3501, 23-1118, 23-3526, 71-1631.02, and 79-987.

(d) Beginning on May 24, 2017, the Auditor of Public Accounts may conduct audits under this subdivision for purposes of sections 13-2402, 14-567, 14-1805.01, 14-2111, 15-1017, 16-1017, 16-1037, 18-814, 71-1631.02, and 79-987 and shall prescribe the form for the annual reports required in each of such sections. Such annual reports shall be published annually on the website of the Auditor of Public Accounts;

(5) To report promptly to the Governor and the appropriate standing committee of the Legislature the fiscal condition shown by such examinations conducted by the auditor, including any irregularities or misconduct of officers or employees, any misappropriation or misuse of public funds or property, and any improper system or method of bookkeeping or condition of accounts. The report submitted to the committee shall be submitted electronically. In addition, if, in the normal course of conducting an audit in accordance with subdivision (3) of this section, the auditor discovers any potential problems related to the effectiveness, efficiency, or performance of state programs, he or she shall immediately report them electronically to the Legislative Performance Audit Committee which may investigate the issue further, report it electronically to the appropriate standing committee of the Legislature, or both;

(6)(a) To examine or cause to be examined the books, accounts, vouchers, records, and expenditures of a fire protection district. The expense of the examination shall be paid by the political subdivision.

(b) Whenever the expenditures of a fire protection district are one hundred fifty thousand dollars or less per fiscal year, the fire protection district shall be audited no more than once every five years except as directed by the board of directors of the fire protection district or unless the auditor receives a verifiable report from a third party indicating any irregularities or misconduct of officers or employees of the fire protection district, any misappropriation or misuse of public funds or property, or any improper system or method of bookkeeping or condition of accounts of the fire protection district. In the absence of such a report, the auditor may waive the five-year audit requirement upon the submission of a written request by the fire protection district in a form prescribed by the auditor. The auditor shall notify the fire protection district in writing of the approval or denial of a request for waiver of the five-year audit requirement. Upon approval of the request for waiver of the five-year audit requirement, a new five-year audit period shall begin.

(c) Whenever the expenditures of a fire protection district exceed one hundred fifty thousand dollars in a fiscal year, the auditor may waive the audit requirement upon the submission of a written request by the fire protection district in a form prescribed by the auditor. The auditor shall notify the fire protection district in writing of the approval or denial of a request for waiver. Upon approval of the request for waiver, a new five-year audit period shall begin for the fire protection district if its expenditures are one hundred fifty thousand dollars or less per fiscal year in subsequent years;

(7) To appoint two or more assistant deputies (a) whose entire time shall be devoted to the service of the state as directed by the auditor, (b) who shall be certified public accountants with at least five years' experience, (c) who shall be selected without regard to party affiliation or to place of residence at the time of appointment, (d) who shall promptly report to the auditor the fiscal condition shown by each examination, including any irregularities or misconduct of officers or employees, any misappropriation or misuse of public funds or

property, and any improper system or method of bookkeeping or condition of accounts, and it shall be the duty of the auditor to file promptly with the Governor a duplicate of such report, and (e) who shall qualify by taking an oath which shall be filed in the office of the Secretary of State;

(8) To conduct audits and related activities for state agencies, political subdivisions of this state, or grantees of federal funds disbursed by a receiving agency on a contractual or other basis for reimbursement to assure proper accounting by all such agencies, political subdivisions, and grantees for funds appropriated by the Legislature and federal funds disbursed by any receiving agency. The auditor may contract with any political subdivision to perform the audit of such political subdivision required by or provided for in section 23-1608 or 79-1229 or this section and charge the political subdivision for conducting the audit. The fees charged by the auditor for conducting audits on a contractual basis shall be in an amount sufficient to pay the cost of the audit. The fees remitted to the auditor for such audits and services shall be deposited in the Auditor of Public Accounts Cash Fund;

(9)(a) To examine or cause to be examined the books, accounts, vouchers, and records related to any money transferred pursuant to subsection (4) of section 9-812, any fund receiving any such transfer, or any subsequent transfer or expenditure of such money when the Auditor of Public Accounts determines such examination necessary or when requested by (i) any department or agency receiving any such transfer or acting as the administrator for a fund receiving any such transfer, (ii) any recipient or subsequent recipient of money disbursed from any such fund, or (iii) any service contractor responsible for managing, on behalf of any entity, any portion of any such fund or any money disbursed from any such fund.

(b) Any examination pursuant to subdivision (9)(a) of this section shall be made at the expense of the department or agency, recipient or subsequent recipient, or service contractor whose books, accounts, vouchers, or records are being examined.

(c) For purposes of this subdivision, recipient, subsequent recipient, or service contractor means a nonprofit entity that expends funds transferred pursuant to subsection (4) of section 9-812 to carry out a state program or function, but does not include an individual who is a direct beneficiary of such a program or function.

(d) The Auditor of Public Accounts shall prescribe the form for the annual reports required in subsection (5) of section 9-812. Such annual reports shall be published on the website of the Auditor of Public Accounts;

(10) To develop and maintain an annual budget and actual financial information reporting system for political subdivisions that is accessible online by the public;

(11) When authorized, to conduct joint audits with the Legislative Performance Audit Committee as described in section 50-1205;

(12) Unless otherwise specifically provided, to assess the interest rate on delinquent payments of any fees for audits and services owing to the Auditor of Public Accounts at a rate of fourteen percent per annum from the date of billing unless paid within thirty days after the date of billing. For an entity created pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act, any participating public agencies shall be jointly and severally liable for the fees and interest owed if such entity is defunct or unable to pay; and

(13) In consultation with statewide associations representing (a) counties and (b) cities and villages, to approve annual continuing education programs for county treasurers, city treasurers, and village treasurers as required by sections 14-553, 15-317, 16-318, 17-606, and 23-1601. The cost of attending such programs shall be at the expense of the county, city, or village. The auditor shall maintain records of program attendance and notify each county board, city council, or village board of trustees if its treasurer has not completed such program attendance. The auditor shall inform the Attorney General and the county attorney of the county in which a treasurer is located if such treasurer has not completed a required annual continuing education program.

Source: R.S.1866, c. 4, § 4, p. 20; Laws 1907, c. 140, § 1, p. 447; R.S.1913, § 5546; C.S.1922, § 4848; C.S.1929, § 84-304; Laws 1939, c. 28, § 4, p. 142; C.S.Supp.,1941, § 84-304; R.S.1943, § 84-304; Laws 1951, c. 339, § 1, p. 1121; Laws 1953, c. 322, § 2, p. 1065; Laws 1965, c. 538, § 30, p. 1715; Laws 1965, c. 459, § 26, p. 1465; Laws 1967, c. 36, § 8, p. 164; Laws 1974, LB 280, § 3; Laws 1976, LB 759, § 2; Laws 1977, LB 193, § 4; Laws 1979, LB 414, § 5; Laws 1984, LB 473, § 25; Laws 1985, Second Spec. Sess., LB 29, § 5; Laws 1987, LB 183, § 6; Laws 1992, LB 573, § 14; Laws 1993, LB 579, § 4; Laws 1993, LB 516, § 4; Laws 1995, LB 205, § 1; Laws 1995, LB 509, § 1; Laws 1995, LB 572, § 1; Laws 1996, LB 900, § 1069; Laws 1997, LB 250, § 24; Laws 2000, LB 968, § 84; Laws 2000, LB 1304, § 1; Laws 2002, LB 568, § 11; Laws 2003, LB 607, § 20; Laws 2004, LB 1005, § 136; Laws 2004, LB 1118, § 3; Laws 2006, LB 588, § 10; Laws 2007, LB603, § 31; Laws 2008, LB822, § 4; Laws 2012, LB782, § 222; Laws 2013, LB40, § 3; Laws 2014, LB759, § 21; Laws 2015, LB539, § 8; Laws 2017, LB151, § 8; Laws 2017, LB415, § 45; Laws 2019, LB492, § 44; Laws 2020, LB781, § 8; Laws 2020, LB1003, § 186; Laws 2021, LB528, § 51.

Operative date May 26, 2021.

Cross References

Community Development Law, see section 18-2101.

Interlocal Cooperation Act, see section 13-801.

Joint Airport Authorities Act, see section 3-716.

Joint Public Agency Act, see section 13-2501.

Successors, duties relating to, see section 84-604.

Tax returns, audited when, see section 77-27,119.

84-304.01 Auditor; audit, financial, or accounting reports; minimum standards; establish; political subdivisions; failure to file report; late fee; performance audits.

(1) It shall be the duty of the Auditor of Public Accounts to establish, by rule and regulation, minimum standards applicable to all audit, financial, or accounting reports or copies of such reports required to be filed with the Auditor of Public Accounts by any political subdivision of the State of Nebraska. Such minimum standards shall be in accordance with sound accounting principles, in conformity with generally accepted auditing standards and government auditing standards, and designed to bring about uniformity in the content and form of such reports within the same type of political subdivision. Audit reports of any political subdivision required to file such reports with the Auditor of

Public Accounts shall be prepared in conformity with generally accepted auditing standards and government auditing standards.

(2) If a political subdivision required to file a report with the Auditor of Public Accounts fails to file such report by the applicable due date, the Auditor of Public Accounts may assess the political subdivision a late fee of twenty dollars per day for each calendar day the required report remains not filed. Such late fee shall begin on the day following the date the report is due. The total late fee assessed under this subsection shall not exceed two thousand dollars per filing. Of the late fee assessed and collected pursuant to this subsection, the Auditor of Public Accounts shall remit to the State Treasurer for credit to the Auditor of Public Accounts Cash Fund an amount sufficient to reimburse the direct costs of administering and enforcing this subsection, but such amount shall not exceed one hundred dollars from such late fee assessed and collected. The Auditor of Public Accounts shall remit the remainder of any late fee assessed and collected under this subsection to the State Treasurer to be distributed in accordance with Article VII, section 5, of the Constitution of Nebraska.

(3) In connection with his or her duties, but at his or her discretion, the Auditor of Public Accounts may conduct performance audits of all political subdivisions receiving more than twenty-five thousand dollars in the audit year in tax funds from the state including all public utilities and all counties, townships, municipalities, cities, villages, districts, authorities, and other public corporations and entities. The performance audits shall be conducted in conformity with generally accepted auditing standards and government auditing standards.

Source: Laws 1974, LB 922, § 1; Laws 1993, LB 310, § 15; Laws 1995, LB 509, § 2; Laws 2021, LB368, § 1.
Effective date August 28, 2021.

84-305.01 Audit report; working papers and audit files; access; request; failure to comply; late fee; refuse report; deficiency; powers and duties.

(1) The Auditor of Public Accounts shall have unrestricted access to the working papers and audit files for any audit report required to be filed with the office of the Auditor of Public Accounts.

(2) Upon receipt of a written request by the Auditor of Public Accounts for access to working papers and audit files, the auditor or auditing firm responsible for preparing such audit report shall provide to the Auditor of Public Accounts as soon as is practicable and without delay, but not more than three business days after receipt of such request, either (a) access to all of the requested materials or (b) a written explanation, including the earliest practicable date for fulfilling the request and an opportunity for the Auditor of Public Accounts to modify or prioritize the items within the request, 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 extensiveness of fulfilling the request. No delay due to the significant difficulty or extensiveness of any request for access to working papers and audit files shall exceed three calendar weeks after receipt of the written request from the Auditor of Public Accounts. 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 any

of the days enumerated in section 25-2221 or declared by law or proclamation of the President of the United States or Governor to be holidays.

(3) If the auditor or auditing firm responsible for preparing such audit report fails to comply timely and fully with a request for access to working papers and audit files, the Auditor of Public Accounts may:

(a) Assess the auditor or auditing firm a late fee of twenty dollars per day for each calendar day the requested working papers and audit files remain inaccessible. Such late fee shall begin on the same day that the Auditor of Public Accounts notifies the auditor or auditing firm by facsimile transmission, email, or first-class mail of the failure to provide access. The total late fee assessed under this subdivision shall not exceed two thousand dollars per incident. Of the late fee assessed and collected pursuant to this subdivision, the Auditor of Public Accounts shall remit to the State Treasurer for credit to the Auditor of Public Accounts Cash Fund an amount sufficient to reimburse the direct costs of administering and enforcing this section, but such amount shall not exceed one hundred dollars from any such late fee assessed and collected. The Auditor of Public Accounts shall remit the remainder of any late fee assessed and collected under this subdivision to the State Treasurer to be distributed in accordance with Article VII, section 5, of the Constitution of Nebraska; and

(b) Refuse to accept any audit report prepared by the auditor or auditing firm for a period of three calendar years from the date that the notification described in subdivision (3)(a) of this section is received by such auditor or auditing firm.

(4) Any deficiency noted by the Auditor of Public Accounts in reviewing the working papers and audit files may be forwarded to the Nebraska State Board of Public Accountancy for its consideration. The Auditor of Public Accounts may make any information or documents required to investigate such deficiency available to the board.

(5) For purposes of this section, working papers and audit files 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.

(6)(a) If any written request made under subsection (2) of this section is sent by either registered or certified United States mail, a record authenticated by the United States Postal Service of delivery of such registered or certified mail shall be considered competent evidence that the request was delivered to the person or entity to whom addressed.

(b) Any notification made under subdivision (3)(a) of this section which is transmitted through the United States mail shall be deemed made on the date it was mailed if the Auditor of Public Accounts provides competent evidence that such notification was deposited in the United States mail on such date.

Source: Laws 2015, LB539, § 11; Laws 2021, LB369, § 1.

Effective date August 28, 2021.

84-305.02 Prohibited acts; penalty.

Any person who willfully fails to comply with section 84-305 or 84-305.01, who otherwise willfully obstructs or hinders the conduct of an audit, examination, or related activity by the Auditor of Public Accounts, or who willfully misleads or attempts to mislead any person charged with the duty of conduct-

ing such audit, examination, or related activity shall be guilty of a Class II misdemeanor.

Source: Laws 2021, LB369, § 2.
Effective date August 28, 2021.

ARTICLE 6
STATE TREASURER

- Section 84-602. State Treasurer; duties.
- 84-602.03. Taxpayer Transparency Act; terms, defined.
- 84-612. Cash Reserve Fund; created; transfers; receipt of federal funds.

84-602 State Treasurer; duties.

It shall be the duty of the State Treasurer:

- (1) To receive and keep all money of the state not expressly required to be received and kept by some other person;
- (2) To disburse the public money upon warrants drawn upon the state treasury according to law and not otherwise;
- (3) To keep a just, true, and comprehensive account of all money received and disbursed;
- (4) To keep a just account with each fund, and each head of appropriation made by law, and the warrants drawn against them;
- (5) To report electronically to the Legislature as soon as practicable, but within ten days after the commencement of each regular session, a detailed statement of the condition of the treasury and its operations for the preceding fiscal year;
- (6) To give information electronically to the Legislature, whenever required, upon any subject connected with the treasury or touching any duty of his or her office;
- (7) To account for, and pay over, all money received by him or her as such treasurer, to his or her successor in office, and deliver all books, vouchers, and effects of office to him or her; and such successor shall receipt therefor. In accounting for and paying over such money the treasurer shall not be held liable on account of any loss occasioned by any investment, when such investment shall have been made pursuant to the direction of the state investment officer; and
- (8) To develop and maintain the website required under the Taxpayer Transparency Act.

Source: R.S.1866, c. 4, § 18, p. 24; R.S.1913, § 5577; C.S.1922, § 4881; C.S.1929, § 84-602; R.S.1943, § 84-602; Laws 1967, c. 617, § 1, p. 2069; Laws 1970, Spec. Sess., c. 3, § 1, p. 67; Laws 2009, LB16, § 2; Laws 2012, LB782, § 224; Laws 2013, LB429, § 1; Laws 2016, LB851, § 1; Laws 2021, LB509, § 21.
Effective date August 28, 2021.

Cross References

Taxpayer Transparency Act, see section 84-602.01.

84-602.03 Taxpayer Transparency Act; terms, defined.

For purposes of the Taxpayer Transparency Act:

(1)(a) Expenditure of state funds means all expenditures of state receipts, whether appropriated or nonappropriated, by a state entity in forms including, but not limited to:

(i) Grants;

(ii) Contracts;

(iii) Subcontracts;

(iv) State aid to political subdivisions;

(v) Tax refunds or credits that may be disclosed pursuant to the Nebraska Advantage Act, the Nebraska Advantage Microenterprise Tax Credit Act, the Nebraska Advantage Research and Development Act, the Nebraska Advantage Rural Development Act, the ImagiNE Nebraska Act, or the Urban Redevelopment Act; and

(vi) Any other disbursement of state receipts by a state entity in the performance of its functions;

(b) Expenditure of state funds includes expenditures authorized by the Board of Regents of the University of Nebraska, the Board of Trustees of the Nebraska State Colleges, or a public corporation pursuant to sections 85-403 to 85-411; and

(c) Expenditure of state funds does not include the transfer of funds between two state entities, payments of state, federal, or other assistance to an individual, or the expenditure of pass-through funds;

(2) Pass-through funds means any funds received by a state entity if the state entity is acting only as an intermediary or custodian with respect to such funds and is obligated to pay or otherwise return such funds to the person entitled thereto;

(3) State entity means (a) any agency, board, commission, or department of the state and (b) any other body created by state statute that includes a person appointed by the Governor, the head of any state agency or department, an employee of the State of Nebraska, or any combination of such persons and that is empowered pursuant to such statute to collect and disburse state receipts; and

(4) State receipts means revenue or other income received by a state entity from tax receipts, fees, charges, interest, or other sources which is (a) used by the state entity to pay the expenses necessary to perform the state entity's functions and (b) reported to the State Treasurer in total amounts by category of income. State receipts does not include pass-through funds.

Source: Laws 2016, LB851, § 3; Laws 2020, LB1107, § 140; Laws 2021, LB544, § 35.

Operative date January 1, 2022.

Cross References

ImagiNE Nebraska Act, see section 77-6801.

Nebraska Advantage Act, see section 77-5701.

Nebraska Advantage Microenterprise Tax Credit Act, see section 77-5901.

Nebraska Advantage Research and Development Act, see section 77-5801.

Nebraska Advantage Rural Development Act, see section 77-27,187.

Urban Redevelopment Act, see section 77-6901.

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 shall transfer fifty-four million seven hundred thousand dollars on or after July 1, 2019, but before June 15, 2021, from the Cash Reserve Fund to the Nebraska Capital Construction Fund on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

(5) The State Treasurer shall transfer thirty million dollars from the Cash Reserve Fund to the General Fund after November 15, 2020, but before December 31, 2020, on such date as directed by the budget administrator of the budget division of the Department of Administrative Services. Except for the transfer authorized in this subsection, no funds shall be transferred from the Cash Reserve Fund to fulfill the obligations created under the Nebraska Property Tax Incentive Act unless the balance in the Cash Reserve Fund after such transfer will be at least equal to five hundred million dollars.

(6) The State Treasurer shall transfer fifty million dollars from the Cash Reserve Fund to the United States Space Command Headquarters Assistance Fund on or before June 30, 2023, but not before July 1, 2022, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services. The transfer in this subsection shall not occur unless the State of Nebraska is selected as the site of the United States Space Command headquarters.

Source: Laws 1983, LB 59, § 5; Laws 1985, LB 713, § 2; Laws 1985, LB 501, § 2; Laws 1986, LB 739, § 1; Laws 1986, LB 870, § 1; Laws 1987, LB 131, § 1; Laws 1988, LB 1091, § 4; Laws 1989, LB 310, § 1; Laws 1991, LB 857, § 1; Laws 1991, LB 783, § 33; Laws 1992, LB 1268, § 1; Laws 1993, LB 38, § 4; Laws 1994, LB 1045, § 1; Laws 1996, LB 1290, § 6; Laws 1997, LB 401, § 5; Laws 1998, LB 63, § 1; Laws 1998, LB 988, § 1; Laws 1998, LB 1104, § 30; Laws 1998, LB 1134, § 5; Laws 1998, LB 1219, § 23; Laws 1999, LB 881, § 9; Laws 2000, LB 1214, § 2; Laws 2001, LB 541, § 6; Laws 2002, LB 1310, § 20; Laws 2003, LB 790, § 74; Laws 2003, LB 798, § 1; Laws 2004, LB 1090, § 2; Laws 2005, LB 427, § 2; Laws 2006, LB 1131, § 1; Laws 2006, LB 1256, § 9; Laws 2007, LB323, § 3; Laws 2008, LB846, § 21; Laws 2008, LB1094, § 8; Laws 2008, LB1116, § 9; Laws 2008, LB1165, § 2; Laws 2009, LB456, § 3; Laws 2009, First Spec. Sess., LB2, § 7; Laws 2010, LB317, § 1; Laws 2011, LB379, § 2; Laws 2012, LB131,

§ 1; Laws 2013, LB200, § 1; Laws 2014, LB130, § 2; Laws 2014, LB1016, § 3; Laws 2015, LB662, § 1; Laws 2016, LB957, § 13; Laws 2016, LB960, § 31; Laws 2017, LB332, § 1; Laws 2018, LB946, § 1; Laws 2019, LB299, § 1; Laws 2020, LB1107, § 141; Laws 2020, LB1198, § 2; Laws 2021, LB385, § 1; Laws 2021, LB509, § 22.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB385, section 1, with LB509, section 22, to reflect all amendments.

Note: Changes made by LB385 became effective April 27, 2021. Changes made by LB509 became effective August 28, 2021.

Cross References

Nebraska Property Tax Incentive Act, see section 77-6701.

ARTICLE 7

GENERAL PROVISIONS AS TO STATE OFFICERS

Section

84-710. Fees, proceeds, and money due state; payment to State Treasurer; duty of state officers and department heads; exceptions.

84-712.05. Records which may be withheld from the public; enumerated.

84-710 Fees, proceeds, and money due state; payment to State Treasurer; duty of state officers and department heads; exceptions.

It shall be unlawful for any executive department, state institution, board, or officer acting under or by virtue of any statute or authority of the state, including the State Racing and Gaming Commission, to receive any fees, proceeds from the sale of any public property, or any money belonging to the state or due for any service rendered by virtue of state authority without paying the same into the state treasury within three business days of the receipt thereof when the aggregate amount is five hundred dollars or more and within seven days of the receipt thereof when the aggregate amount is less than five hundred dollars. The State Treasurer may, upon a written request from an executive department, state institution, board, or officer stating that the applicable time period cannot be met, grant additional time to remit the funds to the state treasury. Funds received by an executive department, state institution, board, or officer for a good or service which may or may not be delivered contingent upon a selection process shall not be subject to this section until the selection period is over.

The provisions of this section and section 84-711 shall not apply to money received as proceeds of any fair, exposition, or exhibition held by any state board or society or of membership contributions to or receipts from miscellaneous sales by the Nebraska State Historical Society.

Such money so paid into the treasury shall be withdrawn therefrom or paid out only upon proper voucher and warrant.

The head of any institution receiving, from any source, funds to be held in trust and expended for the benefit of any inmate thereof shall not be required to pay such trust funds into the state treasury as provided in this section but shall, at the end of each month, file with the Director of Administrative Services a detailed and attested statement of all such money received and expended by him or her.

Source: Laws 1911, c. 132, § 1, p. 442; R.S.1913, § 5593; C.S.1922, § 4900; C.S.1929, § 84-710; R.S.1943, § 84-710; Laws 1961, c.

453, § 1, p. 1381; Laws 1961, c. 418, § 3, p. 1280; Laws 1984, LB 933, § 19; Laws 1999, LB 61, § 1; Laws 2021, LB561, § 49. Effective date May 26, 2021.

84-712.05 Records which may be withheld from the public; enumerated.

The following records, unless publicly disclosed in an open court, open administrative proceeding, or open meeting or disclosed by a public entity pursuant to its duties, may be withheld from the public by the lawful custodian of the records:

(1) Personal information in records regarding a student, prospective student, or former student of any educational institution or exempt school that has effectuated an election not to meet state approval or accreditation requirements pursuant to section 79-1601 when such records are maintained by and in the possession of a public entity, other than routine directory information specified and made public consistent with 20 U.S.C. 1232g, as such section existed on February 1, 2013, and regulations adopted thereunder;

(2) Medical records, other than records of births and deaths and except as provided in subdivision (5) of this section, in any form concerning any person; records of elections filed under section 44-2821; and patient safety work product under the Patient Safety Improvement Act;

(3) Trade secrets, academic and scientific research work which is in progress and unpublished, and other proprietary or commercial information which if released would give advantage to business competitors and serve no public purpose;

(4) Records which represent the work product of an attorney and the public body involved which are related to preparation for litigation, labor negotiations, or claims made by or against the public body or which are confidential communications as defined in section 27-503;

(5) Records developed or received by law enforcement agencies and other public bodies charged with duties of investigation or examination of persons, institutions, or businesses, when the records constitute a part of the examination, investigation, intelligence information, citizen complaints or inquiries, informant identification, or strategic or tactical information used in law enforcement training, except that this subdivision shall not apply to records so developed or received:

(a) Relating to the presence of and amount or concentration of alcohol or drugs in any body fluid of any person; or

(b) Relating to the cause of or circumstances surrounding the death of an employee arising from or related to his or her employment if, after an investigation is concluded, a family member of the deceased employee makes a request for access to or copies of such records. This subdivision does not require access to or copies of informant identification, the names or identifying information of citizens making complaints or inquiries, other information which would compromise an ongoing criminal investigation, or information which may be withheld from the public under another provision of law. For purposes of this subdivision, family member means a spouse, child, parent, sibling, grandchild, or grandparent by blood, marriage, or adoption;

(6) Appraisals or appraisal information and negotiation records concerning the purchase or sale, by a public body, of any interest in real or personal property, prior to completion of the purchase or sale;

(7) Personal information in records regarding personnel of public bodies other than salaries and routine directory information;

(8) Information solely pertaining to protection of the security of public property and persons on or within public property, such as specific, unique vulnerability assessments or specific, unique response plans, either of which is intended to prevent or mitigate criminal acts the public disclosure of which would create a substantial likelihood of endangering public safety or property; computer or communications network schema, passwords, and user identification names; guard schedules; lock combinations; or public utility infrastructure specifications or design drawings the public disclosure of which would create a substantial likelihood of endangering public safety or property, unless otherwise provided by state or federal law;

(9) Information that relates details of physical and cyber assets of critical energy infrastructure or critical electric infrastructure, including (a) specific engineering, vulnerability, or detailed design information about proposed or existing critical energy infrastructure or critical electric infrastructure that (i) relates details about the production, generation, transportation, transmission, or distribution of energy, (ii) could be useful to a person in planning an attack on such critical infrastructure, and (iii) does not simply give the general location of the critical infrastructure and (b) the identity of personnel whose primary job function makes such personnel responsible for (i) providing or granting individuals access to physical or cyber assets or (ii) operating and maintaining physical or cyber assets, if a reasonable person, knowledgeable of the electric utility or energy industry, would conclude that the public disclosure of such identity could create a substantial likelihood of risk to such physical or cyber assets. Subdivision (9)(b) of this section shall not apply to the identity of a chief executive officer, general manager, vice president, or board member of a public entity that manages critical energy infrastructure or critical electric infrastructure. The lawful custodian of the records must provide a detailed job description for any personnel whose identity is withheld pursuant to subdivision (9)(b) of this section. For purposes of subdivision (9) of this section, critical energy infrastructure and critical electric infrastructure mean existing and proposed systems and assets, including a system or asset of the bulk-power system, whether physical or virtual, the incapacity or destruction of which would negatively affect security, economic security, public health or safety, or any combination of such matters;

(10) The security standards, procedures, policies, plans, specifications, diagrams, access lists, and other security-related records of the Lottery Division of the Department of Revenue and those persons or entities with which the division has entered into contractual relationships. Nothing in this subdivision shall allow the division to withhold from the public any information relating to amounts paid persons or entities with which the division has entered into contractual relationships, amounts of prizes paid, the name of the prize winner, and the city, village, or county where the prize winner resides;

(11) With respect to public utilities and except as provided in sections 43-512.06 and 70-101, personally identified private citizen account payment

and customer use information, credit information on others supplied in confidence, and customer lists;

(12) Records or portions of records kept by a publicly funded library which, when examined with or without other records, reveal the identity of any library patron using the library's materials or services;

(13) Correspondence, memoranda, and records of telephone calls related to the performance of duties by a member of the Legislature in whatever form. The lawful custodian of the correspondence, memoranda, and records of telephone calls, upon approval of the Executive Board of the Legislative Council, shall release the correspondence, memoranda, and records of telephone calls which are not designated as sensitive or confidential in nature to any person performing an audit of the Legislature. A member's correspondence, memoranda, and records of confidential telephone calls related to the performance of his or her legislative duties shall only be released to any other person with the explicit approval of the member;

(14) Records or portions of records kept by public bodies which would reveal the location, character, or ownership of any known archaeological, historical, or paleontological site in Nebraska when necessary to protect the site from a reasonably held fear of theft, vandalism, or trespass. This section shall not apply to the release of information for the purpose of scholarly research, examination by other public bodies for the protection of the resource or by recognized tribes, the Unmarked Human Burial Sites and Skeletal Remains Protection Act, or the federal Native American Graves Protection and Repatriation Act;

(15) Records or portions of records kept by public bodies which maintain collections of archaeological, historical, or paleontological significance which reveal the names and addresses of donors of such articles of archaeological, historical, or paleontological significance unless the donor approves disclosure, except as the records or portions thereof may be needed to carry out the purposes of the Unmarked Human Burial Sites and Skeletal Remains Protection Act or the federal Native American Graves Protection and Repatriation Act;

(16) Library, archive, and museum materials acquired from nongovernmental entities and preserved solely for reference, research, or exhibition purposes, for the duration specified in subdivision (16)(b) of this section, if:

(a) Such materials are received by the public custodian as a gift, purchase, bequest, or transfer; and

(b) The donor, seller, testator, or transferor conditions such gift, purchase, bequest, or transfer on the materials being kept confidential for a specified period of time;

(17) Job application materials submitted by applicants, other than finalists or a priority candidate for a position described in section 85-106.06 selected using the enhanced public scrutiny process in section 85-106.06, who have applied for employment by any public body as defined in section 84-1409. For purposes of this subdivision, (a) job application materials means employment applications, resumes, reference letters, and school transcripts and (b) finalist means any applicant who is not an applicant for a position described in section 85-106.06 and (i) who reaches the final pool of applicants, numbering four or more, from which the successful applicant is to be selected, (ii) who is an original applicant when the final pool of applicants numbers less than four, or (iii) who is an original applicant and there are four or fewer original applicants;

(18)(a) Records obtained by the Public Employees Retirement Board pursuant to section 84-1512 and (b) records maintained by the board of education of a Class V school district and obtained by the board of trustees or the Public Employees Retirement Board for the administration of a retirement system provided for under the Class V School Employees Retirement Act pursuant to section 79-989;

(19) Social security numbers; credit card, charge card, or debit card numbers and expiration dates; and financial account numbers supplied to state and local governments by citizens;

(20) Information exchanged between a jurisdictional utility and city pursuant to section 66-1867;

(21) Draft records obtained by the Nebraska Retirement Systems Committee of the Legislature and the Governor from Nebraska Public Employees Retirement Systems pursuant to subsection (4) of section 84-1503;

(22) All prescription drug information submitted pursuant to section 71-2454, all data contained in the prescription drug monitoring system, and any report obtained from data contained in the prescription drug monitoring system; and

(23) Information obtained by any government entity, whether federal, state, county, or local, regarding firearm registration, possession, sale, or use that is obtained for purposes of an application permitted or required by law or contained in a permit or license issued by such entity. Such information shall be available upon request to any federal, state, county, or local law enforcement agency.

Source: Laws 1979, LB 86, § 5; Laws 1983, LB 108, § 1; Laws 1983, LB 565, § 1; Laws 1993, LB 579, § 6; Laws 1993, LB 590, § 6; Laws 1993, LB 719, § 2; Laws 1994, LB 1061, § 7; Laws 1994, LB 1224, § 88; Laws 1995, LB 343, § 7; Laws 1995, LB 509, § 6; Laws 1999, LB 137, § 1; Laws 2002, LB 276, § 7; Laws 2004, LB 236, § 1; Laws 2004, LB 868, § 3; Laws 2005, LB 361, § 37; Laws 2007, LB389, § 1; Laws 2009, LB188, § 8; Laws 2009, LB658, § 7; Laws 2011, LB230, § 1; Laws 2013, LB410, § 17; Laws 2016, LB447, § 45; Laws 2016, LB471, § 3; Laws 2016, LB1109, § 1; Laws 2018, LB859, § 1; Laws 2018, LB902, § 1; Laws 2019, LB16, § 1; Laws 2019, LB33, § 6; Laws 2019, LB375, § 1; Laws 2021, LB147, § 44.
Effective date May 27, 2021.

Cross References

Class V School Employees Retirement Act, see section 79-978.01.

Patient Safety Improvement Act, see section 71-8701.

Unmarked Human Burial Sites and Skeletal Remains Protection Act, see section 12-1201.

ARTICLE 14

PUBLIC MEETINGS

Section

84-1409. Terms, defined.

84-1411. Meetings of public body; notice; method; contents; when available; right to modify; duties concerning notice; virtual conferencing authorized; requirements; emergency meeting without notice; appearance before public body.

84-1412. Meetings of public body; rights of public; public body; powers and duties.

Section

- 84-1413. Meetings; minutes; roll call vote; secret ballot; when; agenda and minutes; required on website; when.
- 84-1415. Open Meetings Act; requirements; waiver; validity of action.

84-1409 Terms, defined.

For purposes of the Open Meetings Act, unless the context otherwise requires:

(1)(a) Public body means (i) governing bodies of all political subdivisions of the State of Nebraska, (ii) governing bodies of all agencies, created by the Constitution of Nebraska, statute, or otherwise pursuant to law, of the executive department of the State of Nebraska, (iii) all independent boards, commissions, bureaus, committees, councils, subunits, or any other bodies created by the Constitution of Nebraska, statute, or otherwise pursuant to law, (iv) all study or advisory committees of the executive department of the State of Nebraska whether having continuing existence or appointed as special committees with limited existence, (v) advisory committees of the bodies referred to in subdivisions (i), (ii), and (iii) of this subdivision, and (vi) instrumentalities exercising essentially public functions; and

(b) Public body does not include (i) subcommittees of such bodies unless a quorum of the public body attends a subcommittee meeting or unless such subcommittees are holding hearings, making policy, or taking formal action on behalf of their parent body, except that all meetings of any subcommittee established under section 81-15,175 are subject to the Open Meetings Act, and (ii) entities conducting judicial proceedings unless a court or other judicial body is exercising rulemaking authority, deliberating, or deciding upon the issuance of administrative orders;

(2) Meeting means all regular, special, or called meetings, formal or informal, of any public body for the purposes of briefing, discussion of public business, formation of tentative policy, or the taking of any action of the public body; and

(3) Virtual conferencing means conducting or participating in a meeting electronically or telephonically with interaction among the participants subject to subsection (2) of section 84-1412.

Source: Laws 1975, LB 325, § 2; Laws 1983, LB 43, § 1; Laws 1989, LB 429, § 42; Laws 1989, LB 311, § 14; Laws 1992, LB 1019, § 124; Laws 1993, LB 635, § 1; Laws 1996, LB 1044, § 978; Laws 1997, LB 798, § 37; Laws 2004, LB 821, § 36; Laws 2007, LB296, § 810; Laws 2011, LB366, § 2; Laws 2021, LB83, § 11.
Effective date April 22, 2021.

84-1411 Meetings of public body; notice; method; contents; when available; right to modify; duties concerning notice; virtual conferencing authorized; requirements; emergency meeting without notice; appearance before public body.

(1)(a) Each public body shall give reasonable advance publicized notice of the time and place of each meeting as provided in this subsection. Such notice shall be transmitted to all members of the public body and to the public.

(b)(i) Except as provided in subdivision (1)(b)(ii) of this section, in the case of a public body described in subdivision (1)(a)(i) of section 84-1409 or such body's advisory committee, such notice shall be published in a newspaper of

general circulation within the public body's jurisdiction and, if available, on such newspaper's website.

(ii) In the case of the governing body of a city of the second class or village or such body's advisory committee, such notice shall be published by:

(A) Publication in a newspaper of general circulation within the public body's jurisdiction and, if available, on such newspaper's website; or

(B) Posting written notice in three conspicuous public places in such city or village. Such notice shall be posted in the same three places for each meeting.

(iii) In the case of a public body not described in subdivision (1)(b)(i) or (ii) of this section, such notice shall be given by a method designated by the public body.

(c) In addition to a method of notice required by subdivision (1)(b)(i) or (ii) of this section, such notice may also be provided by any other appropriate method designated by such public body or such advisory committee.

(d) Each public body shall record the methods and dates of such notice in its minutes.

(e) 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 (i) twenty-four hours before the scheduled commencement of the meeting or (ii) 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) The following entities may hold a meeting by means of virtual conferencing if the requirements of subdivision (2)(b) of this section are met:

(i) A state agency, state board, state commission, state council, or state committee, or an advisory committee of any such state entity;

(ii) An organization, including the governing body, created under the Interlocal Cooperation Act, the Joint Public Agency Act, or the Municipal Cooperative Financing Act;

(iii) The governing body of a public power district having a chartered territory of more than one county in this state;

(iv) The governing body of a public power and irrigation district having a chartered territory of more than one county in this state;

(v) An educational service unit;

(vi) The Educational Service Unit Coordinating Council;

(vii) An organization, including the governing body, of a risk management pool or its advisory committees organized in accordance with the Intergovernmental Risk Management Act;

(viii) A community college board of governors;

(ix) The Nebraska Brand Committee;

(x) A local public health department;

- (xi) A metropolitan utilities district;
- (xii) A regional metropolitan transit authority;
- (xiii) A natural resources district; and
- (xiv) The Judicial Resources Commission.

(b) The requirements for holding a meeting by means of virtual conferencing are as follows:

(i) Reasonable advance publicized notice is given as provided in subsection (1) of this section, including providing access to a dial-in number or link to the virtual conference;

(ii) In addition to the public's right to participate by virtual conferencing, reasonable arrangements are made to accommodate the public's right to attend at a physical site and participate as provided in section 84-1412, including reasonable seating, in at least one designated site in a building open to the public and identified in the notice, with: At least one member of the entity holding such meeting, or his or her designee, present at each site; a recording of the hearing by audio or visual recording devices; and a reasonable opportunity for input, such as public comment or questions, is provided to at least the same extent as would be provided if virtual conferencing was not used;

(iii) At least one copy of all documents being considered at the meeting is available at any physical site open to the public where individuals may attend the virtual conference. The public body shall also provide links to an electronic copy of the agenda, all documents being considered at the meeting, and the current version of the Open Meetings Act; and

(iv) Except as otherwise provided in this subdivision or subsection (4) of section 79-2204, no more than one-half of the meetings of the state entities, advisory committees, boards, councils, organizations, or governing bodies are held by virtual conferencing in a calendar year. In the case of an organization created under the Interlocal Cooperation Act that sells electricity or natural gas at wholesale on a multistate basis or an organization created under the Municipal Cooperative Financing Act, the organization may hold more than one-half of its meetings by virtual conferencing if such organization holds at least one meeting each calendar year that is not by virtual conferencing. The governing body of a risk management pool that meets at least quarterly and the advisory committees of the governing body may each hold more than one-half of its meetings by virtual conferencing if the governing body's quarterly meetings are not held by virtual conferencing.

(3) Virtual conferencing, 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 virtual conferencing. 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 to appear before the public body by means of virtual conferencing.

(7)(a) Notwithstanding subsections (2) and (5) of this section, if an emergency is declared by the Governor pursuant to the Emergency Management Act as defined in section 81-829.39, a public body the territorial jurisdiction of which is included in the emergency declaration, in whole or in part, may hold a meeting by virtual conferencing during such emergency if the public body gives reasonable advance publicized notice as described in subsection (1) of this section. The notice shall include information regarding access for the public and news media. In addition to any formal action taken pertaining to the emergency, the public body may hold such meeting for the purpose of briefing, discussion of public business, formation of tentative policy, or the taking of any action by the public body.

(b) The public body shall provide access by providing a dial-in number or a link to the virtual conference. The public body shall also provide links to an electronic copy of the agenda, all documents being considered at the meeting, and the current version of the Open Meetings Act. Reasonable arrangements shall be made to accommodate the public's right to hear and speak at the meeting and record the meeting. Subsection (4) of this section shall be complied with in conducting such meetings.

(c) The nature of the emergency shall be stated in the minutes. Complete minutes of such meeting specifying the nature of the emergency and any formal action taken at the meeting shall be made available for inspection as provided in subsections (5) and (6) of section 84-1413.

Source: Laws 1975, LB 325, § 4; Laws 1983, LB 43, § 3; Laws 1987, LB 663, § 25; Laws 1993, LB 635, § 2; Laws 1996, LB 469, § 6; Laws 1996, LB 1161, § 1; Laws 1999, LB 47, § 2; Laws 1999, LB 87, § 100; Laws 1999, LB 461, § 1; Laws 2000, LB 968, § 85; Laws 2004, LB 821, § 38; Laws 2004, LB 1179, § 2; Laws 2006, LB 898, § 2; Laws 2007, LB199, § 9; Laws 2009, LB361, § 2; Laws 2012, LB735, § 1; Laws 2013, LB510, § 1; Laws 2017, LB318, § 1; Laws 2019, LB212, § 5; Laws 2020, LB148, § 3; Laws 2021, LB83, § 12.

Effective date April 22, 2021.

Cross References

Emergency Management Act, see section 81-829.36.
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.

84-1412 Meetings of public body; rights of public; public body; powers and duties.

(1) Subject to the Open Meetings Act, the public has the right to attend and the right to speak at meetings of public bodies, and all or any part of a meeting of a public body, except for closed sessions called pursuant to section 84-1410, may be videotaped, televised, photographed, broadcast, or recorded by any

person in attendance by means of a tape recorder, a camera, video equipment, or any other means of pictorial or sonic reproduction or in writing.

(2) It shall not be a violation of subsection (1) of this section for any public body to make and enforce reasonable rules and regulations regarding the conduct of persons attending, speaking at, videotaping, televising, photographing, broadcasting, or recording its meetings, including meetings held by virtual conferencing. A body may not be required to allow citizens to speak at each meeting, but it may not forbid public participation at all meetings.

(3) No public body shall require members of the public to identify themselves as a condition for admission to the meeting nor shall such body require that the name of any member of the public be placed on the agenda prior to such meeting in order to speak about items on the agenda. The body shall require any member of the public desiring to address the body to identify himself or herself, including an address and the name of any organization represented by such person unless the address requirement is waived to protect the security of the individual.

(4) No public body shall, for the purpose of circumventing the Open Meetings Act, hold a meeting in a place known by the body to be too small to accommodate the anticipated audience.

(5) No public body shall be deemed in violation of this section if it holds its meeting in its traditional meeting place which is located in this state.

(6) No public body shall be deemed in violation of this section if it holds a meeting outside of this state if, but only if:

(a) A member entity of the public body is located outside of this state and the meeting is in that member's jurisdiction;

(b) All out-of-state locations identified in the notice are located within public buildings used by members of the entity or at a place which will accommodate the anticipated audience;

(c) Reasonable arrangements are made to accommodate the public's right to attend, hear, and speak at the meeting, including making virtual conferencing available at an in-state location to members, the public, or the press, if requested twenty-four hours in advance;

(d) No more than twenty-five percent of the public body's meetings in a calendar year are held out-of-state;

(e) Out-of-state meetings are not used to circumvent any of the public government purposes established in the Open Meetings Act; and

(f) The public body publishes notice of the out-of-state meeting at least twenty-one days before the date of the meeting in a legal newspaper of statewide circulation.

(7) Each public body shall, upon request, make a reasonable effort to accommodate the public's right to hear the discussion and testimony presented at a meeting.

(8) Public bodies shall make available at the meeting or the in-state location for virtual conferencing as required by subdivision (6)(c) of this section, for examination and copying by members of the public, at least one copy of all reproducible written material to be discussed at an open meeting, either in paper or electronic form. Public bodies shall make available at least one current copy of the Open Meetings Act posted in the meeting room at a location

accessible to members of the public. At the beginning of the meeting, the public shall be informed about the location of the posted information.

Source: Laws 1975, LB 325, § 5; Laws 1983, LB 43, § 4; Laws 1985, LB 117, § 2; Laws 1987, LB 324, § 5; Laws 1996, LB 900, § 1073; Laws 2001, LB 250, § 2; Laws 2004, LB 821, § 39; Laws 2006, LB 898, § 3; Laws 2008, LB962, § 1; Laws 2021, LB83, § 13.
Effective date April 22, 2021.

84-1413 Meetings; minutes; roll call vote; secret ballot; when; agenda and minutes; required on website; when.

(1) Each public body shall keep minutes of all meetings showing the time, place, members present and absent, and the substance of all matters discussed.

(2) Any action taken on any question or motion duly moved and seconded shall be by roll call vote of the public body in open session, and the record shall state how each member voted or if the member was absent or not voting. The requirements of a roll call or viva voce vote shall be satisfied by a public body which utilizes an electronic voting device which allows the yeas and nays of each member of such public body to be readily seen by the public.

(3) The vote to elect leadership within a public body may be taken by secret ballot, but the total number of votes for each candidate shall be recorded in the minutes.

(4) The minutes of all meetings and evidence and documentation received or disclosed in open session shall be public records and open to public inspection during normal business hours.

(5) Minutes shall be written, except as provided in subsection (6) of this section, and available for inspection within ten working days or prior to the next convened meeting, whichever occurs earlier, except that cities of the second class and villages may have an additional ten working days if the employee responsible for writing the minutes is absent due to a serious illness or emergency.

(6) Minutes of the meetings of the board of a school district or educational service unit may be kept as an electronic record.

(7) Beginning July 31, 2022, the governing body of a natural resources district, the city council of a city of the metropolitan class, the city council of a city of the primary class, the city council of a city of the first class, the county board of a county with a population greater than twenty-five thousand inhabitants, and the school board of a school district shall make available on such entity's public website the agenda and minutes of any meeting of the governing body. The agenda shall be placed on the website at least twenty-four hours before the meeting of the governing body. Minutes shall be placed on the website at such time as the minutes are available for inspection as provided in subsection (5) of this section. This information shall be available on the public website for at least six months.

Source: Laws 1975, LB 325, § 6; Laws 1978, LB 609, § 3; Laws 1979, LB 86, § 9; Laws 1987, LB 663, § 26; Laws 2005, LB 501, § 1; Laws 2009, LB361, § 3; Laws 2015, LB365, § 2; Laws 2016, LB876, § 1; Laws 2021, LB83, § 14.
Effective date April 22, 2021.

84-1415 Open Meetings Act; requirements; waiver; validity of action.

No motion, resolution, rule, regulation, ordinance, or formal action made, adopted, passed, or taken at a meeting as defined in section 84-1409 of a public body as defined in such section shall be invalidated because such motion, resolution, rule, regulation, ordinance, or formal action was made, adopted, passed, or taken at a meeting or meetings on or after March 17, 2020, and on or before April 30, 2021, pursuant to a Governor's Executive Order which waived certain requirements of the Open Meetings Act.

Source: Laws 2021, LB83, § 15.
Effective date April 22, 2021.

Cross References

Open Meetings Act, see section 84-1407.

ARTICLE 15**PUBLIC EMPLOYEES RETIREMENT BOARD**

Section

- 84-1501. Public Employees Retirement Board; created; members; qualifications; appointment; terms; vacancy; removal.
84-1503. Board; duties; director; duties.

84-1501 Public Employees Retirement Board; created; members; qualifications; appointment; terms; vacancy; removal.

(1) The Public Employees Retirement Board is hereby established.

(2)(a) The board shall consist of eight appointed members until September 1, 2024, and nine appointed members beginning September 1, 2024, as described in this subsection, and the state investment officer as a nonvoting, ex officio member. Six of the appointed members until September 1, 2024, and seven of the appointed members beginning September 1, 2024, shall be active or retired participants in the retirement systems administered by the board, and two of the appointed members (i) shall not be employees of the State of Nebraska or any of its political subdivisions and (ii) shall have at least ten years of experience in the management of a public or private organization or have at least five years of experience in the field of actuarial analysis or the administration of an employee benefit plan.

(b) The appointed members who are participants in the retirement systems shall be as follows:

(i) Two of the appointed members shall be participants in the School Employees Retirement System of the State of Nebraska and shall include one administrator and one teacher;

(ii) One of the appointed members shall be a participant in the Nebraska Judges Retirement System as provided in the Judges Retirement Act;

(iii) One of the appointed members shall be a participant in the Nebraska State Patrol Retirement System;

(iv) One of the appointed members shall be a participant in the Retirement System for Nebraska Counties;

(v) One of the appointed members shall be a participant in the State Employees Retirement System of the State of Nebraska; and

(vi) Beginning September 1, 2024, one of the appointed members shall be a participant who is a teacher in a retirement system established under the Class V School Employees Retirement Act.

(c) Appointments to the board shall be made by the Governor and shall be subject to the approval of the Legislature. All appointed members shall be citizens of the State of Nebraska.

(3)(a) Except as otherwise provided in this subsection, all members shall serve for terms of five years or until a successor has been appointed and qualified. The terms shall begin on January 1 of the appropriate year.

(b) To ensure an experienced and knowledgeable board, the terms of the appointed members shall be staggered as follows:

(i) One of the two members described in subdivisions (2)(a)(i) and (ii) of this section shall be appointed to serve for a five-year term which begins in 2017;

(ii) One of the two members described in subdivisions (2)(a)(i) and (ii) of this section shall be appointed to serve for a five-year term which begins in 2018;

(iii) The participant in the School Employees Retirement System of the State of Nebraska who is a teacher shall be appointed for a five-year term which begins in 2019;

(iv) The participant in the School Employees Retirement System of the State of Nebraska who is an administrator and the participant in the State Employees Retirement System of the State of Nebraska shall be appointed for a five-year term which begins in 2020;

(v) The participant in the Retirement System for Nebraska Counties and the participant in the Nebraska Judges Retirement System shall be appointed to serve for a five-year term which begins in 2021;

(vi) The participant in the Nebraska State Patrol Retirement System shall be appointed to serve for a three-year term which begins in 2020, and his or her successor shall be appointed to serve for a five-year term which begins in 2023; and

(vii) The participant in a retirement system established under the Class V School Employees Retirement Act shall be appointed to serve for a fifty-two-month term which begins September 1, 2024, and his or her successor shall be appointed to serve for a five-year term which begins in 2029.

(4) In the event of a vacancy in office, the Governor shall appoint a person to serve the unexpired portion of the term subject to the approval of the Legislature.

(5) The appointed members of the board may be removed by the Governor for cause after notice and an opportunity to be heard.

Source: Laws 1971, LB 987, § 1; Laws 1973, LB 250, § 1; Laws 1975, LB 36, § 1; Laws 1981, LB 204, § 216; Laws 1987, LB 59, § 1; Laws 1989, LB 418, § 1; Laws 1996, LB 847, § 51; Laws 1997, LB 623, § 46; Laws 2004, LB 1097, § 38; Laws 2005, LB 364, § 20; Laws 2011, LB509, § 50; Laws 2016, LB447, § 46; Laws 2020, LB381, § 135; Laws 2021, LB147, § 45.
Effective date May 27, 2021.

Cross References

Class V School Employees Retirement Act, see section 79-978.01.
Judges Retirement Act, see section 24-701.01.

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, the State Employees Retirement Act, and, beginning September 1, 2024, the Class V School Employees Retirement Act. The agency for the administration of the retirement systems and under the direction of the board shall be known and may be cited as the Nebraska Public Employees Retirement Systems;

(b) To appoint a director to administer the systems under the direction of the board. The appointment shall be subject to the approval of the Governor and a majority of the Legislature. The director shall be qualified by training and have at least five years of experience in the administration of a qualified public or private employee retirement plan. The director shall not be a member of the board. The salary of the director shall be set by the board. The director shall serve without term and may be removed by the board;

(c) To provide for an equitable allocation of expenses among the retirement systems administered by the board, and all expenses shall be provided from the investment income earned by the various retirement funds unless alternative sources of funds to pay expenses are specified by law;

(d) To administer the deferred compensation program authorized in section 84-1504;

(e) To hire an attorney, admitted to the Nebraska State Bar Association, to advise the board in the administration of the retirement systems listed in subdivision (a) of this subsection;

(f) To hire an internal auditor to perform the duties described in section 84-1503.04 who meets the minimum standards as described in section 84-304.03;

(g) To adopt and implement procedures for reporting information by employers, as well as testing and monitoring procedures in order to verify the accuracy of such information. The information necessary to determine membership shall be provided by the employer. The board may adopt and promulgate rules and regulations and prescribe such forms necessary to carry out this subdivision. Nothing in this subdivision shall be construed to require the board to conduct onsite audits of political subdivisions for compliance with statutes, rules, and regulations governing the retirement systems listed in subdivision (1)(a) of this section regarding membership and contributions; and

(h) To prescribe and furnish forms for the public retirement system plan reports required to be filed pursuant to sections 2-3228, 12-101, 14-567, 14-1805.01, 14-2111, 15-1017, 16-1017, 16-1037, 19-3501, 23-1118, 23-3526, 71-1631.02, and 79-987 through December 31, 2017.

(2) In administering the retirement systems listed in subdivision (1)(a) of this section, it shall be the duty of the board:

(a) To determine, based on information provided by the employer, the prior service annuity, if any, for each person who is an employee of the county on the date of adoption of the retirement system;

(b) To determine the eligibility of an individual to be a member of the retirement system and other questions of fact in the event of a dispute between an individual and the individual's employer;

(c) To adopt and promulgate rules and regulations, as the board may deem necessary, for the management of the board;

(d) To keep a complete record of all proceedings taken at any meeting of the board;

(e) To obtain, by a competitive, formal, and sealed bidding process through the materiel division of the Department of Administrative Services, actuarial services on behalf of the State of Nebraska as may be necessary in the administration and development of the retirement systems, including, but not limited to, preparation of an annual actuarial valuation report of each of the defined benefit and cash balance plans administered by the board. Such annual valuation reports shall be presented by the actuary to the Nebraska Retirement Systems Committee of the Legislature at a public hearing or hearings. Any contract for actuarial services shall contain a provision allowing the actuary, without prior approval of the board, to perform actuarial studies of the systems as requested by entities other than the board, if notice, which does not identify the entity or substance of the request, is given to the board, all costs are paid by the requesting entity, results are provided to the board, the Nebraska Retirement Systems Committee of the Legislature, and the Legislative Fiscal Analyst upon being made public, and such actuarial studies do not interfere with the actuary's ongoing responsibility to the board. The term of the contract shall be for up to three years. A competitive, formal, and sealed bidding process shall be completed at least once every three years, unless the board determines that such a process would not be cost effective under the circumstances and that the actuarial services performed have been satisfactory, in which case the contract may also contain an option for renewal without a competitive, formal, and sealed bidding process for up to two additional three-year periods. An actuary under contract for the State of Nebraska shall be a member of the American Academy of Actuaries and meet the academy's qualification standards to render a statement of actuarial opinion;

(f) To direct the State Treasurer to transfer funds, as an expense of the retirement systems, to the Legislative Council Retirement Study Fund. Such transfer shall occur beginning on or after July 1, 2005, and at intervals of not less than five years and not more than fifteen years and shall be in such amounts as the Legislature shall direct;

(g) To adopt and promulgate rules and regulations, as the board may deem necessary, to carry out the provisions of each retirement system described in subdivision (1)(a) of this section, which includes, but is not limited to, the crediting of military service, direct rollover distributions, and the acceptance of rollovers;

(h) To obtain auditing services for a separate compliance audit of the retirement systems to be completed by December 31, 2020, and from time to time thereafter at the request of the Nebraska Retirement Systems Committee of the Legislature, to be completed not more than every four years but not less than every ten years. The compliance audit shall be in addition to the annual audit conducted by the Auditor of Public Accounts. The compliance audit shall include, but not be limited to, an examination of records, files, and other documents and an evaluation of all policies and procedures to determine

compliance with all state and federal laws. A copy of the compliance audit shall be given to the Governor, the board, and the Nebraska Retirement Systems Committee of the Legislature and shall be presented to the committee at a public hearing;

(i) To adopt and promulgate rules and regulations, as the board may deem necessary, for the adjustment of contributions or benefits, which includes, but is not limited to: (i) The procedures for refunding contributions, adjusting future contributions or benefit payments, and requiring additional contributions or repayment of benefits; (ii) the process for a member, member's beneficiary, employee, or employer to dispute an adjustment to contributions or benefits; (iii) establishing materiality and de minimus amounts for agency transactions, adjustments, and inactive account closures; and (iv) notice provided to all affected persons. Following an adjustment, a timely notice shall be sent that describes the adjustment and the process for disputing an adjustment to contributions or benefits;

(j)(i) To amend the deferred compensation plan to require that in the event of a member's death, except as provided in section 42-1107, the death benefit shall be paid to the following, in order of priority:

(A) To the member's surviving designated beneficiary on file with the board;

(B) To the spouse married to the member on the member's date of death if there is no surviving designated beneficiary on file with the board; or

(C) To the member's estate if the member is not married on the member's date of death and there is no surviving designated beneficiary on file with the board; and

(ii) The priority designations described in subdivision (2)(j)(i) of this section shall not apply if the member has retired under a joint and survivor benefit option;

(k) To make a thorough investigation through the director or the director's designee, of any overpayment of a benefit, when in the judgment of the director such investigation is necessary, including, but not limited to, circumstances in which benefit payments are made after the death of a member or beneficiary and the retirement system is not made aware of such member's or beneficiary's death. In connection with any such investigation, the board, through the director or the director's designee, shall have the power to compel the attendance of witnesses and the production of books, papers, records, and documents, whether in hardcopy, electronic form, or otherwise, and issue subpoenas for such purposes. Such subpoenas shall be served in the same manner and have the same effect as subpoenas from district courts; and

(l) To administer all retirement system plans in a manner which will maintain each plan's status as a qualified plan pursuant to the Internal Revenue Code, as defined in section 49-801.01, including: Section 401(a)(9) of the Internal Revenue Code relating to the time and manner in which benefits are required to be distributed, including the incidental death benefit distribution requirement of section 401(a)(9)(G) of the Internal Revenue Code; section 401(a)(25) of the Internal Revenue Code relating to the specification of actuarial assumptions; section 401(a)(31) of the Internal Revenue Code relating to direct rollover distributions from eligible retirement plans; section 401(a)(37) of the Internal Revenue Code relating to the death benefit of a member whose death occurs while performing qualified military service; and section 401(a) of the Internal Revenue Code by meeting the requirements of section 414(d) of the Internal

Revenue Code relating to the establishment of retirement plans for governmental employees of a state or political subdivision thereof. The board may adopt and promulgate rules and regulations necessary or appropriate to maintain such status including, but not limited to, rules or regulations which restrict discretionary or optional contributions to a plan or which limit distributions from a plan.

(3) By March 31 of each year prior to 2020, and by April 10 of each year beginning in 2020, the board shall prepare a written plan of action and shall present such plan to the Nebraska Retirement Systems Committee of the Legislature at a public hearing. The plan shall include, but not be limited to, the board's funding policy, the administrative costs and other fees associated with each fund and plan overseen by the board, member education and informational programs, the director's duties and limitations, an organizational structure of the office of the Nebraska Public Employees Retirement Systems, and the internal control structure of such office to ensure compliance with state and federal laws.

(4)(a) Beginning in 2016, and at least every four years thereafter in even-numbered years or at the request of the Nebraska Retirement Systems Committee of the Legislature, the board shall obtain an experience study. Within thirty business days after presentation of the experience study to the board, the actuary shall present the study to the Nebraska Retirement Systems Committee at a public hearing. If the board does not adopt all of the recommendations in the experience study, the board shall provide a written explanation of its decision to the Nebraska Retirement Systems Committee and the Governor. The explanation shall be delivered within ten business days after formal action by the board to not adopt one or more of the recommendations.

(b) The director shall provide an electronic copy of the first draft and a final draft of the experience study and annual valuation reports to the Nebraska Retirement Systems Committee and the Governor when the director receives the drafts from the actuary. The drafts shall be deemed confidential information. The draft copies obtained by the Nebraska Retirement Systems Committee and the Governor pursuant to this section shall not be considered public records subject to sections 84-712 to 84-712.09.

(c) For purposes of this subsection, business days shall be computed by excluding the day the request is received, after which the designated period of time begins to run. A business day shall not include a Saturday or a Sunday or a day during which the Nebraska Public Employees Retirement Systems office is closed.

(5) It shall be the duty of the board to direct the State Treasurer to transfer funds, as an expense of the retirement system provided for under the Class V School Employees Retirement Act, to and from the Class V Retirement System Payment Processing Fund and the Class V School Employees Retirement Fund for the benefit of a retirement system provided for under the Class V School Employees Retirement Act to implement the provisions of section 79-986. The agency for the administration of this provision and under the direction of the board shall be known and may be cited as the Nebraska Public Employees Retirement Systems.

(6) Pursuant to section 79-9,121, it shall be the duty of the board to carry out the work plan, file the report, and contract with, bill, and receive payment from an employer of any Class V school employees retirement system established

under the Class V School Employees Retirement Act for all services performed in the conduct, completion, and report of such work plan regarding the transfer of management of any such Class V school employees retirement system.

(7) It shall be the duty of the board to complete the additional identification and examination of issues pursuant to section 79-9,124, to enter and carry out the plan for the transfer and transition of the management and administration of any Class V school employees retirement system established under the Class V School Employees Retirement Act pursuant to section 79-979.01, and to bill and receive payment from an employer of any such retirement system for the costs and expenses of the board in carrying out the plan and the transfer of the management and administration of the Class V school employees retirement system to the board.

Source: Laws 1971, LB 987, § 3; Laws 1973, LB 216, § 3; Laws 1973, LB 498, § 10; Laws 1979, LB 416, § 3; Laws 1983, LB 70, § 1; Laws 1984, LB 751, § 13; Laws 1986, LB 311, § 40; Laws 1987, LB 549, § 14; Laws 1988, LB 1170, § 22; Laws 1991, LB 549, § 74; Laws 1992, LB 672, § 33; Laws 1994, LB 833, § 54; Laws 1994, LB 1306, § 11; Laws 1995, LB 502, § 3; Laws 1996, LB 847, § 52; Laws 1996, LB 1076, § 44; Laws 1998, LB 1191, § 78; Laws 1999, LB 849, § 33; Laws 2000, LB 1192, § 25; Laws 2001, LB 808, § 21; Laws 2002, LB 407, § 63; Laws 2003, LB 451, § 35; Laws 2005, LB 503, § 19; Laws 2011, LB474, § 14; Laws 2011, LB509, § 51; Laws 2012, LB916, § 43; Laws 2013, LB263, § 43; Laws 2014, LB1042, § 11; Laws 2015, LB40, § 16; Laws 2016, LB447, § 47; Laws 2017, LB415, § 52; Laws 2018, LB1005, § 49; Laws 2019, LB31, § 6; Laws 2019, LB33, § 8; Laws 2019, LB34, § 29; Laws 2021, LB147, § 46.
Effective date May 27, 2021.

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. 85-103.01, 85-103.02.
4. Campus Buildings and Facilities. 85-412 to 85-426.
5. Tuition and Fees at State Educational Institutions. 85-502 to 85-507.
6. Public Institutions of Higher Education.
 - (c) Admission. 85-607.
 - (e) Student Identification Cards. 85-609.
9. Postsecondary Education.
 - (j) Federal Education Loan. 85-9,140. Repealed.
16. Private Postsecondary Career Schools. 85-1609.
18. Educational Savings Plan Trust. 85-1802 to 85-1817.
19. Nebraska Opportunity Grant Act. 85-1920.
20. Community College Gap Assistance Program Act. 85-2002 to 85-2010.
21. Access College Early Scholarship Program Act. 85-2104.
28. Meadowlark Act. 85-2802, 85-2803.
29. Veteran Promise Act. 85-2901 to 85-2905.

ARTICLE 1

UNIVERSITY OF NEBRASKA

Section

- 85-103.01. University of Nebraska; Board of Regents; districts; numbers; boundaries; established by maps; Clerk of Legislature; Secretary of State; duties.
- 85-103.02. University of Nebraska; Board of Regents; population figures and maps; basis.

85-103.01 University of Nebraska; Board of Regents; districts; numbers; boundaries; established by maps; Clerk of Legislature; Secretary of State; duties.

(1) For the purpose of section 85-103, the state is divided into eight districts. Each district shall be entitled to one regent on the board.

(2) The numbers and boundaries of the districts are designated and established by maps identified and labeled as maps REG21-39003, REG21-39003-1, REG21-39003-2, REG21-39003-3, REG21-39003-4, REG21-39003-5, REG21-39003-6, REG21-39003-7, and REG21-39003-8, filed with the Clerk of the Legislature, and incorporated by reference as part of Laws 2021, LB8, One Hundred Seventh Legislature, First Special Session.

(3)(a) The Clerk of the Legislature shall transfer possession of the maps referred to in subsection (2) of this section to the Secretary of State on October 1, 2021.

(b) When questions of interpretation of district boundaries arise, the maps referred to in subsection (2) of this section in possession of the Secretary of State shall serve as the indication of the legislative intent in drawing the district boundaries.

(c) Each election commissioner or county clerk shall obtain copies of the maps referred to in subsection (2) of this section for the election commissioner's or clerk's county from the Secretary of State.

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(d) The Secretary of State shall also have available for viewing on his or her website the maps referred to in subsection (2) of this section identifying the boundaries for the districts.

Source: Laws 1969, c. 847, § 3, p. 3189; Laws 1971, LB 1035, § 2; Laws 1981, LB 553, § 1; Laws 1991, LB 617, § 2; Laws 2001, LB 854, § 2; Laws 2011, LB701, § 1; Laws 2021, First Spec. Sess., LB8, § 1.
Effective date October 1, 2021.

Cross References

Constitutional provisions, see Article VII, section 10, Constitution of Nebraska.

85-103.02 University of Nebraska; Board of Regents; population figures and maps; basis.

For purposes of section 85-103.01, the Legislature adopts the official population figures and maps from the 2020 Census Redistricting (Public Law 94-171) TIGER/Line Shapefiles published by the United States Department of Commerce, Bureau of the Census.

Source: Laws 1971, LB 1035, § 3; Laws 1981, LB 553, § 2; Laws 1991, LB 617, § 3; Laws 2001, LB 854, § 3; Laws 2011, LB701, § 2; Laws 2021, First Spec. Sess., LB8, § 2.
Effective date October 1, 2021.

ARTICLE 4

CAMPUS BUILDINGS AND FACILITIES

Section

- 85-412. Repealed. Laws 2021, LB384, § 30.
- 85-413. Repealed. Laws 2021, LB384, § 30.
- 85-414. Repealed. Laws 2021, LB384, § 30.
- 85-415. Repealed. Laws 2021, LB384, § 30.
- 85-416. Repealed. Laws 2021, LB384, § 30.
- 85-417. Repealed. Laws 2021, LB384, § 30.
- 85-418. Repealed. Laws 2021, LB384, § 30.
- 85-419. Renewal, renovation, replacement, or repair projects; financing; legislative findings.
- 85-420. University of Nebraska Facilities Program; created; use of appropriations.
- 85-421. University of Nebraska Facilities Program; appropriations; legislative intent; projects enumerated; accounting; reports; long-term capital plan; fund for renewal, renovation, replacement, or repair projects.
- 85-422. Board of Regents of the University of Nebraska; contracts authorized; limitations; powers.
- 85-423. State College Facilities Program; created; use of appropriations.
- 85-424. State College Facilities Program; appropriations; legislative intent; projects enumerated; accounting; reports; long-term capital plan.
- 85-425. Board of Trustees of the Nebraska State Colleges; contracts authorized; limitations; powers.
- 85-426. Capital construction projects; nonprofit corporation; approval by Legislature; when.

85-412 Repealed. Laws 2021, LB384, § 30.

85-413 Repealed. Laws 2021, LB384, § 30.

85-414 Repealed. Laws 2021, LB384, § 30.

85-415 Repealed. Laws 2021, LB384, § 30.

85-416 Repealed. Laws 2021, LB384, § 30.

85-417 Repealed. Laws 2021, LB384, § 30.

85-418 Repealed. Laws 2021, LB384, § 30.

85-419 Renewal, renovation, replacement, or repair projects; financing; legislative findings.

(1) The Legislature finds and determines that protecting investments in buildings through the completion of renewal, renovation, replacement, or repair projects is of critical importance to the State of Nebraska. The Legislature further recognizes that arresting the continued deterioration of buildings and limiting the effects of inflation on the costs of such renewal, renovation, replacement, or repair of such facilities at the earliest possible time is necessary for protecting such investment in the buildings of the State of Nebraska. The state, the University of Nebraska, and the Nebraska state colleges have a shared goal of protecting the assets of the state and maintaining them at a level which will attract and retain students and serve Nebraskans effectively. In order to further this critical goal, it is necessary, desirable, and advisable that the Legislature extend the University of Nebraska Facilities Program, the State College Facilities Program, and the other capital appropriations referenced in sections 85-419 to 85-425 and provide the University of Nebraska and the Nebraska state colleges the necessary authority to efficiently pursue prevailing financing strategies and achieve cost savings by authorizing the Board of Regents of the University of Nebraska and the Board of Trustees of the Nebraska State Colleges to enter into long-term financing contracts to finance the facilities referenced in sections 85-419 to 85-425. In order to accomplish these goals, it is necessary, desirable, and advisable that the Legislature confirm and extend such programs to provide funds for such purposes to the University of Nebraska and the Nebraska state colleges over a period of years.

(2) The Legislature recognizes the commitment of the Board of Regents of the University of Nebraska to provide matching funds (a) up to eleven million dollars per year for the period beginning with the fiscal year commencing July 1, 2009, and continuing through the fiscal year ending June 30, 2030, (b) up to two million five hundred thousand dollars per year for the period beginning with the fiscal year commencing July 1, 2021, and continuing through the fiscal year ending June 30, 2030, and (c) up to thirteen million five hundred thousand dollars per year for the period beginning with the fiscal year commencing July 1, 2030, and continuing through the fiscal year ending June 30, 2062, to supplement amounts appropriated from the General Fund pursuant to section 85-421 to be applied for the purposes described in section 85-421.

(3) The Legislature recognizes the commitment of the Board of Trustees of the Nebraska State Colleges to provide matching funds up to one million four hundred forty thousand dollars per year for the period beginning with the fiscal year commencing July 1, 2006, and continuing through the fiscal year ending June 30, 2040, to supplement amounts appropriated from the General Fund pursuant to section 85-424 to be applied for the purposes described in section 85-424.

(4) The Legislature further acknowledges and reaffirms the directive made by Laws 2019, LB297, section 38, which sets forth the intent of the Legislature to continue the appropriations set forth in Laws 2017, LB330, section 35, in the

amount of eight hundred twenty thousand dollars per year through 2050; in Laws 2017, LB330, section 36, in the amount of two million one hundred sixty-five thousand nine hundred twenty-eight dollars per year through 2050; and in Laws 2017, LB330, section 37, in the amount of one million four hundred seventy-seven thousand dollars per year through 2050.

(5) The Legislature further acknowledges and affirms the directive made by Laws 2019, LB297, section 37, which sets forth the intent of the Legislature to continue the appropriations set forth in Laws 2013, LB198, section 37, in the amount of two million two hundred sixteen thousand dollars per year through 2035.

(6) Sections 85-419 to 85-425 do not modify, reduce, or eliminate any provision of subsection (10) of section 85-1414 requiring the approval of the Coordinating Commission for Postsecondary Education for any renewal, renovation, replacement, or repair project authorized by section 85-421 or 85-424 and undertaken by the Board of Regents of the University of Nebraska or the Board of Trustees of the Nebraska State Colleges.

Source: Laws 2006, LB 605, § 1; Laws 2016, LB957, § 15; Laws 2021, LB384, § 16.

Effective date April 27, 2021.

85-420 University of Nebraska Facilities Program; created; use of appropriations.

The University of Nebraska Facilities Program is created. All funds appropriated to the program by the Legislature shall be used exclusively for the projects listed in section 85-421 or for renewal, renovation, replacement, or repair projects authorized pursuant to section 85-421.

Source: Laws 2006, LB 605, § 2; Laws 2021, LB384, § 17.

Effective date April 27, 2021.

85-421 University of Nebraska Facilities Program; appropriations; legislative intent; projects enumerated; accounting; reports; long-term capital plan; fund for renewal, renovation, replacement, or repair projects.

(1) The Legislature shall appropriate from the General Fund (a) an amount not less than five million five hundred thousand dollars for each fiscal year for the period beginning with the fiscal year commencing July 1, 2006, and continuing through the fiscal year ending June 30, 2009, (b) an amount not less than eleven million dollars for each fiscal year for the period beginning with the fiscal year commencing July 1, 2009, and continuing through the fiscal year ending June 30, 2030, (c) an amount not less than two million five hundred thousand dollars for each fiscal year for the period beginning with the fiscal year commencing July 1, 2021, and continuing through the fiscal year ending June 30, 2030, (d) an amount not less than thirteen million five hundred thousand dollars for each fiscal year for the period beginning with the fiscal year commencing July 1, 2030, and continuing through the fiscal year ending June 30, 2062, and (e) an amount not less than four million four hundred sixty-two thousand nine hundred twenty-eight dollars in each fiscal year for the appropriations referred to in subsection (4) of section 85-419, which shall be continued through the fiscal year ending June 30, 2062, to the University of Nebraska Facilities Program to be used by the Board of Regents of the University of Nebraska to accomplish projects as provided in this section.

Through the allotment process established in section 81-1113, the Department of Administrative Services shall make appropriated funds available. Undisbursed appropriations balances existing in the University of Nebraska Facilities Program at the end of each fiscal year until June 30, 2063, shall be and are hereby reappropriated.

(2) The Legislature finds and determines that the projects funded through the University of Nebraska Facilities Program are of critical importance to the State of Nebraska. It is the intent of the Legislature that the appropriations to the program shall not be reduced until all contracts and securities relating to the construction and financing of the projects or portions of the projects funded from such funds or accounts of such funds are completed or paid but in no case shall such appropriations extend beyond the fiscal year ending June 30, 2062.

(3) Subject to the receipt of project approval from the Coordinating Commission for Postsecondary Education as required by subsection (10) of section 85-1414 for each of the following University of Nebraska projects, the Board of Regents of the University of Nebraska is authorized to make expenditures from the University of Nebraska Facilities Program for the following projects: (a) Deferred maintenance, repair, and renovation of University of Nebraska at Kearney Bruner Hall; (b) construction of University of Nebraska at Kearney campus-wide central utilities plant and system; (c) construction of facilities to replace University of Nebraska-Lincoln Behlen, Brace, and Ferguson Halls or deferred maintenance, repair, and renovation of University of Nebraska-Lincoln Behlen, Brace, and Ferguson Halls; (d) construction of a facility to replace University of Nebraska-Lincoln Keim Hall or deferred maintenance, repair, and renovation of University of Nebraska-Lincoln Keim Hall; (e) deferred maintenance, repair, and renovation of University of Nebraska-Lincoln Sheldon Memorial Art Gallery; (f) deferred maintenance, repair, and renovation of University of Nebraska-Lincoln Animal Science Complex; (g) deferred maintenance, repair, and renovation of University of Nebraska Medical Center Poynter, Bennet, and Wittson Halls; (h) deferred maintenance, repair, and renovation of University of Nebraska Medical Center Eppley Institute for Research in Cancer and Allied Diseases or replacement if additional federal or private funds are received; (i) deferred maintenance, repair, and renovation of University of Nebraska Medical Center College of Dentistry; (j) deferred maintenance, repair, and renovation of University of Nebraska at Omaha Library; (k) deferred maintenance, repair, and renovation of University of Nebraska at Omaha utilities infrastructure; (l) University of Nebraska-Lincoln Scott Engineering Center; (m) University of Nebraska-Lincoln Nebraska Hall; (n) University of Nebraska-Lincoln Mabel Lee Hall/Henzlik Hall; (o) University of Nebraska Medical Center Wittson Hall-Phase I; (p) University of Nebraska Medical Center Joseph D. & Millie E. Williams Science Hall (College of Pharmacy); (q) renovation of a privately funded acquisition at the University of Nebraska at Omaha; (r) University of Nebraska at Omaha Strauss Performing Arts Center; (s) University of Nebraska at Omaha Arts and Sciences Hall; (t) University of Nebraska at Kearney Otto C. Olsen Building; (u) the facilities financed with the appropriations referred to in subsection (4) of section 85-419, including the Nebraska College of Technical Agriculture at Curtis Education Center and the College of Nursing Building on the campus of the University of Nebraska-Lincoln; and (v) any renewal, renovation, replacement, or repair of existing University of Nebraska facilities.

(4) Expenditures of matching funds provided for the projects listed in this section by the Board of Regents of the University of Nebraska as provided for in section 85-419 shall be accounted for in the Nebraska State Accounting System through the University of Nebraska Facilities Program or according to some other reporting process mutually agreed upon by the University of Nebraska and the Department of Administrative Services.

(5) The Board of Regents of the University of Nebraska shall record and report, on the Nebraska State Accounting System, expenditure of amounts from the University of Nebraska Facilities Program and expenditure of proceeds arising from any contract entered into pursuant to this section and section 85-422 in such manner and format as prescribed by the Department of Administrative Services or according to some other reporting process mutually agreed upon by the University of Nebraska and the Department of Administrative Services.

(6) At least once every two fiscal years beginning in the fiscal year 2023-24 for the biennial period from fiscal years 2023-25, the Board of Regents of the University of Nebraska shall report to the Legislature (a) the projects expected to be constructed or newly financed in the next biennium from the University of Nebraska Facilities Program and (b) the projects that were constructed or newly financed in the previous biennium from the University of Nebraska Facilities Program. In addition, at least once every five fiscal years beginning in the fiscal year 2024-25 for the fiscal years 2026-30, the Board of Regents shall provide to the Legislature a copy of its current long-term capital plan for projects to be constructed or newly financed from the University of Nebraska Facilities Program.

(7) The Board of Regents of the University of Nebraska shall establish a program to deposit annually, beginning with the fiscal year commencing July 1, 2025, an amount equal to two percent of the total project costs of new renewal, renovation, replacement, or repair projects expended during the immediately preceding fiscal year and financed with the University of Nebraska Facilities Program. Such funds may be held by a bank or trust company in trust, and amounts deposited therein shall be invested as the Board of Regents determines in accordance with its investment policies. The Board of Regents shall apply amounts in such fund, together with investment earnings thereon, to pay for renewal, renovation, replacement, or repair projects for university facilities as the Board of Regents shall determine.

Source: Laws 2006, LB 605, § 3; Laws 2009, LB316, § 27; Laws 2016, LB957, § 16; Laws 2021, LB384, § 18.
Effective date April 27, 2021.

85-422 Board of Regents of the University of Nebraska; contracts authorized; limitations; powers.

(1) In order to accomplish any projects authorized by section 85-421, the Board of Regents of the University of Nebraska may enter into contracts with any person, firm, or corporation providing for the implementation of any such project of the University of Nebraska and providing for the long-term payment of the cost of such project from the University of Nebraska Facilities Program. In no case shall any such contract extend for a period beyond December 31, 2063, nor shall any such contract exceed the repayment capabilities implicit in the funding streams authorized in sections 85-419 to 85-422.

(2) The Board of Regents of the University of Nebraska shall not pledge the credit of the State of Nebraska for the payment of any sum owing on account of such contract, except that there may be pledged for the payment of any such contract any appropriation specifically made by the Legislature for such purpose, together with such funds of the Board of Regents of the University of Nebraska as the board determines. No contract shall be entered into pursuant to this section without prior approval by the Board of Regents. The Board of Regents may also convey, lease, or lease back all or any part of the projects authorized by section 85-421 and the land on which such projects are situated to such person, firm, or corporation as the Board of Regents may contract with pursuant to this section to facilitate the long-term payment of the cost of such projects. Any such conveyance or lease shall provide that when the cost of such projects has been paid, together with interest and other costs thereon, such projects and the land on which such projects are located shall become the property of the Board of Regents.

(3) The Board of Regents of the University of Nebraska is authorized to make expenditures for the purposes stated in this section and section 85-421 from investment income balances in any fund created under the authority provided for in any contract or contracts authorized by this section. Any balance existing in the University of Nebraska Facilities Program, whether from appropriations or the designated amounts identified in section 85-419, in excess of amounts required to meet debt service and any interest thereon for any related financing contract, and excluding amounts on deposit in the trust fund established pursuant to subsection (7) of section 85-421, shall be distributed proportionally between the Board of Regents and the Department of Administrative Services as to the total amount contributed to the program by the Board of Regents pursuant to section 85-419 and by the state, beginning in the fiscal year commencing July 1, 2009, through and including the fiscal year ending June 30, 2062, on December 31, 2063, or when all financial obligations incurred in the contracts entered into by the Board of Regents pursuant to this section are discharged, whichever occurs first.

Source: Laws 2006, LB 605, § 4; Laws 2016, LB957, § 17; Laws 2021, LB384, § 19.

Effective date April 27, 2021.

85-423 State College Facilities Program; created; use of appropriations.

The State College Facilities Program is created. All funds appropriated to the program by the Legislature shall be used exclusively for the projects listed in section 85-424 or for renewal, renovation, replacement, or repair projects authorized pursuant to section 85-424.

Source: Laws 2006, LB 605, § 5; Laws 2016, LB957, § 18; Laws 2021, LB384, § 20.

Effective date April 27, 2021.

85-424 State College Facilities Program; appropriations; legislative intent; projects enumerated; accounting; reports; long-term capital plan.

(1) The Legislature shall appropriate from the General Fund (a) an amount not less than one million one hundred twenty-five thousand dollars to the State College Facilities Program for each fiscal year for the period commencing July 1, 2006, and continuing through the fiscal year ending June 30, 2040, and (b)

an amount not less than two million two hundred sixteen thousand dollars in each fiscal year for the appropriations referred to in subsection (5) of section 85-419, which shall be continued through the fiscal year ending June 30, 2040, to the State College Facilities Program to be used by the Board of Trustees of the Nebraska State Colleges to accomplish projects as provided in this section. Through the allotment process established in section 81-1113 the Department of Administrative Services shall make appropriated funds available. Undisbursed appropriations balances existing in the State College Facilities Program at the end of each fiscal year until June 30, 2041, shall be and are hereby reappropriated.

(2) The Legislature finds and determines that the projects funded through the State College Facilities Program are of critical importance to the State of Nebraska. It is the intent of the Legislature that the appropriations to the program shall not be reduced until all contracts and securities relating to the construction and financing of the projects or portions of the projects funded from such funds or accounts of such funds are completed or paid but in no case shall such appropriations extend beyond the fiscal year ending June 30, 2040.

(3) Subject to the receipt of project approval from the Coordinating Commission for Postsecondary Education as required by subsection (10) of section 85-1414 for each of the following state college projects, the Board of Trustees of the Nebraska State Colleges is authorized to make expenditures from the State College Facilities Program for the following state college projects: (a) Deferred maintenance, repair, and renovation of Chadron State College Academic/Administration Building; (b) design and placement of a new Peru State College emergency power generator; (c) replacement of existing Peru State College Al Wheeler Activity Center bleachers; (d) addition to and deferred maintenance, repair, and renovation of Peru State College Al Wheeler Activity Center; (e) addition to and deferred maintenance, repair, and renovation of Wayne State College Campus Services Building; (f) deferred maintenance, repair, and renovation of Wayne State College Rice Auditorium; (g) deferred maintenance, repair, and renovation of Wayne State College Memorial Stadium; (h) replacement of or deferred maintenance, repair, and renovation of Chadron State College stadium; (i) addition to and deferred maintenance, repair, and renovation of Peru State College Theatre/Event Center; (j) construction of a facility to replace Wayne State College Benthack Hall applied technology programmatic space; (k) systemwide miscellaneous fire and life safety, energy conservation, deferred repair, federal Americans with Disabilities Act of 1990, and asbestos removal projects; (l) construction of the Math Science Facility at Chadron State College; and (m) any renewal, renovation, replacement, or repair of existing state college facilities.

(4) Expenditures of matching funds provided for the projects listed in this section by the Board of Trustees of the Nebraska State Colleges as provided for in section 85-419 shall be accounted for in the Nebraska State Accounting System through the State College Facilities Program or according to some other reporting process mutually agreed upon by the state colleges and the Department of Administrative Services.

(5) The Board of Trustees of the Nebraska State Colleges shall record and report, on the Nebraska State Accounting System, expenditure of amounts from the State College Facilities Program and expenditure of proceeds arising from any contract entered into pursuant to this section and section 85-425 in such manner and format as prescribed by the Department of Administrative Services

or according to some other reporting process mutually agreed upon by the state colleges and the Department of Administrative Services.

(6) At least once every two fiscal years beginning with fiscal year 2023-24 for the biennial period from fiscal years 2023-25, the Board of Trustees of the Nebraska State Colleges shall report to the Legislature (a) the projects expected to be constructed or newly financed in the next biennium from the State College Facilities Program and (b) the projects that were constructed or newly financed in the previous biennium from the State College Facilities Program. In addition, at least once every ten fiscal years beginning with fiscal year 2022-23, the Board of Trustees shall provide to the Legislature a copy of its current long-term capital plan for projects to be constructed or newly financed from the State College Facilities Program.

Source: Laws 2006, LB 605, § 6; Laws 2016, LB957, § 19; Laws 2021, LB384, § 21.

Effective date April 27, 2021.

85-425 Board of Trustees of the Nebraska State Colleges; contracts authorized; limitations; powers.

(1) In order to accomplish any projects authorized by section 85-424, the Board of Trustees of the Nebraska State Colleges may enter into contracts with any person, firm, or corporation providing for the implementation of any such project of the Nebraska state colleges and providing for the long-term payment of the cost of such project from the State College Facilities Program. In no case shall any such contract extend for a period beyond December 31, 2041, nor shall any such contract exceed the repayment capabilities implicit in the funding streams authorized in sections 85-419 and 85-424.

(2) The Board of Trustees of the Nebraska State Colleges shall not pledge the credit of the State of Nebraska for the payment of any sum owing on account of such contract, except that there may be pledged for the payment of any such contract any appropriation specifically made by the Legislature for such purpose, together with such funds of the Board of Trustees as the board determines. No contract shall be entered into pursuant to this section without prior approval by the Board of Trustees. The Board of Trustees may also convey, lease, or lease back all or any part of the projects authorized by section 85-424 and the land on which such projects are situated to such person, firm, or corporation as the Board of Trustees may contract with pursuant to this section to facilitate the long-term payment of the cost of such projects. Any such conveyance or lease shall provide that when the cost of such projects has been paid, together with interest and other costs thereon, such projects and the land on which such projects are located shall become the property of the Board of Trustees.

(3) The Board of Trustees of the Nebraska State Colleges is authorized to make expenditures for the purposes stated in this section and section 85-424 from investment income balances in any fund created under the authority provided for in any contract or contracts authorized by this section. Any balance existing in the State College Facilities Program, whether from appropriations or the designated amounts identified in section 85-419, in excess of amounts required to meet debt service and any interest thereon for any related financing contract, shall be distributed proportionally between the Board of Trustees and the Department of Administrative Services as to the total amount

contributed to the program by the Board of Trustees pursuant to section 85-419 and by the state, beginning in the fiscal year commencing July 1, 2006, through and including the fiscal year ending June 30, 2040, on December 31, 2041, or when all financial obligations incurred in the contracts entered into by the Board of Trustees pursuant to this section are discharged, whichever occurs first.

Source: Laws 2006, LB 605, § 7; Laws 2016, LB957, § 20; Laws 2021, LB384, § 22.
Effective date April 27, 2021.

85-426 Capital construction projects; nonprofit corporation; approval by Legislature; when.

All capital construction projects, including applicable financing plans, proposed by any nonprofit corporation created by the Board of Regents of the University of Nebraska or the Board of Trustees of the Nebraska State Colleges shall be submitted to the Legislature for review and approval or disapproval by the Legislature, or if the Legislature is not in session, the Executive Board of the Legislative Council, when (1) state general funds, (2) funds received by the University of Nebraska or any state college for the purposes of reimbursing overhead costs and expenses in connection with any federal or other grant or contract, (3) tuition, or (4) the state’s operating investment pool investment income constitutes all or any part of the funds used for the repayment of all or any part of the bonds of such nonprofit corporation. This section does not apply to any construction project or financing plan comprising part of the University of Nebraska Facilities Program or the State College Facilities Program to the extent that subsection (6) of section 85-421 and subsection (6) of section 85-424 have been complied with by the respective boards referenced in such sections.

Source: Laws 2014, LB546, § 3; Laws 2021, LB384, § 23.
Effective date April 27, 2021.

ARTICLE 5

TUITION AND FEES AT STATE EDUCATIONAL INSTITUTIONS

Section

- 85-502. State postsecondary educational institution; residence requirements.
- 85-502.01. Public college or university; veteran; spouse or dependent of veteran; eligible recipient under federal law; person entitled to rehabilitation under federal law; resident student; requirements.
- 85-505. Nebraska National Guard; member; tuition; credit; limitation.
- 85-507. Nebraska National Guard; spouse and children of deceased member; tuition; credit; conditions.

85-502 State postsecondary educational institution; residence requirements.

Rules and regulations established by the governing board of each state postsecondary educational institution shall require as a minimum that a person is not deemed to have established a residence in this state, for purposes of sections 85-501 to 85-504, unless:

- (1) Such person is of legal age or is an emancipated minor and has established a home in Nebraska where he or she is habitually present for a minimum period of one hundred eighty days, with the bona fide intention of making this state his or her permanent residence, supported by documentary proof;

(2) The parents, parent, or guardian having custody of a minor registering in the educational institution have established a home in Nebraska where such parents, parent, or guardian are or is habitually present with the bona fide intention to make this state their, his, or her permanent residence, supported by documentary proof. If a student has matriculated in any state postsecondary educational institution while his or her parents, parent, or guardian had an established home in this state, and the parents, parent, or guardian ceases to reside in the state, such student shall not thereby lose his or her resident status if such student has the bona fide intention to make this state his or her permanent residence, supported by documentary proof;

(3) Such student is of legal age and is a dependent for federal income tax purposes of a parent or former guardian who has established a home in Nebraska where he or she is habitually present with the bona fide intention of making this state his or her permanent residence, supported by documentary proof;

(4) Such student is a nonresident of this state prior to marriage and marries a person who has established a home in Nebraska where he or she is habitually present with the bona fide intention of making this state his or her permanent residence, supported by documentary proof;

(5) Except as provided in subdivision (9) of this section, such student, if an alien, has applied to or has a petition pending with the United States Immigration and Naturalization Service to attain lawful status under federal immigration law and has established a home in Nebraska for a period of at least one hundred eighty days where he or she is habitually present with the bona fide intention to make this state his or her permanent residence, supported by documentary proof;

(6) Such student is a staff member or a dependent of a staff member of the University of Nebraska, one of the Nebraska state colleges, or one of the community college areas who joins the staff immediately prior to the beginning of a term from an out-of-state location;

(7)(a) Such student is on active duty with the armed services of the United States and has been assigned a permanent duty station in Nebraska; or

(b) Such student is a spouse or legal dependent of a person who was on active duty with the armed services of the United States assigned to a permanent duty station in Nebraska at the time such student was accepted for admission to the state postsecondary educational institution and such student remains continually enrolled at such state postsecondary educational institution;

(8) Such student is currently serving in the Nebraska National Guard;

(9)(a) Such student resided with his or her parent, guardian, or conservator while attending a public, private, denominational, or parochial high school in this state or a school in this state which elects pursuant to section 79-1601 not to meet accreditation or approval requirements and:

(i) Graduated from a public, private, denominational, or parochial high school in this state, completed the program of instruction offered by a school in this state which elects pursuant to section 79-1601 not to meet accreditation or approval requirements, or received a diploma of high school equivalency issued pursuant to section 79-730;

(ii) Resided in this state for at least three years before the date the student graduated from the high school, completed the program of instruction, or received the diploma of high school equivalency;

(iii) Registered as an entering student in a state postsecondary educational institution not earlier than the 2006 fall semester; and

(iv) Provided to the state postsecondary educational institution an affidavit stating that he or she will file an application to become a permanent resident at the earliest opportunity he or she is eligible to do so.

(b) If the parent, guardian, or conservator with whom the student resided ceases to reside in the state, such student shall not lose his or her resident status under this subdivision if the student has the bona fide intention to make this state his or her permanent residence, supported by documentary proof; or

(10) Such student is qualified for a national service educational award or summer of service educational award from the National Service Trust pursuant to 42 U.S.C. 12602, as such section existed on January 1, 2021.

Source: Laws 1923, c. 57, § 4, p. 179; C.S.1929, § 85-504; R.S.1943, § 85-502; Laws 1951, c. 348, § 1, p. 1137; Laws 1961, c. 458, § 1, p. 1397; Laws 1965, c. 582, § 1, p. 1877; Laws 1971, LB 408, § 1; Laws 1980, LB 304, § 2; Laws 1982, LB 796, § 1; Laws 2006, LB 239, § 1; Laws 2016, LB734, § 1; Laws 2019, LB6, § 1; Laws 2021, LB92, § 1; Laws 2021, LB197, § 1.
Effective date August 28, 2021.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB92, section 1, with LB197, section 1, to reflect all amendments.

85-502.01 Public college or university; veteran; spouse or dependent of veteran; eligible recipient under federal law; person entitled to rehabilitation under federal law; resident student; requirements.

(1) A person who enrolls in a public college or university in this state and who is (a) a veteran as defined in Title 38 of the United States Code and was discharged or released from a period of not fewer than ninety days of service in the active military, naval, or air service, (b) a spouse or dependent of such a veteran, (c) an eligible recipient entitled to educational assistance as provided in 38 U.S.C. 3319 while the transferor is on active duty in the uniformed services or as provided in 38 U.S.C. 3311(b)(9), as such sections existed on January 1, 2019, or (d) entitled to rehabilitation pursuant to 38 U.S.C. 3102(a), as such section existed on January 1, 2019, shall be considered a resident student notwithstanding the provisions of section 85-502 if the person is registered to vote in Nebraska and demonstrates objective evidence of intent to be a resident of Nebraska, except that a person who is under eighteen years of age is not required to register to vote in Nebraska.

(2) For purposes of this section, objective evidence of intent to be a resident of Nebraska includes a Nebraska driver's license, a Nebraska state identification card, a Nebraska motor vehicle registration, or documentation that the individual is registered to vote in Nebraska.

Source: Laws 2014, LB740, § 1; Laws 2015, LB109, § 1; Laws 2017, LB512, § 24; Laws 2019, LB122, § 1; Laws 2021, LB669, § 6.
Effective date May 22, 2021.

85-505 Nebraska National Guard; member; tuition; credit; limitation.

Any member of the Nebraska National Guard who enrolls in any state-supported university, college, or community college or any independent, not-for-profit, accredited college or university in this state shall be entitled to a credit of one hundred percent of the resident tuition charges of such school for a diploma, certificate, associate degree, or baccalaureate degree program or fifty percent of the resident tuition charges of such school for a graduate or professional degree program, except that any member who attends an independent, not-for-profit, accredited college or university in this state shall receive a credit in an amount no higher than such member would receive if attending the University of Nebraska-Lincoln. Such entitlement shall be for a period of ten years from the date of the member's initial membership so long as the member maintains satisfactory performance with the guard and pursues a course of study in such institution in a manner which satisfies the normal requirements of the institution. If a member is unable to complete the course of study within the ten-year period due to deployment on federal or state active-duty status for not less than one hundred twenty days, the Adjutant General may extend the entitlement period for such member for a period equal to the period of such person's active-duty status, not to exceed a maximum of five years. During the extended entitlement period, the member shall be subject to all remaining conditions and limitations of the tuition assistance program prescribed in sections 85-505 to 85-508. The number of individuals granted tuition credit shall not exceed the number specified in section 85-505.01 during any fiscal year, and the amount of tuition credits granted shall not exceed nine hundred thousand dollars during any fiscal year. When determining to whom such tuition credit shall be awarded, priority shall be given to those individuals who have previously received tuition credits while a National Guard member, and the Nebraska National Guard shall apply those program qualifications and limitations consistent with efficient and effective program management as determined by the Adjutant General.

Source: Laws 1974, LB 982, § 1; Laws 1978, LB 564, § 1; Laws 1983, LB 267, § 1; Laws 1986, LB 931, § 1; Laws 1988, LB 866, § 1; Laws 1992, Third Spec. Sess., LB 10, § 1; Laws 1996, LB 1139, § 1; Laws 1999, LB 243, § 1; Laws 2008, LB746, § 1; Laws 2014, LB766, § 1; Laws 2020, LB450, § 1; Laws 2021, LB528, § 52.
Operative date August 28, 2021.

85-507 Nebraska National Guard; spouse and children of deceased member; tuition; credit; conditions.

The spouse and children of any member of the Nebraska National Guard who dies while serving in the active service of the state shall be entitled to a credit of one hundred percent of the tuition charges in any state-supported university, college, or community college or any independent, not-for-profit, accredited college or university in this state, except that any spouse or child who attends an independent, not-for-profit, accredited college or university in this state shall receive a credit in an amount no higher than that spouse or child would receive if attending the University of Nebraska-Lincoln. Such tuition credit shall be for any undergraduate course of education not exceeding four years, except that no credit shall be granted to the spouse after the tenth anniversary of the member's death and no credit shall be granted to a child after such child's twenty-fifth birthday. All persons eligible for tuition credit under this section shall

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obtain a certificate of eligibility from the Adjutant General of the Nebraska National Guard and present such certificate to the educational institution.

Source: Laws 1978, LB 564, § 3; Laws 1986, LB 931, § 4; Laws 1996, LB 1139, § 2; Laws 2020, LB450, § 4; Laws 2021, LB528, § 53.
Operative date August 28, 2021.

ARTICLE 6

PUBLIC INSTITUTIONS OF HIGHER EDUCATION

(c) ADMISSION

Section

85-607. Denial of admission of or discrimination against certain qualified student; prohibited.

(e) STUDENT IDENTIFICATION CARDS

85-609. Student identification cards; requirements.

(c) ADMISSION

85-607 Denial of admission of or discrimination against certain qualified student; prohibited.

No publicly funded college or university in this state shall prohibit the admission of any student, or discriminate against any student with regard to determinations of residency status or scholarship eligibility, on the basis that such student was educated in a school which elects to meet the requirements of subsections (2) through (6) of section 79-1601 if the student is qualified for admission as shown by testing results.

Source: Laws 1984, LB 928, § 5; Laws 1996, LB 900, § 1079; Laws 1999, LB 813, § 58; Laws 2009, LB549, § 51; Laws 2021, LB92, § 2.
Effective date August 28, 2021.

(e) STUDENT IDENTIFICATION CARDS

85-609 Student identification cards; requirements.

Beginning with the 2022-23 academic year, each public postsecondary institution authorized to operate in this state shall require that the telephone number for a national suicide prevention hotline, a local suicide prevention hotline, or a crisis text line is printed on each new student identification card issued to a student enrolled in such public postsecondary institution. Nothing in this section shall be construed to require the issuance of student identification cards to students in any postsecondary institution.

Source: Laws 2021, LB528, § 69.
Operative date August 28, 2021.

ARTICLE 9

POSTSECONDARY EDUCATION

(j) FEDERAL EDUCATION LOAN

Section

85-9,140. Repealed. Laws 2021, LB528, § 74.

(j) FEDERAL EDUCATION LOAN

85-9,140 Repealed. Laws 2021, LB528, § 74.

Operative date August 28, 2021.

ARTICLE 16**PRIVATE POSTSECONDARY CAREER SCHOOLS**

Section

85-1609. Accreditation; effect.

85-1609 Accreditation; effect.

Accreditation by accrediting agencies recognized by the United States Department of Education such as the Association of Independent Colleges and Schools, the Accrediting Council for Continuing Education and Training, the National Accrediting Association of Cosmetology Arts and Sciences, or the National Association of Trade and Technical Schools may be accepted by the department as evidence of compliance with the minimum standards established pursuant to sections 85-1606 and 85-1608. Accreditation by a recognized, specialized accrediting agency such as the Council on Medical Education of the American Medical Association, the Commission on Accreditation of the American Dental Association, or the American Veterinary Medical Association may be accepted as evidence of such compliance only as to the portion or program of a school accredited by such agency if the school as a whole is not accredited.

Source: Laws 1977, LB 486, § 10; Laws 1990, LB 488, § 9; R.S.1943, (1994), § 79-2810; Laws 1995, LB 4, § 9; Laws 2021, LB528, § 54.

Operative date August 28, 2021.

ARTICLE 18**EDUCATIONAL SAVINGS PLAN TRUST**

Section

85-1802. Terms, defined.

85-1816. Employer Matching Contribution Incentive Program; created; purpose; employer; application; State Treasurer; powers and duties.

85-1817. College Savings Plan Low-Income Matching Scholarship Program; established; participation; eligibility; application; State Treasurer; duties.

85-1802 Terms, defined.

For purposes of sections 85-1801 to 85-1817:

(1) Administrative fund means the College Savings Plan Administrative Fund created in section 85-1807;

(2) Beneficiary means the individual designated by a participation agreement to benefit from advance payments of qualified higher education expenses on behalf of the beneficiary;

(3) Benefits means the payment of qualified higher education expenses on behalf of a beneficiary by the Nebraska educational savings plan trust during the beneficiary's attendance at an eligible educational institution;

(4) Eligible educational institution means an institution described in 20 U.S.C. 1088 which is eligible to participate in a program under Title IV of the federal Higher Education Act of 1965;

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(5) Expense fund means the College Savings Plan Expense Fund created in section 85-1807;

(6) Nebraska educational savings plan trust means the trust created in section 85-1804;

(7) Nonqualified withdrawal refers to (a) a distribution from an account to the extent it is not used to pay the qualified higher education expenses of the beneficiary, (b) a qualified rollover permitted by section 529 of the Internal Revenue Code where the funds are transferred to a qualified tuition program sponsored by another state or entity, or (c) a distribution from an account to pay the costs of attending kindergarten through grade twelve;

(8) Participant or account owner means an individual, an individual's legal representative, or any other legal entity authorized to establish a savings account under section 529 of the Internal Revenue Code who has entered into a participation agreement for the advance payment of qualified higher education expenses on behalf of a beneficiary. For purposes of section 77-2716, as to contributions by a custodian to a custodial account established pursuant to the Nebraska Uniform Transfers to Minors Act or similar law in another state, which account has been established under a participation agreement, participant includes the parent or guardian of a minor, which parent or guardian is also the custodian of the account;

(9) Participation agreement means an agreement between a participant and the Nebraska educational savings plan trust entered into under sections 85-1801 to 85-1817;

(10) Program fund means the College Savings Plan Program Fund created in section 85-1807;

(11) Qualified higher education expenses means the certified costs of tuition and fees, books, supplies, and equipment required (a) for enrollment or attendance at an eligible educational institution or (b) for costs incurred on or after January 1, 2021, for participation in an apprenticeship program registered and certified with the United States Secretary of Labor under 29 U.S.C. 50, as such section existed on January 1, 2021. Reasonable room and board expenses, based on the minimum amount applicable for the eligible educational institution during the period of enrollment, shall be included as qualified higher education expenses for those students enrolled on at least a half-time basis. In the case of a special needs beneficiary, expenses for special needs services incurred in connection with enrollment or attendance at an eligible educational institution shall be included as qualified higher education expenses. Expenses paid or incurred on or after January 1, 2022, for the purchase of computer technology or equipment or Internet access and related services, subject to the limitations set forth in section 529 of the Internal Revenue Code, shall be included as qualified higher education expenses. Qualified higher education expenses does not include any amounts in excess of those allowed by section 529 of the Internal Revenue Code;

(12) Section 529 of the Internal Revenue Code means such section of the code and the regulations interpreting such section; and

(13) Tuition and fees means the quarter or semester charges imposed to attend an eligible educational institution.

Source: Laws 2000, LB 1003, § 2; Laws 2001, LB 750, § 1; Laws 2010, LB197, § 3; Laws 2012, LB1104, § 4; Laws 2013, LB296, § 2;

Laws 2019, LB610, § 8; Laws 2021, LB432, § 17; Laws 2021, LB528, § 55.

Operative date August 28, 2021.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB432, section 17, with LB528, section 55, to reflect all amendments.

Cross References

Nebraska Uniform Transfers to Minors Act, see section 43-2701.

85-1816 Employer Matching Contribution Incentive Program; created; purpose; employer; application; State Treasurer; powers and duties.

(1) The Employer Matching Contribution Incentive Program is created. The program shall begin on January 1, 2022, and shall be implemented and administered by the State Treasurer. The purpose of the program is to encourage employers to make matching contributions by providing incentive payments for such contributions.

(2) For purposes of this section:

(a) Employer means any individual, partnership, limited liability company, association, corporation, business trust, legal representative, or organized group of persons employing one or more employees at any one time, but such term does not include the United States, the state, or any political subdivision thereof; and

(b) Matching contribution means a contribution made by an employer to an account established under the Nebraska educational savings plan trust in an amount matching all or part of a contribution made to that same account by an individual who resided in the State of Nebraska during the most recently completed taxable year and is an employee of such employer.

(3) Beginning January 1, 2022, an employer shall be eligible to receive an incentive payment under this section if the employer made matching contributions during the immediately preceding calendar year.

(4) In order to receive an incentive payment under this section, an employer shall submit an application to the State Treasurer on forms prescribed by the State Treasurer. The State Treasurer shall accept applications from January 1 to June 1 of each year beginning in 2022. The application shall include:

(a) The number of employees for whom matching contributions were made in the immediately preceding calendar year;

(b) The amount of the matching contributions made in the immediately preceding calendar year for each employee; and

(c) Any other information required by the State Treasurer.

(5) If the State Treasurer determines that the employer qualifies for an incentive payment under this section, the State Treasurer shall approve the application and shall notify the employer of the approval. The State Treasurer may approve applications until the annual limit provided in subsection (6) of this section has been reached. An employer whose application is approved shall receive an incentive payment equal to twenty-five percent of the total matching contributions made during the immediately preceding calendar year, not to exceed two thousand dollars per contributing employee per year. An employer shall not receive an incentive payment for a matching contribution if the employer claimed an income tax deduction pursuant to subdivision (8)(b) of section 77-2716 for such matching contribution. Employers shall be limited to

one incentive payment per beneficiary. The matching contributions for which incentive payments are made shall not be used to pay expenses associated with attending kindergarten through grade twelve.

(6) The State Treasurer may approve a total of two hundred fifty thousand dollars of incentive payments each calendar year.

(7) On or before June 30, 2022, and on or before June 30 of each year thereafter, the State Treasurer shall determine the total amount of incentive payments approved for the year, shall transfer such amount from the College Savings Plan Expense Fund or the Unclaimed Property Trust Fund, as determined by the State Treasurer, to the College Savings Incentive Cash Fund, and shall distribute such incentive payments to the approved employers.

(8) The State Treasurer may adopt and promulgate rules and regulations to carry out the Employer Matching Contribution Incentive Program.

Source: Laws 2019, LB610, § 14; Laws 2021, LB532, § 9.

Effective date August 28, 2021.

85-1817 College Savings Plan Low-Income Matching Scholarship Program; established; participation; eligibility; application; State Treasurer; duties.

(1) Beginning January 1, 2022, there is hereby established the College Savings Plan Low-Income Matching Scholarship Program. The purpose of the program is to encourage private contributions to accounts established under the Nebraska educational savings plan trust for the benefit of individuals with limited means. The State Treasurer shall implement and administer the program.

(2) A participant shall be eligible for the program if the beneficiary for whom private contributions are made is part of a family whose household income for the most recently completed taxable year is not more than two hundred fifty percent of the federal poverty level and the beneficiary is a resident of the State of Nebraska.

(3) Applications for participation in the program shall be submitted to the State Treasurer on forms prescribed by the State Treasurer. If the requirements of subsection (2) of this section are met, the State Treasurer shall approve the application and notify the applicant of the approval. The State Treasurer may approve applications until the annual limit provided in subsection (7) of this section has been reached.

(4) Any participant who is approved for the program under subsection (3) of this section must resubmit an application each year thereafter and be reapproved in order to continue participation in the program.

(5) If a participant is approved for the program, any contribution made by such participant under the program shall be matched with scholarship funds provided by the State of Nebraska. The matching scholarship shall be equal to:

(a) One hundred percent of the participant's contribution if the beneficiary for whom the contribution is made is part of a family whose household income for the most recently completed taxable year is more than two hundred percent of the federal poverty level but not more than two hundred fifty percent of the federal poverty level, not to exceed one thousand dollars annually; or

(b) Two hundred percent of the participant's contribution if the beneficiary for whom the contribution is made is part of a family whose household income for the most recently completed taxable year is not more than two hundred

percent of the federal poverty level, not to exceed one thousand dollars annually.

(6) Between January 1 and January 31 of each year, the State Treasurer shall transfer the amount necessary to meet the matching obligations of this section for the preceding calendar year, minus the amount of any private contributions received pursuant to subsection (1) of section 85-1815 during the preceding calendar year, from the College Savings Plan Expense Fund or the Unclaimed Property Trust Fund, as determined by the State Treasurer, to the College Savings Incentive Cash Fund. The State Treasurer shall transfer from the College Savings Incentive Cash Fund to the College Savings Plan Program Fund the amount necessary to meet the matching obligations of this section for the preceding calendar year. The Nebraska educational savings plan trust shall own all scholarships awarded under this section. Neither the participant nor the beneficiary shall have any ownership rights to or interest in, title to, or power or control over such scholarships. Scholarship funds disbursed shall only be used to pay the qualified higher education expenses associated with attending an eligible educational institution located in this state and shall not be used to pay expenses associated with attending kindergarten through grade twelve. Any disbursement of such scholarships shall be made before the beneficiary reaches thirty years of age. Once the beneficiary reaches thirty years of age, any unused scholarship funds shall be transferred to the Meadowlark Endowment Fund.

(7) The State Treasurer may approve a total of two hundred fifty thousand dollars of scholarships each calendar year under the College Savings Plan Low-Income Matching Scholarship Program.

Source: Laws 2019, LB610, § 15; Laws 2021, LB532, § 10.
Effective date August 28, 2021.

ARTICLE 19

NEBRASKA OPPORTUNITY GRANT ACT

Section

85-1920. Nebraska Opportunity Grant Fund; created; use; investment.

85-1920 Nebraska Opportunity Grant Fund; created; use; investment.

The Nebraska Opportunity Grant Fund is created. Money in the fund shall include amounts transferred from the State Lottery Operation Trust Fund pursuant to section 9-812 until June 30, 2016, or the Nebraska Education Improvement Fund pursuant to section 9-812 until June 30, 2024. All amounts accruing to the Nebraska Opportunity Grant Fund shall be used to carry out the Nebraska Opportunity Grant Act. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 2003, LB 574, § 20; Laws 2010, LB956, § 18; Laws 2013, LB497, § 6; Laws 2015, LB519, § 38; Laws 2021, LB528, § 56.
Operative date May 26, 2021.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

ARTICLE 20

COMMUNITY COLLEGE GAP ASSISTANCE PROGRAM ACT

Section

- 85-2002. Terms, defined.
 85-2003. Community college gap assistance program; created; purpose; eligibility.
 85-2004. Community college gap assistance; application.
 85-2005. Community college gap assistance; criteria; denial of application; when.
 85-2007. Applicant; initial assessment.
 85-2008. Community college gap assistance; recipient; duties; termination of assistance; when.
 85-2009. Community College Gap Assistance Program Fund; created; use; investment.
 85-2010. Community college gap assistance program; committee; duties; meetings.

85-2002 Terms, defined.

For purposes of the Community College Gap Assistance Program Act:

(1) Accredited college means a not-for-profit, two-year postsecondary institution with a physical presence in this state that has been accredited by an accrediting agency recognized by the United States Department of Education to provide institutional accreditation for degree granting institutions;

(2) Committee means the Nebraska Community College Student Performance and Occupational Education Grant Committee;

(3) Community college gap assistance program means the program created pursuant to section 85-2003;

(4) Eligible program means a program offered by a community college or other eligible institution that (a) either (i) is not offered for credit and has a duration of not less than sixteen contact hours in length or (ii) is offered for credit but is of insufficient clock, semester, or quarter hours to be eligible for Federal Pell Grants, (b) is aligned with training programs with stackable credentials that lead to a program awarding college credit, an associate's degree, a diploma, or a certificate in an in-demand occupation, and (c) does any of the following:

(i) Offers a state, national, or locally recognized certificate;

(ii) Offers preparation for a professional examination or licensure;

(iii) Provides endorsement for an existing credential or license;

(iv) Represents recognized skill standards defined by an industrial sector; or

(v) Offers a similar credential or training;

(5) In-demand occupation means:

(a) Financial services;

(b) Transportation, warehousing, and distribution logistics;

(c) Precision metals manufacturing;

(d) Biosciences;

(e) Renewable energy;

(f) Agriculture and food processing;

(g) Business management and administrative services;

(h) Software and computer services;

(i) Research, development, and engineering services;

(j) Health services;

- (k) Hospitality and tourism; and
- (l) Any other industry designated as an in-demand occupation by the committee; and
- (6) Other eligible institution means an accredited college with which the Coordinating Commission for Postsecondary Education has a contract pursuant to subsection (4) of section 85-2010.

Source: Laws 2015, LB519, § 28; Laws 2019, LB180, § 1; Laws 2021, LB528, § 57.

Operative date August 28, 2021.

85-2003 Community college gap assistance program; created; purpose; eligibility.

(1) The community college gap assistance program is created. The program shall be under the direction of the committee and shall be administered by the Coordinating Commission for Postsecondary Education. The purpose of the community college gap assistance program is to provide community college gap assistance to students in eligible programs.

(2) To be eligible for community college gap assistance under the community college gap assistance program, an applicant:

(a) Shall have a family income which is at or below two hundred fifty percent of Office of Management and Budget income poverty guidelines; and

(b) Shall be a resident of Nebraska as provided in section 85-502.

(3) Eligibility for such tuition assistance shall not be construed to guarantee enrollment in any eligible program.

Source: Laws 2015, LB519, § 29; Laws 2021, LB528, § 58.

Operative date August 28, 2021.

85-2004 Community college gap assistance; application.

Application for community college gap assistance under the community college gap assistance program shall be made to the community college or other eligible institution in which the applicant is enrolled or intends to enroll. An application shall be valid for six months from the date of signature on the application. The applicant shall provide documentation of all sources of income. An applicant shall not receive community college gap assistance for more than one eligible program.

Source: Laws 2015, LB519, § 30; Laws 2021, LB528, § 59.

Operative date August 28, 2021.

85-2005 Community college gap assistance; criteria; denial of application; when.

(1) An applicant for community college gap assistance under the community college gap assistance program shall demonstrate capacity to achieve the following outcomes:

(a) The ability to be accepted to and complete an eligible program;

(b) The ability to be accepted into and complete a postsecondary certificate, diploma, or degree program for credit;

(c) The ability to obtain full-time employment; and

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(d) The ability to maintain full-time employment over time.

(2) The committee may grant community college gap assistance under the community college gap assistance program to an applicant in any amount up to the full amount of eligible costs.

(3) The committee shall deny an application when the community college or other eligible institution receiving the application determines that funding for an applicant's participation in an eligible program is available from any other public or private funding source.

Source: Laws 2015, LB519, § 31; Laws 2021, LB528, § 60.
Operative date August 28, 2021.

85-2007 Applicant; initial assessment.

An applicant for community college gap assistance under the community college gap assistance program shall complete an initial assessment administered by the community college or other eligible institution receiving the application to determine the applicant's readiness to complete an eligible program. The initial assessment shall include any assessments required by the eligible program.

Source: Laws 2015, LB519, § 33; Laws 2021, LB528, § 61.
Operative date August 28, 2021.

85-2008 Community college gap assistance; recipient; duties; termination of assistance; when.

(1) A recipient of community college gap assistance under the community college gap assistance program shall:

(a) Maintain regular contact with faculty of the eligible program to document the applicant's progress in the program;

(b) Sign any necessary releases to provide relevant information to case managers or faculty of the community college or other eligible institution, if applicable;

(c) Discuss with faculty of the eligible program any issues that may affect the recipient's ability to complete the eligible program and obtain and maintain employment;

(d) Attend all required courses regularly; and

(e) Meet with faculty of the eligible program to develop a job-search plan.

(2) A community college or other eligible institution may terminate community college gap assistance under the community college gap assistance program for a recipient who fails to meet the requirements of this section.

Source: Laws 2015, LB519, § 34; Laws 2021, LB528, § 62.
Operative date August 28, 2021.

85-2009 Community College Gap Assistance Program Fund; created; use; investment.

(1) The Community College Gap Assistance Program Fund is created. The fund shall be under the direction of the committee and shall be administered by the Coordinating Commission for Postsecondary Education. The fund shall consist of money received pursuant to section 9-812, any other money received by the state in the form of grants or gifts from nonfederal sources, such other

amounts as may be transferred or otherwise accrue to the fund, and any investment income earned on the fund. The fund shall be used to carry out the community college gap assistance program pursuant to the Community College Gap Assistance Program Act. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) In addition to community college gap assistance awarded to students, money in the fund may also be used by the committee:

(a) To establish application and funding procedures; and

(b) To assist other eligible institutions as specified in contracts entered into pursuant to subsection (4) of section 85-2010 in defraying the costs of direct staff support services, including, but not limited to, marketing, outreach, applications, interviews, and assessments related to the community college gap assistance program.

(3) Each community college may use up to ten percent of any money received from the fund to defray the costs of direct staff support services, including, but not limited to, marketing, outreach, applications, interviews, and assessments.

Source: Laws 2015, LB519, § 35; Laws 2021, LB528, § 63.
Operative date August 28, 2021.

Cross References

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

85-2010 Community college gap assistance program; committee; duties; meetings.

(1) The committee shall develop a common applicant tracking system for the community college gap assistance program that shall be implemented consistently by each participating community college and other eligible institution.

(2) The committee shall coordinate statewide oversight, evaluation, and reporting efforts for the community college gap assistance program.

(3) The committee shall meet at least quarterly to evaluate and monitor the performance of the community college gap assistance program to determine if performance measures are being met and shall take necessary steps to correct any deficiencies. Performance measures include, but are not limited to, eligible program completion rates, job attainment rates, and continuing education rates.

(4) With committee approval, the Coordinating Commission for Postsecondary Education may contract with an accredited college to be an other eligible institution and administer the community college gap assistance program for applicants enrolled in or intending to enroll in an eligible program offered by such college.

Source: Laws 2015, LB519, § 36; Laws 2021, LB528, § 64.
Operative date August 28, 2021.

ARTICLE 21

ACCESS COLLEGE EARLY SCHOLARSHIP PROGRAM ACT

Section
85-2104. Student; eligibility; applications; prioritized.

85-2104 Student; eligibility; applications; prioritized.

Applications for the Access College Early Scholarship Program shall be prioritized for students qualifying pursuant to subdivision (1) or (2) of this section, and applications for students qualifying only pursuant to subdivision (3) of this section shall only be considered if funds are available after fulfilling the applications for students qualifying pursuant to subdivision (1) or (2) of this section. Priority dates shall be determined by the commission on a term basis. The Commissioner of Education may verify eligibility for a student described in subdivision (1)(c) of this section when requested by the commission. A student who is applying to take one or more courses for credit from a qualified postsecondary educational institution is eligible for the Access College Early Scholarship Program if:

(1) Such student or the student's parent or legal guardian is eligible to receive:

- (a) Supplemental Security Income;
- (b) Supplemental Nutrition Assistance Program benefits;
- (c) Free or reduced-price lunches under United States Department of Agriculture child nutrition programs;
- (d) Aid to families with dependent children; or
- (e) Assistance under the Special Supplemental Nutrition Program for Women, Infants, and Children;

(2) The student or the student's parent or legal guardian has experienced an extreme hardship; or

(3) Such student is requesting assistance pursuant to the program to cover the cost of tuition and fees for a course that is part of a career plan of study, up to two hundred fifty dollars per term, and the student's family has an annual household income at or below two hundred percent of the federal poverty level.

Source: Laws 2007, LB192, § 5; Laws 2009, LB288, § 45; Laws 2015, LB525, § 34; Laws 2021, LB528, § 65.
Operative date August 28, 2021.

ARTICLE 28**MEADOWLARK ACT**

Section

85-2802. Terms, defined.

85-2803. Meadowlark Endowment Fund; established; investment; restrictions; State Treasurer; powers and duties.

85-2802 Terms, defined.

For purposes of the Meadowlark Act:

(1) Contribution means a donation which is made for the purpose of providing a source of funding for the Meadowlark Program established in section 85-2804;

(2) Eligible educational institution has the same meaning as in section 85-1802;

(3) Nebraska educational savings plan trust has the same meaning as in section 85-1802;

(4) Qualified higher education expenses has the same meaning as in section 85-1802; and

(5) Qualified individual means an individual born on or after January 1, 2020, who is a resident of this state at the time of birth.

Source: Laws 2019, LB610, § 2; Laws 2020, LB1042, § 6; Laws 2021, LB528, § 66.

Operative date August 28, 2021.

85-2803 Meadowlark Endowment Fund; established; investment; restrictions; State Treasurer; powers and duties.

(1) There is hereby established in the state treasury a trust fund to be known as the Meadowlark Endowment Fund. The fund shall be administered by the State Treasurer and shall consist of qualified private contributions and any amounts appropriated or transferred to the fund by the Legislature. No General Funds shall be transferred to the Meadowlark Endowment Fund. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. No portion of the principal of the fund shall be expended for any purpose except investment pursuant to this subsection.

(2) The State Treasurer may accept contributions and shall credit all such contributions received either to the Meadowlark Endowment Fund or to accounts opened under the Meadowlark Program, at the direction of the donor. Such contributions shall not be used to pay expenses associated with attending kindergarten through grade twelve.

(3) On or before April 1 of each year, the State Treasurer shall determine the total amount of contributions received under subsection (2) of this section in the previous calendar year and shall transfer an equal amount from the College Savings Plan Expense Fund or the Unclaimed Property Trust Fund, as determined by the State Treasurer, to the Meadowlark Endowment Fund or to accounts opened under the Meadowlark Program. For any amount transferred from the College Savings Plan Expense Fund or the Unclaimed Property Trust Fund that is not being transferred to the Meadowlark Endowment Fund, the State Treasurer shall evenly distribute such amount to the accounts opened under the Meadowlark Program in the previous calendar year.

Source: Laws 2019, LB610, § 3; Laws 2020, LB1042, § 7; Laws 2021, LB528, § 67; Laws 2021, LB532, § 11.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB528, section 67, with LB 532, section 11, to reflect all amendments.

Note: Changes made by LB528 became operative August 28, 2021. Changes made by LB532 became effective August 28, 2021.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

ARTICLE 29

VETERAN PROMISE ACT

Section

85-2901. Act, how cited.

85-2902. Terms, defined.

85-2903. Eligible military student; eligible veteran student; enrollment; automatic acceptance.

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Section

85-2904. Public postsecondary institution; information; report; contents; duties.

85-2905. Act; how construed.

85-2901 Act, how cited.

Sections 85-2901 to 85-2905 shall be known and may be cited as the Veteran Promise Act.

Source: Laws 2021, LB669, § 1.

Effective date May 22, 2021.

85-2902 Terms, defined.

For purposes of the Veteran Promise Act:

(1) Eligible military student means a student who:

(a) Graduated from a Nebraska high school on or after January 1, 2022;

(b) Signed enlistment papers to serve in a uniformed service; and

(c)(i) At the time of application is serving in such uniformed service under a six-year obligation; or

(ii) Has served at least two years of active duty in such uniformed service and at the time of application is serving in such uniformed service or another uniformed service;

(2) Eligible veteran student means a student who:

(a)(i) Graduated from a Nebraska high school on or after January 1, 2002; or

(ii) Graduated from a high school in another state on or after January 1, 2002, and served in a uniformed service while assigned to a location in this state;

(b) Signed enlistment papers to serve in a uniformed service; and

(c) Received either an honorable discharge or a general discharge under honorable conditions from a uniformed service; and

(3) Uniformed service means an active or reserve component of:

(a) The Army, Navy, Air Force, Marine Corps, Coast Guard, Merchant Marine, or Space Force of the United States;

(b) The Commissioned Officer Corps of the National Oceanic and Atmospheric Administration or of the Public Health Service of the United States; or

(c) The Nebraska National Guard.

Source: Laws 2021, LB669, § 2.

Effective date May 22, 2021.

85-2903 Eligible military student; eligible veteran student; enrollment; automatic acceptance.

(1) Each public postsecondary institution in this state shall, upon application, automatically accept any eligible military student or eligible veteran student who otherwise meets the admissions requirements for such postsecondary institution to enroll as an undergraduate student in virtual and in-person courses and programs.

(2) Except with regard to the acceptance of eligible military students and eligible veteran students as provided in subsection (1) of this section, nothing in the Veteran Promise Act shall be construed to change any policy or practice of

any public postsecondary institution in this state, including any additional criteria or prioritization for capped enrollment academic programs.

Source: Laws 2021, LB669, § 3.

Effective date May 22, 2021.

85-2904 Public postsecondary institution; information; report; contents; duties.

Each public postsecondary institution in this state shall make information about the Veteran Promise Act available on its official website and electronically submit an annual report to the Clerk of the Legislature on or before December 31, 2022, and on or before December 31 of each year thereafter. Such annual report shall detail the number of applicants under the act, the number of eligible military students and the number of eligible veteran students who are enrolled under the act, the amount of any application fees waived for applicants under the act, and any additional support, service, or assistance that is provided to participating eligible military students and eligible veteran students under the act.

Source: Laws 2021, LB669, § 4.

Effective date May 22, 2021.

85-2905 Act; how construed.

The Veteran Promise Act shall be construed in a manner consistent with federal law, including, but not limited to, the United States Department of Defense Tuition Assistance Program and with any Voluntary Education Partnership Memorandum of Understanding entered into by a public postsecondary institution and the United States Department of Defense.

Source: Laws 2021, LB669, § 5.

Effective date May 22, 2021.

CHAPTER 86

TELECOMMUNICATIONS AND TECHNOLOGY

Article.

1. Telecommunications Regulation.
 - (a) General Provisions. 86-103, 86-103.01.
 - (d) Provision of Telecommunication Services. 86-135.
3. Universal Service.
 - (b) Nebraska Telecommunications Universal Service Fund Act. 86-316 to 86-324.02.
 - (c) Funding for Infrastructure Projects. 86-330.
5. Public Technology Infrastructure.
 - (a) Information Technology Infrastructure Act. 86-527.
 - (h) Retail or Wholesale Services. 86-594.
 - (k) Broadband Services. 86-5,109.
11. Rural Broadband Task Force. 86-1102, 86-1103.
13. Nebraska Broadband Bridge Act. 86-1301 to 86-1310.

ARTICLE 1

TELECOMMUNICATIONS REGULATION

(a) GENERAL PROVISIONS

Section

- 86-103. Definitions, where found.
- 86-103.01. Repealed. Laws 2021, LB338, § 10.
- (d) PROVISION OF TELECOMMUNICATION SERVICES
- 86-135. Advanced telecommunications capability service; application; notice; commission; considerations.

(a) GENERAL PROVISIONS

86-103 Definitions, where found.

For purposes of the Nebraska Telecommunications Regulation Act, unless the context otherwise requires, the definitions found in sections 86-104 to 86-121.01 apply.

Source: Laws 1986, LB 835, § 2; Laws 1993, LB 121, § 554; Laws 1997, LB 660, § 6; Laws 1999, LB 150, § 14; R.S.1943, (1999), § 86-802; Laws 2002, LB 1105, § 4; Laws 2012, LB715, § 2; Laws 2019, LB462, § 18; Laws 2021, LB338, § 1.
Effective date May 6, 2021.

86-103.01 Repealed. Laws 2021, LB338, § 10.

(d) PROVISION OF TELECOMMUNICATION SERVICES

86-135 Advanced telecommunications capability service; application; notice; commission; considerations.

(1) For purposes of sections 86-135 to 86-138, advanced telecommunications capability service means high-speed, broadband service at a minimum down-

load speed of one hundred megabits per second and a minimum upload speed of twenty megabits per second provided by a local exchange carrier that enables users to originate and receive high-quality voice, data, graphics, and video communications using any technology.

(2) Any person may file an application with the commission to obtain advanced telecommunications capability service furnished by a telecommunications company in the local exchange area adjacent to the local exchange area in which the applicant resides.

(3) The commission shall serve upon each telecommunications company directly affected a copy of the application and notice of the hearing at least thirty days prior to the hearing on the application, which shall be held if all of the telecommunications companies involved do not consent to the application.

(4) If an application for the revision of an exchange service area includes more than one customer in a particular exchange, the commission shall consider the circumstances of each customer and the impact to the obligations of any affected telecommunications company which has not consented to the application.

Source: Laws 1969, c. 601, § 1, p. 2457; Laws 1993, LB 121, § 471; Laws 1994, LB 414, § 108; R.S.1943, (1996), § 75-612; Laws 2002, LB 1105, § 34; Laws 2012, LB715, § 4; Laws 2021, LB338, § 2. Effective date May 6, 2021.

**ARTICLE 3
UNIVERSAL SERVICE**

(b) NEBRASKA TELECOMMUNICATIONS UNIVERSAL SERVICE FUND ACT

Section

- 86-316. Act, how cited.
- 86-324. Nebraska Telecommunications Universal Service Fund; created; use; investment; commission; powers; administrative fine.
- 86-324.01. Fund; distribution; projects; requirements; applicability.
- 86-324.02. Ongoing high-cost support; recipient; speed tests; required.

(c) FUNDING FOR INFRASTRUCTURE PROJECTS

- 86-330. Unserved or underserved exchanges; funding redirection program; funding to providers; reverse auction; rural-based plan; considerations; limitations; Public Service Commission; powers and duties.

(b) NEBRASKA TELECOMMUNICATIONS
UNIVERSAL SERVICE FUND ACT

86-316 Act, how cited.

Sections 86-316 to 86-329 shall be known and may be cited as the Nebraska Telecommunications Universal Service Fund Act.

Source: Laws 1997, LB 686, § 1; Laws 1999, LB 514, § 4; R.S.1943, (1999), § 86-1401; Laws 2002, LB 1105, § 194; Laws 2007, LB661, § 4; Laws 2018, LB157, § 1; Laws 2021, LB338, § 3. Effective date May 6, 2021.

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.

(4) Transfers may be made from earnings on the Nebraska Telecommunications Universal Service Fund to the 211 Cash Fund at the direction of the Legislature. The State Treasurer shall annually transfer three hundred thousand dollars on July 1 beginning in 2021 from the earnings on the Nebraska Telecommunications Universal Service Fund to the 211 Cash Fund.

Source: Laws 1997, LB 686, § 5; Laws 1999, LB 514, § 5; Laws 2000, LB 1285, § 23; Laws 2001, LB 389, § 4; R.S.Supp.,2001, § 86-1405;

Laws 2002, LB 1105, § 202; Laws 2002, LB 1211, § 13; Laws 2002, Second Spec. Sess., LB 37, § 1; Laws 2017, LB331, § 57; Laws 2021, LB384, § 24.
Effective date April 27, 2021.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

86-324.01 Fund; distribution; projects; requirements; applicability.

Beginning on January 1, 2022, the commission shall ensure that funds distributed from the Nebraska Telecommunications Universal Service Fund for construction of new broadband infrastructure shall go to projects that provide broadband service scalable to one hundred megabits per second or greater for downloading and one hundred megabits per second or greater for uploading. This section shall not apply to any disbursements from any Nebraska Telecommunications Universal Service Fund wireless infrastructure grant program, the purpose of which is to improve wireless telecommunications service coverage through grants for the construction of wireless telecommunications service facilities.

Source: Laws 2021, LB338, § 4.
Effective date May 6, 2021.

86-324.02 Ongoing high-cost support; recipient; speed tests; required.

Any recipient of ongoing high-cost support from the Nebraska Telecommunications Universal Service Fund shall agree to submit to speed tests as determined by the commission. Upon the commission's request, such recipient shall conduct the speed tests and submit the results to the commission. The speed tests shall be conducted for one week using a random sample of locations of consumers who subscribe to services provided over infrastructure for which ongoing high-cost support is received.

Source: Laws 2021, LB338, § 5.
Effective date May 6, 2021.

(c) FUNDING FOR INFRASTRUCTURE PROJECTS

86-330 Unserved or underserved exchanges; funding redirection program; funding to providers; reverse auction; rural-based plan; considerations; limitations; Public Service Commission; powers and duties.

(1) Based on consumer complaints or upon its own motion, the Public Service Commission may open a docket to consider the implementation and operation of a funding redirection program that awards funding to broadband Internet service providers to support high-speed Internet infrastructure deployment projects in unserved or underserved exchanges within the State of Nebraska. The commission may, in its discretion, withhold funding from the Nebraska Telecommunications Universal Service Fund to any telecommunications company that has not served, to the commission's satisfaction, those areas with service that meets the criteria for successful investment of funding from the Nebraska Telecommunications Universal Service Fund.

(2) The commission shall adopt and promulgate rules and regulations that establish standards governing the withholding of funding from the Nebraska

Telecommunications Universal Service Fund from any recipient, including the provision of notice and the right to a hearing prior to the issuance of an order withdrawing such funding. If the commission withdraws funding from the Nebraska Telecommunications Universal Service Fund from any telecommunications company, the commission may redirect the withdrawn funding through a reverse auction or rural-based plan to another eligible telecommunications company, except that any funding that is withdrawn shall be utilized in the exchange area for which the funding was originally granted. The commission shall have wide discretion in the design, implementation, and operation of a funding redirection program but may use as a guide the reverse auction program designed by the Federal Communications Commission in its Connect America Fund Phase II Auction process.

(3)(a) In redirecting funding that has been withheld from an eligible telecommunications company, the commission may consider rural-based plans. To qualify for commission consideration, a rural-based plan shall include an eligible telecommunications company.

(b) The commission shall consider rural-based plans based on the following scoring criteria:

(i) The history of the participating eligible telecommunications company in providing quality and affordable telecommunications and broadband services in rural areas;

(ii) The capability of the eligible telecommunications company to use the proposed technology to provide broadband services to every location in the exchange area on a reasonably comparable basis;

(iii) The support of local businesses, hospitals, schools, colleges, agricultural producers, and residents;

(iv) Other sources of funding;

(v) Partnerships and other cooperative arrangements with local public power providers;

(vi) Partnerships and other cooperative arrangements with local wireless Internet service providers; and

(vii) Cooperation by the incumbent local exchange carrier from which funding has been withheld.

(c) In entering an order redirecting funding, the commission shall establish a timeline for deployment that includes periodic milestones for ensuring timely deployment and shall require the eligible telecommunications company to file reports sufficient to assess compliance with deployment milestones.

(d) The commission shall adopt and promulgate rules and regulations to carry out this subsection.

(4) Funding support shall not be withheld from an eligible telecommunications company for infrastructure found by the commission to be capable of reliably providing broadband service at a minimum download speed of one hundred megabits per second and a minimum upload speed of twenty megabits per second that enables users to originate and receive high-quality voice, data, graphics, and video communications using any technology.

(5) For purposes of this section, rural-based plan means a proposal for redirecting funding as described in this section which is made by rural

residential and business users of telecommunications and broadband services in high-cost areas of the exchange.

Source: Laws 2018, LB994, § 4; Laws 2021, LB338, § 6.
Effective date May 6, 2021.

ARTICLE 5

PUBLIC TECHNOLOGY INFRASTRUCTURE

(a) INFORMATION TECHNOLOGY INFRASTRUCTURE ACT

Section

86-527. Information Technology Infrastructure Fund; created; use; investment.

(h) RETAIL OR WHOLESALE SERVICES

86-594. Agency or political subdivision of state; limitation on power.

(k) BROADBAND SERVICES

86-5,109. Legislative declaration; federal funds; scalability requirements; broadband infrastructure; requirements.

(a) INFORMATION TECHNOLOGY INFRASTRUCTURE ACT

86-527 Information Technology Infrastructure Fund; created; use; investment.

The Information Technology Infrastructure Fund is hereby created. The fund shall contain gifts, grants, and such other money as is appropriated or transferred by the Legislature. The fund shall be used to attain the goals and priorities identified in the statewide technology plan. The fund shall be administered by the office of Chief Information Officer. Expenditures shall be made from the fund to finance the operations of the Information Technology Infrastructure Act in accordance with the appropriations made by the Legislature. Transfers from the fund to the General Fund may be made at the direction of the Legislature. Any money in the Information Technology Infrastructure Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1996, LB 1190, § 6; Laws 1998, LB 924, § 42; Laws 2000, LB 1349, § 7; R.S.Supp.,2000, § 81-1195; Laws 2002, LB 1105, § 297; Laws 2002, Second Spec. Sess., LB 1, § 10; Laws 2003, LB 408, § 7; Laws 2006, LB 921, § 19; Laws 2008, LB823, § 8; Laws 2021, LB509, § 23.
Effective date August 28, 2021.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

(h) RETAIL OR WHOLESALE SERVICES

86-594 Agency or political subdivision of state; limitation on power.

(1) Except as provided in the Educational Service Units Act and sections 79-1319, 81-1120.01 to 81-1120.28, 85-401 to 85-411, 85-1501 to 85-1542, and 86-575, an agency or political subdivision of the state that is not a public power supplier shall not provide on a retail or wholesale basis any broadband services, Internet services, telecommunications services, or video services.

(2) The provisions of subsection (1) of this section shall not apply to services which an agency or political subdivision of the state was authorized to provide and was providing prior to January 1, 2005.

Source: Laws 2005, LB 645, § 2; Laws 2021, LB384, § 25.
Effective date April 27, 2021.

Cross References

Educational Service Units Act, see section 79-1201.

(k) BROADBAND SERVICES

86-5,109 Legislative declaration; federal funds; scalability requirements; broadband infrastructure; requirements.

The Legislature declares that it is in the public interest for the state, cities of all classes, villages, and counties to expend federal funds received for the creation and expansion of high-speed broadband services throughout the state. Any political subdivision that directly receives federal funds used for broadband service enhancement purposes shall ensure that the construction of any new infrastructure to provide broadband service is scalable to one hundred megabits per second or greater for downloading and one hundred megabits per second or greater for uploading. Such federal funds shall not be used to serve locations currently capable of receiving broadband service at a minimum download speed of one hundred megabits per second and a minimum upload speed of twenty megabits per second that enables users to originate and receive high-quality voice, data, graphics, and video communications using any technology. Any broadband infrastructure built with federal funds is subject to section 86-594.

Source: Laws 2021, LB338, § 8.
Effective date May 6, 2021.

ARTICLE 11

RURAL BROADBAND TASK FORCE

Section

- 86-1102. Rural Broadband Task Force; created; members; terms; advisory groups; staff assistance; powers; duties; expenses; meetings; report.
86-1103. Rural Broadband Task Force Fund; created; use; investment.

86-1102 Rural Broadband Task Force; created; members; terms; advisory groups; staff assistance; powers; duties; expenses; meetings; report.

(1) The Rural Broadband Task Force is hereby created. Task force members shall include the chairperson of the Transportation and Telecommunications Committee of the Legislature and a member of the Legislature selected by the Executive Board of the Legislative Council who shall both serve as nonvoting, ex officio members, a member of the Public Service Commission who shall be selected by the chairperson of such commission, the chairperson of the Nebraska Information Technology Commission or his or her designee who shall act as chairperson of the task force, the Director of Economic Development or his or her designee, the Director of Agriculture or his or her designee, and the following members to be appointed by the Governor: A representative of the agribusiness community, a representative of the Nebraska business community, a representative of the regulated wireline telecommunications industry, a

representative of the wireless telecommunications industry, a representative of the public power industry, a representative of health care providers, a representative of Nebraska postsecondary educational institutions, and a representative of rural schools offering kindergarten through grade twelve. The members appointed by the Governor shall serve for a term of two years and may be reappointed.

(2) The task force may appoint advisory groups to assist the task force in providing technical expertise and advice on any issue. The advisory groups may be composed of representatives of stakeholder groups which may include, but not necessarily be limited to, representatives from small and large wireline companies, wireless companies, public power districts, electric cooperative corporations, cable television companies, Internet service providers, low-income telecommunications and electric utility customers, health care providers, and representatives of educational sectors. No compensation or expense reimbursement shall be provided to any member of any advisory group appointed by the task force.

(3) The Nebraska Information Technology Commission shall provide staff assistance to the task force in consultation with staff from the Public Service Commission and other interested parties. The task force may hire consultants to assist in carrying out its duties. The task force shall review issues relating to availability, adoption, and affordability of broadband services in rural areas of Nebraska. In particular, the task force shall:

(a) Determine how Nebraska rural areas compare to neighboring states and the rest of the nation in average download and upload speeds and in subscription rates to higher speed tiers, when available;

(b) Examine the role of the Nebraska Telecommunications Universal Service Fund in bringing comparable and affordable broadband services to rural residents and any effect of the fund in deterring or delaying capital formation, broadband competition, and broadband deployment;

(c) Review the feasibility of alternative technologies and providers in accelerating access to faster and more reliable broadband service for rural residents;

(d) Examine alternatives for deployment of broadband services to areas that remain unserved or underserved, such as funding redirection programs described in section 86-330, public-private partnerships, funding for competitive deployment, and other measures, and make recommendations to the Public Service Commission to encourage deployment in such areas;

(e) Recommend state policies to effectively utilize state universal service fund dollars to leverage federal universal service fund support and other federal funding;

(f) Make recommendations to the Governor and Legislature as to the most effective and efficient ways that federal broadband rural infrastructure funds received after July 1, 2018, should be expended if such funds become available; and

(g) Determine other issues that may be pertinent to the purpose of the task force.

(4) Task force members shall serve on the task force without compensation but shall be entitled to receive reimbursement for expenses incurred for such service as provided in sections 81-1174 to 81-1177.

(5) The task force shall meet at the call of the chairperson and shall present its findings in a report to the Executive Board of the Legislative Council no later than November 1, 2019, and by November 1 every odd-numbered year thereafter. The report shall be submitted electronically.

(6) For purposes of this section, broadband services means high-speed telecommunications capability at a minimum download speed of twenty-five megabits per second and a minimum upload speed of three megabits per second, and that enables users to originate and receive high-quality voice, data, and video telecommunications using any technology.

Source: Laws 2018, LB994, § 2; Laws 2020, LB381, § 146; Laws 2020, LB992, § 14; Laws 2021, LB338, § 7.

Effective date May 6, 2021.

86-1103 Rural Broadband Task Force Fund; created; use; investment.

The Rural Broadband Task Force Fund is created. The fund shall be used to carry out the purposes of the Rural Broadband Task Force as described in section 86-1102 and to provide for a state broadband coordinator. For administrative purposes, the fund shall be located in the Nebraska Information Technology Commission. The fund shall consist of money appropriated or transferred by the Legislature and gifts, grants, or bequests from any source, including federal, state, public, and private sources. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 2018, LB994, § 3; Laws 2021, LB384, § 26.

Effective date April 27, 2021.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

ARTICLE 13

NEBRASKA BROADBAND BRIDGE ACT

Section

86-1301. Act, how cited.

86-1302. Terms, defined.

86-1303. Broadband Bridge Program; created; purpose; administration; funding; legislative intent.

86-1304. Grant; purpose; application; matching funds, required; qualifications; testing; repayment, when.

86-1305. Grants; priority for distribution.

86-1306. Grant applications; weighted scoring system.

86-1307. Grants; applications; commission publish proposed projects, project areas, and broadband Internet service speeds; challenge; procedure.

86-1308. Grants; funding; limitation; maximum amount; applicant; agree to provide service.

86-1309. Nebraska Broadband Bridge Fund; created; use; investment.

86-1310. Rules and regulations.

86-1301 Act, how cited.

Sections 86-1301 to 86-1310 shall be known and may be cited as the Nebraska Broadband Bridge Act.

Source: Laws 2021, LB388, § 1.

Effective date May 27, 2021.

86-1302 Terms, defined.

For purposes of the Nebraska Broadband Bridge Act:

- (1) Commission means the Public Service Commission;
- (2) Development costs means the amount paid for project planning, obtaining construction permits, construction of facilities including both middle-mile and last-mile infrastructure, equipment, and installation and testing of the broadband Internet service;
- (3) Digital inclusion means access to and use of information and communication technologies by all individuals and communities, including the most disadvantaged individuals and communities;
- (4) Eligible telecommunications carrier means an eligible telecommunications carrier as designated under 47 U.S.C. 214(e), as such section existed on January 1, 2021;
- (5) Grant means money provided to an applicant for purposes of a project under the act;
- (6) Program means the Broadband Bridge Program created under the act;
- (7) Project means the development of a broadband network in an unserved or underserved area;
- (8) Project area means the geographical area in which a broadband network is to be developed pursuant to a grant;
- (9) Provider means a broadband Internet service provider, including any telecommunications company, cable television company, or wireless network provider that provides broadband Internet service;
- (10) Speed test means a measurement of download and upload speeds for access to broadband Internet service between a specific consumer location and a specific remote server location that meets the specifications of the commission;
- (11) Underserved area means a geographical area of the state which lacks broadband Internet service providing access to the Internet at speeds of at least one hundred megabits per second for downloading and twenty megabits per second for uploading; and
- (12) Unserved area means a geographical area of the state which lacks broadband Internet service providing access to the Internet at speeds of at least twenty-five megabits per second for downloading and three megabits per second for uploading.

Source: Laws 2021, LB388, § 2.
Effective date May 27, 2021.

86-1303 Broadband Bridge Program; created; purpose; administration; funding; legislative intent.

The Broadband Bridge Program is created. The purpose of the program is to facilitate and fund the development of broadband networks in unserved and underserved areas in addition to the reverse auction program available pursuant to section 86-330. The commission shall administer the program. It is the intent of the Legislature to appropriate twenty million dollars annually from the General Fund beginning with fiscal year 2021-22 to the commission to be

distributed as grants through the program and to pay for administrative costs associated with the program.

Source: Laws 2021, LB388, § 3.
Effective date May 27, 2021.

86-1304 Grant; purpose; application; matching funds, required; qualifications; testing; repayment, when.

(1)(a) A provider, a cooperative, a political subdivision, or an Indian tribe may apply to the commission for a grant on forms provided by the commission. The grant shall only be used for development costs for a qualifying project. The application shall indicate the project area. The applicant shall provide matching funds equal to fifty percent of the total development costs of the project. In order to qualify, the project is required to provide broadband Internet service scalable to one hundred megabits per second for downloading and one hundred megabits per second for uploading, or greater. Applications shall be submitted on or before October 1, 2021, for fiscal year 2021-22, and on or before July 1 for each fiscal year thereafter.

(b) An application from a political subdivision or an Indian tribe shall be made as part of a public-private partnership with a provider.

(2)(a) As part of the application, the applicant shall agree to complete the project within eighteen months after the date the grant is awarded. The commission may permit one extension of up to six months upon request and for good cause shown.

(b) If a grant recipient fails to complete the project by the agreed or extended deadline, as the case may be, the recipient shall repay the grant as provided in this subdivision. If no extension is permitted, ten percent of the grant shall be repaid for each month that the project is not complete after the eighteen-month period, up to one hundred percent of the grant. If an extension is permitted, twenty percent of the grant shall be repaid for each month that the project is not complete after the twenty-four-month period, up to one hundred percent of the grant.

(3)(a) As part of the application, the applicant shall agree to submit the broadband network completed as a result of the grant to speed tests as determined by the commission. The grant recipient shall conduct the speed tests and submit the results to the commission. The speed tests shall be conducted for one week using a random sample of locations of consumers who subscribe to the network completed as a result of the grant.

(b) If the broadband network does not provide service at the speeds required pursuant to subdivision (1)(a) of this section according to the speed tests under subdivision (3)(a) of this section, the grant recipient shall be allowed a reasonable time to address the speed deficiencies and conduct a second set of speed tests as described in subdivision (3)(a) of this section. If the broadband network does not provide service at the speeds required pursuant to subdivision (1)(a) of this section according to the second set of speed tests, the grant recipient shall repay the grant.

Source: Laws 2021, LB388, § 4.
Effective date May 27, 2021.

86-1305 Grants; priority for distribution.

The commission shall distribute grants based on priority as follows:

(1) The first priority is a project in a project area that is an unserved area which the commission has determined pursuant to section 75-160 or 86-166 needs further support but has not received public assistance for development of a broadband network;

(2) The second priority is a project that is in an unserved area, that has received federal support for development of a broadband network, and that will not be completed within twenty-four months after the grant application deadline if the commission determines that a grant under the program will accelerate the deployment of the broadband network; and

(3) The third priority is a project in a project area that is an underserved area and that the commission determines has a digital inclusion plan.

Source: Laws 2021, LB388, § 5.

Effective date May 27, 2021.

86-1306 Grant applications; weighted scoring system.

(1) The commission shall establish a weighted scoring system to evaluate and rank the applications received each fiscal year.

(2) In each fiscal year, at least thirty days prior to the first day that applications may be submitted, the commission shall publish on the commission's website the specific criteria and the quantitative weighted scoring system the commission will use to evaluate and rank applications and award grants pursuant to the program. Such weighted scoring system shall consider, at a minimum:

(a) The financial, technical, and legal capability of the applicant to deploy and operate broadband Internet service;

(b) Whether the provider is designated as an eligible telecommunications carrier or will be so designated prior to the project completion date;

(c) The ability of an applicant to offer rates in the project area that are comparable to the rates offered by the applicant outside the project area;

(d) The available minimum broadband speeds, with higher scores for faster speeds, except that no grant shall be awarded based on speeds less than those scalable to one hundred megabits per second for downloading and one hundred megabits per second for uploading, or greater;

(e) The ability of the broadband infrastructure to be scalable to higher broadband Internet speeds in the future; and

(f) Whether the applicant has committed to fund more than fifty percent of the total development costs of the project from sources other than grants under the program, with higher scores for higher amounts of matching funds.

Source: Laws 2021, LB388, § 6.

Effective date May 27, 2021.

86-1307 Grants; applications; commission publish proposed projects, project areas, and broadband Internet service speeds; challenge; procedure.

(1) Within three business days after the application deadline described in subdivision (1)(a) of section 86-1304, the commission shall publish on its website the proposed projects, project areas, and broadband Internet service speeds for each application submitted.

(2) Any provider may, within thirty days after the publication under subsection (1) of this section, submit to the commission, on forms provided by the commission, a challenge to an application. Such challenge shall contain information demonstrating that, at the time of submitting the challenge, (a) the provider provides or has begun construction to provide a broadband network in the proposed project area with access to the Internet at speeds equal to or greater than one hundred megabits per second for downloading and twenty megabits per second for uploading or (b) the provider provides broadband service through a broadband network in or proximate to the proposed project area and the provider commits to complete construction of broadband infrastructure and provide a broadband network to the proposed project area with access to the Internet at speeds equal to or greater than one hundred megabits per second for downloading and twenty megabits per second for uploading, no later than eighteen months after the date grant awards are made under the program.

(3) Within three business days after the submission of a challenge as provided in subsection (2) of this section, the commission shall notify the applicant of such challenge. The applicant shall have ten business days after receipt of such notification to provide any supplemental information regarding the challenged application to the commission.

(4) The commission shall evaluate the information submitted in a challenge and shall not award a grant if the information submitted under subsection (2) of this section is credible and if the provider submitting the challenge agrees to submit documentation no later than eighteen months after the date grant awards are made for the then-current fiscal year under the program substantiating that the provider submitting the challenge has fulfilled its commitment to deploy broadband Internet service with access to the Internet at the stated speeds in the proposed project area.

(5) If the commission denies an application for a grant based on a challenge and the provider which submitted the challenge does not provide broadband Internet service to the proposed project area within eighteen months, the provider shall not challenge any grant for the following two fiscal years unless the failure is due to factors beyond the provider's control.

Source: Laws 2021, LB388, § 7.

Effective date May 27, 2021.

86-1308 Grants; funding; limitation; maximum amount; applicant; agree to provide service.

(1) For each fiscal year, the commission shall approve grant funding for all qualified applicants within the limits of available appropriations.

(2) As a condition of accepting a grant under the program, the applicant shall agree to provide broadband Internet service in the project area until released from the applicant's commitment by the commission.

(3) The commission shall not add to the obligations required of a grant recipient after the grant is awarded without the consent of the grant recipient.

(4) The maximum grant amount awarded under the program with respect to any single project shall be five million dollars.

Source: Laws 2021, LB388, § 8.

Effective date May 27, 2021.

86-1309 Nebraska Broadband Bridge Fund; created; use; investment.

(1) The Nebraska Broadband Bridge Fund is created. The fund shall consist of money appropriated by the Legislature and federal funds received for broadband enhancement purposes. The commission shall administer the fund and use the fund to finance grants for qualifying projects under the Nebraska Broadband Bridge Act and for expenses of the commission as appropriated by the Legislature for administering the fund. Any federal funds which are used for purposes of the act shall be in addition to the state General Funds appropriated for purposes of the act. Such federal funds shall not be used as a substitution for any such state General Funds.

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

Source: Laws 2021, LB388, § 9.

Effective date May 27, 2021.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

86-1310 Rules and regulations.

The commission may adopt and promulgate rules and regulations to carry out the Nebraska Broadband Bridge Act.

Source: Laws 2021, LB388, § 10.

Effective date May 27, 2021.

UNIFORM COMMERCIAL CODE

Article.

1. General Provisions.
 - Part 2. General Definitions and Principles of Interpretation. 1-201.
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ARTICLE 1

GENERAL PROVISIONS

Part 2

GENERAL DEFINITIONS AND PRINCIPLES OF INTERPRETATION

Section

1-201. General definitions.

Part 2

GENERAL DEFINITIONS AND PRINCIPLES OF INTERPRETATION

1-201 General definitions.

(a) Unless the context otherwise requires, words or phrases defined in this section, or in the additional definitions contained in other articles of the Uniform Commercial Code that apply to particular articles or parts thereof, have the meanings stated.

(b) Subject to definitions contained in other articles of the code that apply to particular articles or parts thereof:

(1) “Action”, in the sense of a judicial proceeding, includes recoupment, counterclaim, setoff, suit in equity, and any other proceeding in which rights are determined.

(2) “Aggrieved party” means a party entitled to pursue a remedy.

(3) “Agreement”, as distinguished from “contract”, means the bargain of the parties in fact, as found in their language or inferred from other circumstances, including course of performance, course of dealing, or usage of trade as provided in section 1-303.

(4) “Bank” means a person engaged in the business of banking and includes a savings bank, savings and loan association, credit union, and trust company.

(5) “Bearer” means a person in control of a negotiable electronic document of title or a person in possession of a negotiable instrument, negotiable tangible document of title, or certificated security that is payable to bearer or indorsed in blank.

(6) “Bill of lading” means a document of title evidencing the receipt of goods for shipment issued by a person engaged in the business of directly or indirectly transporting or forwarding goods. The term does not include a warehouse receipt.

(7) “Branch” includes a separately incorporated foreign branch of a bank.

(8) “Burden of establishing” a fact means the burden of persuading the trier of fact that the existence of the fact is more probable than its nonexistence.

(9) “Buyer in ordinary course of business” means a person that buys goods in good faith, without knowledge that the sale violates the rights of another person in the goods, and in the ordinary course from a person, other than a pawnbroker, in the business of selling goods of that kind. A person buys goods in the ordinary course if the sale to the person comports with the usual or customary practices in the kind of business in which the seller is engaged or with the seller’s own usual or customary practices. A person that sells oil, gas, or other minerals at the wellhead or minehead is a person in the business of selling goods of that kind. A buyer in ordinary course of business may buy for cash, by exchange of other property, or on secured or unsecured credit, and may acquire goods or documents of title under a preexisting contract for sale. Only a buyer that takes possession of the goods or has a right to recover the goods from the seller under article 2 may be a buyer in ordinary course of business. “Buyer in ordinary course of business” does not include a person that acquires goods in a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

(10) “Conspicuous”, with reference to a term, means so written, displayed, or presented that a reasonable person against which it is to operate ought to have noticed it. Whether a term is “conspicuous” or not is a decision for the court. Conspicuous terms include the following:

(A) a heading in capitals equal to or greater in size than the surrounding text, or in contrasting type, font, or color to the surrounding text of the same or lesser size; and

(B) language in the body of a record or display in larger type than the surrounding text, or in contrasting type, font, or color to the surrounding text of the same size, or set off from surrounding text of the same size by symbols or other marks that call attention to the language.

(11) “Consumer” means an individual who enters into a transaction primarily for personal, family, or household purposes.

(12) “Contract”, as distinguished from “agreement”, means the total legal obligation that results from the parties’ agreement as determined by the Uniform Commercial Code as supplemented by any other applicable laws.

(13) “Creditor” includes a general creditor, a secured creditor, a lien creditor, and any representative of creditors, including an assignee for the benefit of creditors, a trustee in bankruptcy, a receiver in equity, and a personal representative, an executor, or an administrator of an insolvent debtor’s or assignor’s estate.

(14) “Defendant” includes a person in the position of defendant in a counterclaim, cross-claim, or third-party claim.

(15) “Delivery” with respect to an electronic document of title means voluntary transfer of control and with respect to an instrument, a tangible document of title, or chattel paper means voluntary transfer of possession.

(16) “Document of title” means a record (i) that in the regular course of business or financing is treated as adequately evidencing that the person in possession or control of the record is entitled to receive, control, hold, and dispose of the record and the goods the record covers and (ii) that purports to be issued by or addressed to a bailee and to cover goods in the bailee’s possession which are either identified or are fungible portions of an identified mass. The term includes a bill of lading, transport document, dock warrant, dock receipt, warehouse receipt, and order for delivery of goods. An electronic document of title means a document of title evidenced by a record consisting of information stored in an electronic medium. A tangible document of title means a document of title evidenced by a record consisting of information that is inscribed on a tangible medium.

(16A) “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(17) “Fault” means a default, breach, or wrongful act or omission.

(18) “Fungible goods” means:

(A) goods of which any unit, by nature or usage of trade, is the equivalent of any other like unit; or

(B) goods that by agreement are treated as equivalent.

(19) “Genuine” means free of forgery or counterfeiting.

(20) “Good faith” means honesty in fact in the conduct or transaction concerned.

(21) “Holder” means:

(A) the person in possession of a negotiable instrument that is payable either to bearer or to an identified person that is the person in possession;

(B) the person in possession of a negotiable tangible document of title if the goods are deliverable either to bearer or to the order of the person in possession; or

(C) the person in control of a negotiable electronic document of title.

(22) “Insolvency proceeding” includes an assignment for the benefit of creditors or other proceeding intended to liquidate or rehabilitate the estate of the person involved.

(23) “Insolvent” means:

(A) having generally ceased to pay debts in the ordinary course of business other than as a result of bona fide dispute;

(B) being unable to pay debts as they become due; or

(C) being insolvent within the meaning of federal bankruptcy law.

(24) “Money” means a medium of exchange currently authorized or adopted by a domestic or foreign government. The term includes a monetary unit of account established by an intergovernmental organization or by agreement between two or more countries.

(25) “Organization” means a person other than an individual.

(26) "Party", as distinguished from "third party", means a person that has engaged in a transaction or made an agreement subject to the Uniform Commercial Code.

(27) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, public corporation, or any other legal or commercial entity.

(28) "Present value" means the amount as of a date certain of one or more sums payable in the future, discounted to the date certain by use of either an interest rate specified by the parties if that rate is not manifestly unreasonable at the time the transaction is entered into or, if an interest rate is not so specified, a commercially reasonable rate that takes into account the facts and circumstances at the time the transaction is entered into.

(29) "Purchase" means taking by sale, lease, discount, negotiation, mortgage, pledge, lien, security interest, issue or reissue, gift, or any other voluntary transaction creating an interest in property.

(30) "Purchaser" means a person that takes by purchase.

(31) "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.

(32) "Remedy" means any remedial right to which an aggrieved party is entitled with or without resort to a tribunal.

(33) "Representative" means a person empowered to act for another, including an agent, an officer of a corporation or association, and a trustee, a personal representative, an executor, or an administrator of an estate.

(34) "Right" includes remedy.

(35) "Security interest" means an interest in personal property or fixtures which secures payment or performance of an obligation. "Security interest" includes any interest of a consignor and a buyer of accounts, chattel paper, a payment intangible, or a promissory note in a transaction that is subject to article 9. "Security interest" does not include the special property interest of a buyer of goods on identification of those goods to a contract for sale under section 2-401, but a buyer may also acquire a "security interest" by complying with article 9. Except as otherwise provided in section 2-505, the right of a seller or lessor of goods under article 2 or 2A to retain or acquire possession of the goods is not a "security interest", but a seller or lessor may also acquire a "security interest" by complying with article 9. The retention or reservation of title by a seller of goods notwithstanding shipment or delivery to the buyer under section 2-401 is limited in effect to a reservation of a "security interest". Whether a transaction in the form of a lease creates a "security interest" is determined pursuant to section 1-203. "Security interest" does not include a consumer rental purchase agreement as defined in the Consumer Rental Purchase Agreement Act.

(36) "Send" in connection with a writing, record, or notice means:

(A) to deposit in the mail or deliver for transmission by any other usual means of communication with postage or cost of transmission provided for and properly addressed and, in the case of an instrument, to an address specified thereon or otherwise agreed, or if there be none to any address reasonable under the circumstances; or

(B) in any other way to cause to be received any record or notice within the time it would have arrived if properly sent.

(37) “Signed” includes using any symbol executed or adopted with present intention to adopt or accept a writing.

(38) “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.

(39) “Surety” includes a guarantor or other secondary obligor.

(40) “Term” means a portion of an agreement that relates to a particular matter.

(41) “Unauthorized signature” means a signature made without actual, implied, or apparent authority. The term includes a forgery.

(42) “Warehouse receipt” means a receipt issued by a person engaged in the business of storing goods for hire.

(43) “Writing” includes printing, typewriting, or any other intentional reduction to tangible form. “Written” has a corresponding meaning.

Source: Laws 2005, LB 570, § 14; Laws 2021, LB649, § 49.
Operative date July 1, 2022.

Cross References

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

ARTICLE 4A

FUNDS TRANSFERS

Part 1

SUBJECT MATTER AND DEFINITIONS

Section

4A-108. Relationship to federal Electronic Fund Transfer Act.

Part 1

SUBJECT MATTER AND DEFINITIONS

4A-108 Relationship to federal Electronic Fund Transfer Act.

(a) Except as provided in subsection (b), this article does not apply to a funds transfer any part of which is governed by the federal Electronic Fund Transfer Act, 15 U.S.C. 1693 et seq., as such act existed on January 1, 2021.

(b) This article applies to a funds transfer that is a remittance transfer as defined in the federal Electronic Fund Transfer Act, 15 U.S.C. 1693o-1, as such section existed on January 1, 2021, unless the remittance transfer is an electronic fund transfer as defined in the federal Electronic Fund Transfer Act, 15 U.S.C. 1693a, as such section existed on January 1, 2021.

(c) In a funds transfer to which this article applies, in the event of an inconsistency between an applicable provision of this article and an applicable provision of the federal Electronic Fund Transfer Act, the provision of the federal Electronic Fund Transfer Act governs to the extent of the inconsistency.

Source: Laws 1991, LB 160, § 9; Laws 2013, LB146, § 1; Laws 2019, LB258, § 18; Laws 2020, LB909, § 54; Laws 2021, LB363, § 33.
Effective date March 18, 2021.

**ARTICLE 9
SECURED TRANSACTIONS**

Part 1

GENERAL PROVISIONS

Subpart 1

SHORT TITLE, DEFINITIONS, AND GENERAL CONCEPTS

Section

- 9-102. Definitions and index of definitions.
- 9-107A. Control of account, payment intangible, or controllable electronic record.

Part 3

PERFECTION AND PRIORITY

Subpart 1

LAW GOVERNING PERFECTION AND PRIORITY

- 9-301. Law governing perfection and priority of security interests.

Subpart 2

PERFECTION

- 9-310. When filing required to perfect security interest or agricultural lien; security interests and agricultural liens to which filing provisions do not apply.
- 9-312. Perfection of security interests in chattel paper, deposit accounts, documents, goods covered by documents, instruments, investment property, controllable electronic records, certain accounts and payment intangibles, letter-of-credit rights, and money; perfection by permissive filing; temporary perfection without filing or transfer of possession.
- 9-314. Perfection by control.

Subpart 3

PRIORITY

- 9-331. Priority of rights of purchasers of instruments, documents, securities, and controllable electronic records under other articles; priority of interests in financial assets and security entitlements under article 8 and controllable electronic records under article 12.

Part 4

RIGHTS OF THIRD PARTIES

- 9-406. Discharge of account debtor; notification of assignment; identification and proof of assignment; restrictions on assignment of accounts, chattel paper, payment intangibles, and promissory notes ineffective.

Part 1

GENERAL PROVISIONS

Subpart 1

SHORT TITLE, DEFINITIONS, AND GENERAL CONCEPTS

9-102 Definitions and index of definitions.

(a) In this article:

(1) "Accession" means goods that are physically united with other goods in such a manner that the identity of the original goods is not lost.

(2) "Account", except as used in "account for", means a right to payment of a monetary obligation, whether or not earned by performance, (i) for property that has been or is to be sold, leased, licensed, assigned, or otherwise disposed of, (ii) for services rendered or to be rendered, (iii) for a policy of insurance issued or to be issued, (iv) for a secondary obligation incurred or to be incurred, (v) for energy provided or to be provided, (vi) for the use or hire of a vessel under a charter or other contract, (vii) arising out of the use of a credit

or charge card or information contained on or for use with the card, or (viii) as winnings in a lottery or other game of chance operated or sponsored by a state, governmental unit of a state, or person licensed or authorized to operate the game by a state or governmental unit of a state. The term includes health-care-insurance receivables. The term does not include (i) rights to payment evidenced by chattel paper or an instrument, (ii) commercial tort claims, (iii) deposit accounts, (iv) investment property, (v) letter-of-credit rights or letters of credit, or (vi) rights to payment for money or funds advanced or sold, other than rights arising out of the use of a credit or charge card or information contained on or for use with the card.

(3) “Account debtor” means a person obligated on an account, chattel paper, or general intangible. The term does not include persons obligated to pay a negotiable instrument, even if the instrument constitutes part of chattel paper.

(4) “Accounting”, except as used in “accounting for”, means a record:

(A) authenticated by a secured party;

(B) indicating the aggregate unpaid secured obligations as of a date not more than thirty-five days earlier or thirty-five days later than the date of the record; and

(C) identifying the components of the obligations in reasonable detail.

(5) “Agricultural lien” means an interest in farm products:

(A) which secures payment or performance of an obligation for:

(i) goods or services furnished in connection with a debtor’s farming operation; or

(ii) rent on real property leased by a debtor in connection with its farming operation;

(B) which is created by statute in favor of a person that:

(i) in the ordinary course of its business furnished goods or services to a debtor in connection with a debtor’s farming operation; or

(ii) leased real property to a debtor in connection with the debtor’s farming operation; and

(C) whose effectiveness does not depend on the person’s possession of the personal property.

The term also includes every lien created under sections 52-202, 52-501, 52-701, 52-901, 52-1101, 52-1201, 54-201, and 54-208, Reissue Revised Statutes of Nebraska, and Chapter 52, article 14, Reissue Revised Statutes of Nebraska.

(6) “As-extracted collateral” means:

(A) oil, gas, or other minerals that are subject to a security interest that:

(i) is created by a debtor having an interest in the minerals before extraction; and

(ii) attaches to the minerals as extracted; or

(B) accounts arising out of the sale at the wellhead or minehead of oil, gas, or other minerals in which the debtor had an interest before extraction.

(7) “Authenticate” means:

(A) to sign; or

(B) with present intent to adopt or accept a record, to attach to or logically associate with the record an electronic sound, symbol, or process.

(8) “Bank” means an organization that is engaged in the business of banking. The term includes savings banks, savings and loan associations, credit unions, and trust companies.

(9) “Cash proceeds” means proceeds that are money, checks, deposit accounts, or the like.

(10) “Certificate of title” means a certificate of title with respect to which a statute provides for the security interest in question to be indicated on the certificate as a condition or result of the security interest’s obtaining priority over the rights of a lien creditor with respect to the collateral. The term includes another record maintained as an alternative to a certificate of title by the governmental unit that issues certificates of title if a statute permits the security interest in question to be indicated on the record as a condition or result of the security interest’s obtaining priority over the rights of a lien creditor with respect to the collateral.

(11) “Chattel paper” means a record or records that evidence both a monetary obligation and a security interest in specific goods, a security interest in specific goods and software used in the goods, a security interest in specific goods and license of software used in the goods, a lease of specific goods, or a lease of specific goods and license of software used in the goods. In this subdivision, “monetary obligation” means a monetary obligation secured by the goods or owed under a lease of the goods and includes a monetary obligation with respect to software used in the goods. The term does not include (i) charters or other contracts involving the use or hire of a vessel or (ii) records that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card. If a transaction is evidenced by records that include an instrument or series of instruments, the group of records taken together constitutes chattel paper.

(12) “Collateral” means the property subject to a security interest or agricultural lien. The term includes:

(A) proceeds to which a security interest attaches;

(B) accounts, chattel paper, payment intangibles, and promissory notes that have been sold; and

(C) goods that are the subject of a consignment.

(13) “Commercial tort claim” means a claim arising in tort with respect to which:

(A) the claimant is an organization; or

(B) the claimant is an individual and the claim:

(i) arose in the course of the claimant’s business or profession; and

(ii) does not include damages arising out of personal injury to or the death of an individual.

(14) “Commodity account” means an account maintained by a commodity intermediary in which a commodity contract is carried for a commodity customer.

(15) “Commodity contract” means a commodity futures contract, an option on a commodity futures contract, a commodity option, or another contract if the contract or option is:

(A) traded on or subject to the rules of a board of trade that has been designated as a contract market for such a contract pursuant to federal commodities laws; or

(B) traded on a foreign commodity board of trade, exchange, or market, and is carried on the books of a commodity intermediary for a commodity customer.

(16) “Commodity customer” means a person for which a commodity intermediary carries a commodity contract on its books.

(17) “Commodity intermediary” means a person that:

(A) is registered as a futures commission merchant under federal commodities law; or

(B) in the ordinary course of its business provides clearance or settlement services for a board of trade that has been designated as a contract market pursuant to federal commodities law.

(18) “Communicate” means:

(A) to send a written or other tangible record;

(B) to transmit a record by any means agreed upon by the persons sending and receiving the record; or

(C) in the case of transmission of a record to or by a filing office, to transmit a record by any means prescribed by filing-office rule.

(19) “Consignee” means a merchant to which goods are delivered in a consignment.

(20) “Consignment” means a transaction, regardless of its form, in which a person delivers goods to a merchant for the purpose of sale and:

(A) the merchant:

(i) deals in goods of that kind under a name other than the name of the person making delivery;

(ii) is not an auctioneer; and

(iii) is not generally known by its creditors to be substantially engaged in selling the goods of others;

(B) with respect to each delivery, the aggregate value of the goods is one thousand dollars or more at the time of delivery;

(C) the goods are not consumer goods immediately before delivery; and

(D) the transaction does not create a security interest that secures an obligation.

(21) “Consignor” means a person that delivers goods to a consignee in a consignment.

(22) “Consumer debtor” means a debtor in a consumer transaction.

(23) “Consumer goods” means goods that are used or bought for use primarily for personal, family, or household purposes.

(24) “Consumer-goods transaction” means a consumer transaction in which:

(A) an individual incurs an obligation primarily for personal, family, or household purposes; and

(B) a security interest in consumer goods secures the obligation.

(25) "Consumer obligor" means an obligor who is an individual and who incurred the obligation as part of a transaction entered into primarily for personal, family, or household purposes.

(26) "Consumer transaction" means a transaction in which (i) an individual incurs an obligation primarily for personal, family, or household purposes, (ii) a security interest secures the obligation, and (iii) the collateral is held or acquired primarily for personal, family, or household purposes. The term includes consumer-goods transactions.

(27) "Continuation statement" means an amendment of a financing statement which:

(A) identifies, by its file number, the initial financing statement to which it relates; and

(B) indicates that it is a continuation statement for, or that it is filed to continue the effectiveness of, the identified financing statement.

(28) "Debtor" means:

(A) a person having an interest, other than a security interest or other lien, in the collateral, whether or not the person is an obligor;

(B) a seller of accounts, chattel paper, payment intangibles, or promissory notes; or

(C) a consignee.

(29) "Deposit account" means a demand, time, savings, passbook, or similar account maintained with a bank. The term does not include investment property or accounts evidenced by an instrument.

(30) "Document" means a document of title or a receipt of the type described in section 7-201(b).

(31) "Electronic chattel paper" means chattel paper evidenced by a record or records consisting of information stored in an electronic medium.

(32) "Encumbrance" means a right, other than an ownership interest, in real property. The term includes mortgages and other liens on real property.

(33) "Equipment" means goods other than inventory, farm products, or consumer goods.

(34) "Farm products" means goods, other than standing timber, with respect to which the debtor is engaged in a farming operation and which are:

(A) crops grown, growing, or to be grown, including:

(i) crops produced on trees, vines, and bushes; and

(ii) aquatic goods produced in aquacultural operations;

(B) livestock, born or unborn, including aquatic goods produced in aquacultural operations;

(C) supplies used or produced in a farming operation; or

(D) products of crops or livestock in their unmanufactured states.

(35) "Farming operation" means raising, cultivating, propagating, fattening, grazing, or any other farming, livestock, or aquacultural operation.

(36) "File number" means the number assigned to an initial financing statement pursuant to section 9-519(a).

(37) "Filing office" means an office designated in section 9-501 as the place to file a financing statement.

(38) “Filing-office rule” means a rule adopted pursuant to section 9-526.

(39) “Financing statement” means a record or records composed of an initial financing statement and any filed record relating to the initial financing statement.

(40) “Fixture filing” means the filing of a financing statement covering goods that are or are to become fixtures and satisfying section 9-502(a) and (b). The term includes the filing of a financing statement covering goods of a transmitting utility which are or are to become fixtures.

(41) “Fixtures” means goods that have become so related to particular real property that an interest in them arises under real property law.

(42) “General intangible” means any personal property, including things in action, other than accounts, chattel paper, commercial tort claims, deposit accounts, documents, goods, instruments, investment property, letter-of-credit rights, letters of credit, money, and oil, gas, or other minerals before extraction. The term includes payment intangibles and software.

(43) “Good faith” means honesty in fact and the observance of reasonable commercial standards of fair dealing.

(44) “Goods” means all things that are movable when a security interest attaches. The term includes (i) fixtures, (ii) standing timber that is to be cut and removed under a conveyance or contract for sale, (iii) the unborn young of animals, (iv) crops grown, growing, or to be grown, even if the crops are produced on trees, vines, or bushes, and (v) manufactured homes. The term also includes a computer program embedded in goods and any supporting information provided in connection with a transaction relating to the program if (i) the program is associated with the goods in such a manner that it customarily is considered part of the goods, or (ii) by becoming the owner of the goods, a person acquires a right to use the program in connection with the goods. The term does not include a computer program embedded in goods that consist solely of the medium in which the program is embedded. The term also does not include accounts, chattel paper, commercial tort claims, deposit accounts, documents, general intangibles, instruments, investment property, letter-of-credit rights, letters of credit, money, or oil, gas, or other minerals before extraction.

(45) “Governmental unit” means a subdivision, agency, department, county, parish, municipality, or other unit of the government of the United States, a state, or a foreign country. The term includes an organization having a separate corporate existence if the organization is eligible to issue debt on which interest is exempt from income taxation under the laws of the United States.

(46) “Health-care-insurance receivable” means an interest in or claim under a policy of insurance which is a right to payment of a monetary obligation for health-care goods or services provided or to be provided.

(47) “Instrument” means a negotiable instrument or any other writing that evidences a right to the payment of a monetary obligation, is not itself a security agreement or lease, and is of a type that in ordinary course of business is transferred by delivery with any necessary indorsement or assignment including, but not limited to, a writing that would otherwise qualify as a certificate of deposit (defined in section 3-104(j)) but for the fact that the writing contains a limitation on transfer. The term does not include (i) investment property, (ii) letters of credit, or (iii) writings that evidence a right to

payment arising out of the use of a credit or charge card or information contained on or for use with the card.

(48) "Inventory" means goods, other than farm products, which:

(A) are leased by a person as lessor;

(B) are held by a person for sale or lease or to be furnished under a contract of service;

(C) are furnished by a person under a contract of service; or

(D) consist of raw materials, work in process, or materials used or consumed in a business.

(49) "Investment property" means a security, whether certificated or uncertificated, security entitlement, securities account, commodity contract, or commodity account.

(50) "Jurisdiction of organization", with respect to a registered organization, means the jurisdiction under whose law the organization is formed or organized.

(51) "Letter-of-credit right" means a right to payment or performance under a letter of credit, whether or not the beneficiary has demanded or is at the time entitled to demand payment or performance. The term does not include the right of a beneficiary to demand payment or performance under a letter of credit.

(52) "Lien creditor" means:

(A) a creditor that has acquired a lien on the property involved by attachment, levy, or the like;

(B) an assignee for benefit of creditors from the time of assignment;

(C) a trustee in bankruptcy from the date of the filing of the petition; or

(D) a receiver in equity from the time of appointment.

(53) "Manufactured home" means a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is three hundred twenty or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. The term includes any structure that meets all of the requirements of this subdivision except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States Secretary of Housing and Urban Development and complies with the standards established under Title 42 of the United States Code.

(54) "Manufactured-home transaction" means a secured transaction:

(A) that creates a purchase-money security interest in a manufactured home, other than a manufactured home held as inventory; or

(B) in which a manufactured home, other than a manufactured home held as inventory, is the primary collateral.

(55) "Mortgage" means a consensual interest in real property, including fixtures, which secures payment or performance of an obligation.

(56) “New debtor” means a person that becomes bound as debtor under section 9-203(d) by a security agreement previously entered into by another person.

(57) “New value” means (i) money, (ii) money’s worth in property, services, or new credit, or (iii) release by a transferee of an interest in property previously transferred to the transferee. The term does not include an obligation substituted for another obligation.

(58) “Noncash proceeds” means proceeds other than cash proceeds.

(59) “Obligor” means a person that, with respect to an obligation secured by a security interest in or an agricultural lien on the collateral, (i) owes payment or other performance of the obligation, (ii) has provided property other than the collateral to secure payment or other performance of the obligation, or (iii) is otherwise accountable in whole or in part for payment or other performance of the obligation. The term does not include issuers or nominated persons under a letter of credit.

(60) “Original debtor”, except as used in section 9-310(c), means a person that, as debtor, entered into a security agreement to which a new debtor has become bound under section 9-203(d).

(61) “Payment intangible” means a general intangible under which the account debtor’s principal obligation is a monetary obligation.

(62) “Person related to”, with respect to an individual, means:

- (A) the spouse of the individual;
- (B) a brother, brother-in-law, sister, or sister-in-law of the individual;
- (C) an ancestor or lineal descendant of the individual or the individual’s spouse; or
- (D) any other relative, by blood or marriage, of the individual or the individual’s spouse who shares the same home with the individual.

(63) “Person related to”, with respect to an organization, means:

- (A) a person directly or indirectly controlling, controlled by, or under common control with the organization;
- (B) an officer or director of, or a person performing similar functions with respect to, the organization;
- (C) an officer or director of, or a person performing similar functions with respect to, a person described in subdivision (A);
- (D) the spouse of an individual described in subdivision (A), (B), or (C); or
- (E) an individual who is related by blood or marriage to an individual described in subdivision (A), (B), (C), or (D) and shares the same home with the individual.

(64) “Proceeds”, except as used in section 9-609(b), means the following property:

- (A) whatever is acquired upon the sale, lease, license, exchange, or other disposition of collateral;
- (B) whatever is collected on, or distributed on account of, collateral;
- (C) rights arising out of collateral;

(D) to the extent of the value of collateral, claims arising out of the loss, nonconformity, or interference with the use of, defects or infringement of rights in, or damage to, the collateral; or

(E) to the extent of the value of collateral and to the extent payable to the debtor or the secured party, insurance payable by reason of the loss or nonconformity of, defects or infringement of rights in, or damage to, the collateral.

(65) “Promissory note” means an instrument that evidences a promise to pay a monetary obligation, does not evidence an order to pay, and does not contain an acknowledgment by a bank that the bank has received for deposit a sum of money or funds.

(66) “Proposal” means a record authenticated by a secured party which includes the terms on which the secured party is willing to accept collateral in full or partial satisfaction of the obligation it secures pursuant to sections 9-620, 9-621, and 9-622.

(67) “Public-finance transaction” means a secured transaction in connection with which:

(A) debt securities are issued;

(B) all or a portion of the securities issued have an initial stated maturity of at least twenty years; and

(C) the debtor, obligor, secured party, account debtor or other person obligated on collateral, assignor or assignee of a secured obligation, or assignor or assignee of a security interest is a state or a governmental unit of a state.

(68) “Public organic record” means a record that is available to the public for inspection and is:

(A) a record consisting of the record initially filed with or issued by a state or the United States to form or organize an organization and any record filed with or issued by the state or the United States which amends or restates the initial record;

(B) an organic record of a business trust consisting of the record initially filed with a state and any record filed with the state which amends or restates the initial record, if a statute of the state governing business trusts requires that the record be filed with the state; or

(C) a record consisting of legislation enacted by the legislature of a state or the Congress of the United States which forms or organizes an organization, any record amending the legislation, and any record filed with or issued by the state or United States which amends or restates the name of the organization.

(69) “Pursuant to commitment”, with respect to an advance made or other value given by a secured party, means pursuant to the secured party’s obligation, whether or not a subsequent event of default or other event not within the secured party’s control has relieved or may relieve the secured party from its obligation.

(70) “Record”, except as used in “for record”, “of record”, “record or legal title”, and “record owner”, means information that is inscribed on a tangible medium or which is stored in an electronic or other medium and is retrievable in perceivable form.

(71) “Registered organization” means an organization formed or organized solely under the law of a single state or the United States by the filing of a

public organic record with, the issuance of a public organic record by, or the enactment of legislation by the state or the United States. The term includes a business trust that is formed or organized under the law of a single state if a statute of the state governing business trusts requires that the business trust's organic record be filed with the state.

(72) "Secondary obligor" means an obligor to the extent that:

(A) the obligor's obligation is secondary; or

(B) the obligor has a right of recourse with respect to an obligation secured by collateral against the debtor, another obligor, or property of either.

(73) "Secured party" means:

(A) a person in whose favor a security interest is created or provided for under a security agreement, whether or not any obligation to be secured is outstanding;

(B) a person that holds an agricultural lien;

(C) a consignor;

(D) a person to which accounts, chattel paper, payment intangibles, or promissory notes have been sold;

(E) a trustee, indenture trustee, agent, collateral agent, or other representative in whose favor a security interest or agricultural lien is created or provided for; or

(F) a person that holds a security interest arising under section 2-401, 2-505, 2-711(3), 2A-508(5), 4-210, or 5-118.

(74) "Security agreement" means an agreement that creates or provides for a security interest.

(75) "Send", in connection with a record or notification, means:

(A) to deposit in the mail, deliver for transmission, or transmit by any other usual means of communication, with postage or cost of transmission provided for, addressed to any address reasonable under the circumstances; or

(B) to cause the record or notification to be received within the time that it would have been received if properly sent under subdivision (A).

(76) "Software" means a computer program and any supporting information provided in connection with a transaction relating to the program. The term does not include a computer program that is included in the definition of goods.

(77) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(78) "Supporting obligation" means a letter-of-credit right or secondary obligation that supports the payment or performance of an account, chattel paper, a document, a general intangible, an instrument, or investment property.

(79) "Tangible chattel paper" means chattel paper evidenced by a record or records consisting of information that is inscribed on a tangible medium.

(80) "Termination statement" means an amendment of a financing statement which:

(A) identifies, by its file number, the initial financing statement to which it relates; and

(B) indicates either that it is a termination statement or that the identified financing statement is no longer effective.

(81) "Transmitting utility" means a person primarily engaged in the business of:

- (A) operating a railroad, subway, street railway, or trolley bus;
- (B) transmitting communications electrically, electromagnetically, or by light;
- (C) transmitting goods by pipeline or sewer; or
- (D) transmitting or producing and transmitting electricity, steam, gas, or water.

(b) "Control" as provided in section 7-106 and the following definitions in other articles apply to this article:

"Applicant".	Section 5-102.
"Beneficiary".	Section 5-102.
"Broker".	Section 8-102.
"Certificated security".	Section 8-102.
"Check".	Section 3-104.
"Clearing corporation".	Section 8-102.
"Contract for sale".	Section 2-106.
"Controllable electronic record".	Section 12-102.
"Customer".	Section 4-104.
"Entitlement holder".	Section 8-102.
"Financial asset".	Section 8-102.
"Holder in due course".	Section 3-302.
"Issuer" (with respect to a letter of credit or letter-of-credit right).	Section 5-102.
"Issuer" (with respect to a security).	Section 8-201.
"Issuer" (with respect to a document of title).	Section 7-102.
"Lease".	Section 2A-103.
"Lease agreement".	Section 2A-103.
"Lease contract".	Section 2A-103.
"Leasehold interest".	Section 2A-103.
"Lessee".	Section 2A-103.
"Lessee in ordinary course of business".	Section 2A-103.
"Lessor".	Section 2A-103.
"Lessor's residual interest".	Section 2A-103.
"Letter of credit".	Section 5-102.
"Merchant".	Section 2-104.
"Negotiable instrument".	Section 3-104.
"Nominated person".	Section 5-102.
"Note".	Section 3-104.
"Proceeds of a letter of credit".	Section 5-114.
"Prove".	Section 3-103.
"Sale".	Section 2-106.
"Securities account".	Section 8-501.
"Securities intermediary".	Section 8-102.
"Security".	Section 8-102.
"Security certificate".	Section 8-102.
"Security entitlement".	Section 8-102.
"Uncertificated security".	Section 8-102.

(c) Article 1 contains general definitions and principles of construction and interpretation applicable throughout this article.

Source: Laws 1999, LB 550, § 75; Laws 2000, LB 929, § 25; Laws 2001, LB 54, § 28; Laws 2005, LB 570, § 101; Laws 2011, LB90, § 2; Laws 2021, LB649, § 50.
Operative date July 1, 2022.

9-107A Control of account, payment intangible, or controllable electronic record.

(a) A secured party has “control” of an account or payment intangible if:

(1) the account or payment intangible is included in the benefit that can be derived from a controllable electronic record; and

(2) the secured party has control of the controllable electronic record.

(b) A secured party has “control” of a controllable electronic record as provided in section 12-105.

Source: Laws 2021, LB649, § 51.
Operative date July 1, 2022.

Part 3

PERFECTION AND PRIORITY

Subpart 1

LAW GOVERNING PERFECTION AND PRIORITY

9-301 Law governing perfection and priority of security interests.

Except as otherwise provided in sections 9-303 to 9-306, the following rules determine the law governing perfection, the effect of perfection or nonperfection, and the priority of a security interest in collateral:

(1) Except as otherwise provided in this section, while a debtor is located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in collateral.

(2) While collateral is located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a possessory security interest in that collateral.

(3) Except as otherwise provided in subdivision (4), while tangible negotiable documents, goods, instruments, money, or tangible chattel paper is located in a jurisdiction, the local law of that jurisdiction governs:

(A) perfection of a security interest in the goods by filing a fixture filing;

(B) perfection of a security interest in timber to be cut; and

(C) the effect of perfection or nonperfection and the priority of a nonpossessory security interest in the collateral.

(4) The local law of the jurisdiction in which the wellhead or minehead is located governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in as-extracted collateral.

(5) While a debtor is located in a jurisdiction that is not a state, the local law of the State of Nebraska governs:

(A) perfection by control of a security interest in an account, controllable electronic record, or payment intangible; and

(B) the effect of perfection or nonperfection and the priority of a security interest in an account, controllable electronic record, or payment intangible perfected by control.

Source: Laws 1999, LB 550, § 94; Laws 2005, LB 570, § 105; Laws 2021, LB649, § 52.

Operative date July 1, 2022.

Subpart 2

PERFECTION

9-310 When filing required to perfect security interest or agricultural lien; security interests and agricultural liens to which filing provisions do not apply.

(a) Except as otherwise provided in subsection (b) and section 9-312(b), a financing statement must be filed to perfect all security interests and agricultural liens.

(b) The filing of a financing statement is not necessary to perfect a security interest:

(1) that is perfected under section 9-308(d), (e), (f), or (g);

(2) that is perfected under section 9-309 when it attaches;

(3) in property subject to a statute, regulation, or treaty described in section 9-311(a);

(4) in goods in possession of a bailee which is perfected under section 9-312(d)(1) or (2);

(5) in certificated securities, documents, goods, or instruments which is perfected without filing, control, or possession under section 9-312(e), (f), or (g);

(6) in collateral in the secured party's possession under section 9-313;

(7) in a certificated security which is perfected by delivery of the security certificate to the secured party under section 9-313;

(8) in deposit accounts, electronic chattel paper, electronic documents, investment property, accounts, payment intangibles, controllable electronic records, or letter-of-credit rights which is perfected by control under section 9-314;

(9) in proceeds which is perfected under section 9-315; or

(10) that is perfected under section 9-316.

(c) If a secured party assigns a perfected security interest or agricultural lien, a filing under this article is not required to continue the perfected status of the security interest against creditors of and transferees from the original debtor.

Source: Laws 1999, LB 550, § 103; Laws 2005, LB 570, § 106; Laws 2021, LB649, § 53.

Operative date July 1, 2022.

9-312 Perfection of security interests in chattel paper, deposit accounts, documents, goods covered by documents, instruments, investment property, controllable electronic records, certain accounts and payment intangibles,

letter-of-credit rights, and money; perfection by permissive filing; temporary perfection without filing or transfer of possession.

(a) A security interest in chattel paper, negotiable documents, instruments, investment property, controllable electronic records, and accounts or payment intangibles that are included in the benefit that can be derived from a controllable electronic record may be perfected by filing.

(b) Except as otherwise provided in section 9-315(c) and (d) for proceeds:

(1) a security interest in a deposit account may be perfected only by control under section 9-314;

(2) and except as otherwise provided in section 9-308(d), a security interest in a letter-of-credit right may be perfected only by control under section 9-314; and

(3) a security interest in money may be perfected only by the secured party's taking possession under section 9-313.

(c) While goods are in the possession of a bailee that has issued a negotiable document covering the goods:

(1) a security interest in the goods may be perfected by perfecting a security interest in the document; and

(2) a security interest perfected in the document has priority over any security interest that becomes perfected in the goods by another method during that time.

(d) While goods are in the possession of a bailee that has issued a nonnegotiable document covering the goods, a security interest in the goods may be perfected by:

(1) issuance of a document in the name of the secured party;

(2) the bailee's receipt of notification of the secured party's interest; or

(3) filing as to the goods.

(e) A security interest in certificated securities, negotiable documents, or instruments is perfected without filing or the taking of possession or control for a period of twenty days from the time it attaches to the extent that it arises for new value given under an authenticated security agreement.

(f) A perfected security interest in a negotiable document or goods in possession of a bailee, other than one that has issued a negotiable document for the goods, remains perfected for twenty days without filing if the secured party makes available to the debtor the goods or documents representing the goods for the purpose of:

(1) ultimate sale or exchange; or

(2) loading, unloading, storing, shipping, transshipping, manufacturing, processing, or otherwise dealing with them in a manner preliminary to their sale or exchange.

(g) A perfected security interest in a certificated security or instrument remains perfected for twenty days without filing if the secured party delivers the security certificate or instrument to the debtor for the purpose of:

(1) ultimate sale or exchange; or

(2) presentation, collection, enforcement, renewal, or registration of transfer.

(h) After the twenty-day period specified in subsection (e), (f), or (g) expires, perfection depends upon compliance with this article.

Source: Laws 1999, LB 550, § 105; Laws 2005, LB 570, § 107; Laws 2021, LB649, § 54.

Operative date July 1, 2022.

9-314 Perfection by control.

(a) A security interest in investment property, deposit accounts, accounts, payment intangibles, controllable electronic records, letter-of-credit rights, electronic chattel paper, or electronic documents may be perfected by control of the collateral under section 7-106, 9-104, 9-105, 9-106, 9-107, or 9-107A.

(b) A security interest in deposit accounts, electronic chattel paper, accounts, payment intangibles, controllable electronic records, letter-of-credit rights, or electronic documents is perfected by control under section 7-106, 9-104, 9-105, 9-107, or 9-107A when the secured party obtains control and remains perfected by control only while the secured party retains control.

(c) A security interest in investment property is perfected by control under section 9-106 from the time the secured party obtains control and remains perfected by control until:

(1) the secured party does not have control; and

(2) one of the following occurs:

(A) if the collateral is a certificated security, the debtor has or acquires possession of the security certificate;

(B) if the collateral is an uncertificated security, the issuer has registered or registers the debtor as the registered owner; or

(C) if the collateral is a security entitlement, the debtor is or becomes the entitlement holder.

Source: Laws 1999, LB 550, § 107; Laws 2005, LB 570, § 109; Laws 2021, LB649, § 55.

Operative date July 1, 2022.

Subpart 3

PRIORITY

9-331 Priority of rights of purchasers of instruments, documents, securities, and controllable electronic records under other articles; priority of interests in financial assets and security entitlements under article 8 and controllable electronic records under article 12.

(a) This article does not limit the rights of a holder in due course of a negotiable instrument, a holder to which a negotiable document of title has been duly negotiated, a protected purchaser of a security, or a qualified purchaser of a controllable electronic record. These holders or purchasers take priority over an earlier security interest, even if perfected, to the extent provided in articles 3, 7, 8, and 12.

(b) This article does not limit the rights of or impose liability on a person to the extent that the person is protected against the assertion of a claim under article 8 or 12.

(c) Filing under this article does not constitute notice of a claim or defense to the holders, or purchasers, or persons described in subsections (a) and (b).

Source: Laws 1999, LB 550, § 124; Laws 2000, LB 929, § 31; Laws 2021, LB649, § 56.

Operative date July 1, 2022.

Part 4

RIGHTS OF THIRD PARTIES

9-406 Discharge of account debtor; notification of assignment; identification and proof of assignment; restrictions on assignment of accounts, chattel paper, payment intangibles, and promissory notes ineffective.

(a) Subject to subsections (b) through (i) and (k), an account debtor on an account, chattel paper, or a payment intangible may discharge its obligation by paying the assignor until, but not after, the account debtor receives a notification, authenticated by the assignor or the assignee, that the amount due or to become due has been assigned and that payment is to be made to the assignee. After receipt of the notification, the account debtor may discharge its obligation by paying the assignee and may not discharge the obligation by paying the assignor.

(b) Subject to subsections (h) and (k), notification is ineffective under subsection (a):

(1) if it does not reasonably identify the rights assigned;

(2) to the extent that an agreement between an account debtor and a seller of a payment intangible limits the account debtor's duty to pay a person other than the seller and the limitation is effective under law other than this article; or

(3) at the option of an account debtor, if the notification notifies the account debtor to make less than the full amount of any installment or other periodic payment to the assignee, even if:

(A) only a portion of the account, chattel paper, or payment intangible has been assigned to that assignee;

(B) a portion has been assigned to another assignee; or

(C) the account debtor knows that the assignment to that assignee is limited.

(c) Subject to subsections (h) and (k), if requested by the account debtor, an assignee shall seasonably furnish reasonable proof that the assignment has been made. Unless the assignee complies, the account debtor may discharge its obligation by paying the assignor, even if the account debtor has received a notification under subsection (a).

(d) Except as otherwise provided in subsection (e) and sections 2A-303 and 9-407, and subject to subsection (h), a term in an agreement between an account debtor and an assignor or in a promissory note is ineffective to the extent that it:

(1) prohibits, restricts, or requires the consent of the account debtor or person obligated on the promissory note to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, the account, chattel paper, payment intangible, or promissory note; or

(2) provides that the assignment or transfer or the creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the account, chattel paper, payment intangible, or promissory note.

(e) Subsection (d) does not apply to the sale of a payment intangible or promissory note, other than a sale pursuant to a disposition under section 9-610 or an acceptance of collateral under section 9-620.

(f) Except as otherwise provided in sections 2A-303 and 9-407, and subject to subsections (h) and (i), a rule of law, statute, or regulation that prohibits, restricts, or requires the consent of a government, governmental body or official, or account debtor to the assignment or transfer of, or creation of a security interest in, an account or chattel paper is ineffective to the extent that the rule of law, statute, or regulation:

(1) prohibits, restricts, or requires the consent of the government, governmental body or official, or account debtor to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in the account or chattel paper; or

(2) provides that the assignment or transfer or the creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the account or chattel paper.

(g) Subject to subsections (h) and (k), an account debtor may not waive or vary its option under subdivision (b)(3).

(h) This section is subject to law other than this article which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

(i) This section does not apply to an assignment of a health-care-insurance receivable.

(j) This section prevails over any inconsistent provisions of the law of this state.

(k) Subsections (a) through (c) and (g) do not apply to an account or payment intangible that is included in the benefit that can be derived from a controllable electronic record.

Source: Laws 1999, LB 550, § 141; Laws 2000, LB 929, § 34; Laws 2011, LB90, § 11; Laws 2021, LB649, § 57.
Operative date July 1, 2022.

ARTICLE 11

EFFECTIVE DATE AND TRANSITION PROVISIONS IN CONJUNCTION WITH THE ADOPTION OF ARTICLE 9 OF THE CODE AS REVISED IN 1972

Note: As of the date of publication of this volume, the uniform provisions of Article 11 have not been adopted.

ARTICLE 12

CONTROLLABLE ELECTRONIC RECORDS

Section
12-101. Short title.
12-101A. Intent.

Section	
12-102.	Definitions.
12-103.	Scope.
12-104.	Rights in controllable electronic records and certain accounts and payment intangibles.
12-105.	Control of controllable electronic record.
12-106.	Discharge of account debtor on account or payment intangible included in controllable electronic record.
12-107.	Governing law.
12-108.	Applicability.
12-109.	Savings clause.

12-101 Short title.

This article may be cited as Uniform Commercial Code—Controllable Electronic Records.

Source: Laws 2021, LB649, § 58.
Operative date July 1, 2022.

12-101A Intent.

(a) The Joint Committee on the Uniform Commercial Code and Emerging Technologies of the Uniform Law Commission has developed draft Uniform Commercial Code provisions governing certain digital assets, specifically those that fall within the definition of “controllable electronic records”. The current draft has been extensively vetted by those who understand and participate in digital transactions.

(b) Adoption of the Uniform Law Commission’s draft by the 2021 Nebraska Legislature will create a considerable and necessary advantage for Nebraska to lead in emerging industries utilizing blockchain, digital ledger technology, virtual currencies, and other digital assets and would provide a sensible framework and legal certainty for transactions of controllable electronic records. In subsequent sessions, if necessary, the Nebraska Legislature will review and adopt conforming amendments to the provisions of the Uniform Commercial Code on controllable electronic records to remain consistent with the language and intent of the final proposal of the Joint Committee on the Uniform Commercial Code and Emerging Technologies of the Uniform Law Commission.

Source: Laws 2021, LB649, § 59.
Operative date July 1, 2022.

12-102 Definitions.

(a) In this article, “controllable electronic record” means an electronic record that can be subjected to control (section 12-105). The term does not include electronic chattel paper, electronic documents, investment property, and transferable records under the Uniform Electronic Transactions Act.

(b) The definitions of “account,” “account debtor,” “authenticate,” “electronic chattel paper,” “investment property,” and “payment intangible” in article 9 apply to this article.

Source: Laws 2021, LB649, § 60.
Operative date July 1, 2022.

Uniform Electronic Transactions Act, see section 86-612.

12-103 Scope.

This article applies to controllable electronic records.

Source: Laws 2021, LB649, § 61.

Operative date July 1, 2022.

12-104 Rights in controllable electronic records and certain accounts and payment intangibles.

(a) In this section:

(1) “Adverse claim” means a claim that a claimant has a property interest in a controllable electronic record and that it is a violation of the rights of the claimant for another person to hold, transfer, or deal with the controllable electronic record.

(2) “Qualified purchaser” means a purchaser of a controllable electronic record or an interest therein that obtains control of a controllable electronic record for value and without notice of any adverse claim. The term includes a person that acquires rights in a controllable electronic record by a transfer of control under subsection (d).

(b) Subject to subsections (c) through (i), law other than this article 12 determines whether a person acquires rights in a controllable electronic record and the rights that the person acquires.

(c) A purchaser of a controllable electronic record acquires all rights in the controllable electronic record that the transferor had or had power to transfer.

(d) A person having control of, but no rights in, a controllable electronic record has power to transfer rights in the controllable electronic record by voluntarily transferring control to a person that obtains control for value and without notice of any adverse claim.

(e) A purchaser of a limited interest acquires rights only to the extent of the interest purchased.

(f) In addition to acquiring the rights of a purchaser, a qualified purchaser acquires its rights in the controllable electronic record and any account or payment intangible that is included in the benefit that can be derived from the controllable electronic record free of any adverse claim.

(g) An action based on an adverse claim to a controllable electronic record or an account or payment intangible that is included in the benefit that can be derived from a controllable electronic record, whether framed in conversion, replevin, constructive trust, equitable lien, or other theory, may not be asserted against a qualified purchaser that acquires its interest in, and obtains control of, a controllable electronic record for value and without notice of the adverse claim.

(h) A person has notice of an adverse claim if:

(1) the person knows of the adverse claim; or

(2) the person is aware of facts sufficient to indicate that there is a significant probability that the adverse claim exists and deliberately avoids information that would establish the existence of the adverse claim.

(i) Filing of a financing statement under article 9 is not notice of an adverse claim to a controllable electronic record.

Source: Laws 2021, LB649, § 62.
Operative date July 1, 2022.

12-105 Control of controllable electronic record.

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

(1) the following conditions are met:

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

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

(ii) subject to subsection (b), the exclusive power to prevent others from deriving substantially all the benefit from the controllable electronic record; and

(iii) subject to subsection (b), the exclusive power to transfer control of the controllable electronic record to another person or cause another person to obtain control of a controllable electronic record that derives from the controllable electronic record; and

(B) the controllable electronic record, a record attached to or logically associated with the controllable electronic record, or the system in which the controllable electronic record is recorded, if any, enables the person to readily identify itself as having the powers specified in subparagraph (A); or

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

(b) A power specified in subparagraph (a)(1)(A)(ii) or (a)(1)(A)(iii) can be “exclusive,” even if:

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

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

(c) For the purposes of subparagraph (a)(1)(B), a person may be identified in any way, including by name, identifying number, cryptographic key, office, or account number.

Source: Laws 2021, LB649, § 63.
Operative date July 1, 2022.

12-106 Discharge of account debtor on account or payment intangible included in controllable electronic record.

(a) Subject to subsections (b) through (f), if an account or payment intangible is included in the benefit that can be derived from a controllable electronic record, the account debtor may discharge its obligation on the account or payment intangible:

(1) by paying the person having control of the controllable electronic record; or

(2) by paying a person that formerly had control of the controllable electronic record.

(b) Subject to subsection (f), an account debtor may not discharge its obligation by paying a person that formerly had control if, before the payment, the account debtor receives a notification, authenticated by the person having control, that notifies the account debtor that the person has control of the controllable electronic record, reasonably identifies the controllable electronic record, and provides a reasonable method by which the account debtor is to make payments. After receipt of the notification, the account debtor may discharge its obligation by paying in accordance with the notification and may not discharge the obligation by paying a person that formerly had control.

(c) Subject to subsection (f), notification is ineffective under subsection (b):

(1) to the extent that an agreement between an account debtor and a seller of a payment intangible limits the account debtor's duty to pay a person other than the seller and the limitation is effective under law other than this article; or

(2) at the option of the account debtor, if the notification notifies the account debtor to divide a payment and send portions by more than one method.

(d) Subject to subsection (f), if requested by the account debtor, the person giving the notification shall seasonably furnish reasonable proof that the person has control of the controllable electronic record. Unless the person complies, the account debtor may discharge its obligation by paying a person that formerly had control, even if the account debtor has received a notification under subsection (b).

(e) Subject to subsection (f), an account debtor may not waive or vary its option under subsection (c)(2).

(f) This section is subject to law other than this article which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

Source: Laws 2021, LB649, § 64.
Operative date July 1, 2022.

12-107 Governing law.

Unless otherwise agreed to by the parties, the laws of the State of Nebraska shall govern any actions taken pursuant to this article.

Source: Laws 2021, LB649, § 65.
Operative date July 1, 2022.

12-108 Applicability.

This article applies to any transaction involving a controllable electronic record that arises on or after July 1, 2022. This article does not apply to any transaction involving a controllable electronic record that arises before July 1, 2022, even if the transaction would be subject to this article if the transaction had arisen on or after July 1, 2022. This article does not apply to a right of action with regard to any transaction involving a controllable electronic record that has accrued before July 1, 2022.

Source: Laws 2021, LB649, § 66.
Operative date July 1, 2022.

12-109 Savings clause.

Any transaction involving a controllable electronic record that arose before July 1, 2022, and the rights, obligations, and interests flowing from that transaction are governed by any statute or other rule amended or repealed by Laws 2021, LB649, as if such amendment or repeal had not occurred and may be terminated, completed, consummated, or enforced under that statute or other rule.

Source: Laws 2021, LB649, § 67.
Operative date July 1, 2022.

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

APPENDIX

CLASS IB FELONY

- 28-416 Possessing a firearm while violating prohibition on the manufacture, distribution, delivery, dispensing, or possession of amphetamine or methamphetamine in a quantity of at least 28 grams
- 28-416 Knowingly or intentionally manufacturing, distributing, delivering, dispensing, or possessing with intent to manufacture, distribute, deliver, or dispense cocaine or any mixture containing cocaine, or base cocaine (crack) or any mixture containing base cocaine, in a quantity of 140 grams or more
- 28-416 Knowingly or intentionally manufacturing, distributing, delivering, dispensing, or possessing with intent to manufacture, distribute, deliver, or dispense heroin or any mixture containing heroin in a quantity of 140 grams or more
- 28-416 Offenses relating to cocaine or base cocaine (crack) in a quantity of 28 grams or more involving minors or near youth facilities
- 28-416 Offenses relating to cocaine or base cocaine (crack) in a quantity of at least 10 grams but less than 28 grams, second or subsequent offense involving minors or near youth facilities
- 28-416 Possessing a firearm while violating prohibition on the manufacture, distribution, delivery, dispensing, or possession of cocaine or any mixture containing cocaine, or base cocaine (crack) or any mixture containing base cocaine, in a quantity of 28 grams or more
- 28-416 Offenses relating to heroin in a quantity of 28 grams or more involving minors or near youth facilities
- 28-416 Offenses relating to heroin in a quantity of at least 10 grams but less than 28 grams, second or subsequent offense involving minors or near youth facilities
- 28-416 Possessing a firearm while violating prohibition on the manufacture, distribution, delivery, dispensing, or possession of heroin or any mixture containing heroin in a quantity of at least 28 grams
- 28-457 Permitting a child or vulnerable adult to inhale, have contact with, or ingest methamphetamine resulting in death
- 28-707 Child abuse committed knowingly and intentionally and resulting in death
- 28-831 Labor trafficking or sex trafficking of a minor
- 28-1206 Possession of a firearm by a prohibited person, second or subsequent offense
- 28-1356 Obtaining a real property interest or establishing or operating an enterprise by means of racketeering activity punishable as a Class I, IA, or IB felony

CLASS IC FELONY

Maximum—fifty years' imprisonment

Mandatory minimum—five years' imprisonment

- 28-115 Assault on an officer, an emergency responder, a state correctional employee, a Department of Health and Human Services employee, or a health care professional in the first degree committed against a pregnant woman
- 28-202 Criminal conspiracy to commit a Class IC felony
- 28-320.01 Sexual assault of a child in the second degree with prior sexual assault conviction

APPENDIX

CLASS IC FELONY

28-320.01	Sexual assault of a child in the third degree with prior sexual assault conviction
28-320.02	Sexual assault of minor or person believed to be a minor lured by electronic communication device, second offense or with previous conviction of sexual assault
28-416	Knowingly or intentionally manufacturing, distributing, delivering, dispensing, or possessing with intent to manufacture, distribute, deliver, or dispense cocaine or any mixture containing cocaine, or base cocaine (crack) or any mixture containing base cocaine, in a quantity of at least 28 grams but less than 140 grams
28-416	Knowingly or intentionally manufacturing, distributing, delivering, dispensing, or possessing with intent to manufacture, distribute, deliver, or dispense heroin or any mixture containing heroin in a quantity of at least 28 grams but less than 140 grams
28-416	Offenses relating to cocaine or base cocaine (crack) in a quantity of at least 10 grams but less than 28 grams, first offense involving minors or near youth facilities
28-416	Offenses relating to heroin in a quantity of at least 10 grams but less than 28 grams, first offense involving minors or near youth facilities
28-416	Possessing a firearm while violating prohibition on the manufacture, distribution, delivery, dispensing, or possession of cocaine or any mixture containing cocaine, or base cocaine (crack) or any mixture containing base cocaine, in a quantity of at least 10 grams but less than 28 grams
28-416	Possessing a firearm while violating prohibition on the manufacture, distribution, delivery, dispensing, or possession of heroin or any mixture containing heroin in a quantity of at least 10 grams but less than 28 grams
28-416	Manufacture, distribute, deliver, dispense, or possess exceptionally hazardous drug in Schedule I, II, or III of section 28-405, second or subsequent offense involving minors or near youth facilities
28-416	Knowingly or intentionally manufacturing, distributing, delivering, dispensing, or possessing with intent to manufacture, distribute, deliver, or dispense amphetamine or methamphetamine in a quantity of at least 28 grams but less than 140 grams
28-416	Offenses relating to amphetamine or methamphetamine in a quantity of at least 10 grams but less than 28 grams, first offense involving minors or near youth facilities
28-416	Possessing a firearm while violating prohibition on the manufacture, distribution, delivery, dispensing, or possession of amphetamine or methamphetamine in a quantity of at least 10 grams but less than 28 grams
28-813.01	Possession of visual depiction of sexually explicit conduct containing a child by a person with previous conviction
28-1205	Use of firearm to commit a felony
28-1212.04	Discharge of firearm within certain cities or counties from vehicle or proximity of vehicle at a person, structure, vehicle, or aircraft
28-1463.04	Child pornography by person with previous conviction
28-1463.05	Possession of child pornography with intent to distribute by person with previous conviction

APPENDIX

CLASS ID FELONY

Maximum—fifty years' imprisonment

Mandatory minimum—three years' imprisonment

- 28-111 Assault in the first degree committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
- 28-111 Kidnapping (certain situations) committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
- 28-111 Sexual assault in the first degree committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
- 28-111 Arson in the first degree committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
- 28-111 Sexual assault of a child in the second degree, first offense, committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
- 28-115 Assault in the first degree committed against a pregnant woman
- 28-115 Assault on an officer, an emergency responder, a state correctional employee, a Department of Health and Human Services employee, or a health care professional in the second degree committed against a pregnant woman
- 28-115 Sexual assault in the first degree committed against a pregnant woman
- 28-115 Sexual assault of a child in the second degree, first offense, committed against a pregnant woman
- 28-115 Domestic assault in the first degree, second or subsequent offense against same intimate partner, committed against a pregnant woman
- 28-115 Certain acts of assault, terroristic threats, kidnapping, or false imprisonment committed by legally confined person against a pregnant woman
- 28-202 Criminal conspiracy to commit a Class ID felony
- 28-320.02 Sexual assault of minor or person believed to be a minor lured by electronic communication device, first offense
- 28-416 Knowingly or intentionally manufacturing, distributing, delivering, dispensing, or possessing with intent to manufacture, distribute, deliver, or dispense cocaine or any mixture containing cocaine, or base cocaine (crack) or any mixture containing base cocaine, in a quantity of at least 10 grams but less than 28 grams
- 28-416 Knowingly or intentionally manufacturing, distributing, delivering, dispensing, or possessing with intent to manufacture, distribute, deliver, or dispense heroin or any mixture containing heroin in a quantity of at least 10 grams but less than 28 grams
- 28-416 Knowingly or intentionally manufacturing, distributing, delivering, dispensing, or possessing with intent to manufacture, distribute, deliver, or dispense amphetamine or methamphetamine in a quantity of at least 10 grams but less than 28 grams

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CLASS ID FELONY

28-416	Manufacture, distribute, deliver, dispense, or possess exceptionally hazardous drug in Schedule I, II, or III of section 28-405, first offense involving minors or near youth facilities
28-416	Possessing a firearm while violating prohibition on the manufacture, distribution, delivery, dispensing, or possession of an exceptionally hazardous drug in Schedule I, II, or III of section 28-405
28-416	Manufacture, distribute, deliver, dispense, or possess certain controlled substances in Schedule I, II, or III of section 28-405, second or subsequent offense involving minors or near youth facilities
28-929	Assault on an officer, an emergency responder, a state correctional employee, a Department of Health and Human Services employee, or a health care professional in the first degree
28-1206	Possession of a firearm by a prohibited person, first offense
28-1212.02	Unlawful discharge of firearm at an occupied building, vehicle, or aircraft
28-1463.04	Child pornography by person 19 years old or older

CLASS II FELONY

Maximum—fifty years' imprisonment

Minimum—one year imprisonment

28-111	Assault in the second degree committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Manslaughter committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Sexual assault in the second degree committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Arson in the second degree committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-115	Assault in the second degree committed against a pregnant woman
28-115	Assault with a deadly or dangerous weapon by a legally confined person committed against a pregnant woman
28-115	Sexual assault in the second degree committed against a pregnant woman
28-115	Sexual abuse of an inmate or parolee in the first degree committed against a pregnant woman
28-115	Sexual abuse of a protected individual, first degree, committed against a pregnant woman
28-115	Domestic assault in the first degree, first offense, committed against a pregnant woman
28-115	Domestic assault in the second degree, second or subsequent offense against same intimate partner, committed against a pregnant woman
28-201	Criminal attempt to commit a Class I, IA, IB, IC, or ID felony
28-202	Criminal conspiracy to commit a Class I or II felony

APPENDIX

CLASS II FELONY

28-306	Motor vehicle homicide by person driving under the influence of alcohol or drugs with prior conviction of driving under the influence of alcohol or drugs
28-308	Assault in the first degree
28-311.08	Distributing or otherwise making public an image or video of the intimate area of another recorded without his or her knowledge and consent when his or her intimate area would not be generally visible to the public regardless of whether in a public or private place, third or subsequent violation
28-313	Kidnapping (certain situations)
28-319	Sexual assault in the first degree
28-320.01	Sexual assault of a child in the second degree, first offense
28-323	Domestic assault in the first degree, second or subsequent offense
28-324	Robbery
28-416	Manufacture, distribute, deliver, dispense, or possess exceptionally hazardous drug in Schedule I, II, or III of section 28-405
28-416	Manufacture, distribute, deliver, dispense, or possess certain controlled substances in Schedule I, II, or III of section 28-405, first offense involving minors or near youth facilities
28-416	Possessing a firearm while violating prohibition on the manufacture, distribution, delivery, dispensing, or possession of certain controlled substances in Schedule I, II, or III of section 28-405
28-502	Arson in the first degree
28-638	Criminal impersonation by falsely representing business or engaging in profession, business, or occupation without license if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was \$5,000 or more, second or subsequent offense
28-638	Criminal impersonation by providing false identification information to court or law enforcement officer, third or subsequent offense
28-639	Identity theft if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was \$5,000 or more, second or subsequent offense
28-644	Violation of Counterfeit Airbag Protection Act resulting in death
28-707	Child abuse committed knowingly and intentionally and resulting in serious bodily injury
28-802	Pandering
28-831	Labor trafficking or sex trafficking
28-919	Tampering with a witness, informant, or juror when involving a pending criminal proceeding alleging a violation of another offense classified as a Class II felony or higher
28-922	Tampering with physical evidence when involving a pending criminal proceeding alleging a violation of another offense classified as a Class II felony or higher
28-930	Assault on an officer, an emergency responder, a state correctional employee, a Department of Health and Human Services employee, or a health care professional in the second degree
28-933	Certain acts of assault, terroristic threats, kidnapping, or false imprisonment committed by legally confined person
28-1205	Possession of firearm during commission of a felony
28-1205	Use of deadly weapon other than a firearm to commit a felony
28-1222	Using explosives to commit a felony, second or subsequent offense

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CLASS II FELONY

28-1223	Using explosives to damage or destroy property resulting in personal injury
28-1224	Using explosives to kill or injure any person resulting in personal injury
30-619	Willfully conceal or destroy evidence of any person's disqualification as a surrogate under the Health Care Surrogacy Act
30-3432	Sign or alter without authority or alter, forge, conceal, or destroy a power of attorney for health care or conceal or destroy a revocation with the intent and effect of withholding or withdrawing life-sustaining procedures or nutrition or hydration
60-690	Aiding or abetting a violation of Nebraska Rules of the Road
60-6,197.03	Operation of a motor vehicle while under the influence of alcoholic liquor or of any drug or refusing chemical test, fifth or subsequent offense committed with .15 gram alcohol concentration
70-2105	Destroy, damage, or cause loss to nuclear electrical generating facility or steal or render nuclear fuel unusable or unsafe

CLASS IIA FELONY

Maximum—twenty years' imprisonment

Minimum—none

28-201	Attempt to commit a Class II felony
28-204	Harboring, concealing, or aiding a felon who committed a Class I, IA, IB, IC, or ID felony
28-305	Manslaughter
28-306	Motor vehicle homicide by person driving under the influence of alcohol or drugs with no prior conviction
28-309	Assault in the second degree
28-310.01	Assault by strangulation or suffocation using a dangerous instrument, or resulting in serious bodily injury, or after previous conviction under this section
28-311	Criminal child enticement with previous conviction of enumerated crimes
28-311.08	Distributing or otherwise making public an image or video of the intimate area of another recorded without his or her knowledge and consent when his or her intimate area would not be generally visible to the public regardless of whether in a public or private place, first or second violation
28-316.01	Sexual abuse by a school employee in the first degree
28-320	Sexual assault in the second degree
28-322.02	Sexual abuse of inmate or parolee in the first degree
28-322.04	Sexual abuse of a protected individual in the first degree
28-322.05	Sexual abuse of a detainee in the first degree
28-323	Domestic assault in the first degree, first offense
28-323	Domestic assault in the second degree, second or subsequent offense
28-393	Manslaughter of unborn child
28-394	Motor vehicle homicide of unborn child by person driving under the influence of alcohol or drugs with prior conviction of driving under the influence
28-397	Assault of unborn child in the first degree
28-416	Manufacture, distribute, deliver, dispense, or possess certain controlled substances in Schedule I, II, or III of section 28-405

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CLASS IIA FELONY

28-416	Manufacture, distribute, deliver, dispense, or possess controlled substances in Schedule IV or V of section 28-405, second or subsequent offense involving minors or near youth facilities
28-507	Burglary
28-518	Theft, value \$5,000 or more
28-603	Forgery in the second degree, face value \$5,000 or more
28-611	Issuing or passing bad check or other instrument, amount of \$5,000 or more
28-611.01	Issuing a no-account check, amount less than \$1,500 or more, second or subsequent offense
28-620	Unauthorized use or uses of financial transaction device, total value more than \$5,000, within six months from first unauthorized use
28-621	Criminal possession of four or more financial transaction devices
28-622	Unlawful circulation of a financial transaction device in the first degree
28-627	Unlawful manufacture of a financial transaction device
28-638	Criminal impersonation by falsely representing business or engaging in profession, business, or occupation without license if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was \$5,000 or more, second or subsequent offense
28-639	Identity theft if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was \$5,000 or more, first offense
28-644	Violation of Counterfeit Airbag Prevention Act resulting in serious bodily injury
28-703	Incest with a person under 18 years old
28-707	Child abuse committed negligently resulting in death
28-813.01	Possessing visual depiction of sexually explicit conduct containing a child by a person 19 years old or older
28-831	Benefitting from or participating in a labor trafficking or sex trafficking venture
28-912	Escape using force, threat, deadly weapon, or dangerous instrument
28-932	Assault with a deadly or dangerous weapon by a legally confined person
28-1212.03	Possession, receipt, retention, or disposal of a stolen firearm knowing or believing, or when person should have known or had reasonable cause to believe, firearm to be stolen
28-1222	Using explosives to commit a felony, first offense
28-1224	Using explosives to kill or injure any person unless personal injury or death occurs
28-1463.05	Possession of child pornography with intent to distribute by person 19 years old or older
29-4011	Failure by felony sex offender to register under Sex Offender Registration Act, second or subsequent offense
60-6,197.03	Operation of a motor vehicle while under the influence of alcoholic liquor or of any drug or refusing chemical test, fourth offense committed with .15 gram alcohol concentration
60-6,197.03	Operation of a motor vehicle while under the influence of alcoholic liquor or of any drug or refusing chemical test, fifth or subsequent offense
60-6,197.06	Operating a motor vehicle when operator's license has been revoked for driving under the influence, second or subsequent offense

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CLASS III FELONY

Maximum—four years' imprisonment and two years' post-release supervision or twenty-five thousand dollars' fine, or both

Minimum—none for imprisonment and nine months' post-release supervision if imprisonment is imposed

- 8-138 Officer, agent, or employee accepting or receiving deposits on behalf of insolvent bank
- 8-139 Acting or attempting to act as active executive officer of a bank when license has been revoked or authority has been suspended
- 8-175 Banks, false entry or statements, offenses relating to records
- 8-224.01 Substitution or investment of estate or trust assets for or in securities of the trust company controlling the estate or trust; loans of trust company assets to trust company officials or employees
- 8-702 Bank continuing to do business after charter is forfeited
- 9-814 Altering lottery tickets to defraud under State Lottery Act
- 24-216 Clerk of the Supreme Court intentionally making a false report under oath, perjury
- 25-2310 Fraudulently invoking privilege of proceeding in forma pauperis
- 28-107 Felony defined outside of criminal code
- 28-111 Terroristic threats committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
- 28-111 Stalking, certain situations or subsequent conviction within 7 years, committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
- 28-111 False imprisonment in the first degree committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
- 28-111 Sexual assault of a child in the third degree, first offense, committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
- 28-115 Assault by legally confined person without a deadly weapon committed against a pregnant woman
- 28-115 Sexual assault of a child in the third degree, first offense, committed against a pregnant woman
- 28-115 Domestic assault in the second degree, first offense, committed against a pregnant woman
- 28-115 Assault on an officer, an emergency responder, a state correctional employee, a Department of Health and Human Services employee, or a health care professional in the third degree committed against a pregnant woman
- 28-115 Assault on an officer, an emergency responder, a state correctional employee, a Department of Health and Human Services employee, or a health care professional using a motor vehicle committed against a pregnant woman
- 28-115 Causing serious bodily injury to a pregnant woman while driving while intoxicated
- 28-115 Sexual abuse of an inmate or parolee in the second degree committed against a pregnant woman

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CLASS III FELONY

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 that was gained or was attempted to be gained was \$1,500 or more but less than \$5,000, second or subsequent offense
28-644	Violation of Counterfeit Airbag Prevention Act resulting in bodily injury
28-703	Incest with a person under 18 years old
28-804	Keeping a place of prostitution used by a person under 18 years old practicing prostitution
28-912	Escape when detained or under arrest on a felony charge
28-912	Escape, public servant concerned in detention permits another to escape
28-915	Perjury and subornation of perjury
28-1102	Promoting gambling in the first degree, third or subsequent offense
28-1105.01	Gambling debt collection
28-1204.01	Unlawful transfer of a firearm to a juvenile
28-1205	Possession of deadly weapon other than a firearm during commission of a felony

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CLASS III FELONY

28-1206	Possession of deadly weapon other than a firearm by a prohibited person
28-1207	Possession of a defaced firearm
28-1208	Defacing a firearm
28-1223	Using explosives to damage or destroy property unless personal injury or death occurs
28-1344	Unauthorized access to a computer which deprives another of property or services or obtains property or services of another with value of \$5,000 or more
28-1345	Unauthorized access to a computer which causes damages of \$5,000 or more
28-1356	Obtaining a real property interest or establishing or operating an enterprise by means of racketeering activity or unlawful debt collection
28-1423	Swearing falsely regarding sales of tobacco
28-1463.04	Child pornography by person under 19 years old
30-2219	Falsifying representation under Uniform Probate Code
30-24,125	False statement regarding personal property of decedent
30-24,129	False statement regarding real property of decedent
32-1514	Forging candidate filing form for election nomination
32-1516	Forging initials or signatures on official ballots or falsifying, destroying, or suppressing candidate filing forms
32-1517	Employer penalizing employee for serving as election official
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
54-1,124.01	Willfully and knowingly apply, remove, damage, or alter an approved nonvisual identifier or expunge, alter, render inaccessible, or otherwise corrupt its recorded or imbedded information with intent to deprive or falsely assert ownership
54-1,125	Forging or altering livestock ownership document when value is \$1,000 or more
57-1211	Intentionally making false oath to uranium severance tax return or report
60-169	False statement on affidavit of affixture for mobile home or manufactured home
60-690	Aiding or abetting a violation of Nebraska Rules of the Road
60-698	Motor vehicle accident resulting in serious bodily injury or death, violation of duty to stop
66-727	Violation of motor fuel tax laws when the amount involved is \$5,000 or more, provisions relating to evasion of tax, keeping books and records, making false statements
71-7462	Wholesale drug distribution in violation of Wholesale Drug Distributor Licensing Act

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CLASS III FELONY

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
28-310.01	Assault by strangulation or suffocation
28-311	Criminal child enticement
28-311.01	Terroristic threats
28-311.04	Stalking (certain situations)
28-314	False imprisonment in the first degree
28-316.01	Sexual abuse by a school employee in the second degree
28-320.01	Sexual assault of a child in the third degree, first offense
28-322.03	Sexual abuse of an inmate or parolee in the second degree
28-322.04	Sexual abuse of a protected individual in the second degree
28-322.05	Sexual abuse of a detainee in the second degree
28-323	Domestic assault in the third degree, second or subsequent offense (certain situations)

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CLASS IIIA FELONY

28-386	Knowing and intentional abuse, neglect, or exploitation of a vulnerable or senior adult
28-394	Motor vehicle homicide of an unborn child by person driving in a reckless manner
28-394	Motor vehicle homicide of an unborn child by person driving under the influence of alcohol or drugs with no prior conviction
28-398	Assault of an unborn child in the second degree
28-416	Manufacture, distribute, deliver, dispense, or possess controlled substances in Schedule IV or V of section 28-405
28-457	Permitting a child or vulnerable adult to ingest methamphetamine, second or subsequent offense
28-457	Permitting a child or vulnerable adult to inhale, have contact with, or ingest methamphetamine causing serious bodily injury
28-634	Unlawful use or possession of an electronic payment card scanning device or encoding machine, second or subsequent offense
28-644	Second or subsequent violation of Counterfeit Airbag Prevention Act
28-707	Child abuse committed knowingly and intentionally and not resulting in serious bodily injury or death
28-707	Child abuse committed negligently, resulting in serious bodily injury but not death
28-904	Resisting arrest, second or subsequent offense
28-904	Resisting arrest using deadly or dangerous weapon
28-931	Assault on an officer, an emergency responder, a state correctional employee, a Department of Health and Human Services employee, or a health care professional in the third degree
28-931.01	Assault on an officer, an emergency responder, a state correctional employee, a Department of Health and Human Services employee, or a health care professional using a motor vehicle
28-932	Assault by legally confined person without a deadly weapon
28-934	Assault with a bodily fluid against a public safety officer with knowledge that bodily fluid was infected with HIV, Hep B, or Hep C
28-1005	Dogfighting, cockfighting, bearbaiting, etc., promoter, owner, employee, property owner, or spectator
28-1009	Cruel mistreatment of animal not involving torture or mutilation, second or subsequent offense
28-1009	Cruel mistreatment of animal involving torture or mutilation
28-1009	Harassment of police animal resulting in death of animal
28-1204.05	Unlawful possession of a firearm by a prohibited juvenile offender, second or subsequent offense
28-1463.05	Possession of child pornography with intent to distribute by person under 19 years old
29-4011	Failure by felony sex offender to register under Sex Offender Registration Act, first offense
29-4011	Failure by misdemeanor sex offender to register under Sex Offender Registration Act, second or subsequent offense
53-180.05	Knowingly and intentionally dispensing alcohol in any manner to minors or incompetents resulting in serious bodily injury or death caused by the minors' consumption or impaired condition
60-690	Aiding or abetting a violation of Nebraska Rules of the Road
60-698	Motor vehicle accident resulting in injury other than serious bodily injury, violation of duty to stop

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CLASS IIIA FELONY

- 60-6,197.03 Operation of a motor vehicle while under the influence of alcoholic liquor or of any drug or refusing chemical test, third offense committed with .15 gram alcohol concentration
- 60-6,197.03 Operation of a motor vehicle while under the influence of alcoholic liquor or of any drug or refusing chemical test, fourth offense committed with less than .15 gram alcohol concentration
- 60-6,198 Causing serious bodily injury to person or unborn child while driving while intoxicated
- 71-4839 Knowingly purchase or sell a body part for transplantation, therapy, research, or education if removal is to occur after death
- 71-4840 Intentionally falsifying, forging, concealing, defacing, or obliterating a document related to anatomical gifts for financial gain

CLASS IV FELONY

Maximum—two years' imprisonment and twelve months' post-release supervision or ten thousand dollars' fine, or both

Minimum—none for imprisonment and none for post-release supervision

- 2-1825 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 lottery by sale of pickle cards or using any fraud in connection with such lottery, gain of \$1,500 or more

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CLASS IV FELONY

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
25-1673	Illegal disclosure of juror names
25-1676	Placing names on any jury list in a manner not authorized by the Jury Selection Act
28-111	Assault in the third degree (certain situations) committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Stalking, first offense or certain situations, committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	False imprisonment in the second degree committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Sexual assault in the third degree committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Arson in the third degree, damages \$500 or more but less than \$1,500, committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Criminal mischief, pecuniary loss of \$1,500 or more but less than \$5,000, committed against a person because of his or her race, color, 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

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CLASS IV FELONY

28-204	Harboring, concealing, or aiding a felon who committed a Class III or IIIA felony
28-204	Obstructing the apprehension of a felon who committed a felony other than a Class IV felony
28-205	Aiding consummation of felony
28-307	Assisting suicide
28-311.08	Intrude upon another person without his or her consent in a place of solitude or seclusion, second or subsequent offense
28-311.08	Photograph, film, or otherwise record an image or video of the intimate area of any other person without his or her knowledge and consent when his or her intimate area would not be generally visible to the public regardless of whether in a public or private place, first offense
28-311.08	Distributing or otherwise making public an image or video of another's intimate area or of another engaged in sexually explicit conduct as prescribed, second or subsequent violation
28-311.11	Violating a sexual assault protection order after service or notice, subsequent violation
28-316	Violation of custody with intent to deprive custodian of custody of child
28-316.01	Sexual abuse by a school employee in the third degree
28-323	Domestic assault in the third degree by intentionally and knowingly causing bodily injury to his or her intimate partner or by threatening an intimate partner with imminent bodily injury, second or subsequent offense
28-332	Abortion violations
28-335	Abortion by other than licensed physician
28-335	Physician knowingly or recklessly performs, induces, or attempts to perform or induce abortion without being physically present
28-336	Abortion by other than accepted medical procedures
28-346	Use of premature infant aborted alive for experimentation
28-374.04	Intentional and knowing performance of an unlawful dismemberment abortion
28-3,108	Intentional or reckless performance of or attempt to perform abortion in violation of Pain-Capable Unborn Child Protection Act
28-412	Unlawful prescription of narcotic drugs for detoxification or maintenance treatment
28-416	Knowingly or intentionally unlawfully possessing controlled substance other than marijuana or synthetically produced cannabinoids
28-416	Knowingly or intentionally possessing more than one pound of marijuana
28-416	Possession of money used or intended to be used to violate provisions relating to controlled substances
28-418	Knowing or intentional violation of Uniform Controlled Substances Act
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

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CLASS IV FELONY

28-508	Possession of burglar's tools
28-514	Theft of lost, mislaid, or misdelivered property when value is over \$5,000
28-516	Unauthorized use of a propelled vehicle, third or subsequent offense
28-518	Theft when value is \$1,500 or more but less than \$5,000
28-518	Theft when value is more than \$500 but less than \$1,500, second or subsequent offense
28-518	Theft when value is \$500 or less, third or subsequent offense
28-519	Criminal mischief, pecuniary loss of \$5,000 or more or substantial disruption of public communication or utility service
28-524	Unauthorized application of graffiti, second or subsequent offense
28-603	Forgery in the second degree when face value is \$1,500 or more but less than \$5,000
28-604	Criminal possession of a forged instrument prohibited by section 28-602
28-604	Criminal possession of a forged instrument prohibited by section 28-603, amount or value is \$5,000 or more
28-605	Criminal possession of written instrument forgery devices
28-611	Issuing a bad check or other order in an amount of \$1,500 or more but less than \$5,000
28-611	Issuing a bad check or other order in an amount under \$500, second or subsequent offense
28-611	Issuing or passing a bad check or other instrument in amount of \$500 or more but less than \$1,500, second or subsequent offense
28-611.01	Issuing a no-account check in an amount of \$1,500 or more but less than \$5,000, first offense
28-611.01	Issuing a no-account check in an amount under \$1,500, second or subsequent offense
28-612	False statement or book entry in or destruction or secretion of records of financial institution or organization
28-619	Issuing two or more false financial statements to obtain two or more financial transaction devices
28-620	Unauthorized use of a financial transaction device when total value is \$1,500 or more but less than \$5,000 within a six-month period
28-621	Criminal possession of two or three financial transaction devices
28-623	Unlawful circulation of a financial transaction device in the second degree
28-624	Criminal possession of two or more blank financial transaction devices
28-625	Criminal sale of one blank financial transaction device
28-626	Criminal possession of a financial transaction forgery device
28-628	Laundering of sales forms
28-629	Unlawful acquisition of sales form processing services
28-630	Unlawful factoring of a financial transaction device
28-631	Committing a fraudulent insurance act when the amount involved is \$1,500 or more but less than \$5,000
28-631	Committing a fraudulent insurance act when the amount involved is \$500 or more but less than \$1,500, second or subsequent offense
28-631	Committing a fraudulent insurance act with intent to defraud or deceive
28-634	Unlawful use or possession of an electronic payment card scanning device or encoding machine, first offense
28-638	Criminal impersonation by falsely representing business or engaging in profession, business, or occupation without license if the credit, money,

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	goods, services, or other thing of value that was gained or was attempted to be gained was \$1,500 or more but less than \$5,000, first offense
28-638	Criminal impersonation by falsely representing business or engaging in profession, business, or occupation without license if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was \$500 or more but less than \$1,500, second or subsequent offense
28-638	Criminal impersonation by falsely representing business or engaging in profession, business, or occupation without license if no credit, money, goods, services, or other thing of value was gained or was attempted to be gained, or if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was less than \$500, third or subsequent offense
28-638	Criminal impersonation by providing false identification information to court or law enforcement officer, first offense
28-639	Identity theft if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was \$1,500 or more but less than \$5,000, first offense
28-639	Identity theft if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was \$500 or more but less than \$1,500, second or subsequent offense
28-639	Identity theft if no credit, money, goods, services, or other thing of value was gained or was attempted to be gained, or if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was less than \$500, third or subsequent offense
28-640	Identity fraud, second or subsequent offense
28-644	Violation of Counterfeit Airbag Prevention Act
28-706	Criminal nonsupport in violation of a court order
28-801.01	Solicitation of prostitution, second or subsequent offense
28-801.01	Solicitation of prostitution with person under 18 years old, first offense
28-804	Keeping a place of prostitution used by person 18 years old or older practicing prostitution
28-813.01	Possession by a minor of visual depiction of sexually explicit conduct containing a child other than the defendant as one of its participants or portrayed observers, second or subsequent conviction
28-833	Enticement by electronic communication device
28-905	Operating a motor vehicle to avoid arrest which is a second or subsequent offense, results in death or injury, or involves willful reckless driving
28-905	Operating a boat to avoid arrest for felony
28-912	Escape (certain situations excepted)
28-912	Knowingly causing or facilitating an escape
28-912.01	Accessory to escape of juvenile from custody of Office of Juvenile Services
28-917	Bribery
28-918	Bribery of a witness
28-918	Witness accepting bribe or benefit
28-919	Tampering with a witness or informant except if involving a pending criminal proceeding alleging violation of another offense classified as a Class I misdemeanor or lower or a violation of a city or village ordinance, or classified as a Class II felony or higher

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28-919	Tampering with a juror except if involving a pending criminal proceeding alleging violation of another offense classified as a Class II felony or higher
28-920	Bribery of a juror
28-920	Juror accepting bribe or benefit
28-922	Tampering with physical evidence except if involving a pending criminal proceeding alleging violation of another offense classified as a Class I misdemeanor or lower or a violation of a city or village ordinance, or classified as a Class II felony or higher
28-935	Fraudulently filing a financing statement, lien, or document
28-1009	Abandonment or cruel neglect of animal resulting in serious injury, illness, or death
28-1102	Promoting gambling in the first degree, second offense
28-1202	Carrying a concealed weapon, second or subsequent offense
28-1203	Transporting or possessing a machine gun, short rifle, or short shotgun
28-1204.04	Unlawful possession of a firearm at a school
28-1204.05	Unlawful possession of a firearm by a prohibited juvenile offender, first offense
28-1215	Unlawful possession of explosive materials in the first degree
28-1217	Unlawful sale of explosives
28-1219	Explosives, obtaining a permit through false representations
28-1220	Possession of a destructive device
28-1221	Threatening the use of explosives or placing a false bomb
28-1301	Removing, abandoning, or concealing human skeletal remains or burial goods
28-1307	Sell or offer for sale diseased meat
28-1343.01	Unauthorized computer access creating grave risk of death
28-1344	Unauthorized access to a computer which deprives another of property or services or obtains property or services of another with value of \$1,500 or more but less than \$5,000
28-1345	Unauthorized access to a computer causing damages of \$1,500 or more but less than \$5,000
28-1351	Unlawful membership recruitment for an organization or association engaged in criminal acts
28-1469	Operation of aircraft while under the influence of alcohol or drugs, third or subsequent offense
28-1482	Unlawful paramilitary activities
29-908	Failing to appear when on bail for felony offense
32-312	Election falsification on voter registration
32-330	Election falsification for unlawful use of list of registered voters
32-915	Election falsification on provisional ballot
32-939	Election falsification on registering or voting outside the country
32-939.02	Election falsification on ballot to vote early
32-947	Election falsification on ballot to vote early
32-949	Election falsification on ballot to vote early
32-1502	Election falsification
32-1503	Elections, unlawful registration acts
32-1504	Elections, neglect of duty, corruption, or fraud by deputy registrar
32-1508	Election registration, perjury by voter
32-1526	Fraudulent voting by election official
32-1529	Resident of another state voting in this state

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32-1530	Voting by ineligible person
32-1531	Voting outside county of residence
32-1532	Aiding unlawful voting
32-1533	Procuring another to vote in county other than that of residence
32-1534	Voting more than once in same election
32-1537	Employer coercing political action of employees
32-1538	Deceiving illiterate elector
32-1539	Violations relating to ballots for early voting
32-1540	Fraudulent voting
32-1541	Making fraudulent entry in list of voters book
32-1542	Unlawful possession of list of voters book, official summary, or election returns
32-1543	Obtaining or attempting to obtain or destroy ballot boxes or ballots by improper means
32-1544	Destruction or falsification of election materials
32-1545	Disclosing election returns before polls have closed or without authorization from election officials
32-1546	Offering or receiving money for signing petitions or falsely swearing to circulator's affidavit on petition
32-1551	Special elections by mail, specified violations
37-554	Prohibited use of explosives or poisons in waters of state
37-1288	Forgery of motorboat title or certificate or use of false name in bill of sale or sworn statement of ownership
37-1298	Knowingly transfer motorboat without salvage certificate of title
38-1,117	False or forged document or fraud in procuring license, certificate, or registration to practice a health profession, aiding or abetting person practicing without a credential, or impersonating a credentialed person
38-2052	Person purporting to be a physician's assistant when not licensed
38-3130	Psychologist filing false diploma, license of another, or forged affidavit of identification
42-924	Knowingly violating a protection order issued pursuant to domestic abuse or harassment case with a prior conviction for violating a protection order
44-165	Financial conglomerate or its directors, officers, employees, or agents violating supervision requirements
44-3,121	Borrowing or rental of securities of insurance company by member, director, or attorney
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

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CLASS IV FELONY

53-1,100	Manufacturing spirits without a license, second or subsequent offense
54-1,125	Using false document of livestock ownership
54-1,125	Forging or altering livestock ownership document when value is over \$300 but less than \$1,000
54-622.01	Owner of dangerous dog which inflicts serious bodily injury, second or subsequent offense
54-753.05	Importation of livestock in violation of an embargo issued by State Veterinarian
54-903	Intentionally, knowingly, or recklessly abandon or cruelly neglect livestock animal resulting in serious injury or illness or death of the livestock animal
54-903	Cruelly mistreat a livestock animal, second or subsequent offense
54-1808	Violation of Nebraska Livestock Sellers Protective Act
54-1913	Violation of Nebraska Meat and Poultry Inspection Law with intent to defraud or by distributing adulterated article
54-2955	Violation of embargo or importation order by State Veterinarian
57-719	Preparation or presentation of false or fraudulent oil and gas severance tax document
59-801	Unlawful restraint of trade or commerce
59-802	Unlawful monopolizing of trade or commerce
59-805	Unlawful restraint of trade; underselling
59-815	Corporation or other association engaged in unlawful restraint of trade
59-825	Refusal to attend and testify in restraint of trade proceedings
59-1522	Unlawful sale and distribution of cigarettes
59-1757	Violations in sales or leases of seller-assisted marketing plans
60-176	Knowing transfer of wrecked, damaged, or destroyed motor vehicle, all-terrain vehicle, or minibike without appropriate certificate of title
60-179	Fraud or forgery in obtaining certificate of title to motor vehicle, all-terrain vehicle, or minibike
60-196	Violating laws relating to odometers
60-492	Impersonating an officer under Motor Vehicle Operator's License Act
60-4,111.01	Trade, sell, or share machine-readable information encoded on driver's license or state identification card
60-4,111.01	Compile, store, or preserve machine-readable information encoded on driver's license or state identification card without authorization
60-4,111.01	Intentional or grossly negligent programming by the programmer which allows for the storage of more than the age and identification number 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

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	effect or operating a motor vehicle while under the influence which is not equipped with an ignition interlock device in violation of a court order or Department of Motor Vehicles order
60-1416	Acting as auction, motor vehicle, motorcycle, trailer, or wrecker or salvage dealer, manufacturer, factory representative, or distributor without license
60-2912	Misrepresenting identity or making false statement on application submitted under Uniform Motor Vehicle Records Disclosure Act
66-727	Violations of motor fuel tax laws when the amount involved is less than \$5,000, provisions relating to evasion of tax, keeping books and records, making false statements
66-727	Violations of motor fuel tax laws, including making returns and reports, assignment of licenses and permits, payment of tax
66-1226	Selling automotive spark ignition engine fuels not within specifications, second or subsequent offense
66-1822	False or fraudulent entries in books of a jurisdictional utility
68-1017	Obtaining through fraud assistance to aged, blind, or disabled persons, aid to dependent children, or supplemental nutrition assistance program benefits when value is \$1,500 or more
68-1017.01	Unlawful use, alteration, or transfer of supplemental nutrition assistance program benefits when value is \$1,500 or more
68-1017.01	Unlawful possession or redemption of supplemental nutrition assistance program benefits when value is \$1,500 or more
68-1017.01	Unlawful possession of blank supplemental nutrition assistance program authorizations
69-109	Sale or transfer of personal property with security interest without consent
69-2408	Providing false information on an application for a certificate to purchase a handgun
69-2420	Unlawful acts relating to purchase of a handgun
69-2421	Unlawful sale or delivery of a handgun
69-2422	Knowingly and intentionally obtaining a handgun for purposes of unlawful transfer of the handgun
69-2430	Falsified concealed handgun permit application
69-2709	Knowingly submit false information regarding cigarette and tobacco sales
70-508	False statement on sale, lease, or transfer of public electric plant
70-511	Excessive promotion expenses on sale of public electric plant
70-514	Failure to file statement of expenditures related to transfer of electric plant facilities or filing false statement
70-2104	Damage, injure, destroy, or attempt to damage, injure, or destroy equipment or structures owned and used by public power suppliers to generate, transmit, or distribute electricity or otherwise interrupt the generation, transmission, or distribution of electricity by a public power supplier
71-649	Vital statistics, unlawful acts
71-2228	Illegal receipt of food supplement benefits when value is \$1,500 or more
71-2229	Unlawful use, alteration, or transfer of food instruments or food supplements when value is \$1,500 or more
71-2229	Unlawful possession or redemption of food supplement benefits when value is \$1,500 or more

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CLASS IV FELONY

71-2229	Unlawful possession of blank authorization to participate in the WIC program or CSF program
71-6312	Unlawfully engaging in an asbestos project without a valid license or using unlicensed employees subsequent to the levy of a civil penalty, second or subsequent offense
71-6329	Engaging in a lead abatement project or lead-based paint profession without a valid license or using unlicensed employees after assessment of a civil penalty, second or subsequent offense
71-6329	Conducting a lead abatement project or lead-based paint profession training program without departmental accreditation after assessment of a civil penalty, second or subsequent offense
71-6329	Issuing fraudulent licenses under Residential Lead-Based Paint Professions Practice Act after assessment of a civil penalty, second or subsequent offense
75-909	Violation of Grain Dealer Act
76-2325.01	Interference with utility poles and wires or transmission of light, heat, power, or telecommunications, loss of \$1,500 or more or substantial disruption of service
76-2728	Violation of Nebraska Foreclosure Protection Act
77-2310	Unlawful removal of state funds or illegal profits by State Treasurer
77-2323	Violation of provisions on deposit of county funds
77-2325	Unlawful removal of county funds or illegal profits by county treasurers
77-2381	Violation of provisions on deposit of local hospital district funds
77-2383	Unlawful removal of funds or illegal profits by secretary-treasurer of local hospital district
77-2614	Altered, forged, or counterfeited stamp, license, permit, or cigarette tax meter impression for sale of cigarettes
77-2615	Violation of cigarette tax provisions when not otherwise specified
77-2615	Evasion of cigarette tax provisions, affixing unauthorized stamp, or sales or possession of cigarettes of manufacturer not in directory
77-2713	Failure to collect, account for, or pay, or prepare or present a false or fraudulent return on, sales and use tax
77-27,113	Evasion of income tax
77-27,114	Failure to collect or account for income taxes
77-27,116	False return on income tax
77-27,119	Unauthorized disclosure of confidential tax information by current or former officers or employees of the Auditor of Public Accounts or the office of Legislative Audit
77-4024	Violation of Tobacco Products Tax Act or evasion of act
77-4309	Dealer distributing or possessing marijuana or a controlled substance without affixing the official stamp, label, or other indicium
77-5544	Unlawful disclosure of confidential information by qualified independent accounting firm under Invest Nebraska Act
81-161.05	Material division personnel having financial or beneficial personal interest or receiving gifts or rebates
81-1108.56	State building division personnel having financial or beneficial personal interest or receiving gifts or rebates
81-1508.01	Specific violations of Environmental Protection Act, Integrated Solid Waste Management Act, or Livestock Waste Management Act
81-15,111	Violation of Low-Level Radioactive Waste Disposal Act

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CLASS IV FELONY

81-3442	Violation of Engineers and Architects Regulation Act, second or subsequent offense
83-174.05	Failure to comply with community supervision, first offense
83-184	Escape from custody (certain situations)
83-198	Threatening or attempting to influence a member or an employee of the Board of Parole
83-1,127.02	Operation of vehicle while under the influence with disabled, bypassed, or altered ignition interlock device or without an ignition interlock device or permit in violation of board order
83-1,133	Threatening or attempting to influence a member of the Board of Pardons
83-417	Allowing a committed offender to escape or be visited without approval
83-443	Financial interest in convict labor
83-912	Director or employee of Department of Correctional Services receiving prohibited gift or gratuity
86-290	Intercepting or interfering with wire, electronic, or oral communication
86-295	Unlawful tampering with communications equipment or transmissions
86-296	Shipping or manufacturing devices capable of intercepting certain communications
86-2,102	Interference with satellite transmissions or operation
86-2,104	Unauthorized access to electronic communication services
87-303.09	Violation of court order or written assurance of voluntary compliance under Uniform Deceptive Trade Practices Act
88-543	Issuing a receipt for grain not received, improperly recording grain as received or loaded, or creating a post-direct delivery storage position without proper documentation or grain in storage
88-545	Violation of Grain Warehouse Act when not otherwise specified

UNCLASSIFIED FELONIES, see section 28-107

69-110	Removal from county of personal property subject to a security interest with intent to deprive of security interest –fine of not more than one thousand dollars –imprisonment of not more than ten years
77-27,119	Unauthorized disclosure of confidential tax information by Tax Commissioner, officer, employee, or third-party auditor –fine of not less than one hundred dollars nor more than five hundred dollars –imprisonment of not more than five years –both
77-3210	Receipt of profit from rental, management, or disposition of Land Reutilization Authority lands –imprisonment of not less than two years nor more than five years
83-1,124	Parolee leaving state without permission –imprisonment of not more than five years

OTHER MANDATORY MINIMUMS:

29-2221	Habitual criminal
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CLASS I MISDEMEANOR

Maximum—not more than one year imprisonment, or one thousand dollars’ fine, or both

Minimum—none

- 2-1207 Knowingly aiding or abetting a person under 21 years of age to make a parimutuel wager
- 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
- 2-1221 Receipt or delivery of certain off-track wagers
- 2-2647 Violation of Pesticide Act, second or subsequent offense
- 8-119 Officers of corporation filing false statement for banking purposes
- 8-142 Bank officer, employee, director, or agent violating loan limits by \$40,000 or more or resulting in monetary loss of over \$20,000 to bank
- 8-145 Improper solicitation or receipt of benefits, unlawful inducement for bank loan
- 8-189 Attempting to prevent Department of Banking and Finance from taking possession of insolvent or unlawfully operated bank
- 8-1,138 Violation of a final order issued by Director of Banking and Finance
- 8-224.01 Division of fees for legal services by a trust company attorney
- 8-2745 Acting without license or intentionally falsifying records in violation of Nebraska Money Transmitters Act
- 9-230 Unlawfully conducting or awarding a prize at a bingo game, second or subsequent offense
- 9-262 Intentionally employing or possessing device to facilitate cheating at bingo or using any fraud in connection with a bingo game, gain of \$500 or more but less than \$1,500
- 9-266 Disclosure by Tax Commissioner or employee of reports or records of a licensed distributor or manufacturer under Nebraska Bingo Act
- 9-351 Unlawfully possessing pickle cards or conducting a pickle card lottery
- 9-352 Intentionally employing or possessing device to facilitate cheating at lottery by sale of pickle cards or using any fraud in connection with such lottery, gain of \$500 or more but less than \$1,500
- 9-356 Disclosure by Tax Commissioner or employee of returns or reports of licensed distributor or manufacturer under Nebraska Pickle Card Lottery Act
- 9-434 Intentionally employing or possessing device to facilitate cheating at lottery or raffle or using any fraud in connection with such lottery or raffle, gain of \$500 or more but less than \$1,500
- 9-652 Intentionally employing or possessing device to facilitate cheating at keno or using any fraud in connection with keno, gain of \$500 or more but less than \$1,500
- 9-653 Disclosure by Tax Commissioner or employee of reports or records of a licensed manufacturer-distributor under Nebraska County and City Lottery Act
- 9-814 Sale of lottery tickets under State Lottery Act without authorization or at other than the established price
- 9-814 Release of information obtained from background investigation under State Lottery Act
- 9-1111 Knowingly cheat at any game of chance or manipulate any component of a gaming device with intent to cheat and knowledge of affecting the outcome of the game

APPENDIX

CLASS I MISDEMEANOR

9-1112	Knowingly use tokens or currency not approved by the Nebraska Gaming Commission
9-1112	Knowingly possess any device within a gaming facility intended to violate the Nebraska Racetrack Gaming Act
9-1112	Unauthorized and knowing possession of any key or device within a gaming facility used to open, enter, or affect the operation of any game, dropbox, or related electronic or mechanical device connected to such game or dropbox
9-1112	Knowingly and with intent to use any paraphernalia used for manufacturing slugs for cheating or possession of such paraphernalia
9-1113	Manufacture, sell, or distribute a device intended for use in violating the Nebraska Racetrack Gaming Act or knowingly possess any gaming device manufactured, sold, or distributed in violation of the act
9-1113	Mark, alter, or otherwise modify any gaming device to affect or alter a wager, game operation, or game outcome
9-1114	Knowingly make a false or misleading statement or entry or fail to maintain or make any such entry in any report or record required to be maintained or submitted by the Nebraska Racetrack Gaming Act
9-1115	Participate in a game of chance when younger than 21 years of age or knowingly permit such person younger than 21 years of age to participate
9-1116	Willfully violate, attempt to violate, or conspire to violate any provision of the Nebraska Racetrack Gaming Act for which no other penalty is provided
9-1207	Willful failure, neglect, or refusal of an authorized gaming operator to make any required report
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

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CLASS I MISDEMEANOR

21-1912	Signing a false document under Nebraska Nonprofit Corporation Act with intent to file with the Secretary of State
28-107	Misdemeanor defined outside of criminal code
28-111	Arson in the third degree, damages less than \$500, committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Assault in the third degree (certain situations) committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Criminal mischief, pecuniary loss of \$500 or more but less than \$1,500, committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Criminal trespass in the second degree (certain situations) committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-115	Assault in the third degree (certain situations) committed against a pregnant woman
28-201	Criminal attempt to commit a Class IV felony
28-204	Harboring, concealing, or aiding a felon who committed a Class IV felony
28-204	Obstructing the apprehension of a felon who committed a Class IV felony
28-301	Compounding a felony
28-306	Motor vehicle homicide by person not under the influence of alcohol or drugs or not driving in a reckless manner
28-310	Assault in the third degree (certain situations)
28-311.04	Stalking (certain situations)
28-311.08	Intrude upon another person without his or her consent in a place of solitude or seclusion, first offense
28-311.08	Distributing or otherwise making public an image or video of another's intimate area or of another engaged in sexually explicit conduct as prescribed, first violation
28-311.08	Threaten to distribute or otherwise make public an image or video of another's intimate area or of another engaged in sexually explicit conduct with intent to intimidate, threaten, or harass
28-311.11	Knowingly violating a sexual assault protection order after service or notice, first violation
28-315	False imprisonment in the second degree
28-320	Sexual assault in the third degree
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

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28-443	Delivering drug paraphernalia to a minor
28-457	Permitting a child or vulnerable adult to inhale, have contact with, or ingest methamphetamine, first offense
28-504	Arson in the third degree, damages \$500 or more but less than \$1,500
28-514	Theft of lost, mislaid, or misdelivered property when value is \$1,500 or more but not more than \$5,000
28-514	Theft of lost, mislaid, or misdelivered property when value is more than \$500 but less than \$1,500, second or subsequent offense
28-514	Theft of lost, mislaid, or misdelivered property when value is \$500 or less, third or subsequent offense
28-516	Unauthorized use of a propelled vehicle, second offense
28-518	Theft when value is more than \$500 but less than \$1,500
28-518	Theft when value is \$500 or less, second offense
28-519	Criminal mischief, pecuniary loss of \$1,500 or more but less than \$5,000
28-520	Criminal trespass in the first degree
28-523	Littering, third or subsequent offense
28-603	Forgery in the second degree when face value is \$500 or more but less than \$1,500
28-604	Criminal possession of a forged instrument prohibited by section 28-603, value is \$1,500 or more but less than \$5,000
28-607	Making, using, or uttering of slugs of value of \$100 or more
28-610	Impersonating a peace officer
28-611	Issuing a bad check or other order in an amount of \$500 or more but less than \$1,500, first offense
28-611.01	Issuing a no-account check in an amount of \$500 or more but less than \$1,500, first offense
28-613	Commercial bribery or breach of duty to act disinterestedly
28-616	Altering an identification number
28-617	Receiving an altered article
28-619	Issuing a false financial statement to obtain a financial transaction device
28-620	Unauthorized use of a financial transaction device when total value is \$500 or more but less than \$1,500 within a six-month period
28-624	Criminal possession of a blank financial transaction device
28-631	Possessing fake or counterfeit insurance policies, certificates, identification cards, or binders with intent to defraud or deceive
28-631	Committing a fraudulent insurance act when the amount involved is \$500 or more but less than \$1,500, first offense
28-633	Printing more than the last 5 digits of a payment card account number upon a receipt provided to payment card holder, second or subsequent offense
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

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	value that was gained or was attempted to be gained was less than \$500, second offense
28-638	Criminal impersonation by providing false identification information to employer to obtain employment, second or subsequent offense
28-639	Identity theft if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was \$500 or more but less than \$1,500, first offense
28-639	Identity theft if no credit, money, goods, services, or other thing of value was gained or was attempted to be gained, or if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was less than \$500, second offense
28-640	Identity fraud, first offense
28-701	Bigamy
28-705	Abandonment of spouse, child, or dependent stepchild
28-707	Child abuse committed negligently, not resulting in serious bodily injury or death
28-709	Contributing to the delinquency of a child
28-801	Prostitution by person 18 years old or older, third or subsequent offense
28-801.01	Solicitation of prostitution with person 18 years old or older, first offense
28-805	Debauching a minor
28-808	Obscene literature and material, sell or possess with intent to sell to minor
28-809	Obscene motion picture, show, or presentation, admission of minor
28-813	Prepare, distribute, order, produce, exhibit, or promote obscene literature or material
28-813.01	Possession by a minor of visual depiction of sexually explicit conduct containing a child other than the defendant as one of its participants or portrayed observers, first offense
28-901	Obstructing government operations
28-904	Resisting arrest, first offense
28-905	Operating a motor vehicle to avoid arrest which is a first offense, does not result in death or injury, or does not involve willful reckless driving
28-905	Operating a boat to avoid arrest for misdemeanor or ordinance violation
28-906	Obstructing a peace officer, judge, or police animal
28-907	False reporting (certain situations)
28-908	Interference with firefighter on official duty
28-909	Falsifying records of a public utility
28-913	Introducing escape implements
28-915.01	False statement under oath or affirmation or in an unsworn declaration under Uniform Unsworn Foreign Declarations Act in an official proceeding or to mislead a public servant
28-919	Tampering with a witness or informant when involving a pending criminal proceeding alleging a violation of another offense classified as a Class II misdemeanor or lower or a violation of a city or village ordinance
28-922	Tampering with physical evidence when involving a pending criminal proceeding alleging a violation of another offense classified as a Class II misdemeanor or lower or a violation of a city or village ordinance

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28-934	Assault with a bodily fluid against a public safety officer without knowledge regarding whether bodily fluid was infected with HIV, Hep B, or Hep C
28-936	Introduction within a Department of Correctional Services facility or if an inmate procures, makes, provides, or possesses any electronic communication device
28-1005.01	Knowing or intentional ownership or possession of animal fighting paraphernalia for dogfighting, cockfighting, bearbaiting, or pitting an animal against another
28-1009	Abandonment or cruel neglect of animal not resulting in serious injury, illness, or death
28-1009	Cruel mistreatment of animal not involving torture or mutilation, first offense
28-1019	Violation of court order related to felony animal abuse conviction
28-1102	Promoting gambling in the first degree, first offense
28-1202	Carrying a concealed weapon, first offense
28-1204	Unlawful possession of a handgun
28-1216	Unlawful possession of explosive materials in the second degree
28-1218	Use of explosives without a permit if not eligible for a permit
28-1254	Operation of a motor vehicle while under the influence of alcoholic liquor or of any drug with person under 16 years old as passenger
28-1302	Concealment of death to prevent determination of cause or circumstances of death
28-1312	Interfering with the police radio system
28-1343.01	Unauthorized computer access creating risk to public health and safety
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 video recording of a child victim or child witness
30-619	Willfully without authorization alter, forge, conceal, or destroy evidence of an advance health care directive, appointment of a guardian or agent, or evidence of disqualification of any person as a surrogate under the Health Care Surrogacy Act
30-619	Willfully prevent transfer of an individual for failure of a health care provider to honor or cooperate with a health care decision by a surrogate under the Health Care Surrogacy Act by a physician or other health care provider
30-3432	Altering, forging, concealing, or destroying a power of attorney for health care or a revocation of a power of attorney for health care
30-3432	Physician or health care provider willfully preventing transfer of care of principal under durable power of attorney for health care
32-1518	Election officials, violation of duties imposed by election laws
32-1522	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

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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
48-821	Interfere with or coerce others to strike or otherwise hinder governmental service
48-1908	Drug or alcohol tests, altering results
48-1909	Drug or alcohol tests, tampering with body fluids
48-2615	Athlete agent violating Nebraska Uniform Athlete Agents Act
48-2711	Violations relating to professional employer organizations
53-173	Unlicensed person selling a powdered alcohol product
53-180.05	Creation or alteration of identification for sale or delivery to a person under twenty-one years old
53-180.05	Dispensing alcohol in any manner to minors or incompetents not resulting in serious bodily injury or death
53-1,100	Manufacturing spirits without a license, first offense
54-1,125	Forging or altering livestock ownership document when value is \$300 or less

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54-622.01	Owner of dangerous dog which inflicts serious bodily injury, first offense
54-634	Violation of Commercial Dog and Cat Operator Inspection Act
54-903	Intentionally, knowingly, or recklessly abandon or cruelly neglect livestock animal not resulting in serious injury or illness or death of the livestock animal
54-903	Cruelly mistreat a livestock animal, first offense
54-909	Violating court order not to own or possess a livestock animal for at least five years after the date of conviction for second or subsequent offense of cruel mistreatment of an animal or for intentionally, knowingly, or recklessly abandoning or cruelly neglecting livestock animal resulting in serious injury or illness or death of the livestock animal
54-911	Intentionally trip or cause to fall, or lasso or rope the legs of, any equine by any means for the purpose of entertainment, sport, practice, or contest
54-912	Intentionally trip, cause to fall, or drag any bovine by its tail by any means for the purpose of entertainment, sport, practice, or contest
54-2955	Failure to develop or follow a required herd management plan
59-505	Unlawful discrimination in sales or purchases of products, commodities, or property
60-484.02	Disclosure of digital image or signature by Department of Motor Vehicles, law enforcement, or Secretary of State's office
60-4,108	Operating motor vehicle in violation of court order or while operator's license is revoked or impounded, fourth or subsequent offense
60-559	Forging or filing a forged document for proof of financial responsibility for a motor vehicle
60-690	Aiding or abetting a violation of Nebraska Rules of the Road
60-696	Second or subsequent conviction in 12 years for failure of driver to stop and report a motor vehicle accident
60-6,197.03	Operation of a motor vehicle while under the influence of alcoholic liquor or of any drug or refusing chemical test, second offense committed with .15 gram alcohol concentration
60-6,211.11	Operating a motor vehicle after tampering with or circumventing an ignition interlock device installed under a court order or Department of Motor Vehicles order while the order is in effect or operating a motor vehicle which is not equipped with an ignition interlock device in violation of a court order or Department of Motor Vehicles order
60-6,218	Reckless driving or willful reckless driving, third or subsequent offense
60-2912	Disclosure of sensitive personal information by Department of Motor Vehicles
64-414	Without authorization obtain, conceal, damage, or destroy items enabling an online notary public to affix signature or seal
66-1226	Selling automotive spark ignition engine fuels not within specifications, first offense
69-2408	Violation of provisions on acquisition of handguns
69-2419	Unlawful request for criminal history record check or dissemination of such information
69-2443	Refusal to allow peace officer or emergency services personnel to secure concealed handgun

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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 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

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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
2-1811	Violation of Nebraska Potato Development Act
2-4327	Violation of Agricultural Liming Materials Act, second or subsequent offense
3-152	Violation of State Aeronautics Act or any related rules, regulations, or orders
8-109	Financial institution examiner failing to report bank insolvency or unsafe condition
8-118	Promoting the organization of a corporation to conduct the business of banking or selling stock prior to issuance of charter
8-142	Bank officer, employee, director, or agent violating loan limits by \$20,000 or more but less than \$40,000 or resulting in monetary loss of \$10,000 or more but less than \$20,000
9-262	Intentionally employing or possessing device to facilitate cheating at bingo or using any fraud in connection with a bingo game, gain of less than \$500
9-345.03	Unlawfully placing a pickle card dispensing device in operation

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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
28-344	Violation of provisions relating to abortion reporting forms
28-442	Unlawful possession or manufacture of drug paraphernalia

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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 Uniform Unsworn Foreign Declarations Act if statement is required by law to be sworn or affirmed
28-924	Official misconduct
28-926	Oppression under color of office

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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

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	a motorboat or personal watercraft while under the influence of alcohol or drugs, first offense
37-1272	Reckless or negligent operation of motorboat, water skis, surfboard, etc.
37-12,110	Violation of provisions relating to abandonment of motorboats
38-1,118	Violation of Uniform Credentialing Act when not otherwise specified, second or subsequent offense
38-1,133	Failure of insurer to report violations of Uniform Credentialing Act, second or subsequent offense
38-1424	Willful malpractice, solicitation of business, and other unprofessional conduct in the practice of funeral directing and embalming
38-28,103	Violations of Pharmacy Practice Act except as otherwise specifically provided
38-3130	Representing oneself as a psychologist or practicing psychology without a license
39-310	Depositing materials on roads or ditches, second offense
39-311	Placing burning materials or items likely to cause injury on highways, second offense
39-2612	Illegal location of junkyard
42-357	Knowingly violating a restraining order relating to dissolution of marriage
42-1204	False or incorrect information on application to restrict disclosure of applicant's address
43-2,107	Violation of restraining or other court order under Nebraska Juvenile Code
44-3,156	Violations of provisions permitting purchase of workers' compensation insurance by associations
44-1209	Reciprocal insurance, violations by attorney in fact
45-208	Violation of maximum rate of time-price differential, revolving charge agreements
45-343	Installment sales, failure to obtain license
45-343	Violation of Nebraska Installment Sales Act
45-747	Engaging in mortgage banking or mortgage loan originating without a license or registration
45-814	Violation of Credit Services Organization Act
45-1037	Violations regarding installment loans
46-254	Interfering with closed waterworks, taking water without authority
46-263.01	Molesting or damaging water flow measuring devices
46-807	Unlawful diversion or drainage of natural lakes
46-1119	Violation of emergency permit provisions of Nebraska Chemigation Act
46-1139	Unlawfully engaging in chemigation without a chemigation permit
46-1140	Unlawfully engaging in chemigation with a suspended or revoked chemigation permit
46-1239	Violating the licensure requirements of Water Well Standards and Contractors' Practice Act
48-144.04	Failing, neglecting, or refusing to file reports required by Nebraska Workers' Compensation Court
48-146.03	Unlawfully requiring employee to pay deductible amount under workers' compensation policy or requiring or attempting to require employee to give up right of selection of physician
48-147	Deducting from employee's pay for workers' compensation benefits
48-311	Violation of child labor laws

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CLASS II MISDEMEANOR

48-414	Using a machine or device or working at a location which Commissioner of Labor has labeled unsafe
48-424	Violations involving health and safety regulations
48-434	Violations of safety requirements in construction of buildings
48-437	Unauthorized manipulation of overhead high voltage conductors or other components
48-645	Unlawful waiver of or deductions for unemployment compensation or discrimination in hire or tenure
48-910	Violation of laws relating to secondary boycotts
48-1714	Violation by farm labor contractor or applicant for farm labor contractor license
48-1714	Violations related to farm labor contractor licenses
50-1215	Obstruct, hinder, delay, or mislead a legislative performance audit or preaudit inquiry
52-124	Failure to discharge construction liens, failure to apply payments for lawful claims
53-111	Nebraska Liquor Control Commission, gifts or gratuities forbidden
53-164.02	Evasion of liquor tax
53-186.01	Permitting consumption of liquor in unlicensed public places, second or subsequent offense
53-187	Nonbeverage liquor licensee giving or selling liquor fit for beverage purposes, second or subsequent offense
53-1,100	Violation of Nebraska Liquor Control Act, second or subsequent offense
54-1,125	Using false evidence of ownership of livestock
54-1,126	Violation of Livestock Brand Act when not otherwise specified
54-415	Estrays, illegal sale, disposition of proceeds
54-861	Violation of Commercial Feed Act, second or subsequent offense
54-1171	Violation of Livestock Auction Market Act
54-1181.01	Person engaging in livestock commerce violating veterinarian inspection provisions
54-1811	Illegal purchase of slaughter livestock
54-1913	Interference with inspection of meat and poultry, attempting to bribe inspector or employee of Department of Agriculture
54-1913	Violation of Nebraska Meat and Poultry Inspection Law when not otherwise specified unless intent was to defraud
54-2955	Violation of Animal Health and Disease Control Act, Exotic Animal Auction or Exchange Venue Act, or rules and regulations
54-2323	Violation of Domesticated Cervine Animal Act, second or subsequent offense
55-142	Trespassing on place of military duty, obstructing person in military duty, disrupting orderly discharge of military duty, disturbing or preventing passage of military troops
55-175	Refusal by restaurant, hotel, or public facility to serve person wearing prescribed National Guard uniform
55-428	Code of military justice, witness failure to appear
57-915	Violation of oil and gas conservation laws
57-1620	Violation of any provision of Nebraska Geologic Storage of Carbon Dioxide Act or rules and regulations or orders under act
57-1620	Make or cause to be made any false entry or statement in any report, record, account, or memorandum required by the Nebraska Geologic Storage of Carbon Dioxide Act or destroy, mutilate, or alter the same

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CLASS II MISDEMEANOR

60-3,167	Operating or allowing the operation of motor vehicle or trailer without proof of financial responsibility
60-4,108	Operating motor vehicle in violation of court order or while operator's license is revoked or impounded, first, second, or third offense
60-4,109	Operating motor vehicle in violation of court order or while operator's license is revoked or impounded for violation of city or village ordinance
60-4,141.01	Operating commercial motor vehicle while operator's license is suspended, revoked, or canceled or while subject to disqualification or an out-of-service order
60-690	Aiding or abetting a violation of Nebraska Rules of the Road
60-696	Failure of driver to stop and report a motor vehicle accident, first offense in 12 years
60-6,130	Unlawful removal or possession of sign or traffic control or surveillance device
60-6,130	Willfully or maliciously injuring, defacing, altering, or knocking down any sign, traffic control device, or traffic surveillance device
60-6,195	Speed competition or drag racing on highways
60-6,217	Reckless driving or willful reckless driving, second offense
60-6,288.01	Failure to notify local authorities prior to moving a building or object over a certain size on a county or township road
60-6,299	Violation of or failure to obtain permit to move building or other object on highway
60-6,336	Snowmobile contest on highway without permission, second or subsequent offense within one year
60-6,343	Violation of provisions relating to snowmobiles, second or subsequent offense within one year
60-6,362	Violation of all-terrain vehicle requirements, second or subsequent offense within one year
60-1911	Violating laws relating to abandoned or trespassing vehicles
69-408	Violation of secondary metals recycling requirements
69-1215	Willfully or knowingly engaging in business of debt management without license
69-1324	Willful failure to deliver abandoned property to the State Treasurer
69-2409.01	Intentionally causing the Nebraska State Patrol to request mental health history information without reasonable belief that the named individual has submitted a written application or completed a consent form for a handgun
69-2709	Knowing or intentional cigarette sales report, tax, or stamp violations or sales of unstamped cigarettes or cigarettes from manufacturer not in directory, second or subsequent offense
69-2709	Knowing or intentional cigarette sales or purchases from unlicensed stamping agent or without appropriate stamp or reporting requirements, second or subsequent offense
71-962	Filing petition with false allegations or depriving a subject of rights under Nebraska Mental Health Commitment Act or Sex Offender Commitment Act
71-962	Willful violation involving records under Nebraska Mental Health Commitment Act or Sex Offender Commitment Act
71-15,141	Approve, sign, or file a local housing agency annual report which is materially false or misleading

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CLASS II MISDEMEANOR

71-1805	Sale and distribution of pathogenic microorganisms
71-2416	Violation of Emergency Box Drug Act
71-2482	Violation involving adulterated or misbranded drugs, second or subsequent offense
71-2512	Violation of Poison Control Act when not otherwise specified, second offense
71-3213	Violation of laws pertaining to private detectives
72-245	Waste, trespass, or destruction of trees on school lands
72-313	Violation of mineral or water rights on state lands
72-802	Violation of plans, specifications, bids, or appropriations on public buildings
75-127	Unjust discrimination or prohibited practices in rates by officers, agents, or employees of a common carrier
75-428	Failure of railroad to provide transfer facilities at intersections upon order of Public Service Commission
75-723	Violation of laws on transmission lines
76-1722	Acting as a sales agent for real property in a time-share interval arrangement without a license
76-2114	Acting as membership camping contract salesperson without registration
76-2325.01	Interference with utility poles and wires or transmission of light, heat, power, or telecommunications, loss of at least \$200 but less than \$500 (certain situations)
77-1232	Failure to list or filing false list of personal property for tax purposes for 1993 and thereafter
77-2311	Failure or refusal to perform duties regarding deposit of state funds by State Treasurer
77-2790	Claiming excessive exemptions or overstating withholding to evade income taxes
77-27,115	Taxpayer, failure to pay, account, or keep records on income tax
77-3009	Violation of Mechanical Amusement Device Tax Act
77-3522	False or fraudulent claim for homestead exemption
79-949	False or fraudulent acts to defraud the school employees retirement system
79-992.02	False or fraudulent acts to defraud the school employees retirement system of a Class V school district
79-9,107	Illegal interest in investment of school employees retirement system funds
80-405	Obtaining veterans relief by fraud
81-2,162.17	Violation of Nebraska Commercial Fertilizer and Soil Conditioner Act
81-5,205	Violation of Nebraska Amusement Ride Act
81-5,242	Install a conveyance in violation of Conveyance Safety Act
81-885.45	Acting as real estate broker, salesperson, or subdivider without license or certificate or under suspended license or certificate
81-8,205	Unlawful practice as, employment of, advertisement as, or application to become a professional landscape architect, second or subsequent offense
81-8,254	Obstruct, hinder, or mislead Public Counsel in inquiries
81-1023	Use of improperly marked or equipped state-owned vehicle
81-1117.03	Prohibited release of state computer file data
81-1933	Truth and deception examination, unlawful use by employer
81-1935	Violation of provisions on truth and deception examinations

APPENDIX

CLASS II MISDEMEANOR

81-2038	False or fraudulent acts to defraud the Nebraska State Patrol Retirement System
81-3535	Unauthorized practice of geology, first offense
84-305.02	Willfully obstruct, hinder, delay, or mislead the Auditor of Public Accounts in accessing records or information of a public entity when conducting an audit, examination, or related activity
84-1327	False or fraudulent acts to defraud the State Employees Retirement System
85-1650	Violating private postsecondary career school provisions
86-607	Discrimination in rates by telegraph companies
86-608	Failure by telegraph companies to provide newspapers equal facilities
87-303.08	Violation of Uniform Deceptive Trade Practices Act when not otherwise specified

CLASS III MISDEMEANOR

Maximum—three months' imprisonment, or five hundred dollars' fine, or both

Minimum—none

2-519	Intentional violation of provisions relating to levy, payment, collection, and remittance of commercial hemp fees under the Nebraska Hemp Farming Act
2-1825	Violation of Nebraska Potato Inspection Act
2-2319	Violation of Nebraska Wheat Resources Act
2-2647	Violation of Pesticide Act, first offense
2-3416	Violation of Nebraska Poultry and Egg Resources Act
2-3635	Violation of Nebraska Corn Resources Act
2-3765	Violation of Dry Bean Resources Act
2-3963	Violation of Dairy Industry Development Act
2-4020	Violation of Grain Sorghum Resources Act
2-4118	Violation of Dry Pea and Lentil Resources Act
2-5605	Violations relating to excise taxes on grapes
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

APPENDIX

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 elected or appointed city or village officer or such officer accepting special rates
18-306	Electric company providing special rates to elected or appointed city or village officer
18-307	Elected or appointed city or village officer accepting electric service at special rates
18-308	Water company providing special rates to elected or appointed city or village officer or such officer accepting special rates
18-1741.05	Failure to appear or comply with handicapped parking citation
18-2715	Unauthorized disclosure of confidential business information under city ordinance pursuant to Local Option Municipal Economic Development Act
19-2906	Disclosures by accountant of results of examination of municipal accounts
20-129	Interfering with rights of a person who is blind, deaf, or who has a disability and denying or interfering with admittance to or enjoyment of public facilities
20-129	Interfering with rights of a service animal trainer and denying or interfering with admittance to or enjoyment of public facilities
21-622	Illegal use of society emblems
23-114.05	Violation of county zoning regulations
23-135.01	False claim against county when value is less than \$500
23-350	Failing to file or filing false or incorrect inventory statement by county officers or members of county board
28-201	Criminal attempt to commit a Class II misdemeanor
28-384	Failure to make report under Adult Protective Services Act
28-385	Wrongful release of information gathered under Adult Protective Services Act
28-403	Administering secret medicine
28-416	Knowingly or intentionally possessing more than one ounce but not more than one pound of marijuana
28-417	Unlawful acts relating to packaging, possessing, or using narcotic drugs and other controlled substances
28-424	Inhaling or drinking certain intoxicating compounds
28-424	Selling or offering for sale certain intoxicating compounds
28-424	Selling or offering for sale certain intoxicating compounds without maintaining register for one year
28-424	Inducing or enticing another to sell, inhale, or drink certain intoxicating compounds or to fail to maintain register for one year
28-444	Drug paraphernalia advertisement prohibited
28-445	Manufacture or delivery of an imitation controlled substance, first offense
28-450	Unlawful sale, distribution, or transfer of ephedrine, pseudoephedrine, or phenylpropanolamine for use as a precursor to a controlled substance or with reckless disregard as to its use
28-456.01	Purchase, receive, or otherwise acquire pseudoephedrine base or phenylpropanolamine base over authorized limits, second or subsequent offense

APPENDIX

CLASS III MISDEMEANOR

28-514	Theft of lost, mislaid, or misdelivered property when value is \$500 or less, first offense
28-515.02	Theft of utility service and interference with utility meter
28-516	Unauthorized use of a propelled vehicle, first offense
28-519	Criminal mischief, pecuniary loss of less than \$500
28-521	Criminal trespass in the second degree (certain situations)
28-523	Littering, first offense
28-524	Unauthorized application of graffiti, first offense
28-604	Criminal possession of forged instrument, face value less than \$500
28-606	Criminal simulation of antiquity, rarity, source, or composition
28-609	Impersonating a public servant
28-621	Criminal possession of one financial transaction device
28-633	Printing more than the last 5 digits of a payment card account number upon a receipt provided to payment card holder, first offense
28-717	Willful failure to report abused or neglected children
28-730	Unlawful disclosures by a child abuse and neglect team member
28-902	Failure to report a physical injury received in connection with, or as a result of, the commission of a criminal offense
28-914	Loitering about a penal institution
28-923	Simulating legal process
28-925	Misuse of official information
28-927	Neglecting to serve warrant if offense for warrant is a misdemeanor
28-928	Mutilation of a flag of the United States or the State of Nebraska
28-1009.01	Violence on or interference with a service animal
28-1010	Indecency with an animal
28-1209	Failure to register tranquilizer guns
28-1210	Failure to notify sheriff of sale of tranquilizer gun
28-1225	Storing explosives in violation of safety regulations
28-1226	Failure to report theft of explosives
28-1227	Violations of provisions relating to explosives
28-1240	Unlawful use of tank or container which contained anhydrous ammonia
28-1242	Unlawful throwing of fireworks
28-1250	Violation of laws relating to fireworks
28-1251	Unlawful testing or inspection of fire alarms
28-1303	Raising or producing stagnant water on river or stream
28-1309	Refusing to yield a telephone party line
28-1310	Intimidation by telephone call or electronic communication
28-1313	Unlawful use of a white cane or guide dog
28-1314	Failure to observe a blind person
28-1316	Unlawful use of locks and keys
28-1317	Unlawful picketing
28-1318	Mass picketing
28-1319	Interfering with picketing
28-1320	Intimidation of pickets
28-1320.03	Unlawful picketing of a funeral
28-1321	Maintenance of nuisances
28-1322	Disturbing the peace
28-1331	Unauthorized use of receptacles
28-1332	Unauthorized possession of a receptacle
28-1335	Discharging firearm or weapon using compressed gas from public highway, road, or bridge

APPENDIX

CLASS III MISDEMEANOR

28-1419	Selling or furnishing tobacco or cigars, cigarettes, cigarette paper, electronic nicotine delivery systems, or alternative nicotine products to any person under 21 years of age
28-1420	Sale or purchase for resale of tobacco or electronic nicotine delivery systems without license
28-1425	Licensee selling or furnishing cigars, tobacco, cigarettes, cigarette material, electronic nicotine delivery systems, or alternative nicotine products to any person under 21 years of age
28-1429.02	Dispensing cigarettes or other tobacco products or electronic nicotine delivery systems or alternative nicotine products from vending machines or similar devices in certain locations
28-1429.03	Sell or distribute cigarettes, cigars, electronic nicotine delivery systems, alternative nicotine products, or tobacco in any form whatever through a self-service display
28-1467	Operation of aircraft while under the influence of alcohol or drugs, first offense
28-1468	Operation of aircraft while under the influence of alcohol or drugs, second offense
28-1478	Deceptive or misleading advertising
29-817	Disclosing of search warrant prior to its execution
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

APPENDIX

CLASS III MISDEMEANOR

- 37-410 Obtaining permit to hunt, fish, or harvest fur by false pretenses or misuse of permit
- 37-410 Receipt of fur-harvesting permit by nonresident less than 16 years old without written parental permission
- 37-450 Violation of rules and regulations under Game Law regarding hunting elk
- 37-451 Violation of rules and regulations under Game Law regarding hunting mountain sheep
- 37-461 Violating permit to take or destroy muskrats or beavers or selling or using muskrats, beavers, or parts thereof without permit
- 37-462 Performing taxidermy services without permit and failure to keep complete records
- 37-501 Taking or possessing a greater number of game than allowed under Game Law
- 37-504 Hunting, trapping, or possessing animals or birds out of season
- 37-504 Unlawfully taking or possessing game other than elk
- 37-505 Unlawful purchase, sale, or barter of animals, birds, or fish or parts thereof
- 37-507 Abandonment, waste, or failure to dispose of fish, birds, or animals
- 37-508 Storing game or fish in cold storage after prescribed storage season or without proper tags
- 37-510 Violating game shipment requirements
- 37-511 Violating importation restrictions on game shipments
- 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

APPENDIX

CLASS III MISDEMEANOR

37-543	Unlawful taking of fish
37-545	Unlawful removal of fish from privately owned pond and violations of commercial fishing permits
37-546	Unlawful taking, use, or possession of baitfish
37-548	Release, importation, exportation, or commercial exploitation of wildlife or aquatic invasive species
37-552	Failure to maintain fish screens in good repair
37-557	Disturbing hatching boxes and nursery ponds
37-570	Knowing and intentional interference or attempt to interfere with hunting, trapping, fishing, or associated activity
37-605	Failure to appear on an alleged violation of Game Law
37-703	Defacing a sign at a game reserve, bird refuge, or wild fowl sanctuary
37-705	Disturbing or otherwise violating provisions relating to reserves, sanctuaries, and closed waters
37-709	Hunting, carrying firearms, or operating a motorboat in state game refuges
37-727	Violation of provisions for hunting, fishing, or trapping on privately owned land
37-1254.09	Refusing to submit to a preliminary breath test for operating a motorboat or personal watercraft while under the influence of alcohol or drugs
37-1289	Operation or sale of motorboat without certificate of title, failure to surrender certificate upon cancellation, deface a certificate of title
38-1,118	Violation of Uniform Credentialing Act when not otherwise specified, first offense
38-1,133	Failure of insurer to report violations of Uniform Credentialing Act, first offense
38-10,165	Performing body art on minor without written consent of parent or guardian and keeping record 5 years
38-2867	Unlicensed person practicing pharmacy
39-103	Operation of motor vehicle in violation of published rules and regulations of the Department of Transportation
39-310	Depositing materials on roads or ditches, first offense
39-311	Placing burning materials or items likely to cause injury on highways, first offense
39-806	Destroying bridge or landmark
39-1335	Illegal use of adjoining property for access to state highway
39-1362	Digging up or crossing state highway
39-1412	Loads exceeding limits or posted capacity on county bridges
39-1806	Refusal of access to lands for placement of snow fences, willful or malicious damage thereto
39-1810	Livestock lanes, driving livestock on adjacent highways
39-1815	Leaving gates open on road over private property
43-257	Detaining or placing a juvenile in violation of certain Nebraska Juvenile Code provisions
43-709	Illegal placement of children
43-1310	Unauthorized disclosure of confidential information regarding foster children and their parents or relatives
43-1414	Violation of genetic paternity testing provisions, second or subsequent offense
43-3001	Public disclosure of confidential information received concerning a child who is or may be in state custody

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CLASS III MISDEMEANOR

43-3327	Unauthorized disclosure or release of confidential information regarding a child support order
43-3714	Violation of confidentiality provisions of Court Appointed Special Advocate Act
44-394	Violation of Chapter 44 when not otherwise specified
44-530	Violation of Standardized Health Claim Form Act
44-1113	Violation of Viatical Settlements Act
44-3721	Violation of Motor Club Services Act
44-5508	Surplus lines licensee placing coverage with a nonadmitted insurer or placing nonadmitted insurance with or procuring nonadmitted insurance from a nonadmitted insurer
45-601	Operating a collection agency business without a license or violation of Collection Agency Act
45-740	Residential mortgage loan violations by licensee
45-1023	Making a false statement to secure a loan
46-263	Neglecting or preventing delivery of irrigation water
46-1142	Failure to provide notice of a chemigation accident
46-1240	Engaging in business or employing another without complying with standards under Water Well Standards and Contractors' Practice Act
48-213	Employment regulations, violation of lunch hour requirements
48-216	Discrimination in employment by manufacturer or distributor of military supplies
48-612	Commissioner of Labor employees violating provisions relating to administration of Employment Security Law
48-612.01	Unauthorized disclosure of information received for administration of Employment Security Law
48-614	Contumacy or disobedience to subpoenas in unemployment compensation proceedings
48-663	False statements or failure to disclose information by employees to obtain unemployment compensation benefits
48-664	False statements by employers to obtain unemployment compensation benefits
48-666	Violation of Employment Security Law when not otherwise specified
48-1005	Age discrimination in employment or interfering with enforcement of statutes relating to age discrimination in employment
48-1118	Unlawful disclosure of information under Nebraska Fair Employment Practice Act
48-1123	Interference with Equal Opportunity Commission in performance of duty under Nebraska Fair Employment Practice Act
48-1227	Discrimination on the basis of sex
49-231	Failure of state, county, or political subdivision officer to furnish information required by constitutional convention
49-1447	Campaign practices, violation by committee treasurer or candidate in statements or reports
49-1461.01	Ballot question committee violating surety bond requirements
49-1469.08	Violation of campaign practices by businesses and organizations in contributions, expenditures, and volunteer services
49-1471	Campaign contribution or expenditure in excess of \$50 made in cash
49-1472	Campaign practices, acceptance of anonymous contribution
49-1473	Campaign practices, legal name of contributor required

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CLASS III MISDEMEANOR

49-1474	Campaign practices, political newsletter or mass mailing sent at public expense
49-1475	Campaign practices, failing to disclose name and address of contributor
49-1476.02	Accepting or receiving a campaign contribution from a state lottery contractor
49-1477	Campaign practices, required information on contributions from persons other than committees
49-1478	Campaign practices, violation of required reports on expenditures
49-1479	Campaign practices, unlawful contributions or expenditures made for transfer to candidate committee
49-1479.01	Violations related to earmarked campaign contributions
49-1490	Prohibited acts relating to gifts by principals or lobbyists
49-1492	Prohibited practices of a lobbyist
49-1492.01	Violation of gift reporting requirements by certain entities
49-14,101	Conflicts of interest, prohibited acts of public official, employee, candidate, and other individuals
49-14,101.01	Public official or employee using office, confidential information, personnel, property, or funds for financial gain or improperly using public communication system or public official or immediate family member accepting gift of travel or lodging if made for immediate family member to accompany the public official
49-14,103.04	Knowing violation of conflict of interest prohibitions
49-14,104	Official or full-time employee of executive branch representing a person or acting as an expert witness
49-14,115	Unlawful disclosure of confidential information by member or employee of Nebraska Accountability and Disclosure Commission
49-14,135	Violation of confidentiality of proceedings of Nebraska Accountability and Disclosure Commission
50-1213	Divulging confidential information or records relating to a legislative performance audit or preaudit inquiry
50-1214	Taking personnel action against a state employee providing information pursuant to Legislative Performance Audit Act
53-167.02	Violations relating to beer keg identification numbers
53-167.03	Tamper with, alter, or remove beer keg identification number or possess beer container with altered or removed keg identification number
53-180.05	Misrepresentation of age by minor to obtain or attempt to obtain alcoholic liquor
53-180.05	Minor over 18 years old and under 21 years old in possession of alcoholic liquor
53-180.05	Parent or guardian knowingly permitting minor to violate alcoholic liquor laws
53-181	Minor 18 years old or younger in possession of alcoholic liquor
53-186.01	Consumption of liquor in unlicensed public places
54-904	Indecency with a livestock animal
54-1711	Livestock dealer violating provisions of Nebraska Livestock Dealer Licensing Act
54-1913	Meat and poultry inspector, officer, or employee accepting bribes
57-507	Unlawful use of liquefied petroleum gas cylinders
57-1106	Willfully and maliciously breaking, injuring, damaging, or interfering with oil or gas pipeline, plant, or equipment

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CLASS III MISDEMEANOR

60-142	Using a bill of sale for a parts vehicle to transfer ownership of any vehicle other than a parts vehicle
60-180	Prohibited acts relating to certificates of title for motor vehicles, all-terrain vehicles, or minibikes
60-3,113.07	Knowingly provide false information on an application for a handicapped or disabled parking permit
60-3,170	Violation of Motor Vehicle Registration Act when not otherwise specified
60-3,171	Fraud in registration of motor vehicle or trailer
60-3,176	Disclosure of information regarding undercover license plates to unauthorized individual
60-3,206	Violation of International Registration Plan Act
60-480.01	Disclosure of information regarding undercover drivers' licenses to unauthorized individual
60-4,108	Operating motor vehicle while operator's license is suspended or after revocation or impoundment but before licensure
60-4,109	Operating motor vehicle while operator's license is suspended or after revocation or impoundment but before licensure for violation of city or village ordinance
60-4,111	Violation of Motor Vehicle Operator's License Act when not otherwise specified
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

APPENDIX

CLASS III MISDEMEANOR

60-6,130	Willful damage or destruction of road signs, monuments, traffic control or surveillance devices by shooting upon highway
60-6,211.11	Operating a motor vehicle with an ignition interlock device in violation of court order or Department of Motor Vehicles order unless otherwise specified
60-6,211.11	Operating a motor vehicle with a 24/7 sobriety program permit and a concentration of .02 of one gram or more by weight of alcohol per 100 milliliters of blood or .02 of one gram or more by weight of alcohol per 210 liters of breath or refusing a chemical test
60-6,215	Reckless driving, first offense
60-6,216	Willful reckless driving, first offense
60-6,222	Violations in connection with headlights and taillights
60-6,228	Vehicle proceeding forward on highway with backup lights on
60-6,234	Violations involving rotating or flashing lights on motor vehicles
60-6,235	Violation of vehicle clearance light requirements
60-6,245	Violation of motor vehicle brake requirements
60-6,259	Application of an illegal sunscreening or glazing material on a motor vehicle
60-6,263	Operating or owning vehicle in violation of safety glass requirements
60-6,291	Exceeding limitations on width, length, height, or weight of motor vehicles when not otherwise specified
60-6,303	Refusal to weigh vehicle or lighten load
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

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CLASS III MISDEMEANOR

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 is \$500 or more but less than \$1,500
71-2482	Violation involving adulterated or misbranded drugs, first offense
71-2482	Violation of provisions relating to drugs which are not controlled substances
71-2510.01	Use of arsenic or strychnine in embalming fluids, violations of labeling requirements
71-2512	Violation of Poison Control Act when not otherwise specified, first offense
71-4632	Mobile home parks established, conducted, operated, or maintained without license, nuisance
71-6741	Violation of Medication Aide Act
71-6907	Performing an abortion in violation of parental consent provisions, knowingly and intentionally or with reckless disregard
71-6907	Unauthorized person providing consent for an abortion
71-6907	Coercing a pregnant woman to have an abortion
74-609.01	Hunting on railroad right-of-way without permission
74-1331	Failure to construct, maintain, and repair railroad bridges in compliance with law
75-114	Refusal to allow access to Public Service Commission to records of a motor or common carrier
75-367	Violation of motor carrier safety regulations or hazardous materials regulations
76-505	Judges and other county officers engaging in business of abstracting
76-558	Unlawful practice in business of abstracting
76-2246	Unlawful offer, attempt, or agreement to practice, or unlawful practice or advertisement as a real property appraiser
76-2325.01	Interference with utility poles and wires or transmission of light, heat, power, or telecommunications, loss of less than \$200 (certain situations)
77-1719.02	Violations by county board members regarding collection of personal taxes and false returns

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CLASS III MISDEMEANOR

77-2619	Fail, neglect, or refuse to report or make false statement regarding cigarette taxation
77-3407	Unlawful signature on budget limitation petition
79-210	Violation of compulsory school attendance provisions
79-603	School vehicles, violation of safety requirements and operating school vehicles which violate safety requirements when not otherwise specified
79-897	Illegal inquiries concerning religious affiliation of teacher applicants
79-8,101	Illegal solicitation of business from classroom teachers
79-1607	Violation of laws on private, denominational, and parochial schools
81-2,157	Unlawful sale or marking of hybrid seed corn
81-2,179	Violation of Nebraska Apiary Act
81-5,181	Violation of Boiler Inspection Act
81-829.41	Unauthorized release of information from emergency management registry
81-8,127	Unlawful practice of land surveying or use of title
81-8,142	Violation of provisions relating to the State Athletic Commissioner
81-8,205	Unlawful practice as, employment of, advertisement as, or application to become a professional landscape architect, first offense
81-1508.01	Knowing and willful violation of Environmental Protection Act, Integrated Solid Waste Management Act, or Livestock Waste Management Act when not otherwise specified
81-2008	Failure to obey rules or orders of or resisting arrest by Nebraska State Patrol
82-111	Destroy, deface, remove, or injure monuments marking Oregon Trail
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,
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CLASS IIIA MISDEMEANOR

	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

Minimum—none

2-220.03	Failure to file specified security or certificates by carnival companies, booking agencies, or shows for state and county fairs
2-957	Unlawful movement of article through which noxious weeds may be disseminated
2-963	Violation of provisions relating to weed control
2-10,115	Specified violations of Plant Protection and Plant Pest Act, first offense
2-1806	Engaging in business as a potato shipper without a license
2-1807	Failure by potato shipper to file statement or pay tax
2-3109	Violation of Nebraska Soil and Plant Analysis Laboratory Act when not otherwise specified
2-3223.01	Failure to file audit of natural resources district
2-4327	Violation of Agricultural Liming Materials Act, first offense
3-330	Violation of Airport Zoning Act
9-513	Violation of Nebraska Small Lottery and Raffle Act, first offense
9-814	Purchase of state lottery ticket by person less than 19 years old
12-512.07	Violations in administering perpetual care trust funds for cemeteries
12-617	Violation relating to perpetual care trust funds for public mausoleums and other burial structures
12-1115	Failure to surrender a license under Burial Pre-Need Sale Act
14-415	Violation of building ordinance or regulations in city of the metropolitan class, first or second offense
19-1847	Violation of Civil Service Act
20-149	Failure of consumer reporting agency to provide reports to consumers, protected consumers, or representatives
23-387	Violation of provisions relating to community antenna television service
23-919	Violation of County Budget Act of 1937

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CLASS IV MISDEMEANOR

23-1507	Failure of register of deeds to perform duties
23-1821	Failure to notify coroner of a death during apprehension or while in custody
25-1563	Attachment or garnishment procedure used to avoid exemption laws
25-1640	Penalizing employee due to jury service
28-410	Failure to comply with inventory requirements by manufacturer, distributor, or dispenser of controlled substances
28-416	Knowingly or intentionally possessing one ounce or less of marijuana or any substance containing a quantifiable amount of a material, compound, mixture, or preparation containing any quantity of synthetically produced cannabinoids, second offense
28-456.01	Purchase, receive, or otherwise acquire pseudoephedrine base or phenylpropanolamine base over authorized limits, first offense
28-462	Knowingly fail to submit methamphetamine precursor information or knowingly submit incorrect information to national exchange
28-476	Intentionally failing to carry or transport hemp not produced in compliance with, or without documentation required under, the Nebraska Hemp Farming Act
28-1009	Harassment of police animal not resulting in death of animal
28-1019	Violation of court order related to misdemeanor animal abuse conviction
28-1104	Promoting gambling in the third degree
28-1253	Distribution, sale, or use of refrigerants containing liquefied petroleum gas
28-1304	Putting carcass or filthy substance in well or running water
28-1357	Distribute or sell a novelty lighter without a child safety feature
29-3527	Unlawful access to or dissemination of criminal history record information
32-1507	Elections, false representation of political party affiliation
32-1517	Refusing to serve as election official
32-1520	Printing or distribution of illegal ballots
32-1547	Elections, filing for more than one elective office
36-213.01	Unlawful assignment or notice of assignment of wages of head of family
37-403	Violation of farm or ranch land hunting permit exemption
37-463	Dealing in raw furs without fur buyer's permit, failure to keep complete records of furs bought or sold
37-471	Violation relating to aquatic organisms raised under an aquaculture permit
37-482	Keeping wild birds or animals in captivity without permit
37-4,103	Unlawfully taking, maintaining, or selling raptors
37-524	Importation, possession, or release of certain wild or nonnative animals or aquatic invasive species
37-528	Administering a drug to wildlife
37-558	Placing harmful matter into waters stocked by Game and Parks Commission
37-1238.02	Failure of vessel to comply with order of officer to stop
37-1271	Violation of certain provisions of State Boat Act
38-28,115	Violation of Nebraska Drug Product Selection Act or rules and regulations
39-302	Failure to properly equip certain sprinkler irrigation systems with endgun
43-1414	Violation of genetic paternity testing provisions, first offense

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CLASS IV MISDEMEANOR

44-3,142	Unauthorized release of relevant insurance information relating to motor vehicle theft or insurance fraud
44-10,108	Soliciting membership for a fraternal benefit society not licensed in this state
44-2615	Acting as insurance consultant without license
45-101.07	Lender imposing certain conditions on mortgage loan escrow accounts
46-613.02	Violations of registration and spacing requirements for water wells; illegal transfer of ground water
46-687	Withdrawing or transferring ground water in violation of Industrial Ground Water Regulatory Act
46-1127	Placing chemical in irrigation distribution system without complying with law
46-1143	Violation of Nebraska Chemigation Act when not otherwise specified
46-1666	Willfully obstruct, hinder, or prevent Department of Natural Resources from performing duties under Safety of Dams and Reservoirs Act
48-219	Contracting to deny employment due to relationship with labor organization
48-230	Violation of provisions allowing preference to veterans seeking employment
48-433	Failure of architect to comply with law in preparing building plans
48-1206	Minimum wage rate violations
48-1505	Violations relating to sheltered workshops
48-2211	Violating recruiting restrictions related to non-English-speaking persons
49-1445	Violation of requirement to form candidate committee upon raising, receiving, or expending more than \$5,000 in a calendar year
49-1446	Violations relating to campaign committee funds
49-1467	Failure to report campaign expenditure of more than \$250
49-1474.01	Violation of distribution requirements for political material
53-149	Providing false information regarding alcohol retailer's accounts with alcoholic liquor wholesale licensee in connection with sale of retailer's business
53-173	Knowingly or intentionally possessing powdered alcohol, second offense
53-186.01	Permitting consumption of liquor in unlicensed public places, first offense
53-187	Nonbeverage liquor licensee giving or selling liquor fit for beverage purposes, first offense
53-194.03	Importation of alcohol for personal use in certain quantities
53-1,100	Violation of Nebraska Liquor Control Act, first offense
54-315	Leaving well or pitfall uncovered, failure to decommission inactive well
54-613	Allowing dogs to run at large, damage property, injure persons, or kill animals
54-622	Violation of restrictions on dangerous dogs
54-861	Violation of Commercial Feed Act, first offense
54-861	Improper use of trade secrets in violation of Commercial Feed Act
54-909	Violating court order not to own or possess a livestock animal after the date of conviction for indecency with a livestock animal, first offense
	cruel mistreatment of an animal, or intentionally, knowingly, or recklessly abandoning or cruelly neglecting livestock animal not resulting in serious injury or illness or death of the livestock animal
54-1605	Violation of accreditation provisions for specific pathogen-free swine

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CLASS IV MISDEMEANOR

54-2323	Violation of Domesticated Cervine Animal Act, first offense
54-2612	Unlawful sale of swine by packer
54-2615	False reporting of swine by packer
54-2622	Unlawful sale of cattle by packer
54-2625	False reporting of cattle by packer
55-165	Discriminating against an employee who is a member of the reserve military forces
55-166	Discharging employee who is a member of the National Guard or armed forces of the United States for military service
57-516	Violation of provisions relating to sale of liquefied petroleum gas
57-719	Violating or aiding and abetting violations of oil and gas severance tax laws
57-1213	Failure or refusal to make uranium severance tax return or report
60-3,168	Failure to have and keep liability insurance or other proof of financial responsibility on motor vehicle
60-3,169	Unauthorized use of vehicle registered as farm truck
60-3,172	Registration of motor vehicle or trailer in location other than that authorized by law
60-3,173	Improper increase of gross weight or failure to pay registration fee on commercial trucks and truck-tractors
60-3,174	Improper use of a vehicle with a special equipment license plate
60-4,129	Violation involving use of an employment driving permit
60-4,130	Failure to surrender an employment driving permit
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

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CLASS IV MISDEMEANOR

69-2709	Knowing or intentional cigarette sales report, tax, or stamp violations or sales of unstamped cigarettes or cigarettes from manufacturer not in directory, first offense
69-2709	Knowing or intentional cigarette sales or purchases from unlicensed stamping agent or without appropriate stamp or reporting requirements, first offense
71-1563	Modular housing unit sold or leased without official seal
71-1613	Violation of provisions relating to district health boards
71-1914.03	Providing unlicensed child care when a license is required
71-2096	Interfere with enforcement of provisions relating to health care facility receivership proceedings
71-2228	Illegal receipt of food supplement benefits when value is less than \$500
71-2229	Using, altering, or transferring food instruments or food supplements when value is less than \$500
71-2229	Illegal possession or redemption of food supplement benefits when value is less than \$500
71-3517	Violation of Radiation Control Act
71-5312	Violation of Nebraska Safe Drinking Water Act
71-5733	Smoking in place of employment or public place, second or subsequent offense
71-5733	Proprietor violating Nebraska Clean Indoor Air Act, second or subsequent offense
71-5870	Engaging in activity prohibited by Nebraska Health Care Certificate of Need Act
71-8711	Disclose actions, decisions, proceedings, discussions, or deliberations of patient safety organization meeting
73-105	Violation of laws on public lettings
74-1323	Failure to comply with order by Public Service Commission to store or park railroad cars safe distance from crossing
75-117	Refusal to comply with an order of Public Service Commission by a motor or common carrier
75-155	Knowing and willful violation of Chapter 75 or 86 when not otherwise specified
75-371	Operating motor vehicle in violation of insurance and bond requirements for motor carriers
75-398	Operation of vehicle in violation of provisions relating to the unified carrier registration plan and agreement
75-426	Failure to file report of railroad accident
76-3602	Failure of a home inspector to register with the Secretary of State
76-3603	Failure of a home inspector to pay registration fee or provide a certificate of insurance
76-3604	Failure of a home inspector to report a change of information within 30 business days
77-1232	Failure to list or filing false list of personal property for tax purposes prior to 1993
77-1324	False statement of assessment of public improvements
77-2026	Receipt by inheritance tax appraiser of extra fee or reward
77-2350.02	Failure to perform duties relating to deposit of public funds by school district or township treasurer
77-2713	Retailer engaging in business without a sales and use tax permit or after permit is suspended

APPENDIX

CLASS IV MISDEMEANOR

77-2713	Giving resale certificate for property purchased for use rather than for resale, lease, or rental
77-2713	Violation of laws relating to sales and use taxes when not otherwise specified
77-3709	Violation of reporting and permit requirements for mobile homes
81-2,147.09	Violation of Nebraska Seed Law
81-2,154	Violation of state-certified seed laws
81-2,290	Violation of Nebraska Pure Food Act
81-520.02	Violation of open burning ban or range-management burning permit
81-5,131	Violation of provisions relating to arson information
81-674	Wrongful disclosure of confidential data from medical record and health information registries or deceitful use of such information
81-1525	Failure or refusal to remove accumulation of junk
81-1559	Failure of manufacturer or wholesaler to obtain litter fee license
81-1560.01	Failure of retailer to obtain litter fee license
81-1577	Failure to register hazardous substances storage tanks
81-15,289	Mobile home park established, conducted, operated, or maintained without license
81-1626	Lighting and thermal efficiency violations
84-1414	Unlawful action by members of public bodies in public meetings, first offense
86-162	Failure to provide telephone services

CLASS V MISDEMEANOR

Maximum—no imprisonment, one hundred dollars' fine

Minimum—none

2-219	Exhibit or conduct indecent shows or dances or engage in any gambling at state, district, or county fairs
2-220	State, district, and county fairs, refusal or failure to remove illegal devices
2-3292	Conducting recreational activities outside of designated areas in a natural resources district recreation area
2-3293	Smoking and use of fire or fireworks in a natural resources district recreation area
2-3294	Pets or other animals in a natural resources district recreation area
2-3295	Hunting, fishing, trapping, or using weapons in a natural resources district recreation area
2-3296	Conducting prohibited water-related activities in a natural resources district recreation area
2-3297	Destruction or removal of property, constructing a structure, or trespassing in a natural resources district recreation area
2-3298	Abandoning vehicle in a natural resources district recreation area
2-3299	Unauthorized sale or trading of goods in a natural resources district recreation area
2-32,100	Violation of traffic rules in a natural resources district recreation area
2-3974	Violation of Nebraska Milk Act or impeding or attempting to impede enforcement of the act
7-111	Practice of law by certain judges, clerks, sheriffs, or other officials
8-113	Unauthorized use of the word "bank"
8-114	Unauthorized conduct of banking business

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CLASS V MISDEMEANOR

8-226	Unauthorized use of the words "trust", "trust company", "trust association", or "trust fund"
8-305	Unauthorized use of "building and loan" or "savings and loan" or any combination of such words in corporate name
8-829	Collecting certain charges on personal loans by banks and trust companies
13-510	Illegal obligation of funds in county budget during emergency
16-230	Violation of ordinances regulating drainage, litter, and growth of grass, weeds, and worthless vegetation
17-563	Violation of ordinances regulating drainage, litter, and growth of grass, weeds, and worthless vegetation
18-312	Cities, villages, and their officers entering into compensation contracts contingent upon elections
21-1306	Unauthorized use of the word "cooperative"
21-1728	Unlawful use of the words "credit union" or representing oneself or conducting business as a credit union
23-808	Operating pool or billiard hall or bowling alley outside of municipality without a county license
23-813	Operating roadhouse, dance hall, carnival, show, amusement park, or other place of public amusement outside of municipality without a county license
23-817	Violation of law regulating places of amusement
23-1612	Audit of county offices, failure or refusal to exhibit records
24-216	Clerk of Supreme Court, fees, neglect or fraud in report
28-3,107	Intentional or reckless falsification of report required under Pain-Capable Unborn Child Protection Act
28-725	Unauthorized release of child abuse or neglect information
28-1018	Selling puppy or kitten under 8 weeks old without its mother
28-1255	Sale, possession, or use of flying lantern-type devices
28-1305	Putting carcass or putrid animal substance in a public place
28-1306	Railroads bringing unclean stock cars into state
28-1308	Watering livestock at private tank without permission
28-1347	Unauthorized access to or use of a computer, first offense
28-1418	Smoking or other use of tobacco or use of electronic nicotine delivery systems or other alternative nicotine products by a person under the age of 21
28-1427	Person under the age of 21 misrepresenting age to obtain cigars, tobacco, cigarettes, cigarette material, electronic nicotine delivery systems, or alternative nicotine products
28-1472	Failure to submit to preliminary breath test for operation of aircraft while under influence of alcohol or drugs
28-1483	Sale of certain donated food
31-435	Neglect of duty by officers of drainage districts
32-228	Failure to serve as an election official in counties having an election commissioner
32-236	Failure to serve as an election official in counties that do not have an election commissioner
32-241	Taking personnel actions against employee serving as an election official
32-1523	Obstructing entrance to polling place
32-1524	Electioneering by election official

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CLASS V MISDEMEANOR

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
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

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CLASS V MISDEMEANOR

39-808	Unlawful signs or advertising on bridges or culverts
39-1012	Illegal location of rural mail boxes
39-1801	Removing or interfering with barricades on county and township roads
39-1816	Illegal parking of vehicles on county road right-of-way
42-918	Unlawful disclosure of confidential information under Protection from Domestic Abuse Act
43-2,108.05	Violation of provisions relating to handling and inspection of sealed juvenile records
44-361.02	Insurance agent obtaining license or renewal to circumvent rebates
46-266	Owner allowing irrigation ditches to overflow on roads
46-282	Wasting artesian water
46-1666	Violation of Safety of Dams and Reservoirs Act or any application approval, approval to operate, order, rule, regulation, or requirement of the department under the act
47-206	Neglect of duty by municipal jailer
48-222	Unlawful cost to applicant for medical examination as condition of employment
48-237	Prohibited uses of social security numbers by employers
48-442	Violation involving high voltage lines
48-1227	Discriminatory wage practices based on sex, failing to keep or falsifying records, interfering with enforcement
49-211	Failure of election officers to make returns on adoption of constitutional amendment
49-14,103.04	Negligent violation of conflict of interest prohibitions
51-109	Illegal removal of books from State Library
53-197	Neglect or refusal of sheriffs or police officers to make complaints against violators of liquor laws
54-302	Driving off livestock belonging to another
54-306	Driving cattle, horses, or sheep across private lands causing injury
54-7,104	Failure to take care of livestock during transport
59-1503	Unlawful acts by retailers or wholesalers in sales of cigarettes
60-196	Failure to retain a true copy of an odometer statement for five years
60-3,135.01	Unlawful ownership or operation of a motor vehicle with special interest motor vehicle license plates
60-3,166	Dealer, prospective buyer, or finance company operating motor vehicle or trailer without registration, transporter plate, or manufacturer plates and failing to keep records
60-3,175	Violation of registration and use provisions relating to historical vehicles
60-4,164	Refusal of commercial driver to submit to preliminary breath test for driving under the influence of alcohol
60-690	Aiding or abetting a violation of Nebraska Rules of the Road
60-699	Failure to report vehicle accident or give correct information
60-6,197.04	Refusal to submit to preliminary breath test for driving under the influence of alcohol
60-6,211.05	Failure by ignition interlock service facility to notify probation office, court, or Department of Motor Vehicles of evidence of tampering with or circumvention of an ignition interlock device
60-6,224	Failure to dim motor vehicle headlights
60-6,239	Failure to equip or display motor vehicles required to have clearance lights, flares, reflectors, or red flags

APPENDIX

CLASS V MISDEMEANOR

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
71-4410	Violation of rabies control provisions
71-5733	Smoking in place of employment or public place, first offense
71-5733	Proprietor violating Nebraska Clean Indoor Air Act, first offense
74-593	Using track motor cars on rail lines without headlights or rear lights
74-605	Failure of railroad to report or care for injured animals
74-1308	Failure of Railroad Transportation Safety District treasurer to file report or neglect of duties or refusal by district officials to allow inspection of records
74-1340	Failure, neglect, or refusal to comply with order of Department of Transportation regarding railroad crossings
75-429	Failure of railroad to maintain or operate switch stand lights and signals
76-247	Register of deeds giving certified copy of power of attorney which has been revoked without stating fact of revocation in certificate

APPENDIX

CLASS V MISDEMEANOR

76-2,122	Acting as real estate closing agent without license or without complying with law
77-2105	Failure to furnish information or reports for estate or generation-skipping transfer taxes
77-5016.08	Prohibited acts relating to subpoenas, testimony, and depositions in Tax Equalization and Review Commission proceedings
79-223	Violation of student immunization requirements
79-253	Violation regarding physical examinations of students
79-571	Disorderly conduct at school district meetings
79-581	Failure by secretary of Class III school district to publish claims and summary of proceedings
79-606	Failure to remove equipment from and repaint school transportation vehicles sold for other purposes
79-607	Violation of traffic regulations or failure to include obligation to comply with traffic regulation in school district employment contract
79-608	Violations by a school bus driver involving licensing or hours of service
79-949	Failure or refusal to furnish information to retirement board for school employees retirement
79-992.02	Willful failure or refusal to furnish information to administrator and board of trustees or retirement board under the Class V School Employees Retirement Act
79-1084	Secretary of Class III school board failing or neglecting to publish budget documents
79-1086	Secretary of Class V school board failing or neglecting to publish budget documents
81-520	Failure to comply with order of State Fire Marshal to remove or abate fire hazards
81-522	Failure of city or county authorities to investigate and report fires
81-538	Violation of State Fire Marshal or fire abatement provisions when not otherwise specified
81-5,146	Violation of smoke detector provisions
81-5,163	Water-based fire protection system contractor failing to comply with requirements
81-5,242	Violation of Conveyance Safety Act
81-649.02	Failure by hospital to make reports to cancer registry
81-6,120	Provision of transportation services by certain persons or failing to submit to background check prior to providing such services to vulnerable adults or minors on behalf of Department of Health and Human Services
81-1024	Personal use of state-owned motor vehicle
81-1551	Failure to place litter receptacles on premises in sufficient number
81-1552	Damaging or misusing litter receptacle
81-15,277	Violation of laws relating to recreation camps
82-124	Damage to property of Nebraska State Historical Society
82-126	Violating restrictions on visitation to state sites and monuments
83-356	Mistreatment of mentally ill persons
86-161	Failure of telecommunications company to file territorial maps
86-609	Unlawful telegraph dispatch activities
88-549	Failure of warehouse licensee to send written notice to person storing grain of amount, location, and fees

APPENDIX

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 five hundred dollars and not less than fifty dollars per violation
- 18-1918 Installing or repairing sanitary plumbing without permit
–fine of not less than fifty dollars nor more than five hundred dollars
- 18-2205 Violation involving community antenna television service or franchise ordinance
–fine of not more than five hundred dollars
- 18-2315 Violation involving heating, ventilating, and air conditioning services
–fine of not more than five hundred dollars
–imprisonment of not more than six months
–both
- 19-905 Remove, alter, or destroy posted notice prior to building zone and regulation hearing
- 19-913 Violation of zoning laws and ordinances and building regulations
–fine of not more than one hundred dollars
–imprisonment of not more than thirty days
- 19-1104 Failure of city or village clerk or treasurer to publish council proceedings or fiscal statement
–fine of not more than twenty-five dollars and removal from office

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UNCLASSIFIED MISDEMEANORS, see section 28-107

- 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
- 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

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UNCLASSIFIED MISDEMEANORS, see section 28-107

- 74-918 Failure by railroad to supply drinking water and toilet facilities
–fine of not less than one hundred dollars nor more than five hundred dollars
- 75-130 Failure by witness to testify or comply with subpoena of Public Service Commission
–fine of not more than five thousand dollars
- 76-215 Failure to furnish real estate transfer tax statement
–fine of not less than ten dollars nor more than five hundred dollars
- 76-218 Violations involving acknowledging and recording instruments of conveyance
–fine of not more than five hundred dollars
–imprisonment of not more than one year
- 76-239.05 Failure to apply construction financing for labor and materials
–fine of not less than one hundred dollars nor more than one thousand dollars
–imprisonment of not more than six months
–both
- 76-2,108 Defrauding another by making a dual contract for purchase of real property or inducing the extension of credit
–fine of not less than one hundred dollars nor more than five hundred dollars
–imprisonment of not less than five days nor more than thirty days
–both
- 77-1250.02 Owner, lessee, or manager of aircraft hangar or land upon which is parked or located any aircraft, fail to report aircraft to the county assessor
–fine of not more than fifty dollars
- 77-1313 Failure of county officer to assist county assessor in assessment of property
–fine of not less than fifty dollars nor more than five hundred dollars
- 77-1613.02 County assessor willfully reducing or increasing valuation of property without approval of county board of equalization
–fine of not less than twenty dollars nor more than one hundred dollars
- 77-1918 County officers failing to perform duties related to foreclosure
–removal from office
- 77-2703 Seller fails or refuses to furnish certified statement regarding a motor vehicle, motorboat, all-terrain vehicle, or utility-type vehicle transaction
–fine of not less than twenty-five dollars nor more than one hundred dollars
- 77-2706 Giving a resale certificate to avoid sales tax
- 79-2,103 Soliciting membership in fraternity, society, or other association on school grounds
–fine of not less than two dollars nor more than ten dollars
- 81-171 Using state mailing room or postage metering machine for private mail
–fine of not less than twenty dollars nor more than one hundred dollars
- 83-114 Officer or employee interfering in an official Department of Health and Human Services investigation
–fine of not less than ten dollars nor more than one hundred dollars
- 84-732 Governor or Attorney General knowingly failing or refusing to implement laws
–fine of one hundred dollars
–impeachment

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ACTS, CODES, AND OTHER NAMED LAWS

NAME OF ACT	WHERE CITED
Alternative Certification for Quality Teachers Act	79-8,143
Class V School Employees Retirement Act	79-978.01
COVID-19 Liability Act	25-3601
Environmental Safety Act	81-15,261
Ethanol Development Act	66-1330
Financial Literacy Act	79-3001
Firefighter Cancer Benefits Act	35-1002
Health Care Crisis Protocol Act	71-2701
In the Line of Duty Compensation Act	81-8,315
Medical Assistance Act	68-901
Motor Vehicle Registration Act	60-301
Municipal Initiative and Referendum Act	18-2501
Municipal Inland Port Authority Act	13-3301
Municipal Natural Gas System Emergency Assistance Act	19-5601
Nebraska Banking Act	8-101.02
Nebraska Broadband Bridge Act	86-1301
Nebraska Farm-to-School Program Act	79-2901
Nebraska Financial Innovation Act	8-3001
Nebraska Geologic Storage of Carbon Dioxide Act	57-1601
Nebraska Meat and Poultry Inspection Law	54-1901
Nebraska Protection of Vulnerable Adults from Financial Exploitation Act	8-2904
Nebraska Racetrack Gaming Act	9-1101
Nebraska Rural Projects Act	81-12,195
New Markets Job Growth Investment Act	77-1101
Online Notary Public Act	64-401
Property Tax Request Act	77-1630
Purple Star Schools Act	79-2801
School Safety and Security Reporting System Act	79-3101
Seizure Safe Schools Act	79-3201
Shovel-Ready Capital Recovery and Investment Act	81-12,219
Step-Therapy Reform Act	44-7,111
Stroke System of Care Act	71-4201
24/7 Sobriety Program Act	60-701
Uniform Credentialing Act	38-101
Uniform Easement Relocation Act	76-2,127
Uniform Foreign-Country Money Judgments Recognition Act	25-1337
Uniform Powers of Appointment Act	30-4601
Uniform Registration of Canadian Money Judgments Act	25-1349
Uniform Standard Code for Mobile Home Parks	81-15,278
Urban Redevelopment Act	77-6901
Veteran Promise Act	85-2901

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CROSS REFERENCE TABLE

2021 Session Laws of Nebraska, First Session
Showing LB section number to statute section number

	2021 First Session	2021 Supplement	2021 First Session	2021 Supplement	2021 First Session	2021 Supplement
LB 1	§ 1	77-3001		4 44-3902		5 13-3105
		2 Omitted		5 44-3903		6 13-3106
		3 Omitted		6 44-5814		7 13-3108
LB 2	§ 1	77-201		7 Omitted		8 13-3109
		2 77-5023	LB 22	§ 1 44-8102		9 82-334
		3 Omitted		2 44-8103		10 82-335
		4 Omitted		3 44-8105		11 Omitted
LB 4	§ 1	80-901		4 44-8106		12 Omitted
		2 80-902		5 44-8107	LB 39A	Omitted
		3 80-903		6 44-8108	LB 40	§ 1 81-12,195
		4 Omitted		7 44-8109		2 81-12,196
LB 5	§ 1	79-2801		8 Omitted		3 81-12,197
		2 79-2802		9 Omitted		4 81-12,198
		3 79-2803	LB 23	§ 1 76-2207.30		5 81-12,199
		4 79-2804		2 76-2218.02		6 81-12,200
		5 Omitted		3 76-2221		7 81-12,201
LB 9	§ 1	16-118		4 76-2228.01		8 81-12,202
		2 77-1344		5 76-2228.02		9 81-12,203
		3 Omitted		6 76-2230		10 81-12,204
		4 Omitted		7 76-2231.01		11 81-12,205
LB 14	§ 1	38-513		8 76-2232		12 81-12,206
		2 38-515		9 Omitted		13 81-12,207
		3 38-518		10 Omitted		14 81-12,208
		4 38-520	LB 25	§ 1 18-2101.02		15 81-12,209
		5 38-1509		2 18-2147		16 81-12,210
		6 38-4101		3 Omitted		17 81-12,211
		7 Omitted		4 Omitted		18 81-12,212
LB 17	§ 1	24-701	LB 26	§ 1 77-2701		19 81-12,213
		2 24-703		2 77-2701.04		20 81-12,214
		3 24-710		3 77-2701.41		21 81-12,215
		4 25-2804		4 77-2704.68		22 81-12,216
		5 33-106.02		5 77-2711		23 81-12,217
		6 33-123		6 77-2713		24 81-12,218
		7 33-124		7 77-27,223	LB 40A	Omitted
		8 33-125		8 Omitted	LB 41	§ 1 23-259
		9 33-126.02		9 Omitted		2 23-1601
		10 33-126.03	LB 35	§ 1 82-803		3 Omitted
		11 33-126.06		2 Omitted	LB 44	§ 1 19-5505
		12 79-966	LB 37	§ 1 28-1253		2 Omitted
		13 79-966.01		2 81-503.01	LB 51	§ 1 23-1701.01
		14 81-2017		3 81-505.01		2 29-215
		15 Omitted		4 81-538		3 29-2264
		16 Omitted		5 81-551		4 81-1401
LB 18	§ 1	77-6810		6 81-5,167		5 81-1403
		2 77-6818		7 Omitted		6 81-1407
		3 Omitted		8 Omitted		7 81-1410.01
		4 Omitted	LB 39	§ 1 13-2610		8 81-1414
LB 21	§ 1	44-322		2 13-3102		9 81-1414.11
		2 44-3,127		3 13-3103		10 81-1414.12
		3 44-32,119		4 13-3104		11 81-1414.13

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2021 First Session	2021 Supplement	2021 First Session	2021 Supplement	2021 First Session	2021 Supplement
	12 81-1414.07		6 Omitted		4 Omitted
	13 81-1414.14		7 Omitted	LB 106A	Omitted
	14 81-1414.15	LB 81	§ 1 31-727	LB 108	§ 1 68-1017.02
	15 81-1414.16		2 31-728		2 Omitted
	16 81-1414.17		3 31-729		3 Omitted
	17 81-1414.18		4 31-739	LB 108A	Omitted
	18 81-1414.19		5 31-740	LB 113	§ 1 37-1285.01
	19 81-1438		6 31-744		2 60-164.01
	20 81-1439		7 31-749		3 60-301
	21 81-1440		8 Omitted		4 60-3,104.01
	22 81-1443	LB 83	§ 1 2-4108		5 60-3,120
	23 81-2014		2 24-1204		6 60-3,122.02
	24 Omitted		3 31-727.02		7 60-3,122.04
LB 51A	Omitted		4 38-170		8 60-3,128
LB 57	§ 1 27-803		5 39-1108		9 60-3,135.01
	2 Omitted		6 58-230		10 60-3,198
LB 58	§ 1 25-520.01		7 58-817		11 60-3,202
	2 Omitted		8 79-1218		12 60-3,201.01
LB 63	§ 1 77-202.01		9 79-2204		13 60-3,224
	2 77-202.09		10 82-803		14 60-3,227
	3 Omitted		11 84-1409		15 60-3,231
LB 64	§ 1 77-2716		12 84-1411		16 60-3,235
	2 Omitted		13 84-1412		17 60-3,238
LB 65	§ 1 49-14,103.01		14 84-1413		18 60-3,240
	2 Omitted		15 84-1415		19 60-3,242
LB 66	§ 1 77-2391		16 Omitted		20 60-3,244
	2 77-2393		17 Omitted		21 60-3,246
	3 77-2394	LB 84	§ 1 50-1209		22 60-3,248
	4 77-2395		2 77-6818		23 60-3,250
	5 77-2397		3 Omitted		24 60-3,252
	6 77-2399	LB 90	§ 1 2-2634		25 60-3,254
	7 77-23,100		2 81-2,162.06		26 60-4,114
	8 77-23,101		3 Omitted		27 60-4,115
	9 77-23,102	LB 92	§ 1 85-502		28 60-4,126
	10 77-23,105		2 85-607		29 60-4,146.01
	11 77-23,106		3 Omitted		30 60-4,157
	12 Omitted	LB 93	§ 1 71-614		31 60-4,183
	13 Omitted		2 Omitted		32 60-4,188
LB 70	§ 1 81-8,129	LB 94	§ 1 64-401		33 75-3,100
	2 81-8,130.01		2 64-419		34 Omitted
	3 81-8,132		3 64-420		35 Omitted
	4 81-8,133		4 Omitted		36 Omitted
	5 81-8,133.01	LB 100	§ 1 68-901		37 Omitted
	6 81-8,134		2 68-9,101	LB 113A	Omitted
	7 81-8,135		3 43-4219	LB 131	§ 1 19-5601
	8 81-8,138		4 Omitted		2 19-5602
	9 81-8,139		5 Omitted		3 19-5603
	10 Omitted		6 Omitted		4 19-5604
LB 70A	Omitted		7 Omitted		5 19-5605
LB 77	§ 1 44-7508	LB 101	§ 1 68-994		6 19-5606
	2 44-7509		2 Omitted		7 19-5607
	3 44-7510		3 Omitted		8 19-5608
	4 Omitted	LB 103	Omitted		9 14-137
LB 78	§ 1 60-3,122.02	LB 105	§ 1 23-1302		10 15-404
	2 60-3,123		2 Omitted		11 16-404
	3 60-3,124	LB 106	§ 1 60-483		12 16-6,100
	4 60-3,125		2 60-1509		13 17-405.01
	5 80-414		3 Omitted		14 17-614

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	15	18-3316	32	79-9,105	40	2-3254	
	16	18-132	33	79-9,107	41	38-101	
	17	18-1915	34	79-9,108	42	38-108	
	18	18-2103	35	79-9,113	43	38-121	
	19	18-2119	36	79-9,115	44	38-151	
	20	23-172	37	79-9,115.01	45	38-155	
	21	71-6403	38	79-9,113.01	46	38-157	
	22	71-6405	39	79-9,115.02	47	38-158	
	23	71-6406	40	79-9,117	48	38-167	
	24	Omitted	41	79-9,122	49	38-179	
	25	Omitted	42	79-9,123	50	38-1,107	
	26	Omitted	43	79-9,124	51	38-1,115	
	27	Omitted	44	84-712.05	52	38-1,119	
	28	Omitted	45	84-1501	53	38-1,143	
LB 131A		Omitted	46	84-1503	54	46-602	
LB 139	§ 1	25-3601	47	Omitted	55	46-705	
	2	25-3602	48	Omitted	56	46-1011	
	3	25-3603	49	Omitted	57	46-1201	
	4	25-3604		Omitted	58	46-1204.01	
	5	71-2701	LB 147A	§ 1	81-15,261	59	46-1207
	6	71-2702	LB 148	§ 2	81-15,262	60	46-1222
	7	71-2703		3	81-15,263	61	46-1220
	8	71-2704		4	81-15,264	62	46-1224
	9	71-2705		5	81-15,265	63	46-1227.01
	10	Omitted		6	81-15,266	64	46-1229
LB 143	§ 1	43-285		7	81-15,267	65	46-1231
	2	Omitted		8	81-15,268	66	46-1235
LB 147	§ 1	72-1237		9	81-15,269	67	46-1238
	2	72-1249.02		10	81-15,270	68	71-1910
	3	79-902		11	81-15,271	69	71-2619
	4	79-916		12	81-15,272	70	71-2621
	5	79-966		13	81-15,273	71	71-2618
	6	79-972.01		14	81-15,274	72	71-5301
	7	79-978		15	81-15,275	73	71-5301.01
	8	79-978.01		16	81-15,276	74	71-5302
	9	79-979		17	81-15,277	75	71-5304
	10	79-980		18	81-15,278	76	71-5306
	11	79-981		19	81-15,279	77	71-5308
	12	79-982		20	81-15,280	78	71-5309
	13	79-982.01		21	81-15,281	79	71-5310
	14	79-982.02		22	81-15,282	80	71-5312.01
	15	79-983		23	81-15,283	81	81-502
	16	79-979.01		24	81-15,284	82	81-2121
	17	79-979.02		25	81-15,285	83	81-15,299
	18	79-984		26	81-15,286	84	81-15,300
	19	79-985		27	81-15,287	85	Omitted
	20	79-986		28	81-15,288	86	Omitted
	21	79-987		29	81-15,289	87	Omitted
	22	79-989		30	81-15,290	LB 149	§ 1 60-107
	23	79-987.01		31	81-15,291	2	60-119.01
	24	79-990		32	81-15,292	3	60-302.01
	25	79-991		33	81-15,293	4	60-336.01
	26	79-992		34	81-15,294	5	60-386
	27	79-992.01		35	81-15,295	6	60-3,113.04
	28	79-992.02		36	81-15,296	7	60-3,183
	29	79-998		37	81-15,297	8	60-3,193.01
	30	79-9,102		38	81-15,298	9	60-462.01
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		13 60-4,134		9 18-309	67	18-1001
		14 60-4,147.02		10 18-310	68	18-1002
		15 60-4,168		11 18-311	69	18-1003
		16 60-501		12 18-401	70	18-1004
		17 60-628.01		13 18-402	71	18-1005
		18 60-6,265		14 18-403	72	18-1006
		19 60-2705		15 18-404	73	18-1101
		20 60-2909.01		16 18-405	74	18-1102
		21 75-363		17 18-406	75	18-1201
		22 75-364		18 18-407	76	18-1202
		23 75-366		19 18-408	77	18-1203
		24 75-392		20 18-409	78	18-1204
		25 75-393		21 18-410	79	18-1205
		26 Omitted		22 18-411	80	18-1206
LB 152	§	1 28-1241		23 18-412	81	18-1207
		2 28-1243		24 18-412.02	82	18-1215
		3 Omitted		25 18-412.07	83	18-1216
		4 Omitted		26 18-412.08	84	18-1501
LB 154	§	1 79-760.05		27 18-412.09	85	18-1502
		2 79-760.06		28 18-412.10	86	18-1503
		3 Omitted		29 18-413	87	18-1504
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		2 13-3302		31 18-502	89	18-1509
		3 13-3303		32 18-503	90	18-1701
		4 13-3304		33 18-504	91	18-1702
		5 13-3305		34 18-505	92	18-1705
		6 13-3306		35 18-506	93	18-1706
		7 13-3307		36 18-506.01	94	18-1707
		8 13-3308		37 18-507	95	18-1708
		9 13-3309		38 18-508	96	18-1709
		10 13-3310		39 18-509	97	18-1712
		11 13-3311		40 18-510	98	18-1713
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		13 13-3313		42 18-512	100	18-1716
		14 81-12,146		43 18-601	101	18-1718
		15 81-12,147		44 18-602	102	18-1719
		16 81-12,148		45 18-603	103	18-1720
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		18 81-12,150		47 18-610	105	18-1722.01
		19 Omitted		48 18-611	106	18-1723
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LB 159	§	1 14-138		51 18-614	109	18-1741.03
		2 16-247		52 18-617	110	18-1743
		3 16-403		53 18-618	111	18-1748
		4 16-405		54 18-619	112	18-1750
		5 17-613		55 18-620	113	18-1751
		6 18-131		56 18-621	114	18-1752
		7 18-132		57 18-622	115	18-1754
		8 Omitted		58 18-623	116	18-1755
LB 163	§	1 16-6,108		59 18-624	117	18-1757
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125	18-1909	183	18-2532	27	60-550.01
126	18-1910	184	18-2533	28	60-554
127	18-1912	185	18-2534	29	60-695
128	18-1913	186	18-2535	30	60-699
129	18-1915	187	18-2536	31	60-6,138
130	18-1919	188	18-2537	32	60-6,336
131	18-2003	189	18-2538	33	Omitted
132	18-2004	190	18-2705	LB 177	§ 1 52-1103
133	18-2005	191	18-2708		2 52-1202
134	18-2123	192	18-2709		3 Omitted
135	18-2124	193	18-2717	LB 180	§ 1 77-4602
136	18-2131	194	18-2722		2 77-4603
137	18-2133	195	18-2737		3 Omitted
138	18-2135	196	18-2803	LB 181	§ 1 77-6703
139	18-2136	197	18-2806		2 Omitted
140	18-2201	198	18-2807		3 Omitted
141	18-2202	199	18-3001		4 Omitted
142	18-2203	200	71-3305	LB 185	Omitted
143	18-2204	201	Omitted	LB 197	§ 1 85-502
144	18-2206	LB 166	§ 1 60-301		2 Omitted
145	18-2301		2 60-393	LB 209	§ 1 48-1401
146	18-2302		3 60-395		2 Omitted
147	18-2303		4 60-396	LB 224	§ 1 23-1901.01
148	18-2304		5 60-3,104		2 Omitted
149	18-2305		6 60-3,130.04	LB 236	§ 1 28-401
150	18-2306		7 60-3,257		2 28-405
151	18-2307		8 60-3,258		3 28-1202
152	18-2308		9 37-111		4 69-2436
153	18-2309		10 37-112		5 Omitted
154	18-2310		11 Omitted	LB 247	§ 1 50-701
155	18-2311	LB 166A	Omitted		2 Omitted
156	18-2312	LB 169	§ 1 Omitted	LB 247A	Omitted
157	18-2313	LB 174	§ 1 39-1316	LB 248	§ 1 30-4305
158	18-2314		2 39-2106		2 Omitted
159	18-2315		3 39-2107	LB 252	§ 1 71-8901
160	18-2402		4 39-2301.01		2 71-8922.01
161	18-2409		5 39-2302		3 Omitted
162	18-2443		6 39-2304	LB 253	§ 1 21-192
163	18-2476		7 39-2306		2 21-504
164	18-2501		8 39-2307		3 Omitted
165	18-2502		9 39-2308		4 Omitted
166	18-2502.01		10 39-2308.01		5 Omitted
167	18-2504		11 39-2308.03	LB 255	§ 1 81-8,315
168	18-2505		12 39-2501		2 81-8,316
169	18-2506		13 39-2502		3 81-8,317
170	18-2507		14 39-2503		4 81-8,318
171	18-2518		15 39-2504		5 81-8,319
172	18-2520		16 39-2505		6 81-8,297
173	18-2521		17 39-2511		7 81-8,299
174	18-2522		18 39-2512		8 81-8,300.01
175	18-2523		19 39-2513		9 81-8,301
176	18-2524		20 39-2514		10 Omitted
177	18-2525		21 39-2515		11 Omitted
178	18-2526		22 60-507	LB 256	§ 1 48-139
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		3 Omitted		4 81-8,314		6 60-3,130.04		
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		2 Omitted	LB 275A	Omitted		8 60-3,256		
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		2 Omitted		2 2-3214		10 Omitted		
		3 Omitted		3 16-404	LB 317A	Omitted		
LB 271	§	1 60-701		4 17-614	LB 320	§	1 25-21,219	
		2 60-702		5 32-329		2 76-1401		
		3 60-703		6 32-330		3 76-1410		
		4 60-704		7 32-404		4 76-1423		
		5 60-705		8 32-552		5 76-1431		
		6 60-706		9 32-553		6 76-1431.01		
		7 29-901		10 32-606		7 76-1441		
		8 60-480		11 32-608		8 76-1442.01		
		9 60-498.01		12 32-716		9 76-1443		
		10 60-4,115		13 32-717		10 76-1485		
		11 60-6,197.05		14 32-816		11 76-1486		
		12 60-6,197.06		15 32-903		12 76-1489		
		13 60-6,211.11		16 32-1005		13 76-14,101		
		14 60-1513		17 70-611		14 24-232		
		15 Omitted		18 70-663		15 Omitted		
		16 Omitted		19 79-1217	LB 320A	Omitted		
LB 271A		Omitted		20 Omitted	LB 322	§	1 79-3101	
LB 273	§	1 28-934		21 Omitted		2 79-3102		
		2 43-403		22 Omitted		3 79-3103		
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		6 81-1316	LB 296	§	1 83-109	7 79-3107		
		7 83-104		2 Omitted		8 79-2,144		
		8 83-107.01	LB 297	§	1 8-2904	9 Omitted		
		9 83-364		2 8-2905		10 Omitted		
		10 Omitted		3 8-2906		11 Omitted		
LB 274	§	1 53-101		4 8-2907	LB 322A	Omitted		
		2 53-103		5 8-2908	LB 324	§	1 54-1901	
		3 53-103.48		6 8-2909		2 54-1902		
		4 53-103.49	LB 302	§	1 60-498.02	3 54-1903		
		5 53-103.22		2 Omitted		4 54-1908		
		6 53-160.04	LB 306	§	1 68-1215	5 54-1909		
		7 53-120		2 68-1216		6 54-1911		
		8 53-123		3 Omitted		7 54-1912		
		9 53-123.04	LB 306A	Omitted		8 54-1913		
		10 53-123.11	LB 307	§	1 29-1816	9 54-1915		
		11 53-123.14		2 43-272		10 54-1915.01		
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		13 53-124.16		4 Omitted		12 Omitted		
		14 53-124.17	LB 312	§	1 12-501	LB 324A	Omitted	
		15 53-124		2 12-502	LB 336	§	1 37-438	
		16 53-124.13		3 Omitted		2 Omitted		
		17 53-134	LB 313	§	1 77-3512	LB 337	§	1 44-7,111
		18 53-178.01		2 77-3514.01		2 44-7,112		
		19 Omitted		3 77-3517		3 44-7,113		
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		21 Omitted	LB 317	§	1 60-301	5 44-7,115		
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	4	86-324.01	LB 366A	Omitted		2 Omitted
	5	86-324.02	LB 368	§ 1 84-304.01	LB 388	§ 1 86-1301
	6	86-330		2 Omitted		2 86-1302
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	8	86-5,109		2 84-305.02		4 86-1304
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	10	Omitted	LB 371	§ 1 2-219		6 86-1306
	11	Omitted		2 Omitted		7 86-1307
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	2	Omitted	LB 373	§ 1 44-407.14		11 Omitted
LB 355	§ 1	11-125		2 Omitted	LB 388A	Omitted
	2	25-1093.03	LB 379	Omitted	LB 389	§ 1 79-813
	3	25-2804	LB 380	Omitted		2 Omitted
	4	43-113	LB 381	Omitted	LB 390	§ 1 38-101
	5	76-711	LB 382	Omitted		2 38-129.01
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	2	8-141		2 Omitted	LB 396	§ 1 79-2901
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	13	8-1101.01		13 72-729.01		4 71-8505
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	15	8-1704		15 82-331	LB 401	§ 1 83-305
	16	8-1707		16 85-419		2 83-363
	17	8-2724		17 85-420		3 Omitted
	18	8-2725		18 85-421	LB 405	§ 1 17-209.02
	19	8-2726		19 85-422		2 Omitted
	20	8-2729		20 85-423	LB 406	§ 1 50-801
	21	8-2734		21 85-424		2 50-802
	22	8-2737		22 85-425		3 Omitted
	23	8-2903		23 85-426	LB 406A	Omitted
	24	21-17,115		24 86-324	LB 407	§ 1 48-101.01
	25	45-335		25 86-594		2 Omitted
	26	45-346		26 86-1103	LB 411	§ 1 81-6,125
	27	45-1004		27 55-801		2 81-6,128
	28	45-1005		28 83-973		3 Omitted
	29	59-1722		29 Omitted		4 Omitted
	30	69-2103		30 Omitted	LB 411A	Omitted
	31	69-2104		31 Omitted	LB 414	§ 1 13-2903
	32	69-2112	LB 385	§ 1 84-612		2 13-2904
	33	4A-108 UCC		2 Omitted		3 13-2914
	34	Omitted		3 Omitted		4 Omitted
	35	Omitted	LB 386	§ 1 24-201.01	LB 423	§ 1 76-3601
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	7 Omitted	LB 497	§ 1 81-1801	51	30-4628
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LB 428	§ 1 43-427		3 81-1808	53	30-4630
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	4 83-106	LB 500	§ 1 29-1301	56	30-4633
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	6 Omitted		3 Omitted	58	30-4635
	7 Omitted	LB 501	§ 1 25-1337	59	30-4636
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	2 35-1003		6 25-1342	64	76-2,127
	3 35-1004		7 25-1343	65	76-2,128
	4 35-1005		8 25-1344	66	76-2,129
	5 35-1006		9 25-1345	67	76-2,130
	6 35-1007		10 25-1346	68	76-2,131
	7 35-1008		11 25-1347	69	76-2,132
	8 35-1009		12 25-1348	70	76-2,133
	9 35-1010		13 25-1349	71	76-2,134
	10 13-520		14 25-1350	72	76-2,135
	11 77-2715.07		15 25-1351	73	76-2,136
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	13 77-2734.02		17 25-1353	75	76-2,138
	14 77-3442		18 25-1354	76	76-2,139
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	16 81-532		20 25-1356	78	Omitted
	17 85-1802		21 25-1357	79	Omitted
	18 Omitted		22 25-1358	LB 503	§ 1 76-1011.01
	19 Omitted		23 25-1359		2 76-1011
LB 432A	Omitted		24 30-4601		3 76-1018
LB 451	§ 1 48-1102		25 30-4602		4 Omitted
	2 48-1108		26 30-4603	LB 507	§ 1 37-201
	3 Omitted		27 30-4604		2 37-448
LB 452	§ 1 79-3001		28 30-4605		3 37-456
	2 79-3002		29 30-4606		4 37-456.01
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	4 79-3004		31 30-4608		6 61-222
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	7 Omitted		34 30-4611		9 Omitted
LB 461	§ 1 81-1430		35 30-4612		10 Omitted
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	4 Omitted		41 30-4618		6 60-396
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	2 Omitted		43 30-4620		8 72-1250.01
LB 485	§ 1 68-1206		44 30-4621		9 77-3,119
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	16	79-1044	43	79-1241.03	12	20-132	
	17	79-1047	44	79-1337	13	20-134	
	18	79-1051	45	79-1605	14	20-139	
	19	81-118	46	79-2104.02	15	20-301	
	20	82-331	47	79-2118	16	20-303	
	21	84-602	48	79-2603	17	20-308.01	
	22	84-612	49	79-2605	18	20-317	
	23	86-527	50	79-2606	19	20-318	
	24	Omitted	51	84-304	20	20-319	
	25	Omitted	52	85-505	21	20-320	
LB 521	§ 1	77-202.01	53	85-507	22	20-321	
	2	77-202.05	54	85-1609	23	20-322	
	3	Omitted	55	85-1802	24	20-325	
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	2	Omitted	57	85-2002	LB 544	§ 1	77-6901
LB 527A		Omitted	58	85-2003	2	77-6902	
LB 528	§ 1	1-116	59	85-2004	3	77-6903	
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	3	9-836.01	61	85-2007	5	77-6905	
	4	13-506	62	85-2008	6	77-6906	
	5	79-302.01	63	85-2009	7	77-6907	
	6	38-316	64	85-2010	8	77-6908	
	7	38-10,109	65	85-2104	9	77-6909	
	8	38-1813	66	85-2802	10	77-6910	
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	12	58-809	70	Omitted	14	77-6914	
	13	72-232	71	Omitted	15	77-6915	
	14	72-233	72	Omitted	16	77-6916	
	15	72-234	73	Omitted	17	77-6917	
	16	72-235	74	Omitted	18	77-6918	
	17	76-2203.01	75	Omitted	19	77-6919	
	18	77-1601.02	LB 532	§ 1	24-345	20	77-6920
	19	77-2704.12	2	25-2717	21	77-6921	
	20	77-27,119	3	69-1302	22	77-6922	
	21	79-202	4	69-1310	23	77-6923	
	22	79-308	5	69-1317	24	77-6924	
	23	79-309.01	6	69-1318	25	77-6925	
	24	79-422	7	76-1416	26	77-6926	
	25	79-433	8	79-956	27	77-6927	
	26	79-449	9	85-1816	28	77-6928	
	27	79-611	10	85-1817	29	49-801.01	
	28	79-759	11	85-2803	30	50-1209	
	29	79-8,143	12	Omitted	31	77-2711	
	30	79-8,144	LB 533	§ 1	68-1201	32	77-27,119
	31	79-8,145	2	Omitted	33	77-27,144	
	32	79-8,133	LB 540	§ 1	18-1724	34	77-5905
	33	79-8,137.01	2	20-113	35	84-602.03	
	34	79-8,137.05	3	20-126	36	Omitted	
	35	79-1003	4	20-126.01	37	Omitted	
	36	79-1007.11	5	20-127	LB 544A	Omitted	
	37	79-1035	6	20-128	LB 561	§ 1	2-1201
	38	79-1065.02	7	20-129	2	2-1201.01	
	39	79-1074	8	20-130	3	2-1202	

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2021 First Session	2021 Supplement	2021 First Session	2021 Supplement	2021 First Session	2021 Supplement
	4 2-1203	LB 566A	Omitted	13	Omitted
	5 2-1203.01	LB 572	§ 1 54-170	14	Omitted
	6 2-1203.02		2 54-171	LB 616	§ 1 60-1901
	7 2-1204		3 54-171.01		2 60-1902
	8 2-1207		4 54-179.01		3 60-1903
	9 2-1207.01		5 54-179.02		4 60-1903.01
	10 2-1208		6 54-179.03		5 Omitted
	11 2-1208.03		7 54-179.04	LB 628	§ 1 38-1124
	12 2-1208.04		8 54-187.01		2 Omitted
	13 2-1209		9 54-187.02		3 Omitted
	14 2-1211		10 54-172	LB 630	§ 1 79-10,110.03
	15 2-1213		11 54-173	LB 630A	Omitted
	16 2-1215		12 54-176	LB 639	§ 1 79-3201
	17 2-1216		13 54-179		2 79-3202
	18 2-1217		14 54-182		3 79-3203
	19 2-1219		15 54-189		4 79-3204
	20 2-1221		16 54-191		5 79-3205
	21 2-1222		17 54-198		6 79-3206
	22 2-1224		18 54-199		7 79-3207
	23 2-1225		19 54-1,101	LB 644	§ 1 77-1630
	24 2-1244		20 54-1,102		2 77-1631
	25 2-1246		21 54-1,108		3 77-1632
	26 2-1247		22 54-1,110		4 77-1633
	27 9-1101		23 54-1,111		5 77-1634
	28 9-1103		24 54-1,112		6 13-508
	29 9-1105		25 54-1,113		7 13-513
	30 9-1106		26 54-1,114		8 14-1821
	31 9-1107		27 54-1,115		9 18-822
	32 9-1108		28 54-1,116		10 18-2107
	33 9-1109		29 54-1,120		11 23-909
	34 9-1110		30 54-1,122		12 23-3552
	35 9-1111		31 54-1,124.01		13 31-333
	36 9-1112		32 54-1,128		14 31-513
	37 9-1113		33 54-415		15 31-739
	38 9-1114		34 Omitted		16 35-509
	39 9-1115	LB 579	§ 1 39-1365.01		17 39-1621
	40 9-1116		2 39-1365.02		18 46-543
	41 9-1202		3 Omitted		19 77-1601
	42 9-1209	LB 583	§ 1 28-414		20 77-1736.06
	43 9-1205		2 28-414.01		21 77-1776
	44 9-1206		3 38-101		22 77-3443
	45 9-1207		4 38-1,146		23 79-1023
	46 13-3102		5 38-2870		24 79-1084
	47 77-382		6 38-2891		25 79-1085
	48 77-2704.20		7 Omitted		26 79-1225
	49 84-710		8 Omitted		27 Omitted
	50 Omitted	LB 595	§ 1 37-327.02		28 Omitted
	51 Omitted		2 77-2701	LB 649	§ 1 8-3001
LB 561A	Omitted		3 77-2701.04		2 8-3002
LB 566	§ 1 81-12,219		4 77-2701.16		3 8-3003
	2 81-12,220		5 77-2701.41		4 8-3004
	3 81-12,221		6 77-2704.36		5 8-3005
	4 81-12,222		7 77-2704.69		6 8-3006
	5 81-12,223		8 77-2711		7 8-3007
	6 81-12,224		9 77-2713		8 8-3008
	7 81-12,225		10 77-27,132		9 8-3009
	8 81-12,226		11 77-27,223		10 8-3010
	9 Omitted		12 Omitted		11 8-3011

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2021 First Session	2021 Supplement	2021 First Session	2021 Supplement	2021 First Session	2021 Supplement	
12	8-3012		49	1-201 UCC	15	57-1615
13	8-3013		50	9-102 UCC	16	57-1616
14	8-3014		51	9-107A UCC	17	57-1617
15	8-3015		52	9-301 UCC	18	57-1618
16	8-3016		53	9-310 UCC	19	57-1619
17	8-3017		54	9-312 UCC	20	57-1620
18	8-3018		55	9-314 UCC	21	57-1621
19	8-3019		56	9-331 UCC	22	57-1622
20	8-3020		57	9-406 UCC	23	57-1623
21	8-3021		58	12-101 UCC	24	57-1624
22	8-3022		59	12-101A UCC	25	Omitted
23	8-3023		60	12-102 UCC	LB 650A	Omitted
24	8-3024		61	12-103 UCC	LB 664	§ 1 35-1206
25	8-3025		62	12-104 UCC		2 Omitted
26	8-3026		63	12-105 UCC	LB 664A	Omitted
27	8-3027		64	12-106 UCC	LB 666	Omitted
28	8-3028		65	12-107 UCC	LB 669	§ 1 85-2901
29	8-3029		66	12-108 UCC		2 85-2902
30	8-3030		67	12-109 UCC		3 85-2903
31	8-3031		68	Omitted		4 85-2904
32	8-101.02		69	Omitted		5 85-2905
33	8-101.03		70	Omitted		6 85-502.01
34	8-102	LB 649A		Omitted		7 Omitted
35	8-113	LB 650	§ 1	57-1601		8 Omitted
36	8-115		2	57-1602	LB 682	§ 1 77-1101
37	8-148.09		3	57-1603		2 77-1101.01
38	8-1,140		4	57-1604		3 77-1102
39	8-148.10		5	57-1605		4 77-1110
40	8-1,141		6	57-1606		5 77-1112.01
41	8-1,142		7	57-1607		6 77-1112.02
42	8-1,143		8	57-1608		7 77-1115
			9	57-1609		8 77-1116
43	8-601		10	57-1610		9 77-1117
44	8-602		11	57-1611		10 77-1120
45	8-701		12	57-1612		11 Omitted
46	8-702		13	57-1613		12 Omitted
47	8-1120		14	57-1614		
48	8-2724					

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CROSS REFERENCE TABLE

2021 Session Laws of Nebraska, First Special Session
Showing LB section number to statute section number

	2021 First Special Session	2021 Supplement
LB 1	§ 1	32-504
		2 32-505
		3 Omitted
		4 Omitted
LB 3	§ 1	50-1153
		2 50-1154
		3 Omitted
		4 Omitted
LB 5	§ 1	75-101.01
		2 75-101.02
		3 Omitted
		4 Omitted
LB 6	§ 1	24-201.02
		2 24-201.04
		3 Omitted
		4 Omitted
LB 7	§ 1	79-311
		2 79-312
		3 Omitted
		4 Omitted
LB 8	§ 1	85-103.01
		2 85-103.02
		3 Omitted
		4 Omitted
LB 14		Omitted

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CROSS REFERENCE TABLE

Legislative Bills, One Hundred Seventh Legislature
First Session, 2021

Showing the date each act went into effect.
Convened January 6, 2021, and adjourned May 27, 2021.

LB No.	Effective Date	LB No.	Effective Date
1	March 18, 2021	92	August 28, 2021
2	January 1, 2022 (operative date)	93	August 28, 2021
4	August 28, 2021	94	August 28, 2021
5	August 28, 2021	100	Sections 1, 2, and 6 of this act become operative on August 28, 2021. The other sections of this act become operative on May 27, 2021.
9	May 6, 2021		
14	August 28, 2021		
17	May 6, 2021		
18	May 26, 2021		
21	August 28, 2021	101	April 22, 2021
22	April 8, 2021	103	May 26, 2021
23	March 18, 2021	105	August 28, 2021
25	March 18, 2021	106	April 8, 2021
26	October 1, 2021 (operative date)	106A	April 8, 2021
35	August 28, 2021	108	May 27, 2021
37	August 28, 2021	108A	May 27, 2021
39	May 26, 2021	113	Sections 1, 2, 4, 5, 6, 7, 8, 9, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, and 35 of this act become operative on August 28, 2021. The other sections of this act become operative on April 1, 2021.
39A	May 26, 2021		
40	August 28, 2021		
40A	August 28, 2021		
41	August 28, 2021		
44	August 28, 2021		
51	August 28, 2021		
51A	August 28, 2021		
57	August 28, 2021		
58	August 28, 2021	113A	April 1, 2021
63	August 28, 2021	131	Sections 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 26, and 27 of this act become operative on August 28, 2021. The other sections of this act become operative on May 26, 2021.
64	August 28, 2021		
65	August 28, 2021		
66	April 1, 2021		
70	August 28, 2021		
70A	August 28, 2021		
77	August 28, 2021		
78	January 1, 2022 (operative date)	131A	May 26, 2021
81	August 28, 2021	139	May 26, 2021
83	April 22, 2021	143	August 28, 2021
84	August 28, 2021	147	May 27, 2021
90	August 28, 2021	147A	May 27, 2021

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LB No.	Effective Date	LB No.	Effective Date
148	July 1, 2021 (operative date)		operative on May 26, 2021.
149	August 28, 2021	274A	May 26, 2021
152	May 6, 2021	275	May 22, 2021
154	August 28, 2021	275A	May 22, 2021
156	August 28, 2021	285	May 27, 2021
156A	August 28, 2021	291	January 1, 2022 (operative date)
159	August 28, 2021	296	August 28, 2021
163	August 28, 2021	297	August 28, 2021
166	August 28, 2021	302	August 28, 2021
166A	August 28, 2021	306	May 27, 2021
169	August 28, 2021	306A	May 27, 2021
174	August 28, 2021	307	August 28, 2021
177	August 28, 2021	312	August 28, 2021
180	August 28, 2021	313	August 28, 2021
181	This act becomes operative for all taxable years beginning or deemed to begin on or after January 1, 2020, under the Internal Revenue Code of 1986, as amended.	317	August 28, 2021
185	August 28, 2021	317A	August 28, 2021
197	August 28, 2021	320	August 28, 2021
209	August 28, 2021	320A	August 28, 2021
224	August 28, 2021	322	July 1, 2021 (operative date)
236	August 28, 2021	322A	May 25, 2021
247	May 25, 2021	324	August 28, 2021
247A	May 25, 2021	324A	August 28, 2021
248	August 28, 2021	336	August 28, 2021
252	August 28, 2021	337	August 28, 2021
253	July 1, 2021 (operative date)	338	May 6, 2021
255	January 1, 2022 (operative date)	343	August 28, 2021
256	August 28, 2021	351	August 28, 2021
260	August 28, 2021	355	August 28, 2021
261	August 28, 2021	363	March 18, 2021
265	April 24, 2021	366	August 28, 2021
271	July 1, 2022 (operative date)	366A	August 28, 2021
271A	August 28, 2021	368	August 28, 2021
273	August 28, 2021	369	August 28, 2021
274	Section 6 of this act becomes operative on July 1, 2021. The other sections of this act become	371	August 28, 2021
		372	August 28, 2021
		373	August 28, 2021
		379	April 27, 2021
		380	July 1, 2021 (operative date)
		381	July 1, 2021 (operative date)
		382	July 1, 2021 (operative date)
		383	July 1, 2021 (operative date)

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LB No.	Effective Date	LB No.	Effective Date
384	April 27, 2021	487	August 28, 2021
385	April 27, 2021	497	August 28, 2021
386	July 1, 2021 (operative date)	500	August 28, 2021
386A	July 1, 2021 (operative date)	501	August 28, 2021
387	August 28, 2021	503	August 28, 2021
388	May 27, 2021	507	May 6, 2021
388A	May 27, 2021	509	August 28, 2021
389	August 28, 2021	521	August 28, 2021
390	August 28, 2021	527	August 28, 2021
396	August 28, 2021	527A	August 28, 2021
396A	August 28, 2021	528	Sections 1, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 29, 30, 31, 32, 33, 35, 36, 37, 38, 39, 40, 41, 43, 45, 46, 47, 48, 49, 50, 52, 53, 54, 55, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 72, and 74 of this act become operative on August 28, 2021. The other sections of this act become operative on May 26, 2021.
400	August 28, 2021	532	August 28, 2021
401	August 28, 2021	533	August 28, 2021
405	August 28, 2021	540	August 28, 2021
406	May 26, 2021	544	January 1, 2022 (operative date)
406A	May 26, 2021	544A	August 28, 2021
407	August 28, 2021	561	May 26, 2021
411	May 25, 2021	561A	May 26, 2021
411A	May 25, 2021	566	May 26, 2021
414	August 28, 2021	566A	May 26, 2021
423	January 1, 2023 (operative date)	572	August 28, 2021
423A	August 28, 2021	579	August 28, 2021
428	Sections 1, 3, 5, and 7 of this act become operative on August 28, 2021. The other sections of this act become operative on May 26, 2021.	583	January 1, 2022 (operative date)
428A	May 26, 2021	595	Sections 2, 3, 4, 5, 6, 7, 8, 9, 11, and 14 of this act become operative on October 1, 2021. The other sections of this act become operative on August 28, 2021.
432	Sections 1, 2, 3, 4, 5, 6, 7, 8, and 9 of this act become operative on January 1, 2022. The other sections of this act become operative on August 28, 2021.	616	August 28, 2021
432A	August 28, 2021	628	May 22, 2021
451	August 28, 2021		
452	August 28, 2021		
461	August 28, 2021		
466	August 28, 2021		
476	August 28, 2021		
479	August 28, 2021		
485	August 28, 2021		
485A	August 28, 2021		

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LB No.	Effective Date	LB No.	Effective Date
630	August 28, 2021		
630A	August 28, 2021		
639	August 28, 2021		
644	January 1, 2022 (operative date)		
649	Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, and 69 of this act become operative on October 1, 2021. Sections 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, and 70 of this act become operative on July		1, 2022. The other section of this act becomes operative on August 28, 2021.
		649A	August 28, 2021
		650	August 28, 2021
		650A	August 28, 2021
		664	August 28, 2021
		664A	August 28, 2021
		666	April 27, 2021
		669	May 22, 2021
		682	May 26, 2021

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CROSS REFERENCE TABLE

Legislative Bills, One Hundred Seventh Legislature
First Special Session, 2021

Showing the date each act went into effect.
Convened September 13, 2021, and adjourned September 30, 2021.

LB No.	Effective Date
1	October 1, 2021
3	October 1, 2021
5	October 1, 2021
6	October 1, 2021
7	October 1, 2021
8	October 1, 2021
14	October 1, 2021