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47-706 Medical assistance; federal financial participation; legislative intent; Department of Health and Human Services; Department of Correctional Services; duties.

(1) It is the intent of the Legislature to ensure that human services agencies, correctional facilities, and detention facilities recognize that:

(a) Federal law generally does not authorize federal financial participation for medicaid when a person is an inmate of a public institution as defined in federal law but that federal financial participation is available after an inmate is released from incarceration; and

(b) The fact that an applicant is currently an inmate does not, in and of itself, preclude the Department of Health and Human Services from processing an application submitted to it by, or on behalf of, the inmate.

(2)(a) Medical assistance under the medical assistance program shall be suspended, rather than canceled or terminated, for a person who is an inmate of a public institution if:

(i) The Department of Health and Human Services is notified of the person's entry into the public institution;

(ii) On the date of entry, the person was enrolled in the medical assistance program; and

(iii) The person is eligible for the medical assistance program except for institutional status.

(b) A suspension under subdivision (2)(a) of this section shall end on the date the person is no longer an inmate of a public institution.

(c) Upon release from incarceration, such person shall continue to be eligible for receipt of medical assistance until such time as the person is otherwise determined to no longer be eligible for the medical assistance program.

(3)(a) The Department of Correctional Services shall notify the Department of Health and Human Services:

(i) Within twenty days after receiving information that a person receiving medical assistance under the medical assistance program is or will be an inmate of a public institution; and

(ii) Within forty-five days prior to the release of a person who qualified for suspension under subdivision (2)(a) of this section.

(b) Local correctional facilities, juvenile detention facilities, and other temporary detention centers shall notify the Department of Health and Human Services within ten days after receiving information that a person receiving medical assistance under the medical assistance program is or will be an inmate of a public institution.

(4)(a) This subsection applies beginning July 1, 2023.

(b) For purposes of this section:

(i) Covered facility means:

(A) A facility as defined in section 83-170; and

(B) A county jail or adult correctional facility that is operated by a county, which county has a population of more than one hundred thousand inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census; and

(ii) Inmate means a person who is an inmate of a covered facility for at least twenty-one consecutive days.

(c) For individuals who are inmates of a covered facility and have at least sixty days' prior notice of their anticipated release date:

(i) The Department of Health and Human Services shall provide onsite, telephonic, or live video medical assistance program enrollment assistance to each inmate at least sixty days before the inmate's release from a covered facility. The department shall submit each inmate's medical assistance program application at least forty-five days prior to the inmate's release from a covered facility unless the inmate elects not to apply for the medical assistance program in writing or the inmate is currently enrolled in the medical assistance program with suspended coverage under subsection (2) of this section; and

(ii) The Department of Health and Human Services shall process each inmate's medical assistance program application prior to the inmate's release from a covered facility such that medical assistance program coverage becomes effective for an eligible individual no later than the day of release from a covered facility.

(d) For individuals who are inmates of a covered facility and have less than sixty days' prior notice of their anticipated release date:

(i) The Department of Health and Human Services shall provide onsite, telephonic, or live video medical assistance program enrollment assistance to each inmate as soon as practicable prior to the inmate's release from a covered facility. The department shall submit each inmate's medical assistance program application as soon as practicable prior to the inmate's release from a covered facility unless the inmate elects not to apply for the medical assistance program in writing or the inmate is currently enrolled in the medical assistance program with suspended coverage under subsection (2) of this section; and

(ii) The Department of Health and Human Services shall process each inmate's medical assistance program application prior to the inmate's release from a covered facility such that medical assistance program coverage becomes

effective for an eligible individual no later than the day of release from a covered facility or as soon as practicable thereafter.

(e) The Department of Health and Human Services may contract with certified third-party enrollment assistance providers to provide the enrollment assistance and application submission required by this subsection.

(f) The Department of Health and Human Services shall take all necessary actions to maximize federal financial participation pursuant to this subsection.

(5) Nothing in this section shall create a state-funded benefit or program.

(6) For purposes of this section, medical assistance program means the medical assistance program under the Medical Assistance Act and the State Children's Health Insurance Program.

(7) This section shall be implemented only if, and to the extent, allowed by federal law. This section shall be implemented only to the extent that any necessary federal approval of state plan amendments or other federal approvals are obtained. The Department of Health and Human Services shall seek such approval if required.

(8) Local correctional facilities, the Nebraska Commission on Law Enforcement and Criminal Justice, and the Office of Probation Administration shall cooperate with the Department of Health and Human Services and the Department of Correctional Services for purposes of facilitating information sharing to achieve the purposes of this section.

(9)(a) The Department of Correctional Services shall adopt and promulgate rules and regulations, in consultation with the Department of Health and Human Services and local correctional facilities, to carry out this section.

(b) The Department of Health and Human Services shall adopt and promulgate rules and regulations, in consultation with the Department of Correctional Services and local correctional facilities, to carry out this section.

Source: Laws 2015, LB605, § 108; Laws 2022, LB921, § 2.

Cross References

Medical Assistance Act, see section 68-901.

ARTICLE 10

HEALTH OF INCARCERATED WOMEN

(b) FEMININE HYGIENE PRODUCTS

(b) FEMININE HYGIENE PRODUCTS

47-1008 Detention facility; supply feminine hygiene product.

(1) For purposes of this section:

(a) Detention facility means any:

(i) Facility operated by the Department of Correctional Services;

(ii) City or county jail;

(iii) Juvenile detention facility or staff secure juvenile facility as such terms are defined in section 83-4,125; or

(iv) Any other entity or institution operated by the state, a political subdivision, or a combination of political subdivisions for the careful keeping or rehabilitative needs of prisoners or detainees; and

(b) Prisoner means any adult or juvenile incarcerated or detained in any detention facility and includes, but is not limited to, any adult or juvenile who is accused of, convicted of, sentenced for, or adjudicated for violations of criminal law or the terms and conditions of parole, probation, pretrial release, post-release supervision, or a diversionary program.

(2) If any female prisoner in a detention facility needs a feminine hygiene product, the detention facility shall supply such product to the prisoner free of charge.

Source: Laws 2022, LB984, § 11.

ARTICLE 11

COMMUNITY WORK RELEASE AND REENTRY CENTERS ACT

Section

47-1101 Act, how cited.

Sections 47-1101 to 47-1119 shall be known and may be cited as the Community Work Release and Reentry Centers Act.

Source: Laws 2024, LB631, § 1.
Effective date July 19, 2024.

47-1102 Legislative findings and intent; act, purpose.

(1) The Legislature finds that studies have shown that post-prison outcomes tend to be better for committed offenders who participate in work release programs prior to discharge from custody. Specifically, findings indicate that

committed offenders who participated in work release programs had a higher likelihood of obtaining post-release employment within the first calendar quarter after release and also had a significantly lower rate of recidivism than committed offenders who did not participate in work release programs prior to discharge from custody. In addition, studies indicate that committed offenders who participated in privately operated work release programs were significantly more likely to become employed after release.

(2) In light of these findings, and in order to give the Board of Parole and the Department of Correctional Services additional options for the placement of committed offenders, it is the intent of the Legislature:

(a) To increase the number of committed offenders in the Nebraska correctional system who are exposed to work release prior to discharge from custody; and

(b) To do so in settings that also offer therapy, programming, treatment, vocational training, and educational classes.

(3) To achieve these goals, the purpose of the Community Work Release and Reentry Centers Act is to empower the Division of Parole Supervision and the Department of Correctional Services to contract with private providers to establish community work release and reentry centers at various locations throughout the State of Nebraska.

Source: Laws 2024, LB631, § 2.
Effective date July 19, 2024.

47-1103 Terms, defined.

For purposes of the Community Work Release and Reentry Centers Act:

(1) Advisory board means the Reentry Continuity Advisory Board established in section 47-1117;

(2) Board means the Board of Parole;

(3) Committed offender has the same meaning as in section 83-170;

(4) Community work release and reentry center or center means a residential home, halfway house, or other facility operated by a private provider pursuant to an agreement in writing either with the division or the department for providing housing and supervision of committed offenders placed in the center by the division for work release and for vocational training, education, programming, or behavioral health or mental health treatment;

(5) Department means the Department of Correctional Services;

(6) Division means the Division of Parole Supervision;

(7) Individualized release plan means a detailed written plan outlining a committed offender's future vocational goals, training, employment, and needed treatment services following the committed offender's release from a community work release and reentry center;

(8) Private provider means a partnership, corporation, association, joint venture, organization, or similar entity which is operated on a nonprofit basis and which, under a contract with either the division or the department, has agreed to operate a community work release and reentry center pursuant to the act;

(9) Probation administration means the Office of Probation Administration;

(10) Reentering person means an individual who is subject to supervision by the division or probation administration, not including juvenile probation, or who was recently in the custody of the department or a county jail and was released with no supervision;

(11) Reentry housing means temporary housing for reentering persons, generally in the first year following a period of incarceration; and

(12)(a) Reentry housing facility means a facility which is owned or operated by a private organization, whether nonprofit or for-profit, that receives direct payment from the board, division, probation administration, or department to provide reentry housing.

(b) Reentry housing facility includes, but is not limited to, a community work release and reentry center.

(c) Reentry housing facility does not include a health care facility as defined in section 71-413.

Source: Laws 2024, LB631, § 3.
Effective date July 19, 2024.

47-1104 Committed offender; placement at community work release and reentry center; when; conditions.

(1) The division may place a parole-eligible committed offender at a community work release and reentry center as provided in the Community Work Release and Reentry Centers Act.

(2) Any parole-eligible committed offender placed at a community work release and reentry center pursuant to the act:

(a) Shall be under the continuing jurisdiction and authority of the department and board as if the committed offender was selected for release on ordinary parole status as provided for in section 83-192; and

(b) May be subsequently released by the board on ordinary parole status as provided for in section 83-192.

(3) The department may place a committed offender whose sentence includes a term of post-release supervision and who is within three years of his or her release date at a community work release and reentry center as provided in the act. Any such committed offender placed at a center shall be under the continuing jurisdiction and authority of the department.

Source: Laws 2024, LB631, § 4.
Effective date July 19, 2024.

47-1105 Division; department; powers and duties; agreements with private providers; requirements.

(1) The division and the department may exercise all powers and perform all duties necessary and proper for carrying out their responsibilities under the Community Work Release and Reentry Centers Act.

(2) The division and the department may use designated funds provided by the Legislature to enter into agreements with private providers for the development and operation of community work release and reentry centers to be established at various locations throughout the state. Any such agreement shall require a private provider to:

(a) Establish a contract with public or private employers to provide employment for committed offenders placed at the center;

(b) Assist any committed offender placed at the center to obtain and maintain employment in the community;

(c) Provide vocational training, education, programming, and treatment for issues related to the criminogenic needs of any committed offender placed at the center; and

(d) Otherwise direct and supervise the activities and behavior of any committed offender placed at the center as provided in the act.

(3) In an agreement under this section, the division or the department may include contractual requirements that obligate the private provider to offer to any committed offender placed at the center:

(a) Specialized educational or vocational training; and

(b) Other programming that will address the mental health, behavioral health, or substance abuse treatment needs of such committed offender.

(4) An agreement under this section shall require the community work release and reentry center to establish programs, rules, and enforcement systems:

(a) Regarding the behavior of committed offenders;

(b) To ensure that committed offenders seek and retain continuous employment;

(c) For the treatment of committed offenders for substance abuse;

(d) To ensure that committed offenders only leave the center for purposes of work or for other specified and approved activities, including, but not limited to, job interviews, medical appointments, treatment, and outings to visit family;

(e) To ensure that committed offenders consistently participate in all necessary therapy, programming, treatment, vocational training, and educational classes; and

(f) To ensure that committed offenders maintain their scheduled work hours.

Source: Laws 2024, LB631, § 5.
Effective date July 19, 2024.

47-1106 Community work release and reentry centers; standards; requirements.

The division and the department shall set standards for the appropriate staffing levels of community work release and reentry centers. The division and the department shall require each center to:

(1) Be under the supervision and control of a designated center director approved by the division or the department;

(2) Be adequately staffed twenty-four hours per day, including on weekends and holidays; and

(3) Assign an individual counselor to each committed offender assigned to the center.

Source: Laws 2024, LB631, § 6.
Effective date July 19, 2024.

47-1107 Individualized release plan; required; release; conditions.

(1) The division and the department shall require each community work release and reentry center to establish an individualized release plan for each committed offender assigned to the center. The staff of a center shall assist the division and the department in making reasonable advance preparations for the release of such committed offenders.

(2) If a parole-eligible committed offender is released from a center, the offender shall be subject to parole conditions set by the board and under the supervision of a district parole officer assigned by the division pursuant to section 83-1,104. The individualized release plan for a parole-eligible committed offender shall be developed in coordination with the assigned district parole officer.

(3) If a committed offender whose sentence includes a term of post-release supervision is released from a center, the offender shall be subject to the conditions of his or her order of post-release supervision and under the supervision of a district probation officer. The individualized release plan for such an offender shall be developed in coordination with the assigned district probation officer.

Source: Laws 2024, LB631, § 7.
Effective date July 19, 2024.

47-1108 Individual records; maintenance requirements; periodic reports.

(1) The division and the department shall set requirements for the maintenance of the individual records of committed offenders assigned to a community work release and reentry center.

(2) The division and the department shall require each community work release and reentry center to make periodic reports to the division and the department on the performance of each committed offender assigned to the center.

Source: Laws 2024, LB631, § 8.
Effective date July 19, 2024.

47-1109 Assessment of achievements and effectiveness.

The division and the department shall establish an internal system for assessing the achievements of community work release and reentry centers and the effectiveness of the Community Work Release and Reentry Centers Act as a whole. The division and the department shall develop and maintain measurable goals and objectives for such assessment.

Source: Laws 2024, LB631, § 9.
Effective date July 19, 2024.

47-1110 Parole officer; correctional officer; monitor performance; report.

(1) The division shall designate a parole officer to monitor the performance of each parole-eligible committed offender who is assigned to a community work release and reentry center. The designated parole officer shall be required to periodically report to the division on the progress of the committed offender.

(2) The department shall designate a correctional officer to monitor the performance of each committed offender who is assigned to a community work release and reentry center under subsection (3) of section 47-1104. The desig-

nated correctional officer shall be required to periodically report to the department on the progress of the committed offender.

Source: Laws 2024, LB631, § 10.
Effective date July 19, 2024.

47-1111 Community work release and reentry centers; annual review; required visits.

The division and the department shall develop an internal program to conduct annual reviews of the performance of each community work release and reentry center. A senior staff person of the division and the department shall visit each center at least twice each year.

Source: Laws 2024, LB631, § 11.
Effective date July 19, 2024.

47-1112 Committed offender; responsibilities; failure to comply; effect; not an agent, employee, or servant of this state.

(1) A committed offender assigned to a community work release and reentry center shall obey the center's rules of behavior and shall consistently maintain such offender's scheduled work hours.

(2) The intentional failure of a committed offender to abide by the rules of such offender's assigned center may result in internal disciplinary sanction, termination of the committed offender's placement with the center, and the immediate return of such offender to the custody of the department.

(3) No committed offender who is employed in the community under the Community Work Release and Reentry Centers Act or otherwise released from custody shall, while working in such employment in the community, going to or from such employment, or during the time of such release, be deemed to be an agent, employee, or servant of the State of Nebraska.

Source: Laws 2024, LB631, § 12.
Effective date July 19, 2024.

47-1113 Access to records, documents, and reports.

The division and the department may allow a community work release and reentry center to have access to all of the records, documents, and reports in the custody of the division or the department, other than presentence investigation reports, that relate to any committed offender who is assigned to the center.

Source: Laws 2024, LB631, § 13.
Effective date July 19, 2024.

47-1114 Community work release and reentry centers; private providers; bid on agreements to establish; appropriation; legislative intent.

(1) By July 1, 2026, the division and the department shall develop a strategic plan and procedure to allow private providers to bid on agreements to establish community work release and reentry centers pursuant to the Community Work Release and Reentry Centers Act.

(2) It is the intent of the Legislature to appropriate one million dollars from the General Fund to carry out the Community Work Release and Reentry Centers Act.

Source: Laws 2024, LB631, § 14.
Effective date July 19, 2024.

47-1115 Reentry housing and services; program; department; powers and duties.

(1) The department, with the assistance of the board, shall establish a program to encourage the development of reentry housing, coordinate the provisions of reentry services, and provide standards for reentry housing. Through this program, the department shall:

(a) Establish minimum standards for reentry housing facilities, including requirements related to health and safety, insurance, evaluations, and inspections, with input from the advisory committee;

(b) Monitor compliance with these minimum standards and investigate suspected violations;

(c) Coordinate evaluations of reentry housing facilities based on living conditions, staffing, programming, and other criteria;

(d) Communicate with relevant agencies regarding evaluation results and compliance with minimum standards;

(e) Facilitate communication between the department, division, board, probation administration, and reentry housing facilities regarding reentering persons in need of housing and the availability of housing to meet such needs;

(f) Engage in regular discussions with entities which organize and prioritize housing services for people experiencing homelessness or at risk of homelessness in Nebraska;

(g) Track data on costs, utilization, and outcomes for reentry housing within the state and use this data to determine trends and project future needs and costs; and

(h) Electronically submit an annual report to the Legislature, the Supreme Court, and the Governor which describes the status of housing for reentering persons in Nebraska. The report shall include details on housing-related expenditures, characteristics of reentry housing facilities and other places which provide housing for reentering persons, characteristics of the individuals receiving financial assistance for housing, and recommendations for improving the quality and availability of housing for reentering persons in the state.

(2) The department and board may use available funds to encourage development of quality, safe reentry housing and to assist existing reentry housing facilities in making improvements for the benefit of reentering persons and public safety.

Source: Laws 2024, LB631, § 15.
Effective date July 19, 2024.

47-1116 Reentry housing facilities; investigations and evaluations; cooperation; access to facilities and records; fire safety code and building or construction code inspections; notice of imminent threat; contest findings.

(1) Reentry housing facilities shall cooperate with investigations and evaluations conducted pursuant to the Community Work Release and Reentry Centers Act and shall provide the department, board, division, probation administration, and the Office of Public Counsel with reasonable access to facilities and records related to the provision of reentry housing.

(2) The department or board may request the State Fire Marshal to investigate any reentry housing facility for fire safety under section 81-502. The State Fire Marshal shall assess a fee for such inspection under section 81-505.01 payable by the facility. The State Fire Marshal may delegate the authority to make such inspections to qualified local fire prevention personnel under section 81-502.

(3) The department or board may request a county, city, or village to inspect any reentry housing facility for the purpose of administering or enforcing the state building code or an applicable local building or construction code enacted pursuant to the Building Construction Act, if the county, city, or village has taken on the responsibility of code enforcement. A county, city, or village may assess fees for such an inspection under section 71-6406.

(4) The department or board shall promptly notify a reentry housing facility and relevant agencies if there is reason to believe conditions in the facility present an imminent threat to the health or safety of reentering persons residing at the facility.

(5) The department shall work with the board, division, probation administration, and the advisory board to establish a speedy process by which reentry housing facilities may contest the findings of any investigation or evaluation pursuant to the Community Work Release and Reentry Centers Act.

Source: Laws 2024, LB631, § 16.
Effective date July 19, 2024.

47-1117 Reentry Continuity Advisory Board; created; members; duties.

(1) The Reentry Continuity Advisory Board is created. The board shall include the following members:

(a) The Inspector General of the Nebraska Correctional System;

(b) The Director of Correctional Services or his or her designee;

(c) The chairperson of the Board of Parole or his or her designee;

(d) The probation administrator or his or her designee; and

(e) Five additional members to be appointed by the Governor. Such members shall include:

(i) An individual with experience in reentry and restorative justice service delivery;

(ii) A victims' rights representative;

(iii) A formerly incarcerated individual;

(iv) An individual with expertise in mental or behavioral health; and

(v) An individual with experience in public policy.

(2) The advisory board shall select a chairperson from among its members.

(3) The advisory board shall identify areas for improving continuity and collaboration among the department, the division, the board, probation administration, and any other relevant criminal justice entities and offer advice on

practices that will enhance the continuity of reentry services and reentry housing for individuals in the criminal justice system.

(4) The advisory board shall:

(a) Conduct regular meetings;

(b) Provide advice and assistance to the department and board relating to reentry housing in Nebraska;

(c) Promote the interests of reentering persons and their families;

(d) Promote public safety through effective reintegration into the community;

(e) Provide input on the process of evaluating reentry housing facilities;

(f) Engage with neighborhood groups and other stakeholders;

(g) Provide reports as requested by the department and board; and

(h) Engage in other activities as requested by the department and board.

(5) The advisory board shall convene at least quarterly. The members described in subdivisions (1)(b), (c), and (d) of this section shall attend each meeting of the advisory board and share and present information relevant to the mission of the advisory board.

(6) The department, division, board, and probation administration shall provide information requested by the advisory board related to its mission. This shall include, but is not limited to, information regarding:

(a) The use of evidence-based risk assessments and evidence-based programming;

(b) Participation in rehabilitation and education programs;

(c) Treatment and programming offered, including vocational training, substance abuse treatment, cognitive-behavioral therapy, and mental health counseling;

(d) Population and demographic data;

(e) Use of and need for transitional housing and reentry housing;

(f) Identified gaps in services;

(g) Recidivism;

(h) Institutional conduct; and

(i) Post-release and reentry planning and services;

(7) The advisory board shall conduct periodic evaluations of the effectiveness of the collaborative efforts and reentry programs offered by the department, division, board, probation administration, and other criminal justice agencies. Such evaluation shall be accomplished using an integrated reentry and rehabilitation framework, which shall include an examination of:

(a) The extent to which agencies are conducting comprehensive assessments of criminal justice-involved individuals' needs and risks, including education, employment, housing, mental health, substance abuse, and family support;

(b) Whether the agencies are providing individualized reentry planning tailored to the specific needs and circumstances of such individuals, with a focus on addressing criminogenic factors and promoting positive behavioral change;

(c) Whether such individuals have access to evidence-based interventions, programs, and services both during and following incarceration, including

education, vocational training, mental health treatment, substance abuse counseling, and life skills development; and

(d) The extent of collaboration and coordination between the department, parole, probation, other criminal justice agencies, community-based organizations, and other stakeholders.

(8) The advisory board shall assist probation administration, the department, and the division in implementing performance metrics for staff as provided in sections 29-2243 and 83-171.01. The advisory board shall regularly review such agencies' implementation and use of such performance metrics and offer updated guidance to ensure that such metrics are aligned with best practices, stakeholder input, and the evolving goals and priorities of the criminal justice system.

(9) On or before October 1, 2025, and on or before each October 1 thereafter, the advisory board shall electronically submit a report to the Judiciary Committee of the Legislature. The report shall include data regarding baselines, goals, efforts undertaken to achieve such goals, and action steps outlined to meet such goals and set objectives. The report shall detail the outcomes of parole decisions, reentry efforts, recidivism rates, and any challenges encountered. The report shall provide stakeholders with a clear understanding of the progress made, challenges faced, and strategies employed throughout the reporting period.

Source: Laws 2024, LB631, § 17.
Effective date July 19, 2024.

47-1118 Reentry Housing Fund; created; use; investment; reentry housing facility; fee.

(1) The Reentry Housing Fund is created. The fund shall be maintained in the state accounting system as a cash fund and shall consist of all fees, grants, federal funds, and other money received by the department under the Community Work Release and Reentry Centers Act. The department shall use the fund to carry out the act.

(2) Any money in the Reentry Housing 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 department may assess an annual fee on each reentry housing facility for the purposes of carrying out the Community Work Release and Reentry Centers Act. Such annual fee shall not exceed one thousand dollars. The department shall remit any such fees collected to the State Treasurer for credit to the Reentry Housing Fund.

Source: Laws 2024, LB631, § 18.
Effective date July 19, 2024.

Cross References

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

47-1119 Rules and regulations.

The department, division, and board may adopt and promulgate rules and regulations to carry out the Community Work Release and Reentry Centers Act.

Source: Laws 2024, LB631, § 19.
Effective date July 19, 2024.

CHAPTER 48
LABOR

ARTICLE 1
WORKERS' COMPENSATION

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PART I

COMPENSATION BY ACTION AT LAW, MODIFICATION OF REMEDIES

48-101.01 Mental injuries and mental illness; first responder; frontline state employee; county correctional officer; legislative findings; evidentiary burden; compensation; when; first responder; mental health examination; resilience training; reimbursement; department; duties.

(1) The Legislature finds and declares:

(a) The occupations of first responders are recognized as stressful occupations. Only our nation's combat soldiers endure more stress. Similar to military personnel, first responders face unique and uniquely dangerous risks in their sworn mission to keep the public safe. They rely on each other for survival to protect the communities they serve;

(b) On any given day, first responders can be called on to make life and death decisions, witness a young child dying with the child's grief-stricken family, make a decision that will affect a community member for the rest of such person's life, or be exposed to a myriad of communicable diseases and known carcinogens;

(c) On any given day, first responders protect high-risk individuals from themselves and protect the community from such individuals;

(d) First responders are constantly at significant risk of bodily harm or physical assault while they perform their duties;

(e) Constant, cumulative exposure to horrific events make first responders uniquely susceptible to the emotional and behavioral impacts of job-related stressors;

(f) Trauma-related injuries can become overwhelming and manifest in post-traumatic stress, which may result in substance use disorders and even, tragically, suicide; and

(g) It is imperative for society to recognize occupational injuries related to post-traumatic stress and to promptly seek diagnosis and treatment without stigma. This includes recognizing that mental injury and mental illness as a result of trauma is not disordered, but is a normal and natural human response to trauma, the negative effects of which can be ameliorated through diagnosis and effective treatment.

(2) Personal injury includes mental injuries and mental illness unaccompanied by physical injury for an employee who is a first responder, frontline state employee, or county correctional officer if such employee:

(a) Establishes that the employee's employment conditions causing the mental injury or mental illness were extraordinary and unusual in comparison to the normal conditions of the particular employment; and

(b) Establishes, through a mental health professional, the medical causation between the mental injury or mental illness and the employment conditions by medical evidence.

(3) The employee bears the burden of establishing the matters described in subsection (2) of this section by a preponderance of the evidence.

(4) Until January 1, 2028, a first responder may establish prima facie evidence of a personal injury that is a mental injury or mental illness if the first responder:

(a) Presents evidence that the first responder underwent a mental health examination by a mental health professional upon entry into such service or subsequent to such entry and before the onset of the mental injury or mental illness and such examination did not reveal the mental injury or mental illness for which the first responder seeks compensation;

(b) Presents testimony or an affidavit from a mental health professional stating the first responder suffers from a mental injury or mental illness caused by one or more events or series of events which cumulatively produced the mental injury or mental illness which brought about the need for medical attention and the interruption of employment;

(c) Presents evidence that such events or series of events arose out of and in the course of the first responder's employment; and

(d) Presents evidence that, prior to the employment conditions which caused the mental injury or mental illness, the first responder had participated in resilience training and updated the training at least annually thereafter.

(5) For purposes of this section, mental injuries and mental illness arising out of and in the course of employment unaccompanied by physical injury are not considered compensable if they result from any event or series of events which are incidental to normal employer and employee relations, including, but not limited to, personnel actions by the employer such as disciplinary actions, work evaluations, transfers, promotions, demotions, salary reviews, or terminations.

(6)(a) The Department of Health and Human Services shall provide reimbursement for the cost of any of the following to the extent not reimbursed by the first responder's employer: A mental health examination by a mental health professional upon entry into such service or subsequent to such entry and before the onset of a mental injury or mental illness for which compensation is sought; initial resilience training; and annual resilience training. The department shall pay reimbursement at a rate determined by the Critical Incident Stress Management Program under section 71-7104. Reimbursement for resilience training shall be subject to the annual limit set by such program under section 71-7104.

(b) To obtain reimbursement under this subsection, a first responder shall submit an application to the Department of Health and Human Services on a form and in a manner prescribed by the department.

(7) The Department of Health and Human Services shall maintain and annually update records of first responders who have completed annual resilience training.

(8) For purposes of this section:

(a) County correctional officer means a correctional officer employed by a high-population county whose:

(i) Position obligates such employee to maintain order and custody of inmates in a county jail; and

(ii) Duties involve regular and direct interaction with high-risk individuals;

(b) Custody means:

(i) Under the charge or control of a state institution or state agency and includes time spent outside of the state institution or state agency; or

(ii) In the custody of a county jail in a high-population county or in the process of being placed in the custody of a county jail in a high-population county;

(c) First responder means a sheriff, a deputy sheriff, a police officer, an officer of the Nebraska State Patrol, a volunteer or paid firefighter, or a volunteer or paid individual licensed under a licensure classification in subdivision (1) of section 38-1217 who provides medical care in order to prevent loss of life or aggravation of physiological or psychological illness or injury;

(d) Frontline state employee means an employee of the Department of Correctional Services or the Department of Health and Human Services whose duties involve regular and direct interaction with high-risk individuals;

(e) High-population county means a county with more than three hundred thousand inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census;

(f) High-risk individual means an individual in custody for whom violent or physically intimidating behavior is common, including, but not limited to, a committed offender as defined in section 83-170, a patient at a regional center as defined in section 71-911, a juvenile committed to a youth rehabilitation and treatment center, and a person in the custody of a county jail in a high-population county or in the process of being placed in the custody of a county jail in a high-population county;

(g) Mental health professional means:

(i) A practicing physician licensed to practice medicine in this state under the Medicine and Surgery Practice Act;

(ii) A practicing psychologist licensed to engage in the practice of psychology in this state as provided in section 38-3111 or as provided in similar provisions of the Psychology Interjurisdictional Compact;

(iii) A person licensed as an independent mental health practitioner under the Mental Health Practice Act; or

(iv) A professional counselor who holds a privilege to practice in Nebraska as a professional counselor under the Licensed Professional Counselors Interstate Compact; and

(h) Resilience training means training that meets the guidelines established by the Critical Incident Stress Management Program under section 71-7104 and that teaches how to adapt to, manage, and recover from adversity, trauma, tragedy, threats, or significant sources of stress.

(9) All other provisions of the Nebraska Workers' Compensation Act apply to this section.

Source: Laws 2010, LB780, § 1; Laws 2012, LB646, § 2; Laws 2017, LB444, § 2; Laws 2020, LB963, § 1; Laws 2021, LB273, § 5; Laws 2021, LB407, § 1; Laws 2022, LB752, § 28; Laws 2023, LB191, § 6.

Cross References

Licensed Professional Counselors Interstate Compact, see section 38-4201.
Medicine and Surgery Practice Act, see section 38-2001.

Mental Health Practice Act, see section 38-2101.
Psychology Interjurisdictional Compact, see section 38-3901.

PART II

ELECTIVE COMPENSATION

(c) SCHEDULE OF COMPENSATION

48-121 Compensation; schedule; total, partial, and temporary disability; injury to specific parts of the body; amounts and duration of payments.

The following schedule of compensation is hereby established for injuries resulting in disability:

(1) For total disability, the compensation during such disability shall be sixty-six and two-thirds percent of the wages received at the time of injury, but such compensation shall not be more than the maximum weekly income benefit specified in section 48-121.01 nor less than the minimum weekly income benefit specified in section 48-121.01, except that if at the time of injury the employee receives wages of less than the minimum weekly income benefit specified in section 48-121.01, then he or she shall receive the full amount of such wages per week as compensation. Nothing in this subdivision shall require payment of compensation after disability shall cease;

(2) For disability partial in character, except the particular cases mentioned in subdivision (3) of this section, the compensation shall be sixty-six and two-thirds percent of the difference between the wages received at the time of the injury and the earning power of the employee thereafter, but such compensation shall not be more than the maximum weekly income benefit specified in section 48-121.01. This compensation shall be paid during the period of such partial disability but not beyond three hundred weeks. Should total disability be followed by partial disability, the period of three hundred weeks mentioned in this subdivision shall be reduced by the number of weeks during which compensation was paid for such total disability;

(3) For disability resulting from permanent injury of the classes listed in this subdivision, the compensation shall be in addition to the amount paid for temporary disability, except that the compensation for temporary disability shall cease as soon as the extent of the permanent disability is ascertainable. For disability resulting from permanent injury of the following classes, compensation shall be: For the loss of a thumb, sixty-six and two-thirds percent of daily wages during sixty weeks. For the loss of a first finger, commonly called the index finger, sixty-six and two-thirds percent of daily wages during thirty-five weeks. For the loss of a second finger, sixty-six and two-thirds percent of daily wages during thirty weeks. For the loss of a third finger, sixty-six and two-thirds percent of daily wages during twenty weeks. For the loss of a fourth finger, commonly called the little finger, sixty-six and two-thirds percent of daily wages during fifteen weeks. The loss of the first phalange of the thumb or of any finger shall be considered to be equal to the loss of one-half of such thumb or finger and compensation shall be for one-half of the periods of time above specified, and the compensation for the loss of one-half of the first phalange shall be for one-fourth of the periods of time above specified. The loss of more than one phalange shall be considered as the loss of the entire finger or thumb, except that in no case shall the amount received for more than one finger exceed the amount provided in this schedule for the loss of a hand. For

the loss of a great toe, sixty-six and two-thirds percent of daily wages during thirty weeks. For the loss of one of the toes other than the great toe, sixty-six and two-thirds percent of daily wages during ten weeks. The loss of the first phalange of any toe shall be considered equal to the loss of one-half of such toe, and compensation shall be for one-half of the periods of time above specified. The loss of more than one phalange shall be considered as the loss of the entire toe. For the loss of a hand, sixty-six and two-thirds percent of daily wages during one hundred seventy-five weeks. For the loss of an arm, sixty-six and two-thirds percent of daily wages during two hundred twenty-five weeks. For the loss of a foot, sixty-six and two-thirds percent of daily wages during one hundred fifty weeks. For the loss of a leg, sixty-six and two-thirds percent of daily wages during two hundred fifteen weeks. For the loss of an eye, sixty-six and two-thirds percent of daily wages during one hundred twenty-five weeks. For the loss of an ear, sixty-six and two-thirds percent of daily wages during twenty-five weeks. For the loss of hearing in one ear, sixty-six and two-thirds percent of daily wages during fifty weeks. For the loss of the nose, sixty-six and two-thirds percent of daily wages during fifty weeks.

In any case in which there is a loss or loss of use of more than one member or parts of more than one member set forth in this subdivision, but not amounting to total and permanent disability, compensation benefits shall be paid for the loss or loss of use of each such member or part thereof, with the periods of benefits to run consecutively. The total loss or permanent total loss of use of both hands, or both arms, or both feet, or both legs, or both eyes, or hearing in both ears, or of any two thereof, in one accident, shall constitute total and permanent disability and be compensated for according to subdivision (1) of this section. In all other cases involving a loss or loss of use of both hands, both arms, both feet, both legs, both eyes, or hearing in both ears, or of any two thereof, total and permanent disability shall be determined in accordance with the facts. Amputation between the elbow and the wrist shall be considered as the equivalent of the loss of a hand, and amputation between the knee and the ankle shall be considered as the equivalent of the loss of a foot. Amputation at or above the elbow shall be considered as the loss of an arm, and amputation at or above the knee shall be considered as the loss of a leg. Permanent total loss of the use of a finger, hand, arm, foot, leg, or eye shall be considered as the equivalent of the loss of such finger, hand, arm, foot, leg, or eye. In all cases involving a permanent partial loss of the use or function of any of the members mentioned in this subdivision, the compensation shall bear such relation to the amounts named in such subdivision as the disabilities bear to those produced by the injuries named therein.

If, in the compensation court's discretion, compensation benefits payable for a loss or loss of use of more than one hand, arm, foot, or leg, or any combination thereof, resulting from the same accident or illness, do not adequately compensate the employee for such loss or loss of use and such loss or loss of use results in at least a thirty percent loss of earning capacity, the compensation court shall, upon request of the employee, determine the employee's loss of earning capacity consistent with the process for such determination under subdivision (1) or (2) of this section, and in such a case the employee shall not be entitled to compensation under this subdivision. Loss or loss of use of multiple parts of the same arm, including the hand and fingers, or loss or loss of use of multiple parts of the same leg, including the foot and toes,

resulting from the same accident or illness shall not entitle the employee to compensation under subdivision (1) or (2) of this section.

If the employer and the employee are unable to agree upon the amount of compensation to be paid in cases not covered by the schedule, the amount of compensation shall be settled according to sections 48-173 to 48-185. Compensation under this subdivision shall not be more than the maximum weekly income benefit specified in section 48-121.01 nor less than the minimum weekly income benefit specified in section 48-121.01, except that if at the time of the injury the employee received wages of less than the minimum weekly income benefit specified in section 48-121.01, then he or she shall receive the full amount of such wages per week as compensation;

(4) For disability resulting from permanent disability, if immediately prior to the accident the rate of wages was fixed by the day or hour, or by the output of the employee, the weekly wages shall be taken to be computed upon the basis of a workweek of a minimum of five days, if the wages are paid by the day, or upon the basis of a workweek of a minimum of forty hours, if the wages are paid by the hour, or upon the basis of a workweek of a minimum of five days or forty hours, whichever results in the higher weekly wage, if the wages are based on the output of the employee; and

(5) The employee shall be entitled to compensation from his or her employer for temporary disability while undergoing physical or medical rehabilitation and while undergoing vocational rehabilitation whether such vocational rehabilitation is voluntarily offered by the employer and accepted by the employee or is ordered by the Nebraska Workers' Compensation Court or any judge of the compensation court.

Source: Laws 1913, c. 198, § 21, p. 586; R.S.1913, § 3662; Laws 1917, c. 85, § 7, p. 202; Laws 1919, c. 91, § 2, p. 228; Laws 1921, c. 122, § 1, p. 521; C.S.1922, § 3044; C.S.1929, § 48-121; Laws 1935, c. 57, § 41, p. 210; C.S.Supp.,1941, § 48-121; R.S.1943, § 48-121; Laws 1945, c. 112, § 1, p. 357; Laws 1949, c. 160, § 1, p. 403; Laws 1951, c. 152, § 1, p. 617; Laws 1953, c. 162, § 1, p. 506; Laws 1955, c. 186, § 1, p. 527; Laws 1957, c. 203, § 1, p. 710; Laws 1957, c. 204, § 1, p. 716; Laws 1959, c. 223, § 1, p. 784; Laws 1963, c. 284, § 1, p. 847; Laws 1963, c. 285, § 1, p. 854; Laws 1965, c. 279, § 1, p. 800; Laws 1967, c. 288, § 1, p. 783; Laws 1969, c. 388, § 3, p. 1360; Laws 1969, c. 393, § 1, p. 1378; Laws 1971, LB 320, § 1; Laws 1973, LB 193, § 1; Laws 1974, LB 710, § 1; Laws 1974, LB 807, § 1; Laws 1974, LB 808, § 1; Laws 1975, LB 198, § 1; Laws 1977, LB 275, § 1; Laws 1978, LB 446, § 1; Laws 1979, LB 114, § 1; Laws 1979, LB 358, § 1; Laws 1983, LB 158, § 1; Laws 1985, LB 608, § 1; Laws 1993, LB 757, § 4; Laws 1999, LB 216, § 5; Laws 2007, LB588, § 4; Laws 2024, LB1017, § 1.
Effective date July 19, 2024.

(e) SETTLEMENT AND PAYMENT OF COMPENSATION

48-145 Employers; compensation insurance required; exceptions; effect of failure to comply; self-insurer; payments required; deposit with State Treasurer; credited to Compensation Court Cash Fund.

To secure the payment of compensation under the Nebraska Workers' Compensation Act:

(1) Every employer in the occupations described in section 48-106, except the State of Nebraska and any governmental agency created by the state, shall either (a) insure and keep insured its liability under such act in some corporation, association, or organization authorized and licensed to transact the business of workers' compensation insurance in this state, (b) in the case of an employer who is a lessor of one or more commercial vehicles leased to a self-insured motor carrier, be a party to an effective agreement with the self-insured motor carrier under section 48-115.02, (c) be a member of a risk management pool authorized and providing group self-insurance of workers' compensation liability pursuant to the Intergovernmental Risk Management Act, or (d) with approval of the Nebraska Workers' Compensation Court, self-insure its workers' compensation liability.

An employer seeking approval to self-insure shall make application to the compensation court in the form and manner as the compensation court may prescribe, meet such minimum standards as the compensation court shall adopt and promulgate by rule and regulation, and furnish to the compensation court satisfactory proof of financial ability to pay direct the compensation in the amount and manner when due as provided for in the Nebraska Workers' Compensation Act. Approval is valid for the period prescribed by the compensation court unless earlier revoked pursuant to this subdivision or subsection (1) of section 48-146.02. Notwithstanding subdivision (1)(d) of this section, a professional employer organization shall not be eligible to self-insure its workers' compensation liability. The compensation court may by rule and regulation require the deposit of an acceptable security, indemnity, trust, or bond to secure the payment of compensation liabilities as they are incurred. The agreement or document creating a trust for use under this section shall contain a provision that the trust may only be terminated upon the consent and approval of the compensation court. Any beneficial interest in the trust principal shall be only for the benefit of the past or present employees of the self-insurer and any persons to whom the self-insurer has agreed to pay benefits under subdivision (11) of section 48-115 and section 48-115.02. Any limitation on the termination of a trust and all other restrictions on the ownership or transfer of beneficial interest in the trust assets contained in such agreement or document creating the trust shall be enforceable, except that any limitation or restriction shall be enforceable only if authorized and approved by the compensation court and specifically delineated in the agreement or document. The trustee of any trust created to satisfy the requirements of this section may invest the trust assets in the same manner authorized under subdivisions (1)(a) through (i) of section 30-3209 for corporate trustees holding retirement or pension funds for the benefit of employees or former employees of cities, villages, school districts, or governmental or political subdivisions, except that the trustee shall not invest trust assets into stocks, bonds, or other obligations of the trustor. If, as a result of such investments, the value of the trust assets is reduced below the acceptable trust amount required by the compensation court, then the trustor shall deposit additional trust assets to account for the shortfall.

Notwithstanding any other provision of the Nebraska Workers' Compensation Act, a three-judge panel of the compensation court may, after notice and hearing, revoke approval as a self-insurer if it finds that the financial condition

of the self-insurer or the failure of the self-insurer to comply with an obligation under the act poses a serious threat to the public health, safety, or welfare. The Attorney General, when requested by the administrator of the compensation court, may file a motion pursuant to section 48-162.03 for an order directing a self-insurer to appear before a three-judge panel of the compensation court and show cause as to why the panel should not revoke approval as a self-insurer pursuant to this subdivision. The Attorney General shall be considered a party for purposes of such motion. The Attorney General may appear before the three-judge panel and present evidence that the financial condition of the self-insurer or the failure of the self-insurer to comply with an obligation under the act poses a serious threat to the public health, safety, or welfare. The presiding judge shall rule on a motion of the Attorney General pursuant to this subdivision and, if applicable, shall appoint judges of the compensation court to serve on the three-judge panel. The presiding judge shall not serve on such panel. Appeal from a revocation pursuant to this subdivision shall be in accordance with section 48-185. No such appeal shall operate as a supersedeas unless the self-insurer executes to the compensation court a bond with one or more sureties authorized to do business within the State of Nebraska in an amount determined by the three-judge panel to be sufficient to satisfy the obligations of the self-insurer under the act;

(2) An approved self-insurer shall furnish to the State Treasurer an annual amount equal to two and one-half percent of the prospective loss costs for like employment but in no event less than twenty-five dollars. Prospective loss costs is defined in section 48-151. The compensation court is the sole judge as to the prospective loss costs that shall be used. All money which a self-insurer is required to pay to the State Treasurer, under this subdivision, shall be computed and tabulated under oath as of January 1 and paid to the State Treasurer immediately thereafter. The compensation court or designee of the compensation court may audit the payroll of a self-insurer at the compensation court's discretion. All money paid by a self-insurer under this subdivision shall be credited to the Compensation Court Cash Fund;

(3) Every employer who fails, neglects, or refuses to comply with the conditions set forth in subdivision (1) or (2) of this section shall be required to respond in damages to an employee for personal injuries, or when personal injuries result in the death of an employee, then to his or her dependents; and

(4) Any security, indemnity, trust, or bond provided by a self-insurer pursuant to subdivision (1) of this section shall be deemed a surety for the purposes of the payment of valid claims of the self-insurer's employees and the persons to whom the self-insurer has agreed to pay benefits under the Nebraska Workers' Compensation Act pursuant to subdivision (11) of section 48-115 and section 48-115.02 as generally provided in the act.

Source: Laws 1913, c. 198, § 46, p. 599; R.S.1913, § 3687; Laws 1917, c. 85, § 21, p. 215; Laws 1921, c. 122, § 1, p. 528; C.S.1922, § 3069; C.S.1929, § 48-146; Laws 1935, c. 57, § 31, p. 202; C.S.Supp.,1941, § 48-146; R.S.1943, § 48-145; Laws 1957, c. 205, § 1, p. 723; Laws 1963, c. 286, § 1, p. 860; Laws 1971, LB 572, § 8; Laws 1986, LB 811, § 67; Laws 1988, LB 1146, § 1; Laws 1997, LB 474, § 4; Laws 1999, LB 216, § 9; Laws 2000, LB 1221, § 8; Laws 2005, LB 13, § 8; Laws 2005, LB 238, § 10; Laws 2010, LB579, § 16; Laws 2015, LB480, § 4; Laws 2023, LB191, § 7.

Cross References

Intergovernmental Risk Management Act, see section 44-4301.

PART IV

NEBRASKA WORKERS' COMPENSATION COURT

48-152 Nebraska Workers' Compensation Court; creation; jurisdiction; judges; selected or retained in office.

Recognizing that (1) industrial relations between employers and employees within the State of Nebraska are affected with a vital public interest, (2) an impartial and efficient administration of the Nebraska Workers' Compensation Act is essential to the prosperity and well-being of the state, and (3) suitable laws should be enacted for the establishing and for the preservation of such an administration of the Nebraska Workers' Compensation Act, there is hereby created, pursuant to the provisions of Article V, section 1, of the Nebraska Constitution, a court, consisting of judges, to be selected or retained in office in accordance with the provisions of Article V, section 21, of the Nebraska Constitution and to be known as the Nebraska Workers' Compensation Court, which court shall have authority to administer and enforce all of the provisions of the Nebraska Workers' Compensation Act, and any amendments thereof, except such as are committed to the courts of appellate jurisdiction or as otherwise provided by law.

Source: Laws 1935, c. 57, § 1, p. 188; C.S.Supp.,1941, § 48-162; R.S. 1943, § 48-152; Laws 1949, c. 161, § 3, p. 412; Laws 1965, c. 280, § 1, p. 806; Laws 1967, c. 292, § 1, p. 797; Laws 1975, LB 187, § 9; Laws 1983, LB 18, § 2; Laws 1986, LB 811, § 79; Laws 1988, LB 868, § 1; Laws 2005, LB 13, § 13; Laws 2023, LB799, § 7.

48-153 Judges; number; term; continuance in office; prohibition on holding other office or pursuing other occupation.

(1) The Nebraska Workers' Compensation Court shall consist of six judges.

(2) The right of judges of the compensation court to continue in office shall be determined in the manner provided in sections 24-813 to 24-818, and the terms of office thereafter shall be for six years beginning on the first Thursday after the first Tuesday in January immediately following their retention at such election.

(3) In case of a vacancy occurring in the Nebraska Workers' Compensation Court, the same shall be filled in accordance with the provisions of Article V, section 21, of the Nebraska Constitution and the right of any judge so appointed to continue in office shall be determined in the manner provided in sections 24-813 to 24-818. All such judges shall hold office until their successors are appointed and qualified, or until death, voluntary resignation, or removal for cause.

(4) No judge of the compensation court shall, during his or her tenure in office as judge, hold any other office or position of profit, pursue any other business or avocation inconsistent or which interferes with his or her duties as such judge, or serve on or under any committee of any political party.

Source: Laws 1935, c. 57, § 2, p. 188; C.S.Supp.,1941, § 48-163; R.S. 1943, § 48-153; Laws 1945, c. 113, § 1, p. 363; Laws 1963, c.

288, § 1, p. 865; Laws 1965, c. 280, § 2, p. 806; Laws 1967, c. 292, § 2, p. 798; Laws 1975, LB 187, § 10; Laws 1978, LB 649, § 4; Laws 1979, LB 237, § 5; Laws 1981, LB 111, § 4; Laws 1983, LB 18, § 3; Laws 1986, LB 811, § 81; Laws 1988, LB 868, § 2; Laws 2011, LB151, § 3; Laws 2023, LB799, § 8.

48-163 Compensation court; rules and regulations; procedures for adoption; powers and duties.

(1) The Nebraska Workers' Compensation Court, by a majority vote of the judges thereof, may adopt and promulgate all reasonable rules and regulations necessary for carrying out the intent and purpose of the Nebraska Workers' Compensation Act, except that rules and regulations relating to the compensation court's adjudicatory function shall become effective only upon approval of the Supreme Court.

(2) No rule or regulation to carry out the act shall be adopted and promulgated except after public hearing conducted by a quorum of the compensation court on the question of adopting and promulgating such rule or regulation. Notice of such hearing shall be given at least fourteen days prior thereto by publication in a newspaper having general circulation in the state. Draft copies of all such rules and regulations shall be available to the public at the compensation court at the time of giving notice.

(3) The administrator of the compensation court shall establish and maintain a list of subscribers who wish to receive notice of public hearing on the question of adopting and promulgating any rule or regulation and shall provide notice to such subscribers. The administrator shall distribute a current copy of existing rules and regulations and any updates to those rules and regulations once adopted to the State Library and to each county law library or the largest public library in each county.

Source: Laws 1935, c. 57, § 6, p. 190; C.S.Supp.,1941, § 48-167; R.S. 1943, § 48-163; Laws 1975, LB 187, § 11; Laws 1986, LB 811, § 96; Laws 1992, LB 360, § 17; Laws 1993, LB 757, § 24; Laws 1999, LB 216, § 15; Laws 2005, LB 13, § 21; Laws 2023, LB191, § 8.

48-164 Compensation court; rules and regulations.

The Nebraska Workers' Compensation Court shall regulate and provide the kind and character of notices and the services thereof and, in case of an injury by accident to an employee, the nature and extent of the proofs and evidence and the method of taking and furnishing the same for the establishment of the right to compensation. It shall determine the nature and form or forms of the application of those claiming to be entitled to benefits or compensation and shall regulate the method of making investigations, physical examinations, and inspections and prescribe the time within which adjudications and awards shall be made. Such rules and regulations shall conform to the provisions of the Nebraska Workers' Compensation Act.

Source: Laws 1917, c. 85, § 29, p. 220; C.S.1922, § 3080; C.S.1929, § 48-157; Laws 1935, c. 57, § 36, p. 205; C.S.Supp.,1941, § 48-157; R.S.1943, § 48-164; Laws 1945, c. 113, § 5, p. 365; Laws 1986, LB 811, § 97; Laws 2023, LB191, § 9.

Cross References

For service of documents upon adverse party or attorney, see section 25-534.

48-174 Summons; service; return.

Upon the filing of such petition a summons shall issue and be served upon the adverse party, as in civil causes, together with a copy of the petition. Return of service shall be made within fourteen days after the date of issue. An acknowledgment on the summons or the voluntary appearance of a defendant is equivalent to service.

Source: Laws 1935, c. 57, § 13, p. 192; C.S.Supp.,1941, § 48-174; R.S. 1943, § 48-174; Laws 1978, LB 649, § 6; Laws 2000, LB 1221, § 13; Laws 2023, LB191, § 10.

PART V

CLAIMS AGAINST THE STATE

48-1,103 Workers' Compensation Claims Revolving Fund; established; deficiency; notify Legislature; investment.

There is hereby established in the state treasury a Workers' Compensation Claims Revolving Fund, to be administered by the Risk Manager, from which all workers' compensation costs, including prevention and administration, shall be paid. The fund may also be used to pay the costs of administering the Risk Management Program. The fund shall receive deposits from assessments against state agencies charged by the Risk Manager to pay for workers' compensation costs. When the amount of money in the Workers' Compensation Claims Revolving Fund is not sufficient to pay any awards or judgments under sections 48-192 to 48-1,109, the Risk Manager shall immediately advise the Legislature and request an emergency appropriation to satisfy such awards and judgments. Any money in the Workers' Compensation Claims Revolving Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. Beginning October 1, 2024, any investment earnings from investment of money in the fund shall be credited to the General Fund.

Source: Laws 1971, LB 390, § 12; Laws 1981, LB 273, § 12; Laws 1986, LB 811, § 130; Laws 1994, LB 1211, § 3; Laws 1995, LB 7, § 45; Laws 2011, LB378, § 22; Laws 2024, First Spec. Sess., LB3, § 14. Effective date August 21, 2024.

Cross References

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

ARTICLE 2

GENERAL PROVISIONS

Section
48-239. COVID-19 vaccine; employer; requirements; vaccine exemption form; contents.

48-239 COVID-19 vaccine; employer; requirements; vaccine exemption form; contents.

(1) For purposes of this section:

(a) COVID-19 means the novel coronavirus identified as SARS-CoV-2; any disease caused by SARS-CoV-2, its viral fragments, or a virus mutation therefrom; and all conditions associated with the disease which are caused by SARS-CoV-2, its viral fragments, or a virus mutation therefrom;

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

(c)(i) Employer means a person engaged in an industry who has one or more employees;

(ii) Employer also includes any party whose business is financed in whole or in part under the Nebraska Investment Finance Authority Act regardless of the number of employees and includes the State of Nebraska, governmental agencies, and political subdivisions; and

(iii) Employer does not include (A) the United States, a corporation wholly owned by the government of the United States, or an Indian tribe or (B) a bona fide private membership club, other than a labor organization, which is exempt from taxation under section 501(c) of the Internal Revenue Code;

(d) Health care practitioner means a person licensed under (i) the Medicine and Surgery Practice Act to practice medicine and surgery or osteopathic medicine and surgery, (ii) the Medicine and Surgery Practice Act to practice as a physician assistant, or (iii) the Advanced Practice Registered Nurse Practice Act to practice as an advanced practice registered nurse;

(e) Medicare-certified or medicaid-certified provider or supplier means any entity, including, but not limited to, a health care facility as defined in section 71-413, that is a medicare-certified or medicaid-certified provider or supplier and that is subject to the federal Centers for Medicare and Medicaid Services' COVID-19 health care staff vaccination requirements; and

(f) Vaccine exemption form means the form created by the department under subsection (2) of this section.

(2)(a) The department shall develop a vaccine exemption form for an individual to claim an exemption from receiving a COVID-19 vaccine as provided in this section. The department shall make the form available on the department's website within fifteen days after March 1, 2022.

(b) The form shall include a declaration by the individual seeking an exemption that:

(i) A health care practitioner has provided the individual with a signed written statement that, in the health care practitioner's opinion, (A) receiving a COVID-19 vaccine is medically contraindicated for the individual or (B) medical necessity requires the individual to delay receiving such vaccine; or

(ii) Receiving a COVID-19 vaccine would conflict with the individual's sincerely held religious belief, practice, or observance.

(3) Subject to subsection (5) of this section, an employer that requires applicants or employees to be vaccinated against COVID-19 shall allow for an exemption to such requirement for an individual who provides the employer with:

(a) A completed vaccine exemption form; and

(b) For an individual claiming an exemption based on the statement of a health care practitioner, a copy of such signed written statement.

(4) An employer may require an employee granted an exemption under this section to:

(a) Be periodically tested for COVID-19 at the employer's expense; and

(b) Wear or use personal protective equipment provided by the employer.

(5) A medicare-certified or medicaid-certified provider or supplier or a federal contractor may require additional processes, documentation, or accommodations as necessary to be in compliance with federal law and to maintain compliance with the rules and regulations of the federal Centers for Medicare and Medicaid Services.

Source: Laws 2022, LB906, § 1.

Cross References

Advanced Practice Registered Nurse Practice Act, see section 38-201.
Medicine and Surgery Practice Act, see section 38-2001.
Nebraska Investment Finance Authority Act, see section 58-201.

ARTICLE 3
CHILD LABOR

Section
48-302. Children under sixteen; employment certificate required; enforcement of section.
48-303. Employment certificate; approval by school officer; report; investigation.
48-311. Violations; penalties.
48-312. Unlawful employment; evidence; visitation; reports; enforcement, powers.

48-302 Children under sixteen; employment certificate required; enforcement of section.

(1) No child under sixteen years of age shall be employed or permitted or suffered to work in any employment as defined in section 48-301 within this state unless the person or corporation employing the child procures and keeps on file, accessible to the attendance officers and to the Department of Labor and its assistants and employees, an employment certificate as prescribed in section 48-304 and keeps one complete list of all such children employed in the building on file in the building in which such children are employed.

(2) Upon the termination of the employment of a child so registered whose certificate is so filed, such certificate shall be transmitted by the employer to the person authorizing the certificate pursuant to section 48-303 and shall be turned over to such child upon demand.

(3) Any attendance officer or the Department of Labor or its assistants and employees may demand that any employer in whose place of business a child apparently under the age of sixteen years is employed or permitted or suffered to work, and whose employment certificate is not then filed as required by this section, either furnish within ten days satisfactory evidence that such child is in fact over sixteen years of age or cease to employ or permit or suffer such child to work in such place of business. The same evidence of the age of such child may be required from such employer as is required on the issuance of an employment certificate as provided in section 48-304, and the employer furnishing such evidence shall not be required to furnish any further evidence of the age of the child.

(4) In case such employer fails to produce and deliver to the attendance officer or the Commissioner of Labor within ten days after demand such evidence of the age of any child as may be required under the provisions of

section 48-304 and continues to employ such child or permit or suffer such child to work in such place of business, proof of the giving of such notice and of such failure to produce and file such evidence shall be prima facie evidence in any prosecution brought for a violation of this section that such child is under sixteen years of age and is unlawfully employed.

Source: Laws 1907, c. 66, § 2, p. 259; R.S.1913, § 3576; Laws 1919, c. 190, tit. IV, art. III, § 2, p. 550; C.S.1922, § 7670; C.S.1929, § 48-302; R.S.1943, § 48-302; Laws 1963, c. 290, § 2, p. 868; Laws 1967, c. 296, § 1, p. 804; Laws 1995, LB 330, § 2; Laws 1999, LB 272, § 18; Laws 2022, LB780, § 3.

48-303 Employment certificate; approval by school officer; report; investigation.

Except as otherwise provided in this section, an employment certificate shall be approved only by the principal of the school the child attends or by a person authorized by him or her in writing or, when there is no principal, by a person authorized by the chief administrative officer of the school or the superintendent of the school district in which the child resides, except that no person authorized by this section may approve such certificate for any child then in or about to enter his or her own employment or the employment of a firm or corporation of which he or she is a member, officer, or employee or in whose business he or she is interested. If a child who resides in an adjoining state seeks to work in Nebraska, the Department of Labor may approve the employment certificate. The officer or person approving such certificate may administer the oath provided for therein or in any investigation or examination necessary for the approval thereof. No fee shall be charged for approving any such certificate or for administering any oath or rendering any services related thereto. The school approving the employment certificate, or the department if the department has approved the employment certificate, shall establish and maintain proper records where copies of all such certificates and all documents connected therewith shall be filed and preserved and shall provide the necessary clerical services for carrying out sections 48-302 to 48-313. The person who issued the employment certificate shall report to the department any complaint concerning the conditions of employment of a child for whom a certificate is in force. Upon receipt of the report, the department shall make such investigation as it deems advisable to protect an individual child or to promote the youth-work program.

Source: Laws 1907, c. 66, § 3, p. 260; R.S.1913, § 3577; Laws 1919, c. 190, tit. IV, art. III, § 3, p. 551; C.S.1922, § 7671; C.S.1929, § 48-303; R.S.1943, § 48-303; Laws 1967, c. 296, § 2, p. 805; Laws 1987, LB 35, § 2; Laws 1999, LB 272, § 19; Laws 2001, LB 180, § 4; Laws 2018, LB377, § 6; Laws 2022, LB780, § 4.

48-311 Violations; penalties.

Whoever employs a child under sixteen years of age and whoever, having under his or her control a child under such age, causes or permits such child to be employed in violation of sections 48-302 to 48-313 is guilty of a Class I misdemeanor. Whoever continues to employ any child in violation of any of such sections, after being notified by an attendance officer or by the Depart-

ment of Labor or by its assistants or employees, is, for every day thereafter that such employment continues, guilty of a Class I misdemeanor.

The failure of an employer of child labor to produce, upon request of a person authorized to demand the same, any employment certificate or list required by such sections shall be prima facie evidence of the illegal employment of any child whose employment certificate is not produced or whose name is not listed. Any corporation or employer retaining employment certificates in violation of such sections is guilty of a Class I misdemeanor.

Every person authorized or required to sign any certificate or statement prescribed by such sections who knowingly certifies or makes oath to any material false statement therein or who violates any of the provisions of such sections is guilty of a Class I misdemeanor.

Every person who refuses admittance to any person authorized to visit or inspect any premises or place of business under the provisions of such sections and to produce all certificates and lists he or she may have when demanded, after such person shall have announced his or her name and the office he or she holds and the purpose of his or her visit, or otherwise obstructs such persons in the performance of their duties prescribed by such sections is guilty of a Class I misdemeanor.

Source: Laws 1907, c. 66, § 11, p. 266; R.S.1913, § 3585; Laws 1919, c. 190, tit. IV, art. III, § 11, p. 556; C.S.1922, § 7679; C.S.1929, § 48-311; R.S.1943, § 48-311; Laws 1967, c. 296, § 7, p. 808; Laws 1977, LB 40, § 280; Laws 1987, LB 35, § 5; Laws 1995, LB 330, § 5; Laws 2001, LB 180, § 5; Laws 2024, LB906, § 1. Effective date July 19, 2024.

48-312 Unlawful employment; evidence; visitation; reports; enforcement, powers.

The presence of a child under sixteen years of age, apparently at work, in a place of employment as defined in section 48-301 is prima facie evidence of his or her employment there. The Department of Labor, any agent or employee of the department, or any attendance officer may visit the places of employment to ascertain whether any children are employed contrary to sections 48-302 to 48-313, and such attendance officer report any cases of illegal employment to the department and to the county attorney. The Commissioner of Labor may subpoena records from any employer suspected of violating sections 48-302 to 48-313.

Source: Laws 1919, c. 190, tit. IV, art. III, § 12, p. 557; C.S.1922, § 7680; C.S.1929, § 48-312; R.S.1943, § 48-312; Laws 1967, c. 296, § 8, p. 809; Laws 1995, LB 330, § 6; Laws 2024, LB906, § 2. Effective date July 19, 2024.

ARTICLE 6

EMPLOYMENT SECURITY

Section

Section

48-621 Employment Security Administration Fund; Employment Security Special Contingent Fund; created; use; investment; federal funds; treatment.

(1) The administrative fund shall consist of the Employment Security Administration Fund and the Employment Security Special Contingent Fund. Each fund shall be maintained as a separate and distinct account in all respects, as follows:

(a) There is hereby created in the state treasury a special fund to be known as the Employment Security Administration Fund. All money credited to this fund is hereby appropriated and made available to the Commissioner of Labor. All money in this fund shall be expended solely for the purposes and in the amounts found necessary as defined by the specific federal programs, state statutes, and contract obligations for the proper and efficient administration of all programs of the Department of Labor. The fund shall consist of all money appropriated by this state and all money received from the United States of America or any agency thereof, including the Department of Labor and the Railroad Retirement Board, or from any other source for such purpose. Money received from any agency of the United States or any other state as compensation for services or facilities supplied to such agency, any amounts received pursuant to any surety bond or insurance policy for losses sustained by the Employment Security Administration Fund or by reason of damage to equipment or supplies purchased from money in such fund, and any proceeds realized from the sale or disposition of any equipment or supplies which may no longer be necessary for the proper administration of such programs shall also be credited to this fund. All money in the Employment Security Administration Fund shall be deposited, administered, and disbursed in the same manner and under the same conditions and requirements as provided by law for other special funds in the state treasury. Any balances in this fund, except balances of money therein appropriated from the General Fund of this state, shall not lapse at any time. Fund balances shall be continuously available to the commissioner for expenditure consistent with the Employment Security Law. Any money in the Employment Security Administration Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act; and

(b) There is hereby created in the state treasury a special fund to be known as the Employment Security Special Contingent Fund. Transfers may be made from the fund to the General Fund at the direction of the Legislature. Any money in the Employment Security Special Contingent Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Beginning October 1, 2024, any investment earnings from investment of money in the fund shall be credited to the General Fund. All money collected under section 48-655 as interest on delinquent contributions, less refunds, shall be credited to the Employment Security Special Contingent Fund from the clearing account of the Unemployment Compensation Fund at the end of each calendar quarter. Such money shall not be expended or available for expenditure in any manner to permit substitution for, or a corresponding reduction in, federal funds which, in the absence of such money, would be available to finance expenditures for the administration of the unemployment insurance law. However, nothing in this section shall prevent the money in the Employment Security Special Contingent Fund from being used as a revolving fund to cover necessary and proper expenditures under the law for which federal, state, or contractual funds are owed but have not yet been received. Upon receipt of such funds, covered expenditures shall be charged against such funds. Money in the Employment Security Special Contingent Fund may only be used by the Commissioner of Labor as follows:

(i) To replace within a reasonable time any money received by this state pursuant to section 302 of the federal Social Security Act, as amended, and required to be paid under section 48-622;

(ii) To meet special extraordinary and contingent expenses which are deemed essential for good administration but which are not provided in grants from the Secretary of Labor of the United States. No expenditures shall be made from this fund for this purpose except on written authorization by the Governor at the request of the Commissioner of Labor; and

(iii) To be transferred to the Job Training Cash Fund.

(2)(a) Money credited to the account of this state in the Unemployment Trust Fund by the United States Secretary of the Treasury pursuant to section 903 of the Social Security Act may not be requisitioned from this state's account or used except:

(i) For the payment of benefits pursuant to section 48-619; and

(ii) For the payment of expenses incurred for the administration of the Employment Security Law and public employment offices. Money requisitioned or used for this purpose must be pursuant to a specific appropriation by the Legislature. Any such appropriation law shall specify the amount and purposes for which the money is appropriated and must be enacted before expenses may be incurred and money may be requisitioned. Such appropriation is subject to the following conditions:

(A) Money may be obligated for a limited period ending not more than two years after the effective date of the appropriation law; and

(B) An obligated amount shall not exceed the aggregate amounts transferred to the account of this state pursuant to section 903 of the Social Security Act less the aggregate of amounts used by this state pursuant to the Employment Security Law and amounts charged against the amounts transferred to the account of this state.

(b) For purposes of subdivision (2)(a)(ii)(B) of this section, amounts appropriated for administrative purposes shall be charged against transferred amounts when the obligation is entered into.

(c) The appropriation, obligation, and expenditure or other disposition of money appropriated under this subsection shall be accounted for in accordance with standards established by the United States Secretary of Labor.

(d) Money appropriated as provided in this subsection for the payment of administration expenses shall be requisitioned as needed for the payment of obligations incurred under such appropriation. Upon requisition, administration expenses shall be credited to the Employment Security Administration Fund from which such payments shall be made. Money so credited shall, until expended, remain a part of the Employment Security Administration Fund. If not immediately expended, credited money shall be returned promptly to the account of this state in the Unemployment Trust Fund.

(e) Notwithstanding subdivision (2)(a) of this section, money credited with respect to federal fiscal years 1999, 2000, and 2001 shall be used solely for the administration of the unemployment compensation program and are not subject to appropriation by the Legislature.

Source: Laws 1937, c. 108, § 13, p. 397; Laws 1939, c. 56, § 10, p. 248; Laws 1941, c. 94, § 10, p. 398; C.S.Supp.,1941, § 48-712; R.S. 1943, § 48-621; Laws 1947, c. 175, § 6, p. 574; Laws 1949, c. 163, § 5, p. 421; Laws 1957, c. 208, § 3, p. 729; Laws 1969, c. 584, § 50, p. 2375; Laws 1985, LB 339, § 17; Laws 1989, LB 305, § 4; Laws 1994, LB 1066, § 38; Laws 1995, LB 1, § 5; Laws 1996, LB 1072, § 3; Laws 1999, LB 608, § 2; Laws 2000, LB 953, § 6; Laws 2003, LB 197, § 1; Laws 2012, LB782, § 62; Laws 2012, LB946, § 9; Laws 2017, LB172, § 20; Laws 2019, LB359, § 3; Laws 2024, LB1413, § 36; Laws 2024, First Spec. Sess., LB3, § 15.

Note: Changes made by Laws 2024, LB1413, became effective April 2, 2024.

Note: Changes made by Laws 2024, First Spec. Sess., LB3, became effective August 21, 2024.

Cross References

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

48-622.01 State Unemployment Insurance Trust Fund; created; use; investment; commissioner; powers and duties; cessation of state unemployment insurance tax; effect.

(1) There is hereby created in the state treasury a special fund to be known as the State Unemployment Insurance Trust Fund. All state unemployment insurance tax collected under sections 48-648 to 48-661, less refunds, shall be paid into the fund. Transfers may be made from the fund to the General Fund and the Workforce Development Program Cash Fund at the direction of the Legislature. Such money shall be held in trust for payment of unemployment insurance benefits. Any money in the State Unemployment Insurance Trust Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act, except that interest earned on money in the fund shall be credited to the Nebraska Training and Support Cash Fund at the end of each calendar quarter.

(2) The commissioner shall have the authority to determine when and in what amounts withdrawals from the State Unemployment Insurance Trust Fund for payment of benefits are necessary. Amounts withdrawn for payment of benefits

shall be immediately forwarded to the Secretary of the Treasury of the United States of America to the credit of the state's account in the Unemployment Trust Fund, any provision of law in this state relating to the deposit, administration, release, or disbursement of money in the possession or custody of this state to the contrary notwithstanding.

(3) If and when the state unemployment insurance tax ceases to exist as determined by the Governor, all money then in the State Unemployment Insurance Trust Fund less accrued interest shall be immediately transferred to the credit of the state's account in the Unemployment Trust Fund, any provision of law in this state relating to the deposit, administration, release, or disbursement of money in the possession or custody of this state to the contrary notwithstanding. The determination to eliminate the state unemployment insurance tax shall be based on the solvency of the state's account in the Unemployment Trust Fund and the need for training of Nebraska workers. Accrued interest in the State Unemployment Insurance Trust Fund shall be credited to the Nebraska Training and Support Cash Fund.

Source: Laws 1994, LB 1337, § 4; Laws 1995, LB 7, § 48; Laws 2009, LB631, § 2; Laws 2011, LB378, § 23; Laws 2014, LB906, § 16; Laws 2014, LB997, § 1; Laws 2017, LB172, § 21; Laws 2024, LB1413, § 37.
Effective date April 2, 2024.

Cross References

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

48-622.02 Nebraska Training and Support Cash Fund; created; use; investment; Administrative Costs Reserve Account; created; use.

(1) The Nebraska Training and Support Cash Fund is created. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. No expenditures shall be made from the Nebraska Training and Support Cash Fund without the written authorization of the Governor upon the recommendation of the commissioner. Transfers may be made from the fund to the General Fund at the direction of the Legislature. Any interest earned on money in the State Unemployment Insurance Trust Fund shall be credited to the Nebraska Training and Support Cash Fund.

(2) Money in the Nebraska Training and Support Cash Fund shall be used for (a) administrative costs of establishing, assessing, collecting, and maintaining state unemployment insurance tax liability and payments, (b) administrative costs of creating, operating, maintaining, and dissolving the State Unemployment Insurance Trust Fund and the Nebraska Training and Support Cash Fund, (c) support of public and private job training programs designed to train, retrain, or upgrade work skills of existing Nebraska workers of for-profit and not-for-profit businesses, (d) recruitment of workers to Nebraska, (e) training new employees of expanding Nebraska businesses, (f) retention of existing employees of Nebraska businesses, (g) the costs of creating a common web portal for the attraction of businesses and workers to Nebraska, (h) developing and conducting labor availability and skills gap studies pursuant to the Sector Partnership Program Act, for which money may be transferred to the Sector Partnership Program Fund as directed by the Legislature, and (i) payment of

unemployment insurance benefits if solvency of the state's account in the Unemployment Trust Fund and of the State Unemployment Insurance Trust Fund so require.

(3) The Administrative Costs Reserve Account is created within the Nebraska Training and Support Cash Fund. Money shall be allocated from the Nebraska Training and Support Cash Fund to the Administrative Costs Reserve Account in amounts sufficient to pay the anticipated administrative costs identified in subsection (2) of this section.

(4) The State Treasurer shall transfer two hundred fifty thousand dollars from the Nebraska Training and Support Cash Fund to the Sector Partnership Program Fund no later than July 15, 2016.

Source: Laws 1994, LB 1337, § 5; Laws 1995, LB 7, § 49; Laws 2009, LB631, § 3; Laws 2012, LB911, § 1; Laws 2014, LB997, § 2; Laws 2016, LB1110, § 13; Laws 2017, LB172, § 22; Laws 2023, LB191, § 11; Laws 2024, LB1413, § 38.
Effective date April 2, 2024.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.
Nebraska State Funds Investment Act, see section 72-1260.
Sector Partnership Program Act, see section 48-3401.

48-625 Benefits; weekly payment; how computed; suspension; conditions.

(1) Except as provided in subsection (4) of this section, each eligible individual who is unemployed in any week shall be paid with respect to such week a benefit in an amount equal to his or her full weekly benefit amount if he or she has wages payable to him or her with respect to such week equal to one-fourth of such benefit amount or less. In the event he or she has wages payable to him or her with respect to such week greater than one-fourth of such benefit amount, he or she shall be paid with respect to that week an amount equal to the individual's weekly benefit amount less that part of wages payable to the individual with respect to that week in excess of one-fourth of the individual's weekly benefit amount. In the event there is any deduction from such individual's weekly benefit amount because of earned wages pursuant to this subsection or as a result of the application of section 48-628.02, the resulting benefit payment, if not an exact dollar amount, shall be computed to the next lower dollar amount.

(2) Any amount of unemployment compensation payable to any individual for any week, if not an even dollar amount, shall be rounded to the next lower full dollar amount.

(3) The percentage of benefits and the percentage of extended benefits which are federally funded may be adjusted in accordance with the Balanced Budget and Emergency Deficit Control Act of 1985, Public Law 99-177.

(4) To the extent authorized under federal law, if an individual is eligible for an equal or greater weekly benefit amount under a federal unemployment program than the weekly benefit amount which the individual is eligible for under the Employment Security Law, the commissioner shall suspend the payment of state unemployment benefits to such individual while such individual is receiving the federal unemployment benefit. Such suspension shall terminate upon the individual's exhaustion of benefits available under the federal unemployment program. An individual shall not be eligible to receive the

federal weekly benefit and the state unemployment weekly benefit during the same week. This subsection shall not apply to any federal unemployment benefit which is paid in addition to the state weekly benefit amount.

Source: Laws 1937, c. 108, § 3, p. 375; Laws 1939, c. 56, § 2, p. 234; Laws 1941, c. 94, § 2, p. 382; C.S.Supp.,1941, § 48-703; R.S. 1943, § 48-625; Laws 1949, c. 163, § 8, p. 424; Laws 1953, c. 167, § 5, p. 531; Laws 1980, LB 800, § 2; Laws 1982, LB 801, § 1; Laws 1983, LB 248, § 3; Laws 1986, LB 950, § 2; Laws 1987, LB 461, § 1; Laws 1995, LB 1, § 6; Laws 1999, LB 608, § 3; Laws 2005, LB 739, § 8; Laws 2015, LB271, § 5; Laws 2017, LB172, § 26; Laws 2022, LB567, § 1.

48-626 Benefits; maximum annual amount; determination.

(1) For any benefit year beginning before July 21, 2022, any otherwise eligible individual shall be entitled during any benefit year to a total amount of benefits equal to whichever is the lesser of (a) twenty-six times his or her weekly benefit amount or (b) one-third of his or her wages in the employment of each employer per calendar quarter of his or her base period; except that when any individual has been separated from his or her employment with a base period employer under circumstances under which he or she was or could have been determined disqualified under section 48-628.10 or 48-628.12, the total benefit amount based on the employment from which he or she was so separated shall be reduced by an amount determined pursuant to subsection (2) of this section, but not more than one reduction may be made for each separation. In no event shall the benefit amount based on employment for any employer be reduced to less than one benefit week when the individual was or could have been determined disqualified under section 48-628.12.

(2) For purposes of determining the reduction of benefits described in subsection (1) of this section:

(a) If the claimant has been separated from his or her employment under circumstances under which he or she was or could have been determined disqualified under section 48-628.12, his or her total benefit amount shall be reduced by:

(i) Two times his or her weekly benefit amount if he or she left work voluntarily for the sole purpose of accepting previously secured, permanent, full-time, insured work, which he or she does accept, which offers a reasonable expectation of betterment of wages or working conditions, or both, and for which he or she earns wages payable to him or her; or

(ii) Thirteen times his or her weekly benefit amount if he or she left work voluntarily without good cause for any reason other than that described in subdivision (2)(a)(i) of this section; and

(b) If the claimant has been separated from his or her employment under circumstances under which he or she was or could have been determined disqualified under section 48-628.10, his or her total benefit amount shall be reduced by fourteen times his or her weekly benefit amount.

(3) For any benefit year beginning on or after July 21, 2022, any otherwise eligible individual shall be entitled during any benefit year to a total amount of benefits equal to whichever is the lesser of (a) twenty-six times his or her weekly benefit amount or (b) one-third of his or her wages in the employment

of each employer per calendar quarter of his or her base period; except that when any individual has been separated from his or her employment with the most recent insured employer under circumstances under which he or she was or could have been determined disqualified under section 48-628.10 or 48-628.12, the total benefit amount based on the employment from which he or she was so separated shall be reduced by an amount determined pursuant to subsection (4) of this section, but not more than one reduction may be made for such separation. In no event shall the benefit amount based on employment for any employer be reduced to less than one benefit week when the individual was or could have been determined disqualified under section 48-628.12.

(4) For purposes of determining the reduction of benefits described in subsection (3) of this section:

(a) If the claimant has been separated from his or her employment under circumstances under which he or she was or could have been determined disqualified under section 48-628.12, his or her total benefit amount shall be reduced by thirteen times his or her weekly benefit amount if he or she left work voluntarily without good cause; and

(b) If the claimant has been separated from his or her employment under circumstances under which he or she was or could have been determined disqualified under section 48-628.10, his or her total benefit amount shall be reduced by fourteen times his or her weekly benefit amount.

(5) For purposes of sections 48-623 to 48-626, wages shall be counted as wages for insured work for benefit purposes with respect to any benefit year only if such benefit year begins subsequent to the date on which the employer by whom such wages were paid has satisfied the conditions of section 48-603 or subsection (3) of section 48-661 with respect to becoming an employer.

(6) In order to determine the benefits due under this section and sections 48-624 and 48-625, each employer shall make reports, in conformity with reasonable rules and regulations adopted and promulgated by the commissioner, of the wages of any claimant. If any employer fails to make such a report within the time prescribed, the commissioner may accept the statement of such claimant as to his or her wages, and any benefit payments based on such statement of earnings, in the absence of fraud or collusion, shall be final as to the amount.

Source: Laws 1937, c. 108, § 3, p. 375; Laws 1939, c. 56, § 2, p. 235; Laws 1941, c. 94, § 2, p. 382; C.S.Supp.,1941, § 48-703; R.S. 1943, § 48-626; Laws 1945, c. 114, § 3, p. 372; Laws 1949, c. 163, § 9, p. 425; Laws 1959, c. 229, § 2, p. 802; Laws 1963, c. 291, § 2, p. 871; Laws 1967, c. 300, § 1, p. 816; Laws 1972, LB 1392, § 4; Laws 1980, LB 800, § 3; Laws 1985, LB 339, § 20; Laws 1986, LB 950, § 3; Laws 1995, LB 1, § 7; Laws 2017, LB172, § 27; Laws 2017, LB203, § 1; Laws 2022, LB567, § 2.

48-649.03 Employer's combined tax rate once benefits payable from experience account; experience factor.

(1) Once benefits have been payable from and chargeable to an employer's experience account throughout the preceding four calendar quarters and wages for employment have been paid by the employer in each of the two preceding four-calendar-quarter periods, the employer's combined tax rate shall be calculated according to this section. The combined tax rate shall be based upon the

employer's experience rating record and determined from the employer's reserve ratio.

(2) The employer's reserve ratio is the percent obtained by dividing (a) the amount by which the employer's contributions credited from the time the employer first or most recently became an employer, whichever date is later, and up to and including September 30 of the year the rate computation is made, plus any part of the employer's contributions due for that year paid on or before October 31 of such year, exceed the employer's benefits charged during the same period, by (b) the employer's average annual taxable payroll for the sixteen-consecutive-calendar-quarter period ending September 30 of the year in which the rate computation is made. For an employer with less than sixteen consecutive calendar quarters of contribution experience, the employer's average taxable payroll shall be determined based upon the four-calendar-quarter periods for which contributions were payable.

(3) Each eligible experience rated employer shall be assigned to one of twenty rate categories with a corresponding experience factor as follows:

Category	Experience Factor
1	0.00
2	0.25
3	0.40
4	0.45
5	0.50
6	0.60
7	0.65
8	0.70
9	0.80
10	0.90
11	0.95
12	1.00
13	1.05
14	1.10
15	1.20
16	1.35
17	1.55
18	1.80
19	2.15
20	2.60

Eligible experience rated employers shall be assigned to rate categories from highest to lowest according to their experience reserve ratio, with category one assigned to accounts with the highest reserve ratios and category twenty assigned to accounts with the lowest reserve ratios. Each category shall be limited to no more than five percent of the state's total taxable payroll, except that:

(a) Any employer with a portion of its taxable wages falling into two consecutive categories shall be assigned to the lower category;

(b) No employer with a reserve ratio calculated to five decimal places equal to the similarly calculated reserve ratio of another employer shall be assigned to a higher rate than the employer to which it has the equal reserve ratio; and

(c) No employer with a positive experience account balance shall be assigned to category twenty.

(4) The state's reserve ratio shall be calculated annually by dividing the amount available to pay benefits in the Unemployment Trust Fund and the State Unemployment Insurance Trust Fund as of September 30, plus any amount of combined tax owed by employers eligible for and electing annual payment status for the four most recent quarters ending on September 30 in accordance with rules and regulations adopted by the commissioner, by the state's total wages from the four calendar quarters ending on September 30. For purposes of this section, total wages means all remuneration paid by an employer in employment. The state's reserve ratio shall be applied to the table in this subsection to determine the yield factor for the upcoming rate year.

State's Reserve Ratio		Yield Factor
1.75 percent and above	=	0.50
1.60 percent up to but not including 1.75	=	0.60
1.45 percent up to but not including 1.60	=	0.70
1.30 percent up to but not including 1.45	=	0.75
1.15 percent up to but not including 1.30	=	0.80
1.00 percent up to but not including 1.15	=	0.90
0.85 percent up to but not including 1.00	=	1.00
0.70 percent up to but not including 0.85	=	1.10
0.60 percent up to but not including 0.70	=	1.20
0.50 percent up to but not including 0.60	=	1.25
0.45 percent up to but not including 0.50	=	1.30
0.40 percent up to but not including 0.45	=	1.35
0.35 percent up to but not including 0.40	=	1.40
0.30 percent up to but not including 0.35	=	1.45
Below 0.30 percent	=	1.50

The commissioner may adjust the yield factor determined pursuant to the preceding table to a lower scheduled yield factor if the state's reserve ratio is 1.00 percent or greater. Once the yield factor for the upcoming rate year has been determined, it is multiplied by the amount of unemployment benefits paid from combined tax during the four calendar quarters ending September 30 of the preceding year. The resulting figure is the planned yield for the rate year. The planned yield is divided by the total taxable wages for the four calendar quarters ending September 30 of the previous year and carried to four decimal places to create the average combined tax rate for the rate year. Beginning January 1, 2025, through December 31, 2029, the final average combined tax rate shall be reduced by five percent.

(5) The average combined tax rate is assigned to rate category twelve as established in subsection (3) of this section. Rates for each of the remaining nineteen categories are determined by multiplying the average combined tax rate by the experience factor associated with each category and carried to four decimal places. Employers who are delinquent in filing their combined tax reports as of October 31 of any year shall be assigned to category twenty for the following calendar year unless the delinquency is corrected prior to December 31 of the year of rate calculation.

(6) In addition to required contributions, an employer may make voluntary contributions to the fund to be credited to his or her account. Voluntary contributions by employers may be made up to the amount necessary to qualify for one rate category reduction. Voluntary contributions received after February 28 shall not be used in rate calculations for the same calendar year.

(7) As used in sections 48-648 to 48-654, the term payroll means the total amount of wages during a calendar year, except as otherwise provided in section 48-654, by which the combined tax was measured.

Source: Laws 2017, LB172, § 66; Laws 2019, LB359, § 5; Laws 2023, LB191, § 12; Laws 2024, LB1393, § 1.
Effective date April 17, 2024.

48-650 Combined tax rate; determination of employment; notice, method; review; redetermination; proceedings; appeal.

(1) The commissioner shall determine the rate of combined tax applicable to each employer pursuant to sections 48-649 to 48-649.04 and may determine, at any time during the year, whether services performed by an individual were employment or for an employer.

(2) Notice of a determination of liability or combined tax rate shall be promptly given to the employer by electronic notice or by mailing such notice to the employer's last-known address or the address of a representative designated in writing by the employer. The address of record of an employer on September 2, 2023, shall continue to be the address of record of such employer unless changed by the employer. An employer that becomes subject to the Employment Security Law on or after September 2, 2023, shall designate its preferred method of contact and designated representative, if any, at the time of its initial registration. An employer may change its election at any time.

(3) Any determination under subsection (1) of this section shall become conclusive and binding upon the employer unless, within thirty days after receiving notice, the employer files an appeal with the department in accordance with rules and regulations adopted and promulgated by the commissioner. No employer shall have standing, in any proceeding involving his or her combined tax rate or combined tax liability, to contest the chargeability to his or her account of any benefits paid in accordance with a determination, redetermination, or decision pursuant to sections 48-629 to 48-644 except upon the ground that the services on the basis of which such benefits were found to be chargeable did not constitute services performed in employment for him or her and only in the event that he or she was not a party to such determination, redetermination, or decision or to any other proceedings under the Employment Security Law in which the character of such services was determined. A full and complete record shall be kept of all proceedings in connection with such hearing. All testimony at any such hearing shall be recorded but need not be transcribed unless there is a further appeal. The employer shall be promptly notified of a hearing officer's decision which shall become final unless the employer or the commissioner appeals within thirty days after the date of service of the decision of the hearing officer. The appeal shall otherwise be governed by the Administrative Procedure Act.

Source: Laws 1941, c. 94, § 5, p. 391; C.S.Supp.,1941, § 48-707; R.S. 1943, § 48-650; Laws 1985, LB 339, § 35; Laws 1985, LB 342, § 1; Laws 1988, LB 352, § 88; Laws 1994, LB 1337, § 9; Laws 2001, LB 192, § 11; Laws 2017, LB172, § 68; Laws 2023, LB191, § 13.

Cross References

Administrative Procedure Act, see section 84-920.

48-652 Employer's experience account; reimbursement account; combined tax; liability; termination; reinstatement.

(1)(a) A separate experience account shall be established for each employer who is liable for payment of combined tax. Whenever and wherever in the Employment Security Law the terms reserve account or experience account are used, unless the context clearly indicates otherwise, such terms shall be deemed interchangeable and synonymous and reference to either of such accounts shall refer to and also include the other.

(b) A separate reimbursement account shall be established for each employer who is liable for payments in lieu of contributions. All benefits paid with respect to service in employment for such employer shall be charged to his or her reimbursement account, and such employer shall be billed for and shall be liable for the payment of the amount charged when billed by the commissioner. Payments in lieu of contributions received by the commissioner on behalf of each such employer shall be credited to such employer's reimbursement account, and two or more employers who are liable for payments in lieu of contributions may jointly apply to the commissioner for establishment of a group account for the purpose of sharing the cost of benefits paid that are attributable to service in the employ of such employers. The commissioner shall adopt and promulgate such rules and regulations as he or she deems necessary with respect to applications for establishment, maintenance, and termination of group accounts authorized by this subdivision.

(2) All contributions paid by an employer shall be credited to the experience account of such employer. State unemployment insurance tax payments shall not be credited to the experience account of each employer. Partial payments of combined tax shall be credited so that at least eighty percent of the combined tax payment excluding interest and penalty is credited first to contributions due. Contributions with respect to prior years which are received on or before January 31 of any year shall be considered as having been paid at the beginning of the calendar year. All voluntary contributions which are received on or before February 28 of any year shall be considered as having been paid at the beginning of the calendar year.

(3)(a) Each experience account shall be charged only for benefits based upon wages paid by such employer. No benefits shall be charged to the experience account of any employer if:

(i) Such benefits were paid on the basis of a period of employment from which the claimant (A) left work voluntarily without good cause, (B) left work voluntarily due to a nonwork-connected illness or injury, (C) left work voluntarily with good cause to escape abuse as defined in section 42-903 between household members as provided in subdivision (1) of section 48-628.13, (D) left work from which he or she was discharged for misconduct connected with his or her work, (E) left work voluntarily and is entitled to unemployment benefits without disqualification in accordance with subdivision (3), (5), or (11) of section 48-628.13, or (F) was involuntarily separated from employment and such benefits were paid pursuant to section 48-628.17; and

(ii) The employer has filed timely notice of the facts on which such exemption is claimed in accordance with rules and regulations adopted and promulgated by the commissioner.

(b) No benefits shall be charged to the experience account of any employer if such benefits were paid during a week when the individual was participating in

training approved under section 236(a)(1) of the federal Trade Act of 1974, 19 U.S.C. 2296(a)(1).

(c) Each reimbursement account shall be charged only for benefits paid that were based upon wages paid by such employer in the base period that were wages for insured work solely by reason of section 48-627.01.

(d) Benefits paid to an eligible individual shall be charged against the account of his or her most recent employers within his or her base period against whose accounts the maximum charges hereunder have not previously been made in the inverse chronological order in which the employment of such individual occurred. The maximum amount so charged against the account of any employer, other than an employer for which services in employment as provided in subdivision (4)(a) of section 48-604 are performed, shall not exceed the total benefit amount to which such individual was entitled as set out in section 48-626 with respect to base period wages of such individual paid by such employer plus one-half the amount of extended benefits paid to such eligible individual with respect to base period wages of such individual paid by such employer. The commissioner shall adopt and promulgate rules and regulations determining the manner in which benefits shall be charged against the account of several employers for whom an individual performed employment during the same quarter or during the same base period.

(4)(a) An employer's experience account shall be terminated one calendar year after such employer has ceased to be subject to the Employment Security Law, except that if the commissioner finds that an employer's business is closed solely because one or more of the owners, officers, partners, or limited liability company members or the majority stockholder entered the armed forces of the United States, or of any of its allies, such employer's account shall not be terminated and, if the business is resumed within two years after the discharge or release from active duty in the armed forces of such person or persons, the employer's experience account shall be deemed to have been continuous throughout such period.

(b) An experience account terminated pursuant to this subsection shall be reinstated if:

(i) The employer becomes subject again to the Employment Security Law within one calendar year after termination of such experience account;

(ii) The employer makes a written application for reinstatement of such experience account to the commissioner within two calendar years after termination of such experience account; and

(iii) The commissioner finds that the employer is operating substantially the same business as prior to the termination of such experience account.

(5) All money in the Unemployment Compensation Fund shall be kept mingled and undivided. In no case shall the payment of benefits to an individual be denied or withheld because the experience account of any employer does not have a total of contributions paid in excess of benefits charged to such experience account.

(6)(a) For benefit years beginning before September 3, 2017, if an individual's base period wage credits represent part-time employment for a contributory employer and the contributory employer continues to employ the individual to the same extent as during the base period, then the contributory employer's experience account shall not be charged if the contributory employer has filed

timely notice of the facts on which such exemption is claimed in accordance with rules and regulations adopted and promulgated by the commissioner.

(b) For benefit years beginning on or after September 3, 2017, if an individual's base period wage credits represent part-time employment for an employer and the employer continues to employ the individual to the same extent as during the base period, then the employer's experience account, in the case of a contributory employer, or the employer's reimbursement account, in the case of a reimbursable employer, shall not be charged if the employer has filed timely notice of the facts on which such exemption is claimed in accordance with rules and regulations prescribed by the commissioner.

(7) If a contributory employer responds to the department's request for information within the time period set forth in subsection (1) of section 48-632 and provides accurate information as known to the employer at the time of the response, the employer's experience account shall not be charged if the individual's separation from employment is voluntary and without good cause as determined under section 48-628.12.

Source: Laws 1937, c. 108, § 7, p. 383; Laws 1939, c. 56, § 5, p. 240; Laws 1941, c. 94, § 5, p. 392; C.S.Supp.,1941, § 48-707; R.S. 1943, § 48-652; Laws 1947, c. 175, § 11, p. 579; Laws 1949, c. 163, § 13, p. 428; Laws 1953, c. 167, § 9, p. 534; Laws 1957, c. 208, § 5, p. 732; Laws 1971, LB 651, § 9; Laws 1977, LB 509, § 8; Laws 1980, LB 800, § 5; Laws 1984, LB 995, § 1; Laws 1985, LB 339, § 37; Laws 1986, LB 901, § 1; Laws 1987, LB 275, § 1; Laws 1988, LB 1033, § 3; Laws 1993, LB 121, § 292; Laws 1994, LB 884, § 65; Laws 1994, LB 1337, § 11; Laws 1995, LB 1, § 12; Laws 1995, LB 240, § 4; Laws 2000, LB 953, § 9; Laws 2001, LB 418, § 1; Laws 2005, LB 739, § 12; Laws 2007, LB265, § 10; Laws 2008, LB500, § 1; Laws 2009, LB631, § 8; Laws 2010, LB1020, § 6; Laws 2012, LB1058, § 7; Laws 2017, LB172, § 70; Laws 2017, LB519, § 1; Laws 2019, LB359, § 6; Laws 2021, LB260, § 2; Laws 2023, LB191, § 14.

48-675 Short-time compensation program; commissioner; decision; eligibility.

(1) The commissioner shall approve or disapprove a short-time compensation plan in writing within thirty days after its receipt and promptly communicate the decision to the employer. A decision disapproving the plan shall clearly identify the reasons for the disapproval. The disapproval shall be final, but the employer shall be allowed to submit another short-time compensation plan for approval not earlier than forty-five days after the date of the disapproval, except that the commissioner may, for good cause shown, approve a plan for an employer within such forty-five-day period.

(2) Except as provided in subsection (4) of this section, a short-time compensation plan will only be approved for a contributory employer that (a) is eligible for experience rating under section 48-649.03, (b) has a positive balance in the employer's experience account, (c) has filed all quarterly reports and other reports required under the Employment Security Law, and (d) has paid all obligation assessments, contributions, interest, and penalties due through the date of the employer's application.

(3) Except as provided in subsection (4) of this section, a short-time compensation plan will only be approved for an employer liable for making payments in lieu of contributions that has filed all quarterly reports and other reports required under the Employment Security Law and has paid all obligation assessments, payments in lieu of contributions, interest, and penalties due through the date of the employer's application.

(4) The commissioner may, for good cause shown, waive any requirement in subsection (2) or (3) of this section.

Source: Laws 2014, LB961, § 16; Laws 2017, LB172, § 81; Laws 2022, LB780, § 5.

ARTICLE 12

WAGES

(a) MINIMUM WAGES

Section
48-1203. Wages; minimum rate; adjustments.

(a) MINIMUM WAGES

48-1203 Wages; minimum rate; adjustments.

(1) Except as otherwise provided in this section and section 48-1203.01, every employer shall pay to each of his or her employees a minimum wage of:

(a) Nine dollars per hour through December 31, 2022;

(b) Ten dollars and fifty cents per hour on and after January 1, 2023, through December 31, 2023;

(c) Twelve dollars per hour on and after January 1, 2024, through December 31, 2024;

(d) Thirteen dollars and fifty cents per hour on and after January 1, 2025, through December 31, 2025; and

(e) Fifteen dollars per hour on and after January 1, 2026, through December 31, 2026.

(2) The minimum wage established in subdivision (1)(e) of this section shall be increased on January 1, 2027, and on January 1 of successive years, by the increase in the cost of living. The increase in the cost of living shall be measured by the percentage increase, if any, as of August of the previous year over the level as of August of the year preceding that year in the consumer price index for all urban consumers (CPI-U) for the Midwest Region, or its successor index, as published by the U.S. Department of Labor, or its successor agency, with the amount of the minimum wage increase rounded up to the nearest multiple of five cents. No later than October 15 of each year, commencing October 15, 2026, the Nebraska Department of Labor shall calculate and publish the minimum wage rate that will take effect the following January 1.

(3) For persons compensated by way of gratuities such as waitresses, waiters, hotel bellhops, porters, and shoeshine persons, the employer shall pay wages at the minimum rate of two dollars and thirteen cents per hour, plus all gratuities given to them for services rendered. The sum of wages and gratuities received by each person compensated by way of gratuities shall equal or exceed the applicable minimum wage rate provided in subsection (1) or (2) of this section.

In determining whether or not the individual is compensated by way of gratuities, the burden of proof shall be upon the employer.

(4) Any employer employing student-learners as part of a bona fide vocational training program shall pay such student-learners' wages at a rate of at least seventy-five percent of the minimum wage rate which would otherwise be applicable.

Source: Laws 1967, c. 285, § 3, p. 775; Laws 1969, c. 408, § 2, p. 1413; Laws 1973, LB 343, § 2; Laws 1987, LB 474, § 1; Laws 1989, LB 412, § 1; Laws 1991, LB 297, § 2; Laws 1997, LB 569, § 1; Laws 2007, LB265, § 22; Initiative Law 2014, No. 425, § 1; Initiative Law 2022, No. 433, § 1.

ARTICLE 17

FARM LABOR CONTRACTORS

Section
48-1701. Act, how cited.
48-1702. Terms, defined.
48-1715. Seed corn producer; forms; required; Director of Agriculture; reports; directory of certified exempt contractors; powers and duties; confidentiality.

48-1701 Act, how cited.

Sections 48-1701 to 48-1715 shall be known and may be cited as the Farm Labor Contractors Act.

Source: Laws 1987, LB 344, § 1; Laws 2024, LB844, § 1.
Effective date July 19, 2024.

48-1702 Terms, defined.

For purposes of the Farm Labor Contractors Act, unless the context otherwise requires:

(1) Certified exempt contractor means a farm labor contractor that holds a valid certificate of exemption described in subdivision (7) of section 48-1703;

(2) Department means the Department of Labor;

(3) Detasseling means the act of removing a tassel, which bears the staminate flower of corn, by hand labor to prevent the self-pollination of such corn;

(4) Farm labor contractor means any individual, partnership, limited liability company, corporation, or cooperative association, other than an agricultural employer, an agricultural association, or an employee of an agricultural employer or agricultural association, who for any money or other valuable consideration paid or promised to be paid performs any farm labor contracting activity;

(5) Farm labor contracting activity means recruiting, soliciting, hiring, employing, furnishing, or transporting any migrant or seasonal agricultural worker;

(6) Non-English-speaking worker has the same meaning as non-English-speaking employee in section 48-2208;

(7) Nonexempt contractor means a farm labor contractor that does not hold a valid certificate of exemption described in subdivision (7) of section 48-1703;

(8) Roguing means the act of removing unwanted, off-type, inferior, or defective plants from an agricultural field by hand labor; and

(9) Worker means a person who is employed or recruited by or who subcontracts with a farm labor contractor.

Source: Laws 1987, LB 344, § 2; Laws 1993, LB 121, § 301; Laws 2002, LB 931, § 1; Laws 2003, LB 418, § 9; Laws 2024, LB844, § 2. Effective date July 19, 2024.

48-1715 Seed corn producer; forms; required; Director of Agriculture; reports; directory of certified exempt contractors; powers and duties; confidentiality.

(1) Beginning January 1, 2025, any seed corn producer in this state that intends to utilize one or more farm labor contractors for the roguing or detasseling of seed corn shall:

(a) Complete and submit a form to the Director of Agriculture that the seed corn producer intends to utilize one or more farm labor contractors for detasseling or roguing of seed corn during the current or upcoming growing season; and

(b) Complete and submit a signed and notarized form prescribed by the Department of Agriculture, under penalty of perjury, to the Director of Agriculture on or after August 1 but not later than September 1 of each year. Such form shall contain the following information for the crop year for which such form is filed:

(i) The total number of acres of seed corn the producer planted in this state;

(ii) The name of each certified exempt contractor, if any, with whom the producer contracted for labor for the roguing of seed corn and the total number of acres rogued by each such operation;

(iii) The name of each nonexempt contractor, if any, with whom the producer contracted for labor for the roguing of seed corn and the total number of acres rogued by each such operation;

(iv) The name of each certified exempt contractor, if any, with whom the producer contracted for labor for the detasseling of seed corn and the total number of acres detasseled by each such operation; and

(v) The name of each nonexempt contractor, if any, with whom the producer contracted for labor for the detasseling of seed corn and the total number of acres detasseled by each such operation.

(2) The Director of Agriculture shall publish a report on the Department of Agriculture's website not later than September 30, 2025, and by each September 30 thereafter. Such report shall aggregate the following information provided by seed corn producers pursuant to subdivision (1)(b) of this section for each crop year:

(a) The total number of acres of seed corn planted in this state;

(b) The total number of acres of seed corn detasseled by certified exempt contractors;

(c) The total number of acres of seed corn rogued by certified exempt contractors;

(d) The total number of acres of seed corn detasseled by nonexempt contractors;

(e) The total number of acres of seed corn rogued by nonexempt contractors; and

(f) The total number of acres of seed corn for which seed corn producers did not utilize detasseling or roguing services by any farm labor contractor.

(3)(a) By January 1, 2025, the Director of Agriculture shall publish a directory on the Department of Agriculture's website, updated by December 31 of each year, that contains:

(i) The name of each certified exempt contractor that provides detasseling or roguing services for seed corn;

(ii) The address of the headquarters for each such certified exempt contractor; and

(iii) Contact information for each such certified exempt contractor, including a telephone number if available.

(b) Beginning in 2025, the Director of Agriculture shall send, by registered mail, a copy of the most recently updated directory described in this subsection to the following:

(i) Within ten days after receiving a form described in subdivision (1)(a) of this section, to the seed corn producer that submitted such form; and

(ii) By January 15 of each year, to each seed corn producer that submitted the form described in subdivision (1)(b) of this section during the previous year.

(4) The Director of Agriculture shall prescribe the method by which any such seed corn producer may submit a form under subdivision (1)(a) of this section and receive a copy of the most recently updated directory described in subsection (3) of this section.

(5) Any form submitted by any seed corn producer under this section shall not be a public record subject to disclosure pursuant to sections 84-712 to 84-712.09.

(6) The Department of Agriculture may adopt and promulgate rules and regulations to carry out this section.

Source: Laws 2024, LB844, § 3.
Effective date July 19, 2024.

ARTICLE 21
CONTRACTOR REGISTRATION

Section
48-2103. Terms, defined.
48-2107. Fees; exemption.

48-2103 Terms, defined.

For purposes of the Contractor Registration Act:

(1) Commissioner means the Commissioner of Labor;

(2) Construction means work on real property and annexations, including new work, additions, alterations, reconstruction, installations, and repairs performed at one or more different sites which may be dispersed geographically;

(3) Contractor means an individual, firm, partnership, limited liability company, corporation, or other association of persons engaged in the business of

the construction, alteration, repairing, dismantling, or demolition of buildings, roads, bridges, viaducts, sewers, water and gas mains, streets, disposal plants, water filters, tanks and towers, airports, dams, levees and canals, water wells, pipelines, transmission and power lines, and every other type of structure, project, development, or improvement within the definition of real property and personal property, including such construction, repairing, or alteration of such property to be held either for sale or rental. Contractor also includes any subcontractor engaged in the business of such activities and any person who is providing or arranging for labor for such activities, either as an employee or as an independent contractor, for any contractor or person;

(4) Department means the Department of Labor; and

(5) Working days means Mondays through Fridays but does not include Saturdays, Sundays, or federal or state holidays. In computing fifteen working days, the day of receipt of any notice is not included and the last day of the fifteen working days is included.

Source: Laws 1994, LB 248, § 3; Laws 2008, LB204, § 2; Laws 2009, LB162, § 2; Laws 2023, LB191, § 15.

48-2107 Fees; exemption.

(1) Each application or renewal under section 48-2105 shall be signed by the applicant and accompanied by a fee not to exceed forty dollars. The commissioner may adopt and promulgate rules and regulations to establish the criteria for acceptability of filing documents and making payments electronically. The criteria may include requirements for electronic signatures. The commissioner may refuse to accept any electronic filings or payments that do not meet the criteria established. The fee shall not be required when an amendment to an application is submitted. The commissioner shall remit the fees collected under this subsection to the State Treasurer for credit to the Contractor and Professional Employer Organization Registration Cash Fund.

(2) A contractor shall not be required to pay the fee under subsection (1) of this section if (a) the contractor is self-employed and does not pay more than three thousand dollars annually to employ other persons in the business and the application contains a statement made under oath or equivalent affirmation setting forth such information or (b) the contractor only engages in the construction of water wells or installation of septic systems. At any time that a contractor no longer qualifies for exemption from the fee, the fee shall be paid to the department. Any false statement made under subdivision (2)(a) of this section shall be a violation of section 28-915.01.

Source: Laws 1994, LB 248, § 7; Laws 2008, LB204, § 4; Laws 2009, LB162, § 5; Laws 2016, LB270, § 3; Laws 2020, LB1016, § 7; Laws 2023, LB191, § 16.

ARTICLE 27

PROFESSIONAL EMPLOYER ORGANIZATION REGISTRATION ACT

Section

48-2706 Co-employment relationship; restrictions; rights and obligations; professional employer agreement; contents; written notice to employee; posting of notice; responsibilities of client; liability; sales tax liability; health benefit plan.

(1) No person shall knowingly enter into a co-employment relationship in which less than a majority of the employees of the client in this state are covered employees or in which less than one-half of the payroll of the client in this state is attributable to covered employees.

(2) Except as specifically provided in the Professional Employer Organization Registration Act or in the professional employer agreement, in each co-employment relationship:

(a) The client shall be entitled to exercise all rights and shall be obligated to perform all duties and responsibilities otherwise applicable to an employer in an employment relationship;

(b) The professional employer organization shall be entitled to exercise only those rights and obligated to perform only those duties and responsibilities specifically required by the act or in the professional employer agreement. The rights, duties, and obligations of the professional employer organization as co-employer with respect to any covered employee shall be limited to those arising pursuant to the professional employer agreement and the act during the term of co-employment by the professional employer organization of such covered employee; and

(c) Unless otherwise expressly agreed by the professional employer organization and the client in a professional employer agreement, the client retains the exclusive right to direct and control the covered employees as is necessary to conduct the client's business, to discharge any of the client's fiduciary responsibilities, or to comply with any licensure requirements applicable to the client or to the covered employees.

(3) Except as specifically provided in the Professional Employer Organization Registration Act, the co-employment relationship between the client and the professional employer organization, and between each co-employer and each covered employee, shall be governed by the professional employer agreement. Each professional employer agreement shall include the following:

(a) The allocation of rights, duties, and obligations as described in this section;

(b) A provision that the professional employer organization shall have responsibility to pay wages to covered employees; to withhold, collect, report, and remit payroll-related and unemployment taxes; and, to the extent the professional employer organization has assumed responsibility in the professional employer agreement, to make payments for employee benefits for covered employees. For purposes of this section, wages does not include any obligation between a client and a covered employee for payments beyond or in addition to the covered employee's salary, draw, or regular rate of pay, such as bonuses, commissions, severance pay, deferred compensation, profit sharing, or vacation, sick, or other paid time off pay, unless the professional employer organization has expressly agreed to assume liability for such payments in the professional employer agreement;

(c) A provision that the professional employer organization shall have a right to hire, discipline, and terminate a covered employee as may be necessary to fulfill the professional employer organization's responsibilities under the act and the professional employer agreement. The client shall have a right to hire, discipline, and terminate a covered employee; and

(d) A provision that the responsibility to obtain workers' compensation coverage for covered employees and for other employees of the client from an insurer licensed to do business in this state and otherwise in compliance with all applicable requirements shall be specified in the professional employer agreement in accordance with section 48-2709. The client shall not be relieved of its obligations under the Nebraska Workers' Compensation Act to provide workers' compensation coverage in the event that the professional employer organization fails to obtain workers' compensation insurance for which it has assumed responsibility.

(4) With respect to each professional employer agreement entered into by a professional employer organization, such professional employer organization shall provide written notice to each covered employee affected by such agreement. The professional employer organization shall provide, and the client shall post in a conspicuous place at the client's worksite, the following:

(a) Notice of the general nature of the co-employment relationship between and among the professional employer organization, the client, and any covered employees; and

(b) Any notice required by the state relating to unemployment compensation and the minimum wage.

(5) Except to the extent otherwise expressly provided by the applicable professional employer agreement:

(a) A client shall be solely responsible for the quality, adequacy, or safety of the goods or services produced or sold in the client's business;

(b) A client shall be solely responsible for (i) directing, supervising, training, and controlling the work of the covered employees with respect to the business activities of the client or when such employees are otherwise acting under the express direction and control of the client and (ii) the acts, errors, or omissions of the covered employees with regard to such activities or when such employees are otherwise acting under the express direction and control of the client;

(c) A client shall not be liable for the acts, errors, or omissions of a professional employer organization or of any covered employee of the client and a professional employer organization when such covered employee is acting under the express direction and control of the professional employer organization;

(d) Nothing in this subsection shall limit any contractual liability or obligation specifically provided in a professional employer agreement; and

(e) A covered employee is not, solely as the result of being a covered employee of a professional employer organization, an employee of the professional employer organization for purposes of general liability insurance, fidelity bonds, surety bonds, employer's liability which is not covered by workers' compensation, or liquor liability insurance carried by the professional employer organization unless the covered employee is included for such purposes by specific reference in the professional employer agreement and in any applicable prearranged employment contract, insurance contract, or bond.

(6) When a professional employer organization obtains workers' compensation coverage for its clients that is written by an authorized insurer, it shall not be considered to be an insurer based on its provision of workers' compensation insurance coverage to a client, even if the professional employer organization charges the client a different amount than it is charged by the authorized insurer.

(7) For purposes of this state or any county, municipality, or other political subdivision thereof:

(a) Covered employees whose services are subject to sales tax shall be deemed the employees of the client for purposes of collecting and levying sales tax on the services performed by the covered employee. Nothing contained in the Professional Employer Organization Registration Act shall relieve a client of any sales tax liability with respect to its goods or services;

(b) Any tax or assessment imposed upon professional employer services or any business license or other fee which is based upon gross receipts shall allow a deduction from the gross income or receipts of the business derived from performing professional employer services that is equal to that portion of the fee charged to a client that represents the actual cost of wages and salaries, benefits, workers' compensation, payroll taxes, withholding, or other assessments paid to or on behalf of a covered employee by the professional employer organization under a professional employer agreement;

(c) Any tax assessed or assessment or mandated expenditure on a per capita or per employee basis shall be assessed against the client for covered employees and against the professional employer organization for its employees who are not covered employees co-employed with a client. Any benefit or monetary consideration that meets the requirements of mandates imposed on a client and that is received by covered employees through the professional employer organization either through payroll or through benefit plans sponsored by the professional employer organization shall be credited against the client's obligation to fulfill such mandates; and

(d) In the case of a tax or an assessment imposed or calculated upon the basis of total payroll, the professional employer organization shall be eligible to apply any small business allowance or exemption available to the client for the covered employees for the purpose of computing the tax.

(8) A professional employer organization shall not offer its covered employees any health benefit plan that is not:

(a) Fully insured by an authorized insurer; or

(b) Self-funded and in compliance with:

(i) Sections 44-7601 to 44-7618, except subdivisions (1) and (2) of section 44-7606; and

(ii) The federal Employee Retirement Income Security Act of 1974, as such act existed on January 1, 2024.

Source: Laws 2010, LB579, § 6; Laws 2024, LB1073, § 24.
Operative date July 19, 2024.

Cross References

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

ARTICLE 36
NEBRASKA FAIR PAY TO PLAY ACT

Section

48-3601 Act, how cited.

Sections 48-3601 to 48-3609 shall be known and may be cited as the Nebraska Student-Athlete Name, Image, or Likeness Rights Act.

Source: Laws 2020, LB962, § 1; Laws 2022, LB1137, § 1.

48-3602 Terms, defined.

For purposes of the Nebraska Student-Athlete Name, Image, or Likeness Rights Act:

(1) Athletic grant-in-aid means the money given to a student-athlete by a postsecondary institution for tuition, fees, room, board, and textbooks as consideration for the student-athlete's participation in an intercollegiate sport for such postsecondary institution and does not include compensation for the use of the student-athlete's name, image, or likeness rights or athletic reputation;

(2) Collegiate athletic association means any athletic association, conference, or other group or organization with authority over intercollegiate sports;

(3) Compensation for the use of a student-athlete's name, image, or likeness rights or athletic reputation includes, but is not limited to, consideration received pursuant to an endorsement contract as defined in section 48-2602;

(4) Intercollegiate sport has the same meaning as in section 48-2602;

(5) Name, image, or likeness activity means an activity that involves the use of an individual's name, image, or likeness for commercial or promotional purposes;

(6) Postsecondary institution has the same meaning as in section 85-2403;

(7) Professional representation includes, but is not limited to, representation provided by an athlete agent holding a certificate of registration under the Nebraska Uniform Athlete Agents Act, a financial advisor registered under the Securities Act of Nebraska, or an attorney admitted to the bar by order of the Supreme Court of this state;

(8) Sponsor means an individual or organization that pays money or provides goods or services in exchange for advertising rights;

(9) Student-athlete has the same meaning as in section 48-2602; and

(10) Team contract means a contract between a postsecondary institution or a postsecondary institution's athletic department and a sponsor.

Source: Laws 2020, LB962, § 2; Laws 2022, LB1137, § 2; Laws 2024, LB1393, § 2.
Effective date April 17, 2024.

Cross References

Nebraska Uniform Athlete Agents Act, see section 48-2601.
Securities Act of Nebraska, see section 8-1123.

48-3603 Name, image, or likeness rights or athletic reputation; compensation of student-athlete; effect; limitations.

(1) No postsecondary institution shall uphold any rule, requirement, standard, or limitation that prevents a student-athlete from fully participating in an intercollegiate sport for such postsecondary institution because such student-athlete earns or intends to earn compensation for the use of such student-athlete's name, image, or likeness rights or athletic reputation.

(2) No collegiate athletic association shall penalize a student-athlete or prevent a student-athlete from fully participating in an intercollegiate sport because such student-athlete earns or intends to earn compensation for the use of such student-athlete's name, image, or likeness rights or athletic reputation.

(3) No collegiate athletic association shall penalize a postsecondary institution or prevent a postsecondary institution from fully participating in an intercollegiate sport because a student-athlete participating in an intercollegiate sport for such postsecondary institution earns or intends to earn compensation for the use of such student-athlete's name, image, or likeness rights or athletic reputation.

(4) No postsecondary institution shall be prohibited from:

(a) Creating, identifying, facilitating, enabling, or supporting student-athlete name, image, or likeness activities; or

(b) Entering into agreements with a third-party entity to create, identify, facilitate, enable, or support name, image, or likeness activities.

(5) No third-party entity or individual shall be prohibited from:

(a) Communicating with a student-athlete to create, identify, facilitate, enable, or support name, image, or likeness activities;

(b) Compensating a student-athlete for the use of such student-athlete's name, image, or likeness rights or athletic reputation; or

(c) Compensating student-athletes for promoting:

(i) An athletics event in which the student-athlete may participate, if the third-party entity or individual has an agreement to promote the athletics event; or

(ii) The postsecondary institution which the student-athlete attends.

(6) No postsecondary institution shall allow compensation earned by a student-athlete for the use of such student-athlete's name, image, or likeness rights or athletic reputation to affect the duration, amount, or eligibility for or renewal of any athletic grant-in-aid or other institutional scholarship, except that compensation earned by a student-athlete for the use of such student-athlete's name, image, or likeness rights or athletic reputation may be used for

the calculation of income for determining eligibility for need-based financial aid.

(7)(a) The compensation a student-athlete earns for the use of the student-athlete's name, image, or likeness rights or athletic reputation must be for services actually performed. Student-athletes shall not be paid for contracts that (i) extend beyond the student-athlete's participation in an athletic program at a postsecondary institution, (ii) involve the sale or exchange of awards or other items received for athletic participation, or (iii) provide compensation for work not performed.

(b) A postsecondary institution shall not compensate a student-athlete for the use of the student-athlete's name, image, or likeness rights or athletic reputation unless otherwise permitted or authorized by:

(i) A collegiate athletic association and postsecondary institution policy;

(ii) A court order; or

(iii) A settlement agreement.

(8) Student-athletes may be prohibited from entering into contracts or agreements related to the use of the student-athlete's name, image, or likeness rights or athletic reputation or engaging in name, image, or likeness activities for products, services, entities, or activities reasonably deemed to be inconsistent with the educational mission of the postsecondary institution by such postsecondary institution.

(9) Nothing in the Nebraska Student-Athlete Name, Image, or Likeness Rights Act shall limit the ability of a postsecondary institution to establish and enforce standards, requirements, regulations, or obligations for such postsecondary institution's students not inconsistent with the act.

(10) Nothing in the Nebraska Student-Athlete Name, Image, or Likeness Rights Act grants to a student-athlete the right to use any name, trademark, service mark, logo, symbol, or other intellectual property that belongs to the postsecondary institution, regardless of whether the intellectual property is registered, to further the student-athlete's opportunities to earn compensation for the use of the student-athlete's name, image, or likeness rights or athletic reputation.

(11) Nothing in the Nebraska Student-Athlete Name, Image, or Likeness Rights Act shall be construed to qualify a student-athlete as an employee of a postsecondary institution based solely on the fact that the student-athlete earns compensation for the use of the student-athlete's name, image, or likeness rights or athletic reputation, or is engaged in name, image, or likeness activities pursuant to the act.

Source: Laws 2020, LB962, § 3; Laws 2022, LB1137, § 3; Laws 2024, LB1393, § 3.
Effective date April 17, 2024.

48-3604 Name, image, or likeness rights or athletic reputation; contract or agreement; disclosure requirements; treatment.

(1) Any student-athlete who enters into a contract or agreement that provides compensation for the use of such student-athlete's name, image, or likeness rights or athletic reputation shall disclose such contract or agreement to an official of the postsecondary institution for which such student-athlete participates in an intercollegiate sport. The official to which such contract or agree-

ment shall be disclosed shall be designated by each postsecondary institution, and the designation shall be communicated in writing to each student-athlete participating in an intercollegiate sport for such postsecondary institution. Except as provided in subsection (2) of this section, or unless otherwise required by law, each postsecondary institution shall be prohibited from disclosing any information written, produced, collected, assembled, or maintained by such postsecondary institution that includes or reveals any term of a contract or agreement or proposed contract or agreement for the use of a student-athlete's name, image, or likeness rights or athletic reputation.

(2) If any contract or agreement is entered into by an entity subject to sections 84-712 to 84-712.09 for the use of a student-athlete's name, image, or likeness rights or athletic reputation, such contract or agreement shall be considered a public record subject to sections 84-712 to 84-712.09.

Source: Laws 2020, LB962, § 4; Laws 2022, LB1137, § 4; Laws 2024, LB1393, § 4.
Effective date April 17, 2024.

48-3605 Name, image, and likeness rights or athletic reputation; contract or agreement, restrictions; conflict with team contract, effect.

(1) No student-athlete shall enter into a contract or agreement with a sponsor that provides compensation to the student-athlete for use of the student-athlete's name, image, and likeness rights or athletic reputation if (a) such contract or agreement requires such student-athlete to display such sponsor's apparel or to otherwise advertise for the sponsor during official team activities and (b) compliance with such contract or agreement requirement would conflict with a team contract. Any postsecondary institution asserting such conflict shall disclose to the student-athlete and the student-athlete's professional representation, if applicable, the full team contract that is asserted to be in conflict. The student-athlete and the student-athlete's professional representation, if applicable, shall be prohibited from disclosing any terms of a team contract that the postsecondary institution deems to be a trade secret or otherwise nondisclosable.

(2) No team contract shall prevent a student-athlete from receiving compensation for the use of such student-athlete's name, image, and likeness rights or athletic reputation when the student-athlete is not engaged in official team activities.

Source: Laws 2020, LB962, § 5; Laws 2022, LB1137, § 5.

48-3606 Student-athlete; obtain professional representation; effect; postsecondary institutions; education and training.

(1) No postsecondary institution or collegiate athletic association shall penalize a student-athlete or prevent a student-athlete from fully participating in an intercollegiate sport because such student-athlete obtains professional representation in relation to a contract or legal matter related to the use of the student-athlete's name, image, or likeness rights or athletic reputation.

(2) No collegiate athletic association shall penalize a postsecondary institution or prevent a postsecondary institution from fully participating in an intercollegiate sport because a student-athlete participating in an intercollegiate sport for such postsecondary institution obtains professional representation in

relation to a contract or legal matter related to the use of the student-athlete's name, image, or likeness rights or athletic reputation.

(3) A postsecondary institution may offer education and training to student-athletes to aid them in understanding the opportunities that may become available to them for the use of their name, image, or likeness rights or athletic reputation, including education in the areas of networking and communication, brand-building and management, financial literacy, and compliance.

Source: Laws 2020, LB962, § 6; Laws 2022, LB1137, § 6; Laws 2024, LB1393, § 5.
Effective date April 17, 2024.

48-3607 Act; effect on contracts.

(1) The Nebraska Student-Athlete Name, Image, or Likeness Rights Act shall not be applied in a manner that violates any contract in effect prior to the date determined by a postsecondary institution pursuant to section 48-3609 with regard to such postsecondary institution or any student-athlete who participates in an intercollegiate sport for such postsecondary institution for as long as such contract remains in effect without modification.

(2) On and after the date determined by a postsecondary institution pursuant to section 48-3609, such postsecondary institution shall not enter into, modify, or renew any contract in a manner that conflicts with the Nebraska Student-Athlete Name, Image, or Likeness Rights Act.

Source: Laws 2020, LB962, § 7; Laws 2022, LB1137, § 7.

48-3608 Civil action authorized; damages, procedure; limitation.

(1) A student-athlete or a postsecondary institution aggrieved by a violation of the Nebraska Student-Athlete Name, Image, or Likeness Rights Act may bring a civil action against the postsecondary institution or collegiate athletic association committing such violation.

(2) A plaintiff who prevails in an action under the Nebraska Student-Athlete Name, Image, or Likeness Rights Act shall be entitled to:

(a) Actual damages;

(b) Such preliminary and other equitable or declaratory relief as may be appropriate; and

(c) Reasonable attorney's fees and other litigation costs reasonably incurred.

(3) A public postsecondary institution may be sued upon claims arising under the Nebraska Student-Athlete Name, Image, or Likeness Rights Act only to the extent allowed under the State Tort Claims Act, the State Contract Claims Act, or the State Miscellaneous Claims Act, except that a civil action for a violation of the Nebraska Student-Athlete Name, Image, or Likeness Rights Act may only be brought within one year after the cause of action has accrued.

Source: Laws 2020, LB962, § 8; Laws 2022, LB1137, § 8.

Cross References

State Contract Claims Act, see section 81-8,302.
State Miscellaneous Claims Act, see section 81-8,294.
State Tort Claims Act, see section 81-8,235.

48-3609 Act, applicability.

Each postsecondary institution shall determine a date on or before July 1, 2023, upon which the Nebraska Student-Athlete Name, Image, or Likeness Rights Act shall begin to apply to such postsecondary institution and the student-athletes who participate in an intercollegiate sport for such postsecondary institution and to any collegiate athletic association or professional representation in interactions with such postsecondary institution or student-athletes.

Source: Laws 2020, LB962, § 9; Laws 2022, LB1137, § 9.

ARTICLE 37

NEBRASKA STATEWIDE WORKFORCE AND EDUCATION REPORTING SYSTEM ACT

Section
48-3704. Memorandum of understanding; duties; report.

48-3704 Memorandum of understanding; duties; report.

(1) The Department of Labor shall execute a memorandum of understanding with the Nebraska Statewide Workforce and Education Reporting System before December 31, 2020, to ensure the exchange of available Department of Labor data throughout the prekindergarten to postsecondary education to workforce continuum, and may utilize data and agreements under sections 79-776, 85-110, 85-309, and 85-1511.

(2) On or before December 1, 2022, and on or before each December 1 thereafter, the Nebraska Statewide Workforce and Education Reporting System shall issue a report electronically to the Clerk of the Legislature and the Governor. Such report shall provide an overview of research and analysis conducted, additional data needs for future analysis, and organizational structure and needs.

Source: Laws 2020, LB1160, § 4; Laws 2022, LB1130, § 1.

CHAPTER 49
LAW

ARTICLE 5

PUBLICATION AND DISTRIBUTION OF SESSION LAWS AND JOURNALS

49-506 Distribution by Secretary of State.

After the Secretary of State has made the distribution provided by section 49-503, he or she shall deliver additional copies of the session laws and the journal of the Legislature pursuant to this section in print or electronic format as he or she determines, upon recommendation by the Clerk of the Legislature and approval of the Executive Board of the Legislative Council.

One copy of the session laws shall be delivered to the Lieutenant Governor, the State Treasurer, the Auditor of Public Accounts, the Reporter of Decisions, the State Court Administrator, the State Fire Marshal, the Department of Administrative Services, the Department of Agriculture, the Department of Banking and Finance, the State Department of Education, the Department of Environment and Energy, the Department of Insurance, the Department of Labor, the Department of Motor Vehicles, the Department of Revenue, the Department of Transportation, the Department of Veterans' Affairs, the Department of Natural Resources, the Military Department, the Nebraska State Patrol, the Nebraska Commission on Law Enforcement and Criminal Justice, each of the Nebraska state colleges, the Game and Parks Commission, the Nebraska Library Commission, the Nebraska Liquor Control Commission, the Nebraska Accountability and Disclosure Commission, the Public Service Commission, the State Real Estate Commission, the Nebraska State Historical Society, the Public Employees Retirement Board, the Risk Manager, the Legislative Fiscal Analyst, the Public Counsel, the materiel division of the Department of Administrative Services, the State Records Administrator, the budget division of the Department of Administrative Services, the Tax Equalization and Review Commission, the inmate library at all state penal and correctional institutions, the Commission on Public Advocacy, and the Library of Congress; two copies to the Governor, the Secretary of State, the Commission of Industrial Relations, and the Coordinating Commission for Postsecondary Education, one of which shall be for use by the community colleges; three copies to the Department of Health

and Human Services; four copies to the Nebraska Publications Clearinghouse; five copies to the Attorney General; nine copies to the Revisor of Statutes; sixteen copies to the Supreme Court and the Legislative Council; and thirty-five copies to the University of Nebraska College of Law.

One copy of the journal of the Legislature shall be delivered to the Governor, the Lieutenant Governor, the State Treasurer, the Auditor of Public Accounts, the Reporter of Decisions, the State Court Administrator, the Nebraska State Historical Society, the Legislative Fiscal Analyst, the Tax Equalization and Review Commission, the Commission on Public Advocacy, and the Library of Congress; two copies to the Secretary of State and the Commission of Industrial Relations; four copies to the Nebraska Publications Clearinghouse; five copies to the Attorney General and the Revisor of Statutes; eight copies to the Clerk of the Legislature; thirteen copies to the Supreme Court and the Legislative Council; and thirty-five copies to the University of Nebraska College of Law. The remaining copies shall be delivered to the State Librarian who shall use the same, so far as required for exchange purposes, in building up the State Library and in the manner specified in sections 49-507 to 49-509.

Source: Laws 1907, c. 78, § 6, p. 290; R.S.1913, § 3738; C.S.1922, § 3131; C.S.1929, § 49-506; R.S.1943, § 49-506; Laws 1947, c. 185, § 4, p. 611; Laws 1961, c. 243, § 2, p. 725; Laws 1969, c. 413, § 1, p. 1419; Laws 1972, LB 1284, § 17; Laws 1987, LB 572, § 2; Laws 1991, LB 663, § 34; Laws 1991, LB 732, § 117; Laws 1993, LB 3, § 34; Laws 1995, LB 271, § 6; Laws 1996, LB 906, § 1; Laws 1996, LB 1044, § 277; Laws 1999, LB 36, § 3; Laws 2000, LB 534, § 3; Laws 2000, LB 900, § 240; Laws 2000, LB 1085, § 2; Laws 2007, LB296, § 222; Laws 2007, LB334, § 6; Laws 2017, LB339, § 176; Laws 2019, LB302, § 54; Laws 2023, LB191, § 17; Laws 2023, LB799, § 9.

ARTICLE 6

PRINTING AND DISTRIBUTION OF STATUTES

Section
49-617. Printing of statutes; distribution of copies.

49-617 Printing of statutes; distribution of copies.

The Revisor of Statutes shall cause the statutes to be printed. The printer shall deliver all completed copies to the Supreme Court. These copies shall be held and disposed of by the court as follows: Sixty copies to the State Library to exchange for statutes of other states; five copies to the State Library to keep for daily use; not to exceed twenty-five copies to the Legislative Council for bill drafting and related services to the Legislature and executive state officers; as many copies to the Attorney General as he or she has attorneys on his or her staff; as many copies to the Commission on Public Advocacy as it has attorneys on its staff; up to sixteen copies to the State Court Administrator; thirteen copies to the Tax Commissioner; eight copies to the Nebraska Publications Clearinghouse; six copies to the Public Service Commission; four copies to the Secretary of State; three copies to the Tax Equalization and Review Commission; four copies to the Clerk of the Legislature for use in his or her office and three copies to be maintained in the legislative chamber, one copy on each side of the chamber and one copy at the desk of the Clerk of the Legislature, under

control of the sergeant at arms; three copies to the Department of Health and Human Services; two copies each to the Governor of the state, the Chief Justice and each judge of the Supreme Court, each judge of the Court of Appeals, the Clerk of the Supreme Court, the Reporter of Decisions, the Commissioner of Labor, the Auditor of Public Accounts, and the Revisor of Statutes; one copy each to the Secretary of State of the United States, each Indian tribal court located in the State of Nebraska, the library of the Supreme Court of the United States, the Adjutant General, the Air National Guard, the Commissioner of Education, the State Treasurer, the Board of Educational Lands and Funds, the Director of Agriculture, the Director of Administrative Services, the Director of Economic Development, the director of the Nebraska Public Employees Retirement Systems, the Director-State Engineer, the Director of Banking and Finance, the Director of Insurance, the Director of Motor Vehicles, the Director of Veterans' Affairs, the Director of Natural Resources, the Director of Correctional Services, the Nebraska Emergency Operating Center, each judge of the Nebraska Workers' Compensation Court, each commissioner of the Commission of Industrial Relations, the Nebraska Liquor Control Commission, the State Real Estate Commission, the secretary of the Game and Parks Commission, the Board of Pardons, each state institution under the Department of Health and Human Services, each state institution under the State Department of Education, the State Surveyor, the Nebraska State Patrol, the materiel division of the Department of Administrative Services, the personnel division of the Department of Administrative Services, the Nebraska Motor Vehicle Industry Licensing Board, the Board of Trustees of the Nebraska State Colleges, each of the Nebraska state colleges, each district judge of the State of Nebraska, each judge of the county court, each judge of a separate juvenile court, the Lieutenant Governor, each United States Senator from Nebraska, each United States Representative from Nebraska, each clerk of the district court for the use of the district court, the clerk of the Nebraska Workers' Compensation Court, each clerk of the county court, each county attorney, each county public defender, each county law library, and the inmate library at all state penal and correctional institutions, and each member of the Legislature shall be entitled to two complete sets, and two complete sets of such volumes as are necessary to update previously issued volumes, but each member of the Legislature and each judge of any court referred to in this section shall be entitled, on request, to an additional complete set. Copies of the statutes distributed without charge, as listed in this section, shall be the property of the state or governmental subdivision of the state and not the personal property of the particular person receiving a copy. Distribution of statutes to the library of the College of Law of the University of Nebraska shall be as provided in sections 85-176 and 85-177.

Source: Laws 1943, c. 115, § 17, p. 407; R.S.1943, § 49-617; Laws 1944, Spec. Sess., c. 3, § 5, p. 100; Laws 1947, c. 185, § 5, p. 612; Laws 1951, c. 345, § 1, p. 1132; Laws 1957, c. 210, § 3, p. 743; Laws 1961, c. 242, § 2, p. 722; Laws 1961, c. 243, § 3, p. 725; Laws 1961, c. 415, § 5, p. 1247; Laws 1961, c. 416, § 8, p. 1266; Laws 1963, c. 303, § 3, p. 898; Laws 1965, c. 305, § 1, p. 858; Laws 1967, c. 325, § 1, p. 863; Laws 1967, c. 326, § 1, p. 865; Laws 1971, LB 36, § 4; Laws 1972, LB 1032, § 254; Laws 1972, LB 1174, § 1; Laws 1972, LB 1284, § 18; Laws 1973, LB 1, § 5; Laws 1973, LB 563, § 4; Laws 1973, LB 572, § 1; Laws 1974, LB 595, § 1; Laws 1975, LB 59, § 4; Laws 1978, LB 168, § 1; Laws

1984, LB 13, § 82; Laws 1985, LB 498, § 2; Laws 1987, LB 572, § 6; Laws 1991, LB 732, § 118; Laws 1992, Third Spec. Sess., LB 14, § 3; Laws 1995, LB 271, § 7; Laws 1996, LB 906, § 2; Laws 1996, LB 1044, § 278; Laws 1999, LB 36, § 4; Laws 2000, LB 692, § 9; Laws 2000, LB 900, § 241; Laws 2000, LB 1085, § 3; Laws 2007, LB296, § 223; Laws 2007, LB334, § 7; Laws 2007, LB472, § 8; Laws 2010, LB770, § 3; Laws 2011, LB384, § 1; Laws 2017, LB339, § 177; Laws 2023, LB799, § 10.

ARTICLE 7
STATUTE REVISION

Section
49-702. Revisor of Statutes; duties.
49-707. Supplements and reissued or replacement volumes of the statutes; distribution; price; disposition of proceeds; receipts.
49-709. Nebraska Juvenile Code; index.

49-702 Revisor of Statutes; duties.

It shall be the duty of the Revisor of Statutes:

(1) To consult with and assist the Legislative Council prior to each regular session of the Legislature in the preparation of the report of the Legislative Council as to defects in the Constitution of Nebraska and laws of Nebraska and to draft in the form of bills proposed legislation to carry out the recommendations contained in the report;

(2) To prepare for submission to the Legislature, from time to time, when recommended by the Legislative Council in its report as to defects in the Constitution of Nebraska and laws of Nebraska, a rewriting and revision, chapter by chapter, in simplified style and phraseology, of the various chapters of the statutes of Nebraska;

(3) To publish annotations of the decisions of the Supreme Court of Nebraska, the Court of Appeals, and the federal courts as received from the Reporter of Decisions; and

(4) To prepare, arrange, and correlate for publication, at the end of each legislative session, the laws enacted during the session and to arrange and correlate for publication replacements of the permanent volumes of the statutes.

Source: Laws 1945, c. 119, § 2, p. 392; Laws 1967, c. 328, § 3, p. 869; Laws 1969, c. 412, § 2, p. 1418; Laws 1986, LB 994, § 1; Laws 1994, LB 1244, § 2; Laws 1995, LB 271, § 8; Laws 2023, LB799, § 11.

49-707 Supplements and reissued or replacement volumes of the statutes; distribution; price; disposition of proceeds; receipts.

The supplements and reissued or replacement volumes of the statutes of Nebraska shall be sold and distributed by the Supreme Court at such price as shall be prescribed by the Executive Board of the Legislative Council, which price shall be sufficient to recover all costs of publication and distribution.

The Supreme Court may sell for one dollar per volume any compilation or revision of the statutes of Nebraska that has been superseded by a later official

revision, compilation, or replacement volume. The Supreme Court may dispose of any unsold superseded volumes in any manner it deems proper.

All money received by the Supreme Court from the sale of the supplements and reissued or replacement volumes shall be paid into the state treasury to the credit of the Nebraska Statutes Cash Fund or the Nebraska Statutes Distribution Cash Fund, as appropriate. That portion of the money received that represents the costs of publication shall be credited to the Nebraska Statutes Cash Fund, and that portion of the money received that represents the costs of distribution shall be credited to the Nebraska Statutes Distribution Cash Fund. The court shall take receipts for all such money paid into the funds.

Supplements and reissued volumes shall be furnished and delivered free of charge in the same number and to the same parties as are designated in section 49-617.

Source: Laws 1945, c. 119, § 7, p. 394; Laws 1965, c. 306, § 5, p. 862; Laws 1965, c. 305, § 2, p. 860; Laws 1977, LB 8, § 3; Laws 1980, LB 598, § 3; Laws 1986, LB 991, § 1; Laws 1987, LB 572, § 7; Laws 2012, LB576, § 1; Laws 2022, LB708, § 1.

49-709 Nebraska Juvenile Code; index.

On or before October 1, 2024, the Revisor of Statutes shall prepare and publish a simplified index to the Nebraska Juvenile Code. The index shall be arranged alphabetically by common topics faced by children and families involved in proceedings under the code. The index shall be made available to the public on the Legislature's website. The Revisor shall update the index annually to reflect changes in the law.

Source: Laws 2024, LB1051, § 18.
Effective date July 19, 2024.

Cross References

Nebraska Juvenile Code, see section 43-2,129.

ARTICLE 14

NEBRASKA POLITICAL ACCOUNTABILITY AND DISCLOSURE ACT

(a) GENERAL PROVISIONS

(b) CAMPAIGN PRACTICES

(c) LOBBYING PRACTICES

(d) CONFLICTS OF INTEREST

(a) GENERAL PROVISIONS

49-1401 Act, how cited.

Sections 49-1401 to 49-14,142 shall be known and may be cited as the Nebraska Political Accountability and Disclosure Act.

Source: Laws 1976, LB 987, § 1; Laws 1981, LB 134, § 1; Laws 1986, LB 548, § 11; Laws 1987, LB 480, § 1; Laws 1989, LB 815, § 1; Laws 1991, LB 232, § 1; Laws 1994, LB 872, § 1; Laws 1994, LB 1243, § 2; Laws 1995, LB 28, § 3; Laws 1995, LB 399, § 1; Laws 1997, LB 49, § 1; Laws 1997, LB 420, § 15; Laws 1999, LB 581, § 1; Laws 2000, LB 438, § 1; Laws 2000, LB 1021, § 1; Laws 2001, LB 242, § 1; Laws 2002, LB 1003, § 34; Laws 2005, LB 242, § 2; Laws 2007, LB464, § 2; Laws 2007, LB527, § 1; Laws 2009, LB322, § 1; Laws 2009, LB626, § 1; Laws 2017, LB85, § 3; Laws 2022, LB843, § 51.

(b) CAMPAIGN PRACTICES

49-1461 Ballot question committee; campaign statement; filing dates.

In addition to the campaign statements required to be filed pursuant to sections 49-1459 and 49-1462, a ballot question committee shall file a campaign statement as required by the Nebraska Political Accountability and Disclosure Act according to the following schedule:

(1) The first campaign statement shall be filed within ten days after the end of the calendar month in which the petition form is filed with the Secretary of State pursuant to section 32-1405. The closing date for the campaign statement shall be the last day of such calendar month;

(2) Additional campaign statements shall be filed within ten days after the end of each calendar month thereafter except for the calendar month during which the signed petitions must be filed with the Secretary of State as provided in section 32-1407. The closing date for such campaign statements shall be the last day of each such calendar month; and

(3) A final campaign statement shall be filed not later than thirty days after the deadline for filing petitions with the Secretary of State as provided in section 32-1407. The closing date for the campaign statement shall be twenty-five days after the deadline for filing such petitions.

The campaign statements required to be filed pursuant to this section shall be filed whether or not petitions have or will be filed with the Secretary of State. Any person who fails to file a campaign statement with the commission pursuant to this section shall be subject to late filing fees as provided in section 49-1463.

Source: Laws 1976, LB 987, § 61; Laws 1980, LB 535, § 12; Laws 1989, LB 637, § 4; Laws 1991, LB 534, § 2; Laws 1994, LB 76, § 568; Laws 2024, LB1070, § 1.
Effective date April 17, 2024.

49-1474.03 Campaign advertisement; dissemination; applicability; requirements.

(1) This section applies to any election for the following elective offices: Governor, Lieutenant Governor, Secretary of State, State Treasurer, Attorney

General, Auditor of Public Accounts, member of the Board of Regents of the University of Nebraska, member of the State Board of Education, Public Service Commissioner, and member of the Legislature.

(2) For purposes of this section:

(a) Campaign advertisement means a professionally produced visual or audio recording disseminated or caused to be disseminated (i) by a candidate for any elective office listed in this section or by any committee and (ii) for the purpose of supporting or opposing the nomination or election of such a candidate; and

(b) Professionally produced visual or audio recording does not include a broadcast, rebroadcast, livestreamed, or restreamed live forum, question and answer session, townhall meeting, or interview.

(3) No campaign advertisement shall be disseminated:

(a) On television or as a video by means of the Internet unless the campaign advertisement includes closed captioning or the candidate or committee responsible for the campaign advertisement posts a transcript of such campaign advertisement on the candidate's or committee's website; or

(b) On radio unless the candidate or committee responsible for the campaign advertisement posts a transcript of such campaign advertisement on the candidate's or committee's website.

Source: Laws 2022, LB843, § 52.

49-1479.03 Foreign national; contribution to ballot question committee; prohibited; exception.

(1) For purposes of this section, foreign national means:

(a) An individual who is not a citizen of the United States or a national of the United States and who is not lawfully admitted for permanent residence;

(b) A person, other than an individual, organized under the laws of or having its principal place of business in a foreign country;

(c) A government of a foreign country; or

(d) A political party or political committee established in a foreign country.

(2) It shall be unlawful for a foreign national, directly or indirectly, to make a contribution to a ballot question committee or for a ballot question committee to solicit, accept, or receive such a contribution.

(3) A person, other than an individual, organized under the laws of the United States which is a domestic subsidiary of a foreign national may make a contribution or an expenditure to support or oppose the qualification, passage, or defeat of a ballot question ballot if:

(a) The person is a discrete entity organized under the laws of any state within the United States and its principal place of business is within the United States;

(b) The foreign national parent does not finance election-related contributions or expenditures either directly or through such person, including through subsidizing the person's business operations, unless the person can demonstrate by a reasonable accounting method that it has sufficient funds from its own domestic operations to make any contributions or expenditures; and

(c) All decisions concerning the administration of the person's contributions or expenditures are made by citizens or permanent residents of the United States.

Source: Laws 2022, LB843, § 53.

(c) LOBBYING PRACTICES

49-1480.01 Application for registration; fee; collection; registration renewal.

(1) The Clerk of the Legislature shall collect a fee of three hundred dollars for an application for registration by a lobbyist for each principal if the lobbyist receives or will receive compensation for such lobbying. Except as provided by section 49-1434, a lobbyist who receives compensation shall include an individual who is an employee or member of a principal whose duties of employment, office, or membership include engaging in lobbying activities.

(2) A fee of fifteen dollars shall be collected for an application by a lobbyist for each principal if the lobbyist is not receiving and will not be receiving compensation for such lobbying. Any lobbyist who receives compensation who did not anticipate receiving such compensation at the time of application for registration shall, within five days of the receipt of any compensation, file an amended registration form which shall be accompanied by an additional fee of two hundred eighty-five dollars for such year.

(3) The registration of a lobbyist for each of his or her principals may be renewed by the payment of a fee as provided by subsections (1) and (2) of this section. Such fee shall be paid to the Clerk of the Legislature on or before December 31 of each calendar year. The registration of a lobbyist for each of his or her principals shall terminate as of the end of the calendar year for which the lobbyist registered unless the registration is renewed as provided in this section.

Source: Laws 1994, LB 872, § 2; Laws 1994, LB 1243, § 3; Laws 2005, LB 242, § 30; Laws 2024, LB1104, § 1.
Operative date July 1, 2024.

49-1482 Lobbyists and principals; registration fees; disbursement.

The Clerk of the Legislature shall charge a fee pursuant to section 49-1480.01 for each application for registration by a lobbyist for each principal. Such fees when collected shall be remitted to the State Treasurer. One-half of such fees shall be credited to the Nebraska Accountability and Disclosure Commission Cash Fund and one-half to the Clerk of the Legislature Cash Fund.

Source: Laws 1976, LB 987, § 82; Laws 1977, LB 4, § 1; Laws 1982, LB 928, § 41; Laws 1994, LB 872, § 3; Laws 1994, LB 1243, § 4; Laws 2005, LB 242, § 32; Laws 2024, LB1104, § 2.
Operative date July 1, 2024.

(d) CONFLICTS OF INTEREST

49-1494 Candidates for elective office; statement of financial interest; filing; time.

(1) An individual who files to appear on the ballot for election to an elective office specified in section 49-1493 shall file a statement of financial interests for the preceding calendar year with the commission as provided in this section.

(2) Candidates for the elective offices specified in section 49-1493 who qualify other than by filing shall file a statement for the preceding calendar year with the commission within five days after becoming a candidate or being appointed to that elective office.

(3) If the candidate for an elective office specified in section 49-1493 files to appear on the ballot for election during the calendar year in which the election is held, the candidate shall file a statement of financial interests for the preceding calendar year with the commission on or before March 1 of the year in which the election is held or, if the filing deadline for the elective office is after March 1 of the year in which the election is held, the candidate shall file such statement on or before the filing deadline for the elective office.

(4) A candidate for an elective office specified in section 49-1493 who fails to file a statement of financial interests as required in subsection (1) or (2) of this section within five days after the deadline in subsection (3) of this section and section 49-1493 shall not appear on the ballot.

(5) A statement of financial interests shall be preserved for a period of not less than five years by the commission.

Source: Laws 1976, LB 987, § 94; Laws 1983, LB 479, § 3; Laws 2001, LB 242, § 10; Laws 2005, LB 242, § 36; Laws 2016, LB400, § 2; Laws 2017, LB451, § 15; Laws 2022, LB843, § 54.

49-1496 Statement of financial interests; form; contents; enumerated.

(1) The statement of financial interests filed pursuant to sections 49-1493 to 49-14,104 shall be on a form prescribed by the commission.

(2) Individuals required to file under sections 49-1493 to 49-1495 shall file the following information for themselves:

(a) The name and address of and the nature of association with any business with which the individual was associated;

(b) The name and address of any entity in which a position of trustee was held;

(c) The name, address, and nature of business of a person or government body from whom any income in the value of one thousand dollars or more was received and the nature of the services rendered, except that the identification of patrons, customers, patients, or clients of such person from which employment income was received is not required;

(d) A description, but not the value, of the following, if the fair market value thereof exceeded one thousand dollars:

(i) The nature and location of all real property in the state, except any such real property used as a residence of the individual;

(ii) The depository of checking and savings accounts;

(iii) The issuer of stocks, bonds, and government securities; and

(iv) A description of all other property owned or held for the production of income, except property owned or used by a business with which the individual was associated;

(e) The name and address of each creditor to whom the value of one thousand dollars or more was owed or guaranteed by the individual or a member of the individual's immediate family, except for the following:

(i) Accounts payable;

(ii) Debts arising out of retail installment transactions;

(iii) Loans made by financial institutions in the ordinary course of business;

(iv) Loans from a relative; and

(v) Land contracts that have been properly recorded with the county clerk or the register of deeds;

(f) The name, address, and occupation or nature of business of any person from whom a gift in the value of more than one hundred dollars was received, a description of the gift and the circumstances of the gift, and the monetary value category of the gift, based on a good faith estimate by the individual, reported in the following categories:

(i) $100.01 - $200;

(ii) $200.01 - $500;

(iii) $500.01 - $1,000; and

(iv) $1,000.01 or more; and

(g) Such other information as the individual or the commission deems necessary, after notice and hearing, to carry out the purposes of the Nebraska Political Accountability and Disclosure Act.

Source: Laws 1976, LB 987, § 96; Laws 1980, LB 535, § 17; Laws 1993, LB 121, § 307; Laws 2000, LB 1021, § 8; Laws 2005, LB 242, § 37; Laws 2022, LB786, § 1.

49-1499.03 Political subdivision; public official or employee; discharge of official duties; potential conflict; actions required; applicability.

(1)(a) An official of a political subdivision designated in section 49-1493 who would be required to take any action or make any decision in the discharge of his or her official duties that may cause financial benefit or detriment to him or her, a member of his or her immediate family, or a business with which he or she is associated, which is distinguishable from the effects of such action on the public generally or a broad segment of the public, shall take the following actions as soon as he or she is aware of such potential conflict or should reasonably be aware of such potential conflict, whichever is sooner:

(i) Prepare a written statement describing the matter requiring action or decision and the nature of the potential conflict; and

(ii) Deliver a copy of the statement to the commission and to the person in charge of keeping records for the political subdivision who shall enter the statement onto the public records of the political subdivision.

(b) The official shall take such action as the commission shall advise or prescribe to remove himself or herself from influence over the action or decision on the matter.

(c) This subsection does not prevent such a person from making or participating in the making of a governmental decision to the extent that the individual's participation is legally required for the action or decision to be made. A person acting pursuant to this subdivision shall report the occurrence to the commission.

(2)(a) Any public official of any political subdivision not designated in section 49-1493 who would be required to take any action or make any decision in the

discharge of his or her official duties that may cause financial benefit or detriment to him or her, a member of his or her immediate family, or a business with which he or she is associated, which is distinguishable from the effects of such action on the public generally or a broad segment of the public, shall take the following actions as soon as he or she is aware of such potential conflict or should reasonably be aware of such potential conflict, whichever is sooner:

(i) Prepare a written statement describing the matter requiring action or decision and the nature of the potential conflict;

(ii) Deliver a copy of the statement to the person in charge of keeping records for the political subdivision who shall enter the statement onto the public records of the political subdivision; and

(iii) Except as otherwise provided in subsection (3) of this section, abstain from participating or voting on the matter in which the public official has a conflict of interest.

(b) The public official may apply to the commission for an opinion as to whether the person has a conflict of interest.

(3)(a) This section does not prevent a public official of any political subdivision from making or participating in the making of a governmental decision:

(i) To the extent that the individual's participation is legally required for the action or decision to be made; or

(ii) If the potential conflict of interest is based on a business association and (A) such business association is an association of such political subdivisions, (B) the political subdivision is a member of such association, and (C) the business association exists only as the result of such public official holding office.

(b) A public official of any city subject to subsection (1) of this section who is acting pursuant to this subsection shall report the occurrence as provided in subdivisions (1)(a)(i) and (ii) of this section.

(c) A person subject to subsection (2) of this section who is acting pursuant to this subsection shall report the occurrence as provided in subdivisions (2)(a)(i) and (ii) of this section.

(4)(a) Any employee of a political subdivision whose annual salary and benefits exceed one hundred fifty thousand dollars and who would be required to take any action or make any decision in the discharge of his or her official duties that may cause financial benefit or detriment to him or her, a member of his or her immediate family, or a business with which he or she is associated, which is distinguishable from the effects of such action on the public generally or a broad segment of the public, shall take the following actions as soon as he or she is aware of such potential conflict or should reasonably be aware of such potential conflict, whichever is sooner:

(i) Prepare a written statement describing the matter requiring action or decision and the nature of the potential conflict;

(ii) Deliver a copy of the statement to the person in charge of keeping records for the political subdivision who shall enter the statement onto the public records of the political subdivision; and

(iii) Except as otherwise provided in subdivision (4)(c) of this section, abstain from participating in the matter in which the employee has a conflict of interest.

(b) An employee described in subdivision (4)(a) of this section may apply to the commission for an opinion as to whether he or she has a conflict of interest.

(c) This subsection does not prevent an employee described in subdivision (4)(a) of this section from making or participating in the making of a governmental decision to the extent that the employee's participation is legally required for the action or decision to be made. An employee who is acting pursuant to this subdivision shall report the occurrence as provided in subdivisions (4)(a)(i) and (ii) of this section.

(5) Matters involving an interest in a contract are governed either by sections 49-14,102 and 49-14,103 or by sections 49-14,103.01 to 49-14,103.06. Matters involving the hiring of an immediate family member are governed by section 49-1499.04. Matters involving nepotism or the supervision of a family member by an official or employee in the executive branch of state government are governed by section 49-1499.07.

(6) This section does not apply to a sanitary and improvement district.

Source: Laws 2001, LB 242, § 14; Laws 2005, LB 242, § 42; Laws 2009, LB322, § 3; Laws 2019, LB411, § 66; Laws 2024, LB287, § 65. Operative date July 19, 2024.

CHAPTER 50
LEGISLATURE

Article.
1. General Provisions. 50-114, 50-117.
4. Legislative Council. 50-401.01 to 50-434.
7. Mental Health Oversight. 50-702.
8. Water Resources. 50-802.
12. Legislative Performance Audit Act. 50-1209.

ARTICLE 1
GENERAL PROVISIONS

Section
50-114. Clerk; duties; official records of the Legislature; audio and video recordings; restrictions on use.
50-117. Digital Internet archive of closed-captioned video coverage of the Legislature; policies and procedures; requirements.

50-114 Clerk; duties; official records of the Legislature; audio and video recordings; restrictions on use.

(1) It shall be the duty of the Clerk of the Legislature to attend the sessions of the Legislature, to call the roll, to read the journals, bills, memorials, resolutions, petitions, and all other papers or documents necessary to be read in the Legislature, to keep a correct journal of the proceedings in the Legislature, and to do and perform such other duties as may be imposed upon the clerk by the Legislature or by the Executive Board of the Legislative Council.

(2) The records of floor debate and committee hearings as prepared and permanently maintained by the Clerk of the Legislature are the official records of the Legislature.

(3) Any government website offering access to audio and video recordings of the proceedings of the Legislature or of a committee or division of the Legislature shall require notification to any website user, using appropriate technology, that such recordings shall not be used, reproduced, or redistributed without express permission by the Legislative Council and in accordance with the policies developed by the Executive Board of the Legislative Council pursuant to section 50-117.

Source: Laws 1867, § 4, p. 85; R.S.1913, § 3755; C.S.1922, § 3148; C.S.1929, § 50-114; Laws 1941, c. 101, § 1, p. 418; C.S.Supp.,1941, § 50-114; R.S.1943, § 50-114; Laws 1967, c. 328, § 8, p. 871; Laws 2023, LB254, § 2.

50-117 Digital Internet archive of closed-captioned video coverage of the Legislature; policies and procedures; requirements.

(1) The Legislative Council, through the Executive Board of the Legislative Council, shall develop and maintain a publicly accessible, digital Internet archive of closed-captioned video coverage of the Legislature, including floor debate and public committee hearings indexed by legislative bill or resolution number or by date, beginning with the coverage of the One Hundred Ninth

Legislature, First Session, in January 2025 or as soon as live, closed-captioned video coverage of the Legislature is available for use, whichever is sooner, as provided in section 79-1316. Closed-captioned video coverage shall include closed captioning in both English and Spanish.

(2) Applicable historical video coverage of the Legislature shall be collected and added to the digital archive as available. Applicable historical video coverage shall only consist of video coverage of the Legislature captured by the Nebraska Educational Telecommunications Commission and closed-captioned prior to January 1, 2025.

(3) Such archive is intended solely for educational and informational purposes and to enhance access for the public, in keeping with the Legislature's commitment to transparency in state government.

(4) Audio and video recordings of the proceedings of the Legislature or of a committee or division of the Legislature are not official records of such proceedings and shall not be admissible in any proceeding as evidence of legislative history, action, or intent.

(5) The Executive Board of the Legislative Council shall develop policies and procedures surrounding the creation and ongoing usage of the publicly accessible, indexed, digital Internet archive of closed-captioned video coverage of the Legislature developed pursuant to this section. Such policies shall include, but not be limited to:

(a) The usage of archived video recordings for purposes other than legislative purposes;

(b) A determination regarding which committee hearings and committee briefings shall be recorded and added to the digital archive;

(c) Parameters surrounding long-term storage of archived video recordings; and

(d) Management of costs in relation to supporting public accessibility of archived video recordings.

Source: Laws 2023, LB254, § 1.

ARTICLE 4

LEGISLATIVE COUNCIL

Section

50-401.01 Legislative Council; executive board; members; selection; powers and duties.

(1) The Legislative Council shall have an executive board, to be known as the Executive Board of the Legislative Council, which shall consist of a chairper-

son, a vice-chairperson, and six members of the Legislature, to be chosen by the Legislature at the commencement of each regular session of the Legislature when the speaker is chosen, and the Speaker of the Legislature. The Legislature at large shall elect two of its members from legislative districts Nos. 1, 17, 30, 32 to 35, 37, 38, 40 to 44, 47, and 48, two from legislative districts Nos. 2, 3, 15, 16, 19, 21 to 29, 45, and 46, and two from legislative districts Nos. 4 to 14, 18, 20, 31, 36, 39, and 49. The Chairperson of the Committee on Appropriations shall serve as a nonvoting ex officio member of the executive board whenever the board is considering fiscal administration.

(2) The executive board shall:

(a) Supervise all services and service personnel of the Legislature and may employ and fix compensation and other terms of employment for such personnel as may be needed to carry out the intent and activities of the Legislature or of the board, unless otherwise directed by the Legislature, including the adoption of policies by the executive board which permit (i) the purchasing of an annuity for an employee who retires or (ii) the crediting of amounts to an employee's deferred compensation account under section 84-1504. The payments to or on behalf of an employee may be staggered to comply with other law; and

(b) Appoint persons to fill the positions of Legislative Fiscal Analyst, Director of Research, Revisor of Statutes, and Legislative Auditor. The persons appointed to these positions shall have training and experience as determined by the executive board and shall serve at the pleasure of the executive board. The Legislative Performance Audit Committee shall recommend the person to be appointed Legislative Auditor. Their respective salaries shall be set by the executive board.

(3) Notwithstanding any other provision of law, the executive board may contract to obtain legal, auditing, accounting, actuarial, or other professional services or advice for or on behalf of the executive board, the Legislative Council, the Legislature, or any member of the Legislature. The providers of such services or advice shall meet or exceed the minimum professional standards or requirements established or specified by their respective professional organizations or licensing entities or by federal law. Such contracts, the deliberations of the executive board with respect to such contracts, and the work product resulting from such contracts shall not be subject to review or approval by any other entity of state government.

Source: Laws 1937, c. 118, § 1, p. 421; Laws 1939, c. 60, § 1, p. 261; C.S.Supp.,1941, § 50-501; Laws 1943, c. 118, § 1, p. 414; R.S. 1943, § 50-401; Laws 1949, c. 168, § 1(2), p. 445; Laws 1951, c. 169, § 1, p. 655; Laws 1965, c. 310, § 1, p. 872; Laws 1967, c. 595, § 1, p. 2026; Laws 1972, LB 1129, § 1; Laws 1973, LB 485, § 3; Laws 1992, LB 898, § 1; Laws 1993, LB 579, § 2; Laws 1994, LB 1243, § 18; Laws 1997, LB 314, § 2; Laws 2001, LB 75, § 1; Laws 2003, LB 510, § 1; Laws 2006, LB 956, § 1; Laws 2012, LB711, § 1; Laws 2022, LB686, § 1.

50-401.05 Repealed. Laws 2024, LB908, § 1.

50-402 Legislative Council; office; duties.

The Legislative Council shall occupy and maintain offices in the State Capitol.

It shall be the duty of the council:

(1) To collect information concerning the government and general welfare of the state;

(2) To examine the effects of previously enacted statutes and recommend amendments thereto;

(3) To deal with important issues of public policy and questions of statewide interest;

(4) To prepare a legislative program in the form of bills or otherwise as in its opinion the welfare of the state may require, to be presented at the next session of the Legislature;

(5) To study federal aid to the state and its political subdivisions and advise the Legislature of money, land, or buildings available from the federal government, matching funds necessary, grants and aids, and what new legislation will be needed;

(6) To establish and maintain a complete and efficient bill drafting service for the purpose of aiding and assisting members of the Legislature and the executive departments of the state in the preparation of bills, resolutions, and measures and in drafting the same in proper form, and for this purpose there shall be assigned to the council for such work, rooms in the State Capitol conveniently situated in reference to the legislative chamber;

(7) To provide, through the Revisor of Statutes, for the publication of supplements and replacement volumes of the statutes of Nebraska;

(8) To provide, through the Executive Board of the Legislative Council, for the development and maintenance of a publicly accessible, indexed, digital Internet archive of closed-captioned video coverage of the Legislature as provided in section 50-117; and

(9) To set up subcommittees within the executive board to carry out functions such as investigation of any area which it may decide is in the public interest with power to employ such additional personnel as may be needed to carry out the intent and activities of the executive board or the Legislature.

Source: Laws 1937, c. 118, § 2, p. 422; Laws 1939, c. 60, § 2, p. 261; C.S.Supp.,1941, § 50-502; R.S.1943, § 50-402; Laws 1965, c. 311, § 1, p. 873; Laws 1965, c. 312, § 1, p. 874; Laws 1967, c. 328, § 11, p. 872; Laws 1972, LB 1129, § 2; Laws 1992, LB 898, § 2; Laws 2023, LB254, § 3.

50-425 Repealed. Laws 2023, LB705, § 134.

50-426 Repealed. Laws 2023, LB705, § 134.

50-427 Repealed. Laws 2023, LB705, § 134.

50-428 Repealed. Laws 2023, LB705, § 134.

50-433 Nebraska Sentencing Reform Task Force; created; duties; members; reports; termination.

(1) The Nebraska Sentencing Reform Task Force is created.

(2) The task force shall identify and recommend changes to Nebraska's criminal justice laws, policies, and practices to improve public safety and more effectively allocate Nebraska's criminal justice system resources.

(3) The task force shall consist of the following members:

(a) The Governor or the Governor's designee;

(b) The Attorney General or the Attorney General's designee;

(c) Three members of the Judiciary Committee of the Legislature appointed by the Executive Board of the Legislative Council;

(d) Two representatives of law enforcement appointed by the Governor;

(e) Two county attorneys appointed by the Governor; and

(f) Two criminal defense attorneys with at least ten years' experience appointed by the Governor.

(4) The task force shall submit its first report to the Legislature no later than November 15, 2023. The task force shall submit its second report to the Legislature no later than November 15, 2024. The reports shall be submitted electronically to the Clerk of the Legislature.

(5) Administrative and staff support for the task force shall be provided by any executive branch staff as directed by the Governor or by staff of the Judiciary Committee of the Legislature as directed by the chairperson of the Judiciary Committee.

(6) The task force terminates on December 31, 2024.

Source: Laws 2023, LB50, § 19.

50-434 Committee on Justice Reinvestment Oversight; created; members; duties; report; termination.

(1) The Legislature finds that while serious crime in the State of Nebraska has not increased in the past five years, the prison population continues to increase as does the amount spent on correctional issues. The Legislature further finds that a need exists to closely examine the criminal justice system of the State of Nebraska in order to increase public safety while concurrently reducing correctional spending and reinvesting in strategies that decrease crime and strengthen Nebraska communities.

(2) It is the intent of the Legislature that the State of Nebraska work cooperatively with the Council of State Governments Justice Center to study and identify innovative solutions and evidence-based practices to develop a data-driven approach to reduce correctional spending and reinvest savings in strategies that can decrease recidivism and increase public safety and for the executive, legislative, and judicial branches of Nebraska state government to work with the Council of State Governments Justice Center in this process.

(3) The Committee on Justice Reinvestment Oversight is created as a special legislative committee to maintain continuous oversight of the Nebraska Justice Reinvestment Initiative and related issues.

(4) The special legislative committee shall be comprised of five members of the Legislature selected by the Executive Board of the Legislative Council, including the chairperson of the Judiciary Committee of the Legislature who shall serve as chairperson of the special legislative committee.

(5) The Committee on Justice Reinvestment Oversight shall monitor and guide analysis and policy development in all aspects of the criminal justice system in Nebraska within the scope of the justice reinvestment initiative, including tracking implementation of evidence-based strategies as established in Laws 2015, LB605, and reviewing policies to improve public safety, reduce recidivism, and reduce spending on corrections in Nebraska. With assistance from the Council of State Governments Justice Center, the committee shall monitor performance and measure outcomes by collecting data from counties and relevant state agencies for analysis and reporting.

(6) The committee shall prepare and submit an annual report of its activities and findings and may make recommendations to improve any aspect of the criminal justice system. The committee shall deliver the report to the Governor, the Clerk of the Legislature, and the Chief Justice by September 1 of each year. The report to the clerk shall be delivered electronically.

(7) The committee terminates on September 30, 2023.

Source: Laws 2014, LB907, § 11; R.S.Supp.,2014, § 28-1501; Laws 2015, LB605, § 76; Laws 2023, LB50, § 32.

ARTICLE 7

MENTAL HEALTH OVERSIGHT

Section
50-702. Legislative Mental Health Care Capacity Strategic Planning Committee; established; members; independent consultant; recommendations; termination.

50-702 Legislative Mental Health Care Capacity Strategic Planning Committee; established; members; independent consultant; recommendations; termination.

(1) The Legislative Mental Health Care Capacity Strategic Planning Committee is established. The committee shall consist of the following members: (a) The chairperson of the Judiciary Committee of the Legislature or his or her designee, (b) the chairperson of the Health and Human Services Committee of the Legislature or his or her designee, (c) the chairperson of the Appropriations Committee of the Legislature or his or her designee, and (d) four senators selected by the chairperson of the Executive Board of the Legislative Council. The committee shall select a chairperson and vice-chairperson from among its members.

(2)(a) No later than November 1, 2023, the Legislative Mental Health Care Capacity Strategic Planning Committee shall contract with an independent consultant with expertise in inpatient mental health care delivery. The contract shall be awarded based on competitive bids and be subject to the approval of the Executive Board of the Legislative Council upon a recommendation of a majority of the committee. The consultant shall assist the committee in determining the necessary capacity for inpatient mental health care beds for both state-operated and privately owned facilities based on best practices in mental health care. The consultant shall provide recommendations to achieve the necessary capacity if the current state inpatient mental health bed capacity is insufficient.

(b) On or before November 1, 2024, the consultant shall provide a written report of its findings and recommendations to the Legislative Mental Health Care Capacity Strategic Planning Committee.

(3) This section terminates on November 1, 2025.

Source: Laws 2022, LB921, § 4; Laws 2023, LB254, § 4.

ARTICLE 8
WATER RESOURCES

Section
50-802. Statewide Tourism And Recreational Water Access and Resource Sustainability Special Committee of the Legislature; established; members; duties; termination.

50-802 Statewide Tourism And Recreational Water Access and Resource Sustainability Special Committee of the Legislature; established; members; duties; termination.

(1) The Statewide Tourism And Recreational Water Access and Resource Sustainability (STAR WARS) Special Committee of the Legislature is hereby established as a special legislative committee to exercise the powers and perform the duties provided in this section. The special legislative committee shall consist of no fewer than seven members of the Legislature as determined by the Executive Board of the Legislative Council. The special legislative committee shall consist of the Speaker of the Legislature, who shall serve as chairperson of the special legislative committee, the chairperson of the Natural Resources Committee of the Legislature, one member of the Appropriations Committee of the Legislature, and at least four other members of the Legislature appointed by the executive board. The appointed members of the special legislative committee shall be members who represent legislative districts comprising portions of the areas under study or who otherwise have knowledge of such areas. All appointments shall be made within the first six days of the legislative session in odd-numbered years. Members shall serve two-year terms corresponding with legislative sessions and may be reappointed for consecutive terms.

(2) The Executive Board of the Legislative Council shall provide staff as required by the special legislative committee from existing legislative staff. In addition, the special legislative committee may hire additional staff, make expenditures for travel, and enter into contracts for consulting, engineering, and development studies. The contracts shall be based on competitive bids and subject to approval by the executive board upon the recommendation of a majority of the members of the special legislative committee. It is the intent of the Legislature to appropriate two million dollars for fiscal year 2021-22 to carry out the purposes of this section.

(3)(a) Studies shall be conducted on:

(i) The need to protect public and private property, including use of levee systems, enhance economic development, and promote private investment and the creation of jobs along the Platte River and its tributaries from Columbus, Nebraska, to Plattsmouth, Nebraska;

(ii) The need to provide for public safety, public infrastructure, land-use planning, recreation, and economic development in the Lake McConaughy region of Keith County, Nebraska; and

(iii) The socioeconomic conditions, recreational and tourism opportunities, and public investment necessary to enhance economic development and to catalyze private investment in the region in Knox County, Nebraska, that lies

north of State Highway 12 and extends to the South Dakota border and includes Lewis and Clark Lake and Niobrara State Park.

(b) The study of the Lower Platte River pursuant to subdivision (3)(a)(i) of this section shall not include a study of any dam on a Platte River channel, but may include infrastructure options that maintain the integrity of the main channel of the Platte River. The committee may study dams relating to tributaries of the Platte River and levees in such area.

(c) The studies regarding Lake McConaughy in Keith County and Lewis and Clark Lake and Niobrara State Park in Knox County shall evaluate the outcomes and the economic benefits of proposed development and improvements to residents, the local region, and state tourism.

(4) The special legislative committee may hold hearings and request and receive reports from federal, state, county, city, and village agencies and natural resources districts regarding matters pertaining to such studies. The special legislative committee may hold one or more closed sessions for the receipt of confidential information if at least one-half of the members of the special legislative committee vote in open session to hold a closed session. The special legislative committee may appoint one or more subcommittees for the purpose of receiving public input as it relates to the purposes described in section 50-801 and this section.

(5) The special legislative committee shall endeavor to complete each study on or before December 31, 2021, but such studies shall be completed no later than December 31, 2022.

(6) The special legislative committee shall provide oversight over any projects carried out as a result of any studies completed by the committee to ensure continuity and to ensure that the projects fulfill the goals of the studies as they are implemented. The committee may seek input from local stakeholders regarding such projects. The committee shall also recommend legislative changes that may become necessary at the various stages of the implementation of such projects.

(7) The special legislative committee shall terminate on December 31, 2026.

Source: Laws 2021, LB406, § 2; Laws 2022, LB1023, § 8.

ARTICLE 12

LEGISLATIVE PERFORMANCE AUDIT ACT

Section
50-1209. Tax incentive performance audits; schedule; contents.

50-1209 Tax incentive performance audits; schedule; contents.

(1) Tax incentive performance audits shall be conducted by the office pursuant to this section on the following tax incentive programs:

(a) The Beginning Farmer Tax Credit Act;

(b) The ImagiNE Nebraska Act;

(c) The Nebraska Advantage Microenterprise Tax Credit Act;

(d) The Nebraska Advantage Research and Development Act;

(e) The Nebraska Advantage Rural Development Act;

(f) The Nebraska Job Creation and Mainstreet Revitalization Act;

(g) The New Markets Job Growth Investment Act;

(h) The Urban Redevelopment Act; and

(i) Any other tax incentive program created by the Legislature for the purpose of recruitment or retention of businesses in Nebraska. In determining whether a future tax incentive program is enacted for the purpose of recruitment or retention of businesses, the office shall consider legislative intent, including legislative statements of purpose and goals, and may also consider whether the tax incentive program is promoted as a business incentive by the Department of Economic Development or other relevant state agency.

(2) The office shall develop a schedule for conducting tax incentive performance audits and shall update the schedule annually. The schedule shall ensure that each tax incentive program is reviewed at least once every five years.

(3) Each tax incentive performance audit conducted by the office pursuant to this section shall include the following:

(a) An analysis of whether the tax incentive program is meeting the following goals:

(i) Strengthening the state's economy overall by:

(A) Attracting new business to the state;

(B) Expanding existing businesses;

(C) Increasing employment, particularly employment of full-time workers. The analysis shall consider whether the job growth in those businesses receiving tax incentives is at least ten percent above industry averages;

(D) Creating high-quality jobs; and

(E) Increasing business investment;

(ii) Revitalizing rural areas and other distressed areas of the state;

(iii) Diversifying the state's economy and positioning Nebraska for the future by stimulating entrepreneurial firms, high-tech firms, and renewable energy firms; and

(iv) Any other program-specific goals found in the statutes for the tax incentive program being evaluated;

(b) An analysis of the economic and fiscal impacts of the tax incentive program. The analysis may take into account the following considerations in addition to other relevant factors:

(i) The costs per full-time worker. When practical and applicable, such costs shall be considered in at least the following two ways:

(A) By an estimation including the minimum investment required to qualify for benefits; and

(B) By an estimation including all investment;

(ii) The extent to which the tax incentive changes business behavior;

(iii) The results of the tax incentive for the economy of Nebraska as a whole. This consideration includes both direct and indirect impacts generally and any effects on other Nebraska businesses; and

(iv) A comparison to the results of other economic development strategies with similar goals, other policies, or other incentives;

(c) An assessment of whether adequate protections are in place to ensure the fiscal impact of the tax incentive does not increase substantially beyond the state's expectations in future years;

(d) An assessment of the fiscal impact of the tax incentive on the budgets of local governments, if applicable; and

(e) Recommendations for any changes to statutes or rules and regulations that would allow the tax incentive program to be more easily evaluated in the future, including changes to data collection, reporting, sharing of information, and clarification of goals.

(4) For purposes of this section:

(a) Distressed area means an area of substantial unemployment as determined by the Department of Labor pursuant to the Nebraska Workforce Innovation and Opportunity Act;

(b) Full-time worker means an individual (i) who usually works thirty-five hours per week or more, (ii) whose employment is reported to the Department of Labor on two consecutive quarterly wage reports, and (iii) who earns wages equal to or exceeding the state minimum wage;

(c) High-quality job means a job that:

(i) Averages at least thirty-five hours of employment per week;

(ii) Is reported to the Department of Labor on two consecutive quarterly wage reports; and

(iii) Earns wages that are at least ten percent higher than the statewide industry sector average and that equal or exceed:

(A) One hundred ten percent of the Nebraska average weekly wage if the job is in a county with a population of less than one hundred thousand inhabitants; or

(B) One hundred twenty percent of the Nebraska average weekly wage if the job is in a county with a population of one hundred thousand inhabitants or more;

(d) High-tech firm means a person or unitary group that has a location with any of the following four-digit code designations under the North American Industry Classification System as assigned by the Department of Labor: 3341, 3342, 3344, 3345, 3364, 5112, 5182, 5191, 5413, 5415, or 5417;

(e) Nebraska average weekly wage means the most recent average weekly wage paid by all employers in all counties in Nebraska as reported by the Department of Labor by October 1 of each year;

(f) New business means a person or unitary group participating in a tax incentive program that did not pay income taxes or wages in the state more than two years prior to submitting an application under the tax incentive program. For any tax incentive program without an application process, new business means a person or unitary group participating in the program that did not pay income taxes or wages in the state more than two years prior to the first day of the first tax year for which a tax benefit was earned;

(g) Renewable energy firm means a person or unitary group that has a location with any of the following six-digit code designations under the North American Industry Classification System as assigned by the Department of Labor: 111110, 111150, 111199, 111930, 111991, 113310, 221111, 221113, 221114, 221115, 221116, 221117, 221118, 221121, 221122, 221330, 237130,

237990, 325193, 331511, 331512, 331513, 331523, 331524, 331529, 332111, 332112, 333511, 333611, 333612, 333613, 334519, 423830, 482111, 484230, 488510, 541360, 541370, 541620, 541690, 541714, or 541715;

(h) Rural area means any village or city of the second class in this state or any county in this state with fewer than twenty-five thousand residents; and

(i) Unitary group has the same meaning as in section 77-2734.04.

Source: Laws 1992, LB 988, § 9; Laws 2003, LB 607, § 12; Laws 2013, LB39, § 7; Laws 2015, LB538, § 5; Laws 2018, LB936, § 1; Laws 2019, LB334, § 5; Laws 2020, LB1107, § 119; Laws 2021, LB84, § 1; Laws 2021, LB544, § 30; Laws 2023, LB254, § 5.

Cross References

Beginning Farmer Tax Credit Act, see section 77-5201.
ImagiNE Nebraska Act, see section 77-6801.
Nebraska Advantage Microenterprise Tax Credit Act, see section 77-5901.
Nebraska Advantage Research and Development Act, see section 77-5801.
Nebraska Advantage Rural Development Act, see section 77-27,187.
Nebraska Job Creation and Mainstreet Revitalization Act, see section 77-2901.
Nebraska Workforce Innovation and Opportunity Act, see section 48-3301.
New Markets Job Growth Investment Act, see section 77-1101.
Urban Redevelopment Act, see section 77-6901.

CHAPTER 51
LIBRARIES AND MUSEUMS

Article.
7. Museum Property Act. 51-703 to 51-709.

ARTICLE 7
MUSEUM PROPERTY ACT

Section
51-703. Notice; contents.
51-705. Acquisition of title to undocumented property; when.
51-708. Limitation of actions; liability.
51-709. Obligations to lender or claimant.

51-703 Notice; contents.

(1) In addition to any other information prescribed for a particular notice, each notice given to the lender or claimant pursuant to the Museum Property Act shall contain the following information:

(a) The lender's or claimant's name as appropriate;

(b) The lender's last-known address or the claimant's last-known address as appropriate;

(c) A brief description of the property on loan;

(d) The date of the loan, if known;

(e) The name of the museum; and

(f) The name, address, and telephone number of the appropriate person or office to be contacted regarding the property.

(2) Each notice given by a museum pursuant to the act shall be mailed to the lender's and any claimant's last-known address by restricted certified mail. Notice is deemed given if the museum receives proof of receipt within thirty days after mailing the notice.

(3) Notice may be given by publication if the museum does not:

(a) Know the identity of the lender;

(b) Have the address or telephone number for the lender or the address or telephone number for the claimant; or

(c) Receive proof of receipt of the notice by the person to whom the notice was sent within thirty days after the notice was mailed.

(4) Notice by publication must be given by posting online on the museum's website for a minimum of three consecutive weeks and by publication of a statement for one week in a newspaper of general circulation in both the county where the museum is located and the county of the lender's or claimant's address, if any. The statement published in the newspaper must contain (a) the museum's name and contact information, (b) notification that the museum is acting to assert title, and (c) notification that interested parties should contact

the museum for a complete listing of property to which the museum is asserting title.

Source: Laws 1996, LB 1276, § 3; Laws 2024, LB926, § 1.
Effective date July 19, 2024.

51-705 Acquisition of title to undocumented property; when.

Subject to any existing security interest in the property, a museum may acquire title to undocumented property held by the museum for at least seven years as follows:

(1) The museum must give notice as provided in subsection (3) of section 51-703 that the museum is asserting title to the undocumented property; and

(2) If a claimant or lender does not respond to such notice within one year by giving a written notice of intent to retain an interest in the property on loan, the museum's title to the property becomes absolute.

Source: Laws 1996, LB 1276, § 5; Laws 2024, LB926, § 2.
Effective date July 19, 2024.

51-708 Limitation of actions; liability.

(1) An action shall not be brought against a museum for damages because of injury to or loss of property loaned to the museum more than one year from the date the museum gives the lender or claimant notice of the injury or loss or ten years from the date of the injury or loss, whichever occurs earlier.

(2) An action shall not be brought against a museum to recover property on loan more than one year after the date the museum gives the lender or claimant notice of its intent to terminate the loan or notice of acquisition of title to undocumented property.

(3) An action shall not be brought against a museum to recover property on loan more than one year from the date of the last written contact between the lender or claimant and the museum as evidenced by the museum's records.

(4) A lender or claimant is considered to have donated loaned property to the museum if the lender fails to file an action to recover the property on loan to the museum within the time periods specified in subsections (1) through (3) of this section.

(5) Notwithstanding subsections (3) and (4) of this section, a lender or claimant who was not given notice as provided in the Museum Property Act that the museum intended to terminate a loan as provided in section 51-704 and who proves that the museum received an adequate notice of intent to preserve an interest in loaned property, which satisfies all of the requirements of section 51-706, within the seven years immediately preceding the filing of an action to recover the property, may recover the property or, if the property has been disposed of, the reasonable value of the property at the time it was disposed of plus interest at the legal rate.

(6) A museum is not liable at any time, in the absence of a court order, for returning property to the original lender even if a claimant other than the lender has filed a notice of intent to preserve an interest in property. If a person claims competing interests in property in the possession of a museum, the burden is upon the claimant to prove the interest in an action in equity initiated by a claimant. A museum is not liable at any time for returning property to an

uncontested claimant who produced reasonable proof of ownership or the existence of a security interest pursuant to section 51-706.

Source: Laws 1996, LB 1276, § 8; Laws 2024, LB926, § 3.
Effective date July 19, 2024.

51-709 Obligations to lender or claimant.

In order to take title pursuant to the Museum Property Act, a museum has the following obligations to a lender or claimant:

(1) The museum shall retain all written records regarding the property for at least twenty-five years after the date of taking title pursuant to the act;

(2) The museum shall keep written records on all loaned property acquired pursuant to section 51-704. Records shall contain the following information:

(a) The lender's name, address, and telephone number;

(b) The claimant's name, address, and telephone number;

(c) The nature and terms of the loan; and

(d) The beginning date of the loan period, if known; and

(3) The museum is responsible for notifying a lender or claimant of the museum's change of address or dissolution.

Source: Laws 1996, LB 1276, § 9; Laws 2024, LB926, § 4.
Effective date July 19, 2024.

CHAPTER 52
LIENS

Article.
4. Lien of Physician, Nurse, or Hospital. 52-401.

ARTICLE 4
LIEN OF PHYSICIAN, NURSE, OR HOSPITAL

Section
52-401. Lien; scope and operation; exception; reduction, when; claim of lien; notice; priority of claims; access to records.

52-401 Lien; scope and operation; exception; reduction, when; claim of lien; notice; priority of claims; access to records.

(1) Whenever any person employs a physician, nurse, chiropractor, hospital, or provider of emergency medical service to perform professional services of any nature, in the treatment of or in connection with an injury, and such injured person claims damages from the party causing the injury, such physician, nurse, chiropractor, hospital, or provider of emergency medical service, shall have a lien upon any sum awarded the injured person in judgment or obtained by settlement or compromise on the amount due for the usual and customary charges of such physician, nurse, chiropractor, hospital, or provider of emergency medical service applicable at the time services are performed, except that no such lien shall be valid against anyone covered under the Nebraska Workers' Compensation Act. For persons covered under private medical insurance or another private health benefit plan, the amount of the lien shall be reduced by the contracted discount or other limitation which would have been applied had the claim been submitted for reimbursement to the medical insurer or administrator of such other health benefit plan. The measure of damages for medical expenses in personal injury claims shall be the private party rate, not the discounted amount.

(2) In order to prosecute such lien, it shall be necessary for such physician, nurse, chiropractor, hospital, or provider of emergency medical service to serve a written notice upon the person or corporation from whom damages are claimed that such physician, nurse, chiropractor, hospital, or provider of emergency medical service claims a lien for such services and stating the amount due and the nature of such services, except that whenever an action is pending in court for the recovery of such damages, it shall be sufficient to file the notice of such lien in the pending action.

(3) A physician, nurse, chiropractor, hospital, or provider of emergency medical service claiming a lien under this section shall not be liable for attorney's fees and costs incurred by the injured person in securing the judgment, settlement, or compromise, but the lien of the injured person's attorney shall have precedence over the lien created by this section.

(4) Upon a written request and with the injured person's consent, a lienholder shall provide medical records, answers to interrogatories, depositions, or any

expert medical testimony related to the recovery of damages within its custody and control at a reasonable charge to the injured person.

(5) For purposes of this section, provider of emergency medical service means a public entity that provides emergency medical service as defined in section 38-1207.

Source: Laws 1927, c. 162, § 1, p. 425; C.S.1929, § 52-401; R.S.1943, § 52-401; Laws 1986, LB 811, § 138; Laws 1995, LB 172, § 1; Laws 2008, LB586, § 1; Laws 2023, LB157, § 14.

Cross References

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

CHAPTER 53
LIQUORS

Article.
1. Nebraska Liquor Control Act.
   (a) General Provisions. 53-101 to 53-103.52.
   (c) Nebraska Liquor Control Commission; General Powers. 53-117.06.
   (d) Licenses; Issuance and Revocation. 53-121 to 53-148.01.
   (g) Operational Requirements for Manufacturers, Wholesalers, and Shippers 53-165.01 to 53-165.03.
   (h) Keg Sales. 53-167.02.
   (i) Prohibited Acts. 53-168 to 53-180.06.

ARTICLE 1
NEBRASKA LIQUOR CONTROL ACT

(a) GENERAL PROVISIONS

Section
53-101. Act, how cited.
53-103. Definitions, where found.
53-103.50. Channel pricing, defined.
53-103.51. Primary source of supply in the United States, defined.
53-103.52. Rickhouse, defined.

(c) NEBRASKA LIQUOR CONTROL COMMISSION; GENERAL POWERS

53-117.06. Nebraska Liquor Control Commission Rule and Regulation Cash Fund; created; use; investment.

(d) LICENSES; ISSUANCE AND REVOCATION

53-121. License; delivery; method.
53-123.01. Manufacturer's license; rights of licensee; craft brewery license holder; when required to obtain manufacturer's license; rights of holder.
53-123.11. Farm winery license; rights of licensee; removal of unsealed bottle of wine; conditions; sales for consumption off the premises; conditions; notice to commission, required.
53-123.12. Farm winery license; application requirements; renewal; fees; licensed premises; temporary expansion; procedure.
53-123.14. Craft brewery license; rights of licensee; self-distribution; conditions.
53-123.16. Microdistillery license; rights of licensee.
53-124.11. Special designated license; issuance; procedure; fee.
53-124.12. Annual catering license; issuance; procedure; fee; occupation tax.
53-129. Retail, bottle club, craft brewery, and microdistillery licenses; premises to which applicable; temporary expansion; procedure.
53-131.01. License; application; form; contents; criminal history record check; false statement; penalty.
53-132. Retail, bottle club, craft brewery, or microdistillery license; commission; duties.
53-135. Retail or bottle club licenses; automatic renewal; conditions.
53-148.01. Retail or bottle club licensee; warning sign; commission; duties.

(g) OPERATIONAL REQUIREMENTS FOR MANUFACTURERS, WHOLESALERS, AND SHIPPERS

53-165.01. Primary source of supply in the United States; report by licensed manufacturer, licensed wholesaler, or holder of a shipping license; fee.
53-165.02. Channel pricing and discounts; use by wholesaler; conditions.
53-165.03. Sponsorship or advertising agreement; authorized, when.

Section

(h) KEG SALES

53-167.02. Keg sales; requirements; keg identification number; violation; penalty.

(i) PROHIBITED ACTS

53-168. Receiving money, credit, discounts, rebates, or other inducement; unlawful acts; penalty; private or generic label permitted; exception for sponsorship or advertising agreement.
53-169. Manufacturer or wholesaler; craft brewery, manufacturer, or microdistillery licensee; limitations; exception for sponsorship or advertising agreement.
53-171. Licenses; issuance of more than one kind to same person; when unlawful; craft brewery, manufacturer, or microdistillery licensee; limitations.
53-174. Co-branded alcoholic beverage; display; acts prohibited; exceptions; inspection.
53-180.04. Minors; warning notice; posting.
53-180.05. Prohibited acts relating to minors and incompetents; violations; penalties; possible alcohol overdose; actions authorized; false identification; penalty; law enforcement agency; duties.
53-180.06. Documentary proof of age; separate book; record; contents.

(a) GENERAL PROVISIONS

53-101 Act, how cited.

Sections 53-101 to 53-1,122 shall be known and may be cited as the Nebraska Liquor Control Act.

Source: Laws 1935, c. 116, § 1, p. 373; C.S.Supp.,1941, § 53-301; R.S. 1943, § 53-101; Laws 1988, LB 490, § 3; Laws 1988, LB 901, § 1; Laws 1988, LB 1089, § 1; Laws 1989, LB 70, § 1; Laws 1989, LB 441, § 1; Laws 1989, LB 781, § 1; Laws 1991, LB 344, § 2; Laws 1991, LB 582, § 1; Laws 1993, LB 183, § 1; Laws 1993, LB 332, § 1; Laws 1994, LB 1292, § 1; Laws 2000, LB 973, § 1; Laws 2001, LB 114, § 1; Laws 2004, LB 485, § 2; Laws 2006, LB 845, § 1; Laws 2007, LB549, § 1; Laws 2007, LB578, § 1; Laws 2009, LB232, § 1; Laws 2009, LB355, § 1; Laws 2010, LB258, § 1; Laws 2010, LB861, § 7; Laws 2011, LB407, § 1; Laws 2012, LB824, § 1; Laws 2012, LB1130, § 1; Laws 2015, LB118, § 2; Laws 2015, LB330, § 2; Laws 2018, LB1120, § 1; Laws 2020, LB734, § 1; Laws 2021, LB274, § 1; Laws 2022, LB1204, § 1; Laws 2023, LB376, § 1; Laws 2024, LB685, § 2; Laws 2024, LB1204, § 19.
Effective date July 19, 2024.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB685, section 2, with LB1204, section 19, to reflect all amendments.

53-103 Definitions, where found.

For purposes of the Nebraska Liquor Control Act, the definitions found in sections 53-103.01 to 53-103.52 apply.

Source: Laws 1935, c. 116, § 2, p. 374; C.S.Supp.,1941, § 53-302; R.S. 1943, § 53-103; Laws 1961, c. 258, § 1, p. 757; Laws 1963, c. 310, § 1, p. 919; Laws 1963, Spec. Sess., c. 4, § 1, p. 66; Laws 1963, Spec. Sess., c. 5, § 1, p. 71; Laws 1965, c. 318, § 2, p. 886; Laws 1965, c. 319, § 1, p. 904; Laws 1969, c. 298, § 1, p. 1072; Laws 1971, LB 234, § 2; Laws 1971, LB 752, § 1; Laws 1972, LB 1086, § 2; Laws 1973, LB 111, § 1; Laws 1980, LB 221, § 2;

Laws 1980, LB 848, § 1; Laws 1981, LB 483, § 1; Laws 1983, LB 213, § 2; Laws 1984, LB 56, § 1; Laws 1985, LB 183, § 1; Laws 1985, LB 279, § 2; Laws 1986, LB 871, § 1; Laws 1986, LB 911, § 2; Laws 1987, LB 468, § 1; Laws 1988, LB 490, § 4; Laws 1988, LB 901, § 2; Laws 1988, LB 1089, § 2; Laws 1989, LB 154, § 1; Laws 1989, LB 441, § 2; Laws 1991, LB 344, § 5; Laws 1993, LB 121, § 317; Laws 1994, LB 859, § 2; Laws 1994, LB 1313, § 2; Laws 1996, LB 750, § 1; Laws 1996, LB 1090, § 1; Laws 1999, LB 267, § 2; Laws 2001, LB 114, § 2; Laws 2001, LB 278, § 1; Laws 2003, LB 536, § 2; Laws 2004, LB 485, § 3; Laws 2006, LB 562, § 1; Laws 2007, LB549, § 2; Laws 2008, LB1103, § 1; Laws 2009, LB137, § 1; Laws 2009, LB355, § 2; Laws 2010, LB788, § 1; Laws 2010, LB861, § 8; Laws 2012, LB824, § 2; Laws 2015, LB330, § 3; Laws 2018, LB1120, § 2; Laws 2021, LB274, § 2; Laws 2023, LB376, § 2; Laws 2024, LB1204, § 20. Effective date July 19, 2024.

53-103.50 Channel pricing, defined.

Channel pricing means a pricing strategy that differentiates the price charged for a product based upon the type of license held by the retailer and the primary use of the premises on which the retailer operates.

Source: Laws 2023, LB376, § 3.

53-103.51 Primary source of supply in the United States, defined.

(1) Primary source of supply in the United States means:

(a) The manufacturer, producer, or owner of any alcoholic liquor at the time it becomes a marketable product in the United States;

(b) The bottler of any alcoholic liquor in the United States;

(c) The exclusive agent within the United States or any of the states of any manufacturer, producer, owner, or bottler of any alcoholic liquor outside the United States; or

(d) A licensed Nebraska craft brewery, farm winery, microdistillery, or manufacturer.

(2) To be the primary source of supply in the United States, the licensee causing such alcoholic liquor to be imported into Nebraska must be the first source, such as the manufacturer or the source closest to the manufacturer, in the channel of commerce from which the product can be secured by Nebraska licensed wholesalers.

Source: Laws 2023, LB376, § 4.

53-103.52 Rickhouse, defined.

Rickhouse means an offsite bonded warehouse which is kept and maintained for the purpose of storing spirits in barrels for aging in order to impart flavor from the barrel into the spirits.

Source: Laws 2024, LB1204, § 21. Effective date July 19, 2024.

(c) NEBRASKA LIQUOR CONTROL COMMISSION; GENERAL POWERS

53-117.06 Nebraska Liquor Control Commission Rule and Regulation Cash Fund; created; use; investment.

Any money collected by the commission pursuant to section 53-117.05, 53-165.01, or 53-167.02 shall be credited to the Nebraska Liquor Control Commission Rule and Regulation Cash Fund, which fund is hereby created. The purpose of the fund shall be to cover any administrative costs, including salary and benefits, incurred by the commission in producing or distributing the material referred to in such sections and to defray the costs associated with electronic regulatory transactions, industry education events, enforcement training, and equipment for regulatory work. Transfers may be made from the fund to the General Fund at the direction of the Legislature. Any money in the Nebraska Liquor Control Commission Rule and Regulation Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1989, LB 70, § 4; Laws 1989, LB 781, § 18; Laws 1993, LB 183, § 7; Laws 1993, LB 332, § 6; Laws 1994, LB 1066, § 42; Laws 2008, LB993, § 1; Laws 2009, First Spec. Sess., LB3, § 28; Laws 2013, LB199, § 23; Laws 2023, LB376, § 8.

Cross References

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

(d) LICENSES; ISSUANCE AND REVOCATION

53-121 License; delivery; method.

When delivering any type of license under the Nebraska Liquor Control Act to a licensee, the commission may use mail or electronic delivery.

Source: Laws 2022, LB1204, § 2.

53-123.01 Manufacturer's license; rights of licensee; craft brewery license holder; when required to obtain manufacturer's license; rights of holder.

(1) A manufacturer's license shall allow the manufacture, storage, and sale of alcoholic liquor to wholesale licensees in this state and to such persons outside the state as may be permitted by law, except that nothing in the Nebraska Liquor Control Act shall prohibit a manufacturer of beer from distributing tax-paid samples of beer at the premises of a licensed manufacturer for consumption on the premises. A manufacturer's license issued pursuant to this section shall be the only license required by the Nebraska Liquor Control Act for the manufacture and retail sale of beer manufactured on the licensed premises for consumption on the licensed premises.

(2)(a) A licensee who or which first obtains a craft brewery license pursuant to section 53-123.14, holds such license for not less than three years, and operates a brewpub or microbrewery on the licensed premises of such craft brewery license shall obtain a manufacturer's license when the manufacture of beer on the licensed premises exceeds twenty thousand barrels per year. The manufacturer's license shall authorize the continued retail sale of beer for consumption on or off the premises but only to the extent the premises were

previously licensed as a craft brewery. The sale of any beer other than beer manufactured by the licensee, wine, or alcoholic liquor for consumption on the licensed premises shall require the appropriate retail license. The holder of such manufacturer's license may continue to operate up to five retail locations which are in operation at the time such manufacturer's license is issued and shall divest itself from retail locations in excess of five locations. The licensee shall not begin operation at any new retail location even if the licensee's production is reduced below twenty thousand barrels per year.

(b) The holder of such manufacturer's license may obtain an annual catering license pursuant to section 53-124.12, a special designated license pursuant to section 53-124.11, or an entertainment district license pursuant to section 53-123.17.

(3) A holder of a manufacturer's license to manufacture spirits may operate a rickhouse that meets the requirements for a distilled spirit plant pursuant to 26 U.S.C. 5178, as such section existed on January 1, 2024, if such manufacturer receives authorization from the commission and notifies the commission of the location of such rickhouse in a manner prescribed by the commission.

Source: Laws 1935, c. 116, § 25, p. 390; C.S.Supp.,1941, § 53-325; R.S.1943, § 53-123; Laws 1947, c. 187, § 1(1), p. 617; Laws 1947, c. 188, § 1(1), p. 621; Laws 1982, LB 431, § 1; Laws 1991, LB 344, § 17; Laws 1996, LB 750, § 4; Laws 2016, LB1105, § 11; Laws 2024, LB1204, § 22.
Effective date July 19, 2024.

53-123.11 Farm winery license; rights of licensee; removal of unsealed bottle of wine; conditions; sales for consumption off the premises; conditions; notice to commission, required.

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

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

(b) Sell wines produced at the farm winery at retail for consumption on the premises as designated pursuant to section 53-123.12;

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

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

except that this requirement shall not apply to wines produced and sold onsite at the farm winery pursuant to subdivision (1)(a) of this section;

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

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

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

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

(i) Sell alcoholic liquor authorized under a farm winery license not in its original package, such as sangria or wine slushies, to a person twenty-one years of age or older for consumption off the premises if (i) the alcoholic liquor is (A) not partially consumed and (B) in a labeled and sealed container with a tamper-evident lid, cap, or seal, as approved by the commission, and (ii) for alcoholic liquor transported in a motor vehicle, the alcoholic liquor is placed in the trunk of the motor vehicle or the area behind the last upright seat of such motor vehicle if the area is not normally occupied by the driver or a passenger and the motor vehicle is not equipped with a trunk. A farm winery which sells alcoholic liquor authorized under a farm winery license not in its original package for consumption off the premises shall provide notice to the commission during a farm winery licensee's initial licensure or at the time of the annual renewal of such license regarding such sales.

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

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

(4) A holder of a farm winery license may sell beer or other alcoholic liquor not produced by the farm winery at retail for consumption on the premises if the holder is also issued the appropriate retail license for such sales at such location.

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

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

(7) A holder of a farm winery license may obtain a promotional farmers market special designated license pursuant to section 53-124.16.

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

Laws 2008, LB1103, § 2; Laws 2010, LB861, § 52; Laws 2015, LB330, § 12; Laws 2019, LB592, § 2; Laws 2020, LB1056, § 4; Laws 2021, LB274, § 10; Laws 2023, LB376, § 9.

53-123.12 Farm winery license; application requirements; renewal; fees; licensed premises; temporary expansion; procedure.

(1) Any person desiring to obtain a new license to operate a farm winery shall:

(a) File an application with the commission upon such forms as the commission from time to time prescribes;

(b) Pay the license fee to the commission under sections 53-124 and 53-124.01, which fee shall be returned to the applicant if the application is denied; and

(c) Pay the nonrefundable application fee to the commission in the sum of four hundred dollars.

(2) To renew a farm winery license, a farm winery licensee shall file an application with the commission, pay the license fee under sections 53-124 and 53-124.01, and pay the renewal fee of forty-five dollars.

(3) License fees, application fees, and renewal fees may be paid to the commission by certified or cashier's check of a bank within this state, personal or business check, United States post office money order, or cash in the full amount of such fees.

(4) For a new license, the commission shall then notify the municipal clerk of the city or incorporated village where such license is sought or, if the license is not sought within a city or incorporated village, the county clerk of the county where such license is sought of the receipt of the application and shall include with such notice one copy of the application. No such license shall then be issued by the commission until the expiration of at least forty-five days from the date of receipt by mail or electronic delivery of such application from the commission. Within thirty-five days from the date of receipt of such application from the commission, the local governing bodies of nearby cities or villages or the county may make and submit to the commission recommendations relative to the granting of or refusal to grant such license to the applicant.

(5)(a) A farm winery licensee may apply to the local governing body for a temporary expansion of the licensed premises to an immediately adjacent area owned or leased by the licensee or to an immediately adjacent street, parking lot, or alley, not to exceed fifty days for calendar year 2020 and, for each calendar year thereafter, not to exceed fifteen days per calendar year. The temporary area shall comply with the Nebraska Liquor Control Act for consumption on the premises and shall be subject to the following conditions: (i) The temporary area shall be enclosed during the temporary expansion by a temporary fence or other means approved by the county, city, or village; (ii) the temporary area shall have easily identifiable entrances and exits; and (iii) the licensee shall ensure that the area meets all sanitation requirements for a licensed premises. The local governing body shall electronically notify the commission within five days after the authorization of any temporary expansion pursuant to this subsection.

(b) The licensee shall file an application with the local governing body which shall contain (i) the name of the applicant, (ii) the premises for which a

temporary expansion is requested, identified by street and number if practicable and, if not, by some other appropriate description which definitely locates the premises, (iii) the name of the owner or lessee of the premises for which the temporary expansion is requested, (iv) sufficient evidence that the licensee will carry on the activities and business authorized by the license for himself, herself, or itself and not as the agent of any other person, group, organization, or corporation, for profit or not for profit, (v) a statement of the type of activity to be carried on during the time period for which a temporary expansion is requested, and (vi) sufficient evidence that the temporary expansion will be supervised by persons or managers who are agents of and directly responsible to the licensee.

(c) No temporary expansion provided for by this subsection shall be granted without the approval of the local governing body. The local governing body may establish criteria for approving or denying a temporary expansion. The local governing body may designate an agent to determine whether a temporary expansion is to be approved or denied. Such agent shall follow criteria established by the local governing body in making the determination. The determination of the agent shall be considered the determination of the local governing body unless otherwise provided by the local governing body.

(d) For purposes of this section, the local governing body shall be that of the city or village within which the premises for which the temporary expansion is requested are located or, if such premises are not within the corporate limits of a city or village, then the local governing body shall be that of the county within which the premises for which the temporary expansion is requested are located.

(e) The decision of the local governing body shall be final. If the applicant does not qualify for a temporary expansion, the temporary expansion shall be denied by the local governing body.

(f) The city, village, or county clerk shall deliver confirmation of the temporary expansion to the licensee upon receipt of any fee or tax imposed by such city, village, or county.

Source: Laws 1985, LB 279, § 7; Laws 1988, LB 1089, § 10; Laws 1991, LB 202, § 2; Laws 2000, LB 973, § 3; Laws 2010, LB861, § 53; Laws 2011, LB407, § 3; Laws 2020, LB1056, § 5; Laws 2022, LB1204, § 3.

53-123.14 Craft brewery license; rights of licensee; self-distribution; conditions.

(1) Any person who operates a craft brewery shall obtain a license pursuant to the Nebraska Liquor Control Act. A license to operate a craft brewery shall permit the production of a maximum of twenty thousand barrels of beer per year in the aggregate from all physical locations comprising the licensed premises. A craft brewery may also sell to beer wholesalers for sale and distribution to licensed retailers. A craft brewery license issued pursuant to this section shall be the only license required by the Nebraska Liquor Control Act for the manufacture and retail sale of beer for consumption on or off the licensed premises, except that the sale of any beer other than beer manufactured by the craft brewery licensee, wine, or alcoholic liquor by the drink for consumption on the licensed premises shall require the appropriate retail license. Any license held by the operator of a craft brewery shall be subject to

the act. A holder of a craft brewery license may obtain an annual catering license pursuant to section 53-124.12, a special designated license pursuant to section 53-124.11, an entertainment district license pursuant to section 53-123.17, or a promotional farmers market special designated license pursuant to section 53-124.16. For purposes of this section, licensed premises may include up to five separate physical locations.

(2)(a) A holder of a craft brewery license may directly sell for resale up to two hundred fifty barrels per calendar year of beer produced at its licensed premises directly to retail licensees located in the State of Nebraska which hold the appropriate retail license if the holder of the craft brewery license:

(i) Only self-distributes its beer in a territory in which the craft brewery licensee has not entered into a distribution agreement with a licensed Nebraska wholesaler for the territory where such retail licensee is located;

(ii) Self-distributes its beer utilizing only persons exclusively and solely employed by the craft brewery licensee in vehicles exclusively and solely owned or leased by the craft brewery licensee; and

(iii) Complies with all relevant statutes, rules, and regulations that apply to Nebraska beer wholesalers regarding distribution of such beer.

(b) A holder of a craft brewery license self-distributing beer in accordance with subdivision (2)(a) of this section may only self-distribute beer brewed at its licensed brewery premises and shall not distribute beer produced by any other licensee.

(3) A holder of a craft brewery license may store and warehouse tax-paid products produced on such licensee's licensed premises in a designated, secure, offsite storage facility if the holder of the craft brewery license receives authorization from the commission and notifies the commission of the location of the storage facility and maintains, at the craft brewery and at the storage facility, a separate perpetual inventory of the product stored at the storage facility. Consumption of alcoholic liquor at the storage facility is strictly prohibited.

(4) The commission may adopt and promulgate rules and regulations pertaining to distribution rights of craft brewery licensees.

Source: Laws 1988, LB 1089, § 3; Laws 1991, LB 344, § 25; Laws 1994, LB 1292, § 3; Laws 1996, LB 750, § 5; Laws 2012, LB780, § 3; Laws 2012, LB1130, § 4; Laws 2016, LB1105, § 12; Laws 2021, LB274, § 11; Laws 2022, LB1236, § 1.

53-123.16 Microdistillery license; rights of licensee.

(1) Any person who operates a microdistillery shall obtain a license pursuant to the Nebraska Liquor Control Act. A license to operate a microdistillery shall permit the licensee to produce a maximum of one hundred thousand gallons of liquor per year in the aggregate from all physical locations comprising the licensed premises. For purposes of this section, licensed premises may include up to five separate physical locations. A microdistillery may also sell to licensed wholesalers for sale and distribution to licensed retailers. A microdistillery license issued pursuant to this section shall be the only license required by the Nebraska Liquor Control Act for the manufacture and retail sale of microdistilled product for consumption on or off the licensed premises, except that the sale of any beer, wine, or alcoholic liquor, other than microdistilled product

manufactured by the microdistillery licensee, by the drink for consumption on the microdistillery premises shall require the appropriate retail license. Any license held by the operator of a microdistillery shall be subject to the act. A holder of a microdistillery license may obtain an annual catering license pursuant to section 53-124.12, a special designated license pursuant to section 53-124.11, an entertainment district license pursuant to section 53-123.17, or a promotional farmers market special designated license pursuant to section 53-124.16. The commission may, upon the conditions it determines, grant to any microdistillery licensed under this section a special license authorizing the microdistillery to purchase and to import, from such persons as are entitled to sell the same, wines or spirits to be used solely as ingredients and for the sole purpose of blending with and flavoring microdistillery products as a part of the microdistillation process.

(2) A holder of a microdistillery license may directly sell for resale up to five hundred gallons per calendar year of microdistilled products produced at its licensed premises directly to retail licensees located in the State of Nebraska which hold the appropriate retail license if the holder of the microdistillery license:

(a) Self-distributes its microdistilled products utilizing only persons employed by the microdistillery licensee; and

(b) Complies with all relevant statutes, rules, and regulations that apply to Nebraska wholesalers regarding distribution of microdistilled products.

(3) A holder of a microdistillery license may store and warehouse tax-paid products produced on such licensee's licensed premises in a designated, secure, offsite storage facility if the holder of the microdistillery license receives authorization from the commission and notifies the commission of the location of the storage facility and maintains, at the microdistillery and at the storage facility, a separate perpetual inventory of the product stored at the storage facility. Consumption of alcoholic liquor at the storage facility is strictly prohibited.

(4) A holder of a microdistillery license may operate a rickhouse that meets the requirements for a distilled spirit plant pursuant to 26 U.S.C. 5178, as such section existed on January 1, 2024, if such licensee receives authorization from the commission and notifies the commission of the location of such rickhouse in a manner prescribed by the commission.

(5) The commission may adopt and promulgate rules and regulations relating to the distribution rights of microdistillery licensees.

Source: Laws 2007, LB549, § 6; Laws 2012, LB1130, § 5; Laws 2021, LB274, § 12; Laws 2022, LB1236, § 2; Laws 2023, LB376, § 10; Laws 2024, LB1204, § 23.
Effective date July 19, 2024.

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

(1) The commission may issue a special designated license for sale or consumption of alcoholic liquor at a designated location to a retail licensee, a craft brewery licensee, a microdistillery licensee, a farm winery licensee, the holder of a manufacturer's license issued pursuant to subsection (2) of section 53-123.01, a municipal corporation, a fine arts museum incorporated as a nonprofit corporation, a religious nonprofit corporation which has been ex-

empted from the payment of federal income taxes, a political organization which has been exempted from the payment of federal income taxes, or any other nonprofit corporation the purpose of which is fraternal, charitable, or public service and which has been exempted from the payment of federal income taxes, under conditions specified in this section. The applicant shall demonstrate meeting the requirements of this subsection.

(2)(a) No retail licensee, craft brewery licensee, microdistillery licensee, farm winery licensee, holder of a manufacturer's license issued pursuant to subsection (2) of section 53-123.01, organization, or corporation enumerated in subsection (1) of this section may be issued a special designated license under this section for more than six calendar days in any one calendar year, except that a nonprofit corporation, the purpose of which is fraternal, charitable, or public service and which has been exempted from the payment of federal income taxes, may be issued a special designated license for up to twelve calendar days in any one calendar year. Only one special designated license shall be required for any application for two or more consecutive days.

(b) A municipal corporation, a fine arts museum incorporated as a nonprofit corporation, a religious nonprofit corporation which has been exempted from the payment of federal income taxes, a political organization which has been exempted from the payment of federal income taxes, or any other nonprofit corporation, the purpose of which is fraternal, charitable, or public service and which has been exempted from the payment of federal income taxes, may apply for special designated licenses for the same location in a single application. The application shall include all dates and times for which a special designated license is being requested at such location.

(c) This subsection shall not apply to any holder of a catering license.

(3) Except for any special designated license issued to a holder of a catering license or to an organization or corporation as provided in subdivision (2)(b) of this section, there shall be a fee of forty dollars for each day identified in the special designated license. For a special designated license issued to an organization or corporation as provided in subdivision (2)(b) of this section, there shall be a fee of forty dollars for the initial special designated license and ten dollars for each additional day beyond the first at the same location in such application. Such fee shall be submitted with the application for the special designated license, collected by the commission, and remitted to the State Treasurer for credit to the General Fund. The applicant shall be exempt from the provisions of the Nebraska Liquor Control Act requiring an application or renewal fee and the provisions of the act requiring the expiration of forty-five days from the time the application is received by the commission prior to the issuance of a license, if granted by the commission. The retail licensees, craft brewery licensees, microdistillery licensees, farm winery licensees, holders of manufacturer's licenses issued pursuant to subsection (2) of section 53-123.01, municipal corporations, organizations, and nonprofit corporations enumerated in subsection (1) of this section seeking a special designated license shall file an application on such forms as the commission may prescribe. Such forms shall contain, along with other information as required by the commission, (a) the name of the applicant, (b) the premises for which a special designated license is requested, identified by street and number if practicable and, if not, by some other appropriate description which definitely locates the premises, (c) the name of the owner or lessee of the premises for which the special designated license is requested, (d) sufficient evidence that the holder of the special

designated license, if issued, will carry on the activities and business authorized by the license for himself, herself, or itself and not as the agent of any other person, group, organization, or corporation, for profit or not for profit, (e) a statement of the type of activity to be carried on during the time period for which a special designated license is requested, and (f) sufficient evidence that the activity will be supervised by persons or managers who are agents of and directly responsible to the holder of the special designated license.

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

(5) If the applicant meets the requirements of this section, a special designated license shall be granted and issued by the commission for use by the holder of the special designated license. All statutory provisions and rules and regulations of the commission that apply to a retail licensee shall apply to the holder of a special designated license with the exception of such statutory provisions and rules and regulations of the commission so designated by the commission and stated upon the issued special designated license, except that the commission may not designate exemption of sections 53-180 to 53-180.07. The decision of the commission shall be final. If the applicant does not qualify for a special designated license, the application shall be denied by the commission.

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

Source: Laws 1983, LB 213, § 9; Laws 1988, LB 490, § 5; Laws 1991, LB 344, § 27; Laws 1994, LB 1292, § 4; Laws 1996, LB 750, § 7; Laws 2000, LB 973, § 4; Laws 2006, LB 562, § 4; Laws 2007, LB549, § 8; Laws 2010, LB861, § 58; Laws 2016, LB1105, § 17; Laws 2019, LB56, § 1; Laws 2022, LB1236, § 3; Laws 2023, LB376, § 11.

53-124.12 Annual catering license; issuance; procedure; fee; occupation tax.

(1) The holder of a license to sell alcoholic liquor at retail issued under subsection (6) of section 53-124, a craft brewery license, a microdistillery license, a farm winery license, or a manufacturer's license issued under subsection (2) of section 53-123.01 may obtain an annual catering license as prescribed in this section. The catering license shall be issued for the same period and may be renewed in the same manner as the retail license, craft

brewery license, microdistillery license, farm winery license, or manufacturer's license.

(2) Any person desiring to obtain a catering license shall file with the commission:

(a) An application upon such forms as the commission prescribes; and

(b) A license fee of one hundred dollars payable to the commission, which fee shall be returned to the applicant if the application is denied.

(3) When an application for a catering license is filed, the commission shall notify the clerk of the city or incorporated village in which such applicant is located or, if the applicant is not located within a city or incorporated village, the county clerk of the county in which such applicant is located, of the receipt of the application. The commission shall include with such notice one copy of the application by mail or electronic delivery. The local governing body and the commission shall process the application in the same manner as provided in section 53-132.

(4) The local governing body with respect to catering licensees within its liquor license jurisdiction as provided in subsection (5) of this section may cancel a catering license for cause for the remainder of the period for which such catering license is issued. Any person whose catering license is canceled may appeal to the district court of the county in which the local governing body is located.

(5) For purposes of this section, local governing body means (a) the governing body of the city or village in which the catering licensee is located or (b) if such licensee is not located within a city or village, the governing body of the county in which such licensee is located.

(6) The local governing body may impose an occupation tax on the business of a catering licensee doing business within the liquor license jurisdiction of the local governing body as provided in subsection (5) of this section. Such tax may not exceed double the license fee to be paid under this section.

Source: Laws 1988, LB 490, § 1; Laws 1991, LB 344, § 28; Laws 1994, LB 1292, § 5; Laws 1996, LB 750, § 8; Laws 2001, LB 278, § 5; Laws 2004, LB 485, § 17; Laws 2006, LB 562, § 5; Laws 2007, LB549, § 9; Laws 2010, LB861, § 59; Laws 2011, LB407, § 4; Laws 2016, LB1105, § 18; Laws 2022, LB1204, § 4.

53-129 Retail, bottle club, craft brewery, and microdistillery licenses; premises to which applicable; temporary expansion; procedure.

(1) Except as otherwise provided in subsection (3) of this section, retail, bottle club, craft brewery, and microdistillery licenses issued under the Nebraska Liquor Control Act apply only to that part of the premises described in the application approved by the commission and in the license issued on the application. For retail and bottle club licenses, only one location shall be described in each license. For craft brewery and microdistillery licenses, up to five separate physical locations may be described in each license.

(2) After such license has been granted for the particular premises, the commission, with the approval of the local governing body and upon proper showing, may endorse upon the license permission to add to, delete from, or abandon the premises described in such license and, if applicable, to move from the premises to other premises approved by the local governing body. In

order to obtain such approval, the retail, bottle club, craft brewery, or microdistillery licensee shall file with the local governing body a request in writing and a statement under oath which shows that the premises, as added to or deleted from or to which such move is to be made, comply in all respects with the requirements of the act. No such addition, deletion, or move shall be made by any such licensee until the license has been endorsed to that effect in writing by the local governing body and by the commission and the licensee furnishes proof of payment of the renewal fee prescribed in subsection (4) of section 53-131.

(3)(a) A retail, bottle club, craft brewery, or microdistillery licensee may apply to the local governing body for a temporary expansion of its licensed premises to an immediately adjacent area owned or leased by the licensee or to an immediately adjacent street, parking lot, or alley, not to exceed fifty days for calendar year 2020 and, for each calendar year thereafter, not to exceed fifteen days per calendar year. The temporary area shall otherwise comply with all requirements of the Nebraska Liquor Control Act.

(b) The licensee shall file an application with the local governing body which shall contain (i) the name of the applicant, (ii) the premises for which a temporary expansion is requested, identified by street and number if practicable and, if not, by some other appropriate description which definitely locates the premises, (iii) the name of the owner or lessee of the premises for which the temporary expansion is requested, (iv) sufficient evidence that the licensee will carry on the activities and business authorized by the license for himself, herself, or itself and not as the agent of any other person, group, organization, or corporation, for profit or not for profit, (v) a statement of the type of activity to be carried on during the time period for which a temporary expansion is requested, and (vi) sufficient evidence that the temporary expansion will be supervised by persons or managers who are agents of and directly responsible to the licensee.

(c) No temporary expansion provided for by this subsection shall be granted without the approval of the local governing body. The local governing body may establish criteria for approving or denying a temporary expansion. The local governing body may designate an agent to determine whether a temporary expansion is to be approved or denied. Such agent shall follow criteria established by the local governing body in making the determination. The determination of the agent shall be considered the determination of the local governing body unless otherwise provided by the local governing body.

(d) For purposes of this section, the local governing body shall be that of the city or village within which the premises for which the temporary expansion is requested are located or, if such premises are not within the corporate limits of a city or village, then the local governing body shall be that of the county within which the premises for which the temporary expansion is requested are located.

(e) The decision of the local governing body shall be final. If the applicant does not qualify for a temporary expansion, the temporary expansion shall be denied by the local governing body.

(f) The city, village, or county clerk shall deliver confirmation of the temporary expansion to the licensee upon receipt of any fee or tax imposed by such city, village, or county.

Source: Laws 1935, c. 116, § 49, p. 405; C.S.Supp.,1941, § 53-349; R.S.1943, § 53-129; Laws 1978, LB 386, § 5; Laws 1980, LB

848, § 6; Laws 1983, LB 213, § 11; Laws 1988, LB 1089, § 12; Laws 1989, LB 781, § 8; Laws 1993, LB 183, § 10; Laws 1994, LB 1292, § 7; Laws 1999, LB 267, § 7; Laws 2004, LB 485, § 19; Laws 2007, LB549, § 10; Laws 2010, LB861, § 63; Laws 2016, LB1105, § 20; Laws 2018, LB1120, § 13; Laws 2020, LB1056, § 6; Laws 2022, LB1236, § 4.

53-131.01 License; application; form; contents; criminal history record check; false statement; penalty.

(1) The application for a new license shall be submitted upon such forms as the commission may prescribe. Such forms shall contain (a) the name and residence of the applicant and how long he or she has resided within the State of Nebraska, (b) the particular premises for which a license is desired designating the same by street and number if practicable or, if not, by such other description as definitely locates the premises, (c) the name of the owner of the premises upon which the business licensed is to be carried on, (d) a statement that the applicant is a resident of Nebraska and legally able to work in Nebraska, that the applicant and the spouse of the applicant are not less than twenty-one years of age, and that such applicant has never been convicted of or pleaded guilty to a felony or been adjudged guilty of violating the laws governing the sale of alcoholic liquor or the law for the prevention of gambling in the State of Nebraska, except that a manager for a corporation applying for a license shall qualify with all provisions of this subdivision as though the manager were the applicant, except that the provisions of this subdivision shall not apply to the spouse of a manager-applicant, (e) a statement that the applicant intends to carry on the business authorized by the license for himself or herself and not as the agent of any other persons and that if licensed he or she will carry on such business for himself or herself and not as the agent for any other person, (f) a statement that the applicant intends to superintend in person the management of the business licensed and that if so licensed he or she will superintend in person the management of the business, and (g) such other information as the commission may from time to time direct. The applicant shall also submit two legible sets of fingerprints to be furnished to the Federal Bureau of Investigation through the Nebraska State Patrol for a national criminal history record check and the fee for such record check payable to the patrol.

(2) If any false statement is made in any part of such application, the applicant or applicants shall be deemed guilty of perjury, and upon conviction thereof the license shall be revoked and the applicant subjected to the penalties provided by law for that crime.

Source: Laws 1935, c. 116, § 99, p. 427; C.S.Supp.,1941, § 53-399; R.S.1943, § 53-142; Laws 1959, c. 249, § 13, p. 872; Laws 1979, LB 224, § 4; Laws 1980, LB 848, § 9; Laws 1991, LB 344, § 35; Laws 2003, LB 267, § 1; Laws 2016, LB1105, § 21; Laws 2022, LB1204, § 5.

53-132 Retail, bottle club, craft brewery, or microdistillery license; commission; duties.

(1) If no hearing is required pursuant to subdivision (1)(a) or (b) of section 53-133 and the commission has no objections pursuant to subdivision (1)(c) of

such section, the commission may waive the forty-five-day objection period and, if not otherwise prohibited by law, cause a retail license, bottle club license, craft brewery license, or microdistillery license to be signed by its chairperson, attested by its executive director over the seal of the commission, and issued in the manner provided in subsection (4) of this section as a matter of course.

(2) A retail license, bottle club license, craft brewery license, or microdistillery license may be issued to any qualified applicant if the commission finds that (a) the applicant is fit, willing, and able to properly provide the service proposed within the city, village, or county where the premises described in the application are located, (b) the applicant can conform to all provisions and requirements of and rules and regulations adopted pursuant to the Nebraska Liquor Control Act, (c) the applicant has demonstrated that the type of management and control to be exercised over the premises described in the application will be sufficient to insure that the licensed business can conform to all provisions and requirements of and rules and regulations adopted pursuant to the act, and (d) the issuance of the license is or will be required by the present or future public convenience and necessity.

(3) In making its determination pursuant to subsection (2) of this section the commission shall consider:

(a) The recommendation of the local governing body;

(b) The existence of a citizens' protest made in accordance with section 53-133;

(c) The existing population of the city, village, or county and its projected growth;

(d) The nature of the neighborhood or community of the location of the proposed licensed premises;

(e) The existence or absence of other retail licenses, bottle club licenses, craft brewery licenses, or microdistillery licenses with similar privileges within the neighborhood or community of the location of the proposed licensed premises and whether, as evidenced by substantive, corroborative documentation, the issuance of such license would result in or add to an undue concentration of licenses with similar privileges and, as a result, require the use of additional law enforcement resources;

(f) The existing motor vehicle and pedestrian traffic flow in the vicinity of the proposed licensed premises;

(g) The adequacy of existing law enforcement;

(h) Zoning restrictions;

(i) The sanitation or sanitary conditions on or about the proposed licensed premises; and

(j) Whether the type of business or activity proposed to be operated in conjunction with the proposed license is and will be consistent with the public interest.

(4) Retail licenses, bottle club licenses, craft brewery licenses, or microdistillery licenses issued or renewed by the commission shall be mailed or delivered electronically to:

(a) The clerk of the city, village, or county who shall deliver the same to the licensee upon receipt from the licensee of proof of payment of (i) the license fee if by the terms of subsection (6) of section 53-124 the fee is payable to the

treasurer of such city, village, or county, (ii) any fee for publication of notice of hearing before the local governing body upon the application for the license, (iii) the fee for publication of notice of renewal as provided in section 53-135.01, and (iv) occupation taxes, if any, imposed by such city, village, or county except as otherwise provided in subsection (7) of this section; or

(b) The licensee, upon confirmation from the clerk of the city, village, or county that the necessary fees and taxes described in subdivision (4)(a) of this section have been received by the clerk of such city, village, or county.

(5) Notwithstanding any ordinance or charter power to the contrary, no city, village, or county shall impose an occupation tax on the business of any person, firm, or corporation licensed under the act and doing business within the corporate limits of such city or village or within the boundaries of such county in any sum which exceeds two times the amount of the license fee required to be paid under the act to obtain such license.

(6) Each license shall designate the name of the licensee, the place of business licensed, and the type of license issued.

(7) Class J retail licensees shall not be subject to occupation taxes under subsection (4) of this section.

Source: Laws 1935, c. 116, § 83, p. 419; C.S.Supp.,1941, § 53-383; R.S.1943, § 53-132; Laws 1957, c. 228, § 3, p. 780; Laws 1957, c. 242, § 45, p. 856; Laws 1959, c. 246, § 1, p. 845; Laws 1959, c. 247, § 2, p. 848; Laws 1959, c. 248, § 1, p. 857; Laws 1959, c. 249, § 7, p. 867; Laws 1976, LB 413, § 2; Laws 1981, LB 124, § 2; Laws 1984, LB 947, § 3; Laws 1986, LB 911, § 4; Laws 1988, LB 1089, § 14; Laws 1989, LB 780, § 9; Laws 1989, LB 781, § 10; Laws 1991, LB 344, § 36; Laws 1993, LB 183, § 12; Laws 1999, LB 267, § 9; Laws 2004, LB 485, § 21; Laws 2006, LB 845, § 2; Laws 2007, LB549, § 12; Laws 2010, LB861, § 66; Laws 2016, LB1105, § 22; Laws 2018, LB1120, § 15; Laws 2022, LB1204, § 6.

53-135 Retail or bottle club licenses; automatic renewal; conditions.

A retail or bottle club license issued by the commission and outstanding may be automatically renewed by the commission without formal application upon payment of the renewal fee and license fee if payable to the commission prior to or within thirty days after the expiration of the license. The payment shall be an affirmative representation and certification by the licensee that all answers contained in an application, if submitted, would be the same in all material respects as the answers contained in the last previous application. The commission may at any time require a licensee to submit an application, and the commission shall at any time require a licensee to submit an application if requested in writing to do so by the local governing body.

If a licensee files an application form upon seeking renewal of his or her license, the application shall be processed as set forth in section 53-131.

Source: Laws 1935, c. 116, § 86, p. 421; C.S.Supp.,1941, § 53-386; R.S.1943, § 53-135; Laws 1959, c. 249, § 10, p. 870; Laws 1983, LB 213, § 15; Laws 1984, LB 820, § 1; Laws 1988, LB 1089, § 16; Laws 1991, LB 344, § 40; Laws 2004, LB 485, § 26; Laws

2010, LB861, § 69; Laws 2015, LB330, § 21; Laws 2016, LB1105, § 23; Laws 2018, LB1120, § 21; Laws 2022, LB1204, § 7.

53-148.01 Retail or bottle club licensee; warning sign; commission; duties.

Any retail or bottle club licensee shall post in a conspicuous place a sign which clearly reads as follows: Warning: Drinking alcoholic beverages during pregnancy can cause birth defects. The commission shall prescribe the form of such warning sign and shall make such warning signs available to all retail and bottle club licensees. Warning signs may be provided electronically by the commission to the licensee.

Source: Laws 1989, LB 70, § 2; R.S.Supp.,1990, § 53-101.04; Laws 1991, LB 344, § 43; Laws 2018, LB1120, § 24; Laws 2022, LB1204, § 8.

(g) OPERATIONAL REQUIREMENTS FOR MANUFACTURERS, WHOLESALERS, AND SHIPPERS

53-165.01 Primary source of supply in the United States; report by licensed manufacturer, licensed wholesaler, or holder of a shipping license; fee.

(1)(a) Beginning July 1, 2024, prior to the sale or shipment of any alcoholic liquor into the State of Nebraska, each licensed manufacturer, licensed wholesaler, or holder of a shipping license shall submit to the commission, along with any applicable fee set by the commission not to exceed thirty dollars, a report on a form prescribed and furnished by the commission, which shall include:

(i) The licensee's name and license number;

(ii) The designated Nebraska licensed wholesaler for such product, if applicable;

(iii) The name of the primary source of supply in the United States;

(iv) The products to be imported, including the brand name, class or type of product, and fanciful name if applicable;

(v) Evidence of compliance with federal label requirements pursuant to the Federal Alcohol Administration Act, 27 U.S.C. chapter 8, and rules and regulations adopted pursuant to such act, as such act and regulations existed on January 1, 2023, or a sample of the actual label if federal approval is not required; and

(vi) Any other information the commission may require related to such sale or shipment.

(b) If the licensed manufacturer, licensed wholesaler, or holder of a shipping license is not the product manufacturer, such licensee shall also include with such form a separate letter from the product manufacturer designating such licensee as the primary source of supply in the United States or the sole source of supply in Nebraska. A separate letter is required for each primary source.

(2) If the primary source of supply in the United States for such alcoholic liquor changes, the new licensed manufacturer, licensed wholesaler, or holder of a shipping license importing such alcoholic liquor shall submit the information required pursuant to subsection (1) of this section at least thirty days prior to the shipment of such alcoholic liquor into this state. The licensed manufacturer, licensed wholesaler, or holder of a shipping license shall also remit to the

commission any applicable fee set by the commission not to exceed thirty dollars.

(3) Nothing in this section shall restrict or prohibit the importation of alcoholic liquor to a Nebraska licensed wholesaler from an affiliated wholesaler if (a) the report required by this section has previously been submitted for the alcoholic liquor product being imported, (b) the report designates the Nebraska licensed wholesaler for such product, and (c) the product was obtained by the affiliated wholesaler from the same primary source of supply identified on the report.

(4) The commission shall remit any fees collected pursuant to this section to the State Treasurer for credit to the Nebraska Liquor Control Commission Rule and Regulation Cash Fund.

(5) The commission may adopt and promulgate rules and regulations to carry out this section.

Source: Laws 2023, LB376, § 5.

53-165.02 Channel pricing and discounts; use by wholesaler; conditions.

(1) For purposes of this section, alcoholic product means a particular brand of alcoholic liquor in a designated size container or a mix of brands and containers when sold on a combined basis, as established by the wholesaler.

(2) A wholesaler may employ channel pricing to sell such wholesaler's alcoholic product to retail licensees at a different price than the wholesaler sells alcoholic product to other retail licensees. If a wholesaler employs channel pricing, such pricing shall be made equally available to similarly situated retail licensees.

(3) Whether an establishment is similarly situated to another licensee is to be determined by the type of license held by the retailer and the primary use of the premises.

(4) A wholesaler may also provide discounts on the alcoholic product to retailers that are otherwise similarly situated if those discounts are based on the volume of the alcoholic product being purchased.

(5) A wholesaler may also provide discounts on the alcoholic product to retailers that are otherwise similarly situated if those discounts are based on the electronic ordering of the alcoholic product being purchased.

Source: Laws 2023, LB376, § 6.

53-165.03 Sponsorship or advertising agreement; authorized, when.

(1) A manufacturer, a wholesaler, or any agent of a manufacturer or wholesaler may enter into a sponsorship or advertising agreement with (a) the holder of a special designated license pursuant to section 53-124.11 that is a municipal corporation, a fine arts museum incorporated as a nonprofit corporation, a religious nonprofit corporation exempted from payment of federal income taxes, a political organization exempted from payment of federal income taxes, or any other nonprofit corporation the purpose of which is fraternal, charitable, or public service and which has been exempted from payment of federal income taxes, (b) a political subdivision of the State of Nebraska, or (c) an operator of property owned by a political subdivision of the State of Nebraska, to sponsor and advertise for events held by such organization, licensee, or political subdivision.

(2) The commission may adopt and promulgate rules and regulations to carry out this section.

Source: Laws 2023, LB376, § 7.

(h) KEG SALES

53-167.02 Keg sales; requirements; keg identification number; violation; penalty.

(1) When any person licensed to sell alcoholic liquor at retail sells alcohol for consumption off the premises in a container with a liquid capacity of five or more gallons or eighteen and ninety-two hundredths or more liters, the seller shall record the date of the sale, the keg identification number, the purchaser's name and address, and the number of the purchaser's motor vehicle operator's license, state identification card, tribal enrollment card as defined in section 28-1202.03, or military identification, if such military identification contains a picture of the purchaser, together with the purchaser's signature. Such record shall be on a form prescribed by the commission and shall be kept by the licensee at the retail establishment where the purchase was made for not less than six months.

(2) The commission shall adopt and promulgate rules and regulations which require the licensee to place a label on the alcohol container, which label shall at least contain a keg identification number and shall be on a form prescribed by the commission. Such label shall be placed on the keg at the time of retail sale. The licensee shall purchase the forms referred to in this section from the commission. The cost incurred to produce and distribute such forms shall be reasonable and shall not exceed the reasonable and necessary costs of producing and distributing the forms. Any money collected by the commission relating to the sale of such forms shall be credited to the Nebraska Liquor Control Commission Rule and Regulation Cash Fund.

(3) The keg identification number for each container shall be registered with the commission. The records kept pursuant to this section shall be available for inspection by any law enforcement officer during normal business hours or at any other reasonable time. Any person violating this section shall, upon conviction, be guilty of a Class III misdemeanor.

Source: Laws 1993, LB 332, § 3; Laws 2015, LB330, § 23; Laws 2024, LB1288, § 2.
Operative date July 19, 2024.

(i) PROHIBITED ACTS

53-168 Receiving money, credit, discounts, rebates, or other inducement; unlawful acts; penalty; private or generic label permitted; exception for sponsorship or advertising agreement.

(1) It shall be unlawful for any person having a retail license to sell beer to accept credit for the purchase of beer from any manufacturer or wholesaler of beer and for any person having a retail license to sell alcoholic liquor or any officer, associate, member, representative, or agent of such licensee to accept, receive, or borrow money or anything else of value or to accept or to receive credit, other than merchandising credit in the ordinary course of business for a period not to exceed thirty days, directly or indirectly, from (a) any person,

partnership, limited liability company, or corporation engaged in manufacturing or wholesaling such liquor, (b) any person connected with or in any way representing such manufacturer or wholesaler, (c) any member of the family of such manufacturer or wholesaler, (d) any stockholders in any corporation engaged in manufacturing or wholesaling such liquor, or (e) any officer, manager, agent, member, or representative of such manufacturer or wholesaler.

(2) It shall be unlawful for any manufacturer or wholesaler to give or lend money or otherwise loan or extend credit, except the merchandising credit referred to in subsection (1) of this section, directly or indirectly, to any such licensee or to the manager, representative, agent, member, officer, or director of such licensee. It shall be unlawful for any wholesaler to participate in any manner in a merchandising and coupon plan of any manufacturer involving alcoholic liquor and the redemption in cash. The redemption of any merchandising and coupon plan involving cash shall be made by the manufacturer to the consumer.

(3) If any holder of a license to sell alcoholic liquor at retail or wholesale violates subsection (1) or (2) of this section, such license shall be suspended or revoked by the commission in the manner provided by the Nebraska Liquor Control Act.

(4) It shall not be a violation of subsection (1) or (2) of this section for a manufacturer or wholesaler to sell or provide alcoholic liquor exclusively or in minimum quantities in containers bearing a private label or to sell or provide alcoholic liquor in containers bearing a generic label to a wholesaler or retailer.

(5) It shall not be a violation of subsection (1) or (2) of this section for a wholesaler or retailer to accept or purchase from a manufacturer or wholesaler alcoholic liquor exclusively or in minimum quantities in containers bearing a private label or for a wholesaler or retailer to accept or purchase from a manufacturer or wholesaler alcoholic liquor in containers bearing a generic label.

(6) It shall not be a violation of subsection (1) or (2) of this section for a wholesaler or manufacturer or the agent of a wholesaler or manufacturer to enter into a sponsorship or advertising agreement with a licensee, organization, or political subdivision of the State of Nebraska pursuant to section 53-165.03.

Source: Laws 1935, c. 116, § 29, p. 395; Laws 1941, c. 104, § 1, p. 424; C.S.Supp.,1941, § 53-329; R.S.1943, § 53-168; Laws 1953, c. 182, § 2, p. 573; Laws 1953, c. 181, § 1, p. 571; Laws 1967, c. 335, § 1, p. 896; Laws 1969, c. 441, § 1, p. 1475; Laws 1969, c. 442, § 1, p. 1478; Laws 1969, c. 443, § 1, p. 1480; Laws 1980, LB 874, § 1; Laws 1981, LB 483, § 2; Laws 1985, LB 183, § 2; Laws 1991, LB 344, § 51; Laws 1993, LB 121, § 321; Laws 2004, LB 485, § 28; Laws 2023, LB376, § 12.

53-169 Manufacturer or wholesaler; craft brewery, manufacturer, or microdistillery licensee; limitations; exception for sponsorship or advertising agreement.

(1) Except as provided in subsection (2) of this section, no manufacturer or wholesaler shall directly or indirectly: (a) Pay for any license to sell alcoholic liquor at retail or advance, furnish, lend, or give money for payment of such

license; (b) purchase or become the owner of any note, mortgage, or other evidence of indebtedness of such licensee or any form of security therefor; (c) be interested in the ownership, conduct, or operation of the business of any licensee authorized to sell alcoholic liquor at retail; or (d) be interested directly or indirectly or as owner, part owner, lessee, or lessor thereof in any premises upon which alcoholic liquor is sold at retail.

(2) This section does not apply to the holder of a farm winery license. The holder of a craft brewery license shall have the privileges and duties listed in section 53-123.14 and the holder of a manufacturer's license shall have the privileges and duties listed in section 53-123.01 with respect to the manufacture, distribution, and retail sale of beer, and except as provided in subsection (2) of section 53-123.14, the Nebraska Liquor Control Act shall not be construed to permit the holder of a craft brewery license or of a manufacturer's license issued pursuant to section 53-123.01 to engage in the wholesale distribution of beer. The holder of a microdistillery license shall have the privileges and duties listed in section 53-123.16 with respect to the manufacture of alcoholic liquor, and except as provided in subsection (2) of section 53-123.16, the Nebraska Liquor Control Act shall not be construed to permit the holder of a microdistillery license to engage in the wholesale distribution of alcoholic liquor.

(3) It shall not be a violation of this section for a wholesaler or manufacturer or the agent of a wholesaler or manufacturer to enter into a sponsorship or advertising agreement with a licensee, organization, or political subdivision of the State of Nebraska pursuant to section 53-165.03.

Source: Laws 1935, c. 116, § 30, p. 396; C.S.Supp.,1941, § 53-330; R.S.1943, § 53-169; Laws 1947, c. 187, § 2, p. 619; Laws 1953, c. 182, § 3, p. 574; Laws 1961, c. 258, § 5, p. 765; Laws 1971, LB 751, § 5; Laws 1981, LB 483, § 3; Laws 1985, LB 183, § 5; Laws 1985, LB 279, § 11; Laws 1988, LB 1089, § 24; Laws 1991, LB 344, § 54; Laws 1996, LB 750, § 11; Laws 2007, LB549, § 17; Laws 2016, LB1105, § 25; Laws 2022, LB1236, § 5; Laws 2023, LB376, § 13.

53-171 Licenses; issuance of more than one kind to same person; when unlawful; craft brewery, manufacturer, or microdistillery licensee; limitations.

(1) No person licensed as a wholesaler of alcoholic liquor shall be permitted to receive any retail license at the same time. No person licensed as a manufacturer shall be permitted to receive any retail license at the same time except as set forth in subsection (2) of section 53-123.01 with respect to the manufacture, distribution, and retail sale of beer, and the Nebraska Liquor Control Act shall not be construed to permit the holder of a manufacturer's license issued pursuant to such subsection to engage in the wholesale distribution of alcoholic liquor. No person licensed as a retailer of alcoholic liquor shall be permitted to receive any manufacturer's or wholesale license at the same time.

(2) This section shall not apply to the holder of a farm winery license. The holder of a craft brewery license shall have the privileges and duties listed in section 53-123.14 with respect to the manufacture, distribution, and retail sale of beer, and except as provided in subsection (2) of section 53-123.14, the Nebraska Liquor Control Act shall not be construed to permit the holder of a

craft brewery license to engage in the wholesale distribution of beer. The holder of a microdistillery license shall have the privileges and duties listed in section 53-123.16 with respect to the manufacture of alcoholic liquor, and except as provided in subsection (2) of section 53-123.16, the Nebraska Liquor Control Act shall not be construed to permit the holder of a microdistillery license to engage in the wholesale distribution of alcoholic liquor.

Source: Laws 1935, c. 116, § 30, p. 397; C.S.Supp.,1941, § 53-330; R.S.1943, § 53-171; Laws 1953, c. 182, § 1, p. 573; Laws 1969, c. 441, § 4, p. 1478; Laws 1985, LB 279, § 12; Laws 1988, LB 1089, § 25; Laws 1991, LB 344, § 56; Laws 1996, LB 750, § 12; Laws 2007, LB549, § 18; Laws 2016, LB1105, § 26; Laws 2022, LB1236, § 6; Laws 2023, LB376, § 14.

53-174 Co-branded alcoholic beverage; display; acts prohibited; exceptions; inspection.

(1) For purposes of this section:

(a) Co-branded alcoholic beverage means an alcoholic liquor beverage containing the same or similar brand name, logo, or packaging as a nonalcoholic beverage;

(b) Immediately adjacent means directly touching or immediately bordering one another from above, below, or the side. Immediately adjacent does not include a separate aisle; and

(c) Retail sales floor means the part of a retailer's premises that contains goods on display that are freely accessible to the consumer.

(2) Except as provided in subsection (4) of this section, the holder of a retail license to sell alcoholic liquor, beer, or wine at retail for consumption off the licensed premises with a retail sales floor that is larger than two thousand five hundred square feet shall not display any co-branded alcoholic beverage immediately adjacent to any soft drink, fruit juice, bottled water, candy, or snack food portraying cartoons or youth-oriented images.

(3) Except as provided in subsection (4) of this section, the holder of a retail license to sell alcoholic liquor, beer, or wine at retail for consumption off the licensed premises with a retail sales floor that is two thousand five hundred square feet or smaller shall either:

(a) Not place any co-branded alcoholic beverage immediately adjacent to any soft drink, fruit juice, bottled water, candy, or snack food portraying cartoons or youth-oriented images; or

(b) Equip any such display containing any co-branded alcoholic beverage immediately adjacent to any soft drink, fruit juice, bottled water, candy, or snack food portraying cartoons or youth-oriented images with signage that indicates the product is an alcoholic beverage. Such signage shall be clearly visible to consumers, shall be not less than eight and one-half by eleven inches in size, and shall contain language substantially similar to: ''This product is an alcoholic beverage available only to persons who are twenty-one years of age or older.''

(4) This section does not apply to a shelf, aisle, display, or display area in which the primary items for sale contain alcoholic liquor or in an area in which persons younger than twenty-one years of age are prohibited from entering without a parent or legal guardian.

(5) The commission may cause inspection to be made on the premises of all retail licensees relating to co-branded alcoholic beverage displays, and if it is found that any such licensee is violating this section or any rules and regulations adopted and promulgated by the commission pursuant to this section, the license may be suspended, canceled, or revoked after the licensee is given an opportunity to be heard in the licensee's defense.

Source: Laws 2024, LB685, § 3.
Effective date July 19, 2024.

53-180.04 Minors; warning notice; posting.

(1) Every licensee of a place where alcoholic liquor is sold at retail shall display at all times in a prominent place a printed card with a minimum height of twenty inches and a width of fourteen inches, with each letter to be a minimum of one-fourth inch in height, which shall read as follows:

WARNING TO PERSONS UNDER 21
YOU ARE SUBJECT TO
NOTIFICATION OF PARENTS OR GUARDIAN
AND
YOU ARE SUBJECT TO A PENALTY OF UP TO
$500 FINE
3 MONTHS IN JAIL
OR BOTH IF YOU ARE UNDER 21 AND YOU CONSUME,
PURCHASE, ATTEMPT TO PURCHASE,
OR HAVE IN YOUR POSSESSION
ALCOHOLIC LIQUOR IN THIS ESTABLISHMENT
AND
WARNING TO ADULTS
YOU ARE SUBJECT TO A PENALTY OF UP TO
$1000 FINE
1 YEAR IN JAIL
OR BOTH
IF YOU ARE 21 OR OVER AND YOU PURCHASE
ALCOHOLIC LIQUOR
FOR A PERSON UNDER 21
AND
WARNING TO PURCHASERS OF BEER KEGS
PROPER IDENTIFICATION AND PURCHASER'S SIGNATURE
ARE REQUIRED
LAWS OF THE STATE OF NEBRASKA

(2) Such warning sign may be provided electronically by the commission to the licensee.

Source: Laws 1951, c. 174, § 1(5), p. 664; Laws 1963, c. 313, § 1, p. 943; Laws 1969, c. 440, § 3, p. 1474; Laws 1980, LB 221, § 4; Laws

1980, LB 848, § 19; Laws 1984, LB 56, § 3; Laws 1985, LB 493, § 1; Laws 1993, LB 332, § 7; Laws 2001, LB 114, § 5; Laws 2022, LB1204, § 9.

53-180.05 Prohibited acts relating to minors and incompetents; violations; penalties; possible alcohol overdose; actions authorized; false identification; penalty; law enforcement agency; duties.

(1) Except as provided in subsection (2) of this section, any person who violates section 53-180 shall be guilty of a Class I misdemeanor.

(2) Any person who knowingly and intentionally violates section 53-180 shall be guilty of a Class IIIA felony and serve a mandatory minimum of at least thirty days' imprisonment as part of any sentence he or she receives if serious bodily injury or death to any person resulted and was proximately caused by a minor's (a) consumption of the alcoholic liquor provided or (b) impaired condition which, in whole or in part, can be attributed to the alcoholic liquor provided.

(3) Any person who violates any of the provisions of section 53-180.01 or 53-180.03 shall be guilty of a Class III misdemeanor.

(4)(a) Except as otherwise provided in subdivisions (b), (c), and (d) of this subsection or section 28-1701, any person older than eighteen years of age and under the age of twenty-one years violating section 53-180.02 is guilty of a Class III misdemeanor.

(b) Subdivision (a) of this subsection shall not apply if the person:

(i) Made a good faith request for emergency medical assistance in response to the possible alcohol overdose of himself or herself or another person as soon as the emergency situation is apparent after such violation of section 53-180.02;

(ii) Made the request for medical assistance under subdivision (b)(i) of this subsection as soon as the emergency situation is apparent after such violation of section 53-180.02; and

(iii) When emergency medical assistance was requested for the possible alcohol overdose of another person:

(A) Remained on the scene until the medical assistance arrived; and

(B) Cooperated with medical assistance and law enforcement personnel.

(c) The exception from criminal liability provided in subdivision (b) of this subsection applies to any person who makes a request for emergency medical assistance and complies with the requirements of subdivision (b) of this subsection.

(d) Subdivision (a) of this subsection shall not apply to the person experiencing a possible alcohol overdose if a request for emergency medical assistance in response to such possible alcohol overdose was made by another person in compliance with subdivision (b) of this subsection.

(e) A person shall not initiate or maintain an action against a peace officer or the employing state agency or political subdivision based on the officer's compliance with subdivision (b), (c), or (d) of this subsection.

(5) Any person eighteen years of age or younger violating section 53-180.02 is guilty of a misdemeanor as provided in section 53-181 and shall be punished as provided in such section.

(6) Any person who knowingly manufactures, creates, or alters any form of identification for the purpose of sale or delivery of such form of identification to a person under the age of twenty-one years shall be guilty of a Class I misdemeanor. For purposes of this subsection, form of identification means any card, paper, or legal document that may be used to establish the age of the person named thereon for the purpose of purchasing alcoholic liquor.

(7) When a minor is arrested for a violation of sections 53-180 to 53-180.02 or subsection (6) of this section, the law enforcement agency employing the arresting peace officer shall make a reasonable attempt to notify such minor's parent or guardian of the arrest.

Source: Laws 1935, c. 116, § 38, p. 400; Laws 1937, c. 125, § 1, p. 437; C.S.Supp.,1941, § 53-338; Laws 1943, c. 121, § 1, p. 419; R.S. 1943, § 53-180; Laws 1951, c. 174, § 1(6), p. 664; Laws 1963, c. 313, § 2, p. 943; Laws 1969, c. 444, § 1, p. 1482; Laws 1973, LB 25, § 3; Laws 1977, LB 40, § 315; Laws 1982, LB 869, § 1; Laws 1984, LB 56, § 4; Laws 1985, LB 493, § 2; Laws 1989, LB 440, § 1; Laws 1991, LB 454, § 1; Laws 2001, LB 114, § 6; Laws 2010, LB258, § 2; Laws 2011, LB667, § 22; Laws 2015, LB439, § 1; Laws 2018, LB923, § 2; Laws 2022, LB519, § 6.

53-180.06 Documentary proof of age; separate book; record; contents.

(1) To establish proof of age for the purpose of purchasing or consuming alcoholic liquor, a person shall present or display only a valid driver's or operator's license, state identification card, military identification card, alien registration card, passport, or tribal enrollment card as defined in section 28-1202.03.

(2) Every holder of a retail license may maintain, in a separate book, a record of each person who has furnished documentary proof of age for the purpose of making any purchase of alcoholic liquor. The record shall show the name and address of the purchaser, the date of the purchase, and a description of the identification used and shall be signed by the purchaser.

Source: Laws 1969, c. 437, § 1, p. 1467; Laws 1991, LB 454, § 2; Laws 1999, LB 267, § 14; Laws 2013, LB173, § 1; Laws 2024, LB1288, § 3.
Operative date July 19, 2024.

CHAPTER 54
LIVESTOCK

ARTICLE 7

PROTECTION OF HEALTH

(b) BOVINE TUBERCULOSIS ACT

(e) ANTHRAX

(b) BOVINE TUBERCULOSIS ACT

54-706.12 Repealed. Laws 2024, LB1, § 1.

(e) ANTHRAX

54-778 Repealed. Laws 2024, LB1, § 1.

ARTICLE 13

BRUCELLOSIS

(c) NEBRASKA BOVINE BRUCELLOSIS ACT

(c) NEBRASKA BOVINE BRUCELLOSIS ACT

54-1371 Repealed. Laws 2024, LB1, § 1.

ARTICLE 22

PSEUDORABIES

54-2293 Repealed. Laws 2024, LB1, § 1.

ARTICLE 27
SCRAPIE CONTROL AND ERADICATION ACT

Section
54-2757. Repealed. Laws 2024, LB1, § 1.

54-2757 Repealed. Laws 2024, LB1, § 1.

ARTICLE 29
ANIMAL HEALTH AND DISEASE CONTROL ACT

Section
54-2940. Animal Health and Disease Control Act and Exotic Animal Auction or Exchange Venue Act; department; powers.
54-2946. Dead animal; proper disposal; what constitutes; effect; owner or custodian; duties; sheriff; powers and duties; suspicion of anthrax; owner or custodian; duties; acts prohibited; department powers.

54-2940 Animal Health and Disease Control Act and Exotic Animal Auction or Exchange Venue Act; department; powers.

In carrying out its duties to prevent, suppress, control, and eradicate dangerous diseases the department may:

(1) Issue quarantines to any person or public or private premises within the state where an affected animal, suspected affected animal, or regulated article is or was located, and upon any animal imported into Nebraska in violation of the Animal Health and Disease Control Act, the Exotic Animal Auction or Exchange Venue Act, and any importation rules or regulations until such quarantine is released by the State Veterinarian. Whenever additional animals are placed within a quarantined premises or area, such quarantine may be amended accordingly by the department. Births and death loss shall be included on inventory documentation pursuant to the quarantine;

(2) Regulate or prohibit animal or regulated article movement into, within, or through the state through quarantines, controlled movement orders, importation orders, or embargoes as deemed necessary by the State Veterinarian;

(3) Require an affected animal or suspected affected animal to be (a) euthanized, detained, slaughtered, or sold for immediate slaughter at a federally inspected slaughter establishment or (b) inspected, tested, treated, subjected to an epidemiological investigation, monitored, or vaccinated. The department may require tested animals to be identified by an official identification eartag. Costs for confinement, restraint, and furnishing the necessary assistance and facilities for such activities shall be the responsibility of the owner or custodian of the animal;

(4) Seek an emergency proclamation by the Governor in accordance with section 81-829.40 when deemed appropriate. All state agencies and political subdivisions of the state shall cooperate with the implementation of any emergency procedures and measures developed pursuant to such proclamation;

(5)(a) Access records or animals and enter any premises related to the purposes of the Animal Health and Disease Control Act or the Exotic Animal Auction or Exchange Venue Act without being subject to any action for trespass or reasonable damages if reasonable care is exercised; and

(b) Obtain an inspection warrant in the manner prescribed in sections 29-830 to 29-835 if any person refuses to allow the department access or entry as authorized under this subdivision;

(6) Adopt and promulgate rules and regulations to enforce and effectuate the general purpose and provisions of the Animal Health and Disease Control Act, the Exotic Animal Auction or Exchange Venue Act, and any other provisions the department deems necessary for carrying out its duties under such acts including:

(a) Standards for program diseases to align with USDA/APHIS/VS program standards;

(b) Provisions for maintaining a livestock disease reporting system;

(c) Procedures for establishing and maintaining accredited, certified, validated, or designated disease-free animals, herds, or flocks;

(d) In consultation with the Department of Environment and Energy and the Department of Health and Human Services, best management practices for the disposal of carcasses of dead livestock;

(e) In consultation with the Department of Environment and Energy and the University of Nebraska, operating procedures governing composting of livestock carcasses;

(f) Recommendations of where and how any available federal funds and state personnel and materials are to be allocated for the purpose of program disease activities; and

(g) Provisions for secure food supply plans to ensure the continuity of business is maintained during a foreign animal or transboundary disease outbreak;

(7) When funds are available, develop a livestock emergency response system capable of coordinating and executing a rapid response to the incursion or potential incursion of a dangerous livestock disease episode which poses a threat to the health of the state's livestock and could cause a serious economic impact on the state, international trade, or both;

(8) When funds are available, support planning for and assistance with catastrophic livestock mortality disposal, including the acquisition of equipment and supplies and securing of services, to augment preparedness for and response to a disease, natural disaster, or other emergency event resulting in catastrophic livestock mortality or euthanization;

(9) Allow animals intended for direct slaughter to move to a controlled feedlot for qualified purposes; and

(10) Approve qualified commuter herd agreements and livestock producer plans and, when appropriate, allow for exceptions to requirements by written compliance agreements.

Source: Laws 2020, LB344, § 40; Laws 2022, LB848, § 1.

Cross References

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

54-2946 Dead animal; proper disposal; what constitutes; effect; owner or custodian; duties; sheriff; powers and duties; suspicion of anthrax; owner or custodian; duties; acts prohibited; department powers.

(1) It is the duty of the owner or custodian of any dead animal to properly dispose of the animal within thirty-six hours after receiving knowledge of the animal's death unless a different timeframe is established in a herd or flock management plan or otherwise allowed by the State Veterinarian. Proper disposal of a dead animal is limited to:

(a) Burial on the premises where such animal died or on any adjacent property under the control of the animal's owner or custodian and coverage to a depth of at least four feet below the surface of the ground except as required in subsection (7) of this section;

(b) Complete incineration;

(c) Composting on the premises where such animal died or on an adjacent property under the ownership and control of the owner or custodian;

(d) Alkaline hydrolysis tissue digestion by a veterinary clinic or laboratory;

(e) Transportation by a licensed rendering establishment or other hauler approved by the State Veterinarian;

(f) Transportation to a veterinary clinic or laboratory for purposes of diagnostic testing; or

(g) Transportation with written permission of the State Veterinarian:

(i) To a rendering establishment licensed under the Nebraska Meat and Poultry Inspection Law;

(ii) To a compost site approved by the State Veterinarian;

(iii) To a facility with a permit to operate as a landfill under the Integrated Solid Waste Management Act so long as the operator of the landfill agrees to accept the dead animal;

(iv) To any facility which lawfully disposes of dead animals;

(v) As specified in a herd or flock management plan; or

(vi) In the event of a disease, natural disaster, or other emergency event resulting in catastrophic livestock mortality or euthanization, to a location designated by a county or other local emergency management organization.

(2) A dead animal properly disposed of pursuant to this section is exempt from the requirements for disposal of solid waste under the Integrated Solid Waste Management Act.

(3) Any vehicle used by the owner or custodian to transport a dead animal shall be constructed in such a manner that the contents are covered and will not fall, leak, or spill from the vehicle. Violation of this subsection is a traffic infraction as defined in section 60-672.

(4) It is hereby made the duty of the sheriff of each county to cause the proper disposal of the carcass of any animal or carcass part remaining unburied or otherwise disposed of after notice from the department that any such carcass has not been properly buried or disposed of in violation of this section. The sheriff may enter any premises where any such carcass is located for the purpose of carrying out this section and may cause each carcass to be properly buried or disposed of on such premises. The county board of commissioners or supervisors shall allow such sums for the services as it may deem reasonable, and such sums shall be paid to the persons rendering the services upon vouchers as other claims against the county are paid. The owner of such animal shall be liable to the county for the expense of such burial or disposal, to

be recovered in a civil action, unless the owner pays such expenses within thirty days after notice and demand therefor.

(5) If anthrax is suspected in any animal death, the owner or custodian of the animal or herd shall be responsible to have samples submitted to an approved laboratory for confirmation.

(6) If an animal has or is suspected to have died of anthrax, it shall be unlawful to:

(a) Transport such animal or animal carcass, except as directed and approved by the department;

(b) Use the flesh or organs of such animal or animal carcass for food for livestock or human consumption; or

(c) Remove the skin or hide of such animal or animal carcass.

(7) The disposition of any anthrax-infected animal carcass shall be carried out under the direction of the department. It shall be the duty of the owner or custodian of an animal that has died of anthrax to bury or burn the carcass on the premises where the carcass is found, unless directed otherwise by the State Veterinarian. If such carcass is buried, no portion of the carcass shall be interred closer than six feet from the surface of the ground. The department may direct the owner or custodian of an infected herd to treat the herd and to clean and disinfect the premises in accordance with the herd plan.

Source: Laws 2020, LB344, § 46; Laws 2022, LB848, § 2.

Cross References

Integrated Solid Waste Management Act, see section 13-2001.
Nebraska Meat and Poultry Inspection Law, see section 54-1901.

CHAPTER 55
MILITIA

Article.
1. Military Code. 55-134 to 55-182.
9. Military Base Development and Support. 55-901.

ARTICLE 1
MILITARY CODE

Section
55-134. National Guard; composition; discrimination prohibited.
55-136. Adjutant General; National Guard; officers; qualifications; service; discharge.
55-157.03. Adjutant General; establish program; incentive payments; purpose; restriction.
55-182. Nebraska National Guard; rights.

55-134 National Guard; composition; discrimination prohibited.

Except as provided in section 55-136, the Nebraska National Guard shall consist of the regularly enlisted personnel between the ages of seventeen and sixty years organized, armed, and equipped as hereinafter provided, of warrant officers between the ages of eighteen and sixty-two years, and of commissioned officers between the ages of eighteen and sixty-four years. The number of officers and enlisted personnel of the National Guard shall be determined from time to time and organized so as to at least meet the minimum requirements of the National Guard organizations allotted to this state. No discrimination shall be made in the enlistment of an individual, advancement in grade, or appointment of officers on account of race, color, creed, or sex.

Source: Laws 1929, c. 189, § 5, p. 658; C.S.1929, § 55-110; Laws 1935, c. 121, § 1, p. 439; C.S.Supp.,1941, § 55-110; R.S.1943, § 55-108; Laws 1945, c. 133, § 1, p. 423; Laws 1953, c. 188, § 6, p. 595; R.R.S.1943, § 55-108; Laws 1969, c. 459, § 32, p. 1592; Laws 1979, LB 80, § 106; Laws 1984, LB 934, § 1; Laws 2024, LB848, § 1.
Effective date July 19, 2024.

55-136 Adjutant General; National Guard; officers; qualifications; service; discharge.

(1) The Adjutant General may hold such position until the age of sixty-six years.

(2) Staff officers, including officers of the pay, inspection, subsistence, medical, and Adjutant General's department, shall have had previous military experience and shall hold their positions until they have reached the age of sixty-four years unless retired prior to that time by reason of resignation, disability, or pursuant to applicable regulations issued by the Department of the Army or the Department of the Air Force. Vacancies among such officers shall be filled by appointment by the Governor or the Adjutant General.

(3) All commissioned officers shall be entitled to an honorable discharge in writing at the expiration of their term of office on properly accounting for all property for which they are responsible.

Source: Laws 1917, c. 205, § 16, p. 488; Laws 1919, c. 121, § 4, p. 291; Laws 1921, c. 234, § 2, p. 835; C.S.1922, § 3320; C.S.1929, § 55-140; Laws 1935, c. 121, § 3, p. 440; C.S.Supp.,1941, § 55-140; Laws 1943, c. 127, § 1, p. 430; R.S.1943, § 55-115; Laws 1969, c. 459, § 34, p. 1593; Laws 1978, LB 570, § 2; Laws 1993, LB 170, § 2; Laws 2024, LB848, § 2.
Effective date July 19, 2024.

55-157.03 Adjutant General; establish program; incentive payments; purpose; restriction.

The Adjutant General may establish a program to encourage individuals to enlist or reenlist as enlisted persons or be commissioned or retained as commissioned officers in units of the Nebraska National Guard whenever the strength level of such units is so low as to adversely affect the ability of such units to meet their state or federal mission, so long as the cost of such program does not exceed the amount appropriated for such purpose. The Adjutant General may devise and change a formula to distribute incentive payments to members of the Army National Guard, the Air National Guard, or any other person designated under such program for the purpose of encouraging recruitment and retention of enlisted persons and officers.

Source: Laws 1978, LB 564, § 4; Laws 2024, LB895, § 1.
Effective date July 19, 2024.

55-182 Nebraska National Guard; rights.

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

(1) Seek employment with state, county, and local government;

(2) Not have membership in the Nebraska National Guard impact such member's right to donate to political parties when not on duty status;

(3) Participate with state, county, or local government in a law enforcement function as prescribed by that government;

(4) Receive the same protections a law enforcement officer is afforded under section 23-3211 if the member is acting as a law enforcement officer pursuant to subdivision (3) of this section; and

(5) Protection of such member's personal information as afforded personnel of public bodies pursuant to subdivision (8) of section 84-712.05, if the member is acting as a law enforcement officer pursuant to subdivision (3) of this section.

Source: Laws 2019, LB152, § 1; Laws 2022, LB1246, § 3.

ARTICLE 9

MILITARY BASE DEVELOPMENT AND SUPPORT

Section
55-901. Military Installation Development and Support Fund; created; use; investment; matching funds.

55-901 Military Installation Development and Support Fund; created; use; investment; matching funds.

(1) The Military Installation Development and Support Fund is created. The fund shall be used to contribute to construction, development, or support for any military installation, located in Nebraska, for purposes of improving mission retention and recruitment; supporting the morale, health, and mental-wellness of military members and families; and growing the economic impact of military installations in Nebraska. The Department of Veterans' Affairs shall administer the fund. 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, for such purposes. 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. Beginning October 1, 2024, any investment earnings from investment of money in the fund shall be credited to the General Fund.

(2) The Military Installation Development and Support Fund may be used for any project that directly supports any military installation located in Nebraska.

(3) The Department of Veterans' Affairs shall require a match of public or private funding in an amount equal to or greater than one-half of the total cost of any project described in subsection (2) of this section prior to authorizing an expenditure from the fund.

(4) For purposes of this section, military installation means a base, camp, post, station, yard, center, armory, or other activity under the jurisdiction of the United States Department of Defense or the Nebraska Military Department.

Source: Laws 2022, LB1012, § 5; Laws 2024, LB1413, § 39; Laws 2024, First Spec. Sess., LB3, § 16.

Note: Changes made by Laws 2024, LB1413, became effective April 2, 2024.

Note: Changes made by Laws 2024, First Spec. Sess., LB3, became effective August 21, 2024.

Cross References

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

CHAPTER 57
MINERALS, OIL, AND GAS

ARTICLE 9
OIL AND GAS CONSERVATION

57-904 Nebraska Oil and Gas Conservation Commission; members; qualifications; appointment; term; quorum; vacancy; compensation; expenses.

There is hereby established the Nebraska Oil and Gas Conservation Commission. The commission shall consist of three members to be appointed by the Governor. The director of the state geological survey shall serve the commission in the capacity as its technical advisor, but with no power to vote. Any two commissioners shall constitute a quorum for all purposes. At least one member of the commission shall have had experience in the production of oil or gas and shall have resided in the State of Nebraska for at least one year. Each of the other members of the commission shall have resided in the State of Nebraska for at least three years. Initially, two of said members shall be appointed for a term of two years each; and one shall be appointed for a term of four years. At the expiration of the initial terms all members thereafter appointed shall serve for a term of four years. The Governor may at any time remove any appointed member of the commission for cause, and by appointment, with the approval of the Legislature, shall fill any vacancy on the commission.

The members of the commission shall receive as compensation for their services the sum of five hundred dollars per day for each day actually devoted to the business of the commission. Such amount shall be adjusted on July 1, 2025, and on July 1 of each odd-numbered year thereafter by the percentage change in the Consumer Price Index for Urban Wage Earners and Clerical Workers for the two-year period preceding the date of adjustment. In addition, each member of the commission shall be reimbursed for expenses incurred in connection with the carrying out of his or her duties as provided in sections 81-1174 to 81-1177.

Source: Laws 1959, c. 262, § 4, p. 902; Laws 1979, LB 90, § 1; Laws 1981, LB 204, § 99; Laws 2018, LB1008, § 2; Laws 2020, LB381, § 50; Laws 2023, LB565, § 33.

ARTICLE 15
OIL PIPELINE PROJECTS

Section

Governor; duty; denial; notice to pipeline carrier; documents or records; not withheld from public.

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

(1)(a) The department may:

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

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

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

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

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

(4) After the supplemental environmental impact statement or the evaluation conducted under subdivision (1)(a) of this section is prepared, the department shall submit it to the Governor. Within thirty days after receipt of the supplemental environmental impact statement or the evaluation conducted under subdivision (1)(a) of this section from the department, the Governor shall indicate, in writing, to the federal agency or agencies involved in the review or any other appropriate federal agency or body as to whether he or she approves any of the routes reviewed in the supplemental environmental impact statement or the evaluation conducted under subdivision (1)(a) of this section. If the

Governor does not approve any of the reviewed routes, he or she shall notify the pipeline carrier that in order to obtain approval of a route in Nebraska the pipeline carrier is required to file an application with the Public Service Commission pursuant to the Major Oil Pipeline Siting Act.

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

Source: Laws 2011, First Spec. Sess., LB4, § 3; Laws 2012, LB858, § 16; Laws 2012, LB1161, § 7; Laws 2019, LB302, § 63; Laws 2024, LB461, § 22.
Effective date July 19, 2024.

Cross References

Major Oil Pipeline Siting Act, see section 57-1401.
Nebraska Consultants' Competitive Negotiation Act, see section 81-1702.
State Procurement Act, see section 73-801.

CHAPTER 58
MONEY AND FINANCING

Article.
2. Nebraska Investment Finance Authority. 58-201 to 58-273.
6. Nebraska Uniform Prudent Management of Institutional Funds Act. 58-615.
7. Nebraska Affordable Housing Act. 58-703.
8. Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act. 58-817.

ARTICLE 2
NEBRASKA INVESTMENT FINANCE AUTHORITY

Section
58-201. Act, how cited.
58-209.01. Blighted area, defined.
58-210.02. Economic-impact project, defined.
58-219. Project, defined.
58-220. Rental housing, defined.
58-221. Residential energy conservation device, defined.
58-222. Residential housing, defined.
58-230. Meetings; when held; virtual conferencing authorized.
58-239. Authority; powers; enumerated.
58-242. Authority; agricultural projects; duties.
58-251. Authority; development project; make specific findings.
58-273. Building housing for individuals with disabilities; authority; duties; collaboration required.

58-201 Act, how cited.

Sections 58-201 to 58-273 shall be known and may be cited as the Nebraska Investment Finance Authority Act.

Source: Laws 1983, LB 626, § 1; Laws 1986, LB 1230, § 29; Laws 1989, LB 311, § 1; Laws 1989, LB 706, § 1; Laws 1991, LB 253, § 1; Laws 1992, LB 1001, § 2; Laws 1996, LB 1322, § 1; Laws 2002, LB 1211, § 3; Laws 2006, LB 693, § 1; Laws 2023, LB92, § 73.

58-209.01 Blighted area, defined.

Blighted area has the same meaning as in section 18-2103.

Source: Laws 1984, LB 1084, § 4; Laws 1991, LB 253, § 11; Laws 2023, LB531, § 24.

58-210.02 Economic-impact project, defined.

(1) Economic-impact project means:

(a) Any of the following, whether or not in existence, financed in whole or in part through the use of the federal new markets tax credit described in section 45D of the Internal Revenue Code, and located in a low-income community designated pursuant to section 45D of the Internal Revenue Code or designated by the Department of Economic Development:

(i) Any land, building, or other improvement, including, but not limited to, infrastructure;

(ii) Any real or personal property;

(iii) Any equipment; or

(iv) Any undivided or other interest in any property described in subdivision (1)(a)(i), (1)(a)(ii), or (1)(a)(iii) of this section; or

(b) Any of the following, whether or not in existence, which constitutes a qualified opportunity zone business located in one or more certified qualified opportunity zones which is financed in whole or in part through one or more investments acquired by one or more qualified opportunity funds as authorized pursuant to the federal Tax Cuts and Jobs Act, Public Law 115-97:

(i) Any land, building, or other improvement, including, but not limited to, infrastructure;

(ii) Any real or personal property;

(iii) Any equipment; or

(iv) Any undivided or other interest in any property described in subdivision (1)(b)(i), (1)(b)(ii), or (1)(b)(iii) of this section.

(2) Economic-impact project does not include any operating capital.

Source: Laws 2006, LB 693, § 5; Laws 2022, LB707, § 35.

58-219 Project, defined.

Project shall mean one or more of the following:

(1)(a) Rental housing;

(b) Residential housing; and

(c) Residential energy conservation devices;

(2) Agriculture or agricultural enterprise;

(3) Any land, building, or other improvement, any real or personal property, or any equipment and any undivided or other interest in any of the foregoing, whether or not in existence, suitable or used for or in connection with any of the following revenue-producing enterprises or two or more such enterprises engaged or to be engaged in:

(a) In all areas of the state, manufacturing or industrial enterprises, including assembling, fabricating, mixing, processing, warehousing, distributing, or transporting any products of agriculture, forestry, mining, industry, or manufacturing; pollution control facilities; and facilities incident to the development of industrial sites, including land costs and the costs of site improvements such as drainage, water, storm, and sanitary sewers, grading, streets, and other facilities and structures incidental to the use of such sites for manufacturing or industrial enterprises;

(b) In all areas of the state, service enterprises if (i) such facilities constitute new construction or rehabilitation, including hotels or motels, sports and recreation facilities available for use by members of the general public either as participants or spectators, and convention or trade show facilities, (ii) such facilities do not or will not derive a significant portion of their gross receipts from retail sales or utilize a significant portion of their total area for retail sales, and (iii) such facilities are owned or to be owned by a nonprofit entity or a public agency;

(c) In blighted areas of the state, service and business enterprises if such facilities constitute new construction, acquisition, or rehabilitation, including,

but not limited to, those enterprises specified in subdivision (3)(b) of this section, office buildings, and retail businesses if such facilities are owned or to be owned by a nonprofit entity or a public agency; and

(d) In all areas of the state, any land, building, or other improvement and all real or personal property, including furniture and equipment, and any undivided or other interest in any such property, whether or not in existence, suitable or used for or in connection with any hospital, nursing home, nonprofit child care facility, or facilities related and subordinate thereto.

Nothing in this subdivision shall be construed to include any rental or residential housing, residential energy conservation device, or agriculture or agricultural enterprise;

(4) Any land, building, or other improvement, any real or personal property, or any equipment and any undivided or other interest in any of the foregoing, whether or not in existence, used by a nonprofit entity as an office building, but only if (a) the principal long-term occupant or occupants thereof initially employ at least fifty people, (b) the office building will be used by the principal long-term occupant or occupants as a national, regional, or divisional office, (c) the principal long-term occupant or occupants are engaged in a multistate operation, and (d) the authority makes the findings specified in subdivision (1) of section 58-251;

(5) Wastewater treatment or safe drinking water project which shall include any project or undertaking which involves the construction, development, rehabilitation, and improvement of wastewater treatment facilities or safe drinking water facilities and is financed by a loan from or otherwise provided financial assistance by the Wastewater Treatment Facilities Construction Loan Fund or any comparable state fund providing money for the financing of safe drinking water facilities;

(6) Any cost necessary for abatement of an environmental hazard or hazards in school buildings or on school grounds upon a determination by the school that an actual or potential environmental hazard exists in the school buildings or on the school grounds under its control;

(7) Any accessibility barrier elimination project costs necessary for accessibility barrier elimination in school buildings or on school grounds upon a determination by the school that an actual or potential accessibility barrier exists in the school buildings or on the school grounds under its control;

(8) Solid waste disposal project which shall include land, buildings, equipment, and improvements consisting of all or part of an area or a facility for the disposal of solid waste, including recycling of waste materials, either publicly or privately owned or operated, and any project or program undertaken by a county, city, village, or entity created pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act for closure, monitoring, or remediation of an existing solid waste disposal area or facility and any undivided or other interest in any of the foregoing;

(9) Any affordable housing infrastructure which shall include streets, sewers, storm drains, water, broadband, electrical and other utilities, sidewalks, public parks, public playgrounds, public swimming pools, public recreational facilities, and other community facilities, easements, and similar use rights thereof, as well as improvements preparatory to the development of housing units;

(10) Any public safety communication project, including land, buildings, equipment, easements, licenses, and leasehold interests, and any undivided or other interest in any of the foregoing, held for or on behalf of any public safety communication system owned or operated by (a) a joint entity providing public safety communications and created pursuant to the Interlocal Cooperation Act or (b) a joint public agency providing public safety communications and created pursuant to the Joint Public Agency Act; and

(11) Economic-impact projects.

Source: Laws 1983, LB 626, § 19; Laws 1984, LB 372, § 10; Laws 1984, LB 1084, § 5; Laws 1989, LB 311, § 5; Laws 1989, LB 706, § 7; Laws 1991, LB 253, § 22; Laws 1992, LB 1001, § 9; Laws 1992, LB 1257, § 69; Laws 1996, LB 1322, § 6; Laws 1999, LB 87, § 78; Laws 2002, LB 1211, § 6; Laws 2006, LB 693, § 6; Laws 2022, LB707, § 36.

Cross References

Interlocal Cooperation Act, see section 13-801.
Joint Public Agency Act, see section 13-2501.

58-220 Rental housing, defined.

Rental housing shall mean a specific work or improvement within this state undertaken primarily to provide rental dwelling accommodations for low-income or moderate-income persons, which work or improvement shall include the acquisition, construction, reconstruction, or rehabilitation of land, buildings, and improvements thereto and such other nonhousing facilities, including commercial facilities, as may be appurtenant thereto so long as the cost of such nonhousing facilities does not exceed twenty percent of the total cost of the rental housing.

Source: Laws 1983, LB 626, § 20; Laws 1991, LB 253, § 23; Laws 2022, LB707, § 37.

58-221 Residential energy conservation device, defined.

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

(1) Caulking and weather stripping of doors and windows;

(2) Furnace efficiency modifications, including:

(a) Replacement burners, furnaces, heat pumps, or boilers or any combination thereof which, as determined by the Director of Environment and Energy, substantially increases the energy efficiency of the heating system;

(b) Any device for modifying flue openings which will increase the energy efficiency of the heating system; and

(c) Any electrical or mechanical furnace ignition system which replaces a standing gas pilot light;

(3) A clock thermostat;

(4) Ceiling, attic, wall, and floor insulation;

(5) Water heater insulation;

(6) Storm windows and doors, multiglazed windows and doors, and heat-absorbed or heat-reflective glazed window and door materials;

(7) Any device which controls demand of appliances and aids load management;

(8) Any device to utilize solar energy, biomass, geothermal, or wind power for any residential energy conservation purpose including heating of water and space heating or cooling; and

(9) Any other conservation device, renewable energy technology, and specific home improvement necessary to insure the effectiveness of the energy conservation measures as the Director of Environment and Energy by rule or regulation identifies.

Source: Laws 1983, LB 626, § 21; Laws 1991, LB 253, § 24; Laws 2019, LB302, § 64; Laws 2022, LB707, § 38.

58-222 Residential housing, defined.

Residential housing shall mean a specific work or improvement within this state undertaken primarily to provide owner-occupied dwelling accommodations for low-income and moderate-income persons, which work or improvement shall include the acquisition, construction, reconstruction, or rehabilitation of land, buildings, and improvements thereto, including residential energy conservation devices, and such other nonhousing facilities, including commercial facilities, as may be appurtenant thereto so long as the cost of such nonhousing facilities does not exceed twenty percent of the total cost of the residential housing.

Source: Laws 1983, LB 626, § 22; Laws 1991, LB 253, § 25; Laws 2022, LB707, § 39.

58-230 Meetings; when held; virtual conferencing authorized.

Meetings of the members of the authority shall be held at least once every three months to attend to the business of the authority and may be held at the call of the chairperson or whenever any five members so request. Such meetings shall at all times be subject to the Open Meetings Act, and such meetings may be held by means of virtual conferencing in accordance with section 84-1411.

Source: Laws 1983, LB 626, § 30; Laws 1991, LB 253, § 32; Laws 1996, LB 1322, § 7; Laws 2004, LB 821, § 14; Laws 2021, LB83, § 6; Laws 2024, LB287, § 66.
Operative date April 17, 2024.

Cross References

Open Meetings Act, see section 84-1407.

58-239 Authority; powers; enumerated.

The authority is hereby granted all powers necessary or appropriate to carry out and effectuate its public and corporate purposes including:

(1) To have perpetual succession as a body politic and corporate and an independent instrumentality exercising essential public functions;

(2) To adopt, amend, and repeal bylaws, rules, and regulations not inconsistent with the Nebraska Investment Finance Authority Act, to regulate its affairs,

to carry into effect the powers and purposes of the authority, and to conduct its business;

(3) To sue and be sued in its own name;

(4) To have an official seal and alter it at will;

(5) To maintain an office at such place or places within the state as it may designate;

(6) To make and execute contracts and all other instruments as necessary or convenient for the performance of its duties and the exercise of its powers and functions under the act;

(7) To employ architects, engineers, attorneys, inspectors, accountants, building contractors, financial experts, and such other advisors, consultants, and agents as may be necessary in its judgment and to fix their compensation;

(8) To obtain insurance against any loss in connection with its bonds, property, and other assets in such amounts and from such insurers as it deems advisable;

(9) To borrow money and issue bonds as provided by the act;

(10) To receive and accept from any source aid or contributions of money, property, labor, or other things of value to be held, used, and applied to carry out the purposes of the act subject to the conditions upon which the grants or contributions are made including gifts or grants from any department, agency, or instrumentality of the United States, and to make grants, for any purpose consistent with the act;

(11) To enter into agreements with any department, agency, or instrumentality of the United States or this state and with lenders for the purpose of carrying out projects authorized under the act;

(12) To enter into contracts or agreements with lenders for the servicing and processing of mortgages or loans pursuant to the act;

(13) To provide technical assistance to local public bodies and to for-profit and nonprofit entities in the areas of housing for low-income and moderate-income persons, agricultural enterprises, and community or economic development, to distribute data and information concerning the needs of the state in these areas, and, at the discretion of the authority, to charge reasonable fees for such assistance;

(14) To the extent permitted under its contract with the holders of bonds of the authority, to consent to any modification with respect to the rate of interest, time, and payment of any installment of principal or interest or any other term of any contract, loan, loan note, loan note commitment, mortgage, mortgage loan, mortgage loan commitment, lease, or agreement of any kind to which the authority is a party;

(15) To the extent permitted under its contract with the holders of bonds of the authority, to enter into contracts with any lender containing provisions enabling it to reduce the rental or carrying charges to persons unable to pay the regular schedule of charges when, by reason of other income or payment by any department, agency, or instrumentality of the United States of America or of the state, the reduction can be made without jeopardizing the economic stability of the project being financed;

(16) To acquire by construction, purchase, devise, gift, or lease or any one or more of such methods one or more projects located within this state, except

that the authority shall not acquire any projects or parts of such projects by condemnation;

(17) To lease to others any or all of its projects for such rentals and upon such terms and conditions as the authority may deem advisable and as are not in conflict with the act;

(18) To issue bonds for the purpose of paying the cost of financing any project or projects and to secure the payment of such bonds as provided in the act;

(19) To sell and convey any real or personal property and make such order respecting the same as it deems conducive to the best interest of the authority;

(20) To make and undertake commitments to make loans to lenders under the terms and conditions requiring the proceeds of the loans to be used by such lenders to make loans for projects. Loan commitments or actual loans shall be originated through and serviced by any bank, trust company, savings and loan association, mortgage banker, or other financial institution authorized to transact business in the state;

(21) To hold and dispose of any real or personal property, whether tangible or intangible, and any distributions thereon, transferred to or received by the authority as collateral or in payment of amounts due the authority or otherwise pursuant to state law, in accordance with the act;

(22) To invest in, purchase, make commitments to invest in or purchase, and take assignments or make commitments to take assignments of loans made by lenders for the construction, rehabilitation, or purchase of projects;

(23) To enter into financing agreements with others with respect to projects to provide financing for such projects upon such terms and conditions as the authority deems advisable to effectuate the public purposes of the act, which projects shall be located within the state;

(24) To enter into financing agreements with any corporation, partnership, limited liability company, or individual or with any county, city, village, or entity created pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act for purposes of financing any solid waste disposal project;

(25) To enter into agreements with or purchase or guaranty obligations of political subdivisions of the state, including authorities, agencies, commissions, districts, and instrumentalities thereof, to provide financing for affordable housing infrastructure and to enter into financing agreements with private parties for the purpose of financing infrastructure in connection with the development of affordable housing; and

(26) In lieu of providing direct financing as authorized by the Nebraska Investment Finance Authority Act, to guaranty debt obligations of any project owner to whom, and for such purposes as, the authority could otherwise provide direct financing, and the authority may establish a fund or account and limit its obligation on such guaranties to money in such fund or account. Any such guaranty shall contain a statement similar to that required by section 58-255 for bonds issued by the authority.

Source: Laws 1983, LB 626, § 39; Laws 1986, LB 1230, § 30; Laws 1991, LB 253, § 40; Laws 1992, LB 1257, § 70; Laws 1993, LB 121, § 355; Laws 1993, LB 364, § 21; Laws 1996, LB 1322, § 8; Laws 1999, LB 87, § 79; Laws 2001, LB 300, § 8; Laws 2022, LB707, § 40.

Cross References

Interlocal Cooperation Act, see section 13-801.
Joint Public Agency Act, see section 13-2501.

58-242 Authority; agricultural projects; duties.

Prior to exercising any of the powers authorized by the Nebraska Investment Finance Authority Act regarding agricultural projects as defined in subdivision (2) of section 58-219, the authority shall require:

(1) That no loan will be made to any person with a net worth of more than one million dollars;

(2) That the lender certify and agree that it will use the proceeds of such loan, investment, sale, or assignment within a reasonable period of time to make loans or purchase loans to provide agricultural enterprises or, if such lender has made a commitment to make loans to provide agricultural enterprises on the basis of a commitment from the authority to purchase such loans, such lender will make such loans and sell the same to the authority within a reasonable period of time;

(3) That the lender certify that the borrower is an individual who is actively engaged in or who will become actively engaged in an agricultural enterprise after he or she receives the loan or that the borrower is a firm, partnership, limited liability company, corporation, or other entity with all owners, partners, members, or stockholders thereof being natural persons who are actively engaged in or who will be actively engaged in an agricultural enterprise after the loan is received;

(4) That the aggregate amount of the loan received by a borrower shall not exceed five hundred seventeen thousand seven hundred dollars, as such amount shall be adjusted for inflation in accordance with section 147(c) of the Internal Revenue Code of 1986, as amended. In computing such amount a loan received by an individual shall be aggregated with those loans received by his or her spouse and minor children and a loan received by a firm, partnership, limited liability company, or corporation shall be aggregated with those loans received by each owner, partner, member, or stockholder thereof; and

(5) That the recipient of the loan be identified in the minutes of the authority prior to or at the time of adoption by the authority of the resolution authorizing the issuance of the bonds which will provide for financing of the loan.

Source: Laws 1983, LB 626, § 42; Laws 1991, LB 253, § 43; Laws 1993, LB 121, § 356; Laws 2005, LB 90, § 17; Laws 2015, LB515, § 1; Laws 2023, LB562, § 12.

58-251 Authority; development project; make specific findings.

Prior to providing financing for a development project as defined by subdivision (3) of section 58-219, the authority shall make specific findings relating to the public purposes to be effectuated thereby, including but not limited to (1) with respect to a project as defined in subdivision (3)(a), (3)(b), or (3)(c) of section 58-219, the project's effect on the economic base, the tax base, tax revenue, and employment opportunities, and (2) with respect to a project as defined in subdivision (3)(d) of section 58-219, the project's effect on the provision, including the continued provision, of health care, child care, and related services.

Source: Laws 1983, LB 626, § 51; Laws 2022, LB707, § 41.

58-273 Building housing for individuals with disabilities; authority; duties; collaboration required.

(1) For purposes of this section, Olmstead Plan means the comprehensive strategic plan for providing services to individuals with disabilities that was developed in accordance with section 81-6,122.

(2) In order to help fulfill one of the goals of the Olmstead Plan, the authority shall use its best efforts to obtain state and federal grants for the purpose of building safe, affordable, and accessible housing for individuals with disabilities.

(3) The authority shall collaborate with the Department of Economic Development and the Department of Health and Human Services in obtaining such grants.

Source: Laws 2023, LB92, § 74.

ARTICLE 6

NEBRASKA UNIFORM PRUDENT MANAGEMENT OF INSTITUTIONAL FUNDS ACT

Section
58-615. Release or modification of restrictions on management, investment, or purpose.

58-615 Release or modification of restrictions on management, investment, or purpose.

(a) If the donor consents in a record, an institution may release or modify, in whole or in part, a restriction contained in a gift instrument on the management, investment, or purpose of an institutional fund. A release or modification may not allow a fund to be used for a purpose other than a charitable purpose of the institution.

(b) The court, upon application of an institution, may modify a restriction contained in a gift instrument regarding the management or investment of an institutional fund if the restriction has become impracticable or wasteful, if it impairs the management or investment of the fund, or if, because of circumstances not anticipated by the donor, a modification of a restriction will further the purposes of the fund. The institution shall notify the Attorney General of the application, and the Attorney General must be given an opportunity to be heard. To the extent practicable, any modification must be made in accordance with the donor's probable intention.

(c) If a particular charitable purpose or a restriction contained in a gift instrument on the use of an institutional fund becomes unlawful, impracticable, impossible to achieve, or wasteful, the court, upon application of an institution, may modify the purpose of the fund or the restriction on the use of the fund in a manner consistent with the charitable purposes expressed in the gift instrument. The institution shall notify the Attorney General of the application, and the Attorney General must be given an opportunity to be heard.

(d) If an institution determines that a restriction contained in a gift instrument on the management, investment, or purpose of an institutional fund is unlawful, impracticable, impossible to achieve, or wasteful, the institution, sixty days after notification to the Attorney General, may release or modify the restriction, in whole or part, if:

(1) the institutional fund subject to the restriction has a total value of less than one hundred thousand dollars;

(2) more than twenty years have elapsed since the fund was established; and

(3) the institution uses the property in a manner consistent with the charitable purposes expressed in the gift instrument.

Source: Laws 2007, LB136, § 6; Laws 2022, LB795, § 1.

ARTICLE 7

NEBRASKA AFFORDABLE HOUSING ACT

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

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

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

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

Source: Laws 1996, LB 1322, § 13; Laws 1997, LB 864, § 9; Laws 2004, LB 1083, § 100; Laws 2005, LB 40, § 1; Laws 2011, LB388, § 11; Laws 2012, LB969, § 6; Laws 2013, LB199, § 24; Laws 2013, LB214, § 9; Laws 2017, LB518, § 10; Laws 2018, LB945, § 13; Laws 2019, LB86, § 6; Laws 2024, LB1413, § 40.
Effective date April 2, 2024.

ARTICLE 8

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

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

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

Four members of the authority shall constitute a quorum. The affirmative vote of a majority of all of the members of the authority shall be necessary for any action taken by the authority. A vacancy in the membership of the authority shall not impair the right of a quorum to exercise all the rights and perform all the duties of the authority. Any action taken by the authority under the Nebraska Educational, Health, Cultural, and Social Services Finance Authority Act may be authorized by resolution at any regular or special meeting, and each such resolution shall take effect immediately and need not be published or posted. Members of the authority may participate in a regular or special meeting of the authority by virtual conferencing as long as the chairperson or

vice-chairperson conducts the meeting at a location where the public is able to participate by attendance at that location and the virtual conferencing otherwise conforms to the requirements of section 84-1411.

Source: Laws 1981, LB 321, § 14; Laws 1984, LB 644, § 2; Laws 1993, LB 465, § 9; R.S.1943, (1994), § 79-2914; Laws 1995, LB 5, § 14; R.S.1943, (2008), § 85-1714; Laws 2013, LB170, § 17; Laws 2019, LB224, § 11; Laws 2021, LB83, § 7; Laws 2024, LB287, § 67.
Operative date April 17, 2024.

CHAPTER 59
MONOPOLIES AND UNLAWFUL RESTRAINT OF TRADE

Article.
15. Cigarette Sales.
    (b) Grey Market Sales. 59-1523.
16. Consumer Protection Act. 59-1608.01 to 59-1623.
17. Seller-Assisted Marketing Plan. 59-1722.

ARTICLE 15
CIGARETTE SALES

(b) GREY MARKET SALES

Section
59-1523. Disciplinary actions; contraband.

(b) GREY MARKET SALES

59-1523 Disciplinary actions; contraband.

(1) The cigarette tax division of the Tax Commissioner may, after notice and hearing, revoke or suspend for any violation of section 59-1520 the:

(a) License or licenses of any person licensed under sections 28-1418 to 28-1429.07 or sections 77-2601 to 77-2622; or

(b) License or certification of any person licensed or certified under the Tobacco Products Tax Act.

(2) Cigarettes that are acquired, held, owned, possessed, transported, sold, or distributed in or imported into this state in violation of section 59-1520 are declared to be contraband goods and are subject to seizure and forfeiture. Any cigarettes so seized and forfeited shall be destroyed. Such cigarettes shall be declared to be contraband goods whether the violation of section 59-1520 is knowing or otherwise.

Source: Laws 2001, LB 358, § 5; Laws 2011, LB590, § 2; Laws 2014, LB863, § 27; Laws 2024, LB1204, § 24.
Effective date July 19, 2024.

Cross References

Tobacco Products Tax Act, see section 77-4001.

ARTICLE 16
CONSUMER PROTECTION ACT

Section
59-1608.01. Enforcement of act; venue; jury trial.
59-1608.04. State Settlement Cash Fund; created; use; investment; transfer.
59-1611. Demand to produce documentary materials for inspection; contents; service; unauthorized disclosure; return; modification; vacation; use; penalty; sale, offer, or advertisement of property or services; connected accounts or assets; Attorney General; powers; court order.

59-1608.01 Enforcement of act; venue; jury trial.

(1) In the enforcement of the Consumer Protection Act, the Attorney General may bring an action in the name of the state in the district court of:

(a) The county in which the alleged violator resides or has his or her principal place of business;

(b) A county in which the Attorney General brings a related claim arising under the Uniform Deceptive Trade Practices Act; or

(c) Lancaster County.

(2) The Attorney General or defendant may demand that any claim under the Consumer Protection Act be tried by a jury.

Source: Laws 1983, LB 32, § 6; Laws 2002, LB 1278, § 24; Laws 2024, LB934, § 1.
Effective date April 16, 2024.

Cross References

Uniform Deceptive Trade Practices Act, see section 87-306.

59-1608.04 State Settlement Cash Fund; created; use; investment; transfer.

(1) The State Settlement Cash Fund is created. The fund shall be maintained by the Department of Justice and administered by the Attorney General. Except as otherwise provided by law, the fund shall consist of all recoveries received pursuant to the Consumer Protection Act, including any money, funds, securities, or other things of value in the nature of civil damages or other payment, except criminal penalties, whether such recovery is by way of verdict, judgment, compromise, or settlement in or out of court, or other final disposition of any case or controversy, or any other payments received on behalf of the state by the Department of Justice and administered by the Attorney General for the benefit of the state or the general welfare of its citizens, but excluding all funds held in a trust capacity where specific benefits accrue to specific individuals, organizations, or governments. The fund may be expended for any allowable legal purposes as determined by the Attorney General. Transfers from the State Settlement Cash Fund may be made at the direction of the Legislature to the Nebraska Capital Construction Fund, the Legal Education for Public Service and Rural Practice Loan Repayment Assistance Fund, the Nebraska State Patrol Cash Fund, the Financial Literacy Cash Fund, and the General Fund. To provide necessary financial accountability and management oversight, revenue from individual settlement agreements or other separate sources credited to the State Settlement Cash Fund may be tracked and accounted for within the state accounting system through the use of separate and distinct funds, subfunds, or any other available accounting mechanism specifically approved by the Accounting Administrator for use by the Department of Justice. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. Beginning October 1, 2024, any investment earnings from investment of money in the fund shall be credited to the General Fund.

(2) The State Treasurer shall transfer two million five hundred thousand dollars from the State Settlement Cash Fund to the Nebraska Capital Construction Fund on July 1, 2013, or as soon thereafter as administratively possible.

(3) The State Treasurer shall transfer eight hundred seventy-six thousand nine hundred ninety-eight dollars from the State Settlement Cash Fund to the General Fund on or before June 30, 2018, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

(4) The State Treasurer shall transfer one million seven hundred fifty-six thousand six hundred thirty-nine dollars from the State Settlement Cash Fund to the General Fund on or before June 30, 2019, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

(5) The State Treasurer shall transfer one hundred twenty-five thousand dollars from the State Settlement Cash Fund to the Legal Education for Public Service and Rural Practice Loan Repayment Assistance Fund on or before April 30, 2018, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

(6) The State Treasurer shall transfer one hundred fifty thousand dollars from the State Settlement Cash Fund to the Legal Education for Public Service and Rural Practice Loan Repayment Assistance Fund on or before July 9, 2018, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

Source: Laws 2006, LB 1061, § 4; Laws 2009, First Spec. Sess., LB3, § 34; Laws 2010, LB190, § 7; Laws 2011, LB549, § 8; Laws 2013, LB199, § 26; Laws 2017, LB331, § 26; Laws 2018, LB945, § 14; Laws 2024, LB1413, § 41; Laws 2024, First Spec. Sess., LB3, § 17.

Note: Changes made by Laws 2024, LB1413, became effective April 2, 2024.

Note: Changes made by Laws 2024, First Spec. Sess., LB3, became effective August 21, 2024.

Cross References

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

59-1611 Demand to produce documentary materials for inspection; contents; service; unauthorized disclosure; return; modification; vacation; use; penalty; sale, offer, or advertisement of property or services; connected accounts or assets; Attorney General; powers; court order.

(1) Whenever the Attorney General believes that any person may be in possession, custody, or control of any original or copy of any book, record, report, memorandum, paper, communication, tabulation, map, chart, photograph, mechanical transcription, or other tangible document or recording, wherever situated, which he or she believes to be relevant to the subject matter of an investigation of a possible violation of sections 59-1602 to 59-1606, the Attorney General may, prior to the institution of a civil proceeding thereon, execute in writing and cause to be served upon such a person a civil investigative demand requiring such person to produce such documentary material and permit inspection and copying thereof. This section shall not be applicable to criminal prosecutions.

(2) Each such demand shall:

(a) State the statute and section or sections thereof the alleged violation of which is under investigation, and the general subject matter of the investigation;

(b) Describe the class or classes of documentary material to be produced thereunder with reasonable specificity so as fairly to indicate the material demanded;

(c) Prescribe a return date within which the documentary material shall be produced; and

(d) Identify the members of the Attorney General's staff to whom such documentary material shall be made available for inspection and copying.

(3) No such demand shall:

(a) Contain any requirement which would be unreasonable or improper if contained in a subpoena duces tecum issued by a court of this state; or

(b) Require the disclosure of any documentary material which would be privileged, or which for any other reason would not be required by a subpoena duces tecum issued by a court of this state.

(4) Service of any such demand may be made by:

(a) Delivering a duly executed copy thereof to the person to be served, or, if such person is not a natural person, to any officer of the person to be served;

(b) Delivering a duly executed copy thereof to the principal place of business in this state of the person to be served; or

(c) Mailing by certified mail a duly executed copy thereof addressed to the person to be served at the principal place of business in this state, or, if such person has no place of business in this state, to his or her principal office or place of business.

(5) Documentary material demanded pursuant to the provisions of this section shall be produced for inspection and copying during normal business hours at the principal office or place of business of the person served, or at such other times and places as may be agreed upon by the person served and the Attorney General.

(6) No documentary material produced pursuant to a demand, or copies thereof, shall, unless otherwise ordered by a district court for good cause shown, be produced for inspection or copying by, nor shall the contents thereof be disclosed to, other than an authorized employee of the Attorney General, without the consent of the person who produced such material, except that:

(a) Under such reasonable terms and conditions as the Attorney General shall prescribe, the copies of such documentary material shall be available for inspection and copying by the person who produced such material or any duly authorized representative of such person;

(b) The Attorney General may provide copies of such documentary material to an official of this or any other state, or an official of the federal government, who is charged with the enforcement of federal or state antitrust or consumer protection laws, if such official agrees in writing to not disclose such documentary material to any person other than the official's authorized employees, except as such disclosure is permitted under subdivision (c) of this subsection; and

(c) The Attorney General or any assistant attorney general or an official authorized to receive copies of documentary material under subdivision (b) of this subsection may use such copies of documentary material as he or she determines necessary in the enforcement of the Consumer Protection Act or any state or federal consumer protection laws that any state or federal official has authority to enforce, including presentation before any court, except that any such material which contains trade secrets shall not be presented except with the approval of the court in which action is pending after adequate notice to the person furnishing such material.

(7) At any time before the return date specified in the demand, or within twenty days after the demand has been served, whichever period is shorter, a petition to extend the return date for or to modify or set aside a demand issued pursuant to subsection (1) of this section, stating good cause, may be filed in the district court for Lancaster County, or in such other county where the parties reside. A petition by the person on whom the demand is served, stating good cause, to require the Attorney General or any person to perform any duty imposed by the provisions of this section, and all other petitions in connection with a demand, may be filed in the district court for Lancaster County or in the county where the parties reside.

(8) Whenever any person fails to comply with any civil investigative demand for documentary material duly served upon him or her under this section, or whenever satisfactory copying or reproduction of any such material cannot be done and such person refuses to surrender such material, the Attorney General may file, in the district court of the county in which such person resides, is found, or transacts business, and serve upon such person a petition for an order of such court for the enforcement of this section, except that if such person transacts business in more than one county such petition shall be filed in the county in which such person maintains his or her principal place of business or in such other county as may be agreed upon by the parties to such petition. Whenever any petition is filed in the district court of any county under this section, such court shall have jurisdiction to hear and determine the matter so presented and to enter such order as may be required to carry into effect the provisions of this section. Disobedience of any order entered under this section by any court shall be punished as a contempt thereof.

(9) When the Attorney General has reasonable cause to believe that any person has engaged in or is engaging in any violation of sections 59-1602 to 59-1606, the Attorney General may:

(a) Require such person to file a statement or report in writing under oath or otherwise, on such forms as shall be prescribed by the Attorney General, as to all facts and circumstances concerning the sale, offer, or advertisement of property or services by such person, and such other data and information as the Attorney General deems necessary;

(b) Examine under oath any person in connection with the sale or advertisement of any property or services;

(c) Examine any property or sample thereof, record, book, document, account, or paper as the Attorney General deems necessary;

(d) Pursuant to an order of any district court, impound any record, book, document, account, paper, or sample of property which is material to such violation and retain the same in his or her possession until the completion of all proceedings undertaken under the Consumer Protection Act; or

(e) Obtain an order freezing or impounding connected accounts or assets as provided in subsection (10) of this section.

(10)(a) For purposes of this subsection, connected accounts or assets means any bank account, other financial account, money, asset, or property connected with any alleged violation of sections 59-1602 to 59-1606.

(b) In order to ensure the availability of resources needed to provide restitution or any other remedy available to a consumer by law, the Attorney General may request an ex parte order from the district court temporarily freezing or impounding connected accounts or assets. If granted, such order shall be effective for a period of fourteen days, and the court shall set the matter for a hearing. The Attorney General shall provide notice of the order and hearing to the owner of the connected account or asset. Such notice may be made by publication.

(c) Following such hearing, the court may extend the temporary order for any period up to the completion of all proceedings undertaken under the Consumer Protection Act unless earlier canceled or modified at the request of the Attorney General.

Source: Laws 1974, LB 1028, § 18; Laws 2002, LB 1278, § 29; Laws 2016, LB835, § 22; Laws 2024, LB934, § 2.
Effective date April 16, 2024.

59-1623 Act, how cited.

Sections 59-1601 to 59-1623 shall be known and may be cited as the Consumer Protection Act.

Source: Laws 1974, LB 1028, § 30; Laws 2002, LB 1278, § 33; Laws 2006, LB 1061, § 2; Laws 2024, LB934, § 3.
Effective date April 16, 2024.

ARTICLE 17

SELLER-ASSISTED MARKETING PLAN

Section
59-1722. Transaction involving the sale of a franchise; exempt; exception; conditions; fee.

59-1722 Transaction involving the sale of a franchise; exempt; exception; conditions; fee.

(1) Any transaction involving the sale of a franchise as defined in 16 C.F.R. 436.1(h), as such regulation existed on January 1, 2024, shall be exempt from the Seller-Assisted Marketing Plan Act, except that such transactions shall be subject to subdivision (1)(d) of section 59-1757, those provisions regulating or prescribing the use of the phrase buy-back or secured investment or similar phrases as set forth in sections 59-1726 to 59-1728 and 59-1751, and all sections which provide for their enforcement. The exemption shall only apply if:

(a) The franchise is offered and sold in compliance with the requirements of 16 C.F.R. part 436, Disclosure Requirements and Prohibitions Concerning Franchising, as such part existed on January 1, 2024;

(b) Before placing any advertisement in a Nebraska-based publication, offering for sale to any prospective purchaser in Nebraska, or making any representations in connection with such offer or sale to any prospective purchaser in

Nebraska, the seller files a notice with the Department of Banking and Finance which contains (i) the name, address, and telephone number of the seller and the name under which the seller intends to do business and (ii) a brief description of the plan offered by the seller; and

(c) The seller pays a filing fee of one hundred dollars.

(2) The department may request a copy of the disclosure document upon receipt of a written complaint or inquiry regarding the seller or upon a reasonable belief that a violation of the Seller-Assisted Marketing Plan Act has occurred or may occur. The seller shall provide such copy within ten business days of receipt of the request.

(3) All funds collected by the department under this section shall be remitted to the State Treasurer for credit to the Securities Act Cash Fund.

(4) The Director of Banking and Finance may by order deny or revoke an exemption specified in this section with respect to a particular offering of one or more business opportunities if the director finds that such an order is in the public interest or is necessary for the protection of purchasers. An order shall not be entered without appropriate prior notice to all interested parties, an opportunity for hearing, and written findings of fact and conclusions of law. If the public interest or the protection of purchasers so requires, the director may by order summarily deny or revoke an exemption specified in this section pending final determination of any proceedings under this section. An order under this section shall not operate retroactively.

Source: Laws 1979, LB 180, § 22; Laws 1993, LB 218, § 9; Laws 2001, LB 53, § 108; Laws 2013, LB214, § 11; Laws 2020, LB909, § 47; Laws 2021, LB363, § 29; Laws 2022, LB707, § 42; Laws 2023, LB92, § 76; Laws 2024, LB1074, § 89.
Operative date April 18, 2024.

CHAPTER 60
MOTOR VEHICLES

Article.
1. Motor Vehicle Certificate of Title Act. 60-107 to 60-172.
3. Motor Vehicle Registration. 60-301 to 60-3,260.
4. Motor Vehicle Operators' Licenses.
   (e) General Provisions. 60-462 to 60-470.03.
   (f) Provisions Applicable to All Operators' Licenses. 60-479.01 to 60-4,111.01.
   (g) Provisions Applicable to Operation of Motor Vehicles Other than Commercial. 60-4,115 to 60-4,130.04.
   (h) Provisions Applicable to Operation of Commercial Motor Vehicles. 60-4,131 to 60-4,172.
   (i) Commercial Driver Training Schools. 60-4,174.
   (j) State Identification Cards. 60-4,181.
   (k) Point System. 60-4,183, 60-4,188.
5. Motor Vehicle Safety Responsibility.
   (a) Definitions. 60-501.
6. Nebraska Rules of the Road.
   (a) General Provisions. 60-601 to 60-640.
   (b) Powers of State and Local Authorities. 60-678.
   (d) Accidents and Accident Reporting. 60-699.
   (f) Traffic Control Devices. 60-6,123.
   (t) Windshields, Windows, and Mirrors. 60-6,254.
   (u) Occupant Protection Systems and Three-point Safety Belt Systems. 60-6,265.
   (w) Helmets and Eye Protection. 60-6,279, 60-6,282.
   (y) Size, Weight, and Load. 60-6,290.
13. Weighing Stations. 60-1304.
14. Motor Vehicle Industry Licensing. 60-1401 to 60-1438.01.
15. Department of Motor Vehicles. 60-1505 to 60-1515.
27. Manufacturer's Warranty Duties. 60-2705.
29. Uniform Motor Vehicle Records Disclosure Act. 60-2909.01.
34. Peer-to-Peer Vehicle Sharing Program. 60-3401 to 60-3415.

ARTICLE 1
MOTOR VEHICLE CERTIFICATE OF TITLE ACT

Section
60-107. Cabin trailer, defined.
60-119.01. Low-speed vehicle, defined.
60-142.11. Assembled vehicle; application for certificate of title; procedure.
60-144. Certificate of title; issuance; filing; application; contents; form.
60-146. Application; identification inspection required; exceptions; form; procedure; additional inspection authorized; agreement with motor vehicle dealer; county sheriff; duties.
60-149. Application; documentation required.
60-151. Certificate of title obtained in name of purchaser; exceptions.
60-164.01. Electronic certificate of title; changes authorized.
60-169. Vehicle; certificate of title; surrender and cancellation; when required; licensed wrecker or salvage dealer; report; contents; fee; mobile home or manufactured home affixed to real property; certificate of title; surrender and cancellation; procedure; effect; detachment; owner; duties.
60-172. Salvage branded certificate of title; required disclosure.

60-107 Cabin trailer, defined.

Cabin trailer means a trailer or a semitrailer, which is designed, constructed, and equipped as a dwelling place, living abode, or sleeping place, whether used

for such purposes or instead permanently or temporarily for the advertising, sale, display, or promotion of merchandise or services or for any other commercial purpose except transportation of property for hire or transportation of property for distribution by a private carrier. Cabin trailer does not mean a trailer or semitrailer which is permanently attached to real estate. There are four classes of cabin trailers:

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

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

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

(4) Manufactured home means a structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or forty body feet or more in length or when erected on site is three hundred twenty or more square feet and which is built on a permanent frame and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure, except that manufactured home includes any structure that meets all of the requirements of this subdivision other than the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States Secretary of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, as such act existed on January 1, 2024, 42 U.S.C. 5401 et seq.

Source: Laws 2005, LB 276, § 7; Laws 2008, LB797, § 1; Laws 2019, LB79, § 1; Laws 2020, LB944, § 5; Laws 2021, LB149, § 1; Laws 2022, LB750, § 5; Laws 2023, LB138, § 7; Laws 2024, LB1200, § 6.
Operative date April 16, 2024.

60-119.01 Low-speed vehicle, defined.

Low-speed vehicle means a (1) four-wheeled motor vehicle (a) whose speed attainable in one mile is more than twenty miles per hour and not more than twenty-five miles per hour on a paved, level surface, (b) whose gross vehicle weight rating is less than three thousand pounds, and (c) that complies with 49 C.F.R. part 571, as such part existed on January 1, 2024, or (2) three-wheeled motor vehicle (a) whose maximum speed attainable is not more than twenty-five miles per hour on a paved, level surface, (b) whose gross vehicle weight rating is less than three thousand pounds, and (c) which is equipped with a windshield and an occupant protection system. A motorcycle with a sidecar attached is not a low-speed vehicle.

Source: Laws 2007, LB286, § 5; Laws 2011, LB289, § 7; Laws 2016, LB929, § 1; Laws 2017, LB263, § 12; Laws 2018, LB909, § 14; Laws 2019, LB79, § 2; Laws 2019, LB270, § 6; Laws 2020,

LB944, § 6; Laws 2021, LB149, § 2; Laws 2022, LB750, § 6; Laws 2023, LB138, § 8; Laws 2024, LB1200, § 7.
Operative date April 16, 2024.

60-142.11 Assembled vehicle; application for certificate of title; procedure.

The owner of an assembled vehicle may apply for a certificate of title by presenting a certificate of title for one major component part, a bill of sale for all other major component parts replaced, a statement that an inspection has been conducted on the vehicle, and a vehicle identification number as described in section 60-148. The certificate of title shall indicate the year of the vehicle as the year application for title was made and the make of the vehicle as assembled.

Source: Laws 2018, LB909, § 23; Laws 2022, LB750, § 7.

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

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

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

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

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

(d) The department shall issue certificates of title pursuant to subsection (2) of section 60-142.01 and section 60-142.06. Application for a certificate of title shall be made upon a form prescribed by the department. All applications shall be accompanied by the appropriate fee or fees.

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

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

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

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

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

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

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

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

Source: Laws 2005, LB 276, § 44; Laws 2006, LB 663, § 13; Laws 2006, LB 765, § 3; Laws 2009, LB202, § 12; Laws 2010, LB650, § 11; Laws 2010, LB816, § 4; Laws 2011, LB212, § 2; Laws 2012, LB801, § 29; Laws 2015, LB642, § 3; Laws 2017, LB263, § 13; Laws 2019, LB270, § 7; Laws 2020, LB944, § 8; Laws 2022, LB750, § 8; Laws 2024, LB1200, § 8.
Operative date April 16, 2024.

Cross References

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

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

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

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

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

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

(b) Each county sheriff shall establish a process by which to enter into an agreement with any motor vehicle dealer as defined in section 60-1401.26 with an established place of business as defined in section 60-1401.15 in the county in which the sheriff has jurisdiction in order to collect information for the identification inspection on motor vehicles which are in the inventory of the motor vehicle dealer at the dealer's established place of business in such county. The agreement entered into shall require that the motor vehicle dealer provide the required fee, a copy of the documents evidencing transfer of ownership, and the make, model, vehicle identification number, and odometer reading in a form and manner prescribed by the county sheriff, which shall include a requirement to provide one or more photographs or digital images of the vehicle, the vehicle identification number, and the odometer reading. The county sheriff shall complete the identification inspection as required under subdivision (a) of this subsection using such information and return to the motor vehicle dealer the statement that an identification inspection has been conducted for each motor vehicle as provided in subsection (3) of this section. If the information is incomplete or if there is reason to believe that further

inspection is necessary, the county sheriff shall inform the motor vehicle dealer. If the motor vehicle dealer knowingly provides inaccurate or false information, the motor vehicle dealer shall be liable for any damages that result from the provision of such information. The motor vehicle dealer shall keep the records for five years after the date the identification inspection is complete.

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

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

Source: Laws 2005, LB 276, § 46; Laws 2006, LB 765, § 4; Laws 2007, LB286, § 11; Laws 2012, LB801, § 30; Laws 2018, LB909, § 24; Laws 2019, LB80, § 1; Laws 2021, LB343, § 1; Laws 2022, LB749, § 1; Laws 2024, LB1200, § 9.
Operative date April 16, 2024.

60-149 Application; documentation required.

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

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

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

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

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

(iv) A certificate of title from another state;

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

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

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

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

(ix) In the case of a motor vehicle, a trailer, an all-terrain vehicle, a utility-type vehicle, or a minibike, an affidavit by the holder of a motor vehicle auction dealer's license as described in subdivision (11) of section 60-1406 affirming that the certificate of title is unavailable and that the vehicle (A) is a salvage

vehicle through payment of a total loss settlement, (B) is a salvage vehicle purchased by the auction dealer, or (C) has been donated to an organization operating under section 501(c)(3) of the Internal Revenue Code as defined in section 49-801.01; or

(x) A United States Government Certificate to Obtain Title to a Vehicle.

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

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

(2)(a) If the application for a certificate of title for a manufactured home or a mobile home is being made in accordance with subdivision (4)(b) of section 60-137 or if the certificate of title for a manufactured home or a mobile home is unavailable, the application shall be accompanied by proof of ownership in the form of:

(i) A duly assigned manufacturer's or importer's certificate;

(ii) A certificate of title from another state;

(iii) A court order issued by a court of record;

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

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

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

(3) For purposes of this section, certificate of title includes a salvage certificate, a salvage branded certificate of title, or any other document of ownership issued by another state or jurisdiction for a salvage vehicle. Only a salvage branded certificate of title shall be issued to any vehicle conveyed upon a salvage certificate, a salvage branded certificate of title, or any other document of ownership issued by another state or jurisdiction for a salvage vehicle. A previously salvage branded certificate of title may be issued if, prior to application, the applicant's vehicle has been repaired and inspected as provided in section 60-146.

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

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

return receipt requested, to the last-known address of the owner and to any lien or security interest holder of record of the property noted in the affidavit.

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

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

Source: Laws 2005, LB 276, § 49; Laws 2006, LB 663, § 15; Laws 2010, LB650, § 13; Laws 2010, LB933, § 1; Laws 2012, LB801, § 33; Laws 2017, LB263, § 14; Laws 2017, LB492, § 12; Laws 2018, LB275, § 1; Laws 2018, LB909, § 26; Laws 2019, LB270, § 8; Laws 2022, LB750, § 9; Laws 2024, LB1200, § 10.
Operative date April 16, 2024.

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

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

(2) If the purchaser of a vehicle does not obtain a certificate of title in accordance with subsection (1) of this section within thirty days after the sale of the vehicle, the seller of such vehicle may request the department to update the electronic certificate of title record. The department shall update such record upon receiving evidence of a sale satisfactory to the director.

Source: Laws 2005, LB 276, § 51; Laws 2011, LB163, § 14; Laws 2019, LB111, § 2; Laws 2019, LB270, § 9; Laws 2022, LB750, § 10.

60-164.01 Electronic certificate of title; changes authorized.

If a certificate of title is an electronic certificate of title record, upon application by an owner or a lienholder and payment of the fee prescribed in section 60-154, the following changes may be made to a certificate of title electronically and without printing a certificate of title:

(1) Changing the name of an owner to reflect a legal change of name;

(2) Removing the name of an owner with the consent of all owners and lienholders;

(3) Adding an additional owner with the consent of all owners and lienholders;

(4) Adding, changing, or removing a transfer-on-death beneficiary designation; or

(5) Allowing an owner that has elected to retain a salvage vehicle pursuant to subsection (2) of section 60-173 to obtain a salvage branded certificate of title.

Source: Laws 2017, LB263, § 19; Laws 2018, LB909, § 28; Laws 2021, LB113, § 2; Laws 2024, LB1200, § 11.
Operative date April 16, 2024.

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

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

(b) This subdivision applies to all licensed wrecker or salvage dealers and, except as otherwise provided in this subdivision, to each vehicle located on the premises of such dealer. For each vehicle required to be reported under 28 C.F.R. 25.56, as such regulation existed on January 1, 2024, the information obtained by the department under this section may be reported to the National Motor Vehicle Title Information System in a format that will satisfy the requirement for reporting under 28 C.F.R. 25.56, as such regulation existed on January 1, 2024. Such report shall include:

(i) The name, address, and contact information for the reporting entity;

(ii) The vehicle identification number;

(iii) The date the reporting entity obtained such motor vehicle;

(iv) The name of the person from whom such motor vehicle was obtained, for use only by a law enforcement or other appropriate government agency;

(v) A statement of whether the motor vehicle was or will be crushed, disposed of, offered for sale, or used for another purpose; and

(vi) Whether the motor vehicle is intended for export outside of the United States.

The department may set and collect a fee, not to exceed the cost of reporting to the National Motor Vehicle Title Information System, from wrecker or salvage dealers for electronic reporting to the National Motor Vehicle Title Information System, which shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund. This subdivision does not apply to any vehicle reported by a wrecker or salvage dealer to the National Motor Vehicle Title Information System as required under 28 C.F.R. 25.56, as such regulation existed on January 1, 2024.

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

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

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

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

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

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

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

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

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

(2) If a certificate of title of a mobile home or manufactured home is surrendered to the county treasurer, along with the affidavit required by subdivision (1)(c) of this section, he or she shall enter a cancellation upon his or her records, notify the department of such cancellation, forward a duplicate original of the affidavit to the department, and deliver a duplicate original of the executed affidavit under subdivision (1)(c) of this section to the register of deeds for the county in which the real property is located to be filed by the register of deeds. The county treasurer shall be entitled to collect fees from the person submitting the affidavit in accordance with section 33-109 to cover the costs of filing such affidavit. Following the cancellation of a certificate of title for a mobile home or manufactured home, the county treasurer or designated county official shall not issue a certificate of title for such mobile home or manufactured home, except as provided in subsection (5) of this section.

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

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

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

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

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

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

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

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

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

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

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

(6) An owner of an affixed mobile home or manufactured home for which the certificate of title has previously been canceled pursuant to subsection (2) of this section shall not detach the mobile home or manufactured home from the real estate before a certificate of title for the mobile home or manufactured home is issued by the county treasurer or department. If a certificate of title is issued by the county treasurer or department, the mobile home or manufactured home is no longer considered part of the real property. Any lien thereon shall be perfected pursuant to section 60-164. The owner of such mobile home or manufactured home may convey ownership of the mobile home or manufactured home only by way of a certificate of title.

(7) For purposes of this section:

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

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

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

Source: Laws 2005, LB 276, § 69; Laws 2006, LB 663, § 19; Laws 2012, LB14, § 6; Laws 2012, LB751, § 10; Laws 2012, LB801, § 44; Laws 2018, LB909, § 31; Laws 2019, LB719, § 1; Laws 2022, LB750, § 11; Laws 2023, LB138, § 9; Laws 2024, LB1200, § 12. Operative date April 16, 2024.

60-172 Salvage branded certificate of title; required disclosure.

A certificate of title issued on or after January 1, 2003, shall disclose in writing, from any records readily accessible to the department or county officials or a law enforcement officer, anything which indicates that the vehicle was previously issued a title in another jurisdiction that bore any word or symbol signifying that the vehicle was branded, including, but not limited to, older model salvage, unrebuildable, parts only, scrap, junk, nonrepairable, reconstructed, rebuilt, flood damaged, damaged, buyback, or any other indication, symbol, or word of like kind, and the name of the jurisdiction issuing the previous title.

Source: Laws 2005, LB 276, § 72; Laws 2024, LB1200, § 13. Operative date April 16, 2024.

ARTICLE 3

MOTOR VEHICLE REGISTRATION

Section

Section

60-301 Act, how cited.

Sections 60-301 to 60-3,260 shall be known and may be cited as the Motor Vehicle Registration Act.

Source: Laws 2005, LB 274, § 1; Laws 2006, LB 663, § 21; Laws 2007, LB286, § 20; Laws 2007, LB349, § 1; Laws 2007, LB570, § 1; Laws 2008, LB756, § 5; Laws 2009, LB110, § 1; Laws 2009, LB129, § 1; Laws 2010, LB650, § 20; Laws 2011, LB163, § 16; Laws 2011, LB289, § 12; Laws 2012, LB216, § 1; Laws 2012, LB1155, § 7; Laws 2014, LB383, § 1; Laws 2014, LB816, § 1; Laws 2015, LB220, § 1; Laws 2015, LB231, § 6; Laws 2016, LB474, § 3; Laws 2016, LB783, § 1; Laws 2016, LB977, § 5; Laws 2017, LB46, § 1; Laws 2017, LB263, § 23; Laws 2018, LB909, § 38; Laws 2019, LB138, § 3; Laws 2019, LB156, § 6; Laws 2019, LB356, § 2; Laws 2020, LB944, § 10; Laws 2021, LB113, § 3; Laws 2021, LB166, § 1; Laws 2021, LB317, § 1; Laws 2024, LB140, § 1; Laws 2024, LB1317, § 59.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB140, section 1, with LB1317, section 59, to reflect all amendments.

Note: Changes made by LB140 became operative July 19, 2024. Changes made by LB1317 became operative January 1, 2025.

60-302 Definitions, where found.

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

Source: Laws 2005, LB 274, § 2; Laws 2007, LB286, § 21; Laws 2008, LB756, § 6; Laws 2010, LB650, § 21; Laws 2011, LB163, § 17; Laws 2012, LB1155, § 8; Laws 2015, LB231, § 7; Laws 2016, LB783, § 2; Laws 2017, LB263, § 24; Laws 2018, LB909, § 39; Laws 2019, LB156, § 7; Laws 2024, LB1317, § 60.
Operative date January 1, 2025.

60-302.01 Access aisle, defined.

Access aisle means a space adjacent to a handicapped parking space or passenger loading zone which is constructed and designed in compliance with the federal Americans with Disabilities Act of 1990 and the federal regulations adopted in response to the act, as the act and the regulations existed on January 1, 2024.

Source: Laws 2011, LB163, § 18; Laws 2019, LB79, § 3; Laws 2020, LB944, § 11; Laws 2021, LB149, § 3; Laws 2022, LB750, § 12; Laws 2023, LB138, § 10; Laws 2024, LB1200, § 14.
Operative date April 16, 2024.

60-336.01 Low-speed vehicle, defined.

Low-speed vehicle means a (1) four-wheeled motor vehicle (a) whose speed attainable in one mile is more than twenty miles per hour and not more than twenty-five miles per hour on a paved, level surface, (b) whose gross vehicle weight rating is less than three thousand pounds, and (c) that complies with 49 C.F.R. part 571, as such part existed on January 1, 2024, or (2) three-wheeled motor vehicle (a) whose maximum speed attainable is not more than twenty-five miles per hour on a paved, level surface, (b) whose gross vehicle weight rating is less than three thousand pounds, and (c) which is equipped with a windshield and an occupant protection system. A motorcycle with a sidecar attached is not a low-speed vehicle.

Source: Laws 2007, LB286, § 26; Laws 2011, LB289, § 14; Laws 2014, LB776, § 1; Laws 2015, LB313, § 1; Laws 2016, LB929, § 2; Laws 2017, LB263, § 27; Laws 2018, LB909, § 46; Laws 2019, LB79, § 4; Laws 2019, LB270, § 13; Laws 2020, LB944, § 13; Laws 2021, LB149, § 4; Laws 2022, LB750, § 13; Laws 2023, LB138, § 11; Laws 2024, LB1200, § 15.
Operative date April 16, 2024.

60-345.01 Plug-in hybrid electric vehicle, defined.

Plug-in hybrid electric vehicle means any motor vehicle which:

(1) Uses batteries to power an electric motor;

(2) Uses motor vehicle fuel as defined in section 66-482, diesel fuel as defined in section 66-482, or compressed fuel as defined in section 66-6,100 to power an internal combustion engine; and

(3) Has batteries that can be charged using a wall outlet or charging equipment.

Source: Laws 2024, LB1317, § 61.
Operative date January 1, 2025.

60-386 Application; contents.

(1) Each new application shall contain, in addition to other information as may be required by the department, the name and residential and mailing address of the applicant and a description of the motor vehicle or trailer, including the color, the manufacturer, the identification number, the United States Department of Transportation number if required by 49 C.F.R. 390.5 through 390.21, as such regulations existed on January 1, 2024, and the weight of the motor vehicle or trailer required by the Motor Vehicle Registration Act. For trailers which are not required to have a certificate of title under section 60-137 and which have no identification number, the assignment of an identification number shall be required and the identification number shall be issued by the county treasurer or department. With the application the applicant shall pay the proper registration fee and shall state whether the motor vehicle is propelled by alternative fuel and, if alternative fuel, the type of fuel. The application shall also contain a notification that bulk fuel purchasers may be subject to federal excise tax liability. The department shall include such notification in the notices required by section 60-3,186.

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

Source: Laws 2005, LB 274, § 86; Laws 2011, LB289, § 17; Laws 2012, LB801, § 58; Laws 2013, LB207, § 1; Laws 2015, LB642, § 4; Laws 2016, LB929, § 3; Laws 2017, LB263, § 31; Laws 2018, LB909, § 55; Laws 2019, LB79, § 6; Laws 2019, LB270, § 14; Laws 2020, LB944, § 14; Laws 2021, LB149, § 5; Laws 2022, LB750, § 14; Laws 2023, LB138, § 12; Laws 2024, LB1200, § 16.
Operative date April 16, 2024.

60-392 Renewal of registration; license plates; validation decals; registration period; expiration.

(1) Except as provided otherwise in this section, registration may be renewed annually in a manner designated by the department and upon payment of the same fee as provided for the original registration. On making an application for renewal, the registration certificate for the preceding registration period or

renewal notice or other evidence designated by the department shall be presented with the application. A person may renew an annual registration up to thirty days prior to the date of expiration.

(2) The certificate of registration and license plates issued by the department shall be valid during the registration period for which they are issued, and when validation decals issued pursuant to section 60-3,101 have been affixed to the license plates, the plates shall also be valid for the registration period designated by such validation decals. If a person renews an annual registration up to thirty days prior to the date of expiration, the registration shall be valid for such time period as well.

(3) The registration period for motor vehicles and trailers required to be registered as provided in section 60-362 shall expire on the first day of the month one year from the month of issuance, and renewal shall become due on such day and shall become delinquent on the first day of the following month.

(4) Subsections (1) through (3) of this section do not apply to dealer's license plates, repossession plates, and transporter plates as provided in sections 60-373, 60-375, 60-378, and 60-379, which plates shall be issued for a calendar year.

(5) The registration period for apportioned vehicles as provided in section 60-3,198 shall be renewed monthly, quarterly, or annually at the discretion of the director. Such registration period expires on the last day of the registration period and renewal is delinquent on the first day of the second full month following such expiration date. The department may adopt and promulgate rules and regulations to establish a staggered registration system for apportioned vehicles registered pursuant to section 60-3,198, including the collection of eighteen or fewer months of registration fees.

Source: Laws 2005, LB 274, § 92; Laws 2006, LB 789, § 1; Laws 2022, LB750, § 15.

60-393 Multiple vehicle registration.

Any owner who has two or more motor vehicles or trailers required to be registered under the Motor Vehicle Registration Act may register all such motor vehicles or trailers on a calendar-year basis or on an annual basis for the same registration period beginning in a month chosen by the owner. When electing to establish the same registration period for all such motor vehicles or trailers, the owner shall pay the registration fee, the motor vehicle tax imposed in section 60-3,185, the motor vehicle fee imposed in section 60-3,190, and the alternative fuel fee imposed in section 60-3,191 on each motor vehicle for the number of months necessary to extend its current registration period to the registration period under which all such motor vehicles or trailers will be registered. Credit shall be given for registration paid on each motor vehicle or trailer when the motor vehicle or trailer has a later expiration date than that chosen by the owner except as otherwise provided in sections 60-3,121, 60-3,122.02, 60-3,122.04, 60-3,128, 60-3,224, 60-3,227, 60-3,233, 60-3,235, 60-3,238, 60-3,240, 60-3,242, 60-3,244, 60-3,246, 60-3,248, 60-3,250, 60-3,252, 60-3,254, 60-3,256, 60-3,258, and 60-3,260. Thereafter all such motor vehicles or trailers shall be registered on an annual basis starting in the month chosen by the owner.

Source: Laws 2005, LB 274, § 93; Laws 2007, LB570, § 4; Laws 2011, LB289, § 18; Laws 2014, LB383, § 2; Laws 2015, LB220, § 2;

Laws 2016, LB474, § 4; Laws 2017, LB46, § 2; Laws 2017, LB263, § 32; Laws 2019, LB138, § 4; Laws 2019, LB356, § 3; Laws 2020, LB944, § 15; Laws 2021, LB166, § 2; Laws 2021, LB317, § 2; Laws 2024, LB140, § 2.
Operative date July 19, 2024.

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

(1) Except as otherwise provided in subsection (2) of this section and sections 60-3,121, 60-3,122.02, 60-3,122.04, 60-3,128, 60-3,224, 60-3,227, 60-3,231, 60-3,233, 60-3,235, 60-3,238, 60-3,240, 60-3,242, 60-3,244, 60-3,246, 60-3,248, 60-3,250, 60-3,252, 60-3,254, 60-3,256, 60-3,258, and 60-3,260, the registration shall expire and the registered owner or lessee may, by returning the registration certificate, the license plates, and, when appropriate, the validation decals and by either making application on a form prescribed by the department to the county treasurer of the occurrence of an event described in subdivisions (a) through (e) of this subsection or, in the case of a change in situs, displaying to the county treasurer the registration certificate of such other state as evidence of a change in situs, receive a refund of that part of the unused fees and taxes on motor vehicles or trailers based on the number of unexpired months remaining in the registration period from the date of any of the following events:

(a) Upon transfer of ownership of any motor vehicle or trailer;

(b) In case of loss of possession because of fire, natural disaster, theft, dismantlement, or junking;

(c) When a salvage branded certificate of title is issued;

(d) Whenever a type or class of motor vehicle or trailer previously registered is subsequently declared by legislative act or court decision to be illegal or ineligible to be operated or towed on the public roads and no longer subject to registration fees, the motor vehicle tax imposed in section 60-3,185, the motor vehicle fee imposed in section 60-3,190, and the alternative fuel fee imposed in section 60-3,191;

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

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

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

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

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

(5) For purposes of this section, the date of the event shall be: (a) In the case of a transfer or loss, the date of the transfer or loss; (b) in the case of a change in the situs, the date of registration in another state; (c) in the case of a trade-in

or surrender under a lease, the date of trade-in or surrender; (d) in the case of a legislative act, the effective date of the act; and (e) in the case of a court decision, the date the decision is rendered.

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

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

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

Source: Laws 2005, LB 274, § 95; Laws 2007, LB286, § 35; Laws 2007, LB570, § 5; Laws 2009, LB175, § 1; Laws 2011, LB289, § 19; Laws 2012, LB801, § 61; Laws 2014, LB383, § 3; Laws 2015, LB220, § 3; Laws 2016, LB474, § 5; Laws 2017, LB46, § 3; Laws 2017, LB263, § 34; Laws 2018, LB909, § 57; Laws 2019, LB138, § 5; Laws 2019, LB356, § 4; Laws 2020, LB944, § 16; Laws 2021, LB166, § 3; Laws 2021, LB317, § 3; Laws 2024, LB140, § 3.
Operative date July 19, 2024.

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

Whenever the registered owner files an application with the county treasurer showing that a motor vehicle, trailer, or semitrailer is disabled and has been removed from service, the registered owner may, by returning the registration certificate, the license plates, and, when appropriate, the validation decals or, in the case of the unavailability of such registration certificate or certificates, license plates, or validation decals, then by making an affidavit to the county treasurer of such disablement and removal from service, receive a credit for a portion of the registration fee from the fee deposited with the State Treasurer at the time of registration based upon the number of unexpired months remaining in the registration year except as otherwise provided in sections 60-3,121, 60-3,122.02, 60-3,122.04, 60-3,128, 60-3,224, 60-3,227, 60-3,233, 60-3,235, 60-3,238, 60-3,240, 60-3,242, 60-3,244, 60-3,246, 60-3,248, 60-3,250, 60-3,252, 60-3,254, 60-3,256, 60-3,258, and 60-3,260. The owner shall also receive a credit for the unused portion of the motor vehicle tax and fee based upon the number of unexpired months remaining in the registration year. When the owner registers a replacement motor vehicle, trailer, or semitrailer at the time of filing such affidavit, the credit may be immediately applied against the registration fee and the motor vehicle tax and fee for the replacement motor vehicle, trailer, or semitrailer. When no such replacement motor vehicle, trailer, or semitrailer is so registered, the county treasurer shall determine the amount, if any, of the allowable credit for the registration fee and the motor vehicle tax and fee and issue a credit certificate to the owner. When such motor vehicle, trailer, or semitrailer is removed from service within the same month in which it was registered, no credits shall be allowed for such month. The

credits may be applied against taxes and fees for new or replacement motor vehicles, trailers, or semitrailers incurred within one year after cancellation of registration of the motor vehicle, trailer, or semitrailer for which the credits were allowed. When any such motor vehicle, trailer, or semitrailer is reregistered within the same registration year in which its registration has been canceled, the taxes and fees shall be that portion of the registration fee and the motor vehicle tax and fee for the remainder of the registration year.

Source: Laws 2005, LB 274, § 96; Laws 2007, LB570, § 6; Laws 2012, LB801, § 62; Laws 2014, LB383, § 4; Laws 2015, LB220, § 4; Laws 2016, LB474, § 6; Laws 2017, LB46, § 4; Laws 2017, LB263, § 35; Laws 2019, LB138, § 6; Laws 2019, LB356, § 5; Laws 2020, LB944, § 17; Laws 2021, LB166, § 4; Laws 2021, LB317, § 4; Laws 2021, LB509, § 6; Laws 2024, LB140, § 4. Operative date July 19, 2024.

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

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

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

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

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

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

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

Source: Laws 2005, LB 274, § 100; Laws 2010, LB650, § 25; Laws 2011, LB289, § 20; Laws 2012, LB216, § 2; Laws 2015, LB231, § 11; Laws 2016, LB53, § 1; Laws 2018, LB909, § 58; Laws 2019, LB356, § 6; Laws 2024, LB461, § 23.
Effective date July 19, 2024.

Cross References

State Procurement Act, see section 73-801.

60-3,101 License plates; when issued; validation decals.

(1) License plates shall be issued every six years beginning with the license plates issued in the year 2005.

(2) In the years in which plates are not issued, in lieu of issuing such license plates, the department shall furnish to every person whose motor vehicle or trailer is registered one or two validation decals, as the case may be. Such validation decals shall bear the year for which issued and be so constructed as to permit them to be permanently affixed to the plates.

(3) This section shall not apply to license plates issued pursuant to sections 60-3,203 and 60-3,228.

Source: Laws 2005, LB 274, § 101; Laws 2016, LB783, § 6; Laws 2022, LB750, § 16.

60-3,102 Plate fee.

(1) Whenever new license plates, including duplicate or replacement license plates, are issued to any person, a fee per plate shall be charged in addition to all other required fees. The license plate fee shall be determined by the department and shall only cover the cost of the license plate and validation decals but shall not exceed:

(a) Three dollars and fifty cents through December 31, 2022; and

(b) Four dollars and twenty-five cents beginning January 1, 2023.

(2) All fees collected pursuant to this section shall be remitted to the State Treasurer for credit to the Highway Trust Fund.

(3) This section shall not apply to license plates issued pursuant to section 60-3,122, 60-3,122.02, 60-3,123, 60-3,124, or 60-3,125.

Source: Laws 2005, LB 274, § 102; Laws 2019, LB138, § 7; Laws 2022, LB750, § 17.

60-3,104 Types of license plates.

The department shall issue the following types of license plates:

(1) Amateur radio station license plates issued pursuant to section 60-3,126;

(2) Apportionable vehicle license plates issued pursuant to section 60-3,203;

(3) Autocycle license plates issued pursuant to section 60-3,100;

(4) Boat dealer license plates issued pursuant to section 60-379;

(5) Breast Cancer Awareness Plates issued pursuant to sections 60-3,230 and 60-3,231;

(6) Bus license plates issued pursuant to section 60-3,144;

(7) Choose Life License Plates issued pursuant to sections 60-3,232 and 60-3,233;

(8) Commercial motor vehicle license plates issued pursuant to section 60-3,147;

(9) Czech Heritage Plates issued pursuant to sections 60-3,259 and 60-3,260;

(10) Dealer or manufacturer license plates issued pursuant to sections 60-3,114 and 60-3,115;

(11) Disabled veteran license plates issued pursuant to section 60-3,124;

(12) Donate Life Plates issued pursuant to sections 60-3,245 and 60-3,246;

(13) Down Syndrome Awareness Plates issued pursuant to sections 60-3,247 and 60-3,248;

(14) Farm trailer license plates issued pursuant to section 60-3,151;

(15) Farm truck license plates issued pursuant to section 60-3,146;

(16) Farm trucks with a gross weight of over sixteen tons license plates issued pursuant to section 60-3,146;

(17) Fertilizer trailer license plates issued pursuant to section 60-3,151;

(18) Former military vehicle license plates issued pursuant to section 60-3,236;

(19) Gold Star Family license plates issued pursuant to sections 60-3,122.01 and 60-3,122.02;

(20) Handicapped or disabled person license plates issued pursuant to section 60-3,113;

(21) Historical vehicle license plates issued pursuant to sections 60-3,130 to 60-3,134;

(22) Josh the Otter-Be Safe Around Water Plates issued pursuant to section 60-3,258;

(23) Local truck license plates issued pursuant to section 60-3,145;

(24) Metropolitan utilities district license plates issued pursuant to section 60-3,228;

(25) Military Honor Plates issued pursuant to sections 60-3,122.03 and 60-3,122.04;

(26) Minitruck license plates issued pursuant to section 60-3,100;

(27) Motor vehicle license plates for motor vehicles owned or operated by the state, counties, municipalities, or school districts issued pursuant to section 60-3,105;

(28) Motor vehicles exempt pursuant to section 60-3,107;

(29) Motorcycle license plates issued pursuant to section 60-3,100;

(30) Mountain Lion Conservation Plates issued pursuant to sections 60-3,226 and 60-3,227;

(31) Native American Cultural Awareness and History Plates issued pursuant to sections 60-3,234 and 60-3,235;

(32) Nebraska Cornhusker Spirit Plates issued pursuant to sections 60-3,127 to 60-3,129;

(33) Nebraska History Plates issued pursuant to sections 60-3,255 and 60-3,256;

(34) Nebraska 150 Sesquicentennial Plates issued pursuant to sections 60-3,223 to 60-3,225;

(35) Nonresident owner thirty-day license plates issued pursuant to section 60-382;

(36) Passenger car having a seating capacity of ten persons or less and not used for hire issued pursuant to section 60-3,143 other than autocycles;

(37) Passenger car having a seating capacity of ten persons or less and used for hire issued pursuant to section 60-3,143 other than autocycles;

(38) Pearl Harbor license plates issued pursuant to section 60-3,122;

(39) Personal-use dealer license plates issued pursuant to section 60-3,116;

(40) Personalized message license plates for motor vehicles, trailers, and semitrailers, except motor vehicles, trailers, and semitrailers registered under section 60-3,198, issued pursuant to sections 60-3,118 to 60-3,121;

(41) Pets for Vets Plates issued pursuant to sections 60-3,249 and 60-3,250;

(42) Prisoner-of-war license plates issued pursuant to section 60-3,123;

(43) Prostate Cancer Awareness Plates issued pursuant to section 60-3,240;

(44) Public power district license plates issued pursuant to section 60-3,228;

(45) Purple Heart license plates issued pursuant to section 60-3,125;

(46) Recreational vehicle license plates issued pursuant to section 60-3,151;

(47) Repossession license plates issued pursuant to section 60-375;

(48) Sammy's Superheroes license plates for childhood cancer awareness issued pursuant to section 60-3,242;

(49) Special interest motor vehicle license plates issued pursuant to section 60-3,135.01;

(50) Specialty license plates issued pursuant to sections 60-3,104.01 and 60-3,104.02;

(51) Support the Arts Plates issued pursuant to sections 60-3,251 and 60-3,252;

(52) Support Our Troops Plates issued pursuant to sections 60-3,243 and 60-3,244;

(53) The Good Life Is Outside Plates issued pursuant to sections 60-3,253 and 60-3,254;

(54) Trailer license plates issued for trailers owned or operated by the state, counties, municipalities, or school districts issued pursuant to section 60-3,106;

(55) Trailer license plates issued for trailers owned or operated by a metropolitan utilities district or public power district pursuant to section 60-3,228;

(56) Trailer license plates issued pursuant to section 60-3,100;

(57) Trailers exempt pursuant to section 60-3,108;

(58) Transporter license plates issued pursuant to section 60-378;

(59) Trucks or combinations of trucks, truck-tractors, or trailers which are not for hire and engaged in soil and water conservation work and used for the

purpose of transporting pipe and equipment exclusively used by such contractors for soil and water conservation construction license plates issued pursuant to section 60-3,149;

(60) Utility trailer license plates issued pursuant to section 60-3,151;

(61) Well-boring apparatus and well-servicing equipment license plates issued pursuant to section 60-3,109; and

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

Source: Laws 2005, LB 274, § 104; Laws 2006, LB 663, § 23; Laws 2007, LB286, § 37; Laws 2007, LB570, § 7; Laws 2009, LB110, § 2; Laws 2010, LB650, § 26; Laws 2012, LB216, § 3; Laws 2014, LB383, § 5; Laws 2015, LB45, § 2; Laws 2015, LB220, § 5; Laws 2015, LB231, § 12; Laws 2016, LB474, § 7; Laws 2016, LB783, § 7; Laws 2016, LB977, § 6; Laws 2017, LB46, § 5; Laws 2017, LB263, § 36; Laws 2018, LB909, § 59; Laws 2019, LB138, § 8; Laws 2019, LB156, § 9; Laws 2019, LB356, § 7; Laws 2020, LB944, § 18; Laws 2021, LB166, § 5; Laws 2021, LB317, § 5; Laws 2024, LB140, § 5.
Operative date July 19, 2024.

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

(1) A handicapped or disabled parking permit shall be of a design, size, configuration, color, and construction and contain such information as specified in the regulations adopted by the United States Department of Transportation in 23 C.F.R. part 1235, UNIFORM SYSTEM FOR PARKING FOR PERSONS WITH DISABILITIES, as such regulations existed on January 1, 2024.

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

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

Source: Laws 2011, LB163, § 26; Laws 2012, LB751, § 13; Laws 2013, LB35, § 1; Laws 2014, LB657, § 8; Laws 2014, LB776, § 2; Laws 2015, LB313, § 2; Laws 2016, LB929, § 4; Laws 2017, LB263, § 38; Laws 2018, LB909, § 62; Laws 2019, LB79, § 7; Laws 2020, LB944, § 20; Laws 2021, LB149, § 6; Laws 2022, LB750, § 18; Laws 2023, LB138, § 13; Laws 2024, LB1200, § 17.
Operative date April 16, 2024.

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

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

(2) Each initial application shall be accompanied by a fee of forty dollars. The fees shall be remitted to the State Treasurer. The State Treasurer shall credit forty percent of the fee to the Highway Trust Fund and sixty percent of the fee to the Department of Motor Vehicles Cash Fund.

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

Source: Laws 2005, LB 274, § 119; Laws 2009, LB110, § 5; Laws 2012, LB801, § 72; Laws 2019, LB356, § 9; Laws 2022, LB750, § 19.

60-3,122 Pearl Harbor plates.

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

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

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

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

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

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

(3) No license plate fee shall be required for Pearl Harbor license plates.

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

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

(6) The county treasurer or the department may issue temporary license stickers to the applicant under this section for the applicant to lawfully operate the vehicle pending receipt of the license plates. No charge in addition to the

registration fee shall be made for the issuance of a temporary license sticker under this subsection. The department shall furnish temporary license stickers for issuance by the county treasurer at no cost to the counties. The department may adopt and promulgate rules and regulations regarding the design and issuance of temporary license stickers.

Source: Laws 2005, LB 274, § 122; Laws 2007, LB286, § 40; Laws 2009, LB110, § 6; Laws 2010, LB705, § 1; Laws 2015, LB642, § 5; Laws 2017, LB263, § 42; Laws 2019, LB138, § 9; Laws 2019, LB270, § 16; Laws 2022, LB750, § 20.

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

(1) Any person who is a surviving spouse, whether remarried or not, or an ancestor, including a stepparent, a descendant, including a stepchild, a foster parent or a person in loco parentis, or a sibling of a person who died while in good standing on active duty in the military service of the United States may apply to the department for Gold Star Family plates in lieu of regular license plates on an application prescribed and provided by the department for any motor vehicle, trailer, or semitrailer, except for a motor vehicle or trailer registered under section 60-3,198. An applicant receiving a Gold Star Family plate for a farm truck with a gross weight of over sixteen tons shall affix the appropriate tonnage decal to the plate. The department shall make forms available for such applications through the county treasurers. In order to be eligible for Gold Star Family plates, a person shall register with the Department of Veterans' Affairs pursuant to section 80-414. The plates shall be issued upon payment of the license fee described in subsection (2) of this section and verification by the Department of Motor Vehicles of an applicant's eligibility using the registry established by the Department of Veterans' Affairs pursuant to section 80-414.

(2)(a) No additional fee shall be required for consecutively numbered Gold Star Family plates issued under this section and such plates shall not require the payment of any additional license plate fees and shall be permanently attached to the vehicle to which the plates are registered as long as the vehicle is properly registered by the applicant annually.

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

(ii) No license plate fee under section 60-3,102 shall be required for personalized message Gold Star Family plates issued under this section, other than the renewal fee provided for in subdivision (2)(b)(i) of this section. Such plates shall be permanently attached to the vehicle to which the plates are registered as long as the vehicle is properly registered by the applicant annually and the renewal fee provided for in subdivision (2)(b)(i) of this section is paid.

(3)(a) When the department receives an application for Gold Star Family plates, the department may deliver the plates and registration certificate to the

applicant by United States mail or to the county treasurer of the county in which the motor vehicle or trailer is registered and the delivery of the plates and registration certificate shall be made through a secure process and system. If delivery of the plates and registration certificate is made by the department to the applicant, the department may charge a postage and handling fee in an amount not more than necessary to recover the cost of postage and handling for the specific items mailed to the registrant. The department shall remit the fee to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund. The county treasurer or the department shall issue Gold Star Family plates in lieu of regular license plates when the applicant complies with the other provisions of the Motor Vehicle Registration Act for registration of the motor vehicle or trailer. If Gold Star Family plates are lost, stolen, or mutilated, the licensee shall be issued replacement license plates upon request and without charge.

(b) The county treasurer or the department may issue temporary license stickers to the applicant under this section for the applicant to lawfully operate the vehicle pending receipt of the license plates. No charge in addition to the registration fee shall be made for the issuance of a temporary license sticker under this subdivision. The department shall furnish temporary license stickers for issuance by the county treasurer at no cost to the counties. The department may adopt and promulgate rules and regulations regarding the design and issuance of temporary license stickers.

(4) The owner of a motor vehicle or trailer bearing Gold Star Family plates may apply to the county treasurer to have such plates transferred at no cost to a motor vehicle other than the vehicle for which such plates were originally purchased if such vehicle is owned by the owner of the plates. The owner may have the unused portion of the fee for the plates, if any, credited to the other vehicle which will bear the plates at the rate of eight and one-third percent per month for each full month left in the registration period.

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

Source: Laws 2007, LB570, § 3; Laws 2009, LB110, § 7; Laws 2009, LB331, § 2; Laws 2012, LB801, § 75; Laws 2017, LB263, § 43; Laws 2019, LB138, § 10; Laws 2019, LB270, § 17; Laws 2021, LB78, § 1; Laws 2021, LB113, § 6; Laws 2022, LB750, § 21.

60-3,122.03 Military Honor Plates; design.

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

(2) The department shall create designs honoring persons who have served or are serving in the United States Army, United States Army Reserve, United States Navy, United States Navy Reserve, United States Marine Corps, United States Marine Corps Reserve, United States Coast Guard, United States Coast

Guard Reserve, United States Air Force, United States Air Force Reserve, Air National Guard, or Army National Guard.

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

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

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

(6) The design shall be selected on the basis of limiting the manufacturing cost of each plate to an amount less than or equal to the amount charged for license plates pursuant to section 60-3,102. The Department of Motor Vehicles shall make applications available for each type of plate when it is designed. The department may adopt and promulgate rules and regulations to carry out this section and section 60-3,122.04.

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

(a) Assign a designation up to five characters; and

(b) Not use a county designation.

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

(9) The department shall cease to issue Military Honor Plates beginning with the next license plate issuance cycle after the license plate issuance cycle that begins in 2023 pursuant to section 60-3,101 if the total number of registered vehicles that obtained such plates is less than five hundred per year within any prior consecutive two-year period.

Source: Laws 2014, LB383, § 9; Laws 2017, LB45, § 1; Laws 2019, LB138, § 11; Laws 2019, LB356, § 10; Laws 2020, LB944, § 21; Laws 2022, LB750, § 22.

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

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

(2) In order to be eligible for license plates under this section, a person shall register with the Department of Veterans' Affairs pursuant to section 80-414. The license plates shall be issued upon the applicant paying the license plate fee as provided in subsection (3) of this section and verification by the Department of Motor Vehicles of an applicant's eligibility using the registry established by the Department of Veterans' Affairs pursuant to section 80-414. Any number of motor vehicles, trailers, or semitrailers owned by the applicant may be so licensed at any one time. Motor vehicles and trailers registered under section 60-3,198 shall not be so licensed.

(3) No license plate fee shall be required for license plates under this section.

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

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

(6) The county treasurer or the department may issue temporary license stickers to the applicant under this section for the applicant to lawfully operate the vehicle pending receipt of the license plates. No charge in addition to the registration fee shall be made for the issuance of a temporary license sticker under this subsection. The department shall furnish temporary license stickers for issuance by the county treasurer at no cost to the counties. The department may adopt and promulgate rules and regulations regarding the design and issuance of temporary license stickers.

Source: Laws 2005, LB 274, § 123; Laws 2007, LB286, § 41; Laws 2009, LB110, § 8; Laws 2010, LB705, § 2; Laws 2014, LB383, § 6; Laws 2017, LB263, § 45; Laws 2019, LB138, § 13; Laws 2019, LB270, § 19; Laws 2021, LB78, § 2; Laws 2022, LB750, § 23.

60-3,124 Disabled veteran plates; eligibility; verification; fee.

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

(2) In order to be eligible for license plates under this section, a person shall register with the Department of Veterans' Affairs pursuant to section 80-414. The plates shall be issued upon the applicant paying the license plate fee as provided in subsection (3) of this section and verification by the Department of Motor Vehicles of an applicant's eligibility using the registry established by the Department of Veterans' Affairs pursuant to section 80-414. Any number of motor vehicles, trailers, or semitrailers owned by the applicant may be so licensed at any one time. Motor vehicles and trailers registered under section 60-3,198 shall not be so licensed.

(3) No license plate fee shall be required for license plates under this section.

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

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

(6) The county treasurer or the department may issue temporary license stickers to the applicant under this section for the applicant to lawfully operate the vehicle pending receipt of the license plates. No charge in addition to the registration fee shall be made for the issuance of a temporary license sticker under this subsection. The department shall furnish temporary license stickers for issuance by the county treasurer at no cost to the counties. The department may adopt and promulgate rules and regulations regarding the design and issuance of temporary license stickers.

Source: Laws 2005, LB 274, § 124; Laws 2007, LB286, § 42; Laws 2009, LB110, § 9; Laws 2010, LB705, § 3; Laws 2015, LB642, § 6; Laws 2017, LB263, § 46; Laws 2019, LB138, § 14; Laws 2019, LB270, § 20; Laws 2021, LB78, § 3; Laws 2022, LB750, § 24.

60-3,125 Purple Heart plates; eligibility; verification; fee.

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

(2) In order to be eligible for license plates under this section, a person shall register with the Department of Veterans' Affairs pursuant to section 80-414. The license plates shall be issued upon payment of the license plate fee as provided in subsection (3) of this section and verification by the Department of Motor Vehicles of an applicant's eligibility using the registry established by the Department of Veterans' Affairs pursuant to section 80-414. Any number of motor vehicles, trailers, or semitrailers owned by the applicant may be so licensed at any one time. Motor vehicles and trailers registered under section 60-3,198 shall not be so licensed.

(3) No license plate fee shall be required for license plates under this section.

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

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

(6) The county treasurer or the department may issue temporary license stickers to the applicant under this section for the applicant to lawfully operate the vehicle pending receipt of the license plates. No charge in addition to the

registration fee shall be made for the issuance of a temporary license sticker under this subsection. The department shall furnish temporary license stickers for issuance by the county treasurer at no cost to the counties. The department may adopt and promulgate rules and regulations regarding the design and issuance of temporary license stickers.

Source: Laws 2005, LB 274, § 125; Laws 2007, LB286, § 43; Laws 2009, LB110, § 10; Laws 2014, LB383, § 7; Laws 2017, LB263, § 47; Laws 2019, LB138, § 15; Laws 2019, LB270, § 21; Laws 2021, LB78, § 4; Laws 2022, LB750, § 25.

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

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

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

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

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

(5) The county treasurer or the department may issue temporary license stickers to the applicant under this section for the applicant to lawfully operate the vehicle pending receipt of the license plates. No charge in addition to the registration fee shall be made for the issuance of a temporary license sticker under this subsection. The department shall furnish temporary license stickers for issuance by the county treasurer at no cost to the counties. The department may adopt and promulgate rules and regulations regarding the design and issuance of temporary license stickers.

Source: Laws 2005, LB 274, § 126; Laws 2007, LB286, § 44; Laws 2017, LB263, § 48; Laws 2019, LB270, § 22; Laws 2022, LB750, § 26.

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

(1) A person may apply to the department for Nebraska Cornhusker Spirit Plates in lieu of regular license plates on an application prescribed and provided by the department for any motor vehicle, trailer, or semitrailer, except for motor vehicles or trailers registered under section 60-3,198. An applicant receiving a spirit plate for a farm truck with a gross weight of over sixteen tons

or for a commercial motor vehicle registered for a gross weight of five tons or over shall affix the appropriate tonnage decal to the spirit plate. The department shall make forms available for such applications through the county treasurers. Each application for initial issuance or renewal of spirit plates shall be accompanied by a fee of seventy dollars. Fees collected pursuant to this subsection shall be remitted to the State Treasurer. The State Treasurer shall credit sixty percent of the fees for initial issuance and renewal of spirit plates to the Department of Motor Vehicles Cash Fund and forty percent of the fees to the Highway Trust Fund.

(2)(a) When the department receives an application for spirit plates, the department may deliver the plates and registration certificate to the applicant by United States mail or to the county treasurer of the county in which the motor vehicle or trailer is registered and the delivery of the plates and registration certificate shall be made through a secure process and system. If delivery of the plates and registration certificate is made by the department to the applicant, the department may charge a postage and handling fee in an amount not more than necessary to recover the cost of postage and handling for the specific items mailed to the registrant. The department shall remit the fee to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund. The county treasurer or the department shall issue spirit plates in lieu of regular license plates when the applicant complies with the other provisions of law for registration of the motor vehicle or trailer. If spirit plates are lost, stolen, or mutilated, the licensee shall be issued replacement license plates pursuant to section 60-3,157.

(b) The county treasurer or the department may issue temporary license stickers to the applicant under this section for the applicant to lawfully operate the vehicle pending receipt of the license plates. No charge in addition to the registration fee shall be made for the issuance of a temporary license sticker under this subdivision. The department shall furnish temporary license stickers for issuance by the county treasurer at no cost to the counties. The department may adopt and promulgate rules and regulations regarding the design and issuance of temporary license stickers.

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

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

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

Source: Laws 2005, LB 274, § 128; Laws 2007, LB286, § 45; Laws 2009, LB110, § 11; Laws 2012, LB801, § 76; Laws 2017, LB263, § 49; Laws 2019, LB270, § 23; Laws 2019, LB356, § 13; Laws 2021, LB113, § 8; Laws 2022, LB750, § 27.

60-3,130.02 Historical license plates; fees; delivery; fee.

(1) An initial processing fee of ten dollars shall be submitted with an application under section 60-3,130 to defray the costs of issuing the first plate to each collector and to establish a distinct identification number for each collector. A fee of fifty dollars for each vehicle so registered shall also be submitted with the application. When the department receives an application for historical license plates, the department may deliver the plates and registration certificate to the applicant by United States mail. The department may charge a postage and handling fee in an amount not more than necessary to recover the cost of postage and handling for the specific items mailed to the registrant. The department shall remit the fee to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

(2) For use of license plates as provided in section 60-3,130.04, a fee of twenty-five dollars shall be submitted with the application in addition to the fees specified in subsection (1) of this section.

(3) The fees shall be remitted to the State Treasurer for credit to the Highway Trust Fund.

Source: Laws 2006, LB 663, § 26; Laws 2022, LB750, § 28.

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

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

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

(3) If only one license plate is used on the vehicle, the license plate shall be placed on the rear of the vehicle. The owner of a historical vehicle may use only one plate on the vehicle even for years in which two license plates were issued for vehicles in general.

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

Support the Arts Plates, Support Our Troops Plates, The Good Life Is Outside Plates, or Josh the Otter-Be Safe Around Water Plates.

Source: Laws 2006, LB 663, § 28; Laws 2007, LB286, § 46; Laws 2009, LB110, § 13; Laws 2013, LB32, § 1; Laws 2014, LB383, § 8; Laws 2015, LB220, § 6; Laws 2016, LB474, § 8; Laws 2016, LB977, § 8; Laws 2017, LB46, § 6; Laws 2017, LB263, § 50; Laws 2019, LB138, § 16; Laws 2019, LB356, § 14; Laws 2020, LB944, § 23; Laws 2021, LB166, § 6; Laws 2021, LB317, § 6; Laws 2024, LB140, § 6.
Operative date July 19, 2024.

60-3,135.01 Special interest motor vehicle license plates; application; fee; delivery; fee; special interest motor vehicle; restrictions on use; prohibited acts; penalty.

(1) The department shall either modify an existing plate design or design license plates to identify special interest motor vehicles, to be known as special interest motor vehicle license plates. The department, in designing such special interest motor vehicle license plates, shall include the words special interest and limit the manufacturing cost of each plate to an amount less than or equal to the amount charged for license plates pursuant to section 60-3,102. The department shall choose the design of the plate. The department shall make applications available for this type of plate when it is designed.

(2) One type of special interest motor vehicle license plate shall be alphanumeric plates. The department shall:

(a) Assign a designation up to seven characters; and

(b) Not use a county designation.

(3) One type of special interest motor vehicle license plate shall be personalized message plates. Such plates shall be issued subject to the same conditions specified for personalized message license plates in section 60-3,118.

(4) A person may apply to the department for a special interest motor vehicle license plate in lieu of regular license plates on an application prescribed and provided by the department for any special interest motor vehicle, except that no motor vehicle registered under section 60-3,198, autocycle, motorcycle, or trailer shall be eligible for special interest motor vehicle license plates. The department shall make forms available for such applications through the county treasurers.

(5) The form shall contain a description of the special interest motor vehicle owned and sought to be registered, including the make, body type, model, serial number, and year of manufacture.

(6)(a) In addition to all other fees required to register a motor vehicle, each application for initial issuance or renewal of a special interest motor vehicle license plate shall be accompanied by a special interest motor vehicle license plate fee of fifty dollars. Twenty-five dollars of the special interest motor vehicle license plate fee shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund, and twenty-five dollars of the special interest motor vehicle license plate fee shall be remitted to the State Treasurer for credit to the Highway Trust Fund.

(b) If a special interest motor vehicle license plate is lost, stolen, or mutilated, the owner shall be issued a replacement license plate pursuant to section 60-3,157.

(7) When the department receives an application for a special interest motor vehicle license plate, the department may deliver the plate and registration certificate to the applicant by United States mail or to the county treasurer of the county in which the special interest motor vehicle is registered and the delivery of the plate and registration certificate shall be made through a secure process and system. If delivery of the plates and registration certificate is made by the department to the applicant, the department may charge a postage and handling fee in an amount not more than necessary to recover the cost of postage and handling for the specific items mailed to the registrant. The department shall remit the fee to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund. The county treasurer or the department shall issue the special interest motor vehicle license plate in lieu of regular license plates when the applicant complies with the other provisions of the Motor Vehicle Registration Act for registration of the special interest motor vehicle.

(8) If the cost of manufacturing special interest motor vehicle license plates at any time exceeds the amount charged for license plates pursuant to section 60-3,102, any money to be credited to the Department of Motor Vehicles Cash Fund under this section shall instead be credited first to the Highway Trust Fund in an amount equal to the difference between the manufacturing costs of special interest motor vehicle license plates and the amount charged pursuant to section 60-3,102 with respect to such license plates and the remainder shall be credited to the Department of Motor Vehicles Cash Fund.

(9) The special interest motor vehicle license plate shall be affixed to the rear of the special interest motor vehicle.

(10) A special interest motor vehicle shall not be used for the same purposes and under the same conditions as other motor vehicles of the same type and shall not be used for business or occupation or regularly for transportation to and from work. A special interest motor vehicle may be driven on the public streets and roads only for occasional transportation, public displays, parades, and related pleasure or hobby activities.

(11) It shall be unlawful to own or operate a motor vehicle with special interest motor vehicle license plates in violation of this section. Upon conviction of a violation of any provision of this section, a person shall be guilty of a Class V misdemeanor.

(12) For purposes of this section, special interest motor vehicle means a motor vehicle of any age which is being collected, preserved, restored, or maintained by the owner as a leisure pursuit and not used for general transportation of persons or cargo.

Source: Laws 2012, LB216, § 4; Laws 2015, LB231, § 15; Laws 2017, LB263, § 51; Laws 2021, LB113, § 9; Laws 2022, LB750, § 29.

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

(1) The department shall, upon a sworn complaint in writing of any person, investigate whether a certificate of registration:

(a) Has been issued on a motor vehicle or trailer that exceeds the length, height, or width provided by law;

(b) Was issued contrary to any law of this state; or

(c) Was issued to a person who has had a certificate of registration revoked pursuant to subdivision (1)(c) of section 60-3,183 under the International Registration Plan Act.

(2) If the department validates the information in the complaint after conducting such investigation, it shall have the power to revoke such certificate of registration.

Source: Laws 2005, LB 274, § 162; Laws 2019, LB270, § 24; Laws 2024, LB1200, § 18.
Operative date April 16, 2024.

Cross References

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

60-3,191 Alternative fuel; fee.

In addition to any other fee required under the Motor Vehicle Registration Act, a fee for registration of each motor vehicle powered by an alternative fuel shall be charged. The fee shall be one hundred fifty dollars, except that for a motorcycle or plug-in hybrid electric vehicle, the fee shall be seventy-five dollars. The fee shall be collected by the county treasurer and remitted to the State Treasurer for credit to the Highway Trust Fund.

Source: Laws 2011, LB289, § 24; Laws 2024, LB1317, § 62.
Operative date January 1, 2025.

60-3,193.01 International Registration Plan; adopted.

For purposes of the Motor Vehicle Registration Act, the International Registration Plan is adopted and incorporated by reference as the plan existed on January 1, 2024.

Source: Laws 2008, LB756, § 10; Laws 2009, LB331, § 4; Laws 2010, LB805, § 2; Laws 2011, LB212, § 3; Laws 2012, LB751, § 14; Laws 2013, LB35, § 2; Laws 2014, LB776, § 3; Laws 2015, LB313, § 3; Laws 2016, LB929, § 5; Laws 2017, LB263, § 55; Laws 2018, LB909, § 69; Laws 2019, LB79, § 8; Laws 2020, LB944, § 25; Laws 2021, LB149, § 8; Laws 2022, LB750, § 30; Laws 2023, LB138, § 14; Laws 2024, LB1200, § 19.
Operative date April 16, 2024.

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

(1)(a) Any owner engaged in operating a fleet of apportionable vehicles in this state in interjurisdiction commerce may, in lieu of registration of such apportionable vehicles under the general provisions of the Motor Vehicle Registration Act, register and license such fleet for operation in this state by filing a statement and the application required by section 60-3,203 with the Division of Motor Carrier Services of the department. The statement shall be in such form and contain such information as the division requires, declaring the total

mileage operated by such vehicles in all jurisdictions and in this state during the preceding year and describing and identifying each such apportionable vehicle to be operated in this state during the ensuing license period.

(b)(i) Before July 1, 2024, upon receipt of such statement and application, the division shall determine the total fee payment, which shall be equal to the amount of fees due pursuant to section 60-3,203 and the amount obtained by applying the formula provided in section 60-3,204 to a fee of thirty-five dollars per ton based upon gross vehicle weight of the empty weights of a truck or truck-tractor and the empty weights of any trailer or combination thereof with which it is to be operated in combination at any one time plus the weight of the maximum load to be carried thereon at any one time, and shall notify the applicant of the amount of payment required to be made. Mileage operated in noncontracting reciprocity jurisdictions by apportionable vehicles based in Nebraska shall be applied to the portion of the formula for determining the Nebraska injurisdiction fleet distance.

(ii) Beginning July 1, 2024, upon receipt of such statement and application, the division shall determine the total fee payment, which shall be equal to the amount of fees due pursuant to section 60-3,203 and the amount obtained by applying the formula provided in section 60-3,204 to a fee of thirty-three dollars and fifty cents per ton based upon gross vehicle weight of the empty weights of a truck or truck-tractor and the empty weights of any trailer or combination thereof with which it is to be operated in combination at any one time plus the weight of the maximum load to be carried thereon at any one time, and shall notify the applicant of the amount of payment required to be made. Mileage operated in noncontracting reciprocity jurisdictions by apportionable vehicles based in Nebraska shall be applied to the portion of the formula for determining the Nebraska injurisdiction fleet distance.

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

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

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

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

(g) When a nonresident fleet owner has registered his or her apportionable vehicles, his or her apportionable vehicles shall be considered as fully registered for both interjurisdiction and intrajurisdiction commerce when the jurisdiction of base registration for such fleet accords the same consideration for fleets with a base registration in Nebraska. Each apportionable vehicle of a fleet registered by a resident of Nebraska shall be considered as fully registered for both interjurisdiction and intrajurisdiction commerce.

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

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

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

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

(6)(a) In the event of the transfer of ownership of any registered apportionable vehicle, (b) in the case of loss of possession because of fire, natural disaster, theft, or wrecking, junking, or dismantling of any registered apportionable vehicle, (c) when a salvage branded certificate of title is issued for any registered apportionable vehicle, (d) whenever a type or class of registered apportioned vehicle is subsequently declared by legislative act or court decision to be illegal or ineligible to be operated or towed on the public roads and no longer subject to registration fees and taxes, (e) upon trade-in or surrender of a registered apportionable vehicle under a lease, or (f) in case of a change in the situs of a registered apportionable vehicle to a location outside of this state, its registration shall expire, except that if the registered owner or lessee applies to the division after such transfer or loss of possession and accompanies the application with a fee of one dollar and fifty cents, he or she may have any remaining credit of vehicle fees and taxes from the previously registered apportionable vehicle applied toward payment of any vehicle fees and taxes due and owing on another registered apportionable vehicle. If such registered apportionable vehicle has a greater gross vehicle weight than that of the previously registered apportionable vehicle, the registered owner or lessee of the registered apportionable vehicle shall additionally pay only the registration fee for the increased gross vehicle weight for the remaining months of the registration period based on the factors determined by the division in the original fleet application.

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

(8) In case of addition to the registered fleet during the registration period, the owner engaged in operating the fleet shall pay the proportionate registration fee from the date the vehicle was placed into service or, if the vehicle was

previously registered, the date the prior registration expired or the date Nebraska became the base jurisdiction for the fleet, whichever is first, for the remaining balance of the registration period. The fee for any permanent license plate issued for such addition pursuant to section 60-3,203 shall be the full fee required by such section, regardless of the number of months remaining in the license period.

(9) In lieu of registration under subsections (1) through (8) of this section, the title holder of record may apply to the division for special registration, to be known as an unladen-weight registration, for any commercial motor vehicle or combination of vehicles which have been registered to a Nebraska-based fleet owner within the current or previous registration period. Such registration shall be valid only for a period of thirty days and shall give no authority to operate the vehicle except when empty. The fee for such registration shall be twenty dollars for each vehicle, which fee shall be remitted to the State Treasurer for credit to the Highway Trust Fund. The issuance of such permits shall be governed by section 60-3,179.

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

Source: Laws 2005, LB 274, § 198; Laws 2008, LB756, § 15; Laws 2009, LB331, § 5; Laws 2012, LB751, § 15; Laws 2013, LB250, § 1; Laws 2016, LB666, § 2; Laws 2018, LB177, § 2; Laws 2019, LB79, § 9; Laws 2020, LB944, § 26; Laws 2021, LB113, § 10; Laws 2022, LB750, § 31; Laws 2024, LB1200, § 20.
Operative date April 16, 2024.

Cross References

Administrative Procedure Act, see section 84-920.

60-3,201.01 Motor carrier services system; build and maintain; Motor Carrier Services System Replacement and Maintenance Fund; created; use; investment.

(1) The Department of Motor Vehicles shall build and maintain a new motor carrier services system for processing the issuance of vehicle registrations pursuant to section 60-3,198 and the assessment of the motor fuel tax under the International Fuel Tax Agreement Act. The Director of Motor Vehicles shall designate an implementation date for the new system which date is on or before July 1, 2025.

(2) The Motor Carrier Services System Replacement and Maintenance Fund is created. The fund shall consist of amounts credited under section 60-3,202. The fund shall be used for the building, implementation, and maintenance of a new motor carrier services system for processing the issuance of vehicle registrations pursuant to section 60-3,198 and the assessment of the motor fuel tax under the International Fuel Tax Agreement Act.

(3) Any money in the Motor Carrier Services System Replacement and Maintenance 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. Beginning October 1, 2024, any investment earnings from investment of money in the fund shall be credited to the General Fund.

Source: Laws 2021, LB113, § 12; Laws 2024, First Spec. Sess., LB3, § 18.
Effective date August 21, 2024.

Cross References

International Fuel Tax Agreement Act, see section 66-1401.
Nebraska Capital Expansion Act, see section 72-1269.
Nebraska State Funds Investment Act, see section 72-1260.

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

(1)(a) Before July 1, 2024, registration fees credited to the Motor Carrier Services Division Distributive Fund pursuant to section 60-3,198 and remaining in such fund at the close of each calendar month shall be remitted to the State Treasurer for credit as follows: (i) Twenty-seven percent of such amount shall be credited to the Highway Tax Fund; (ii) sixty-four percent of such amount shall be credited to the Highway Trust Fund; and (iii) nine percent of such amount shall be credited to the Motor Carrier Services System Replacement and Maintenance Fund.

(b) Beginning July 1, 2024, registration fees credited to the Motor Carrier Services Division Distributive Fund pursuant to section 60-3,198 and remaining in such fund at the close of each calendar month shall be remitted to the State Treasurer for credit as follows: (i) Twenty-eight percent of such amount shall be credited to the Highway Tax Fund; (ii) sixty-seven percent of such amount shall be credited to the Highway Trust Fund; and (iii) five percent of such amount shall be credited to the Motor Carrier Services System Replacement and Maintenance Fund.

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

(3) Upon receipt of motor vehicle tax funds from the State Treasurer pursuant to subsection (2) of this section, the county treasurer shall distribute such funds to taxing agencies within the county in the same proportion that the levy of each such taxing agency bears to the total of such levies of all taxing agencies in the county.

(4) In the event any taxing district has been annexed, merged, dissolved, or in any way absorbed into another taxing district, any apportionment of motor vehicle tax funds under subsection (3) of this section to which such taxing district would have been entitled shall be apportioned to the successor taxing district which has assumed the functions of the annexed, merged, dissolved, or absorbed taxing district.

(5) On or before March 1 of each year, the department shall furnish to the State Treasurer a tabulation showing the total number of original motor vehicle

registrations in each county for the immediately preceding calendar year, which shall be the basis for computing the distribution of motor vehicle tax funds as provided in subsection (2) of this section.

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

Source: Laws 2005, LB 274, § 202; Laws 2007, LB334, § 11; Laws 2012, LB801, § 92; Laws 2016, LB977, § 12; Laws 2019, LB79, § 10; Laws 2021, LB113, § 11; Laws 2021, LB509, § 7; Laws 2024, LB1200, § 21.
Operative date April 16, 2024.

Cross References

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

60-3,203 Permanent license plate; application; fee; delivery; fee; renewal fee; replacement permanent plate; registration certificate replacement; deletion from fleet registration; fee.

(1)(a) Upon application and payment of the fees required pursuant to this section and section 60-3,198, the Division of Motor Carrier Services of the department shall issue to the owner of any fleet of apportionable commercial vehicles with a base registration in Nebraska a permanent license plate for each truck, truck-tractor, and trailer in the fleet. The application shall be accompanied by a fee of three dollars for each truck or truck-tractor and six dollars per trailer. The application shall be on a form developed by the division.

(b) The department may deliver the plates and registration certificate to the applicant by United States mail. The department may charge a postage and handling fee in an amount not more than necessary to recover the cost of postage and handling for the specific items mailed to the registrant.

(c) The department shall remit fees collected pursuant to this subsection to the State Treasurer for credit to the Motor Carrier Division Cash Fund.

(2) Fleets of apportionable vehicles license plates shall display a distinctive license plate provided by the department pursuant to this section.

(3) Any license plate issued pursuant to this section shall remain affixed to the front of the truck or truck-tractor or to the rear of the trailer or semitrailer as long as the apportionable vehicle is registered pursuant to section 60-3,198 by the owner making the original application pursuant to subsection (1) of this section. Upon transfer of ownership of the truck, truck-tractor, or trailer or transfer of ownership of the fleet or at any time the truck, truck-tractor, or trailer is no longer registered pursuant to section 60-3,198, the license plate shall cease to be active and shall be processed according to the rules and regulations of the department.

(4) The renewal fee for each permanent plate shall be two dollars and shall be assessed and collected in each license period after the period in which the permanent license plates are initially issued at the time all other renewal fees are collected pursuant to section 60-3,198 unless a truck, truck-tractor, or trailer has been deleted from the fleet registration.

(5)(a) If a permanent license plate is lost or destroyed, the owner shall submit an affidavit to that effect to the division prior to any deletion of the truck, truck-

tractor, or trailer from the fleet registration. If the truck, truck-tractor, or trailer is not deleted from the fleet registration, a replacement permanent license plate may be issued upon payment of a fee of three dollars for each truck or truck-tractor and six dollars per trailer.

(b) If the registration certificate for any fleet vehicle is lost or stolen, the division shall collect a fee of one dollar for replacement of such certificate.

(6) If a truck, truck-tractor, or trailer for which a permanent license plate has been issued pursuant to this section is deleted from the fleet registration due to loss of possession by the registrant, the plate shall be returned to the division.

(7) The registrant shall be liable for the full amount of the registration fee due for any truck, truck-tractor, or trailer not deleted from the fleet registration renewal.

(8) All fees collected pursuant to this section other than those collected pursuant to subdivisions (1)(b) and (c) of this section shall be remitted to the State Treasurer for credit to the Highway Cash Fund.

Source: Laws 2005, LB 274, § 203; Laws 2020, LB944, § 27; Laws 2022, LB750, § 32.

60-3,205 Registration certificate; disciplinary actions; director; powers; procedure.

(1)(a) The director may suspend, revoke, cancel, or refuse to issue or renew a registration certificate under the International Registration Plan Act:

(i) If the applicant or certificate holder 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;

(ii) If the applicant or certificate holder is in violation of sections 75-392 to 75-3,100; or

(iii) If the applicant or certificate holder committed any violation of the International Registration Plan Act or any rule or regulation adopted and promulgated under the act.

(b) Prior to taking action under this section, the director shall notify and advise the applicant or certificate holder of the proposed action and the reasons for such action in writing, by regular United States mail, to his or her last-known business address as shown on the application for the certificate or renewal. The notice shall also include an advisement of the procedures in subdivision (c) of this subsection.

(c) The applicant or certificate holder may, within thirty days after the date of the mailing of the notice, petition the director for a hearing to contest the proposed action. The hearing shall be commenced in accordance with the rules and regulations adopted and promulgated by the department. 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 certificate holder may show cause why the proposed action should not be taken. The director shall give the applicant or certificate holder reasonable notice of the time and place of the hearing. If the director's decision is adverse to the applicant or certificate holder, the applicant or certificate holder may appeal the decision in accordance with the Administrative Procedure Act.

(d) Except as provided in subsections (2) and (3) of this section, 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.

(e) Except as provided in subsections (2) and (3) of this section, 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.

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

(2)(a) The director may suspend, revoke, cancel, or refuse to issue or renew a registration certificate under the International Registration Plan Act or a license under the International Fuel Tax Agreement Act if the applicant, licensee, or certificate holder has issued to the department a check or draft which has been returned because of insufficient funds, no funds, or a stop-payment order. The director may take such action no sooner than seven days after the written notice required in subdivision (1)(b) of this section has been provided. Any petition to contest such action filed pursuant to subdivision (1)(c) of this section shall not stay such action of the director.

(b) If the director takes an action pursuant to this subsection, the director shall reinstate the registration certificate or license without delay upon the payment of certified funds by the applicant, licensee, or certificate holder for any fees due and reasonable administrative costs, not to exceed twenty-five dollars, incurred in taking such action.

(c) The rules, regulations, and orders of the director and the department that pertain to hearings commenced in accordance with this section and that are in effect prior to March 17, 2006, shall remain in effect, unless changed or eliminated by the director or the department, except for those portions involving a stay upon the filing of a petition to contest any action taken pursuant to this subsection, in which case this subsection shall supersede those provisions.

(3) Any person who receives notice from the director of action taken pursuant to subsection (1) or (2) of this section shall, within three business days, return such registration certificate and license plates to the department as provided in this section. If any person fails to return the registration certificate and license plates to the department, the department shall notify the Nebraska State Patrol that any such person is in violation of this section.

Source: Laws 2005, LB 274, § 205; Laws 2006, LB 853, § 5; Laws 2007, LB358, § 10; Laws 2009, LB331, § 6; Laws 2012, LB751, § 16; Laws 2020, LB944, § 28; Laws 2024, LB1200, § 22.
Operative date April 16, 2024.

Cross References

Administrative Procedure Act, see section 84-920.
International Fuel Tax Agreement Act, see section 66-1401.

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

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

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

(i) Passenger car;

(ii) Commercial motor vehicle or apportionable vehicle;

(iii) Farm truck;

(iv) Local truck;

(v) Minitruck;

(vi) Recreational vehicle;

(vii) Bus; or

(viii) Former military vehicle;

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

(i) A properly registered passenger car;

(ii) A properly registered commercial motor vehicle or apportionable vehicle;

(iii) A properly registered farm truck;

(iv) A properly registered local truck;

(v) A properly registered minitruck;

(vi) A properly registered recreational vehicle;

(vii) A properly registered motor vehicle which is engaged in soil and water conservation pursuant to section 60-3,149;

(viii) A properly registered well-boring apparatus;

(ix) A dealer-plated vehicle;

(x) A personal-use dealer-plated vehicle;

(xi) A properly registered bus;

(xii) A properly registered public power district motor vehicle or, beginning January 1, 2023, a properly registered metropolitan utilities district motor vehicle; or

(xiii) A properly registered former military vehicle;

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

(i) Passenger car;

(ii) Commercial motor vehicle;

(iii) Farm truck;

(iv) Minitruck; or

(v) Former military vehicle;

(d) A commercial trailer shall only be towed by:

(i) A properly registered motor vehicle which is engaged in soil and water conservation pursuant to section 60-3,149;

(ii) A properly registered local truck;

(iii) A properly registered well-boring apparatus;

(iv) A properly registered commercial motor vehicle or apportionable vehicle;

(v) A dealer-plated vehicle;

(vi) A personal-use dealer-plated vehicle;

(vii) A properly registered bus;

(viii) A properly registered farm truck; or

(ix) A properly registered public power district motor vehicle or, beginning January 1, 2023, a properly registered metropolitan utilities district motor vehicle;

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

(i) Passenger car;

(ii) Commercial motor vehicle or apportionable vehicle;

(iii) Farm truck; or

(iv) Local truck;

(f) A pole and cable reel trailer shall only be towed by a properly registered:

(i) Commercial motor vehicle or apportionable vehicle;

(ii) Local truck; or

(iii) Public power district motor vehicle or, beginning January 1, 2023, metropolitan utilities district motor vehicle;

(g) A dealer-plated trailer shall only be towed by:

(i) A dealer-plated vehicle;

(ii) A properly registered passenger car;

(iii) A properly registered commercial motor vehicle or apportionable vehicle;

(iv) A properly registered farm truck;

(v) A properly registered minitruck;

(vi) A personal-use dealer-plated vehicle; or

(vii) A properly registered former military vehicle;

(h) Trailers registered pursuant to section 60-3,198 as part of an apportioned fleet shall only be towed by:

(i) A properly registered motor vehicle which is engaged in soil and water conservation pursuant to section 60-3,149;

(ii) A properly registered local truck;

(iii) A properly registered well-boring apparatus;

(iv) A properly registered commercial motor vehicle or apportionable vehicle;

(v) A dealer-plated vehicle;

(vi) A personal-use dealer-plated vehicle;

(vii) A properly registered bus; or

(viii) A properly registered farm truck; and

(i) A trailer registered as a historical vehicle pursuant to sections 60-3,130 to 60-3,134 shall only be towed by:

(i) A motor vehicle properly registered as a historical vehicle pursuant to sections 60-3,130 to 60-3,134;

(ii) A properly registered passenger car;

(iii) A properly registered commercial motor vehicle or apportionable vehicle; or

(iv) A properly registered local truck.

(2) Nothing in this section shall be construed to waive compliance with the Nebraska Rules of the Road or Chapter 75.

(3) Nothing in this section shall be construed to prohibit any motor vehicle or trailer from displaying dealer license plates or In Transit stickers authorized by section 60-376.

Source: Laws 2007, LB349, § 2; Laws 2011, LB212, § 4; Laws 2016, LB783, § 13; Laws 2018, LB909, § 70; Laws 2019, LB270, § 26; Laws 2022, LB750, § 33.

Cross References

Nebraska Rules of the Road, see section 60-601.

60-3,226 Mountain Lion Conservation Plates; design.

(1) The department shall design license plates to be known as Mountain Lion Conservation Plates. The department shall create designs reflecting support for the conservation of the mountain lion population. The design shall be selected on the basis of limiting the manufacturing cost of each plate to an amount less than or equal to the amount charged for license plates pursuant to section 60-3,102. The department may adopt and promulgate rules and regulations to carry out this section and section 60-3,227.

(2) One type of Mountain Lion Conservation Plates shall be alphanumeric plates. The department shall:

(a) Assign a designation up to five characters; and

(b) Not use a county designation.

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

(4) The department shall cease to issue Mountain Lion Conservation Plates beginning with the next license plate issuance cycle after the license plate issuance cycle that begins in 2023 pursuant to section 60-3,101 if the total number of registered vehicles that obtained such plates is less than five hundred per year within any prior consecutive two-year period.

Source: Laws 2016, LB474, § 9; Laws 2019, LB356, § 15; Laws 2020, LB944, § 30; Laws 2022, LB750, § 34.

60-3,232 Choose Life License Plates; design.

(1) The department shall design license plates to be known as Choose Life License Plates. The department shall create designs reflecting support for the protection of Nebraska's children. The design shall be selected on the basis of limiting the manufacturing cost of each plate to an amount less than or equal to the amount charged for license plates pursuant to section 60-3,102. The department may adopt and promulgate rules and regulations to carry out this section and section 60-3,233.

(2) One type of Choose Life License Plates shall be alphanumeric plates. The department shall:

(a) Assign a designation up to five characters; and

(b) Not use a county designation.

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

(4) The department shall cease to issue Choose Life License Plates beginning with the next license plate issuance cycle after the license plate issuance cycle that begins in 2023 pursuant to section 60-3,101 if the total number of

registered vehicles that obtained such plates is less than five hundred per year within any prior consecutive two-year period.

Source: Laws 2017, LB46, § 7; Laws 2019, LB356, § 19; Laws 2020, LB944, § 32; Laws 2022, LB750, § 35.

60-3,233 Choose Life License Plates; application; form; fee; delivery; fee; transfer; procedure; fee.

(1) A person may apply to the department for Choose Life License Plates in lieu of regular license plates on an application prescribed and provided by the department for any motor vehicle or trailer, except for a motor vehicle or trailer registered under section 60-3,198. An applicant receiving a Choose Life License Plate for a farm truck with a gross weight of over sixteen tons or a commercial truck or truck-tractor with a gross weight of five tons or over shall affix the appropriate tonnage decal to the plate. The department shall make forms available for such applications through the county treasurers. The license plates shall be issued upon payment of the license fee described in subsection (2) of this section.

(2)(a) In addition to all other fees required for registration under the Motor Vehicle Registration Act, each application for initial issuance of alphanumeric Choose Life License Plates shall be accompanied by a fee of five dollars. An application for renewal of such plates shall be accompanied by a fee of five dollars. County treasurers collecting fees pursuant to this subdivision shall remit them to the State Treasurer. The State Treasurer shall credit five dollars of the fee to the Health and Human Services Cash Fund to supplement federal funds available to the Department of Health and Human Services for the Temporary Assistance for Needy Families program, 42 U.S.C. 601, et seq.

(b) In addition to all other fees required for registration under the Motor Vehicle Registration Act, each application for initial issuance or renewal of personalized message Choose Life License Plates shall be accompanied by a fee of forty dollars. County treasurers collecting fees pursuant to this subdivision shall remit them to the State Treasurer. The State Treasurer shall credit twenty-five percent of the fee for initial issuance and renewal of such plates to the Department of Motor Vehicles Cash Fund and seventy-five percent of the fee to the Health and Human Services Cash Fund to supplement federal funds available to the Department of Health and Human Services for the Temporary Assistance for Needy Families program.

(3)(a) When the department receives an application for Choose Life License Plates, the department shall deliver the plates and registration certificate to the applicant by United States mail or to the county treasurer of the county in which the motor vehicle or trailer is registered and the delivery of the plates and registration certificate shall be made through a secure process and system. The department may charge a postage and handling fee in an amount not more than necessary to recover the cost of postage and handling for the specific items mailed to the registrant. The department shall remit the fee to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund. The county treasurer shall issue Choose Life License Plates in lieu of regular license plates when the applicant complies with the other provisions of the Motor Vehicle Registration Act for registration of the motor vehicle or trailer. If Choose Life License Plates are lost, stolen, or mutilated, the licensee shall be issued replacement license plates upon request pursuant to section 60-3,157.

(b) The county treasurer or the department may issue temporary license stickers to the applicant under this section for the applicant to lawfully operate the vehicle pending receipt of the license plates. No charge in addition to the registration fee shall be made for the issuance of a temporary license sticker under this subdivision. The department shall furnish temporary license stickers for issuance by the county treasurer at no cost to the counties. The department may adopt and promulgate rules and regulations regarding the design and issuance of temporary license stickers.

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

(5) If the cost of manufacturing Choose Life License Plates at any time exceeds the amount charged for license plates pursuant to section 60-3,102, any money to be credited to the Health and Human Services Cash Fund to supplement federal funds available to the Department of Health and Human Services for the Temporary Assistance for Needy Families program shall instead be credited first to the Highway Trust Fund in an amount equal to the difference between the manufacturing costs of Choose Life License Plates and the amount charged pursuant to section 60-3,102 with respect to such plates and the remainder shall be credited to the Health and Human Services Cash Fund to supplement federal funds available to the Department of Health and Human Services for the Temporary Assistance for Needy Families program.

Source: Laws 2017, LB46, § 8; Laws 2019, LB270, § 30; Laws 2019, LB356, § 20; Laws 2022, LB750, § 36.

60-3,237 Wildlife Conservation Plates; design.

(1) The department shall design license plates to be known as Wildlife Conservation Plates. The department shall create no more than three designs reflecting support for the conservation of Nebraska wildlife, including sandhill cranes, bighorn sheep, and ornate box turtles. Each design shall be selected on the basis of limiting the manufacturing cost of each plate to an amount less than or equal to the amount charged for license plates pursuant to section 60-3,102. The department may adopt and promulgate rules and regulations to carry out this section and section 60-3,238.

(2) One type of Wildlife Conservation Plates shall be alphanumeric plates. The department shall:

(a) Assign a designation up to five characters; and

(b) Not use a county designation.

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

(4) The department shall cease to issue Wildlife Conservation Plates beginning with the next license plate issuance cycle after the license plate issuance cycle that begins in 2023 pursuant to section 60-3,101 if the total number of registered vehicles that obtained such plates is less than five hundred per year within any prior consecutive two-year period.

Source: Laws 2019, LB356, § 23; Laws 2020, LB944, § 34; Laws 2022, LB750, § 37.

60-3,241 Sammy's Superheroes license plates; design.

(1) The department shall design license plates to be known as Sammy's Superheroes license plates for childhood cancer awareness. The design shall include a blue handprint over a yellow ribbon and the words ''childhood cancer awareness''. The design shall be selected on the basis of limiting the manufacturing cost of each plate to an amount less than or equal to the amount charged for license plates pursuant to section 60-3,102. The department may adopt and promulgate rules and regulations to carry out this section and section 60-3,242.

(2) One type of Sammy's Superheroes license plates for childhood cancer awareness shall be alphanumeric plates. The department shall:

(a) Assign a designation up to five characters; and

(b) Not use a county designation.

(3) One type of Sammy's Superheroes license plates for childhood cancer awareness shall be personalized message plates. Such plates shall be issued subject to the same conditions specified for personalized message license plates in section 60-3,118, except that a maximum of five characters may be used.

(4) The department shall cease to issue Sammy's Superheroes license plates for childhood cancer awareness beginning with the next license plate issuance cycle after the license plate issuance cycle that begins in 2023 pursuant to section 60-3,101 if the total number of registered vehicles that obtained such plates is less than five hundred per year within any prior consecutive two-year period.

Source: Laws 2019, LB356, § 27; Laws 2020, LB944, § 38; Laws 2022, LB750, § 38.

60-3,243 Support Our Troops Plates; design.

(1) The department shall design license plates to be known as Support Our Troops Plates. The department shall create a design reflecting support for troops from all branches of the armed forces. The design shall be selected on the basis of limiting the manufacturing cost of each plate to an amount less than or equal to the amount charged for license plates pursuant to section 60-3,102. The department may adopt and promulgate rules and regulations to carry out this section and section 60-3,244.

(2) One type of Support Our Troops Plates shall be alphanumeric plates. The department shall:

(a) Assign a designation up to five characters; and

(b) Not use a county designation.

(3) One type of Support Our Troops Plates shall be personalized message plates. Such plates shall be issued subject to the same conditions specified for

personalized message license plates in section 60-3,118, except that a maximum of five characters may be used.

(4) The department shall cease to issue Support Our Troops Plates beginning with the next license plate issuance cycle after the license plate issuance cycle that begins in 2023 pursuant to section 60-3,101 if the total number of registered vehicles that obtained such plates is less than five hundred per year within any prior consecutive two-year period.

Source: Laws 2019, LB138, § 17; Laws 2020, LB944, § 40; Laws 2022, LB750, § 39.

60-3,245 Donate Life Plates; design.

(1) The department shall design license plates to be known as Donate Life Plates. The design shall support organ and tissue donation, registration as a donor on the Donor Registry of Nebraska, and the federally designated organ procurement organization for Nebraska. The design shall be selected on the basis of limiting the manufacturing cost of each plate to an amount less than or equal to the amount charged for license plates pursuant to section 60-3,102. The department may adopt and promulgate rules and regulations to carry out this section and section 60-3,246.

(2) One type of Donate Life Plates shall be alphanumeric plates. The department shall:

(a) Assign a designation up to five characters; and

(b) Not use a county designation.

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

(4) The department shall cease to issue Donate Life Plates beginning with the next license plate issuance cycle after the license plate issuance cycle that begins in 2023 pursuant to section 60-3,101 if the total number of registered vehicles that obtained such plates is less than five hundred per year within any prior consecutive two-year period.

Source: Laws 2020, LB944, § 41; Laws 2022, LB750, § 40.

60-3,247 Down Syndrome Awareness Plates; design.

(1) The department shall design license plates to be known as Down Syndrome Awareness Plates. The design shall include the words ''Down syndrome awareness'' inside a heart-shaped yellow and blue ribbon. The design shall be selected on the basis of limiting the manufacturing cost of each plate to an amount less than or equal to the amount charged for license plates pursuant to section 60-3,102. The department may adopt and promulgate rules and regulations to carry out this section and section 60-3,248.

(2) One type of Down Syndrome Awareness Plates shall be alphanumeric plates. The department shall:

(a) Assign a designation up to five characters; and

(b) Not use a county designation.

(3) One type of Down Syndrome Awareness Plates shall be personalized message plates. Such plates shall be issued subject to the same conditions

specified for personalized message license plates in section 60-3,118, except that a maximum of five characters may be used.

(4) The department shall cease to issue Down Syndrome Awareness Plates beginning with the next license plate issuance cycle after the license plate issuance cycle that begins in 2023 pursuant to section 60-3,101 if the total number of registered vehicles that obtained such plates is less than five hundred per year within any prior consecutive two-year period.

Source: Laws 2020, LB944, § 43; Laws 2022, LB750, § 41.

60-3,249 Pets for Vets Plates; design.

(1) The department shall design license plates to be known as Pets for Vets Plates. The design shall support veterans and companion or therapy pet animals. The design shall be selected on the basis of limiting the manufacturing cost of each plate to an amount less than or equal to the amount charged for license plates pursuant to section 60-3,102. The department may adopt and promulgate rules and regulations to carry out this section and section 60-3,250.

(2) One type of Pets for Vets Plates shall be alphanumeric plates. The department shall:

(a) Assign a designation up to five characters; and

(b) Not use a county designation.

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

(4) The department shall cease to issue Pets for Vets Plates beginning with the next license plate issuance cycle after the license plate issuance cycle that begins in 2023 pursuant to section 60-3,101 if the total number of registered vehicles that obtained such plates is less than five hundred per year within any prior consecutive two-year period.

Source: Laws 2020, LB944, § 45; Laws 2022, LB750, § 42.

60-3,251 Support the Arts Plates; design.

(1) The department shall design license plates to be known as Support the Arts Plates. The design shall be selected in consultation with the Nebraska Arts Council and shall support the arts in Nebraska. The design shall be selected on the basis of limiting the manufacturing cost of each plate to an amount less than or equal to the amount charged for license plates pursuant to section 60-3,102. The department may adopt and promulgate rules and regulations to carry out this section and section 60-3,252.

(2) One type of Support the Arts Plates shall be alphanumeric plates. The department shall:

(a) Assign a designation up to five characters; and

(b) Not use a county designation.

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

(4) The department shall cease to issue Support the Arts Plates beginning with the next license plate issuance cycle after the license plate issuance cycle that begins in 2023 pursuant to section 60-3,101 if the total number of registered vehicles that obtained such plates is less than five hundred per year within any prior consecutive two-year period.

Source: Laws 2020, LB944, § 47; Laws 2022, LB750, § 43.

60-3,253 The Good Life Is Outside Plates; design.

(1) The department shall design license plates to be known as The Good Life Is Outside Plates. The design shall reflect the importance of safe walking and biking in Nebraska and the value of our recreational trails. The design shall be selected on the basis of limiting the manufacturing cost of each plate to an amount less than or equal to the amount charged for license plates pursuant to section 60-3,102. The department may adopt and promulgate rules and regulations to carry out this section and section 60-3,254.

(2) One type of The Good Life Is Outside Plates shall be alphanumeric plates. The department shall:

(a) Assign a designation up to five characters; and

(b) Not use a county designation.

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

(4) The department shall cease to issue The Good Life Is Outside Plates beginning with the next license plate issuance cycle after the license plate issuance cycle that begins in 2023 pursuant to section 60-3,101 if the total number of registered vehicles that obtained such plates is less than five hundred per year within any prior consecutive two-year period.

Source: Laws 2020, LB944, § 49; Laws 2022, LB750, § 44.

60-3,259 Czech Heritage Plates; design.

(1) The department shall design license plates to be known as Czech Heritage Plates. The design shall be selected in consultation with the Czech Honorary Consul of Nebraska and shall reflect Czech heritage in Nebraska. The design shall be selected on the basis of limiting the manufacturing cost of each plate to an amount less than or equal to the amount charged for license plates pursuant to section 60-3,102.

(2) One type of Czech Heritage Plates shall be alphanumeric plates. The department shall: (a) Assign a designation up to five characters; and (b) not use a county designation.

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

(4) The department shall make applications available for Czech Heritage Plates once such plates are designed.

(5) The department shall cease to issue Czech Heritage Plates beginning with the next license plate issuance cycle after the license plate issuance cycle that

begins in 2023 pursuant to section 60-3,101 if the total number of registered vehicles that obtained such plates is less than five hundred per year within any prior consecutive two-year period.

(6) The department may adopt and promulgate rules and regulations to carry out this section and section 60-3,260.

Source: Laws 2024, LB140, § 7.
Operative date July 19, 2024.

60-3,260 Czech Heritage Plates; application; form; fee; delivery; fee; transfer; procedure; fee.

(1) A person may apply to the department for Czech Heritage Plates in lieu of regular license plates on an application prescribed and provided by the department for any motor vehicle, trailer, or semitrailer, except for a motor vehicle, trailer, or semitrailer registered under section 60-3,198. An applicant receiving Czech Heritage Plates for a farm truck with a gross weight of over sixteen tons or a commercial truck or truck-tractor with a gross weight of five tons or over shall affix the appropriate tonnage decal to the plate. The department shall make forms available for such applications through the county treasurers.

(2)(a) In addition to all other fees required for registration under the Motor Vehicle Registration Act, each application for initial issuance or renewal of alphanumeric Czech Heritage Plates shall be accompanied by a fee of five dollars. County treasurers collecting fees pursuant to this subdivision shall remit such fees to the State Treasurer. The State Treasurer shall credit five dollars of the fee to the Department of Motor Vehicles Cash Fund.

(b) In addition to all other fees required for registration under the Motor Vehicle Registration Act, each application for initial issuance or renewal of personalized message Czech Heritage Plates shall be accompanied by a fee of forty dollars. County treasurers collecting fees pursuant to this subdivision shall remit such fees to the State Treasurer. The State Treasurer shall credit forty dollars of the fee for initial issuance and renewal of such plates to the Department of Motor Vehicles Cash Fund.

(3)(a) When the department receives an application for Czech Heritage Plates, the department may deliver the plates and registration certificate to the applicant by United States mail or to the county treasurer of the county in which the motor vehicle, trailer, or semitrailer is registered. Delivery of the plates and registration certificate shall be made through a secure process and system. If delivery of the plates and registration certificate is made by the department to the applicant, the department may charge a postage and handling fee in an amount not more than necessary to recover the cost of postage and handling for the specific items mailed to the registrant. The department shall remit the fee to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund. The county treasurer or the department shall issue Czech Heritage Plates in lieu of regular license plates when the applicant complies with the other provisions of the Motor Vehicle Registration Act for registration of the motor vehicle, trailer, or semitrailer. If Czech Heritage Plates are lost, stolen, or mutilated, the licensee shall be issued replacement license plates upon request pursuant to section 60-3,157.

(b) The county treasurer or the department may issue temporary license stickers to the applicant under this section for the applicant to lawfully operate the vehicle pending receipt of the license plates. No charge in addition to the

registration fee shall be made for the issuance of a temporary license sticker under this subdivision. The department shall furnish temporary license stickers for issuance by the county treasurer at no cost to the counties. The department may adopt and promulgate rules and regulations regarding the design and issuance of temporary license stickers.

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

(5) If the cost of manufacturing Czech Heritage Plates at any time exceeds the amount charged for license plates pursuant to section 60-3,102, any money to be credited to the Department of Motor Vehicles Cash Fund shall instead be credited first to the Highway Trust Fund in an amount equal to the difference between the manufacturing costs of Czech Heritage Plates and the amount charged pursuant to section 60-3,102 with respect to such plates and the remainder shall be credited to the Department of Motor Vehicles Cash Fund.

Source: Laws 2024, LB140, § 8.
Operative date January 1, 2025.

ARTICLE 4

MOTOR VEHICLE OPERATORS' LICENSES

(e) GENERAL PROVISIONS

Section
60-462. Act, how cited.
60-462.01. Federal regulations; adopted.
60-463. Definitions, where found.
60-470.03. Mobile operator's or driver's license, defined.

(f) PROVISIONS APPLICABLE TO ALL OPERATORS' LICENSES

60-479.01. Fraudulent document recognition training; criminal history record information check; lawful status check; cost.
60-480. Operators' licenses; classification.
60-481. Driving rules; publication; copy; available upon request.
60-483. Operator's license; numbering; records; abstracts of operating records; fees; information to United States Selective Service System; when; reciprocity agreement with foreign country.
60-484.02. Digital images and signatures; use; confidentiality; prohibited acts; violation; penalty.
60-484.05. Operators' licenses; state identification cards; temporary; when issued; period valid; special notation; renewal; return of license or card, when.
60-484.06. Operators' licenses; state identification cards; department; power to verify documents.
60-484.07. Operators' licenses; state identification cards; parolee immigration status; effect on application and issuance.
60-490. Operators' licenses; state identification cards; expiration; renewal.
60-497.01. Conviction and probation records; abstract of court record; transmission to director; duties.

(e) GENERAL PROVISIONS

60-462 Act, how cited.

Sections 60-462 to 60-4,189 shall be known and may be cited as the Motor Vehicle Operator's License Act.

Source: Laws 1937, c. 141, § 31, p. 523; C.S.Supp.,1941, § 60-434; R.S.1943, § 60-402; R.S.1943, (1988), § 60-402; Laws 1989, LB 284, § 2; Laws 1989, LB 285, § 12; Laws 1990, LB 980, § 6; Laws 1991, LB 44, § 1; Laws 1993, LB 105, § 4; Laws 1993, LB 370, § 65; Laws 1993, LB 420, § 1; Laws 1994, LB 211, § 1; Laws 1995, LB 467, § 6; Laws 1996, LB 323, § 1; Laws 1997, LB 210, § 2; Laws 1997, LB 256, § 4; Laws 1998, LB 320, § 1; Laws 2001, LB 38, § 5; Laws 2001, LB 574, § 1; Laws 2003, LB 209, § 1; Laws 2003, LB 562, § 2; Laws 2005, LB 76, § 2; Laws 2006, LB 853, § 6; Laws 2007, LB415, § 1; Laws 2008, LB911, § 1; Laws 2011, LB158, § 1; Laws 2011, LB178, § 2; Laws 2011, LB215, § 1; Laws 2013, LB93, § 1; Laws 2014, LB983, § 2; Laws 2015, LB231, § 19; Laws 2016, LB311, § 1; Laws 2016, LB977, § 13; Laws 2018, LB629, § 1; Laws 2018, LB909, § 73; Laws 2022, LB750, § 45; Laws 2023, LB138, § 15; Laws 2024, LB1200, § 23.
Operative date April 16, 2024.

60-462.01 Federal regulations; adopted.

For purposes of the Motor Vehicle Operator's License Act, the following federal regulations are adopted as Nebraska law as they existed on January 1, 2024:

The parts, subparts, and sections of Title 49 of the Code of Federal Regulations, as referenced in the Motor Vehicle Operator's License Act.

Source: Laws 2003, LB 562, § 20; Laws 2004, LB 560, § 36; Laws 2005, LB 76, § 3; Laws 2006, LB 853, § 7; Laws 2006, LB 1007, § 4; Laws 2007, LB239, § 4; Laws 2008, LB756, § 16; Laws 2009, LB331, § 7; Laws 2010, LB805, § 3; Laws 2011, LB178, § 3; Laws 2011, LB212, § 5; Laws 2012, LB751, § 17; Laws 2013, LB35, § 3; Laws 2014, LB776, § 4; Laws 2014, LB983, § 3; Laws 2015, LB313, § 4; Laws 2016, LB929, § 6; Laws 2017, LB263,

§ 62; Laws 2018, LB909, § 74; Laws 2019, LB79, § 11; Laws 2020, LB944, § 51; Laws 2021, LB149, § 9; Laws 2022, LB750, § 46; Laws 2023, LB138, § 16; Laws 2024, LB1200, § 24. Operative date April 16, 2024.

60-463 Definitions, where found.

For purposes of the Motor Vehicle Operator's License Act, the definitions found in sections 60-463.01 to 60-478 shall be used.

Source: Laws 1989, LB 285, § 13; Laws 1993, LB 370, § 66; Laws 1993, LB 420, § 2; Laws 2001, LB 38, § 6; Laws 2007, LB415, § 2; Laws 2008, LB911, § 3; Laws 2014, LB983, § 4; Laws 2015, LB231, § 20; Laws 2016, LB311, § 2; Laws 2022, LB750, § 47.

60-470.03 Mobile operator's or driver's license, defined.

Mobile operator's or driver's license means an operator's or driver's license electronically stored on or accessed via an electronic device.

Source: Laws 2022, LB750, § 48.

(f) PROVISIONS APPLICABLE TO ALL OPERATORS' LICENSES

60-479.01 Fraudulent document recognition training; criminal history record information check; lawful status check; cost.

(1) All persons handling source documents or engaged in the issuance of new, renewed, or reissued operators' licenses or state identification cards shall have periodic fraudulent document recognition training.

(2) All persons and agents of the department involved in the recording of verified application information or verified operator's license and state identification card information, involved in the manufacture or production of licenses or cards, or who have the ability to affect information on such licenses or cards shall be subject to a criminal history record information check, including a check of prior employment references, and a lawful status check as required by 6 C.F.R. part 37, as such part existed on January 1, 2024. Such persons and agents shall provide fingerprints which shall be submitted to the Federal Bureau of Investigation. The bureau shall use its records for the criminal history record information check.

(3) Upon receipt of a request pursuant to subsection (2) of this section, the Nebraska State Patrol shall undertake a search for criminal history record information relating to such applicant, including transmittal of the applicant's fingerprints to the Federal Bureau of Investigation for a national criminal history record information check. The criminal history record information check shall include information concerning the applicant from federal repositories of such information and repositories of such information in other states, if authorized by federal law. The Nebraska State Patrol shall issue a report to the employing public agency that shall include the criminal history record information concerning the applicant. The cost of any background check shall be borne by the employer of the person or agent.

(4) Any person convicted of any disqualifying offense as provided in 6 C.F.R. part 37, as such part existed on January 1, 2024, shall not be involved in the recording of verified application information or verified operator's license and

state identification card information, involved in the manufacture or production of licenses or cards, or involved in any capacity in which such person would have the ability to affect information on such licenses or cards. Any employee or prospective employee of the department shall be provided notice that he or she will undergo such criminal history record information check prior to employment or prior to any involvement with the issuance of operators' licenses or state identification cards.

Source: Laws 2008, LB911, § 8; Laws 2011, LB215, § 4; Laws 2012, LB751, § 18; Laws 2013, LB35, § 4; Laws 2014, LB776, § 5; Laws 2015, LB313, § 5; Laws 2016, LB929, § 7; Laws 2017, LB263, § 63; Laws 2018, LB909, § 76; Laws 2019, LB79, § 12; Laws 2020, LB944, § 52; Laws 2021, LB149, § 10; Laws 2022, LB750, § 49; Laws 2023, LB138, § 17; Laws 2024, LB1200, § 25.
Operative date April 16, 2024.

60-480 Operators' licenses; classification.

(1) Operators' licenses issued by the department pursuant to the Motor Vehicle Operator's License Act shall be classified as follows:

(a) Class O license. The operator's license which authorizes the person to whom it is issued to operate on highways any motor vehicle except a commercial motor vehicle or motorcycle;

(b) Class M license. The operator's license or endorsement on a Class O license, provisional operator's permit, learner's permit, school permit, or commercial driver's license which authorizes the person to whom it is issued to operate a motorcycle on highways;

(c) CDL-commercial driver's license. The operator's license which authorizes the person to whom it is issued to operate a class of commercial motor vehicle or any motor vehicle, except a motorcycle, on highways;

(d) CLP-commercial learner's permit. A permit which when carried with a Class O license authorizes an individual to operate a class of commercial motor vehicle when accompanied by a holder of a valid commercial driver's license for purposes of behind-the-wheel training. When issued to a commercial driver's license holder, a CLP-commercial learner's permit serves as authorization for accompanied behind-the-wheel training in a commercial motor vehicle for which the holder's current commercial driver's license is not valid;

(e) RCDL-restricted commercial driver's license. The class of commercial driver's license which authorizes a commercial motor vehicle operator described in section 60-4,146.01 to operate any Class B Heavy Straight Vehicle or Class C Small Vehicle commercial motor vehicle for purposes of a farm-related or ranch-related service industry as defined in such section within one hundred fifty miles of the employer's place of business or the farm or ranch currently being served as provided in such section or any other motor vehicle, except a motorcycle, on highways;

(f) POP-provisional operator's permit. A motor vehicle operating permit with restrictions issued pursuant to section 60-4,120.01 to a person who is at least sixteen years of age but less than eighteen years of age which authorizes the person to operate any motor vehicle except a commercial motor vehicle or motorcycle;

(g) SCP-school permit. A permit issued to a student between fourteen years and two months of age and sixteen years of age for the purpose of driving in accordance with the requirements of section 60-4,124;

(h) FMP-farm permit. A permit issued to a person for purposes of operating farm tractors and other motorized implements of farm husbandry on highways in accordance with the requirements of section 60-4,126;

(i) LPD-learner's permit. A permit issued in accordance with the requirements of section 60-4,123 to a person at least fifteen years of age which authorizes the person to operate a motor vehicle, except a commercial motor vehicle, for learning purposes when accompanied by a licensed operator who is at least twenty-one years of age and who possesses a valid operator's license issued by this state or another state;

(j) LPE-learner's permit. A permit issued to a person at least fourteen years of age which authorizes the person to operate a motor vehicle, except a commercial motor vehicle, while learning to drive in preparation for application for a school permit;

(k) EDP-employment driving permit. A permit issued to a person which authorizes the person to operate a motor vehicle, except a commercial motor vehicle, pursuant to the requirements of sections 60-4,129 and 60-4,130;

(l) IIP-ignition interlock permit. A permit issued to a person which authorizes the person to operate a motor vehicle, except a commercial motor vehicle, which is equipped with an ignition interlock device;

(m) MHP-medical hardship driving permit. A permit issued to a person which authorizes the person to operate a motor vehicle, except a commercial motor vehicle, pursuant to the requirements of sections 60-4,130.01 and 60-4,130.02; and

(n) SPP-24/7 sobriety program permit. A permit issued to a person which authorizes the person to operate a motor vehicle, except a commercial motor vehicle, pursuant to the 24/7 Sobriety Program Act.

(2) For purposes of this section, motorcycle does not include an autocycle.

Source: Laws 1989, LB 285, § 30; Laws 1990, LB 980, § 8; Laws 1993, LB 105, § 6; Laws 1993, LB 420, § 4; Laws 1998, LB 320, § 2; Laws 1999, LB 704, § 4; Laws 2001, LB 387, § 3; Laws 2005, LB 675, § 1; Laws 2008, LB736, § 1; Laws 2014, LB983, § 9; Laws 2018, LB909, § 77; Laws 2021, LB271, § 8; Laws 2024, LB1200, § 26.
Operative date April 16, 2024.

Cross References

24/7 Sobriety Program Act, see section 60-701.

60-481 Driving rules; publication; copy; available upon request.

(1) The director shall publish on the website of the department a summary of the statutory driving rules of this state. Such summary shall contain cautionary and advisory comments as determined by the director, including a description of how to legally operate a motor vehicle in order to avoid arrest.

(2) The director may provide a copy of the summary described in subsection (1) of this section without charge upon request by a member of the public.

Source: Laws 1937, c. 141, § 21, p. 517; C.S.Supp.,1941, § 60-426; R.S.1943, § 60-440; R.S.1943, (1978), § 60-440; Laws 1981, LB 76, § 4; R.S.1943, (1988), § 60-406.08; Laws 1989, LB 285, § 31; Laws 2022, LB750, § 50.

60-483 Operator's license; numbering; records; abstracts of operating records; fees; information to United States Selective Service System; when; reciprocity agreement with foreign country.

(1) The director shall assign a distinguishing number to each operator's license issued and shall keep a record of the same which shall be open to public inspection by any person requesting inspection of such record who qualifies under section 60-2906 or 60-2907. Any person requesting such driver record information shall furnish to the Department of Motor Vehicles (a) verification of identity and purpose that the requester is entitled under section 60-2906 or 60-2907 to disclosure of the personal information in the record, (b) the name of the person whose record is being requested, and (c) when the name alone is insufficient to identify the correct record, the department may request additional identifying information. The department shall, upon request of any requester, furnish a certified abstract of the operating record of any person, in either hard copy or electronically, and shall charge the requester a fee of three dollars per abstract.

(2) The department shall remit any revenue generated under subsections (1) through (5) of this section to the State Treasurer, and the State Treasurer shall credit forty-one and two-thirds percent to the Department of Motor Vehicles Cash Fund, twenty-five percent to the General Fund, and thirty-three and one-third percent to the Records Management Cash Fund.

(3) The director shall, upon receiving a request and an agreement from the United States Selective Service System to comply with requirements of this section, furnish driver record information to the United States Selective Service System to include the name, post office address, date of birth, sex, and social security number of licensees. The United States Selective Service System shall pay all costs incurred by the department in providing the information but shall not be required to pay any other fee required by law for information. No driver record information shall be furnished to the United States Selective Service System regarding any female, nor regarding any male other than those between the ages of seventeen years and twenty-six years. The information shall only be used in the fulfillment of the required duties of the United States Selective Service System and shall not be furnished to any other person.

(4) The director shall keep a record of all applications for operators' licenses that are disapproved with a brief statement of the reason for disapproval of the application.

(5) The director may establish a monitoring service which provides information on operating records that have changed due to any adjudicated traffic citation or administrative action. The director shall charge a fee of six cents per operating record searched pursuant to this section and the fee provided in subsection (1) of this section for each abstract returned as a result of the search.

(6) Driver record header information, including name, license number, date of birth, address, and physical description, from every driver record maintained by the department may be made available so long as the Uniform Motor Vehicle Records Disclosure Act is not violated. Monthly updates, including all new records, may also be made available. There shall be a fee of eighteen dollars per thousand records. All fees collected pursuant to this subsection shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

(7) The department may enter into a reciprocity agreement with a foreign country to provide for the mutual recognition and reciprocal exchange of a valid operator's license issued by this state or the foreign country if the department determines that the licensing standards of the foreign country are comparable to those of this state. Any such agreement entered into by the department shall not include the mutual recognition and reciprocal exchange of a commercial driver's license.

(8) Beginning July 1, 2021, for any record provided pursuant to subsection (1) of this section, the requester shall be required to pay, in addition to the fee prescribed in such subsection, a fee of four dollars and fifty cents per record. Fifty cents shall be credited to the Department of Motor Vehicles Cash Fund and four dollars shall be credited to the Operator's License Services System Replacement and Maintenance Fund.

Source: Laws 1929, c. 149, § 9, p. 516; C.S.1929, § 60-409; Laws 1937, c. 141, § 19, p. 516; Laws 1941, c. 176, § 2, p. 688; C.S.Supp.,1941, § 60-409; R.S.1943, § 60-412; Laws 1961, c. 315, § 9, p. 1005; Laws 1961, c. 316, § 9, p. 1014; Laws 1963, c. 360, § 1, p. 1154; Laws 1965, c. 384, § 1, p. 1238; Laws 1973, LB 319, § 1; Laws 1974, LB 974, § 1; Laws 1978, LB 502, § 1; Laws 1983, LB 326, § 1; Laws 1984, LB 694, § 2; Laws 1984, LB 711, § 1; Laws 1987, LB 300, § 2; Laws 1987, LB 767, § 1; R.S.1943, (1988), § 60-412; Laws 1989, LB 285, § 33; Laws 1993, LB 491, § 10; Laws 1995, LB 467, § 9; Laws 1997, LB 590, § 2; Laws 1997, LB 635, § 19; Laws 1997, LB 720, § 17; Laws 2000, LB 1317, § 6; Laws 2001, LB 106, § 1; Laws 2003, LB 562, § 3; Laws 2004, LB 560, § 37; Laws 2017, LB263, § 64; Laws 2021, LB106, § 1; Laws 2024, LB287, § 68.
Operative date July 1, 2024.

Cross References

Uniform Motor Vehicle Records Disclosure Act, see section 60-2901.

60-484.02 Digital images and signatures; use; confidentiality; prohibited acts; violation; penalty.

(1) Each applicant for an operator's license or state identification card shall have his or her digital image captured. Digital images shall be preserved for use as prescribed in sections 60-4,119, 60-4,151, and 60-4,180. The images shall be used for issuing operators' licenses and state identification cards. The images may be retrieved only by the Department of Motor Vehicles for issuing renewal and replacement operators' licenses and state identification cards and may not be otherwise released except in accordance with subsection (3) of this section.

(2) Upon application for an operator's license or state identification card, each applicant shall provide his or her signature in a form prescribed by the

department. Digital signatures shall be preserved for use on original, renewal, and replacement operators' licenses and state identification cards and may not be otherwise released except in accordance with subsection (4) of this section.

(3) No officer, employee, agent, or contractor of the department or law enforcement officer shall release a digital image except (a) to a federal, state, or local law enforcement agency, a certified law enforcement officer employed in an investigative position by a federal, state, or local agency, or a driver licensing agency of another state for the purpose of carrying out the functions of the agency or assisting another agency in carrying out its functions upon the verification of the identity of the person requesting the release of the information and the verification of the purpose of the requester in requesting the release or (b) to the office of the Secretary of State for the purpose of voter registration and voter identification as prescribed in the Election Act upon the verification of the identity of the person requesting the release of the information and the verification of the purpose of the requester in requesting the release. No employee or official in the office of the Secretary of State shall release a digital image except to a federal, state, or local law enforcement agency, a certified law enforcement officer employed in an investigative position by a federal, state, or local agency, or a driver licensing agency of another state for the purpose of carrying out the functions of the agency or assisting another agency in carrying out its functions upon the verification of the identity of the person requesting the release of the information and the verification of the purpose of the requester in requesting the release. Any officer, employee, agent, or contractor of the department, law enforcement officer, or employee or official in the office of the Secretary of State that knowingly discloses or knowingly permits disclosure of a digital image in violation of this section shall be guilty of a Class I misdemeanor.

(4) No officer, employee, agent, or contractor of the department or law enforcement officer shall release a digital signature except (a) to a federal, state, or local law enforcement agency, a certified law enforcement officer employed in an investigative position by a federal, state, or local agency, or a driver licensing agency of another state for the purpose of carrying out the functions of the agency or assisting another agency in carrying out its functions upon the verification of the identity of the person requesting the release of the information and the verification of the purpose of the requester in requesting the release or (b) to the office of the Secretary of State for the purpose of voter registration and voter identification as prescribed in the Election Act upon the verification of the identity of the person requesting the release of the information and the verification of the purpose of the requester in requesting the release. No employee or official in the office of the Secretary of State shall release a digital signature except to a federal, state, or local law enforcement agency, a certified law enforcement officer employed in an investigative position by a federal, state, or local agency, or a driver licensing agency of another state for the purpose of carrying out the functions of the agency or assisting another agency in carrying out its functions upon the verification of the identity of the person requesting the release of the information and the verification of the purpose of the requester in requesting the release. Any officer, employee, agent, or contractor of the department, law enforcement officer, or employee or official in the office of the Secretary of State that knowingly discloses or knowingly permits disclosure of a digital signature in violation of this section shall be guilty of a Class I misdemeanor.

(5) The department shall develop a process for the release of digital images to the Secretary of State for the purpose of voter identification as prescribed by the Election Act. The process shall include proper measures for access, security, storage, and retention of the digital image and verification of the release of the digital image to any officer, agent, or contractor of the Secretary of State. The Secretary of State and the department shall enter into an agreement for the release, use, protection, storage, and retention of digital images as prescribed under this section and the Uniform Motor Vehicle Records Disclosure Act. The department may adopt and promulgate rules and regulations to carry out this subsection.

Source: Laws 2001, LB 574, § 4; Laws 2004, LB 560, § 38; Laws 2005, LB 1, § 3; Laws 2009, LB372, § 1; Laws 2010, LB805, § 5; Laws 2014, LB661, § 17; Laws 2014, LB777, § 3; Laws 2024, LB287, § 69.
Operative date January 1, 2025.

Cross References

Election Act, see section 32-101.
Uniform Motor Vehicle Records Disclosure Act, see section 60-2901.

60-484.05 Operators' licenses; state identification cards; temporary; when issued; period valid; special notation; renewal; return of license or card, when.

(1) The department shall only issue an operator's license or a state identification card that is temporary to any applicant who presents documentation under sections 60-484, 60-484.04, and 60-484.07 that shows his or her authorized stay in the United States is temporary. An operator's license or a state identification card that is temporary shall be valid only during the period of time of the applicant's authorized stay in the United States or, if there is no definite end to the period of authorized stay, a period of one year.

(2) An operator's license or state identification card that is temporary shall clearly indicate that it is temporary with a special notation on the front of the license or card and shall state the date on which it expires. An operator's license or state identification card issued pursuant to section 60-484.07 shall clearly indicate that it is not acceptable for official federal purposes.

(3) An operator's license or state identification card that is temporary may be renewed only upon presentation of valid documentary evidence that the status by which the applicant qualified for the operator's license or state identification card that is temporary has been extended by the United States Department of Homeland Security.

(4) If an individual has an operator's license or a state identification card issued under section 60-484.07 or based on approved lawful status granted under section 202(c)(2)(B)(i) through (x) of the federal REAL ID Act of 2005, Public Law 109-13, and the basis for the approved lawful status is terminated, the individual shall return the operator's license or state identification card to the Department of Motor Vehicles.

Source: Laws 2011, LB215, § 8; Laws 2014, LB983, § 13; Laws 2015, LB623, § 2; Laws 2020, LB944, § 54; Laws 2023, LB138, § 18.

60-484.06 Operators' licenses; state identification cards; department; power to verify documents.

Before issuing any operator's license or state identification card under the Motor Vehicle Operator's License Act, the department may verify, with the issuing agency, the issuance, validity, and completeness of each document required to be presented by a person pursuant to sections 60-484, 60-484.04, 60-484.07, and 60-4,144.

Source: Laws 2011, LB215, § 9; Laws 2014, LB983, § 14; Laws 2023, LB138, § 19.

60-484.07 Operators' licenses; state identification cards; parolee immigration status; effect on application and issuance.

(1) On a date determined by the director but not later than November 1, 2023, any person assigned a parolee immigration status by the United States Department of Homeland Security may apply for and be issued an operator's license or a state identification card that is not in compliance with the federal REAL ID Act of 2005, Public Law 109-13, if the person:

(a) Possessed an unexpired foreign passport issued to such person at the time of such person's entry into the United States of America; and

(b) Fulfills the requirements of subsection (3) of section 60-484 and such requirements are verified pursuant to section 60-484.06.

(2) Any operator's license or state identification card issued under this section is otherwise subject to all laws relating to operators' licenses and state identification cards.

Source: Laws 2023, LB138, § 20.

60-490 Operators' licenses; state identification cards; expiration; renewal.

(1) Operators' licenses issued to persons required to use bioptic or telescopic lenses as provided in section 60-4,118 shall expire on the licensee's birthday in the second year after issuance unless specifically restricted to a shorter renewal period as determined under section 60-4,118.

(2) Except for state identification cards issued to persons less than twenty-one years of age, all state identification cards expire on the cardholder's birthday in the fifth year after issuance. A state identification card issued to a person who is less than twenty-one years of age expires on his or her twenty-first birthday or on his or her birthday in the fifth year after issuance, whichever comes first.

(3) Except as otherwise provided in subsection (1) of this section and section 60-4,147.05 and except for operators' licenses issued to persons less than twenty-one years of age, operators' licenses issued pursuant to the Motor Vehicle Operator's License Act expire on the licensee's birthday in the fifth year after issuance. An operator's license issued to a person less than twenty-one years of age expires on his or her twenty-first birthday. Except as otherwise provided in section 60-4,147.05, the Department of Motor Vehicles shall mail out a renewal notice for each operator's license at least thirty days before the expiration of the operator's license.

(4)(a) The expiration date shall be stated on each operator's license or state identification card.

(b) Except as otherwise provided in section 60-4,147.05, licenses and state identification cards issued to persons who are twenty-one years of age or older which expire under this section may be renewed within a ninety-day period before the expiration date. Any person who is twenty-one years of age or older

and who is the holder of a valid operator's license or state identification card may renew his or her license or card prior to the ninety-day period before the expiration date on such license or card if such applicant furnishes proof that he or she will be absent from the state during the ninety-day period prior to such expiration date.

(c) A person who is twenty years of age may apply for an operator's license or a state identification card within sixty days prior to his or her twenty-first birthday. The operator's license or state identification card may be issued within thirty days prior to such birthday.

(d) A person who is under twenty years of age and who holds a state identification card may apply for renewal within a ninety-day period prior to the expiration date.

Source: Laws 1989, LB 285, § 34; Laws 1990, LB 742, § 2; Laws 1993, LB 7, § 1; Laws 1998, LB 309, § 3; Laws 1998, LB 320, § 3; Laws 1999, LB 704, § 8; Laws 2001, LB 574, § 7; Laws 2005, LB 1, § 4; Laws 2005, LB 76, § 6; Laws 2006, LB 1008, § 1; Laws 2022, LB750, § 51; Laws 2024, LB1200, § 27.
Operative date April 16, 2024.

60-497.01 Conviction and probation records; abstract of court record; transmission to director; duties.

(1) An abstract of the court record of every case in which a person is convicted of violating any provision of the Motor Vehicle Operator's License Act, the Motor Vehicle Safety Responsibility Act, the Nebraska Rules of the Road, or section 28-524, as from time to time amended by the Legislature, or any traffic regulations in city or village ordinances shall be transmitted within thirty days of sentencing or other disposition by the court to the director. Any abstract received by the director more than thirty days after the date of sentencing or other disposition shall be reported by the director to the State Court Administrator.

(2) Any person violating section 28-306, 28-394, 28-1254, 60-696, 60-697, 60-6,196, 60-6,197, 60-6,213, or 60-6,214 who is placed on probation shall be assessed the same points under section 60-4,182 as if such person were not placed on probation unless a court has ordered that such person shall obtain an ignition interlock permit in order to operate a motor vehicle with an ignition interlock device pursuant to section 60-6,211.05 and sufficient evidence is presented to the department that such a device is installed. For any other violation, the director shall not assess such person with any points under section 60-4,182 for such violation when the person is placed on probation until the director is advised by the court that such person previously placed on probation has violated the terms of his or her probation and such probation has been revoked. Upon receiving notice of revocation of probation, the director shall assess to such person the points which such person would have been assessed had the person not been placed on probation. All such points shall be assessed as of the date of the violation. When a person fails to successfully complete probation, the court shall notify the director immediately.

Source: Laws 1931, c. 110, § 58, p. 326; Laws 1941, c. 124, § 9, p. 476; C.S.Supp.,1941, § 39-1189; R.S.1943, § 39-794; Laws 1953, c. 219, § 7, p. 771; Laws 1957, c. 164, § 1, p. 579; Laws 1957, c. 165, § 1, p. 582; Laws 1957, c. 366, § 15, p. 1255; Laws 1972, LB

1032, § 247; Laws 1972, LB 1058, § 2; Laws 1973, LB 226, § 25; Laws 1973, LB 317, § 1; R.S.Supp.,1973, § 39-794; Laws 1975, LB 379, § 1; Laws 1987, LB 79, § 1; Laws 1991, LB 420, § 2; R.S.Supp.,1992, § 39-669.22; Laws 1993, LB 370, § 75; Laws 1993, LB 564, § 13; Laws 1993, LB 575, § 15; Laws 2001, LB 38, § 18; Laws 2006, LB 925, § 2; Laws 2008, LB736, § 2; Laws 2009, LB63, § 32; Laws 2011, LB667, § 23; Laws 2024, LB1200, § 28.

Operative date April 16, 2024.

Cross References

Motor Vehicle Safety Responsibility Act, see section 60-569.
Nebraska Rules of the Road, see section 60-601.

60-4,111.01 Storage or compilation of information; retailer; seller; authorized acts; sign posted; use of stored information; approval of negotiable instrument or certain payments; authorized acts; violations; penalty.

(1) The Department of Motor Vehicles, the courts, or law enforcement agencies may store or compile information acquired from an operator's license or a state identification card for their statutorily authorized purposes.

(2) Except as otherwise provided in subsection (3) or (4) of this section, no person having use of or access to machine-readable information encoded on an operator's license or a state identification card shall compile, store, preserve, trade, sell, or share such information. Any person who trades, sells, or shares such information shall be guilty of a Class IV felony. Any person who compiles, stores, or preserves such information except as authorized in subsection (3) or (4) of this section shall be guilty of a Class IV felony.

(3)(a) For purposes of compliance with and enforcement of restrictions on the purchase of alcohol, lottery tickets, and tobacco products, a retailer who sells any of such items pursuant to a license issued or a contract under the applicable statutory provision may scan machine-readable information encoded on an operator's license or a state identification card presented for the purpose of such a sale. The retailer may store only the following information obtained from the license or card: Age and license or card identification number. The retailer shall post a sign at the point of sale of any of such items stating that the license or card will be scanned and that the age and identification number will be stored. The stored information may only be used by a law enforcement agency for purposes of enforcement of the restrictions on the purchase of alcohol, lottery tickets, and tobacco products and may not be shared with any other person or entity.

(b) For purposes of compliance with the provisions of sections 28-458 to 28-462, a seller who sells methamphetamine precursors pursuant to such sections may scan machine-readable information encoded on an operator's license or a state identification card presented for the purpose of such a sale. The seller may store only the following information obtained from the license or card: Name, age, address, type of identification presented by the customer, the governmental entity that issued the identification, and the number on the identification. The seller shall post a sign at the point of sale stating that the license or card will be scanned and stating what information will be stored. The stored information may only be used by law enforcement agencies, regulatory agencies, and the exchange for purposes of enforcement of the restrictions on

the sale or purchase of methamphetamine precursors pursuant to sections 28-458 to 28-462 and may not be shared with any other person or entity. For purposes of this subsection, the terms exchange, methamphetamine precursor, and seller have the same meanings as in section 28-458.

(c) The retailer or seller shall utilize software that stores only the information allowed by this subsection. A programmer for computer software designed to store such information shall certify to the retailer that the software stores only the information allowed by this subsection. Intentional or grossly negligent programming by the programmer which allows for the storage of more than the age and identification number or wrongfully certifying the software shall be a Class IV felony.

(d) A retailer or seller who knowingly stores more information than authorized under this subsection from the operator's license or state identification card shall be guilty of a Class IV felony.

(e) Information scanned, compiled, stored, or preserved pursuant to subdivision (a) of this subsection may not be retained longer than eighteen months unless required by state or federal law.

(4) In order to approve a negotiable instrument, an electronic funds transfer, or a similar method of payment, a person having use of or access to machine-readable information encoded on an operator's license or a state identification card may:

(a) Scan, compile, store, or preserve such information in order to provide the information to a check services company subject to and in compliance with the federal Fair Credit Reporting Act, 15 U.S.C. 1681 et seq., as such act existed on January 1, 2024, for the purpose of effecting, administering, or enforcing a transaction requested by the holder of the license or card or preventing fraud or other criminal activity; or

(b) Scan and store such information only as necessary to protect against or prevent actual or potential fraud, unauthorized transactions, claims, or other liability or to resolve a dispute or inquiry by the holder of the license or card.

(5) Except as provided in subdivision (4)(a) of this section, information scanned, compiled, stored, or preserved pursuant to this section may not be traded or sold to or shared with a third party; used for any marketing or sales purpose by any person, including the retailer who obtained the information; or, unless pursuant to a court order, reported to or shared with any third party. A person who violates this subsection shall be guilty of a Class IV felony.

Source: Laws 2001, LB 574, § 30; Laws 2010, LB261, § 1; Laws 2011, LB20, § 9; Laws 2019, LB79, § 13; Laws 2020, LB944, § 56; Laws 2021, LB149, § 11; Laws 2022, LB750, § 52; Laws 2023, LB138, § 21; Laws 2024, LB1200, § 29.
Operative date April 16, 2024.

(g) PROVISIONS APPLICABLE TO OPERATION OF MOTOR VEHICLES OTHER THAN COMMERCIAL

60-4,115 Fees; allocation; identity security surcharge; state identification card; no fee, when.

(1) Fees for operators' licenses and state identification cards shall be collected by department personnel or the county treasurer and distributed according

to the table in subsection (2) of this section, except for the ignition interlock permit and associated fees as outlined in subsection (4) of this section and the 24/7 sobriety program permit and associated fees as outlined in subsection (5) of this section. County officials shall remit the county portion of the fees collected to the county treasurer for placement in the county general fund. All other fees collected shall be remitted to the State Treasurer for credit to the appropriate fund.

(2) Except as otherwise provided in subsection (7) of this section, the fees provided in this subsection in the following dollar amounts apply for operators' licenses and state identification cards.

Document	Total Fee	County General Fund	Department of Motor Vehicles Cash Fund
State identification card:			
Valid for 1 year or less	5.00	2.75	2.25
Valid for more than 1 year but not more than 2 years	10.00	2.75	7.25
Valid for more than 2 years but not more than 3 years	14.00	2.75	11.25
Valid for more than 3 years but not more than 4 years	19.00	2.75	16.25
Valid for more than 4 years for a person under 21	24.00	2.75	21.25
Valid for 5 years	24.00	3.50	20.50
Replacement	11.00	2.75	8.25
Class O or M operator's license:			
Valid for 1 year or less	5.00	2.75	2.25
Valid for more than 1 year but not more than 2 years	10.00	2.75	7.25
Valid for more than 2 years but not more than 3 years	14.00	2.75	11.25
Valid for more than 3 years but not more than 4 years	19.00	2.75	16.25
Valid for 5 years	24.00	3.50	20.50
Bioptic or telescopic lens restriction:			
Valid for 1 year or less	5.00	0	5.00
Valid for more than 1 year but not more than 2 years	10.00	2.75	7.25
Replacement	11.00	2.75	8.25
Add, change, or remove class, endorsement, or restriction	5.00	0	5.00
Provisional operator's permit:			
Original	15.00	2.75	12.25
Bioptic or telescopic lens restriction:			
Valid for 1 year or less	5.00	0	5.00
Valid for more than 1 year but not more than 2 years	15.00	2.75	12.25
Replacement	11.00	2.75	8.25
Add, change, or remove class, endorsement, or restriction	5.00	0	5.00
LPD-learner's permit:			
Original	8.00	.25	7.75
Replacement	11.00	2.75	8.25

Document	Total Fee	County General Fund	Department of Motor Vehicles Cash Fund
Add, change, or remove class, endorsement, or restriction	5.00	0	5.00
LPE-learner's permit:			
Original	8.00	.25	7.75
Replacement	11.00	2.75	8.25
Add, change, or remove class, endorsement, or restriction	5.00	0	5.00
School permit:			
Original	8.00	.25	7.75
Replacement	11.00	2.75	8.25
Add, change, or remove class, endorsement, or restriction	5.00	0	5.00
Farm permit:			
Original or renewal	5.00	.25	4.75
Replacement	5.00	.25	4.75
Add, change, or remove class, endorsement, or restriction	5.00	0	5.00
Driving permits:			
Employment	45.00	0	45.00
Medical hardship	45.00	0	45.00
Replacement	10.00	.25	9.75
Add, change, or remove class, endorsement, or restriction	5.00	0	5.00
Commercial driver's license:			
Valid for 1 year or less	11.00	1.75	9.25
Valid for more than 1 year but not more than 2 years	22.00	1.75	20.25
Valid for more than 2 years but not more than 3 years	33.00	1.75	31.25
Valid for more than 3 years but not more than 4 years	44.00	1.75	42.25
Valid for 5 years	55.00	1.75	53.25
Bioptic or telescopic lens restriction:			
Valid for one year or less	11.00	1.75	9.25
Valid for more than 1 year but not more than 2 years	22.00	1.75	20.25
Replacement	11.00	2.75	8.25
Add, change, or remove class, endorsement, or restriction	10.00	1.75	8.25
CLP-commercial learner's permit:			
Original	10.00	.25	9.75
Replacement	10.00	.25	9.75
Add, change, or remove class, endorsement, or restriction	10.00	.25	9.75

(3) If the department issues an operator's license or a state identification card and collects the fees, the department shall remit the county portion of the fees to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

(4)(a) The fee for an ignition interlock permit shall be forty-five dollars. Five dollars of the fee shall be remitted to the State Treasurer for credit to the

Department of Motor Vehicles Cash Fund. Forty dollars of the fee shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Ignition Interlock Fund.

(b) The fee for a replacement ignition interlock permit shall be eleven dollars. Two dollars and seventy-five cents of the fee shall be remitted to the county treasurer for credit to the county general fund. Eight dollars and twenty-five cents of the fee shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

(c) The fee for adding, changing, or removing a class, endorsement, or restriction on an ignition interlock permit shall be five dollars. The fee shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

(5)(a) The fee for a 24/7 sobriety program permit shall be forty-five dollars. Forty dollars of the fee shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund. Five dollars of the fee shall be remitted to the county treasurer for credit to the county general fund.

(b) The fee for a replacement 24/7 sobriety program permit shall be eleven dollars. Two dollars and seventy-five cents of the fee shall be remitted to the county treasurer for credit to the county general fund. Eight dollars and twenty-five cents of the fee shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

(c) The fee for adding, changing, or removing a class, endorsement, or restriction on a 24/7 sobriety program permit shall be five dollars. The fee shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

(6) The department and its agents may collect an identity security surcharge to cover the cost of security and technology practices used to protect the identity of applicants for and holders of operators' licenses and state identification cards and to reduce identity theft, fraud, and forgery and counterfeiting of such licenses and cards to the maximum extent possible. The surcharge shall be in addition to all other required fees for operators' licenses and state identification cards. The amount of the surcharge shall be determined by the department. The surcharge shall not exceed eight dollars. The surcharge shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

(7) No fee shall be charged for issuance of an original, renewal, or replacement state identification card to a resident of Nebraska who is also a United States citizen and who does not have a valid Nebraska driver's license.

Source: Laws 1929, c. 148, § 7, p. 515; C.S.1929, § 60-407; Laws 1931, c. 101, § 2, p. 272; Laws 1937, c. 148, § 17, p. 515; Laws 1941, c. 128, § 1, p. 483; Laws 1941, c. 176, § 1, p. 687; C.S.Supp.,1941, § 60-407; R.S.1943, § 60-409; Laws 1945, c. 141, § 6, p. 452; Laws 1947, c. 207, § 3, p. 677; Laws 1949, c. 181, § 3, p. 525; Laws 1951, c. 195, § 12, p. 742; Laws 1955, c. 242, § 1, p. 757; Laws 1957, c. 366, § 39, p. 1273; Laws 1961, c. 315, § 7, p. 1004; Laws 1961, c. 316, § 7, p. 1014; Laws 1963, c. 359, § 2, p. 1151; Laws 1967, c. 234, § 3, p. 624; Laws 1976, LB 329, § 2; Laws 1977, LB 90, § 5; Laws 1981, LB 207, § 1; Laws 1985, Second Spec. Sess., LB 5, § 1; R.S.1943, (1988), § 60-409; Laws 1989, LB 285, § 65; Laws 1992, LB 319, § 4; Laws 1993, LB 491, § 12; Laws 1995, LB 467, § 11; Laws 1998, LB 309, § 5; Laws 1998,

LB 320, § 5; Laws 1999, LB 704, § 17; Laws 2001, LB 574, § 11; Laws 2005, LB 1, § 5; Laws 2006, LB 1008, § 2; Laws 2008, LB736, § 4; Laws 2008, LB911, § 12; Laws 2009, LB497, § 3; Laws 2011, LB170, § 2; Laws 2011, LB215, § 13; Laws 2011, LB667, § 28; Laws 2014, LB777, § 4; Laws 2014, LB983, § 17; Laws 2016, LB311, § 10; Laws 2018, LB347, § 1; Laws 2021, LB113, § 27; Laws 2021, LB271, § 10; Laws 2022, LB750, § 53; Laws 2023, LB138, § 22; Laws 2023, LB514, § 20; Laws 2024, LB287, § 70; Laws 2024, LB1200, § 30.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB287, section 70, with LB1200, section 30, to reflect all amendments.

Note: Changes made by LB287 became operative July 1, 2024. Changes made by LB1200 became operative April 16, 2024.

60-4,119 Operators' licenses; state identification cards; digital image and digital signature; issuance; procedure.

(1) All state identification cards and operators' licenses, except farm permits, shall include a digital image and a digital signature of the cardholder or licensee as provided in section 60-484.02. Receipts for state identification cards and operators' licenses shall include a digital image of the cardholder or licensee and shall be issued by the county treasurer or the Department of Motor Vehicles. The director shall negotiate and enter into a contract to provide the necessary equipment, supplies, and forms for the issuance of the licenses and cards. All costs incurred by the Department of Motor Vehicles under this section shall be paid by the state out of appropriations made to the department. All costs of capturing the digital images and digital signatures shall be paid by the issuer from the fees provided to the issuer pursuant to section 60-4,115.

(2) A person who is out of the state at the time of renewal of his or her operator's license may apply for a license upon payment of a fee as provided in section 60-4,115. The license may be issued at any time within one year after the expiration of the original license. Such application shall be made to the department, and the department shall issue the license.

(3) Any operator's license and any state identification card issued to a minor as defined in section 53-103.23, as such definition may be amended from time to time by the Legislature, shall be of a distinct designation, of a type prescribed by the director, from the operator's license or state identification card of a person who is not a minor.

Source: Laws 1977, LB 90, § 1; Laws 1978, LB 574, § 3; Laws 1981, LB 46, § 1; Laws 1982, LB 877, § 1; Laws 1984, LB 811, § 3; Laws 1986, LB 575, § 1; Laws 1989, LB 284, § 4; R.S.1943, (1988), § 60-406.04; Laws 1989, LB 285, § 69; Laws 1990, LB 980, § 9; Laws 1993, LB 201, § 1; Laws 1995, LB 467, § 13; Laws 1999, LB 704, § 19; Laws 2001, LB 574, § 13; Laws 2005, LB 1, § 6; Laws 2010, LB861, § 80; Laws 2014, LB777, § 6; Laws 2023, LB514, § 21.

60-4,120 Operator's license; state identification card; replacement.

(1) Any person duly licensed or holding a valid state identification card issued under the Motor Vehicle Operator's License Act who loses his or her operator's license or card may make application to the department for a replacement license or card.

(2) If any person changes his or her name because of marriage or divorce or by court order or a common-law name change, he or she shall apply to the department for a replacement operator's license or state identification card and furnish proof of identification in accordance with section 60-484. If any person changes his or her address, the person shall apply to the department for a replacement operator's license or state identification card and furnish satisfactory evidence of such change. The application shall be made within sixty days after the change of name or address.

(3) In the event a mutilated or unreadable operator's license is held by any person duly licensed under the act or a mutilated or unreadable state identification card which was issued under the act is held by a person, such person may obtain a replacement license or card. Upon report of the mutilated or unreadable license or card and application for a replacement license or card, a replacement license or card may be issued if the department is satisfied that the original license or card is mutilated or unreadable.

(4) If any person duly licensed under the act loses his or her operator's license or if any holder of a state identification card loses his or her card while temporarily out of the state, he or she may make application to the department for a replacement operator's license or card by applying to the department and reporting such loss. Upon receipt of a correctly completed application, the department shall cause to be issued a replacement operator's license or card.

(5) Any person who holds a valid operator's license or state identification card without a digital image shall surrender such license or card to the department within thirty days after resuming residency in this state. After the thirty-day period, such license or card shall be considered invalid and no license or card shall be issued until the individual has made application for replacement or renewal.

(6) Application for a replacement operator's license or state identification card shall include the information required under sections 60-484, 60-484.04, and 60-484.07.

(7) An applicant may obtain a replacement operator's license or state identification card pursuant to subsection (1) or (3) of this section by electronic means in a manner prescribed by the department. No replacement license or card shall be issued unless the applicant has a digital image and digital signature preserved in the digital system.

(8) Each replacement operator's license or state identification card shall be issued with the same expiration date as the license or card for which the replacement is issued. The replacement license or card shall also state the new issuance date. Upon issuance of any replacement license or card, the license or card for which the replacement is issued shall be void.

(9) A replacement operator's license or state identification card issued under this section shall be delivered to the applicant as provided in section 60-4,113 after the county treasurer or department collects the fee and surcharge prescribed in section 60-4,115 and issues the applicant a receipt with driving privileges which is valid for up to thirty days. The receipt shall contain the digital image of the applicant.

Source: Laws 1929, c. 148, § 9, p. 517; C.S.1929, § 60-409; Laws 1937, c. 141, § 19, p. 517; Laws 1941, c. 176, § 2, p. 689; C.S.Supp.,1941, § 60-409; R.S.1943, § 60-415; Laws 1945, c. 141, § 8, p. 453; Laws 1947, c. 207, § 4, p. 678; Laws 1961, c. 315, § 10, p. 1005;

Laws 1961, c. 316, § 10, p. 1015; Laws 1967, c. 234, § 7, p. 626; Laws 1969, c. 506, § 2, p. 2083; Laws 1971, LB 134, § 1; Laws 1971, LB 371, § 1; Laws 1972, LB 1296, § 2; Laws 1977, LB 90, § 6; Laws 1978, LB 606, § 1; Laws 1981, LB 46, § 3; Laws 1984, LB 811, § 6; Laws 1986, LB 575, § 2; Laws 1989, LB 284, § 9; R.S.1943, (1988), § 60-415; Laws 1989, LB 285, § 70; Laws 1993, LB 126, § 1; Laws 1993, LB 201, § 2; Laws 1994, LB 76, § 572; Laws 1998, LB 309, § 7; Laws 2001, LB 574, § 14; Laws 2005, LB 1, § 7; Laws 2011, LB215, § 15; Laws 2012, LB751, § 26; Laws 2014, LB777, § 7; Laws 2023, LB138, § 23; Laws 2023, LB514, § 22.

60-4,122 Operator's license; state identification card; renewal procedure; law examination; exceptions; department; powers and duties.

(1) Except as otherwise provided in subsections (2), (3), and (8) of this section, no original or renewal operator's license shall be issued to any person until such person has demonstrated his or her ability to operate a motor vehicle safely as provided in section 60-4,114.

(2) Except as otherwise provided in this section and section 60-4,127, any person who renews his or her Class O or Class M license shall demonstrate his or her ability to drive and maneuver a motor vehicle safely as provided in subdivision (3)(b) of section 60-4,114 only at the discretion of department personnel, except that a person required to use bioptic or telescopic lenses shall be required to demonstrate his or her ability to drive and maneuver a motor vehicle safely each time he or she renews his or her license.

(3) Any person who renews his or her Class O or Class M license prior to or within one year after its expiration may not be required to demonstrate his or her knowledge of the motor vehicle laws of this state as provided in subdivision (3)(c) of section 60-4,114 if his or her driving record abstract maintained in the computerized records of the department shows that such person's license is not impounded, suspended, revoked, or canceled.

(4) Except for operators' licenses issued to persons required to use bioptic or telescopic lenses, any person who renews his or her operator's license which has been valid for fifteen months or less shall not be required to take any examination required under section 60-4,114.

(5) Any person who renews a state identification card shall appear before department personnel and present his or her current state identification card or shall follow the procedure for electronic renewal in subsection (9) of this section. Proof of identification shall be required as prescribed in sections 60-484 and 60-4,181 and the information and documentation required by sections 60-484.04 and 60-484.07.

(6)(a) If a nonresident who applies for an initial operator's license in this state presents a physical or mobile valid operator's license from the individual's state of residence, the department may choose not to require such individual to demonstrate knowledge of the motor vehicle laws of this state.

(b) A physical operator's license described in subdivision (a) of this subsection shall be surrendered to the department.

(c) Upon issuing an initial operator's license described in subdivision (a) of this subsection, the department shall notify the state that issued the valid

operator's license described in subdivision (a) of this subsection to invalidate such license.

(7) An applicant for an original operator's license may not be required to demonstrate his or her knowledge of the motor vehicle laws of this state if he or she has been issued a Nebraska LPD-learner's permit that is valid or has been expired for no more than one year. The written examination shall not be waived if the original operator's license being applied for contains a class or endorsement which is different from the class or endorsement of the Nebraska LPD-learner's permit.

(8)(a) A qualified licensee as determined by the department who is twenty-one years of age or older, whose license expires prior to his or her seventy-second birthday, and who has a digital image and digital signature preserved in the digital system may renew his or her Class O or Class M license twice by electronic means in a manner prescribed by the department using the preserved digital image and digital signature without taking any examination required under section 60-4,114 if such renewal is prior to or within one year after the expiration of the license, if his or her driving record abstract maintained in the records of the department shows that such person's license is not impounded, suspended, revoked, or canceled, and if his or her driving record indicates that he or she is otherwise eligible. Every licensee, including a licensee who is out of the state at the time of renewal, must apply for renewal in person at least once every sixteen years and have a new digital image and digital signature captured.

(b) In order to allow for an orderly progression through the various types of operators' licenses issued to persons under twenty-one years of age, a qualified holder of an operator's license who is under twenty-one years of age and who has a digital image and digital signature preserved in the digital system may apply for an operator's license by electronic means in a manner prescribed by the department using the preserved digital image and digital signature if the applicant has passed any required examinations prior to application, if his or her driving record abstract maintained in the records of the department shows that such person's operator's license is not impounded, suspended, revoked, or canceled, and if his or her driving record indicates that he or she is otherwise eligible.

(9) Any person who is twenty-one years of age or older and who has been issued a state identification card with a digital image and digital signature may electronically renew his or her state identification card by electronic means in a manner prescribed by the department using the preserved digital image and digital signature. Every person renewing a state identification card under this subsection, including a person who is out of the state at the time of renewal, must apply for renewal in person at least once every sixteen years and have a new digital image and digital signature captured.

(10) In addition to services available at driver license offices, the department may develop requirements for using electronic means for online issuance of operators' licenses and state identification cards to qualified holders as determined by the department.

Source: Laws 1967, c. 234, § 6, p. 625; Laws 1984, LB 694, § 1; Laws 1989, LB 284, § 8; R.S.1943, (1988), § 60-411.01; Laws 1989, LB 285, § 72; Laws 1990, LB 369, § 16; Laws 1990, LB 742, § 4; Laws 1990, LB 980, § 10; Laws 1993, LB 370, § 87; Laws 1998,

LB 320, § 9; Laws 1999, LB 704, § 23; Laws 2001, LB 387, § 7; Laws 2001, LB 574, § 16; Laws 2008, LB911, § 16; Laws 2011, LB158, § 4; Laws 2011, LB215, § 17; Laws 2014, LB777, § 8; Laws 2018, LB909, § 79; Laws 2019, LB270, § 35; Laws 2022, LB750, § 54; Laws 2023, LB138, § 24.

60-4,124 School permit; LPE-learner's permit; issuance; operation restrictions; violations; penalty; not eligible for ignition interlock permit.

(1) A person who is younger than sixteen years and three months of age but is older than fourteen years and two months of age may be issued a school permit if such person either resides outside a city of the metropolitan, primary, or first class or attends a school which is outside a city of the metropolitan, primary, or first class and if such person has held an LPE-learner's permit for two months. A school permit shall not be issued until such person has demonstrated that he or she is capable of successfully operating a motor vehicle, moped, or motorcycle and has in his or her possession an issuance certificate authorizing the county treasurer to issue a school permit. In order to obtain an issuance certificate, the applicant shall present (a) proof of successful completion of a department-approved driver safety course which includes behind-the-wheel driving specifically emphasizing (i) the effects of the consumption of alcohol on a person operating a motor vehicle, (ii) occupant protection systems, (iii) risk assessment, and (iv) railroad crossing safety and (b)(i) proof of successful completion of a written examination and driving test administered by a driver safety course instructor or (ii) a certificate in a form prescribed by the department, signed by a parent, guardian, or licensed driver at least twenty-one years of age, verifying that the applicant has completed fifty hours of lawful motor vehicle operation, under conditions that reflect department-approved driver safety course curriculum, with a parent, guardian, or adult at least twenty-one years of age, who has a current Nebraska operator's license or who is licensed in another state. The department may waive the written examination if the applicant has been issued an LPE-learner's permit or LPD-learner's permit and if such permit is valid or has expired no more than one year prior to application. The written examination shall not be waived if the permit being applied for contains a class or endorsement which is different from the class or endorsement of the LPE-learner's permit.

(2) A person holding a school permit may operate a motor vehicle, moped, or motorcycle or an autocycle:

(a) To and from where he or she attends school, or property used by the school he or she attends for purposes of school events or functions, over the most direct and accessible route by the nearest highway from his or her place of residence to transport such person or any family member who resides with such person to attend duly scheduled courses of instruction and extracurricular or school-related activities at the school he or she attends or on property used by the school he or she attends; or

(b) Under the personal supervision of a licensed operator. Such licensed operator shall be at least twenty-one years of age and licensed by this state or another state and shall (i) for all motor vehicles other than autocycles, motorcycles, or mopeds, actually occupy the seat beside the permitholder, (ii) in the case of an autocycle, actually occupy the seat beside or behind the permitholder, or (iii) in the case of a motorcycle, other than an autocycle, or a moped, if

the permitholder is within visual contact of and under the supervision of, in the case of a motorcycle, a licensed motorcycle operator or, in the case of a moped, a licensed motor vehicle operator.

(3) The holder of a school permit shall not use any type of interactive wireless communication device while operating a motor vehicle on the highways of this state. Enforcement of this subsection shall be accomplished only as a secondary action when the holder of the school permit has been cited or charged with a violation of some other law.

(4) A person who is younger than sixteen years of age but is over fourteen years of age may be issued an LPE-learner's permit, which permit shall be valid for a period of six months. An LPE-learner's permit shall not be issued until such person successfully completes a written examination prescribed by the department and demonstrates that he or she has sufficient powers of eyesight to safely operate a motor vehicle, moped, or motorcycle or an autocycle.

(5)(a) While holding the LPE-learner's permit, the person may operate a motor vehicle on the highways of this state if (i) for all motor vehicles other than autocycles, motorcycles, or mopeds, he or she has seated next to him or her a person who is a licensed operator, (ii) in the case of an autocycle, he or she has seated next to or behind him or her a person who is a licensed operator, or (iii) in the case of a motorcycle, other than an autocycle, or a moped, he or she is within visual contact of and is under the supervision of a person who, in the case of a motorcycle, is a licensed motorcycle operator or, in the case of a moped, is a licensed motor vehicle operator. Such licensed motor vehicle or motorcycle operator shall be at least twenty-one years of age and licensed by this state or another state.

(b) The holder of an LPE-learner's permit shall not use any type of interactive wireless communication device while operating a motor vehicle on the highways of this state. Enforcement of this subdivision shall be accomplished only as a secondary action when the holder of the LPE-learner's permit has been cited or charged with a violation of some other law.

(6) Department personnel or the county treasurer shall collect the fee and surcharge prescribed in section 60-4,115 from each successful applicant for a school or LPE-learner's permit. All school permits shall be subject to impoundment or revocation under the terms of section 60-496. Any person who violates the terms of a school permit shall be guilty of an infraction and shall not be eligible for another school, farm, LPD-learner's, or LPE-learner's permit until he or she has attained the age of sixteen years.

(7) Any person who holds a permit issued under this section and has violated subdivision (3)(b) or (c) of section 28-306, subdivision (3)(b) or (c) of section 28-394, or section 28-1254, 60-6,196, 60-6,197, 60-6,197.06, or 60-6,198 shall not be eligible for an ignition interlock permit.

Source: Laws 1989, LB 285, § 74; Laws 1998, LB 320, § 11; Laws 2001, LB 387, § 8; Laws 2001, LB 574, § 18; Laws 2005, LB 675, § 4; Laws 2006, LB 853, § 9; Laws 2007, LB415, § 6; Laws 2008, LB911, § 18; Laws 2012, LB751, § 28; Laws 2015, LB231, § 25; Laws 2016, LB311, § 15; Laws 2016, LB814, § 1; Laws 2018, LB909, § 82; Laws 2019, LB269, § 5; Laws 2022, LB750, § 55.

60-4,130.03 Operator less than twenty-one years of age; driver improvement course; suspension; reinstatement.

(1) Any person less than twenty-one years of age who holds an operator's license or a provisional operator's permit and who has accumulated, within any twelve-month period, a total of six or more points on his or her driving record pursuant to section 60-4,182 shall be notified by the Department of Motor Vehicles of that fact and ordered to attend and successfully complete a driver improvement course consisting of at least four hours of department-approved instruction. Notice shall be sent by regular United States mail to the last-known address as shown in the records of the department. If such person fails to complete the driver improvement course within three months after the date of notification, he or she shall have his or her operator's license suspended by the department.

(2) The director shall issue an order summarily suspending an operator's license until the licensee turns twenty-one years of age. Such order shall be sent by regular United States mail to the last-known address as shown in the records of the department. Such person shall not have his or her operator's license reinstated until he or she (a) has successfully completed the driver improvement course or has attained the age of twenty-one years and (b) has complied with section 60-4,100.01.

Source: Laws 1998, LB 320, § 14; Laws 2001, LB 38, § 35; Laws 2012, LB751, § 31; Laws 2022, LB750, § 56.

60-4,130.04 Commercial driver safety course instructors; requirements; driver safety course; requirements.

Commercial driver safety course instructors shall possess competence as outlined in rules and regulations adopted and promulgated by the Department of Motor Vehicles. Instructors who teach the department-approved driver safety course in a public school or institution and possess competence as outlined in a driver's education endorsement shall be eligible to sign a form prescribed by the department or electronically submit test results to the department showing successful completion of the driver safety course. Each public school or institution offering a department-approved driver safety course shall be required to obtain a certificate and pay the fee pursuant to section 60-4,130.05.

Source: Laws 1998, LB 320, § 15; Laws 2018, LB909, § 85; Laws 2022, LB750, § 57.

(h) PROVISIONS APPLICABLE TO OPERATION OF COMMERCIAL MOTOR VEHICLES

60-4,131 Sections; applicability; terms, defined.

(1) Sections 60-462.01 and 60-4,132 to 60-4,172 shall apply to the operation of any commercial motor vehicle.

(2) For purposes of such sections:

(a) Disqualification means:

(i) The suspension, revocation, cancellation, or any other withdrawal by a state of a person's privilege to operate a commercial motor vehicle;

(ii) A determination by the Federal Motor Carrier Safety Administration, under the rules of practice for motor carrier safety contained in 49 C.F.R. part 386, that a person is no longer qualified to operate a commercial motor vehicle under 49 C.F.R. part 391; or

(iii) The loss of qualification which automatically follows conviction of an offense listed in 49 C.F.R. 383.51;

(b) Downgrade means the state:

(i) Allows the driver of a commercial motor vehicle to change his or her self-certification to interstate, but operating exclusively in transportation or operation excepted from 49 C.F.R. part 391, as provided in 49 C.F.R. 390.3(f), 391.2, 391.68, or 398.3;

(ii) Allows the driver of a commercial motor vehicle to change his or her self-certification to intrastate only, if the driver qualifies under a state's physical qualification requirements for intrastate only;

(iii) Allows the driver of a commercial motor vehicle to change his or her certification to intrastate, but operating exclusively in transportation or operations excepted from all or part of a state driver qualification requirement; or

(iv) Removes the commercial driver's license privilege from the operator's license;

(c) Employee means any operator of a commercial motor vehicle, including full-time, regularly employed drivers; casual, intermittent, or occasional drivers; and leased drivers and independent, owner-operator contractors, while in the course of operating a commercial motor vehicle, who are either directly employed by or under lease to an employer;

(d) Employer means any person, including the United States, a state, the District of Columbia, or a political subdivision of a state, that owns or leases a commercial motor vehicle or assigns employees to operate a commercial motor vehicle;

(e) Endorsement means an authorization to an individual's CLP-commercial learner's permit or commercial driver's license required to permit the individual to operate certain types of commercial motor vehicles;

(f) Foreign means outside the fifty United States and the District of Columbia;

(g) Imminent hazard means the existence of a condition relating to hazardous material that presents a substantial likelihood that death, serious illness, severe personal injury, or a substantial endangerment to health, property, or the environment may occur before the reasonably foreseeable completion date of a formal proceeding begun to lessen the risk of that death, illness, injury, or endangerment;

(h) Issue and issuance means initial issuance, transfer, renewal, or upgrade of a commercial driver's license or nondomiciled commercial driver's license, or issuance, transfer, or upgrade of a CLP-commercial learner's permit or nondomiciled CLP-commercial learner's permit, as described in 49 C.F.R. 383.73;

(i) Medical examiner means an individual certified by the Federal Motor Carrier Safety Administration and listed on the National Registry of Certified Medical Examiners in accordance with 49 C.F.R. part 390, subpart D;

(j) Medical examiner's certificate means a form meeting the requirements of 49 C.F.R. 391.43 issued by a medical examiner in compliance with such regulation;

(k) Medical variance means the Federal Motor Carrier Safety Administration has provided a driver with either an exemption letter permitting operation of a commercial motor vehicle pursuant to 49 C.F.R. 381, subpart C, or 49 C.F.R.

391.64 or a Skill Performance Evaluation Certificate permitting operation of a commercial motor vehicle pursuant to 49 C.F.R. 391.49;

(l) Nondomiciled CLP-commercial learner's permit or nondomiciled commercial driver's license means a CLP-commercial learner's permit or commercial driver's license, respectively, issued by this state or other jurisdiction under either of the following two conditions:

(i) To an individual domiciled in a foreign country meeting the requirements of 49 C.F.R. 383.23(b)(1); or

(ii) To an individual domiciled in another state meeting the requirements of 49 C.F.R. 383.23(b)(2);

(m) Representative vehicle means a motor vehicle which represents the type of motor vehicle that a driver applicant operates or expects to operate;

(n) State means a state of the United States and the District of Columbia;

(o) State of domicile means that state where a person has his or her true, fixed, and permanent home and principal residence and to which he or she has the intention of returning whenever he or she is absent;

(p) Tank vehicle means any commercial motor vehicle that is designed to transport any liquid or gaseous materials within a tank or tanks that have an individual rated capacity of more than one hundred nineteen gallons and an aggregate rated capacity of one thousand gallons or more and that are either permanently or temporarily attached to the vehicle or the chassis. A commercial motor vehicle transporting an empty storage container tank, not designed for transportation, with a rated capacity of one thousand gallons or more that is temporarily attached to a flatbed trailer is not considered a tank vehicle;

(q) Third-party skills test examiner means a person employed by a third-party tester who is authorized by this state to administer the commercial driver's license skills tests specified in 49 C.F.R. part 383, subparts G and H;

(r) Third-party tester means a person, including, but not limited to, another state, a motor carrier, a private driver training facility or other private institution, or a department, agency, or instrumentality of a local government, authorized by this state to employ skills test examiners to administer the commercial driver's license skills tests specified in 49 C.F.R. part 383, subparts G and H;

(s) United States means the fifty states and the District of Columbia; and

(t) Vehicle group means a class or type of vehicle with certain operating characteristics.

Source: Laws 1989, LB 285, § 81; Laws 1990, LB 980, § 11; Laws 1993, LB 420, § 5; Laws 1996, LB 323, § 2; Laws 2003, LB 562, § 7; Laws 2005, LB 76, § 7; Laws 2011, LB178, § 5; Laws 2014, LB983, § 20; Laws 2016, LB666, § 4; Laws 2016, LB977, § 14; Laws 2018, LB629, § 2; Laws 2018, LB909, § 86; Laws 2024, LB1200, § 31.
Operative date April 16, 2024.

60-4,131.01 Individuals operating commercial motor vehicles for military purposes; applicability of sections.

Sections 60-462.01 and 60-4,132 to 60-4,172 shall not apply to individuals who operate commercial motor vehicles for military purposes, including and limited to:

(1) Active duty military personnel;

(2) Members of the military reserves, other than military technicians;

(3) Active duty United States Coast Guard personnel; and

(4) Members of the National Guard on active duty, including:

(a) Personnel on full-time National Guard duty;

(b) Personnel on part-time National Guard training; and

(c) National Guard military technicians required to wear military uniforms.

Such individuals must have a valid military driver's license unless such individual is operating the vehicle under written orders from a commanding officer in an emergency declared by the federal government or by the State of Nebraska.

Source: Laws 2006, LB 853, § 13; Laws 2011, LB178, § 6; Laws 2014, LB983, § 21; Laws 2018, LB629, § 3; Laws 2018, LB909, § 87; Laws 2024, LB1200, § 32.
Operative date April 16, 2024.

60-4,132 Purposes of sections.

The purposes of sections 60-462.01, 60-4,133, and 60-4,137 to 60-4,172 are to implement the requirements mandated by the federal Commercial Motor Vehicle Safety Act of 1986, 49 U.S.C. 31100 et seq., the federal Motor Carrier Safety Improvement Act of 1999, Public Law 106-159, 49 U.S.C. 101 et seq., section 1012 of the federal Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, USA PATRIOT Act, 49 U.S.C. 5103a, and federal regulations as such acts and regulations existed on January 1, 2024, and to reduce or prevent commercial motor vehicle accidents, fatalities, and injuries by: (1) Permitting drivers to hold only one operator's license; (2) disqualifying drivers for specified offenses and serious traffic violations; and (3) strengthening licensing and testing standards.

Source: Laws 1989, LB 285, § 82; Laws 1993, LB 7, § 2; Laws 1993, LB 420, § 6; Laws 2002, LB 499, § 1; Laws 2003, LB 562, § 8; Laws 2005, LB 76, § 8; Laws 2011, LB178, § 7; Laws 2014, LB983, § 22; Laws 2018, LB629, § 4; Laws 2018, LB909, § 88; Laws 2019, LB79, § 14; Laws 2020, LB944, § 59; Laws 2021, LB149, § 12; Laws 2022, LB750, § 58; Laws 2023, LB138, § 25; Laws 2024, LB1200, § 33.
Operative date April 16, 2024.

60-4,134 Holder of Class A commercial driver's license; hazardous materials endorsement not required; conditions.

In conformance with section 7208 of the federal Fixing America's Surface Transportation Act and 49 C.F.R. 383.3(i), as such section and regulation existed on January 1, 2024, no hazardous materials endorsement authorizing the holder of a Class A commercial driver's license to operate a commercial motor vehicle transporting diesel fuel shall be required if such driver is (1)

operating within the state and acting within the scope of his or her employment as an employee of a custom harvester operation, an agrichemical business, a farm retail outlet and supplier, or a livestock feeder and (2) operating a service vehicle that is (a) transporting diesel in a quantity of one thousand gallons or less and (b) clearly marked with a flammable or combustible placard, as appropriate.

Source: Laws 2018, LB909, § 90; Laws 2019, LB79, § 15; Laws 2020, LB944, § 60; Laws 2021, LB149, § 13; Laws 2022, LB750, § 59; Laws 2023, LB138, § 26; Laws 2024, LB1200, § 34.
Operative date April 16, 2024.

60-4,138 Commercial drivers' licenses and restricted commercial drivers' licenses; classification.

(1) Commercial drivers' licenses and restricted commercial drivers' licenses shall be issued by the department in compliance with 49 C.F.R. parts 380, 382, 383, 384, 391, and 392, shall be classified as provided in subsection (2) of this section, and shall bear such endorsements and restrictions as are provided in subsections (3) and (4) of this section.

(2) Commercial motor vehicle classifications for purposes of commercial drivers' licenses shall be as follows:

(a) Class A Combination Vehicle — Any combination of motor vehicles and towed vehicles with a gross vehicle weight rating of more than twenty-six thousand pounds if the gross vehicle weight rating of the vehicles being towed are in excess of ten thousand pounds;

(b) Class B Heavy Straight Vehicle — Any single commercial motor vehicle with a gross vehicle weight rating of twenty-six thousand one pounds or more or any such commercial motor vehicle towing a vehicle with a gross vehicle weight rating not exceeding ten thousand pounds; and

(c) Class C Small Vehicle — Any single commercial motor vehicle with a gross vehicle weight rating of less than twenty-six thousand one pounds or any such commercial motor vehicle towing a vehicle with a gross vehicle weight rating not exceeding ten thousand pounds comprising:

(i) Motor vehicles designed to transport sixteen or more passengers, including the driver; and

(ii) Motor vehicles used in the transportation of hazardous materials and required to be placarded pursuant to section 75-364.

(3) The endorsements to a commercial driver's license shall be as follows:

(a) T — Double/triple trailers;

(b) P — Passenger;

(c) N — Tank vehicle;

(d) H — Hazardous materials;

(e) X — Combination tank vehicle and hazardous materials; and

(f) S — School bus.

(4) The restrictions to a commercial driver's license shall be as follows:

(a) E — No manual transmission equipped commercial motor vehicle;

(b) K — Operation of a commercial motor vehicle only in intrastate commerce;

(c) L — Operation of only a commercial motor vehicle which is not equipped with air brakes;

(d) M — Operation of a commercial motor vehicle which is not a Class A passenger vehicle;

(e) N — Operation of a commercial motor vehicle which is not a Class A or Class B passenger vehicle;

(f) O — No tractor-trailer commercial motor vehicle;

(g) V — Operation of a commercial motor vehicle for drivers with medical variance documentation. The documentation shall be required to be carried on the driver's person while operating a commercial motor vehicle; and

(h) Z — No full air brake equipped commercial motor vehicle.

Source: Laws 1989, LB 285, § 88; Laws 1990, LB 980, § 14; Laws 1993, LB 420, § 8; Laws 1996, LB 938, § 1; Laws 2003, LB 562, § 10; Laws 2006, LB 1007, § 6; Laws 2011, LB178, § 9; Laws 2014, LB983, § 24; Laws 2020, LB944, § 61; Laws 2022, LB750, § 60; Laws 2023, LB138, § 27.

60-4,139 Commercial motor vehicle; nonresident; operating privilege.

Any nonresident may operate a commercial motor vehicle upon the highways of this state if:

(1) Such nonresident has in his or her immediate possession a valid commercial driver's license or a valid commercial learner's permit issued by his or her state of residence or by a jurisdiction with standards that are in accord with 49 C.F.R. parts 383 and 391;

(2) The license or permit is not suspended, revoked, or canceled;

(3) Such nonresident is not disqualified from operating a commercial motor vehicle;

(4) The commercial motor vehicle is not operated in violation of any downgrade; and

(5) Such nonresident does not have a status of prohibited in the federal Drug and Alcohol Clearinghouse.

Source: Laws 1989, LB 285, § 89; Laws 2001, LB 108, § 2; Laws 2006, LB 853, § 10; Laws 2011, LB178, § 10; Laws 2014, LB983, § 25; Laws 2024, LB1200, § 35.
Operative date April 16, 2024.

60-4,139.01 School bus endorsement; requirements.

An applicant for a school bus endorsement shall satisfy the following three requirements:

(1) Pass the knowledge and skills test for obtaining a passenger vehicle endorsement;

(2) Have knowledge covering at least the following three topics:

(a) Loading and unloading children, including the safe operation of stop signal devices, external mirror systems, flashing lights, and other warning and passenger safety devices required for school buses by state or federal law or regulation;

(b) Emergency exits and procedures for safely evacuating passengers in an emergency; and

(c) State and federal laws and regulations related to safely traversing highway-rail grade crossings; and

(3) Take a driving skills test in a school bus of the same vehicle group as the school bus the applicant will drive.

Source: Laws 2003, LB 562, § 11; Laws 2022, LB750, § 61.

60-4,142 CLP-commercial learner's permit issuance.

Any resident or nondomiciled applicant may obtain a CLP-commercial learner's permit from the department by making application to licensing staff of the department. An applicant shall present proof to licensing staff that he or she holds a valid Class O license or commercial driver's license or a foreign nondomiciled applicant shall successfully complete the requirements for the Class O license before a CLP-commercial learner's permit is issued. An applicant shall also successfully complete the commercial driver's license general knowledge examination under section 60-4,155 and examinations for all previously issued endorsements as provided in 49 C.F.R. 383.25(a)(3) and 49 C.F.R. 383.153(b)(2)(vii). Upon application, the examination may be waived if the applicant presents (1) a Nebraska commercial driver's license which is valid or has been expired for less than one year or (2) a valid commercial driver's license from another state. The CLP-commercial learner's permit shall be valid for one year from the date of issuance. The successful applicant shall pay the fee prescribed in section 60-4,115 for the issuance of a CLP-commercial learner's permit.

Source: Laws 1989, LB 285, § 92; Laws 1990, LB 980, § 17; Laws 1998, LB 320, § 17; Laws 2001, LB 108, § 3; Laws 2001, LB 574, § 23; Laws 2003, LB 562, § 13; Laws 2006, LB 853, § 11; Laws 2012, LB751, § 32; Laws 2014, LB983, § 27; Laws 2016, LB311, § 17; Laws 2023, LB138, § 28; Laws 2024, LB1200, § 36.
Operative date April 16, 2024.

60-4,143 Commercial driver's license; CLP-commercial learner's permit; issuance; restriction; surrender of other licenses.

(1) No commercial driver's license or CLP-commercial learner's permit shall, under any circumstances, be issued to any person who has not attained the age of eighteen years.

(2) A commercial driver's license or CLP-commercial learner's permit shall not be issued to any person:

(a) During the period the person is subject to a disqualification in this or any other state;

(b) While the person's operator's license is suspended, revoked, or canceled in this or any other state;

(c) When the Commercial Driver License Information System indicates ''not-certified''; or

(d) When a federal Drug and Alcohol Clearinghouse query indicates ''prohibited''.

(3) The department shall not issue any commercial driver's license to any person unless the person applying for a commercial driver's license first surrenders to the department all operators' licenses issued to such person by this or any other state. Any operator's license issued by another state which is surrendered to the department shall be destroyed, and the director shall send notice to the other state that the operator's license has been surrendered.

Source: Laws 1989, LB 285, § 93; Laws 2005, LB 76, § 11; Laws 2011, LB178, § 11; Laws 2014, LB983, § 28; Laws 2024, LB1200, § 37.
Operative date April 16, 2024.

60-4,144 Commercial driver's license; CLP-commercial learner's permit; applications; contents; parolee immigration status; effect; application; demonstration of knowledge and skills; information and documentation required; verification.

(1) An applicant for issuance of any original or renewal commercial driver's license or an applicant for a change of class of commercial motor vehicle, endorsement, or restriction shall demonstrate his or her knowledge and skills for operating a commercial motor vehicle as prescribed in the Motor Vehicle Operator's License Act. An applicant for a commercial driver's license shall provide the information and documentation required by this section and section 60-4,144.01. Such information and documentation shall include any additional information required by 49 C.F.R. parts 383 and 391 and also include:

(a) Certification that the commercial motor vehicle in which the applicant takes any driving skills examination is representative of the class of commercial motor vehicle that the applicant operates or expects to operate; and

(b) The names of all states where the applicant has been licensed to operate any type of motor vehicle in the ten years prior to the date of application.

(2)(a) Before being issued a CLP-commercial learner's permit or commercial driver's license, the applicant shall provide (i) his or her full legal name, date of birth, mailing address, gender, race or ethnicity, and social security number, (ii) two forms of proof of address of his or her principal residence unless the applicant is a program participant under the Address Confidentiality Act, except that a nondomiciled applicant for a CLP-commercial learner's permit or nondomiciled commercial driver's license holder does not have to provide proof of residence in Nebraska, (iii) evidence of identity as required by this section, and (iv) a brief physical description of himself or herself.

(b) The applicant's social security number shall not be printed on the CLP-commercial learner's permit or commercial driver's license and shall be used only (i) to furnish information to the United States Selective Service System under section 60-483, (ii) with the permission of the director in connection with the certification of the status of an individual's driving record in this state or any other state, (iii) for purposes of child support enforcement pursuant to section 42-358.08 or 43-512.06, (iv) to furnish information regarding an applicant for or holder of a commercial driver's license with a hazardous materials endorsement to the Transportation Security Administration of the United States Department of Homeland Security or its agent, (v) to furnish information to the Department of Revenue under section 77-362.02, (vi) to furnish information to the Secretary of State for purposes of the Election Act, or (vii) to query the federal Drug and Alcohol Clearinghouse.

(c) No person shall be a holder of a CLP-commercial learner's permit or commercial driver's license and a state identification card at the same time.

(3) Before being issued a CLP-commercial learner's permit or commercial driver's license, an applicant, except a nondomiciled applicant, shall provide proof that this state is his or her state of residence. Acceptable proof of residence is a document with the person's name and residential address within this state.

(4)(a) Before being issued a CLP-commercial learner's permit or commercial driver's license, an applicant shall provide proof of identity.

(b) The following are acceptable as proof of identity:

(i) A valid, unexpired United States passport;

(ii) A certified copy of a birth certificate filed with a state office of vital statistics or equivalent agency in the individual's state of birth;

(iii) A Consular Report of Birth Abroad issued by the United States Department of State;

(iv) A valid, unexpired permanent resident card issued by the United States Department of Homeland Security or United States Citizenship and Immigration Services;

(v) An unexpired employment authorization document issued by the United States Department of Homeland Security;

(vi) An unexpired foreign passport with a valid, unexpired United States visa affixed accompanied by the approved form documenting the applicant's most recent admittance into the United States;

(vii) A Certificate of Naturalization issued by the United States Department of Homeland Security;

(viii) A Certificate of Citizenship issued by the United States Department of Homeland Security;

(ix) A driver's license or identification card issued in compliance with the standards established by the federal REAL ID Act of 2005, Public Law 109-13, division B, section 1, 119 Stat. 302; or

(x) Such other documents as the director may approve.

(c) If an applicant presents one of the documents listed under subdivision (b)(i), (ii), (iii), (iv), (vii), or (viii) of this subsection, the verification of the applicant's identity will also provide satisfactory evidence of lawful status.

(d) If the applicant presents one of the identity documents listed under subdivision (b)(v), (vi), or (ix) of this subsection, the verification of the identity documents does not provide satisfactory evidence of lawful status. The applicant shall also present a second document from subdivision (4)(b) of this section, a document from subsection (5) of this section, or documentation issued by the United States Department of Homeland Security or other federal agencies demonstrating lawful status as determined by the United States Citizenship and Immigration Services.

(e) An applicant may present other documents as designated by the director as proof of identity. Any documents accepted shall be recorded according to a written exceptions process established by the director.

(f)(i) Any person assigned a parolee immigration status by the United States Department of Homeland Security may apply for and be issued a CLP-

commercial learner's permit or commercial driver's license that is not in compliance with the federal REAL ID Act of 2005, Public Law 109-13, if the person:

(A) Possessed an unexpired foreign passport issued to such person at the time of such person's entry into the United States of America; and

(B) Fulfills the requirements of subdivision (2)(a) of this section and such requirements are verified pursuant to section 60-484.06.

(ii) Any CLP-commercial learner's permit or commercial driver's license issued under this subsection is otherwise subject to all laws relating to CLP-commercial learner's permits or commercial driver's licenses.

(5)(a) Whenever a person, as a nondomiciled individual to this state, is renewing, replacing, upgrading, transferring, or applying for a commercial driver's license, or replacing, upgrading, transferring, or applying for a CLP-commercial learner's permit, the Department of Motor Vehicles shall verify the citizenship in the United States of the person or the lawful status in the United States of the person.

(b) The following are acceptable as proof of citizenship or lawful status:

(i) A valid, unexpired United States passport;

(ii) A certified copy of a birth certificate filed with a state office of vital statistics or equivalent agency in the individual's state of birth, Puerto Rico, the Virgin Islands, Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands;

(iii) A Consular Report of Birth Abroad issued by the United States Department of State;

(iv) A Certificate of Naturalization issued by the United States Department of Homeland Security;

(v) A Certificate of Citizenship issued by the United States Department of Homeland Security; or

(vi) A valid, unexpired Permanent Resident Card issued by the United States Department of Homeland Security or United States Citizenship and Immigration Services.

(6) An applicant may present other documents as designated by the director as proof of lawful status. Any documents accepted shall be recorded according to a written exceptions process established by the director.

(7)(a) An applicant shall obtain a nondomiciled CLP-commercial driver's license or nondomiciled CLP-commercial learner's permit:

(i) If the applicant is domiciled in a foreign jurisdiction and the Federal Motor Carrier Safety Administrator has not determined that the commercial motor vehicle operator testing and licensing standards of that jurisdiction meet the standards contained in subparts G and H of 49 C.F.R. part 383; or

(ii) If the applicant is domiciled in a state that is prohibited from issuing commercial learners' permits and commercial drivers' licenses in accordance with 49 C.F.R. 384.405. Such person is eligible to obtain a nondomiciled CLP-commercial learner's permit or nondomiciled commercial driver's license from Nebraska that complies with the testing and licensing standards contained in subparts F, G, and H of 49 C.F.R. part 383.

(b) An applicant for a nondomiciled CLP-commercial learner's permit and nondomiciled commercial driver's license shall do the following:

(i) Complete the requirements to obtain a CLP-commercial learner's permit or a commercial driver's license under the Motor Vehicle Operator's License Act, except that an applicant domiciled in a foreign jurisdiction shall provide an unexpired employment authorization document issued by the United States Citizenship and Immigration Services or an unexpired foreign passport accompanied by an approved I-94 form documenting the applicant's most recent admittance into the United States. No proof of domicile is required;

(ii) After receipt of the nondomiciled CLP-commercial learner's permit or nondomiciled commercial driver's license and, for as long as the permit or license is valid, notify the Department of Motor Vehicles of any adverse action taken by any jurisdiction or governmental agency, foreign or domestic, against his or her driving privileges. Such adverse actions include, but are not limited to, license disqualification or disqualification from operating a commercial motor vehicle for the convictions described in 49 C.F.R. 383.51. Notifications shall be made within the time periods specified in 49 C.F.R. 383.33; and

(iii) Provide a mailing address to the Department of Motor Vehicles. If the applicant is applying for a foreign nondomiciled CLP-commercial learner's permit or foreign nondomiciled commercial driver's license, he or she shall provide a Nebraska mailing address and his or her employer's mailing address to the Department of Motor Vehicles.

(c) An applicant for a nondomiciled CLP-commercial learner's permit or nondomiciled commercial driver's license who holds a foreign operator's license is not required to surrender his or her foreign operator's license.

(8) Any person applying for a CLP-commercial learner's permit or commercial driver's license may answer the following:

(a) Do you wish to register to vote as part of this application process?

(b) Do you wish to have a veteran designation displayed on the front of your operator's license to show that you served in the armed forces of the United States? (To be eligible you shall register with the Nebraska Department of Veterans' Affairs registry.)

(c) Do you wish to include your name in the Donor Registry of Nebraska and donate your organs and tissues at the time of your death?

(d) Do you wish to receive any additional specific information regarding organ and tissue donation and the Donor Registry of Nebraska?

(e) Do you wish to donate $1 to promote the Organ and Tissue Donor Awareness and Education Fund?

(9) Application for a CLP-commercial learner's permit or commercial driver's license shall include a signed oath, affirmation, or declaration of the applicant that the information provided on the application for the permit or license is true and correct.

(10) Any person applying for a CLP-commercial learner's permit or commercial driver's license shall make one of the certifications in section 60-4,144.01 and any certification required under section 60-4,146 and shall provide such certifications to the Department of Motor Vehicles in order to be issued a CLP-commercial learner's permit or a commercial driver's license.

(11) Every person who holds any commercial driver's license shall provide to the department medical certification as required by section 60-4,144.01. The department may provide notice and prescribe medical certification compliance requirements for all holders of commercial drivers' licenses. Holders of com-

mercial drivers' licenses who fail to meet the prescribed medical certification compliance requirements may be subject to downgrade.

Source: Laws 1989, LB 285, § 94; Laws 1992, LB 1178, § 4; Laws 1994, LB 76, § 575; Laws 1997, LB 635, § 21; Laws 1999, LB 147, § 3; Laws 1999, LB 704, § 29; Laws 2000, LB 1317, § 8; Laws 2001, LB 34, § 5; Laws 2003, LB 228, § 13; Laws 2003, LB 562, § 14; Laws 2004, LB 208, § 7; Laws 2004, LB 559, § 4; Laws 2005, LB 76, § 12; Laws 2008, LB911, § 21; Laws 2011, LB178, § 12; Laws 2011, LB215, § 19; Laws 2012, LB751, § 33; Laws 2014, LB983, § 29; Laws 2015, LB575, § 29; Laws 2016, LB47, § 3; Laws 2016, LB311, § 18; Laws 2019, LB192, § 3; Laws 2023, LB138, § 29; Laws 2024, LB1200, § 38.
Operative date April 16, 2024.

Cross References

Address Confidentiality Act, see section 42-1201.
Donor Registry of Nebraska, see section 71-4822.
Election Act, see section 32-101.
Nebraska Department of Veterans' Affairs registry, see section 80-414.

60-4,144.03 Temporary CLP-commercial learner's permit or commercial driver's license; issuance; temporary commercial driver's license; renewal.

(1) The department shall issue a CLP-commercial learner's permit or a commercial driver's license that is temporary only to any applicant who presents documentation under section 60-4,144 that shows his or her authorized stay in the United States is temporary. A CLP-commercial learner's permit or a commercial driver's license that is temporary shall be valid only during the period of time of the applicant's authorized stay in the United States or, if there is no definite end to the period of authorized stay, a period of one year.

(2) A CLP-commercial learner's permit or a commercial driver's license that is temporary shall clearly indicate that it is temporary with a special notation that states the date on which it expires.

(3) A commercial driver's license that is temporary may be renewed only upon presentation of valid documentary evidence that the status, by which the applicant qualified for the commercial driver's license that is temporary, has been extended by the United States Department of Homeland Security.

Source: Laws 2014, LB983, § 32; Laws 2024, LB1200, § 39.
Operative date April 16, 2024.

60-4,144.05 Drug or alcohol violation; effect; erroneous notification; procedure.

(1) Beginning November 18, 2024, in compliance with 49 C.F.R. part 382, within sixty calendar days of receiving notification from the Federal Motor Carrier Safety Administration that a driver is prohibited from operating a commercial motor vehicle due to a drug or alcohol violation, the department shall:

(a) Update the Commercial Driver License Information System driver record to include the information provided in the notification;

(b) Notify the holder of the commercial driver's license or CLP-commercial learner's permit of such holder's prohibited status and that the commercial

driver's license privilege or CLP-commercial learner's permit privilege will be removed from such license or permit; and

(c) Downgrade such license and cancel the permit for holders of a CLP-commercial learner's permit pursuant to established procedures of the department and, if applicable, update the driver's record maintained by the department.

(2) Beginning November 18, 2024, in compliance with 49 C.F.R. part 382, within ten calendar days of receiving notification from the Federal Motor Carrier Safety Administration that a driver was erroneously identified as prohibited on the federal Drug and Alcohol Clearinghouse, the department shall:

(a) Restore the commercial driving privilege as it existed before the erroneous notification;

(b) Notify the holder of the commercial driver's license or CLP-commercial learner's permit of:

(i) Such holder's updated status; and

(ii) Procedures the driver shall follow to reinstate such driver's license or permit; and

(c) Expunge the Commercial Driver License Information System driver record or motor vehicle record of any reference to the erroneous prohibited status.

Source: Laws 2024, LB1200, § 40.
Operative date April 16, 2024.

60-4,146.01 Restricted commercial driver's license; application or examiner's certificate; operation permitted; term; violation; penalty.

(1) Any resident of this state who is a commercial motor vehicle operator for a farm-related or ranch-related service industry may apply for a restricted commercial driver's license. If the applicant is an individual, the application or examiner's certificate shall include the applicant's social security number. A restricted commercial driver's license shall authorize the holder to operate any Class B Heavy Straight Vehicle commercial motor vehicle or any Class B Heavy Straight Vehicle or Class C Small Vehicle commercial motor vehicle required to be placarded pursuant to section 75-364 when the hazardous material being transported is (a) diesel fuel in quantities of one thousand gallons or less, (b) liquid fertilizers in vehicles or implements of husbandry with total capacities of three thousand gallons or less, or (c) solid fertilizers that are not transported or mixed with any organic substance within one hundred fifty miles of the employer's place of business or the farm or ranch being served.

(2) Any applicant for a restricted commercial driver's license shall be eighteen years of age or older, shall have possessed a valid operator's license during the twelve-month period immediately preceding application, and shall demonstrate, in a manner to be prescribed by the director, that:

(a) If the applicant has possessed a valid operator's license for two or more years, that in the two-year period immediately preceding application the applicant:

(i) Has not possessed more than one operator's license at one time;

(ii) Has not been subject to any order of suspension, revocation, or cancellation of any type;

(iii) Has no convictions involving any type or classification of motor vehicle of the disqualification offenses enumerated in sections 60-4,168 and 60-4,168.01; and

(iv) Has no convictions for traffic law violations that are accident-connected and no record of at-fault accidents; and

(b) If the applicant has possessed a valid operator's license for more than one but less than two years, the applicant shall demonstrate that he or she meets the requirements prescribed in subdivision (a) of this subsection for the entire period of his or her driving record history.

(3)(a) The restricted commercial driver's license shall be valid for five years and shall clearly indicate the commercial motor vehicle operating privilege for the seasonal period of validity on the back of the restricted commercial driver's license. The seasonal period of validity shall be valid for no more than one hundred eighty consecutive days in any twelve-month period. The applicant shall designate the seasonal period of validity when making application for the restricted commercial driver's license. The holder of the restricted commercial driver's license may change the seasonal period of validity by renewing or obtaining a replacement of the restricted commercial driver's license. The holder of a restricted commercial driver's license shall operate commercial motor vehicles in the course or scope of his or her employment within one hundred fifty miles of the employer's place of business or the farm or ranch currently being served. The department shall annually revalidate the restricted commercial driver's license to confirm that the holder of the restricted commercial driver's license meets the requirements of subsection (2) of this section. If the holder of the restricted commercial driver's license does not meet the requirements of subsection (2) of this section upon revalidation, the department shall provide notice to the holder that the restricted commercial driver's license is canceled and the holder shall apply for a Class O operator's license within thirty calendar days after the date notice was sent.

(b) Beginning January 1, 2025, the restricted commercial driver's license shall be valid for five years and shall clearly indicate the commercial motor vehicle operating privilege for the seasonal period of validity on the back of the restricted commercial driver's license. The seasonal period of validity shall be valid for no more than two hundred ten days in any calendar year. The applicant shall designate the seasonal period of validity when making application for the restricted commercial driver's license. The holder of the restricted commercial driver's license may change the seasonal period of validity by renewing or obtaining a replacement of the restricted commercial driver's license. The holder of a restricted commercial driver's license shall operate commercial motor vehicles in the course or scope of his or her employment within one hundred fifty miles of the employer's place of business or the farm or ranch currently being served. The department shall annually revalidate the restricted commercial driver's license to confirm that the holder of the restricted commercial driver's license meets the requirements of subsection (2) of this section. If the holder of the restricted commercial driver's license does not meet the requirements of subsection (2) of this section upon revalidation, the department shall provide notice to the holder that the restricted commercial driver's

license is canceled and the holder must apply for a Class O operator's license within thirty calendar days after the date notice was sent.

(4) Any person who violates any provision of this section shall, upon conviction, be guilty of a Class III misdemeanor. In addition to any penalty imposed by the court, the director shall also revoke such person's restricted commercial driver's license and shall disqualify such person from operating any commercial motor vehicle in Nebraska for a period of five years.

(5) The Department of Motor Vehicles may adopt and promulgate rules and regulations to carry out the requirements of this section.

(6) For purposes of this section:

(a) Agricultural chemical business means any business that transports agricultural chemicals predominately to or from a farm or ranch;

(b) Farm-related or ranch-related service industry means any custom harvester, retail agricultural outlet or supplier, agricultural chemical business, or livestock feeder which operates commercial motor vehicles for the purpose of transporting agricultural products, livestock, farm machinery and equipment, or farm supplies to or from a farm or ranch; and

(c) Retail agricultural outlet or supplier means any retail outlet or supplier that transports either agricultural products, farm machinery, farm supplies, or both, predominately to or from a farm or ranch.

Source: Laws 1993, LB 420, § 13; Laws 1996, LB 323, § 3; Laws 1997, LB 752, § 142; Laws 1998, LB 309, § 8; Laws 1999, LB 704, § 32; Laws 2019, LB270, § 36; Laws 2021, LB113, § 29; Laws 2024, LB1200, § 41.
Operative date April 16, 2024.

60-4,147.02 Hazardous materials endorsement; USA PATRIOT Act requirements.

No endorsement authorizing the driver to operate a commercial motor vehicle transporting hazardous materials shall be issued, renewed, or transferred by the Department of Motor Vehicles unless the endorsement is issued, renewed, or transferred in conformance with the requirements of section 1012 of the federal Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, USA PATRIOT Act, 49 U.S.C. 5103a, including all amendments and federal regulations adopted pursuant thereto as of January 1, 2024, for the issuance of licenses to operate commercial motor vehicles transporting hazardous materials.

Source: Laws 2005, LB 76, § 17; Laws 2006, LB 853, § 12; Laws 2007, LB239, § 5; Laws 2008, LB756, § 17; Laws 2009, LB331, § 10; Laws 2010, LB805, § 7; Laws 2011, LB212, § 6; Laws 2012, LB751, § 35; Laws 2013, LB35, § 5; Laws 2014, LB776, § 6; Laws 2015, LB313, § 6; Laws 2016, LB929, § 8; Laws 2017, LB263, § 67; Laws 2018, LB909, § 89; Laws 2019, LB79, § 16; Laws 2020, LB944, § 63; Laws 2021, LB149, § 14; Laws 2022, LB750, § 62; Laws 2023, LB138, § 30; Laws 2024, LB1200, § 42.
Operative date April 16, 2024.

60-4,148 Commercial drivers' licenses; issuance.

(1) All commercial drivers' licenses shall be issued by the department as provided in sections 60-4,148.01 and 60-4,149. Successful applicants shall pay the fee and surcharge prescribed in section 60-4,115.

(2) Any person making application to add or remove a class of commercial motor vehicle, any endorsement, or any restriction to or from a previously issued and outstanding commercial driver's license shall pay the fee and surcharge prescribed in section 60-4,115.

Source: Laws 1989, LB 285, § 98; Laws 1990, LB 980, § 20; Laws 1991, LB 854, § 2; Laws 1993, LB 420, § 10; Laws 1997, LB 752, § 143; Laws 1998, LB 309, § 9; Laws 1999, LB 704, § 33; Laws 2001, LB 574, § 24; Laws 2008, LB911, § 22; Laws 2016, LB977, § 17; Laws 2024, LB1200, § 43.
Operative date April 16, 2024.

60-4,148.01 Commercial drivers' licenses; electronic issuance, renewal, and replacement; CLP-commercial learners' permits; electronic replacement; department; duties; applicant; requirements; renewal; fee and surcharge; delivery.

(1) The department may develop and offer methods for successful applicants to obtain, renew, and replace commercial drivers' licenses electronically and for the electronic replacement of CLP-commercial learners' permits.

(2)(a) An applicant who has successfully passed the knowledge and skills tests for a commercial driver's license pursuant to section 60-4,149 and who has a digital image and digital signature preserved in the digital system that is not more than ten years old may obtain a commercial driver's license using the preserved digital image and digital signature by electronic means in a manner prescribed by the department pursuant to this subsection.

(b) To be eligible to obtain a license pursuant to this subsection:

(i) There shall have been no changes to the applicant's name since his or her most recent application for a CLP-commercial learner's permit;

(ii) The new license shall not contain a hazardous materials endorsement;

(iii) The applicant shall meet the requirements of section 60-4,144 and submit the information and documentation and make the certifications required under section 60-4,144; and

(iv) The applicant shall satisfy any other eligibility criteria that the department may prescribe pursuant to subsection (6) of this section.

(c) The successful applicant shall pay the fee and surcharge prescribed in section 60-4,115. Upon receipt of such fee and surcharge and an application it deems satisfactory, the department shall deliver the license by mail.

(3)(a) An applicant whose commercial driver's license expires prior to his or her seventy-second birthday and who has a digital image and digital signature preserved in the digital system may, once every ten years, renew such license using the preserved digital image and digital signature by electronic means in a manner prescribed by the department pursuant to this subsection.

(b) To be eligible for renewal under this subsection:

(i) The renewal shall be prior to or within one year after expiration of such license;

(ii) The driving record abstract maintained in the department's computerized records shall show that such license is not suspended, revoked, canceled, or disqualified;

(iii) There shall be no changes to the applicant's name or to the class, endorsements, or restrictions on such license;

(iv) The applicant shall not hold a hazardous materials endorsement or shall relinquish such endorsement;

(v) The applicant shall meet the requirements of section 60-4,144 and submit the information and documentation and make the certifications required under section 60-4,144; and

(vi) The applicant shall satisfy any other eligibility criteria that the department may prescribe pursuant to subsection (6) of this section.

(c) Every applicant seeking renewal of his or her commercial driver's license shall apply for renewal in person at least once every ten years and have a new digital image and digital signature captured.

(d) An applicant seeking renewal under this subsection (3) shall pay the fee and surcharge prescribed in section 60-4,115. Upon receipt of such fee and surcharge and an application it deems satisfactory, the department shall deliver the renewal license or permit by mail.

(4)(a) Any person holding a commercial driver's license or CLP-commercial learner's permit who has a digital image and digital signature not more than ten years old preserved in the digital system and who loses his or her license or permit, who requires issuance of a replacement license or permit because of a change of address, or whose license or permit is mutilated or unreadable may obtain a replacement commercial driver's license or CLP-commercial learner's permit using the preserved digital image and digital signature by electronic means in a manner prescribed by the department pursuant to this subsection.

(b) To be eligible to obtain a replacement license or permit pursuant to this subsection:

(i) There shall be no changes to the applicant's name and no changes to the class, endorsements, or restrictions on such license or permit;

(ii) The applicant shall meet the requirements of section 60-4,144 and submit the information and documentation and make the certifications required under section 60-4,144; and

(iii) The applicant shall satisfy any other eligibility criteria that the department may prescribe pursuant to subsection (6) of this section.

(c) An application for a replacement license or permit because of a change of address shall be made within sixty days after the change of address.

(d) An applicant seeking replacement under this subsection (4) of this section shall pay the fee and surcharge prescribed in section 60-4,115. Upon receipt of such fee and surcharge and an application it deems satisfactory, the department shall deliver the replacement license or permit by mail. The replacement license or permit shall be subject to the provisions of subsection (4) of section 60-4,150.

(5) An application to obtain, renew, or replace a commercial driver's license or to replace a CLP-commercial learner's permit because of a change of name may not be made electronically pursuant to this section and shall be made in person at a licensing station within sixty days after the change of name.

(6) The department may adopt and promulgate rules and regulations governing eligibility for the use of electronic methods for successful applicants to obtain, renew, or replace commercial drivers' licenses and for the replacement of CLP-commercial learners' permits, taking into consideration medical and vision requirements, safety concerns, and any other factors consistent with the purposes of the Motor Vehicle Operator's License Act that the director deems relevant.

Source: Laws 2016, LB977, § 15; Laws 2024, LB1200, § 44.
Operative date April 16, 2024.

60-4,149 Commercial driver's license; CLP-commercial learner's permit; department personnel; examination; office space; issuance; delivery; electronic submission.

(1) The director shall appoint as his or her agents one or more department personnel who shall examine all applicants for a commercial driver's license or a CLP-commercial learner's permit as provided in section 60-4,144. The same department personnel may be assigned to one or more counties by the director. In counties in which the county treasurer collects the fees and issues receipts, the county shall furnish office space for the administration of the license or permit examination. Department personnel shall conduct the examination of applicants and deliver to each successful applicant an issuance certificate or receipt. The certificate may be presented to the county treasurer within ninety days after issuance, and the county treasurer shall collect the fee and surcharge as provided in section 60-4,115 and issue a receipt which is valid for up to thirty days. If a commercial driver's license or CLP-commerical learner's permit is being issued, the receipt shall also authorize driving privileges for such thirty-day period. If department personnel refuse to issue an issuance certificate or receipt, the department personnel shall state such cause in writing and deliver such written cause to the applicant.

(2)(a) The segments of the driving skills examination shall be administered and successfully completed in the following order: Pre-trip inspection, basic vehicle control skills, and on-road skills. If an applicant fails one segment of the driving skills examination, the applicant cannot continue to the next segment of the examination.

(b) Passing scores for the knowledge and skills tests shall meet the standards contained in 49 C.F.R. 383.135.

(3) Except as provided for in sections 60-4,157 and 60-4,158, all commercial driver's license examinations shall be conducted by department personnel designated by the director. Each successful applicant shall be issued a certificate or receipt entitling the applicant to secure a commercial driver's license. If department personnel refuse to issue such certificate or receipt, he or she shall state such cause in writing and deliver the same to the applicant. Department personnel shall not be required to hold a commercial driver's license to administer a driving skills examination and occupy the seat beside an applicant for a commercial driver's license.

(4) The successful applicant shall, within ten days after renewal or within twenty-four hours after initial issuance, pay the fee and surcharge as provided in section 60-4,115. A receipt with driving privileges which is valid for up to thirty days shall be issued. The commercial driver's license shall be delivered to the applicant as provided in section 60-4,113.

(5) In lieu of proceeding under subsection (4) of this section, the successful applicant may pay the fee and surcharge as provided in section 60-4,115 and electronically submit an application prescribed by the department in a manner prescribed by the department pursuant to section 60-4,148.01.

Source: Laws 1989, LB 285, § 99; Laws 1990, LB 980, § 21; Laws 1999, LB 704, § 34; Laws 2008, LB911, § 23; Laws 2011, LB215, § 20; Laws 2014, LB983, § 36; Laws 2016, LB311, § 19; Laws 2016, LB977, § 18; Laws 2024, LB1200, § 45.
Operative date April 16, 2024.

60-4,149.01 Commercial drivers' licenses; law examination; exceptions; department; powers and duties.

(1) A commercial driver's license examiner shall not require the commercial driver's license knowledge examination, except the hazardous material portion of the examination and any knowledge examinations not previously taken for that class of commercial motor vehicle or endorsement, if the applicant renews his or her commercial driver's license prior to its expiration or within one year after its expiration and if the applicant's driving record abstract maintained in the department's computerized records shows that his or her commercial driver's license is not suspended, revoked, canceled, or disqualified.

(2)(a) If a nonresident who applies for a commercial driver's license in this state presents a physical or mobile valid commercial driver's license from another state, the department may choose not to require such individual to take the commercial driver's license knowledge examination.

(b) Subdivision (a) of this subsection shall not apply to the hazardous material portion of the examination and any knowledge examinations not previously taken for that class of commercial motor vehicle or endorsement.

(c) A physical commercial driver's license described in subdivision (a) of this subsection shall be surrendered to the department.

(d) Upon issuing a commercial driver's license described in subdivision (a) of this subsection, the department shall notify the state that issued the valid commercial driver's license described in subdivision (a) of this subsection to invalidate such license.

Source: Laws 1993, LB 420, § 9; Laws 1996, LB 938, § 3; Laws 1999, LB 704, § 35; Laws 2001, LB 387, § 9; Laws 2005, LB 76, § 13; Laws 2014, LB983, § 37; Laws 2022, LB750, § 63.

60-4,150 Commercial driver's license; CLP-commercial learner's permit; replacement; application; delivery.

(1) Any person holding a commercial driver's license or CLP-commercial learner's permit who loses his or her license or permit, who requires issuance of a replacement license or permit because of a change of name or address, or whose license or permit is mutilated or unreadable may obtain a replacement commercial driver's license or CLP-commercial learner's permit by filing an application pursuant to this section and by furnishing proof of identification in accordance with section 60-4,144. Any person seeking a replacement license or permit for such reasons, except because of a change of name, may also obtain a replacement license or permit by submitting an electronic application pursuant to section 60-4,148.01.

(2) An application for a replacement license or permit because of a change of name or address shall be made within sixty days after the change of name or address.

(3) A replacement commercial driver's license or CLP-commercial learner's permit issued pursuant to this section shall be delivered to the applicant as provided in section 60-4,113 after department personnel or the county treasurer collects the fee and surcharge prescribed in section 60-4,115 and issues the applicant a receipt with driving privileges which is valid for up to thirty days. Replacement commercial drivers' licenses or CLP-commercial learners' permits issued pursuant to this section shall be issued in the manner provided for the issuance of original and renewal commercial drivers' licenses or the issuance of permits as provided for by section 60-4,149.

(4) Upon issuance of any replacement commercial driver's license or permit, the commercial driver's license or CLP-commercial learner's permit for which the replacement license or permit is issued shall be void. Each replacement commercial driver's license or CLP-commercial learner's permit shall be issued with the same expiration date as the license or permit for which the replacement is issued. The replacement license or permit shall also state the new issuance date.

Source: Laws 1989, LB 285, § 100; Laws 1990, LB 980, § 22; Laws 1993, LB 126, § 2; Laws 1998, LB 309, § 10; Laws 2001, LB 574, § 25; Laws 2005, LB 1, § 9; Laws 2008, LB911, § 24; Laws 2010, LB805, § 8; Laws 2011, LB215, § 21; Laws 2014, LB777, § 10; Laws 2014, LB983, § 38; Laws 2016, LB311, § 20; Laws 2016, LB977, § 19; Laws 2024, LB1200, § 46.
Operative date April 16, 2024.

60-4,151 Commercial driver's license; RCDL-restricted commercial driver's license; CLP-commercial learner's permit; form.

(1)(a) The commercial driver's license shall be conspicuously marked Nebraska Commercial Driver's License and shall be, to the maximum extent practicable, tamper and forgery proof. The commercial driver's license shall be marked Nondomiciled if the license is a nondomiciled commercial driver's license.

(b) The form of the commercial driver's license shall also comply with section 60-4,117.

(2) The RCDL-restricted commercial driver's license shall be conspicuously marked Nebraska Restricted Commercial Driver's License and shall be, to the maximum extent practicable, tamper and forgery proof. The RCDL-restricted commercial driver's license shall contain such additional information as deemed necessary by the director.

(3) The CLP-commercial learner's permit shall be conspicuously marked Nebraska Commercial Learner's Permit and shall be, to the maximum extent practicable, tamper and forgery proof. The permit shall also be marked Nondomiciled if the permit is a nondomiciled CLP-commercial learner's permit.

Source: Laws 1989, LB 285, § 101; Laws 1992, LB 1178, § 5; Laws 1993, LB 420, § 11; Laws 2001, LB 34, § 6; Laws 2001, LB 574, § 26;

Laws 2008, LB911, § 25; Laws 2011, LB215, § 22; Laws 2014, LB983, § 39; Laws 2024, LB1200, § 47.
Operative date April 16, 2024.

60-4,168 Disqualification; when.

(1) Except as provided in subsections (2) and (3) of this section, a person shall be disqualified from operating a commercial motor vehicle for one year upon his or her first conviction, after April 1, 1992, in this or any other state for:

(a) Operating a commercial motor vehicle in violation of section 60-6,196 or 60-6,197 or under the influence of a controlled substance or, beginning September 30, 2005, operating any motor vehicle in violation of section 60-6,196 or 60-6,197 or under the influence of a controlled substance;

(b) Operating a commercial motor vehicle in violation of section 60-4,163 or 60-4,164;

(c) Leaving the scene of an accident involving a commercial motor vehicle operated by the person or, beginning September 30, 2005, leaving the scene of an accident involving any motor vehicle operated by the person;

(d) Using a commercial motor vehicle in the commission of a felony other than a felony described in subdivision (3)(b) of this section or, beginning September 30, 2005, using any motor vehicle in the commission of a felony other than a felony described in subdivision (3)(b) of this section;

(e) Beginning September 30, 2005, operating a commercial motor vehicle after his or her commercial driver's license has been suspended, revoked, or canceled or the driver is disqualified from operating a commercial motor vehicle; or

(f) Beginning September 30, 2005, causing a fatality through the negligent or criminal operation of a commercial motor vehicle.

(2) Except as provided in subsection (3) of this section, if any of the offenses described in subsection (1) of this section occurred while a person was transporting hazardous material in a commercial motor vehicle which required placarding pursuant to section 75-364, the person shall, upon conviction or administrative determination, be disqualified from operating a commercial motor vehicle for three years.

(3) A person shall be disqualified from operating a commercial motor vehicle for life if, after April 1, 1992, he or she:

(a) Is convicted of or administratively determined to have committed a second or subsequent violation of any of the offenses described in subsection (1) of this section or any combination of those offenses arising from two or more separate incidents;

(b) Beginning September 30, 2005, used a motor vehicle in the commission of a felony involving the manufacturing, distributing, or dispensing of a controlled substance; or

(c) Used a commercial motor vehicle in the commission of a felony involving an act or practice of severe forms of trafficking in persons, as defined and described in 22 U.S.C. 7102(11), as such section existed on January 1, 2024.

(4)(a) A person is disqualified from operating a commercial motor vehicle for a period of not less than sixty days if he or she is convicted in this or any other

state of two serious traffic violations, or not less than one hundred twenty days if he or she is convicted in this or any other state of three serious traffic violations, arising from separate incidents occurring within a three-year period while operating a commercial motor vehicle.

(b) A person is disqualified from operating a commercial motor vehicle for a period of not less than sixty days if he or she is convicted in this or any other state of two serious traffic violations, or not less than one hundred twenty days if he or she is convicted in this or any other state of three serious traffic violations, arising from separate incidents occurring within a three-year period while operating a motor vehicle other than a commercial motor vehicle if the convictions have resulted in the revocation, cancellation, or suspension of the person's operator's license or driving privileges.

(5)(a) A person who is convicted of operating a commercial motor vehicle in violation of a federal, state, or local law or regulation pertaining to one of the following six offenses at a highway-rail grade crossing shall be disqualified for the period of time specified in subdivision (5)(b) of this section:

(i) For drivers who are not required to always stop, failing to slow down and check that the tracks are clear of an approaching train;

(ii) For drivers who are not required to always stop, failing to stop before reaching the crossing, if the tracks are not clear;

(iii) For drivers who are always required to stop, failing to stop before driving onto the crossing;

(iv) For all drivers, failing to have sufficient space to drive completely through the crossing without stopping;

(v) For all drivers, failing to obey a traffic control device or the directions of an enforcement official at the crossing; or

(vi) For all drivers, failing to negotiate a crossing because of insufficient undercarriage clearance.

(b)(i) A person shall be disqualified for not less than sixty days if the person is convicted of a first violation described in this subsection.

(ii) A person shall be disqualified for not less than one hundred twenty days if, during any three-year period, the person is convicted of a second violation described in this subsection in separate incidents.

(iii) A person shall be disqualified for not less than one year if, during any three-year period, the person is convicted of a third or subsequent violation described in this subsection in separate incidents.

(6) A person shall be disqualified from operating a commercial motor vehicle for at least one year if, on or after July 8, 2015, the person has been convicted of fraud related to the issuance of his or her CLP-commercial learner's permit or commercial driver's license.

(7) If the department receives credible information that a CLP-commercial learner's permit holder or a commercial driver's license holder is suspected, but has not been convicted, on or after July 8, 2015, of fraud related to the issuance of his or her CLP-commercial learner's permit or commercial driver's license, the department must require the driver to retake the skills and knowledge tests. Within thirty days after receiving notification from the department that retesting is necessary, the affected CLP-commercial learner's permit holder or commercial driver's license holder must make an appointment or otherwise

schedule to take the next available test. If the CLP-commercial learner's permit holder or commercial driver's license holder fails to make an appointment within thirty days, the department must disqualify his or her CLP-commercial learner's permit or commercial driver's license. If the driver fails either the knowledge or skills test or does not take the test, the department must disqualify his or her CLP-commercial learner's permit or commercial driver's license. If the holder of a CLP-commercial learner's permit or commercial driver's license has had his or her CLP-commercial learner's permit or commercial driver's license disqualified, he or she must reapply for a CLP-commercial learner's permit or commercial driver's license under department procedures applicable to all applicants for a CLP-commercial learner's permit or commercial driver's license.

(8) For purposes of this section, controlled substance has the same meaning as in section 28-401.

(9) For purposes of this section, conviction means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law, in a court of original jurisdiction or by an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court costs, or a violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated.

(10) For purposes of this section, serious traffic violation means:

(a) Speeding at or in excess of fifteen miles per hour over the legally posted speed limit;

(b) Willful reckless driving as described in section 60-6,214 or reckless driving as described in section 60-6,213;

(c) Improper lane change as described in section 60-6,139;

(d) Following the vehicle ahead too closely as described in section 60-6,140;

(e) A violation of any law or ordinance related to motor vehicle traffic control, other than parking violations or overweight or vehicle defect violations, arising in connection with an accident or collision resulting in death to any person;

(f) Beginning September 30, 2005, operating a commercial motor vehicle without a commercial driver's license;

(g) Beginning September 30, 2005, operating a commercial motor vehicle without a commercial driver's license in the operator's possession;

(h) Beginning September 30, 2005, operating a commercial motor vehicle without the proper class of commercial driver's license and any endorsements, if required, for the specific vehicle group being operated or for the passengers or type of cargo being transported on the vehicle;

(i) Beginning October 27, 2013, texting while driving as described in section 60-6,179.02; and

(j) Using a handheld mobile telephone as described in section 60-6,179.02.

(11) Each period of disqualification imposed under this section shall be served consecutively and separately.

Source: Laws 1989, LB 285, § 118; Laws 1990, LB 980, § 24; Laws 1993, LB 191, § 6; Laws 1993, LB 370, § 93; Laws 1996, LB 323, § 11;

Laws 2001, LB 773, § 13; Laws 2002, LB 499, § 3; Laws 2003, LB 562, § 16; Laws 2005, LB 76, § 15; Laws 2012, LB751, § 38; Laws 2014, LB983, § 49; Laws 2016, LB311, § 21; Laws 2016, LB666, § 8; Laws 2017, LB263, § 68; Laws 2020, LB944, § 64; Laws 2021, LB149, § 15; Laws 2022, LB750, § 64; Laws 2023, LB138, § 31; Laws 2024, LB1200, § 48.
Operative date April 16, 2024.

60-4,172 Nonresident licensee or permit holder; conviction within state; director; duties.

(1) Within ten days after a conviction of any nonresident who holds a commercial learner's permit or commercial driver's license for any violation of state law or local ordinance related to motor vehicle traffic control, other than parking violations, committed in a commercial motor vehicle operated in this state, the director shall notify the driver licensing authority which licensed the nonresident who holds a commercial learner's permit or commercial driver's license and the Commercial Driver License Information System of such conviction.

(2)(a) Within ten days after disqualifying a nonresident who holds a commercial learner's permit or commercial driver's license or canceling, revoking, or suspending the commercial learner's permit or commercial driver's license held by a nonresident, for a period of at least sixty days, the department shall notify the driver licensing authority which licensed the nonresident and the Commercial Driver License Information System of such action.

(b) The notification shall include both the disqualification and the violation that resulted in the disqualification, cancellation, revocation, or suspension. The notification and the information it provides shall be recorded on the driver's record.

(3) Within ten days after a conviction of any nonresident who holds a commercial learner's permit or commercial driver's license for any violation of state law or local ordinance related to motor vehicle traffic control, other than parking violations, committed in any type of motor vehicle operated in this state, the director shall notify the driver licensing authority which licensed the nonresident and the Commercial Driver License Information System of such conviction.

(4) Within ten days after a conviction of any nonresident who holds a driver's license for any violation of state law or local ordinance related to motor vehicle traffic control, other than parking violations, committed in a commercial motor vehicle operated in this state, the director shall notify the driver licensing authority which licensed the nonresident.

Source: Laws 1989, LB 285, § 122; Laws 2003, LB 562, § 19; Laws 2014, LB983, § 53; Laws 2023, LB138, § 32.

(i) COMMERCIAL DRIVER TRAINING SCHOOLS

60-4,174 Director; duties; rules and regulations; Commissioner of Education; assist.

The director shall adopt and promulgate such rules and regulations for the administration and enforcement of sections 60-4,173 to 60-4,179 as are neces-

sary to protect the public. The director or his or her authorized representative shall examine applicants for Driver Training School and Instructor's Licenses, license successful applicants, and inspect school facilities and equipment. The director shall administer and enforce such sections and may call upon the Commissioner of Education for assistance in developing and formulating appropriate rules and regulations.

Source: Laws 1967, c. 380, § 2, p. 1192; R.S.1943, (1988), § 60-409.07; Laws 1989, LB 285, § 124; Laws 2008, LB279, § 2; Laws 2022, LB750, § 65.

(j) STATE IDENTIFICATION CARDS

60-4,181 State identification cards; issuance; requirements; form; delivery; cancellation.

(1) Each applicant for a state identification card shall provide the information and documentation required by sections 60-484, 60-484.04, and 60-484.07. The form of the state identification card shall comply with section 60-4,117. The applicant shall present an issuance certificate to the county treasurer for a state identification card. Department personnel or the county treasurer shall collect the fee and surcharge as prescribed in section 60-4,115 and issue a receipt to the applicant which is valid up to thirty days. The state identification card shall be delivered to the applicant as provided in section 60-4,113.

(2) The director may summarily cancel any state identification card, and any judge or magistrate may order a state identification card canceled in a judgment of conviction, if the application or information presented by the applicant contains any false or fraudulent statements which were deliberately and knowingly made as to any matter material to the issuance of the card or if the application or information presented by the applicant does not contain required or correct information. Any state identification card so obtained shall be void from the date of issuance. Any judgment of conviction ordering cancellation of a state identification card shall be transmitted to the director who shall cancel the card.

(3) No person shall be a holder of a state identification card and an operator's license at the same time.

Source: Laws 1989, LB 284, § 6; Laws 1989, LB 285, § 130; Laws 1992, LB 1178, § 6; Laws 1993, LB 491, § 15; Laws 1994, LB 76, § 576; Laws 1995, LB 467, § 14; Laws 1996, LB 1073, § 2; Laws 1997, LB 21, § 1; Laws 1997, LB 635, § 22; Laws 1998, LB 309, § 11; Laws 1999, LB 147, § 4; Laws 1999, LB 704, § 41; Laws 2000, LB 1317, § 9; Laws 2001, LB 34, § 7; Laws 2001, LB 574, § 29; Laws 2003, LB 228, § 14; Laws 2004, LB 559, § 5; Laws 2008, LB911, § 26; Laws 2011, LB215, § 23; Laws 2016, LB311, § 22; Laws 2016, LB666, § 9; Laws 2023, LB138, § 33.

(k) POINT SYSTEM

60-4,183 Point system; revocation of license, when; driver improvement course; employment driving permit or medical hardship driving permit, exception.

Whenever it comes to the attention of the director that any person has, as disclosed by the records of the director, accumulated a total of twelve or more

points within any period of two years, as set out in section 60-4,182, the director shall (1) summarily revoke the operator's license of such person and (2) require such person to attend and successfully complete a driver improvement course consisting of at least four hours of instruction approved by the Department of Motor Vehicles.

Such instruction shall be successfully completed before the operator's license may be reinstated. Each person who attends such instruction shall pay the cost of such course.

Such revocation shall be for a period of six months from the date of the signing of the order of revocation or six months from the date of the release of such person from the jail or a Department of Correctional Services adult correctional facility, whichever is the later, unless a longer period of revocation was directed by the terms of the abstract of the judgment of conviction transmitted to the director by the trial court.

Any motor vehicle except a commercial motor vehicle may be operated under an employment driving permit as provided by section 60-4,129 or a medical hardship driving permit as provided by section 60-4,130.01.

Source: Laws 1953, c. 219, § 2, p. 770; Laws 1957, c. 169, § 1, p. 590; Laws 1957, c. 366, § 27, p. 1262; Laws 1957, c. 275, § 1, p. 1002; Laws 1957, c. 165, § 4, p. 584; Laws 1959, c. 174, § 2, p. 627; Laws 1961, c. 315, § 1, p. 997; Laws 1961, c. 316, § 1, p. 1007; Laws 1963, c. 232, § 1, p. 721; Laws 1965, c. 219, § 1, p. 637; Laws 1967, c. 234, § 1, p. 620; Laws 1973, LB 414, § 1; R.S.Supp.,1973, § 39-7,129; Laws 1975, LB 259, § 2; Laws 1975, LB 263, § 1; Laws 1989, LB 285, § 3; Laws 1991, LB 420, § 5; R.S.Supp.,1992, § 39-669.27; Laws 1993, LB 31, § 17; Laws 1993, LB 105, § 2; Laws 1993, LB 370, § 81; Laws 2021, LB113, § 31; Laws 2022, LB750, § 66.

60-4,188 Driver improvement course; reduce point assessment.

Any person who has fewer than twelve points assessed against his or her driving record under section 60-4,182 may voluntarily enroll in a driver improvement course approved by the Department of Motor Vehicles. Upon notification of successful completion of such a course by the conducting organization, the department shall reduce by two the number of points assessed against such person's driving record within the previous two years. This section shall only apply to persons who have successfully completed such driver improvement course prior to committing any traffic offense for which a conviction and point assessment against their driving record would otherwise result in a total of twelve or more points assessed against their record. No person required to enroll in a driver improvement course pursuant to section 60-4,130, 60-4,130.03, or 60-4,183 shall be eligible for a reduction in points assessed against his or her driving record upon the successful completion of such course. If a person has only one point assessed against his or her record within the previous two years, upon notification of successful completion of such a course by the conducting organization, the department shall reduce one point from such person's driving record. Such reduction shall be allowed only once within a five-year period. Notification of completion of an approved driver improvement course shall be sent to the department, upon successful completion thereof, by the conducting organization. Such course shall consist of at

least four hours of instruction and shall follow such other guidelines as are established by the department.

Source: Laws 1983, LB 204, § 2; Laws 1989, LB 285, § 6; R.S.Supp.,1992, § 39-669.37; Laws 1993, LB 370, § 86; Laws 1998, LB 320, § 20; Laws 2021, LB113, § 32; Laws 2022, LB750, § 67.

ARTICLE 5
MOTOR VEHICLE SAFETY RESPONSIBILITY

(a) DEFINITIONS

Section
60-501. Terms, defined.

(a) DEFINITIONS

60-501 Terms, defined.

For purposes of the Motor Vehicle Safety Responsibility Act, unless the context otherwise requires:

(1) Department means Department of Motor Vehicles;

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

(3) Golf car vehicle means a vehicle that has at least four wheels, has a maximum level ground speed of less than twenty miles per hour, has a maximum payload capacity of one thousand two hundred pounds, has a maximum gross vehicle weight of two thousand five hundred pounds, has a maximum passenger capacity of not more than four persons, and is designed and manufactured for operation on a golf course for sporting and recreational purposes;

(4) Judgment means any judgment which shall have become final by the expiration of the time within which an appeal might have been perfected without being appealed, or by final affirmation on appeal, rendered by a court of competent jurisdiction of any state or of the United States, (a) upon a cause of action arising out of the ownership, maintenance, or use of any motor vehicle for damages, including damages for care and loss of services, because of bodily injury to or death of any person or for damages because of injury to or destruction of property, including the loss of use thereof, or (b) upon a cause of action on an agreement of settlement for such damages;

(5) License means any license issued to any person under the laws of this state pertaining to operation of a motor vehicle within this state;

(6) Low-speed vehicle means a (a) four-wheeled motor vehicle (i) whose speed attainable in one mile is more than twenty miles per hour and not more than twenty-five miles per hour on a paved, level surface, (ii) whose gross vehicle weight rating is less than three thousand pounds, and (iii) that complies with 49 C.F.R. part 571, as such part existed on January 1, 2024, or (b) three-wheeled motor vehicle (i) whose maximum speed attainable is not more than twenty-five miles per hour on a paved, level surface, (ii) whose gross vehicle weight rating is less than three thousand pounds, and (iii) which is equipped

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

(7) Minitruck means a foreign-manufactured import vehicle or domestic-manufactured vehicle which (a) is powered by an internal combustion engine with a piston or rotor displacement of one thousand five hundred cubic centimeters or less, (b) is sixty-seven inches or less in width, (c) has a dry weight of four thousand two hundred pounds or less, (d) travels on four or more tires, (e) has a top speed of approximately fifty-five miles per hour, (f) is equipped with a bed or compartment for hauling, (g) has an enclosed passenger cab, (h) is equipped with headlights, taillights, turnsignals, windshield wipers, a rearview mirror, and an occupant protection system, and (i) has a four-speed, five-speed, or automatic transmission;

(8) Motor vehicle means any self-propelled vehicle which is designed for use upon a highway, including trailers designed for use with such vehicles, minitrucks, and low-speed vehicles. Motor vehicle includes a former military vehicle. Motor vehicle does not include (a) mopeds as defined in section 60-637, (b) traction engines, (c) road rollers, (d) farm tractors, (e) tractor cranes, (f) power shovels, (g) well drillers, (h) every vehicle which is propelled by electric power obtained from overhead wires but not operated upon rails, (i) electric personal assistive mobility devices as defined in section 60-618.02, (j) off-road designed vehicles, including, but not limited to, golf car vehicles, go-carts, riding lawnmowers, garden tractors, all-terrain vehicles and utility-type vehicles as defined in section 60-6,355, minibikes as defined in section 60-636, and snowmobiles as defined in section 60-663, and (k) bicycles as defined in section 60-611;

(9) Nonresident means every person who is not a resident of this state;

(10) Nonresident's operating privilege means the privilege conferred upon a nonresident by the laws of this state pertaining to the operation by him or her of a motor vehicle or the use of a motor vehicle owned by him or her in this state;

(11) Operator means every person who is in actual physical control of a motor vehicle;

(12) Owner means a person who holds the legal title of a motor vehicle, or in the event (a) a motor vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee or (b) a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purposes of the act;

(13) Person means every natural person, firm, partnership, limited liability company, association, or corporation;

(14) Proof of financial responsibility means evidence of ability to respond in damages for liability, on account of accidents occurring subsequent to the effective date of such proof, arising out of the ownership, maintenance, or use of a motor vehicle, (a) in the amount of twenty-five thousand dollars because of bodily injury to or death of one person in any one accident, (b) subject to such limit for one person, in the amount of fifty thousand dollars because of bodily injury to or death of two or more persons in any one accident, and (c) in the amount of twenty-five thousand dollars because of injury to or destruction of property of others in any one accident;

(15) Registration means registration certificate or certificates and registration plates issued under the laws of this state pertaining to the registration of motor vehicles;

(16) State means any state, territory, or possession of the United States, the District of Columbia, or any province of the Dominion of Canada; and

(17) The forfeiture of bail, not vacated, or of collateral deposited to secure an appearance for trial shall be regarded as equivalent to conviction of the offense charged.

Source: Laws 1949, c. 178, § 1, p. 482; Laws 1957, c. 366, § 42, p. 1275; Laws 1959, c. 298, § 1, p. 1107; Laws 1959, c. 299, § 1, p. 1123; Laws 1971, LB 644, § 4; Laws 1972, LB 1196, § 4; Laws 1973, LB 365, § 1; Laws 1979, LB 23, § 14; Laws 1983, LB 253, § 1; Laws 1987, LB 80, § 11; Laws 1993, LB 121, § 385; Laws 1993, LB 370, § 94; Laws 2002, LB 1105, § 447; Laws 2010, LB650, § 32; Laws 2011, LB289, § 26; Laws 2012, LB898, § 3; Laws 2012, LB1155, § 15; Laws 2015, LB95, § 9; Laws 2016, LB929, § 9; Laws 2017, LB263, § 70; Laws 2018, LB909, § 92; Laws 2019, LB79, § 17; Laws 2019, LB156, § 13; Laws 2019, LB270, § 39; Laws 2020, LB944, § 66; Laws 2021, LB149, § 16; Laws 2022, LB750, § 68; Laws 2023, LB138, § 34; Laws 2024, LB1200, § 49.
Operative date April 16, 2024.

ARTICLE 6

NEBRASKA RULES OF THE ROAD

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(w) HELMETS AND EYE PROTECTION

60-6,279. Protective helmets; eye protection; required; when.
60-6,282. Violation; penalty; enforcement.

(y) SIZE, WEIGHT, AND LOAD

60-6,290. Vehicles; length; limit; exceptions.

(a) GENERAL PROVISIONS

60-601 Rules, how cited.

Sections 60-601 to 60-6,383 shall be known and may be cited as the Nebraska Rules of the Road.

Source: Laws 1973, LB 45, § 122; Laws 1989, LB 285, § 9; Laws 1992, LB 291, § 14; Laws 1992, LB 872, § 5; R.S.Supp.,1992, § 39-6,122; Laws 1993, LB 370, § 97; Laws 1993, LB 564, § 14; Laws 1996, LB 901, § 3; Laws 1996, LB 1104, § 2; Laws 1997, LB 91, § 1; Laws 1998, LB 309, § 12; Laws 1999, LB 585, § 3; Laws 2001, LB 38, § 42; Laws 2002, LB 1105, § 448; Laws 2002, LB 1303, § 10; Laws 2004, LB 208, § 8; Laws 2006, LB 853, § 14; Laws 2006, LB 925, § 4; Laws 2008, LB736, § 6; Laws 2008, LB756, § 18; Laws 2009, LB92, § 1; Laws 2010, LB650, § 35; Laws 2010, LB945, § 2; Laws 2011, LB164, § 1; Laws 2011, LB289, § 29; Laws 2011, LB667, § 32; Laws 2011, LB675, § 4; Laws 2012, LB751, § 43; Laws 2012, LB1155, § 18; Laws 2014, LB1039, § 1; Laws 2015, LB231, § 27; Laws 2015, LB641, § 1; Laws 2016, LB977, § 20; Laws 2018, LB909, § 93; Laws 2018, LB1009, § 3; Laws 2019, LB81, § 1; Laws 2019, LB156, § 16; Laws 2023, LB138, § 35.

60-605 Definitions, where found.

For purposes of the Nebraska Rules of the Road, the definitions found in sections 60-606 to 60-676 shall be used.

Source: Laws 1993, LB 370, § 101; Laws 1996, LB 901, § 4; Laws 1997, LB 91, § 2; Laws 2001, LB 38, § 43; Laws 2006, LB 853, § 15; Laws 2006, LB 925, § 5; Laws 2008, LB756, § 19; Laws 2010, LB650, § 36; Laws 2011, LB289, § 30; Laws 2012, LB1155, § 19; Laws 2015, LB231, § 28; Laws 2018, LB1009, § 4; Laws 2019, LB81, § 2; Laws 2019, LB156, § 17; Laws 2023, LB138, § 36.

60-611 Bicycle, defined.

Bicycle shall mean:

(1) Every device propelled solely by human power, upon which any person may ride, and having two, three, or four wheels any one or more of which being more than fourteen inches in diameter; and

(2) An electric bicycle.

Source: Laws 1993, LB 370, § 107; Laws 2015, LB95, § 10; Laws 2023, LB138, § 37.

60-614.02 Class I electric bicycle, defined.

Class I electric bicycle means a device with the following components:

(1) Two, three, or four wheels;

(2) A saddle or seat for the rider;

(3) Fully operative pedals for propulsion by human power; and

(4) An electric motor:

(a) Not exceeding seven hundred fifty watts of power;

(b) That produces no more than one brake horsepower;

(c) Capable of propelling the bicycle at a maximum design speed of no more than twenty miles per hour on level ground;

(d) That only provides power when the rider is pedaling; and

(e) That does not provide power if the electric bicycle is traveling at a speed of more than twenty miles per hour.

Source: Laws 2023, LB138, § 38.

60-614.03 Class II electric bicycle, defined.

Class II electric bicycle means a device with the following components:

(1) Two, three, or four wheels;

(2) A saddle or seat for the rider;

(3) Fully operative pedals for propulsion by human power; and

(4) An electric motor:

(a) Not exceeding seven hundred fifty watts of power;

(b) That produces no more than one brake horsepower;

(c) Capable of propelling the bicycle at a maximum design speed of no more than twenty miles per hour on level ground;

(d) Capable of providing power whether or not the rider is pedaling; and

(e) That does not provide power if the electric bicycle is traveling at a speed of more than twenty miles per hour.

Source: Laws 2023, LB138, § 39.

60-614.04 Class III electric bicycle, defined.

Class III electric bicycle means a device with the following components:

(1) Two, three, or four wheels;

(2) A saddle or seat for the rider;

(3) Fully operative pedals for propulsion by human power; and

(4) An electric motor:

(a) Not exceeding seven hundred fifty watts of power;

(b) That produces no more than one brake horsepower;

(c) Capable of propelling the bicycle at a maximum design speed of no more than twenty-eight miles per hour on level ground;

(d) That only provides power when the rider is pedaling; and

(e) That does not provide power if the electric bicycle is traveling at a speed of more than twenty-eight miles per hour.

Source: Laws 2023, LB138, § 40.

60-618.03 Electric bicycle, defined.

Electric bicycle means a Class I electric bicycle, a Class II electric bicycle, and a Class III electric bicycle.

Source: Laws 2023, LB138, § 41.

60-628.01 Low-speed vehicle, defined.

Low-speed vehicle means a (1) four-wheeled motor vehicle (a) whose speed attainable in one mile is more than twenty miles per hour and not more than twenty-five miles per hour on a paved, level surface, (b) whose gross vehicle weight rating is less than three thousand pounds, and (c) that complies with 49 C.F.R. part 571, as such part existed on January 1, 2024, or (2) three-wheeled motor vehicle (a) whose maximum speed attainable is not more than twenty-five miles per hour on a paved, level surface, (b) whose gross vehicle weight rating is less than three thousand pounds, and (c) which is equipped with a windshield and an occupant protection system. A motorcycle with a sidecar attached is not a low-speed vehicle.

Source: Laws 2011, LB289, § 31; Laws 2016, LB929, § 10; Laws 2017, LB263, § 72; Laws 2018, LB909, § 95; Laws 2019, LB79, § 18; Laws 2019, LB270, § 40; Laws 2020, LB944, § 67; Laws 2021, LB149, § 17; Laws 2022, LB750, § 69; Laws 2023, LB138, § 42; Laws 2024, LB1200, § 50.
Operative date April 16, 2024.

60-640 Motor-driven cycle, defined.

(1) Motor-driven cycle means every motorcycle, including every motor scooter, with a motor which produces not to exceed five brake horsepower as measured at the drive shaft, mopeds, and every bicycle with a motor attached except for an electric bicycle. Motor-driven cycle shall not include an electric personal assistive mobility device.

(2) For purposes of this section, motorcycle does not include an autocycle.

Source: Laws 1993, LB 370, § 136; Laws 2002, LB 1105, § 453; Laws 2015, LB95, § 13; Laws 2018, LB909, § 97; Laws 2023, LB138, § 43.

(b) POWERS OF STATE AND LOCAL AUTHORITIES

60-678 Regulations; violations; penalty.

(1) The State of Nebraska or any department, board, commission, or governmental subdivision thereof is hereby authorized, in its respective jurisdiction, to enact regulations permitting, prohibiting, and controlling the use of motor vehicles, minibikes, motorcycles, off-road recreation vehicles of any and all types, electric bicycles, other powered vehicles, electric personal assistive mobility devices, and vehicles which are not self-propelled. Any person who operates any of such vehicles without the permission of the appropriate governmental entity or in a place, time, or manner which has been prohibited by such entity shall be guilty of a Class III misdemeanor.

(2) Such governmental entity described in subsection (1) of this section may further authorize the supervising official of any area under its ownership or control to permit, control, or prohibit operation of any motor vehicle, minibike,

motorcycle, off-road recreational vehicle of any or all types, electric bicycles, other powered vehicle, electric personal assistive mobility device, or vehicle which is not self-propelled on all or any portion of any area under its ownership or control at any time by posting or, in case of an emergency, by personal notice. Any person operating any such vehicle where prohibited, where not permitted, or in a manner so as to endanger the peace and safety of the public or as to harm or destroy the natural features or manmade features of any such area shall be guilty of a Class III misdemeanor.

Source: Laws 1971, LB 644, § 11; Laws 1977, LB 39, § 102; R.S.1943, (1988), § 60-2106; Laws 1993, LB 370, § 174; Laws 2002, LB 1105, § 454; Laws 2023, LB138, § 44.

(d) ACCIDENTS AND ACCIDENT REPORTING

60-699 Accidents; reports required of operators and owners; when; supplemental reports; reports of peace officers open to public inspection; limitation on use as evidence; confidential information; violation; penalty.

(1) The operator of any vehicle involved in an accident resulting in injuries or death to any person or damage to the property of any one person, including such operator, to an apparent extent that equals or exceeds one thousand five hundred dollars shall within ten days forward a report of such accident to the Department of Transportation. Such report shall not be required if the accident is investigated by a peace officer. If the operator is physically incapable of making the report, the owner of the motor vehicle involved in the accident shall, within ten days from the time he or she learns of the accident, report the matter in writing to the Department of Transportation. The Department of Transportation or Department of Motor Vehicles may require operators involved in accidents to file supplemental reports of accidents upon forms furnished by it whenever the original report is insufficient in the opinion of either department. The operator or the owner of the motor vehicle shall make such other and additional reports relating to the accident as either department requires. Such records shall be retained for the period of time specified by the State Records Administrator pursuant to the Records Management Act.

(2) The report of accident required by this section shall be in two parts. Part I shall be in such form as the Department of Transportation may prescribe and shall disclose full information concerning the accident. Part II shall be in such form as the Department of Motor Vehicles may prescribe and shall disclose sufficient information to disclose whether or not the financial responsibility requirements of the Motor Vehicle Safety Responsibility Act are met through the carrying of liability insurance.

(3) Upon receipt of a report of accident, the Department of Transportation shall determine the reportability and classification of the accident and enter all information into a computerized database. Upon completion, the Department of Transportation shall electronically send Part II of the report to the Department of Motor Vehicles for purposes of section 60-506.01.

(4) Such reports shall be without prejudice. Except as provided in section 84-712.05, a report regarding an accident made by a peace officer, made to or filed with a peace officer in the peace officer's office or department, or filed with or made by or to any other law enforcement agency of the state shall be open to public inspection, but an accident report filed by the operator or owner

of a motor vehicle pursuant to this section shall not be open to public inspection. Date of birth information, excluding the year of birth, and operator's license number information of an operator or owner included in any report required under this section shall be confidential and shall not be a public record under section 84-712.01. Year of birth or age information of an operator or owner included in any report required under this section shall not be confidential and shall be a public record under section 84-712.01. Nothing in this section prohibits a peace officer or a law enforcement agency from disclosing the age of an operator or owner included in any report required under this section. The fact that a report by an operator or owner has been so made shall be admissible in evidence solely to prove compliance with this section, but no such report or any part of or statement contained in the report shall be admissible in evidence for any other purpose in any trial, civil or criminal, arising out of such accidents nor shall the report be referred to in any way or be any evidence of the negligence or due care of either party at the trial of any action at law to recover damages.

(5) The failure by any person to report an accident as provided in this section or to correctly give the information required in connection with the report shall be a Class V misdemeanor.

Source: Laws 1931, c. 110, § 29, p. 315; C.S.Supp.,1941, § 39-1160; R.S.1943, § 39-764; Laws 1951, c. 120, § 1, p. 531; Laws 1953, c. 215, § 1, p. 761; Laws 1961, c. 189, § 2, p. 580; Laws 1961, c. 319, § 1, p. 1019; Laws 1973, LB 417, § 1; R.S.Supp.,1973, § 39-764; Laws 1985, LB 94, § 2; R.S.1943, (1988), § 39-6,104.04; Laws 1993, LB 370, § 195; Laws 1993, LB 575, § 24; Laws 2003, LB 185, § 4; Laws 2017, LB263, § 73; Laws 2017, LB339, § 186; Laws 2021, LB174, § 30; Laws 2022, LB750, § 70.

Cross References

Motor Vehicle Safety Responsibility Act, see section 60-569.
Records Management Act, see section 84-1220.

(f) TRAFFIC CONTROL DEVICES

60-6,123 Traffic control signals; meaning; turns on red signal; when; signal not in service; effect.

Whenever traffic is controlled by traffic control signals exhibiting different colored lights or colored lighted arrows, successively one at a time or in combination, only the colors green, red, and yellow shall be used, except for special pedestrian signals carrying a word legend, number, or symbol, and such lights shall indicate and apply to drivers of vehicles and pedestrians as follows:

(1)(a) Vehicular traffic facing a circular green indication may proceed straight through or turn right or left unless a sign at such place prohibits either such turn, but vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such indication is exhibited;

(b) Vehicular traffic facing a green arrow indication, shown alone or in combination with another indication, may cautiously enter the intersection only to make the movement indicated by such arrow or such other movement as is permitted by other indications shown at the same time, and such vehicular

traffic shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection; and

(c) Unless otherwise directed by a pedestrian-control signal, pedestrians facing any green indication, except when the sole green indication is a turn arrow, may proceed across the roadway within any marked or unmarked crosswalk;

(2)(a) Vehicular traffic facing a steady yellow indication is thereby warned that the related green movement is being terminated or that a red indication will be exhibited immediately thereafter when vehicular traffic shall not enter the intersection, and upon display of a steady yellow indication, vehicular traffic shall stop before entering the nearest crosswalk at the intersection, but if such stop cannot be made in safety, a vehicle may be driven cautiously through the intersection;

(b) Vehicular traffic facing a flashing yellow arrow indication may cautiously enter the intersection only to make the movement indicated by such arrow, and such vehicular traffic shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection; and

(c) Pedestrians facing a steady yellow indication, unless otherwise directed by a pedestrian-control signal, are thereby advised that there is insufficient time to cross the roadway before a red indication is shown and no pedestrian shall then start to cross the roadway;

(3)(a) Vehicular traffic facing a steady circular red indication alone shall stop at a clearly marked stop line or shall stop, if there is no such line, before entering the crosswalk on the near side of the intersection or, if there is no crosswalk, before entering the intersection. The traffic shall remain standing until an indication to proceed is shown except as provided in subdivisions (3)(b) and (3)(c) of this section;

(b) Except where a traffic control device is in place prohibiting a turn, vehicular traffic facing a steady circular red indication may cautiously enter the intersection to make a right turn after stopping as required by subdivision (3)(a) of this section. Such vehicular traffic shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection;

(c) Except where a traffic control device is in place prohibiting a turn, vehicular traffic facing a steady circular red indication at the intersection of two one-way streets may cautiously enter the intersection to make a left turn after stopping as required by subdivision (3)(a) of this section. Such vehicular traffic shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection;

(d) Vehicular traffic facing a steady red arrow indication alone shall stop at a clearly marked stop line or shall stop, if there is no such line, before entering the crosswalk on the near side of the intersection or, if there is no crosswalk, before entering the intersection. The traffic shall not enter the intersection to make the movement indicated by the arrow and shall remain standing until an indication to proceed is shown; and

(e) Unless otherwise directed by a pedestrian-control signal, pedestrians facing a steady red indication alone shall not enter the roadway;

(4) If a traffic control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to

those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking, the stop shall be made at the signal; and

(5)(a) If a traffic control signal at an intersection is not operating because of a power failure or other cause and no peace officer, flagperson, or other traffic control device is providing direction for traffic at the intersection, the intersection shall be treated as a multi-way stop; and

(b) If a traffic control signal is not in service and the signal heads are turned away from traffic or covered with opaque material, subdivision (a) of this subdivision shall not apply.

Source: Laws 1973, LB 45, § 14; Laws 1980, LB 821, § 1; Laws 1987, LB 135, § 1; R.S.1943, (1988), § 39-614; Laws 1993, LB 370, § 219; Laws 2010, LB805, § 10; Laws 2024, LB1200, § 51.
Operative date July 19, 2024.

(t) WINDSHIELDS, WINDOWS, AND MIRRORS

60-6,254 Operator; view to rear required; outside mirrors; camera monitor system; authorized.

(1)(a) No person shall drive a motor vehicle, other than a motorcycle, on a highway when the motor vehicle is so constructed or loaded as to prevent the driver from obtaining a view of the highway to the rear by looking backward from the driver's position unless such vehicle is equipped with the following that are so located as to reflect to the driver a view of the highway for a distance of at least two hundred feet to the rear of such vehicle:

(i) A right-side and a left-side outside mirror; or

(ii) A camera monitor system that is compliant with the Federal Motor Carrier Safety Administration.

(b) Temporary outside mirrors and attachments used when towing a vehicle shall be removed from such motor vehicle or retracted within the outside dimensions thereof when it is operated upon the highway without such trailer.

(2) For purposes of this section, motorcycle does not include an autocycle.

Source: Laws 1931, c. 110, § 40, p. 318; C.S.Supp.,1941, § 39-1171; R.S.1943, § 39-775; Laws 1971, LB 396, § 3; R.S.Supp.,1972, § 39-775; Laws 1977, LB 314, § 1; R.S.1943, (1988), § 39-6,124; Laws 1993, LB 370, § 350; Laws 2018, LB909, § 101; Laws 2024, LB1200, § 52.
Operative date April 16, 2024.

(u) OCCUPANT PROTECTION SYSTEMS AND THREE-POINT SAFETY BELT SYSTEMS

60-6,265 Occupant protection system and three-point safety belt system, defined.

For purposes of sections 60-6,266 to 60-6,273:

(1) Occupant protection system means a system utilizing a lap belt, a shoulder belt, or any combination of belts installed in a motor vehicle which (a)

restrains drivers and passengers and (b) conforms to Federal Motor Vehicle Safety Standards, 49 C.F.R. 571.207, 571.208, 571.209, and 571.210, as such standards existed on January 1, 2024, or, as a minimum standard, to the federal motor vehicle safety standards for passenger restraint systems applicable for the motor vehicle's model year; and

(2) Three-point safety belt system means a system utilizing a combination of a lap belt and a shoulder belt installed in a motor vehicle which restrains drivers and passengers.

Source: Laws 1993, LB 370, § 361; Laws 2004, LB 227, § 1; Laws 2006, LB 853, § 19; Laws 2007, LB239, § 6; Laws 2008, LB756, § 21; Laws 2009, LB331, § 11; Laws 2015, LB231, § 33; Laws 2018, LB42, § 1; Laws 2019, LB79, § 19; Laws 2020, LB944, § 68; Laws 2021, LB149, § 18; Laws 2022, LB750, § 71; Laws 2023, LB138, § 45; Laws 2024, LB1200, § 53.
Operative date April 16, 2024.

(w) HELMETS AND EYE PROTECTION

60-6,279 Protective helmets; eye protection; required; when.

(1) A person shall not operate a motorcycle or moped on any highway in this state unless such person is:

(a) Wearing a protective helmet of the type and design manufactured for use by operators of such vehicles and unless such helmet is secured properly on the user's head with a chin strap while the vehicle is in motion. All such protective helmets shall be designed to reduce injuries to the user resulting from head impacts and shall be designed to protect the user by remaining on the user's head, deflecting blows, resisting penetration, and spreading the force of impact. Each such helmet shall consist of lining, padding, and chin strap and shall meet or exceed the standards established in the United States Department of Transportation's Federal Motor Vehicle Safety Standard No. 218, 49 C.F.R. 571.218, for motorcycle helmets; or

(b)(i) At least twenty-one years of age; and

(ii)(A) Has a Nebraska Class M license and received such Class M license prior to May 1, 2024, and has completed the Motorcycle Safety Foundation three-hour Basic eCourse and submitted proof of such completion to the Department of Motor Vehicles. Proof of such completion shall be in a manner approved by the department;

(B) Has a Nebraska Class M license and received such Class M license on or after May 1, 2024, and has completed the basic motorcycle safety course as provided in the Motorcycle Safety Education Act and submitted proof of such completion to the Department of Motor Vehicles. Proof of such completion shall be in a manner approved by the department; or

(C) Has a license to operate a motorcycle issued by another state.

(2) A person shall not be a passenger on a motorcycle or moped on any highway in this state unless:

(a) Such person is wearing a protective helmet described in subdivision (1)(a) of this section; or

(b)(i) Such person is at least twenty-one years of age; and

(ii) The person operating the motorcycle or moped is a person described in subdivision (1)(b) of this section.

(3) The Department of Motor Vehicles shall modify the existing system of the department by January 1, 2024, to allow the date of completion of such course to be recorded on the person's record provided for in section 60-483.

(4) A person shall not operate a motorcycle or moped on any highway in this state unless such person employs one of the following forms of eye protection: (a) Glasses that cover the orbital region of the person's face, (b) a protective face shield attached to a protective helmet, (c) goggles, or (d) a windshield on the motorcycle or moped that protects the operator's and passenger's horizontal line of vision in all operating positions.

Source: Laws 1988, LB 428, § 2; R.S.1943, (1988), § 39-6,211; Laws 1993, LB 370, § 375; Laws 2018, LB909, § 105; Laws 2023, LB138, § 46; Laws 2024, LB1004, § 1.
Effective date April 3, 2024.

Cross References

Motorcycle Safety Education Act, see section 60-2120.

60-6,282 Violation; penalty; enforcement.

(1) A person violating any provision of subsection (1), (2), or (4) of section 60-6,279 shall be guilty of an infraction as defined in section 29-431 and shall be fined two hundred fifty dollars for each violation.

(2) Enforcement of subsection (1), (2), or (4) of section 60-6,279 shall be accomplished only as a secondary action when an operator of a motorcycle or moped has been cited or charged with a violation or some other offense unless the violation involves a person under the age of eighteen years riding on any portion of the motorcycle or moped not designed or intended for the use of passengers when the motorcycle or moped is in motion.

Source: Laws 1988, LB 428, § 5; R.S.1943, (1988), § 39-6,214; Laws 1993, LB 370, § 378; Laws 2023, LB138, § 47; Laws 2024, LB1004, § 2.
Effective date April 3, 2024.

(y) SIZE, WEIGHT, AND LOAD

60-6,290 Vehicles; length; limit; exceptions.

(1)(a) No vehicle shall exceed a length of forty feet, extreme overall dimensions, inclusive of front and rear bumpers including load, except that:

(i) A bus or a motor home, as defined in section 71-4603, may exceed the forty-foot limitation but shall not exceed a length of forty-five feet;

(ii) A truck-tractor may exceed the forty-foot limitation;

(iii) A semitrailer operating in a truck-tractor single semitrailer combination, which semitrailer was actually and lawfully operating in the State of Nebraska on December 1, 1982, may exceed the forty-foot limitation;

(iv) A semitrailer operating in a truck-tractor single semitrailer combination, which semitrailer was not actually and lawfully operating in the State of Nebraska on December 1, 1982, may exceed the forty-foot limitation but shall not exceed a length of fifty-three feet including load;

(v) A semitrailer operating in a truck-tractor single semitrailer combination, while transporting baled livestock forage, may exceed the forty-foot limitation but shall not exceed a length of fifty-nine feet six inches including load;

(vi) An articulated bus vehicle operated by a transit authority established under the Transit Authority Law or regional metropolitan transit authority established pursuant to section 18-804 may exceed the forty-foot limitation. For purposes of this subdivision (vi), an articulated bus vehicle shall not exceed sixty-five feet in length; and

(vii) A truck may exceed the forty-foot limitation but shall not exceed a length of forty-five feet.

(b) No combination of vehicles shall exceed a length of sixty-five feet, extreme overall dimensions, inclusive of front and rear bumpers and including load, except:

(i) One truck and one trailer, loaded or unloaded, used in transporting implements of husbandry to be engaged in harvesting, while being transported into or through the state during daylight hours if the total length does not exceed seventy-five feet including load;

(ii) A truck-tractor single semitrailer combination;

(iii) A truck-tractor semitrailer trailer combination, but the semitrailer trailer portion of such combination shall not exceed sixty-five feet inclusive of connective devices;

(iv) A driveaway saddlemount vehicle transporter combination and driveaway saddlemount with fullmount vehicle transporter combination, but the total overall length shall not exceed ninety-seven feet;

(v) A stinger-steered automobile transporter, but the total overall length shall not exceed eighty feet, inclusive of a front overhang of less than four feet and a rear overhang of less than six feet. For purposes of this subdivision, automobile transporter means any vehicle combination designed and used for the transport of assembled highway vehicles, including truck camper units. An automobile transporter shall not be prohibited from the transport of cargo or general freight on a backhaul, so long as it is in compliance with weight limitations for a truck-tractor and semitrailer combination; and

(vi) A towaway trailer transporter combination, but the total overall length shall not exceed eighty-two feet. For purposes of this subdivision, towaway trailer transporter combination means a combination of vehicles consisting of a trailer transporter towing unit and two trailers or semitrailers with a total weight that does not exceed twenty-six thousand pounds, and in which the trailers or semitrailers carry no property and constitute inventory property of a manufacturer, distributor, or dealer of such trailers or semitrailers.

(c) A truck shall be construed to be one vehicle for the purpose of determining length.

(d) A trailer shall be construed to be one vehicle for the purpose of determining length.

(2) Subsection (1) of this section shall not apply to:

(a) Extra-long vehicles which have been issued a permit pursuant to section 60-6,292;

(b) Vehicles which have been issued a permit pursuant to section 60-6,299;

(c) The temporary moving of farm machinery during daylight hours in the normal course of farm operations;

(d) The movement of unbaled livestock forage vehicles, loaded or unloaded;

(e) The movement of public utility or other construction and maintenance material and equipment at any time;

(f) Farm equipment dealers or their representatives as authorized under section 60-6,382 driving, delivering, or picking up farm equipment or implements of husbandry within the county in which the dealer maintains his or her place of business, or in any adjoining county or counties, and return;

(g) The overhang of any motor vehicle being hauled upon any lawful combination of vehicles, but such overhang shall not exceed the distance from the rear axle of the hauled motor vehicle to the closest bumper thereof;

(h) The overhang of a combine to be engaged in harvesting, while being transported into or through the state driven during daylight hours by a truck-tractor semitrailer combination, but the length of the semitrailer, including overhang, shall not exceed sixty-three feet and the maximum semitrailer length shall not exceed fifty-three feet;

(i) Any self-propelled specialized mobile equipment with a fixed load when the requirements of subdivision (2)(i) of section 60-6,288 are met; or

(j) One truck-tractor two trailer combination or one truck-tractor semitrailer trailer combination used in transporting equipment utilized by custom harvesters under contract to agricultural producers to harvest wheat, soybeans, or milo during the months of April through November but the length of the property-carrying units, excluding load, shall not exceed eighty-one feet six inches.

(3) The length limitations of this section shall be exclusive of safety and energy conservation devices such as rearview mirrors, turnsignal lights, marker lights, steps and handholds for entry and egress, flexible fender extensions, mudflaps and splash and spray suppressant devices, load-induced tire bulge, refrigeration units or air compressors, and other devices necessary for safe and efficient operation of commercial motor vehicles, except that no device excluded from the limitations of this section shall have by its design or use the capability to carry cargo.

Source: Laws 1933, c. 102, § 1, p. 414; Laws 1933, c. 105, § 3, p. 425; Laws 1935, c. 86, § 1, p. 277; Laws 1939, c. 50, § 1, p. 217; C.S.Supp.,1941, § 39-1034; R.S.1943, § 39-721; Laws 1947, c. 146, § 1, p. 402; Laws 1951, c. 117, § 2, p. 527; Laws 1953, c. 133, § 1, p. 413; Laws 1957, c. 156, § 3, p. 564; Laws 1959, c. 164, § 1, p. 599; Laws 1959, c. 165, § 1, p. 603; Laws 1961, c. 309, § 1, p. 980; Laws 1963, c. 220, § 2, p. 694; Laws 1963, c. 222, § 1, p. 699; Laws 1963, c. 223, § 1, p. 701; Laws 1965, c. 213, § 1, p. 625; Laws 1971, LB 530, § 1; R.S.Supp.,1972, § 39-721; Laws 1974, LB 920, § 2; Laws 1979, LB 112, § 1; Laws 1980, LB 284, § 3; Laws 1980, LB 785, § 2; Laws 1982, LB 383, § 1; Laws 1983, LB 411, § 1; Laws 1984, LB 983, § 3; Laws 1985, LB 553, § 5; Laws 1987, LB 224, § 13; R.S.1943, (1988), § 39-6,179; Laws 1993, LB 370, § 386; Laws 1993, LB 575, § 36; Laws 1996, LB 1104, § 3; Laws 1997, LB 720, § 18; Laws 2000, LB 1361, § 7; Laws 2001, LB 376, § 4; Laws 2006, LB 853, § 21;

Laws 2008, LB756, § 25; Laws 2012, LB740, § 1; Laws 2014, LB1039, § 5; Laws 2016, LB735, § 1; Laws 2019, LB492, § 40; Laws 2020, LB944, § 69; Laws 2024, LB1200, § 54.
Operative date July 19, 2024.

Cross References

Transit Authority Law, see section 14-1826.

ARTICLE 13
WEIGHING STATIONS

Section
60-1304. Carrier enforcement officers; transfer; retirement options.

60-1304 Carrier enforcement officers; transfer; retirement options.

(1) Carrier enforcement officers described in subdivision (2)(b) of section 60-1303 who, on or after July 20, 2002, are transferred to the Nebraska State Patrol and become officers of the Nebraska State Patrol with the powers and duties prescribed in sections 81-2001 to 81-2009 shall, within ninety days of transfer, elect to participate in the Nebraska State Patrol Retirement System or elect to remain members of the State Employees Retirement System of the State of Nebraska.

(2) An officer who elects to become a member of the Nebraska State Patrol Retirement System pursuant to this section shall (a) receive eligibility and vesting credit pursuant to subsection (3) of section 81-2016 for his or her years of participation in the State Employees Retirement System of the State of Nebraska, (b) be vested in the employer account with the State Employees Retirement System of the State of Nebraska regardless of his or her period of participation in the State Employees Retirement System, and (c) be treated for all other purposes of the Nebraska State Patrol Retirement Act as a new member of the Nebraska State Patrol Retirement System.

(3) Transferring participation from the State Employees Retirement System of the State of Nebraska to the Nebraska State Patrol Retirement System pursuant to this section does not constitute a termination for purposes of the State Employees Retirement Act.

Source: Laws 2002, LB 470, § 4; Laws 2024, LB198, § 6.
Effective date March 19, 2024.

Cross References

Nebraska State Patrol Retirement Act, see section 81-2014.01.

ARTICLE 14
MOTOR VEHICLE INDUSTRY LICENSING

Section
60-1401. Act, how cited; applicability of amendments.
60-1401.24. Manufacturer, defined.
60-1403. Board; hearing officer; investigators; powers and duties; seal; records; authentication; review of action; when.
60-1404. Executive director; duties; meetings of board; attorney; other employees; salaries.
60-1408. Motor vehicle dealer's license; continuing education; requirements.

Section
60-1408.01. Continuing education; educational seminar; authorization.
60-1413. Disciplinary actions; procedure.
60-1414. Denial, revocation, or suspension of license or registration; hearing; attendance of witness; production of books and papers; effect.
60-1417.02. Auction; registration of seller; exception.
60-1427. Franchise; termination; noncontinuance; change community; additional dealership; application; hearing; burden of proof.
60-1428. Franchise; discovery; inspection; rules of civil procedure.
60-1435. Franchise; appeal.
60-1438.01. Manufacturer or distributor; restrictions with respect to franchises and consumer care or service facilities.

60-1401 Act, how cited; applicability of amendments.

Sections 60-1401 to 60-1441 shall be known and may be cited as the Motor Vehicle Industry Regulation Act.

Any amendments to the act shall apply to franchises subject to the act which are entered into, amended, altered, modified, renewed, or extended after the date of the amendments to the act except as otherwise specifically provided in the act.

All amendments to the act shall apply upon the issuance or renewal of a dealer's or manufacturer's license.

Source: Laws 2010, LB816, § 12; Laws 2011, LB477, § 1; Laws 2013, LB133, § 1; Laws 2015, LB231, § 39; Laws 2018, LB909, § 112; Laws 2024, LB484, § 1.
Effective date July 19, 2024.

60-1401.24 Manufacturer, defined.

(1) Manufacturer means any person, whether a resident or nonresident of this state, who is engaged in the business of distributing, manufacturing, or assembling a line-make of new motor vehicles, trailers, or motorcycles, and includes any such person who distributes such motor vehicles, trailers, or motorcycles directly or indirectly through one or more distributors to one or more new motor vehicle, trailer, or motorcycle dealers in this state.

(2) Manufacturer has the same meaning as the term franchisor.

(3) Manufacturer also includes a central or principal sales corporation or other entity through which, by contractual agreement or otherwise, a manufacturer distributes its products.

Source: Laws 2010, LB816, § 36; Laws 2024, LB1200, § 55.
Operative date July 19, 2024.

60-1403 Board; hearing officer; investigators; powers and duties; seal; records; authentication; review of action; when.

(1) The board may:

(a) Regulate the issuance and revocation of licenses in accordance with and subject to the Motor Vehicle Industry Regulation Act;

(b) Perform all acts and duties provided for in the act necessary to the administration and enforcement of the act;

(c) Make and enforce rules and regulations relating to the administration of but not inconsistent with the act; and

(d) Employ a hearing officer who shall conduct preliminary hearings on behalf of the board and make recommendations to the board on any issue or matter which the board deems proper.

(2) The board shall adopt a seal, which may be either an engraved or ink stamp seal, with the words Nebraska Motor Vehicle Industry Licensing Board and such other devices as the board may desire included on the seal by which it shall authenticate the acts of its office. Copies of all records and papers in the office of the board under the hand and seal of its office shall be received in evidence in all cases equally and with like effect as the original.

(3) Investigators employed by the board may enter upon and inspect the facilities, the required records, and any vehicles, trailers, or motorcycles found in any licensed motor vehicle, motorcycle, or trailer dealer's established place or places of business.

(4) With respect to any action taken by the board, if a controlling number of the members of the board are active participants in the vehicle market in which the action is taken, the chairperson shall review the action taken and, upon completion of such review, modify, alter, approve, or reject the board's action.

Source: Laws 1957, c. 280, § 3, p. 1015; Laws 1967, c. 394, § 3, p. 1229; Laws 1971, LB 768, § 4; Laws 1994, LB 850, § 1; Laws 1995, LB 564, § 3; Laws 2010, LB816, § 55; Laws 2016, LB977, § 26; Laws 2022, LB1148, § 1.

60-1404 Executive director; duties; meetings of board; attorney; other employees; salaries.

The board shall have the authority to employ an executive director who shall direct and administer the affairs of the board and who shall keep a record of all proceedings, transactions, communications, and official acts of the board. He or she shall be custodian of all records of the board and perform such other duties as the board may require. The executive director shall call a meeting of the board at the direction of the chairperson thereof or upon a written request of two or more members thereof. The executive director, with the approval of the board, is authorized to employ an attorney at a minimum salary of six hundred dollars per month together with such other employees, including staff for its attorney, as may be necessary to properly carry out the Motor Vehicle Industry Regulation Act, to fix the salaries of such employees, and to make such other expenditures as are necessary to properly carry out the act. The executive director shall be the board's representative in the administration of the act, and he or she shall insure that the policies and directives of the board are carried out.

Source: Laws 1957, c. 280, § 4, p. 1016; Laws 1969, c. 515, § 2, p. 2113; Laws 1974, LB 754, § 4; Laws 1984, LB 825, § 13; Laws 2010, LB816, § 57; Laws 2024, LB484, § 4.
Effective date July 19, 2024.

60-1408 Motor vehicle dealer's license; continuing education; requirements.

(1) Beginning January 1, 2026:

(a) Every person applying for an initial motor vehicle dealer's license shall have completed eight hours of continuing education authorized by the board

within the twelve-month period immediately preceding the date of application; and

(b) Every licensee applying for renewal of a motor vehicle dealer's license shall have completed four hours of continuing education authorized by the board within the twelve-month period immediately preceding the date of application.

(2) Every application for the issuance or renewal of a motor vehicle dealer's license shall be accompanied by documentation, as prescribed by the board, of the completion of continuing education required under subsection (1) of this section.

(3) The continuing education requirements of this section shall not apply to:

(a) A motor vehicle dealer whose primary business is the sale of salvage vehicles on behalf of motor vehicle insurers;

(b) A motor vehicle dealer that only buys and sells manufactured homes;

(c) A motor vehicle dealer that only buys and sells trailers; or

(d) A franchised new car dealer licensed by the board or any employee of such a franchised new car dealer.

Source: Laws 2024, LB484, § 2.
Effective date July 19, 2024.

60-1408.01 Continuing education; educational seminar; authorization.

(1) Any person may apply to the board for authorization to qualify an educational seminar for continuing education credit provided under section 60-1408. The board shall require a complete and specific description of such educational seminar from the applicant prior to authorizing such educational seminar for continuing education credit. Such description shall include:

(a) How the educational seminar will benefit a licensee in conducting business;

(b) The length of time the educational seminar will be conducted;

(c) A description of the method that will be used to record attendance during the educational seminar; and

(d) Copies of any instructional materials that will be provided to attendees of the educational seminar.

(2)(a) The board shall determine whether to approve or deny an application made under subsection (1) of this section. If authorization for continuing education credit is granted, the board shall also determine the number of continuing education credit hours authorized for the educational seminar.

(b) Within ten days of receiving the application, the board shall notify the applicant of the board's decision to approve or deny such educational seminar for continuing education credit, and, if applicable, the number of continuing education credit hours authorized.

Source: Laws 2024, LB484, § 3.
Effective date July 19, 2024.

60-1413 Disciplinary actions; procedure.

(1) Before the board denies any license or any registration as described in section 60-1417.02, revokes or suspends any such license or registration, places

a licensee or registrant on probation, or assesses an administrative fine under section 60-1411.02, the board, or hearing officer employed by the board, shall give the applicant, licensee, registrant, or violator a hearing on the matter unless the hearing is waived upon agreement between the applicant, licensee, registrant, or violator and the executive director, with the approval of the board. As a condition of the waiver, the applicant, licensee, registrant, or violator shall accept the fine or other administrative action. If the hearing is not waived, the board shall, at least thirty days prior to the date set for the hearing, notify the party in writing. Such notice in writing shall contain an exact statement of the charges against the party and the date and place of hearing. The party shall have full authority to be heard in person or by counsel before the board, or hearing officer employed by the board, in reference to the charges. The written notice may be served by delivery personally to the party or by mailing the notice by registered or certified mail to the last-known business address of the party. If the applicant is a dealer's agent, the board shall also notify the dealer employing or contracting with him or her or whose employ he or she seeks to enter by mailing the notice to the dealer's last-known business address. A stenographic record of all testimony presented at the hearings shall be made and preserved pending final disposition of the complaint.

(2) When the licensee fails to maintain a bond as provided in section 60-1419, an established place of business, or liability insurance as prescribed by subsection (3) of section 60-1407.01, the license shall immediately expire. The executive director shall notify the licensee personally or by mailing the notice by registered or certified mail to the last-known address of the licensee that his or her license is revoked until a bond as required by section 60-1419 or liability insurance as prescribed by subsection (3) of section 60-1407.01 is furnished and approved in which event the license may be reinstated.

(3) Upon notice of the revocation or suspension of the license, the licensee shall immediately surrender the expired license to the executive director or his or her representative. If the license is suspended, the executive director or his or her representative shall return the license to the licensee at the time of the conclusion of the period of suspension. Failure to surrender the license as required in this section shall subject the licensee to the penalties provided in section 60-1416.

Source: Laws 1957, c. 280, § 13, p. 1022; Laws 1963, c. 365, § 10, p. 1177; Laws 1967, c. 394, § 8, p. 1235; Laws 1971, LB 768, § 15; Laws 1978, LB 248, § 9; Laws 1984, LB 825, § 23; Laws 1993, LB 106, § 2; Laws 1995, LB 564, § 7; Laws 1999, LB 632, § 5; Laws 2003, LB 498, § 9; Laws 2017, LB346, § 10; Laws 2022, LB1148, § 2.

60-1414 Denial, revocation, or suspension of license or registration; hearing; attendance of witness; production of books and papers; effect.

In the preparation and conduct of such hearings, the members of the board and executive director, or hearing officer employed by the board, shall have the power to require the attendance and testimony of any witness and the production of any papers or documents in order to assure a fair trial. They may sign and issue subpoenas therefor and administer oaths and examine witnesses and take any evidence they deem pertinent to the determination of the charges. Any witnesses so subpoenaed shall be entitled to the same fees as prescribed by law

in judicial proceedings in the district court of this state in a civil action and mileage at the same rate provided in section 81-1176 for state employees. The payment of such fees and mileage must be out of and kept within the limits of the funds provided for the administration of the board. The party against whom such charges may be filed shall have the right to obtain from the executive director a subpoena for any witnesses which he or she may desire at such hearing and depositions may be taken as in civil court cases in the district court. Any information obtained from the books and records of the person complained against may not be used against the person complained against as the basis for a criminal prosecution under the laws of this state.

Source: Laws 1957, c. 280, § 14, p. 1022; Laws 1971, LB 768, § 16; Laws 1981, LB 204, § 101; Laws 1984, LB 825, § 24; Laws 2022, LB1148, § 3.

60-1417.02 Auction; registration of seller; exception.

(1) Except as otherwise provided in subsection (5) of this section, any person who engages in or attempts to engage in the selling of motor vehicles or trailers at an auction licensed pursuant to the Motor Vehicle Industry Regulation Act shall register to do so. Registration shall be made on a form provided by the auction dealer and approved by the board. A copy of the registration shall serve as proof of registration for the calendar year. The registration information shall be made available and accessible to the board by the auction dealer within seventy-two hours after the registrant has met the registration requirements and such registration is issued. Such registration information shall be maintained and made accessible to the board by the auction dealer for two years. It shall be the duty of the auction dealer to ensure that no seller participates in any sales activities until and unless registration has been received by the auction dealer or unless such seller is otherwise licensed under the act.

(2) The information required on the registration form shall include, but not be limited to, the following: (a) The legal name of the registrant; (b) the registrant's current mailing address and telephone number; (c) the business name and address of the person with whom the registrant is associated; and (d) whether or not the registrant is bonded.

(3) The registration form shall be signed by the registrant and an authorized representative of the auction and shall be notarized by a notary public.

(4) Any person who is convicted of any violation of the act pursuant to section 60-1411.02 may be denied the right to be registered at all licensed auctions of this state following a hearing before the board, or hearing officer employed by the board, as prescribed in section 60-1413.

(5) A licensed motor vehicle dealer may conduct an auction of excess inventory of used vehicles without being licensed as an auction dealer or registered under this section if the auction conforms to the requirements of this subsection. The licensed motor vehicle dealer shall conduct the auction upon the licensed premises of the dealer, shall sell only used motor vehicles, trailers, or manufactured homes, shall sell only to motor vehicle dealers licensed in Nebraska, shall not sell any vehicles on consignment, and shall not sell any vehicles directly to the public.

Source: Laws 1984, LB 825, § 29; Laws 1999, LB 340, § 2; Laws 2010, LB816, § 71; Laws 2013, LB164, § 2; Laws 2022, LB1148, § 4.

60-1427 Franchise; termination; noncontinuance; change community; additional dealership; application; hearing; burden of proof.

Upon hearing, the franchisor shall have the burden of proof to establish that under the Motor Vehicle Industry Regulation Act the franchisor should be granted permission to terminate or not continue the franchise, to change the franchisee's community, or to enter into a franchise establishing an additional motor vehicle, combination motor vehicle and trailer, motorcycle, or trailer dealership.

Nothing contained in the act shall be construed to require or authorize any investigation by the board of any matter before the board under the provisions of sections 60-1420 to 60-1435. Upon hearing, the board, or hearing officer employed by the board, shall hear the evidence introduced by the parties. The hearing officer employed by the board shall make a recommendation to the board solely upon the record so made. The board shall make its decision solely upon the record so made.

Source: Laws 1971, LB 768, § 27; Laws 1972, LB 1335, § 14; Laws 2010, LB816, § 75; Laws 2011, LB477, § 5; Laws 2022, LB1148, § 5.

60-1428 Franchise; discovery; inspection; rules of civil procedure.

The rules of civil procedure relating to discovery and inspection shall apply to hearings held under the Motor Vehicle Industry Regulation Act, and the board may issue orders to give effect to such rules.

If issues are raised which would involve violations of any state or federal antitrust or price-fixing law, all discovery and inspection proceedings which would be available under such issues in a state or federal court action shall be available to the parties to the hearing, and the board may issue orders to give effect to such proceedings.

Evidence which would be admissible under the issues in a state or federal court action shall be admissible in a hearing held by the board or hearing officer employed by the board. The board shall apportion all costs between the parties.

Source: Laws 1971, LB 768, § 28; Laws 2010, LB816, § 76; Laws 2022, LB1148, § 6.

60-1435 Franchise; appeal.

Any party to a hearing before the board, or hearing officer employed by the board, may appeal any final order entered in such hearing, and the appeal shall be in accordance with the Administrative Procedure Act.

Source: Laws 1971, LB 768, § 35; Laws 1988, LB 352, § 108; Laws 2022, LB1148, § 7.

Cross References

Administrative Procedure Act, see section 84-920.

60-1438.01 Manufacturer or distributor; restrictions with respect to franchises and consumer care or service facilities.

(1) For purposes of this section, manufacturer or distributor includes (a) a factory representative or a distributor representative or (b) a person who is affiliated with a manufacturer or distributor or who, directly or indirectly

through an intermediary, is controlled by, or is under common control with, the manufacturer or distributor. A person is controlled by a manufacturer or distributor if the manufacturer or distributor has the authority directly or indirectly, by law or by agreement of the parties, to direct or influence the management and policies of the person. A franchise agreement with a Nebraska-licensed dealer which conforms to and is subject to the Motor Vehicle Industry Regulation Act is not control for purposes of this section.

(2) Except as provided in this section, a manufacturer or distributor shall not directly or indirectly:

(a) Own an interest in a franchise, franchisee, or consumer care or service facility, except that a manufacturer or distributor may hold stock in a publicly held franchise, franchisee, or consumer care or service facility so long as the manufacturer or distributor does not by virtue of holding such stock operate or control the franchise, franchisee, or consumer care or service facility;

(b) Operate or control a franchise, franchisee, or consumer care or service facility;

(c) Act in the capacity of a franchisee or motor vehicle dealer; or

(d) Own, operate, or control any consumer care or service facility or perform warranty or nonwarranty work on any vehicle manufactured by such manufacturer or distributor, unless such manufacturer or distributor:

(i) Manufactures and distributes electric vehicles; and

(ii) Is not nor has ever been a franchisor in this state.

(3) A manufacturer or distributor may own an interest in a franchisee or otherwise control a franchise for a period not to exceed twelve months after the date the manufacturer or distributor acquires the franchise if:

(a) The person from whom the manufacturer or distributor acquired the franchise was a franchisee; and

(b) The franchise is for sale by the manufacturer or distributor.

(4) For purposes of broadening the diversity of its franchisees and enhancing opportunities for qualified persons who lack the resources to purchase a franchise outright, but for no other purpose, a manufacturer or distributor may temporarily own an interest in a franchise if the manufacturer's or distributor's participation in the franchise is in a bona fide relationship with a franchisee and the franchisee:

(a) Has made a significant investment in the franchise, which investment is subject to loss;

(b) Has an ownership interest in the franchise; and

(c) Operates the franchise under a plan to acquire full ownership of the franchise within a reasonable time and under reasonable terms and conditions.

(5) On a showing of good cause by a manufacturer or distributor, the board may extend the time limit set forth in subsection (3) of this section. An extension may not exceed twelve months. An application for an extension after the first extension is granted is subject to protest by a franchisee of the same line-make whose franchise is located in the same community as the franchise owned or controlled by the manufacturer or distributor.

(6) The prohibition in subdivision (2)(b) of this section shall not apply to any manufacturer of manufactured housing, recreational vehicles, or trailers.

(7) The prohibitions set forth in subsection (2) of this section shall not apply to a manufacturer that:

(a) Does not own or operate more than two such dealers or dealership locations in this state;

(b) Owned, operated, or controlled a warranty repair or service facility in this state as of January 1, 2016;

(c) Manufactures engines for installation in a motor-driven vehicle with a gross vehicle weight rating of more than sixteen thousand pounds for which motor-driven vehicle evidence of title is required as a condition precedent to registration under the laws of this state, if the manufacturer is not otherwise a manufacturer of motor vehicles; and

(d) Provides to dealers on substantially equal terms access to all support for completing repairs, including, but not limited to, parts and assemblies, training and technical service bulletins, and other information concerning repairs that the manufacturer provides to facilities owned, operated, or controlled by the manufacturer.

Source: Laws 2000, LB 1018, § 3; Laws 2010, LB816, § 84; Laws 2011, LB477, § 10; Laws 2016, LB977, § 27; Laws 2024, LB1200, § 56.
Operative date July 19, 2024.

ARTICLE 15

DEPARTMENT OF MOTOR VEHICLES

Section

60-1505 Vehicle Title and Registration System Replacement and Maintenance Cash Fund; created; use; investment.

The Vehicle Title and Registration System Replacement and Maintenance Cash Fund is hereby created. The fund shall be administered by the Department of Motor Vehicles. Revenue credited to the fund shall include fees collected by the department from participation in any multistate electronic data security program, except as otherwise specifically provided by law, and funds transferred as provided in section 60-3,186. The fund shall be used by the department to pay for costs associated with the acquisition, implementation, maintenance, support, upgrades, and replacement of the Vehicle Title and Registration System. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. Beginning October 1, 2024, any investment earnings from investment of money in the fund shall be credited to the General Fund.

Source: Laws 2014, LB906, § 2; Laws 2016, LB977, § 28; Laws 2017, LB263, § 75; Laws 2024, First Spec. Sess., LB3, § 19.
Effective date August 21, 2024.

Cross References

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

60-1509 Operator's license services system; build and maintain; Operator's License Services System Replacement and Maintenance Fund; created; use; investment.

(1) The Department of Motor Vehicles shall build and maintain a new operator's license services system for the issuance of operators' licenses and state identification cards. The Director of Motor Vehicles shall designate an implementation date for the new system which date is on or before July 1, 2032.

(2) The Operator's License Services System Replacement and Maintenance Fund is created. The fund shall consist of amounts credited under subsection (8) of section 60-483. The fund shall be used for the building, implementation, and maintenance of a new operator's license services system for the issuance of operators' licenses and state identification cards.

(3) Any money in the Operator's License Services System Replacement and Maintenance 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. Beginning October 1, 2024, any investment earnings from investment of money in the fund shall be credited to the General Fund.

Source: Laws 2021, LB106, § 2; Laws 2024, First Spec. Sess., LB3, § 20. Effective date August 21, 2024.

Cross References

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

60-1513 Department of Motor Vehicles Cash Fund; created; use; investment.

The Department of Motor Vehicles Cash Fund is hereby created. The fund shall be administered by the Director of Motor Vehicles. In addition to money credited or remitted to the fund, the fund may also receive reimbursement from counties. The fund shall be used by the Department of Motor Vehicles to carry out its duties as deemed necessary by the Director of Motor Vehicles, except that transfers from the fund to the General Fund or the Vehicle Title and Registration System Replacement and Maintenance Cash Fund may be made at the direction of the Legislature. Any money in the Department of Motor Vehicles 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. Beginning October 1, 2024, any investment earnings from investment of money in the fund shall be credited to the General Fund.

The State Treasurer shall transfer five million three hundred twenty-five thousand dollars from the Department of Motor Vehicles Cash Fund to the Vehicle Title and Registration System Replacement and Maintenance Cash Fund on or before June 30, 2017, as directed by the budget administrator of the budget division of the Department of Administrative Services.

Source: Laws 1993, LB 491, § 17; Laws 1994, LB 1066, § 48; Laws 1995, LB 467, § 16; Laws 1996, LB 1191, § 1; Laws 2003, LB 209,

§ 16; Laws 2006, LB 1061, § 9; Laws 2007, LB322, § 11; Laws 2016, LB957, § 3; Laws 2021, LB271, § 14; Laws 2024, First Spec. Sess., LB3, § 21.
Effective date August 21, 2024.

Cross References

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

60-1515 Department of Motor Vehicles Cash Fund; use; legislative intent.

(1) The Legislature hereby finds and declares that a statewide system for the collection, storage, and transfer of data on vehicle titles and registration and the cooperation of state and local government in implementing such a system is essential to the efficient operation of state and local government in vehicle titling and registration. The Legislature hereby finds and declares that the electronic issuance of operators' licenses and state identification cards using a digital system as described in section 60-484.01 and the cooperation of state and local government in implementing such a system is essential to the efficient operation of state and local government in issuing operators' licenses and state identification cards.

(2) It is therefor the intent of the Legislature that the Department of Motor Vehicles shall use a portion of the fees appropriated by the Legislature to the Department of Motor Vehicles Cash Fund as follows:

(a) To pay for the cost of issuing motor vehicle titles and registrations on a system designated by the department. The costs shall include, but not be limited to, software and software maintenance, programming, processing charges, and equipment including such terminals, printers, or other devices as deemed necessary by the department after consultation with the county to support the issuance of motor vehicle titles and registrations. The costs shall not include the cost of county personnel or physical facilities provided by the counties;

(b) To fund the centralization of renewal notices for motor vehicle registration and to furnish to the counties the certificate of registration forms specified in section 60-390. The certificate of registration form shall be prescribed by the department;

(c) To pay for the costs of an operator's license system as specified in sections 60-484.01 and 60-4,119 and designated by the department. The costs shall be limited to such terminals, printers, software, programming, and other equipment or devices as deemed necessary by the department to support the issuance of such licenses and state identification cards in the counties and by the department; and

(d) To pay for the motor vehicle insurance database created under section 60-3,136.

(3) The department shall utilize three dollars of each fee allocated to the Department of Motor Vehicles Cash Fund from state identification cards valid for five years and Class O or M operators' licenses valid for five years to open and operate an additional operators' licensing service center.

Source: Laws 1993, LB 491, § 19; Laws 1995, LB 467, § 17; Laws 2001, LB 574, § 31; Laws 2002, LB 488, § 6; Laws 2005, LB 274, § 258; Laws 2013, LB207, § 6; Laws 2022, LB750, § 72.

ARTICLE 27
MANUFACTURER'S WARRANTY DUTIES

Section
60-2705. Dispute settlement procedure; effect; director; duties.

60-2705 Dispute settlement procedure; effect; director; duties.

The Director of Motor Vehicles shall adopt standards for an informal dispute settlement procedure which substantially comply with the provisions of 16 C.F.R. part 703, as such part existed on January 1, 2024.

If a manufacturer has established or participates in a dispute settlement procedure certified by the Director of Motor Vehicles within the guidelines of such standards, the provisions of section 60-2703 concerning refunds or replacement shall not apply to any consumer who has not first resorted to such a procedure.

Source: Laws 1983, LB 155, § 5; Laws 2019, LB79, § 20; Laws 2020, LB944, § 73; Laws 2021, LB149, § 19; Laws 2022, LB750, § 73; Laws 2023, LB138, § 48; Laws 2024, LB1200, § 57.
Operative date April 16, 2024.

ARTICLE 29
UNIFORM MOTOR VEHICLE RECORDS DISCLOSURE ACT

Section
60-2909.01. Disclosure; purposes authorized.

60-2909.01 Disclosure; purposes authorized.

The department and any officer, employee, agent, or contractor of the department having custody of a motor vehicle record shall, upon the verification of identity and purpose of a requester, disclose and make available the requested motor vehicle record, including the sensitive personal information in the record, other than the social security number, for the following purposes:

(1) For use by any federal, state, or local governmental agency, including any court or law enforcement agency, in carrying out the agency's functions or by a private person or entity acting on behalf of a governmental agency in carrying out the agency's functions;

(2) For use in connection with any civil, criminal, administrative, or arbitral proceeding in any federal, state, or local court or governmental agency or before any self-regulatory body, including service of process, investigation in anticipation of litigation, and execution or enforcement of judgments and orders, or pursuant to an order of a federal, state, or local court, an administrative agency, or a self-regulatory body;

(3) For use by any insurer or insurance support organization, or by a self-insured entity, or its agents, employees, or contractors, in connection with claims investigation activities, anti-fraud activities, rating, or underwriting;

(4) For use by an employer or the employer's agent or insurer to obtain or verify information relating to a holder of a commercial driver's license or CLP-commercial learner's permit that is required under the Commercial Motor Vehicle Safety Act of 1986, 49 U.S.C. 31301 et seq., as such act existed on January 1, 2024, or pursuant to sections 60-4,132 and 60-4,141; and

(5) For use by employers of a holder of a commercial driver's license or CLP-commercial learner's permit and by the Commercial Driver License Information System as provided in section 60-4,144.02 and 49 C.F.R. 383.73, as such regulation existed on January 1, 2024.

Source: Laws 2000, LB 1317, § 14; Laws 2011, LB178, § 20; Laws 2014, LB983, § 59; Laws 2019, LB79, § 21; Laws 2020, LB944, § 74; Laws 2021, LB149, § 20; Laws 2022, LB750, § 74; Laws 2023, LB138, § 49; Laws 2024, LB1200, § 58.
Operative date April 16, 2024.

ARTICLE 34

PEER-TO-PEER VEHICLE SHARING PROGRAM

Section

60-3401 Act, how cited.

Sections 60-3401 to 60-3415 shall be known and may be cited as the Peer-to-Peer Vehicle Sharing Program Act.

Source: Laws 2024, LB1073, § 1.
Operative date January 1, 2025.

60-3402 Terms, defined.

For purposes of the Peer-to-Peer Vehicle Sharing Program Act, unless the context otherwise requires:

(1) Agreement means the terms and conditions applicable to an owner and a driver that govern the use of a vehicle shared through a peer-to-peer vehicle sharing program. Agreement does not mean a rental agreement as defined in section 44-4067;

(2) Delivery period means the period of time during which a vehicle is being delivered to the location at which the start time begins, if applicable, as documented by the agreement;

(3) Driver means an individual who has been authorized to drive a vehicle by an owner under an agreement;

(4) Owner means the registered owner, or a person or entity designated by the registered owner, of a vehicle made available for sharing through a peer-to-peer vehicle sharing program;

(5) Peer-to-peer vehicle sharing program or program means a business platform that connects owners with drivers to enable the sharing of vehicles for financial consideration. A program is not a transportation network company as defined in section 75-323 or a rental car company as defined in section 44-4067;

(6) Sharing means the authorized use of a vehicle by an individual other than an owner through a peer-to-peer vehicle sharing program;

(7) Sharing period means the period of time that commences with the delivery period or, if there is no delivery period, that commences with the start time and, in either case, ends at the termination time;

(8) Start time means the time when a vehicle becomes subject to the control of a driver at or after the time the reservation is scheduled to begin as documented in the records of a program;

(9) Termination time means the earliest of the following events:

(a) The expiration of the agreed upon period of time established for the use of a vehicle according to the terms of the agreement if the vehicle is delivered to the location specified in the agreement;

(b) When a vehicle is returned to an alternative location as agreed upon by the owner and driver as communicated through the peer-to-peer vehicle sharing program. Such alternative location shall be incorporated into the agreement; and

(c) When an owner, or the owner's authorized designee, takes possession and control of the vehicle; and

(10) Vehicle means a motor vehicle as defined in section 60-471 that is available for use through a peer-to-peer vehicle sharing program. Vehicle does not include any motor vehicle used as or offered for use as a rental vehicle under section 44-4067, any commercial motor vehicle as defined in section 60-465, or any vehicle subject to section 75-363.

Source: Laws 2024, LB1073, § 2.
Operative date January 1, 2025.

60-3403 Financial liability; assumption; conditions; applicability.

(1) Except as provided in subsection (2) of this section, a peer-to-peer vehicle sharing program shall assume financial liability on behalf of an owner for any claim for bodily injury or property damage to third parties or uninsured and underinsured motorist losses during the sharing period in an amount stated in the agreement. Such amount shall not be less than the amount required in section 60-310.

(2) The assumption of financial liability by a program under subsection (1) of this section does not apply if the owner:

(a) Makes a material, intentional, or fraudulent misrepresentation, or a material, intentional, or fraudulent omission, to a program relating to the vehicle or the agreement prior to the sharing period in which the assumption of such liability would otherwise be required; or

(b) Acts in concert with a driver to trigger the assumption of such liability that would otherwise be required.

(3) The assumption of financial liability under subsection (1) of this section applies to bodily injury, property damage, and uninsured and underinsured motorist losses by injured third parties.

Source: Laws 2024, LB1073, § 3.
Operative date January 1, 2025.

60-3404 Motor vehicle liability insurance policy; other acceptable means of demonstrating financial responsibility; coverage.

(1) A program shall require during each sharing period that the owner and driver are insured under a motor vehicle liability insurance policy that:

(a) Provides financial responsibility in amounts no less than the minimum amounts required by section 60-310; and

(b)(i) Recognizes that the vehicle is made available and used through the program; or

(ii) Does not exclude use of the vehicle by a driver through the program.

(2) The financial responsibility required under subsection (1) of this section may be satisfied by motor vehicle liability insurance or other acceptable means of demonstrating financial responsibility in Nebraska, voluntarily maintained by:

(a) The owner;

(b) The driver;

(c) The program; or

(d) Any combination of owner, driver, and program.

(3) The financial responsibility described in subsection (1) of this section and satisfied pursuant to subsection (2) of this section shall be the primary coverage during the sharing period in the event that a claim occurs in another state with minimum financial responsibility limits higher than those required under section 60-310, and during the sharing period the coverage maintained under subsection (2) of this section shall satisfy any difference in minimum coverage amounts, up to the applicable policy limits.

(4) The insurer, insurers, or program providing coverage under section 60-3403 or 60-3404 shall assume primary financial liability for a claim when:

(a) A dispute exists as to who was in control of the vehicle at the time of the loss and the program does not have available, did not retain, or fails to provide the information required by section 60-3407; or

(b) A dispute exists as to whether the vehicle was returned to the alternative location pursuant to subdivision (9)(b) of section 60-3402.

(5) If financial responsibility maintained by the owner or the driver in accordance with subsection (2) of this section has lapsed or does not provide the required financial responsibility, the program or its insurer shall provide the coverage required by subsection (1) of this section beginning with the first dollar of a claim and have the duty to defend such claim except under circumstances as set forth in subsection (2) of section 60-3403.

(6) Financial responsibility maintained by the program shall not be dependent on another insurer first denying a claim, nor shall another motor vehicle liability insurance policy be required to first deny a claim.

(7) Nothing in the Peer-to-Peer Vehicle Sharing Program Act:

(a) Limits the liability of a program for any act or omission of the program itself that results in injury or economic loss to any person as a result of the use of a vehicle through the program; or

(b) Limits the ability of a program, by contract, to seek indemnification from an owner or a driver for economic loss sustained by the program resulting from a breach of the terms and conditions of an agreement by such owner or driver.

Source: Laws 2024, LB1073, § 4.
Operative date January 1, 2025.

60-3405 Lien; notice of violation of contract.

At the time an owner makes a vehicle available for use through a program and immediately prior to each time such owner offers such vehicle for use through such program, the program shall notify the owner that if the vehicle has a lien against it, the use of the vehicle through the program, including such use without physical damage insurance coverage, may violate the terms of the contract with the lienholder.

Source: Laws 2024, LB1073, § 5.
Operative date January 1, 2025.

60-3406 Motor vehicle liability insurance policy; exclusions.

(1) An authorized insurer that writes motor vehicle liability insurance in Nebraska may exclude any and all coverage and the duty to defend or indemnify for any claim afforded under the owner's motor vehicle liability insurance policy, including:

(a) Liability coverage for bodily injury and property damage;

(b) Personal injury protection coverage;

(c) Uninsured and underinsured motorist coverage;

(d) Medical payments coverage;

(e) Comprehensive physical damage coverage; and

(f) Collision physical damage coverage.

(2) Nothing in the this section invalidates, limits, or restricts an insurer's ability under existing law to underwrite any insurance policy. Nothing in the Peer-to-Peer Vehicle Sharing Program Act invalidates, limits, or restricts an insurer's ability to cancel and nonrenew insurance policies.

Source: Laws 2024, LB1073, § 6.
Operative date January 1, 2025.

60-3407 Records pertaining to use.

(1) A program shall collect and verify records pertaining to the use of a vehicle, including sharing periods, sharing period pick-up and drop-off locations, fees paid by each driver, and revenue received by each owner.

(2) A program shall provide the information collected pursuant to subsection (1) of this section upon request to the owner, the owner's insurer, and the driver's insurer to facilitate a claim coverage investigation, settlement, negotiation, or litigation.

(3) A program shall retain the records required in this section for a period of not less than four years.

Source: Laws 2024, LB1073, § 7.
Operative date January 1, 2025.

60-3408 Insurer; seek recovery against program.

An insurer that defends or indemnifies a claim arising from the operation of a vehicle that is excluded under the terms of its policy shall have the right to seek recovery against the motor vehicle insurer of the program if the claim is made against the owner or driver for loss or injury that occurs during the sharing period.

Source: Laws 2024, LB1073, § 8.
Operative date January 1, 2025.

60-3409 Insurable interest; coverage by program.

(1) A program shall have an insurable interest in a vehicle during the sharing period.

(2) Nothing in this section shall impose liability on a program to maintain the coverage required by section 60-3403 or 60-3404.

(3) A program may own and maintain as the named insured one or more policies of motor vehicle liability insurance that provides coverage for:

(a) Liabilities assumed by the program under an agreement;

(b) Liability of an owner or driver; or

(c) Damage or loss to a vehicle.

Source: Laws 2024, LB1073, § 9.
Operative date January 1, 2025.

60-3410 Vicarious liability; exempt.

A program and an owner shall be exempt from vicarious liability in accordance with 49 U.S.C. 30106(a), as such section existed on January 1, 2023, and under any state or local law that imposes liability solely based on vehicle ownership.

Source: Laws 2024, LB1073, § 10.
Operative date January 1, 2025.

60-3411 Agreement; disclosures required.

(1) Each agreement made in Nebraska shall disclose to each owner and driver:

(a) Any right of the program to seek indemnification from an owner or a driver for economic loss sustained by the program resulting from a breach of the terms and conditions of the agreement by such owner or driver;

(b) That a motor vehicle liability insurance policy issued to an owner or a driver may not provide a defense or indemnity for any claim asserted by the program;

(c) That a program's financial responsibility afforded to each owner and driver is available only during the sharing period;

(d) That for any use of a vehicle by a driver after the termination time, a driver or owner may not have coverage;

(e) The daily rate, fees, costs, and, if applicable, any insurance or protection package costs that are charged to an owner or a driver; and

(f) That an owner's motor vehicle liability insurance may not provide coverage for the vehicle.

(2) Each agreement made in Nebraska shall disclose to each driver:

(a) An emergency telephone number to contact personnel capable of fielding roadside assistance and other customer service inquiries; and

(b) Any conditions under which a driver shall maintain a personal motor vehicle liability insurance policy and any required coverage limits on a primary basis in order to use a vehicle through the program.

Source: Laws 2024, LB1073, § 11.
Operative date January 1, 2025.

60-3412 Equipment; responsibility; indemnity, when.

A program shall have sole responsibility for any equipment, such as a global positioning system or other special equipment, that is put in or on a vehicle to monitor or facilitate sharing and shall agree to indemnify and hold harmless the owner for any damage to or theft of such equipment during the sharing period not caused by the owner. A program has the right to seek indemnity from a driver for any loss or damage to such equipment that occurs during the sharing period.

Source: Laws 2024, LB1073, § 12.
Operative date January 1, 2025.

60-3413 Vehicle; responsibilities of program and owner.

(1) At the time an owner makes a vehicle available for use by a program and immediately prior to each time the owner offers such vehicle for use by such program, the program shall:

(a) Verify that the vehicle does not have any safety recalls for which the repairs have not been made; and

(b) Notify the owner of the requirements under subsection (2) of this section.

(2) An owner shall:

(a) Not make a vehicle available for use through a program if the owner has received actual notice of a safety recall on such vehicle until the safety recall repair has been made;

(b) Upon receipt of actual notice of a safety recall on a vehicle when such vehicle is offered for use through a program, remove the vehicle from availability as soon as practicably possible and until the safety recall repair has been made; and

(c) Upon receipt of actual notice of a safety recall on a vehicle, and when the vehicle is in the possession of a driver, notify the program of the safety recall so that the program may notify the driver and the vehicle can be removed from use until the owner makes the necessary safety recall repair.

Source: Laws 2024, LB1073, § 13.
Operative date January 1, 2025.

60-3414 Agreement; driver; qualifications; records.

(1) A program shall not enter into an agreement with any driver unless such driver:

(a) Holds an operator's license issued in Nebraska authorizing the driver to operate vehicles of the class of vehicle used by the program; or

(b) Is a nonresident who:

(i) Holds a driver's license or an operator's license issued by the state or country of the driver's residence that authorizes the driver in that state or country to drive vehicles of the class of vehicle used by the program; and

(ii) Is at least the same age as that required of a resident to drive in Nebraska.

(2) A program shall keep a record of:

(a) The name and address of each driver; and

(b) The driver's license number and place of issuance of such license for each driver who operates a vehicle under an agreement.

Source: Laws 2024, LB1073, § 14.
Operative date January 1, 2025.

60-3415 Act, how construed.

Nothing in the Peer-to-Peer Vehicle Sharing Program Act shall be construed to limit the powers of an airport authority under Nebraska law.

Source: Laws 2024, LB1073, § 15.
Operative date January 1, 2025.

CHAPTER 61
NATURAL RESOURCES

Article.
2. Department of Natural Resources. 61-206 to 61-229.
3. Perkins County Canal Project. 61-301 to 61-305.
4. Lake Development District. 61-401 to 61-405.
5. Public Water and Natural Resources Project Contracting Act. 61-501 to 61-520.

ARTICLE 2
DEPARTMENT OF NATURAL RESOURCES

Section
61-206. Department of Natural Resources; jurisdiction; rules and regulations; hearings; orders; powers and duties.
61-218. Water Resources Cash Fund; created; use; investment; eligibility for funding; annual report; contents; Nebraska Environmental Trust Fund; grant application; use of funds; legislative intent; department; establish subaccount.
61-222. Water Sustainability Fund; created; use; investment.
61-224. Critical Infrastructure Facilities Cash Fund; created; use; investment.
61-225. State flood mitigation plan; legislative findings.
61-226. State flood mitigation plan; scope.
61-227. State flood mitigation plan; plan development group; engage federal, state, and local agencies and other sources.
61-228. State flood mitigation plan; department; duties.
61-229. State flood mitigation plan; report.

61-206 Department of Natural Resources; jurisdiction; rules and regulations; hearings; orders; powers and duties.

(1) The Department of Natural Resources is given jurisdiction over all matters pertaining to water rights for irrigation, power, or other useful purposes except as such jurisdiction is specifically limited by statute. The department may adopt and promulgate rules and regulations governing matters coming before it. It may refuse to allow any water to be used by claimants until their rights have been determined and made of record. It may request information relative to irrigation and water power works from any county, irrigation, or power officers and from any other persons. It may have hearings on complaints, petitions, or applications in connection with any of such matters. Such hearings shall be had at the time and place designated by the department. The department shall have power to certify official acts, compel attendance of witnesses, take testimony by deposition as in suits at law, and examine books, papers, documents, and records of any county, party, or parties interested in any of the matters mentioned in this section or have such examinations made by its qualified representative and shall make and preserve a true and complete transcript of its proceedings and hearings. If a final decision is made without a hearing, a hearing shall be held at the request of any party to the proceeding if the request is made within thirty days after the decision is rendered. If a hearing is held at the request of one or more parties, the department may require each such requesting party and each person who requests to be made a party to such hearing to pay the proportional share of the cost of such

transcript. Upon any hearing, the department shall receive any evidence relevant to the matter under investigation and the burden of proof shall be upon the person making the complaint, petition, and application. After such hearing and investigation, the department shall render a decision in the premises in writing and shall issue such order or orders duly certified as it may deem necessary.

(2) The department shall serve as the official agency of the state in connection with water resources development, soil and water conservation, flood prevention, watershed protection, and flood control.

(3) The department shall:

(a) Offer assistance as appropriate to the supervisors or directors of any subdivision of government with responsibilities in the area of natural resources conservation, development, and use in the carrying out of any of their powers and programs;

(b) Keep the supervisors or directors of each such subdivision informed of the activities and experience of all other such subdivisions and facilitate cooperation and an interchange of advice and experience between such subdivisions;

(c) Coordinate the programs of such subdivisions so far as this may be done by advice and consultation;

(d) Secure the cooperation and assistance of the United States, any of its agencies, and agencies of this state in the work of such subdivisions;

(e) Disseminate information throughout the state concerning the activities and programs of such subdivisions;

(f) Plan, develop, and promote the implementation of a comprehensive program of resource development, conservation, and utilization for the soil and water resources of this state in cooperation with other local, state, and federal agencies and organizations;

(g) When necessary for the proper administration of the functions of the department, rent or lease space outside the State Capitol; and

(h) Assist such local governmental organizations as villages, cities, counties, and natural resources districts in securing, planning, and developing information on flood plains to be used in developing regulations and ordinances on proper use of these flood plains.

Source: Laws 1919, c. 190, tit. VII, art. V, div. 2, § 14, p. 839; C.S.1922, § 8433; C.S.1929, § 81-6314; R.S.1943, § 46-209; Laws 1957, c. 197, § 1, p. 695; Laws 1959, c. 219, § 1, p. 766; Laws 1981, LB 109, § 1; Laws 1984, LB 897, § 2; Laws 1984, LB 1106, § 36; Laws 1991, LB 772, § 4; Laws 1995, LB 350, § 1; R.S.1943, (1998), § 46-209; Laws 2000, LB 900, § 6; Laws 2004, LB 962, § 102; Laws 2008, LB727, § 1; Laws 2019, LB319, § 3.

61-218 Water Resources Cash Fund; created; use; investment; eligibility for funding; annual report; contents; Nebraska Environmental Trust Fund; grant application; use of funds; legislative intent; department; establish subaccount.

(1) The Water Resources Cash Fund is created. The fund shall be administered by the Department of Natural Resources. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) The State Treasurer shall credit to the fund such money as is (a) transferred to the fund by the Legislature, (b) paid to the state as fees, deposits, payments, and repayments relating to the fund, both principal and interest, (c) donated as gifts, bequests, or other contributions to such fund from public or private entities, (d) made available by any department or agency of the United States if so directed by such department or agency, (e) allocated pursuant to section 81-15,175, and (f) received by the state for settlement of claims relating to interstate river compacts or decrees.

(3)(a) The fund shall be expended by the department in any area that has adopted an integrated management plan as provided in section 46-715.

(b) The fund shall be used in any such area:

(i) To aid management actions taken to reduce consumptive uses of water;

(ii) To enhance streamflows or ground water recharge;

(iii) For any other activity deemed necessary by the department in the development and implementation of an integrated management plan;

(iv) For purposes of the Resilient Soils and Water Quality Act; or

(v) For purposes of projects or proposals described in the grant application as set forth in subdivision (2)(h) of section 81-15,175.

(c) To the extent funds are not expended pursuant to subdivision (b) of this subsection, the department may conduct a statewide assessment of short-term and long-term water management activities and funding needs to meet statutory requirements in sections 46-713 to 46-718 and 46-739 and any requirements of an interstate compact or decree or formal state contract or agreement.

(d) The fund shall not be used to pay for administrative expenses or any salaries for any political subdivision.

(4) It is the intent of the Legislature that three million three hundred thousand dollars be transferred each fiscal year from the General Fund to the Water Resources Cash Fund for FY2011-12 through FY2022-23, except that for FY2012-13 it is the intent of the Legislature that four million seven hundred thousand dollars be transferred from the General Fund to the Water Resources Cash Fund. It is the intent of the Legislature that the State Treasurer credit any money received from any Republican River Compact settlement to the Water Resources Cash Fund in the fiscal year in which it is received.

(5)(a) Expenditures from the Water Resources Cash Fund may be made to natural resources districts eligible under subsection (3) of this section for activities to either achieve a sustainable balance of consumptive water uses or assure compliance with an interstate compact or decree or a formal state contract or agreement and shall require a match of local funding in an amount equal to or greater than forty percent of the total cost of carrying out the eligible activity. The department shall, no later than August 1 of each year, beginning in 2007, determine the amount of funding that will be made available to natural resources districts from the Water Resources Cash Fund and notify natural resources districts of this determination. The department shall adopt and promulgate rules and regulations governing application for and use of the Water Resources Cash Fund by natural resources districts. Such rules and regulations shall, at a minimum, include the following components:

(i) Require an explanation of how the planned activity will achieve a sustainable balance of consumptive water uses or will assure compliance with an interstate compact or decree or a formal state contract or agreement as

required by section 46-715 and the controls, rules, and regulations designed to carry out the activity; and

(ii) A schedule of implementation of the activity or its components, including the local match as set forth in subdivision (5)(a) of this section.

(b) Any natural resources district that fails to implement and enforce its controls, rules, and regulations as required by section 46-715 shall not be eligible for funding from the Water Resources Cash Fund until it is determined by the department that compliance with the provisions required by section 46-715 has been established.

(6) The Department of Natural Resources shall submit electronically an annual report to the Legislature no later than October 1 of each year, beginning in the year 2007, that shall detail the use of the Water Resources Cash Fund in the previous year. The report shall provide:

(a) Details regarding the use and cost of activities carried out by the department; and

(b) Details regarding the use and cost of activities carried out by each natural resources district that received funds from the Water Resources Cash Fund.

(7)(a) Prior to the application deadline for fiscal year 2011-12, the Department of Natural Resources shall apply for a grant of nine million nine hundred thousand dollars from the Nebraska Environmental Trust Fund, to be paid out in three annual installments of three million three hundred thousand dollars. The purposes listed in the grant application shall be consistent with the uses of the Water Resources Cash Fund provided in this section and shall be used to aid management actions taken to reduce consumptive uses of water, to enhance streamflows, to recharge ground water, or to support wildlife habitat in any river basin determined to be fully appropriated pursuant to section 46-714 or designated as overappropriated pursuant to section 46-713.

(b) If the application is granted, funds received from such grant shall be remitted to the State Treasurer for credit to the Water Resources Cash Fund for the purpose of supporting the projects set forth in the grant application. The department shall include in its grant application documentation that the Legislature has authorized a transfer of three million three hundred thousand dollars from the General Fund into the Water Resources Cash Fund for each of fiscal years 2011-12 and 2012-13 and has stated its intent to transfer three million three hundred thousand dollars to the Water Resources Cash Fund for fiscal year 2013-14.

(c) It is the intent of the Legislature that the department apply for an additional three-year grant that would begin in fiscal year 2014-15, an additional three-year grant from the Nebraska Environmental Trust Fund that would begin in fiscal year 2017-18, and an additional three-year grant from the Nebraska Environmental Trust Fund that would begin in fiscal year 2020-21 if the criteria established in subsection (4) of section 81-15,175 are achieved.

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

amount from the Water Resources Cash Fund to the Nebraska Environmental Trust Fund.

(9) Any funds transferred from the Nebraska Environmental Trust Fund to the Water Resources Cash Fund shall be expended in accordance with section 81-15,168.

(10) The State Treasurer shall transfer one million dollars from the Water Resources Cash Fund to the Nitrogen Reduction Incentive Cash Fund as soon as administratively possible after July 19, 2024, but before June 30, 2025, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

Source: Laws 2007, LB701, § 25; Laws 2009, First Spec. Sess., LB3, § 39; Laws 2010, LB689, § 1; Laws 2010, LB993, § 1; Laws 2011, LB229, § 1; Laws 2012, LB782, § 87; Laws 2012, LB950, § 1; Laws 2017, LB331, § 30; Laws 2018, LB945, § 15; Laws 2019, LB298, § 15; Laws 2023, LB818, § 12; Laws 2024, LB1368, § 9; Laws 2024, First Spec. Sess., LB3, § 22.

Note: Changes made by Laws 2024, LB1368, became effective July 19, 2024.

Note: Changes made by Laws 2024, First Spec. Sess., LB3, became effective August 21, 2024.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.
Nebraska Environmental Trust Fund, see section 81-15,174.
Nebraska State Funds Investment Act, see section 72-1260.
Resilient Soils and Water Quality Act, see section 2-405.

61-222 Water Sustainability Fund; created; use; investment.

The Water Sustainability Fund is created in the Department of Natural Resources. The fund shall be used in accordance with the provisions established in sections 2-1506 to 2-1513 and for costs directly related to the administration of the fund. The Legislature shall not appropriate or transfer money from the Water Sustainability Fund for any other purpose, except that transfers may be made from the Water Sustainability Fund to the Department of Natural Resources Cash Fund and as a one-time transfer to the General Fund as described in this section.

The Water Sustainability Fund shall consist of money transferred to the fund by the Legislature, other funds as appropriated by the Legislature, and money donated as gifts, bequests, or other contributions from public or private entities. Funds made available by any department or agency of the United States may also be credited to the fund if so directed by such department or agency. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. Prior to October 1, 2024, investment earnings from investment of money in the fund shall be credited to the fund. Beginning October 1, 2024, any investment earnings from investment of money in the fund shall be credited to the General Fund.

It is the intent of the Legislature that twenty-one million dollars be transferred from the General Fund to the Water Sustainability Fund in fiscal year 2014-15 and that eleven million dollars be transferred from the General Fund to the Water Sustainability Fund each fiscal year beginning in fiscal year 2015-16.

The State Treasurer shall transfer one hundred seventy-five thousand dollars from the Water Sustainability Fund to the Department of Natural Resources Cash Fund on or before June 30, 2021, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

The State Treasurer shall transfer four hundred twenty-five thousand dollars from the Water Sustainability Fund to the Department of Natural Resources Cash Fund on or before June 30, 2021, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

The State Treasurer shall transfer five hundred thousand dollars from the Water Sustainability Fund to the General Fund on or before June 30, 2021, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

The State Treasurer shall transfer four hundred seventy-five thousand dollars from the Water Sustainability Fund to the Department of Natural Resources Cash Fund on or before June 30, 2022, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

The State Treasurer shall transfer four hundred seventy-five thousand dollars from the Water Sustainability Fund to the Department of Natural Resources Cash Fund on or before June 30, 2023, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

Source: Laws 2014, LB906, § 7; Laws 2015, LB661, § 31; Laws 2020, LB1009, § 4; Laws 2021, LB384, § 9; Laws 2021, LB507, § 6; Laws 2024, First Spec. Sess., LB3, § 23.
Effective date August 21, 2024.

Cross References

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

61-224 Critical Infrastructure Facilities Cash Fund; created; use; investment.

There is hereby created the Critical Infrastructure Facilities Cash Fund in the Department of Natural Resources. The fund shall consist of funds appropriated or transferred by the Legislature. The fund shall be used by the Department of Natural Resources (1) to provide a grant to a natural resources district to offset costs related to soil and water improvements intended to protect critical infrastructure facilities within the district which includes military installations, transportation routes, and wastewater treatment facilities, (2) to provide a grant to an irrigation district for reimbursement of costs related to temporary repairs to the main canal and tunnels of an interstate irrigation system which experienced a failure, and (3) to provide a grant to an entity within a county with a population exceeding one hundred thousand inhabitants formed pursuant to the Interlocal Cooperation Act for the purpose of funding a portion of the cost of a wastewater system. Any funds remaining after all such project costs have been completely funded shall be transferred to the General Fund. Transfers may be made from the Critical Infrastructure Facilities Cash Fund to the General Fund at the direction of the Legislature. Any money in the Critical Infrastructure Facilities Cash Fund available for investment shall be invested by

the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act, and any interest earned by the fund shall be credited to the General Fund.

Source: Laws 2016, LB957, § 21; Laws 2018, LB945, § 16; Laws 2020, LB1009, § 5; Laws 2023, LB818, § 13.

Cross References

Interlocal Cooperation Act, see section 13-801.
Nebraska Capital Expansion Act, see section 72-1269.
Nebraska State Funds Investment Act, see section 72-1260.

61-225 State flood mitigation plan; legislative findings.

The Legislature finds and declares that the State of Nebraska experienced a historic flood event in 2019. This flood event significantly impacted numerous communities and individual Nebraskans. Coordination and communication between state and local entities implementing flood mitigation strategies is essential to maximize federal funds for flood mitigation efforts.

Source: Laws 2020, LB632, § 9.

61-226 State flood mitigation plan; scope.

The Department of Natural Resources shall develop a state flood mitigation plan as a stand-alone document to be annexed into the state hazard mitigation plan maintained by the Nebraska Emergency Management Agency. Such plan shall be structured in accordance with Federal Emergency Management Agency guidelines, and shall be comprehensive, collaborative, and statewide in scope with opportunities for input from diverse stakeholders.

Source: Laws 2020, LB632, § 10.

61-227 State flood mitigation plan; plan development group; engage federal, state, and local agencies and other sources.

The Department of Natural Resources shall convene a plan development group which shall be housed and staffed for administrative purposes within such department. The Department of Natural Resources shall engage with federal, state, and local agency and community stakeholders in the development of the state flood mitigation plan, including, but not limited to, the Department of Transportation, the Department of Environment and Energy, the Department of Economic Development, the Department of Agriculture, the Nebraska Emergency Management Agency, natural resources districts, the United States Department of Agriculture, the United States Army Corps of Engineers, the United States Geological Survey, the Federal Emergency Management Agency, the University of Nebraska, representatives of counties, municipalities, and other political subdivisions, and the Natural Resources Committee of the Legislature. The Department of Natural Resources may engage other sources to provide technical expertise as needed.

Source: Laws 2020, LB632, § 11.

61-228 State flood mitigation plan; department; duties.

The Department of Natural Resources shall:

(1) Evaluate the flood issues that occurred in 2019, and identify cost-effective flood mitigation strategies that should be adopted to reduce the disruption of

lives and livelihoods and prioritize making Nebraska communities more resilient;

(2) Identify opportunities to implement flood hazard mitigation strategies with the intent to reduce the impact of flood events;

(3) Work to improve knowledge and understanding of available recovery resources while identifying potential gaps in current disaster program delivery;

(4) Identify potential available funding sources that can be accessed to improve the resilience of the state through flood mitigation and post-flood disaster recovery. The funding sources shall include, but not be limited to, assistance from (a) the Federal Emergency Management Agency's Flood Mitigation Assistance Grant Program, Building Resilient Infrastructure and Communities Grant Program, Hazard Mitigation Grant Program, Public Assistance Program, and Individual Assistance Program, (b) the United States Department of Housing and Urban Development's Community Development Block Grant Program and Community Development Block Grant Disaster Recovery Program, and (c) programs of the United States Department of Agriculture's Natural Resources Conservation Service. Identification of such funding sources shall be in addition to grants and cost-sharing programs available through other agencies that support flood hazard mitigation planning in communities;

(5) Compile a centralized list of critical infrastructure and state-owned facilities and identify those with the highest risk of flooding. In compiling such list, the Department of Natural Resources shall consult and collaborate with other state and local agencies that have information that identifies vulnerable facilities;

(6) Evaluate state laws, rules, regulations, policies, and programs related to flood hazard mitigation and development in flood hazard-prone areas to support the state's administration of the Federal Emergency Management Agency's National Flood Insurance Program, Community Rating System, and Risk Mapping, Assessment, and Planning Program;

(7) Examine existing law and, if necessary, recommend statutory or administrative changes to help ensure collaboration and coordination between state and local entities in statewide flood mitigation planning; and

(8) Hold two public hearings, one prior to the first state flood mitigation plan development meeting and one prior to the completion of such plan. Notice of each hearing shall be published at least thirty days prior to the hearing date.

Source: Laws 2020, LB632, § 12.

61-229 State flood mitigation plan; report.

The state flood mitigation plan shall be completed and reported to the Governor and electronically to the Legislature on or before July 1, 2022.

Source: Laws 2020, LB632, § 13.

ARTICLE 3

PERKINS COUNTY CANAL PROJECT

Section
61-301. Act, how cited.
61-302. Legislative findings and declarations.
61-303. Department of Natural Resources; powers and duties.
61-304. Conflict of interest, prohibited.

Section
61-305. Perkins County Canal Project Fund; created; use; investment; study; required.

61-301 Act, how cited.

Sections 61-301 to 61-304 shall be known and may be cited as the Perkins County Canal Project Act.

Source: Laws 2022, LB1015, § 1.

61-302 Legislative findings and declarations.

(1) The Legislature finds that it is essential to the economic prosperity, health, and welfare of the people of the State of Nebraska, and to the environmental health of the entire Platte River Basin, to protect Nebraska's full entitlement to the flows of the South Platte River as provided for in the South Platte River Compact. The South Platte River Compact is the law of Nebraska and of the United States that specifically authorizes Nebraska to develop a canal and associated storage facilities for the diversion of water from the South Platte River for beneficial use in Nebraska.

(2) The Legislature declares that a canal and associated storage facilities, which shall be known as the Perkins County Canal Project, shall be developed, constructed, managed, and operated under the authority of the State of Nebraska consistent with the South Platte River Compact and pursuant to the Perkins County Canal Project Act.

Source: Laws 2022, LB1015, § 2.

61-303 Department of Natural Resources; powers and duties.

The Department of Natural Resources shall have the necessary authority to develop, construct, manage, and operate the Perkins County Canal Project consistent with the terms of the South Platte River Compact and pursuant to the Perkins County Canal Project Act. The department's powers under the act shall include: (a) Contracting for services, (b) acquiring permits, (c) acquiring and owning real property, (d) acquiring, holding, and exercising water rights, (e) employing personnel, (f) accepting grants, loans, donations, gifts, bequests, or other contributions from any person or entity, public or private, including any funds made available by any department or agency of the United States, (g) managing and expending such funds as are made available to it from the Perkins County Canal Project Fund, and (h) any other necessary functions consistent with the compact and pursuant to the act in protecting Nebraska's full entitlement to flows of the South Platte River. For purposes of the Perkins County Canal Project Act, the Department of Natural Resources is authorized to acquire real estate or access thereto in the name of the State of Nebraska by the use of eminent domain as provided under section 76-725. The department is also authorized to resolve all disputes that may arise, including the initiation or defense of legal actions of any kind, as necessary to achieve the purposes of the act.

Source: Laws 2022, LB1015, § 3.

61-304 Conflict of interest, prohibited.

(1) An individual listed in subsection (2) of this section or his or her immediate family member shall not, directly or indirectly, hold a financial interest in any entity which is party to a contract or have a financial interest in

the ownership or lease of any property relating to the development, construction, management, or operation of the Perkins County Canal Project.

(2) This section shall apply to:

(a) Any elected official in the executive branch of state government. This section shall apply to such official while he or she is in office and for two years after he or she leaves office; and

(b) Any member of the Legislature.

(3) For purposes of this section, immediate family member means a spouse, child, sibling, or parent and includes the spouse of any child, sibling, or parent.

Source: Laws 2022, LB1015, § 4.

61-305 Perkins County Canal Project Fund; created; use; investment; study; required.

(1) The Perkins County Canal Project Fund is created. The fund shall be administered by the Department of Natural Resources. The State Treasurer shall credit to the fund any money transferred by the Legislature and such grants, loans, donations, gifts, bequests, or other money received from any federal or state agency or public or private source for use by the department for the canal project. Any fees collected for water delivery may be credited to the fund. Any money in the Perkins County Canal Project Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. Any investment earnings from investment of money in the Perkins County Canal Project Fund shall be credited to such fund, except that for fiscal years 2023-24, 2024-25, and 2025-26, such investment earnings shall be credited as provided in section 84-622.

(2)(a) The department shall use the Perkins County Canal Project Fund to identify the optimal route and purchase land for and develop, construct, manage, and operate the Perkins County Canal as outlined by the South Platte River Compact and to contract with an independent firm for the purposes of completing a study of such canal. The study shall include, but may not be limited to, the following:

(i) Costs of completion of a canal and adjoining reservoirs as outlined in the South Platte River Compact;

(ii) A timeline for completion of a canal and adjoining reservoirs as outlined in the South Platte River Compact;

(iii) A cost-effectiveness study examining alternatives, including alternatives that may reduce environmental or financial impacts; and

(iv) The impacts of the canal on drinking water supplies for the cities of Lincoln and Omaha.

(b) The department shall provide the findings of such study electronically to the Clerk of the Legislature and present the findings at a public hearing held by the Appropriations Committee of the Legislature on or before December 31, 2022.

Source: Laws 2022, LB1012, § 4; Laws 2023, LB531, § 25; Laws 2023, LB818, § 14; Laws 2024, LB164, § 14.
Operative date April 17, 2024.

Cross References

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

ARTICLE 4
LAKE DEVELOPMENT DISTRICT

Section
61-401. Act, how cited.
61-402. Legislative findings and declarations.
61-403. Department of Natural Resources; powers and duties; legislative intent; contract proposals; selection of land; conflict-of-interest provisions.
61-404. Annexation prohibited.
61-405. Jobs and Economic Development Initiative Fund; created; use; investment; studies required.

61-401 Act, how cited.

Sections 61-401 to 61-404 shall be known and may be cited as the Jobs and Economic Development Initiative Act and may also be referred to as the JEDI Act.

Source: Laws 2022, LB1023, § 1.

61-402 Legislative findings and declarations.

The Legislature finds and declares as follows:

(1) The future vibrancy of the people, communities, and businesses of Nebraska depends on reliable sources of water;

(2) While it is in the state's best interest to retain control over its water supplies, much of the state's water resources are currently underutilized;

(3) In 2019, the state experienced historic flooding along the Platte River which caused loss of life and over one billion dollars in damage to private and public property and infrastructure;

(4) Well-planned flood control is critical to the future of the people, communities, and businesses of Nebraska;

(5) In light of the disruption from the COVID-19 pandemic and the trend toward a remote workforce around the country, people around the country are rethinking where they want to work, live, and raise a family. As people consider where to live, access to sustainable water resources and outdoor recreational opportunities will be important considerations in making Nebraska a competitive choice for the future;

(6) The state's lakes and rivers help Nebraskans enjoy the water resources in our state and make Nebraska an even more attractive place to live and raise a family;

(7) The state's water resources provide economic benefits to the people, communities, and businesses of Nebraska by helping to attract visitors from other states and boosting local economies;

(8) In 2021, the Legislature passed LB406, which established the Statewide Tourism And Recreational Water Access and Resource Sustainability Special Committee of the Legislature. The committee was tasked with conducting studies on:

(a) The need to protect public and private property, including use of levee systems, enhance economic development, and promote private investment and the creation of jobs along the Platte River and its tributaries from Columbus, Nebraska, to Plattsmouth, Nebraska;

(b) The need to provide for public safety, public infrastructure, land-use planning, recreation, and economic development in the Lake McConaughy region of Keith County, Nebraska; and

(c) The socioeconomic conditions, recreational and tourism opportunities, and public investment necessary to enhance economic development and to catalyze private investment in the region in Knox County, Nebraska, that lies north of State Highway 12 and extends to the South Dakota border and includes Lewis and Clark Lake and Niobrara State Park;

(9) After considerable study, the Statewide Tourism And Recreational Water Access and Resource Sustainability Special Committee identified potential opportunities within the floodway near the Platte River that could be used to build a combined reservoir of approximately three thousand six hundred surface acres, or greater, in or near a county having a population of at least one hundred thousand but not more than three hundred thousand inhabitants. Such a reservoir could be built without a dam of a Platte River channel and without negatively impacting any existing municipalities, their surrounding communities, or any economic development already occurring in such areas;

(10) It is in the public interest to construct a lake at or near this location. Such a lake would provide flood control by providing additional off-channel storage during flood events and public recreational opportunities that would benefit generations of Nebraskans, similar to the recreational opportunities provided by Lake McConaughy, Lewis and Clark Lake, and Eugene T. Mahoney State Park;

(11) In addition to the primary purposes of providing flood control and public recreational opportunities that will benefit the public, building a lake will provide the collateral benefit of economic development opportunities;

(12) It is in the public interest, and the purpose of the Jobs and Economic Development Initiative Act, that private parties contribute to the cost of constructing and developing the lake and that the state seek out donations and investments from private parties to fund such construction and development;

(13) It is in the public interest, and the purpose of the act, that the state (a) manage the construction and development of the lake in a manner that encourages private donations and investments, including through the use of public-private partnerships, (b) maintain sufficient oversight to protect the state's investment in the lake, and (c) retain ownership of the lake as an asset for Nebraskans; and

(14) It is in the public interest, and the purpose of the act, that the lake, and the land near or adjacent thereto, be developed in a thoughtful and planned manner by the state and be free from control of political subdivisions or municipalities to further the act's purposes of providing flood control, recreational opportunities, and orderly development of the project.

Source: Laws 2022, LB1023, § 2.

61-403 Department of Natural Resources; powers and duties; legislative intent; contract proposals; selection of land; conflict-of-interest provisions.

(1) The Department of Natural Resources is granted all power necessary to carry out the purposes of the Jobs and Economic Development Initiative Act, including, but not limited to, the power to:

(a) Purchase, sell, or lease land;

(b) Enter into contracts, including, but not limited to, contracts relating to the provision of construction services, management services, legal services, auditor services, and other consulting services or advice as the department may require in the performance of its duties; and

(c) Enter into agreements with natural resources districts to accomplish the purposes of the act. In any such agreement, a natural resources district may use the full powers granted to it by law.

(2) It is the intent of the Legislature that the department engage private parties and entities to construct and develop the lake and enter into contracts or public-private partnerships that the department deems advantageous to the construction and development of the lake, and land adjacent thereto, and to advance the purposes of the act.

(3) Notwithstanding any other provision of law, the department shall give preference to:

(a) Contract proposals relating to the development or management of the lake from a Nebraska nonprofit corporation whose board of directors include at least four directors who are appointed by the Governor with the approval of a majority of the Legislature, one representative of the Game and Parks Commission who is a nonvoting, ex officio member of such board of directors, and one member of the Legislature who is appointed by the Executive Board of the Legislative Council and who is a nonvoting, ex officio member of such board of directors. All such directors must agree to be bound by the conflict-of-interest provisions in sections 49-1493 to 49-14,104. Any such nonprofit corporation shall be bound by the Open Meetings Act and sections 84-712 to 84-712.09 and shall publicly let contracts valued in excess of twenty-five thousand dollars; and

(b) Contract proposals which provide for a public-private partnership with the state in constructing, developing, or managing the lake.

(4) The department is granted authority to select the land upon which the lake will be built. In making such selection, the following shall apply:

(a) The land shall be located in or near a county having a population of at least one hundred thousand but not more than three hundred thousand inhabitants and within the flood plain or floodway of the Platte River;

(b) Preference shall be given to locations that were materially underwater when the Platte River flooded in 2019;

(c) It is the intent of the Legislature that the lake be at least three thousand six hundred surface acres in size;

(d) No dam shall be constructed on the main channel of the Platte River in order to construct the lake; and

(e) No city or village, or any part thereof, shall be flooded in order to construct the lake.

(5) The department is granted authority to designate the land selected for the lake under subsection (4) of this section, and land near or adjacent thereto, as the Lake Development District.

(6) The department may, in the performance of its duties, seek input and advice from any natural resources district that encompasses any of the area included in the Lake Development District.

(7) It is the intent of the Legislature that the department engage local stakeholders as the department carries out its duties under this section.

(8) The land selected for the lake shall be owned by the state, and the department shall ensure that the general public has complete access to the lake. No private entity involved in the constructing, developing, or managing of the lake shall designate any portion of the lake for exclusively private use. Nothing in this subsection shall preclude reasonable limitations on the number of people using the lake, a marina, or any other access point so long as such limitation does not restrict access to a designated class of private parties.

(9) Neither the Director of Natural Resources nor any employee of the Department of Natural Resources shall have a financial interest, either personally or through an immediate family member, in any purchase, sale, or lease of real property relating to the construction or development of the lake or in any contract entered into by the department relating to the construction, development, or management of the lake. For purposes of this subsection, immediate family member means a spouse, child, sibling, parent, grandparent, or grandchild.

Source: Laws 2022, LB1023, § 3.

Cross References

Open Meetings Act, see section 84-1407.

61-404 Annexation prohibited.

Notwithstanding any other provision of law, no land within the Lake Development District, as designated by the Department of Natural Resources pursuant to section 61-403, shall be annexed.

Source: Laws 2022, LB1023, § 4.

61-405 Jobs and Economic Development Initiative Fund; created; use; investment; studies required.

(1) The Jobs and Economic Development Initiative Fund is created. The fund shall be administered by the Department of Natural Resources. The State Treasurer shall credit to the fund any money transferred to the fund by the Legislature and such donations, gifts, bequests, or other money received from any federal or state agency or public or private source. The fund shall be used for water and recreational projects pursuant to the Jobs and Economic Development Initiative Act. Transfers may be made from the fund to the Cash Reserve Fund or the Roads Operations Cash Fund at the direction of the Legislature. Any money in the Jobs and Economic Development Initiative Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. Prior to October 1, 2024, any investment earnings from investment of money in the fund shall be credited to the fund. Beginning October 1, 2024, any investment earnings from investment of money in the fund shall be credited to the General Fund.

(2) An amount, not to exceed twenty million dollars, shall be available for site selection costs, feasibility and public water supply studies, and flood mitigation

costs of the Department of Natural Resources related to any projects pursuant to the Jobs and Economic Development Initiative Act. The Department of Natural Resources shall, in cooperation with impacted communities, including, but not limited to, any city of the primary class and metropolitan utilities district, contract with an independent consultant to conduct a study on the consequences of any lake located in the Lower Platte River Basin to the public water supply of such communities. Such study shall consider all aspects of water quality, water quantity, and water infrastructure, and any other issues necessary to protect the public water supply, including the impact to future water supply opportunities to the impacted communities.

(3) No funds shall be expended for any project, other than those enumerated in subsection (2) of this section, from the Jobs and Economic Development Initiative Fund unless the Director of Natural Resources certifies to the budget administrator of the budget division of the Department of Administrative Services that the Department of Natural Resources has conducted any environmental, hydrological, or other feasibility studies the director deems necessary to establish the feasibility of any projects pursuant to the Jobs and Economic Development Initiative Act and that, based on the results of such studies, the director has deemed the projects feasible.

Source: Laws 2022, LB1012, § 7; Laws 2024, LB1413, § 42; Laws 2024, First Spec. Sess., LB3, § 24.

Note: Changes made by Laws 2024, LB1413, became effective April 2, 2024.

Note: Changes made by Laws 2024, First Spec. Sess., LB3, became effective August 21, 2024.

Cross References

Jobs and Economic Development Initiative Act, see section 61-401.
Nebraska Capital Expansion Act, see section 72-1269.
Nebraska State Funds Investment Act, see section 72-1260.

ARTICLE 5

PUBLIC WATER AND NATURAL RESOURCES PROJECT CONTRACTING ACT

Section

Section
61-515. Department; duties; powers.
61-516. Contract changes authorized.
61-517. Projects for political subdivisions; department; powers; applicability of act.
61-518. Insurance requirements.
61-519. Rules and regulations.
61-520. Public-private partnership delivery method; authorized.

61-501 Act, how cited.

Sections 61-501 to 61-520 shall be known and may be cited as the Public Water and Natural Resources Project Contracting Act.

Source: Laws 2023, LB565, § 1.

61-502 Terms, defined.

For purposes of the Public Water and Natural Resources Project Contracting Act:

(1) Alternative technical concept means changes suggested by a qualified, eligible, short-listed design-builder to the department's basic configurations, project scope, design, or construction criteria;

(2) Best value-based selection process means a process of selecting a design-builder using price, schedule, and qualifications for evaluation factors;

(3) Construction manager means the legal entity which proposes to enter into a construction manager-general contractor contract pursuant to the act;

(4) Construction manager-general contractor contract means a contract which is subject to a qualification-based selection process between the department and a construction manager to furnish preconstruction services during the design development phase of the project and, if an agreement can be reached which is satisfactory to the department, construction services for the construction phase of the project;

(5) Construction services means activities associated with building the project;

(6) Department means the Department of Natural Resources;

(7) Design-build contract means a contract between the department and a design-builder which is subject to a best value-based selection process to furnish (a) architectural, engineering, and related design services and (b) labor, materials, supplies, equipment, and construction services;

(8) Design-builder means the legal entity which proposes to enter into a design-build contract;

(9) Preconstruction services means all nonconstruction-related services that a construction manager performs in relation to the design of the project before execution of a contract for construction services. Preconstruction services includes, but is not limited to, cost estimating, value engineering studies, constructability reviews, delivery schedule assessments, and life-cycle analysis;

(10) Private partner means any entity that is a partner in a public-private partnership other than the State of Nebraska, any agency of the State of Nebraska, the federal government, any agency of the federal government, any other state government, or any agency of any government at any level;

(11) Progressive design-build means a project-delivery process in which both the design and construction of a project are procured from a single entity that

is selected through a qualification-based selection process at the earliest feasible stage of the project;

(12) Project performance criteria means the performance requirements of the project suitable to allow the design-builder to make a proposal. Performance requirements shall include, but are not limited to, the following, if required by the project: Capacity, durability, standards, ingress and egress requirements, description of the site, surveys, soil and environmental information concerning the site, material quality standards, design and milestone dates, site development requirements, compliance with applicable law, and other criteria for the intended use of the project;

(13) Proposal means an offer in response to a request for proposals (a) by a design-builder to enter into a design-build contract or (b) by a construction manager to enter into a construction manager-general contractor contract;

(14) Public-private partnership means a project delivery method for construction or financing of capital projects or procurement of services under a written public-private partnership agreement entered into pursuant to section 61-520 between at least one private partner and the State of Nebraska or any agency of the state;

(15) Qualification-based selection process means a process of selecting a construction manager or progressive design-builder based on qualifications;

(16) Request for proposals means the documentation by which the department solicits proposals; and

(17) Request for qualifications means the documentation or publication by which the department solicits qualifications.

Source: Laws 2023, LB565, § 2.

61-503 Purpose of act.

The purpose of the Public Water and Natural Resources Project Contracting Act is to provide the department alternative methods of contracting for public water and natural resources projects. The alternative methods of contracting shall be available to the department for use on any project regardless of the funding source. Notwithstanding any other provision of state law to the contrary, the Public Water and Natural Resources Project Contracting Act shall govern the design-build, progressive design-build, and construction manager-general contractor procurement processes.

Source: Laws 2023, LB565, § 3.

61-504 Design-build contract; progressive design-build contract; construction manager-general contractor contract; authorized.

The department, in accordance with the Public Water and Natural Resources Project Contracting Act, may solicit and execute a design-build contract, a progressive design-build contract, or a construction manager-general contractor contract for a public surface water or groundwater-related infrastructure project.

Source: Laws 2023, LB565, § 4.

61-505 Engineering or architectural consultant; hiring authorized.

The department may hire an engineering or architectural consultant to assist the department with the development of project performance criteria and requests for proposals, with evaluation of proposals, with evaluation of the construction to determine adherence to the project performance criteria, and with any additional services requested by the department to represent its interests in relation to a project. The procedures used to hire such person or organization shall comply with the Nebraska Consultants' Competitive Negotiation Act. The person or organization hired shall be ineligible to be included as a provider of other services in a proposal for the project for which the person or organization has been hired and shall not be employed by or have a financial or other interest in a design-builder or construction manager who will submit a proposal.

Source: Laws 2023, LB565, § 5.

Cross References

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

61-506 Guidelines for contracts.

The department shall adopt guidelines for entering into a design-build contract, a progressive design-build contract, or a construction manager-general contractor contract. The department's guidelines shall include the following:

(1) Preparation and content of requests for qualifications;

(2) Preparation and content of requests for proposals;

(3) Qualification and short-listing of design-builders, progressive design-builders, and construction managers. The guidelines shall provide that the department will evaluate prospective design-builders, progressive design-builders, and construction managers based on the information submitted to the department in response to a request for qualifications and will select a short list of design-builders, progressive design-builders, or construction managers who shall be considered qualified and eligible to respond to the request for proposals;

(4) Preparation and submittal of proposals;

(5) Procedures and standards for evaluating proposals;

(6) Procedures for negotiations between the department and the design-builders, progressive design-builders, or construction managers submitting proposals prior to the acceptance of a proposal if any such negotiations are contemplated; and

(7) Procedures for the evaluation of construction under a design-build contract or a progressive design-build contract to determine adherence to the project performance criteria.

Source: Laws 2023, LB565, § 6.

61-507 Process for selecting design-builder or progressive design-builder.

(1) The process for selecting a design-builder and entering into a design-build contract shall be in accordance with sections 61-508 to 61-511.

(2) Except as otherwise specifically provided in the Public Water and Natural Resources Project Contracting Act, the process for selecting a progressive

design-builder and entering into a progressive design-build contract shall be in accordance with sections 61-508 to 61-511.

Source: Laws 2023, LB565, § 7.

61-508 Request for qualifications; prequalify design-builders and progressive design-builders; notice; short list.

(1) The department shall prepare a request for qualifications for design-build and progressive design-build proposals and shall prequalify design-builders and progressive design-builders. The request for qualifications shall describe the project in sufficient detail to permit a design-builder or a progressive design-builder to respond. The request for qualifications shall identify the maximum number of design-builders or progressive design-builders the department will place on a short list as qualified and eligible to receive a request for proposals.

(2) A person or organization hired by the department under section 61-505 shall be ineligible to compete for a design-build contract on the same project for which the person or organization was hired.

(3) The request for qualifications shall be (a) published in a newspaper of statewide circulation at least thirty days prior to the deadline for receiving the request for qualifications and (b) sent by first-class mail to any design-builder or progressive design-builder upon request.

(4) The department shall create a short list of qualified and eligible design-builders or progressive design-builders in accordance with the guidelines adopted pursuant to section 61-506. The department shall select at least two prospective design-builders or progressive design-builders, except that if only one design-builder or progressive design-builder has responded to the request for qualifications, the department may, in its discretion, proceed or cancel the procurement. The request for proposals shall be sent only to the design-builders or progressive design-builders placed on the short list.

Source: Laws 2023, LB565, § 8.

61-509 Design-build or progressive design-build contract; request for proposals; contents.

The department shall prepare a request for proposals for each design-build or progressive design-build contract. The request for proposals shall contain, at a minimum, the following elements:

(1) The guidelines adopted in accordance with section 61-506. The identification of a publicly accessible location of the guidelines, either physical or electronic, shall be considered compliance with this subdivision;

(2) The proposed terms and conditions of the design-build or progressive design-build contract, including any terms and conditions which are subject to further negotiation;

(3) A project statement which contains information about the scope and nature of the project;

(4) If applicable, a statement regarding alternative technical concepts including the process and time period in which such concepts may be submitted, confidentiality of the concepts, and ownership of the rights to the intellectual property contained in such concepts;

(5) Project performance criteria;

(6) Budget parameters for the project;

(7) Any bonding and insurance required by law or as may be additionally required by the department;

(8) The criteria for evaluation of proposals and the relative weight of each criterion. For both design-build and progressive design-build contracts, the criteria shall include, but are not limited to, construction experience, design experience, and the financial, personnel, and equipment resources available for the project. For design-build contracts only, the criteria shall also include the cost of the work. For progressive design-build contracts only, the criteria shall also include consideration of the historic reasonableness of the progressive design-builder's costs and expenses when bidding and completing projects, whether such projects were completed using the progressive design-build process or another bidding and contracting process. The relative weight to apply to any criterion shall be at the discretion of the department based on each project, except that for all design-build contracts, the cost of the work shall be given a relative weight of at least fifty percent;

(9) A requirement that the design-builder or progressive design-builder provide a written statement of the design-builder's or progressive design-builder's proposed approach to the design and construction of the project, which may include graphic materials illustrating the proposed approach to design and construction and shall include price proposals;

(10) A requirement that the design-builder or progressive design-builder agree to the following conditions:

(a) At the time of the design-build or progressive design-build proposal, the design-builder or progressive design-builder must furnish to the department a written statement identifying the architect or engineer who will perform the architectural or engineering work for the project. The architect or engineer engaged by the design-builder or progressive design-builder to perform the architectural or engineering work with respect to the project must have direct supervision of such work and may not be removed by the design-builder or progressive design-builder prior to the completion of the project without the written consent of the department;

(b) At the time of the design-build or progressive design-build proposal, the design-builder or progressive design-builder must furnish to the department a written statement identifying the general contractor who will provide the labor, material, supplies, equipment, and construction services. The general contractor identified by the design-builder or progressive design-builder may not be removed by the design-builder or progressive design-builder prior to completion of the project without the written consent of the department;

(c) A design-builder or progressive design-builder offering design-build or progressive design-build services with its own employees who are design professionals licensed to practice in Nebraska must (i) comply with the Engineers and Architects Regulation Act by procuring a certificate of authorization to practice architecture or engineering and (ii) submit proof of sufficient professional liability insurance in the amount required by the department; and

(d) The rendering of architectural or engineering services by a licensed architect or engineer employed by the design-builder or progressive design-builder must conform to the Engineers and Architects Regulation Act;

(11) The amount and terms of the stipend required pursuant to section 61-510, if any; and

(12) Other information or requirements which the department, in its discretion, chooses to include in the request for proposals.

Source: Laws 2023, LB565, § 9.

Cross References

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

61-510 Stipend.

The department shall pay a stipend to qualified design-builders that submit responsive proposals but are not selected. Payment of the stipend shall give the department ownership of the intellectual property contained in the proposals and alternative technical concepts. The amount of the stipend shall be at the discretion of the department as disclosed in the request for proposals.

Source: Laws 2023, LB565, § 10.

61-511 Alternative technical concepts; evaluation of proposals; department; power to negotiate.

(1) Design-builders and progressive design-builders shall submit proposals as required by the request for proposals. The department may meet with individual design-builders and progressive design-builders prior to the time of submitting the proposal and may have discussions concerning alternative technical concepts. If an alternative technical concept provides a solution that is equal to or better than the requirements in the request for proposals and the alternative technical concept is acceptable to the department, it may be incorporated as part of the proposal by the design-builder or progressive design-builder. Notwithstanding any other provision of state law to the contrary, alternative technical concepts shall be confidential and not disclosed to other design-builders, progressive design-builders, or members of the public from the time the proposals are submitted until such proposals are opened by the department.

(2) Proposals shall be sealed and shall not be opened until expiration of the time established for making the proposals as set forth in the request for proposals.

(3) Proposals may be withdrawn at any time prior to the opening of such proposals, in which case no stipend shall be paid. The department shall have the right to reject any and all proposals at no cost to the department other than any stipend for design-builders who have submitted responsive proposals. The department may thereafter solicit new proposals using the same or different project performance criteria or may cancel the design-build or progressive design-build solicitation.

(4) The department shall rank the design-builders or progressive design-builders in order of best value pursuant to the criteria in the request for proposals. The department may meet with design-builders or progressive design-builders prior to ranking.

(5) The department may attempt to negotiate a design-build or progressive design-build contract with the highest ranked design-builder or progressive design-builder selected by the department and may enter into a design-build or progressive design-build contract after negotiations. If the department is unable to negotiate a satisfactory design-build or progressive design-build contract

with the highest ranked design-builder or progressive design-builder, the department may terminate negotiations with that design-builder or progressive design-builder. The department may then undertake negotiations with the second highest ranked design-builder or progressive design-builder and may enter into a design-build or progressive design-build contract after negotiations. If the department is unable to negotiate a satisfactory contract with the second highest ranked design-builder or progressive design-builder, the department may undertake negotiations with the third highest ranked design-builder or progressive design-builder, if any, and may enter into a design-build or progressive design-build contract after negotiations.

(6) If the department is unable to negotiate a satisfactory contract with any of the ranked design-builders or progressive design-builders, the department may either revise the request for proposals and solicit new proposals or cancel the design-build or progressive design-build process under the Public Water and Natural Resources Project Contracting Act.

Source: Laws 2023, LB565, § 11.

61-512 Process for selection of construction manager and entering into construction manager-general contractor contract.

(1) The process for selecting a construction manager and entering into a construction manager-general contractor contract shall be in accordance with this section and sections 61-513 to 61-515.

(2) The department shall prepare a request for qualifications for construction manager-general contractor contract proposals and shall prequalify construction managers. The request for qualifications shall describe the project in sufficient detail to permit a construction manager to respond. The request for qualifications shall identify the maximum number of eligible construction managers the department will place on a short list as qualified and eligible to receive a request for proposals.

(3) The request for qualifications shall be (a) published in a newspaper of statewide circulation at least thirty days prior to the deadline for receiving the request for qualifications and (b) sent by first-class mail to any construction manager upon request.

(4) The department shall create a short list of qualified and eligible construction managers in accordance with the guidelines adopted pursuant to section 61-506. The department shall select at least two construction managers, except that if only one construction manager has responded to the request for qualifications, the department may, in its discretion, proceed or cancel the procurement. The request for proposals shall be sent only to the construction managers placed on the short list.

Source: Laws 2023, LB565, § 12.

61-513 Construction manager-general contractor contract; request for proposals; contents.

The department shall prepare a request for proposals for each construction manager-general contractor contract. The request for proposals shall contain, at a minimum, the following elements:

(1) The guidelines adopted by the department in accordance with section 61-506. The identification of a publicly accessible location of the guidelines,

either physical or electronic, shall be considered compliance with this subdivision;

(2) The proposed terms and conditions of the contract, including any terms and conditions which are subject to further negotiation;

(3) Any bonding and insurance required by law or as may be additionally required by the department;

(4) General information about the project which will assist the department in its selection of the construction manager, including a project statement which contains information about the scope and nature of the project, the project site, the schedule, and the estimated budget;

(5) The criteria for evaluation of proposals and the relative weight of each criterion;

(6) A statement that the construction manager shall not be allowed to sublet, assign, or otherwise dispose of any portion of the contract without consent of the department. In no case shall the department allow the construction manager to sublet more than seventy percent of the work, excluding specialty items; and

(7) Other information or requirements which the department, in its discretion, chooses to include in the request for proposals.

Source: Laws 2023, LB565, § 13.

61-514 Submission of proposals; procedure; evaluation of proposals; department; power to negotiate.

(1) Construction managers shall submit proposals as required by the request for proposals.

(2) Proposals shall be sealed and shall not be opened until expiration of the time established for making the proposals as set forth in the request for proposals.

(3) Proposals may be withdrawn at any time prior to signing a contract for preconstruction services. The department shall have the right to reject any and all proposals at no cost to the department. The department may thereafter solicit new proposals or may cancel the construction manager-general contractor procurement process.

(4) The department shall rank the construction managers in accordance with the qualification-based selection process and pursuant to the criteria in the request for proposals. The department may meet with construction managers prior to the ranking.

(5) The department may attempt to negotiate a contract for preconstruction services with the highest ranked construction manager and may enter into a contract for preconstruction services after negotiations. If the department is unable to negotiate a satisfactory contract for preconstruction services with the highest ranked construction manager, the department may terminate negotiations with that construction manager. The department may then undertake negotiations with the second highest ranked construction manager and may enter into a contract for preconstruction services after negotiations. If the department is unable to negotiate a satisfactory contract with the second highest ranked construction manager, the department may undertake negotia-

tions with the third highest ranked construction manager, if any, and may enter into a contract for preconstruction services after negotiations.

(6) If the department is unable to negotiate a satisfactory contract for preconstruction services with any of the ranked construction managers, the department may either revise the request for proposals and solicit new proposals or cancel the construction manager-general contractor contract process under the Public Water and Natural Resources Project Contracting Act.

Source: Laws 2023, LB565, § 14.

61-515 Department; duties; powers.

(1) Before the construction manager begins any construction services, the department shall:

(a) Conduct an independent cost estimate for the project; and

(b) Conduct contract negotiations with the construction manager to develop a construction manager-general contractor contract for construction services.

(2) If the construction manager and the department are unable to negotiate a contract, the department may use other contract procurement processes. Persons or organizations who submitted proposals but were unable to negotiate a contract with the department shall be eligible to compete in the other contract procurement processes.

Source: Laws 2023, LB565, § 15.

61-516 Contract changes authorized.

A design-build contract, a progressive design-build contract, and a construction manager-general contractor contract may be conditioned upon later refinements in scope and price and may permit the department in agreement with the design-builder, progressive design-builder, or construction manager to make changes in the project without invalidating the contract.

Source: Laws 2023, LB565, § 16.

61-517 Projects for political subdivisions; department; powers; applicability of act.

The department may enter into agreements under the Public Water and Natural Resources Project Contracting Act to let, design, and construct projects for political subdivisions when any of the funding for such projects is provided by or through the department. In such instances, the department may enter into contracts with the design-builder, progressive design-builder, or construction manager. The Political Subdivisions Construction Alternatives Act shall not apply to projects let, designed, and constructed under the supervision of the department pursuant to agreements with political subdivisions under the Public Water and Natural Resources Project Contracting Act.

Source: Laws 2023, LB565, § 17.

Cross References

Political Subdivisions Construction Alternatives Act, see section 13-2901.

61-518 Insurance requirements.

Nothing in the Public Water and Natural Resources Project Contracting Act shall limit or reduce statutory or regulatory requirements regarding insurance.

Source: Laws 2023, LB565, § 18.

61-519 Rules and regulations.

The department may adopt and promulgate rules and regulations to carry out the Public Water and Natural Resources Project Contracting Act.

Source: Laws 2023, LB565, § 19.

61-520 Public-private partnership delivery method; authorized.

(1) A public-private partnership delivery method may be used for projects under the Public Water and Natural Resources Project Contracting Act as provided in this section and rules and regulations adopted and promulgated pursuant to this section only to the extent allowed under the Constitution of Nebraska. State contracts using this method shall be awarded by competitive negotiation.

(2) The department utilizing a public-private partnership shall continue to be responsible for oversight of any function that is delegated to or otherwise performed by a private partner.

(3) On or before July 1, 2024, the Director of Natural Resources shall adopt and promulgate rules and regulations setting forth criteria to be used in determining when a public-private partnership is to be used for a particular project. The rules and regulations shall reflect the intent of the Legislature to promote and encourage the use of public-private partnerships in the State of Nebraska. The Director of Natural Resources shall consult with design-builders, progressive design-builders, construction managers, other contractors and design professionals, including engineers and architects, and other appropriate professionals during the development of the rules and regulations.

(4) A request for proposals for a project utilizing a public-private partnership shall include at a minimum:

(a) The parameters of the proposed public-private partnership agreement;

(b) The duties and responsibilities to be performed by the private partner or private partners;

(c) The methods of oversight to be employed by the department;

(d) The duties and responsibilities that are to be performed by the department and any other parties to the contract;

(e) The evaluation factors and the relative weight of each factor to be used in the scoring of awards;

(f) Plans for financing and operating the project and the revenue, service payments, bond financings, and appropriations of public funds needed for the qualifying project;

(g) Comprehensive documentation of the experience, capabilities, capitalization and financial condition, and other relevant qualifications of the private entity submitting the proposal;

(h) The ability of a private partner or private partners to quickly respond to the needs presented in the request for proposals and the importance of economic development opportunities represented by the project. In evaluating proposals, preference shall be given to a plan that includes the involvement of

small businesses as subcontractors, to the extent that small businesses can provide services in a competitive manner, unless any preference interferes with the qualification for federal or other funds; and

(i) Other information required by the department to evaluate the proposals submitted and the overall proposed public-private partnership.

(5) A private entity desiring to be a private partner shall demonstrate to the satisfaction of the department that it is capable of performing any duty, responsibility, or function it may be authorized or directed to perform as a term or condition of the public-private partnership agreement.

(6) A request for proposals may be canceled, or all proposals may be rejected, if it is determined in writing that such action is taken in the best interest of the State of Nebraska and approved by the purchasing officer.

(7) Upon execution of a public-private partnership agreement, the department shall ensure that the contract clearly identifies that a public-private partnership is being utilized.

(8) The department shall:

(a) Adhere to the rules and regulations adopted and promulgated under this section when utilizing a public-private partnership for financing capital projects; and

(b) Electronically report annually to the Natural Resources Committee of the Legislature regarding private-public partnerships which have been considered or are approved pursuant to this section.

Source: Laws 2023, LB565, § 20.

CHAPTER 62
NEGOTIABLE INSTRUMENTS

ARTICLE 3
MISCELLANEOUS PROVISIONS

62-301 Holidays, enumerated; federal holiday schedule observed; exceptions; bank holidays.

(1) For the purposes of the Uniform Commercial Code and section 62-301.01, the following days shall be holidays: New Year's Day, January 1; Birthday of Martin Luther King, Jr., the third Monday in January; President's Day, the third Monday in February; Arbor Day, the last Friday in April; Memorial Day, the last Monday in May; Juneteenth National Independence Day, June 19; Independence Day, July 4; Labor Day, the first Monday in September; Indigenous Peoples' Day and Columbus Day, the second Monday in October; Veterans Day, November 11, and the federally recognized holiday therefor, or either of them; Thanksgiving Day, the fourth Thursday in November; the day after Thanksgiving; and Christmas Day, December 25. If any such holiday falls on Sunday, the following Monday shall be a holiday. If the date designated by the state for observance of any legal holiday enumerated in this section, except Veterans Day, is different from the date of observance of such holiday pursuant to a federal holiday schedule, the federal holiday schedule shall be observed.

(2) Any bank doing business in this state may, by a brief written notice at, on, or near its front door, fully dispense with or restrict, to such extent as it may determine, the hours within which it will be open for business.

(3) Any bank may close on Saturday if it states such fact by a brief written notice at, on, or near its front door. When such bank will, in observance of such a notice, not be open for general business, such day shall, with respect to the particular bank, be the equivalent of a holiday as fully as if such day were listed in subsection (1) of this section, and any act authorized, required, or permitted to be performed at, by, or with respect to such bank which will, in observance of such notice, not be open for general business, acting in its own behalf or in any capacity whatever, may be performed on the next succeeding business day and no liability or loss of rights on the part of any person shall result from such delay.

(4) Any bank which, by the notice provided for by subsection (3) of this section, has created the holiday for such bank may, without destroying the legal effect of the holiday for it and solely for the convenience of its customers, remain open all or part of such day in a limited fashion by treating every transaction with its customers on such day as though the transaction had taken

place immediately upon the opening of such bank on the first following business day.

(5) Whenever the word bank is used in this section it includes building and loan association, savings and loan association, credit union, savings bank, trust company, investment company, and any other type of financial institution.

Source: Laws 1905, c. 83, art. 18, § 195, p. 434; Laws 1911, c. 69, § 1, p. 306; R.S.1913, § 5512; Laws 1915, c. 98, § 1, p. 241; Laws 1921, c. 186, § 1, p. 698; C.S.1922, § 4805; C.S.1929, § 62-1706; Laws 1941, c. 187, § 1, p. 755; C.S.Supp.,1941, § 62-1706; R.S.1943, § 62-301; Laws 1945, c. 252, § 1, p. 789; Laws 1951, c. 204, § 1, p. 761; Laws 1953, c. 224, § 1, p. 790; Laws 1967, c. 395, § 1, p. 1239; Laws 1969, c. 844, § 2, p. 3180; Laws 1973, LB 34, § 2; Laws 1974, LB 729, § 1; Laws 1975, LB 218, § 2; Laws 1978, LB 855, § 2; Laws 1986, LB 825, § 1; Laws 1988, LB 909, § 2; Laws 2002, LB 1094, § 14; Laws 2003, LB 131, § 32; Laws 2020, LB848, § 9; Laws 2022, LB29, § 2; Laws 2022, LB707, § 43.

Cross References

Banks, days considered legal holidays, see section 8-1,129.
Thanksgiving, proclamation by Governor, see section 84-104.

CHAPTER 64
NOTARIES PUBLIC

Article.
1. General Provisions.
   (a) Appointment and Powers. 64-105, 64-113.
2. Recognition of Acknowledgments. 64-203, 64-205.
3. Electronic Notary Public Act. 64-306, 64-313.
4. Online Notary Public Act. 64-401 to 64-420.

ARTICLE 1
GENERAL PROVISIONS

(a) APPOINTMENT AND POWERS

Section
64-105. Notarial acts prohibited; when.
64-113. Removal; grounds; procedure; penalty.

(a) APPOINTMENT AND POWERS

64-105 Notarial acts prohibited; when.

(1) A notary public shall not perform any notarial act as authorized by Chapter 64, articles 1, 2, and 3 if the principal:

(a) Is not in the presence of the notary public at the time of the notarial act; and

(b) Is not personally known to the notary public or identified by the notary public through satisfactory evidence.

(2) For purposes of this section:

(a) Identified by the notary public through satisfactory evidence means identification of an individual based on:

(i) At least one document issued by a government agency that is current and that bears the photographic image of the individual's face and signature and a physical description of the individual, except that a properly stamped passport without a physical description is satisfactory evidence; or

(ii) The oath or affirmation of one credible witness unaffected by the document or transaction to be notarized who is personally known to the notary public and who personally knows the individual, or the oaths or affirmations of two credible witnesses unaffected by the document or transaction to be notarized who each personally knows the individual and shows to the notary public documentary identification as described in subdivision (a)(i) of this subsection; and

(b) Personal knowledge of identity or personally known means familiarity with an individual resulting from interactions with that individual over a period of time sufficient to dispel any reasonable uncertainty that the individual has the identity claimed.

(3) This section does not apply to online notarial acts under the Online Notary Public Act.

Source: Laws 2004, LB 315, § 6; Laws 2019, LB186, § 20.

Cross References

Online Notary Public Act, see section 64-401.

64-113 Removal; grounds; procedure; penalty.

(1) Whenever charges of malfeasance in office are preferred to the Secretary of State against any notary public in this state, or whenever the Secretary of State has reasonable cause to believe any notary public in this state is guilty of acts of malfeasance in office, the Secretary of State may appoint any disinterested person, not related by consanguinity to either the notary public or person preferring the charges, and authorized by law to take testimony of witnesses by deposition, to notify such notary public to appear before him or her on a day and at an hour certain, after at least ten days from the day of service of such notice. At such appearance, the notary public may show cause as to why his or her commission should not be canceled or temporarily revoked. The appointee may issue subpoenas to require the attendance and testimony of witnesses and the production of any pertinent records, papers, or documents, may administer oaths, and may accept any evidence he or she deems pertinent to a proper determination of the charge. The notary public may appear, at such time and place, and cross-examine witnesses and produce witnesses in his or her behalf. Upon the receipt of such examination, duly certified in the manner prescribed for taking depositions to be used in suits in the district courts of this state, the Secretary of State shall examine the same, and if therefrom he or she finds that the notary public is guilty of acts of malfeasance in office, he or she may remove the person charged from the office of notary public or temporarily revoke such person's commission. Within fifteen days after such removal or revocation and notice thereof, such notary public shall deposit, with the Secretary of State, the commission as notary public and notarial seal. The commission shall be canceled or temporarily revoked by the Secretary of State. A person so removed from office shall be forever disqualified from holding the office of notary public. A person whose commission is temporarily revoked shall be returned his or her commission and seal upon completion of the revocation period and passing the examination described in section 64-101.01. The fees for taking such testimony shall be paid by the state at the same rate as fees for taking depositions by notaries public. The failure of the notary public to deposit his or her commission and seal with the Secretary of State as required by this section shall subject him or her to a penalty of one thousand dollars, to be recovered in the name of the state.

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

Source: Laws 1869, § 14, p. 25; G.S.1873, p. 497; R.S.1913, § 5529; C.S.1922, § 4825; C.S.1929, § 64-113; R.S.1943, § 64-113; Laws 1945, c. 145, § 10, p. 493; Laws 1967, c. 396, § 8, p. 1244; Laws 2004, LB 315, § 11; Laws 2011, LB690, § 2; Laws 2012, LB398, § 6; Laws 2019, LB186, § 21.

ARTICLE 2
RECOGNITION OF ACKNOWLEDGMENTS

Section
64-203. Certificate; contents.
64-205. Acknowledgment, defined.

64-203 Certificate; contents.

(1) The person taking an acknowledgment shall certify that:

(a) The person acknowledging appeared before him or her and acknowledged he or she executed the instrument; and

(b) The person acknowledging was known to the person taking the acknowledgment or that the person taking the acknowledgment had satisfactory evidence that the person acknowledging was the person described in and who executed the instrument.

(2) For purposes of this section, appearance before the person taking an acknowledgment includes an appearance outside the presence of a notary public if such acknowledgment was completed in accordance with the Online Notary Public Act.

Source: Laws 1969, c. 523, § 3, p. 2141; Laws 2019, LB186, § 22.

Cross References

Online Notary Public Act, see section 64-401.

64-205 Acknowledgment, defined.

(1) The words acknowledged before me means:

(a) That the person acknowledging appeared before the person taking the acknowledgment;

(b) That he or she acknowledged he or she executed the instrument;

(c) That, in the case of:

(i) A natural person, he or she executed the instrument for the purposes therein stated;

(ii) A corporation, the officer or agent acknowledged he or she held the position or title set forth in the instrument and certificate, he or she signed the instrument on behalf of the corporation by proper authority and the instrument was the act of the corporation for the purpose therein stated;

(iii) A partnership, the partner or agent acknowledged he or she signed the instrument on behalf of the partnership by proper authority and he or she executed the instrument as the act of the partnership for the purposes therein stated;

(iv) A limited liability company, the member or agent acknowledged he or she signed the instrument on behalf of the limited liability company by proper authority and he or she executed the instrument as the act of the limited liability company for the purposes therein stated;

(v) A person acknowledging as principal by an attorney in fact, he or she executed the instrument by proper authority as the act of the principal for the purposes therein stated; or

(vi) A person acknowledging as a public officer, trustee, administrator, guardian, or other representative, he or she signed the instrument by proper

authority and he or she executed the instrument in the capacity and for the purposes therein stated; and

(d) That the person taking the acknowledgment either knew or had satisfactory evidence that the person acknowledging was the person named in the instrument or certificate.

(2) For purposes of this section, appearance before the person taking an acknowledgment includes an appearance outside the presence of a notary public if such acknowledgment was completed in accordance with the Online Notary Public Act.

Source: Laws 1969, c. 523, § 5, p. 2141; Laws 1993, LB 121, § 393; Laws 2019, LB186, § 23.

Cross References

Online Notary Public Act, see section 64-401.

ARTICLE 3
ELECTRONIC NOTARY PUBLIC ACT

Section
64-306. Fee.
64-313. Electronic certificate of authority; contents; fee.

64-306 Fee.

The fee for registering or reregistering as an electronic notary shall be in addition to the fee required in section 33-102. The Secretary of State shall establish the fee by rule and regulation in an amount sufficient to cover the costs of administering the Electronic Notary Public Act, but the fee shall not exceed one hundred dollars. The Secretary of State shall remit fees received under this section to the State Treasurer for credit to the Secretary of State Cash Fund for use in administering the Electronic Notary Public Act.

Source: Laws 2016, LB465, § 6; Laws 2020, LB910, § 23.

64-313 Electronic certificate of authority; contents; fee.

(1) An electronic certificate of authority evidencing the authenticity of the notary public's electronic signature and electronic notary seal of an electronic notary public of this state shall contain substantially the following words:

Certificate of Authority for an Electronic Notarial Act

I _____ (name, title, jurisdiction of commissioning official) certify that _____ (name of electronic notary public), the person named as an electronic notary public in the attached or associated document, was indeed registered as an electronic notary public for the State of Nebraska and authorized to act as such at the time of the document's electronic notarization. To verify this Certificate of Authority for an Electronic Notarial Act, I have included herewith my electronic signature this _____ day of _____, 20_____ .

(Electronic signature (and seal) of commissioning official)

(2) The Secretary of State may charge a fee of twenty dollars for issuing an electronic certificate of authority. The Secretary of State shall remit the fees to the State Treasurer for credit to the Secretary of State Cash Fund.

Source: Laws 2016, LB465, § 13; Laws 2020, LB910, § 24.

ARTICLE 4
ONLINE NOTARY PUBLIC ACT

64-401 Act, how cited.

Sections 64-401 to 64-420 shall be known as the Online Notary Public Act.

Source: Laws 2019, LB186, § 1; Laws 2021, LB94, § 1.

64-402 Terms, defined.

For purposes of the Online Notary Public Act:

(1) Communication technology means an electronic device or process that allows an online notary public and an individual who is not in the physical presence of the online notary public to communicate with each other simultaneously by sight and sound;

(2) Credential analysis means a process or service operating according to criteria approved by the Secretary of State through which a third person affirms the validity of a government-issued identification credential through review of public and proprietary data sources;

(3) Electronic means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities;

(4) Electronic document means information that is created, generated, sent, communicated, received, or stored by electronic means;

(5) Electronic signature means an electronic sound, symbol, or process attached to or logically associated with an electronic document and executed or adopted by a person with the intent to sign the electronic document;

(6) Identity proofing means a process or service operating according to criteria approved by the Secretary of State through which a third person

affirms the identity of an individual through review of personal information from public or proprietary data sources;

(7) Online notarial act means the performance by an online notary public of a function authorized under section 64-408 that is performed by means of communication technology that meets the standards developed under section 64-407;

(8) Online notarial certificate means the portion of a notarized electronic document that is completed by an online notary public and that contains the following:

(a) The online notary public's electronic signature, online notary seal, title, and commission expiration date;

(b) Other required information concerning the date and place of the online notarial act; and

(c) The completed wording of one of the following notarial certificates: (i) Acknowledgment, (ii) jurat, (iii) verification of proof, or (iv) oath or affirmation;

(9) Online notary public means a notary public registered with the Secretary of State who has the authority to perform online notarial acts under the Online Notary Public Act;

(10) Online notary seal means information within a notarized electronic document that confirms the online notary public's name, jurisdiction, identifying number, and commission expiration date and generally corresponds to the data in notary seals used on paper documents;

(11) Online notary solution provider means a provider of any credential analysis, identity proofing, online notary seals, electronic signatures, or communication technology;

(12) Personal knowledge or personally known means familiarity with an individual resulting from interactions with that individual over a period of time sufficient to dispel any reasonable uncertainty that the individual has the identity claimed;

(13) Principal means an individual:

(a) Whose electronic signature is notarized in an online notarial act; or

(b) Taking an oath or affirmation from the online notary public other than in the capacity of a witness for the online notarial act; and

(14) Remote presentation means transmission to the online notary public through communication technology of an image of a government-issued identification credential that is of sufficient quality to enable the online notary public to:

(a) Identify the individual seeking the online notary public's services; and

(b) Perform credential analysis.

Source: Laws 2019, LB186, § 2.

64-403 Eligibility to register as online notary public; qualifications.

(1) To be eligible to register as an online notary public, a person shall:

(a) Hold a valid commission as a notary public in the State of Nebraska;

(b) Satisfy the education requirement of section 64-404; and

(c) Pay the fee required under section 64-405.

(2) The Secretary of State shall not accept the registration if the requirements of subsection (1) of this section are not met.

Source: Laws 2019, LB186, § 3.

64-404 Course of instruction; examination.

(1) Before registering as an online notary public, a notary public shall take a course of instruction and pass an examination approved by the Secretary of State. The course of instruction and examination shall be approved by the Secretary of State by July 31, 2020.

(2) The content of the course and the basis for the examination shall include notarial laws, procedures, technology, and the ethics of performing online notarial acts.

Source: Laws 2019, LB186, § 4.

64-405 Fee.

The fee for registering or renewing a registration as an online notary public shall be in addition to the fee required in section 33-102. The Secretary of State shall establish the fee by rule and regulation in an amount sufficient to cover the costs of administering the Online Notary Public Act, but the fee shall not exceed one hundred dollars. The Secretary of State shall remit fees received under this section to the State Treasurer for credit to the Secretary of State Cash Fund for use in administering the Online Notary Public Act.

Source: Laws 2019, LB186, § 5; Laws 2020, LB910, § 25.

64-406 Registration with Secretary of State; contents; renewal.

(1) Before performing an online notarial act, a notary public shall register with the Secretary of State in a manner prescribed by the Secretary of State.

(2) In addition to any additional information prescribed by the Secretary of State, the registration shall include:

(a) The technology the notary public intends to use to perform an online notarial act. Such technology shall be provided by an online notary solution provider approved by the Secretary of State;

(b) A certification by the notary that he or she will comply with the standards developed under section 64-407; and

(c) An email address for the notary.

(3) The term of registration as an online notary public shall coincide with the term of the commission of the notary public.

(4) An application to renew registration as an online notary public shall specify any change in the technology the online notary public intends to use to perform online notarial acts. Such technology shall be provided by an online notary solution provider approved by the Secretary of State.

(5) A person registered as an online notary public may renew his or her online notary public registration at the same time he or she renews his or her notary public commission.

Source: Laws 2019, LB186, § 6.

64-407 Rules and regulations.

(1) The Secretary of State shall adopt and promulgate rules and regulations:

(a) Creating standards for online notarial acts in accordance with the Online Notary Public Act, including standards for credential analysis, identity proofing, and communication technology used for online notarial acts; and

(b) To ensure the integrity, security, and authenticity of online notarial acts in accordance with the Online Notary Public Act. Such rules and regulations shall include procedures for the approval of online notary solution providers by the Secretary of State.

(2) The Secretary of State may adopt and promulgate rules and regulations to facilitate the utilization of online notarial acts.

Source: Laws 2019, LB186, § 7.

64-408 Types of online notarial acts.

The following types of online notarial acts may be performed by an online notary public:

(1) Acknowledgments;

(2) Jurats;

(3) Verifications or proofs; and

(4) Oaths or affirmations.

Source: Laws 2019, LB186, § 8.

64-409 Electronic record; contents; online notary public; duties; retention period.

(1) An online notary public shall keep a secure electronic record of electronic documents notarized by the online notary public. For each online notarial act, the electronic record shall contain:

(a) The date and time of the online notarial act;

(b) The type of online notarial act;

(c) The type, title, or description of the electronic document or proceeding;

(d) The printed name and address of each principal involved in the transaction or proceeding;

(e) Evidence of identity of each principal involved in the transaction or proceeding in the form of:

(i) A statement that the principal is personally known to the online notary public;

(ii) A notation of the type of identification document provided to the online notary public;

(iii) A record of the identity verification made under section 64-411; or

(iv) The following:

(A) The printed name and address of each credible witness swearing to or affirming the principal's identity; and

(B) For each credible witness not personally known to the online notary public, a description of the type of identification documents provided to the online notary public;

(f) A recording of any video and audio conference of the performance of the online notarial act, which shall not contain images of the documents that were notarized; and

(g) The fee, if any, charged for the online notarial act.

(2) The online notary public shall take reasonable steps to:

(a) Ensure the integrity, security, and authenticity of online notarial acts;

(b) Maintain a backup for the secure electronic record required by this section; and

(c) Protect the secure electronic record and backup record from unauthorized use.

(3) The electronic record and backup record required by this section shall be maintained for at least ten years after the date of the transaction or proceeding. The online notary public shall not surrender or destroy the record except as required by a court order or as allowed under rules and regulations adopted and promulgated by the Secretary of State.

Source: Laws 2019, LB186, § 9.

64-410 Electronic signature and online notary seal; use; registered device; report of theft or vandalism.

(1) An online notary public's electronic signature in combination with the online notary seal shall be used only for the purpose of performing online notarial acts.

(2) An online notary public shall take reasonable steps to ensure that any registered device used to create an electronic signature is current and has not been revoked or terminated by the device's issuing or registering authority.

(3) An online notary public shall keep secure and under his or her exclusive control: The online notary public's electronic signature, online notary seal, and the electronic record and backup record required under section 64-409. The online notary public shall not allow another person to use the online notary public's electronic signature, online notary seal, or electronic record or backup record.

(4) An online notary public shall immediately notify an appropriate law enforcement agency and the Secretary of State of the theft or vandalism of the online notary public's electronic signature, online notary seal, or the electronic record or backup record required under section 64-409. An online notary public shall immediately notify the Secretary of State of the loss or use by another person of the online notary public's electronic signature, online notary seal, or the electronic record or backup record required under section 64-409.

Source: Laws 2019, LB186, § 10.

64-411 Physical location of principal; verification of identity; manner; security of communication technology; online notarial certificate; notation required.

(1) An online notary public may perform an online notarial act authorized under section 64-408 that meets the requirements of the Online Notary Public Act and the rules and regulations adopted and promulgated thereunder regardless of whether the principal is physically located in this state at the time of the online notarial act.

(2) In performing an online notarial act, an online notary public shall verify the identity of an individual creating an electronic signature. Identity shall be verified by:

(a) The online notary public's personal knowledge of the individual creating the electronic signature;

(b) All of the following:

(i) Remote presentation by the individual creating the electronic signature of a government-issued identification credential that is current and that bears the photographic image of the individual's face and signature and a physical description of the individual, except that a properly stamped passport without a physical description is satisfactory evidence;

(ii) Credential analysis of such credential; and

(iii) Identity proofing of the individual creating the electronic signature; or

(c) Oath or affirmation of a credible witness who is in the physical presence of either the online notary public or the individual and who has personal knowledge of the individual if:

(i) The credible witness is personally known to the online notary public; or

(ii) The online notary public has verified the identity of the credible witness under subdivision (2)(b) of this section.

(3) The online notary public shall take reasonable steps to ensure that the communication technology used in an online notarial act is secure from unauthorized interception.

(4) An online notary public shall attach the online notary public's electronic signature and online notary seal to the online notarial certificate of an electronic document in a manner that is capable of independent verification and that renders evident any subsequent change or modification to the electronic document.

(5) The online notarial certificate for an online notarial act must include a notation that the notarial act is an online notarial act.

Source: Laws 2019, LB186, § 11.

64-412 Fee.

In addition to any fee authorized under section 33-133, an online notary public or his or her employer may charge a fee in an amount not to exceed twenty-five dollars for each online notarial act.

Source: Laws 2019, LB186, § 12.

64-413 Expiration of registration; resignation, cancellation, or revocation; death of online notary public; required actions.

(1) Except as provided in subsection (2) of this section, when the registration of an online notary public expires or is resigned, canceled, or revoked or when an online notary public dies, he or she or his or her duly authorized representative shall erase, delete, or destroy the coding, disk, certificate, card, software, file, password, or program that enables the electronic affixation of the online notary public's official electronic signature and online notary seal. The online notary public or his or her duly authorized representative shall certify compliance with this subsection to the Secretary of State.

(2) A former online notary public whose previous registration was not revoked, canceled, or denied by the Secretary of State need not comply with subsection (1) of this section if he or she is reregistered as an online notary public using the same electronic signature within three months after the former registration expired.

Source: Laws 2019, LB186, § 13.

64-414 Prohibited acts; penalty.

A person who, without authorization, knowingly obtains, conceals, damages, or destroys the coding, disk, certificate, card, software, file, password, program, or hardware enabling an online notary public to affix an official electronic signature or online notary seal shall be guilty of a Class I misdemeanor.

Source: Laws 2019, LB186, § 14.

64-415 Electronic certificate of authority; form; fee.

(1) Electronic evidence of the authenticity of the electronic signature and online notary seal of an online notary public of this state, if required, shall be attached to, or logically associated with, a document with an online notary public's electronic signature transmitted to another state or nation and shall be in the form of an electronic certificate of authority signed by the Secretary of State in conformance with any current and pertinent international treaties, agreements, and conventions subscribed to by the United States Government.

(2) An electronic certificate of authority evidencing the authenticity of the electronic signature and online notary seal of an online notary public of this state shall contain substantially the following words:

Certificate of Authority for an Online Notarial Act

I _____ (name, title, jurisdiction of commissioning official) certify that _____ (name of online notary public), the person named as an online notary public in the attached or associated document, was indeed registered as an online notary public for the State of Nebraska and authorized to act as such at the time of the document's electronic notarization. To verify this Certificate of Authority for an Online Notarial Act, I have included herewith my electronic signature this _____ day of _____, 20_____.

(Electronic signature (and seal) of commissioning official)

(3) The Secretary of State may charge a fee of twenty dollars for issuing an electronic certificate of authority. The Secretary of State shall remit the fees to the State Treasurer for credit to the Secretary of State Cash Fund for use in administering the Online Notary Public Act.

Source: Laws 2019, LB186, § 15; Laws 2020, LB910, § 26.

64-416 Violation of act; removal of registration.

A person violating the Online Notary Public Act is subject to having his or her registration removed under the removal procedures provided in section 64-113.

Source: Laws 2019, LB186, § 16.

64-417 Effect of act on notary public that does not perform online notarial acts.

Nothing in the Online Notary Public Act requires a notary public to register as an online notary public if he or she does not perform online notarial acts.

Source: Laws 2019, LB186, § 17.

64-418 Provisions governing online notary public; online notarial act; not available for certain requirements.

(1) Sections 64-101 to 64-119 and 64-211 to 64-215 and the Uniform Recognition of Acknowledgments Act govern an online notary public unless the provisions of such sections and act are in conflict with the Online Notary Public Act, in which case the Online Notary Public Act controls.

(2) An online notarial act performed under the Online Notary Public Act satisfies any requirement of law of this state that a principal appear before, appear personally before, or be in the physical presence of a notary public at the time of the online notarial act except for requirements under:

(a) A law governing the creation and execution of wills, codicils, or testamentary trusts; or

(b) The Uniform Commercial Code other than article 2 and article 2A.

(3) The Electronic Notary Public Act does not apply to online notarial acts or online public notaries acting under the Online Notary Public Act.

Source: Laws 2019, LB186, § 18.

Cross References

Electronic Notary Public Act, see section 64-301.
Uniform Recognition of Acknowledgments Act, see section 64-209.

64-419 Online notarial act; validity.

No otherwise valid online notarial act performed on or after April 2, 2020, and before July 1, 2020, pursuant to the Governor's Executive Order No. 20-13, dated April 1, 2020, shall be invalidated because such act was performed prior to the operative date of Laws 2019, LB186.

Source: Laws 2021, LB94, § 2.

64-420 Deed, mortgage, trust deed, other instrument in writing; online notarial act; validity.

No deed, mortgage, trust deed, or other instrument in writing for the conveyance or encumbrance of real estate, or any interest therein, shall be invalidated because it involved the performance of an online notarial act on or after April 2, 2020, and before July 1, 2020, pursuant to the Governor's Executive Order No. 20-13, dated April 1, 2020. Such deed, mortgage, trust deed, or other instrument in writing is declared to be legal and valid in all courts of law and equity in this state and elsewhere.

Source: Laws 2021, LB94, § 3.

CHAPTER 66
OILS, FUELS, AND ENERGY

Article.
2. Nebraska Clean-burning Motor Fuel Development Act. 66-203, 66-204.
3. Carbon Dioxide Emissions. 66-301 to 66-304.
4. Motor Vehicle Fuel Tax. 66-482 to 66-4,146.01.
6. Diesel, Alternative, and Compressed Fuel Taxes.
   (d) Compressed Fuel Tax. 66-6,101.
7. Motor Fuel Tax Enforcement and Collection. 66-712 to 66-739.
9. Solar Energy and Wind Energy.
   (b) Wind Energy Conversion Systems. 66-915.
10. Energy Conservation.
   (a) Utility Loans. 66-1004, 66-1009.
11. Geothermal Resources. 66-1105.
13. Ethanol. 66-1330 to 66-1352.
14. International Fuel Tax Agreement Act. 66-1401 to 66-1428.
15. Petroleum Release Remedial Action. 66-1504 to 66-1529.02.
20. Natural Gas Fuel Board. 66-2001.
22. Renewable Fuel Infrastructure.
   (a) Renewable Fuel Infrastructure Program. 66-2201 to 66-2207.
   (b) E-15 Access Standard Act. 66-2208 to 66-2218.
23. Hydrogen and Nuclear Industries Development.
   (a) Hydrogen Hubs. 66-2301.
   (b) Nuclear and Hydrogen Industries. 66-2302 to 66-2308.

ARTICLE 2
NEBRASKA CLEAN-BURNING MOTOR FUEL DEVELOPMENT ACT

Section
66-203. Rebate for qualified clean-burning motor vehicle fuel property.
66-204. Clean-burning Motor Fuel Development Fund; created; use; investment.

66-203 Rebate for qualified clean-burning motor vehicle fuel property.

(1) The Department of Environment and Energy shall offer a rebate for qualified clean-burning motor vehicle fuel property.

(2)(a) The rebate for qualified clean-burning motor vehicle fuel property as defined in subdivisions (4)(a) and (b) of section 66-202 is the lesser of fifty percent of the cost of the qualified clean-burning motor vehicle fuel property or four thousand five hundred dollars for each motor vehicle.

(b) A qualified clean-burning motor vehicle fuel property is not eligible for a rebate under this section if the person or entity applying for the rebate has claimed another rebate or grant for the same motor vehicle under any other state rebate or grant program.

(3) The rebate for qualified clean-burning motor vehicle fuel property as defined in subdivision (4)(c) of section 66-202 is the lesser of fifty percent of the cost of the qualified clean-burning motor vehicle fuel property or two thousand five hundred dollars for each qualified clean-burning motor vehicle fuel property.

(4) No qualified clean-burning motor vehicle fuel property shall qualify for more than one rebate under this section.

Source: Laws 2015, LB581, § 3; Laws 2016, LB902, § 2; Laws 2019, LB302, § 69.

66-204 Clean-burning Motor Fuel Development Fund; created; use; investment.

(1) The Clean-burning Motor Fuel Development Fund is created. The fund shall consist of grants, private contributions, and all other sources.

(2) The fund shall be used by the Department of Environment and Energy to provide rebates under the Nebraska Clean-burning Motor Fuel Development Act up to the amount transferred under subsection (3) of this section. No more than thirty-five percent of the money in the fund annually shall be used as rebates for flex-fuel dispensers. The department may use the fund for necessary costs in the administration of the act up to an amount not exceeding ten percent of the fund annually.

(3) Within five days after August 30, 2015, the State Treasurer shall transfer five hundred thousand dollars from the General Fund to the Clean-burning Motor Fuel Development Fund to carry out the Nebraska Clean-burning Motor Fuel Development Act.

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

(5) The State Treasurer shall transfer two hundred thousand dollars from the Clean-burning Motor Fuel Development Fund to the General Fund on or before June 30, 2018, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

Source: Laws 2015, LB581, § 4; Laws 2016, LB902, § 3; Laws 2016, LB957, § 4; Laws 2017, LB331, § 31; Laws 2019, LB302, § 70.

Cross References

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

ARTICLE 3
CARBON DIOXIDE EMISSIONS

Section
66-301. Terms, defined.
66-302. Department of Environment and Energy; state plan for regulating carbon dioxide emissions; duties.
66-303. Department of Environment and Energy; duties; report; contents; legislative vote.
66-304. State plan; submit to Legislature.

66-301 Terms, defined.

For purposes of sections 66-301 to 66-304:

(1) Covered electric generating unit means a fossil fuel-fired electric generating unit existing within the state prior to August 30, 2015, that is subject to regulation under the federal emission guidelines;

(2) Federal emission guidelines means any final rules, regulations, guidelines, or other requirements that the United States Environmental Protection Agency may adopt for regulating carbon dioxide emissions from covered electric generating units under section 111(d) of the federal Clean Air Act, 42 U.S.C. 7411(d);

(3) State means the State of Nebraska; and

(4) State plan means any plan to establish and enforce carbon dioxide emission control measures that the Department of Environment and Energy may adopt to implement the obligations of the state under the federal emission guidelines.

Source: Laws 2015, LB469, § 1; Laws 2019, LB302, § 71.

66-302 Department of Environment and Energy; state plan for regulating carbon dioxide emissions; duties.

The Department of Environment and Energy shall not submit a state plan for regulating carbon dioxide emissions from covered electric generating units to the United States Environmental Protection Agency until the department has prepared a report as required in section 66-303. Nothing in this section shall prevent the department from complying with federally prescribed deadlines.

Source: Laws 2015, LB469, § 2; Laws 2019, LB302, § 72.

66-303 Department of Environment and Energy; duties; report; contents; legislative vote.

(1) The Department of Environment and Energy shall also prepare a report that assesses the effects of the state plan for regulating carbon dioxide emissions from covered electric generating units on:

(a) The electric power sector, including:

(i) The type and amount of electric generating capacity within the state that is likely to retire or switch to another fuel;

(ii) The stranded investment in electric generating capacity and other infrastructure;

(iii) The amount of investment necessary to offset retirements of electric generating capacity and maintain generation reserve margins;

(iv) Potential risks to electric reliability, including resource adequacy risks and transmission constraints; and

(v) The amount by which retail electricity prices within the state are forecast to increase or decrease; and

(b) Employment within the state, including direct and indirect employment effects within affected sectors of the state's economy.

(2) The department shall complete the report required under this section at least thirty days prior to submitting the state plan prepared pursuant to section 66-302 and shall electronically submit to the Legislature a copy of such report.

(3) If the Legislature is in session when it receives the report, the Legislature may vote on a nonbinding legislative resolution endorsing or disapproving the state plan based on the findings of the report.

Source: Laws 2015, LB469, § 3; Laws 2019, LB302, § 73.

66-304 State plan; submit to Legislature.

Upon submitting a state plan to the United States Environmental Protection Agency, the Department of Environment and Energy shall electronically submit to the Legislature a copy of the state plan.

Source: Laws 2015, LB469, § 4; Laws 2019, LB302, § 74.

ARTICLE 4
MOTOR VEHICLE FUEL TAX

66-482 Terms, defined.

For purposes of sections 66-482 to 66-4,149:

(1) Agricultural ethyl alcohol means ethyl alcohol produced from cereal grains or agricultural commodities grown within the continental United States and which is a finished product that is a nominally anhydrous ethyl alcohol meeting American Society for Testing and Materials D4806 standards. For the purpose of sections 66-482 to 66-4,149, the purity of the ethyl alcohol shall be determined excluding denaturant, and the volume of alcohol blended with gasoline for motor vehicle fuel shall include the volume of any denaturant required pursuant to law;

(2) Alcohol blend means a blend of agricultural ethyl alcohol in gasoline or other motor vehicle fuel, such blend to contain not less than five percent by volume of alcohol;

(3) Biodiesel means mono-alkyl esters of long-chain fatty acids derived from vegetable oils or animal fats which conform to American Society for Testing and Materials D6751 specifications for use in diesel engines. Biodiesel refers to the pure fuel before blending with diesel fuel;

(4) Biodiesel facility means a plant which produces biodiesel;

(5) Biomass feedstock means sugar, starch, polysaccharide, glycerin, lignin, fat, grease, or oil derived from plants, animals, or algae or a protein capable of being converted to a building block chemical by means of a biological or chemical conversion process;

(6) Commercial electric vehicle charging station has the same meaning as in section 70-1001.01;

(7) Commercial electric vehicle charging station operator has the same meaning as in section 70-1001.01;

(8) Compressed fuel has the same meaning as in section 66-6,100;

(9) Department means the Department of Revenue;

(10) Diesel fuel means all combustible liquids and biodiesel which are suitable for the generation of power for diesel-powered vehicles, except that diesel fuel does not include kerosene;

(11) Distributor means any person who acquires ownership of motor fuels directly from a producer or supplier at or from a barge, barge line, pipeline terminal, or ethanol or biodiesel facility in this state;

(12) Ethanol facility means a plant which produces agricultural ethyl alcohol;

(13) Exporter means any person who acquires ownership of motor fuels from any licensed producer, supplier, distributor, wholesaler, or importer exclusively for use or resale in another state;

(14) Gross gallons means measured gallons without adjustment or correction for temperature or barometric pressure;

(15) Highway means every way or place generally open to the use of the public for the purpose of vehicular travel, even though such way or place may be temporarily closed or travel thereon restricted for the purpose of construction, maintenance, repair, or reconstruction;

(16) Importer means any person who owns motor fuels at the time such fuels enter the State of Nebraska by any means other than barge, barge line, or pipeline. Importer does not include a person who imports motor fuels in a tank directly connected to the engine of a motor vehicle, train, watercraft, or airplane for purposes of providing fuel to the engine to which the tank is connected;

(17) Kerosene means kerosene meeting the specifications as found in the American Society for Testing and Materials publication D3699 entitled Standard Specification for Kerosene;

(18) Motor fuels means motor vehicle fuel, diesel fuel, aircraft fuel, or compressed fuel;

(19) Motor vehicle has the same meaning as in section 60-339;

(20) Motor vehicle fuel includes all products and fuel commonly or commercially known as gasoline, including casing head or natural gasoline, and includes any other liquid and such other volatile and inflammable liquids as may be produced, compounded, or used for the purpose of operating or propelling motor vehicles, motorboats, or aircraft or as an ingredient in the manufacture of such fuel. Motor vehicle fuel includes agricultural ethyl alcohol produced for use as a motor vehicle fuel. Motor vehicle fuel does not include the products commonly known as methanol, kerosene oil, kerosene distillate, crude petroleum, naphtha, and benzine with a boiling point over two hundred degrees Fahrenheit, residuum gas oil, smudge oil, leaded automotive racing fuel with an American Society of Testing Materials research method octane number in excess of one hundred five, and any petroleum product with an initial boiling point under two hundred degrees Fahrenheit, a ninety-five percent distillation (recovery) temperature in excess of four hundred sixty-four degrees Fahrenheit, an American Society of Testing Materials research method octane number less than seventy, and an end or dry point of distillation of five hundred seventy degrees Fahrenheit maximum;

(21) Person means any individual, firm, partnership, limited liability company, company, agency, association, corporation, state, county, municipality, or other political subdivision. Whenever a fine or imprisonment is prescribed or imposed in sections 66-482 to 66-4,149, the word person as applied to a partnership, a limited liability company, or an association means the partners or members thereof;

(22) Producer means any person who manufactures agricultural ethyl alcohol or biodiesel at an ethanol or biodiesel facility in this state;

(23) Retailer means any person who acquires motor fuels from a producer, supplier, distributor, wholesaler, or importer for resale to consumers of such fuel;

(24) Semiannual period means either the period which begins on January 1 and ends on June 30 of each year or the period which begins on July 1 and ends on December 31 of each year;

(25) Supplier means any person who owns motor fuels imported by barge, barge line, or pipeline and stored at a barge, barge line, or pipeline terminal in this state; and

(26) Wholesaler means any person, other than a producer, supplier, distributor, or importer, who acquires motor fuels for resale.

Source: Laws 1925, c. 172, § 1, p. 448; Laws 1929, c. 150, § 1, p. 525; C.S.1929, § 66-401; Laws 1935, c. 3, § 15, p. 63; Laws 1935, Spec. Sess., c. 13, § 1, p. 86; Laws 1939, c. 86, § 1, p. 366; C.S.Supp.,1941, § 66-401; R.S.1943, § 66-401; Laws 1955, c. 246, § 1, p. 777; Laws 1963, c. 377, § 1, p. 1214; Laws 1963, c. 375, § 2, p. 1206; Laws 1981, LB 360, § 1; Laws 1987, LB 523, § 5; Laws 1988, LB 1039, § 1; R.S.1943, (1990), § 66-401; Laws 1991, LB 627, § 9; Laws 1993, LB 121, § 395; Laws 1994, LB 1160, § 55; Laws 1995, LB 182, § 28; Laws 1996, LB 1121, § 1; Laws 1998, LB 1161, § 14; Laws 2004, LB 479, § 1; Laws 2004, LB 983, § 5; Laws 2005, LB 274, § 267; Laws 2008, LB846, § 2; Laws 2014, LB851, § 6; Laws 2019, LB512, § 3; Laws 2024, LB937, § 64; Laws 2024, LB1317, § 63.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB937, section 64, with LB1317, section 63, to reflect all amendments.

Note: Changes made by LB937 became operative August 1, 2024. Changes made by LB1317 became operative January 1, 2025.

Cross References

For additional definitions, see section 66-712.

66-489 Producer, supplier, distributor, wholesaler, or importer; motor fuel tax; excise tax; amount; when payable; exemptions; equalization fee.

(1)(a) At the time of filing the return required by section 66-488, such producer, supplier, distributor, wholesaler, or importer shall, in addition to the tax imposed pursuant to sections 66-489.02, 66-4,140, 66-4,145, and 66-4,146 and in addition to the other taxes provided for by law, pay a tax in an amount set in subdivision (b) of this subsection upon all motor fuels as shown by such return, except that there shall be no tax on the motor fuels reported if (i) the required taxes on the motor fuels have been paid, (ii) the motor fuels have been sold to a licensed exporter exclusively for resale or use in another state, (iii) the motor fuels have been sold from a Nebraska barge line terminal, pipeline terminal, refinery, or ethanol or biodiesel facility, including motor fuels stored offsite in bulk, by a licensed producer or supplier to a licensed distributor, (iv) the motor fuels have been sold by a licensed distributor or licensed importer to a licensed distributor or to a licensed wholesaler and the seller acquired ownership of the motor fuels directly from a licensed producer or supplier at or from a refinery, barge, barge line, pipeline terminal, or ethanol or biodiesel facility, including motor fuels stored offsite in bulk, in this state or was the first importer of such fuel into this state, or (v) as otherwise provided in this section.

Such producer, supplier, distributor, wholesaler, or importer shall remit such tax to the department.

(b) The tax shall be:

(i) Seven and one-half cents per gallon through December 31, 2015;

(ii) Eight cents per gallon beginning on January 1, 2016, through December 31, 2016;

(iii) Eight and one-half cents per gallon beginning on January 1, 2017, through December 31, 2017;

(iv) Nine cents per gallon beginning on January 1, 2018, through December 31, 2018; and

(v) Nine and one-half cents per gallon beginning on January 1, 2019.

(2)(a) As part of filing the return required by section 66-488, each producer of ethanol shall, in addition to other taxes imposed by the motor fuel laws, pay an excise tax of one and one-quarter cents per gallon on:

(i) Gasoline, natural gasoline, or any other gasoline component, including, but not limited to, any gasoline component produced from biomass feedstock, purchased for use as a denaturant by the producer at an ethanol facility; and

(ii) Two percent of agricultural ethyl alcohol sold that is unfit for beverage purposes and does not meet the American Society for Testing and Materials D4806 standards.

(b) All taxes, interest, and penalties collected under this subsection shall be remitted to the State Treasurer for credit to the Agricultural Alcohol Fuel Tax Fund.

(3)(a) Motor fuels, methanol, and all blending agents or fuel expanders shall be exempt from the taxes imposed by this section and sections 66-489.02, 66-4,105, 66-4,140, 66-4,145, and 66-4,146, when the fuels are used for buses equipped to carry more than seven persons for hire and engaged entirely in the transportation of passengers for hire within municipalities or within a radius of six miles thereof.

(b) The owner or agent of any bus equipped to carry more than seven persons for hire and engaged entirely in the transportation of passengers for hire within municipalities, or within a radius of six miles thereof, in lieu of the excise tax provided for in this section, shall pay an equalization fee of a sum equal to twice the amount of the registration fee applicable to such vehicle under the laws of this state. Such equalization fee shall be paid in the same manner as the registration fee and be disbursed and allocated as registration fees.

(c) Nothing in this section shall be construed as permitting motor fuels to be sold tax exempt. The department shall refund tax paid on motor fuels used in buses deemed exempt by this section.

(4) Gasoline, natural gasoline, or any other gasoline component, including, but not limited to, any gasoline component produced from biomass feedstock, purchased for use as a denaturant by a producer at an ethanol facility as defined in section 66-1333 shall be exempt from the motor fuels tax imposed by subsection (1) of this section as well as the tax imposed pursuant to sections 66-489.02, 66-4,140, 66-4,145, and 66-4,146.

(5) Unless otherwise provided by an agreement entered into between the State of Nebraska and the governing body of any federally recognized Indian tribe within the State of Nebraska, motor fuels purchased on a Nebraska Indian

reservation where the purchaser is a Native American who resides on the reservation shall be exempt from the motor fuels tax imposed by this section as well as the tax imposed pursuant to sections 66-489.02, 66-4,140, 66-4,145, and 66-4,146.

(6) Motor fuels purchased for use by the United States Government or its agencies shall be exempt from the motor fuels tax imposed by this section as well as the tax imposed pursuant to sections 66-489.02, 66-4,140, 66-4,145, and 66-4,146.

(7) In the case of diesel fuel, there shall be no tax on the motor fuels reported if (a) the diesel fuel has been indelibly dyed and chemically marked in accordance with regulations issued by the Secretary of the Treasury of the United States under 26 U.S.C. 4082 or (b) the diesel fuel contains a concentration of sulphur in excess of five-hundredths percent by weight or fails to meet a cetane index minimum of forty and has been indelibly dyed in accordance with regulations promulgated by the Administrator of the United States Environmental Protection Agency pursuant to 42 U.S.C. 7545.

Source: Laws 1925, c. 172, § 5, p. 450; Laws 1927, c. 151, § 2, p. 406; Laws 1929, c. 149, § 4, p. 522; Laws 1929, c. 166, § 1, p. 572; C.S.1929, § 66-405; Laws 1931, c. 113, § 1, p. 331; Laws 1933, c. 106, § 4, p. 436; Laws 1933, c. 110, § 3, p. 449; Laws 1935, c. 161, § 1, p. 586; Laws 1935, Spec. Sess., c. 16, § 1, p. 128; Laws 1937, c. 148, § 1, p. 566; Laws 1939, c. 87, § 2, p. 367; Laws 1941, c. 133, § 1, p. 523; C.S.Supp.,1941, § 66-405; Laws 1943, c. 138, § 2(2), p. 474; Laws 1943, c. 141, § 1(2), p. 483; R.S.1943, § 66-410; Laws 1953, c. 225, § 1, p. 792; Laws 1955, c. 247, § 1, p. 780; Laws 1957, c. 282, § 1, p. 1028; Laws 1963, c. 376, § 3, p. 1211; Laws 1965, c. 391, § 1, p. 1249; Laws 1967, c. 397, § 3, p. 1248; Laws 1969, c. 528, § 4, p. 2161; Laws 1969, c. 529, § 1, p. 2167; Laws 1971, LB 776, § 2; Laws 1972, LB 1208, § 1; Laws 1977, LB 139, § 2; Laws 1977, LB 52, § 2; Laws 1979, LB 571, § 3; Laws 1980, LB 722, § 6; Laws 1981, LB 104, § 1; Laws 1981, LB 360, § 4; Laws 1985, LB 346, § 1; Laws 1988, LB 1039, § 3; Laws 1990, LB 1124, § 2; R.S.1943, (1990), § 66-410; Laws 1991, LB 627, § 16; Laws 1994, LB 1160, § 62; Laws 1996, LB 1121, § 3; Laws 2004, LB 983, § 12; Laws 2004, LB 1065, § 1; Laws 2006, LB 1003, § 5; Laws 2007, LB322, § 12; Laws 2008, LB846, § 5; Laws 2015, LB610, § 1; Laws 2024, LB937, § 65. Operative date August 1, 2024.

66-489.02 Producer, supplier, distributor, wholesaler, or importer; tax on average wholesale price of gasoline; credit to Highway Trust Fund; use; allocation.

(1) For tax periods beginning on and after July 1, 2009, at the time of filing the return required by section 66-488, the producer, supplier, distributor, wholesaler, or importer shall, in addition to the other taxes provided for by law, pay a tax at the rate of five percent of the average wholesale price of gasoline for the gallons of the motor fuels as shown by the return, except that there shall be no tax on the motor fuels reported if they are otherwise exempted by sections 66-482 to 66-4,149.

(2) The department shall calculate the average wholesale price of gasoline on April 1, 2009, and on each April 1 and October 1 thereafter. The average wholesale price on April 1 shall apply to returns for the tax periods beginning on and after July 1, and the average wholesale price on October 1 shall apply to returns for the tax periods beginning on and after January 1. The average wholesale price shall be determined using data available from the Department of Environment and Energy and shall be an average wholesale price per gallon of gasoline sold in the state over the previous six-month period, excluding any state or federal excise tax or environmental fees. The change in the average wholesale price between two six-month periods shall be adjusted so that the increase or decrease in the tax provided for in this section or section 66-6,109.02 does not exceed one cent per gallon.

(3) All sums of money received under this section shall be credited to the Highway Trust Fund. Credits and refunds of such tax allowed to producers, suppliers, distributors, wholesalers, or importers shall be paid from the Highway Trust Fund. The balance of the amount credited, after credits and refunds, shall be allocated as follows:

(a) Sixty-six percent to the Highway Cash Fund for the Department of Transportation;

(b) Seventeen percent to the Highway Allocation Fund for allocation to the various counties for road purposes; and

(c) Seventeen percent to the Highway Allocation Fund for allocation to the various municipalities for street purposes.

Source: Laws 2008, LB846, § 11; Laws 2012, LB727, § 18; Laws 2017, LB339, § 237; Laws 2019, LB302, § 75.

66-4,100 Highway Cash Fund; Roads Operations Cash Fund; created; use; investment.

The Highway Cash Fund and the Roads Operations Cash Fund are hereby created. If bonds are issued pursuant to subsection (2) of section 39-2223, the balance of the share of the Highway Trust Fund allocated to the Department of Transportation and deposited into the Highway Restoration and Improvement Bond Fund as provided in subsection (8) of section 39-2215 and the balance of the money deposited in the Highway Restoration and Improvement Bond Fund as provided in section 39-2215.01 shall be transferred by the State Treasurer, on or before the last day of each month, to the Highway Cash Fund. If no bonds are issued pursuant to subsection (2) of section 39-2223, the share of the Highway Trust Fund allocated to the Department of Transportation shall be transferred by the State Treasurer on or before the last day of each month to the Highway Cash Fund.

The Legislature may direct the State Treasurer to transfer funds from the Highway Cash Fund to the Roads Operations Cash Fund. Both funds shall be expended by the department (1) for acquiring real estate, road materials, equipment, and supplies to be used in the construction, reconstruction, improvement, and maintenance of state highways, (2) for the construction, reconstruction, improvement, and maintenance of state highways, including grading, drainage, structures, surfacing, roadside development, landscaping, and other incidentals necessary for proper completion and protection of state highways as the department shall, after investigation, find and determine shall be for the best interests of the highway system of the state, either independent of or in

conjunction with federal-aid money for highway purposes, (3) for the share of the department of the cost of maintenance of state aid bridges, (4) for planning studies in conjunction with federal highway funds for the purpose of analyzing traffic problems and financial conditions and problems relating to state, county, township, municipal, federal, and all other roads in the state and for incidental costs in connection with the federal-aid grade crossing program for roads not on state highways, (5) for tests and research by the department or proportionate costs of membership, tests, and research of highway organizations when participated in by the highway departments of other states, (6) for the payment of expenses and costs of the Board of Examiners for County Highway and City Street Superintendents as set forth in section 39-2310, (7) for support of the public transportation assistance program established under section 13-1209 and the intercity bus system assistance program established under section 13-1213, (8) for purchasing from political or governmental subdivisions or public corporations, pursuant to section 39-1307, any federal-aid transportation funds available to such entities, (9) for costs related to the administration of the Division of Aeronautics of the Department of Transportation as specified in section 3-107, (10) for furnishing the Nebraska Broadband Office with necessary office space, furniture, equipment, and supplies as well as providing administrative and budgetary support, including salaries for professional, technical, and clerical assistants, as provided in section 81-702, and (11) for the County Bridge Match Program.

The State Treasurer shall transfer four million dollars from the Roads Operations Cash Fund to the Transportation Infrastructure Bank Fund on or before June 30, 2024, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services. The money shall be used for the County Bridge Match Program. The State Treasurer shall transfer four million dollars from the Roads Operations Cash Fund to the Transportation Infrastructure Bank Fund on or before June 30, 2025, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services. The money shall be used for the County Bridge Match Program.

Any money in the Highway Cash Fund and the Roads Operations Cash Fund not needed for current operations of the department shall, as directed by the Director-State Engineer to the State Treasurer, be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act, subject to approval by the board of each investment. All income received as a result of such investment shall be placed in the Highway Cash Fund.

Source: Laws 1937, c. 148, § 4, p. 570; Laws 1939, c. 84, § 2, p. 363; Laws 1941, c. 133, § 2, p. 525; Laws 1941, c. 134, § 10, p. 536; C.S.Supp.,1941, § 66-411; Laws 1943, c. 138, § 1(4), p. 472; Laws 1943, c. 139, § 1(4), p. 479; R.S.1943, § 66-424; Laws 1947, c. 214, § 4, p. 698; Laws 1953, c. 131, § 15, p. 410; Laws 1965, c. 393, § 1, p. 1257; Laws 1969, c. 530, § 3, p. 2171; Laws 1971, LB 21, § 1; Laws 1972, LB 1496, § 2; Laws 1986, LB 599, § 16; Laws 1988, LB 632, § 19; Laws 1990, LB 602, § 3; R.S. 1943, (1990), § 66-424; Laws 1994, LB 1066, § 51; Laws 1994, LB 1194, § 15; Laws 2004, LB 1144, § 4; Laws 2011, LB98, § 2; Laws 2017, LB331, § 32; Laws 2017, LB339, § 238; Laws 2023,

LB138, § 50; Laws 2023, LB683, § 2; Laws 2023, LB727, § 45; Laws 2024, LB1030, § 2.
Effective date April 16, 2024.

Cross References

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

66-4,105 Motor fuels; electric energy; use; excise tax; amount.

(1)(a) There is hereby levied and imposed an excise tax in an amount set in subdivision (1)(b) of this section, increased by the amounts imposed or determined under sections 66-489.02, 66-4,140, 66-4,145, and 66-4,146, upon the use of all motor fuels used in this state and due the State of Nebraska under section 66-489. Users of motor fuels subject to taxation under this section shall be allowed the same exemptions, deductions, and rights of reimbursement as are authorized and permitted by Chapter 66, article 4, other than any commissions provided under such article.

(b) The excise tax shall be nine and one-half cents per gallon.

(c) For purposes of this subsection and section 66-4,106, use means the purchase or consumption of motor fuels in this state.

(2) Beginning January 1, 2028, there is hereby levied and imposed an excise tax of three cents per kilowatt hour on the electric energy used to charge the battery of a motor vehicle at a commercial electric vehicle charging station.

Source: Laws 1931, c. 130, § 1, p. 363; Laws 1935, c. 155, § 2, p. 573; Laws 1935, Spec. Sess., c. 16, § 2, p. 129; Laws 1937, c. 148, § 2, p. 567; Laws 1939, c. 84, § 3, p. 363; Laws 1941, c. 133, § 3, p. 526; C.S.Supp.,1941, § 66-416; Laws 1943, c. 138, § 3, p. 476; R.S.1943, § 66-428; Laws 1953, c. 225, § 3, p. 794; Laws 1955, c. 247, § 3, p. 781; Laws 1957, c. 282, § 3, p. 1029; Laws 1963, c. 379, § 1, p. 1218; Laws 1965, c. 391, § 3, p. 1251; Laws 1969, c. 529, § 2, p. 2168; Laws 1971, LB 776, § 3; Laws 1972, LB 1208, § 3; Laws 1973, LB 397, § 4; Laws 1977, LB 139, § 3; Laws 1977, LB 52, § 3; Laws 1979, LB 571, § 4; Laws 1980, LB 722, § 8; Laws 1981, LB 104, § 2; Laws 1981, LB 360, § 7; Laws 1984, LB 767, § 14; Laws 1985, LB 346, § 3; Laws 1988, LB 1039, § 5; Laws 1990, LB 1124, § 3; R.S.1943, (1990), § 66-428; Laws 1991, LB 627, § 27; Laws 1994, LB 1160, § 68; Laws 2004, LB 983, § 19; Laws 2008, LB846, § 10; Laws 2015, LB610, § 2; Laws 2024, LB1317, § 64.
Operative date January 1, 2025.

66-4,143 Materiel administrator; submit report; contents.

(1) The materiel administrator of the Department of Administrative Services shall on or before the tenth day of the fifth calendar month following the end of a semiannual period submit to the Department of Revenue a report providing the total cost and number of gallons of motor fuels purchased by the State of Nebraska during the preceding month. In providing such information, the materiel administrator shall total only those purchases which were fifty or more gallons and shall separately identify the amount of any state or federal tax which was included in the price paid.

(2) The Department of Revenue shall provide any assistance the materiel administrator may need in performing his or her duties under this section.

Source: Laws 1980, LB 722, § 10; Laws 1981, LB 172, § 4; R.S.1943, (1990), § 66-475; Laws 1991, LB 627, § 57; Laws 1994, LB 1160, § 76; Laws 1995, LB 182, § 35; Laws 1998, LB 1161, § 17; Laws 2004, LB 983, § 26; Laws 2019, LB512, § 4.

66-4,144 Highway Restoration and Improvement Bond Fund; Highway Cash Fund; maintain adequate balance; setting of excise tax rates; procedure; Department of Transportation; provide information.

(1) In order to insure that an adequate balance in the Highway Restoration and Improvement Bond Fund is maintained to meet the debt service requirements of bonds to be issued by the commission under subsection (2) of section 39-2223, the Director-State Engineer shall certify to the department the excise tax rate to be imposed by sections 66-4,140 and 66-6,108 for each year during which such bonds are outstanding necessary to provide in each such year money equal in amount to not less than one hundred twenty-five percent of such year's bond principal and interest payment requirements. The department shall adjust the rate as certified by the Director-State Engineer. Such rate shall be in addition to the rate of excise tax set pursuant to subsection (2) of this section. Each such rate shall be effective from July 1 of a stated year through June 30 of the succeeding year or during such other period not longer than one year as the Director-State Engineer certifies to be consistent with the principal and interest requirements of such bonds. Such excise tax rates set pursuant to this subsection may be increased, but such excise tax rates shall not be subject to reduction or elimination unless the Director-State Engineer has received from the State Highway Commission notice of reduced principal and interest requirements for such bonds, in which event the Director-State Engineer shall certify the new rate or rates to the department. The new rate or rates, if any, shall become effective on the first day of the following semiannual period.

(2) In order to insure that there is maintained an adequate Highway Cash Fund balance to meet expenditures from such fund as appropriated by the Legislature, by June 15 or five days after the adjournment of the regular legislative session each year, whichever is later, the Director-State Engineer shall certify to the department the excise tax rate to be imposed by sections 66-4,140 and 66-6,108. The department shall adjust the rate as certified by the Director-State Engineer to be effective from July 1 through June 30 of the succeeding year. The rate of excise tax for a given July 1 through June 30 period set pursuant to this subsection shall be in addition to and independent of the rate or rates of excise tax set pursuant to subsection (1) of this section for such period. The Director-State Engineer shall determine the cash and investment balances of the Highway Cash Fund at the beginning of each fiscal year under consideration and the estimated receipts to the Highway Cash Fund from each source which provides at least one million dollars annually to such fund. The rate of excise tax shall be an amount sufficient to meet the appropriations made from the Highway Cash Fund by the Legislature. Such rate shall be set in increments of one-hundredth of one percent.

(3) The Department of Transportation shall provide to the Legislative Fiscal Analyst an electronic copy of the information that is submitted to the Department of Revenue and used to set or adjust the excise tax rate.

(4) If the actual receipts received to date added to any projections or modified projections of deposits to the Highway Cash Fund for the current fiscal year are less than ninety-nine percent or greater than one hundred two percent of the appropriation for the current fiscal year, the Director-State Engineer shall certify to the department the adjustment in rate necessary to meet the appropriations made from the Highway Cash Fund by the Legislature. The department shall adjust the rate as certified by the Director-State Engineer to be effective on the first day of the following semiannual period.

(5) Nothing in this section shall be construed to abrogate the duties of the Department of Transportation or attempt to change any highway improvement program schedule.

Source: Laws 1980, LB 722, § 5; Laws 1981, LB 172, § 5; Laws 1988, LB 632, § 21; R.S.1943, (1990), § 66-476; Laws 1991, LB 255, § 1; Laws 1994, LB 1160, § 77; Laws 1995, LB 182, § 36; Laws 1997, LB 397, § 5; Laws 1998, LB 1161, § 18; Laws 2000, LB 1067, § 10; Laws 2000, LB 1135, § 11; Laws 2004, LB 983, § 27; Laws 2012, LB782, § 88; Laws 2017, LB339, § 239; Laws 2024, LB1200, § 59.
Operative date July 19, 2024.

66-4,146.01 Repealed. Laws 2024, LB937, § 88.
Operative date July 19, 2024.

ARTICLE 6

DIESEL, ALTERNATIVE, AND COMPRESSED FUEL TAXES

(d) COMPRESSED FUEL TAX

Section
66-6,101. Department, defined.

(d) COMPRESSED FUEL TAX

66-6,101 Department, defined.

Department means the Department of Revenue.

Source: Laws 1995, LB 182, § 5; Laws 2019, LB512, § 5.

ARTICLE 7

MOTOR FUEL TAX ENFORCEMENT AND COLLECTION

Section
66-712. Terms, defined.
66-718. Report, return, or other statement; department; powers; electronic filing.
66-738. Repealed. Laws 2019, LB512, § 34.
66-739. Motor Fuel Tax Enforcement and Collection Cash Fund; created; use; investment.

66-712 Terms, defined.

For purposes of the Compressed Fuel Tax Act and sections 66-482 to 66-4,149, 66-501 to 66-531, and 66-712 to 66-736:

(1) Department means the Department of Revenue;

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

(3) Motor fuel laws means the Compressed Fuel Tax Act and sections 66-482 to 66-4,149, 66-501 to 66-531, and 66-712 to 66-736; and

(4) Person means any individual, firm, partnership, limited liability company, company, agency, association, corporation, state, county, municipality, or other political subdivision. Whenever a fine, imprisonment, or both are prescribed or imposed in sections 66-712 to 66-736, the word person as applied to a partnership, a limited liability company, or an association means the partners or members thereof.

Source: Laws 1991, LB 627, § 107; Laws 1993, LB 121, § 398; Laws 1994, LB 1160, § 95; Laws 1995, LB 182, § 52; Laws 1996, LB 1218, § 19; Laws 2004, LB 983, § 45; Laws 2011, LB289, § 35; Laws 2012, LB727, § 22; Laws 2018, LB177, § 3; Laws 2019, LB512, § 6.

Cross References

Compressed Fuel Tax Act, see section 66-697.

66-718 Report, return, or other statement; department; powers; electronic filing.

(1) The department may require such other information as it deems necessary on any report, return, or other statement under the motor fuel laws.

(2) The Tax Commissioner may require any of the reports, returns, or other filings due from any motor fuels licensees to be filed electronically.

(3) The department shall prescribe the formats or procedures for electronic filing. To the extent not inconsistent with requirements of the motor fuel laws, the department shall adopt formats and procedures that are consistent with other states requiring electronic reporting of motor fuel information.

(4) Any person who does not file electronically when required or who fails to use the prescribed formats and procedures shall be considered to have not filed the return, report, or other filing.

(5) For purposes of the electronic funds transfer requirements contained in section 77-1784, motor vehicle fuel tax, diesel fuel tax, compressed fuel tax, and all other fuel-related tax programs administered by the department shall be considered as comprising one tax program.

Source: Laws 1991, LB 627, § 112; Laws 1997, LB 720, § 19; Laws 1998, LB 1161, § 24; Laws 2000, LB 1067, § 26; Laws 2004, LB 983, § 48; Laws 2019, LB512, § 7.

66-738 Repealed. Laws 2019, LB512, § 34.

66-739 Motor Fuel Tax Enforcement and Collection Cash Fund; created; use; investment.

There is hereby created the Motor Fuel Tax Enforcement and Collection Cash Fund. Such fund shall consist of appropriations to the fund and money transferred to it pursuant to section 39-2215. The fund shall be used exclusively for the costs of the Department of Revenue in carrying out its duties under the Compressed Fuel Tax Act, the Petroleum Release Remedial Action Act, the State Aeronautics Act, and sections 66-482 to 66-4,149, 66-501 to 66-531, and 66-712 to 66-736 and other related costs for the Department of Agriculture and the Nebraska State Patrol, except that transfers may be made from the fund to

the General Fund at the direction of the Legislature. Any money in the Motor Fuel Tax Enforcement and Collection Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1991, LB 627, § 142; Laws 1994, LB 1066, § 53; Laws 1994, LB 1160, § 110; Laws 2009, First Spec. Sess., LB3, § 40; Laws 2019, LB512, § 8.

Cross References

Compressed Fuel Tax Act, see section 66-697.
Nebraska Capital Expansion Act, see section 72-1269.
Nebraska State Funds Investment Act, see section 72-1260.
Petroleum Release Remedial Action Act, see section 66-1501.
State Aeronautics Act, see section 3-154.

ARTICLE 9

SOLAR ENERGY AND WIND ENERGY

(b) WIND ENERGY CONVERSION SYSTEMS

Section
66-915. Wind energy conversion system; light-mitigating technology system; required, when.

(b) WIND ENERGY CONVERSION SYSTEMS

66-915 Wind energy conversion system; light-mitigating technology system; required, when.

(1) For purposes of this section:

(a) FAA approval means approval by the Federal Aviation Administration that meets the requirements set forth in Chapter 10 of the Federal Aviation Administration's 2020 Advisory Circular AC 70/7460-1M, Obstruction Marking and Lighting;

(b) Light-mitigating technology system means aircraft detection lighting or any other comparable system capable of reducing the impact of facility obstruction lighting while maintaining conspicuity sufficient to assist aircraft in identifying and avoiding collision with a wind energy conversion system;

(c) Repower means a substantial physical modification of at least seventy-five percent of the wind turbines in a wind energy conversion system that results in an increase of ten percent or more in nameplate capacity; and

(d) Wind energy conversion system means an electric generation facility consisting of ten or more wind turbines that are two hundred fifty feet or more in height and any accessory or appurtenant structures and buildings including substations, meteorological towers, electrical infrastructure, and transmission lines.

(2) Beginning July 1, 2025:

(a)(i) A developer, owner, or operator of a wind energy conversion system shall make application to the Federal Aviation Administration for FAA approval to install and operate a light-mitigating technology system on such wind energy conversion system as follows:

(A) Before a wind energy conversion system commences commercial operation in this state, if such system did not exist prior to July 1, 2025;

(B) Within thirty days after a wind energy conversion system existing prior to July 1, 2025, commences a repower; or

(C) If on July 1, 2025, such developer, owner, or operator has five years or less remaining on a power purchase agreement with an electric supplier for a wind energy conversion system, within thirty days after the existing power purchase agreement is extended or renewed or a new power purchase agreement is executed; and

(ii) Within twenty-four months after receiving FAA approval, the developer, owner, or operator of the wind energy conversion system shall install a light-mitigating technology system on wind turbines covered under such FAA approval; and

(b) Any developer, owner, or operator of a wind energy conversion system existing prior to July 1, 2025, that does not commence a repower shall on or before July 1, 2035, install a light-mitigating technology system on the wind turbines in such wind energy conversion system that meets Federal Aviation Administration requirements.

(3) Any application made pursuant to subsection (2) of this section shall be submitted in good faith and reasonably intended to obtain FAA approval. If FAA approval is not granted after application is made pursuant to such subsection, the wind energy conversion system may commence or continue, as applicable, commercial operation without a light-mitigating technology system.

(4) Any costs associated with the installation, implementation, operation, and maintenance of a light-mitigating technology system shall be the responsibility of the developer, owner, or operator of the wind energy conversion system.

(5) Nothing in this section shall be construed to require mitigation of light pollution to be carried out in a manner that conflicts with federal law or requirements, including requirements of the Federal Aviation Administration or the United States Department of Defense.

(6) Nothing in this section shall be construed to require any new or separate approval from any state or local governmental agency.

Source: Laws 2024, LB1370, § 4.
Operative date July 19, 2024.

ARTICLE 10

ENERGY CONSERVATION

(a) UTILITY LOANS

Section
66-1004. Energy conservation measure, defined.
66-1009. Loan; repayment plan; default; use; lien; limitation; Director of Environment and Energy; duties.

(a) UTILITY LOANS

66-1004 Energy conservation measure, defined.

Energy conservation measure shall mean installing or using any:

(1) Caulking or weatherstripping of doors or windows;

(2) Furnace efficiency modifications involving electric service;

(3) Clock thermostats;

(4) Water heater insulation or modification;

(5) Ceiling, attic, wall, or floor insulation;

(6) Storm windows or doors, multiglazed windows or doors, or heat absorbing or reflective glazed window and door material;

(7) Devices which control demand of appliances and aid load management;

(8) Devices to utilize solar energy, biomass, or wind power for any energy conservation purpose, including heating of water and space heating or cooling, which have been identified by the Department of Environment and Energy as an energy conservation measure for the purposes of sections 66-1001 to 66-1011;

(9) High-efficiency lighting and motors;

(10) Devices which are designed to increase energy efficiency, the utilization of renewable resources, or both; and

(11) Such other conservation measures as the department shall identify.

Source: Laws 1980, LB 954, § 17; Laws 1982, LB 799, § 2; Laws 1994, LB 941, § 1; Laws 2019, LB302, § 76.

66-1009 Loan; repayment plan; default; use; lien; limitation; Director of Environment and Energy; duties.

(1) A customer borrowing from a utility under a plan adopted pursuant to sections 66-1001 to 66-1011 shall be allowed to contract with the utility for a repayment plan and shall be offered a repayment period of not less than three years and not more than twenty years.

(2) Upon default on a loan by a customer, after expending reasonable efforts to collect, a utility may treat the entire unpaid contract amount as due, but services to a residential, agricultural, or commercial customer may not be terminated as a result of such default. Default occurs when any amount due a utility under a plan adopted pursuant to sections 66-1001 to 66-1011, 70-625, 70-704, 81-1606 to 81-1626, and 84-162 to 84-167 is not paid within sixty days of the due date.

(3) Any customer obtaining a loan pursuant to section 66-1007 shall only use the funds to accomplish the purposes agreed upon at the time of the loan. If the borrower of any funds obtained pursuant to sections 66-1001 to 66-1011 uses such funds in a manner or for a purpose not authorized by this section, the total amount of the loan shall immediately become due and payable.

(4) Any amount due a utility on a loan pursuant to sections 66-1001 to 66-1011 which is not paid in full within sixty days of the due date shall become a lien as provided in this section on the real property concerned as to the full unpaid balance. No lien under this section shall be valid unless (a) the loan was signed by the party or parties shown on the indexes of the register of deeds to be the owners of record of such real property on the date of the loan and (b) the lien is filed not more than four months after the date of default, in the same office and in the same manner as mortgages in the county in which the real property is located. Such lien shall take effect and be in force from and after the time of delivering the same to the register of deeds for recording, and not before, as to all creditors and subsequent purchasers in good faith without notice, and such lien shall be adjudged void as to all such creditors and subsequent purchasers without notice whose deeds, mortgages, or other instru-

ments shall be first recorded, except that such lien shall be valid between the parties. A publicly owned utility shall not maintain possession of any property which it may acquire pursuant to a lien authorized by this section for a period of time longer than is reasonably necessary to dispose of such property.

(5) Any loan made under a plan adopted pursuant to sections 66-1001 to 66-1011 shall not exceed fifteen thousand dollars, subject to any existing limitations under federal law. Any loan to be made by a utility which exceeds ten thousand dollars shall only be made in participation with a bank pursuant to a contract. The utility and the participating bank shall determine the terms and conditions of the contract.

(6) The Director of Environment and Energy may adopt and promulgate rules and regulations to carry out sections 66-1001 to 66-1011.

Source: Laws 1980, LB 954, § 22; Laws 1982, LB 799, § 4; Laws 1983, LB 626, § 77; Laws 1993, LB 479, § 1; Laws 1994, LB 941, § 3; Laws 2019, LB302, § 77; Laws 2024, LB461, § 24.
Effective date July 19, 2024.

ARTICLE 11

GEOTHERMAL RESOURCES

Section
66-1105. Geothermal resource development; conditions; permit; Department of Natural Resources; adopt rules and regulations.

66-1105 Geothermal resource development; conditions; permit; Department of Natural Resources; adopt rules and regulations.

Any person who desires to withdraw ground water within the State of Nebraska for geothermal resource development shall, prior to commencing construction of any wells, obtain from the Director of Natural Resources a permit to authorize the withdrawal, transfer, and further use or reinjection of such ground water. The Department of Natural Resources shall adopt and promulgate rules and regulations governing the issuance of such permits, consistent with sections 66-1101 to 66-1106 and with Chapter 46, article 6. Such rules and regulations shall provide for consultation with the Department of Environment and Energy pursuant to the issuance of such permits and shall be compatible with rules and regulations adopted and promulgated by the Department of Environment and Energy under the Environmental Protection Act. Any geothermal fluids produced incident to the development and production of geothermal resources shall be reinjected into the same geologic formation from which they were extracted in substantially the same volume and substantially the same or higher quality as when extracted unless the permit issued in accordance with this section authorizes further uses or processing other than those incident to reinjection.

Source: Laws 1982, LB 708, § 5; Laws 1993, LB 3, § 37; Laws 2000, LB 900, § 245; Laws 2019, LB302, § 78.

Cross References

Environmental Protection Act, see section 81-1532.

ARTICLE 13
ETHANOL

Section
66-1330. Act, how cited.
66-1334. Agricultural Alcohol Fuel Tax Fund; created; use; investment.
66-1335. Nebraska Ethanol Board; established; terms; vacancy; meetings; expenses.
66-1344. Ethanol tax credits; conditions; limitations; Department of Revenue; powers and duties.
66-1351. Treated seed; use prohibited; when.
66-1352. Toxic chemicals; University of Nebraska conduct assessment.

66-1330 Act, how cited.

Sections 66-1330 to 66-1351 shall be known and may be cited as the Ethanol Development Act.

Source: Laws 1986, LB 1230, § 1; Laws 1987, LB 279, § 1; Laws 1989, LB 587, § 1; Laws 1992, LB 754, § 1; R.S.Supp.,1992, § 66-1301; Laws 1993, LB 364, § 1; Laws 1995, LB 377, § 1; Laws 2001, LB 536, § 1; Laws 2004, LB 479, § 2; Laws 2021, LB507, § 7.

66-1334 Agricultural Alcohol Fuel Tax Fund; created; use; investment.

(1) The Agricultural Alcohol Fuel Tax Fund is hereby created. The fund shall be administered by the board. The fund shall contain (a) transfers made pursuant to section 66-726, (b) all sums of money received from fees resulting from any conference or event held by the board, (c) gifts, grants, and contributions made by public or private entities, and (d) transfers as authorized by the Legislature. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) The fund shall be used for the following purposes:

(a) Establishment, with cooperation of private industry, of procedures and processes necessary to the manufacture and marketing of fuel containing agricultural ethyl alcohol;

(b) Establishment of procedures for entering blended fuel into the marketplace by private enterprise;

(c) Analysis of the marketing process and testing of marketing procedures to assure acceptance in the private marketplace of blended fuel and byproducts resulting from the manufacturing process;

(d) Cooperation with private industry to establish privately owned agricultural ethyl alcohol manufacturing plants in Nebraska to supply demand for blended fuel;

(e) Sponsoring research and development of industrial and commercial uses for agricultural ethyl alcohol and for byproducts resulting from the manufacturing process;

(f) Promotion of state and national air quality improvement programs and influencing federal legislation that requires or encourages the use of fuels oxygenated by the inclusion of agricultural ethyl alcohol or its derivatives;

(g) Promotion of the use of renewable agricultural ethyl alcohol as a partial replacement for imported oil and for the energy and economic security of the nation;

(h) Participation in development and passage of national legislation dealing with research, development, and promotion of United States production of fuels oxygenated by the inclusion of agricultural ethyl alcohol or its derivatives, access to potential markets, tax incentives, imports of foreign-produced fuel, and related concerns that may develop in the future; and

(i) As the board may otherwise direct to fulfill the goals set forth under the Ethanol Development Act, including monitoring contracts for ethanol program commitments and solicitation of federal funds.

Source: Laws 1993, LB 364, § 5; Laws 1994, LB 1066, § 54; Laws 2004, LB 983, § 58; Laws 2009, LB316, § 16; Laws 2019, LB298, § 16.

Cross References

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

66-1335 Nebraska Ethanol Board; established; terms; vacancy; meetings; expenses.

(1) The Nebraska Ethanol Board is hereby established. The board shall consist of seven members to be appointed by the Governor with the approval of a majority of the Legislature. The Governor shall make the initial appointments within thirty days after September 1, 1993. Four members shall be actually engaged in farming in this state, one in general farming and one each in the production of corn, wheat, and sorghum. One member shall be actively engaged in business in this state. One member shall represent labor interests in this state. One member shall represent Nebraska petroleum marketers in this state.

(2) Members shall be appointed for terms of four years, except that of the initial appointees the terms of the member representing labor interests and the member engaged in general farming shall expire on August 31, 1994, the terms of the member engaged in sorghum production and the member engaged in wheat production shall expire on August 31, 1995, the term of the member representing petroleum marketers shall expire on August 31, 1996, and the terms of the member engaged in business and the member engaged in corn production shall expire on August 31, 1997. A member shall serve until a successor is appointed and qualified. Not more than four members shall be members of the same political party.

(3) A vacancy on the board shall exist in the event of death, disability, resignation, or removal for cause of a member. Any vacancy on the board arising other than from the expiration of a term shall be filled by appointment for the unexpired portion of the term. An appointment to fill a vacancy shall be made by the Governor with the approval of a majority of the Legislature, and any person so appointed shall have the same qualifications as the person whom he or she succeeds.

(4) The board shall meet at least once annually.

(5) The members shall be reimbursed for expenses as provided in sections 81-1174 to 81-1177. The members shall receive twenty-five dollars for each day while engaged in the performance of board duties.

Source: Laws 1993, LB 364, § 6; Laws 2020, LB381, § 53.

66-1344 Ethanol tax credits; conditions; limitations; Department of Revenue; powers and duties.

(1) Beginning June 1, 2000, during such period as funds remain in the Ethanol Production Incentive Cash Fund, any ethanol facility shall receive a credit of seven and one-half cents per gallon of ethanol, before denaturing, for new production for a period not to exceed thirty-six consecutive months. For purposes of this subsection, new production means production which results from the expansion of an existing facility's capacity by at least two million gallons first placed into service after June 1, 1999, as certified by the facility's design engineer to the Department of Revenue. For expansion of an existing facility's capacity, new production means production in excess of the average of the highest three months of ethanol production at an ethanol facility during the twenty-four-month period immediately preceding certification of the facility by the design engineer. No credits shall be allowed under this subsection for expansion of an existing facility's capacity until production is in excess of twelve times the three-month average amount determined under this subsection during any twelve-consecutive-month period beginning no sooner than June 1, 2000. New production shall be approved by the Department of Revenue based on such ethanol production records as may be necessary to reasonably determine new production. This credit must be earned on or before December 31, 2003.

(2)(a) Beginning January 1, 2002, any new ethanol facility which is in production at the minimum rate of one hundred thousand gallons annually for the production of ethanol, before denaturing, and which has provided to the Department of Revenue written evidence substantiating that the ethanol facility has received the requisite authority from the Department of Environment and Energy and from the United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives, on or before June 30, 2004, shall receive a credit of eighteen cents per gallon of ethanol produced for ninety-six consecutive months beginning with the first calendar month for which it is eligible to receive such credit and ending not later than June 30, 2012, if the facility is defined by subdivision (b)(i) of this subsection, and for forty-eight consecutive months beginning with the first calendar month for which it is eligible to receive such credit and ending not later than June 30, 2008, if the facility is defined by subdivision (b)(ii) of this subsection. The new ethanol facility shall provide an analysis to the Department of Revenue of samples of the product collected according to procedures specified by the department no later than July 30, 2004, and at least annually thereafter. The analysis shall be prepared by an independent laboratory meeting the International Organization for Standardization standard ISO/IEC 17025:1999. Prior to collecting the samples, the new ethanol facility shall notify the department which may observe the sampling procedures utilized by the new ethanol facility to obtain the samples to be submitted for independent analysis. The minimum rate shall be established for a period of at least thirty days. In this regard, the new ethanol facility must produce at least eight thousand two hundred nineteen gallons of ethanol within a thirty-day period. The ethanol must be finished product which is ready for sale to customers.

(b) For purposes of this subsection, new ethanol facility means a facility for the conversion of grain or other raw feedstock into ethanol and other byproducts of ethanol production which (i) is not in production on or before September 1, 2001, or (ii) has not received credits prior to June 1, 1999. A new ethanol

facility does not mean an expansion of an existing ethanol plant that does not result in the physical construction of an entire ethanol processing facility or which shares or uses in a significant manner any existing plant's systems or processes and does not include the expansion of production capacity constructed after June 30, 2004, of a plant qualifying for credits under this subsection. This definition applies to contracts entered into after April 16, 2004.

(c) Not more than fifteen million six hundred twenty-five thousand gallons of ethanol produced annually at an ethanol facility shall be eligible for credits under this subsection. Not more than one hundred twenty-five million gallons of ethanol produced at an ethanol facility by the end of the ninety-six-consecutive-month period or forty-eight-consecutive-month period set forth in this subsection shall be eligible for credits under this subsection.

(3) The credits described in this section shall be given only for ethanol produced at a plant in Nebraska at which all fermentation, distillation, and dehydration takes place. No credit shall be given on ethanol produced for or sold for use in the production of beverage alcohol. Not more than ten million gallons of ethanol produced during any twelve-consecutive-month period at an ethanol facility shall be eligible for the credit described in subsection (1) of this section. The credits described in this section shall be in the form of a nonrefundable, transferable motor vehicle fuel tax credit certificate. No transfer of credits will be allowed between the ethanol producer and motor vehicle fuel licensees who are related parties.

(4) Ethanol production eligible for credits under this section shall be measured by a device approved by the Division of Weights and Measures of the Department of Agriculture. Confirmation of approval by the division shall be provided by the ethanol facility at the time the initial claim for credits provided under this section is submitted to the Department of Revenue and annually thereafter. Claims submitted by the ethanol producer shall be based on the total number of gallons of ethanol produced, before denaturing, during the reporting period measured in gross gallons.

(5) The Department of Revenue shall prescribe an application form and procedures for claiming credits under this section. In order for a claim for credits to be accepted, it must be filed by the ethanol producer within three years of the date the ethanol was produced or by September 30, 2012, whichever occurs first.

(6) Every producer of ethanol shall maintain records similar to those required by section 66-487. The ethanol producer must maintain invoices, meter readings, load-out sheets or documents, inventory records, including work-in-progress, finished goods, and denaturant, and other memoranda requested by the Department of Revenue relevant to the production of ethanol. On an annual basis, the ethanol producer shall also be required to furnish the department with copies of the reports filed with the United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives. The maintenance of all of this information in a provable computer format or on microfilm is acceptable in lieu of retention of the original documents. The records must be retained for a period of not less than three years after the claim for ethanol credits is filed.

(7) For purposes of ascertaining the correctness of any application for claiming a credit provided in this section, the Tax Commissioner (a) may examine or cause to have examined, by any agent or representative designated by him or her for that purpose, any books, papers, records, or memoranda

bearing upon such matters, (b) may by summons require the attendance of the person responsible for rendering the application or other document or any officer or employee of such person or the attendance of any other person having knowledge in the premises, and (c) may take testimony and require proof material for his or her information, with power to administer oaths or affirmations to such person or persons. The time and place of examination pursuant to this subsection shall be such time and place as may be fixed by the Tax Commissioner and as are reasonable under the circumstances. In the case of a summons, the date fixed for appearance before the Tax Commissioner shall not be less than twenty days from the time of service of the summons. No taxpayer shall be subjected to unreasonable or unnecessary examinations or investigations. All records obtained pursuant to this subsection shall be subject to the confidentiality requirements and exceptions thereto as provided in section 77-27,119.

(8) To qualify for credits under this section, an ethanol producer shall provide public notice for bids before entering into any contract for the construction of a new ethanol facility. Preference shall be given to a bidder residing in Nebraska when awarding any contract for construction of a new ethanol facility if comparable bids are submitted. For purposes of this subsection, bidder residing in Nebraska means any person, partnership, foreign or domestic limited liability company, association, or corporation authorized to engage in business in the state with employees permanently located in Nebraska. If an ethanol producer enters into a contract for the construction of a new ethanol facility with a bidder who is not a bidder residing in Nebraska, such producer shall demonstrate to the satisfaction of the Department of Revenue in its application for credits that no comparable bid was submitted by a responsible bidder residing in Nebraska. The department shall deny an application for credits if it is determined that the contract was denied to a responsible bidder residing in Nebraska without cause.

(9) The pertinent provisions of Chapter 66, article 7, relating to the administration and imposition of motor fuel taxes shall apply to the administration and imposition of assessments made by the Department of Revenue relating to excess credits claimed by ethanol producers under the Ethanol Development Act. These provisions include, but are not limited to, issuance of a deficiency following an examination of records, an assessment becoming final after sixty days absent a written protest, presumptions regarding the burden of proof, issuance of deficiency within three years of original filing, issuance of notice by registered or certified mail, issuance of penalties and waiver thereof, issuance of interest and waiver thereof, and issuance of corporate officer or employee or limited liability company manager or member assessments. For purposes of determining interest and penalties, the due date will be considered to be the date on which the credits were used by the licensees to whom the credits were transferred.

(10) If a written protest is filed by the ethanol producer with the department within the sixty-day period in subsection (9) of this section, the protest shall: (a) Identify the ethanol producer; (b) identify the proposed assessment which is being protested; (c) set forth each ground under which a redetermination of the department's position is requested together with facts sufficient to acquaint the department with the exact basis thereof; (d) demand the relief to which the ethanol producer considers itself entitled; and (e) request that an evidentiary

hearing be held to determine any issues raised by the protest if the ethanol producer desires such a hearing.

(11) For applications received after April 16, 2004, an ethanol facility receiving benefits under the Ethanol Development Act shall not be eligible for benefits under the Employment and Investment Growth Act, the Invest Nebraska Act, the Nebraska Advantage Act, or the ImagiNE Nebraska Act.

Source: Laws 1990, LB 1124, § 1; Laws 1992, LB 754, § 8; R.S.Supp.,1992, § 66-1326; Laws 1993, LB 364, § 15; Laws 1994, LB 961, § 1; Laws 1995, LB 377, § 7; Laws 1996, LB 1121, § 13; Laws 1999, LB 605, § 1; Laws 2001, LB 536, § 2; Laws 2004, LB 479, § 5; Laws 2004, LB 1065, § 5; Laws 2005, LB 312, § 2; Laws 2008, LB914, § 5; Laws 2019, LB302, § 79; Laws 2020, LB1107, § 120.

Cross References

Employment and Investment Growth Act, see section 77-4101.
ImagiNE Nebraska Act, see section 77-6801.
Invest Nebraska Act, see section 77-5501.
Nebraska Advantage Act, see section 77-5701.

66-1351 Treated seed; use prohibited; when.

The use of seed that is treated, as defined in section 81-2,147.01, in the production of agricultural ethyl alcohol shall be prohibited if such use results in the generation of a byproduct that is deemed unsafe for livestock consumption or land application.

Source: Laws 2021, LB507, § 8.

66-1352 Toxic chemicals; University of Nebraska conduct assessment.

The University of Nebraska shall conduct an assessment of the environmental and human health effects of toxic chemicals. The assessment shall include:

(1) An evaluation of adverse long-term environmental, ecological, and human health effects of the chemicals released during (a) the production of ethanol made from grain or seed treated with pesticide and (b) the storage of byproducts created by the production of ethanol made from grain or seed treated with pesticide; and

(2) An assessment of the effects of polluted ground water, soil, and air relating to any ethanol production facility.

Source: Laws 2022, LB1068, § 3.

ARTICLE 14

INTERNATIONAL FUEL TAX AGREEMENT ACT

Section

66-1401 Act, how cited.

Sections 66-1401 to 66-1428 shall be known and may be cited as the International Fuel Tax Agreement Act.

Source: Laws 1988, LB 836, § 1; Laws 1996, LB 1218, § 22; Laws 1998, LB 1056, § 3; Laws 2004, LB 983, § 60; Laws 2018, LB177, § 4; Laws 2022, LB750, § 75.

66-1406.02 License; director; powers.

(1) The director may suspend, revoke, cancel, or refuse to issue or renew a license under the International Fuel Tax Agreement Act:

(a) If the applicant's or licensee'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;

(b) If the applicant or licensee is in violation of sections 75-392 to 75-3,100;

(c) If the applicant's or licensee's security has been canceled;

(d) If the applicant or licensee failed to provide additional security as required;

(e) If the applicant or licensee failed to file any report or return required by the motor fuel laws, filed an incomplete report or return required by the motor fuel laws, did not file any report or return required by the motor fuel laws electronically, or did not file a report or return required by the motor fuel laws on time;

(f) If the applicant or licensee failed to pay taxes required by the motor fuel laws due within the time provided;

(g) If the applicant or licensee filed any false report, return, statement, or affidavit, required by the motor fuel laws, knowing it to be false;

(h) If the applicant or licensee would no longer be eligible to obtain a license; or

(i) If the applicant or licensee committed any other violation of the International Fuel Tax Agreement Act or the rules and regulations adopted and promulgated under the act.

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

(3) The applicant or licensee 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 rules and regulations adopted and promulgated by the Department of Motor Vehicles. 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 licensee may show cause why the proposed action should not be taken. The director shall give the applicant or licensee reasonable notice of the time and place of the hearing. If the director's decision is adverse to the applicant or licensee, the applicant or licensee may appeal the decision in accordance with the Administrative Procedure Act.

(4) Except as provided in subsection (2) of section 60-3,205 and subsection (8) of this section, 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) Except as provided in subsection (2) of section 60-3,205 and subsection (8) of this section, 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) Except as provided in subsection (2) of section 60-3,205 and subsection (8) of this section, if, in the judgment of the director, the applicant or licensee 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 license without delay. An applicant for reinstatement, issuance, or renewal of a license within three years after the date of suspension, revocation, cancellation, or refusal to issue or renew shall submit a fee of one hundred dollars to the director. The director shall remit the fee to the State Treasurer for credit to the Highway Cash Fund.

(7) Suspension of, revocation of, cancellation of, or refusal to issue or renew a license by the director shall not relieve any person from making or filing the reports or returns required by the motor fuel laws in the manner or within the time required.

(8) Any person who receives notice from the director of action taken pursuant to subsection (1) of this section shall, within three business days, return such registration certificate and license plates issued pursuant to section 60-3,198 to the department. If any person fails to return the registration certificate and license plates to the department, the department shall notify the Nebraska State Patrol that any such person is in violation of this section.

Source: Laws 1998, LB 1056, § 5; Laws 2003, LB 563, § 38; Laws 2006, LB 853, § 22; Laws 2007, LB358, § 11; Laws 2009, LB331, § 13; Laws 2012, LB751, § 47; Laws 2020, LB944, § 75.

Cross References

Administrative Procedure Act, see section 84-920.
International Registration Plan Act, see section 60-3,192.

66-1421 Filing of amended return; interest; waiver of penalty; waiver of interest.

(1)(a) No penalty shall be imposed upon any person who voluntarily reports an underpayment of tax by filing an amended return if the original return is filed on time.

(b) Except as provided in subsection (3) of this section, interest shall not be waived on any additional tax due as reported on any amended return, and such interest shall be computed from the date such tax was due.

(2) The department may in its discretion waive all or any portion of the penalties incurred upon sufficient showing by the taxpayer that the failure to file or pay is not due to negligence, intentional disregard of the law, rules, or regulations, intentional evasion of the tax, or fraud committed with intent to evade the tax or that such penalties should otherwise be waived.

(3) The department may in its discretion waive any and all interest incurred upon sufficient showing by the taxpayer that such interest should be waived.

Source: Laws 2018, LB177, § 7; Laws 2022, LB750, § 76.

66-1424 Department; examine return; deficiency; final assessment; challenge; extension.

(1) As soon as practical after a return is filed, the department shall examine it to determine the correct amount of tax. If the department finds that the amount of tax shown on the return is less than the correct amount, it shall notify the taxpayer of the amount of the deficiency determined.

(2) If any person fails to file a return or has improperly purchased motor fuel without the payment of tax, the department may estimate the person's liability from any available information and notify the person of the amount of the deficiency determined.

(3) The amount of the deficiency determined shall constitute a final assessment together with interest and penalties thirty days after the date on which notice was mailed to the taxpayer at his or her last-known address unless a written protest is filed with the department within such thirty-day period.

(4) The final assessment provisions of this section shall constitute a final decision of the agency for purposes of the Administrative Procedure Act.

(5) An assessment made by the department shall be presumed to be correct. In any case when the validity of the assessment is questioned, the burden shall be on the person who challenges the assessment to establish by a preponderance of the evidence that the assessment is erroneous or excessive.

(6)(a) Except in the case of a fraudulent return or of neglect or refusal to make a return, the notice of a proposed deficiency determination shall be mailed within three years after the last day of the month following the end of the period for which the amount proposed is to be determined or within three years after the return is filed, whichever period expires later.

(b) The taxpayer and the department may agree, prior to the expiration of the period in subdivision (a) of this subsection, to extend the period during which the notice of a deficiency determination can be mailed. The extension of the period for the mailing of a deficiency determination shall also extend the period during which a refund can be claimed.

Source: Laws 2018, LB177, § 10; Laws 2020, LB944, § 76.

Cross References

Administrative Procedure Act, see section 84-920.

66-1428 Taxes, interest, and penalties; remittance.

All taxes, interest, and penalties collected pursuant to the International Fuel Tax Agreement Act shall be remitted to the State Treasurer for credit to the Highway Trust Fund, except as otherwise provided under the act or an agreement entered into pursuant to the act.

Source: Laws 2022, LB750, § 77.

ARTICLE 15

PETROLEUM RELEASE REMEDIAL ACTION

Section
66-1504. Department, defined.
66-1509. Owner, defined.
66-1518. Rules and regulations; schedule of rates; use.
66-1519. Petroleum Release Remedial Action Cash Fund; created; use; investment.

66-1504 Department, defined.

Department shall mean the Department of Environment and Energy.

Source: Laws 1989, LB 289, § 4; Laws 1993, LB 3, § 38; Laws 2019, LB302, § 80.

66-1509 Owner, defined.

(1) Owner shall mean:

(a) In the case of a tank in use on or after November 8, 1984, or brought into use after such date, any person who owns a tank used for the storage, use, or dispensing of petroleum; and

(b) In the case of a tank in use before November 8, 1984, but no longer in use on such date, any person who owned such tank immediately before the discontinuation of its use.

(2) Owner shall not include a person who, without participating in the management of a tank and otherwise not engaged in petroleum production, refining, and marketing:

(a) Holds indicia of ownership primarily to protect his or her security interest in a tank or a lienhold interest in the property on or within which a tank is or was located; or

(b) Acquires ownership of a tank or the property on or within which a tank is or was located:

(i) Pursuant to a foreclosure of a security interest in the tank or of a lienhold interest in the property; or

(ii) If the tank or the property was security for an extension of credit previously contracted, pursuant to a sale under judgment or decree, pursuant to a conveyance under a power of sale contained within a trust deed or from a trustee, or pursuant to an assignment or deed in lieu of foreclosure.

(3) Ownership of a tank or the property on or within which a tank is or was located shall not be acquired by a voidable transfer, as provided in the Uniform Voidable Transactions Act.

Source: Laws 1989, LB 289, § 9; Laws 1991, LB 409, § 4; Laws 1996, LB 1226, § 3; Laws 2019, LB70, § 16.

Cross References

Uniform Voidable Transactions Act, see section 36-801.

66-1518 Rules and regulations; schedule of rates; use.

(1) The Environmental Quality Council shall adopt and promulgate rules and regulations governing reimbursements authorized under the Petroleum Release Remedial Action Act. Such rules and regulations shall include:

(a) Procedures regarding the form and procedure for application for payment or reimbursement from the fund, including the requirement for timely filing of applications;

(b) Procedures for the requirement of submitting cost estimates for phases or stages of remedial actions, procurement requirements to be followed by responsible persons, and requirements for reuse of fixtures and tangible personal property by responsible persons during a remedial action;

(c) Procedures for investigation of claims for payment or reimbursement;

(d) Procedures for determining the amount and type of costs that are eligible for payment or reimbursement from the fund;

(e) Procedures for auditing persons who have received payments from the fund;

(f) Procedures for reducing reimbursements made for a remedial action for failure by the responsible person to comply with applicable statutory or regulatory requirements. Reimbursement may be reduced as much as one hundred percent; and

(g) Other procedures necessary to carry out the act.

(2) The Director of Environment and Energy shall (a) estimate the cost to complete remedial action at each petroleum contaminated site where the responsible party has been ordered by the department to begin remedial action, and, based on such estimates, determine the total cost that would be incurred in completing all remedial actions ordered; (b) determine the total estimated cost of all approved remedial actions; (c) determine the total dollar amount of all pending claims for payment or reimbursement; (d) determine the total of all funds available for reimbursement of pending claims; and (e) include the determinations made pursuant to this subsection in the department's annual report to the Legislature.

(3) The Department of Environment and Energy shall make available to the public a current schedule of reasonable rates for equipment, services, material, and personnel commonly used for remedial action. The department shall consider the schedule of reasonable rates in reviewing all costs for the remedial action which are submitted in a plan. The rates shall be used to determine the amount of reimbursement for the eligible and reasonable costs of the remedial action, except that (a) the reimbursement for the costs of the remedial action shall not exceed the actual eligible and reasonable costs incurred by the responsible person or his or her designated representative and (b) reimbursement may be made for costs which exceed or are not included on the schedule of reasonable rates if the application for such reimbursement is accompanied by sufficient evidence for the department to determine and the department does determine that such costs are reasonable.

Source: Laws 1989, LB 289, § 18; Laws 1991, LB 409, § 11; Laws 1993, LB 3, § 39; Laws 1994, LB 1349, § 9; Laws 1996, LB 1226, § 6; Laws 1997, LB 517, § 2; Laws 1998, LB 1161, § 27; Laws 1999, LB 270, § 1; Laws 2001, LB 461, § 2; Laws 2009, LB154, § 14; Laws 2019, LB302, § 81.

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

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

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

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

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

(2) Money in the fund may be spent for: (a) Reimbursement for the costs of remedial action by a responsible person or his or her designated representative and costs of remedial action undertaken by the department in response to a release first reported after July 17, 1983, and on or before June 30, 2028, including reimbursement for damages caused by the department or a person acting at the department's direction while investigating or inspecting or during remedial action on property other than property on which a release or suspected release has occurred; (b) payment of any amount due from a third-party claim; (c) fee collection expenses incurred by the State Fire Marshal; (d) direct expenses incurred by the department in carrying out the Petroleum Release Remedial Action Act; (e) other costs related to fixtures and tangible personal property as provided in section 66-1529.01; (f) interest payments as allowed by section 66-1524; (g) claims approved by the State Claims Board authorized under section 66-1531; (h) the direct and indirect costs incurred by the department in responding to spills and other environmental emergencies related to petroleum or petroleum products; and (i) up to one million five hundred thousand dollars each fiscal year of the department's cost-share obligations and operation and maintenance obligations under the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9601 et seq.

(3) Transfers may be made from the Petroleum Release Remedial Action Cash Fund to the Superfund Cost Share Cash Fund at the direction of the Legislature.

(4) Any money in the Petroleum Release Remedial Action Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. Investment earnings on and after April 16, 2024, shall be credited to the fund.

Source: Laws 1989, LB 289, § 19; Laws 1991, LB 409, § 12; Laws 1993, LB 237, § 1; Laws 1994, LB 1066, § 57; Laws 1996, LB 1226, § 7; Laws 1998, LB 1161, § 28; Laws 1999, LB 270, § 2; Laws 2001, LB 461, § 3; Laws 2002, LB 1003, § 41; Laws 2002, LB 1310, § 7; Laws 2003, LB 367, § 2; Laws 2004, LB 962, § 105; Laws 2004, LB 1065, § 9; Laws 2005, LB 40, § 4; Laws 2008, LB1145, § 1; Laws 2009, LB154, § 15; Laws 2011, LB2, § 6; Laws 2011, LB29, § 2; Laws 2012, LB873, § 1; Laws 2016, LB887, § 1; Laws 2017, LB331, § 34; Laws 2020, LB858, § 14; Laws 2024, LB867, § 7.
Operative date April 16, 2024.

Cross References

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

66-1521 Petroleum release remedial action fee; amount; license required; filing; violation; penalty; Department of Revenue; powers and duties; Petroleum Release Remedial Action Collection Fund; created; use; investment.

(1) A petroleum release remedial action fee is hereby imposed upon the producer, refiner, importer, distributor, wholesaler, or supplier who engages in the sale, distribution, delivery, and use of petroleum within this state, except that the fee shall not be imposed on petroleum that is exported. The fee shall also be imposed on diesel fuel which is indelibly dyed. The amount of the fee shall be nine-tenths of one cent per gallon on motor vehicle fuel as defined in section 66-482 and three-tenths of one cent per gallon on diesel fuel as defined in section 66-482. The amount of the fee shall be used first for payment of claims approved by the State Claims Board pursuant to section 66-1531; second, up to three million dollars of the fee per year shall be used for reimbursement of owners and operators under the Petroleum Release Remedial Action Act for investigations of releases ordered pursuant to section 81-15,124; and third, the remainder of the fee shall be used for any other purpose authorized by section 66-1519. The fee shall be paid by all producers, refiners, importers, distributors, wholesalers, and suppliers subject to the fee by filing a monthly return on or before the twentieth day of the calendar month following the monthly period to which it relates. The pertinent provisions, specifically including penalty provisions, of the motor fuel laws as defined in section 66-712 shall apply to the administration and collection of the fee except for the treatment given refunds. There shall be a refund allowed on any fee paid on petroleum which was taxed and then exported, destroyed, or purchased for use by the United States Government or its agencies. The department may also adjust for all errors in the payment of the fee. In each calendar year, no claim for refund related to the fee can be for an amount less than ten dollars.

(2) No producer, refiner, importer, distributor, wholesaler, or supplier shall engage in the sale, distribution, delivery, or use of petroleum in this state without having first obtained a petroleum release remedial action license. Application for a license shall be made to the Department of Revenue upon a form prepared and furnished by the Department of Revenue. If the applicant is an individual, the application shall include the applicant's social security number. Failure to obtain a license prior to engaging in the sale, distribution, delivery, or use of petroleum shall be a Class IV misdemeanor. The Department of Revenue may suspend or cancel the license of any producer, refiner, importer, distributor, wholesaler, or supplier who fails to pay the fee imposed by subsection (1) of this section in the same manner as licenses are suspended or canceled pursuant to section 66-720.

(3) The Department of Revenue may adopt and promulgate rules and regulations necessary to carry out this section.

(4) The Department of Revenue shall deduct and withhold from the petroleum release remedial action fee collected pursuant to this section an amount sufficient to reimburse the direct costs of collecting and administering the petroleum release remedial action fee. Such costs shall not exceed one hundred fifty thousand dollars for each fiscal year. The one hundred fifty thousand dollars shall be prorated, based on the number of months the fee is collected,

whenever the fee is collected for only a portion of a year. The amount deducted and withheld for costs shall be deposited in the Petroleum Release Remedial Action Collection Fund which is hereby created. The Petroleum Release Remedial Action Collection Fund shall be appropriated to the Department of Revenue, except that transfers may be made from the fund to the General Fund at the direction of the Legislature. Any money in the Petroleum Release Remedial Action Collection Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(5) The Department of Revenue shall collect the fee imposed by subsection (1) of this section.

Source: Laws 1989, LB 289, § 21; Laws 1991, LB 409, § 14; Laws 1991, LB 627, § 139; Laws 1994, LB 1066, § 58; Laws 1994, LB 1160, § 120; Laws 1997, LB 752, § 153; Laws 1998, LB 1161, § 31; Laws 2000, LB 1067, § 31; Laws 2004, LB 983, § 66; Laws 2009, LB165, § 1; Laws 2009, First Spec. Sess., LB3, § 41; Laws 2012, LB727, § 26; Laws 2019, LB512, § 9.

Cross References

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

66-1523 Reimbursement; amount; limitations; Prompt Payment Act applicable.

(1) Except as provided in subsection (2) of this section, the department shall provide reimbursement from the fund in accordance with section 66-1525 to eligible responsible persons for the cost of remedial action for releases reported after July 17, 1983, and on or before June 30, 2028, and for the cost of paying third-party claims. The reimbursement for the cost of remedial action shall not exceed nine hundred seventy-five thousand dollars per occurrence. The total of the claims paid under section 66-1531 and the reimbursement for third-party claims shall not exceed one million dollars per occurrence. The responsible person shall pay the first ten thousand dollars of the cost of the remedial action or third-party claim, twenty-five percent of the remaining cost of the remedial action or third-party claim not to exceed fifteen thousand dollars, and the amount of any reduction authorized under subsection (5) of section 66-1525. If the department determines that a responsible person was ordered to take remedial action for a release which was later found to be from a tank not owned or operated by such person, (a) such person shall be fully reimbursed and shall not be required to pay the first cost or percent of the remaining cost as provided in this subsection and (b) the first cost and percent of the remaining cost not required to be paid by the person ordered to take remedial action shall be paid to the fund as a cost of remedial action by the owner or operator of the tank found to be the cause of the release. In no event shall reimbursements or payments from the fund exceed the annual aggregate of one million nine hundred seventy-five thousand dollars per responsible person. Reimbursement of a cost incurred as a result of a suspension ordered by the department shall not be limited by this subsection if the suspension was caused by insufficiency in the fund to provide reimbursement.

(2) Upon the determination by the department that the responsible person sold no less than two thousand gallons of petroleum and no more than two

hundred fifty thousand gallons of petroleum during the calendar year immediately preceding the first report of the release or stored less than ten thousand gallons of petroleum in the calendar year immediately preceding the first report of the release, the department shall provide reimbursement from the fund in accordance with section 66-1525 to such an eligible person for the cost of remedial action for releases reported after July 17, 1983, and on or before June 30, 2028, and for the cost of paying third-party claims. The reimbursement for the cost of remedial action shall not exceed nine hundred eighty-five thousand dollars per occurrence. The total of the claims paid under section 66-1531 and the reimbursement for third-party claims shall not exceed one million dollars per occurrence. The responsible person shall pay the first five thousand dollars of the cost of the remedial action or third-party claim, twenty-five percent of the remaining cost of the remedial action or third-party claim not to exceed ten thousand dollars, and the amount of any reduction authorized under subsection (5) of section 66-1525. If the department determines that a responsible person was ordered to take remedial action for a release which was later found to be from a tank not owned or operated by such person, (a) such person shall be fully reimbursed and shall not be required to pay the first cost or percent of the remaining cost as provided in this subsection and (b) the first cost and percent of the remaining cost not required to be paid by the person ordered to take remedial action shall be paid to the fund as a cost of remedial action by the owner or operator of the tank found to be the cause of the release. In no event shall reimbursements or payments from the fund exceed the annual aggregate of one million nine hundred eighty-five thousand dollars per responsible person. Reimbursement of a cost incurred as a result of a suspension ordered by the department shall not be limited by this subsection if the suspension was caused by insufficiency in the fund to provide reimbursement.

(3) The department may make partial reimbursement during the time that remedial action is being taken if the department is satisfied that the remedial action being taken is as required by the department.

(4) If the fund is insufficient for any reason to reimburse the amount set forth in this section, the maximum amount that the fund shall be required to reimburse is the amount in the fund. If reimbursements approved by the department exceed the amount in the fund, reimbursements with interest shall be made when the fund is sufficiently replenished in the order in which the applications for them were received by the department, except that an application pending before the department on January 1, 1996, submitted by a local government as defined in section 13-2202 shall, after July 1, 1996, be reimbursed first when funds are available. This exception applies only to local government applications pending on and not submitted after January 1, 1996.

(5) Applications for reimbursement properly made before, on, or after April 16, 1996, shall be considered bills for goods or services provided for third parties for purposes of the Prompt Payment Act.

(6) There shall be no reimbursement from the fund for the cost of remedial action or for the cost of paying third-party claims for any releases reported on or after July 1, 2028.

(7) For purposes of this section, occurrence shall mean an accident, including continuous or repeated exposure to conditions, which results in a release from a tank.

Source: Laws 1989, LB 289, § 23; Laws 1991, LB 409, § 16; Laws 1993, LB 237, § 2; Laws 1996, LB 1226, § 9; Laws 1998, LB 1161,

§ 32; Laws 1999, LB 270, § 3; Laws 2001, LB 461, § 4; Laws 2004, LB 962, § 106; Laws 2008, LB1145, § 2; Laws 2012, LB873, § 2; Laws 2016, LB887, § 2; Laws 2020, LB858, § 15; Laws 2024, LB867, § 8.
Operative date April 16, 2024.

Cross References

Prompt Payment Act, see section 81-2401.

66-1525 Reimbursement; application; procedure; State Fire Marshal; duties; reduction of reimbursement; notification required.

(1) Any responsible person or his or her designated representative who has taken remedial action in response to a release first reported after July 17, 1983, and on or before June 30, 2028, or against whom there is a third-party claim may apply to the department under the rules and regulations adopted and promulgated pursuant to section 66-1518 for reimbursement for the costs of the remedial action or third-party claim. Partial payment of such reimbursement to the responsible person may be authorized by the department at the approved stages prior to the completion of remedial action when a remedial action plan has been approved. If any stage is projected to take more than ninety days to complete partial payments may be requested every sixty days. Such partial payment may include the eligible and reasonable costs of such plan or pilot projects conducted during the remedial action.

(2) No reimbursement may be made unless the department makes the following eligibility determinations:

(a) The tank was in substantial compliance with any rules and regulations of the United States Environmental Protection Agency, the State Fire Marshal, and the department which were applicable to the tank. Substantial compliance shall be determined by the department taking into consideration the purposes of the Petroleum Release Remedial Action Act and the adverse effect that any violation of the rules and regulations may have had on the tank thereby causing or contributing to the release and the extent of the remedial action thereby required;

(b) Either the State Fire Marshal or the department was given notice of the release in substantial compliance with the rules and regulations adopted and promulgated pursuant to the Environmental Protection Act and the Petroleum Products and Hazardous Substances Storage and Handling Act. Substantial compliance shall be determined by the department taking into consideration the purposes of the Petroleum Release Remedial Action Act and the adverse effect that any violation of the notice provisions of the rules and regulations may have had on the remedial action being taken in a prompt, effective, and efficient manner;

(c) The responsible person reasonably cooperated with the department and the State Fire Marshal in responding to the release;

(d) The department has approved the plan submitted by the responsible person for the remedial action in accordance with rules and regulations adopted and promulgated by the department pursuant to the Environmental Protection Act or the Petroleum Products and Hazardous Substances Storage and Handling Act or that portion of the plan for which payment or reimbursement is requested. However, responsible persons may undertake remedial action prior to approval of a plan by the department or during the time that

remedial action at a site was suspended at any time after April 1995 because the fund was insufficient to pay reimbursements and be eligible for reimbursement at a later time if the responsible person complies with procedures provided to the responsible party by the department or set out in rules and regulations adopted and promulgated by the Environmental Quality Council;

(e) The costs for the remedial action were actually incurred by the responsible person or his or her designated representative after May 27, 1989, and were eligible and reasonable;

(f) If reimbursement for a third-party claim is involved, the cause of action for the third-party claim accrued after April 26, 1991, and the Attorney General was notified by any person of the service of summons for the action within ten days of such service; and

(g) The responsible person or his or her designated representative has paid the amount specified in subsection (1) or (2) of section 66-1523.

(3) The State Fire Marshal shall review each application prior to consideration by the department and provide to the department any information the State Fire Marshal deems relevant to subdivisions (2)(a) through (g) of this section. The State Fire Marshal shall issue a determination with respect to an applicant's compliance with rules and regulations adopted and promulgated by the State Fire Marshal. The State Fire Marshal shall issue a compliance determination to the department within thirty days after receiving an application from the department.

(4) The department may withhold taking action on an application during the pendency of an enforcement action by the state or federal government related to the tank or a release from the tank.

(5) Reimbursements made for a remedial action may be reduced as much as one hundred percent for failure by the responsible person to comply with applicable statutory or regulatory requirements. In determining the amount of the reimbursement reduction, the department shall consider:

(a) The extent of and reasons for noncompliance;

(b) The likely environmental impact of the noncompliance; and

(c) Whether noncompliance was negligent, knowing, or willful.

(6) Except as provided in subsection (4) of this section, the department shall notify the responsible person of its approval or denial of the remedial action plan within one hundred twenty days after receipt of a remedial action plan which contains all the required information. If after one hundred twenty days the department fails to either deny, approve, or amend the remedial action plan submitted, the proposed plan shall be deemed approved. If the remedial action plan is denied, the department shall provide the reasons for such denial.

Source: Laws 1989, LB 289, § 25; Laws 1991, LB 409, § 17; Laws 1993, LB 237, § 3; Laws 1994, LB 1349, § 10; Laws 1996, LB 1226, § 11; Laws 1998, LB 1161, § 33; Laws 1999, LB 270, § 4; Laws 2001, LB 461, § 5; Laws 2004, LB 962, § 107; Laws 2008, LB1145, § 3; Laws 2012, LB873, § 3; Laws 2016, LB887, § 3; Laws 2020, LB858, § 16; Laws 2024, LB867, § 9.
Operative date April 16, 2024.

Cross References

Environmental Protection Act, see section 81-1532.
Petroleum Products and Hazardous Substances Storage and Handling Act, see section 81-15,117.

66-1529.02 Remedial actions by department; third-party claims; recovery of expenses.

(1) The department may undertake remedial actions in response to a release first reported after July 17, 1983, and on or before June 30, 2028, with money available in the fund if:

(a) The responsible person cannot be identified or located;

(b) An identified responsible person cannot or will not comply with the remedial action requirements; or

(c) Immediate remedial action is necessary, as determined by the Director of Environment and Energy, to protect human health or the environment.

(2) The department may pay the costs of a third-party claim meeting the requirements of subdivision (2)(f) of section 66-1525 with money available in the fund if the responsible person cannot or will not pay the third-party claim.

(3) Reimbursement for any damages caused by the department or a person acting at the department's direction while investigating or inspecting or during remedial action on property other than property on which a release or suspected release has occurred shall be considered as part of the cost of remedial action involving the site where the release or suspected release occurred. The costs shall be reimbursed from money available in the fund. If such reimbursement is deemed inadequate by the party claiming the damages, the party's claim for damages caused by the department shall be filed as provided in section 76-705.

(4) All expenses paid from the fund under this section, court costs, and attorney's fees may be recovered in a civil action in the district court of Lancaster County. The action may be brought by the county attorney or Attorney General at the request of the director against the responsible person. All recovered expenses shall be deposited into the fund.

Source: Laws 1991, LB 409, § 19; Laws 1993, LB 3, § 41; Laws 1993, LB 237, § 4; Laws 1998, LB 1161, § 35; Laws 1999, LB 270, § 5; Laws 2001, LB 461, § 6; Laws 2004, LB 962, § 108; Laws 2008, LB1145, § 4; Laws 2012, LB873, § 4; Laws 2016, LB887, § 4; Laws 2019, LB302, § 82; Laws 2020, LB858, § 17; Laws 2024, LB867, § 10.
Operative date April 16, 2024.

ARTICLE 20

NATURAL GAS FUEL BOARD

Section
66-2001. Natural Gas Fuel Board; established; members; terms; vacancy; meetings; duties; Department of Environment and Energy; administrative support.

66-2001 Natural Gas Fuel Board; established; members; terms; vacancy; meetings; duties; Department of Environment and Energy; administrative support.

(1) The Natural Gas Fuel Board is hereby established to advise the Department of Environment and Energy regarding the promotion of natural gas as a

motor vehicle fuel in Nebraska. The board shall provide recommendations relating to:

(a) Distribution, infrastructure, and workforce development for natural gas to be used as a motor vehicle fuel;

(b) Loans, grants, and tax incentives to encourage the use of natural gas as a motor vehicle fuel for individuals and public and private fleets; and

(c) Such other matters as it deems appropriate.

(2) The board shall consist of eight members appointed by the Governor. The Governor shall make the initial appointments by October 1, 2012. The board shall include:

(a) One member representing a jurisdictional utility as defined in section 66-1802;

(b) One member representing a metropolitan utilities district;

(c) One member representing the interests of the transportation industry in the state;

(d) One member representing the interests of the business community in the state, specifically fueling station owners or operators;

(e) One member representing natural gas marketers or pipelines in the state;

(f) One member representing automobile dealerships or repair businesses in the state;

(g) One member representing labor interests in the state; and

(h) One member representing environmental interests in the state, specifically air quality.

(3) All appointments shall be subject to the approval of a majority of the members of the Legislature if the Legislature is in session, and if the Legislature is not in session, any appointment to fill a vacancy shall be temporary until the next session of the Legislature, at which time a majority of the members of the Legislature may approve or disapprove such appointment.

(4) Members shall be appointed for terms of four years, except that of the initial appointees the terms of the members representing a jurisdictional utility and a metropolitan utilities district shall expire on September 30, 2015, the terms of the members representing the transportation industry, the business community, natural gas marketers or pipelines, and automobile dealerships or repair businesses shall expire on September 30, 2014, and the terms of the members representing labor and environmental interests shall expire on September 30, 2013. Members may be reappointed. A member shall serve until a successor is appointed and qualified.

(5) A vacancy on the board shall exist in the event of death, disability, resignation, or removal for cause of a member. Any vacancy on the board arising other than from the expiration of a term shall be filled by appointment for the unexpired portion of the term. An appointment to fill a vacancy shall be made by the Governor with the approval of a majority of the Legislature, and any person so appointed shall have the same qualifications as the person whom he or she succeeds.

(6) The board shall meet at least once annually.

(7) The members shall not be reimbursed for expenses associated with carrying out their duties as members.

(8) The department shall provide administrative support to the board as necessary so that the board may carry out its duties.

Source: Laws 2012, LB1087, § 1; Laws 2019, LB302, § 83.

ARTICLE 22

RENEWABLE FUEL INFRASTRUCTURE

(a) RENEWABLE FUEL INFRASTRUCTURE PROGRAM

Section
66-2201. Terms, defined.
66-2202. Renewable Fuel Infrastructure Program; created.
66-2203. Grant; application; ethanol infrastructure project; eligibility for grant.
66-2204. Application; contents.
66-2205. Department; determine amount of grants; cost-share agreement; award; limitation.
66-2206. Retail motor fuel site; requirements.
66-2207. Renewable Fuel Infrastructure Fund; created; use; investment.

(b) E-15 ACCESS STANDARD ACT

66-2208. E-15 Access Standard Act, how cited.
66-2209. Purpose of act.
66-2210. Terms, defined.
66-2211. Retail motor fuel site; motor fuel storage and dispensing infrastructure; new or replacement; retail dealer; requirements.
66-2212. Governor; executive order suspending E-15 access standard, when.
66-2213. Waiver; application; administrative order; issuance; termination.
66-2214. Motor fuel storage tanks; requirements; not applicable, when.
66-2215. Small retail motor fuel site; E-15 access standard; not applicable, when.
66-2216. Statewide ethanol blend rate; Department of Revenue; Department of Environment and Energy; retail dealers; duties.
66-2217. Weighing and measuring establishment permit; suspend or revoke; grounds.
66-2218. Rules and regulations.

(a) RENEWABLE FUEL INFRASTRUCTURE PROGRAM

66-2201 Terms, defined.

For purposes of sections 66-2201 to 66-2207:

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

(2) E-15 means a blend of ethanol and gasoline in which ethanol comprises fifteen percent of the blend by volume;

(3) E-85 means a blend of ethanol and gasoline in which ethanol comprises seventy percent or more of the blend by volume;

(4) Motor fuel pump means a meter or similar commercial weighing and measuring device used to measure and dispense motor fuel originating from a motor fuel storage tank;

(5) Program means the Renewable Fuel Infrastructure Program created in section 66-2202;

(6) Retail dealer means a person engaged in the business of storing and dispensing motor fuel from a motor fuel pump for sale on a retail basis; and

(7) Retail motor fuel site means a geographic location in this state where a retail dealer sells and dispenses motor fuel from a motor fuel pump on a retail basis.

Source: Laws 2019, LB585, § 1.

66-2202 Renewable Fuel Infrastructure Program; created.

The Renewable Fuel Infrastructure Program is created. The purpose of the program is to improve retail motor fuel sites by installing, replacing, or converting ethanol infrastructure to be used to store, blend, or dispense renewable fuel. The program shall function as a grant program administered by the department. Grant applications shall be made on a form prescribed by the department. Grant funds shall be distributed to eligible persons for eligible ethanol infrastructure projects under the requirements in section 66-2203.

Source: Laws 2019, LB585, § 2.

66-2203 Grant; application; ethanol infrastructure project; eligibility for grant.

(1) A person shall be eligible to apply for a grant under the program if the person is an owner or operator of a retail motor fuel site.

(2) An ethanol infrastructure project shall be eligible for a grant under the program if such project is:

(a) Designed and used exclusively to store and dispense E-15 gasoline or E-85 gasoline or a blend of ethanol and gasoline from a motor fuel pump designed to blend such motor fuels together in blends higher than E-15. Such E-15 gasoline shall be a registered fuel recognized by the United States Environmental Protection Agency;

(b) On the premises of a retail motor fuel site; and

(c) Subject to a cost-share agreement as described in section 66-2205.

(3) An ethanol infrastructure project shall not be eligible for a grant under the program if such infrastructure includes a tank vehicle.

Source: Laws 2019, LB585, § 3.

66-2204 Application; contents.

Any eligible person applying for a grant under the program shall include the following information in the application:

(1) The name of the person and the address of the retail motor fuel site to be improved;

(2) A detailed description of the infrastructure to be installed, replaced, or converted, including, but not limited to, the model number of each motor fuel storage tank to be installed, replaced, or converted, if available;

(3) A statement describing how the retail motor fuel site is to be improved, the estimated cost of the planned improvement, and the date when the infrastructure will be first used; and

(4) A statement certifying the infrastructure project complies with section 66-2203 and will comply with a cost-share agreement entered into with the department pursuant to section 66-2205 unless granted a waiver by the department.

Source: Laws 2019, LB585, § 4.

66-2205 Department; determine amount of grants; cost-share agreement; award; limitation.

(1) The department shall determine the amount of the grants to be awarded under the program. The department shall award grants to the maximum number of qualified applicants and may approve up to one million dollars in grants in any calendar year.

(2) The department shall approve and execute a cost-share agreement according to terms and conditions set by the department with an eligible person whose application is approved by the department for such grant. Such cost-share agreement shall state the total costs related to improving a retail motor fuel site, the amount of the grant, and whether the agreement is for a three-year or five-year period.

(3) In awarding grants under the program, an award shall not exceed (a) fifty percent of the estimated cost of the improvement or thirty thousand dollars, whichever is less, for a three-year cost-share agreement, or (b) seventy percent of the estimated costs of making the improvement or fifty thousand dollars, whichever is less, for a five-year cost-share agreement. The department may approve multiple improvements to the same retail motor fuel site so long as the total amount of the grants does not exceed the limitations in this subsection.

Source: Laws 2019, LB585, § 5.

66-2206 Retail motor fuel site; requirements.

A retail motor fuel site that is improved using grants under the program shall comply with federal and state standards governing new or upgraded motor fuel storage tanks used to store and dispense renewable fuels. A retail motor fuel site that is improved using grants under the program shall not use such infrastructure to store and dispense motor fuel other than the type of renewable fuel approved by the department in the cost-share agreement, unless granted a waiver by the department.

Source: Laws 2019, LB585, § 6.

66-2207 Renewable Fuel Infrastructure Fund; created; use; investment.

The Renewable Fuel Infrastructure Fund is created. The fund shall consist of appropriations made by the Legislature, transfers authorized by the Legislature, grants, and any contributions designated for the purpose of the fund. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. The fund shall be administered by the department and used to award grants under the program. No more than ten percent of the fund shall be used for administration of the program.

Source: Laws 2019, LB585, § 7.

Cross References

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

(b) E-15 ACCESS STANDARD ACT

66-2208 E-15 Access Standard Act, how cited.

Sections 66-2208 to 66-2218 shall be known and may be cited as the E-15 Access Standard Act.

Source: Laws 2023, LB562, § 1.

66-2209 Purpose of act.

The purpose of the E-15 Access Standard Act is to increase consumer access to E-15 gasoline through the establishment of an access standard.

Source: Laws 2023, LB562, § 2.

66-2210 Terms, defined.

For purposes of the E-15 Access Standard Act, unless the context otherwise requires:

(1) Department means the Department of Agriculture;

(2) Director means the Director of Agriculture;

(3) E-15 access standard means the requirements described in subsections (1) and (2) of section 66-2211;

(4) E-15 gasoline means a classification of ethanol blended gasoline formulated with a percentage of more than ten percent but no more than fifteen percent by volume of ethanol;

(5) Ethanol has the same meaning as agricultural ethyl alcohol as defined in section 66-482;

(6) Motor fuel means all products and fuel commonly or commercially known as gasoline, including ethanol and the various ethanol and gasoline blends;

(7) Motor fuel dispenser means equipment that is the part of motor fuel storage and dispensing infrastructure that includes mechanical or electrical systems that operate a motor fuel pump dispensing motor fuel from a motor fuel storage tank to the end point of the equipment's nozzle;

(8) Motor fuel pump means the part of motor fuel storage and dispensing infrastructure that is a meter or similar commercial weighing and measuring device used to measure and dispense motor fuel originating from a motor fuel storage tank, on a retail basis;

(9)(a) Motor fuel storage and dispensing infrastructure means equipment used to:

(i) Store and dispense motor fuel; or

(ii) Store, blend, and dispense motor fuel.

(b) Motor fuel storage and dispensing infrastructure includes, but is not limited to, motor fuel storage tanks, motor fuel pumps, and motor fuel dispensers. Motor fuel storage and dispensing infrastructure does not include signage not located on the motor fuel dispenser or motor fuel pump;

(10) Motor fuel storage tank means the part of motor fuel storage and dispensing infrastructure that includes an aboveground or belowground container constituting a fixture used to store an accumulation of motor fuel;

(11) Nonqualifying motor fuel dispenser means:

(a) A dispenser that exclusively dispenses any of the following:

(i) Aviation fuel;

(ii) Diesel fuel;

(iii) Kerosene; or

(iv) Diesel exhaust fluid;

(b) A dispenser that is part of a tank vehicle as defined in section 60-4,131 that is not used to dispense motor fuel on the premises of the retail motor fuel site; or

(c) A dispenser that is part of a commercial marina;

(12) Qualifying motor fuel dispenser means a motor fuel dispenser that is capable of dispensing motor fuel at all times that it is in operation. The term does not include nonqualifying motor fuel dispensers;

(13) Retail dealer means a person engaged in the business of storing and dispensing motor fuel from a motor fuel pump for sale on a retail basis; and

(14) Retail motor fuel site means a geographic location in this state where a retail dealer sells and dispenses motor fuel on a retail basis.

Source: Laws 2023, LB562, § 3; Laws 2024, LB1095, § 1.
Effective date July 19, 2024.

66-2211 Retail motor fuel site; motor fuel storage and dispensing infrastructure; new or replacement; retail dealer; requirements.

(1) Beginning January 1, 2024, if a retail dealer constructs a new retail motor fuel site or cumulatively from such date replaces more than eighty percent of the motor fuel storage and dispensing infrastructure located at an existing retail motor fuel site, the retail dealer shall advertise for sale and sell E-15 gasoline from at least fifty percent of all qualifying motor fuel dispensers located at such retail motor fuel site unless the retail dealer has filed a statement with the department under section 66-2215 in which the retail dealer swears or affirms that the retail motor fuel site qualifies as a small retail motor fuel site.

(2) If the statewide ethanol blend rate for 2027 is below fourteen percent as determined pursuant to section 66-2216 and the retail motor fuel site is not a retail motor fuel site described in subsection (1) of this section, then beginning January 1, 2028, the retail dealer shall advertise for sale and sell E-15 gasoline from at least one qualifying motor fuel dispenser located at such retail motor fuel site unless:

(a) A waiver has been issued under section 66-2213 because the motor fuel storage and dispensing infrastructure located at the retail motor fuel site is not compatible with the use of E-15 gasoline;

(b) The retail motor fuel site is exempt under section 66-2214 because all of the motor fuel storage tanks located at such site are listed with the State Fire Marshal as described in section 66-2214; or

(c) The retail dealer has filed a statement with the department under section 66-2215 in which the retail dealer swears or affirms that the retail motor fuel site qualifies as a small retail motor fuel site.

(3) A retail dealer owning or operating a retail motor fuel site is not prohibited from advertising for sale and selling motor fuel from any number of nonqualifying motor fuel dispensers.

(4) It is not a violation of this section if a retail dealer is out of compliance with this section while (a) temporarily maintaining, repairing, or reconditioning motor fuel storage and dispensing infrastructure or (b) temporarily installing, expanding, replacing, or converting motor fuel storage and dispensing infrastructure. The department may require that a retail dealer notify the

department in advance of such actions, and the department may inspect the retail motor fuel site to determine if a violation occurred.

Source: Laws 2023, LB562, § 4; Laws 2024, LB1095, § 2.
Effective date July 19, 2024.

66-2212 Governor; executive order suspending E-15 access standard, when.

The Governor may issue or renew an executive order that temporarily suspends the E-15 access standard if there is an inadequate supply of E-15 gasoline or the market price of E-15 gasoline may cause consumers to suffer economic hardship.

Source: Laws 2023, LB562, § 5.

66-2213 Waiver; application; administrative order; issuance; termination.

(1) The director shall issue an administrative order that waives the requirement that a retail dealer comply with subsection (2) of section 66-2211 at a retail motor fuel site owned or operated by the retail dealer if the retail motor fuel site qualifies under this section based on the fact that the motor fuel storage and dispensing infrastructure located at such site is not compatible with the use of E-15 gasoline.

(2) A retail dealer may apply for a waiver under this section by submitting an application to the department in a manner prescribed by the department.

(3) The application shall be supported by credible evidence that the retail dealer is unable to comply with subsection (2) of section 66-2211 because the motor fuel storage and dispensing infrastructure located at the retail motor fuel site is not compatible with the use of E-15 gasoline and the cost to replace the motor fuel storage and dispensing infrastructure would exceed fifteen thousand dollars as determined by a person certified by the department as a professional retail motor fuel site installer. For purposes of this section, motor fuel storage and dispensing infrastructure is compatible with E-15 gasoline if the equipment is included in a list published by an independent testing laboratory for use with E-15 gasoline or the manufacturer of the equipment has issued a written statement of compatibility with E-15 gasoline.

(4) The application shall include an inventory and description of the motor fuel storage and dispensing infrastructure located at the retail motor fuel site.

(5) The department may require a retail dealer to attach any supporting documentation to the application, which may include an inspection report completed by a person certified by the department as a professional retail motor fuel site installer. The certified professional retail motor fuel site installer may be a licensed engineer or other person who the department determines is qualified by education, testing, or experience to oversee a project involving the installation, replacement, or conversion of motor fuel storage and dispensing infrastructure.

(6) The department, in consultation with the State Fire Marshal, shall review and evaluate an application to determine whether it is supported by credible evidence sufficient for the director to issue an order granting a waiver under this section. The department shall approve or disapprove a completed application within one hundred twenty days following the date that the application was submitted to the department.

(7) The retail dealer shall sign the application, which shall include a statement that the retail dealer swears or affirms that all information in the application completed by the retail dealer is true and correct. If a certified professional retail motor fuel site installer completes an inspection report to support an application, the installer shall sign a statement that the installer swears or affirms that all information in the inspection report completed by the installer is true and correct.

(8) The department may inspect the premises of a retail motor fuel site during normal business hours to administer and enforce the provisions of this section.

(9) The department shall publish a copy of each administrative order granting a waiver under this section on the department's website within ten days after the issuance of the order. The order shall take effect on its date of publication, unless the order specifies a later date.

(10)(a) The director shall terminate an administrative order issued under this section if a terminable event has occurred. A terminable event includes any of the following:

(i) The failure of a retail dealer to maintain a valid permit as required under section 89-187.01;

(ii) The cessation of the retail dealer's business of advertising for sale or selling motor fuel at the retail motor fuel site; or

(iii) The installation, replacement, or conversion of a motor fuel storage tank located at the retail motor fuel site.

(b) The department may require that a retail dealer notify the department that a terminable event as described in subdivision (10)(a) of this section is planned to occur, is occurring, or has occurred.

Source: Laws 2023, LB562, § 6.

66-2214 Motor fuel storage tanks; requirements; not applicable, when.

Subsection (2) of section 66-2211 shall not apply to a retail motor fuel site if all of the motor fuel storage tanks located at such site are listed with the State Fire Marshal as falling within one of the following categories:

(1) Each motor fuel storage tank not constructed of fiberglass was installed during or prior to 1985; or

(2) Each motor fuel storage tank constructed of fiberglass was installed during or prior to:

(a) For a double-wall fiberglass underground motor fuel storage tank, 1991; or

(b) For a single-wall fiberglass underground motor fuel storage tank, 1996.

Source: Laws 2023, LB562, § 7.

66-2215 Small retail motor fuel site; E-15 access standard; not applicable, when.

(1) The E-15 access standard shall not apply to a retail motor fuel site if the retail dealer provides a statement to the Department of Agriculture in which the retail dealer swears or affirms that the retail motor fuel site qualifies under this section as a small retail motor fuel site. A retail dealer may include multiple retail motor fuel sites in one statement.

(2) For purposes of this section, a retail motor fuel site shall qualify as a small retail motor fuel site if:

(a) The retail motor fuel site has only one qualifying motor fuel dispenser; or

(b) The retail motor fuel site's average annual gasoline gallonage was three hundred thousand gallons or less for the most recent three-year period.

(3) Upon request by the Department of Agriculture, the Department of Revenue shall determine whether or not a particular retail motor fuel site met the average annual gasoline gallonage requirement described in subdivision (2)(b) of this section and shall inform the Department of Agriculture of such determination. The determination shall be based on information for the retail motor fuel site in motor fuel tax returns required to be filed by the retail dealer with the Department of Revenue.

(4) The information received by the Department of Agriculture from the Department of Revenue under subsection (3) of this section shall be confidential and shall be used by the Department of Agriculture for the limited purposes of evaluating a retail dealer's compliance with this section.

(5) The Department of Revenue may adopt and promulgate rules and regulations as needed to carry out this section.

(6) The Department of Agriculture shall publish on its website the number of statements filed with the department under this section and the total number of retail motor fuel sites qualifying as small retail motor fuel sites.

(7) The Department of Agriculture may inspect the premises of a retail motor fuel site during normal business hours to administer and enforce the provisions of this section.

Source: Laws 2023, LB562, § 8; Laws 2024, LB1095, § 3.
Effective date July 19, 2024.

66-2216 Statewide ethanol blend rate; Department of Revenue; Department of Environment and Energy; retail dealers; duties.

Beginning in 2025, the Department of Revenue and the Department of Environment and Energy shall annually issue a joint report that identifies the statewide ethanol blend rate. The statewide ethanol blend rate shall be equal to the average percentage of ethanol contained in each gallon of motor fuel sold in this state. Retail dealers shall provide a quarterly report of the number of gallons of each type of motor fuel sold and the percentage of ethanol in each gallon to the Department of Revenue. Reports to the Department of Revenue shall be submitted on a form and in the manner prescribed by the Department of Revenue.

Source: Laws 2023, LB562, § 9.

66-2217 Weighing and measuring establishment permit; suspend or revoke; grounds.

(1) Beginning January 1, 2024, the department may suspend or revoke a permit issued to a retail dealer pursuant to section 89-187.01 if the retail dealer fails to comply with subsection (1) of section 66-2211.

(2) Beginning April 1, 2028, the department may suspend or revoke a permit issued to a retail dealer pursuant to section 89-187.01 if the retail dealer fails to comply with subsection (2) of section 66-2211.

Source: Laws 2023, LB562, § 10.

66-2218 Rules and regulations.

The department may adopt and promulgate rules and regulations to carry out the E-15 Access Standard Act.

Source: Laws 2023, LB562, § 11.

ARTICLE 23

HYDROGEN AND NUCLEAR INDUSTRIES DEVELOPMENT

(a) HYDROGEN HUBS

Section
66-2301. Clean hydrogen hub; legislative findings; Nebraska Hydrogen Hub Industry Work Group; members; duties; appropriations; legislative intent.

(b) NUCLEAR AND HYDROGEN INDUSTRIES

66-2302. Act, how cited.
66-2303. Legislative findings and declarations.
66-2304. Terms, defined.
66-2305. Nuclear and Hydrogen Industry Work Group; created; members; per diems; expenses.
66-2306. Work group; duties.
66-2307. Education training courses; grants to community colleges and state colleges.
66-2308. Nuclear and Hydrogen Development Fund; created; use.

(a) HYDROGEN HUBS

66-2301 Clean hydrogen hub; legislative findings; Nebraska Hydrogen Hub Industry Work Group; members; duties; appropriations; legislative intent.

(1) The Legislature finds that there is a unique benefit for the state to compete for designation by the United States Department of Energy as a location for a regional clean hydrogen hub. The development of a clean hydrogen hub in the state would provide the potential for significant investments in clean energy production, new infrastructure, and high-paying careers. The Legislature further finds that Nebraska is in a unique position to compete due to its central location, existing clean hydrogen-producing industry, synthetic and biofuels industry, demand for fertilizer used by its large agricultural industry, and railroad and trucking transportation network.

(2)(a) The Department of Economic Development shall create the Nebraska Hydrogen Hub Industry Work Group. The Governor shall appoint members to the work group that include, but are not limited to, representatives from the following sectors: (i) Manufacturing or industry, (ii) agriculture, (iii) transportation, and (iv) energy. The work group may include a representative of a clean hydrogen manufacturer.

(b) The purpose of the work group is to develop and draft a competitive proposal which may be submitted to the United States Department of Energy to be selected as one of the regional clean hydrogen hubs authorized under the federal Infrastructure Investment and Jobs Act, Public Law 117-58.

(c) The Department of Economic Development may contract with private consultants to create the competitive proposal. Specifically, the work group

shall determine how to maximize the state's geographic location to connect a nationwide hydrogen network. Additionally, the work group shall build a plan to make the case for an agricultural-based clean hydrogen hub, expanding the existing eligible purposes.

(3) It is the intent of the Legislature to appropriate two hundred fifty thousand dollars from the General Fund for FY2023-24 and two hundred fifty thousand dollars from the General Fund for FY2024-25 to the Department of Economic Development for the purpose of providing grants to any public power district that serves a majority of the counties in the state to be used for engineering and modeling work to prepare and support the state in competing for one of the United States Department of Energy's regional clean hydrogen hub designations and associated federal funding.

(4) The Department of Economic Development may adopt and promulgate rules and regulations to carry out the grant program described in subsection (3) of this section.

Source: Laws 2022, LB1099, § 1; Laws 2023, LB565, § 34.

(b) NUCLEAR AND HYDROGEN INDUSTRIES

66-2302 Act, how cited.

Sections 66-2302 to 66-2308 shall be known and may be cited as the Nuclear and Hydrogen Development Act.

Source: Laws 2023, LB565, § 35.

66-2303 Legislative findings and declarations.

The Legislature finds and declares that it is the policy of the Legislature to support the advanced nuclear and hydrogen industries.

Source: Laws 2023, LB565, § 36.

66-2304 Terms, defined.

For purposes of the Nuclear and Hydrogen Development Act:

(1) Department means the Department of Economic Development; and

(2) Work group means the Nuclear and Hydrogen Industry Work Group created in section 66-2305.

Source: Laws 2023, LB565, § 37.

66-2305 Nuclear and Hydrogen Industry Work Group; created; members; per diems; expenses.

(1) The department shall create the Nuclear and Hydrogen Industry Work Group.

(2) The work group shall consist of the following twelve members:

(a) One representative of the Nebraska community college system;

(b) One representative of the Nebraska state college system;

(c) Two representatives of the nuclear industry;

(d) Two representatives of the hydrogen industry;

(e) One representative of a public power district;

(f) Two at-large members;

(g) The Director of Economic Development or a designee of the director;

(h) The chairperson of the Natural Resources Committee of the Legislature or a designee of the chairperson; and

(i) The chairperson of the Government, Military and Veterans Affairs Committee of the Legislature or a designee of the chairperson.

(3) The work group members described in subdivisions (2)(a) through (f) of this section shall be appointed by the Governor. The work group members described in subdivisions (2)(h) and (i) of this section shall serve as ex officio, nonvoting members.

(4)(a) Each work group member described in subdivisions (2)(a) through (f) of this section may receive a per diem of sixty dollars for each day such member attends a meeting of the work group or is engaged in matters concerning the work group, except that no work group member shall receive more than one thousand dollars in per diems per year under this subdivision.

(b) Each such work group member shall be reimbursed for travel and lodging expenses for the performance of such member's duties while carrying out the Nuclear and Hydrogen Development Act as provided in sections 81-1174 to 81-1177 to be paid out of the Nuclear and Hydrogen Development Fund.

Source: Laws 2023, LB565, § 38.

66-2306 Work group; duties.

The work group shall examine and make recommendations to the department regarding the workforce training needs of the nuclear and hydrogen industries and provide an opportunity for collaboration of such industries with the Nebraska community college system and Nebraska state college system to develop education training courses.

Source: Laws 2023, LB565, § 39.

66-2307 Education training courses; grants to community colleges and state colleges.

The department shall establish procedures and criteria for awarding grants to community colleges and state colleges that implement education training courses designed to alleviate the workforce training needs of the nuclear and hydrogen industries based on the recommendations of the work group. The grants awarded by the department shall be used for equipment, curriculum, programming, or marketing needed to provide such education training courses.

Source: Laws 2023, LB565, § 40.

66-2308 Nuclear and Hydrogen Development Fund; created; use.

(1) The Nuclear and Hydrogen Development Fund is created. The department shall administer the fund to provide per diems and travel and lodging reimbursement to members of the work group as provided under section 66-2305. The fund shall consist of money transferred by the Legislature. The State Treasurer shall transfer two hundred thousand dollars to the fund from the General Fund as soon as administratively possible after May 27, 2023.

(2) The Nuclear and Hydrogen Development Fund terminates on July 31, 2028, and the State Treasurer shall transfer any money in the fund on such date to the General Fund.

Source: Laws 2023, LB565, § 41.

CHAPTER 67
PARTNERSHIPS

ARTICLE 2
NEBRASKA UNIFORM LIMITED PARTNERSHIP ACT

PART XI—MISCELLANEOUS

PART XI—MISCELLANEOUS

67-293 Filing fees; disposition.

The filing fee for all filings pursuant to the Nebraska Uniform Limited Partnership Act, including amendments and name reservation, shall be thirty dollars if the filing is submitted in writing and twenty-five dollars if the filing is submitted electronically pursuant to section 84-511, except that the filing fee for filing a certificate of limited partnership pursuant to section 67-240 and for filing an application for registration as a foreign limited partnership pursuant to section 67-281 shall be one hundred ten dollars if the filing is submitted in writing and one hundred dollars if the filing is submitted electronically pursuant to section 84-511. A fee of one dollar per page shall be paid for a certified copy of any document on file pursuant to the act. The fees for filings pursuant to the act shall be paid to the Secretary of State and by him or her remitted to the State Treasurer. The State Treasurer shall credit sixty percent of such fees to the General Fund and forty percent of such fees to the Secretary of State Cash Fund.

Source: Laws 1981, LB 272, § 61; Laws 1983, LB 617, § 12; Laws 1989, LB 482, § 60; Laws 1990, LB 1228, § 8; Laws 1994, LB 1004, § 6; Laws 1994, LB 1066, § 59; Laws 2003, LB 357, § 10; Laws 2020, LB910, § 27.

ARTICLE 4
UNIFORM PARTNERSHIP ACT OF 1998

PART XII—MISCELLANEOUS PROVISIONS

PART XII—MISCELLANEOUS PROVISIONS

67-462 Fees.

The filing fee for filing a statement of partnership authority pursuant to section 67-415, a statement of qualification pursuant to section 67-454, or a

statement of foreign qualification pursuant to section 67-458 is one hundred ten dollars if the filing is submitted in writing and one hundred dollars if the filing is submitted electronically pursuant to section 84-511. The filing fee for all other filings by partnerships or limited liability partnerships pursuant to the Uniform Partnership Act of 1998 is thirty dollars if the filing is submitted in writing and twenty-five dollars if the filing is submitted electronically pursuant to section 84-511. A fee of one dollar per page shall be paid for a certified copy of any document on file pursuant to the act and ten dollars for the certificate. The filing fees pursuant to the act shall be paid to the Secretary of State and remitted to the State Treasurer. The State Treasurer shall credit sixty percent of the fees to the General Fund and forty percent of the fees to the Secretary of State Cash Fund.

Source: Laws 1997, LB 523, § 62; Laws 2020, LB910, § 28.

CHAPTER 68
PUBLIC ASSISTANCE

Article.
6. Social Security. 68-621.
9. Medical Assistance Act. 68-901 to 68-9,111.
10. Assistance, Generally.
    (a) Assistance to the Aged, Blind, or Disabled. 68-1006.01 to 68-1010.
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11. Aging.
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    (a) Disabled Persons and Family Support Act. 68-1512.
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17. Welfare Reform.
    (a) Welfare Reform Act. 68-1713, 68-1724.
19. Nursing Facility Quality Assurance Assessment Act. 68-1917.
21. Hospital Quality Assurance and Access Assessment Act. 68-2101 to 68-2109.

ARTICLE 6
SOCIAL SECURITY

Section
68-621. Terms, defined.

68-621 Terms, defined.

For purposes of sections 68-621 to 68-630:

(1) Referendum group means the employees of the state, a single political subdivision of this state, or any instrumentality jointly created by this state and any other state or states, the employees of which are or may be members of a retirement system covering such employees, except that: (a) The employees of the University of Nebraska shall constitute a referendum group; (b) the employees of a Class V school district shall constitute a referendum group; (c) all employees of the State of Nebraska who are or may be members of the School Employees Retirement System of the State of Nebraska, including employees of institutions operated by the Board of Trustees of the Nebraska State Colleges, employees of institutions operated by the Department of Correctional Services and the Department of Health and Human Services, and employees subordinate to the State Board of Education, shall constitute a referendum group; and (d) all employees of school districts of the State of Nebraska, county superintendents, and county school administrators, who are or may be members of the School Employees Retirement System of the State of Nebraska, shall constitute a single referendum group.

(2) Managing authority means the board, committee, or council having general authority over a political subdivision, university, college, or school district whose employees constitute or are included in a referendum group; the managing authority of the state shall be the Governor; and insofar as sections 68-601 to 68-631 may be applicable to county superintendents and county

school administrators, managing authority means the board of county commissioners or county supervisors of the county in which the county superintendent was elected or with which the county school administrator contracted.

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

(4) State agreement means the agreement between the State of Nebraska and the designated officer of the United States of America entered into pursuant to section 68-603.

Source: Laws 1955, c. 264, § 15, p. 821; Laws 1969, c. 537, § 1, p. 2187; Laws 1973, LB 563, § 6; Laws 1988, LB 802, § 6; Laws 1996, LB 1044, § 297; Laws 1999, LB 272, § 20; Laws 2000, LB 1216, § 18; Laws 2010, LB684, § 9; Laws 2011, LB509, § 13; Laws 2024, LB686, § 15.
Effective date July 19, 2024.

ARTICLE 9

MEDICAL ASSISTANCE ACT

Section

Section

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

Sections 68-901 to 68-9,111 shall be known and may be cited as the Medical Assistance Act.

Source: Laws 2006, LB 1248, § 1; Laws 2008, LB830, § 1; Laws 2009, LB27, § 1; Laws 2009, LB288, § 18; Laws 2009, LB342, § 1; Laws 2009, LB396, § 1; Laws 2010, LB1106, § 1; Laws 2011, LB525, § 1; Laws 2012, LB541, § 1; Laws 2012, LB599, § 2; Laws 2015, LB500, § 1; Laws 2016, LB698, § 15; Laws 2017, LB268, § 10; Laws 2017, LB578, § 1; Initiative Law 2018, No. 427, § 1; Laws 2019, LB468, § 1; Laws 2019, LB726, § 1; Laws 2020, LB956, § 1; Laws 2020, LB1002, § 43; Laws 2020, LB1053, § 1; Laws 2020, LB1158, § 1; Laws 2021, LB100, § 1; Laws 2023, LB227, § 57; Laws 2024, LB204, § 1; Laws 2024, LB358, § 1; Laws 2024, LB857, § 1.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB204, section 1, with LB358, section 1, and LB857, section 1, to reflect all amendments.

Note: Changes made by LB204 became effective April 17, 2024. Changes made by LB358 became effective April 17, 2024. Changes made by LB857 became effective July 19, 2024.

68-908 Department; powers and duties.

(1) The department shall administer the medical assistance program.

(2) The department may (a) enter into contracts and interagency agreements, (b) adopt and promulgate rules and regulations, (c) adopt fee schedules, (d) apply for and implement waivers and managed care plans for services for eligible recipients, including services under the Nebraska Behavioral Health Services Act, and (e) perform such other activities as necessary and appropriate to carry out its duties under the Medical Assistance Act. A covered item or service as described in section 68-911 that is furnished through a school-based health center, furnished by a provider, and furnished under a managed care

plan pursuant to a waiver does not require prior consultation or referral by a patient's primary care physician to be covered. Any federally qualified health center providing services as a sponsoring facility of a school-based health center shall be reimbursed for such services provided at a school-based health center at the federally qualified health center reimbursement rate.

(3) The department shall maintain the confidentiality of information regarding applicants for or recipients of medical assistance and such information shall only be used for purposes related to administration of the medical assistance program and the provision of such assistance or as otherwise permitted by federal law.

(4) The department shall prepare an annual summary and analysis of the medical assistance program for legislative and public review. The department shall submit a report of such summary and analysis to the Governor and the Legislature electronically no later than December 1 of each year. The annual summary shall include, but not be limited to:

(a) The number and percentage of applications approved and denied;

(b) The number of eligibility determinations, including the number and percentage of those individuals remaining enrolled, terminations, and other determinations;

(c) The number of case closures in the medical assistance program and the Children's Health Insurance Program and the specific reason for the closure broken down by (i) eligibility category, including program type, (ii) local public health district or other geographic area, and (iii) race or ethnicity, if available;

(d) The number of medical assistance program and Children's Health Insurance Program enrollees broken down by (i) eligibility category, including program type, (ii) local public health district or other geographic area, and (iii) race or ethnicity, if available;

(e) The number and percentage of redeterminations or renewals processed ex parte, broken down by (i) eligibility category, including program type and (ii) race or ethnicity, if available;

(f) The average number of days required to process applications for the medical assistance program and Children's Health Insurance Program, separating the data by applicants with modified adjusted gross income and nonmodified adjusted gross income eligibility;

(g) The rate of re-enrollment within ninety days of termination and within twelve months of termination, broken down by (i) eligibility category, including program type, (ii) local public health district or other geographic area, and (iii) race or ethnicity, if available;

(h) The average client call duration;

(i) The client call abandonment rate;

(j) The number of requests for a fair hearing separated by (i) eligibility category and program type, (ii) outcome, and (iii) amount of time until final disposition; and

(k) A link to the medical assistance program fair hearing decisions that have been redacted to protect private and health information, which shall be posted on the department's website.

Source: Laws 1965, c. 397, § 8, p. 1278; Laws 1967, c. 413, § 2, p. 1278; Laws 1982, LB 522, § 43; Laws 1996, LB 1044, § 325; R.S.1943,

(2003), § 68-1023; Laws 2006, LB 1248, § 8; Laws 2007, LB296, § 247; Laws 2009, LB288, § 20; Laws 2010, LB1106, § 3; Laws 2012, LB782, § 91; Laws 2012, LB1158, § 1; Laws 2017, LB417, § 7; Laws 2024, LB62, § 1.
Effective date July 19, 2024.

Cross References

Nebraska Behavioral Health Services Act, see section 71-801.

68-908.01 Dental services; reimbursement rates.

It is the intent of the Legislature to increase reimbursement rates by twelve and one-half percent for fiscal year 2024-25 for dental services provided under the Medical Assistance Act.

Source: Laws 2024, LB358, § 2.
Effective date April 17, 2024.

68-911 Medical assistance; mandated and optional coverage; department; submit state plan amendment or waiver; specified coverage requirements.

(1) Medical assistance shall include coverage for health care and related services as required under Title XIX of the federal Social Security Act, including, but not limited to:

(a) Inpatient and outpatient hospital services;

(b) Laboratory and X-ray services;

(c) Nursing facility services;

(d) Home health services;

(e) Nursing services;

(f) Clinic services;

(g) Physician services;

(h) Medical and surgical services of a dentist;

(i) Nurse practitioner services;

(j) Nurse midwife services;

(k) Pregnancy-related services;

(l) Medical supplies;

(m) Mental health and substance abuse services;

(n) Early and periodic screening and diagnosis and treatment services for children which shall include both physical and behavioral health screening, diagnosis, and treatment services;

(o) Rural health clinic services; and

(p) Federally qualified health center services.

(2) In addition to coverage otherwise required under this section, medical assistance may include coverage for health care and related services as permitted but not required under Title XIX of the federal Social Security Act, including, but not limited to:

(a) Prescribed drugs;

(b) Intermediate care facilities for persons with developmental disabilities;

(c) Home and community-based services for aged persons and persons with disabilities;

(d) Dental services;

(e) Rehabilitation services;

(f) Personal care services;

(g) Durable medical equipment;

(h) Medical transportation services;

(i) Vision-related services;

(j) Speech therapy services;

(k) Physical therapy services;

(l) Chiropractic services;

(m) Occupational therapy services;

(n) Optometric services;

(o) Podiatric services;

(p) Hospice services;

(q) Mental health and substance abuse services;

(r) Hearing screening services for newborn and infant children; and

(s) Administrative expenses related to administrative activities, including outreach services, provided by school districts and educational service units to students who are eligible or potentially eligible for medical assistance.

(3) No later than July 1, 2009, the department shall submit a state plan amendment or waiver to the federal Centers for Medicare and Medicaid Services to provide coverage under the medical assistance program for community-based secure residential and subacute behavioral health services for all eligible recipients, without regard to whether the recipient has been ordered by a mental health board under the Nebraska Mental Health Commitment Act to receive such services.

(4) On or before October 1, 2014, the department, after consultation with the State Department of Education, shall submit a state plan amendment to the federal Centers for Medicare and Medicaid Services, as necessary, to provide that the following are direct reimbursable services when provided by school districts as part of an individualized education program or an individualized family service plan: Early and periodic screening, diagnosis, and treatment services for children; medical transportation services; mental health services; nursing services; occupational therapy services; personal care services; physical therapy services; rehabilitation services; speech therapy and other services for individuals with speech, hearing, or language disorders; and vision-related services.

(5)(a) No later than January 1, 2023, the department shall provide coverage for continuous glucose monitors under the medical assistance program for all eligible recipients who have a prescription for such device.

(b) Effective August 1, 2024, eligible recipients shall include all individuals who meet local coverage determinations, as defined in section 1869(f)(2)(B) of the federal Social Security Act, as amended, as such act existed on January 1, 2024, and shall include individuals with gestational diabetes.

(c) It is the intent of the Legislature that no more than six hundred thousand dollars be appropriated annually from the Medicaid Managed Care Excess Profit Fund, as described in section 68-996, for the purpose of implementing subdivision (5)(b) of this section. Any amount in excess of six hundred thousand dollars shall be funded by the Medicaid Managed Care Excess Profit Fund.

(6) On or before October 1, 2023, the department shall seek federal approval for federal matching funds from the federal Centers for Medicare and Medicaid Services through a state plan amendment or waiver to extend postpartum coverage for beneficiaries from sixty days to at least six months. Nothing in this subsection shall preclude the department from submitting a state plan amendment for twelve months.

(7)(a) No later than October 1, 2025, the department shall submit a medicaid waiver or state plan amendment to the federal Centers for Medicare and Medicaid Services to designate two medical respite facilities to reimburse for services provided to an individual who is:

(i) Homeless; and

(ii) An adult in the expansion population.

(b) For purposes of this subsection:

(i) Adult in the expansion population means an adult (A) described in 42 U.S.C. 1396a(a)(10)(A)(i)(VIII) as such section existed on January 1, 2024, and (B) not otherwise eligible for medicaid as a mandatory categorically needy individual;

(ii) Homeless has the same meaning as provided in 42 U.S.C. 11302 as such section existed on January 1, 2024;

(iii) Medical respite care means short-term housing with supportive medical services; and

(iv) Medical respite facility means a residential facility that provides medical respite care to homeless individuals.

(c) The department shall choose two medical respite facilities, one in a city of the metropolitan class and one in a city of the primary class, best able to serve homeless individuals who are adults in the expansion population.

(d) Once such waiver or state plan amendment is approved, the department shall submit a report to the Health and Human Services Committee of the Legislature on or before November 30 each year, which provides the (i) number of homeless individuals served at each facility, (ii) cost of the program, and (iii) amount of reduction in health care costs due to the program's implementation.

(e) The department may adopt and promulgate rules and regulations to carry out this subsection.

(f) The services described in subdivision (7)(a) of this section shall be funded by the Medicaid Managed Care Excess Profit Fund as described in section 68-996.

(8)(a) No later than January 1, 2025, the department shall provide coverage for an electric personal-use breast pump for every pregnant woman covered under the medical assistance program, or child covered under the medical assistance program if the pregnant woman is not covered, beginning at thirty-six weeks gestation or the child's date of birth, whichever is earlier. The electric personal-use breast pump shall be capable of (i) sufficiently supporting milk supply, (ii) double and single side pumping, and (iii) suction power ranging

from zero mmHg to two hundred fifty mmHg. No later than January 1, 2025, the department shall provide coverage for a minimum of ten lactation consultation visits for every mother covered under the medical assistance program or child covered under the medical assistance program, if the mother is not covered under such program.

(b) It is the intent of the Legislature that the appropriation for lactation consultation visits shall be equal to an amount that is a one hundred forty-five percent rate increase over the current lactation consultation rate paid by the department.

(9)(a) No later than January 1, 2024, the department shall provide coverage, and reimbursement to providers, for all necessary translation and interpretation services for eligible recipients utilizing a medical assistance program service. The department shall take all actions necessary to maximize federal funding to carry out this subsection.

(b) The services described in subdivision (9)(a) of this section shall be funded by the Medicaid Managed Care Excess Profit Fund as described in section 68-996.

Source: Laws 1965, c. 397, § 4, p. 1277; Laws 1967, c. 413, § 1, p. 1278; Laws 1969, c. 542, § 1, p. 2193; Laws 1993, LB 804, § 1; Laws 1993, LB 808, § 1; Laws 1996, LB 1044, § 315; Laws 1998, LB 1063, § 5; Laws 1998, LB 1073, § 60; Laws 2002, Second Spec. Sess., LB 8, § 1; R.S.1943, (2003), § 68-1019; Laws 2006, LB 1248, § 11; Laws 2009, LB603, § 1; Laws 2013, LB23, § 12; Laws 2013, LB556, § 5; Laws 2014, LB276, § 4; Laws 2022, LB698, § 1; Laws 2022, LB855, § 1; Laws 2023, LB227, § 61; Laws 2024, LB62, § 2; Laws 2024, LB857, § 8; Laws 2024, LB905, § 1; Laws 2024, LB1215, § 20.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB62, section 2, with LB857, section 8, LB905, section 1, and LB1215, section 20, to reflect all amendments.

Note: Changes made by LB62 became effective July 19, 2024. Changes made by LB857 became effective July 19, 2024. Changes made by LB905 became effective July 19, 2024. Changes made by LB1215 became operative July 19, 2024.

Cross References

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

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

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

(2) The department shall notify an applicant for or recipient of medical assistance of any decision of the department to deny or discontinue eligibility or to deny or modify medical assistance. Except in the case of an emergency, the notice shall be mailed on the same day as or the day after the decision is made. In addition to mailing the notice, the department may also deliver the notice by any form of electronic communication if the department has the agreement of the recipient to receive such notice by means of such form of electronic communication. Decisions of the department, including the failure of the

department to act with reasonable promptness, may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

(3) Notice of a decision to discontinue eligibility or to modify medical assistance shall include an explanation of the proposed action, the reason for the proposed action, the information used to make the decision including specific regulations or laws requiring such action, contact information for personnel of the department to address questions regarding the action, information on the right to appeal, and an explanation of the availability of continued benefits pending such appeal.

Source: Laws 2006, LB 1248, § 14; Laws 2011, LB494, § 1; Laws 2020, LB956, § 3.

Cross References

Administrative Procedure Act, see section 84-920.

68-915 Eligibility.

The following persons shall be eligible for medical assistance:

(1) Dependent children as defined in section 43-504;

(2) Aged, blind, and disabled persons as defined in sections 68-1002 to 68-1005;

(3) Children under nineteen years of age who are eligible under section 1905(a)(i) of the federal Social Security Act;

(4) Persons who are presumptively eligible as allowed under sections 1920 and 1920B of the federal Social Security Act;

(5) Children under nineteen years of age with a family income equal to or less than two hundred percent of the Office of Management and Budget income poverty guideline, as allowed under Title XIX and Title XXI of the federal Social Security Act, without regard to resources, and pregnant women with a family income equal to or less than one hundred eighty-five percent of the Office of Management and Budget income poverty guideline, as allowed under Title XIX and Title XXI of the federal Social Security Act, without regard to resources. Children described in this subdivision and subdivision (6) of this section shall remain eligible for six consecutive months from the date of initial eligibility prior to redetermination of eligibility. The department may review eligibility monthly thereafter pursuant to rules and regulations adopted and promulgated by the department. The department may determine upon such review that a child is ineligible for medical assistance if such child no longer meets eligibility standards established by the department;

(6) For purposes of Title XIX of the federal Social Security Act as provided in subdivision (5) of this section, children with a family income as follows:

(a) Equal to or less than one hundred fifty percent of the Office of Management and Budget income poverty guideline with eligible children one year of age or younger;

(b) Equal to or less than one hundred thirty-three percent of the Office of Management and Budget income poverty guideline with eligible children over one year of age and under six years of age; or

(c) Equal to or less than one hundred percent of the Office of Management and Budget income poverty guideline with eligible children six years of age or older and less than nineteen years of age;

(7) Persons who are medically needy caretaker relatives as allowed under 42 U.S.C. 1396d(a)(ii);

(8) As allowed under 42 U.S.C. 1396a(a)(10)(A)(ii)(XV) and (XVI), disabled persons who have a family income of less than two hundred fifty percent of the Office of Management and Budget income poverty guideline. Such persons shall be subject to payment of premiums as a percentage of family income beginning at not less than two hundred percent of the Office of Management and Budget income poverty guideline. Such premiums shall be graduated based on family income and shall not exceed seven and one-half percent of family income;

(9) As allowed under 42 U.S.C. 1396a(a)(10)(A)(ii), persons who:

(a) Have been screened for breast and cervical cancer under the Centers for Disease Control and Prevention breast and cervical cancer early detection program established under Title XV of the federal Public Health Service Act, 42 U.S.C. 300k et seq., in accordance with the requirements of section 1504 of such act, 42 U.S.C. 300n, and who need treatment for breast or cervical cancer, including precancerous and cancerous conditions of the breast or cervix;

(b) Are not otherwise covered under creditable coverage as defined in section 2701(c) of the federal Public Health Service Act, 42 U.S.C. 300gg-3(c);

(c) Have not attained sixty-five years of age; and

(d) Are not eligible for medical assistance under any mandatory categorically needy eligibility group;

(10) Persons eligible for services described in subsection (3) of section 68-972; and

(11) Persons eligible pursuant to section 68-992.

Except as provided in subdivision (8) of this section and section 68-972, eligibility shall be determined under this section using an income budgetary methodology that determines children's eligibility at no greater than two hundred percent of the Office of Management and Budget income poverty guideline and adult eligibility using adult income standards no greater than the applicable categorical eligibility standards established pursuant to state or federal law. Except as otherwise provided in subdivision (8) of this section, the department shall determine eligibility under this section pursuant to such income budgetary methodology and subdivision (1)(q) of section 68-1713.

Source: Laws 1965, c. 397, § 5, p. 1278; Laws 1984, LB 1127, § 4; Laws 1988, LB 229, § 1; Laws 1995, LB 455, § 6; Laws 1996, LB 1044, § 323; Laws 1998, LB 1063, § 6; Laws 1999, LB 594, § 34; Laws 2001, LB 677, § 1; Laws 2002, Second Spec. Sess., LB 8, § 2; Laws 2003, LB 411, § 2; Laws 2005, LB 301, § 3; R.S.Supp.,2005, § 68-1020; Laws 2006, LB 1248, § 15; Laws 2007, LB296, § 249; Laws 2007, LB351, § 3; Laws 2009, LB603, § 2; Laws 2012, LB599, § 3; Initiative Law 2018, No. 427, § 3; Laws 2020, LB323, § 1.

68-919 Medical assistance recipient; liability; when; claim; procedure; department; powers; recovery of medical assistance reimbursement; procedure.

(1) The recipient of medical assistance under the medical assistance program shall be indebted to the department for the total amount paid for medical assistance on behalf of the recipient if:

(a) The recipient was fifty-five years of age or older at the time the medical assistance was provided; or

(b) The recipient resided in a medical institution and, at the time of institutionalization or application for medical assistance, whichever is later, the department determines that the recipient could not have reasonably been expected to be discharged and resume living at home. For purposes of this section, medical institution means a nursing facility, an intermediate care facility for persons with developmental disabilities, or an inpatient hospital.

(2) The debt accruing under subsection (1) of this section arises during the life of the recipient but shall be held in abeyance until the death of the recipient. Any such debt to the department that exists when the recipient dies shall be recovered only after the death of the recipient's spouse, if any, and only after the recipient is not survived by a child who either is under twenty-one years of age or is blind or totally and permanently disabled as defined by the Supplemental Security Income criteria. In recovering such debt, the department shall not foreclose on a lien on the home of the recipient (a) if a sibling of the recipient with an equity interest in the home has lawfully resided in the home for at least one year before the recipient's admission and has lived there continuously since the date of the recipient's admission or (b) while the home is the residence of an adult child who has lived in the recipient's home for at least two years immediately before the recipient was institutionalized, has lived there continuously since that time, and can establish to the satisfaction of the department that he or she provided care that delayed the recipient's admission.

(3) The debt shall include the total amount of medical assistance provided when the recipient was fifty-five years of age or older or during a period of institutionalization as described in subsection (1) of this section and shall not include interest.

(4)(a) It is the intent of the Legislature that the debt specified in subsection (1) of this section be collected by the department before any portion of the estate of a recipient of medical assistance is enjoyed by or transferred to a person not specified in subsection (2) of this section as a result of the death of such recipient. The debt may be recovered from the estate of a recipient of medical assistance. The department shall undertake all reasonable and cost-effective measures to enforce recovery under the Medical Assistance Act. All persons specified in subsections (2) and (4) of this section shall cooperate with the department in the enforcement of recovery under the act.

(b) For purposes of this section:

(i) Estate of a recipient of medical assistance means any real estate, personal property, or other asset in which the recipient had any legal title or interest at or immediately preceding the time of the recipient's death, to the extent of such interests. In furtherance and not in limitation of the foregoing, the estate of a recipient of medical assistance also includes:

(A) Assets to be transferred to a beneficiary described in section 77-2004 or 77-2005 in relation to the recipient through a revocable trust or other similar arrangement which has become irrevocable by reason of the recipient's death; and

(B) Notwithstanding anything to the contrary in subdivision (3) or (4) of section 68-923, assets conveyed or otherwise transferred to a survivor, an heir, an assignee, a beneficiary, or a devisee of the recipient of medical assistance through joint tenancy, tenancy in common, transfer on death deed, survivor-

ship, conveyance of a remainder interest, retention of a life estate or of an estate for a period of time, living trust, or other arrangement by which value or possession is transferred to or realized by the beneficiary of the conveyance or transfer at or as a result of the recipient's death. Such other arrangements include insurance policies or annuities in which the recipient of medical assistance had at the time of death any incidents of ownership of the policy or annuity or the power to designate beneficiaries and any pension rights or completed retirement plans or accounts of the recipient. A completed retirement plan or account is one which because of the death of the recipient of medical assistance ceases to have elements of retirement relating to such recipient and under which one or more beneficiaries exist after such recipient's death; and

(ii) Notwithstanding anything to the contrary in subdivision (4)(b) of this section, estate of a recipient of medical assistance does not include:

(A) Insurance proceeds, any trust account subject to the Burial Pre-Need Sale Act, or any limited lines funeral insurance policy to the extent used to pay for funeral, burial, or cremation expenses of the recipient of medical assistance;

(B) Conveyances of real estate made prior to August 24, 2017, that are subject to the grantor's retention of a life estate or an estate for a period of time;

(C) Life estate interests in real estate after sixty months from the date of recording a deed with retention of a life estate by the recipient of medical assistance; and

(D) Any pension rights or completed retirement plans to the extent that such rights or plans are exempt from claims for reimbursement of medical assistance under federal law.

(c) The department, upon application of the personal representative of an estate, any person or entity otherwise authorized under the Nebraska Probate Code to act on behalf of a decedent, any person or entity having an interest in assets of the decedent which are subject to this subsection, a successor trustee of a revocable trust or other similar arrangement which has become irrevocable by reason of the decedent's death, or any other person or entity holding assets of the decedent described in this subsection, shall timely certify to the applicant, that as of a designated date, whether medical assistance reimbursement is due or an application for medical assistance was pending that may result in medical assistance reimbursement due. An application for a certificate under this subdivision shall be provided to the department in a delivery manner and at an address designated by the department, which manner may include email. The department shall post the acceptable manner of delivery on its website. Any application that fails to conform with such manner is void. Notwithstanding the lack of an order by a court designating the applicant as a person or entity who may receive information protected by applicable privacy laws, the applicant shall have the authority of a personal representative for the limited purpose of seeking and obtaining from the department this certification. If, in response to a certification request, the department certifies that reimbursement for medical assistance is due, the department may release some or all of the property of a decedent from the provisions of this subsection.

(d) An action for recovery of the debt created under subsection (1) of this section may be brought by the department against the estate of a recipient of medical assistance as defined in subdivision (4)(b) of this section at any time before five years after the last of the following events:

(i) The death of the recipient of medical assistance;

(ii) The death of the recipient's spouse, if applicable;

(iii) The attainment of the age of twenty-one years by the youngest of the recipient's minor children, if applicable; or

(iv) A determination that any adult child of the recipient is no longer blind or totally and permanently disabled as defined by the Supplemental Security Income criteria, if applicable.

(5) In any probate proceedings in which the department has filed a claim under this section, no additional evidence of foundation shall be required for the admission of the department's payment record supporting its claim if the payment record bears the seal of the department, is certified as a true copy, and bears the signature of an authorized representative of the department.

(6) The department may waive or compromise its claim, in whole or in part, if the department determines that enforcement of the claim would not be in the best interests of the state or would result in undue hardship as provided in rules and regulations of the department.

(7)(a) Whenever the department has provided medical assistance because of sickness or injury to any person resulting from a third party's wrongful act or negligence and the person has recovered damages from such third party, the department shall have the right to recover the medical assistance it paid from any amounts that the person has received as follows:

(i) In those cases in which the person is fully compensated by the recovery, the department shall be fully reimbursed subject to its contribution to attorney's fees and costs as provided in subdivision (b) of this subsection; or

(ii) In those cases in which the person is not fully compensated by the recovery, the department shall be reimbursed that portion of the recovery that represents the same proportionate reduction of medical expenses paid that the recovery amount bears to full compensation of the person subject to its contributions to attorney's fees and costs as provided in subdivision (b) of this subsection.

(b) When an action or claim is brought by the person and the person incurs or will incur a personal liability to pay attorney's fees and costs of litigation or costs incurred in pursuit of a claim, the department's claim for reimbursement of the medical assistance provided to the person shall be reduced by an amount that represents the department's reasonable pro rata share of attorney's fees and costs of litigation or the costs incurred in pursuit of a claim.

(8) The department may adopt and promulgate rules and regulations to carry out this section.

(9) The changes made to this section by Laws 2019, LB593, shall apply retroactively to August 30, 2015.

Source: Laws 1994, LB 1224, § 39; Laws 1996, LB 1044, § 334; Laws 2001, LB 257, § 1; Laws 2004, LB 1005, § 7; R.S.Supp.,2004, § 68-1036.02; Laws 2006, LB 1248, § 19; Laws 2007, LB185, § 2; Laws 2013, LB23, § 13; Laws 2015, LB72, § 4; Laws 2017, LB268, § 14; Laws 2019, LB593, § 6; Laws 2021, LB501, § 63.

Cross References

Burial Pre-Need Sale Act, see section 12-1101.
Nebraska Probate Code, see section 30-2201.

68-944 State medicaid fraud control unit; powers and duties.

The state medicaid fraud control unit shall employ such attorneys, auditors, investigators, and other personnel as authorized by law to carry out the duties of the unit in an effective and efficient manner. The purpose of the state medicaid fraud control unit is to conduct a statewide program for the investigation and prosecution of medicaid fraud and violations of all applicable state laws relating to the providing of medical assistance and the activities of providers. The state medicaid fraud control unit may review and act on complaints of abuse and neglect of any patients or residents at health care facilities that receive payments under the medical assistance program and of patients who receive medical assistance under the medical assistance program in a noninstitutional or any other setting and may provide for collection or referral for collection of overpayments made under the medical assistance program that are discovered by the unit.

Source: Laws 2004, LB 1084, § 11; R.S.Supp.,2004, § 68-1083; Laws 2006, LB 1248, § 44; Laws 2024, LB664, § 1.
Effective date July 19, 2024.

68-945 Attorney General; powers and duties.

In carrying out the duties and responsibilities under the False Medicaid Claims Act, the Attorney General may:

(1) Enter upon the premises of any provider participating in the medical assistance program (a) to examine all accounts and records that are relevant in determining the existence of fraud in the medical assistance program, (b) to investigate alleged abuse or neglect of patients and residents, or (c) to investigate alleged misappropriation of patients' or residents' private funds;

(2) Subpoena witnesses or materials, including medical records relating to recipients, within or outside the state and, through any duly designated employee, administer oaths and affirmations and collect evidence for possible use in either civil or criminal judicial proceedings;

(3) Request and receive the assistance of any prosecutor or law enforcement agency in the investigation and prosecution of any violation of this section; and

(4) Refer to the department for collection each instance of overpayment to a provider under the medical assistance program which is discovered during the course of an investigation.

Source: Laws 2004, LB 1084, § 12; R.S.Supp.,2004, § 68-1084; Laws 2006, LB 1248, § 45; Laws 2024, LB664, § 2.
Effective date July 19, 2024.

68-946 Attorney General; access to records.

(1) Notwithstanding any other provision of law, the Attorney General, upon reasonable request, shall have full access to all records held by a provider, or by any other person on the provider's behalf, that are relevant to the determination of (a) the existence of civil violations or criminal offenses under the False Medicaid Claims Act or related offenses, (b) the existence of patient or resident abuse, mistreatment, or neglect, or (c) the theft of patient or resident funds.

(2) In examining such records, the Attorney General shall safeguard the privacy rights of recipients, avoiding unnecessary disclosure of personal information concerning named recipients. The Attorney General may transmit such

information as he or she deems appropriate to the department and to other agencies concerned with the regulation of health care facilities or health professionals.

(3) No person holding such records may refuse to provide the Attorney General access to such records for the purposes described in the act on the basis that release would violate (a) a recipient's right of privacy, (b) a recipient's privilege against disclosure or use, or (c) any professional or other privilege or right.

Source: Laws 2004, LB 1084, § 13; R.S.Supp.,2004, § 68-1085; Laws 2006, LB 1248, § 46; Laws 2024, LB664, § 3.
Effective date July 19, 2024.

68-949 Medical assistance program; legislative intent; department; duties; medicaid nursing facility rates; appropriations; reports.

(1) It is the intent of the Legislature that the department implement reforms to the medical assistance program such as those contained in the Medicaid Reform Plan, including (a) an incremental expansion of home and community-based services for aged persons and persons with disabilities consistent with such plan, (b) an increase in care coordination or disease management initiatives to better manage medical assistance expenditures on behalf of high-cost recipients with multiple or chronic medical conditions, and (c) other reforms as deemed necessary and appropriate by the department, in consultation with the committee.

(2) The department shall develop recommendations based on a comprehensive analysis of various options available to the state under applicable federal law for the provision of medical assistance to persons with disabilities who are employed, including persons with a medically improved disability, to enhance and replace current eligibility provisions contained in subdivision (8) of section 68-915.

(3) The department shall develop recommendations for further modification or replacement of the defined benefit structure of the medical assistance program. Such recommendations shall be consistent with the public policy in section 68-905 and shall consider the needs and resources of low-income Nebraska residents who are eligible or may become eligible for medical assistance, the experience and outcomes of other states that have developed and implemented such changes, and other relevant factors as determined by the department.

(4)(a) It is the intent of the Legislature that the total amount appropriated to the department for medicaid nursing facility rates be used in the medicaid nursing facility rate calculation, including the calculation of the annual inflation factor. The total amount appropriated for medicaid nursing facility rates shall include amounts for rate enhancement and any other purpose related to medicaid nursing facility services and shall be used as the base for funding for the following fiscal year.

(b) The department shall file a report electronically with the Legislative Fiscal Analyst and the Clerk of the Legislature no later than August 1 of each year identifying how the inflation factor was calculated for that year's medicaid nursing facility rates.

(c) The department shall file a report electronically with the Legislative Fiscal Analyst and the Clerk of the Legislature between December 15 and December 31 of each year identifying the amount of any remaining unobligated appropriation from the prior appropriations earmarked for medicaid nursing facility payments. The report shall include an identification of encumbrances and retroactive payments.

Source: Laws 2006, LB 1248, § 49; Laws 2007, LB296, § 263; Laws 2008, LB928, § 16; Laws 2017, LB417, § 9; Laws 2017, LB644, § 17; Laws 2024, LB130, § 1.
Effective date July 19, 2024.

68-953 Preferred drug list; department; establish and maintain; pharmaceutical and therapeutics committee; members; expenses.

(1) No later than July 1, 2010, the department shall establish and maintain a preferred drug list for the medical assistance program. The department shall establish a pharmaceutical and therapeutics committee to advise the department on all matters relating to the establishment and maintenance of such list.

(2) The pharmaceutical and therapeutics committee shall include at least fifteen but no more than twenty members. The committee shall consist of at least (a) eight physicians, (b) four pharmacists, (c) a university professor of pharmacy or a person with a doctoral degree in pharmacology, and (d) two public members. No more than twenty-five percent of the committee shall be state employees.

(3) The physician members of the committee, so far as practicable, shall include physicians practicing in the areas of (a) family medicine, (b) internal medicine, (c) pediatrics, (d) cardiology, (e) psychiatry or neurology, (f) obstetrics or gynecology, (g) endocrinology, and (h) oncology.

(4) Members of the committee shall submit conflict of interest disclosure statements to the department and shall have an ongoing duty to disclose conflicts of interest not included in the original disclosure.

(5) The committee shall elect a chairperson and a vice-chairperson from among its members. Members of the committee shall be reimbursed for expenses as provided in sections 81-1174 to 81-1177.

(6) The department, in consultation with the committee, shall adopt and publish policies and procedures relating to the preferred drug list, including (a) guidelines for the presentation and review of drugs for inclusion on the preferred drug list, (b) the manner and frequency of audits of the preferred drug list for appropriateness of patient care and cost effectiveness, (c) an appeals process for the resolution of disputes, and (d) such other policies and procedures as the department deems necessary and appropriate.

Source: Laws 2008, LB830, § 5; Laws 2020, LB381, § 54.

68-955 Prescription of drug not on preferred drug list; conditions; antidepressant, antipsychotic, or anticonvulsant prescription drug; prior authorization; not required, when.

(1) Except as otherwise provided in subsection (3) of this section, a health care provider may prescribe a prescription drug not on the preferred drug list to a medicaid recipient if (a) the prescription drug is medically necessary, (b)(i) the provider certifies that the preferred drug has not been therapeutically

effective, or with reasonable certainty is not expected to be therapeutically effective, in treating the recipient's condition or (ii) the preferred drug causes or is reasonably expected to cause adverse or harmful reactions in the recipient, and (c) the department authorizes coverage for the prescription drug prior to the dispensing of the drug. The department shall respond to a prior authorization request no later than twenty-four hours after receiving such request.

(2) A health care provider may prescribe a prescription drug not on the preferred drug list to a medicaid recipient without prior authorization by the department or a managed care organization if the provider certifies that (a) the recipient is achieving therapeutic success with a course of antidepressant, antipsychotic, or anticonvulsant medication or medication for human immunodeficiency virus, multiple sclerosis, epilepsy, cancer, or immunosuppressant therapy or (b) the recipient has experienced a prior therapeutic failure with a medication.

(3) Neither the department nor a managed care organization shall require prior authorization for coverage for an antidepressant, antipsychotic, or anticonvulsant prescription drug that is deemed medically necessary by a patient's health care provider for a new or existing medicaid recipient if the medicaid recipient has prior prescription history for the antidepressant, antipsychotic, or anticonvulsant prescription drug within the immediately preceding ninety-day period. A prospective drug utilization review as described in section 38-2869 and applicable federal law for a prescription for an antidepressant, antipsychotic, or anticonvulsant prescription drug for a medicaid recipient with prior prescription history within the immediately preceding ninety-day period shall occur in order to ensure that the prescription for a medicaid recipient is appropriate and is not likely to result in adverse medical results. Use of a pharmaceutical sample is not considered prior prescription history.

Source: Laws 2008, LB830, § 7; Laws 2020, LB1052, § 4.

68-956 Department; duties; contract; pharmacy benefit manager; comply with Pharmacy Benefit Manager Licensure and Regulation Act.

(1) The department shall (a) enter into a multistate purchasing pool, (b) negotiate directly with manufacturers or labelers, or (c) contract with a pharmacy benefit manager for negotiated discounts or rebates for all prescription drugs under the medical assistance program in order to achieve the lowest available price for such drugs under such program.

(2) Any contract under the Medicaid Prescription Drug Act with a pharmacy benefit manager or a managed care organization using a pharmacy benefit manager shall require any pharmacy benefit manager that is a party or otherwise subject to the contract to comply with the Pharmacy Benefit Manager Licensure and Regulation Act.

Source: Laws 2008, LB830, § 8; Laws 2024, LB1073, § 25.
Operative date July 19, 2024.

68-973 Medical assistance programs; improper payments; postpayment reimbursement; legislative findings; integrity procedures and guidelines; legislative intent.

(1) The Legislature finds that the medical assistance program would benefit from increased efforts to (a) prevent improper payments to service providers,

including, but not limited to, enforcement of eligibility criteria for recipients of benefits, enforcement of enrollment criteria for providers of benefits, determination of third-party liability for benefits, review of claims for benefits prior to payment, and identification of the extent and cause of improper payment, (b) identify and recoup improper payments, including, but not limited to, identification and investigation of questionable payments for benefits, administrative recoupment of payments for benefits, and referral of cases of fraud to the state medicaid fraud control unit for prosecution, and (c) collect postpayment reimbursement, including, but not limited to, maximizing prescribed drug rebates and maximizing recoveries from estates for paid benefits.

(2) The Legislature further finds that (a) the medical assistance program was established under Title XIX of the federal Social Security Act and is a joint federal-state-funded health insurance program that is the primary source of medical assistance for low-income, disabled, and elderly Nebraskans and (b) the federal government establishes minimum requirements for the medical assistance program and the state designs, implements, administers, and oversees the medical assistance program.

(3) It is the intent of the Legislature to establish and maintain integrity procedures and guidelines for the medical assistance program that meet minimum federal requirements and that coordinate with federal program integrity efforts in order to provide a system that encourages efficient and effective provision of services by Nebraska providers for the medical assistance program.

Source: Laws 2012, LB541, § 2; Laws 2020, LB956, § 4.

68-974 Program integrity contractors; contracts; contents; audit procedures; powers; health insurance premium assistance payment program; contract; department; powers and duties; form of records authorized; appeal; report.

(1) One or more program integrity contractors may be used to promote the integrity of the medical assistance program, to assist with investigations and audits, or to investigate the occurrence of fraud, waste, or abuse. The contract or contracts may include services for (a) cost-avoidance through identification of third-party liability, (b) cost recovery of third-party liability through postpayment reimbursement, (c) casualty recovery of payments by identifying and recovering costs for claims that were the result of an accident or neglect and payable by a casualty insurer, and (d) reviews of claims submitted by providers of services or other individuals furnishing items and services for which payment has been made to determine whether providers have been underpaid or overpaid, and to take actions to recover any overpayments identified or make payment for any underpayment identified.

(2) Notwithstanding any other provision of law, all program integrity contractors when conducting a program integrity audit, investigation, or review shall:

(a) Review claims within four years from the date of the payment;

(b) Send a determination letter concluding an audit within one hundred eighty days after receipt of all requested material from a provider;

(c) In any records request to a provider, furnish information sufficient for the provider to identify the patient, procedure, or location;

(d) Develop and implement with the department a procedure in which an improper payment identified by an audit may be resubmitted as a claims adjustment, including (i) the resubmission of claims denied as a result of an

interpretation of scope of services not previously held by the department, (ii) the resubmission of documentation when the document provided is incomplete, illegible, or unclear, and (iii) the resubmission of documentation when clerical errors resulted in a denial of claims for services actually provided. If a service was provided and sufficiently documented but denied because it was determined by the department or the contractor that a different service should have been provided, the department or the contractor shall disallow the difference between the payment for the service that was provided and the payment for the service that should have been provided;

(e) Utilize a licensed health care professional from the specialty area of practice being audited to establish relevant audit methodology consistent with (i) state-issued medicaid provider handbooks and (ii) established clinical practice guidelines and acceptable standards of care established by professional or specialty organizations responsible for setting such standards of care;

(f) Provide a written notification and explanation of an adverse determination that includes the reason for the adverse determination, the medical criteria on which the adverse determination was based, an explanation of the provider's appeal rights, and, if applicable, the appropriate procedure to submit a claims adjustment in accordance with subdivision (2)(d) of this section; and

(g) Schedule any onsite audits with advance notice of not less than ten business days and make a good faith effort to establish a mutually agreed-upon time and date for the onsite audit.

(3) A program integrity contractor retained by the department or the federal Centers for Medicare and Medicaid Services shall work with the department at the start of a recovery audit to review this section and section 68-973 and any other relevant state policies, procedures, regulations, and guidelines regarding program integrity audits. The program integrity contractor shall comply with this section regarding audit procedures. A copy of the statutes, policies, and procedures shall be specifically maintained in the audit records to support the audit findings.

(4) The department shall exclude from the scope of review of recovery audit contractors any claim processed or paid through a capitated medicaid managed care program. The department shall exclude from the scope of review of program integrity contractors any claims that are currently being audited or that have been audited by a program integrity contractor, by the department, or by another entity. Claims processed or paid through a capitated medicaid managed care program shall be coordinated between the department, the contractor, and the managed care organization. All such audits shall be coordinated as to scope, method, and timing. The contractor and the department shall avoid duplication or simultaneous audits. No payment shall be recovered in a medical necessity review in which the provider has obtained prior authorization for the service and the service was performed as authorized.

(5) Extrapolated overpayments are not allowed under the Medical Assistance Act without evidence of a sustained pattern of error, an excessively high error rate, or the agreement of the provider.

(6) The department may contract with one or more persons to support a health insurance premium assistance payment program.

(7) The department may enter into any other contracts deemed to increase the efforts to promote the integrity of the medical assistance program.

(8) Contracts entered into under the authority of this section may be on a contingent fee basis. Contracts entered into on a contingent fee basis shall provide that contingent fee payments are based upon amounts recovered, not amounts identified. Whether the contract is a contingent fee contract or otherwise, the contractor shall not recover overpayments by the department until all appeals have been completed unless there is a credible allegation of fraudulent activity by the provider, the contractor has referred the claims to the department for investigation, and an investigation has commenced. In that event, the contractor may recover overpayment prior to the conclusion of the appeals process. In any contract between the department and a program integrity contractor, the payment or fee provided for identification of overpayments shall be the same provided for identification of underpayments. Contracts shall be in compliance with federal law and regulations when pertinent, including a limit on contingent fees of no more than twelve and one-half percent of amounts recovered, and initial contracts shall be entered into as soon as practicable under such federal law and regulations.

(9) All amounts recovered and savings generated as a result of this section shall be returned to the medical assistance program.

(10) Records requests made by a program integrity contractor in any one-hundred-eighty-day period shall be limited to not more than two hundred records for the specific service being reviewed. The contractor shall allow a provider no less than forty-five days to respond to and comply with a records request. If the contractor can demonstrate a significant provider error rate relative to an audit of records, the contractor may make a request to the department to initiate an additional records request regarding the subject under review for the purpose of further review and validation. The contractor shall not make the request until the time period for the appeals process has expired.

(11) On an annual basis, the department shall require the recovery audit contractor to compile and publish on the department's Internet website metrics related to the performance of each recovery audit contractor. Such metrics shall include: (a) The number and type of issues reviewed; (b) the number of medical records requested; (c) the number of overpayments and the aggregate dollar amounts associated with the overpayments identified by the contractor; (d) the number of underpayments and the aggregate dollar amounts associated with the identified underpayments; (e) the duration of audits from initiation to time of completion; (f) the number of adverse determinations and the overturn rating of those determinations in the appeal process; (g) the number of appeals filed by providers and the disposition status of such appeals; (h) the contractor's compensation structure and dollar amount of compensation; and (i) a copy of the department's contract with the recovery audit contractor.

(12) The program integrity contractor, in conjunction with the department, shall perform educational and training programs for providers that encompass a summary of audit results, a description of common issues, problems, and mistakes identified through audits and reviews, and opportunities for improvement.

(13) Providers shall be allowed to submit records requested as a result of an audit in electronic format, including compact disc, digital versatile disc, or other electronic format deemed appropriate by the department or via facsimile transmission, at the request of the provider.

(14)(a) A provider shall have the right to appeal a determination made by the program integrity contractor.

(b) The contractor shall establish an informal consultation process to be utilized prior to the issuance of a final determination. Within thirty days after receipt of notification of a preliminary finding from the contractor, the provider may request an informal consultation with the contractor to discuss and attempt to resolve the findings or portion of such findings in the preliminary findings letter. The request shall be made to the contractor. The consultation shall occur within thirty days after the provider's request for informal consultation, unless otherwise agreed to by both parties.

(c) Within thirty days after notification of an adverse determination, a provider may request an administrative appeal of the adverse determination as set forth in the Administrative Procedure Act.

(15) The department shall by December 1 of each year report to the Legislature the status of the contracts, including the parties, the programs and issues addressed, the estimated cost recovery, and the savings accrued as a result of the contracts. Such report shall be filed electronically.

(16) For purposes of this section:

(a) Adverse determination means any decision rendered by a program integrity contractor or recovery audit contractor that results in a payment to a provider for a claim for service being reduced or rescinded;

(b) Extrapolated overpayment means an overpayment amount obtained by calculating claims denials and reductions from a medical records review based on a statistical sampling of a claims universe;

(c) Person means bodies politic and corporate, societies, communities, the public generally, individuals, partnerships, limited liability companies, joint-stock companies, and associations;

(d) Program integrity audit means an audit conducted by the federal Centers for Medicare and Medicaid Services, the department, or the federal Centers for Medicare and Medicaid Services with the coordination and cooperation of the department;

(e) Program integrity contractor means private entities with which the department or the federal Centers for Medicare and Medicaid Services contracts to carry out integrity responsibilities under the medical assistance program, including, but not limited to, recovery audits, integrity audits, and unified program integrity audits, in order to identify underpayments and overpayments and recoup overpayments; and

(f) Recovery audit contractor means private entities with which the department contracts to audit claims for medical assistance, identify underpayments and overpayments, and recoup overpayments.

Source: Laws 2012, LB541, § 3; Laws 2015, LB315, § 1; Laws 2019, LB260, § 1; Laws 2020, LB956, § 5.

Cross References

Administrative Procedure Act, see section 84-920.

68-989 Disclosure by applicant; income and assets; action for recovery of medical assistance authorized.

(1) This section shall apply to the fullest extent permitted by federal law and understandings entered into between the state and the federal government. An applicant for medical assistance, or a person acting on behalf of the applicant, shall disclose at the time of application and, to the extent not owned at the time of application, at the time of any subsequent review of the applicant's eligibility for medical assistance all of his or her interests in any assets, including, but not limited to, any security, bank account, intellectual property right, contractual or lease right, real estate, trust, corporation, limited liability company, or other entity, whether such interest is direct or indirect or vested or contingent. The applicant or a person acting on behalf of the applicant shall also disclose any income derived from such interests and the source of the income.

(2) If the applicant or a person acting on behalf of the applicant willfully fails to make the disclosures required in this section, any medical assistance obtained as a result of such failure is deemed unlawfully obtained and the department shall seek recovery of such medical assistance from the applicant or the estate of the recipient of medical assistance as defined in subdivision (4)(b) of section 68-919.

(3)(a) If income is derived from a related party as described in subdivision (3)(c) of this section, the department shall determine whether the income is or, in the case of a written lease, whether the terms of the lease at the time it was entered into were commercially reasonable and consistent with income or lease terms derived in the relevant market area and negotiated at arms length between parties who are not related.

(b) If the department determines that the income or lease fails to meet these requirements, such income or lease shall be considered a transfer of the applicant's assets for less than full consideration and the department shall consider the resulting shortfall, to the fullest extent permitted by federal law, when determining eligibility for medical assistance or any share of cost or as otherwise required by law. The burden of proof of commercial reasonableness rests with the applicant. The department's determination on commercial reasonableness may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

(c) A related party is (i) the applicant's spouse or an individual who is related to the applicant as described in section 77-2004 or 77-2005 or (ii) an entity controlled by one or more individuals described in subdivision (1)(c)(i) of this section. For purposes of this subdivision, control means individuals listed in subdivision (1)(c)(i) of this section who together own or have the option to acquire more than fifty percent of the entity.

(4) An action for recovery of medical assistance obtained in violation of this section may be brought by the department against the applicant or against the estate of the recipient of medical assistance as defined in subdivision (4)(b) of section 68-919 at any time before five years after the death of both the applicant and the applicant's spouse, if any.

(5) The department may adopt and promulgate rules and regulations to carry out this section. The rules and regulations may include guidance on the commercial reasonableness of lease terms.

Source: Laws 2017, LB268, § 11; Laws 2019, LB593, § 7.

Cross References

Administrative Procedure Act, see section 84-920.

68-990 Medical assistance; transfers; security for recovery of indebtedness to department; lien; notice; filing; department; duties; section null and void.

(1) For purposes of this section:

(a) Related transferee means:

(i) An individual who is related to the transferor as described in section 77-2004 or 77-2005;

(ii) An entity controlled by one or more individuals described in subdivision (1)(a)(i) of this section. For purposes of this subdivision, control means individuals described in subdivision (1)(a)(i) of this section together own or have the option to acquire more than fifty percent of the entity; or

(iii) An irrevocable trust in which an individual described in subdivision (1)(a)(i) of this section is a beneficiary; and

(b) Related transferee does not include the recipient's spouse, if any, or a child who either is under twenty-one years of age or is blind or totally and permanently disabled as defined by Supplemental Security Income criteria.

(2) This section shall apply to the fullest extent permitted by federal law and understandings entered into between the state and the federal government. This section provides security for the recovery of the indebtedness to the department for medical assistance as provided in section 68-919. This section applies to transfers of real estate made on or after August 24, 2017. If, during the transferor's lifetime, an interest in real estate is irrevocably transferred to a related transferee for less than full consideration and the real estate transferred to the related transferee is subject to rights, actual or constructive possession, or powers retained by the transferor in a deed or other instrument, the interest in the real estate when acquired by the related transferee is subject to a lien in favor of the State of Nebraska for medical assistance reimbursement pursuant to section 68-919 to the extent necessary to secure payment in full of any claim remaining unpaid after application of the assets of the transferor's probate estate, not to exceed the amount determined under subsection (6) of this section. The lien does not attach to any interest retained by the transferor. Except as provided in this section, the lien applies to medical assistance provided before, at the same time as, or after the filing of the notice of lien under subsection (4) of this section.

(3) Within fifteen days after receipt of a statement required by section 76-214 indicating that the underlying real estate transfer was between relatives or, if to a trustee, where the trustor or settlor and the beneficiary are relatives, the register of deeds shall send a copy of such statement, together with the parcel identification number, if ascertainable, to the department. The copy shall be provided to the department in a delivery manner and at an address designated by the department, which manner may include email. The department shall post the acceptable manner of delivering the copy on its website or otherwise communicate the manner of delivery to the registers of deeds.

(4) The lien imposed by subsection (2) of this section becomes effective upon the filing of a notice of lien in accordance with this subsection. The department may file a notice of the lien imposed by subsection (2) of this section only after the department receives an application for medical assistance on behalf of a transferor. The notice must be filed in the office of the register of deeds of the county or counties in which the real estate subject to the lien is located. The notice must provide the legal description of the real estate subject to the lien,

specify the amount then secured by the lien, and indicate that the lien also covers any future medical assistance provided to the transferor. The department shall provide the register of deeds with a self-addressed return envelope bearing sufficient postage for purposes of returning to the department a file-stamped copy of the notice of lien, which the register of deeds shall mail to the department. The lien is not valid against the owner of an interest in real estate received by a grantee who is not a related transferee pursuant to a deed or other instrument if such deed or other instrument is filed prior to the notice of lien. A lien that is not valid under this subsection shall be released by the department upon notice thereof from such grantee or a subsequent bona fide purchaser. A lien is valid against any subsequent creditor only if notice of such lien has been filed by the department in accordance with this subsection. Any mortgage or trust deed recorded prior to the filing of a notice of lien shall have priority over such lien. Except as provided in subsection (5) of this section, any optional future advance or advance necessary to protect the security secured by the mortgage or trust deed shall have the same priority as the mortgage or trust deed.

(5) Any optional future advance made pursuant to a mortgage or trust deed on real estate recorded prior to the filing of a notice of lien under subsection (4) of this section shall be junior to such lien only if the optional future advance is made after:

(a) A notice of lien has been filed by the department in accordance with subsection (4) of this section; and

(b) Written notice of the filing for record of such notice of lien has been received by the mortgagee or beneficiary at the address of the mortgagee or beneficiary set forth in the mortgage or trust deed or, if the mortgage or trust deed has been assigned, by the assignee at the address of the most recent assignee reflected in a recorded assignment of the mortgage or trust deed. The notice under this subdivision shall be sent by the department by certified mail to the applicable mortgagee, beneficiary, or assignee.

(6)(a) The lien authorized in this section is limited to the lesser of (i) the amount necessary to fully satisfy any reimbursement obligations remaining unpaid after application of any assets from the transferor's probate estate or (ii) the actual value of the real estate at the time that the lien is enforced minus the consideration adjustment and minus the cost of the improvements made to the real estate by or on behalf of the related transferee, if any.

(b) For purposes of this subsection:

(i) Actual value has the same meaning as in section 77-112;

(ii) Consideration adjustment means the amount of consideration paid by the related transferee to the transferor for the real estate multiplied by the growth factor; and

(iii) Growth factor means the actual value of the real estate at the time the lien is enforced divided by the actual value of the real estate at the time the consideration was paid.

(c) The burden of proof for showing the consideration paid for the real estate, the cost of any improvements to the real estate, and the actual value of the real estate rests with the related transferee or his or her successor in interest.

(7) If a deed or other instrument transferring an interest in real estate contains a recital acknowledged by the grantor stating that the grantee is not a

related transferee, the real estate being transferred shall not be subject to the lien imposed by this section. A related transferee who takes possession or otherwise enjoys the benefits of the transfer knowing the recital is false becomes personally liable for medical assistance reimbursement to the extent necessary to discharge any claim remaining unpaid after application of the assets of the transferor's probate estate, not to exceed the amount determined under subsection (6) of this section.

(8) The department shall release or subordinate the lien authorized in this section upon application by the related transferee in which the related transferee agrees to indemnify the department for medical assistance reimbursement pursuant to section 68-919 to the extent necessary to discharge any such claim remaining unpaid after application of the assets of the transferor's probate estate, not to exceed the amount determined under subsection (6) of this section. The department may require the application submitted pursuant to this subsection to be accompanied by good and sufficient sureties or other evidence determined by the department to be sufficient to secure the liability. The department shall also release the lien upon a satisfactory showing of undue hardship or a showing that the interest subject to the lien is not one from which medical assistance reimbursement may be had.

(9)(a) Any indemnity and any lien shall be released upon:

(i) Notice delivered to the department, by certified mail, return receipt requested, of (A) the death and identification, including the social security number, of the transferor, (B) the legal description of the real estate subject to the indemnity or lien, and (C) the names and addresses of the owners of record of the real estate; and

(ii) The department either (A) filing a release of lien with the register of deeds of the county or counties in which the real estate subject to the lien is located or (B) not filing an action to foreclose the lien or collect on the indemnity within one year after delivery of the notice required under subdivision (9)(a)(i) of this section.

(b) Proof of delivery of such notice shall be made by filing a copy of the notice and a copy of the certified mail return receipt with the register of deeds of the county or counties in which the real estate subject to the lien is located.

(10) The department may adopt and promulgate rules and regulations to carry out this section.

(11) This section is null and void as of August 24, 2017.

Source: Laws 2017, LB268, § 12; Laws 2019, LB593, § 8.

68-992 Eligibility for medical assistance; expanded population; Department of Health and Human Services; duties.

(1) Eligibility for medical assistance shall be expanded to include certain adults ages nineteen through sixty-four whose income is equal to or less than one hundred thirty-eight percent of the federal poverty level, as authorized and using the income methodology defined by 42 U.S.C. 1396a(a)(10)(A)(i)(VIII) and related federal regulations and guidance, as such statute, regulations, and guidance existed on January l, 2018.

(2) On or before April 1, 2019, in order to ensure that eligibility for medical assistance is expanded as required by this section, the Department of Health and Human Services shall submit a state plan amendment and all other

necessary documents seeking required approvals or waivers to the federal Centers for Medicare and Medicaid Services.

(3) The Department of Health and Human Services shall take all actions necessary to maximize federal financial participation in funding medical assistance pursuant to this section.

(4) No greater or additional burdens or restrictions on eligibility, enrollment, benefits, or access to health care services shall be imposed on persons eligible for medical assistance pursuant to this section than on any other population eligible for medical assistance.

(5) This section shall apply notwithstanding any other provision of law or federal waiver.

Source: Initiative Law 2018, No. 427, § 2.

68-993 Medical parole; protocol.

The Division of Medicaid and Long-Term Care of the Department of Health and Human Services shall, in consultation with the Department of Correctional Services, develop a protocol to assist an individual who is eligible for medical parole pursuant to section 83-1,110.02 to apply for and receive benefits under the Medical Assistance Act.

Source: Laws 2019, LB726, § 2.

68-994 Long-term care services and supports; department; limitation on addition to medicaid managed care program.

Until July 1, 2023, the department shall not add long-term care services and supports to the medicaid managed care program. For purposes of this section, long-term care services and supports includes services of a skilled nursing facility, a nursing facility, and an assisted-living facility and home and community-based services.

Source: Laws 2019, LB468, § 2; Laws 2021, LB101, § 1.

68-995 Contracts and agreements; department; duties.

All contracts and agreements relating to the medical assistance program governing at-risk managed care service delivery for health services entered into by the department and existing on or after August 11, 2020, shall:

(1) Provide a definition and cap on administrative spending such that (a) administrative expenditures do not include profit greater than the contracted amount, (b) any administrative spending is necessary to improve the health status of the population to be served, and (c) administrative expenditures do not include contractor incentives. Administrative spending shall not under any circumstances exceed twelve percent. Such spending shall be tracked by the contractor and reported quarterly to the department and electronically to the Clerk of the Legislature;

(2) Provide a definition of annual contractor profits and losses and restrict such profits and losses under the contract so that profit shall not exceed a percentage specified by the department but not more than three percent per year as a percentage of the aggregate of all income and revenue earned by the contractor and related parties, including parent and subsidiary companies and risk-bearing partners, under the contract;

(3) Provide for return of (a) any remittance if the contractor does not meet the minimum medical loss ratio, (b) any unearned incentive funds, and (c) any other funds in excess of the contractor limitations identified in state or federal statute or contract to the State Treasurer for credit to the Medicaid Managed Care Excess Profit Fund;

(4) Provide for a minimum medical loss ratio of eighty-five percent of the aggregate of all income and revenue earned by the contractor and related parties under the contract;

(5) Provide that contractor incentives, in addition to potential profit, be up to two percent of the aggregate of all income and revenue earned by the contractor and related parties under the contract; and

(6) Be reviewed and awarded competitively and in full compliance with the procurement requirements of the State of Nebraska.

Source: Laws 2012, LB1158, § 2; Laws 2016, LB1011, § 1; R.S.1943, (2018), § 71-831; Laws 2020, LB1158, § 2.

68-996 Medicaid Managed Care Excess Profit Fund; created; use; investment.

(1) The Medicaid Managed Care Excess Profit Fund is created. The fund shall contain money returned to the State Treasurer pursuant to subdivision (3) of section 68-995.

(2) The fund shall first be used to offset any losses under subdivision (2) of section 68-995 and then to provide for services addressing the health needs of adults and children under the Medical Assistance Act, including filling service gaps, providing system improvements, providing evidence-based early intervention home visitation programs, providing medical respite services, translation and interpretation services, providing coverage for continuous glucose monitors as described in section 68-911, providing other services sustaining access to care, the Nebraska Prenatal Plus Program, and providing grants pursuant to the Intergenerational Care Facility Incentive Grant Program as determined by the Legislature. The fund shall only be used for the purposes described in this section.

(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. Beginning October 1, 2024, any investment earnings from investment of money in the fund shall be credited to the General Fund.

Source: Laws 2020, LB1158, § 3; Laws 2024, LB62, § 3; Laws 2024, LB857, § 9; Laws 2024, LB904, § 3; Laws 2024, LB905, § 2; Laws 2024, LB1413, § 43; Laws 2024, First Spec. Sess., LB3, § 25.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB62, section 3, with LB857, section 9, LB904, section 3, LB905, section 2, and LB1413, section 43, to reflect all amendments.

Note: Changes made by Laws 2024, LB62, became effective July 19, 2024. Changes made by Laws 2024, LB857, became effective July 19, 2024. Changes made by Laws 2024, LB904, became effective July 19, 2024. Changes made by Laws 2024, LB905, became effective July 19, 2024. Changes made by Laws 2024, LB1413, became effective April 2, 2024.

Note: Changes made by Laws 2024, First Spec. Sess., LB3, became effective August 21, 2024.

Cross References

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

68-997 Job-skills programs; voluntary; departments; powers and duties.

(1) Beginning October 1, 2020, the Department of Health and Human Services shall inform each adult applicant for medical assistance about job-skills programs within the Department of Health and Human Services, the Department of Labor, or other skill-based programs that could assist the applicant for medical assistance in obtaining job skills or training, employment, higher-paying jobs, or related skills. The Department of Health and Human Services shall connect interested applicants to such job-skills programs. The job-skills programs may be utilized on a voluntary basis by applicants for medical assistance or recipients of medical assistance. The job-skills programs do not affect the receipt of services provided under the Medical Assistance Act.

(2) Beginning February 1, 2021, and within thirty days of the expiration of each subsequent calendar quarter within the years 2021 and 2022, the Department of Health and Human Services shall report electronically to the Clerk of the Legislature on the total number of applicants for medical assistance who were referred to job-skills programs under this section and any job-skills services received as a result of this section by applicants for medical assistance.

(3) Beginning January 1, 2021, through December 31, 2022, the Department of Labor shall report quarterly to the Department of Health and Human Services the number of applicants for medical assistance who were referred to job-skills programs under this section, the number of applicants for medical assistance who received help obtaining job skills or training, employment, higher-paying jobs, or related skills under this section, and the types of job-skills services received as a result of this section.

(4) The Department of Health and Human Services and the Department of Labor shall administer this section.

Source: Laws 2020, LB1158, § 4.

68-998 Managed care organization; provider contract; material change; notice.

(1) For purposes of this section:

(a)(i) Material change means a change to a provider contract, the occurrence and timing of which is not otherwise clearly identified in the provider contract, that decreases the provider's payment or compensation for services to be provided or changes the administrative procedures in a way that may reasonably be expected to significantly increase the provider's administrative expense, including altering an existing prior authorization, precertification, or notification.

(ii) Material change does not include a change implemented as a result of a requirement of state law, rules and regulations adopted and promulgated or policies established by the Department of Health and Human Services, or policies or regulations of the federal Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services; and

(b) Provider means a provider that has entered into a provider contract with a managed care organization to provide health care services under the medical assistance program.

(2) Each managed care organization shall establish procedures for changing an existing provider contract with a provider that include the requirements of this section.

(3) If a managed care organization makes any material change to a provider contract, the managed care organization shall provide the provider with at least sixty days' notice of the material change. The notice of a material change required under this section shall include:

(a) The effective date of the material change;

(b) A description of the material change;

(c) The name, business address, telephone number, and electronic mail address of a representative of the managed care organization to discuss the material change, if requested by the provider;

(d) Notice of the opportunity for a meeting using real-time communication to discuss the proposed changes if requested by the provider, including any mode of telecommunications in which all users can exchange information instantly such as the use of traditional telephone, mobile telephone, teleconferencing, and videoconferencing. If requested by the provider, the opportunity to communicate to discuss the proposed changes may occur via electronic mail instead of real-time communication; and

(e) Notice that upon three material changes in a twelve-month period, the provider may request a copy of the provider contract with material changes consolidated into a single document. The provision of the copy of the provider contract with the material changes incorporated by the managed care organization (i) shall be for informational purposes only, (ii) shall have no effect on the terms and conditions of the provider contract, and (iii) shall not be construed as the creation of a new contract.

(4) Any notice required to be delivered pursuant to this section shall be sent to the provider's point of contact as set forth in the provider contract and shall be clearly and conspicuously marked ''contract change''. If no point of contact is set forth in the provider contract, the insurer shall send the requisite notice to the provider's place of business addressed to the provider.

Source: Laws 2020, LB956, § 2.

68-999 Direct care staff; psychiatric facilities caring for juveniles; standards.

The Division of Medicaid and Long-Term Care of the Department of Health and Human Services shall set standards required for direct care staff of inpatient psychiatric units for juveniles and psychiatric residential treatment facilities for juveniles. The standards shall require that each such staff member:

(1) Be twenty years of age or older;

(2) Be at least two years older than the oldest resident in the unit or facility;

(3) Have a high school diploma or its equivalent; and

(4) Have appropriate training for basic interaction care such as supervision, daily living care, and mentoring of residents in the unit or facility.

Source: Laws 2020, LB1002, § 44.

68-9,100 Hospital and nursing facility services; reimbursement; rate methodology; rules and regulations.

The department shall adopt and promulgate rules and regulations regarding the rate methodology for reimbursement of hospital and nursing facility services. Any change to the rate methodology is considered substantive and requires a new rulemaking or regulationmaking proceeding under the Administrative Procedure Act.

Source: Laws 2020, LB1053, § 2.

Cross References

Administrative Procedure Act, see section 84-920.

68-9,101 Multiple procedure payment reduction policy; implementation; when prohibited.

(1) For purposes of this section, multiple procedure payment reduction policy means a policy used in the federal medicare program under Title XVIII of the federal Social Security Act for outpatient rehabilitation service codes where full payment is made for the unit or procedure with the highest rate and subsequent units and procedures are paid at a reduction of the published rates when more than one unit procedure is provided to the same patient on the same day.

(2) A multiple procedure payment reduction policy shall not be implemented under the Medical Assistance Act as it applies to therapy services provided by physical therapy, occupational therapy, or speech-language pathology.

Source: Laws 2021, LB100, § 2.

68-9,102 Long-term acute care hospitals; enroll as providers.

The department shall enroll long-term acute care hospitals in Nebraska as providers eligible to receive funding under the medical assistance program.

Source: Laws 2023, LB227, § 58.

68-9,103 Long-term acute care hospitals; coverage; state plan amendment or waiver.

No later than July 1, 2023, the department shall submit a state plan amendment or waiver to the federal Centers for Medicare and Medicaid Services to provide coverage under the medical assistance program for long-term acute care hospitals.

Source: Laws 2023, LB227, § 59.

68-9,104 Critical access hospitals; rebase inpatient interim per diem rates.

The department shall provide for rebasing inpatient interim per diem rates for critical access hospitals. The department shall rebase the rates every two years, and the most recent audited medicare cost report shall be used as the basis for the rebasing process within ninety days after receiving the cost report.

Source: Laws 2023, LB227, § 60.

68-9,105 Nebraska Prenatal Plus Program; terms, defined.

For purposes of sections 68-9,105 to 68-9,110:

(1) At-risk mother means a woman who is (a) eligible for medicaid, (b) pregnant, and (c) determined by her health care provider to be at risk of having a negative maternal or infant health outcome; and

(2) Targeted case management has the same meaning as defined in 42 C.F.R. 440.169, as such regulation existed on January 1, 2024, and may only be delivered in a clinical setting by a health care provider licensed pursuant to the Uniform Credentialing Act.

Source: Laws 2024, LB857, § 2.
Effective date July 19, 2024.

Cross References

Uniform Credentialing Act, see section 38-101.

68-9,106 Nebraska Prenatal Plus Program; created; purpose; termination.

The Nebraska Prenatal Plus Program is created within the Department of Health and Human Services. The purpose of the Nebraska Prenatal Plus Program is to reduce the incidence of low birth weight, pre-term birth, and adverse birth outcomes while also addressing other lifestyle, behavioral, and nonmedical aspects of an at-risk mother's life that may affect the health and well-being of the mother or the child. This program shall terminate on June 30, 2028.

Source: Laws 2024, LB857, § 3.
Effective date July 19, 2024.

68-9,107 Nebraska Prenatal Plus Program; services eligible for reimbursement.

Services eligible for reimbursement for at-risk mothers under the Nebraska Prenatal Plus Program include, but are not limited to: (1) Six or fewer sessions of nutrition counseling; (2) psychosocial counseling and support; (3) general client education and health promotion; (4) breastfeeding support; and (5) targeted case management.

Source: Laws 2024, LB857, § 4.
Effective date July 19, 2024.

68-9,108 Nebraska Prenatal Plus Program; reimbursement rate; state plan amendment or waiver.

The Department of Health and Human Services may reimburse eligible services for the Nebraska Prenatal Plus Program for at-risk mothers at an enhanced rate and shall file a state plan amendment or waiver, as necessary, no later than October 1, 2024, to implement the program.

Source: Laws 2024, LB857, § 5.
Effective date July 19, 2024.

68-9,109 Nebraska Prenatal Plus Program; department; report.

The Department of Health and Human Services shall electronically submit a report to the Legislature on or before December 15 of each year beginning December 15, 2024, on the Nebraska Prenatal Plus Program which includes (1)

the number of mothers served, (2) the services offered, and (3) the birth outcomes for each mother served.

Source: Laws 2024, LB857, § 6.
Effective date July 19, 2024.

68-9,110 Nebraska Prenatal Plus Program; funding.

It is the intent of the Legislature to use the Medicaid Managed Care Excess Profit Fund established in section 68-996 to fund the services provided under the Nebraska Prenatal Plus Program.

Source: Laws 2024, LB857, § 7.
Effective date July 19, 2024.

68-9,111 Pharmacy dispensing fee reimbursement; survey.

(1)(a) Beginning with fiscal year 2024-25, contingent upon implementation of the contractual agreements with medicaid managed care organizations as described in subsection (2) of this section, the department shall establish a fee-for-service pharmacy dispensing fee reimbursement of ten dollars and thirty-eight cents per prescription for any independent pharmacy until a cost-of-dispensing survey is completed. The actual dispensing fee shall be determined by a cost-of-dispensing survey administered by the department and completed by all medical assistance program participating independent pharmacies every two years. The change in the dispensing fee shall become effective following federal approval of the medicaid state plan.

(b) For purposes of this section, independent pharmacy means any pharmacy as defined in section 71-425 that owns six or fewer pharmacies.

(2) The department shall amend all medicaid managed care organization contracts to authorize establishment of a managed care pharmacy dispensing fee reimbursement in accordance with the established fee-for-service pharmacy dispensing fee reimbursement per prescription for independent pharmacies pursuant to subsection (1) of this section.

(3) Any dispensing fee cost information submitted to the department as part of the cost-of-dispensing survey described in subsection (1) of this section that specifically identifies individual costs of a pharmacy or provider shall remain confidential.

(4) No later than December 15, 2024, the department shall electronically submit a report to the Clerk of the Legislature providing recommendations for adjusting pharmacy dispensing fees between completion of surveys to ensure fair and adequate reimbursement for independent pharmacies and all other pharmacies participating in the medical assistance program.

Source: Laws 2024, LB204, § 2.
Effective date April 17, 2024.

ARTICLE 10

ASSISTANCE, GENERALLY

(a) ASSISTANCE TO THE AGED, BLIND, OR DISABLED

Section
68-1006.01. Personal needs allowance; amount authorized.
68-1009. Hospital; reimbursement for certain services; conditions.
68-1010. Patients with complex health needs; transfer; pilot program.

Section

(b) PROCEDURE AND PENALTIES

68-1017.02. Supplemental Nutrition Assistance Program; department; duties; state outreach plan; report; contents; categorical eligibility; legislative intent; increased benefits, when; person ineligible, when.

(a) ASSISTANCE TO THE AGED, BLIND, OR DISABLED

68-1006.01 Personal needs allowance; amount authorized.

The Department of Health and Human Services shall include in the standard of need for eligible aged, blind, and disabled persons seventy-five dollars per month for a personal needs allowance if such persons reside in an alternative living arrangement.

For purposes of this section, an alternative living arrangement shall include board and room, a boarding home, a certified adult family home, a licensed assisted-living facility, a licensed residential child-caring agency as defined in section 71-1926, a licensed center for the developmentally disabled, and a long-term care facility.

Source: Laws 1991, LB 57, § 1; Laws 1996, LB 1044, § 308; Laws 1997, LB 608, § 3; Laws 1999, LB 119, § 1; Laws 2000, LB 819, § 79; Laws 2013, LB265, § 37; Laws 2015, LB366, § 1; Laws 2023, LB227, § 62.

68-1009 Hospital; reimbursement for certain services; conditions.

(1) The state shall provide medicaid reimbursement to a hospital at one hundred percent of the statewide average nursing facility per diem rate for an individual if the individual: (a) Is enrolled in the medical assistance program; (b) has been admitted as an inpatient to such hospital; (c) no longer requires acute inpatient care and discharge planning as described in 42 C.F.R. 482.43; (d) requires nursing facility level of care upon discharge; and (e) is unable to be transferred to a nursing facility due to a lack of available nursing facility beds available to the individual or, in cases where the transfer requires a guardian, has been approved for appointment of a public guardian and the State Court Administrator is unable to appoint a public guardian.

(2) Reimbursement for services shall be subject to federal approval.

Source: Laws 2023, LB227, § 63.

68-1010 Patients with complex health needs; transfer; pilot program.

(1) The Department of Health and Human Services shall contract with, or provide a grant to, an eligible entity to implement a pilot program to facilitate the transfer of patients with complex health needs from eligible acute care hospitals to appropriate post-acute care settings, including facilities that provide skilled nursing or long-term care.

(2) The purposes of the pilot program are to ensure that:

(a) Patients with complex health needs are able to access timely transition from an acute care hospital to a post-acute care setting;

(b) Patients receive the appropriate type of care at the appropriate time to best meet their needs; and

(c) Acute-care hospitals have available capacity to meet the needs of patients.

(3) For purposes of this section:

(a) Eligible acute care hospital means a facility that is not designated as a critical access hospital by the federal Centers for Medicare and Medicaid Services and must satisfactorily demonstrate to the eligible entity that it has reached or exceeded eighty percent of available staffed capacity for adult intensive-care-unit beds and acute care inpatient medical-surgical beds;

(b) Eligible entity means a nonprofit statewide association whose members include eligible acute care hospitals; and

(c) Patient means a person who is medically stable and who the provider believes, with a reasonable medical probability and in accordance with recognized medical standards, is safe to be discharged or transferred and is not expected to have his or her condition negatively impacted during, or as a result of, the discharge or transfer.

(4) The eligible entity responsible for developing the pilot program shall:

(a) Determine criteria to define patients with complex health needs;

(b) Develop a process for eligible acute care hospitals to determine capacity and the manner and frequency of reporting changes in capacity;

(c) Develop a process to ensure funding is utilized for the purposes described in this section and in compliance with all applicable state and federal laws;

(d) Include regular consultation with the department and representatives of acute care hospitals, skilled nursing facilities, and nursing facilities; and

(e) Include quarterly updates to the department.

(5) The pilot program may include direct payments to post-acute care facilities that support care to patients with complex health needs.

(6) Funding utilized under the pilot program shall comply with all medicaid and medicare reimbursement policies for skilled nursing facilities, nursing facilities, and swing-bed hospitals.

(7) It is the intent of the Legislature to appropriate one million dollars from the General Fund to carry out this section. No more than two and one-half percent of the contracted amount shall be used to administer the pilot program.

Source: Laws 2023, LB227, § 64.

(b) PROCEDURE AND PENALTIES

68-1017.02 Supplemental Nutrition Assistance Program; department; duties; state outreach plan; report; contents; categorical eligibility; legislative intent; increased benefits, when; person ineligible, when.

(1)(a) The Department of Health and Human Services shall apply for and utilize to the maximum extent possible, within limits established by the Legislature, any and all appropriate options available to the state under the federal Supplemental Nutrition Assistance Program and regulations adopted under such program to maximize the number of Nebraska residents being served under such program within such limits. The department shall seek to maximize federal funding for such program and minimize the utilization of General Funds for such program and shall employ the personnel necessary to determine the options available to the state and issue the report to the Legislature required by subdivision (b) of this subsection.

(b) The department shall submit electronically an annual report to the Health and Human Services Committee of the Legislature by December 1 on efforts by the department to carry out the provisions of this subsection. Such report shall provide the committee with all necessary and appropriate information to enable the committee to conduct a meaningful evaluation of such efforts. Such information shall include, but not be limited to, a clear description of various options available to the state under the federal Supplemental Nutrition Assistance Program, the department's evaluation of and any action taken by the department with respect to such options, the number of persons being served under such program, and any and all costs and expenditures associated with such program.

(c) The Health and Human Services Committee of the Legislature, after receipt and evaluation of the report required in subdivision (b) of this subsection, shall issue recommendations to the department on any further action necessary by the department to meet the requirements of this section.

(2)(a) The department shall develop a state outreach plan to promote access by eligible persons to benefits of the Supplemental Nutrition Assistance Program. The plan shall meet the criteria established by the Food and Nutrition Service of the United States Department of Agriculture for approval of state outreach plans. The Department of Health and Human Services may apply for and accept gifts, grants, and donations to develop and implement the state outreach plan.

(b) For purposes of developing and implementing the state outreach plan, the department shall partner with one or more counties or nonprofit organizations. If the department enters into a contract with a nonprofit organization relating to the state outreach plan, the contract may specify that the nonprofit organization is responsible for seeking sufficient gifts, grants, or donations necessary for the development and implementation of the state outreach plan and may additionally specify that any costs to the department associated with the award and management of the contract or the implementation or administration of the state outreach plan shall be paid out of private or federal funds received for development and implementation of the state outreach plan.

(c) The department shall submit the state outreach plan to the Food and Nutrition Service of the United States Department of Agriculture for approval on or before August 1, 2011, and shall request any federal matching funds that may be available upon approval of the state outreach plan. It is the intent of the Legislature that the State of Nebraska and the Department of Health and Human Services use any additional public or private funds to offset costs associated with increased caseload resulting from the implementation of the state outreach plan.

(d) The department shall be exempt from implementing or administering a state outreach plan under this subsection, but not from developing such a plan, if it does not receive private or federal funds sufficient to cover the department's costs associated with the implementation and administration of the plan, including any costs associated with increased caseload resulting from the implementation of the plan.

(3)(a) It is the intent of the Legislature that:

(i) Hard work be rewarded and no disincentives to work exist for Supplemental Nutrition Assistance Program participants;

(ii) Supplemental Nutrition Assistance Program participants be enabled to advance in employment, through greater earnings or new, better-paying employment;

(iii) Participants in employment and training pilot programs be able to maintain Supplemental Nutrition Assistance Program benefits while seeking employment with higher wages that allow them to reduce or terminate such program benefits; and

(iv) Nebraska better utilize options under the Supplemental Nutrition Assistance Program that other states have implemented to encourage work and employment.

(b)(i) The department shall create a TANF-funded program or policy that, in compliance with federal law, establishes categorical eligibility for federal food assistance benefits pursuant to the Supplemental Nutrition Assistance Program to maximize the number of Nebraska residents being served under such program in a manner that does not increase the current gross income eligibility limit except as otherwise provided in subdivision (3)(b)(ii) of this section.

(ii) Except as otherwise provided in this subdivision, such TANF-funded program or policy shall increase the gross income eligibility limit to one hundred sixty-five percent of the federal Office of Management and Budget income poverty guidelines as allowed under federal law and under 7 C.F.R. 273.2(j)(2), as such law and regulation existed on April 1, 2021, but shall not increase the net income eligibility limit. Beginning October 1, 2025, the gross income eligibility limit shall return to the amount used prior to the increase required by this subdivision. The department shall evaluate the TANF-funded program or policy created pursuant to this subsection and provide a report electronically to the Health and Human Services Committee of the Legislature and the Legislative Fiscal Analyst on or before December 15 of each year regarding the gross income eligibility limit and whether it maximizes the number of Nebraska residents being served under the program or policy. The evaluation shall include an identification and determination of additional administrative costs resulting from the increase to the gross income eligibility limit, a recommendation regarding the gross income eligibility limit, and a determination of the availability of federal funds for the program or policy.

(iii) To the extent federal funds are available to the Department of Labor for the SNAP Next Step Program, until September 30, 2023, any recipient of Supplemental Nutrition Assistance Program benefits whose household income is between one hundred thirty-one and one hundred sixty-five percent of the federal Office of Management and Budget income poverty guidelines and who is not exempt from work participation requirements shall be encouraged to participate in the SNAP Next Step Program administered by the Department of Labor if the recipient is eligible to participate in the program and the program's services are available in the county in which such household is located. It is the intent of the Legislature that no General Funds be utilized by the Department of Labor for the processes outlined in this subdivision (iii). For purposes of this section, SNAP Next Step Program means a partnership program between the Department of Health and Human Services and the Department of Labor to assist under-employed and unemployed recipients of Supplemental Nutrition Assistance Program benefits in finding self-sufficient employment.

(iv) Such TANF-funded program or policy shall eliminate all asset limits for eligibility for federal food assistance benefits, except that the total of liquid assets which includes cash on hand and funds in personal checking and savings accounts, money market accounts, and share accounts shall not exceed twenty-five thousand dollars pursuant to the Supplemental Nutrition Assistance Program, as allowed under federal law and under 7 C.F.R. 273.2(j)(2).

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

(c) For purposes of this subsection:

(i) Federal law means the federal Food and Nutrition Act of 2008, 7 U.S.C. 2011 et seq., and regulations adopted under the act; and

(ii) TANF means the federal Temporary Assistance for Needy Families program established in 42 U.S.C. 601 et seq.

(4)(a) Within the limits specified in this subsection, the State of Nebraska opts out of the provision of the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as such act existed on January 1, 2009, that eliminates eligibility for the Supplemental Nutrition Assistance Program for any person convicted of a felony involving the possession, use, or distribution of a controlled substance.

(b) A person shall be ineligible for Supplemental Nutrition Assistance Program benefits under this subsection if he or she (i) has had three or more felony convictions for the possession or use of a controlled substance or (ii) has been convicted of a felony involving the sale or distribution of a controlled substance or the intent to sell or distribute a controlled substance. A person with one or two felony convictions for the possession or use of a controlled substance shall only be eligible to receive Supplemental Nutrition Assistance Program benefits under this subsection if he or she is participating in or has completed a state-licensed or nationally accredited substance abuse treatment program since the date of conviction. The determination of such participation or completion shall be made by the treatment provider administering the program.

Source: Laws 2003, LB 667, § 22; Laws 2005, LB 301, § 2; Laws 2008, LB171, § 1; Laws 2009, LB288, § 28; Laws 2011, LB543, § 1; Laws 2012, LB782, § 95; Laws 2021, LB108, § 1; Laws 2023, LB227, § 65.

ARTICLE 11
AGING

(a) ADVISORY COMMITTEE ON AGING

(a) ADVISORY COMMITTEE ON AGING

68-1105 Committee; special committees; members; expenses.

The members of the Division of Medicaid and Long-Term Care Advisory Committee on Aging, and noncommittee members serving on special commit-

tees, shall receive no compensation for their services other than reimbursement for expenses as provided in sections 81-1174 to 81-1177. Committee expenses and any office expenses shall be paid from funds made available to the committee by the Legislature.

Source: Laws 1965, c. 409, § 5, p. 1314; Laws 1971, LB 97, § 4; Laws 1974, LB 660, § 4; Laws 1981, LB 204, § 104; Laws 1982, LB 404, § 33; Laws 1996, LB 1044, § 344; Laws 2007, LB296, § 276; Laws 2020, LB381, § 55.

(c) AGING AND DISABILITY RESOURCE CENTER ACT

68-1114 Terms, defined.

For purposes of the Aging and Disability Resource Center Act:

(1) Aging and disability resource center means a community-based entity established to provide information about long-term care services and support and to facilitate access to options counseling to assist eligible individuals and their representatives in identifying the most appropriate services to meet their long-term care needs;

(2) Area agency on aging has the meaning found in section 81-2208;

(3) Center for independent living has the definition found in 29 U.S.C. 796a, as such section existed on January 1, 2018;

(4) Department means the State Unit on Aging of the Division of Medicaid and Long-Term Care of the Department of Health and Human Services or any successor agency designated by the state to fulfill the responsibilities of section 305(a)(1) of the federal Older Americans Act of 1965, 42 U.S.C. 3025(a)(1), as such section existed on January 1, 2018;

(5) Eligible individual means a person who has lost, never acquired, or has one or more conditions that affect his or her ability to perform basic activities of daily living that are necessary to live independently;

(6) Options counseling means a service that assists an eligible individual in need of long-term care and his or her representatives to make informed choices about the services and settings which best meet his or her long-term care needs and that uses uniform data and information collection and encourages the widest possible use of community-based options to allow an eligible individual to live as independently as possible in the setting of his or her choice;

(7) Partnering organization means an organization specializing in serving aging persons or persons with disabilities that has agreed to provide the services described in the Aging and Disability Resource Center Act;

(8) Representative means a person designated as a legal guardian, designated by a power of attorney or a health care power of attorney, or chosen by law, by a court, or by an eligible individual seeking services, but use of the term representative shall not be construed to disqualify an individual who retains all legal and personal autonomy;

(9) Uniform assessment means a single standardized tool used to assess a defined population at a specific time; and

(10) University Center for Excellence in Developmental Disability Education, Research and Service means the federally designated University Center for

Excellence in Developmental Disability Education, Research and Service of the Munroe-Meyer Institute at the University of Nebraska Medical Center.

Source: Laws 2015, LB320, § 4; Laws 2018, LB793, § 3; Laws 2022, LB856, § 1.

68-1117 Area agency on aging or partnering organization; powers and duties.

(1) An area agency on aging or partnering organization receiving funding pursuant to section 68-1115, may work in partnership with one or more partnering organizations that specialize in serving persons with congenital and acquired disabilities to provide services as described in subsection (2) of section 68-1116, including, but not limited to, centers for independent living and the University Center for Excellence in Developmental Disability Education, Research and Service, for the purpose of developing an aging and disability resource center plan. After consultation with a collaboration of organizations providing advocacy, protection, and safety for aging persons and persons with congenital and acquired disabilities, the partnership may submit to the department an aging and disability resource center plan. The plan shall specify how organizations currently serving eligible individuals will be engaged in the process of delivery of services through the aging and disability resource center. The plan shall indicate how resources will be utilized by the collaborating organizations to fulfill the responsibilities of an aging and disability resource center.

(2) Two or more area agencies on aging or partnering organizations may develop a joint aging and disability resource center plan to serve all or a portion of their planning-and-service areas. A joint plan shall provide information on how the services described in section 68-1116 will be provided in the counties to be served by the aging and disability resource center.

(3) A partnering organization may: (a) Contract with an area agency on aging for the purpose of providing services pursuant to this section; or (b) contract with the department for the purpose of providing services pursuant to this section.

Source: Laws 2015, LB320, § 7; Laws 2018, LB793, § 6; Laws 2022, LB856, § 2.

68-1119 Reimbursement; schedule.

The department shall reimburse each area agency on aging operating an aging and disability resource center on a schedule agreed to by the department and the area agency on aging. If a partnering organization has contracted with the department for the purpose of providing services described in the Aging and Disability Resource Center Act, the department shall reimburse the partnering organization on a schedule agreed to by the department and the partnering organization. Such reimbursement shall be made from (1) state funds appropriated by the Legislature, (2) federal funds allocated to the department for the purpose of establishing and operating aging and disability resource centers, and (3) other funds as available.

Source: Laws 2015, LB320, § 9; Laws 2018, LB793, § 8; Laws 2022, LB856, § 3.

ARTICLE 12
SOCIAL SERVICES

Section

68-1201 Eligibility determination; exclusion of certain assets and income.

(1) In determining eligibility for the program for aid to dependent children pursuant to section 43-512 as administered by the State of Nebraska pursuant to the federal Temporary Assistance for Needy Families program, 42 U.S.C. 601 et seq., for the low-income home energy assistance program administered by the State of Nebraska pursuant to the federal Energy Policy Act of 2005, 42 U.S.C. 8621 to 8630, for the Supplemental Nutrition Assistance Program administered by the State of Nebraska pursuant to the federal Food and Nutrition Act of 2008, 7 U.S.C. 2011 et seq., and for the child care subsidy program established pursuant to section 68-1202, the following shall not be included in determining assets or income:

(a) Assets in or income from an educational savings account, a Coverdell educational savings account described in 26 U.S.C. 530, a qualified tuition program established pursuant to 26 U.S.C. 529, or any similar savings account or plan established to save for qualified higher education expenses as defined in section 85-1802;

(b) Income from scholarships or grants related to postsecondary education, whether merit-based, need-based, or a combination thereof;

(c) Income from postsecondary educational work-study programs, whether federally funded, funded by a postsecondary educational institution, or funded from any other source;

(d) Assets in or income from an account under a qualified program as provided in section 77-1402;

(e) Income received for participation in grant-funded research on the impact that income has on the development of children in low-income families, except that such exclusion of income must not exceed four thousand dollars per year for a maximum of eight years and such exclusion shall only be made if the exclusion is permissible under federal law for each program referenced in this section. No such exclusion shall be made for such income on or after December 31, 2026; and

(f) Income from any tax credits received pursuant to the School Readiness Tax Credit Act.

(2) In determining eligibility for the program for aid to dependent children pursuant to section 43-512 as administered by the State of Nebraska pursuant to the federal Temporary Assistance for Needy Families program, 42 U.S.C. 601 et seq., passed-through child support as described in section 43-512.07, shall not be included in determining assets or income.

Source: Laws 2014, LB359, § 1; Laws 2015, LB591, § 10; Laws 2016, LB889, § 8; Laws 2016, LB1081, § 2; Laws 2021, LB533, § 1; Laws 2024, LB233, § 3.
Effective date July 19, 2024.

Cross References

School Readiness Tax Credit Act, see section 77-3601.

68-1206 Social services; administration; contracts; payments; duties; federal Child Care Subsidy program; participation; requirements; funding; evaluation.

(1) The Department of Health and Human Services shall administer the program of social services in this state. The department may contract with other social agencies for the purchase of social services at rates not to exceed those prevailing in the state or the cost at which the department could provide those services. The statutory maximum payments for the separate program of aid to dependent children shall apply only to public assistance grants and shall not apply to payments for social services.

(2)(a) As part of the provision of social services authorized by section 68-1202, the department shall participate in the federal child care assistance program under 42 U.S.C. 9857 et seq., as such sections existed on January 1, 2023, and provide child care assistance to families with incomes up to (i) one hundred eighty-five percent of the federal poverty level prior to October 1, 2026, or (ii) one hundred thirty percent of the federal poverty level on and after October 1, 2026.

(b)(i) As part of the provision of social services authorized by this section and section 68-1202, the department shall participate in the federal Child Care Subsidy program. A child care provider seeking to participate in the federal Child Care Subsidy program shall comply with the criminal history record information check requirements of the Child Care Licensing Act. In determining ongoing eligibility for this program, ten percent of a household's gross earned income shall be disregarded after twelve continuous months on the program and at each subsequent redetermination. In determining ongoing eligibility, if a family's income exceeds one hundred eighty-five percent of the federal poverty level prior to October 1, 2026, or one hundred thirty percent of the federal poverty level on and after October 1, 2026, the family shall receive transitional child care assistance through the remainder of the family's eligibility period or until the family's income exceeds eighty-five percent of the state median income for a family of the same size as reported by the United States Bureau of the Census, whichever occurs first. When the family's eligibility period ends, the family shall continue to be eligible for transitional child care assistance if the family's income is below two hundred percent of the federal poverty level prior to October 1, 2026, or one hundred eighty-five percent of the federal poverty level on and after October 1, 2026. The family shall receive transitional child care assistance through the remainder of the transitional eligibility period or until the family's income exceeds eighty-five percent of the state median income for a family of the same size as reported by the United

States Bureau of the Census, whichever occurs first. The amount of such child care assistance shall be based on a cost-shared plan between the recipient family and the state and shall be based on a sliding-scale methodology. A recipient family may be required to contribute a percentage of such family's gross income for child care that is no more than the cost-sharing rates in the transitional child care assistance program as of January 1, 2015, for those no longer eligible for cash assistance as provided in section 68-1724.

(ii) A licensed child care program that employs a member of an eligible household shall make reasonable accommodations so that the eligible applicant or adult household member is not a primary caregiver to such applicant's or adult household member's child. If reasonable accommodation cannot be made, the department shall allow the applicant or adult household member to receive child care assistance for the applicant's or adult household member's child including when the applicant or adult household member is the primary caregiver for such child.

(iii) A licensed child care provider eligible for the child care subsidy may enroll the household member's child in a child care program other than the household member's child care program to receive child care assistance.

(iv) Subdivisions (2)(b)(ii) and (2)(b)(iii) of this section shall become operative on July 1, 2025. The department shall promulgate rules and regulations consistent with these subdivisions.

(c) For the period beginning July 1, 2021, through September 30, 2026, funds provided to the State of Nebraska pursuant to the Child Care and Development Block Grant Act of 1990, 42 U.S.C. 9857 et seq., as such act and sections existed on January 1, 2023, shall be used to pay the costs to the state resulting from the income eligibility changes made in subdivisions (2)(a) and (b) of this section by Laws 2021, LB485. If the available amount of such funds is insufficient to pay such costs, then funds provided to the state for the Temporary Assistance for Needy Families program established in 42 U.S.C. 601 et seq. may also be used. No General Funds shall be used to pay the costs to the state, other than administration costs, resulting from the income eligibility changes made in subdivisions (2)(a) and (b) of this section by Laws 2021, LB485, for the period beginning July 1, 2021, through September 30, 2026.

(d) The Department of Health and Human Services shall collaborate with a private nonprofit organization with expertise in early childhood care and education for an independent evaluation of the income eligibility changes made in subdivisions (2)(a) and (b) of this section by Laws 2021, LB485, if private funding is made available for such purpose. The evaluation shall be completed by July 1, 2024, and shall be submitted electronically to the department and to the Health and Human Services Committee of the Legislature.

(3) In determining the rate or rates to be paid by the department for child care as defined in section 43-2605, the department shall adopt a fixed-rate schedule for the state or a fixed-rate schedule for an area of the state applicable to each child care program category of provider as defined in section 71-1910 which may claim reimbursement for services provided by the federal Child Care Subsidy program, except that the department shall not pay a rate higher than that charged by an individual provider to that provider's private clients. The schedule may provide separate rates for care for infants, for children with special needs, including disabilities or technological dependence, or for other individual categories of children. The schedule may also provide tiered rates

based upon a quality scale rating of step three or higher under the Step Up to Quality Child Care Act. The schedule shall be effective on October 1 of every year and shall be revised annually by the department.

Source: Laws 1973, LB 511, § 6; Laws 1982, LB 522, § 44; Laws 1991, LB 836, § 26; Laws 1995, LB 401, § 22; Laws 1996, LB 1044, § 347; Laws 2006, LB 994, § 68; Laws 2007, LB296, § 279; Laws 2013, LB507, § 15; Laws 2014, LB359, § 3; Laws 2015, LB81, § 1; Laws 2019, LB460, § 1; Laws 2020, LB1185, § 1; Laws 2021, LB485, § 1; Laws 2023, LB227, § 66; Laws 2024, LB856, § 1.
Effective date July 19, 2024.

Cross References

Child Care Licensing Act, see section 71-1908.
Step Up to Quality Child Care Act, see section 71-1952.

68-1207 Department of Health and Human Services; public child welfare services; supervise; department; caseload requirements; case plan developed.

(1) The Department of Health and Human Services shall supervise all public child welfare services as described by law. The department shall maintain caseloads to carry out child welfare services which provide for adequate, timely, and indepth investigations and services to children and families. Caseloads shall range between twelve and seventeen cases as determined pursuant to subsection (2) of this section. In establishing the specific caseloads within such range, the department shall (a) include the workload factors that may differ due to geographic responsibilities, office location, and the travel required to provide a timely response in the investigation of abuse and neglect, the protection of children, and the provision of services to children and families in a uniform and consistent statewide manner and (b) utilize the workload criteria of the standards established as of January 1, 2012, by the Child Welfare League of America. The average caseload shall be reduced by the department in all service areas as designated pursuant to section 81-3116 to comply with the caseload range described in this subsection by September 1, 2012. Beginning September 15, 2012, the department shall include in its annual report required pursuant to section 68-1207.01 a report on the attainment of the decrease according to such caseload standards. The department's annual report shall also include changes in the standards of the Child Welfare League of America or its successor.

(2) Caseload size shall be determined in the following manner: (a) If children are placed in the home, the family shall count as one case regardless of how many children are placed in the home; (b) if a child is placed out of the home, the child shall count as one case; (c) if, within one family, one or more children are placed in the home and one or more children are placed out of the home, the children placed in the home shall count as one case and each child placed out of the home shall count as one case; and (d) any child receiving services from the department or a private entity under contract with the department shall be counted as provided in subdivisions (a) through (c) of this subsection whether or not such child is a ward of the state. For purposes of this subsection, a child is considered to be placed in the home if the child is placed with his or her biological or adoptive parent or a legal guardian and a child is considered to be placed out of the home if the child is placed in a foster family home as defined in section 71-1901, a residential child-caring agency as defined

in section 71-1926, or any other setting which is not the child's planned permanent home.

(3) To insure appropriate oversight of noncourt and voluntary cases when any child welfare services are provided by the department as a result of a child safety assessment, the department shall develop a case plan that specifies the services to be provided and the actions to be taken by the department and the family in each such case. Such case plan shall clearly indicate, when appropriate, that children are receiving services to prevent out-of-home placement and that, absent preventive services, foster care is the planned arrangement for the child.

(4) To carry out the provisions of this section, the Legislature shall provide funds for additional staff.

Source: Laws 1973, LB 511, § 7; Laws 1985, LB 1, § 2; Laws 1990, LB 720, § 1; Laws 1996, LB 1044, § 348; Laws 2005, LB 264, § 2; Laws 2007, LB296, § 280; Laws 2012, LB961, § 3; Laws 2013, LB265, § 38; Laws 2013, LB269, § 8; Laws 2022, LB1173, § 16.

68-1210 Department of Health and Human Services; certain foster care children; payment rates; family care services; plan; implementation.

(1) Notwithstanding any other provision of law, the Department of Health and Human Services shall have the authority through rule or regulation to establish payment rates for children with special needs who are in foster care and in the custody of the department.

(2)(a) On or before October 1, 2022, the Division of Medicaid and Long-Term Care and the Division of Children and Family Services of the Department of Health and Human Services shall develop a plan to implement treatment family care services. The plan shall be submitted to the Health and Human Services Committee of the Legislature and the Nebraska Children's Commission.

(b) On or before October 1, 2023, the Division of Medicaid and Long-Term Care shall implement treatment family care services as allowed by federal law. The department shall seek to maximize federal funding for such program prior to utilizing state medicaid funds for eligible children.

Source: Laws 1990, LB 1022, § 1; Laws 1996, LB 1044, § 350; Laws 2007, LB296, § 282; Laws 2022, LB1173, § 17.

68-1212 Department of Health and Human Services; cases; case manager; employee of department; duties.

For all cases in which a court has awarded a juvenile to the care of the Department of Health and Human Services according to subsection (1) of section 43-285 and for any noncourt and voluntary cases, the case manager shall be an employee of the department. Such case manager shall be responsible for and shall directly oversee: Case planning; service authorization; investigation of compliance; monitoring and evaluation of the care and services provided to children and families; and decisionmaking regarding the determination of visitation and the care, placement, medical services, psychiatric services, training, and expenditures on behalf of each juvenile under subsection (1) of section 43-285. Such case manager shall be responsible for decisionmaking and direct preparation regarding the proposed plan for the care, placement, services, and permanency of the juvenile filed with the court required under

subsection (2) of section 43-285. The health and safety of the juvenile shall be the paramount concern in the proposed plan.

Source: Laws 2012, LB961, § 2; Laws 2014, LB660, § 1; Laws 2019, LB600, § 18; Laws 2020, LB219, § 3; Laws 2022, LB1173, § 18.

68-1213 Repealed. Laws 2022, LB1173, § 23.

68-1214 Case managers; training program; department; duties; training curriculum; contents.

To facilitate consistency in training all case managers and allow for Title IV-E reimbursement for case manager training under Title IV-E of the federal Social Security Act, as amended, the same program for initial training of case managers shall be utilized for all case managers. The initial training of all case managers shall be provided by the department or one or more organizations under contract with the department. The department shall create a formal system for measuring and evaluating the quality of such training. All case managers shall complete a formal assessment process after initial training to demonstrate competency prior to assuming responsibilities as a case manager. The training curriculum for case managers shall include, but not be limited to: (1) An understanding of the benefits of utilizing evidence-based and promising casework practices; (2) the importance of guaranteeing service providers' fidelity to evidence-based and promising casework practices; and (3) a commitment to evidence-based and promising family-centered casework practices that utilize a least restrictive approach for children and families.

Source: Laws 2014, LB853, § 45; Laws 2022, LB1173, § 19.

68-1215 Low-income home energy assistance program; eligibility; determination.

For purposes of determining eligibility of a household for the low-income home energy assistance program pursuant to section 68-1201 as administered by the State of Nebraska pursuant to the federal Energy Policy Act of 2005, 42 U.S.C. 8621 to 8630, the Department of Health and Human Services shall apply a household total annual income level of one hundred fifty percent of the federal poverty level published annually by the United States Department of Health and Human Services or such successor agency which publishes the federal poverty level.

Source: Laws 2021, LB306, § 1.

68-1216 Low-income home energy assistance program; allocation of funds.

The Department of Health and Human Services shall annually allocate at least ten percent of available funds for the low-income home energy assistance program established pursuant to the federal Energy Policy Act of 2005, 42 U.S.C. 8621 to 8630, to weatherization assistance for eligible households as administered by the department or other agencies of the state.

Source: Laws 2021, LB306, § 2.

ARTICLE 14

GENETICALLY HANDICAPPED PERSONS

68-1405 Department of Health and Human Services; medical care program; uniform standards of financial eligibility and payment; establish.

The Department of Health and Human Services shall establish uniform standards of financial eligibility for the treatment services under the program established under the Genetically Handicapped Persons Act, including a uniform formula for the payment of services by physicians and health care providers rendered under such program and such formula for payment shall provide for reimbursement at rates similar to those set by other federal and state programs, and private entitlements. The standards of the department for financial eligibility shall be the same as those established for Medically Handicapped Children's Services, as administered by the department. All county, district, or city-county health departments shall use the uniform standards for financial eligibility and uniform formula for payment established by the department. All payments shall be used in support of the program for services established under the act.

The department shall establish payment schedules for services.

Source: Laws 1980, LB 989, § 5; Laws 1985, LB 249, § 5; Laws 1996, LB 1044, § 353; Laws 2006, LB 994, § 71; Laws 2007, LB296, § 285; Laws 2024, LB1143, § 2.
Effective date July 19, 2024.

ARTICLE 15

DISABLED PERSONS AND FAMILY SUPPORT

(a) DISABLED PERSONS AND FAMILY SUPPORT ACT

68-1512 Support; maximum allowance; limitations; appropriations; legislative intent.

(1) The maximum support allowable under sections 68-1501 to 68-1519 shall be (a) four hundred dollars per month per disabled person averaged over any one-year period or (b) four hundred dollars per month per family averaged over

any one-year period for the first disabled family member plus two hundred dollars per month averaged over any one-year period for each additional disabled family member. The department shall not provide support, pursuant to sections 68-1501 to 68-1519, to any family or disabled person whose gross income less the cost of medical or other care specifically related to the disability exceeds the median family income for a family of four in Nebraska, except that the department shall make adjustments for the actual size of the family.

(2) It is the intent of the Legislature that any appropriation relating to this section be increased accordingly so that each person who received support prior to September 2, 2023, will continue to receive support.

Source: Laws 1981, LB 389, § 12; Laws 1985, LB 87, § 2; Laws 2023, LB227, § 67.

(c) FAMILY SUPPORT PROGRAM

68-1529 Legislative findings and declarations.

The Legislature finds and declares that:

(1) The family is vital to the fundamental development of each person in the State of Nebraska;

(2) A growing number of families are searching for ways to provide supports for disabled family members in the home rather than placing them in state or private institutional or residential facilities;

(3) The informal support of family caregivers is the backbone of the system of long-term care services, and the assistance provided to a person with a disability is critical to the financial well-being of the state, particularly when such assistance helps to defer a more costly institutional or residential placement;

(4) Necessary services should be available to families caring for a disabled family member so that disabled persons may remain in the home;

(5) The State of Nebraska should make every effort to preserve each family unit having a child with a disability, to ensure that decisions regarding a child with a disability are based on the best interests of the child and the family, and to ensure that services are provided that promote independent living, family-centered care, and individual choices;

(6) The State of Nebraska should promote cost-effective health care alternatives for disabled persons and should maximize state, federal, and private funding to ensure adequate health care supports and services are available for children with disabilities and their families;

(7) Early intervention (a) has been shown to help a child with a developmental delay, or at risk of a developmental delay, to acquire skills during the most critical period of growth, (b) is a recognized public health approach that helps to ensure that a child has access to services and supports to help the child acquire living skills and increase the likelihood that the child will be self-sufficient or have less dependency on state services, and (c) is a less costly approach for the use of limited state and federal resources;

(8) A child with a disability often needs support after school and during the evening, weekend, and summertime or other school breaks in order to maximize the opportunities for socialization and community integration and to allow

family caregivers the ability to work, focus on self-care, socialize, and participate in community integration;

(9) A family support waiver as proposed under section 68-1530 will supplement the continuum of developmental disability services and other state programming for children with disabilities, remediate current program gaps, and offer a pathway for children with disabilities to gain access to the medical assistance program and capped long-term services and supports; and

(10) Providing support to family caregivers allows them to remain in the workforce which in turn allows the state to benefit from the family caregivers' private health insurance as a first payer.

Source: Laws 2022, LB376, § 1.

68-1530 Family support program; Department of Health and Human Services; Advisory Committee on Developmental Disabilities; duties; funding; legislative intent; family support program; services and support; rules and regulations; report.

(1) The Department of Health and Human Services shall apply for a three-year medicaid waiver under section 1915(c) of the federal Social Security Act to administer a family support program which is a home and community-based services program as provided in this section.

(2)(a) The Advisory Committee on Developmental Disabilities created in section 83-1212.01 shall assist in the development and guide the implementation of the family support program. The family support program shall be administered by the Division of Developmental Disabilities of the Department of Health and Human Services.

(b) It is the intent of the Legislature that any funds distributed to Nebraska pursuant to section 9817 of the federal American Rescue Plan Act of 2021, Public Law 117-2, be used to eliminate unmet needs relating to home and community-based services for persons with developmental disabilities as much as is possible.

(c) If funds are distributed to Nebraska pursuant to section 9817 of the federal American Rescue Plan Act of 2021, it is the intent of the Legislature that such funds distributed to Nebraska should at least partially fund the family support program if doing so is in accordance with federal law, rules, regulations, or guidance.

(3) The family support program shall:

(a) Offer an annual capped budget for long-term services and supports of ten thousand dollars for each eligible applicant;

(b) Offer a pathway for medicaid eligibility for disabled children by disregarding parental income and establishing eligibility based on a child's income and assets;

(c) Allow a family to self-direct services, including contracting for services and supports approved by the division; and

(d) Not exceed eight hundred fifty participants.

(4) The department, in consultation with the advisory committee, shall adopt and promulgate rules and regulations for the implementation of the family support program to be set at an intermediate care facility institutional level of

care to support children with intellectual and developmental disabilities and their families. Such rules and regulations shall include, but not be limited to:

(a) Criteria for and types of long-term services and supports to be provided by the family support program;

(b) The method, as provided in section 68-1532, for allocating resources to family units participating in the family support program;

(c) Eligibility determination, including, but not limited to, a child's maximum income and assets;

(d) The enrollment process;

(e) Limits on benefits; and

(f) Processes to establish quality assurance, including, but not limited to, measures of family satisfaction.

(5) The division shall administer the family support program within the limits of the appropriations by the Legislature for such program.

(6) The division shall submit an annual report electronically to the Legislature on the family support program. The report shall include:

(a) The distribution of available funds, the total number of children and families served, and the status of the waiting list for the comprehensive waiver and other applicable waivers;

(b) A summary of any grievances filed by family units pertaining to the family support program, including any appeals and a description of how such grievances were resolved;

(c) The number and demographics of children with disabilities and their families who applied under the family support program but who were not found eligible and the reason such children and their families were not found eligible;

(d) Quality assurance activities and the results of annual measures of family satisfaction; and

(e) Recommendations to innovate the family support program, improve current programming, and maximize limited funding, including, but not limited to, the potential utilization of other medicaid pathways or medicaid waivers that could help increase access to medicaid and long-term services and supports for children with disabilities or special health care needs.

Source: Laws 2022, LB376, § 2.

68-1531 Services and support; eligibility.

In order to be eligible for services and support under section 68-1530:

(1) The child shall reside in the State of Nebraska;

(2) The income and assets of the child shall not exceed the maximum established under subsection (4) of section 68-1530;

(3) The child shall have a medically determinable physical or mental impairment or combination of impairments that (a) causes marked and severe functional limitations and (b) can be expected to cause death or has lasted or can be expected to last for a continuous period of not less than twelve months; and

(4) The child shall be determined to meet the intermediate care facility institutional level of care criteria as set forth in subsection (4) of section 68-1530.

Source: Laws 2022, LB376, § 3.

68-1532 Family support program; services and support; priorities.

The Department of Health and Human Services shall allocate medicaid waiver benefits under section 68-1530 based on appropriations by the Legislature for such waiver and give priority status in the following order:

(1) First, to disabled children and family units in crisis situations in which the disabled child tends to self-injure or injure siblings and other family members;

(2) Second, to disabled children who are at risk for placement in juvenile detention centers, other institutional settings, or out-of-home placements;

(3) Third, to disabled children whose primary caretakers are grandparents because no other family caregivers are available to provide care;

(4) Fourth, to families who have more than one disabled child residing in the family home; and

(5) Fifth, based on the date of application under the family support program.

Source: Laws 2022, LB376, § 4.

68-1533 Family support program; implementation; conditions.

If the federal Centers for Medicare and Medicaid Services denies the 1915(c) waiver required to be submitted in section 68-1530, the family support program outlined in sections 68-1530 to 68-1532 shall not be implemented until such waiver or other mechanism authorizing the program is approved. The Department of Health and Human Services shall submit a new waiver application or seek other mechanisms for approval if such application is denied.

Source: Laws 2022, LB376, § 5.

68-1534 Family support program; evaluation.

The Department of Health and Human Services shall collaborate with a private, nonprofit organization with expertise in developmental disabilities for an independent evaluation of the family support program set forth in section 68-1530 if private funding is made available for such purpose. The evaluation shall be completed by December 15, 2023, and shall be submitted electronically to the department and to the Health and Human Services Committee of the Legislature.

Source: Laws 2022, LB376, § 6.

ARTICLE 17

WELFARE REFORM

(a) WELFARE REFORM ACT

Section

(a) WELFARE REFORM ACT

68-1713 Department of Health and Human Services; implementation of policies; transitional health care benefits.

(1) The Department of Health and Human Services shall implement the following policies:

(a) Permit Work Experience in Private for-Profit Enterprises;

(b) Permit Job Search;

(c) Permit Employment to be Considered a Program Component;

(d) Make Sanctions More Stringent to Emphasize Participant Obligations;

(e) Alternative Hearing Process;

(f) Permit Adults in Two-Parent Households to Participate in Activities Based on Their Self-Sufficiency Needs;

(g) Eliminate Exemptions for Individuals with Children Between the Ages of 12 Weeks and Age Six;

(h) Providing Poor Working Families with Transitional Child Care to Ease the Transition from Welfare to Self-Sufficiency;

(i) Provide Transitional Health Care for 12 Months After Termination of ADC if funding for such transitional medical assistance is available under Title XIX of the federal Social Security Act, as amended, as described in section 68-906;

(j) Require Adults to Ensure that Children in the Family Unit Attend School;

(k) Encourage Minor Parents to Live with Their Parents;

(l) Establish a Resource Limit of $4,000 for a single individual and $6,000 for two or more individuals for ADC;

(m) Exclude the Value of One Vehicle Per Family When Determining ADC Eligibility;

(n) Exclude the Cash Value of Life Insurance Policies in Calculating Resources for ADC;

(o) Establish the Supplemental Nutrition Assistance Program as a Continuous Benefit with Eligibility Reevaluated with Yearly Redeterminations;

(p) Establish a Budget the Gap Methodology Whereby Countable Earned Income is Subtracted from the Standard of the Need and Payment is Based on the Difference or Maximum Payment Level, Whichever is Less. That this Gap be Established at a Level that Encourages Work but at Least at a Level that Ensures that Those Currently Eligible for ADC do not Lose Eligibility Because of the Adoption of this Methodology;

(q) Adopt an Earned Income Disregard described in section 68-1726 in the ADC Program, One Hundred Dollars in the Related Medical Assistance Program, and Income and Assets Described in section 68-1201;

(r) Disregard Financial Assistance Described in section 68-1201 and Other Financial Assistance Intended for Books, Tuition, or Other Self-Sufficiency Related Use;

(s) Culture: Eliminate the 100-Hour Rule, The Quarter of Work Requirement, and The 30-Day Unemployed/Underemployed Period for ADC-UP Eligibility;

(t) Make ADC a Time-Limited Program;

(u) Adopt an Unearned Income Disregard described in section 68-1201 in the ADC Program, the Supplemental Nutrition Assistance Program, and the Child Care Subsidy Program established pursuant to section 68-1202; and

(v) Adopt a child support disregard described pursuant to section 43-512.07.

(2) The Department of Health and Human Services shall (a) apply for a waiver to allow for a sliding-fee schedule for the population served by the caretaker relative program or (b) pursue other public or private mechanisms, to provide for transitional health care benefits to individuals and families who do not qualify for cash assistance. It is the intent of the Legislature that transitional health care coverage be made available on a sliding-scale basis to individuals and families with incomes up to one hundred eighty-five percent of the federal poverty level if other health care coverage is not available.

Source: Laws 1994, LB 1224, § 13; Laws 1995, LB 455, § 10; Laws 1996, LB 1044, § 357; Laws 1997, LB 864, § 13; Laws 2002, Second Spec. Sess., LB 8, § 3; Laws 2006, LB 994, § 77; Laws 2007, LB351, § 6; Laws 2009, LB288, § 30; Laws 2014, LB359, § 4; Laws 2015, LB607, § 2; Laws 2016, LB1081, § 4; Laws 2024, LB233, § 4.
Effective date July 19, 2024.

68-1724 Cash assistance; duration; reimbursement of expenses; when; conditions; extension of time limit.

(1) Cash assistance shall be provided for a period or periods of time not to exceed a total of sixty months for recipient families with children subject to the following:

(a) If the state fails to meet the specific terms of the self-sufficiency contract developed under section 68-1719, the sixty-month time limit established in this section shall be extended;

(b) The sixty-month time period for cash assistance shall begin within the first month of eligibility;

(c) When no longer eligible to receive cash assistance, assistance shall be available to reimburse work-related child care expenses even if the recipient family has not achieved economic self-sufficiency. The amount of such assistance shall be based on a cost-shared plan between the recipient family and the state which shall provide assistance up to two hundred percent of the federal poverty level prior to October 1, 2026, or one hundred eighty-five percent of the federal poverty level on and after October 1, 2026. A recipient family may be required to contribute up to twenty percent of such family's gross income for child care. It is the intent of the Legislature that transitional health care coverage be made available on a sliding-scale basis to individuals and families with incomes up to one hundred eighty-five percent of the federal poverty level if other health care coverage is not available; and

(d) The self-sufficiency contract shall be revised and cash assistance extended when there is no job available for adult members of the recipient family. It is the intent of the Legislature that available job shall mean a job which results in an income of at least equal to the amount of cash assistance that would have been available if receiving assistance minus unearned income available to the recipient family.

The department shall develop policy guidelines to allow for cash assistance to persons who have received the maximum cash assistance provided by this section and who face extreme hardship without additional assistance. For purposes of this section, extreme hardship means a recipient family does not have adequate cash resources to meet the costs of the basic needs of food, clothing, and housing without continuing assistance or the child or children are at risk of losing care by and residence with their parent or parents.

(2) Cash assistance conditions under the Welfare Reform Act shall be as follows:

(a) Adults in recipient families shall mean individuals at least nineteen years of age living with and related to a child eighteen years of age or younger and shall include parents, siblings, uncles, aunts, cousins, or grandparents, whether the relationship is biological, adoptive, or step;

(b) The payment standard shall be based upon family size;

(c) The adults in the recipient family shall ensure that the minor children regularly attend school. Education is a valuable personal resource. The cash assistance provided to the recipient family may be reduced when the parent or parents have failed to take reasonable action to encourage the minor children of the recipient family ages sixteen and under to regularly attend school. No reduction of assistance shall be such as may result in extreme hardship. It is the intent of the Legislature that a process be developed to insure communication between the case manager, the parent or parents, and the school to address issues relating to school attendance;

(d) Two-parent families which would otherwise be eligible under section 43-504 or a federally approved waiver shall receive cash assistance under this section;

(e) For minor parents, the assistance payment shall be based on the minor parent's income. If the minor parent lives with at least one parent, the family's income shall be considered in determining eligibility and cash assistance payment levels for the minor parent. If the minor parent lives independently, support shall be pursued from the parents of the minor parent. If the absent parent of the minor's child is a minor, support from his or her parents shall be pursued. Support from parents as allowed under this subdivision shall not be pursued when the family income is less than three hundred percent of the federal poverty guidelines; and

(f) For adults who are not biological or adoptive parents or stepparents of the child or children in the family, if assistance is requested for the entire family, including the adults, a self-sufficiency contract shall be entered into as provided in section 68-1719. If assistance is requested for only the child or children in such a family, such children shall be eligible after consideration of the family's income and if (i) the family cooperates in pursuing child support and (ii) the minor children of the family regularly attend school.

Source: Laws 1994, LB 1224, § 24; Laws 1995, LB 455, § 15; Laws 2007, LB351, § 11; Laws 2019, LB460, § 2; Laws 2021, LB485, § 2; Laws 2023, LB227, § 68.

ARTICLE 19

NURSING FACILITY QUALITY ASSURANCE ASSESSMENT ACT

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

68-1917 Quality assurance assessment; payment; computation.

Except for facilities which are exempt under section 68-1918 and facilities referred to in section 68-1919, each nursing facility or skilled nursing facility licensed under the Health Care Facility Licensure Act shall pay a quality assurance assessment based on total resident days, including bed-hold days, less medicare days, for the purpose of improving the quality of nursing facility or skilled nursing facility care in this state. The assessment shall be nine dollars for each resident day for the preceding calendar quarter. The assessment in the aggregate shall not exceed the amount stated in section 68-1920.

Source: Laws 2011, LB600, § 17; Laws 2024, LB130, § 2.
Effective date July 19, 2024.

Cross References

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

ARTICLE 21

HOSPITAL QUALITY ASSURANCE AND ACCESS ASSESSMENT ACT

Section
68-2101. Act, how cited.
68-2102. Terms, defined.
68-2103. Hospital inpatient and outpatient services; assessments and directed-payment programs; establish; department; powers and duties.
68-2104. Assessments; collection and remittance.
68-2105. Assessment; statewide aggregate assessment; amounts, how determined; payment; procedure.
68-2106. Hospital Quality Assurance and Access Assessment Fund; created; use; investment; department; duties; medicaid managed care organizations; hospitals; prohibited acts.
68-2107. Hospital inpatient and outpatient services; medicaid rates; legislative intent.
68-2108. Assessments and directed-payment programs; treatment; retroactive.
68-2109. Assessments; discontinue, when; effect.

68-2101 Act, how cited.

Sections 68-2101 to 68-2109 shall be known and may be cited as the Hospital Quality Assurance and Access Assessment Act.

Source: Laws 2024, LB1087, § 1.
Effective date March 28, 2024.

68-2102 Terms, defined.

For purposes of the Hospital Quality Assurance and Access Assessment Act:

(1) Assessment means a quality assurance and access assessment imposed on hospitals pursuant to section 68-2103;

(2) Department means the Division of Medicaid and Long-Term Care of the Department of Health and Human Services;

(3) Hospital means a hospital as defined in section 71-419 or a rural emergency hospital as described in section 71-477;

(4) Medical assistance program means the medical assistance program established pursuant to the Medical Assistance Act; and

(5) Net patient revenue means the revenue paid to a hospital for patient care, room, board, and services less contractual adjustments, bad debt, and revenue from sources other than operations, including, but not limited to, interest, guest meals, gifts, and grants.

Source: Laws 2024, LB1087, § 2.
Effective date March 28, 2024.

Cross References

Medical Assistance Act, see section 68-901.

68-2103 Hospital inpatient and outpatient services; assessments and directed-payment programs; establish; department; powers and duties.

(1) The department shall amend the medicaid state plan or file other federal authorizing documents to establish assessments and directed-payment programs for hospital inpatient and outpatient services.

(2) Upon approval by the federal Centers for Medicare and Medicaid Services of a hospital assessment and a directed-payment program, the department shall impose an assessment on hospitals to assure quality and access in the medical assistance program.

(3) The department may establish different assessment rates based on categories of hospital or hospital services as allowed by federal law.

(4) The department shall consult with a statewide association representing a majority of hospitals and health systems in Nebraska regarding the development, implementation, and annual renewal of the assessments and the directed-payment programs.

(5) The department shall partner with a statewide association representing a majority of hospitals and health systems in Nebraska to:

(a) Aggregate inpatient, outpatient, and clinic claims data in order to establish quality improvement metrics and track progress on identified metrics; and

(b) Design and implement quality initiatives to improve children's mental health, adult mental health, maternity care, and senior care.

(6) The department shall adopt and promulgate rules and regulations that are necessary to implement the Hospital Quality Assurance and Access Assessment Act.

Source: Laws 2024, LB1087, § 3.
Effective date March 28, 2024.

68-2104 Assessments; collection and remittance.

(1) Except as provided in section 68-2106, the department shall collect assessments from hospitals and remit the assessments to the State Treasurer for credit to the Hospital Quality Assurance and Access Assessment Fund. It is the intent of the Legislature that no proceeds from the fund, including the federal match, shall be credited directly to the General Fund except as provided in subdivision (3)(a) of section 68-2106.

(2) The first quarterly payment of each fiscal year made by the department shall be transferred from the General Fund. All remaining quarterly payments shall be paid as provided in section 68-2106.

Source: Laws 2024, LB1087, § 4.
Effective date March 28, 2024.

68-2105 Assessment; statewide aggregate assessment; amounts, how determined; payment; procedure.

(1) Each hospital shall pay an assessment based on net patient revenue for the purpose of improving the quality of, and access to, hospital care in the state. The statewide aggregate assessment shall equal (a) the state share of the payments authorized by the federal Centers for Medicare and Medicaid Services and (b) funds for expenditures as provided in subsection (3) of section 68-2106. The statewide aggregate assessment total shall not exceed six percent of the net patient revenue of all assessed hospitals.

(2)(a) A hospital shall pay its quarterly assessment within thirty days after receipt of its quarterly directed payments. Failure of a hospital to remit the assessments may result in penalties, interest, or legal action.

(b) A new hospital shall begin paying an assessment and receiving directed payments at the start of the first full fiscal year after the hospital is eligible for medicaid reimbursement for inpatient or outpatient services. A hospital that has merged with another hospital shall have its assessment and directed payments revised at the start of the first full fiscal year after the merger is recognized by the department. A closed hospital shall be retroactively responsible for assessments owed and shall receive directed payments for services provided.

(3) If the department determines that a hospital has underpaid or overpaid assessments, the department shall notify the hospital of the unpaid assessments or of any refund due. Such payment or refund shall be due or refunded within thirty days after the date of the notice.

Source: Laws 2024, LB1087, § 5.
Effective date March 28, 2024.

68-2106 Hospital Quality Assurance and Access Assessment Fund; created; use; investment; department; duties; medicaid managed care organizations; hospitals; prohibited acts.

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

(2) The department shall use the Hospital Quality Assurance and Access Assessment Fund, including the matching federal financial participation, for the purpose of enhancing rates paid to hospitals under the medical assistance program except as allowed by subsection (3) of this section. Money in the fund shall not be used to replace or offset existing state funds paid to hospitals for providing services under the medical assistance program.

(3) The Hospital Quality Assurance and Access Assessment Fund shall also be used to:

(a) Reimburse the General Fund the amount of the first quarterly payment on or before June 30 of each fiscal year;

(b) Reimburse the department an administrative fee of three percent of the assessment, not to exceed fifteen million dollars per year, to collect assessments and administer directed-payment programs established by the Hospital Quality Assurance and Access Assessment Act;

(c) Provide the Nebraska Center for Nursing Board one-half of one percent of the assessment, not to exceed two million five hundred thousand dollars per year, for the expansion of clinical nursing training sites as authorized in subsection (3) of section 71-1798; and

(d) Provide funding of three and one-half percent of the assessment, not to exceed seventeen million five hundred thousand dollars per year, for rates for nonhospital providers in the medical assistance program, continuous eligibility for children, or the designated health information exchange authorized in section 81-6,125.

(4) In calculating rates, the proceeds from assessments and federal match not utilized under subsection (3) of this section shall be used to enhance rates for hospital inpatient and outpatient services in addition to any funds appropriated by the Legislature.

(5) The department shall collect data for revenue, discharge, and inpatient days from a hospital that does not file an annual medicare cost report. At the request of the department, a hospital that does not file an annual medicare cost report shall submit such requested data to the department.

(6) The department shall prohibit a medicaid managed care organization from (a) setting, establishing, or negotiating reimbursement rates with a hospital in a manner that takes into account, directly or indirectly, a directed payment that a hospital receives under the Hospital Quality Assurance and Access Assessment Act, (b) unnecessarily delaying a directed payment to a hospital, or (c) recouping or offsetting a directed payment for any reason.

(7)(a) A hospital shall not:

(i) Set, establish, or negotiate reimbursement rates with a managed care organization in a manner that directly or indirectly takes into account a directed payment that a hospital receives under the Hospital Quality Assurance and Access Assessment Act; or

(ii) Directly pass on the cost of an assessment to patients or nonmedicaid payors, including as a fee or rate increase.

(b) A hospital that violates this subsection shall not receive a directed payment for the remainder of the rate year. This subsection shall not be construed to prohibit a hospital from negotiating with a payor for a rate increase.

Source: Laws 2024, LB1087, § 6.
Effective date March 28, 2024.

Cross References

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

68-2107 Hospital inpatient and outpatient services; medicaid rates; legislative intent.

It is the intent of the Legislature that medicaid rates paid for hospital inpatient and outpatient services and the General Fund appropriations for hospital inpatient and outpatient services in the medical assistance program shall not be reduced to an amount below the rates paid and General Fund appropriations for these services in fiscal year 2023-24.

Source: Laws 2024, LB1087, § 7.
Effective date March 28, 2024.

68-2108 Assessments and directed-payment programs; treatment; retroactive.

Assessments and directed-payment programs shall be treated as a separate component in developing rates paid to hospitals and shall not be included with existing rate components. The assessments and directed-payment programs shall be retroactive to July 1, 2024, or the effective date approved by the federal Centers for Medicare and Medicaid Services.

Source: Laws 2024, LB1087, § 8.
Effective date March 28, 2024.

68-2109 Assessments; discontinue, when; effect.

(1) The department shall discontinue the collection of assessments when federal matching funds are unavailable. In such case, the department shall terminate the collection of the assessments beginning on the date such federal matching funds become unavailable.

(2) If collection of assessments is discontinued as provided in this section, the money in the Hospital Quality Assurance and Access Assessment Fund shall be returned to the hospitals from which the assessments were collected on the same proportional basis as the assessments were assessed for the quarter in which the assessment was terminated.

Source: Laws 2024, LB1087, § 9.
Effective date March 28, 2024.

CHAPTER 69
PERSONAL PROPERTY

Article.
12. Debt Management. 69-1204, 69-1206.
13. Disposition of Unclaimed Property.
    (a) Uniform Disposition of Unclaimed Property Act. 69-1302 to 69-1321.
20. Degradable Products. 69-2011.
21. Consumer Rental Purchase Agreements. 69-2103 to 69-2117.
23. Disposition of Personal Property Landlord and Tenant Act. 69-2302.
24. Guns.
    (a) Handguns. 69-2404.
    (b) Firearm Information. 69-2426.
    (c) Concealed Handgun Permit Act. 69-2429 to 69-2445.
25. Plastic Container Coding. 69-2502, 69-2505.
27. Tobacco. 69-2703.02 to 69-2710.03.

ARTICLE 12
DEBT MANAGEMENT

Section
69-1204. License; application; fees; bond; expiration; copy of contract.
69-1206. License; renewal; fee; bond.

69-1204 License; application; fees; bond; expiration; copy of contract.

(1) Any person desiring to obtain a license to engage in the debt management business in this state shall file with the secretary an application in writing, under oath, setting forth the person's business name, the person's social security number if the applicant is an individual, the exact location of the person's office, the names and addresses of all officers and directors if an association or a corporation, if a partnership, the partnership name and the names and addresses of all partners, and if a limited liability company, the company name and the names and addresses of all members, and a copy of the certificate of registration of trade name, certificate of partnership, articles of organization, or articles of incorporation.

(2) At the time of filing the application, the applicant shall pay to the secretary a license fee of two hundred dollars for the main office within each county and one hundred dollars for each additional office. An initial investigation fee of two hundred dollars shall also be paid to the secretary at the time of filing the application.

(3) At the time of filing the application, the applicant shall furnish a bond to the people of the state in the sum of ten thousand dollars, conditioned upon the faithful accounting of all money collected upon accounts entrusted to such person engaged in debt management, and the person's employees and agents. The aggregate liability of the surety to all claimants doing business with the office for which the bond is filed shall in no event exceed the amount of such bond. The bond or bonds shall be approved by the secretary and filed in the office of the Secretary of State. No person, firm, limited liability company, or corporation shall engage in the business of debt management until a good and sufficient bond is filed in accordance with sections 69-1201 to 69-1217.

(4) Each licensee shall furnish with the application a blank copy of the contract that the licensee intends to use between the licensee and the debtor and shall notify the secretary of all changes and amendments thereto within thirty days after such changes and amendments.

(5) The license issued under sections 69-1201 to 69-1217 shall expire on December 31 next following its issuance unless sooner surrendered, revoked, or suspended, but may be renewed as provided in such sections.

(6) The secretary shall remit the fees received pursuant to this section to the State Treasurer for credit to the Secretary of State Cash Fund.

Source: Laws 1967, c. 377, § 4, p. 1180; Laws 1982, LB 928, § 50; Laws 1983, LB 447, § 83; Laws 1993, LB 121, § 411; Laws 1997, LB 752, § 155; Laws 2020, LB910, § 29.

69-1206 License; renewal; fee; bond.

Each licensee on or before December 1 may make application to the secretary for renewal of its license. The application shall be on the form prescribed by the secretary and shall be accompanied by a fee of one hundred dollars, together with a bond as in the case of an original application. A separate application shall be made for each office. The secretary shall remit the fees received pursuant to this section to the State Treasurer for credit to the Secretary of State Cash Fund.

Source: Laws 1967, c. 377, § 6, p. 1182; Laws 1982, LB 928, § 51; Laws 2020, LB910, § 30.

ARTICLE 13

DISPOSITION OF UNCLAIMED PROPERTY

(a) UNIFORM DISPOSITION OF UNCLAIMED PROPERTY ACT

(a) UNIFORM DISPOSITION OF UNCLAIMED PROPERTY ACT

69-1302 Property held or owing by a banking or financial organization or business association; presumed abandoned; when.

The following property held or owing by a banking or financial organization or by a business association is presumed abandoned:

(a) Any demand, savings, or matured time deposit that is not automatically renewable made in this state with a banking organization, together with any interest or dividends thereon, excluding any charges that may lawfully be withheld, unless the owner has, within five years:

(1) Increased or decreased the amount of the deposit, or presented the passbook or other similar evidence of the deposit for the crediting of interest or dividends; or

(2) Corresponded in writing with the banking organization concerning the deposit; or

(3) Otherwise indicated an interest in the deposit as evidenced by a memorandum or other record on file with the banking organization; or

(4) Owned other property to which subdivision (a)(1), (2), or (3) applies and if the banking organization corresponds in writing with the owner with regard to the property that would otherwise be presumed abandoned under subdivision (a) of this section at the address to which correspondence regarding the other property regularly is sent; or

(5) Had another relationship with the banking organization concerning which the owner has:

(i) Corresponded in writing with the banking organization; or

(ii) Otherwise indicated an interest as evidenced by a memorandum or other record on file with the banking organization and if the banking organization corresponds in writing with the owner with regard to the property that would otherwise be abandoned under subdivision (a) of this section at the address to which correspondence regarding the other relationship regularly is sent.

(b) Any funds paid in this state toward the purchase of shares or other interest in a financial organization or any deposit that is not automatically renewable, including a certificate of indebtedness that is not automatically renewable, made therewith in this state, and any interest or dividends thereon, excluding any charges that may lawfully be withheld, unless the owner has within five years:

(1) Increased or decreased the amount of the funds or deposit, or presented an appropriate record for the crediting of interest or dividends; or

(2) Corresponded in writing with the financial organization concerning the funds or deposit; or

(3) Otherwise indicated an interest in the funds or deposit as evidenced by a memorandum or other record on file with the financial organization; or

(4) Owned other property to which subdivision (b)(1), (2), or (3) applies and if the financial organization corresponds in writing with the owner with regard to the property that would otherwise be presumed abandoned under subdivision (b) of this section at the address to which correspondence regarding the other property regularly is sent; or

(5) Had another relationship with the financial organization concerning which the owner has:

(i) Corresponded in writing with the financial organization; or

(ii) Otherwise indicated an interest as evidenced by a memorandum or other record on file with the financial organization and if the financial organization corresponds in writing with the owner with regard to the property that would otherwise be abandoned under this subdivision (b) of this section at the address to which correspondence regarding the other relationship regularly is sent.

(c) A holder may not, with respect to property described in subdivision (a) or (b) of this section, impose any charges solely due to dormancy or cease payment of interest solely due to dormancy unless there is a written contract

between the holder and the owner of the property pursuant to which the holder may impose reasonable charges or cease payment of interest or modify the imposition of such charges and the conditions under which such payment may be ceased. A holder of such property who imposes charges solely due to dormancy may not increase such charges with respect to such property during the period of dormancy. The contract required by this subdivision may be in the form of a signature card, deposit agreement, or similar agreement which contains or incorporates by reference (1) the holder's schedule of charges and the conditions, if any, under which the payment of interest may be ceased or (2) the holder's rules and regulations setting forth the holder's schedule of charges and the conditions, if any, under which the payment of interest may be ceased.

(d)(1) Any time deposit that is automatically renewable, including a certificate of indebtedness that is automatically renewable, made in this state with a banking or financial organization, together with any interest thereon, seven years after the expiration of the initial time period or any renewal time period unless the owner has, during such initial time period or renewal time period:

(i) Increased or decreased the amount of the deposit, or presented an appropriate record or other similar evidence of the deposit for the crediting of interest;

(ii) Corresponded in writing with the banking or financial organization concerning the deposit;

(iii) Otherwise indicated an interest in the deposit as evidenced by a memorandum or other record on file with the banking or financial organization;

(iv) Owned other property to which subdivision (d)(1)(i), (ii), or (iii) of this section applies and if the banking or financial organization corresponds in writing with the owner with regard to the property that would otherwise be presumed abandoned under subdivision (d) of this section at the address to which correspondence regarding the other property regularly is sent; or

(v) Had another relationship with the banking or financial organization concerning which the owner has:

(A) Corresponded in writing with the banking or financial organization; or

(B) Otherwise indicated an interest as evidenced by a memorandum or other record on file with the banking or financial organization and if the banking or financial organization corresponds in writing with the owner with regard to the property that would otherwise be abandoned under subdivision (d) of this section at the address to which correspondence regarding the other relationship regularly is sent.

(2) If, at the time provided for delivery in section 69-1310, a penalty or forfeiture in the payment of interest would result from the delivery of a time deposit subject to subdivision (d) of this section, the time for delivery shall be extended until the time when no penalty or forfeiture would result.

(e) Any sum payable on checks certified in this state or on written instruments issued in this state on which a banking or financial organization or business association is directly liable, including, by way of illustration but not of limitation, certificates of deposit that are not automatically renewable, drafts, money orders, and traveler's checks, that, with the exception of money orders and traveler's checks, has been outstanding for more than five years from the date it was payable, or from the date of its issuance if payable on demand, or, in the case of (i) money orders, that has been outstanding for more than seven

years from the date of issuance and (ii) traveler's checks, that has been outstanding for more than fifteen years from the date of issuance, unless the owner has within five years, or within seven years in the case of money orders and within fifteen years in the case of traveler's checks, corresponded in writing with the banking or financial organization or business association concerning it, or otherwise indicated an interest as evidenced by a memorandum or other record on file with the banking or financial organization or business association.

(f) Any funds or other personal property, tangible or intangible, removed from a safe deposit box or any other safekeeping repository or agency or collateral deposit box in this state on which the lease or rental period has expired due to nonpayment of rental charges or other reason, or any surplus amounts arising from the sale thereof pursuant to law, that have been unclaimed by the owner for more than three years from the date on which the lease or rental period expired. If the State Treasurer or his or her designee determines after investigation that any delivered property has insubstantial commercial value, the State Treasurer or his or her designee may destroy or otherwise dispose of the property at any time. No action or proceeding may be maintained against the state or any officer or against the banking or financial organization for or on account of any action taken by the State Treasurer pursuant to this subdivision.

(g) For the purposes of this section failure of the United States mails to return a letter, duly deposited therein, first-class postage prepaid, to the last-known address of an owner of tangible or intangible property shall be deemed correspondence in writing and shall be sufficient to overcome the presumption of abandonment created herein. A memorandum or writing on file with such banking or financial organization shall be sufficient to evidence such failure.

Source: Laws 1969, c. 611, § 2, p. 2479; Laws 1977, LB 305, § 1; Laws 1992, Third Spec. Sess., LB 26, § 4; Laws 2021, LB532, § 3.

69-1310 Property presumed abandoned; reports to State Treasurer; contents; filing date; property accompany report; prevent abandonment, when; verification.

(a) Every person holding funds or other property, tangible or intangible, presumed abandoned under the Uniform Disposition of Unclaimed Property Act shall report to the State Treasurer with respect to the property as hereinafter provided.

(b) The report shall be verified and shall include:

(1) Except with respect to traveler's checks and money orders, the name, if known, and last-known address, if any, of each person appearing from the records of the holder to be the owner of any property presumed abandoned under the act;

(2) In case of unclaimed funds of life insurance corporations, the full name of the insured or annuitant and his or her last-known address according to the life insurance corporation's records;

(3) The nature and identifying number, if any, or description of the property and the amount appearing from the records to be due;

(4) The date when the property became payable, demandable, or returnable, and the date of the last transaction with the owner with respect to the property; and

(5) Other information which the State Treasurer may prescribe by rule as necessary for the administration of the act.

(c) If the person holding property presumed abandoned is a successor to other persons who previously held the property for the owner, or if the holder has changed his or her name while holding the property, he or she shall file with his or her report all prior known names and addresses of each holder of the property.

(d) The report shall be filed before November 1 of each year as of June 30 next preceding, but the report of life insurance corporations shall be filed before May 1 of each year as of December 31 next preceding. A one-time supplemental report shall be filed by life insurance corporations with regard to property subject to section 69-1307.05 before November 1, 2003, as of December 31, 2002, as if section 69-1307.05 had been in effect before January 1, 2003. The property must accompany the report unless excused by the State Treasurer for good cause. The State Treasurer may postpone the reporting date upon written request by any person required to file a report. Any person holding intangible property presumed abandoned due to be reported with a cumulative value of fifty dollars or less in a single reporting year shall not be required to report the property in that year but shall report the property in any year when the property value or total report value exceeds fifty dollars.

(e) If the holder of property presumed abandoned under the act knows the whereabouts of the owner and if the owner's claim has not been barred by the statute of limitations, the holder shall, before filing the annual report, communicate with the owner and take necessary steps to prevent abandonment from being presumed. The holder shall exercise due diligence to ascertain the whereabouts of the owner.

(f) Verification, if made by a partnership, shall be executed by a partner; if made by a limited liability company, by a member; if made by an unincorporated association or private corporation, by an officer; and if made by a public corporation, by its chief fiscal officer.

Source: Laws 1969, c. 611, § 10, p. 2483; Laws 1977, LB 305, § 4; Laws 1992, Third Spec. Sess., LB 26, § 13; Laws 1993, LB 121, § 415; Laws 1994, LB 1048, § 6; Laws 2003, LB 424, § 3; Laws 2021, LB532, § 4.

69-1311 Report of property presumed abandoned; notices; time; contents; exceptions.

(a) Between March 1 and March 10 of each year the State Treasurer shall cause notice to be published once in an English language legal newspaper of general circulation in the county in this state in which is located the last-known address of any person to be named in the notice. If no address is known, then the notice shall be published in a legal newspaper having statewide circulation.

(b) The published notice shall be entitled Notice to Owners of Abandoned Property, and shall contain:

(1) The names in alphabetical order and counties of last-known addresses, if any, of persons listed in the report and entitled to notice as provided in subsection (a) of this section.

(2) A statement that information concerning the amount or description of the property and the name and address of the holder may be obtained by any person possessing an interest in the property by addressing an inquiry to the State Treasurer.

(c) The State Treasurer is not required to publish in such notice any item of less than fifty dollars unless he or she deems such publication to be in the public interest.

(d) Within one hundred twenty days from the receipt of the report required by section 69-1310, the State Treasurer shall mail a notice to each person having an address listed therein who appears to be entitled to property of the value of fifty dollars or more presumed abandoned under the Uniform Disposition of Unclaimed Property Act.

(e) The mailed notice shall contain:

(1) A statement that, according to a report filed with the State Treasurer, property is being held to which the addressee appears entitled.

(2) The name and address of the person holding the property and any necessary information regarding changes of name and address of the holder.

(3) A statement that, if satisfactory proof of claim is presented by the owner to the State Treasurer, arrangements will be made to transfer the property to the owner as provided by law.

(f) This section is not applicable to sums payable on traveler's checks or money orders presumed abandoned under section 69-1302.

Source: Laws 1969, c. 611, § 11, p. 2485; Laws 1971, LB 648, § 1; Laws 1977, LB 305, § 5; Laws 2005, LB 476, § 1; Laws 2019, LB406, § 3.

69-1317 Abandoned property; Unclaimed Property Trust Fund; record; professional finder's fee; information withheld; when; transfers; Unclaimed Property Cash Fund; created; investment.

(a)(1) Except as otherwise provided in this subdivision, all funds received under the Uniform Disposition of Unclaimed Property Act, including the proceeds from the sale of abandoned property under section 69-1316, shall be deposited by the State Treasurer into the Unclaimed Property Trust Fund from which he or she shall make prompt payment of claims allowed pursuant to the act and payment of any expenses related to unclaimed property. All funds received under section 69-1307.05 shall be deposited by the State Treasurer into the Unclaimed Property Trust Fund from which he or she shall make prompt payment of claims regarding such funds allowed pursuant to the act. Transfers from the Unclaimed Property Trust Fund to the General Fund may be made at the direction of the Legislature. Before making the deposit he or she shall record the name and last-known address of each person appearing from the holders' reports to be entitled to the abandoned property, the name and last-known address of each insured person or annuitant, and with respect to each policy or contract listed in the report of a life insurance corporation, its number, the name of the corporation, and the amount due. The record shall be available for public inspection during business hours. The separate life insur-

ance corporation demutualization trust fund terminates on March 13, 2019, and the State Treasurer shall transfer any money in the fund on such date to the Unclaimed Property Trust Fund.

The record shall not be subject to public inspection or available for copying, reproduction, or scrutiny by commercial or professional locators of property presumed abandoned who charge any service or finders' fee until twenty-four months after the names from the holders' reports have been published or officially disclosed. Records concerning the social security number, date of birth, and last-known address of an owner shall be treated as confidential and subject to the same confidentiality as tax return information held by the Department of Revenue, except that the Auditor of Public Accounts shall have unrestricted access to such records.

A professional finders' fee shall be limited to ten percent of the total dollar amount of the property presumed abandoned. To claim any such fee, the finder shall disclose to the owner the nature, location, and value of the property, provide notice of when such property was reported to the State Treasurer, and provide notice that the property may be claimed by the owner from the State Treasurer free of charge. To claim any such fee if the property has not yet been abandoned, the finder shall disclose to the owner the nature, location, and value of the property, provide notice of when such property will be reported to the State Treasurer, if known, and provide notice that, upon receipt of the property by the State Treasurer, such property may be claimed by the owner from the State Treasurer free of charge.

(2) The unclaimed property records of the State Treasurer, the unclaimed property reports of holders, and the information derived by an unclaimed property examination or audit of the records of a person or otherwise obtained by or communicated to the State Treasurer may be withheld from the public. Any record or information that may be withheld under the laws of this state or of the United States when in the possession of such a person may be withheld when revealed or delivered to the State Treasurer. Any record or information that is withheld under any law of another state when in the possession of that other state may be withheld when revealed or delivered by the other state to the State Treasurer.

Information withheld from the general public concerning any aspect of unclaimed property shall only be disclosed to an apparent owner of the property or to the escheat, unclaimed, or abandoned property administrators or officials of another state if that other state accords substantially reciprocal privileges to the State Treasurer.

(b) On or before November 1 of each year, the State Treasurer shall distribute any balance in excess of one million dollars from the Unclaimed Property Trust Fund to the permanent school fund.

(c) Before making any deposit to the credit of the permanent school fund or the General Fund, the State Treasurer may deduct any costs related to unclaimed property and place such funds in the Unclaimed Property Cash Fund which is hereby created. Transfers from the fund to the General Fund may be made at the direction of the Legislature. Any money in the Unclaimed Property Cash Fund available for investment shall be invested by the state investment

officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1969, c. 611, § 17, p. 2488; Laws 1971, LB 648, § 2; Laws 1977, LB 305, § 7; Laws 1978, LB 754, § 1; Laws 1986, LB 212, § 2; Laws 1992, Third Spec. Sess., LB 26, § 17; Laws 1994, LB 1048, § 8; Laws 1994, LB 1049, § 1; Laws 1994, LB 1066, § 63; Laws 1995, LB 7, § 67; Laws 1997, LB 57, § 1; Laws 2003, LB 424, § 4; Laws 2009, LB432, § 1; Laws 2012, LB1026, § 1; Laws 2019, LB406, § 4; Laws 2021, LB532, § 5.

Cross References

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

69-1318 Person claiming interest in property delivered to state; claim; filing; directed to nonprofit organization, when.

(1) Any person claiming an interest in any property delivered to the state under section 24-345 and the Uniform Disposition of Unclaimed Property Act may file a claim thereto or to the proceeds from the sale thereof on the form prescribed by the State Treasurer.

(2) As directed by the claimant, the State Treasurer or his or her designee shall pay over or deliver any property, proceeds, and other sums payable to the claimant, to a nonprofit organization nominated by the State Treasurer.

Source: Laws 1969, c. 611, § 18, p. 2489; Laws 1980, LB 572, § 3; Laws 2021, LB532, § 6.

69-1321 Abandoned property; State Treasurer; decline to accept; when; other payments or delivery authorized.

(a) The State Treasurer or his or her designee, after receiving reports of property deemed abandoned pursuant to the Uniform Disposition of Unclaimed Property Act, may decline to receive any property reported which he or she deems to have a value less than the cost of giving notice and holding sale, or he or she may, if he or she deems it desirable because of the small sum involved, postpone taking possession until a sufficient sum accumulates. Unless the holder of the property is notified to the contrary within one hundred twenty days after filing the report required under section 69-1310, the State Treasurer or his or her designee shall be deemed to have elected to receive the custody of the property.

(b) A holder may pay or deliver property before the property is presumed abandoned with written consent of the State Treasurer or his or her designee and upon conditions and terms prescribed by the State Treasurer or his or her designee. Property paid or delivered under this subsection shall be held by the State Treasurer and is not presumed abandoned until such time as it otherwise would be presumed abandoned under the act.

Source: Laws 1969, c. 611, § 21, p. 2489; Laws 1992, Third Spec. Sess., LB 26, § 18; Laws 2019, LB406, § 5.

ARTICLE 20
DEGRADABLE PRODUCTS

Section
69-2011. Disposable diapers; requirements; Director of Environment and Energy; duties.

69-2011 Disposable diapers; requirements; Director of Environment and Energy; duties.

On and after October 1, 1993, a person shall not sell or offer for sale at retail any disposable diaper which is constructed of a material which is not biodegradable or photodegradable if the Director of Environment and Energy determines that biodegradable or photodegradable disposable diapers are readily available at a comparable price and quality. The determination of quality shall include a study of the environmental impact and fate of such disposable diapers. The director shall issue his or her determination to the Legislature on or before October 1, 1992. For purposes of this section (1) readily available shall mean available for purchase in sufficient quantities to meet demand through usual retail channels throughout the state and (2) comparable price and quality shall mean at a cost not in excess of five percent above the average price for products of comparable quality which are not biodegradable or photodegradable.

Source: Laws 1989, LB 325, § 11; Laws 1993, LB 3, § 42; Laws 2019, LB302, § 84.

ARTICLE 21
CONSUMER RENTAL PURCHASE AGREEMENTS

Section
69-2103. Terms, defined.
69-2104. Lessor; disclosures required.
69-2112. Advertisement; requirements.
69-2117. Cease and desist order; fine; injunction; procedures; appeal.

69-2103 Terms, defined.

For purposes of the Consumer Rental Purchase Agreement Act:

(1) Advertisement means a commercial message in any medium that aids, promotes, or assists directly or indirectly a consumer rental purchase agreement but does not include in-store merchandising aids such as window signs and ceiling banners;

(2) Cash price means the price at which the lessor would have sold the property to the consumer for cash on the date of the consumer rental purchase agreement for the property;

(3) Consumer means a natural person who rents property under a consumer rental purchase agreement;

(4) Consumer rental purchase agreement means an agreement which is for the use of property by a consumer primarily for personal, family, or household purposes, which is for an initial period of four months or less, whether or not there is any obligation beyond the initial period, which is automatically renewable with each payment, and which permits the consumer to become the owner of the property. A consumer rental purchase agreement in compliance with the

act shall not be construed to be a lease or agreement which constitutes a credit sale as defined in 12 C.F.R. 1026.2(a)(16), as such regulation existed on January 1, 2024, and 15 U.S.C. 1602(h), as such section existed on January 1, 2024, or a lease which constitutes a consumer lease as defined in 12 C.F.R. 1013.2, as such regulation existed on January 1, 2024. Consumer rental purchase agreement does not include:

(a) Any lease for agricultural, business, or commercial purposes;

(b) Any lease made to an organization;

(c) A lease or agreement which constitutes an installment sale or installment contract as defined in section 45-335;

(d) A security interest as defined in subdivision (35) of section 1-201, Uniform Commercial Code; and

(e) A home solicitation sale as defined in section 69-1601;

(5) Consummation means the occurrence of an event which causes a consumer to become contractually obligated on a consumer rental purchase agreement;

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

(7) Lease payment means a payment to be made by the consumer for the right of possession and use of the property for a specific lease period but does not include taxes imposed on such payment;

(8) Lease period means a week, month, or other specific period of time, during which the consumer has the right to possess and use the property after paying the lease payment and applicable taxes for such period;

(9) Lessor means a person who in the ordinary course of business operates a commercial outlet which regularly leases, offers to lease, or arranges for the leasing of property under a consumer rental purchase agreement;

(10) Property means any property that is not real property under the laws of this state when made available for a consumer rental purchase agreement; and

(11) Total of payments to acquire ownership means the total of all charges imposed by the lessor and payable by the consumer as a condition of acquiring ownership of the property. Total of payments to acquire ownership includes lease payments and any initial nonrefundable administrative fee or required delivery charge but does not include taxes, late charges, reinstatement fees, or charges for optional products or services.

Source: Laws 1989, LB 681, § 3; Laws 1993, LB 111, § 2; Laws 2001, LB 641, § 1; Laws 2005, LB 570, § 3; Laws 2011, LB76, § 6; Laws 2016, LB761, § 1; Laws 2019, LB259, § 9; Laws 2020, LB909, § 49; Laws 2021, LB363, § 30; Laws 2022, LB707, § 44; Laws 2023, LB92, § 77; Laws 2024, LB1074, § 90.
Operative date April 18, 2024.

69-2104 Lessor; disclosures required.

(1) Before entering into any consumer rental purchase agreement, the lessor shall disclose to the consumer the following items as applicable:

(a) A brief description of the leased property sufficient to identify the property to the consumer and lessor;

(b) The number, amount, and timing of all payments included in the total of payments to acquire ownership;

(c) The total of payments to acquire ownership;

(d) A statement that the consumer will not own the property until the consumer has paid the total of payments to acquire ownership plus applicable taxes;

(e) A statement that the total of payments to acquire ownership does not include other charges such as taxes, late charges, reinstatement fees, or charges for optional products or services the consumer may have elected to purchase and that the consumer should see the rental purchase agreement for an explanation of these charges;

(f) A statement that the consumer is responsible for the fair market value, remaining rent, early purchase option amount, or cost of repair of the property, whichever is less, if it is lost, stolen, damaged, or destroyed;

(g) A statement indicating whether the property is new or used. A statement that indicates that new property is used shall not be a violation of the Consumer Rental Purchase Agreement Act;

(h) A statement of the cash price of the property. When the agreement involves a lease for two or more items, a statement of the aggregate cash price of all items shall satisfy the requirement of this subdivision;

(i) The total amount of the initial payments required to be paid before consummation of the agreement or delivery of the property, whichever occurs later, and an itemization of the components of the initial payment, including any initial nonrefundable administrative fee or delivery charge, lease payment, taxes, or fee or charge for optional products or services;

(j) A statement clearly summarizing the terms of the consumer's options to purchase, including a statement that at any time after the first periodic payment is made the consumer may acquire ownership of the property by tendering an amount which may not exceed fifty-five percent of the difference between the total of payments to acquire ownership and the total of lease payments the consumer has paid on the property at that time;

(k) A statement identifying the party responsible for maintaining or servicing the property while it is being leased, together with a description of that responsibility and a statement that if any part of a manufacturer's warranty covers the leased property at the time the consumer acquires ownership of the property, such warranty shall be transferred to the consumer if allowed by the terms of the warranty; and

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

(2) With respect to matters specifically governed by the federal Consumer Credit Protection Act, 15 U.S.C. 1601 et seq., as such act existed on January 1, 2024, compliance with such act shall satisfy the requirements of this section.

(3) Subsection (1) of this section shall not apply to a lessor who complies with the disclosure requirements of the federal Consumer Credit Protection Act, 15 U.S.C. 1667a, as such section existed on January 1, 2024, with respect to a consumer rental purchase agreement entered into with a consumer.

Source: Laws 1989, LB 681, § 4; Laws 2001, LB 641, § 2; Laws 2011, LB76, § 7; Laws 2016, LB761, § 2; Laws 2019, LB259, § 10;

Laws 2020, LB909, § 50; Laws 2021, LB363, § 31; Laws 2022, LB707, § 45; Laws 2023, LB92, § 78; Laws 2024, LB1074, § 91. Operative date April 18, 2024.

69-2112 Advertisement; requirements.

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

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

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

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

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

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

(4) With respect to matters specifically governed by the federal Consumer Credit Protection Act, 15 U.S.C. 1601 et seq., as such act existed on January 1, 2024, compliance with such act shall satisfy the requirements of this section.

Source: Laws 1989, LB 681, § 12; Laws 2001, LB 641, § 7; Laws 2011, LB76, § 8; Laws 2016, LB761, § 3; Laws 2019, LB259, § 11; Laws 2020, LB909, § 51; Laws 2021, LB363, § 32; Laws 2022, LB707, § 46; Laws 2023, LB92, § 79; Laws 2024, LB1074, § 92. Operative date April 18, 2024.

69-2117 Cease and desist order; fine; injunction; procedures; appeal.

(1) The Director of Banking and Finance may summarily order a lessor to cease and desist from the use of certain forms or practices relating to consumer rental purchase agreements if he or she finds that (a) there has been a substantial failure to comply with any of the provisions of the Consumer Rental Purchase Agreement Act or (b) the continued use of certain forms or practices relating to consumer rental purchase agreements would constitute misrepresentation to or deceit or fraud on the consumer.

(2) If the director believes, whether or not based upon an investigation conducted under section 69-2116, that any person or lessor has engaged in or is about to engage in any act or practice constituting a violation of any provision of the Consumer Rental Purchase Agreement Act or any rule, regulation, or order under the act, the director may:

(a) Issue a cease and desist order;

(b) Impose a fine of not to exceed one thousand dollars per violation, in addition to costs of the investigation; or

(c) Initiate an action in any court of competent jurisdiction to enjoin such acts or practices and to enforce compliance with the act or any order under the act.

(3) Upon a proper showing a permanent or temporary injunction, restraining order, or writ of mandamus shall be granted. The director shall not be required to post a bond.

(4) The fines and costs imposed pursuant to this section shall be in addition to all other penalties imposed by the laws of this state. The director shall collect the fines and costs and remit them to the State Treasurer. The State Treasurer shall credit the costs to the Securities Act Cash Fund and distribute the fines in accordance with Article VII, section 5, of the Constitution of Nebraska. If a person fails to pay the fine or costs of the investigation referred to in this subsection, a lien in the amount of the fine and costs shall be imposed upon all of the assets and property of such person in this state and may be recovered by suit by the director. Failure of the person to pay a fine and costs shall constitute a separate violation of the act.

(5) Upon entry of an order pursuant to this section, the director shall promptly notify all persons to whom such order is directed that it has been entered and of the reasons for such order and that any person to whom the order is directed may request a hearing in writing within fifteen business days of the issuance of the order. Upon a receipt of a written request, the matter shall be set down for hearing to commence within thirty business days after the receipt unless the parties consent to a later date or the hearing officer sets a later date for good cause. If a hearing is not requested within fifteen business days and none is ordered by the director, the order shall automatically become final and shall remain in effect until it is modified or vacated by the director. If a hearing is requested or ordered, the director after notice and hearing shall enter his or her written findings of fact and conclusions of law and may affirm, modify, or vacate the order.

(6) The director may vacate or modify a cease and desist order if he or she finds that the conditions which caused its entry have changed or that it is otherwise in the public interest to do so.

(7) Any person aggrieved by a final order of the director may appeal the order. The appeal shall be in accordance with the Administrative Procedure Act.

Source: Laws 1993, LB 111, § 6; Laws 2001, LB 53, § 111; Laws 2019, LB259, § 12.

Cross References

Administrative Procedure Act, see section 84-920.

ARTICLE 23

DISPOSITION OF PERSONAL PROPERTY LANDLORD AND TENANT ACT

Section
69-2302. Terms, defined.

69-2302 Terms, defined.

For purposes of the Disposition of Personal Property Landlord and Tenant Act:

(1) Landlord means the owner, lessor, or sublessor of furnished or unfurnished premises, including self-service storage units or facilities, for rent or his or her agent or successor in interest;

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

(3) Premises means (a) a dwelling unit as defined in section 76-1410 or a distinct portion of a dwelling unit, the facilities and appurtenances in such dwelling unit, and the grounds, areas, and facilities held out for the use of tenants generally or the use of which is promised to the tenants or (b) self-service storage units or facilities;

(4) Reasonable belief means the knowledge or belief a prudent person should have without making an investigation, including any investigation of public records, except that when the landlord has specific information indicating that such an investigation would more probably than not reveal pertinent information and the cost of such an investigation would be reasonable in relation to the probable value of the personal property involved, reasonable belief shall include the actual knowledge or belief a prudent person would have if such investigation were made;

(5) Reasonable costs of storage includes:

(a) Reasonable costs actually incurred, the reasonable value of labor actually provided, or both in removing personal property from its original location on the vacated premises to the place of storage, including disassembly and transportation; and

(b) Reasonable storage costs actually incurred which shall not exceed the fair rental value of the space reasonably required for the storage of the personal property; and

(6) Tenant means a person entitled under a rental agreement to occupy any premises for rent or storage uses to the exclusion of others whether such premises are used as a dwelling unit or self-service storage unit or facility or not.

Source: Laws 1991, LB 36, § 2; Laws 1993, LB 617, § 1; Laws 2019, LB264, § 1.

ARTICLE 24

GUNS

(a) HANDGUNS

Section

(b) FIREARM INFORMATION

(c) CONCEALED HANDGUN PERMIT ACT

Section
69-2441. Transferred to section 28-1202.01.
69-2442. Injury to person or damage to property; permitholder; report required; violation; penalty.
69-2443. Violations; revocation of permit; when.
69-2445. Carrying concealed weapon under other law; act; how construed.

(a) HANDGUNS

69-2404 Certificate; application; fee.

Any person desiring to purchase, lease, rent, or receive transfer of a handgun shall apply with the chief of police or sheriff of the applicant's place of residence for a certificate. The application may be made in person or by mail. The application form and certificate shall be made on forms approved by the Superintendent of Law Enforcement and Public Safety. The application shall include the applicant's full name, address, date of birth, and country of citizenship. If the applicant is not a United States citizen, the application shall include the applicant's place of birth and his or her alien or admission number. If the application is made in person, the applicant shall also present a current Nebraska motor vehicle operator's license, state identification card, or military identification card, or tribal enrollment card as defined in section 28-1202.03. If the application is made by mail, the application form shall describe the license or card used for identification and be notarized by a notary public who has verified the identification of the applicant through such a license or card. An applicant shall receive a certificate if he or she is twenty-one years of age or older and is not prohibited from purchasing or possessing a handgun by 18 U.S.C. 922. A fee of five dollars shall be charged for each application for a certificate to cover the cost of a criminal history record check.

Source: Laws 1991, LB 355, § 3; Laws 2006, LB 1227, § 2; Laws 2009, LB63, § 33; Laws 2024, LB1288, § 4.
Operative date July 19, 2024.

(b) FIREARM INFORMATION

69-2426 Firearm dealer; distribution of information; Firearm Information Fund; created.

(1) Any firearm dealer licensed pursuant to 18 U.S.C. 923 shall distribute to all firearm purchasers:

(a) Information developed by the Department of Health and Human Services regarding the dangers of leaving loaded firearms unattended around children; and

(b) Information on suicide prevention, including materials that provide evidence-based information aligned with best practices in suicide prevention. Such materials shall include information on the 988 Suicide and Crisis Lifeline or other similar resources. The Nebraska State Patrol shall maintain and publish a list of materials that may be used to comply with this subdivision.

(2) There is hereby created the Firearm Information Fund. Private contributions shall be credited by the State Treasurer to such fund for the implementation of the provisions of this section.

Source: Laws 1993, LB 117, § 1; Laws 1996, LB 1044, § 367; Laws 2023, LB50, § 33.

(c) CONCEALED HANDGUN PERMIT ACT

69-2429 Terms, defined.

For purposes of the Concealed Handgun Permit Act:

(1) Concealed handgun means a handgun that is entirely obscured from view. If any part of the handgun is capable of being seen or observed by another person, it is not a concealed handgun;

(2) Handgun means any firearm with a barrel less than sixteen inches in length or any firearm designed to be held and fired by the use of a single hand;

(3) Peace officer means any town marshal, chief of police or local police officer, sheriff or deputy sheriff, the Superintendent of Law Enforcement and Public Safety, any officer of the Nebraska State Patrol, any member of the National Guard on active service by direction of the Governor during periods of emergency or civil disorder, any Game and Parks Commission conservation officer, and all other persons with similar authority to make arrests;

(4) Permitholder means an individual holding a current and valid permit to carry a concealed handgun issued pursuant to the Concealed Handgun Permit Act; and

(5) Proof of training means an original document or certified copy of a document, supplied by an applicant, that certifies that he or she either:

(a) Within the previous three years, has successfully completed a handgun training and safety course approved by the Nebraska State Patrol pursuant to section 69-2432; or

(b) Is a member of the active or reserve armed forces of the United States or a member of the National Guard and has had handgun training within the previous three years which meets the minimum safety and training requirements of section 69-2432.

Source: Laws 2006, LB 454, § 3; Laws 2007, LB463, § 1177; Laws 2018, LB1034, § 49; Laws 2023, LB77, § 16.

69-2430 Application; form; contents; prohibited acts; penalty; permit issuance; denial; appeal.

(1) Application for a permit to carry a concealed handgun shall be made in person at any Nebraska State Patrol Troop Headquarters or office provided by the patrol for purposes of accepting such an application. The applicant shall present a current Nebraska motor vehicle operator's license, Nebraska-issued state identification card, military identification card, or tribal enrollment card as defined in section 28-1202.03 and shall submit two legible sets of fingerprints for a criminal history record information check pursuant to section 69-2431. The application shall be made on a form prescribed by the Superintendent of Law Enforcement and Public Safety. The application shall state the applicant's full name; motor vehicle operator's license number, state identification card number, or tribal enrollment card number; address; and date of birth and contain the applicant's signature and shall include space for the applicant to affirm that he or she meets each and every one of the requirements set forth in section 69-2433. The applicant shall attach to the application proof of training and proof of vision as required in subdivision (3) of section 69-2433.

(2) A person applying for a permit to carry a concealed handgun who gives false information or offers false evidence of his or her identity is guilty of a Class IV felony.

(3) The permit to carry a concealed handgun shall be issued by the Nebraska State Patrol within forty-five days after the date an application for the permit has been made by the applicant if the applicant has complied with this section and has met all the requirements of section 69-2433.

(4) An applicant denied a permit to carry a concealed handgun may appeal to the district court of the judicial district of the county in which he or she resides or the county in which he or she applied for the permit pursuant to the Administrative Procedure Act.

Source: Laws 2006, LB 454, § 4; Laws 2009, LB63, § 36; Laws 2009, LB430, § 10; Laws 2024, LB1288, § 5.
Operative date July 19, 2024.

Cross References

Administrative Procedure Act, see section 84-920.

69-2432 Nebraska State Patrol; handgun training and safety courses and instructors; duties; certificate of completion of course; fee.

(1) The Nebraska State Patrol shall prepare and publish minimum training and safety requirements for and adopt and promulgate rules and regulations governing handgun training and safety courses and handgun training and safety course instructors. Minimum safety and training requirements for a handgun training and safety course shall include, but not be limited to:

(a) Knowledge and safe handling of a handgun;

(b) Knowledge and safe handling of handgun ammunition;

(c) Safe handgun shooting fundamentals;

(d) A demonstration of competency with a handgun with respect to the minimum safety and training requirements;

(e) Knowledge of federal, state, and local laws pertaining to the purchase, ownership, transportation, and possession of handguns;

(f) Knowledge of federal, state, and local laws pertaining to the use of a handgun, including, but not limited to, use of a handgun for self-defense and laws relating to justifiable homicide and the various degrees of assault;

(g) Knowledge of ways to avoid a criminal attack and to defuse or control a violent confrontation;

(h) Knowledge of proper storage practices for handguns and ammunition, including storage practices which would reduce the possibility of accidental injury to a child; and

(i) Suicide prevention training. Such training shall consist of evidence-based information aligned with best practices in suicide prevention.

(2) A person or entity conducting a handgun training and safety course and the course instructors shall be approved by the patrol before operation. The patrol shall issue a certificate evidencing its approval.

(3) A certificate of completion of a handgun training and safety course shall be issued by the person or entity conducting a handgun training and safety course to persons successfully completing the course. The certificate of comple-

tion shall also include certification from the instructor that the person completing the course does not suffer from a readily discernible physical infirmity that prevents the person from safely handling a handgun.

(4) Any fee for participation in a handgun training and safety course is the responsibility of the applicant.

Source: Laws 2006, LB 454, § 6; Laws 2023, LB50, § 34.

69-2435 Permitholder; continuing requirements; return of permit; when.

A permitholder shall continue to meet the requirements of section 69-2433 during the time he or she holds the permit, except as provided in subsection (2) of section 69-2443. If, during such time, a permitholder does not continue to meet one or more of the requirements, the permitholder shall return his or her permit to the Nebraska State Patrol for revocation. If a permitholder does not return his or her permit, the permitholder is subject to having his or her permit revoked under section 69-2439.

Source: Laws 2006, LB 454, § 9; Laws 2012, LB807, § 3; Laws 2023, LB77, § 17.

69-2436 Permit; period valid; fee; renewal; fee; notice of expiration.

(1) A permit to carry a concealed handgun is valid throughout the state for a period of five years after the date of issuance. The fee for issuing a permit is one hundred dollars.

(2) The Nebraska State Patrol shall renew a permitholder's permit to carry a concealed handgun for a renewal period of five years, subject to continuing compliance with the requirements of section 69-2433, except as provided in subsection (2) of section 69-2443. The renewal fee is fifty dollars, and renewal may be applied for no earlier than four months before expiration of the permit and no later than thirty business days after the date of expiration of the permit. At least four months before expiration of a permit to carry a concealed handgun, the Nebraska State Patrol shall send to the permitholder by United States mail or electronically notice of expiration of the permit.

(3) The applicant shall submit the fee with the application to the Nebraska State Patrol. The fee shall be remitted to the State Treasurer for credit to the Nebraska State Patrol Cash Fund.

Source: Laws 2006, LB 454, § 10; Laws 2007, LB322, § 17; Laws 2012, LB807, § 4; Laws 2021, LB236, § 4; Laws 2023, LB77, § 18.

69-2439 Permit; application for revocation; prosecution; fine; costs.

(1) Any peace officer having probable cause to believe that a permitholder is no longer in compliance with one or more requirements of section 69-2433, except as provided in subsection (2) of section 69-2443, shall bring an application for revocation of the permit to be prosecuted as provided in subsection (2) of this section.

(2) It is the duty of the county attorney or his or her deputy of the county in which such permitholder resides to prosecute a case for the revocation of a permit to carry a concealed handgun brought pursuant to subsection (1) of this section. In case the county attorney refuses or is unable to prosecute the case, the duty to prosecute shall be upon the Attorney General or his or her assistant.

(3) The case shall be prosecuted as a civil case, and the permit shall be revoked upon a showing by a preponderance of the evidence that the permitholder does not meet one or more of the requirements of section 69-2433, except as provided in subsection (2) of section 69-2443.

(4) A person who has his or her permit revoked under this section may be fined up to one thousand dollars and shall be charged with the costs of the prosecution. The money collected under this subsection as an administrative fine shall be remitted to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

Source: Laws 2006, LB 454, § 13; Laws 2012, LB807, § 5; Laws 2023, LB77, § 19.

69-2440 Transferred to section 28-1202.04.

69-2441 Transferred to section 28-1202.01.

69-2442 Injury to person or damage to property; permitholder; report required; violation; penalty.

(1) Any time the discharge of a handgun carried by a permitholder pursuant to the Concealed Handgun Permit Act results in injury to a person or damage to property, the permitholder shall make a report of such incident to the Nebraska State Patrol on a form designed and distributed by the Nebraska State Patrol. The information from the report shall be maintained as provided in section 69-2444.

(2) A violation of this section is a Class III misdemeanor for a first offense and a Class I misdemeanor for any second or subsequent offense.

Source: Laws 2006, LB 454, § 16; Laws 2023, LB77, § 20.

69-2443 Violations; revocation of permit; when.

(1) A permitholder convicted of a violation of section 28-1202.03, 28-1202.04, or 69-2442 may have his or her permit revoked.

(2) A permitholder convicted of a violation of section 28-1202.01 or 28-1202.02 that occurred on property owned by the state or any political subdivision of the state may also have his or her permit revoked. A permitholder convicted of a violation of section 28-1202.01 or 28-1202.02 that did not occur on property owned by the state or any political subdivision of the state shall not have his or her permit revoked for a first offense but may have his or her permit revoked for any second or subsequent offense.

Source: Laws 2006, LB 454, § 17; Laws 2007, LB97, § 2; Laws 2012, LB807, § 6; Laws 2023, LB77, § 21.

69-2445 Carrying concealed weapon under other law; act; how construed.

Nothing in the Concealed Handgun Permit Act prevents a person not otherwise prohibited from possessing or carrying a concealed handgun by state law from carrying a concealed weapon without a permit.

Source: Laws 2006, LB 454, § 19; Laws 2023, LB77, § 22.

ARTICLE 25
PLASTIC CONTAINER CODING

Section
69-2502. Terms, defined.
69-2505. Repealed. Laws 2019, LB302, § 181.

69-2502 Terms, defined.

For purposes of the Plastic Container Coding Act:

(1) Code shall mean a molded, imprinted, or raised symbol on or near the bottom of a plastic bottle or rigid plastic container;

(2) Department shall mean the Department of Environment and Energy;

(3) Plastic shall mean any material made of polymeric organic compounds and additives that can be shaped by flow;

(4) Plastic bottle shall mean a plastic container intended for a single use that:

(a) Has a neck smaller than the body of the container;

(b) Is designed for a screw-top, snap cap, or other closure; and

(c) Has a capacity of not less than sixteen fluid ounces or more than five gallons; and

(5) Rigid plastic container shall mean any formed or molded container intended for a single use, composed predominately of plastic resin, that has a relatively inflexible finite shape or form with a capacity of not less than eight ounces or more than five gallons. Rigid plastic container shall not include a plastic bottle.

Source: Laws 1993, LB 63, § 2; Laws 2019, LB302, § 85.

69-2505 Repealed. Laws 2019, LB302, § 181.

ARTICLE 27
TOBACCO

Section
69-2703.02. Tobacco product manufacturer; qualified escrow fund; irrevocable assignment; form; amounts withdrawn; distribution.
69-2705. Terms, defined.
69-2706. Tobacco product manufacturer; certification; contents; Tax Commissioner; powers and duties; directory; prohibited acts.
69-2707. Nonresident or foreign nonparticipating manufacturer; agent for service of process.
69-2707.01. Nonparticipating manufacturers; bond or cash equivalent; amount; provide evidence to Attorney General and Tax Commissioner; failure to make escrow deposits; execution upon bond.
69-2709. Revocation or suspension of stamping agent license; civil penalty; termination of license; grounds; violations; penalties; effect of termination; eligibility for reinstatement; directory license; termination; procedure; contraband; actions to enjoin; criminal penalty; remedies cumulative.
69-2710. Removal from directory; procedure.
69-2710.01. Report; contents.
69-2710.03. Rules and regulations.

69-2703.02 Tobacco product manufacturer; qualified escrow fund; irrevocable assignment; form; amounts withdrawn; distribution.

(1) Notwithstanding subdivision (2)(b) of section 69-2703, a tobacco product manufacturer that elects to place funds into a qualified escrow fund pursuant to subdivision (2)(a) of section 69-2703 may make an irrevocable assignment of its interest in the fund to the benefit of the State of Nebraska. Such assignment shall be permanent and apply to all monetary amounts in the subject qualified escrow fund or that may subsequently come into the fund, including those deposited into the qualified escrow fund prior to the assignment being executed, those deposited into the qualified escrow fund after the assignment is executed, and interest or other appreciation on the amounts. The tobacco product manufacturer, the Attorney General, and the financial institution where the qualified escrow fund is maintained may make such amendments to the qualified escrow fund agreement, the title to the account, and the account itself as may be necessary to effectuate an assignment of rights executed pursuant to this subsection (1) or a withdrawal of amounts from the qualified escrow fund pursuant to subsection (2) of this section. An assignment of rights executed pursuant to this section shall be in writing, shall have received prior approval issued in writing by the Attorney General, shall be signed by the tobacco product manufacturer or a duly authorized representative of the tobacco product manufacturer making the assignment, and shall become effective upon delivery of the assignment to the Attorney General and the financial institution where the qualified escrow fund is maintained.

(2) Notwithstanding subdivision (2)(b) of section 69-2703, any escrow amounts assigned to the State of Nebraska pursuant to subsection (1) of this section shall be withdrawn by the state upon request by the State Treasurer and approval by the Attorney General. Any amounts withdrawn pursuant to this subsection shall be remitted to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska, and shall be calculated on a dollar-for-dollar basis as a credit against any judgment or settlement described in subdivision (2)(b) of section 69-2703 which may be obtained against the tobacco product manufacturer who has assigned the amounts in the subject qualified escrow fund. Nothing in this section shall be construed to relieve a tobacco product manufacturer from any past, current, or future obligations the manufacturer may have pursuant to sections 69-2701 to 69-2711.

Source: Laws 2019, LB397, § 12.

69-2705 Terms, defined.

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

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

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

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

or any component parts intended for use in the making of cigarette filters, and any machinery typically used in the making of cigarettes;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(19) Shortfall amount means the difference between (a) the full amount of the deposit required to be made by a nonparticipating manufacturer for a calendar quarter under section 69-2703 and (b) the sum of (i) any amounts precollected by a stamping agent and deposited into escrow for that calendar quarter on behalf of the nonparticipating manufacturer under section 69-2708.01, (ii) the amount deposited into escrow by the nonparticipating manufacturer for that

calendar quarter under section 69-2703, (iii) any amounts deposited into escrow for that calendar quarter under subdivision (2)(d) of section 69-2703 by an importer on such nonparticipating manufacturer's cigarettes, and (iv) any amounts collected by the state for that calendar quarter under the bond posted by the nonparticipating manufacturer under section 69-2707.01. The shortfall amount, if any, for a nonparticipating manufacturer for a calendar quarter shall be calculated by the Attorney General within fifteen days following the date on which the state determines the amount it will collect on the bond posted by the nonparticipating manufacturer as provided in section 69-2707.01;

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

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

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

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

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

Source: Laws 2003, LB 572, § 2; Laws 2011, LB590, § 6; Laws 2019, LB397, § 13.

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

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

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

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

executing and delivering a supplemental certification to the Tax Commissioner and the Attorney General.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

restore to the directory the tobacco product manufacturer or the brand family until the tobacco product manufacturer has paid the stamping agent any refund due; and

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

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

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

Source: Laws 2003, LB 572, § 3; Laws 2007, LB580, § 1; Laws 2011, LB590, § 7; Laws 2019, LB397, § 14.

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

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

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

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

the nonparticipating manufacturer's brand families included or retained in the directory.

Source: Laws 2003, LB 572, § 4; Laws 2007, LB580, § 2; Laws 2011, LB590, § 8; Laws 2019, LB397, § 15.

69-2707.01 Nonparticipating manufacturers; bond or cash equivalent; amount; provide evidence to Attorney General and Tax Commissioner; failure to make escrow deposits; execution upon bond.

(1) All nonparticipating manufacturers subject to the certification requirements of section 69-2706, or whose sales are authorized pursuant to an agreement under section 77-2602.06, shall post a bond, or its cash equivalent, for the benefit of the state, which is subject to execution under subsection (5) of this section. The bond shall be posted by corporate surety located within the United States. The cash equivalent of the bond shall be posted by the nonparticipating manufacturer in an account approved by the Attorney General.

(2) The amount of the bond, or its cash equivalent, shall be the greater of:

(a) One hundred thousand dollars;

(b) The greatest required escrow amount due from the nonparticipating manufacturer, or its predecessors, successors, affiliates, importers, or stamping agents, as such terms may be defined and liabilities may be established within sections 69-2701 to 69-2711, for any of the preceding twenty calendar quarters; or

(c) The greatest required annual total of quarterly escrow amounts due from the nonparticipating manufacturer, or its predecessors, successors, affiliates, importers, or stamping agents, as such terms may be defined and liabilities may be established within sections 69-2701 to 69-2711, for any of the preceding five calendar years, if the Attorney General deems the nonparticipating manufacturer to pose an elevated risk for noncompliance.

(3) The Attorney General may deem a nonparticipating manufacturer to pose an elevated risk for noncompliance if:

(a) The nonparticipating manufacturer or its brands or brand families, or any predecessor, successor, affiliate, or importer or any of their brands or brand families, has failed to deposit fully the amount due on an escrow obligation with respect to any state at any time during the calendar year or within the preceding five calendar years unless either:

(i) The nonparticipating manufacturer did not underdeposit knowingly or recklessly and promptly cured the underdeposit within one hundred eighty days of notice of the underdeposit; or

(ii) The underdeposit or lack of deposit is the subject of a good faith dispute in the form of ongoing litigation that has not reached a final order as reasonably documented to the Attorney General and the underdeposit is cured within one hundred eighty days of entry of a final order establishing the amount of the required escrow deposit;

(b) Any state has removed the nonparticipating manufacturer or its brands or brand families, or any predecessor, successor, affiliate, or importer or any of their brands or brand families, from the state's tobacco directory for noncompliance with the state's escrow deposit or tobacco tax laws at any time during the calendar year or within the preceding five calendar years, unless such removal is subject to a good faith dispute in the form of an ongoing challenge

under administrative procedure or litigation that has not reached a final order as reasonably documented to the Attorney General;

(c) Any state has an unsatisfied final judgment against the nonparticipating manufacturer or its brands or brand families, or any predecessor, successor, affiliate, or importer or any of their brands or brand families, for escrow or for penalties, fees, costs, refunds, or attorney's fees related to noncompliance with state escrow laws;

(d) The nonparticipating manufacturer, or any predecessor, successor, or affiliate, sells its cigarettes or tobacco products directly to consumers via remote or other non-face-to-face means;

(e) A state or federal court determines that the nonparticipating manufacturer, or any predecessor, successor, or affiliate, has violated any tobacco tax or tobacco control law or engaged in unfair business practices or unfair competition;

(f) Any state has suspended or revoked a license granted to the nonparticipating manufacturer, or any predecessor, successor, or affiliate, to engage in any aspect of tobacco business, unless the suspension or revocation is subject to a good faith dispute in the form of an ongoing challenge under administrative procedure or litigation that has not reached a final order as reasonably documented to the Attorney General;

(g) Any state or federal court has determined that the nonparticipating manufacturer, or any predecessor, successor, or affiliate, failed to comply with state or federal law imposing marking, labeling, and stamping requirements or requiring information to be affixed to, or contained in, the labels, markings, or packaging; or

(h) The nonparticipating manufacturer fails to submit or complete any required forms, documents, certification, or notices, in a timely manner or to the satisfaction of the Attorney General or Tax Commissioner, unless such failure is subject to a good faith dispute in the form of an ongoing challenge under administrative procedure or litigation that has not reached a final order as reasonably documented to the Attorney General.

(4) A nonparticipating manufacturer shall post the bond or its cash equivalent and shall provide evidence of such posting to the Attorney General and Tax Commissioner both annually, as required by section 69-2706, and at least ten days in advance of each calendar quarter as a condition to the nonparticipating manufacturer and its brands or brand families being included in the directory.

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

Source: Laws 2011, LB590, § 9; Laws 2019, LB397, § 16.

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

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

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

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

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

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

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

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

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

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

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

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

misdemeanor. In the case of violations described in subdivision (2)(d), (e), or (f) of this section, each sale constitutes a separate offense.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

and be guilty of a Class II misdemeanor. Each sale constitutes a separate violation.

Source: Laws 2003, LB 572, § 6; Laws 2007, LB580, § 4; Laws 2011, LB590, § 12; Laws 2019, LB397, § 17.

69-2710 Removal from directory; procedure.

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

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

Source: Laws 2003, LB 572, § 7; Laws 2011, LB590, § 13; Laws 2019, LB397, § 18.

Cross References

Administrative Procedure Act, see section 84-920.

69-2710.01 Report; contents.

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

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

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

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

Source: Laws 2011, LB590, § 14; Laws 2017, LB217, § 4; Laws 2019, LB397, § 19.

Cross References

Tobacco Products Tax Act, see section 77-4001.

69-2710.03 Rules and regulations.

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

Source: Laws 2011, LB590, § 16; Laws 2019, LB397, § 20.

CHAPTER 70
POWER DISTRICTS AND CORPORATIONS

Article.
6. Public Power and Irrigation Districts. 70-611 to 70-663.
7. Electric Cooperative Corporations. 70-704, 70-719.
10. Nebraska Power Review Board. 70-1001 to 70-1034.
14. Joint Public Power Authority Act. 70-1409.
16. Denial or Discontinuance of Utility Service. 70-1605, 70-1606.

ARTICLE 6
PUBLIC POWER AND IRRIGATION DISTRICTS

Section
70-611. Board of directors; election; certified notice; publication.
70-619. Board of directors; qualifications; eligibility to serve.
70-624.02. Board of directors; expenses; compensation; prohibitions; exceptions.
70-624.04. Directors and employees; hold other elective office; interest in certain agreements; contract or agreement not void or voidable; when.
70-625. Public power district; powers; restrictions.
70-637. Construction, repairs, and improvements; contracts; sealed bids; exceptions; notice; when.
70-642.02. Repealed. Laws 2020, LB1055, § 22.
70-663. Amendment; approval procedure.

70-611 Board of directors; election; certified notice; publication.

(1) Not later than January 5 in each even-numbered year, the secretary of the district in districts grossing forty million dollars or more annually shall certify to the Secretary of State on forms prescribed by the Secretary of State the names of the counties in which all registered voters are eligible to vote for public power district candidates and for other counties the names of the election precincts within each county excluding the municipalities in which voters are not eligible to vote on public power district candidates. The secretary shall also certify the number of directors to be elected and the length of terms for which each is to be elected.

(2) Districts grossing less than forty million dollars annually shall prepare the same type of certification as districts grossing over forty million dollars annually and file such certification with the Secretary of State not later than June 15 of each even-numbered year.

(3) The secretary of each district shall, at the time of filing the certification, cause to be published once in a newspaper or newspapers of general circulation within the district a list of the incumbent directors and naming the counties or election precincts excluding those municipalities in which voters are not eligible to vote for public power district candidates in the same general form as the certification filed with the Secretary of State. A certified copy of the published notice shall be filed with the Secretary of State within ten days after such publication.

Source: Laws 1933, c. 86, § 4, p. 344; Laws 1937, c. 152, § 4, p. 581; Laws 1941, c. 137, § 1, p. 542; C.S.Supp.,1941, § 70-704; Laws 1943, c. 145, § 1(2), p. 511; Laws 1943, c. 146, § 1, p. 516;

R.S.1943, § 70-611; Laws 1959, c. 135, § 30, p. 526; Laws 1972, LB 1401, § 2; Laws 1973, LB 364, § 2; Laws 1975, LB 453, § 58; Laws 1994, LB 76, § 583; Laws 1997, LB 764, § 110; Laws 2021, LB285, § 17.

70-619 Board of directors; qualifications; eligibility to serve.

(1) The corporate powers of the district shall be vested in and exercised by the board of directors of the district. No person shall be qualified to hold office as a member of the board of directors unless (a) he or she is a registered voter (i) of such chartered territory, (ii) of the subdivision from which a director is to be elected if such chartered territory is subdivided for election purposes as provided in subsection (1), (2), or (3) of section 70-612, or (iii) of one of the combined subdivisions from which directors are to be elected at large as provided in section 70-612 or (b) he or she is a retail customer duly certified in accordance with subsection (3) of section 70-604.03.

(2) No person who is a full-time or part-time employee of the district shall be eligible to serve as a member of the board of directors of that district. A member of a governing body of any one of the municipalities within the areas of the district may not serve on the original board of directors under sections 70-603 to 70-609.

Source: Laws 1933, c. 86, § 5, p. 345; C.S.Supp.,1941, § 70-705; Laws 1943, c. 146, § 2(1), p. 518; R.S.1943, § 70-619; Laws 1944, Spec. Sess., c. 5, § 1(1), p. 106; Laws 1957, c. 127, § 2, p. 440; Laws 1963, c. 396, § 1, p. 1258; Laws 1967, c. 418, § 6, p. 1288; Laws 1973, LB 364, § 4; Laws 1982, LB 198, § 4; Laws 1983, LB 15, § 1; Laws 1985, LB 2, § 5; Laws 1986, LB 949, § 13; Laws 1991, LB 3, § 1; Laws 1994, LB 76, § 585; Laws 2013, LB646, § 4; Laws 2015, LB177, § 1; Laws 2023, LB565, § 42.

Cross References

Eligibility, additional requirements, see section 70-610.

70-624.02 Board of directors; expenses; compensation; prohibitions; exceptions.

The members of the board of directors shall be paid their actual expenses, while engaged in the business of the district under the authority of the board of directors, and, for their services, such compensation as shall be fixed by the board of directors.

The boards of directors of those districts with gross revenue of less than five hundred million dollars may fix compensation at not to exceed thirteen thousand four hundred forty dollars per year as to all members except the president and not exceeding fifteen thousand one hundred twenty dollars a year as to the president.

The boards of directors of those districts with gross revenue of five hundred million dollars or more may fix compensation at not to exceed twenty-six thousand eight hundred eighty dollars per year as to all members except the president or chairperson of the board and not exceeding thirty thousand two hundred forty dollars per year as to the president or chairperson of the board. All salaries and compensation shall be obligations against and be paid solely from the revenue of the district.

No director shall receive any other compensation from the district, except as provided in this section, during the term for which he or she was elected or appointed or in the year following the expiration of his or her term, and resignation from such board of directors shall not be construed as the termination of the term of office for which he or she was elected or appointed.

A member of the board of directors of a public power district organized under the laws of this state shall not be limited to service on the board of directors in the district in which he or she has been elected so as to preclude service in similar positions of trust on a state, regional, or national level which are the result of his or her membership as a director on such board. For time expended in his or her duties in such position of trust, the director shall not be limited to any existing provisions of law of this state relating to payment of per diem for services as a member of such board of directors, but shall be entitled to receive such additional compensation as may be provided for such service, regardless of the fact that such compensation may be paid from funds to which his or her district has made contributions in the form of dues or otherwise.

Source: Laws 1933, c. 86, § 5, p. 345; C.S.Supp.,1941, § 70-705; Laws 1943, c. 146, § 2(1), p. 520; R.S.1943, § 70-624; Laws 1944, Spec. Sess., c. 5, § 1(7), (8), (9), pp. 107, 108; Laws 1949, c. 199, § 1(3), p. 580; Laws 1965, c. 405, § 1, p. 1304; Laws 1965, c. 406, § 1, p. 1306; Laws 1969, c. 548, § 1, p. 2204; Laws 1971, LB 308, § 1; Laws 1975, LB 226, § 1; Laws 1978, LB 837, § 1; Laws 1984, LB 49, § 4; Laws 1985, LB 75, § 1; Laws 1990, LB 730, § 2; Laws 1993, LB 6, § 1; Laws 2000, LB 901, § 4; Laws 2024, LB1300, § 44.
Operative date July 19, 2024.

70-624.04 Directors and employees; hold other elective office; interest in certain agreements; contract or agreement not void or voidable; when.

(1) Directors and employees of public power districts, public power and irrigation districts, and public utility companies shall be permitted to hold other elective office as provided in section 32-604. No contracts of any such public power district, public power and irrigation district, or public utility company shall be void or voidable by reason of such service by its directors or employees.

(2) A director of a public power and irrigation district may have an interest in a residential lease agreement or a water service agreement with such district. Such director may participate in any discussion or vote on such agreements. No agreement of such public power and irrigation district shall be void or voidable by reason of such interest by such director.

Source: Laws 1971, LB 494, § 1; Laws 1973, LB 559, § 9; Laws 1990, LB 931, § 7; Laws 1991, LB 20, § 3; Laws 1991, LB 12, § 6; Laws 1994, LB 76, § 586; Laws 2024, LB1370, § 2.
Operative date July 19, 2024.

70-625 Public power district; powers; restrictions.

(1) Subject to the limitations of the petition for its creation and all amendments to such petition, a public power district has all the usual powers of a corporation for public purposes and may purchase, hold, sell, and lease personal property and real property reasonably necessary for the conduct of its business. No district may sell household appliances at retail if the retail price of

any such appliance exceeds fifty dollars, except that newly developed electrical appliances may be merchandised and sold during the period of time in which any such appliances are being introduced to the public. New models of existing appliances shall not be deemed to be newly developed appliances. An electrical appliance shall be considered to be in such introductory period of time until the particular type of appliance is used by twenty-five percent of all the electrical customers served by such district, but such period shall in no event exceed five years from the date of introduction by the manufacturer of the new appliance to the local market.

(2) In addition to its powers authorized by Chapter 70 and specified in its petition for creation, as amended, a public power district may sell, lease, and service satellite television signal descrambling or decoding devices, satellite television programming, and equipment and services associated with such devices and programming, except that this section does not authorize public power districts (a) to provide signal descrambling or decoding devices or satellite programming to any location (i) being furnished such devices or programming on April 24, 1987, or (ii) where community antenna television service is available from any person, firm, or corporation holding a franchise pursuant to sections 18-2201 to 18-2206 or a permit pursuant to sections 23-383 to 23-388 on April 24, 1987, or (b) to sell, service, or lease C-band satellite dish systems or repair parts.

(3) In addition to the powers authorized by Chapter 70 and specified in its petition for creation as amended, the board of directors of a public power district may apply for and use funds available from the United States Department of Agriculture or other federal agencies for grants or loans to promote economic development and job creation projects in rural areas as permitted under the rules and regulations of the federal agency from which the funds are received. Any loan to be made by a district shall only be made in participation with a bank pursuant to a contract. The district and the participating bank shall determine the terms and conditions of the contract. In addition, in rural areas of the district, the board of directors of such district may provide technical or management assistance to prospective, new, or expanding businesses, including home-based businesses, provide assistance to a local or regional industrial or economic development corporation or foundation located within or contiguous to the district's service area, and provide youth and adult community leadership training.

(4) In addition to the powers authorized by Chapter 70 and specified in its petition for creation as amended, a public power district may sell, lease, or license its dark fiber pursuant to sections 86-574 to 86-578.

(5) In addition to the powers authorized by Chapter 70 and specified in its petition for creation as amended, a public power district may develop, manufacture, use, purchase, or sell at wholesale advanced biofuels and biofuel byproducts and other fuels and fuel byproducts so long as the development, manufacture, use, purchase, or sale of such biofuels and biofuel byproducts and other fuels and fuel byproducts is done to help offset greenhouse gas emissions.

(6) Notwithstanding any law, ordinance, resolution, or regulation of any political subdivision to the contrary, each public power district may receive funds and extend loans pursuant to the Nebraska Investment Finance Authority Act or pursuant to this section. In addition to the powers authorized by Chapter 70 and specified in its petition for creation, as amended, and without the need

for further amendment thereto, a public power district may own and operate, contract to operate, or lease energy equipment and provide billing, meter reading, surveys, or evaluations and other administrative services, but not to include natural gas services, of public utility systems within a district's service territory.

Source: Laws 1933, c. 86, § 6, p. 346; Laws 1937, c. 152, § 5, p. 583; C.S.Supp.,1941, § 70-706; Laws 1943, c. 146, § 3(1), p. 521; R.S.1943, § 70-625; Laws 1961, c. 335, § 1, p. 1045; Laws 1980, LB 954, § 62; Laws 1987, LB 23, § 1; Laws 1987, LB 345, § 1; Laws 1994, LB 915, § 2; Laws 1997, LB 658, § 8; Laws 1997, LB 660, § 1; Laws 2001, LB 827, § 15; Laws 2002, LB 1105, § 477; Laws 2020, LB899, § 1; Laws 2024, LB61, § 2.
Effective date July 19, 2024.

Cross References

Nebraska Investment Finance Authority Act, see section 58-201.

70-637 Construction, repairs, and improvements; contracts; sealed bids; exceptions; notice; when.

(1) A district shall cause estimates of the costs to be made by some competent engineer or engineers before the district enters into any contract for:

(a) The construction, reconstruction, remodeling, building, alteration, maintenance, repair, extension, or improvement, for the use of the district, of any:

(i) Power plant or system;

(ii) Hydrogen production, storage, or distribution system;

(iii) Ethanol production or distribution system;

(iv) Irrigation works; or

(v) Part or section of a system or works described in subdivisions (i) through (iv) of this subdivision; or

(b) The purchase of any materials, machinery, or apparatus to be used in the projects described in subdivision (1)(a) of this section.

(2) If the estimated cost exceeds the sum of seven hundred fifty thousand dollars, for those districts with a gross revenue of less than five hundred million dollars, or one million five hundred thousand dollars, for those districts with a gross revenue of five hundred million dollars or more, no such contract shall be entered into without advertising for sealed bids.

(3) Notwithstanding the provisions of subsection (2) of this section and sections 70-638 and 70-639, the board of directors of the district may negotiate directly with sheltered workshops pursuant to section 48-1503.

(4)(a) The provisions of subsection (2) of this section and sections 70-638 and 70-639 relating to sealed bids shall not apply to contracts entered into by a district in the exercise of its rights and powers relating to (i) radioactive material or the energy therefrom, (ii) any technologically complex or unique equipment, (iii) equipment or supplemental labor procurement from an electric utility or from or through an electric utility alliance, or (iv) any maintenance or repair, if the requirements of subdivisions (b) and (c) of this subsection are met.

(b) A contract described in subdivision (a) of this subsection need not comply with subsection (2) of this section or section 70-638 or 70-639 if:

(i) The engineer or engineers certify that, by reason of the nature of the subject matter of the contract, compliance with subsection (2) of this section would be impractical or not in the public interest;

(ii) The engineer's certification is approved by a two-thirds vote of the board; and

(iii) The district advertises notice of its intention to enter into such contract, the general nature of the proposed work, and the name of the person to be contacted for additional information by anyone interested in contracting for such work.

(c) Any contract for which the board has approved an engineer's certificate described in subdivision (b) of this subsection shall be advertised in three issues not less than seven days between issues in one or more newspapers of general circulation in the district and in such additional newspapers or trade or technical periodicals as may be selected by the board in order to give proper notice of its intention to enter into such contract, and any such contract shall not be entered into prior to twenty days after the last advertisement.

(5) The provisions of subsection (2) of this section and sections 70-638 and 70-639 shall not apply to contracts in excess of seven hundred fifty thousand dollars, for those districts with a gross revenue of less than five hundred million dollars, or one million five hundred thousand dollars, for those districts with a gross revenue of five hundred million dollars or more, entered into for the purchase of any materials, machinery, or apparatus to be used in projects described in subdivision (1)(a) of this section if, after advertising for sealed bids:

(a) No responsive bids are received; or

(b) The board of directors of such district determines that all bids received are in excess of the fair market value of the subject matter of such bids.

(6) Notwithstanding any other provision of subsection (2) of this section or sections 70-638 and 70-639, a district may, without advertising or sealed bidding, purchase replacement parts or services relating to such replacement parts for any generating unit, transformer, or other transmission and distribution equipment from the original manufacturer of such equipment upon certification by an engineer or engineers that such manufacturer is the only available source of supply for such replacement parts or services and that such purchase is in compliance with standards established by the board. A written statement containing such certification and a description of the resulting purchase of replacement parts or services from the original manufacturer shall be submitted to the board by the engineer or engineers certifying the purchase for the board's approval. After such certification, but not necessarily before the board review, notice of any such purchase shall be published once a week for at least three consecutive weeks in one or more newspapers of general circulation in the district and published in such additional newspapers or trade or technical periodicals as may be selected by the board in order to give proper notice of such purchase.

(7) Notwithstanding any other provision of subsection (2) of this section or sections 70-638 and 70-639, a district may, without advertising or sealed bidding, purchase used equipment and materials on a negotiated basis upon certification by an engineer that such equipment is or such materials are in compliance with standards established by the board. A written statement

containing such certification shall be submitted to the board by the engineer for the board's approval.

Source: Laws 1933, c. 86, § 10, p. 351; C.S.Supp.,1941, § 70-710; Laws 1943, c. 146, § 4, p. 523; R.S.1943, § 70-637; Laws 1955, c. 268, § 1, p. 847; Laws 1959, c. 316, § 6, p. 1161; Laws 1967, c. 423, § 1, p. 1299; Laws 1975, LB 63, § 1; Laws 1981, LB 34, § 2; Laws 1984, LB 152, § 1; Laws 1984, LB 540, § 11; Laws 1986, LB 1230, § 45; Laws 1998, LB 1129, § 2; Laws 1999, LB 566, § 2; Laws 2005, LB 139, § 14; Laws 2007, LB636, § 6; Laws 2008, LB939, § 3; Laws 2009, LB300, § 1; Laws 2024, LB1370, § 3.
Operative date July 19, 2024.

70-642.02 Repealed. Laws 2020, LB1055, § 22.

70-663 Amendment; approval procedure.

Upon authorization as provided in section 70-662, the proposed amendment shall thereupon be submitted to the Nebraska Power Review Board, together with a petition setting forth the reasons for the adoption of such amendment, and requesting that the same be approved. The Nebraska Power Review Board shall then cause notice to be given by publication for three consecutive weeks in two legal newspapers of general circulation within such district. Such notice shall set forth in full the proposed amendment and set a date, not sooner than three weeks after the last date of publication of the notice, for protests, complaints, or objections to be filed with the Nebraska Power Review Board in opposition to the adoption of such amendment. The cost of such publication shall be paid by such district. If any person residing in such district, or affected by the proposed amendment, shall, within the time provided, file a protest, complaint, or objection, the Nebraska Power Review Board shall schedule a hearing and give due notice thereof to the district, the district's representative, and the person who filed such protest, complaint, or objection. Any person filing a protest, complaint, or objection may appear at such hearing and contest the approval by the Nebraska Power Review Board of such proposed amendment. After all protests, complaints, or objections have been heard, the Nebraska Power Review Board shall act upon the petition and either approve or disapprove the amendment. If no protests, complaints, or objections are properly filed, the board shall either approve the amendment without a hearing or schedule a hearing to determine whether or not the amendment should be approved. If a hearing is scheduled, due notice shall be provided to the district and the district representative.

Source: Laws 1937, c. 152, § 9, p. 589; C.S.Supp.,1941, § 70-717; R.S. 1943, § 70-663; Laws 1981, LB 181, § 28; Laws 1983, LB 366, § 1; Laws 2021, LB285, § 18; Laws 2024, LB287, § 71.
Operative date July 19, 2024.

ARTICLE 7

ELECTRIC COOPERATIVE CORPORATIONS

Section
70-704. Corporate powers.
70-719. Directors; alternate directors; election; compensation; expenses.

70-704 Corporate powers.

Each corporation shall have power: (1) To sue and be sued, complain, and defend, in its corporate name; (2) to have perpetual succession unless a limited period of duration is stated in its articles of incorporation; (3) to adopt a corporate seal, which may be altered at pleasure, and to use it or a facsimile thereof, as required by law; (4) to generate, manufacture, purchase, acquire, and accumulate electric energy and to transmit, distribute, sell, furnish, and dispose of such electric energy; (5) to acquire, own, hold, use, exercise and, to the extent permitted by law, to sell, mortgage, pledge, hypothecate, and in any manner dispose of franchises, rights, privileges, licenses, rights-of-way, and easements necessary, useful, or appropriate; (6) to purchase, receive, lease as lessee, or in any other manner acquire, own, hold, maintain, sell, exchange, and use any and all real and personal property or any interest therein for the purposes expressed herein; (7) to borrow money and otherwise contract indebtedness, to issue its obligations therefor, and to secure the payment thereof by mortgage, pledge, or deed of trust of all or any of its property, assets, franchises, revenue, or income; (8) to sell and convey, mortgage, pledge, lease as lessor, and otherwise dispose of all or any part of its property and assets; (9) to have the same powers now exercised by law by public light and power districts or private corporations to use any of the streets, highways, or public lands of the state or its political subdivisions in the manner provided by law; (10) to have and exercise the power of eminent domain for the purposes expressed in section 70-703 in the manner set forth in sections 76-704 to 76-724 and to have the powers and be subject to the restrictions of electric light and power corporations and districts as regards the use and occupation of public highways and the manner or method of construction and physical operation of plants, systems, and transmission lines; (11) to accept gifts or grants of money, services, or property, real or personal; (12) to make any and all contracts necessary or convenient for the exercise of the powers granted herein; (13) to fix, regulate, and collect rates, fees, rents, or other charges for electric energy furnished by the corporation; (14) to elect or appoint officers, agents, and employees of the corporation and to define their duties and fix their compensation; (15) to make and alter bylaws not inconsistent with the articles of incorporation or with the laws of this state for the administration and regulation of the affairs of the corporation; (16) to sell, lease, or license its dark fiber pursuant to sections 86-574 to 86-578; and (17) to do and perform, either for itself or its members or for any other corporation organized under the Electric Cooperative Corporation Act or for the members thereof, any and all acts and things and to have and exercise any and all powers as may be necessary, convenient, or appropriate to effectuate the purpose for which the corporation is organized. Notwithstanding any law, ordinance, resolution, or regulation of any political subdivision to the contrary, each corporation may receive funds and extend loans pursuant to the Nebraska Investment Finance Authority Act.

Source: Laws 1937, c. 50, § 4, p. 203; C.S.Supp.,1941, § 70-804; R.S. 1943, § 70-704; Laws 1951, c. 101, § 109, p. 498; Laws 1980, LB 954, § 63; Laws 1987, LB 23, § 2; Laws 2001, LB 827, § 16; Laws 2002, LB 1105, § 478; Laws 2024, LB61, § 3.
Effective date July 19, 2024.

Cross References

Nebraska Investment Finance Authority Act, see section 58-201.

70-719 Directors; alternate directors; election; compensation; expenses.

The directors, other than those named in the certificate of incorporation to serve until the first annual meeting of members, shall be elected annually, or as otherwise provided in the bylaws, by the members. The directors shall be members of the corporation and shall be entitled to such compensation and reimbursement for expenses incurred by them as provided in sections 81-1174 to 81-1177. The bylaws may provide for the election of alternate directors, who shall be elected and serve in the same manner as members elected to the board of directors. Such alternate directors shall serve in the event of the absence, disability, disqualification, or death of an elected director.

Source: Laws 1937, c. 50, § 19, p. 208; C.S.Supp.,1941, § 70-819; R.S. 1943, § 70-719; Laws 1974, LB 833, § 1; Laws 1981, LB 204, § 106; Laws 2020, LB381, § 56.

ARTICLE 10

NEBRASKA POWER REVIEW BOARD

Section

70-1001 Declaration of policy.

(1) In order to provide the citizens of the state with adequate and reliable electric service at as low overall cost as possible, consistent with sound business practices, it is the policy of this state to avoid and eliminate conflict and competition between public power districts, public power and irrigation districts, individual municipalities, registered groups of municipalities, electric membership associations, and cooperatives in furnishing electric energy to retail and wholesale customers, to avoid and eliminate the duplication of facilities and resources which result therefrom, and to facilitate the settlement of rate disputes between suppliers of electricity.

(2) It is also the policy of the state to prepare for an evolving retail electricity market if certain conditions are met which indicate that retail competition is in the best interests of the citizens of the state. The determination on the timing and form of competitive markets is a matter properly left to the states as each state must evaluate the costs and benefits of a competitive retail market based on its own unique conditions. Consequently, there is a need for the state to monitor whether the conditions necessary for its citizens to benefit from retail competition exist.

(3) It is also the policy of the state to encourage and allow opportunities for private developers to develop, own, and operate renewable energy facilities intended for sale at wholesale under a statutory framework which protects the ratepayers of consumer-owned utility systems operating in the state from subsidizing the costs of such export facilities through their rates.

Source: Laws 1963, c. 397, § 1, p. 1259; Laws 1971, LB 349, § 4; Laws 1981, LB 181, § 42; Laws 2000, LB 901, § 6; Laws 2010, LB1048, § 2; Laws 2016, LB824, § 2; Laws 2023, LB565, § 43.

70-1001.01 Terms, defined.

For purposes of sections 70-1001 to 70-1028.02, unless the context otherwise requires:

(1) Board means the Nebraska Power Review Board;

(2) Commercial electric vehicle charging station means equipment designed to provide electricity for a fee for the charging of an electric vehicle or a plug-in hybrid electric vehicle, including an electric vehicle direct-current charger or a super-fast charger, any successor technology, and all components thereof. Commercial electric vehicle charging station does not include the residence of a person where an electric vehicle or a plug-in hybrid electric vehicle is charged if no customer usage fee is charged;

(3) Commercial electric vehicle charging station operator means a person, partnership, corporation, or other business entity or political subdivision that operates a commercial electric vehicle charging station;

(4) Direct-current, fast-charging station means a publicly available charging system capable of delivering at least fifty kilowatts of direct-current electrical power to an electric vehicle's rechargeable battery at a voltage of two hundred volts or greater;

(5) Direct-current, fast-charging station operator means a person, partnership, corporation, or other business entity that operates a direct-current, fast-charging station open to the public. The term does not include an electric supplier or a political subdivision;

(6) Electric supplier or supplier of electricity means any legal entity supplying, producing, or distributing electricity within the state for sale at wholesale or retail. Electric supplier does not include a commercial electric vehicle charging station operator that is a private person or privately owned partnership, privately owned corporation, or other privately owned business;

(7) Military installation means a military base other than a National Guard base where fixed-wing aircraft or strategic weapon assets are on a permanent or temporary basis assigned, stored, operated from, or otherwise located;

(8) Plug-in hybrid electric vehicle has the same meaning as in section 60-345.01;

(9) Private electric supplier means an electric supplier producing electricity from a privately developed renewable energy generation facility that is not a public power district, a public power and irrigation district, a municipality, a registered group of municipalities, an electric cooperative, an electric membership association, any other governmental entity, or any combination thereof. A private electric supplier is limited to the development of those facilities as provided in subdivision (10) of this section;

(10) Privately developed renewable energy generation facility means and is limited to a facility that (a) generates electricity using solar, wind, geothermal, biomass, landfill gas, or biogas, including all electrically connected equipment used to produce, collect, and store the facility output up to and including the transformer that steps up the voltage to sixty thousand volts or greater, and including supporting structures, buildings, and roads, unless otherwise agreed to in a joint transmission development agreement, (b) is developed, constructed, and owned, in whole or in part, by one or more private electric suppliers, and (c) is not wholly owned by a public power district, a public power and irrigation district, a municipality, a registered group of municipalities, an electric cooperative, an electric membership association, any other governmental entity, or any combination thereof;

(11) Regional transmission organization means an entity independent from those entities generating or marketing electricity at wholesale or retail, which has operational control over the electric transmission lines in a designated geographic area in order to reduce constraints in the flow of electricity and ensure that all power suppliers have open access to transmission lines for the transmission of electricity;

(12) Reliable or reliability means the ability of an electric supplier to supply the aggregate electric power and energy requirements of its electricity consumers in Nebraska at all times under normal operating conditions, taking into account scheduled and unscheduled outages, including sudden disturbances or unanticipated loss of system components that are to be reasonably expected for any electric utility following prudent utility practices, recognizing certain weather conditions and other contingencies may cause outages at the distribution, transmission, and generation level;

(13) Representative organization means an organization designated by the board and organized for the purpose of providing joint planning and encouraging maximum cooperation and coordination among electric suppliers. Such organization shall represent electric suppliers owning a combined electric generation plant accredited capacity of at least ninety percent of the total electric generation plant accredited capacity constructed and in operation within the state;

(14) State means the State of Nebraska; and

(15) Unbundled retail rates means the separation of utility bills into the individual price components for which an electric supplier charges its retail customers, including, but not limited to, the separate charges for the generation, transmission, and distribution of electricity.

Source: Laws 1981, LB 302, § 1; R.S.1943, (1996), § 70-1023; Laws 2000, LB 901, § 7; Laws 2003, LB 65, § 1; Laws 2010, LB1048, § 3; Laws 2011, LB208, § 1; Laws 2016, LB824, § 3; Laws 2023, LB565, § 44; Laws 2024, LB399, § 1; Laws 2024, LB1317, § 65; Laws 2024, LB1370, § 5.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB399, section 1, with LB1317, section 65, and LB1370, section 5, to reflect all amendments.

Note: Changes made by LB399 became effective July 19, 2024. Changes made by LB1317 became operative April 24, 2024. Changes made by LB1370 became operative April 16, 2024.

70-1002.02 Suppliers of electricity; sale in violation of approved agreement; prohibited; commercial electric vehicle charging station operator; powers and duties.

(1) No supplier shall offer, provide, or sell electric energy at wholesale in areas, or to customers, in violation of any agreement entered into and approved by the Nebraska Power Review Board pursuant to section 70-1002.01.

(2) A commercial electric vehicle charging station operator may receive electric energy solely from an electric supplier with the right to serve the location of the commercial electric vehicle charging station and shall not offer, provide, sell, or resell electric energy at wholesale or retail for any purpose or use other than the charging of electric vehicles at the location of the commercial electric vehicle charging station. A commercial electric vehicle charging station operator may charge electric vehicle charging customers on the basis of kilowatt-hours consumed. A commercial electric vehicle charging station is subject to the interconnection requirements, electric rates, and service regulations of the electric supplier in whose certified service area the commercial electric vehicle charging station is located. Nothing in sections 70-1001 to 70-1028 shall prohibit an electric supplier from owning and operating an electric vehicle charging station or recovering its costs to provide electric service to a commercial electric vehicle charging station.

(3) A commercial electric vehicle charging station funded in whole or part by state or federal funds shall only be installed by an installer who has obtained certification from the Electric Vehicle Infrastructure Training Program.

(4) Nothing in this section shall be construed to prohibit the use of batteries with a commercial electric vehicle charging station if such battery is charged with electric energy received solely from an electric supplier.

Source: Laws 1971, LB 349, § 2; Laws 2024, LB1317, § 66.
Operative date April 24, 2024.

70-1003 Nebraska Power Review Board; establishment; composition; appointment; term; vacancy; qualifications; compensation; expenses; jurisdiction; officers; executive director; staff; reports.

(1)(a) There is hereby established an independent board to be known as the Nebraska Power Review Board. The board shall consist of five members, including at least one engineer, at least one attorney, and three additional

persons. No more than one person who is or who has within four years preceding such person's appointment been either a director, an officer, or an employee of any electric utility or an elective state officer shall serve on the board at the same time. Any board member who previously was either a director, an officer, or an employee of any electric utility within four years preceding such board member's appointment shall refrain from taking any action or making any decision in any proceeding before the board that involves such electric utility for a period of four years after the date such board member ceased being a director, an officer, or an employee of such electric utility.

(b) Members of the board shall be appointed by the Governor subject to the approval of the Legislature. Upon expiration of the terms of the members first appointed, the successors shall be appointed for terms of four years. No member of the board shall serve more than three consecutive terms. Any vacancy on the board arising other than from the expiration of a term shall be filled by appointment for the unexpired portion of the term, and any person appointed to fill a vacancy on the board shall be eligible for reappointment for two more consecutive terms. No more than three members of the board shall be registered members of that political party represented by the Governor.

(2) Each member of the board shall receive one hundred dollars per day for each day actually and necessarily engaged in the performance of his or her duties, but not to exceed seven thousand dollars in any one year, except for the member designated to represent the board on the Southwest Power Pool Regional State Committee or its equivalent successor, who shall receive two hundred fifty dollars for each day actually and necessarily engaged in the performance of his or her duties, not to exceed thirty-five thousand dollars in any one year. If the member designated to represent the board on the Southwest Power Pool Regional State Committee should for any reason no longer serve in that capacity during a year, the pay received while serving in such capacity shall not be used for purposes of calculating the seven-thousand-dollar limitation for board members not serving in that capacity. When another board member acts as the proxy for the designated Southwest Power Pool Regional State Committee member, he or she shall receive the same pay as the designated member would have for that activity. Pay received while serving as proxy for such designated member shall not be used for purposes of determining whether the seven-thousand-dollar limitation has been met for board members not serving as such designated member. Total pay to board members for activities related to the Southwest Power Pool shall not exceed an aggregate total of forty thousand dollars in any one year. Each member shall be reimbursed for expenses while so engaged as provided in sections 81-1174 to 81-1177. The board shall have jurisdiction as provided in Chapter 70, article 10.

(3) The board shall elect from their members a chairperson and a vice-chairperson. Decisions of the board shall require the approval of a majority of the members of the board.

(4) The board shall employ an executive director and may employ such other staff necessary to carry out the duties pursuant to Chapter 70, article 10. The executive director shall serve at the pleasure of the board and shall be solely responsible to the board. The executive director shall be responsible for the administrative operations of the board and shall perform such other duties as may be delegated or assigned to him or her by the board. The board may obtain the services of experts and consultants necessary to carry out the board's duties pursuant to Chapter 70, article 10.

(5) The board shall publish and submit a biennial report with annual data to the Governor, with copies to be filed with the Clerk of the Legislature and with the Department of Environment and Energy. The report submitted to the Clerk of the Legislature shall be submitted electronically. The department shall consider the information in the Nebraska Power Review Board's report when the department prepares its own reports pursuant to sections 81-1606 and 81-1607. The report of the board shall include:

(a) The assessments for the fiscal year imposed pursuant to section 70-1020;

(b) The gross income totals for each category of the industry and the industry total;

(c) The number of suppliers against whom the assessment is levied, by category and in total;

(d) The projected dollar costs of generation, transmission, and microwave applications, approved and denied;

(e) The actual dollar costs of approved applications upon completion, and a summary of an informational hearing concerning any significant divergence between the projected and actual costs;

(f) A description of Nebraska's current electric system and information on additions to and retirements from the system during the fiscal year, including microwave facilities;

(g) A statistical summary of board activities and an expenditure summary;

(h) A roster of power suppliers in Nebraska and the assessment each paid; and

(i) Appropriately detailed historical and projected electric supply and demand statistics, including information on the total generating capacity owned by Nebraska suppliers and the total peak load demand of the previous year, along with an indication of how the industry will respond to the projected situation.

(6) The board may, in its discretion, hold public hearings concerning the conditions that may indicate that retail competition in the electric industry would benefit Nebraska's citizens and what steps, if any, should be taken to prepare for retail competition in Nebraska's electricity market. In determining whether to hold such hearings, the board shall consider the sufficiency of public interest.

(7) The board may, at any time deemed beneficial by the board, submit a report to the Governor with copies to be filed with the Clerk of the Legislature and the Natural Resources Committee of the Legislature. The report filed with the Clerk of the Legislature and the committee shall be filed electronically. The report may include:

(a) Whether or not a viable regional transmission organization and adequate transmission exist in Nebraska or in a region which includes Nebraska;

(b) Whether or not a viable wholesale electricity market exists in a region which includes Nebraska;

(c) To what extent retail rates have been unbundled in Nebraska;

(d) A comparison of Nebraska's wholesale electricity prices to the prices in the region; and

(e) Any other information the board believes to be beneficial to the Governor, the Legislature, and Nebraska's citizens when considering whether retail electric competition would be beneficial, such as, but not limited to, an update on

deregulation activities in other states and an update on federal deregulation legislation.

(8) The board may establish working groups of interested parties to assist the board in carrying out the powers set forth in subsections (6) and (7) of this section.

Source: Laws 1963, c. 397, § 3, p. 1260; Laws 1971, LB 554, § 1; Laws 1978, LB 800, § 1; Laws 1980, LB 863, § 1; Laws 1981, LB 181, § 46; Laws 1981, LB 204, § 107; Laws 2000, LB 901, § 8; Laws 2010, LB797, § 1; Laws 2012, LB782, § 101; Laws 2016, LB824, § 4; Laws 2019, LB302, § 86; Laws 2020, LB381, § 57; Laws 2022, LB804, § 1; Laws 2024, LB867, § 11.
Operative date July 19, 2024.

70-1012 Electric generation facilities and transmission lines; construction or acquisition; application; approval; when not required; proximity to military installation; notice required, when.

(1) Before any electric generation facilities or any transmission lines or related facilities carrying more than seven hundred volts are constructed or acquired by any supplier, an application, filed with the board and containing such information as the board shall prescribe, shall be approved by the board, except that such approval shall not be required (a) for the construction or acquisition of a transmission line extension or related facilities within a supplier's own service area or for the construction or acquisition of a line not exceeding one-half mile outside its own service area when all owners of electric lines located within one-half mile of the extension consent thereto in writing and such consents are filed with the board, (b) for any generation facility when the board finds that (i) such facility is being constructed or acquired to replace a generating plant owned by an individual municipality or registered group of municipalities with a capacity not greater than that of the plant being replaced, (ii) such facility will generate less than twenty-five thousand kilowatts of electric energy at rated capacity, and (iii) the applicant will not use the plant or transmission capacity to supply wholesale power to customers outside the applicant's existing retail service area or chartered territory, (c) for acquisition of transmission lines or related facilities, within the state, carrying one hundred fifteen thousand volts or less, if the current owner of the transmission lines or related facilities notifies the board of the lines or facilities involved in the transaction and the parties to the transaction, or (d) for the construction of a qualified facility as defined in section 70-2002.

(2)(a) Before any electric supplier commences construction of or acquires an electric generation facility or transmission lines or related facilities carrying more than seven hundred volts that will be located within a ten-mile radius of a military installation, the owner of such proposed facility, transmission lines, or related facilities shall provide written notice certifying to the board that such facility or facilities contain no materials, electronics, or other components manufactured by any foreign government or foreign nongovernment person determined to be a foreign adversary pursuant to 15 C.F.R. 7.4.

(b) Any electric supplier supplying, producing, or distributing electricity within the state for sale at retail is exempt from subdivision (a) of this subsection if it is in compliance with the critical infrastructure protection requirements issued by the North American Electric Reliability Corporation. To receive such exemption, the electric supplier shall submit written notice to the

board certifying that it is in such compliance. The electric supplier shall also submit written notice to the board at any time such supplier is no longer in such compliance.

(3) A privately developed renewable energy generation facility is exempt from this section if it complies with section 70-1014.02.

Source: Laws 1963, c. 397, § 12, p. 1264; Laws 1979, LB 119, § 1; Laws 1981, LB 181, § 49; Laws 1984, LB 729, § 1; Laws 2009, LB436, § 6; Laws 2016, LB824, § 5; Laws 2024, LB1370, § 6.
Operative date April 16, 2024.

70-1014 Electric generation facilities and transmission lines; approval or denial of application; findings required; regional line or facilities; additional consideration.

(1) After hearing, the board shall have authority to approve or deny the application. Except as provided in section 70-1014.01 for special generation applications, before approval of an application, the board shall find that:

(a) The application will serve the public convenience and necessity, and that the applicant can most economically and feasibly supply the electric service resulting from the proposed construction or acquisition without unnecessary duplication of facilities or operations; and

(b)(i) For any proposed electric generation facility that has a generating capacity that is greater than ten megawatts, the applicant has held at least one public meeting with advanced publicized notice in one of the counties in which the proposed facility will be located at which (A) at least fifty percent of the governing body of the electric supplier attends either in person or by videoconference, but with not less than one member of the governing body physically present, (B) the applicant explains the need for the proposed facility and the type of facility, and (C) real property owners in any of the counties in which the proposed facility will be located are provided an opportunity to comment on the proposed facility. The applicant shall provide a report to the board containing the minutes of any such meeting and how many people commented on the proposed facility. Documentation received at any such meeting shall be made available to the board upon its request. A meeting described in this subdivision is not subject to the requirements described in subdivision (3)(b)(iv) of section 84-1411.

(ii) This subdivision (b) shall not apply if the proposed facility will be located on real property owned by the applicant at the time of application.

(2) If the application involves a transmission line or related facilities planned and approved by a regional transmission organization and the regional transmission organization has issued a notice to construct or similar notice or order to a utility to construct the line or related facilities, the board shall also consider information from the regional transmission organization's planning process and may consider the benefits to the region, which shall include Nebraska, provided by the proposed line or related facilities as part of the board's process in determining whether to approve or deny the application.

(3) A privately developed renewable energy generation facility is exempt from this section if it complies with section 70-1014.02.

Source: Laws 1963, c. 397, § 14, p. 1265; Laws 1981, LB 181, § 51; Laws 2003, LB 65, § 2; Laws 2010, LB1048, § 5; Laws 2012, LB742, § 1; Laws 2016, LB824, § 8; Laws 2024, LB399, § 2.
Effective date July 19, 2024.

70-1014.02 Legislative findings; privately developed renewable energy generation facility; owner; duties; certification; decommissioning plan; bond; joint transmission development agreement; contents; property not subject to eminent domain.

(1) The Legislature finds that:

(a) Nebraska has the authority as a sovereign state to protect its land, natural resources, and cultural resources for economic and aesthetic purposes for the benefit of its residents and future generations by regulation of energy generation projects;

(b) The unique terrain and ecology of the Nebraska Sandhills provide an irreplaceable habitat for millions of migratory birds and other wildlife every year and serve as the home to numerous ranchers and farmers;

(c) The grasslands of the Nebraska Sandhills and other natural resources in Nebraska will become increasingly valuable, both economically and strategically, as the demand for food and energy increases; and

(d) The Nebraska Sandhills are home to priceless archaeological sites of historical and cultural significance to American Indians.

(2)(a) A privately developed renewable energy generation facility that meets the requirements of this section is exempt from sections 70-1012 to 70-1014.01 if, no less than thirty days prior to the commencement of construction, the owner of the facility:

(i) Notifies the board in writing of its intent to commence construction of a privately developed renewable energy generation facility;

(ii) Certifies to the board that the facility will meet the requirements for a privately developed renewable energy generation facility;

(iii) Certifies to the board that the private electric supplier will (A) comply with any decommissioning requirements adopted by the local governmental entities having jurisdiction over the privately developed renewable energy generation facility and (B) except as otherwise provided in subdivision (b) of this subsection, submit a decommissioning plan to the board obligating the private electric supplier to bear all costs of decommissioning the privately developed renewable energy generation facility and requiring that the private electric supplier post a security bond or other instrument, no later than the sixth year following commercial operation, securing the costs of decommissioning the facility and provide a copy of the bond or instrument to the board;

(iv) Certifies to the board that the private electric supplier has entered into or prior to commencing construction will enter into a joint transmission development agreement pursuant to subdivision (c) of this subsection with the electric supplier owning the transmission facilities of sixty thousand volts or greater to which the privately developed renewable energy generation facility will interconnect;

(v) Certifies to the board that the private electric supplier has consulted with the Game and Parks Commission to identify potential measures to avoid, minimize, and mitigate impacts to species identified under subsection (1) or (2) of section 37-806 during the project planning and design phases, if possible, but in no event later than the commencement of construction;

(vi) Certifies in writing to the board that the facility, if located within a ten-mile radius of a military installation:

(A) Contains no materials, electronics, or other components manufactured by any foreign government or foreign nongovernment person determined to be a foreign adversary pursuant to 15 C.F.R. 7.4; or

(B) Is in compliance with the critical infrastructure protection requirements issued by the North American Electric Reliability Corporation if connected to the transmission grid at one hundred kilovolts or higher voltage and has to have a nameplate rating of twenty megavolt amperes for a single generation unit or injecting at an aggregate of seventy-five megavolt amperes or greater. The private electric supplier shall also submit written notice to the board at any time such private electric supplier is no longer in such compliance; and

(vii) For a proposed privately developed renewable energy generation facility that has a generating capacity that is greater than ten megawatts, certifies to the board that the private electric supplier has held at least one public meeting with advanced publicized notice in one of the counties in which the proposed facility will be located at which (A) the private electric supplier explains the need for the proposed facility and the type of facility and (B) real property owners in any of the counties in which the proposed facility will be located are provided an opportunity to comment on the proposed facility. The private electric supplier shall provide a report to the board containing the minutes of any such meeting and how many people commented on the proposed facility. Documentation received at any such meeting shall be made available to the board upon its request. A meeting described in this subdivision is not subject to the requirements described in subdivision (3)(b)(iv) of section 84-1411.

(b) The board may bring an action in the name of the State of Nebraska for failure to comply with subdivision (a)(iii)(B) of this subsection, except that such subdivision does not apply if a local government entity with the authority to create requirements for decommissioning has enacted decommissioning requirements for the applicable jurisdiction.

(c) A joint transmission development agreement shall be entered into to address construction, ownership, operation, and maintenance of such additions or upgrades to the transmission facilities as required for the privately developed renewable energy generation facility. The joint transmission development agreement shall be negotiated and executed contemporaneously with the generator interconnection agreement or other directives of the applicable regional transmission organization with jurisdiction over the addition or upgrade of transmission, upon terms consistent with prudent electric utility practices for the interconnection of renewable generation facilities, the electric supplier's reasonable transmission interconnection requirements, and applicable transmission design and construction standards. The electric supplier shall have the right to purchase and own transmission facilities as set forth in the joint transmission development agreement. The private electric supplier of the privately developed renewable energy generation facility shall have the right to construct any necessary facilities or improvements set forth in the joint transmission development agreement pursuant to the standards set forth in the agreement at the private electric supplier's cost.

(3) Within ten days after receipt of a written notice complying with subsection (2) of this section, the executive director of the board shall issue a written acknowledgment that the privately developed renewable energy generation facility is exempt from sections 70-1012 to 70-1014.01 if such facility remains in compliance with the requirements of this section.

(4) The exemption allowed under this section for a privately developed renewable energy generation facility shall extend to and exempt all private electric suppliers owning any interest in the facility, including any successor private electric supplier which subsequently acquires any interest in the facility.

(5) No property owned, used, or operated as part of a privately developed renewable energy generation facility shall be subject to eminent domain by a consumer-owned electric supplier operating in the State of Nebraska. Nothing in this section shall be construed to grant the power of eminent domain to a private electric supplier or limit the rights of any entity to acquire any public, municipal, or utility right-of-way across property owned, used, or operated as part of a privately developed renewable energy generation facility as long as the right-of-way does not prevent the operation of or access to the privately developed renewable energy generation facility.

(6) Only a consumer-owned electric supplier operating in the State of Nebraska may exercise eminent domain authority to acquire the land rights necessary for the construction of transmission lines and related facilities. There is a rebuttable presumption that the exercise of eminent domain to provide needed transmission lines and related facilities for a privately developed renewable energy generation facility is a public use.

(7) Nothing in this section shall be construed to authorize a private electric supplier to sell or deliver electricity at retail in Nebraska.

(8) Nothing in this section shall be construed to limit the authority of or require a consumer-owned electric supplier operating in the State of Nebraska to enter into a joint agreement with a private electric supplier to develop, construct, and jointly own a privately developed renewable energy generation facility.

Source: Laws 2010, LB1048, § 6; Laws 2011, LB208, § 3; Laws 2016, LB824, § 10; Laws 2019, LB155, § 1; Laws 2024, LB399, § 3; Laws 2024, LB1370, § 7.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB399, section 3, with LB1370, section 7, to reflect all amendments.

Note: Changes made by LB399 became effective July 19, 2024. Changes made by LB1370 became operative April 16, 2024.

70-1015 Suppliers; electric generation facilities and transmission lines; unauthorized construction, acquisition, or service; injunction; violation; actions authorized; private electric supplier; commencement of construction prior to providing notice; violation; fine; executive director; powers and duties; dispute; hearing; procedure; decision; costs.

(1) If any supplier violates Chapter 70, article 10, by either (a) commencing the construction or finalizing or attempting to finalize the acquisition of any generation facilities, any transmission lines, or any related facilities without first providing notice or obtaining board approval, whichever is required, or (b) serving or attempting to serve at retail any customers located in Nebraska or any wholesale customers in violation of section 70-1002.02, such construction, acquisition, or service of such customers shall be enjoined in an action brought in the name of the State of Nebraska until such supplier has complied with Chapter 70, article 10.

(2) If the executive director of the board determines that a private electric supplier commenced construction of a privately developed renewable energy generation facility less than thirty days prior to providing the notice required in

subdivision (2)(a) of section 70-1014.02, the executive director shall send notice via certified mail to the private electric supplier, informing it of the determination that the private electric supplier is in violation of such subdivision and is subject to a fine in the amount of five hundred dollars. The private electric supplier shall have twenty days from the date on which the notice is received in which to submit the notice described in such subdivision and to pay the fine. Within ten days after the private electric supplier submits a notice compliant with subsection (2) of section 70-1014.02 and payment of the fine, the executive director of the board shall issue the written acknowledgment described in subsection (3) of section 70-1014.02. If the private electric supplier fails to submit a notice compliant with subsection (2) of section 70-1014.02 and pay the fine within twenty days after the date on which the private electric supplier receives the notice from the executive director of the board, the private electric supplier shall immediately cease construction or operation of the privately developed renewable energy generation facility.

(3) If the private electric supplier disputes that construction was commenced less than thirty days prior to submitting the written notice required by subdivision (2)(a) of section 70-1014.02, the private electric supplier may request a hearing before the board. Such request shall be submitted within twenty days after the private electric supplier receives the notice sent by the executive director pursuant to subsection (2) of this section. If the private electric supplier does not accept the certified mail sent pursuant to such subsection, the executive director shall send a second notice to the private electric supplier by first-class United States mail. The private electric supplier may submit a request for hearing within twenty days after the date on which the second notice was mailed.

(4) Upon receipt of a request for hearing, the board shall set a hearing date. Such hearing shall be held within sixty days after such receipt. The board shall provide to the private electric supplier written notice of the hearing at least twenty days prior to the date of the hearing. The board or its hearing officer may grant continuances upon good cause shown or upon the request of the private electric supplier. Timely filing of a request for hearing by a private electric supplier shall stay any further enforcement under this section until the board issues an order pursuant to subsection (5) of this section or the request for hearing is withdrawn.

(5) The board shall issue a written decision within sixty days after conclusion of the hearing. All costs of the hearing shall be paid by the private electric supplier if (a) the board determines that the private electric supplier commenced construction of the privately developed renewable energy generation facility less than thirty days prior to submitting the written notice required pursuant to subsection (2) of section 70-1014.02 or (b) the private electric supplier withdraws its request for hearing prior to the board issuing its decision.

(6) A private electric supplier which the board finds to be in violation of the requirements of subsection (2) of section 70-1014.02 shall either (a) pay the fine described in this section and submit a notice compliant with subsection (2) of section 70-1014.02 or (b) immediately cease construction or operation of the privately developed renewable energy generation facility.

Source: Laws 1963, c. 397, § 15, p. 1265; Laws 1967, c. 426, § 1, p. 1302; Laws 1981, LB 181, § 52; Laws 2011, LB208, § 4; Laws 2016, LB824, § 11; Laws 2018, LB1008, § 4; Laws 2019, LB155, § 2.

70-1025 Power supply plan; contents; filing; annual report.

(1) The representative organization shall file with the board a coordinated long-range power supply plan containing the following information:

(a) The identification of all electric generation plants operating or authorized for construction within the state that have a rated capacity of at least twenty-five thousand kilowatts;

(b) The identification of all transmission lines located or authorized for construction within the state that have a rated capacity of at least two hundred thirty kilovolts; and

(c) The identification of all additional planned electric generation and transmission requirements needed to serve estimated power supply demands within the state for a period of twenty years.

(2) The representative organization shall file with the board the coordinated long-range power supply plan specified in subsection (1) of this section, and the board shall determine the date on which such report is to be filed, except that such report shall not be required to be filed more often than biennially.

(3) An annual load and capability report shall be filed with the board by the representative organization. The report shall include:

(a) Statewide utility load forecasts and the resources available to satisfy the loads over a twenty-year period; and

(b) Such other information as the board requests if such request is submitted in writing to the representative organization, is consistent with the board's statutory responsibilities, and can be performed at a reasonable cost.

(4) The annual load and capability report shall be filed on dates specified by the board.

Source: Laws 1981, LB 302, § 3; Laws 1986, LB 948, § 1; Laws 2023, LB565, § 45.

70-1028.01 Electric supplier; operation of direct-current, fast-charging station; conditions; section; termination.

(1) An electric supplier shall have the authority to own, maintain, and operate a direct-current, fast-charging station for retail services only under all of the following conditions:

(a) An electric supplier shall only develop, own, maintain, or operate a direct-current, fast-charging station at a location which is at least fifteen miles from a privately owned direct-current, fast-charging station that is already existing or under construction and at least one mile from an alternative fuel corridor designated by the Federal Highway Administration; and

(b) Before beginning construction of a direct-current, fast-charging station that is developed, owned, maintained, or operated by such electric supplier, the electric supplier shall conduct a right of first refusal process as follows:

(i) At least ninety days prior to beginning construction of a direct-current, fast-charging station, the electric supplier shall publish notice in a newspaper in or of general circulation in the county where the direct-current, fast-charging station will be located as well as on its website. Such notice shall contain the beginning construction date, the construction location, the electric supplier's mailing address and email address, and the method by which a direct-current, fast-charging station operator may notify the electric supplier that such direct-

current, fast-charging station operator plans to provide a direct-current, fast-charging station within fifteen miles of the proposed construction location;

(ii) If during such ninety-day period one or more direct-current, fast-charging station operators assert their right of first refusal by providing notification as described under subdivision (1)(b)(i) of this section, the electric supplier shall not construct the direct-current, fast-charging station; and

(iii) If after the ninety-day period no direct-current, fast-charging station operator has asserted a right of first refusal to provide a direct-current, fast-charging station within fifteen miles of the location proposed by an electric supplier, or if after notification is received under subdivision (1)(b)(i) of this section no direct-current, fast-charging station service is provided within eighteen months by a direct-current, fast-charging station operator, the electric supplier may proceed with construction of a direct-current, fast-charging station at the proposed location.

(2) An electric supplier that provides a direct-current, fast-charging station pursuant to this section shall do so under rates, tolls, rents, and charges that shall be fair, reasonable, nondiscriminatory, and available to all direct-current, fast-charging station operators in the electric supplier's service territory for the purposes of operating direct-current, fast-charging stations.

(3) This section shall terminate on December 31, 2027.

Source: Laws 2024, LB1317, § 67.
Operative date April 24, 2024.

70-1028.02 Electric supplier; operation of direct-current, fast-charging station; requirements.

(1) Effective on January 1, 2028, an electric supplier shall not develop, own, maintain, or operate a direct-current, fast-charging station within ten miles of a privately owned direct-current fast-charging station that is already in commercial operation or has a pending building permit and interconnection request to the electric supplier, on January 1, 2028.

(2) An electric supplier that operates a direct-current, fast-charging station shall provide electric vehicle charging under rates, tolls, rents, and charges that are fair, reasonable, and nondiscriminatory, and available to all direct-current, fast-charging station operators in the electric supplier's service territory for the purpose of operating direct-current, fast-charging stations.

Source: Laws 2024, LB1317, § 68.
Operative date April 24, 2024.

70-1029 Repealed. Laws 2024, LB1370, § 12.
Operative date April 16, 2024.

70-1030 Repealed. Laws 2024, LB1370, § 12.
Operative date April 16, 2024.

70-1031 Repealed. Laws 2024, LB1370, § 12.
Operative date April 16, 2024.

70-1032 Repealed. Laws 2024, LB1370, § 12.
Operative date April 16, 2024.

70-1033 Repealed. Laws 2024, LB1370, § 12.
Operative date April 16, 2024.

Note: This section was amended by Laws 2024, LB461, section 25, and repealed by Laws 2024, LB1370, section 12. The repeal by LB1370 became operative April 16, 2024, and the section has been deleted.

70-1034 Dispatchable electric generation facility; closure or decommissioning; notice; contents; hearing; recommendations; confidentiality.

(1) For purposes of this section, dispatchable electric generation facility means a facility that, under normal operating conditions, can increase or decrease its output on demand to provide electricity onto the electric power transmission grid on an ongoing basis.

(2)(a) If a public power district, a public power and irrigation district, an electric membership association, an electric cooperative company, a municipality having a generation and distribution system, or a registered group of municipalities decides that a dispatchable electric generation facility with a generation capacity in excess of one hundred megawatts owned by any such entity should be closed or decommissioned, such entity shall provide written notice to the Nebraska Power Review Board prior to a final decision to close or decommission such facility. Such written notice shall include recommendations on necessary transition activities to avoid economic harm to workers at such facility or to an affected community. Transition activities include, but are not necessarily limited to:

(i) Educating workers regarding the availability of various assistance programs, including what options are available to maintain employment with such entity;

(ii) Explaining what severance pay will be available to workers;

(iii) Services for workers including education and job training, career counseling, skills-matching, and financial planning assistance; and

(iv) Promoting economic development opportunities in the affected community, including the creation of comparable jobs.

(b) The board, in its discretion, may set a time and place for hearing on the matter and provide at least twenty days' prior notice to such entity. The hearing shall be held within sixty days after such notice unless such entity requests in writing that the hearing not be scheduled until a later time. Any such hearing shall be closed to the public due to the proprietary and commercial information discussed. If the board determines that no hearing is necessary, the board shall provide written notice of such determination to such entity within thirty days after receipt of the written notice described in subdivision (2)(a) of this section.

(3) Within sixty days after the hearing or the determination that no hearing is necessary as described in subsection (2) of this section, the board shall make recommendations in writing on the basis of the record before the board as to whether closing or decommissioning the dispatchable electric generation facility is in the best interests of the entity deciding to close or decommission the dispatchable electric generation facility and its customers. Such recommendations shall be advisory only. Such entity shall consider the board's recommendations before making its final decision regarding the closing or decommissioning of the electric generation facility.

(4) The notices, the scheduling decisions concerning the hearing and purpose of the hearing, the record of the hearing, the board's recommendations, and any response by the entity deciding to close or decommission the dispatchable

electric generation facility shall all be treated as confidential records that are not subject to public disclosure pursuant to sections 84-712 to 84-712.09 until such time as such entity publicly announces any decision to close or decommission the dispatchable electric generation facility. Nothing in this subsection shall be construed to require public disclosure of any information that may be withheld as provided in section 70-673 or 84-712.05.

(5) This section shall not apply to any decision by a public power district, a public power and irrigation district, an electric membership association, an electric cooperative company, a municipality having a generation and distribution system, or a registered group of municipalities to close or decommission a dispatchable electric generation facility made prior to April 16, 2024.

Source: Laws 2024, LB1370, § 1.
Operative date July 19, 2024.

ARTICLE 14

JOINT PUBLIC POWER AUTHORITY ACT

Section
70-1409. Joint authority; rights and powers; enumerated.

70-1409 Joint authority; rights and powers; enumerated.

Each joint authority shall have all the rights and powers necessary or convenient to carry out and effectuate the purposes and provisions of the Joint Public Power Authority Act including, but not limited to, the right and power:

(1) To adopt bylaws for the regulation of the affairs and the conduct of its business and to prescribe rules, regulations, and policies in connection with the performance of its functions and duties;

(2) To adopt an official seal and alter the same at pleasure;

(3) To maintain an office at such place or places as it may determine;

(4) To sue and be sued in its own name and to plead and be impleaded;

(5) To receive, administer, and comply with the conditions and requirements respecting any gift, grant, or donation of any property or money;

(6) To acquire by purchase, lease, gift, or otherwise, or to obtain options for the acquisition of, any property, real or personal, improved or unimproved, including an interest in land less than an interest in fee;

(7) To sell, lease, exchange, transfer, or otherwise dispose of, or to grant options for any such purposes with respect to, any real or personal property or interest in such property;

(8) To pledge or assign any money, rents, charges, or other revenue and any proceeds derived by the joint authority from the sales of property, insurance, or condemnation awards;

(9) To issue bonds of the joint authority for the purpose of providing funds for any of its corporate purposes;

(10) To authorize the construction, operation, or maintenance of any project or projects by any person, firm, or corporation, including political subdivisions and agencies of any state or of the United States;

(11) To acquire by negotiated purchase or lease an existing project, a project under construction, or other property, either individually or jointly, with one or more public power districts in this state or with any political subdivisions or

agencies of this state or any other state or with other joint authorities created pursuant to the Joint Public Power Authority Act;

(12) To dispose of by negotiated sale or lease an existing project, a project under construction, or other property, either individually or jointly, with one or more public power districts in this state, with any political subdivisions or agencies of this state or any other state or, with other joint authorities created pursuant to the Joint Public Power Authority Act, except that no such sale or lease of any project located in this state shall be made to any private person, firm, or corporation engaged in the business of generating, transmitting, or distributing electricity for profit;

(13) To fix, charge, and collect rents, rates, fees, and charges for electric power or energy, hydrogen, or ethanol and other services, facilities, and commodities sold, furnished, or supplied through any project;

(14) To generate, produce, transmit, deliver, exchange, purchase, or sell for resale only electric power or energy, to produce, store, deliver, or distribute hydrogen for use in fuel processes, or to produce, deliver, or distribute ethanol and to enter into contracts for any or all such purposes, subject to sections 70-1410 and 70-1413;

(15) To negotiate and enter into contracts for the purchase, exchange, interchange, wheeling, pooling, or transmission of electric power and energy with any public power district, any other joint authority, any political subdivision or agency of this state or any other state, any electric cooperative, or any municipal agency which owns electric generation, transmission, or distribution facilities in this state or any other state;

(16) To negotiate and enter into contracts for the sale or use of electric power and energy, hydrogen, or ethanol with any joint authority, electric cooperative, any political subdivision or agency or any public or private electric utility of this state or any other state, any joint agency, electric cooperative, municipality, public or private electric utility, or any state or federal agency or political subdivision, subject to sections 70-1410 and 70-1413;

(17) To make and execute contracts and other instruments necessary or convenient in the exercise of the powers and functions of the joint authority under the Joint Public Power Authority Act, including contracts with persons, firms, corporations, and others;

(18) To apply to the appropriate agencies of the state, the United States, or any other state and to any other proper agency for such permits, licenses, certificates, or approvals as may be necessary to construct, maintain, and operate projects in accordance with such licenses, permits, certificates, or approvals, and to obtain, hold, and use the same rights granted in any licenses, permits, certificates, or approvals as any other person or operating unit would have under such documents;

(19) To employ engineers, architects, attorneys, appraisers, financial advisors, and such other consultants and employees as may be required in the judgment of the joint authority and to fix and pay their compensation from funds available to the joint authority. The joint authority may employ technical experts and such other officers, agents, and employees as it may require and shall assess their qualifications, duties, compensation, and term of office. The board may delegate to one or more of the joint authority's employees or agents such powers and duties as the board may deem proper;

(20) To make loans or advances for long-term, supplemental, short-term, and interim financing for both capital projects and operational purposes to those member districts on such terms and conditions as the board of directors of the joint authority may deem necessary and to secure such loans or advances by assignment of revenue, receivables, or other sums of the member district and such other security as the board of directors of the joint authority may determine; and

(21) To sell, lease, or license its dark fiber pursuant to sections 86-574 to 86-578.

Any joint authority shall have the same power of eminent domain as the public power districts have under section 70-670.

Source: Laws 1982, LB 852, § 9; Laws 1986, LB 1230, § 54; Laws 2001, LB 827, § 17; Laws 2002, LB 1105, § 479; Laws 2005, LB 139, § 22; Laws 2024, LB61, § 4.
Effective date July 19, 2024.

ARTICLE 16

DENIAL OR DISCONTINUANCE OF UTILITY SERVICE

Section
70-1605. Discontinuance of service; notice; procedure; limitation on fees.
70-1606. Discontinuance of service; notice; contents; accessible to public.

70-1605 Discontinuance of service; notice; procedure; limitation on fees.

No public or private utility company, other than a municipal utility owned and operated by a village, furnishing water, natural gas, or electricity at retail in this state shall discontinue service to any domestic subscriber for nonpayment of any past-due account unless the utility company first gives notice to any subscriber whose service is proposed to be terminated. Such notice shall be given in person, by first-class mail, or by electronic delivery, except that electronic delivery shall only be used if the subscriber has specifically elected to receive such notices by electronic delivery. If notice is given by first-class mail or electronic delivery, such notice shall be conspicuously marked as to its importance. Service shall not be discontinued for at least seven days after notice is sent or given. Holidays and weekends shall be excluded from the seven days. A public or private utility company shall not charge a fee for the discontinuance or reconnection of utility service that exceeds the reasonable costs of providing such service.

Source: Laws 1972, LB 1201, § 1; R.R.S.1943, (1977), § 18-416; Laws 1979, LB 143, § 1; Laws 1982, LB 522, § 1; R.S.1943, (1987), § 19-2702; Laws 1988, LB 792, § 5; Laws 1996, LB 1044, § 370; Laws 2010, LB849, § 18; Laws 2015, LB104, § 1; Laws 2020, LB632, § 7.

70-1606 Discontinuance of service; notice; contents; accessible to public.

(1) The notice required by section 70-1605 shall contain the following information:

(a) The reason for the proposed disconnection;

(b) A statement of intention to disconnect unless the domestic subscriber either pays the bill or reaches an agreement with the utility regarding payment of the bill;

(c) The date upon which service will be disconnected if the domestic subscriber does not take appropriate action;

(d) The name, address, and telephone number of the utility's employee or department to whom the domestic subscriber may address any inquiry or complaint;

(e) The domestic subscriber's right, prior to the disconnection date, to request a conference regarding any dispute over such proposed disconnection;

(f) A statement that the utility may not disconnect service pending the conclusion of the conference;

(g) A statement to the effect that disconnection shall be postponed or prevented upon presentation of a duly licensed physician's, physician assistant's, or advanced practice registered nurse's certificate, which shall certify that a domestic subscriber or resident within such subscriber's household has an existing illness or handicap which would cause such subscriber or resident to suffer an immediate and serious health hazard by the disconnection of the utility's service to that household. Such certificate shall be filed with the utility within five days of receiving notice under this section, excluding holidays and weekends, and will prevent the disconnection of the utility's service for a period of at least thirty days from such filing. Only one postponement of disconnection shall be required under this subdivision for each incidence of nonpayment of any past-due account;

(h) The cost that will be borne by the domestic subscriber for restoration of service;

(i) A statement that the domestic subscriber may arrange with the utility for an installment payment plan;

(j) A statement to the effect that those domestic subscribers who are welfare recipients may qualify for assistance in payment of their utility bill and that they should contact their caseworker in that regard; and

(k) Any additional information not inconsistent with this section which has received prior approval from the board of directors or administrative board of any utility.

(2) A public or private utility company, other than a municipal utility owned and operated by a village, shall make the service termination information required under subdivisions (d), (e), (f), (g), (i), (j), and (k) of subsection (1) of this section readily accessible to the public on the website of the utility company and available by mail upon request.

Source: Laws 1979, LB 143, § 3; R.S.1943, (1987), § 19-2704; Laws 1988, LB 792, § 6; Laws 2020, LB632, § 8.

CHAPTER 71
PUBLIC HEALTH AND WELFARE

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ARTICLE 2
PRACTICE OF BARBERING

71-201 Practice of barbering; barber shop; barber school; license required; renewal; disciplinary actions; prohibited acts.

(1) No person shall practice or attempt to practice barbering without a license issued pursuant to the Barber Act by the board. It shall be unlawful to operate a barber shop unless it is at all times under the direct supervision and management of a licensed barber.

(2)(a) No person, partnership, limited liability company, or corporation shall operate a barber shop or barber school until a license has been obtained for that purpose from the board. If the applicant is an individual, the application shall include the applicant's social security number. All barber shop licenses shall be issued on or before June 30 of each even-numbered year, shall be effective as of July 1 of each even-numbered year, shall be valid for two years, and shall expire on June 30 of the next succeeding even-numbered year.

(b) No booth rental permits shall be required after April 19, 2022.

(3) Any barber shop which fails to renew its license on or before the expiration date may renew such license by payment of the renewal fee and a late renewal fee established by the board within sixty days after such date or such other time period as the board establishes.

(4) Any barber shop or barber school license may be suspended, revoked, or denied renewal by the board for violation of any provision of the statutes or any rule or regulation of the board pertaining to the operation or sanitation of barber shops or barber schools after due notice and hearing before the board.

(5) No person, partnership, limited liability company, or corporation shall use the title of barber or barber shop or indicate in any way that such person or entity offers barbering services unless such person or entity is licensed pursuant

to the act. No person, partnership, limited liability company, or corporation shall hold itself out as a barber shop or indicate in any way that such person or entity offers barbering services unless such person or entity and the personnel who purport to offer barbering services in association with such person or entity are licensed pursuant to the act.

(6) No person, partnership, limited liability company, or corporation shall display a barber pole or use a barber pole or the image of a barber pole in its advertising unless such person or entity is licensed to provide barbering services pursuant to the act and the display or use of such barber pole or barber pole image is to indicate that the person or entity is offering barbering services.

Source: Laws 1927, c. 163, § 1, p. 427; Laws 1929, c. 154, § 1, p. 533; C.S.1929, § 71-2001; R.S.1943, § 71-201; Laws 1957, c. 294, § 1, p. 1053; Laws 1963, c. 409, § 2, p. 1315; Laws 1965, c. 417, § 1, p. 1329; Laws 1971, LB 1020, § 1; Laws 1978, LB 722, § 1; Laws 1983, LB 87, § 14; Laws 1993, LB 121, § 421; Laws 1993, LB 226, § 1; Laws 1996, LB 1044, § 481; Laws 1997, LB 622, § 85; Laws 1997, LB 752, § 164; Laws 2009, LB195, § 53; Laws 2022, LB705, § 1.

71-202.01 Terms, defined.

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

(1) Barber shall mean any person who engages in the practice of any act of barbering;

(2) Barber pole shall mean a cylinder or pole with alternating stripes of red, white, and blue or any combination of them which run diagonally along the length of the cylinder or pole;

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

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

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

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

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

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

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

(10) Mobile barber shop shall mean a self-contained, self-supporting, enclosed mobile unit licensed under the act as a mobile site for the performance of the practice of barbering by persons licensed under the act;

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

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

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

(14) Postsecondary barber school or college shall mean an establishment properly licensed and operated for the teaching and training of barber students who have successfully completed high school or its equivalent as determined by successfully passing a general educational development test prior to admittance.

Source: Laws 1971, LB 1020, § 5; Laws 1978, LB 722, § 3; Laws 1983, LB 87, § 15; Laws 1993, LB 226, § 3; Laws 2011, LB46, § 1; Laws 2016, LB842, § 1; Laws 2018, LB731, § 79; Laws 2020, LB755, § 24.

71-208.02 Barber school; registered instructors and assistants; qualifications.

(1) All instruction in barber schools shall be conducted by registered barber instructors or registered assistant barber instructors.

(2) A person shall be eligible for registration as a barber instructor if:

(a) He or she has completed at least eighteen hours of college credit at or above the postsecondary level, including at least three credit hours each in (i) methods of teaching, (ii) curriculum development, (iii) special vocational needs, (iv) educational psychology, (v) speech communications, and (vi) introduction to business;

(b) He or she has been a licensed and actively practicing barber for the one year immediately preceding application, except that for good cause the board may waive the requirement that the applicant be an actively practicing barber for one year or that such year immediately precede application;

(c) He or she has served as a registered assistant barber instructor under the supervision of an active, full-time, registered barber instructor, as provided in subsection (5) of this section, for nine months immediately preceding application for registration, except that for good cause the board may waive the requirement that such nine-month period immediately precede application;

(d) He or she has passed an examination prescribed by the board; and

(e) He or she has paid the fees prescribed by section 71-219.

(3) One registered barber instructor or assistant barber instructor shall be employed for each fifteen students, or fraction thereof, enrolled in a barber school, except that each barber school shall have not less than two instructors, one of whom shall be a registered barber instructor, regardless of the number of students. Additional assistant barber instructors shall be permitted on a working ratio of two assistant barber instructors for every registered barber instructor. A barber school operated by a nonprofit organization which neither charges any tuition to its students nor makes any charge to the persons upon whom work is performed shall not be required to have more than one instructor, regardless of the number of students, which instructor shall be a registered barber instructor.

(4) No student at a barber school shall be permitted to do any practical work upon any person unless a registered barber instructor or registered assistant barber instructor is on the premises and supervising the practical work being performed.

(5)(a) A person shall be eligible for registration as an assistant barber instructor if he or she has paid the fee prescribed by section 71-219, has been a licensed and actively practicing barber for one year, and is currently enrolled or will enroll at the first regular college enrollment date after registration under this section in an educational program leading to completion of the hours required under subsection (2) of this section.

(b) A person registered pursuant to subdivision (a) of this subsection shall serve as an assistant barber instructor under direct supervision, except that he or she may serve as an assistant barber instructor under indirect supervision if:

(i) He or she has completed nine college credit hours, including three credit hours each in methods of teaching, curriculum development, and special vocational needs; and

(ii) He or she has completed nine months of instructor training under the direct inhouse supervision of an active, full-time, registered barber instructor or in lieu thereof has completed the requirements of a barber instructor course developed or approved by the board. The board may develop such courses or approve courses developed by educational institutions or other entities which meet requirements established by the board in rules and regulations.

(c) A report of college credits earned pursuant to subsection (2) of this section shall be submitted to the board at the end of each academic year. Registration as an assistant barber instructor shall be renewed in each even-numbered year and shall be valid for three years from the date of registration if the registrant pursues without interruption the educational program described in subsection (2) of this section. A registrant who fails to so maintain such program shall have his or her registration revoked. Any such registration that has been revoked shall be reinstated if all renewal fees have been paid and other registration requirements of this subsection are met.

(6) A person who is a registered barber instructor before September 9, 1993, may continue to practice as a registered barber instructor on and after such date without meeting the changes in the registration requirements of this section imposed by Laws 1993, LB 226. A person who is a registered assistant barber instructor before September 9, 1993, and who seeks to register as a barber instructor on or after September 9, 1993, may meet the requirements for registration as a barber instructor either as such requirements existed before such date or as such requirements exist on or after such date.

Source: Laws 1963, c. 409, § 11, p. 1320; Laws 1965, c. 417, § 4, p. 1330; Laws 1971, LB 22, § 1; Laws 1971, LB 1020, § 11; Laws 1983, LB 87, § 17; Laws 1993, LB 226, § 4; Laws 2009, LB195, § 54; Laws 2022, LB705, § 2.

71-211 Certificates of registration; kinds; issuance; when authorized.

Whenever the provisions of the Barber Act have been complied with, the Board of Barber Examiners shall issue a certificate of registration as a regis-

tered barber instructor or registered barber, or a certificate of approval of a barber school.

Source: Laws 1927, c. 163, § 9, p. 430; C.S.1929, § 71-2011; R.S.1943, § 71-211; Laws 1963, c. 409, § 16, p. 1321; Laws 1983, LB 87, § 19; Laws 2024, LB1215, § 21.
Operative date July 19, 2024.

71-212 Practice of barbering in another state or country; eligibility to take examination; successive examinations; failure to appear; notice of next regular examination.

A person who (1) is of good moral character and temperate habits, (2) has a diploma showing graduation from high school or its equivalent as determined by successfully passing a general educational development test, and (3) has a license and certificate of registration as a practicing barber from another state or country which has substantially the same requirements for licensing or registering barbers as required by the Barber Act, shall upon payment of the required fee be given an examination by the board at the next regular examination to determine his or her fitness to receive a certificate of registration to practice barbering. If any person fails to pass a required examination, he or she shall be entitled to submit himself or herself for examination by the board at the next examination given by the board. If an applicant fails to appear when requested for an examination, he or she shall be notified by the board as to the time of the next regular examination, at which he or she shall appear.

Source: Laws 1927, c. 163, § 10, p. 430; Laws 1929, c. 154, § 6, p. 536; C.S.1929, § 71-2012; R.S.1943, § 71-212; Laws 1957, c. 294, § 5, p. 1055; Laws 1963, c. 409, § 17, p. 1321; Laws 1971, LB 1020, § 17; Laws 1972, LB 1183, § 3; Laws 1978, LB 722, § 11; Laws 1997, LB 622, § 89; Laws 1999, LB 272, § 22; Laws 2024, LB1215, § 22.
Operative date July 19, 2024.

71-217 Barbering; certificate; denial, suspension, or revocation; grounds.

The board may either refuse to issue or renew or may suspend or revoke any certificate of registration or approval for any one or a combination of the following causes: (1) Conviction of a felony shown by a certified copy of the record of the court of conviction; (2) gross malpractice or gross incompetency; (3) continued practice by a person knowingly having an infectious or contagious disease; (4) advertising by means of knowingly false or deceptive statements or in violation of section 71-223.02; (5) advertising, practicing, or attempting to practice under a trade name or any name other than one's own; (6) habitual drunkenness or habitual addiction to the use of morphine, cocaine, or other habit-forming drugs; (7) immoral or unprofessional conduct; (8) violation of any of the provisions of the Barber Act or of any valid regulation promulgated by the board pertaining to service charges, sanitation, and the elimination of unfair practices; and (9) any check presented to the board as a fee for either an original license or renewal license or for examination for license or any other fee authorized in the Barber Act which is returned to the State Treasurer unpaid.

Source: Laws 1927, c. 163, § 14, p. 432; C.S.1929, § 71-2018; R.S.1943, § 71-217; Laws 1945, c. 166, § 2, p. 533; Laws 1961, c. 388, § 3,

p. 1060; Laws 1963, c. 409, § 21, p. 1323; Laws 1983, LB 87, § 22; Laws 1996, LB 1044, § 482; Laws 1997, LB 622, § 90; Laws 2024, LB1215, § 23.
Operative date July 19, 2024.

71-219 Barbering fees; set by board; enumerated.

The board shall set the fees to be paid:

(1) By an applicant for an examination to determine his or her fitness to receive a license to practice barbering or a registration as a barber instructor and for the issuance of the license or registration;

(2) By an applicant for registration as an assistant barber instructor;

(3) For the renewal of a license to practice barbering and for restoration of an inactive license;

(4) For the renewal of a registration to practice as a barber instructor and for the restoration of an inactive registration;

(5) For renewal of a registration to practice as an assistant barber instructor;

(6) For late renewal of a license issued under the Barber Act;

(7) For an application for a license to establish a barber shop or barber school and for the issuance of a license;

(8) For the transfer of license or change of ownership of a barber shop or barber school;

(9) For renewal of a barber license, barber instructor registration, barber shop license, or barber school license;

(10) For an application for a temporary license to conduct classes of instruction in barbering;

(11) For an affidavit for purposes of reciprocity or for issuance of a certification of licensure for purposes of reciprocity;

(12) For an application for licensure without examination pursuant to section 71-239.01 and for the issuance of a license pursuant to such section;

(13) For the sale of listings or labels; and

(14) For a returned check because of insufficient funds or no funds.

Source: Laws 1927, c. 163, § 16, p. 433; Laws 1929, c. 154, § 8, p. 537; C.S.1929, § 71-2020; Laws 1933, c. 121, § 1, p. 490; C.S.Supp.,1941, § 71-2020; R.S.1943, § 71-219; Laws 1953, c. 238, § 6, p. 827; Laws 1957, c. 294, § 7, p. 1056; Laws 1963, c. 409, § 23, p. 1324; Laws 1965, c. 417, § 6, p. 1332; Laws 1971, LB 1020, § 21; Laws 1972, LB 1183, § 4; Laws 1975, LB 66, § 3; Laws 1978, LB 722, § 14; Laws 1983, LB 87, § 23; Laws 1993, LB 226, § 7; Laws 2009, LB195, § 57; Laws 2022, LB705, § 3.

71-219.03 Board of Barber Examiners; set fees; manner; annual report.

The Board of Barber Examiners shall set the fees at a level sufficient to provide for all expenses and salaries of the board authorized in section 71-222 and in such a manner that unnecessary surpluses are avoided. The board shall annually file a report with the Attorney General and the Legislative Fiscal Analyst stating the amount of the fees set by the board. Such report shall be

submitted on or before July 1 of each year. The report submitted to the Legislative Fiscal Analyst shall be submitted electronically.

Source: Laws 1975, LB 66, § 7; Laws 2012, LB782, § 102; Laws 2020, LB381, § 58.

71-219.05 Repealed. Laws 2022, LB705, § 5.

71-220 Violation; penalty.

Any person, firm, corporation, or their agents that violate any provision of the Barber Act shall be guilty of a Class III misdemeanor.

Source: Laws 1927, c. 163, § 17, p. 434; Laws 1929, c. 154, § 9, p. 538; C.S.1929, § 71-2021; R.S.1943, § 71-220; Laws 1957, c. 294, § 8, p. 1057; Laws 1971, LB 1020, § 23; Laws 1977, LB 39, § 147; Laws 2024, LB1215, § 24.
Operative date July 19, 2024.

71-222 Board; officers; compensation; expenses; records; reports; employees.

The board shall annually elect a president and vice president, and the board shall appoint a director who shall serve as secretary of the board. The board shall be furnished with suitable quarters in the State Capitol or elsewhere. It shall adopt and use a common seal for the authentication of its orders and records. The secretary of the board shall keep a record of all proceedings of the board. A majority of the board, in a meeting duly assembled, may perform and exercise all the duties and powers delegated to the board. Each member of the board shall receive a compensation of one hundred fifty dollars per diem and shall be reimbursed for expenses incurred in the discharge of such member's duties as provided in sections 81-1174 to 81-1177, not to exceed two thousand dollars per annum. Salaries and expenses shall be paid only from the fund created by fees collected in the administration of the Barber Act, and no other funds or state money except as collected in the administration of the act shall be drawn upon to pay the expense of administration. The board shall report each year to the Governor a full statement of its receipts and expenditures and also a full statement of its work during the year, together with such recommendations as it may deem expedient. The board may employ one field inspector and such other inspectors, clerks, and assistants as it may deem necessary to carry out the act and prescribe their qualifications. No owner, agent, or employee of any barber school shall be eligible for membership on the board.

Source: Laws 1927, c. 163, § 19, p. 435; Laws 1933, c. 121, § 2, p. 491; R.S.1943, § 71-222; Laws 1957, c. 294, § 9, p. 1057; Laws 1963, c. 409, § 25, p. 1326; Laws 1971, LB 1020, § 26; Laws 1972, LB 1183, § 5; Laws 1978, LB 722, § 16; Laws 1981, LB 204, § 113; Laws 1993, LB 226, § 8; Laws 2020, LB381, § 59; Laws 2023, LB227, § 69.

71-222.01 Director; serve at pleasure of board; salary; qualifications; bond or insurance; premium.

The director, under the supervision of the Board of Barber Examiners, shall administer the Barber Act and shall serve at the pleasure of the board. His or her salary shall be fixed by the board. The director shall devote full time to the duties of the office. No person shall be eligible to the office of director who has

not been engaged in the active practice of barbering as a registered barber in the state for at least five years immediately preceding appointment. No member of the Board of Barber Examiners shall be eligible to the office of director during the member's term. The director shall be bonded or insured as required by section 11-201. The premium shall be paid as an expense of the board.

Source: Laws 1963, c. 409, § 26, p. 1326; Laws 1965, c. 417, § 7, p. 1333; Laws 1971, LB 1020, § 27; Laws 1978, LB 722, § 18; Laws 1978, LB 653, § 25; Laws 2004, LB 884, § 34; Laws 2024, LB1215, § 25.
Operative date July 19, 2024.

71-223 Board; rules and regulations; inspections; record of proceedings.

The board shall have authority to adopt and promulgate reasonable rules and regulations for the administration of the Barber Act. Any member of the board, its agents, or its assistants shall have authority to enter upon and to inspect any barber shop or barber school at any time during business hours. A copy of the rules and regulations adopted by the board shall be furnished to the owner or manager of each barber shop and barber school, and it shall be posted in a conspicuous place in such barber shop or barber school. The board shall keep a record of proceedings relating to the issuance, refusal, renewal, suspension, and revocation of registrations and licenses and inspections. Such record shall also contain the name, place of business, and residence of each registered barber instructor and licensed barber and the date and number of his or her registration or license.

Source: Laws 1927, c. 163, § 20, p. 435; R.S.1943, § 71-223; Laws 1963, c. 409, § 28, p. 1327; Laws 1993, LB 226, § 9; Laws 2024, LB1215, § 26.
Operative date July 19, 2024.

71-224 Act, how cited.

Sections 71-201 to 71-261 shall be known and may be cited as the Barber Act.

Source: Laws 1927, c. 163, § 23, p. 436; C.S.1929, § 71-2027; R.S.1943, § 71-224; Laws 1971, LB 1020, § 31; Laws 1993, LB 226, § 11; Laws 2009, LB195, § 62; Laws 2018, LB731, § 91; Laws 2020, LB755, § 25.

71-256 Home barber services permit; issuance.

(1) A barber shop may employ licensed barbers, according to the licensed activities of the barber shop, to perform home barber services by obtaining a home barber services permit.

(2) In order to obtain a home barber services permit from the board, an applicant shall:

(a) Hold a current, active barber shop license; and

(b) Submit a complete application at least ten days before the proposed date for beginning home barbering services.

(3) The board shall issue a home barber services permit to each applicant meeting the requirements set forth in this section.

Source: Laws 2020, LB755, § 26.

71-257 Home barber services permit; requirements.

In order to maintain in good standing or renew its home barber services permit, a barber shop shall at all times operate in accordance with the requirements for operation, maintain its license in good standing, and ensure that the home barber services comply with the following requirements:

(1)(a) Clients receiving home barber services shall be in emergency or persistent circumstances which shall generally be defined as any condition sufficiently immobilizing to prevent the client from leaving the client's residence regularly to conduct routine affairs of daily living such as grocery shopping, visiting friends and relatives, attending social events, attending worship services, and other similar activities.

(b) Emergency or persistent circumstances may include such conditions or situations as:

(i) Chronic illness or injury leaving the client bedridden or with severely restricted mobility;

(ii) Extreme general infirmity such as that associated with the aging process;

(iii) Temporary conditions, including, but not limited to, immobilizing injury and recuperation from serious illness or surgery;

(iv) Having sole responsibility for the care of an invalid dependent or a mentally disabled person requiring constant attention;

(v) Mental disability that significantly limits the client in areas of functioning described in subdivision (1)(a) of this section; or

(vi) Any other condition that, in the opinion of the board, meets the general definition of emergency or persistent circumstances;

(2) The barber shop shall determine that each person receiving home barber services meets the requirements of subdivision (1) of this section and shall:

(a) Complete a client information form supplied by the board before home barber services may be provided to any client; and

(b) Keep on file the client information forms of all clients it is currently providing with home barber services or to whom it has provided such services within the past two years;

(3) The barber shop shall employ or contract with barbers licensed under the Barber Act to provide home barber services and shall not permit any person to perform any home barber services under its authority for which the person is not licensed;

(4) No client shall be left unattended while any chemical service is in progress or while any electrical appliance is in use; and

(5) Each barber shop providing home barber services shall post a daily itinerary for each barber providing home barber services. The kit used by each barber to provide home barber services shall be available for inspection at the barber shop or at the home of the client receiving the home barber services.

Source: Laws 2020, LB755, § 27.

71-258 Client; home inspection; limitations.

An agent of the board may make an operation inspection in the home of a client if the inspection is limited to the activities, procedures, and materials of the barber providing the home barber services.

Source: Laws 2020, LB755, § 28.

71-259 Home barber services; requirements.

No barber may perform home barber services except when employed by or under contract to a barber shop holding a valid home barber services permit.

Source: Laws 2020, LB755, § 29.

71-260 Home barber services permit; renewal; revocation or expiration; effect.

Each home barber services permit shall be subject to renewal at the same time as the barber shop license and shall be renewed upon request of the permitholder if the barber shop is operating its home barber services in compliance with the Barber Act and if the barber shop license is renewed. No permit that has been revoked or expired may be reinstated or transferred to another owner or location.

Source: Laws 2020, LB755, § 30.

71-261 Home barber services permit; owner; liability.

The owner of a barber shop holding a home barber services permit shall have full responsibility for ensuring that the home barber services are provided in compliance with all applicable laws and rules and regulations and shall be liable for any violation which occurs.

Source: Laws 2020, LB755, § 31.

ARTICLE 4

HEALTH CARE FACILITIES

Section

Section
71-477. Rural emergency hospital; license; eligibility; application; operation; requirements; original license; inactive.
71-478. Rural emergency hospital; federal reimbursement; contracts.
71-479. Rural emergency hospital; rules and regulations.

71-401 Act, how cited.

Sections 71-401 to 71-479 shall be known and may be cited as the Health Care Facility Licensure Act.

Source: Laws 2000, LB 819, § 1; Laws 2001, LB 398, § 65; Laws 2004, LB 1005, § 41; Laws 2007, LB203, § 1; Laws 2009, LB288, § 31; Laws 2010, LB849, § 19; Laws 2010, LB999, § 1; Laws 2011, LB34, § 1; Laws 2011, LB542, § 1; Laws 2012, LB1077, § 1; Laws 2013, LB459, § 1; Laws 2015, LB37, § 68; Laws 2016, LB698, § 17; Laws 2016, LB722, § 12; Laws 2017, LB166, § 19; Laws 2018, LB731, § 92; Laws 2018, LB1034, § 50; Laws 2020, LB1052, § 5; Laws 2020, LB1053, § 3; Laws 2022, LB697, § 1; Laws 2023, LB227, § 70.

71-403 Definitions, where found.

For purposes of the Health Care Facility Licensure Act, unless the context otherwise requires, the definitions found in sections 71-404 to 71-431 shall apply.

Source: Laws 2000, LB 819, § 3; Laws 2007, LB203, § 2; Laws 2010, LB849, § 20; Laws 2015, LB37, § 69; Laws 2016, LB698, § 18; Laws 2018, LB731, § 93; Laws 2018, LB1034, § 51; Laws 2020, LB1052, § 6; Laws 2020, LB1053, § 4; Laws 2022, LB697, § 2; Laws 2023, LB227, § 71.

71-404 Adult day service, defined.

(1) Adult day service means a person or any legal entity which provides care and an array of social, medical, or other support services for a period of less than twenty-four consecutive hours in a community-based group program to four or more persons who require or request such services due to age or functional impairment.

(2) Adult day service does not include services provided under the Developmental Disabilities Services Act or a PACE center.

Source: Laws 2000, LB 819, § 4; Laws 2002, LB 1062, § 39; Laws 2020, LB1053, § 5.

Cross References

Developmental Disabilities Services Act, see section 83-1201.

71-405 Ambulatory surgical center, defined.

(1) Ambulatory surgical center means a facility (a) where surgical services are provided to persons not requiring hospitalization who are discharged from such facility within twenty-three hours and fifty-nine minutes from the time of admission, (b) which meets all applicable requirements for licensure as a health clinic under the Health Care Facility Licensure Act, and (c) which has qualified for a written agreement with the Health Care Financing Administration of the United States Department of Health and Human Services or its successor to

participate in medicare as an ambulatory surgical center as defined in 42 C.F.R. 416 et seq. or which receives other third-party reimbursement for such services.

(2) Ambulatory surgical center does not include an office or clinic used solely by a practitioner or group of practitioners in the practice of medicine, dentistry, or podiatry.

Source: Laws 2000, LB 819, § 5; Laws 2020, LB783, § 2.

71-413 Health care facility, defined.

Health care facility means an ambulatory surgical center, an assisted-living facility, a center or group home for the developmentally disabled, a critical access hospital, a general acute hospital, a health clinic, a hospital, an intermediate care facility, an intermediate care facility for persons with developmental disabilities, a long-term care hospital, a mental health substance use treatment center, a nursing facility, a PACE center, a pharmacy, a psychiatric or mental hospital, a public health clinic, a rehabilitation hospital, or a skilled nursing facility.

Source: Laws 2000, LB 819, § 13; Laws 2013, LB23, § 26; Laws 2018, LB1034, § 52; Laws 2020, LB1053, § 6.

71-415 Health care service, defined.

Health care service means an adult day service, a children's day health service, a home health agency, a hospice or hospice service, a PACE center, or a respite care service. Health care service does not include an in-home personal services agency as defined in section 71-6501.

Source: Laws 2000, LB 819, § 15; Laws 2007, LB236, § 43; Laws 2010, LB849, § 22; Laws 2020, LB1053, § 7.

71-416 Health clinic, defined.

(1) Health clinic means a facility where advice, counseling, diagnosis, treatment, surgery, care, or services relating to the preservation or maintenance of health are provided on an outpatient basis for a period of less than twenty-four consecutive hours to persons not residing or confined at such facility. Health clinic includes, but is not limited to, an ambulatory surgical center or a public health clinic.

(2) Health clinic does not include (a) a health care practitioner facility (i) unless such facility is an ambulatory surgical center, (ii) unless ten or more abortions, as defined in subdivision (1) of section 28-326, are performed during any one calendar week at such facility, or (iii) unless hemodialysis or labor and delivery services are provided at such facility, (b) a facility which provides only routine health screenings, health education, or immunizations, or (c) a PACE center.

(3) For purposes of this section:

(a) Public health clinic means the department, any county, city-county, or multicounty health department, or any private not-for-profit family planning clinic licensed as a health clinic;

(b) Routine health screenings means the collection of health data through the administration of a screening tool designed for a specific health problem,

evaluation and comparison of results to referral criteria, and referral to appropriate sources of care, if indicated; and

(c) Screening tool means a simple interview or testing procedure to collect basic information on health status.

Source: Laws 2000, LB 819, § 16; Laws 2020, LB1053, § 8.

71-417 Home health agency, defined.

(1) Home health agency means a person or any legal entity which provides skilled nursing care or a minimum of one other therapeutic service as defined by the department on a full-time, part-time, or intermittent basis to persons in a place of temporary or permanent residence used as the person's home.

(2) Home health agency does not include a PACE center.

(3) Home health agency does not include a person or legal entity that engages only in social work practice as defined in section 38-2119.

Source: Laws 2000, LB 819, § 17; Laws 2020, LB1053, § 9; Laws 2023, LB227, § 73.

71-422.02 MAR, defined.

MAR means a medication administration record kept by an assisted-living facility, a nursing facility, or a skilled nursing facility.

Source: Laws 2020, LB1052, § 7.

71-424.01 PACE center, defined.

PACE center means a facility from which a PACE provider offers services within the scope of a PACE program pursuant to a written agreement between the provider, the United States Department of Health and Human Services, and the Nebraska Department of Health and Human Services.

Source: Laws 2020, LB1053, § 10.

71-424.02 PACE program, defined.

PACE program means a program of all-inclusive care for elderly under 42 U.S.C. 13964, as such section existed on January 1, 2020.

Source: Laws 2020, LB1053, § 11.

71-424.03 PACE provider, defined.

PACE provider means provider of services pursuant to a PACE program meeting the requirements of 42 U.S.C. 1396u-4(a)(3), as such section existed on January 1, 2020.

Source: Laws 2020, LB1053, § 12.

71-424.04 Palliative care, defined.

Palliative care means specialized care or treatment for a person living with a serious illness that carries a high risk of mortality or negatively impacts quality of life. This type of care or treatment addresses the symptoms and stress of a serious illness, including pain. Palliative care is a team-based approach to care or treatment, providing essential support at any age and stage of a serious illness. It can be provided across care settings and along with curative treat-

ment. The goal of palliative care is to improve quality of life for both the patient and the patient's family or care partner.

Source: Laws 2023, LB227, § 72.

71-428 Respite care service, defined.

(1) Respite care service means (a) a person or any legal entity that provides short-term temporary care on an intermittent basis to persons with special needs when the person's primary caregiver is unavailable to provide such care or (b) a residential facility that provides short-term housing with supportive medical services to homeless individuals as described in section 68-911.

(2) Respite care service does not include:

(a) A person or any legal entity which is licensed under the Health Care Facility Licensure Act and which provides respite care services at the licensed location;

(b) A person or legal entity which is licensed to provide child care to thirteen or more children under the Child Care Licensing Act or which is licensed as a residential child-caring agency under the Children's Residential Facilities and Placing Licensure Act;

(c) An agency that recruits, screens, or trains a person to provide respite care;

(d) An agency that matches a respite care service or other providers of respite care with a person with special needs, or refers a respite care service or other providers of respite care to a person with special needs, unless the agency receives compensation for such matching or referral from the service or provider or from or on behalf of the person with special needs;

(e) A person who provides respite care to fewer than eight unrelated persons in any seven-day period in his or her home or in the home of the recipient of the respite care; or

(f) A nonprofit agency that provides group respite care for no more than eight hours in any seven-day period.

Source: Laws 2000, LB 819, § 28; Laws 2002, LB 1062, § 40; Laws 2004, LB 1005, § 43; Laws 2005, LB 2, § 1; Laws 2013, LB265, § 39; Laws 2024, LB905, § 3.
Effective date July 19, 2024.

Cross References

Child Care Licensing Act, see section 71-1908.
Children's Residential Facilities and Placing Licensure Act, see section 71-1924.

71-428.01 Rural emergency hospital, defined.

Rural emergency hospital means a facility that:

(1) Meets the eligibility requirements described in section 71-477;

(2) Provides rural emergency hospital services;

(3) Maintains an emergency department to provide rural emergency hospital services in the facility twenty-four hours per day that is staffed twenty-four hours per day and seven days per week, with a physician, nurse practitioner, clinical nurse specialist, or physician assistant;

(4) Has a transfer agreement in effect with a comprehensive level trauma center or an advanced level trauma center as defined in the Statewide Trauma System Act and any other transfer agreement necessary for patient care; and

(5) Meets such other requirements as the department finds necessary in the interest of the health and safety of individuals who are provided rural emergency hospital services and to implement licensure under the Health Care Facility Licensure Act that satisfies requirements for reimbursement by federal health care programs as a rural emergency hospital.

Source: Laws 2022, LB697, § 3.

Cross References

Statewide Trauma System Act, see section 71-8201.

71-428.02 Rural emergency hospital services, defined.

Rural emergency hospital services means the following services, provided by a rural emergency hospital, that do not require in excess of an annual per-patient average of twenty-four hours in such rural emergency hospital:

(1) Emergency department services and observation care; and

(2) At the election of the rural emergency hospital, for services provided on an outpatient basis, other medical and health services as specified in regulations adopted by the United States Secretary of Health and Human Services and authorized by the Nebraska Department of Health and Human Services.

Source: Laws 2022, LB697, § 4.

71-434 License fees.

(1) Licensure activities under the Health Care Facility Licensure Act shall be funded by license fees. An applicant for an initial or renewal license under section 71-433 shall pay a license fee as provided in this section.

(2) License fees shall include a base fee of fifty dollars and an additional fee based on:

(a) Variable costs to the department of inspections, architectural plan reviews, and receiving and investigating complaints, including staff salaries, travel, and other similar direct and indirect costs;

(b) The number of beds available to persons residing at the health care facility;

(c) The program capacity of the health care facility or health care service; or

(d) Other relevant factors as determined by the department.

Such additional fee shall be no more than two thousand six hundred dollars for a hospital or a health clinic operating as an ambulatory surgical center, no more than two thousand dollars for an assisted-living facility, a health clinic providing hemodialysis or labor and delivery services, an intermediate care facility, an intermediate care facility for persons with developmental disabilities, a nursing facility, or a skilled nursing facility, no more than one thousand dollars for home health agencies, hospice services, and centers for the developmentally disabled, and no more than seven hundred dollars for all other health care facilities and health care services.

(3) If the licensure application is denied, the license fee shall be returned to the applicant, except that the department may retain up to twenty-five dollars

as an administrative fee and may retain the entire license fee if an inspection has been completed prior to such denial.

(4) The department shall also collect the fee provided in subsection (1) of this section for reinstatement of a license that has lapsed or has been suspended or revoked. The department shall collect a fee of ten dollars for a duplicate original license.

(5) The department shall adopt and promulgate rules and regulations for the establishment of license fees under this section.

(6) The department shall remit all license fees collected under this section to the State Treasurer for credit to the Health and Human Services Cash Fund. License fees collected under this section shall only be used for activities related to the licensure of health care facilities and health care services.

Source: Laws 2000, LB 819, § 34; Laws 2002, LB 1062, § 42; Laws 2003, LB 415, § 1; Laws 2005, LB 246, § 1; Laws 2007, LB203, § 4; Laws 2007, LB296, § 371; Laws 2013, LB23, § 28; Laws 2024, LB1215, § 27.
Operative date July 19, 2024.

71-436 License; multiple services or locations; effect.

(1) Except as otherwise provided in section 71-470, an applicant for licensure under the Health Care Facility Licensure Act shall obtain a separate license for each type of health care facility or health care service that the applicant seeks to operate. A single license may be issued for (a) a facility or service operating in separate buildings or structures on the same premises under one management, (b) an inpatient facility that provides services on an outpatient basis at multiple locations, or (c) a health clinic operating satellite clinics on an intermittent basis within a portion of the total geographic area served by such health clinic and sharing administration with such clinics. A single license shall be issued for a PACE center which meets the requirements for licensure established by the department pursuant to section 71-457.

(2) The department may issue one license document that indicates the various types of health care facilities or health care services for which the entity is licensed. The department may inspect any of the locations that are covered by the license. If an entity is licensed in multiple types of licensure for one location, the department shall conduct all required inspections simultaneously for all types of licensure when requested by the entity.

Source: Laws 2000, LB 819, § 36; Laws 2002, LB 1062, § 43; Laws 2015, LB37, § 72; Laws 2020, LB1053, § 13.

71-439 Design standards for health care facilities; adoption by Legislature; waiver of rule, regulation, or standard; when; procedure.

(1)(a) For purposes of construction relating to ambulatory surgical centers, critical access hospitals, general acute hospitals, and hospitals, the Legislature adopts the 2018 Guidelines for Design and Construction of Hospitals, the 2018 Guidelines for Design and Construction of Outpatient Facilities, and the 2018 Guidelines for Design and Construction of Residential Health, Care, and Support Facilities published by the Facility Guidelines Institute.

(b) For new construction of assisted-living facilities, long-term care hospitals, nursing facilities, and skilled nursing facilities on or after September 1, 2019,

the Legislature adopts the 2018 Guidelines for Design and Construction of Hospitals, the 2018 Guidelines for Design and Construction of Outpatient Facilities, and the 2018 Guidelines for Design and Construction of Residential Health, Care, and Support Facilities published by the Facility Guidelines Institute, except that the Legislature adopts only the definition of new construction found in section 1.1-2.1 and excludes the part of the definition found in sections 1.1-2.2 and 1.1-2.3 and any related provisions of such guidelines.

(2) The department may waive any rule, regulation, or standard adopted and promulgated by the department relating to construction or physical plant requirements of a licensed health care facility or health care service upon proof by the licensee satisfactory to the department (a) that such waiver would not unduly jeopardize the health, safety, or welfare of the persons residing in or served by the facility or service, (b) that such rule, regulation, or standard would create an unreasonable hardship for the facility or service, and (c) that such waiver would not cause the State of Nebraska to fail to comply with any applicable requirements of medicare or medicaid so as to make the state ineligible for the receipt of all funds to which it might otherwise be entitled.

(3) In evaluating the issue of unreasonable hardship, the department shall consider the following:

(a) The estimated cost of the modification or installation;

(b) The extent and duration of the disruption of the normal use of areas used by persons residing in or served by the facility or service resulting from construction work;

(c) The estimated period over which the cost would be recovered through reduced insurance premiums and increased reimbursement related to cost;

(d) The availability of financing; and

(e) The remaining useful life of the building.

(4) Any such waiver may be granted under such terms and conditions and for such period of time as provided in rules and regulations adopted and promulgated by the department.

Source: Laws 2000, LB 819, § 39; Laws 2019, LB409, § 1.

71-475 Drug or medication; provided to patient upon discharge; records; label; documentation.

(1)(a) When administration of a drug occurs in a hospital pursuant to a chart order, hospital personnel may provide the unused portion of the drug to the patient upon discharge from the hospital for continued use in treatment of the patient if:

(i) The drug has been opened and used for treatment of the patient at the hospital and is necessary for the continued treatment of the patient and would be wasted if not used by the patient; and

(ii) The drug is:

(A) In a multidose device or a multidose container; or

(B) In the form of a liquid reconstituted from a dry stable state to a liquid resulting in a limited stability.

(b) A drug provided to a patient in accordance with this subsection shall be labeled with the name of the patient, the name of the drug including the

quantity if appropriate, the date the drug was provided, and the directions for use.

(2)(a) A licensed health care practitioner authorized to prescribe controlled substances may provide to his or her patients being discharged from a hospital a sufficient quantity of drugs adequate, in the judgment of the practitioner, to continue treatment, which began in the hospital, until the patient is reasonably able to access a pharmacy.

(b) The pharmacist-in-charge at the hospital shall maintain records of the drugs provided to patients in accordance with this subsection which shall include the name of the patient, the name of the drug including the quantity if appropriate, the date the drug was provided, and the directions for use.

(3) If a drug is provided to a patient in accordance with subsection (1) or (2) of this section:

(a) The drug shall be kept in a locked cabinet or automated medication system with access only by a licensed health care practitioner authorized to prescribe, dispense, or administer controlled substances;

(b) Prior to providing the drug to the patient, a written or electronic order shall be in the patient's record;

(c) The process at the hospital shall be under the direct supervision of the prescriber;

(d) If the label is prepared by a nurse, the prescriber shall verify the drug and the directions for the patient;

(e) When possible, the directions for the patient shall be preprinted on the label by the pharmacist;

(f) The label shall include the name of the patient, the name of the drug including the quantity if appropriate, the date the drug was provided, and the directions for use;

(g) A written information sheet shall be given to the patient for each drug provided; and

(h) Documentation in a readily retrievable format shall be maintained each time a drug is provided to a patient from the hospital pharmacy's inventory which shall include the date, the patient, the drug, and the prescriber.

(4)(a) When a hospital, an ambulatory surgical center, or a health care practitioner facility provides medication that is ordered at least twenty-four hours in advance for surgical procedures and is administered to a patient at the hospital, ambulatory surgical center, or health care practitioner facility, any unused portion of the medication shall be offered to the patient upon discharge when it is required for continuing treatment. The unused portion of any such medication accepted by the patient upon discharge shall be labeled by the prescriber or a pharmacist consistent with labeling requirements in section 71-2479.

(b) For purposes of this subsection, medication means any topical antibiotic, anti-inflammatory, dilation, or glaucoma drop or ointment that a hospital, ambulatory surgical center, or health care practitioner facility has on stand-by or is retrieved from a dispensing system for a specified patient for use during a procedure or visit.

(c) If the medication is used in an operating room or emergency department setting, the prescriber is responsible for counseling the patient on its proper use

and administration and no other patient counseling is required under section 38-2869.

Source: Laws 2017, LB166, § 20; Laws 2023, LB227, § 74.

71-476 Drugs and devices; labeling requirements.

(1) In an assisted-living facility, a nursing facility, or a skilled nursing facility, all drugs and devices shall be labeled in accordance with currently accepted professional standards of care, including the appropriate accessory and cautionary instructions and the expiration date when applicable.

(2) If the dosage or directions for a specific drug or device to be used in an assisted-living facility, a nursing facility, or a skilled nursing facility are changed by a health care practitioner authorized to prescribe controlled substances and credentialed under the Uniform Credentialing Act, a pharmacist shall apply a new label as soon as practicable with the correct dosage or directions to the drug or device package or reissue the drug or device with the correct label. To protect the safety of the resident of such a facility receiving the drug or device until the drug or device can be correctly labeled, the drug or device package shall be temporarily flagged with a sticker indicating dose change, drug change, or MAR, to alert nursing staff or an unlicensed person responsible for providing the drug or device to a resident that the dosage or directions have changed and the drug or device is to be provided according to the corrected information contained in the resident's MAR, if one exists.

Source: Laws 2020, LB1052, § 8.

Cross References

Uniform Credentialing Act, see section 38-101.

71-477 Rural emergency hospital; license; eligibility; application; operation; requirements; original license; inactive.

(1) A facility shall be eligible to apply for a license as a rural emergency hospital if such facility is:

(a) Licensed as a critical access hospital;

(b) Licensed as a general hospital with not more than fifty licensed beds located in a county in a rural area as defined in section 1886(d)(2)(D) of the federal Social Security Act; or

(c) Licensed as a general hospital with not more than fifty licensed beds that is deemed as being located in a rural area pursuant to section 1886(d)(8)(E) of the federal Social Security Act.

(2) A facility applying for licensure as a rural emergency hospital shall include with the application:

(a) An action plan for initiating rural emergency hospital services, including a detailed transition plan that lists the specific services that the facility will retain, modify, add, and discontinue;

(b) A description of services that the facility intends to provide on an outpatient basis; and

(c) Such other information as required by rules and regulations adopted and promulgated by the department.

(3) A rural emergency hospital shall not have inpatient beds, except that such hospital may have a unit that is a distinct part of such hospital and that is

licensed as a skilled nursing facility to provide post-hospital extended care services.

(4) A rural emergency hospital may own and operate an entity that provides ambulance services.

(5) A licensed general hospital or critical access hospital that applies for and receives licensure as a rural emergency hospital and elects to operate as a rural emergency hospital shall retain its original license as a general hospital or critical access hospital. Such original license shall remain inactive while the rural emergency hospital license is in effect.

Source: Laws 2022, LB697, § 5.

71-478 Rural emergency hospital; federal reimbursement; contracts.

A licensed rural emergency hospital may enter into any contracts required to be eligible for federal reimbursement as a rural emergency hospital.

Source: Laws 2022, LB697, § 6.

71-479 Rural emergency hospital; rules and regulations.

The department shall adopt and promulgate rules and regulations establishing minimum standards for the establishment and operation of rural emergency hospitals in accordance with the Health Care Facility Licensure Act, including licensure of rural emergency hospitals.

Source: Laws 2022, LB697, § 7.

ARTICLE 5

DISEASES

(a) CONTAGIOUS, INFECTIOUS, AND MALIGNANT DISEASES

Section

71-503.02. Chlamydia, gonorrhea, or trichomoniasis; prescription oral antibiotic drugs; powers of medical professionals; restrictions.
71-507. Terms, defined.
71-509. Health care facility or alternate facility; emergency services provider; significant exposure; completion of form; reports required; tests; notification; costs.

(c) INHERITED OR CONGENITAL INFANT OR CHILDHOOD-ONSET DISEASES

71-519. Screening test; duties; disease management; duties; fees authorized; immunity from liability.

(m) CYTOMEGALOVIRUS

71-558. Cytomegalovirus; informational materials; department; duties.
71-559. Health care provider; provide informational materials; when.
71-560. Birthing facility; newborn infant; hearing screening test; information provided.

(n) ALZHEIMER'S DISEASE AND OTHER DEMENTIA SUPPORT ACT

71-561. Act, how cited.
71-562. Legislative findings and declarations.
71-563. Terms, defined.
71-564. Alzheimer's Disease and Other Dementia Advisory Council; members; terms; duties; expenses.
71-565. Council; purpose; collaboration.
71-566. Council; considerations; findings and recommendations.
71-567. State Alzheimer's Plan.

(a) CONTAGIOUS, INFECTIOUS, AND MALIGNANT DISEASES

71-503.02 Chlamydia, gonorrhea, or trichomoniasis; prescription oral antibiotic drugs; powers of medical professionals; restrictions.

If a physician, a physician assistant, a nurse practitioner, or a certified nurse midwife licensed under the Uniform Credentialing Act diagnoses a patient as having chlamydia, gonorrhea, or trichomoniasis, the physician may prescribe, provide drug samples of, or dispense pursuant to section 38-2850, and the physician assistant, nurse practitioner, or certified nurse midwife may prescribe or provide drug samples of, prescription oral antibiotic drugs to that patient's sexual partner or partners without examination of that patient's partner or partners. Adequate directions for use and medication guides, where applicable, shall be provided along with additional prescription oral antibiotic drugs for any additional partner. The physician, physician assistant, nurse practitioner, or certified nurse midwife shall at the same time provide written information about chlamydia, gonorrhea, and trichomoniasis to the patient for the patient to provide to the partner or partners. The oral antibiotic drugs prescribed, provided, or dispensed pursuant to this section must be stored, dispensed, and labeled in accordance with federal and state pharmacy laws and regulations. Prescriptions for the patient's sexual partner or partners must include the partner's name. If the infected patient is unwilling or unable to deliver such prescription oral antibiotic drugs to his or her sexual partner or partners, such physician may prescribe, provide, or dispense pursuant to section 38-2850 and such physician assistant, nurse practitioner, or certified nurse midwife may prescribe or provide samples of the prescription oral antibiotic drugs for delivery to such partner, if such practitioner has sufficient locating information.

Source: Laws 2013, LB528, § 1; Laws 2019, LB62, § 1.

Cross References

Uniform Credentialing Act, see section 38-101.

71-507 Terms, defined.

For purposes of sections 71-507 to 71-513:

(1) Alternate facility means a facility other than a health care facility that receives a patient transported to the facility by an emergency services provider;

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

(3) Designated physician means the physician representing the emergency services provider as identified by name, address, and telephone number on the significant exposure report form. The designated physician shall serve as the contact for notification in the event an emergency services provider believes he or she has had significant exposure to an infectious disease or condition. Each emergency services provider shall designate a physician as provided in subsection (2) of section 71-509;

(4) Emergency services provider means an emergency care provider licensed pursuant to the Emergency Medical Services Practice Act or authorized pursuant to the EMS Personnel Licensure Interstate Compact, a sheriff, a deputy sheriff, a police officer, a state highway patrol officer, a funeral director, a paid or volunteer firefighter, a school district employee, and a person rendering emergency care gratuitously as described in section 25-21,186;

(5) Funeral director means a person licensed under section 38-1414 or an employee of such a person with responsibility for transport or handling of a deceased human;

(6) Funeral establishment means a business licensed under section 38-1419;

(7) Health care facility has the meaning found in sections 71-419, 71-420, 71-424, and 71-429 or any facility that receives patients of emergencies who are transported to the facility by emergency services providers;

(8) Infectious disease or condition means hepatitis B, hepatitis C, meningococcal meningitis, active pulmonary tuberculosis, human immunodeficiency virus, diphtheria, plague, hemorrhagic fevers, rabies, and such other diseases as the department may by rule and regulation specify;

(9) Patient means an individual who is sick, injured, wounded, deceased, or otherwise helpless or incapacitated;

(10) Patient's attending physician means the physician having the primary responsibility for the patient as indicated on the records of a health care facility;

(11) Provider agency means any law enforcement agency, fire department, emergency medical service, funeral establishment, or other entity which employs or directs emergency services providers or public safety officials;

(12) Public safety official means a sheriff, a deputy sheriff, a police officer, a state highway patrol officer, a paid or volunteer firefighter, a school district employee, and any civilian law enforcement employee or volunteer performing his or her duties, other than those as an emergency services provider;

(13) Responsible person means an individual who has been designated by an alternate facility to carry out the facility's responsibilities under sections 71-507 to 71-513. A responsible person may be designated on a case-by-case basis;

(14) Significant exposure means a situation in which the body fluids, including blood, saliva, urine, respiratory secretions, or feces, of a patient or individual have entered the body of an emergency services provider or public safety official through a body opening including the mouth or nose, a mucous membrane, or a break in skin from cuts or abrasions, from a contaminated needlestick or scalpel, from intimate respiratory contact, or through any other situation when the patient's or individual's body fluids may have entered the emergency services provider's or public safety official's body or when an airborne pathogen may have been transmitted from the patient or individual to the emergency services provider or public safety official; and

(15) Significant exposure report form means the form used by the emergency services provider to document information necessary for notification of significant exposure to an infectious disease or condition.

Source: Laws 1989, LB 157, § 1; Laws 1991, LB 244, § 2; Laws 1992, LB 1138, § 20; Laws 1994, LB 1210, § 111; Laws 1996, LB 1044, § 497; Laws 1996, LB 1155, § 27; Laws 1997, LB 138, § 46; Laws 1997, LB 608, § 5; Laws 1999, LB 781, § 1; Laws 2000, LB 819, § 95; Laws 2003, LB 55, § 1; Laws 2006, LB 1115, § 36; Laws 2007, LB296, § 385; Laws 2007, LB463, § 1182; Laws 2018, LB1034, § 58; Laws 2020, LB1002, § 45.

Cross References

Emergency Medical Services Practice Act, see section 38-1201.
EMS Personnel Licensure Interstate Compact, see section 38-3801.

71-509 Health care facility or alternate facility; emergency services provider; significant exposure; completion of form; reports required; tests; notification; costs.

(1) If a health care facility or alternate facility determines that a patient treated or transported by an emergency services provider has been diagnosed or detected with an infectious airborne disease, the health care facility or alternate facility shall notify the department as soon as practical but not later than forty-eight hours after the determination has been made. The department shall investigate all notifications from health care facilities and alternate facilities and notify as soon as practical the physician medical director of each emergency medical service with an affected emergency medical care provider employed by or associated with the service, the fire chief of each fire department with an affected firefighter employed by or associated with the department, the head of each law enforcement agency with an affected peace officer employed by or associated with the agency, the funeral director of each funeral establishment with an affected individual employed by or associated with the funeral establishment, and any emergency services provider known to the department with a significant exposure who is not employed by or associated with an emergency medical service, a fire department, a law enforcement agency, or a funeral establishment. Notification of affected individuals shall be made as soon as practical.

(2) Whenever an emergency services provider believes he or she has had a significant exposure while acting as an emergency services provider, he or she may complete a significant exposure report form. A copy of the completed form shall be given by the emergency services provider to the health care facility or alternate facility, to the emergency services provider's supervisor, and to the designated physician.

(3) Upon receipt of the significant exposure form, if a patient has been diagnosed during the normal course of treatment as having an infectious disease or condition or information is received from which it may be concluded that a patient has an infectious disease or condition, the health care facility or alternate facility receiving the form shall notify the designated physician pursuant to subsection (5) of this section. If the patient has not been diagnosed as having an infectious disease or condition and upon the request of the designated physician, the health care facility or alternate facility shall request the patient's attending physician or other responsible person to order the necessary diagnostic testing of the patient to determine the presence of an infectious disease or condition. Upon such request, the patient's attending physician or other responsible person shall order the necessary diagnostic testing subject to section 71-510. Each health care facility shall develop a policy or protocol to administer such testing and assure confidentiality of such testing.

(4) Results of tests conducted under this section and section 71-510 shall be reported by the health care facility or alternate facility that conducted the test to the designated physician and to the patient's attending physician, if any.

(5) Notification of the patient's diagnosis of infectious disease or condition, including the results of any tests, shall be made orally to the designated physician within forty-eight hours of confirmed diagnosis. A written report shall

be forwarded to the designated physician within seventy-two hours of confirmed diagnosis.

(6) Upon receipt of notification under subsection (5) of this section, the designated physician shall notify the emergency services provider of the exposure to infectious disease or condition and the results of any tests conducted under this section and section 71-510.

(7) The notification to the emergency services provider shall include the name of the infectious disease or condition diagnosed but shall not contain the patient's name or any other identifying information. Any person receiving such notification shall treat the information received as confidential and shall not disclose the information except as provided in sections 71-507 to 71-513.

(8) The provider agency shall be responsible for the costs of diagnostic testing required under this section and section 71-510, except that if a person renders emergency care gratuitously as described in section 25-21,186, such person shall be responsible for the costs.

(9) The patient's attending physician shall inform the patient of test results for all tests conducted under such sections.

Source: Laws 1989, LB 157, § 3; Laws 1997, LB 138, § 48; Laws 1999, LB 781, § 2; Laws 2020, LB1002, § 46.

(c) INHERITED OR CONGENITAL INFANT OR CHILDHOOD-ONSET DISEASES

71-519 Screening test; duties; disease management; duties; fees authorized; immunity from liability.

(1) All infants born in the State of Nebraska shall be screened for phenylketonuria, congenital primary hypothyroidism, biotinidase deficiency, galactosemia, hemoglobinopathies, medium-chain acyl co-a dehydrogenase (MCAD) deficiency, X-linked adrenoleukodystrophy (X-ALD), mucopolysaccharidoses type 1 (MPS-1), Pompe disease, spinal muscular atrophy, and such other inherited or congenital infant or childhood-onset diseases as the Department of Health and Human Services may from time to time specify. Confirmatory tests shall be performed if a presumptive positive result on the screening test is obtained.

(2) The attending physician shall collect or cause to be collected the prescribed blood specimen or specimens and shall submit or cause to be submitted the same to the laboratory designated by the department for the performance of such tests within the period and in the manner prescribed by the department. If a birth is not attended by a physician and the infant does not have a physician, the person registering the birth shall cause such tests to be performed within the period and in the manner prescribed by the department. The laboratory shall within the period and in the manner prescribed by the department perform such tests as are prescribed by the department on the specimen or specimens submitted and report the results of these tests to the physician, if any, the hospital or other birthing facility or other submitter, and the department. The laboratory shall report to the department the results of such tests that are presumptive positive or confirmed positive within the period and in the manner prescribed by the department.

(3) The hospital or other birthing facility shall record the collection of specimens for tests for metabolic diseases and the report of the results of such tests or the absence of such report. For purposes of tracking, monitoring, and

referral, the hospital or other birthing facility shall provide from its records, upon the department's request, information about the infant's and mother's location and contact information, and care and treatment of the infant.

(4)(a) The department shall have authority over the use, retention, and disposal of blood specimens and all related information collected in connection with disease testing conducted under subsection (1) of this section.

(b) The department shall adopt and promulgate rules and regulations relating to the retention and disposal of such specimens. The rules and regulations shall: (i) Be consistent with nationally recognized standards for laboratory accreditation and shall comply with all applicable provisions of federal law; (ii) require that the disposal be conducted in the presence of a witness who may be an individual involved in the disposal or any other individual; and (iii) provide for maintenance of a written or electronic record of the disposal, verified by such witness.

(c) The department shall adopt and promulgate rules and regulations relating to the use of such specimens and related information. Such use shall only be made for public health purposes and shall comply with all applicable provisions of federal law. The department may charge a reasonable fee for evaluating proposals relating to the use of such specimens for public health research and for preparing and supplying specimens for research proposals approved by the department.

(5) The department shall prepare written materials explaining the requirements of this section. The department shall include the following information in the pamphlet:

(a) The nature and purpose of the testing program required under this section, including, but not limited to, a brief description of each condition or disorder listed in subsection (1) of this section;

(b) The purpose and value of the infant's parent, guardian, or person in loco parentis retaining a blood specimen obtained under subsection (6) of this section in a safe place;

(c) The department's procedures for retaining and disposing of blood specimens developed under subsection (4) of this section; and

(d) That the blood specimens taken for purposes of conducting the tests required under subsection (1) of this section may be used for research pursuant to subsection (4) of this section.

(6) In addition to the requirements of subsection (1) of this section, the attending physician or person registering the birth may offer to draw an additional blood specimen from the infant. If such an offer is made, it shall be made to the infant's parent, guardian, or person in loco parentis at the time the blood specimens are drawn for purposes of subsection (1) of this section. If the infant's parent, guardian, or person in loco parentis accepts the offer of an additional blood specimen, the blood specimen shall be preserved in a manner that does not require special storage conditions or techniques. The attending physician or person making the offer shall explain to the parent, guardian, or person in loco parentis at the time the offer is made that the additional blood specimen can be used for future identification purposes and should be kept in a safe place. The attending physician or person making the offer may charge a fee that is not more than the actual cost of obtaining and preserving the additional blood specimen.

(7) The person responsible for causing the tests to be performed under subsection (2) of this section shall inform the parent or legal guardian of the infant of the tests and of the results of the tests and provide, upon any request for further information, at least a copy of the written materials prepared under subsection (5) of this section.

(8) Dietary and therapeutic management of the infant with phenylketonuria, primary hypothyroidism, biotinidase deficiency, galactosemia, hemoglobinopathies, MCAD deficiency, X-linked adrenoleukodystrophy (X-ALD), mucopolysaccharidoses type 1 (MPS-1), Pompe disease, spinal muscular atrophy, or such other inherited or congenital infant or childhood-onset diseases as the department may from time to time specify shall be the responsibility of the child's parent, guardian, or custodian with the aid of a physician selected by such person.

(9) Except for acts of gross negligence or willful or wanton conduct, any physician, hospital or other birthing facility, laboratory, or other submitter making reports or notifications under sections 71-519 to 71-524 shall be immune from criminal or civil liability of any kind or character based on any statements contained in such reports or notifications.

Source: Laws 1987, LB 385, § 1; Laws 1988, LB 1100, § 99; Laws 1996, LB 1044, § 502; Laws 1998, LB 1073, § 85; Laws 2001, LB 432, § 10; Laws 2002, LB 235, § 1; Laws 2003, LB 119, § 2; Laws 2005, LB 301, § 15; Laws 2007, LB296, § 390; Laws 2017, LB91, § 1; Laws 2020, LB755, § 32.

(m) CYTOMEGALOVIRUS

71-558 Cytomegalovirus; informational materials; department; duties.

(1) The Department of Health and Human Services shall develop and publish informational materials for women who may become pregnant, expectant parents, and parents of infants regarding:

(a) The incidence of cytomegalovirus;

(b) The transmission of cytomegalovirus to pregnant women and women who may become pregnant;

(c) Birth defects caused by congenital cytomegalovirus;

(d) Methods of diagnosing congenital cytomegalovirus;

(e) Available preventative measures to avoid the infection of women who are pregnant or who may become pregnant; and

(f) Early interventions, treatment, and services available for children diagnosed with congenital cytomegalovirus.

(2) The department shall publish such informational materials on its website and make the materials available to child care facilities, school nurses, hospitals, birthing facilities as defined in section 71-4736, and health care providers offering care to pregnant women and infants.

Source: Laws 2022, LB741, § 34.

71-559 Health care provider; provide informational materials; when.

A health care provider offering care to pregnant women may provide the informational materials published under section 71-558 to each pregnant

woman during the first trimester of pregnancy or when a pregnant woman comes under the care of a provider after the first trimester of pregnancy.

Source: Laws 2022, LB741, § 35.

71-560 Birthing facility; newborn infant; hearing screening test; information provided.

(1) If a newborn infant fails a hearing screening test as provided in section 71-4742, the birthing facility performing such screening may provide to the parents of the newborn infant the following information:

(a) Potential birth defects caused by congenital cytomegalovirus;

(b) Testing opportunities for cytomegalovirus, including the opportunity to test for cytomegalovirus prior to the infant's discharge from the hospital or birthing facility; and

(c) Early intervention services.

(2) The informational material published under section 71-558, and such additional clarifying information as required by the parents, may be provided to the parents at the newborn infant's follow-up audiology appointment.

Source: Laws 2022, LB741, § 36.

(n) ALZHEIMER'S DISEASE AND OTHER DEMENTIA SUPPORT ACT

71-561 Act, how cited.

Sections 71-561 to 71-567 shall be known and may be cited as the Alzheimer's Disease and Other Dementia Support Act.

Source: Laws 2022, LB752, § 30.

71-562 Legislative findings and declarations.

The Legislature hereby finds and declares that Alzheimer's and other dementia are of significant concern to the State of Nebraska, and that the Legislature and the state would benefit from a more coordinated approach to addressing Alzheimer's disease and other dementia.

Source: Laws 2022, LB752, § 31.

71-563 Terms, defined.

For purposes of the Alzheimer's Disease and Other Dementia Support Act:

(1) Council means the Alzheimer's Disease and Other Dementia Advisory Council; and

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

Source: Laws 2022, LB752, § 32.

71-564 Alzheimer's Disease and Other Dementia Advisory Council; members; terms; duties; expenses.

(1) The Alzheimer's Disease and Other Dementia Advisory Council is created and shall include:

(a) Twelve voting members appointed by the Governor. The voting members shall consist of: (i) An individual living with Alzheimer's disease or another dementia or a family member of such an individual; (ii) an individual who is

the family caregiver of an individual living with Alzheimer's disease or another dementia; (iii) an individual who represents nursing homes; (iv) an individual who represents assisted-living facilities; (v) an individual who represents providers of adult day care services; (vi) an individual who represents home care providers; (vii) a medical professional who has experience diagnosing and treating Alzheimer's disease; (viii) an individual who conducts research regarding Alzheimer's disease or other dementia; (ix) an individual who represents a leading, nationwide organization that advocates on behalf of individuals living with Alzheimer's disease or other dementia; (x) an individual who represents an area agency on aging; (xi) an individual representing an organization that advocates for older adults; and (xii) an individual with experience or expertise in the area of the specific needs of individuals with intellectual and developmental disabilities and Alzheimer's disease or other dementia; and

(b) Five nonvoting members. The nonvoting members shall consist of: (i) The Director of Public Health or the director's designee; (ii) the Director of Medicaid and Long-Term Care or the director's designee; (iii) a representative of the State Unit on Aging of the Division of Medicaid and Long-Term Care designated by the Director of Medicaid and Long-Term Care; (iv) a representative of the Nebraska Workforce Development Board designated by the board; and (v) the state long-term care ombudsman or the ombudsman's designee.

(2) The terms of the initial members shall begin on the date of the first meeting as called by the Director of Public Health and (a) one-third shall serve for two-year terms, (b) one-third shall serve for three-year terms, and (c) one-third shall serve for four-year terms, including the chairperson and vice-chairperson. Thereafter all members shall serve four-year terms. Members may not serve more than two consecutive four-year terms. Vacancies shall be appointed by the Governor in the same manner as described in subdivision (1)(a) of this section.

(3) Members of the council shall select the chairperson and vice-chairperson who shall not be employees of the state and may serve in such role for up to four consecutive years. The Director of Public Health or the director's designee shall call and preside over the first meeting until a chairperson is selected. Thereafter, the council shall meet at least quarterly at the call of the chairperson. A majority of the voting members shall constitute a quorum for the conduct of meetings.

(4) The council shall hold meetings at least once every calendar quarter.

(5) Members shall serve on the council without compensation but shall be compensated for expenses incurred for such service.

(6) The department shall provide staff and support to the council as necessary to assist the council in the performance of its duties.

Source: Laws 2022, LB752, § 33; Laws 2024, LB903, § 1.
Effective date July 19, 2024.

71-565 Council; purpose; collaboration.

(1) The purpose of the council shall be to examine (a) the needs of individuals living with Alzheimer's disease or other dementia, (b) the services available in the state for those individuals and their family caregivers, and (c) the ability of health care providers and facilities to meet the current and future needs of such individuals.

(2) The council shall collaborate with the department and other state departments as needed to gather input on issues and strategies that pertain to Alzheimer's disease and other dementia and identify proactive approaches on public health, workforce, caregiver support, and care delivery. The council shall monitor analysis, policy development, and program implementation related to Alzheimer's disease and other dementia.

Source: Laws 2022, LB752, § 34.

71-566 Council; considerations; findings and recommendations.

The council shall consider and make findings and recommendations on the following topics:

(1) Trends in the state's Alzheimer's disease and other dementia populations and service needs, including:

(a) The state's role in providing or facilitating long-term care, family caregiver support, and assistance to those with early-stage or early-onset Alzheimer's disease or other dementia;

(b) The state's policies regarding individuals with Alzheimer's disease or other dementia;

(c) The fiscal impact of Alzheimer's disease and other dementia on publicly funded health care programs; and

(d) The establishment of a surveillance system to better determine the number of individuals diagnosed with Alzheimer's disease or other dementia and to monitor changes to such numbers;

(2) Existing resources, services, and capacity relating to the diagnosis and care of individuals living with Alzheimer's disease or other dementia, including:

(a) The type, cost, and availability of dementia care services;

(b) The availability of health care workers who can serve people with dementia, including, but not limited to, neurologists, geriatricians, and direct care workers;

(c) Dementia-specific training requirements for public and private employees who interact with people living with Alzheimer's disease or other dementia which shall include, but not be limited to, long-term care workers, case managers, adult protective services, law enforcement, and first responders;

(d) Home and community-based services, including respite care for individuals exhibiting symptoms of Alzheimer's disease or other dementia and their families;

(e) Quality care measures for home and community-based services and residential care facilities; and

(f) State-supported Alzheimer's disease and other dementia research conducted at universities located in this state; and

(3) Policies and strategies that address the following:

(a) Increasing public awareness of Alzheimer's disease and other dementia;

(b) Educating providers to increase early detection and diagnosis of Alzheimer's disease and other dementia;

(c) Improving the health care received by individuals diagnosed with Alzheimer's disease or other dementia;

(d) Evaluating the capacity of the health care system in meeting the growing number and needs of those with Alzheimer's disease and other dementia;

(e) Increasing the number of health care professionals necessary to treat the growing aging and Alzheimer's disease and dementia populations;

(f) Improving services provided in the home and community to delay and decrease the need for institutionalized care for individuals with Alzheimer's disease or other dementia;

(g) Improving long-term care, including assisted living, for those with Alzheimer's disease or other dementia;

(h) Assisting unpaid Alzheimer's disease or dementia caregivers;

(i) Increasing and improving research on Alzheimer's disease and other dementia;

(j) Promoting activities to maintain and improve brain health;

(k) Improving the collection of data and information related to Alzheimer's disease and other dementia and the resulting public health burdens;

(l) Improving public safety and addressing the safety-related needs of those with Alzheimer's disease or other dementia;

(m) Addressing legal protections for, and legal issues faced by, individuals with Alzheimer's disease or other dementia; and

(n) Improving the ways in which the government evaluates and adopts policies to assist individuals diagnosed with Alzheimer's disease or other dementia and their families.

Source: Laws 2022, LB752, § 35.

71-567 State Alzheimer's Plan.

(1)(a) No later than December 31, 2024, the council shall compile the findings and recommendations under the Alzheimer's Disease and Other Dementia Support Act and submit them as a State Alzheimer's Plan to the Legislature and the Governor.

(b) Every four years thereafter, the council shall issue an updated State Alzheimer's Plan addressing the items in sections 71-565 and 71-566 and any other issues the council deems necessary and relevant toward addressing Alzheimer's disease and dementia in Nebraska.

(2) By October 1 of each year after the creation of the State Alzheimer's Plan, the council shall electronically submit to the Legislature and the Governor an annual report on the status of implementation of the State Alzheimer's Plan recommendations and any barriers to implementation.

Source: Laws 2022, LB752, § 36; Laws 2024, LB903, § 2.
Effective date July 19, 2024.

ARTICLE 6

VITAL STATISTICS

Section

Section
71-605. Death certificate; cause of death; sudden infant death syndrome; how treated; cremation, disinterment, or transit permits; how executed; filing; requirements.
71-605.02. Death certificate; death in military service outside continental limits of United States; fees.
71-609. Repealed. Laws 2022, LB704, § 4.
71-612. Department; certificates; copies; fees; waiver of fees, when; search of death certificates, abstracts of marriage, abstracts of death; fee; access; petty cash fund; authorized.
71-614. Marriage licenses; amendment; department; county clerk; duties.
71-616. Reports; department to tabulate.

71-601 Act, how cited.

Sections 71-601 to 71-649 shall be known and may be cited as the Vital Statistics Act.

Source: Laws 2005, LB 301, § 21; Laws 2018, LB1040, § 1; Laws 2020, LB966, § 17.

71-601.01 Terms, defined.

For purposes of the Vital Statistics Act:

(1) Abstract of death means a certified document that summarizes the facts of death, including, but not limited to, the name of the decedent, the date of the death, and the place of the death. An abstract of death does not include signatures;

(2) Abstract of marriage means a certified document that summarizes the facts of marriage, including, but not limited to, the name of the bride and groom, the date of the marriage, the place of the marriage, and the name of the office filing the original marriage license. An abstract of marriage does not include signatures;

(3) Certificate means the record of a vital event. Certificate does not include a commemorative certificate;

(4) Certification means the process of recording, filing, amending, or preserving a certificate, which process may be by any means, including, but not limited to, microfilm, electronic, imaging, photographic, typewritten, or other means designated by the department;

(5) Commemorative certificate means a document commemorating a nonviable birth;

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

(7) Nonviable birth means an unintentional, spontaneous fetal demise occurring prior to the twentieth week of gestation during a pregnancy that has been verified by a health care practitioner.

Source: Laws 1994, LB 886, § 2; Laws 1996, LB 1044, § 512; Laws 2005, LB 301, § 24; Laws 2006, LB 1115, § 38; Laws 2007, LB296, § 400; Laws 2018, LB1040, § 2; Laws 2024, LB1215, § 28. Operative date July 19, 2024.

71-604.02 Acknowledgment of maternity; biological mother not the birth mother; forms; effect on birth certificate; rebuttable presumption; spouse; paternity; affidavits; department; powers and duties.

(1) For purposes of this section:

(a) Biological mother means a person who is related to a child as the source of the egg that resulted in the conception of the child; and

(b) Birth mother means the person who gave birth to the child.

(2) During the period immediately before or after the in-hospital birth of a child whose biological mother is not the same as the birth mother, the person in charge of such hospital or such person's designated representative shall provide to the child's biological mother and birth mother the documents and written instructions for such biological mother and birth mother to complete a notarized acknowledgment of maternity. Such acknowledgment, if signed by both parties and notarized, shall be filed with the department at the same time at which the certificate of live birth is filed.

(3) Nothing in this section shall be deemed to require the person in charge of such hospital or such person's designee to seek out or otherwise locate an alleged mother who is not readily identifiable or available.

(4) The acknowledgment shall be executed on a form prepared by the department. Such form shall be in essentially the same form provided by the department. The acknowledgment shall include, but not be limited to, (a) a statement by the birth mother consenting to the acknowledgment of maternity and a statement that the biological mother is the legal mother of the child, (b) a statement by the biological mother that she is the biological mother of the child, (c) written information regarding parental rights and responsibilities, and (d) the social security numbers of the mothers.

(5) The form provided for in subsection (4) of this section shall also contain instructions for completion and filing with the department if it is not completed and filed with a birth certificate as provided in subsection (2) of this section.

(6) The department shall accept completed acknowledgment forms. The department may prepare photographic, electronic, or other reproductions of acknowledgments. Such reproductions, when certified and approved by the department, shall be accepted as the original records, and the documents from which permanent reproductions have been made may be disposed of as provided by rules and regulations of the department.

(7) The department shall enter on the birth certificate of any child described in subsection (2) of this section the name of the biological mother of the child upon receipt of an acknowledgment of maternity as provided in this section signed by the biological mother of the child and the birth mother of the child. The name of the birth mother shall not be entered on the birth certificate. If the birth mother is married, the name of the birth mother's spouse shall not be entered on the birth certificate unless paternity for such spouse is otherwise established by law.

(8)(a) The signing of a notarized acknowledgment of maternity, whether under this section or otherwise, by the biological mother shall create a rebuttable presumption of maternity as against the biological mother. The signed, notarized acknowledgment is subject to the right of any signatory to rescind the acknowledgment at any time prior to the earlier of:

(i) Sixty days after the acknowledgment; or

(ii) The date of an administrative or judicial proceeding relating to the child, including a proceeding to establish a support order in which the signatory is a party.

(b) After the rescission period provided for in subdivision (8)(a) of this section, a signed, notarized acknowledgment is considered a legal finding which may be challenged only on the basis of fraud, duress, or material mistake of fact with the burden of proof upon the challenger, and the legal responsibilities, including the child support obligation, of any signatory arising from the acknowledgment shall not be suspended during the challenge, except for good cause shown. Such a signed and notarized acknowledgment or a certified copy or certified reproduction thereof shall be admissible in evidence in any proceeding to establish support.

(9)(a) If the biological mother was married at the time of either conception or birth or at any time between conception and birth of a child described in subsection (2) of this section, the name of the biological mother's spouse shall be entered on the certificate as the other parent of the child unless:

(i) Paternity has been determined otherwise by a court of competent jurisdiction;

(ii) The biological mother and the biological mother's spouse execute affidavits attesting that the biological mother's spouse is not the biological parent of the child, in which case information about the other parent shall be omitted from the certificate; or

(iii) The biological mother executes an affidavit attesting that her spouse is not the biological father and naming the biological father; the biological father executes an affidavit attesting that he is the biological father; and the biological mother's spouse executes an affidavit attesting that such spouse is not the biological parent of the child. In such case the biological father shall be shown as the other parent on the certificate.

(b) For affidavits executed under subdivision (8)(a)(ii) or (iii) of this section, each signature shall be individually notarized.

(10) If the biological mother was not married at the time of either conception or birth or at any time between conception and birth, the name of the biological father shall not be entered on the certificate as the other parent without the written consent of the biological mother and the person named as the biological father.

(11) In any case in which paternity of a child is determined by a court of competent jurisdiction, the name of the adjudicated father shall be entered on the certificate as the other parent in accordance with the finding of the court.

(12) If the other parent is not named on the certificate, no other information about the other parent shall be entered thereon.

(13) The identification of the father as provided in this section shall not be deemed to affect the legitimacy of the child or the duty to support as set forth in sections 42-377 and 43-1401 to 43-1418.

(14) The department may adopt and promulgate rules and regulations as necessary and proper to assist it in the implementation and administration of this section and to establish a nominal payment and procedure for payment for each acknowledgment filed with the department.

Source: Laws 2020, LB966, § 18.

71-605 Death certificate; cause of death; sudden infant death syndrome; how treated; cremation, disinterment, or transit permits; how executed; filing; requirements.

(1) The funeral director and embalmer in charge of the funeral of any person dying in the State of Nebraska shall cause a certificate of death to be filled out with all the particulars contained in the standard form adopted and promulgated by the department. Such standard form shall include a space for veteran status in the armed forces of the United States and a statement of the cause of death made by a person holding a valid license as a physician, physician assistant, or nurse practitioner who last attended the deceased. The standard form shall also include the deceased's social security number and a notice that, pursuant to section 30-2413, demands for notice which may affect the estate of the deceased are filed with the county court in the county where the decedent resided at the time of death. Death and fetal death certificates shall be completed by the funeral directors and embalmers and physicians, physician assistants, or nurse practitioners for the purpose of filing with the department and providing child support enforcement information pursuant to section 43-3340.

(2) The physician, physician assistant, or nurse practitioner shall have the responsibility and duty to complete and sign by electronic means pursuant to section 71-603.01, within twenty-four hours from the time of death, that part of the certificate of death entitled medical certificate of death. In the case of a death when no person licensed as a physician, physician assistant, or nurse practitioner was in attendance, the funeral director and embalmer shall refer the case to the county attorney who shall have the responsibility and duty to complete and sign the death certificate by electronic means pursuant to section 71-603.01.

No cause of death shall be certified in the case of the sudden and unexpected death of a child between the ages of one week and three years until an autopsy is performed at county expense by a qualified pathologist pursuant to section 23-1824. The parents or guardian shall be notified of the results of the autopsy by their physician, physician assistant, nurse practitioner, community health official, or county coroner within forty-eight hours. The term sudden infant death syndrome shall be entered on the death certificate as the principal cause of death when the term is appropriately descriptive of the pathology findings and circumstances surrounding the death of a child.

If the circumstances show it possible that death was caused by neglect, violence, or any unlawful means, the case shall be referred to the county attorney for investigation and certification. The county attorney shall, within twenty-four hours after taking charge of the case, state the cause of death as ascertained, giving as far as possible the means or instrument which produced the death. All death certificates shall show clearly the cause, disease, or sequence of causes ending in death. If the cause of death cannot be determined within the period of time stated above, the death certificate shall be filed to establish the fact of death. As soon as possible thereafter, and not more than six weeks later, supplemental information as to the cause, disease, or sequence of causes ending in death shall be filed with the department to complete the record. For all certificates stated in terms that are indefinite, insufficient, or unsatisfactory for classification, inquiry shall be made to the person completing the certificate to secure the necessary information to correct or complete the record.

(3) A completed death certificate shall be filed with the department within five business days after the date of death. If it is impossible to complete the certificate of death within five business days, the funeral director and embalmer

shall notify the department of the reason for the delay and file the certificate as soon as possible.

(4) Before any dead human body may be cremated, a cremation permit shall first be signed electronically by the county attorney, or by his or her authorized representative as designated by the county attorney in writing, of the county in which the death occurred on an electronic form prescribed and furnished by the department.

(5) A permit for disinterment shall be required prior to disinterment of a dead human body. The permit shall be issued by the department to a licensed funeral director and embalmer upon proper application. The request for disinterment shall be made by the person listed in section 30-2223 or a county attorney on a form furnished by the department. The application shall be signed by the funeral director and embalmer who will be directly supervising the disinterment. When the disinterment occurs, the funeral director and embalmer shall sign the permit giving the date of disinterment and file the permit with the department within ten days of the disinterment.

(6) When a request is made under subsection (5) of this section for the disinterment of more than one dead human body, an order from a court of competent jurisdiction shall be submitted to the department prior to the issuance of a permit for disinterment. The order shall include, but not be limited to, the number of bodies to be disinterred if that number can be ascertained, the method and details of transportation of the disinterred bodies, the place of reinterment, and the reason for disinterment. No sexton or other person in charge of a cemetery shall allow the disinterment of a body without first receiving from the department a disinterment permit properly completed.

(7) No dead human body shall be removed from the state for final disposition without a transit permit issued by the funeral director and embalmer having charge of the body in Nebraska, except that when the death is subject to investigation, the transit permit shall not be issued by the funeral director and embalmer without authorization of the county attorney of the county in which the death occurred. No agent of any transportation company shall allow the shipment of any body without the properly completed transit permit prepared in duplicate.

(8) The interment, disinterment, or reinterment of a dead human body shall be performed under the direct supervision of a licensed funeral director and embalmer, except that hospital disposition may be made of the remains of a child born dead pursuant to section 71-20,121.

(9) All transit permits issued in accordance with the law of the place where the death occurred in a state other than Nebraska shall be signed by the funeral director and embalmer in charge of burial and forwarded to the department within five business days after the interment takes place.

(10) The changes made to this section by Laws 2019, LB593, shall apply retroactively to August 24, 2017.

Source: Laws 1921, c. 253, § 2, p. 863; C.S.1922, § 8233; Laws 1927, c. 166, § 3, p. 449; C.S.1929, § 71-2405; R.S.1943, § 71-605; Laws 1949, c. 202, § 1, p. 585; Laws 1953, c. 241, § 1, p. 830; Laws 1961, c. 341, § 3, p. 1091; Laws 1965, c. 418, § 3, p. 1335; Laws 1973, LB 29, § 1; Laws 1978, LB 605, § 1; Laws 1985, LB 42, § 3; Laws 1989, LB 344, § 10; Laws 1993, LB 187, § 8; Laws 1996, LB 1044, § 517; Laws 1997, LB 307, § 137; Laws 1997, LB

752, § 172; Laws 1999, LB 46, § 4; Laws 2003, LB 95, § 33; Laws 2005, LB 54, § 14; Laws 2005, LB 301, § 25; Laws 2007, LB463, § 1184; Laws 2009, LB195, § 68; Laws 2012, LB1042, § 4; Laws 2014, LB998, § 14; Laws 2016, LB786, § 1; Laws 2017, LB268, § 15; Laws 2019, LB593, § 9; Laws 2024, LB1215, § 29.
Operative date July 19, 2024.

Cross References

For authority of chiropractors to sign death certificates, see section 38-811.
For authority of physician assistants to sign death certificates, see section 38-2047.
Organ and tissue donation, notation required, see section 71-4816.

71-605.02 Death certificate; death in military service outside continental limits of United States; fees.

The department shall preserve permanently all such certificates and shall charge and collect in advance the fee prescribed in section 71-612, to be paid by the applicant for each certified copy supplied to the applicant or for any search made at the applicant's request for access to or a certified copy of any record, whether or not the record is found on file with the department. All fees so collected shall be remitted to the State Treasurer for credit to the Health and Human Services Cash Fund as provided in section 71-612.

Source: Laws 1947, c. 233, § 2, p. 739; Laws 1965, c. 419, § 1, p. 1342; Laws 1967, c. 442, § 1, p. 1382; Laws 1973, LB 583, § 7; Laws 1991, LB 703, § 29; Laws 1992, LB 1019, § 48; Laws 1996, LB 1044, § 519; Laws 2007, LB296, § 407; Laws 2024, LB1074, § 93.
Operative date January 1, 2025.

71-609 Repealed. Laws 2022, LB704, § 4.

71-612 Department; certificates; copies; fees; waiver of fees, when; search of death certificates, abstracts of marriage, abstracts of death; fee; access; petty cash fund; authorized.

(1) The department, as the State Registrar, shall preserve permanently all certificates received. The department shall supply to any applicant for any proper purpose, as defined by rules and regulations of the department, a certified copy of the record of any birth, death, marriage, annulment, or dissolution of marriage or an abstract of marriage or abstract of death. The department shall supply a copy of a public vital record for viewing purposes at its office upon an application signed by the applicant and upon proof of the identity of the applicant. The application may include the name, address, and telephone number of the applicant, purpose for viewing each record, and other information as may be prescribed by the department by rules and regulations to protect the integrity of vital records and prevent their fraudulent use. Except as provided in subsections (2), (3), (5), (6), (7), and (9) of this section, the department shall be entitled to charge and collect in advance a fee of sixteen dollars to be paid by the applicant for each certified copy, abstract of marriage, or abstract of death supplied to the applicant or for any search made at the applicant's request for access to or a certified copy of any record, abstract of marriage, or abstract of death whether or not the record or abstract is found on file with the department.

(2) The department shall, free of charge, search for and furnish a certified copy of any record, abstract of marriage, or abstract of death on file with the department upon the request of (a) the United States Department of Veterans Affairs or any lawful service organization empowered to represent veterans if the copy of the record or abstract of marriage is to be issued, for the welfare of any member or veteran of the armed forces of the United States or in the interests of any member of his or her family, in connection with a claim growing out of service in the armed forces of the nation or (b) the Military Department.

(3) The department may, free of charge, search for and furnish a certified copy of any record or an abstract of marriage or abstract of death on file with the department when in the opinion of the department it would be a hardship for the claimant of old age, survivors, or disability benefits under the federal Social Security Act to pay the fee provided in this section.

(4) A strict account shall be kept of all funds received by the department. Funds received pursuant to subsections (1), (5), (6), and (8) of this section shall be remitted to the State Treasurer for credit to the Health and Human Services Cash Fund. Money credited to the fund pursuant to this section shall be used for the purpose of administering the laws relating to vital statistics and may be used to create a petty cash fund administered by the department to facilitate the payment of refunds to individuals who apply for copies or abstracts of records. The petty cash fund shall be subject to section 81-104.01, except that the amount in the petty cash fund shall not be less than twenty-five dollars nor more than one thousand dollars.

(5) The department shall, upon request, conduct a search of death certificates or abstracts of death for stated individuals for the Nebraska Medical Association or any of its allied medical societies or any inhospital staff committee pursuant to sections 71-3401 to 71-3403. If such death certificate is found, the department shall provide a noncertified copy. The department shall charge a fee for each search or copy sufficient to cover its actual direct costs, except that the fee shall not exceed three dollars per individual search or copy requested.

(6) The department may permit use of data from vital records for statistical or research purposes under section 71-602 or disclose data from certificates or records to federal, state, county, or municipal agencies of government for use in administration of their official duties for the limited purposes of preventing, identifying, or halting fraudulent activity or waste of government funding. The department shall charge and collect a fee that will recover the department's cost of production of the data. The department may provide access to public vital records for viewing purposes by electronic means, if available, under security provisions which shall assure the integrity and security of the records and database and shall charge and collect a fee that shall recover the department's costs.

(7) In addition to the fees charged under subsection (1) of this section, the department shall charge and collect an additional fee of one dollar for any certified copy of the record of any birth or for any search made at the applicant's request for access to or a certified copy of any such record, whether or not the record is found on file with the department. Any county containing a city of the metropolitan class which has an established city-county or county health department pursuant to sections 71-1626 to 71-1636 which has an established system of registering births and deaths shall charge and collect in

advance a fee of one dollar for any certified copy of the record of any birth or for any search made at the applicant's request for such record, whether or not the record is found on file with the county. All fees collected under this subsection shall be remitted to the State Treasurer for credit to the Nebraska Child Abuse Prevention Fund.

(8) The department shall not charge other state agencies the fees authorized under subsections (1) and (7) of this section for automated review of any certificates, abstracts of marriage, or abstracts of death. The department shall charge and collect a fee from other state agencies for such automated review that will recover the department's cost.

(9) The department shall not charge any fee for a certified copy of a birth record if the applicant does not have a current Nebraska driver's license or state identification card and indicates in the application that the applicant needs a certified copy of the birth record to apply for a state identification card for voting purposes.

Source: Laws 1919, c. 190, tit. VI, art. II, div. IX, § 14, p. 784; Laws 1921, c. 73, § 1, p. 272; C.S.1922, § 8244; Laws 1927, c. 166, § 9, p. 451; C.S.1929, § 71-2416; Laws 1941, c. 140, § 10, p. 554; C.S.Supp.,1941, § 71-2416; Laws 1943, c. 147, § 1, p. 532; R.S. 1943, § 71-612; Laws 1951, c. 229, § 1, p. 830; Laws 1959, c. 323, § 1, p. 1180; Laws 1963, c. 410, § 1, p. 1330; Laws 1965, c. 418, § 6, p. 1338; Laws 1965, c. 419, § 2, p. 1342; Laws 1973, LB 583, § 8; Laws 1983, LB 617, § 14; Laws 1985, LB 42, § 7; Laws 1986, LB 333, § 9; Laws 1989, LB 344, § 12; Laws 1991, LB 703, § 30; Laws 1992, LB 1019, § 50; Laws 1993, LB 536, § 63; Laws 1995, LB 406, § 32; Laws 1996, LB 1044, § 524; Laws 1997, LB 307, § 140; Laws 2002, Second Spec. Sess., LB 48, § 3; Laws 2004, LB 1005, § 56; Laws 2006, LB 994, § 86; Laws 2006, LB 1115, § 39; Laws 2007, LB296, § 413; Laws 2014, LB994, § 1; Laws 2023, LB514, § 23; Laws 2024, LB1074, § 94; Laws 2024, LB1215, § 30.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB1074, section 94, with LB1215, section 30, to reflect all amendments.

Note: Changes made by LB1074 became operative January 1, 2025. Changes made by LB1215 became operative July 19, 2024.

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.

71-616 Reports; department to tabulate.

The department shall preserve permanently all births, deaths, marriages, and divorces received, and shall tabulate statistics therefrom.

Source: Laws 1919, c. 190, tit. VI, art. II, div. IX, § 19, p. 785; C.S.1922, § 8249; Laws 1927, c. 166, § 12, p. 453; C.S.1929, § 71-2420; R.S.1943, § 71-616; Laws 1996, LB 1044, § 527; Laws 2007, LB296, § 416; Laws 2024, LB1074, § 95.
Operative date January 1, 2025.

ARTICLE 7
WOMEN'S HEALTH

Section
71-702. Women's Health Initiative Advisory Council; created; members; terms; duties; expenses.

71-702 Women's Health Initiative Advisory Council; created; members; terms; duties; expenses.

(1) The Women's Health Initiative Advisory Council is created and shall consist of not more than thirty members, at least three-fourths of whom are women. At least one member shall be appointed from the following disciplines: (a) An obstetrician/gynecologist; (b) a nurse practitioner or physician's assistant from a rural community; (c) a geriatrics physician or nurse; (d) a pediatrician; (e) a community public health representative from each congressional district; (f) a health educator; (g) an insurance industry representative; (h) a mental health professional; (i) a representative from a statewide health volunteer agency; (j) a private health care industry representative; (k) an epidemiologist or a health statistician; (l) a foundation representative; and (m) a woman who is a health care consumer from each of the following age categories: Eighteen to thirty; thirty-one to forty; forty-one to sixty-five; and sixty-six and older. The membership shall also include a representative of the University of Nebraska Medical Center, a representative from Creighton University Medical Center, the chief medical officer if one is appointed under section 81-3115, and the Title V Administrator of the Department of Health and Human Services.

(2) The Governor shall appoint advisory council members and shall consider and attempt to balance representation based on political party affiliation, race, and different geographical areas of Nebraska when making appointments. The Governor shall appoint the first chairperson and vice-chairperson of the advisory council. There shall be two ex officio, nonvoting members from the Legislature, one of which shall be the chairperson of the Health and Human Services Committee.

(3) The terms of the initial members shall be as follows: One-third shall serve for one-year terms, one-third shall serve for two-year terms, and one-third shall serve for three-year terms including the members designated chairperson and vice-chairperson. Thereafter members shall serve for three-year terms. Members may not serve more than two consecutive three-year terms.

(4) The Governor shall make the appointments within three months after July 13, 2000.

(5) The advisory council shall meet quarterly the first two years. After this time the advisory council shall meet at least every six months or upon the call of the chairperson or a majority of the voting members. A quorum shall be one-half of the voting members.

(6) The members of the advisory council shall be reimbursed for expenses as provided in sections 81-1174 to 81-1177 and pursuant to policies of the advisory council. Funds for reimbursement for expenses shall be from the Women's Health Initiative Fund.

(7) The advisory council shall advise the Women's Health Initiative of Nebraska in carrying out its duties under section 71-701 and may solicit private funds to support the initiative.

Source: Laws 2000, LB 480, § 2; Laws 2004, LB 818, § 1; Laws 2007, LB296, § 449; Laws 2009, LB84, § 1; Laws 2009, LB154, § 16; Laws 2020, LB381, § 60.

ARTICLE 8

BEHAVIORAL HEALTH SERVICES

(a) NEBRASKA BEHAVIORAL HEALTH SERVICES ACT

(b) CERTIFIED COMMUNITY BEHAVIORAL HEALTH CLINIC ACT

(a) NEBRASKA BEHAVIORAL HEALTH SERVICES ACT

71-801 Nebraska Behavioral Health Services Act; act, how cited.

Sections 71-801 to 71-830 and the Certified Community Behavioral Health Clinic Act shall be known and may be cited as the Nebraska Behavioral Health Services Act.

Source: Laws 2004, LB 1083, § 1; Laws 2006, LB 994, § 91; Laws 2009, LB154, § 17; Laws 2009, LB603, § 3; Laws 2012, LB1158, § 3; Laws 2020, LB1158, § 5; Laws 2023, LB276, § 1.

Cross References

Certified Community Behavioral Health Clinic Act, see section 71-832.

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.

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. Transfers may be made from the fund to the General Fund at the direction of the Legislature.

(2) The Behavioral Health Services 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; Laws 2024, LB1413, § 44.
Effective date April 2, 2024.

Cross References

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

71-829 Legislative findings and declarations.

The Legislature hereby finds and declares that:

(1) Ninety-five percent of counties in Nebraska are classified as behavioral health profession shortage areas by the federal Health Resources and Services Administration and the Nebraska Department of Health and Human Services;

(2) There are severe behavioral health workforce shortages in rural and underserved areas of the state which negatively impact access to appropriate behavioral health services for Nebraska residents; and

(3) Nebraska must act to address immediate needs and implement long-term strategies to alleviate education, recruitment, and retention challenges in the behavioral health field.

Source: Laws 2009, LB603, § 13; Laws 2022, LB1068, § 1.

71-830 Behavioral Health Education Center; created; administration; duties; report.

(1) The Behavioral Health Education Center is created and shall be administered by the University of Nebraska Medical Center.

(2) The center shall:

(a)(i) Provide funds for up to ten additional medical residents, physician assistants, or psychiatric nurse practitioners in a Nebraska-based psychiatry program each year. The center shall provide psychiatric training experiences that serve rural Nebraska and other underserved areas. As part of the training experience, each center-funded resident, physician assistant, or psychiatric nurse practitioner shall participate in the rural training for a minimum of three months. A minimum of three of the ten center-funded residents, physician assistants, or psychiatric nurse practitioners shall be active in the rural training each year;

(ii) Provide funds for up to twelve one-year doctoral-level psychology internships in Nebraska. The interns shall be placed in communities so as to increase access to behavioral health services for patients residing in rural and underserved areas of Nebraska; and

(iii) Provide funds for up to ten one-year mental health therapist internships or practicums in Nebraska. The trainees shall be placed in rural and underserved communities in order to increase access to behavioral health services for patients residing in such areas of Nebraska;

(b) Focus on the training of behavioral health professionals in telehealth techniques, including taking advantage of a telehealth network that exists, and other innovative means of care delivery in order to increase access to behavioral health services for all Nebraskans;

(c) Analyze the geographic and demographic availability of Nebraska behavioral health professionals, including psychiatrists, social workers, community rehabilitation workers, psychologists, substance abuse counselors, licensed mental health practitioners, behavioral analysts, peer support providers, primary care physicians, nurses, nurse practitioners, pharmacists, and physician assistants;

(d) Prioritize the need for additional professionals by type and location;

(e) Establish learning collaborative partnerships with other higher education institutions in the state, hospitals, law enforcement, community-based agencies, school districts, and consumers and their families in order to develop evidence-based, recovery-focused, interdisciplinary curricula and training for behavioral

health professionals delivering behavioral health services in community-based agencies, hospitals, and law enforcement. Development and dissemination of such curricula and training shall address the identified priority needs for behavioral health professionals;

(f) Establish and operate six interdisciplinary behavioral health training sites. Four of the six sites shall be in counties with a population of fewer than fifty thousand inhabitants. Each site shall provide annual interdisciplinary training opportunities for a minimum of six behavioral health professionals; and

(g) Educate behavioral health providers and facilities to integrate behavioral health care into primary care practice and licensed health care facilities in order to place well-trained behavioral health providers into primary care practices, behavioral health practices, and rural hospitals for the purpose of increasing access to behavioral health services.

(3) No later than December 1 of every odd-numbered year, the center shall prepare a report of its activities under the Behavioral Health Workforce Act. The report shall be filed electronically with the Clerk of the Legislature and shall be provided electronically to any member of the Legislature upon request.

Source: Laws 2009, LB603, § 14; Laws 2012, LB782, § 109; Laws 2014, LB901, § 1; Laws 2022, LB1068, § 2.

71-831 Transferred to section 68-995.

(b) CERTIFIED COMMUNITY BEHAVIORAL HEALTH CLINIC ACT

71-832 Certified Community Behavioral Health Clinic Act; act, how cited.

Sections 71-832 to 71-837 shall be known and may be cited as the Certified Community Behavioral Health Clinic Act.

Source: Laws 2023, LB276, § 2.

71-833 Legislative intent.

The intent of the Legislature is to increase access to mental health and substance use treatment and expand capacity for comprehensive, holistic services, respond to local needs, incorporate evidence-based practices, and establish care coordination as a linchpin for service delivery including effective community partnerships with law enforcement, schools, hospitals, primary care providers, and public and private service organizations to improve care, reduce recidivism, and address health disparities.

Source: Laws 2023, LB276, § 3.

71-834 Terms, defined.

For purposes of the Certified Community Behavioral Health Clinic Act:

(1) Certified community behavioral health clinic means a nonprofit organization, a unit of the local behavioral health authority, an entity operated under authority of the Indian Health Service, an Indian tribe, or tribal organization pursuant to a contract, grant, cooperative agreement, or compact with the Indian Health Service pursuant to the Indian Self-Determination and Education Assistance Act of 1975, or an entity that is an urban Indian organization pursuant to a grant or contract with the Indian Health Service under Title V of the Indian Health Care Improvement Act, Public Law 94-437, providing com-

munity-based mental health and substance use health services that are nationally accredited that:

(a) Meet the federal certification criteria of the federal Protecting Access to Medicare Act of 2014 or a state certification system for certified community behavioral health clinics to be established by the department and which shall be substantially equivalent to the federal Protecting Access to Medicare Act of 2014; and

(b) Provide, at a minimum, the following community-based services either directly or indirectly through formal referral relationships with other providers:

(i) Outpatient mental health and substance use services;

(ii) Crisis mental health services;

(iii) Screening, assessment, and diagnosis, including risk assessments;

(iv) Person-centered treatment planning;

(v) Outpatient clinic primary care screening and monitoring of key health indicators and health risks;

(vi) Targeted case management;

(vii) Psychiatric rehabilitation services;

(viii) Peer support and counselor services and family supports; and

(ix) Community-based mental health care for members of the armed forces and veterans consistent with minimum clinical mental health guidelines promulgated by the Veterans Health Administration; and

(2) Prospective payment system means a daily or monthly medicaid payment methodology that allows providers to be reimbursed based on anticipated costs of providing required services to persons enrolled in medicaid.

Source: Laws 2023, LB276, § 4.

71-835 Prospective payment system; medicaid state plan amendment; development and implementation.

(1) The department shall develop a prospective payment system under the medical assistance program for funding certified community behavioral health clinics. Such system shall permit either daily or monthly payment rates.

(2) The department shall submit to the federal Centers for Medicare and Medicaid Services any approval request necessary for a medicaid state plan amendment to implement this section.

(3) Subject to such approval, such prospective payment system shall be implemented before January 1, 2026.

(4) The department shall solicit input from current certified community behavioral health clinics during the development of the medicaid state plan amendment.

Source: Laws 2023, LB276, § 5.

71-836 Rules and regulations.

The department shall adopt and promulgate rules and regulations to implement sections 71-833 to 71-836.

Source: Laws 2023, LB276, § 6.

71-837 Appropriations; legislative intent.

It is the intent of the Legislature to appropriate no more than four million five hundred thousand dollars annually beginning in fiscal year 2025-26 from the General Fund for the purpose of the Certified Community Behavioral Health Clinic Act.

Source: Laws 2023, LB276, § 7.

ARTICLE 9

NEBRASKA MENTAL HEALTH COMMITMENT ACT

Section
71-901. Act, how cited.
71-902. Declaration of purpose.
71-903. Definitions, where found.
71-904.02. Indian country, defined.
71-910. Peace officer or law enforcement officer, defined.
71-912. Subject, defined.
71-914.01. Tribal court, defined.
71-914.02. Tribe or tribal, defined.
71-919. Mentally ill and dangerous person; dangerous sex offender; emergency protective custody; evaluation by mental health professional.
71-920. Mentally ill and dangerous person; certificate of mental health professional; contents.
71-926. Subject; custody pending entry of treatment order.
71-929. Mental health board; execution of warrants; costs; procedure; subject domiciled in Indian country; transportation to treatment facility; reimbursement.
71-936. Regional center or treatment facility; administrator; discharge of involuntary patient; notice.
71-937. Notice of release; mental health board; hearing; tribal court.
71-939. Escape from treatment facility or program; notification required; warrant; execution; peace officer; powers.
71-958. Qualified mental health professional; provide medical treatment to subject; when.
71-961. Subject's records; confidential; exceptions.
71-964. Subject domiciled in Indian country; state recognition of tribal orders; commitment to treatment facility; procedure.

71-901 Act, how cited.

Sections 71-901 to 71-964 shall be known and may be cited as the Nebraska Mental Health Commitment Act.

Source: Laws 1976, LB 806, § 89; Laws 1988, LB 257, § 6; Laws 1994, LB 498, § 12; Laws 1996, LB 1155, § 116; R.S.1943, (1999), § 83-1078; Laws 2004, LB 1083, § 21; Laws 2011, LB512, § 5; Laws 2024, LB1288, § 6.
Operative date October 1, 2024.

71-902 Declaration of purpose.

The purpose of the Nebraska Mental Health Commitment Act is to provide for the treatment of persons who are mentally ill and dangerous. It is the public policy of the State of Nebraska that mentally ill and dangerous persons be encouraged to obtain voluntary treatment. If voluntary treatment is not obtained, such persons shall be subject to involuntary custody and treatment only after mental health board proceedings as provided by the Nebraska Mental Health Commitment Act or upon the order of a tribal court. Such persons shall

be subjected to emergency protective custody under limited conditions and for a limited period of time.

Source: Laws 1976, LB 806, § 1; Laws 1996, LB 1155, § 93; R.S.1943, (1999), § 83-1001; Laws 2004, LB 1083, § 22; Laws 2024, LB1288, § 7.
Operative date October 1, 2024.

Cross References

Persons supposed mentally ill, limitations on restraint of liberty, see section 83-357.

71-903 Definitions, where found.

For purposes of the Nebraska Mental Health Commitment Act, unless the context otherwise requires, the definitions found in sections 71-904 to 71-914.02 shall apply.

Source: Laws 1976, LB 806, § 2; Laws 1994, LB 498, § 4; R.S.1943, (1999), § 83-1002; Laws 2004, LB 1083, § 23; Laws 2011, LB512, § 6; Laws 2024, LB1288, § 8.
Operative date October 1, 2024.

71-904.02 Indian country, defined.

Indian country has the same meaning as in 18 U.S.C. 1151, as such section existed on January 1, 2024.

Source: Laws 2024, LB1288, § 9.
Operative date October 1, 2024.

71-910 Peace officer or law enforcement officer, defined.

(1) Peace officer or law enforcement officer means a sheriff, a jailer, a marshal, a police officer, or an officer of the Nebraska State Patrol.

(2) Peace officer or law enforcement officer includes a member of a tribal police department or federal law enforcement officer duly authorized to assert law enforcement powers by a tribe in the State of Nebraska.

Source: Laws 1976, LB 806, § 11; Laws 1981, LB 95, § 5; Laws 1988, LB 1030, § 52; R.S.1943, (1999), § 83-1011; Laws 2004, LB 1083, § 30; Laws 2024, LB1288, § 10.
Operative date October 1, 2024.

71-912 Subject, defined.

(1) Subject means any person concerning whom a certificate or petition has been filed under the Nebraska Mental Health Commitment Act. Subject does not include any person under eighteen years of age unless such person is an emancipated minor.

(2) Subject also includes a person who is a member of a tribe or eligible for membership in a tribe, who is domiciled within Indian country in Nebraska, and concerning whom mental health involuntary commitment or emergency protective custody proceedings have been initiated under tribal law.

Source: Laws 1976, LB 806, § 14; Laws 1996, LB 1155, § 94; R.S.1943, (1999), § 83-1014; Laws 2004, LB 1083, § 32; Laws 2024, LB1288, § 11.
Operative date October 1, 2024.

71-914.01 Tribal court, defined.

Tribal court means a court or tribunal authorized by a tribe to adjudicate legal disputes and carry out the administration of justice in accordance with tribal law.

Source: Laws 2024, LB1288, § 13.
Operative date October 1, 2024.

71-914.02 Tribe or tribal, defined.

Tribe or tribal means an Indian tribe or band which is located in whole or in part within Nebraska and which is recognized by federal law or formally acknowledged by the state.

Source: Laws 2024, LB1288, § 12.
Operative date October 1, 2024.

71-919 Mentally ill and dangerous person; dangerous sex offender; emergency protective custody; evaluation by mental health professional.

(1)(a) A law enforcement officer may take a person into emergency protective custody, cause him or her to be taken into emergency protective custody, or continue his or her custody if he or she is already in custody if the officer has probable cause to believe:

(i) Such person is mentally ill and dangerous or a dangerous sex offender and that the harm described in section 71-908 or subdivision (1) of section 83-174.01 is likely to occur before mental health board proceedings under the Nebraska Mental Health Commitment Act or the Sex Offender Commitment Act may be initiated to obtain custody of the person; or

(ii) For a person domiciled within Indian country in Nebraska, that such person is mentally ill and dangerous or a dangerous sex offender under tribal law and that harm comparable to that described in section 71-908 or subdivision (1) of section 83-174.01 or the equivalent under tribal law is likely to occur before mental health proceedings under tribal law may be initiated to obtain custody of the person.

(b) Such person shall be admitted to an appropriate and available medical facility, jail, or Department of Correctional Services facility as provided in subsection (2) of this section.

(c)(i) Except as provided in subdivision (1)(c)(ii) of this section, each county shall make arrangements with appropriate facilities inside or outside the county for such purpose and shall pay the cost of the emergency protective custody of persons from such county in such facilities.

(ii) For a subject domiciled within Indian country in Nebraska for whom emergency protective custody is initiated under tribal law, the tribe shall make arrangements with appropriate facilities inside or outside the tribe for such purpose and shall make arrangements for payment of the cost of the emergency protective custody of persons from such tribe in such facilities.

(d) A mental health professional who has probable cause to believe that a person is mentally ill and dangerous or a dangerous sex offender may cause such person to be taken into custody and shall have a limited privilege to hold such person until a law enforcement officer or other authorized person arrives to take custody of such person.

(2)(a) A person taken into emergency protective custody under this section shall be admitted to an appropriate and available medical facility unless such person has a prior conviction for a sex offense listed in section 29-4003.

(b) A person taken into emergency protective custody under this section who has a prior conviction for a sex offense listed in section 29-4003 shall be admitted to a jail or Department of Correctional Services facility unless a medical or psychiatric emergency exists for which treatment at a medical facility is required. The person in emergency protective custody shall remain at the medical facility until the medical or psychiatric emergency has passed and it is safe to transport such person, at which time the person shall be transferred to an available jail or Department of Correctional Services facility.

(3)(a) Except as provided in subdivision (3)(b) of this section, upon admission to a facility of a person taken into emergency protective custody by a law enforcement officer under this section, such officer shall execute a written certificate prescribed and provided by the Department of Health and Human Services. The certificate shall allege the officer's belief that the person in custody is mentally ill and dangerous or a dangerous sex offender and shall contain a summary of the person's behavior supporting such allegations. A copy of such certificate shall be immediately forwarded to the county attorney.

(b) In the case of a subject domiciled within Indian country who is taken into emergency protective custody by a law enforcement officer under tribal law, upon admission to a facility, such officer shall execute written documentation in a format provided by the tribe. At a minimum, such documentation shall clearly identify the subject, identify the relevant tribe, allege the officer's belief that the person in custody is mentally ill and dangerous or a dangerous sex offender under tribal law, and contain a summary of the subject's behavior supporting such allegations. A copy of such documentation shall be immediately forwarded to the appropriate tribal prosecutor or tribal official.

(4) The administrator of the facility shall have such person evaluated by a mental health professional as soon as reasonably possible but not later than thirty-six hours after admission. The mental health professional shall not be the mental health professional who causes such person to be taken into custody under this section and shall not be a member or alternate member of the mental health board that will preside over any hearing under the Nebraska Mental Health Commitment Act or the Sex Offender Commitment Act with respect to such person. A person shall be released from emergency protective custody after completion of such evaluation unless the mental health professional determines, in his or her clinical opinion, that such person is mentally ill and dangerous or a dangerous sex offender. In the case of a subject domiciled within Indian country who is taken into emergency protective custody under tribal law, the mental health professional shall notify an appropriate tribal prosecutor or official of such release.

Source: Laws 1976, LB 806, § 30; Laws 1978, LB 501, § 2; Laws 1988, LB 257, § 2; Laws 1996, LB 1044, § 964; Laws 1996, LB 1155, § 95; R.S.1943, (1999), § 83-1020; Laws 2004, LB 1083, § 39; Laws 2006, LB 1199, § 38; Laws 2007, LB296, § 462; Laws 2024, LB1288, § 14.
Operative date October 1, 2024.

Cross References

Sex Offender Commitment Act, see section 71-1201.

71-920 Mentally ill and dangerous person; certificate of mental health professional; contents.

(1) Except as provided in subsection (3) of this section, a mental health professional who, upon evaluation of a person admitted for emergency protective custody under section 71-919, determines that such person is mentally ill and dangerous shall execute a written certificate as provided in subsection (2) of this section not later than twenty-four hours after the completion of such evaluation. A copy of such certificate shall be immediately forwarded to the county attorney.

(2) The certificate shall be in writing and shall include the following information:

(a) The subject's name and address, if known;

(b) The name and address of the subject's spouse, legal counsel, guardian or conservator, and next-of-kin, if known;

(c) The name and address of anyone providing psychiatric or other care or treatment to the subject, if known;

(d) The name and address of any other person who may have knowledge of the subject's mental illness or substance dependence who may be called as a witness at a mental health board hearing with respect to the subject, if known;

(e) The name and address of the medical facility in which the subject is being held for emergency protective custody and evaluation;

(f) The name and work address of the certifying mental health professional;

(g) A statement by the certifying mental health professional that he or she has evaluated the subject since the subject was admitted for emergency protective custody and evaluation; and

(h) A statement by the certifying mental health professional that, in his or her clinical opinion, the subject is mentally ill and dangerous and the clinical basis for such opinion.

(3) In the case of a subject domiciled within Indian country who is taken into emergency protective custody by a law enforcement officer under tribal law, a mental health professional who, upon evaluation of such person, determines that such person is mentally ill and dangerous shall execute appropriate written documentation in a format provided by the tribe not later than twenty-four hours after the completion of such evaluation. A copy of such certificate shall be immediately forwarded to the person designated by the tribe.

Source: Laws 2004, LB 1083, § 40; Laws 2024, LB1288, § 16.
Operative date October 1, 2024.

71-926 Subject; custody pending entry of treatment order.

(1) At the conclusion of a mental health board hearing under section 71-924 and prior to the entry of a treatment order by the board under section 71-925, the board may (a) order that the subject be retained in custody until the entry of such order and the subject may be admitted for treatment pursuant to such order or (b) order the subject released from custody under such conditions as the board deems necessary and appropriate to prevent the harm described in section 71-908 and to assure the subject's appearance at a later disposition hearing by the board. A subject shall be retained in custody under this section at the nearest appropriate and available medical facility and shall not be placed

in a jail. Each county shall make arrangements with appropriate medical facilities inside or outside the county for such purpose and shall pay the cost of the emergency protective custody of persons from such county in such facilities.

(2) A subject who has been ordered to receive inpatient or outpatient treatment by a mental health board may be provided treatment while being retained in emergency protective custody and pending admission of the subject for treatment pursuant to such order.

(3)(a) In the case of a subject domiciled within Indian country who is taken into emergency protective custody by a law enforcement officer under tribal law, at the conclusion of a mental health hearing under tribal law and prior to entry of a treatment order by the tribal court, the tribal court may order that the subject be:

(i) Retained in custody until entry of such order and the subject may be admitted for treatment pursuant to such order; or

(ii) Released from custody under such conditions as the tribal court deems necessary and appropriate to prevent harm comparable to that described in section 71-908 or the equivalent under tribal law and to assure the subject's appearance at a later disposition hearing. A subject shall be retained in custody under this section at the nearest appropriate and available medical facility and shall not be placed in a jail.

(b) Each tribe shall make arrangements with appropriate medical facilities inside or outside the tribe for such purpose and shall make arrangements for payment of the cost of the emergency protective custody of persons from such tribe in such facilities.

(c) A subject who has been ordered to receive inpatient or outpatient treatment pursuant to tribal law may be provided treatment while being retained in emergency protective custody and pending admission of the subject for treatment pursuant to such order.

Source: Laws 1976, LB 806, § 49; Laws 1988, LB 257, § 4; Laws 1996, LB 1044, § 967; Laws 1996, LB 1155, § 103; R.S.1943, (1999), § 83-1039; Laws 2004, LB 1083, § 46; Laws 2024, LB1288, § 17.
Operative date October 1, 2024.

71-929 Mental health board; execution of warrants; costs; procedure; subject domiciled in Indian country; transportation to treatment facility; reimbursement.

(1) If a mental health board issues a warrant for the admission or return of a subject to a treatment facility and funds to pay the expenses thereof are needed in advance, the board shall estimate the probable expense of conveying the subject to the treatment facility, including the cost of any assistance that might be required, and shall submit such estimate to the county clerk of the county in which such person is located. The county clerk shall certify the estimate and shall issue an order on the county treasurer in favor of the sheriff or other person entrusted with the execution of the warrant.

(2) The sheriff or other person executing the warrant shall include in his or her return a statement of expenses actually incurred, including any excess or deficiency. Any excess from the amount advanced for such expenses under subsection (1) of this section shall be paid to the county treasurer, taking his or

her receipt therefor, and any deficiency shall be obtained by filing a claim with the county board. If no funds are advanced, the expenses shall be certified on the warrant and paid when returned.

(3) The sheriff shall be reimbursed for mileage at the rate provided in section 33-117 for conveying a subject to a treatment facility under this section. For other services performed under the Nebraska Mental Health Commitment Act, the sheriff shall receive the same fees as for like services in other cases.

(4) Except as provided in subsection (5) of this section, all compensation and expenses provided for in this section shall be allowed and paid out of the treasury of the county by the county board.

(5)(a) In the case of a subject domiciled within Indian country who is taken into emergency protective custody under tribal law, sheriffs and other law enforcement officers of the State of Nebraska and its political subdivisions may transport such a subject to a treatment facility, whether inside or outside of Indian country.

(b) The sheriff or other law enforcement agency may enter into a contract with a tribe for reimbursement for:

(i) Reasonable costs incurred in conveying a subject to a treatment facility under this subsection; and

(ii) Other services performed for a tribe under the Nebraska Mental Health Commitment Act or under the equivalent law of the tribe at a rate comparable to the rate for such services in other cases.

Source: Laws 2004, LB 1083, § 49; Laws 2024, LB1288, § 18.
Operative date October 1, 2024.

71-936 Regional center or treatment facility; administrator; discharge of involuntary patient; notice.

When the administrator of any regional center or treatment facility for the treatment of persons who are mentally ill or substance dependent determines that any involuntary patient in such facility may be safely and properly discharged or placed on convalescent leave, the administrator of such regional center or treatment facility shall immediately notify the mental health board of the judicial district from which such patient was committed. In the case of a subject who is domiciled in Indian country and committed for treatment as provided in section 71-964, such administrator shall immediately notify the tribal court from which such patient was committed.

Source: Laws 1967, c. 251, § 16, p. 670; Laws 1981, LB 95, § 4; R.S.1943, (1999), § 83-340.01; Laws 2004, LB 1083, § 56; Laws 2024, LB1288, § 19.
Operative date October 1, 2024.

71-937 Notice of release; mental health board; hearing; tribal court.

(1) A mental health board shall be notified in writing of the release by the treatment facility of any individual committed by the mental health board. Such notice shall immediately be forwarded to the county attorney. The mental health board shall, upon the motion of the county attorney, or may upon its own motion, conduct a hearing to determine whether the individual is mentally ill and dangerous and consequently not a proper subject for release. Such hearing shall be conducted in accordance with the procedures established for

hearings under the Nebraska Mental Health Commitment Act. The subject of such hearing shall be accorded all rights guaranteed to the subject of a petition under the act.

(2) In the case of a subject who is domiciled in Indian country and committed for treatment as provided in section 71-964, the tribal court shall be notified in writing of the release by the treatment facility of any such subject committed by the tribal court.

Source: Laws 1981, LB 95, § 26; Laws 2003, LB 724, § 10; R.S.Supp.,2003, § 83-1079; Laws 2004, LB 1083, § 57; Laws 2024, LB1288, § 20.
Operative date October 1, 2024.

71-939 Escape from treatment facility or program; notification required; warrant; execution; peace officer; powers.

(1)(a) When any person receiving treatment at a treatment facility or program for persons with mental illness or substance dependence pursuant to an order of a court or mental health board is absent without authorization from such treatment facility or program, the administrator or program director of such treatment facility or program shall immediately notify the Nebraska State Patrol and the court or clerk of the mental health board of the judicial district from which such person was committed.

(b) The clerk shall issue the warrant of the board directed to the sheriff of the county for the arrest and detention of such person. Such warrant may be executed by the sheriff or any other peace officer.

(2)(a) When any person receiving treatment at a treatment facility or program for persons with mental illness or substance dependence pursuant to an order of a tribal court as provided in section 71-964 is absent without authorization from such treatment facility or program, the administrator or program director of such treatment facility or program shall immediately notify the Nebraska State Patrol and the appropriate tribal prosecutor or official.

(b) The appropriate tribal official may issue a warrant directed to a peace officer or sheriff of any county for the arrest and detention of such person. Such warrant may be executed by the sheriff or any other peace officer.

(3) The notification required by subdivision (1)(a) or (2)(a) of this section shall include the person's name and description and a determination by a psychiatrist, clinical director, administrator, or program director as to whether the person is believed to be currently dangerous to others.

(4) Pending the issuance of such warrant, any peace officer may seize and detain such person when the peace officer has probable cause to believe that the person is reported to be absent without authorization as described in this section. Such person shall be returned to the treatment facility or program or shall be taken to a facility as described in section 71-919 until he or she can be returned to such treatment facility or program.

Source: Laws 1969, c. 215, § 10, p. 835; Laws 1976, LB 806, § 19; R.S.1943, (1994), § 83-308.02; Laws 1996, LB 1155, § 112; R.S. 1943, (1999), § 83-1071; Laws 2004, LB 1083, § 59; Laws 2024, LB1288, § 21.
Operative date October 1, 2024.

71-958 Qualified mental health professional; provide medical treatment to subject; when.

Any qualified mental health professional, upon being authorized by the administrator of the treatment facility having custody of the subject, may provide appropriate medical treatment for the subject while in custody, except that a subject shall not be subjected to such quantities of medication or other treatment within such period of time prior to any hearing held under the Nebraska Mental Health Commitment Act or the Sex Offender Commitment Act or, for a subject who is domiciled in Indian country and committed for treatment as provided in section 71-964, a hearing held under the equivalent tribal law, as will substantially impair his or her ability to assist in his or her defense at such hearing.

Source: Laws 1976, LB 806, § 72; Laws 2000, LB 884, § 19; R.S.Supp.,2002, § 83-1062; Laws 2004, LB 1083, § 78; Laws 2006, LB 1199, § 49; Laws 2024, LB1288, § 22.
Operative date October 1, 2024.

Cross References

Mistreatment of mentally ill person, penalty, see section 83-356.
Sex Offender Commitment Act, see section 71-1201.

71-961 Subject's records; confidential; exceptions.

(1) All records kept on any subject shall remain confidential except as otherwise provided by law. Such records shall be accessible to (a) the subject, except as otherwise provided in subsection (2) of this section, (b) the subject's legal counsel, (c) the subject's guardian or conservator, if any, (d) the mental health board having jurisdiction over the subject, (e) persons authorized by an order of a judge or court, (f) persons authorized by written permission of the subject, (g) agents or employees of the Department of Health and Human Services upon delivery of a subpoena from the department in connection with a licensing or licensure investigation by the department, (h) individuals authorized to receive notice of the release of a sex offender pursuant to section 83-174, (i) the Nebraska State Patrol or the department pursuant to section 69-2409.01, (j) the Division of Parole Supervision if the subject meets the requirements for lifetime community supervision pursuant to section 83-174.03, and (k) any tribal court having jurisdiction over a subject who is domiciled in Indian country and committed for treatment as provided in section 71-964.

(2) Upon application by the county attorney or by the administrator of the treatment facility where the subject is in custody and upon a showing of good cause therefor, a judge of the district court of the county where the mental health board proceedings were held or of the county where the treatment facility is located may order that the records not be made available to the subject if, in the judgment of the court, the availability of such records to the subject will adversely affect his or her mental illness or personality disorder and the treatment thereof.

(3) When a subject is absent without authorization from a treatment facility or program described in section 71-939 or 71-1223 and is considered to be dangerous to others, the subject's name and description and a statement that the subject is believed to be considered dangerous to others may be disclosed in

order to aid in the subject's apprehension and to warn the public of such danger.

Source: Laws 1976, LB 806, § 78; Laws 1996, LB 1055, § 17; Laws 1996, LB 1155, § 111; Laws 1997, LB 307, § 230; R.S.1943, (1999), § 83-1068; Laws 2004, LB 1083, § 81; Laws 2006, LB 1199, § 52; Laws 2007, LB296, § 463; Laws 2018, LB841, § 13; Laws 2024, LB1288, § 23.
Operative date October 1, 2024.

71-964 Subject domiciled in Indian country; state recognition of tribal orders; commitment to treatment facility; procedure.

(1) With respect to a subject domiciled in Indian country, the State of Nebraska recognizes tribal hold orders, commitment orders, and emergency protective custody orders to the same extent as those initiated by any county in the state or as otherwise provided in the Nebraska Mental Health Commitment Act. This recognition applies only for purposes of treatment of the subject's mental illness or substance dependence, including, but not limited to, commitment to and acceptance for treatment at a regional center or any other treatment facility.

(2) If a tribal court finds that a subject domiciled within Indian country is mentally ill and dangerous pursuant to tribal law, such tribal court may order the subject committed to a treatment facility. Such order shall conform to subsection (3) of this section.

(3) The tribal court shall issue a warrant authorizing the administrator of such treatment facility to receive and keep the subject as a patient. The warrant shall state the findings of the tribal court and the legal settlement of the subject, if known, or any available information relating thereto. Such warrant shall shield every official and employee of the treatment facility against all liability to prosecution of any kind on account of the reception and detention of the subject if the detention is otherwise in accordance with law and policies of the treatment facility.

(4) In the case of a subject domiciled within Indian country in Nebraska who is committed for treatment under tribal law as provided in this section, the tribe shall make arrangements for payment of the cost of such treatment services.

(5) This section and the changes made to the Nebraska Mental Health Commitment Act by Laws 2024, LB1288, shall not be construed to affect the jurisdiction of tribal courts or to regulate internal proceedings of tribes or matters of tribal law. The purpose of this section and such changes is to facilitate the treatment and placement of subjects domiciled in Indian country in treatment facilities not operated by tribes.

Source: Laws 2024, LB1288, § 15.
Operative date October 1, 2024.

ARTICLE 10

STATE ANATOMICAL BOARD, DISPOSAL OF DEAD BODIES

Section
71-1001. State Anatomical Board; members; powers and duties; State Anatomical Board Cash Fund; created; use; investment.

Section
71-1002. Repealed. Laws 2019, LB559, § 6.
71-1003. Board; dead human bodies; distribution.
71-1004. Board; dead human bodies; transportation.
71-1005. Repealed. Laws 2019, LB559, § 6.
71-1006. Repealed. Laws 2019, LB559, § 6.
71-1007. Board; purpose.

71-1001 State Anatomical Board; members; powers and duties; State Anatomical Board Cash Fund; created; use; investment.

(1) The heads of the anatomy departments of the medical schools and colleges of this state, one professor of anatomy appointed by the head of the anatomy department from each medical school or college of this state, one professor of anatomy appointed from each dental school or college of this state, and one layperson appointed by the Department of Health and Human Services shall constitute the State Anatomical Board of the State of Nebraska for the distribution, delivery, and use of certain dead human bodies, described in section 71-4834, to and among such schools, colleges, and persons as are entitled thereto under such section.

(2) The board shall have power to (a) establish rules and regulations for its government and for the collection, storage, and distribution of dead human bodies for anatomical purposes and (b) appoint and remove its officers and agents.

(3) The board shall keep minutes of its meetings and shall cause a record to be kept of all of its transactions, of bodies received and distributed by it, and of the school, college, or person receiving every such body. The records of the board shall be open at all times to the inspection of each member of the board and to every county attorney within this state.

(4) There is hereby created the State Anatomical Board Cash Fund. The fund shall be under the University of Nebraska Medical Center for accounting and budgeting purposes only. The fund shall consist of revenue collected by the State Anatomical Board and shall only be used to pay for costs of operating the board. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1929, c. 158, § 1, p. 551; C.S.1929, § 71-2801; R.S.1943, § 71-1001; Laws 1969, c. 570, § 1, p. 2314; Laws 1978, LB 583, § 1; Laws 1979, LB 98, § 2; Laws 1992, LB 860, § 2; Laws 1996, LB 1044, § 556; Laws 2007, LB296, § 464; Laws 2017, LB331, § 36; Laws 2019, LB559, § 1.

Cross References

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

71-1002 Repealed. Laws 2019, LB559, § 6.

71-1003 Board; dead human bodies; distribution.

The State Anatomical Board, or its duly authorized officers or agents, may take and receive dead bodies as provided in section 71-4834. The board shall distribute the bodies among the medical, chiropractic, osteopathic, and dental schools and colleges, and physicians and surgeons designated by the board, under such rules and regulations as may be adopted and promulgated by it. The

number of bodies so distributed to such schools and colleges shall be in proportion to the number of students matriculated in the first-year work of such schools and colleges. If there are more bodies than are required by such schools and colleges, the board, or its duly authorized officers, may, from time to time, designate physicians and surgeons to receive such bodies, and the number of bodies they may receive, if such physicians and surgeons have complied with all rules and regulations which the board may adopt and promulgate for such disposition. All expenses incurred by the board in receiving, caring for, and delivering any such body shall be paid by those receiving such body.

Source: Laws 1929, c. 158, § 3, p. 552; C.S.1929, § 71-2803; R.S.1943, § 71-1003; Laws 1971, LB 268, § 2; Laws 2019, LB559, § 2.

Cross References

Board of Funeral Directing and Embalming, distribution to and use by, see section 38-1417.

71-1004 Board; dead human bodies; transportation.

The State Anatomical Board may employ a carrier or carriers for the transportation of bodies, referred to in sections 71-1001 to 71-1007, and may transport such bodies, or order them to be transported, under such rules and regulations as it may adopt and promulgate.

Source: Laws 1929, c. 158, § 4, p. 553; C.S.1929, § 71-2804; R.S.1943, § 71-1004; Laws 2019, LB559, § 3.

71-1005 Repealed. Laws 2019, LB559, § 6.

71-1006 Repealed. Laws 2019, LB559, § 6.

71-1007 Board; purpose.

The purpose of the State Anatomical Board is to:

(1) Provide for the orderly receipt, maintenance, distribution, and use of human bodies used for medical education and research;

(2) Ensure that proper and considerate care is given to human bodies used for medical education and research; and

(3) Ensure that an orderly and equitable procedure is used for the allocation of human bodies to colleges and universities in Nebraska which provide medical education and research.

Source: Laws 1979, LB 98, § 1; Laws 2019, LB559, § 4.

ARTICLE 12

SEX OFFENDER COMMITMENT AND TREATMENT

(a) SEX OFFENDER COMMITMENT ACT

(a) SEX OFFENDER COMMITMENT ACT

71-1201 Act, how cited.

Sections 71-1201 to 71-1226.01 shall be known and may be cited as the Sex Offender Commitment Act.

Source: Laws 2006, LB 1199, § 57; Laws 2024, LB1288, § 24.
Operative date October 1, 2024.

71-1203 Terms, defined.

For purposes of the Sex Offender Commitment Act:

(1) The definitions found in sections 71-904.02, 71-905, 71-906, 71-907, 71-910, 71-911, 71-914.01, 71-914.02, and 83-174.01 apply;

(2) Administrator means the administrator or other chief administrative officer of a treatment facility or his or her designee;

(3) Outpatient treatment means treatment ordered by a mental health board directing a subject to comply with specified outpatient treatment requirements, including, but not limited to, (a) taking prescribed medication, (b) reporting to a mental health professional or treatment facility for treatment or for monitoring of the subject's condition, or (c) participating in individual or group therapy or educational, rehabilitation, residential, or vocational programs;

(4)(a) Subject means any person concerning whom (i) a certificate has been filed under section 71-1204, (ii) a certificate has been filed under section 71-919 and such person is held pursuant to subdivision (2)(b) of section 71-919, or (iii) a petition has been filed under the Sex Offender Commitment Act.

(b) Subject also includes a person who is a member of a tribe or eligible for membership in a tribe, who is domiciled within Indian country in Nebraska, and concerning whom sex offender involuntary commitment or emergency protective custody proceedings have been initiated under tribal law. Subject does not include any person under eighteen years of age unless such person is an emancipated minor; and

(5) Treatment facility means a facility which provides services for persons who are dangerous sex offenders.

Source: Laws 2006, LB 1199, § 59; Laws 2024, LB1288, § 25.
Operative date October 1, 2024.

71-1204 Emergency protective custody; dangerous sex offender determination; written certificate; contents.

(1) Except as provided in subsection (3) of this section, a mental health professional who, upon evaluation of a person admitted for emergency protective custody under section 71-919, determines that such person is a dangerous sex offender shall execute a written certificate as provided in subsection (2) of

this section not later than twenty-four hours after the completion of such evaluation. A copy of such certificate shall be immediately forwarded to the county attorney.

(2) The certificate shall be in writing and shall include the following information:

(a) The subject's name and address, if known;

(b) The name and address of the subject's spouse, legal counsel, guardian or conservator, and next of kin, if known;

(c) The name and address of anyone providing psychiatric or other care or treatment to the subject, if known;

(d) The name and address of any other person who may have knowledge of the subject's mental illness or personality disorder who may be called as a witness at a mental health board hearing with respect to the subject, if known;

(e) The name and address of the medical facility in which the subject is being held for emergency protective custody and evaluation;

(f) The name and work address of the certifying mental health professional;

(g) A statement by the certifying mental health professional that he or she has evaluated the subject since the subject was admitted for emergency protective custody and evaluation; and

(h) A statement by the certifying mental health professional that, in his or her clinical opinion, the subject is a dangerous sex offender and the clinical basis for such opinion.

(3) In the case of a subject domiciled within Indian country who is taken into emergency protective custody by a law enforcement officer under tribal law, a mental health professional who, upon evaluation of such person, determines that such person is a dangerous sex offender shall execute appropriate written documentation in a format provided by the tribe not later than twenty-four hours after the completion of such evaluation. A copy of such certificate shall be immediately forwarded to the person designated by the tribe.

Source: Laws 2006, LB 1199, § 60; Laws 2024, LB1288, § 27.
Operative date October 1, 2024.

71-1206 Mental health board proceedings; commencement; petition; custody of subject; conditions; dismissal; when.

(1) Mental health board proceedings shall be deemed to have commenced upon the earlier of (a) the filing of a petition under section 71-1205 or (b) notification by the county attorney to the law enforcement officer who took the subject into emergency protective custody under section 71-919 or the administrator of the treatment facility having charge of the subject of the intention of the county attorney to file such petition. The county attorney shall file such petition as soon as reasonably practicable after such notification.

(2) A petition filed by the county attorney under section 71-1205 may contain a request for the emergency protective custody and evaluation of the subject prior to commencement of a mental health board hearing pursuant to such petition with respect to the subject. Upon receipt of such request and upon a finding of probable cause to believe that the subject is a dangerous sex offender as alleged in the petition, the court or chairperson of the mental health board may issue a warrant directing the sheriff to take custody of the subject. If the

subject is already in emergency protective custody under a certificate filed under section 71-919, a copy of such certificate shall be filed with the petition. The subject in such custody, including pursuant to tribal law as provided in section 71-1226.01, shall be held in an appropriate and available medical facility, jail, or Department of Correctional Services facility. A dangerous sex offender shall not be admitted to a medical facility for emergency protective custody unless a medical or psychiatric emergency exists requiring treatment not available at a jail or correctional facility.

(3)(a) Except as provided in subdivision (3)(b) of this section, each county shall make arrangements with appropriate facilities inside or outside the county for such purpose and shall pay the cost of the emergency protective custody of persons from such county in such facilities.

(b) For a subject domiciled within Indian country in Nebraska for whom emergency protective custody is initiated under tribal law, the tribe shall make arrangements with appropriate facilities inside or outside the tribe for such purpose and shall make arrangements for the payment of the cost of the emergency protective custody of persons from such tribe in such facilities.

(4) The petition and all subsequent pleadings and filings in the case shall be entitled In the Interest of _____, Alleged to be a Dangerous Sex Offender. The county attorney may dismiss the petition at any time prior to the commencement of the hearing of the mental health board under section 71-1208, and upon such motion by the county attorney, the mental health board shall dismiss the petition.

Source: Laws 2006, LB 1199, § 62; Laws 2024, LB1288, § 28.
Operative date October 1, 2024.

71-1210 Subject; custody pending entry of treatment order.

(1) At the conclusion of a mental health board hearing under section 71-1208 and prior to the entry of a treatment order by the board under section 71-1209, the board may (a) order that the subject be retained in custody until the entry of such order and the subject may be admitted for treatment pursuant to such order or (b) order the subject released from custody under such conditions as the board deems necessary and appropriate to prevent the harm described in subdivision (1) of section 83-174.01 and to assure the subject's appearance at a later disposition hearing by the board. A subject shall be retained in custody under this section at an appropriate and available medical facility, jail, or Department of Correctional Services facility. A dangerous sex offender shall not be admitted to a medical facility for emergency protective custody unless a medical or psychiatric emergency exists requiring treatment not available at a jail or correctional facility. Each county shall make arrangements with appropriate facilities inside or outside the county for such purpose and shall pay the cost of the emergency protective custody of persons from such county in such facilities.

(2) A subject who has been ordered to receive inpatient or outpatient treatment by a mental health board may be provided treatment while being retained in emergency protective custody and pending admission of the subject for treatment pursuant to such order.

(3)(a) In the case of a subject domiciled within Indian country who is taken into emergency protective custody by a law enforcement officer under tribal law, at the conclusion of a mental health hearing under tribal law and prior to

entry of a treatment order by the tribal court, the tribal court may order that the subject be:

(i) Retained in custody until entry of such order and the subject may be admitted for treatment pursuant to such order; or

(ii) Released from custody under such conditions as the tribal court deems necessary and appropriate to prevent harm comparable to that described in subdivision (1) of section 83-174.01 or the equivalent under tribal law and to assure the subject's appearance at a later disposition hearing. A subject shall be retained in custody under this section at an appropriate and available medical facility, jail, or Department of Correctional Services facility. A dangerous sex offender shall not be admitted to a medical facility for emergency protective custody unless a medical or psychiatric emergency exists requiring treatment not available at a jail or correctional facility.

(b) Each tribe shall make arrangements with appropriate medical facilities inside or outside the tribe for such purpose and shall pay the cost of the emergency protective custody of persons from such tribe in such facilities.

(c) A subject who has been ordered to receive inpatient or outpatient treatment pursuant to tribal law may be provided treatment while being retained in emergency protective custody and pending admission of the subject for treatment pursuant to such order.

Source: Laws 2006, LB 1199, § 66; Laws 2024, LB1288, § 29.
Operative date October 1, 2024.

71-1213 Mental health board; execution of warrants; costs; procedure; subject domiciled in Indian country; transportation to treatment facility; reimbursement.

(1) If a mental health board issues a warrant for the admission or return of a subject to a treatment facility and funds to pay the expenses thereof are needed in advance, the board shall estimate the probable expense of conveying the subject to the treatment facility, including the cost of any assistance that might be required, and shall submit such estimate to the county clerk of the county in which such person is located. The county clerk shall certify the estimate and shall issue an order on the county treasurer in favor of the sheriff or other person entrusted with the execution of the warrant.

(2) The sheriff or other person executing the warrant shall include in his or her return a statement of expenses actually incurred, including any excess or deficiency. Any excess from the amount advanced for such expenses under subsection (1) of this section shall be paid to the county treasurer, taking his or her receipt therefor, and any deficiency shall be obtained by filing a claim with the county board. If no funds are advanced, the expenses shall be certified on the warrant and paid when returned.

(3) The sheriff shall be reimbursed for mileage at the rate provided in section 33-117 for conveying a subject to a treatment facility under this section. For other services performed under the Sex Offender Commitment Act, the sheriff shall receive the same fees as for like services in other cases.

(4) Except as provided in subsection (5) of this section, all compensation and expenses provided for in this section shall be allowed and paid out of the treasury of the county by the county board.

(5)(a) In the case of a subject domiciled within Indian country who is taken into emergency protective custody under tribal law, sheriffs and other law enforcement officers of the State of Nebraska and its political subdivisions may transport such a subject to a treatment facility, whether inside or outside of Indian country.

(b) The sheriff or other law enforcement agency may enter into a contract with a tribe for reimbursement for:

(i) Reasonable costs incurred in conveying a subject to a treatment facility under this subsection; and

(ii) Other services performed for a tribe under the Sex Offender Commitment Act or under the equivalent law of the tribe at a rate comparable to the rate for such services in other cases.

Source: Laws 2006, LB 1199, § 69; Laws 2024, LB1288, § 30.
Operative date October 1, 2024.

71-1220 Regional center or treatment facility; administrator; discharge of involuntary patient; notice.

When the administrator of any regional center or treatment facility for the treatment of dangerous sex offenders determines that any involuntary patient in such facility may be safely and properly discharged or placed on convalescent leave, the administrator of such regional center or treatment facility shall immediately notify the mental health board of the judicial district from which such patient was committed. In the case of a subject who is domiciled in Indian country and committed for treatment as provided in section 71-1226.01, such administrator shall immediately notify the tribal court from which such patient was committed.

Source: Laws 2006, LB 1199, § 76; Laws 2024, LB1288, § 31.
Operative date October 1, 2024.

71-1221 Notice of release; mental health board; hearing; tribal court.

(1) A mental health board shall be notified in writing of the release by the treatment facility of any individual committed by the mental health board. Such notice shall immediately be forwarded to the county attorney. The mental health board shall, upon the motion of the county attorney, or may upon its own motion, conduct a hearing to determine whether the individual is a dangerous sex offender and consequently not a proper subject for release. Such hearing shall be conducted in accordance with the procedures established for hearings under the Sex Offender Commitment Act. The subject of such hearing shall be accorded all rights guaranteed to the subject of a petition under the act.

(2) In the case of a subject who is domiciled in Indian country and committed for treatment as provided in section 71-1226.01, the tribal court shall be notified in writing of the release by the treatment facility of any such subject committed by the tribal court.

Source: Laws 2006, LB 1199, § 77; Laws 2024, LB1288, § 32.
Operative date October 1, 2024.

71-1223 Escape from treatment facility or program; notification required; warrant; execution; peace officer; powers.

(1)(a) When any person receiving treatment at a treatment facility or program for dangerous sex offenders pursuant to an order of a court or mental health board is absent without authorization from such treatment facility or program, the administrator or program director of such treatment facility or program shall immediately notify the Nebraska State Patrol and the court or clerk of the mental health board of the judicial district from which such person was committed.

(b) The clerk shall issue the warrant of the board directed to the sheriff of the county for the arrest and detention of such person. Such warrant may be executed by the sheriff or any other peace officer.

(2)(a) When any person receiving treatment at a treatment facility or program for persons with mental illness pursuant to an order of a tribal court as provided in section 71-1226.01 is absent without authorization from such treatment facility or program, the administrator or program director of such treatment facility or program shall immediately notify the Nebraska State Patrol and the appropriate tribal prosecutor or official.

(b) The appropriate tribal official may issue a warrant directed to a peace officer or sheriff of any county for the arrest and detention of such person. Such warrant may be executed by the sheriff or any other peace officer.

(3) The notification required by subdivision (1)(a) or (2)(a) of this section shall include the person's name and description and a determination by a psychiatrist, clinical director, administrator, or program director as to whether the person is believed to be currently dangerous to others.

(4) Pending the issuance of such warrant, any peace officer may seize and detain such person when the peace officer has probable cause to believe that the person is reported to be absent without authorization as described in this section. Such person shall be returned to the treatment facility or program or shall be taken to a facility as described in section 71-919 until he or she can be returned to such treatment facility or program.

Source: Laws 2006, LB 1199, § 79; Laws 2024, LB1288, § 33.
Operative date October 1, 2024.

71-1226.01 Subject domiciled in Indian country; state recognition of tribal orders; rights of subject; commitment to treatment facility; procedure.

(1) With respect to a subject domiciled in Indian country, the State of Nebraska recognizes tribal hold orders, commitment orders, and emergency protective custody orders to the same extent as those initiated by any county in the state or as otherwise provided in the Sex Offender Commitment Act. This recognition applies only for purposes of treatment of the subject's mental illness, including, but not limited to, commitment to and acceptance for treatment at a regional center or any other treatment facility.

(2) A subject admitted to a state-operated treatment facility pursuant to this section has all the rights accorded by sections 71-943 to 71-960.

(3) For a subject admitted to a state-operated treatment facility pursuant to this section:

(a) The treatment facility shall file treatment reports with the Indian Health Service or the placing tribe within sixty days after commencement of the subject's stay at the treatment facility; and

(b) The treatment facility shall file a subsequent treatment report with the Indian Health Service or the placing tribe within six months after the subject's admission to the facility or prior to discharge, whichever comes first.

(4) If the tribal court finds a subject living within Indian country to be a dangerous sex offender and the tribal court orders the subject committed to receive inpatient treatment at a treatment facility, the tribal court shall issue a warrant authorizing the administrator of such treatment facility to receive and keep the subject as a patient. The warrant shall state the findings of the tribal court and the legal settlement of the subject, if known, or any available information relating thereto. Such warrant shall shield every official and employee of the treatment facility against all liability to prosecution of any kind on account of the reception and detention of the subject if the detention is otherwise in accordance with law and policies of the treatment facility.

(5) In the case of a subject domiciled within Indian country in Nebraska who is committed for treatment under tribal law as provided in this section, the tribe shall make arrangements for payment of the cost of such treatment services.

(6) This section and the changes made to the Sex Offender Commitment Act by Laws 2024, LB1288, shall not be construed to affect the jurisdiction of tribal courts or to regulate internal proceedings of tribes or matters of tribal law. The purpose of this section and such changes is to facilitate the treatment and placement of subjects domiciled in Indian country in treatment facilities not operated by tribes.

Source: Laws 2024, LB1288, § 26.
Operative date October 1, 2024.

ARTICLE 15

HOUSING

(e) NEBRASKA HOUSING AGENCY ACT

Section

(e) NEBRASKA HOUSING AGENCY ACT

71-1572 Act, how cited.

Sections 71-1572 to 71-15,170 shall be known and may be cited as the Nebraska Housing Agency Act.

Source: Laws 1999, LB 105, § 1; Laws 2024, LB840, § 6.
Operative date July 19, 2024.

71-1590 Taxation of property; Indian housing authorities; payments in lieu of taxes.

(1) The real and personal property of a local housing agency and any controlled affiliate thereof used solely (a) for the administrative offices of the housing agency or controlled affiliate thereof, (b) to provide housing for persons of eligible income and qualifying tenants, and (c) for appurtenances related to such housing shall be exempt from all taxes and special assessments of any city, any county, the state, or any public agency thereof, including without limitation any special taxing district or similar political subdivision. All other real and personal property of the housing agency or controlled affiliate thereof shall be deemed to not be used for a public purpose for purposes of section 77-202 and shall be taxable as provided in sections 77-201 and 77-202.11. Property owned jointly by a housing agency or its controlled affiliates with other nongovernmental persons or entities shall be exempt from such taxes and assessments to the extent the property is used solely to provide housing for persons of eligible income and qualifying tenants. Such housing agency or controlled affiliate shall provide notice of the exemption to the county assessor of the county in which the property is located on or before December 31 of the year preceding the year for which the exemption is first sought. Nothing in this section shall be deemed to preclude a housing agency and its controlled affiliates from entering into an agreement for the payment of all or any portion of any special assessments which might otherwise be assessed except for the exemption created by this section.

(2) A housing agency may agree to make payments in lieu of all taxes or special assessments to the county within whose territorial jurisdiction any development of such housing agency or its controlled affiliates is located, for improvements, services, and facilities furnished by the city, county, or other public agencies, for the benefit of such development. Nothing contained in this section shall be deemed to require such an agreement by a local housing agency, and in no event shall the amounts payable by the housing agency exceed the amounts which, except for the exemption provided in this section, would otherwise be payable under regular taxes and special assessments for similar properties referred to in subsection (1) of this section. All payments in lieu of taxes made by any such housing agency shall be distributed by the county to all public agencies in such proportion that each public agency shall receive from the total payment the same proportion as its property tax rate bears to the total property tax which would be levied by each public agency against property of the housing agency if the same were not exempt from taxation.

(3) The property of Indian housing authorities created under Indian law shall be exempt from all taxes and special assessments of the state or any city, village, or public agency thereof. In lieu of such taxes or special assessments, an Indian housing authority may agree to make payments to any city, village, or public agency for improvements, services, or facilities furnished by such city, village, or public agency for the benefit of a housing project owned by the housing authority, but in no event shall such payments exceed the estimated cost to such city, village, or public agency of the improvements, services, or facilities to be so furnished. All payments made by any such housing authority in lieu of taxes, whether such payments are contractually stipulated or gratuitous voluntary payments, shall be distributed among the cities, villages, or public agencies within which the housing project is located, in such proportion

that each city, village, or public agency shall receive from the total payment the same proportion as its ad valorem tax rate bears to the total ad valorem tax rate which would be levied by each city, village, or public agency against the properties of the Indian housing authority if the same were not exempt from taxation. For purposes of this section, (a) Indian housing authority means an entity that is authorized by federal law to engage or assist in the development or operation of low-income housing for Indians and which is established by the exercise of the power of self-government of an Indian tribe and (b) Indian law means the code of an Indian tribe recognized as eligible for services provided to Indians by the United States Secretary of the Interior.

Source: Laws 1999, LB 105, § 19; Laws 2000, LB 1107A, § 1; Laws 2024, LB1326, § 1.
Effective date July 19, 2024.

71-1594 Local housing agency; commissioners; appointment.

(1) When the governing body of any city or county, as the case may be, has determined by resolution or ordinance as set forth in section 71-1578 that it is expedient to establish a local housing agency:

(a) In the case of cities other than cities of the metropolitan class, the chief elected official of such city shall appoint at least five and not more than seven adult persons;

(b) In the case of cities of the metropolitan class, the chief elected official of such city shall appoint nine adult persons; and

(c) In the case of counties, the county board shall appoint at least five and not more than seven adult persons.

(2) All such persons shall be residents of the area of operation of the agency. If the selection of one or more resident commissioners is required under section 71-15,104, any such persons shall be resident commissioners selected as provided in such section. Such persons so appointed shall constitute the governing body of the local housing agency and shall be called commissioners.

Source: Laws 1999, LB 105, § 23; Laws 2018, LB399, § 1; Laws 2024, LB840, § 7.
Operative date July 19, 2024.

71-1598 Commissioners; terms.

(1) In the case of local housing agencies, the commissioners who are first appointed shall be designated to serve for terms of one, two, three, four, and five years, respectively, from the date of their appointment, but thereafter commissioners shall be appointed for terms of five years; and

(2) In the case of housing agencies when the appointing authority has elected to have more than five commissioners as provided in section 71-1594 or has elected to add one or two commissioners to a presently existing housing agency, the sixth commissioner who is first appointed shall be designated to serve for a term of four years and the additional commissioners who are first appointed shall be designated to serve for terms of five years from the date of appointment. Thereafter the commissioners shall be appointed for terms of five years.

Source: Laws 1999, LB 105, § 27; Laws 2018, LB399, § 2; Laws 2024, LB840, § 8.
Operative date July 19, 2024.

71-1599 Commissioners; vacancies.

All vacancies shall be filled for the unexpired terms. A vacancy shall be filled not later than six months after the date of such vacancy by the same authority and in the same manner as the previous commissioner whose position has become vacant was appointed.

Source: Laws 1999, LB 105, § 28; Laws 2020, LB1003, § 185.

71-15,104 Resident commissioner; selection; procedure.

(1)(a) Except as provided in subsection (4) of this section, each housing agency created under the Nebraska Housing Agency Act shall include among the commissioners constituting the governing body of such local housing agency at least one commissioner who shall be known as a resident commissioner.

(b) For purposes of this section, resident commissioner means a member of the governing board of a local housing agency whose eligibility for membership is based upon such person's status as a recipient of direct assistance from the agency except as otherwise provided in this section.

(2) No later than thirty days after any vacancy in the office of a resident commissioner, the local housing agency shall notify any resident advisory board or other resident organization and all adult persons directly assisted by such agency that the position of resident commissioner is open and that if any such person is interested in being considered as a candidate for the position, such person should notify the local housing agency within thirty days after such notice of the person's willingness to be considered and to serve in the position.

(3) For a housing agency other than a housing agency established by a city of the metropolitan class, the resident commissioner shall be selected, either by an election or by appointment, as follows:

(a) The housing agency may hold an election, allowing each adult direct recipient of its assistance to vote by secret written ballot, at such time and place, or through the mail, as such agency may choose, all to be conducted within thirty days after the receipt of names of candidates as provided in subsection (2) of this section. The candidate receiving the most votes shall serve as resident commissioner;

(b) If the housing agency decides not to hold an election, the names of all persons interested who have notified the housing agency as provided in subsection (2) of this section shall be forwarded to the mayor or to the county board, as the case may be, and the resident commissioner shall be appointed from the list of names, as provided in section 71-1594, subject to confirmation as provided in section 71-1596. In the case of a regional housing agency, the regional board of commissioners shall make such an appointment from among the persons interested in such position; and

(c) If no qualified person has submitted to the local housing agency his or her name as a candidate for the position, then the mayor, county board, or regional housing agency, as the case may be, shall fill the position from among all adult persons receiving direct assistance from the agency subject to confirmation, in the case of cities and counties, pursuant to section 71-1596. If a local housing agency owns fewer than three hundred low-income housing units which, for purposes of this subdivision, does not include units of housing occupied by persons assisted under any rental assistance program and the housing agency

has received no notification of interest in serving as a resident commissioner as provided in this section, no resident commissioner shall be required to be selected.

(4)(a) For a housing agency established by a city of the metropolitan class, three resident commissioners shall be selected by appointment. The mayor shall fill the positions from among all adult persons receiving direct assistance from the agency subject to confirmation pursuant to section 71-1596. At least one of the persons appointed pursuant to this subsection shall be a resident of a public housing facility that has at least fifty units. If the local housing agency owns fewer than three hundred low-income housing units which, for purposes of this subdivision, does not include units of housing occupied by persons assisted under any rental assistance program, and if the housing agency has received no notification of interest in serving as a resident commissioner, no resident commissioner shall be required to be selected.

(b) A resident commissioner of the housing authority who is required by this section to be a recipient of direct assistance of the housing agency:

(i) Shall not be construed to have a direct or indirect interest in (A) any housing agency project, (B) any property that is or will be included in any such project, or (C) any housing agency contract for materials or services; and

(ii) Who ceases to meet such requirement may continue to serve until the expiration of his or her current term but shall not be reappointed.

Source: Laws 1999, LB 105, § 33; Laws 2018, LB399, § 6; Laws 2024, LB840, § 9.
Operative date July 19, 2024.

71-15,106 Officers; executive director; employees; city of the metropolitan class; information; meetings; requirements.

(1)(a) The commissioners of each housing agency shall elect a chairperson and vice-chairperson from among the commissioners and shall have power to employ an executive director who shall serve as ex officio secretary of the local housing agency.

(b) Each agency may employ legal counsel or engage the attorney of the city or county served by the agency for such legal services as the agency may require unless such employment or engagement will result in an ethical or legal violation. Each agency may employ accountants, appraisers, technical experts, and such other officers, agents, and employees as the agency may require and shall determine their qualifications, duties, compensation, and terms of office. A local housing agency may delegate to one or more of its agents or employees such powers and duties as it deems proper.

(2) A housing agency for a city of the metropolitan class shall make all contact information for senior leadership and commissioners publicly available at the agency's offices and on the agency's website. Such contact information shall include telephone numbers and email addresses for each person covered under this subsection.

(3) Prior to any agency board meeting, a housing agency for a city of the metropolitan class shall post all meeting notices and agendas in common spaces at all agency public locations. Such notices and agendas may be posted as printed material or by means of video display on a television or video monitor located in such common spaces. Prior notice of any board meeting

shall also be made available at the agency's offices and on the agency's website. Opportunity for public comment shall be made at all board meetings, and such public comment shall not be limited only to agenda items.

(4) All commissioners of a housing agency in a city of the metropolitan class shall hold one regular board meeting at least once every ninety days at a public housing facility that has at least one hundred units.

Source: Laws 1999, LB 105, § 35; Laws 2024, LB840, § 10.
Operative date July 19, 2024.

71-15,139 Termination of tenancy; procedure; recovery of possession of premises; when.

(1) A housing agency may adopt and promulgate rules and regulations consistent with federal and state laws, rules, and regulations and the purposes of the Nebraska Housing Agency Act concerning the termination of tenancy.

(2)(a) If a housing agency seeks to terminate a resident's tenancy, the housing agency shall serve a written notice of termination on such resident setting out the reasons for such termination.

(b) If the premises is located in a city of the metropolitan class, the notice shall contain a statement in substantially the following form: ''You have the right to representation by an attorney. This right applies to eviction proceedings before a court and in any hearing to contest termination of your tenancy before the [name of housing agency]. An attorney will be appointed to represent you, at no cost to you, at the beginning of such proceedings or hearing.''.

(c) The resident shall be given the opportunity to contest the termination in an appropriate hearing by the housing agency. A resident may contest the termination in any suit filed by the housing agency in any court for recovery of possession of the premises.

(3) Such notice may provide that if the resident fails to (a) pay his or her rent or comply with any covenant or condition of his or her lease or the rules and regulations of such housing agency, (b) cure a violation or default thereof as specified in such notice, or (c) follow the procedure for a hearing as set forth in the notice, all within the time or times set forth in such notice, the tenancy shall be automatically terminated and no other notice or notices are required for such termination or the intent to terminate the tenancy, and upon such termination, and without any notice other than as provided for in this section, a housing agency may file suit against any resident for recovery of possession of the premises and may recover the same as provided by law.

(4) A housing agency may, after three days' written notice of termination and without an administrative hearing, file suit and have judgment against any resident for recovery of possession of the premises if the resident, any member of the resident's household, any guest, or any other person who is under the resident's control or who is present upon the premises with the resident's consent, engages in any drug-related or violent criminal activity on the premises, or engages in any activity that threatens the health, safety, or peaceful enjoyment of other residents or housing agency employees. Such activity shall include, but not be limited to, any of the following activities of the resident, or the activities of any other person on the premises with the consent of the resident: (a) Physical assault or the threat of physical assault; (b) illegal use of a firearm or other weapon or the threat to use an illegal firearm or other

weapon; or (c) possession of a controlled substance by the resident or any other person on the premises with the consent of the resident, if the resident knew or should have known of the possession of such controlled substance by such other person, unless such controlled substance was obtained directly from, or pursuant to, a medical order issued by a practitioner authorized to prescribe, as defined in section 28-401, while acting in the course of his or her professional practice.

(5)(a) This subsection only applies if the premises is located in a city of the metropolitan class.

(b) If the resident requests a hearing by the housing agency to contest the termination, counsel shall be appointed for the resident prior to such hearing unless the resident is already represented by counsel. The housing agency shall file an application with the county court or district court of the county in which the premises is located. The court shall appoint counsel to represent the resident in the hearing and in any related action for recovery of possession of the premises.

(c) If the resident does not request a hearing by the housing agency to contest the termination and the housing agency files an action for recovery of possession of the premises, the court shall appoint counsel for the resident unless the resident is already represented by counsel.

(d) The resident may waive court-appointed counsel or retain the resident's own counsel. The cost of any court-appointed counsel shall be paid by the housing agency.

(e) Counsel appointed pursuant to this section shall apply to the court before which the proceedings were had for fees for services performed.

(f) In the case of a hearing to contest a termination for which there are no related court proceedings, counsel shall apply to the county court or district court of the county in which the premises is located.

(g) The court, upon hearing the application, shall fix reasonable fees. The housing agency shall allow the account, bill, or claim presented by any attorney for such services in the amount determined by the court. No such account, bill, or claim shall be allowed by the housing agency until the amount has been determined by the court.

(h) A housing agency shall not assess a fee against any resident for legal services provided under this subsection or otherwise attempt to recoup such costs from such resident.

Source: Laws 1999, LB 105, § 68; Laws 2001, LB 398, § 68; Laws 2024, LB840, § 13.
Operative date July 1, 2025.

71-15,150 Conflict of interest; prohibited acts.

(1) Except as otherwise permitted under the provisions of sections 71-15,149 to 71-15,157, no housing agency official shall own or hold an interest in any contract or property or engage in any business, transaction, or professional or personal activity that would:

(a) Be or appear to be in conflict with such official's duties relating to the housing agency served by or subject to the authority of such official;

(b) Secure or appear to secure unwarranted privileges or advantages for such official or others; or

(c) Prejudice or appear to prejudice such official's independence of judgment in the exercise of his or her official duties relating to the housing agency served by or subject to the authority of such official.

(2) No housing agency official shall act in an official capacity in any matter in which such official has a direct or indirect financial or personal involvement. No housing agency official shall use his or her public office or employment to secure financial gain to such official.

(3) Except as otherwise permitted by the provisions of sections 71-15,149 to 71-15,157, a housing agency shall not, with respect to any housing agency official, during his or her tenure or for a period of one year thereafter, either:

(a) Award or agree to award any contract to such housing agency official or other local government official;

(b) Purchase or agree to purchase any real property from such housing agency official or other local government official, or sell or agree to sell any real property to such housing agency official or other local government official;

(c) Permit any housing agency official to represent, appear, or negotiate on behalf of any other party before the housing agency's board of commissioners or with its other officials or employees;

(d) Employ any commissioner for compensation or otherwise;

(e) Employ any local government official, or any member of such official's immediate family, if such official's duties involve the exercise of authority relating to the housing agency; or

(f) Employ for compensation any member of the immediate family of a housing agency official, if such employment creates the relationship of direct supervisor or subordinate between family members or otherwise creates a real or apparent conflict of interest.

(4) No commissioner of a housing agency for a city of the metropolitan class shall have an ownership interest in, or be employed by, any entity doing business with such housing agency.

(5) The ownership of less than five percent of the outstanding shares of a corporation shall not constitute an interest within the meaning of this section.

Source: Laws 1999, LB 105, § 79; Laws 2024, LB840, § 14.
Operative date July 19, 2024.

71-15,169 Complaint process; city of the metropolitan class.

(1) A housing agency for a city of the metropolitan class shall establish a complaint process. Any resident of an agency property may file a complaint by any of the following means:

(a) A complaint form filled out online on the housing agency's website;

(b) A telephone call made to a housing agency; or

(c) A complaint form filled out in person. Such complaint form shall be made available at designated offices.

(2) The complaint form, whether completed by the complainant online, in-person, or by a housing agency employee answering a telephone call complaint, shall include the following information:

(a) The name of the complainant;

(b) Contact information including the telephone number, email address, and mailing address of the complainant;

(c) The nature of the complaint, including, but not limited to, whether a maintenance issue, a discrimination claim, or a rent dispute; and

(d) Relevant dates.

(3) Notice of the right to file a complaint up until the time of an eviction shall be included on both the online and printed complaint form.

(4) The complainant may provide any supporting documentation with the complaint, including, but not limited to, photographs or digital images, receipts, and correspondence.

(5) Upon receipt of the complaint, the agency shall send an acknowledgment to the complainant by email or regular first-class mail within five business days. Each complaint shall be assigned a unique case number for tracking purposes.

(6) The agency shall conduct a thorough investigation of the complaint, including, but not limited to, interviewing relevant parties, inspecting property and relevant documents, and reviewing applicable laws and regulations.

(7) The housing authority shall resolve the complaint within fourteen days after receipt of the complaint. If additional time is required, the complainant shall be notified and provided with an updated timeline. Throughout the investigation, the agency shall provide the complainant with regular updates on the status of the complaint by email, telephone, or regular first-class mail.

(8) The agency shall notify the complainant of the resolution of the complaint in writing within five business days after such resolution. The notice shall include (a) a summary of the investigation findings, (b) the action taken to address the complaint, (c) any remedies or compensation provided, (d) information on how to file a complaint with the political subdivision responsible for code enforcement, if applicable, and (e) information about the city's complaint process if the complainant is not satisfied with the resolution of the complaint.

(9) The agency shall invite the complainant to provide feedback on the complainant's experience with the complaint process, including suggestions for improvement.

(10) The agency shall monitor complaint trends, analyze root causes, and report on complaint resolution statistics regularly to identify areas for improvement. The agency shall submit a report to the commissioners at every board meeting detailing (a) the number of complaints filed, (b) the nature of such complaints, (c) the status of completed and pending inspections, and (d) the number of unfilled inspector positions within the housing agency. The report shall also be made available to the public on the agency's website and at the agency's office.

(11) The agency shall inform persons applying for housing about the complaint process during the resident application process and inform residents about the complaint process (a) annually, (b) at the time a complaint is filed, and (c) by posting on the agency's website and on any public boards in any common housing spaces.

Source: Laws 2024, LB840, § 11.
Operative date July 19, 2024.

71-15,170 Grievance procedures; requirements.

A housing agency for a city of the metropolitan class shall comply with any federal regulations regarding administrative grievance procedures. Such procedures and the actions to which it applies shall be detailed in plain language and included as part of a resident's lease agreement and also easily accessible on the agency's website and at agency offices.

Source: Laws 2024, LB840, § 12.
Operative date July 19, 2024.

ARTICLE 16

LOCAL HEALTH SERVICES

(a) HEALTH DISTRICTS IN COUNTIES HAVING A POPULATION OF MORE THAN 200,000

Section
71-1601. Repealed. Laws 2024, LB1143, § 5.
71-1602. Repealed. Laws 2024, LB1143, § 5.
71-1603. Repealed. Laws 2024, LB1143, § 5.
71-1604. Repealed. Laws 2024, LB1143, § 5.
71-1605. Repealed. Laws 2024, LB1143, § 5.
71-1606. Repealed. Laws 2024, LB1143, § 5.
71-1607. Repealed. Laws 2024, LB1143, § 5.
71-1608. Repealed. Laws 2024, LB1143, § 5.
71-1609. Repealed. Laws 2024, LB1143, § 5.
71-1610. Repealed. Laws 2024, LB1143, § 5.
71-1611. Repealed. Laws 2024, LB1143, § 5.
71-1612. Repealed. Laws 2024, LB1143, § 5.
71-1613. Repealed. Laws 2024, LB1143, § 5.
71-1614. Repealed. Laws 2024, LB1143, § 5.
71-1615. Repealed. Laws 2024, LB1143, § 5.
71-1616. Repealed. Laws 2024, LB1143, § 5.
71-1617. Repealed. Laws 2024, LB1143, § 5.
71-1618. Repealed. Laws 2024, LB1143, § 5.
71-1619. Repealed. Laws 2024, LB1143, § 5.
71-1620. Repealed. Laws 2024, LB1143, § 5.
71-1621. Repealed. Laws 2024, LB1143, § 5.
71-1622. Repealed. Laws 2024, LB1143, § 5.
71-1623. Repealed. Laws 2024, LB1143, § 5.
71-1624. Repealed. Laws 2024, LB1143, § 5.
71-1625. Repealed. Laws 2024, LB1143, § 5.

(a) HEALTH DISTRICTS IN COUNTIES HAVING A POPULATION OF MORE THAN 200,000

71-1601 Repealed. Laws 2024, LB1143, § 5.

71-1602 Repealed. Laws 2024, LB1143, § 5.

71-1603 Repealed. Laws 2024, LB1143, § 5.

71-1604 Repealed. Laws 2024, LB1143, § 5.

71-1605 Repealed. Laws 2024, LB1143, § 5.

71-1606 Repealed. Laws 2024, LB1143, § 5.

71-1607 Repealed. Laws 2024, LB1143, § 5.

71-1608 Repealed. Laws 2024, LB1143, § 5.

71-1609 Repealed. Laws 2024, LB1143, § 5.

71-1610 Repealed. Laws 2024, LB1143, § 5.

71-1611 Repealed. Laws 2024, LB1143, § 5.

71-1612 Repealed. Laws 2024, LB1143, § 5.

71-1613 Repealed. Laws 2024, LB1143, § 5.

71-1614 Repealed. Laws 2024, LB1143, § 5.

71-1615 Repealed. Laws 2024, LB1143, § 5.

71-1616 Repealed. Laws 2024, LB1143, § 5.

71-1617 Repealed. Laws 2024, LB1143, § 5.

71-1618 Repealed. Laws 2024, LB1143, § 5.

71-1619 Repealed. Laws 2024, LB1143, § 5.

71-1620 Repealed. Laws 2024, LB1143, § 5.

71-1621 Repealed. Laws 2024, LB1143, § 5.

71-1622 Repealed. Laws 2024, LB1143, § 5.

71-1623 Repealed. Laws 2024, LB1143, § 5.

71-1624 Repealed. Laws 2024, LB1143, § 5.

71-1625 Repealed. Laws 2024, LB1143, § 5.

ARTICLE 17
NURSES

(h) NEBRASKA CENTER FOR NURSING ACT

Section
71-1797. Legislative findings and intent.
71-1798. Nebraska Center for Nursing; established; goals; expansion of clinical training sites; workforce development.
71-1799. Nebraska Center for Nursing Board; created; members; terms; powers and duties; expenses.

(h) NEBRASKA CENTER FOR NURSING ACT

71-1797 Legislative findings and intent.

The Legislature finds that it is imperative that the State of Nebraska protect its investment and the progress made in its efforts to alleviate the nursing shortage which exists. The Legislature also finds that the Nebraska Center for Nursing will provide the appropriate means to do so. It is the intent of the Legislature to appropriate funds necessary for the center to carry out the Nebraska Center for Nursing Act, including, but not limited to, (1) administrative costs incurred by the Department of Health and Human Services to expand clinical training sites as provided in subsection (3) of section 71-1798 and (2)

funds for such expansion of clinical training sites in the amount of three million dollars from the General Fund for fiscal year 2023-24 and three million dollars from the General Fund for fiscal year 2024-25.

Source: Laws 2000, LB 1025, § 2; Laws 2023, LB227, § 75.

71-1798 Nebraska Center for Nursing; established; goals; expansion of clinical training sites; workforce development.

(1) The Nebraska Center for Nursing is established. The center shall address issues of supply and demand for nurses, including issues of recruitment, retention, and utilization of nurses. The Legislature finds that the center will repay the state's investment by providing an ongoing strategy for the allocation of the state's resources directed towards nursing.

(2) The primary goals for the center are:

(a) To develop a strategic statewide plan to alleviate the nursing shortage in Nebraska by:

(i) Establishing and maintaining a database on nursing supply and demand in Nebraska, including current supply and demand and future projections; and

(ii) Selecting priorities from the plan to be addressed;

(b) To convene various groups representative of nurses, other health care providers, business and industry, consumers, legislators, and educators to:

(i) Review and comment on data analysis prepared for the center;

(ii) Recommend systemic changes, including strategies for implementation of recommended changes; and

(iii) Evaluate and report the results of these efforts to the Legislature and the public; and

(c) To enhance and promote recognition, reward, and renewal activities for nurses by:

(i) Proposing and creating recognition, reward, and renewal activities; and

(ii) Promoting media and positive image-building efforts for nursing.

(3) After consultation with a statewide association representing hospitals and health systems that provide clinical nursing opportunities, the Nebraska Center for Nursing Board shall provide for the expansion of clinical training sites for nurses throughout the state, giving preference to areas that have lower numbers of registered nurses per capita compared to the state average, and shall provide for the development of programs that:

(a) Incentivize clinical nurses to become clinical nurse faculty;

(b) Incentivize nurse faculty to partner with staff nurses in the development of clinical nurse faculty;

(c) Expand simulation training for nurse clinical education; and

(d) Incentivize hospital facilities to support the center in carrying out this subsection.

(4) The Nebraska Center for Nursing shall partner with a statewide association representing a majority of hospitals and health systems in Nebraska to increase the workforce development of nurses and other health professionals by

providing at least fifty million dollars per year in private investments for statewide health care workforce development.

Source: Laws 2000, LB 1025, § 3; Laws 2023, LB227, § 76; Laws 2024, LB1087, § 10.
Effective date March 28, 2024.

71-1799 Nebraska Center for Nursing Board; created; members; terms; powers and duties; expenses.

(1) The Nebraska Center for Nursing Board is created. The board shall be a policy-setting board for the Nebraska Center for Nursing. The board shall be appointed by the Governor as follows:

(a) Ten members, at least three of whom shall be registered nurses, one of whom shall be a licensed practical nurse, one of whom shall be a representative of the hospital industry, and one of whom shall be a representative of the long-term care industry;

(b) One nurse educator recommended by the Board of Regents of the University of Nebraska;

(c) One nurse educator recommended by the Nebraska Community College Association;

(d) One nurse educator recommended by the Nebraska Association of Independent Colleges and Universities; and

(e) Three members recommended by the State Board of Health.

(2) The initial terms of the members of the Nebraska Center for Nursing Board shall be:

(a) Five of the ten members appointed under subdivision (1)(a) of this section shall serve for one year and five shall serve for two years;

(b) The member recommended by the Board of Regents shall serve for three years;

(c) The member recommended by the Nebraska Community College Association shall serve for two years;

(d) The member recommended by the Nebraska Association of Independent Colleges and Universities shall serve for one year; and

(e) The members recommended by the State Board of Health shall serve for three years.

The initial appointments shall be made within sixty days after July 13, 2000. After the initial terms expire, the terms of all of the members shall be three years with no member serving more than two consecutive terms.

(3) The Nebraska Center for Nursing Board shall have the following powers and duties:

(a) To determine operational policy;

(b) To elect a chairperson and officers to serve two-year terms. The chairperson and officers may not succeed themselves;

(c) To establish committees of the board as needed;

(d) To appoint a multidisciplinary advisory council for input and advice on policy matters;

(e) To implement the major functions of the Nebraska Center for Nursing; and

(f) To seek and accept nonstate funds for carrying out center policy.

(4) The board members shall be reimbursed for expenses as provided in sections 81-1174 to 81-1177.

(5) The Department of Health and Human Services shall provide administrative support for the board. The board may contract for additional support not provided by the department.

Source: Laws 2000, LB 1025, § 4; Laws 2007, LB296, § 489; Laws 2020, LB381, § 62.

ARTICLE 19

CARE OF CHILDREN

(a) FOSTER CARE LICENSURE

Section

(b) CHILD CARE LICENSURE

(c) CHILDREN'S RESIDENTIAL FACILITIES AND PLACING LICENSURE ACT

(d) STEP UP TO QUALITY CHILD CARE ACT

(a) FOSTER CARE LICENSURE

71-1902 Foster care; license required; license renewal; kinship homes and relative homes; department and child-placing agencies; duties; placement in

nonlicensed relative home or kinship home; approval by department; when; license revocation; procedure.

(1) The department shall adopt and promulgate rules and regulations on requirements for licenses, waivers, variances, and approval of foster family homes taking into consideration the health, safety, well-being, and best interests of the child. An initial assessment of a foster family home shall be completed and shall focus on the safety, protection, and immediate health, educational, developmental, and emotional needs of the child and the willingness and ability of the foster home, relative home, or kinship home to provide a safe, stable, and nurturing environment for a child for whom the department or child-placing agency has assumed responsibility.

(2)(a) Except as otherwise provided in this section, no person shall furnish or offer to furnish foster care for one or more children without having in full force and effect a written license issued by the department upon such terms and conditions as may be prescribed by general rules and regulations adopted and promulgated by the department. The terms and conditions for licensure may allow foster family homes to meet licensing standards through variances equivalent to the established standards.

(b) The department may issue a time-limited, nonrenewable provisional license to an applicant who is unable to comply with all licensure requirements and standards, is making a good faith effort to comply, and is capable of compliance within the time period stated in the license. The department may issue a time-limited, nonrenewable probationary license to a licensee who agrees to establish compliance with rules and regulations that, when violated, do not present an unreasonable risk to the health, safety, or well-being of the foster children in the care of the applicant.

(3) Kinship homes and relative homes are exempt from licensure, however, such homes should make efforts to be licensed if such license will facilitate the permanency plan of the child. The department and child-placing agencies shall, when requested or as part of the child's permanency plan, provide resources for and assistance with licensure, including, but not limited to, information on licensure, waivers for relative homes, kinship-specific and relative-specific foster care training, referral to local service providers and support groups, and funding and resources available to address home safety or other barriers to licensure.

(4) Prior to placement in a nonlicensed relative home or kinship home, approval shall be obtained from the department. Requirements for initial approval shall include, but not be limited to, the initial assessment provided for in subsection (1) of this section, a home visit to assure adequate and safe housing, and a criminal background check of all adult residents. Final approval shall include, but not be limited to, requirements as appropriate under section 71-1903. The department or child-placing agency shall provide assistance to an approved relative home or kinship home to support the care, protection, and nurturing of the child. Support may include, but not be limited to, information on licensure, waivers, and variances, kinship-specific and relative-specific foster care training, mental and physical health care, options for funding for needs of the child, and service providers and support groups to address the needs of relative and kinship parents, families, and children.

(5) All nonprovisional and nonprobationary licenses issued under sections 71-1901 to 71-1906.01 shall expire two years from the date of issuance and

shall be subject to renewal under the same terms and conditions as the original license, except that if a licensee submits a completed renewal application thirty days or more before the license's expiration date, the license shall remain in effect until the department either renews the license or denies the renewal application. No license issued pursuant to this section shall be renewed unless the licensee has completed the required hours of training in foster care in the preceding twelve months as prescribed by the department. A license may be revoked for cause, after notice and hearing, in accordance with rules and regulations adopted and promulgated by the department.

(6) A young adult continuing to reside in a foster family home as provided in subdivision (3) of section 43-4505 does not constitute an unrelated adult for the purpose of determining eligibility of the family to be licensed as a foster family home.

Source: Laws 1943, c. 154, § 2, p. 564; R.S.1943, § 71-1902; Laws 1945, c. 171, § 2, p. 549; Laws 1949, c. 207, § 1, p. 595; Laws 1961, c. 415, § 26, p. 1258; Laws 1982, LB 928, § 52; Laws 1984, LB 130, § 14; Laws 1987, LB 386, § 2; Laws 1988, LB 930, § 1; Laws 1990, LB 1222, § 12; Laws 1995, LB 401, § 25; Laws 1995, LB 402, § 1; Laws 1995, LB 451, § 2; Laws 2001, LB 209, § 20; Laws 2002, LB 93, § 8; Laws 2011, LB648, § 3; Laws 2012, LB820, § 7; Laws 2013, LB216, § 18; Laws 2013, LB265, § 41; Laws 2023, LB50, § 35.

(b) CHILD CARE LICENSURE

71-1908 Child Care Licensing Act; act, how cited; legislative findings.

(1) Sections 71-1908 to 71-1923.03 shall be known and may be cited as the Child Care Licensing Act.

(2) The Legislature finds that there is a present and growing need for quality child care programs and facilities. There is a need to establish and maintain licensure of persons providing such programs to ensure that such persons are competent and are using safe and adequate facilities. The Legislature further finds and declares that the development and supervision of programs are a matter of statewide concern and should be dealt with uniformly on the state and local levels. There is a need for cooperation among the various state and local agencies which impose standards on licensees, and there should be one agency which coordinates the enforcement of such standards and informs the Legislature about cooperation among the various agencies.

Source: Laws 1984, LB 130, § 1; Laws 1995, LB 401, § 29; Laws 2004, LB 1005, § 67; Laws 2013, LB105, § 1; Laws 2018, LB1034, § 60; Laws 2020, LB1185, § 2; Laws 2024, LB874, § 2.
Effective date July 19, 2024.

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.

71-1911 Licenses; when required; issuance; corrective action status; display of license; dual license.

(1) A person may operate child care for three or fewer children without having a license issued by the department. A person who is not required to be licensed may choose to apply for a license and, upon obtaining a license, shall be subject to the Child Care Licensing Act. A person who has had a license issued pursuant to this section and has had such license suspended or revoked other than for nonpayment of fees shall not operate or offer to operate a program for or provide care to any number of children until the person is licensed pursuant to this section.

(2) No person shall operate or offer to operate a program for four or more children under his or her direct supervision, care, and control at any one time from families other than that of such person without having in full force and effect a written license issued by the department upon such terms as may be prescribed by the rules and regulations adopted and promulgated by the department. The license may be a provisional license or an operating license. A city, village, or county which has rules, regulations, or ordinances in effect on July 10, 1984, which apply to programs operating for two or three children from different families may continue to license persons providing such programs. If the license of a person is suspended or revoked other than for nonpayment of fees, such person shall not be licensed by any city, village, or county rules, regulations, or ordinances until the person is licensed pursuant to this section.

(3) A provisional license shall be issued to all applicants following the completion of preservice orientation training approved or delivered by the department for the first year of operation. At the end of one year of operation, the department shall either issue an operating license, extend the provisional license, or deny the operating license. The provisional license may be extended once for a period of no more than six months. The decision regarding extension

of the provisional license is not appealable. The provisional license may be extended if:

(a) A licensee is unable to comply with all licensure requirements and standards, is making a good faith effort to comply, and is capable of compliance within the next six months;

(b) The effect of the current inability to comply with a rule or regulation does not present an unreasonable risk to the health, safety, or well-being of children or staff; and

(c) The licensee has a written plan of correction that has been approved by the department which is to be completed within the renewal period.

(4) The department may place a provisional or operating license on corrective action status. Corrective action status is voluntary and may be in effect for up to six months. The decision regarding placement on corrective action status is not a disciplinary action and is not appealable. If the written plan of correction is not approved by the department, the department may discipline the license. A probationary license may be issued for the licensee to operate under corrective action status if the department determines that:

(a) The licensee is unable to comply with all licensure requirements and standards or has had a history of noncompliance;

(b) The effect of noncompliance with any rule or regulation does not present an unreasonable risk to the health, safety, or well-being of children or staff; and

(c) The licensee has a written plan of correction that has been approved by the department.

(5) No child care licensee shall be prohibited from obtaining a dual license for the purpose of complying with attendance requirements.

(6) Operating licenses issued under the Child Care Licensing Act shall remain in full force and effect subject to annual inspections and fees. The department may amend a license upon change of ownership or location. Amending a license requires a site inspection by the department at the time of amendment. When a program is to be permanently closed, the licensee shall return the license to the department within one week after the closing.

(7) The license, including any applicable status or amendment, shall be displayed by the licensee in a prominent place so that it is clearly visible to parents and others. License record information and inspection reports shall be made available by the licensee for public inspection upon request.

Source: Laws 1984, LB 130, § 4; Laws 1988, LB 1013, § 1; Laws 1991, LB 836, § 30; Laws 1993, LB 510, § 1; Laws 1995, LB 401, § 32; Laws 1997, LB 310, § 6; Laws 1997, LB 752, § 177; Laws 1998, LB 1354, § 33; Laws 1999, LB 594, § 52; Laws 2004, LB 1005, § 70; Laws 2006, LB 994, § 98; Laws 2014, LB1050, § 2; Laws 2024, LB874, § 3.
Effective date July 19, 2024.

71-1911.03 Applicant; liability insurance.

An applicant for a license under the Child Care Licensing Act shall provide to the department written proof of liability insurance coverage for the hours such applicant is operating and a child is in the applicant's care of at least one hundred thousand dollars per occurrence prior to issuance of the license. A

licensee subject to the Child Care Licensing Act on July 1, 2014, shall obtain such liability insurance coverage and provide written proof to the department within thirty days after July 1, 2014. Failure by a licensee to maintain the required level of liability insurance coverage shall be deemed noncompliance with the Child Care Licensing Act. If the licensee is the State of Nebraska or a political subdivision, the licensee may utilize a risk retention group or a risk management pool for purposes of providing such liability insurance coverage or may self-insure all or part of such coverage.

Source: Laws 2013, LB105, § 2; Laws 2024, LB874, § 4.
Effective date July 19, 2024.

71-1912 Department; investigation; inspections; national criminal history record information check; procedure; cost; background checks; person ineligible for employment; when.

(1) Before issuance of a license, the department shall investigate or cause an investigation to be made, when it deems necessary, to determine if the applicant or person in charge of the program meets or is capable of meeting the physical well-being, safety, and protection standards and the other rules and regulations of the department adopted and promulgated under the Child Care Licensing Act. The department may investigate the character of applicants and licensees, any member of the applicant's or licensee's household, and the staff and employees of programs. The department may at any time inspect or cause an inspection to be made of any place where a program is operating to determine if such program is being properly conducted.

(2) All inspections by the department shall be unannounced except for initial licensure visits and consultation visits. Initial licensure visits are announced visits necessary for a provisional license to be issued to a family child care home I, family child care home II, child care center, or school-age-only or preschool program. Consultation visits are announced visits made at the request of a licensee for the purpose of consulting with a department specialist on ways of improving the program.

(3) An unannounced inspection of any place where a program is operating shall be conducted by the department or the city, village, or county pursuant to subsection (2) of section 71-1914 at least annually for a program licensed to provide child care for fewer than thirty children and at least twice every year for a program licensed to provide child care for thirty or more children.

(4) Whenever an inspection is made, the findings shall be recorded in a report designated by the department. The public shall have access to the results of these inspections upon a written or oral request to the department. The request must include the name and address of the program. Additional unannounced inspections shall be performed as often as is necessary for the efficient and effective enforcement of the Child Care Licensing Act.

(5)(a) A person applying for a license as a child care provider or a licensed child care provider under the Child Care Licensing Act shall submit a request for a national criminal history record information check for each child care staff member, including a prospective child care staff member of the child care provider, at the applicant's or licensee's expense, as set forth in this section.

(b) A prospective child care staff member shall submit to a national criminal history record information check (i) prior to employment, except as otherwise

permitted under 45 C.F.R. 98.43, as such regulation existed on January 1, 2019, or (ii) prior to residing in a family child care home.

(c) The department shall provide documentation of national criminal history record information checks which proves eligibility for employment. Such documentation shall be made available to each child care staff member or prospective child care staff member by the applicant or licensee for at least one hundred eighty days after the last day of employment or date the documentation was provided by the department, whichever is later.

(d) A child care staff member shall be required to undergo a national criminal history record information check not less than once during each five-year period. A child care staff member shall submit a complete set of his or her fingerprints to the Nebraska State Patrol. The Nebraska State Patrol shall transmit a copy of the child care staff member's fingerprints to the Federal Bureau of Investigation for a national criminal history record information check. The national criminal history record information check shall include information concerning child care staff members from federal repositories of such information and repositories of such information in other states, if authorized by federal law for use by the Nebraska State Patrol. The Nebraska State Patrol shall issue a report to the department that includes the information collected from the national criminal history record information check concerning child care staff members. The department shall seek federal funds, if available, to assist child care providers and child care staff members with the costs of the fingerprinting and national criminal history record information check. If the department does not receive sufficient federal funds to assist child care providers and staff members with such costs, then the child care staff member being screened, applicant for a license, or licensee shall pay the actual cost of the fingerprinting and national criminal history record information check, except that the department may pay all or part of the cost if funding becomes available. The department and the Nebraska State Patrol may adopt and promulgate rules and regulations concerning the costs associated with the fingerprinting and the national criminal history record information check. The department may adopt and promulgate rules and regulations implementing national criminal history record information check requirements for child care providers and child care staff members.

(e) A child care staff member shall also submit to the following background checks at his or her expense not less than once during each five-year period:

(i) A search of the National Crime Information Center's National Sex Offender Registry; and

(ii) A search of the following registries, repositories, or databases in the state where the child care provider is located or where the child care staff member resides and each state where the child care provider was located or where the child care staff member resided during the preceding five years:

(A) State criminal registries or repositories;

(B) State sex offender registries or repositories; and

(C) State-based child abuse and neglect registries and databases.

(f) Background checks shall be portable between child care providers.

(g) Any individual shall be ineligible for employment by a child care provider if such individual:

(i) Refuses to consent to the national criminal history record information check or a background check described in this subsection;

(ii) Knowingly makes a materially false statement in connection with the national criminal history record information check or a background check described in this subsection;

(iii) Is registered, or required to be registered, on a state sex offender registry or repository or the National Sex Offender Registry; or

(iv) Has been convicted of a crime of violence, a crime of moral turpitude, or a crime of dishonesty.

(h) The department may adopt and promulgate rules and regulations for purposes of this section.

(i) A child care provider shall be ineligible for a license under the Child Care Licensing Act and shall be ineligible to participate in the child care subsidy program if the provider employs a child care staff member who is ineligible for employment under subdivisions (g) or (h) of this subsection.

(j) National criminal history record information and information from background checks described in this subsection subject to state or federal confidentiality requirements may only be used for purposes of granting a child care license or approving a child care provider for participation in the child care subsidy program.

(k) For purposes of this subsection:

(i) Child care provider means a child care program required to be licensed under the Child Care Licensing Act; and

(ii) Child care staff member means an individual who is not related to all of the children for whom child care services are provided and:

(A) Who is employed by a child care provider for compensation, including contract employees or self-employed individuals;

(B) Whose activities involve the care or supervision of children for a child care provider or unsupervised access to children who are cared for or supervised by a child care provider; or

(C) Who is residing in a family child care home and who is eighteen years of age or older.

Source: Laws 1984, LB 130, § 5; Laws 1985, LB 447, § 38; Laws 1987, LB 386, § 5; Laws 1988, LB 1013, § 2; Laws 1995, LB 401, § 33; Laws 1997, LB 310, § 7; Laws 2004, LB 1005, § 73; Laws 2014, LB1050, § 3; Laws 2019, LB460, § 3; Laws 2020, LB1185, § 3; Laws 2024, LB874, § 5.
Effective date July 19, 2024.

71-1912.01 Child care staff member; national criminal history record information check; required, when; federal Child Care Subsidy program; eligibility to participate.

(1) For purposes of this section, child care staff member means an individual who is not related to all of the children for whom child care services are provided and:

(a) Who is employed for compensation by a child care provider not required to be licensed under the Child Care Licensing Act, including contract employees or self-employed individuals;

(b) Whose activities involve the care or supervision of children for a child care provider or unsupervised access to children who are cared for or supervised by a child care provider; or

(c) Who is residing in a family child care home and who is eighteen years of age or older.

(2) Beginning on November 14, 2020, an individual who is not required to be licensed under the Child Care Licensing Act but seeks to participate as a provider in the federal Child Care Subsidy program shall submit a request for a national criminal history record information check for each child care staff member, including a prospective child care staff member of the child care provider, (a) prior to the child care provider being approved to participate as a child care provider in the federal Child Care Subsidy program, except as otherwise permitted under 45 C.F.R. 98.43, as such regulation existed on January 1, 2020, or (b) prior to residing in a family child care home. A child care staff member who was a provider in the federal Child Care Subsidy program prior to November 14, 2020, or who resided in a family child care home prior to November 14, 2020, shall submit to a national criminal history record information check by October 1, 2021, unless the child care staff member ceases to be a child care staff member prior to such date. The child care staff member or the child care provider seeking to participate in the subsidy program shall pay the cost of such national criminal history record information check. A person who undergoes a national criminal history record information check to obtain a license under the Child Care Licensing Act or work as a child care staff member and is in good standing with the department shall not be required to undergo an additional national criminal history record information check to become a child care provider in the federal Child Care Subsidy program if the person has not been separated from employment from a child care provider within the state for a period of not more than one hundred eighty consecutive days.

(3) Any individual, entity, or provider shall be ineligible to participate in the federal Child Care Subsidy program if such individual, entity, or provider:

(a) Refuses to consent to the national criminal history record information check described in this section;

(b) Knowingly makes a materially false statement in connection with the national criminal history record information check described in this section;

(c) Is registered, or required to be registered, on a state sex offender registry or repository or the National Sex Offender Registry; or

(d) Has been convicted of a crime of violence, a crime of moral turpitude, or a crime of dishonesty.

Source: Laws 2020, LB1185, § 4.

71-1917.01 Blankets; prohibited in cribs.

Blankets shall not be used in cribs in any child care facility.

Source: Laws 2024, LB874, § 6.
Effective date July 19, 2024.

71-1923.01 Department of Health and Human Services; rules and regulations; submit for review.

The Department of Health and Human Services shall submit to the Health and Human Services Committee of the Legislature all licensing rules and regulations relating to child care for review once every five years.

Source: Laws 2024, LB874, § 7.
Effective date July 19, 2024.

71-1923.02 State Fire Marshal; fire code enforcement and regulations; submit for review.

The State Fire Marshal shall submit to the Government, Military and Veterans Affairs Committee of the Legislature all fire code enforcement and regulations relating to child care facilities for review once every five years.

Source: Laws 2024, LB874, § 8.
Effective date July 19, 2024.

71-1923.03 Municipality; submit codes, permits, ordinances, zoning, and regulations for review.

Each municipality shall submit to the Urban Affairs Committee of the Legislature all fire and building safety codes, fire and building safety permits, and health department and sanitation ordinances, zoning, and regulations relating to child care facilities for review once every five years.

Source: Laws 2024, LB874, § 9.
Effective date July 19, 2024.

(c) CHILDREN'S RESIDENTIAL FACILITIES AND PLACING LICENSURE ACT

71-1924 Children's Residential Facilities and Placing Licensure Act; act, how cited.

Sections 71-1924 to 71-1951 shall be known and may be cited as the Children's Residential Facilities and Placing Licensure Act.

Source: Laws 2013, LB265, § 1; Laws 2019, LB460, § 4.

71-1928.01 National criminal history record information check; procedure; cost; background checks.

(1) Any individual eighteen years of age or older working in a residential child-caring agency shall be required to undergo a national criminal history record information check not less than once during each five-year period that he or she is working in such an agency. The individual shall submit a complete set of his or her fingerprints to the Nebraska State Patrol. The Nebraska State Patrol shall transmit a copy of the individual's fingerprints to the Federal Bureau of Investigation for a national criminal history record information check. The national criminal history record information check shall include information concerning the individual from federal repositories of such information and repositories of such information in other states, if authorized by federal law for use by the Nebraska State Patrol. The Nebraska State Patrol shall issue a report to the department that includes the information collected from the national criminal history record information check concerning the individual. The department shall seek federal funds, if available, to assist residential child-caring agencies and individuals working in a residential child-

caring agency with the costs of the fingerprinting and national criminal history record information check. If the department does not receive sufficient federal funds to assist residential child-caring agencies and individuals working in a residential child-caring agency with such costs, then the individual being screened or the residential child-caring agency shall pay the actual cost of the fingerprinting and national criminal history record information check, except that the department may pay all or part of the cost if funding becomes available. The department and the Nebraska State Patrol may adopt and promulgate rules and regulations concerning the costs associated with the fingerprinting and the national criminal history record information check. The department may adopt and promulgate rules and regulations implementing national criminal history record information check requirements for residential child-caring agencies.

(2) An individual eighteen years of age or older working in a residential child-caring agency shall also submit to the following background checks not less than once during each five-year period: A search of the following registries, repositories, or databases in the state where the individual resides and each state where the individual resided during the preceding five years:

(a) State criminal registries or repositories;

(b) State sex offender registries or repositories; and

(c) State-based child abuse and neglect registries and databases.

Source: Laws 2019, LB460, § 5; Laws 2020, LB1185, § 5.

71-1936 Alleged violation of act; complaint; investigation; department; duties; confidentiality; immunity; report.

(1) Any person may submit a complaint to the department and request investigation of an alleged violation of the Children's Residential Facilities and Placing Licensure Act or rules and regulations adopted and promulgated under the act. The department shall review all complaints, including complaints of such violations received pursuant to section 28-711, and determine whether to conduct an investigation within five working days after receiving the complaint. In making such determination, the department may consider factors such as:

(a) Whether the complaint pertains to a matter within the authority of the department to enforce;

(b) Whether the circumstances indicate that a complaint is made in good faith;

(c) Whether the complaint is timely or has been delayed too long to justify present evaluation of its merit;

(d) Whether the complainant may be a necessary witness if action is taken and is willing to identify himself or herself and come forward to testify if action is taken; or

(e) Whether the information provided or within the knowledge of the complainant is sufficient to provide a reasonable basis to believe that a violation has occurred or to secure necessary evidence from other sources.

(2) A complaint submitted to the department shall be confidential. An individual submitting a complaint shall be immune from criminal or civil liability of any nature, whether direct or derivative, for submitting a complaint

or for disclosure of documents, records, or other information to the department.

(3) If an investigation is conducted under this section, an investigation report shall be issued within sixty days after the determination is made to conduct the investigation, except that the final investigation report may be issued within ninety days after such determination if an interim report is issued within sixty days after such determination.

Source: Laws 2013, LB265, § 13; Laws 2019, LB59, § 1.

(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.

Cross References

Child Care Licensing Act, see section 71-1908.

71-1962 Nebraska Early Childhood Professional Record System; creation and operation; State Department of Education; duties; develop classification system for eligible staff members; use.

(1) Not later than March 1, 2014, the State Department of Education shall create and operate the Nebraska Early Childhood Professional Record System. The system shall be designed in order to:

(a) Establish a database of Nebraska's early childhood education workforce;

(b) Verify educational degrees and professional credentials held and relevant training completed by employees of participating applicable child care and early childhood education programs; and

(c) Provide such information to the Department of Health and Human Services for use in evaluating applications to be rated at a step above step one under section 71-1959.

(2) When an applicable child care or early childhood education program participating in the quality rating and improvement system developed pursuant to section 71-1955 applies under section 71-1959 to be rated at a step above step one, the child care or early childhood education program shall report the educational degrees and professional credentials held and relevant training completed by its child care and early childhood education employees to the Nebraska Early Childhood Professional Record System for the program to be eligible for a quality scale rating above step one.

(3) Any child care or early childhood education provider residing or working in Nebraska may report his or her educational degrees and professional credentials held, relevant training completed, and work history to the Nebraska Early Childhood Professional Record System.

(4) The State Department of Education shall develop a classification system for all eligible staff members as defined in section 77-3603 who are employees of or who are self-employed individuals providing services for applicable child care and early childhood education programs listed in the Nebraska Early Childhood Professional Record System. The classification system shall be based on the eligible staff members' educational attainment, relevant training completed, and work history and shall be made up of five levels, with level one being the least qualified and level five being the most qualified. In order to meet the minimum qualification for classification as level one, an eligible staff member must be employed with, or be a self-employed individual providing services for, an eligible program as defined in section 77-3603 and complete at least twelve hours of in-service training at a licensed child care facility. The classification system shall be used for purposes of the tax credit granted in section 77-3605 under the School Readiness Tax Credit Act.

Source: Laws 2013, LB507, § 11; Laws 2015, LB525, § 1; Laws 2016, LB889, § 9; Laws 2020, LB266, § 1; Laws 2023, LB754, § 6.

Cross References

School Readiness Tax Credit Act, see section 77-3601.

ARTICLE 20
HOSPITALS

(j) RECEIVERS

(k) MEDICAID PROGRAM VIOLATIONS

(q) NATIONAL PROVIDER IDENTIFIER

(j) RECEIVERS

71-2085 Appointment of receiver; conditions.

The department may petition the district court of Lancaster County or the county where the health care facility is located for appointment of a receiver for a health care facility when any of the following conditions exist:

(1) If the department determines that the health, safety, or welfare of the residents or patients is in immediate danger;

(2) The health care facility is operating without a license;

(3) The department has suspended, revoked, or refused to renew the existing license of the health care facility;

(4) The health care facility is closing, or has informed the department that it intends to close, and adequate arrangements for the relocation of the residents or patients of such health care facility have not been made at least thirty days prior to closure; or

(5) The department determines that an emergency exists, whether or not it has initiated revocation or nonrenewal procedures, and because of the unwillingness or inability of the licensee, owner, or operator to remedy the emergency, the department believes a receiver is necessary.

Source: Laws 1983, LB 274, § 2; R.S.1943, (1990), § 71-6002; Laws 1995, LB 406, § 61; Laws 2020, LB1053, § 14.

71-2086 Appointment of receiver; procedure; temporary receiver; purpose of receivership.

(1) The department shall file the petition for the appointment of a receiver provided for in section 71-2085 in the district court of Lancaster County or the county where the health care facility is located and shall request that a receiver be appointed for the health care facility. Unless otherwise approved by the court, no person shall be appointed as a receiver for more than six health care facilities at the same time.

(2) The court shall expeditiously hold a hearing on the petition within seven days after the filing of the petition. The department shall present evidence at the hearing in support of the petition. The licensee, owner, or operator may also present evidence, and both parties may subpoena witnesses. The court may appoint a temporary receiver for the health care facility ex parte if the department, by affidavit, states that an emergency exists which presents an imminent danger of death or physical harm to the residents or patients of the health care facility. If a temporary receiver is appointed, notice of the petition and order shall be served on the licensee, owner, operator, or administrator of the health care facility within seventy-two hours after the entry of the order. The petition and order may be served by any method specified in section 25-505.01 or the court may permit substitute or constructive service as provided in section 25-517.02 when service cannot be made with reasonable diligence by any of the methods specified in section 25-505.01. A hearing on the petition and temporary order shall be held within seventy-two hours after notice has been served unless the licensee, owner, or operator consents to a later date. After the hearing the court may terminate, continue, or modify the temporary order. If the court determines that the department did not have probable cause to submit the affidavit in support of the appointment of the temporary receiver, the court shall have the jurisdiction to determine and award compensatory damages against the state to the owner or operator. If the licensee, owner, or operator informs the court at or before the time set for hearing that the licensee, owner, or operator does not object to the petition, the court shall waive the hearing and at once appoint a receiver for the health care facility.

(3) The purpose of a receivership created under this section is to safeguard the health, safety, and continuity of care of residents and patients and to protect them from adverse health effects. A receiver shall not take any actions or assume any responsibilities inconsistent with this purpose. No person shall impede the operation of a receivership created under this section. After the appointment of a receiver, there shall be an automatic stay of any action that would interfere with the functioning of the health care facility, including, but not limited to, cancellation of insurance policies executed by the licensee, owner, or operator, termination of utility services, attachments or setoffs of resident trust funds or working capital accounts, and repossession of equipment used in the health care facility. The stay shall not apply to any licensure, certification, or injunctive action taken by the department.

Source: Laws 1983, LB 274, § 3; R.S.1943, (1990), § 71-6003; Laws 1995, LB 406, § 62; Laws 2007, LB296, § 521; Laws 2020, LB1053, § 15.

71-2087 Receiver; appointment; effect; duties.

When a receiver is appointed under section 71-2086, the licensee, owner, or operator shall be divested of possession and control of the health care facility in favor of the receiver. The appointment of the receiver shall not affect the rights of the owner or operator to defend against any claim, suit, or action against such owner or operator or the health care facility, including, but not limited to, any licensure, certification, or injunctive action taken by the department. A receiver shall:

(1) Take such action as is reasonably necessary to protect and conserve the assets or property of which the receiver takes possession or the proceeds of any

transfer of the assets or property and may use them only in the performance of the powers and duties set forth in this section and section 71-2088 or by order of the court;

(2) Apply the current revenue and current assets of the health care facility to current operating expenses and to debts incurred by the licensee, owner, or operator prior to the appointment of the receiver. The receiver may apply to the court for approval for payment of debts incurred prior to appointment if the debts appear extraordinary, of questionable validity, or unrelated to the normal and expected maintenance and operation of the health care facility or if the payment of the debts will interfere with the purposes of the receivership. The receiver shall give priority to expenditures for current, direct resident care, including nursing care, social services, dietary services, and housekeeping;

(3) Be responsible for the payment of taxes against the health care facility which become due during the receivership, including property taxes, sales and use taxes, withholding, taxes imposed pursuant to the Federal Insurance Contributions Act, and other payroll taxes, but not including state and federal taxes which are the liability of the owner or operator;

(4) Be entitled to and take possession of all property or assets of residents or patients which are in the possession of the licensee, owner, operator, or administrator of the health care facility. The receiver shall preserve all property, assets, and records of residents or patients of which the receiver takes possession and shall provide for the prompt transfer of the property, assets, and necessary and appropriate records to the alternative placement of any transferred or discharged resident;

(5) Upon order of the court, provide for the orderly transfer of all residents or patients in the health care facility to other suitable facilities if correction of violations of federal and state laws and regulations is not possible or cannot be completed in a timely manner or there are reasonable grounds to believe the health care facility cannot be operated on a sound financial basis and in compliance with all applicable federal or state laws and regulations or make other provisions for the continued health, safety, and welfare of the residents or patients;

(6) Conduct a thorough analysis of the financial records of the health care facility within the first thirty days of the receivership, perform ongoing accountings throughout the remainder of the receivership, and provide monthly reports of the financial status of the health care facility to the court and the department; and

(7) Make monthly reports to the court and the department related to plans for continued operation or sale of the health care facility.

Source: Laws 1995, LB 406, § 63; Laws 2020, LB1053, § 16.

71-2092 Receivership; termination; procedure; failure to terminate; effect.

(1) A receivership established under section 71-2086 may be terminated by the district court which established it after a hearing upon an application for termination. The application may be filed:

(a) Jointly by the receiver and the current licensee of the health care facility which is in receivership, stating that the deficiencies in the operation, maintenance, or other circumstances which were the grounds for establishment of the receivership have been corrected and that there are reasonable grounds to

believe that the health care facility will be operated in compliance with all applicable statutes and the rules and regulations adopted and promulgated pursuant thereto;

(b) By the current licensee of the health care facility, alleging that termination of the receivership is merited for the reasons set forth in subdivision (a) of this subsection, but that the receiver has declined to join in the petition for termination of the receivership;

(c) By the receiver, stating that all residents or patients of the health care facility have been relocated elsewhere and that there are reasonable grounds to believe it will not be feasible to again operate the health care facility on a sound financial basis and in compliance with federal and state laws and regulations and asking that the court approve the surrender of the license of the health care facility to the department and the subsequent return of the control of the premises of the health care facility to the owner of the premises; or

(d) By the department (i) stating that the deficiencies in the operation, maintenance, or other circumstances which were the grounds for establishment of the receivership have been corrected and that there are reasonable grounds to believe that the health care facility will be operated in compliance with all applicable statutes and the rules and regulations adopted and promulgated pursuant thereto or (ii) stating that there are reasonable grounds to believe that the health care facility cannot be operated in compliance with federal or state law and regulations and asking that the court order the removal of the residents or patients to appropriate alternative placements, the closure of the facility, and the license, if any, surrendered to the department or that the health care facility be sold under reasonable terms approved by the court to a new owner meeting the requirements for licensure by the department.

(2) If the receivership has not been terminated within six months after the appointment of the receiver, the court shall, after hearing, order either that the health care facility be closed after an orderly transfer of the residents or patients to appropriate alternative placements or that the health care facility be sold under reasonable terms approved by the court to a new owner meeting the requirements for licensure by the department. The closure or sale shall occur within sixty days after the court order, unless ordered otherwise, to protect the health, safety, and welfare of the residents or patients.

Source: Laws 1983, LB 274, § 4; R.S.1943, (1990), § 71-6004; Laws 1995, LB 406, § 68; Laws 2020, LB1053, § 17.

71-2093 Receivership; payment of expenses.

The health care facility for which a receiver is appointed shall be responsible for payment of the expenses of a receivership established under section 71-2086 unless the court directs otherwise. The expenses include, but are not limited to:

(1) Compensation for the receiver and any related receivership expenses approved by the court;

(2) Expenses incurred by the health care facility for the continuing care of the residents or patients of the health care facility;

(3) Expenses incurred by the health care facility for the maintenance of buildings and grounds of the health care facility; and

(4) Expenses incurred by the health care facility in the ordinary course of business, such as employees' salaries and accounts payable.

Source: Laws 1983, LB 274, § 5; R.S.1943, (1990), § 71-6005; Laws 1995, LB 406, § 69; Laws 2020, LB1053, § 18.

71-2094 Action against receiver; requirements; Attorney General; defense or representation; conditions; costs.

(1) No person shall bring an action against a receiver appointed under section 71-2086 without first securing leave of the court. The receiver and the members and officers of the receiver are liable in their individual capacity for intentional wrongdoing or gross negligence.

(2) In all other cases, the receiver is liable in the receiver's official capacity only, and any judgment rendered shall be satisfied out of the receivership assets. The receiver is not liable in the receiver's individual capacity for the expenses of the health care facility during the receivership. The receiver is an employee of the state only for the purpose of defending a claim filed against the receiver in the receiver's official capacity. If an action is brought against a receiver in the receiver's official capacity, the receiver may file a written request for counsel with the Attorney General asserting that such civil action is based in fact upon an alleged act or omission in the course and scope of the receiver's duties. The Attorney General shall thereupon appear and defend the receiver unless after investigation the Attorney General finds that the claim or demand does not arise out of an alleged act or omission occurring in the course and scope of the receiver's duties or the act or omission complained of amounted to intentional wrongdoing or gross negligence, in which case the Attorney General shall give the receiver written notice that defense of the claim or representation before the court has been rejected.

(3) A receiver against whom a claim is made, which is not rejected by the Attorney General pursuant to subsection (2) of this section, shall cooperate fully with the Attorney General in the defense of such claim. If the Attorney General determines that such receiver has not cooperated or has otherwise acted to prejudice the defense of the claim or the appearance, the Attorney General may at any time reject the defense of the claim before the court.

(4) If the Attorney General rejects the defense of a claim pursuant to subsection (2) of this section or if it is established by the judgment ultimately rendered on the claim that the act or omission complained of was not in the course or scope of the receiver's duties or amounted to intentional wrongdoing or gross negligence, no public money shall be paid in settlement of such claim or in payment of any judgment against such receiver. Such action by the Attorney General shall not prejudice the right of the receiver to assert and establish as a defense that the claim arose out of an alleged act or omission occurring in the course and scope of the receiver's duties or that the act or omission complained of did not amount to intentional wrongdoing or gross negligence. If the receiver is successful in asserting such defense, the receiver shall be indemnified for the reasonable costs of defending the claim.

(5) If the receiver has been defended by the Attorney General and it is established by the judgment ultimately rendered on the claim that the act or omission complained of amounted to intentional wrongdoing or gross negli-

gence, the judgment against the receiver shall provide for payment to the state of the state's costs, including a reasonable attorney's fee.

Source: Laws 1995, LB 406, § 70; Laws 2020, LB1053, § 19.

(k) MEDICAID PROGRAM VIOLATIONS

71-2097 Terms, defined.

For purposes of sections 71-2097 to 71-20,101:

(1) Civil penalty includes any remedy required under federal law and includes the imposition of a civil money penalty;

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

(3) Federal regulations for participation in the medicaid program means the regulations found in 42 C.F.R. parts 442 and 483, as amended, for participation in the medicaid program under Title XIX of the federal Social Security Act, as amended; and

(4) Nursing facility means any intermediate care facility or nursing facility, as defined in sections 71-420 and 71-424, which receives federal and state funds under Title XIX of the federal Social Security Act, as amended.

Source: Laws 1996, LB 1155, § 72; Laws 1997, LB 307, § 180; Laws 2000, LB 819, § 103; Laws 2007, LB296, § 523; Laws 2019, LB22, § 1.

71-2098 Civil penalties; department; powers.

(1) The department may assess, enforce, and collect civil penalties against a nursing facility which the department has found in violation of federal regulations for participation in the medicaid program pursuant to the authority granted to the department under section 81-604.03.

(2) If the department finds that a violation is life threatening to one or more residents or creates a direct threat of serious adverse harm to one or more residents, a civil penalty shall be imposed for each day the deficiencies which constitute the violation exist. The department may assess an appropriate civil penalty for other violations based on the nature of the violation. Any civil money penalty assessed shall not be less than fifty dollars nor more than ten thousand dollars for each day the facility is found to be in violation of such federal regulations. Any civil money penalty assessed shall include interest at the rate specified in section 45-104.02, as such rate may from time to time be adjusted.

Source: Laws 1996, LB 1155, § 73; Laws 1997, LB 307, § 181; Laws 2007, LB296, § 524; Laws 2019, LB22, § 2.

71-20,100 Nursing Facility Penalty Cash Fund; created; use; investment.

(1) The Nursing Facility Penalty Cash Fund is created. Any civil money penalty collected by the department as part of any civil penalty imposed pursuant to section 71-2098 or in accordance with the federal Social Security Act, as amended, and imposed by the Centers for Medicare and Medicaid Services pursuant to 42 C.F.R. 488.431 and disbursed to the department in accordance with 42 C.F.R. 488.433 or imposed by the department pursuant to 42 C.F.R. 488.432 shall be remitted to the State Treasurer for credit to such fund. The state investment officer shall invest any money in the fund available

for investment pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) The department shall adopt and promulgate rules and regulations which establish circumstances under which the department may distribute funds from the Nursing Facility Penalty Cash Fund. Funds collected as part of a civil money penalty imposed by the Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services as described in subsection (1) of this section shall be distributed in accordance with the federal Social Security Act, as amended, and the federal regulations for participation in the medicaid program, to support activities that benefit nursing home residents as provided in 42 C.F.R. 488.433.

Source: Laws 1996, LB 1155, § 75; Laws 1997, LB 307, § 183; Laws 2007, LB296, § 526; Laws 2019, LB22, § 3.

Cross References

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

(q) NATIONAL PROVIDER IDENTIFIER

71-20,122 Off-campus location; claims; use National Provider Identifier.

(1) For purposes of this section:

(a) National Provider Identifier means the standard, unique health identifier number for a health care provider that is issued by the National Provider System in accordance with 45 C.F.R. part 162, as such regulations existed on January 1, 2023; and

(b) Off-campus location means a facility:

(i) With operations that are directly or indirectly owned or controlled by, in whole or in part, a hospital, or that is affiliated with a hospital, regardless of whether such off-campus location is operated by the same governing body as the hospital;

(ii) That is located in its entirety, including all real estate, structures, and permanent fixtures, more than one mile from the main campus of the hospital as measured from the closest real estate, structure, or permanent fixture of the main campus;

(iii) That provides services which are organizationally and functionally integrated with the hospital; and

(iv) That is an outpatient facility providing ambulatory surgery, urgent care, or emergency room services.

(2) An off-campus location of a hospital shall obtain a National Provider Identifier that is distinct from the National Provider Identifier used by the main campus of the affiliated hospital and any other off-campus location of such hospital and shall use such identifier on all claims for reimbursement or payment for health care services provided at such location.

Source: Laws 2023, LB296, § 12.

ARTICLE 21

INFANTS

Section
71-2102. Abusive head trauma; legislative findings.
71-2103. Information for parents of newborn child; requirements.
71-2104. Public awareness activities; duties.

71-2102 Abusive head trauma; legislative findings.

The Legislature finds that abusive head trauma may occur when an infant or child is violently shaken as part of a pattern of abuse or because an adult has momentarily succumbed to the frustration of responding to a crying infant or child. The Legislature further finds that the injuries sustained by the infant or child can include brain swelling and damage, subdural hemorrhage, intellectual disability, or death. The Legislature further finds and declares that there is a present and growing need to provide programs aimed at reducing the number of cases of abusive head trauma in infants and children in Nebraska.

Source: Laws 2006, LB 994, § 148; Laws 2013, LB23, § 33; Laws 2019, LB60, § 2.

71-2103 Information for parents of newborn child; requirements.

Every hospital, birth center, or other medical facility that discharges a newborn child shall request that each maternity patient and father of a newborn child, if available, view a video presentation and read printed materials, approved by the Department of Health and Human Services, on the dangers of shaking infants and children, the symptoms of abusive head trauma in infants and children, the dangers associated with rough handling or the striking of an infant, safety measures which can be taken to prevent sudden infant death and abusive head trauma in infants and children, including crying plans, and the dangers associated with infants sleeping on the same surface with other children or adults. After viewing the presentation and reading the materials or upon a refusal to do so, the hospital, birth center, or other medical facility shall request that the mother and father, if available, sign a form stating that he or she has viewed and read or refused to view and read the presentation and materials. Such presentation, materials, and forms may be provided by the department.

Source: Laws 2006, LB 994, § 149; Laws 2019, LB60, § 3.

71-2104 Public awareness activities; duties.

The Department of Health and Human Services shall conduct public awareness activities designed to promote the prevention of sudden infant death syndrome and abusive head trauma in infants and children. The public awareness activities may include, but not be limited to, public service announcements, information kits and brochures, and the promotion of preventive telephone hotlines.

Source: Laws 2006, LB 994, § 150; Laws 2019, LB60, § 4.

ARTICLE 24
DRUGS

(c) EMERGENCY BOX DRUG ACT

Section

(h) CLANDESTINE DRUG LABS

(j) AUTOMATED MEDICATION SYSTEMS ACT

(l) PRESCRIPTION DRUG MONITORING PROGRAM

(m) PRESCRIPTION DRUG SAFETY ACT

(n) DISCLOSURE OF COST, PRICE, OR COPAYMENT OF PRESCRIPTION DRUGS

(o) OPIOID PREVENTION AND TREATMENT

(p) PRESCRIPTION DRUG DONATION PROGRAM ACT

(c) EMERGENCY BOX DRUG ACT

71-2411 Terms, defined.

For purposes of the Emergency Box Drug Act:

(1) Authorized personnel means any medical doctor, doctor of osteopathy, registered nurse, licensed practical nurse, nurse practitioner, pharmacist, or physician assistant;

(2) Calculated expiration date has the same meaning as in section 38-2808.01;

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

(4) Drug means any prescription drug or device or legend drug or device defined under section 38-2841, any nonprescription drug as defined under section 38-2829, any controlled substance as defined under section 28-405, or any device as defined under section 38-2814;

(5) Emergency box drugs means drugs required to meet the immediate therapeutic needs of patients when the drugs are not available from any other authorized source in time to sufficiently prevent risk of harm to such patients by the delay resulting from obtaining such drugs from such other authorized source;

(6) Long-term care facility means an intermediate care facility, an intermediate care facility for persons with developmental disabilities, a long-term care hospital, a mental health substance use treatment center, a nursing facility, or a skilled nursing facility, as such terms are defined in the Health Care Facility Licensure Act;

(7) Multiple dose vial means any bottle in which more than one dose of a liquid drug is stored or contained;

(8) NDC means the National Drug Code published by the United States Food and Drug Administration;

(9) Pharmacist means a pharmacist as defined in section 38-2832 who is employed by a supplying pharmacy or who has contracted with a long-term care facility to provide consulting services; and

(10) Supplying pharmacy means a pharmacy that supplies drugs for an emergency box located in a long-term care facility. Drugs in the emergency box are owned by the supplying pharmacy.

Source: Laws 1994, LB 1210, § 183; Laws 1996, LB 1044, § 625; Laws 1997, LB 608, § 16; Laws 2000, LB 819, § 106; Laws 2001, LB 398, § 70; Laws 2007, LB296, § 540; Laws 2007, LB463, § 1194; Laws 2009, LB195, § 69; Laws 2013, LB23, § 34; Laws 2018, LB1034, § 63; Laws 2020, LB1052, § 9.

Cross References

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

71-2412 Long-term care facility; emergency boxes; use; conditions.

(1) Drugs may be administered to residents of a long-term care facility by authorized personnel of the long-term care facility from the contents of emergency boxes located within such long-term care facility if such drugs and boxes meet the requirements of this section.

(2) When electronic or automated emergency boxes are in use in a long-term care facility, the supplying pharmacy shall have policies and procedures to ensure proper utilization of the drugs in the emergency boxes. Policies and procedures shall include who is allowed to retrieve drugs from the emergency boxes, security for the location of the emergency boxes within the long-term care facility, and other necessary provisions as determined by the pharmacist-in-charge of the supplying pharmacy.

(3) For emergency boxes that are not electronic or automated:

(a) All emergency box drugs shall be provided by and all emergency boxes containing such drugs shall be sealed by a supplying pharmacy with the seal on such emergency box to be of such a nature that it can be easily identified if it has been broken;

(b) Emergency boxes shall be stored in a medication room or other secured area within the long-term care facility. Only authorized personnel of the long-term care facility or the supplying pharmacy shall obtain access to such room or secured area, by key or combination, in order to prevent unauthorized access and to ensure a proper environment for preservation of the emergency box drugs;

(c) The exterior of each emergency box shall be labeled so as to clearly indicate that it is an emergency box for use in emergencies only. The label shall contain a listing of the drugs contained in the box, including the name, strength, route of administration, quantity, and expiration date of each drug, and the name, address, and telephone number of the supplying pharmacy; and

(d) Emergency boxes shall be inspected by a pharmacist designated by the supplying pharmacy at least once a month or after a reported usage of any drug to determine the expiration date and quantity of the drugs in the box. Every inspection shall be documented and the record retained by the long-term care facility for a period of five years.

(4) All drugs in emergency boxes shall be in the original manufacturer's or distributor's containers or shall be repackaged by the supplying pharmacy in a tight, light-resistant container and shall include the manufacturer's or distributor's name, lot number, drug name, strength, dosage form, NDC number, route of administration, and expiration date on a typewritten label. Any drug which is repackaged shall contain on the label the calculated expiration date.

Source: Laws 1994, LB 1210, § 184; Laws 2002, LB 1062, § 52; Laws 2007, LB463, § 1195; Laws 2009, LB195, § 70; Laws 2017, LB166, § 21; Laws 2020, LB1052, § 10.

71-2413 Drugs to be included in emergency boxes; requirements; removal; conditions; notification of supplying pharmacy; expired drugs; treatment; examination of emergency boxes; written procedures; establishment.

(1) The supplying pharmacy and the medical director and quality assurance committee of the long-term care facility shall jointly determine the drugs, by identity and quantity, to be included in the emergency boxes. The supplying pharmacy shall maintain a list of emergency box drugs which is identical to the list on the exterior of the emergency box or the electronic inventory record of the emergency box and shall make such list available to the department upon request. The supplying pharmacy shall obtain a receipt upon delivery of the emergency box to the long-term care facility signed by the director of nursing of the long-term care facility or his or her designee which acknowledges that the drugs initially placed in the emergency box are identical to the initial list on the exterior of the emergency box or the electronic inventory record of the emergency box. The receipt shall be retained by the supplying pharmacy for a period of five years.

(2) Except for the removal of expired drugs as provided in subsection (4) of this section, drugs shall be removed from emergency boxes only pursuant to a prescription. Whenever access to the emergency box occurs, the prescription and proof of use shall be provided to the supplying pharmacy and shall be recorded on the resident's medical record by authorized personnel of the long-term care facility. Removal of any drug from an emergency box by authorized personnel of the long-term care facility shall be recorded on a form showing the name of the resident who received the drug, his or her room number, the name of the drug, the strength of the drug, the quantity used, the dose administered, the route of administration, the date the drug was used, the time of usage, the disposal of waste, if any, and the signature or signatures of authorized personnel. The form shall be maintained at the long-term care facility for a period of five years from the date of removal with a copy of the form to be provided to the supplying pharmacy.

(3) Whenever an emergency box is opened or otherwise accessed, the supplying pharmacy shall be notified by the charge nurse or the director of nursing of the long-term care facility within twenty-four hours and a pharmacist designated by the supplying pharmacy shall restock and refill the box, reseal the box if it is not an electronic or automated emergency box, and update the drug listing on the exterior of the emergency box or update the electronic inventory record of the emergency box as outlined in the policies and procedures of the supplying pharmacy required by section 71-2412 for an electronic or automated emergency box.

(4) Upon the expiration of any drug in the emergency box, the supplying pharmacy shall replace the expired drug, reseal the box if it is not an electronic or automated emergency box, and update the drug listing on the exterior of the emergency box or update the electronic inventory record of the emergency box as outlined in the policies and procedures of the supplying pharmacy required by section 71-2412 for an electronic or automated emergency box. Emergency box drugs shall be considered inventory of the supplying pharmacy until such time as they are removed for administration.

(5) Authorized personnel of the long-term care facility shall examine the emergency boxes once every twenty-four hours and shall immediately notify the supplying pharmacy upon discovering evidence of tampering with any emergency box. Proof of examination by authorized personnel of the long-term care facility shall be recorded and maintained at the long-term care facility for a period of five years from the date of examination.

(6) The supplying pharmacy and the medical director and quality assurance committee of the long-term care facility shall jointly establish written procedures for the safe and efficient distribution of emergency box drugs.

Source: Laws 1994, LB 1210, § 185; Laws 1999, LB 828, § 166; Laws 2001, LB 398, § 71; Laws 2009, LB195, § 71; Laws 2017, LB166, § 22; Laws 2020, LB1052, § 11.

(h) CLANDESTINE DRUG LABS

71-2433 Property owner; law enforcement agency; Nebraska State Patrol; duties.

A property owner with knowledge of a clandestine drug lab on his or her property shall report such knowledge and location as soon as practicable to the local law enforcement agency or to the Nebraska State Patrol. A law enforcement agency that discovers a clandestine drug lab in the State of Nebraska shall report the location of such lab to the Nebraska State Patrol within thirty days after making such discovery. Such report shall include the date of discovery of such lab, the county where the property containing such lab is located, and a legal description of the property or other description or address of such property sufficient to clearly establish its location. As soon as practicable after such discovery, the appropriate law enforcement agency shall provide the Nebraska State Patrol with a complete list of the chemicals, including methamphetamine, its precursors, solvents, and related reagents, found at or removed from the location of such lab. Upon receipt, the Nebraska State Patrol shall promptly forward a copy of such report and list to the department, the Department of Environment and Energy, the municipality or county where the lab is located, the director of the local public health department serving such municipality or county, and the property owner or owners.

Source: Laws 2006, LB 915, § 2; Laws 2019, LB302, § 88.

(j) AUTOMATED MEDICATION SYSTEMS ACT

71-2449 Automated medication distribution machine; requirements; drugs; limitations; inventory; how treated.

(1) An automated medication distribution machine:

(a) Is subject to the requirements of section 71-2447 and, if it is in a long-term care automated pharmacy, is subject to section 71-2451; and

(b) Subject to section 71-2451, may be operated or used in a hospital, long-term care facility, or assisted-living facility for medication administration pursuant to a chart order or prescription by a licensed health care professional.

(2) Drugs placed in an automated medication distribution machine shall be in the manufacturer's original packaging or in containers repackaged in compliance with state and federal laws, rules, and regulations relating to repackaging, labeling, and record keeping.

(3) The inventory which is transferred to an automated medication distribution machine in a hospital shall be excluded from the percent of total prescription drug sales revenue described in section 71-7454.

Source: Laws 2008, LB308, § 6; Laws 2009, LB195, § 77; Laws 2013, LB326, § 8; Laws 2022, LB592, § 1.

71-2451 Long-term care facility; annual license; application; contents; inspection; pharmacist; duties; dispensing of drugs; labeling requirements; assisted-living facility; permitted use, when.

(1) In order for an automated medication system to be operated in a long-term care facility, a pharmacist in charge of a pharmacy licensed under the Health Care Facility Licensure Act and located in Nebraska shall annually license the long-term care automated pharmacy in which the automated medication system is located.

(2) The pharmacist in charge of a licensed pharmacy shall submit an application for licensure or renewal of licensure to the Division of Public Health of the Department of Health and Human Services with a fee in the amount of the fee the pharmacy pays for licensure or renewal. The application shall include:

(a) The name and location of the licensed pharmacy;

(b) If controlled substances are stored in the automated medication system, the federal Drug Enforcement Administration registration number of the licensed pharmacy. After the long-term care automated pharmacy is registered with the federal Drug Enforcement Administration, the pharmacist in charge of the licensed pharmacy shall provide the federal Drug Enforcement Administration registration number of the long-term care automated pharmacy to the division and any application for renewal shall include such registration number;

(c) The location of the long-term care automated pharmacy; and

(d) The name of the pharmacist in charge of the licensed pharmacy.

(3) As part of the application process, the division shall conduct an inspection by a pharmacy inspector as provided in section 38-28,101 of the long-term care automated pharmacy. The division shall also conduct inspections of the operation of the long-term care automated pharmacy as necessary.

(4) The division shall license a long-term care automated pharmacy which meets the licensure requirements of the Automated Medication Systems Act.

(5) A pharmacist in charge of a licensed pharmacy shall apply for a separate license for each location at which it operates one or more long-term care automated pharmacies. The licensed pharmacy shall be the provider pharmacy for the long-term care automated pharmacy.

(6) The pharmacist in charge of the licensed pharmacy operating a long-term care automated pharmacy shall:

(a) Identify a pharmacist responsible for the operation, supervision, policies, and procedures of the long-term care automated pharmacy;

(b) Implement the policies and procedures developed to comply with section 71-2447;

(c) Assure compliance with the drug storage and record-keeping requirements of the Pharmacy Practice Act;

(d) Assure compliance with the labeling requirements of subsection (8) of this section;

(e) Develop and implement policies for the verification of drugs by a pharmacist prior to being loaded into the automated medication system or for the verification of drugs by a pharmacist prior to being released for administration to a resident;

(f) Develop and implement policies for inventory, security, and accountability for controlled substances; and

(g) Assure that each medical order is reviewed by a pharmacist prior to the release of the drugs by the automated medication system. Emergency doses may be taken from an automated medication system prior to review by a pharmacist if the licensed pharmacy develops and implements policies for emergency doses. Emergency doses may not be taken from an automated medication system prior to review by a pharmacist for residents of an assisted-living facility co-located with a long-term care facility.

(7) Supervision by a pharmacist is sufficient for compliance with the requirement of subdivision (6)(a) of this section if the pharmacist in the licensed pharmacy monitors the automated medication system electronically and keeps records of compliance with such requirement for five years.

(8) Each drug dispensed from a long-term care automated pharmacy shall be in a package with a label containing the following information:

(a) The name and address of the long-term care automated pharmacy;

(b) The prescription number;

(c) The name, strength, and dosage form of the drug;

(d) The name of the resident;

(e) The name of the practitioner who prescribed the drug;

(f) The date of filling; and

(g) Directions for use.

(9) A prescription is required for any controlled substance dispensed from a long-term care automated pharmacy and for any medication dispensed for a resident of an assisted-living facility co-located with a long-term care facility.

(10) An assisted-living facility co-located with a long-term care facility which has a long-term care automated pharmacy may obtain drugs dispensed from an automated medication distribution machine by the long-term care automated pharmacy for residents of the assisted-living facility as long as the procedures of the Automated Medication Systems Act are followed with regard to dispensing the drugs.

(11) The inventory which is transferred to a long-term care automated pharmacy shall be excluded from the percent of total prescription drug sales revenue described in section 71-7454.

Source: Laws 2013, LB326, § 9; Laws 2022, LB592, § 2.

Cross References

Health Care Facility Licensure Act, see section 71-401.
Pharmacy Practice Act, see section 38-2801.

(l) PRESCRIPTION DRUG MONITORING PROGRAM

71-2454 Prescription drug monitoring; system established; provisions included; not public records.

(1) An entity described in section 71-2455 shall establish a system of prescription drug monitoring for the purposes of (a) preventing the misuse of controlled substances that are prescribed, (b) allowing prescribers and dispensers to monitor the care and treatment of patients for whom such a prescription drug

is prescribed to ensure that such prescription drugs are used for medically appropriate purposes, (c) providing information to improve the health and safety of patients, and (d) ensuring that the State of Nebraska remains on the cutting edge of medical information technology.

(2) Such system of prescription drug monitoring shall be implemented as follows: Except as provided in subsection (4) of this section, all prescription drug information shall be reported to the prescription drug monitoring system. The prescription drug monitoring system shall include, but not be limited to, provisions that:

(a) Prohibit any patient from opting out of the prescription drug monitoring system;

(b) Require any prescription drug that is dispensed in this state or to an address in this state to be entered into the system by the dispenser or his or her delegate no less frequently than daily after such prescription drug is sold, including prescription drugs for patients paying cash or otherwise not relying on a third-party payor for payment, except that prescriptions labeled ''for emergency use'' or ''for use in immunizations'' are not required to be reported;

(c) Allow all prescribers or dispensers of prescription drugs to access the system at no cost to such prescriber or dispenser;

(d) Ensure that such system includes information relating to all payors, including, but not limited to, the medical assistance program established pursuant to the Medical Assistance Act; and

(e) Make the prescription drug information available to the statewide health information exchange described in section 71-2455 for access by its participants if such access is in compliance with the privacy and security protections set forth in the provisions of the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, and regulations promulgated thereunder, except that if a patient opts out of the statewide health information exchange, the prescription drug information regarding that patient shall not be accessible by the participants in the statewide health information exchange.

(3) Except as provided in subsection (4) of this section, prescription drug information that shall be submitted electronically to the prescription drug monitoring system shall be determined by the entity described in section 71-2455 and shall include, but not be limited to:

(a) The patient's name, address, telephone number, if a telephone number is available, gender, and date of birth;

(b) A patient identifier such as a military identification number, driver's license number, state identification card number, or other valid government-issued identification number, insurance identification number, pharmacy software-generated patient-specific identifier, or other identifier associated specifically with the patient;

(c) The name and address of the pharmacy dispensing the prescription drug;

(d) The date the prescription is issued;

(e) The date the prescription is filled;

(f) The date the prescription is sold to the patient;

(g) The number of refills authorized;

(h) The prescription number of the prescription drug;

(i) The National Drug Code number as published by the federal Food and Drug Administration of the prescription drug;

(j) The strength of the prescription drug prescribed;

(k) The quantity of the prescription drug prescribed and the number of days' supply;

(l) The prescriber's name and National Provider Identifier number or Drug Enforcement Administration number when reporting a controlled substance; and

(m) Additional information as determined by the Health Information Technology Board and as published in the submitter guide for the prescription drug monitoring system.

(4) Beginning July 1, 2018, a veterinarian licensed under the Veterinary Medicine and Surgery Practice Act shall be required to report the dispensing of prescription drugs which are controlled substances listed on Schedule II, Schedule III, Schedule IV, or Schedule V pursuant to section 28-405. Each such veterinarian shall indicate that the prescription is an animal prescription and shall include the following information in such report:

(a) The first and last name and address, including city, state, and zip code, of the individual to whom the prescription drug is dispensed in accordance with a valid veterinarian-client-patient relationship;

(b) Reporting status;

(c) The first and last name of the prescribing veterinarian and his or her federal Drug Enforcement Administration number;

(d) The National Drug Code number as published by the federal Food and Drug Administration of the prescription drug and the prescription number;

(e) The date the prescription is written and the date the prescription is filled;

(f) The number of refills authorized, if any; and

(g) The quantity of the prescription drug and the number of days' supply.

(5)(a) All prescription drug information submitted pursuant to this section, all data contained in the prescription drug monitoring system, and any report obtained from data contained in the prescription drug monitoring system are confidential, are privileged, are not public records, and may be withheld pursuant to section 84-712.05 except for information released as provided in subsection (9) or (10) of this section.

(b) No patient-identifying data as defined in section 81-664, including the data collected under subsection (3) of this section, shall be disclosed, made public, or released to any public or private person or entity except to the statewide health information exchange described in section 71-2455 and its participants, to prescribers and dispensers as provided in subsection (2) of this section, or as provided in subsection (7), (9), or (10) of this section.

(c) All other data is for the confidential use of the department and the statewide health information exchange described in section 71-2455 and its participants. The department, or the statewide health information exchange in accordance with policies adopted by the Health Information Technology Board and in collaboration with the department, may release such information 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, and regulations promulgated thereunder, as Class I, Class II, or Class

IV data in accordance with section 81-667, except for purposes in accordance with subsection (9) or (10) of this section, to the private or public persons or entities that the department or the statewide health information exchange, in accordance with policies adopted by the Health Information Technology Board, determines may view such records as provided in sections 81-663 to 81-675. In addition, the department, or the statewide health information exchange in accordance with policies adopted by the Health Information Technology Board and in collaboration with the department, may release such information as provided in subsection (9) or (10) of this section.

(6) The statewide health information exchange described in section 71-2455, in accordance with policies adopted by the Health Information Technology Board and in collaboration with the department, shall establish the minimum administrative, physical, and technical safeguards necessary to protect the confidentiality, integrity, and availability of prescription drug information.

(7) If the entity receiving the prescription drug information has privacy protections at least as restrictive as those set forth in this section and has implemented and maintains the minimum safeguards required by subsection (6) of this section, the statewide health information exchange described in section 71-2455, in accordance with policies adopted by the Health Information Technology Board and in collaboration with the department, may release the prescription drug information and any other data collected pursuant to this section to:

(a) Other state prescription drug monitoring programs;

(b) State and regional health information exchanges;

(c) The medical director and pharmacy director of the Division of Medicaid and Long-Term Care of the department, or their designees;

(d) The medical directors and pharmacy directors of medicaid-managed care entities, the state's medicaid drug utilization review board, and any other state-administered health insurance program or its designee if any such entities have a current data-sharing agreement with the statewide health information exchange described in section 71-2455, and if such release is in accordance with the privacy and security provisions of the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, and all regulations promulgated thereunder;

(e) Organizations which facilitate the interoperability and mutual exchange of information among state prescription drug monitoring programs or state or regional health information exchanges; or

(f) Electronic health record systems or pharmacy-dispensing software systems for the purpose of integrating prescription drug information into a patient's medical record.

(8) The department, or the statewide health information exchange described in section 71-2455, in accordance with policies adopted by the Health Information Technology Board and in collaboration with the department, may release to patients their prescription drug information collected pursuant to this section. Upon request of the patient, such information may be released directly to the patient or a personal health record system designated by the patient which has privacy protections at least as restrictive as those set forth in this section and that has implemented and maintains the minimum safeguards required by subsection (6) of this section.

(9) 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, and regulations promulgated thereunder, the department, or the statewide health information exchange described in section 71-2455 under policies adopted by the Health Information Technology Board, may release data collected pursuant to this section for statistical, public policy, or educational purposes after removing information which identifies or could reasonably be used to identify the patient, prescriber, dispenser, or other person who is the subject of the information, except as otherwise provided in subsection (10) of this section.

(10) 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, and regulations promulgated thereunder, the department, or statewide health information exchange described in section 71-2455 under policies adopted by the Health Information Technology Board, may release data collected pursuant to this section for quality measures as approved or regulated by state or federal agencies or for patient quality improvement or research initiatives approved by the Health Information Technology Board.

(11) The statewide health information exchange described in section 71-2455, entities described in subsection (7) of this section, or the department may request and receive program information from other prescription drug monitoring programs for use in the prescription drug monitoring system in this state 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, and regulations promulgated thereunder.

(12) The statewide health information exchange described in section 71-2455, in collaboration with the department, shall implement technological improvements to facilitate the secure collection of, and access to, prescription drug information in accordance with this section.

(13) Before accessing the prescription drug monitoring system, any user shall undergo training on the purpose of the system, access to and proper usage of the system, and the law relating to the system, including confidentiality and security of the prescription drug monitoring system. Such training shall be administered by the statewide health information exchange described in section 71-2455 or the department. The statewide health information exchange described in section 71-2455 shall have access to the prescription drug monitoring system for training operations, maintenance, and administrative purposes. Users who have been trained prior to May 10, 2017, or who are granted access by an entity receiving prescription drug information pursuant to subsection (7) of this section, are deemed to be in compliance with the training requirement of this subsection.

(14) For purposes of this section:

(a) Deliver or delivery means to actually, constructively, or attempt to transfer a drug or device from one person to another, whether or not for consideration;

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

(c) Delegate means any licensed or registered health care professional credentialed under the Uniform Credentialing Act designated by a prescriber or dispenser to act as an agent of the prescriber or dispenser for purposes of

submitting or accessing data in the prescription drug monitoring system and who is supervised by such prescriber or dispenser;

(d) Prescription drug or drugs means a prescription drug or drugs dispensed by delivery to the ultimate user or caregiver by or pursuant to the lawful order of a prescriber but does not include (i) the delivery of such prescription drug for immediate use for purposes of inpatient hospital care or emergency department care, (ii) the administration of a prescription drug by an authorized person upon the lawful order of a prescriber, (iii) a wholesale distributor of a prescription drug monitored by the prescription drug monitoring system, or (iv) the dispensing to a nonhuman patient of a prescription drug which is not a controlled substance listed in Schedule II, Schedule III, Schedule IV, or Schedule V of section 28-405;

(e) Dispenser means a person authorized in the jurisdiction in which he or she is practicing to deliver a prescription drug to the ultimate user or caregiver by or pursuant to the lawful order of a prescriber;

(f) Participant means an individual or entity that has entered into a participation agreement with the statewide health information exchange described in section 71-2455 which requires the individual or entity to comply with the privacy and security protections set forth in the provisions of the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, and regulations promulgated thereunder; and

(g) Prescriber means a health care professional authorized to prescribe in the profession which he or she practices.

Source: Laws 2011, LB237, § 1; Laws 2014, LB1072, § 1; Laws 2016, LB471, § 1; Laws 2017, LB223, § 1; Laws 2018, LB1034, § 65; Laws 2019, LB556, § 4; Laws 2020, LB1183, § 7; Laws 2024, LB1215, § 31.
Operative date July 19, 2024.

Cross References

Medical Assistance Act, see section 68-901.
Uniform Credentialing Act, see section 38-101.
Veterinary Medicine and Surgery Practice Act, see section 38-3301.

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

Subject to sections 81-6,127 and 81-6,128, the Department of Health and Human Services, in collaboration with the Nebraska Health Information Initiative or any successor public-private statewide health information exchange, shall enhance or establish technology for prescription drug monitoring to carry out the purposes of section 71-2454. The department may use state funds and accept grants, gifts, or other funds in order to implement and operate the technology. The department may adopt and promulgate rules and regulations to authorize use of electronic health information, if necessary to carry out the purposes of sections 71-2454 and 71-2455. The department shall contract with the statewide health information exchange for the administration of the Health Information Technology Board, and such contract shall specify that the health information exchange is responsible for the administration of the Health Information Technology Board, including, but not limited to, providing meeting notices, recording and distributing meeting minutes, administrative tasks relat-

ed to the same, and funding such activities. The contract shall also include provisions for the statewide health information exchange to reimburse the expenses of the members of the board pursuant to subsection (5) of section 81-6,127. Such reimbursement shall be paid using a process essentially similar to sections 81-1174 to 81-1177. No state funds, including General Funds, cash funds, and federal funds, shall be used to carry out the administrative duties of the Health Information Technology Board nor for reimbursement of the expenses of the board members.

Source: Laws 2011, LB237, § 2; Laws 2014, LB1072, § 2; Laws 2020, LB1183, § 8.

(m) PRESCRIPTION DRUG SAFETY ACT

71-2457 Prescription Drug Safety Act; act, how cited.

Sections 71-2457 to 71-2483 shall be known and may be cited as the Prescription Drug Safety Act.

Source: Laws 2015, LB37, § 1; Laws 2020, LB1052, § 12.

71-2458 Definitions, where found.

For purposes of the Prescription Drug Safety Act, the definitions found in sections 71-2459 to 71-2476 apply.

Source: Laws 2015, LB37, § 2; Laws 2020, LB1052, § 13.

71-2461.01 Central fill, defined; central fill pharmacy; delivery authorized.

(1) Central fill means the preparation, other than by compounding, of a drug, device, or biological pursuant to a medical order where the preparation occurs in a pharmacy other than the pharmacy dispensing to the patient or caregiver as defined in section 38-2809.

(2) If the dispensing pharmacy and central fill pharmacy are under common ownership, the central fill pharmacy may deliver such drug, device, or biological to the patient or caregiver on behalf of the dispensing pharmacy, except that the dispensing pharmacy shall be responsible for the prescriptions filled and delivered by the central fill pharmacy.

Source: Laws 2020, LB1052, § 14; Laws 2023, LB227, § 77.

71-2468 Labeling, defined.

Labeling means the process of preparing and affixing a label to any drug container or device container, exclusive of the labeling by a manufacturer, packager, or distributor of a nonprescription drug or commercially packaged legend drug or device. Any such label shall include all information required by section 71-2479 and federal law or regulation. Compliance with labeling requirements under federal law for devices described in subsection (2) of section 38-2841, medical gases, and medical gas devices constitutes compliance with state law and regulations for purposes of this section. Labeling does not include affixing an auxiliary sticker or other such notation to a container after a drug has been dispensed when the sticker or notation is affixed by a person credentialed under the Uniform Credentialing Act in a facility licensed under the Health Care Facility Licensure Act.

Source: Laws 2015, LB37, § 12; Laws 2020, LB1052, § 15.

Cross References

Health Care Facility Licensure Act, see section 71-401.
Uniform Credentialing Act, see section 38-101.

71-2478 Legend drug not a controlled substance; written, oral, or electronic prescription; information required; controlled substance; requirements; pharmacist; authority to adapt prescription; duties; prohibited acts.

(1) Except as otherwise provided in this section or the Uniform Controlled Substances Act or except when administered directly by a practitioner to an ultimate user, a legend drug which is not a controlled substance shall not be dispensed without a written, oral, or electronic prescription. Such prescription shall be valid for twelve months after the date of issuance.

(2) A prescription for a legend drug which is not a controlled substance shall contain the following information prior to being filled by a pharmacist or practitioner who holds a pharmacy license under subdivision (1) of section 38-2850: (a) Patient's name, or if not issued for a specific patient, the words, ''for emergency use'' or ''for use in immunizations'', (b) name of the drug, device, or biological, (c) strength of the drug or biological, if applicable, (d) dosage form of the drug or biological, (e) quantity of the drug, device, or biological prescribed, (f) directions for use, (g) date of issuance, (h) number of authorized refills, including pro re nata or PRN refills, (i) prescribing practitioner's name, and (j) if the prescription is written, prescribing practitioner's signature. Prescriptions for controlled substances must meet the requirements of sections 28-414 and 28-414.01.

(3)(a) A pharmacist who is exercising reasonable care and who has obtained patient consent may do the following:

(i) Change the quantity of a drug prescribed if:

(A) The prescribed quantity or package size is not commercially available; or

(B) The change in quantity is related to a change in dosage form;

(ii) Change the dosage form of the prescription if it is in the best interest of the patient and if the directions for use are also modified to equate to an equivalent amount of drug dispensed as prescribed;

(iii) Dispense multiple months' supply of a drug if a prescription is written with sufficient refills; and

(iv) Substitute any chemically equivalent drug product for a prescribed drug to comply with a drug formulary which is covered by the patient's health insurance plan unless the prescribing practitioner specifies ''no substitution'', ''dispense as written'', or ''D.A.W.'' to indicate that substitution is not permitted. If a pharmacist substitutes any chemically equivalent drug product as permitted under this subdivision, the pharmacist shall provide notice to the prescribing practitioner or the prescribing practitioner's designee. If drug product selection occurs involving a generic substitution, the drug product selection shall comply with section 38-28,111.

(b) A pharmacist who adapts a prescription in accordance with this subsection shall document the adaptation in the patient's pharmacy record.

(4) A written, signed paper prescription may be transmitted to the pharmacy via facsimile which shall serve as the original written prescription. An electronic prescription may be electronically or digitally signed and transmitted to the pharmacy and may serve as the original prescription.

(5) It shall be unlawful for any person knowingly or intentionally to possess or to acquire or obtain or to attempt to acquire or obtain, by means of misrepresentation, fraud, forgery, deception, or subterfuge, possession of any drug substance not classified as a controlled substance under the Uniform Controlled Substances Act which can only be lawfully dispensed, under federal statutes in effect on January 1, 2015, upon the written or oral prescription of a practitioner authorized to prescribe such substances.

Source: Laws 2015, LB37, § 22; Laws 2017, LB166, § 24; Laws 2020, LB1052, § 16; Laws 2024, LB1215, § 32.
Operative date July 19, 2024.

Cross References

Uniform Controlled Substances Act, see section 28-401.01.

71-2479 Legend drug not a controlled substance; prescription; retention; label; contents.

(1) Any prescription for a legend drug which is not a controlled substance shall be kept by the pharmacy or the practitioner who holds a pharmacy license in a readily retrievable format and shall be maintained for a minimum of five years. The pharmacy or practitioner shall make all such files readily available to the department and law enforcement for inspection without a search warrant.

(2) Before dispensing a legend drug which is not a controlled substance pursuant to a written, oral, or electronic prescription, a label shall be affixed to the container in which the drug is dispensed. Such label shall bear (a) the name, address, and telephone number of the pharmacy or practitioner and the name and address of the central fill pharmacy if central fill is used, (b) the name of the patient, or if not issued for a specific patient, the words ''for emergency use'' or ''for use in immunizations'', (c) the date of filling, (d) the serial number of the prescription under which it is recorded in the practitioner's prescription records, (e) the name of the prescribing practitioner, (f) the directions for use, (g) the name of the drug, device, or biological unless instructed to omit by the prescribing practitioner, (h) the strength of the drug or biological, if applicable, (i) the quantity of the drug, device, or biological in the container, except unit-dose containers, (j) the dosage form of the drug or biological, and (k) any cautionary statements contained in the prescription.

(3) For multidrug containers, more than one drug, device, or biological may be dispensed in the same container when (a) such container is prepackaged by the manufacturer, packager, or distributor and shipped directly to the pharmacy in this manner or (b) the container does not accommodate greater than a thirty-one-day supply of compatible dosage units and is labeled to identify each drug or biological in the container in addition to all other information required by law.

Source: Laws 2015, LB37, § 23; Laws 2017, LB166, § 25; Laws 2020, LB1052, § 17; Laws 2023, LB227, § 78; Laws 2024, LB1215, § 33.
Operative date July 19, 2024.

(n) DISCLOSURE OF COST, PRICE, OR COPAYMENT OF PRESCRIPTION DRUGS

71-2484 Repealed. Laws 2022, LB767, § 15.

(o) OPIOID PREVENTION AND TREATMENT

71-2485 Opioid Prevention and Treatment Act, how cited.

Sections 71-2485 to 71-2495 shall be known and may be cited as the Opioid Prevention and Treatment Act.

Source: Laws 2020, LB1124, § 1; Laws 2024, LB1355, § 4.
Operative date July 1, 2024.

71-2485.01 Terms, defined.

For purposes of the Opioid Prevention and Treatment Act:

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

(2) Local public health department means a local public health department as defined in section 71-1626;

(3) Opiate or opioid means any drug or other substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability;

(4) Opioid epidemic means the serious public health crisis stemming from the rapid increase in the use of prescription and nonprescription opioid drugs;

(5) Opioid remediation means care, treatment, and other programs and expenditures designed to (a) address the misuse and abuse of opioid products, (b) treat or mitigate opioid use or related disorders, (c) mitigate other effects of the opioid epidemic, including the effects on those injured as a result of the opioid epidemic, (d) support treatment of any co-occurring substance use disorder or mental health condition; and

(6) Regional behavioral health authority means an authority established pursuant to section 71-808.

Source: Laws 2024, LB1355, § 7.
Operative date July 1, 2024.

71-2486 Act, purpose.

The purpose of the Opioid Prevention and Treatment Act is to provide for the use of dedicated revenue for opioid-disorder-related treatment, prevention, and remediation and research regarding opioid treatment, prevention, and remediation, in accordance with the terms of any verdict, judgment, compromise, or settlement that is the source of such revenue.

Source: Laws 2020, LB1124, § 2; Laws 2024, LB1355, § 5.
Operative date July 1, 2024.

71-2487 Legislative findings.

The Legislature finds that:

(1) There is an opioid epidemic occurring in the United States, and Nebraska has been impacted;

(2) The opioid epidemic in Nebraska is a serious public health crisis stemming from the rapid increase in the use of prescription and nonprescription opioid drugs;

(3) Many states are recovering funds for the management of opioid addiction within their borders;

(4) Coordination surrounding and managing opioid addiction and related disorders is critical to the health and safety of all Nebraskans;

(5) Funding for prevention and treatment of opioid addiction and related disorders, including those that are co-occurring with other mental health and substance use disorders, is needed in Nebraska;

(6) Law enforcement agencies in the State of Nebraska are dealing with the effects of the opioid epidemic daily and are in need of resources for training, education, and interdiction;

(7) There is a need to enhance the network of professionals who provide treatment for opioid addiction and related disorders, including co-occurring mental health disorders and other co-occurring substance use disorders;

(8) There is a need for education of medical professionals, including training on proper prescription practices and best practices for tapering patients off of prescribed opioids for medical use;

(9) Incarcerated individuals in the Nebraska correctional system and other vulnerable populations with opioid use disorder need access to resources that will help address addiction; and

(10) The health and safety of all Nebraskans will be improved by opioid remediation in the State of Nebraska.

Source: Laws 2020, LB1124, § 3; Laws 2024, LB1355, § 6.
Operative date July 1, 2024.

71-2488 Funds appropriated or distributed; not considered entitlement or state obligation; conditions on expenditures; conflict; verdict, judgment, compromise, or settlement prevails.

(1) Any funds appropriated from the Opioid Prevention and Treatment Cash Fund or the Opioid Treatment Infrastructure Cash Fund or distributed from the Nebraska Opioid Recovery Trust Fund under the Opioid Prevention and Treatment Act shall not be considered ongoing entitlements or an obligation on the part of the State of Nebraska.

(2) Any funds appropriated or distributed under the Opioid Prevention and Treatment Act shall be spent in accordance with the Opioid Prevention and Treatment Act and the terms of any verdict, judgment, compromise, or settlement in or out of court, of any case or controversy brought by the Attorney General pursuant to the Consumer Protection Act or the Uniform Deceptive Trade Practices Act. If there is any conflict between the terms of any verdict, judgment, compromise, or settlement and the Opioid Prevention and Treatment Act, the terms of the verdict, judgment, compromise, or settlement shall prevail.

Source: Laws 2020, LB1124, § 4; Laws 2024, LB1355, § 8.
Operative date July 1, 2024.

Cross References

Consumer Protection Act, see section 59-1623.
Uniform Deceptive Trade Practices Act, see section 87-306.

71-2489 Funds appropriated and distributed; reports on use.

The regional behavioral health authorities and local public health departments shall report on or before November 30 of each even-numbered year to the division regarding the use of funds distributed for purposes of the Opioid Prevention and Treatment Act and the outcomes achieved from the use of such funds. The division shall report annually on or before December 15 to the Legislature, the Governor, and the Attorney General regarding the use of funds appropriated and distributed under the Opioid Prevention and Treatment Act and the outcomes achieved from the use of such funds. The reports submitted to the Legislature shall be submitted electronically.

Source: Laws 2020, LB1124, § 5; Laws 2024, LB1355, § 9.
Operative date July 1, 2024.

71-2490 Nebraska Opioid Recovery Trust Fund; created; use; investment.

(1) The Nebraska Opioid Recovery Trust Fund is created. The fund shall include all recoveries received on behalf of the state by the Department of Justice pursuant to the Consumer Protection Act or the Uniform Deceptive Trade Practices Act related to the advertising of opioids. The fund shall include any money, payments, or other things of value in the nature of civil damages or other payment, except criminal penalties, whether such recovery is by way of verdict, judgment, compromise, or settlement in or out of court, of any case or controversy pursuant to such acts. The Department of Justice shall remit any such revenue to the State Treasurer for credit to the Nebraska Opioid Recovery Trust Fund.

(2) Any funds appropriated, expended, or distributed from the Nebraska Opioid Recovery Trust Fund shall be spent in accordance with the terms of any verdict, judgment, compromise, or settlement in or out of court, of any case or controversy brought by the Attorney General pursuant to the Consumer Protection Act or the Uniform Deceptive Trade Practices Act.

(3) The Nebraska Opioid Recovery Trust Fund shall exclude funds held in a trust capacity where specific benefits accrue to specific individuals, organizations, political subdivisions, or governments. Such excluded funds shall be deposited in the State Settlement Trust Fund pursuant to section 59-1608.05.

(4)(a) Any money transferred from the Nebraska Opioid Recovery Trust Fund shall be expended in accordance with the terms and conditions of the litigation or settlement from which the money was received.

(b) The State Treasurer shall transfer the following amounts from the Nebraska Opioid Recovery Trust Fund on or after July 1, 2024, but before July 15, 2024, and on or after July 1 but before July 15 of each year thereafter:

(i) One million one hundred twenty-five thousand dollars to the Training Division Cash Fund to connect first responders to behavioral health services, supports, and training and for a statewide wellness learning plan that includes anonymous assessments, education, and awareness to promote resiliency development;

(ii) Four hundred thousand dollars to the Health and Human Services Cash Fund for staff to carry out the Overdose Fatality Review Teams Act;

(iii) Three million dollars to the Opioid Prevention and Treatment Cash Fund for purposes of the Opioid Prevention and Treatment Act; and

(iv) An amount determined by the Legislature to the Opioid Treatment Infrastructure Cash Fund.

(c) It is the intent of the Legislature that, of the total settlement funds received by the State of Nebraska and transferred from the Nebraska Opioid Recovery Trust Fund to the Opioid Prevention and Treatment Cash Fund and to the Opioid Treatment Infrastructure Cash Fund, twenty-five percent of such funds are transferred to the Opioid Prevention and Treatment Cash Fund and seventy-five percent of such funds are transferred to the Opioid Treatment Infrastructure Cash Fund.

(5) Any money in the Nebraska Opioid Recovery Trust Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 2020, LB1124, § 6; Laws 2024, LB1355, § 10.
Operative date July 1, 2024.

Cross References

Consumer Protection Act, see section 59-1623.
Nebraska Capital Expansion Act, see section 72-1269.
Nebraska State Funds Investment Act, see section 72-1260.
Overdose Fatality Review Teams Act, see section 71-3422.
Uniform Deceptive Trade Practices Act, see section 87-306.

71-2491 Opioid Prevention and Treatment Cash Fund; created; use; investment.

(1) The Opioid Prevention and Treatment Cash Fund is created. The fund shall consist of transfers from the Nebraska Opioid Recovery Trust Fund. No more than the amounts specified in this section may be appropriated or transferred from the Opioid Prevention and Treatment Cash Fund in any fiscal year.

(2) Any money in the Opioid Prevention and Treatment 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) It is the intent of the Legislature to annually appropriate from the Opioid Prevention and Treatment Cash Fund beginning in FY2024-25 three million dollars to the Department of Health and Human Services for disbursement by the division to regional behavioral health authorities for behavioral health regions established pursuant to section 71-807 for opioid use prevention and opioid remediation under the Opioid Prevention and Treatment Act as follows:

(a) Five and four-hundred-seventy-six thousandths percent to region 1;

(b) Five and one-hundred-twelve thousandths percent to region 2;

(c) Ten and eight thousand nine hundred eighty-two ten-thousandths percent to region 3;

(d) Eight and five thousand eight hundred thirty-three ten-thousandths percent to region 4;

(e) Twenty-five and seven thousand four hundred twenty-one ten-thousandths percent to region 5; and

(f) Forty-four and one thousand eight hundred sixty-nine ten-thousandths percent to region 6.

(4) The regional behavioral health authorities shall only spend such disbursements for purposes identified in section 71-2494.

Source: Laws 2024, LB1355, § 11.
Operative date July 1, 2024.

Cross References

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

71-2492 Opioid Treatment Infrastructure Cash Fund; created; use; investment.

(1) The Opioid Treatment Infrastructure Cash Fund is created. The fund shall consist of transfers from the Nebraska Opioid Recovery Trust Fund.

(2) The division shall use the Opioid Treatment Infrastructure Cash Fund as appropriated by the Legislature for local and state public-private partnerships for nonprofit and for-profit entities engaged in opioid use prevention and opioid treatment infrastructure projects as determined by the division, including capital construction and renovation. The administrative cost for distributing funds under this section shall not exceed an amount equal to five percent of the amount distributed.

(3) Any money in the Opioid Treatment Infrastructure 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 2024, LB1355, § 12.
Operative date July 1, 2024.

Cross References

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

71-2493 Local public health department; aid; distribution; use; contracts authorized; report.

(1) The division shall equitably distribute aid as appropriated by the Legislature to local public health departments:

(a) To facilitate prevention efforts, including training on the use of overdose response, syringe access and education, and drug-checking products;

(b) For education and training activities related to opioid use prevention and opioid remediation; and

(c) For data tracking efforts related to the opioid epidemic.

(2) Each local public health department may contract for services with hospitals, law enforcement, and community organizations for purposes of subsection (1) of this section. Each local public health department shall report to the division as provided in section 71-2489.

(3) It is the intent of the Legislature to appropriate at least five hundred thousand dollars from the General Fund to the County Public Health Aid Program for disbursement to local public health departments as provided in section 71-1628.08 for opioid use prevention and opioid remediation under the Opioid Prevention and Treatment Act. It is the intent of the Legislature that

funds appropriated for purposes of this section are offset by a reduction in funds for Behavioral Health Aid for fiscal year 2024-25.

Source: Laws 2024, LB1355, § 13.
Operative date July 1, 2024.

71-2494 Regional behavioral health authority; aid; use; report.

(1) Each regional behavioral health authority shall use funds received pursuant to the Opioid Prevention and Treatment Act for:

(a) Opioid treatment and response;

(b) Data tracking related to the opioid epidemic;

(c) Supporting individual recovery and rehabilitation related to the opioid epidemic; and

(d) Opioid use prevention and opioid remediation.

(2) Each regional behavioral health authority shall report to the division as provided in section 71-2489.

(3) The division shall review the reports and require an authority to return unobligated and unexpended funds for the prior biennium to the Opioid Prevention and Treatment Cash Fund.

Source: Laws 2024, LB1355, § 14.
Operative date July 1, 2024.

71-2495 Research; appropriations; legislative intent.

(1) The Legislature intends to support opioid misuse prevention research, opioid addiction research, and population, clinical, translational, and basic science research proposals to decrease the harmful impact of the opioid epidemic on Nebraska and carry out the purposes of the Opioid Prevention and Treatment Act.

(2) It is the intent of the Legislature to annually appropriate two hundred fifty thousand dollars from the General Fund to the Board of Regents of the University of Nebraska for research at the University of Nebraska Medical Center, which shall only be used for research on opioid misuse prevention research, opioid addiction research, or population, clinical, translational, and basic science research proposals to decrease the harmful impact of the opioid epidemic on Nebraska. It is the intent of the Legislature that funds appropriated for purposes of this section are offset by a reduction in funds for Behavioral Health Aid for fiscal year 2024-25.

Source: Laws 2024, LB1355, § 15.
Operative date July 1, 2024.

(p) PRESCRIPTION DRUG DONATION PROGRAM ACT

71-2496 Prescription Drug Donation Program Act, how cited.

Sections 71-2496 to 71-24,102 shall be known and may be cited as the Prescription Drug Donation Program Act.

Source: Laws 2024, LB1035, § 1.
Effective date July 19, 2024.

71-2497 Terms, defined.

For purposes of the Prescription Drug Donation Program Act:

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

(2) Health care facility has the definition found in section 71-413 and includes the office of an individual licensed to practice medicine and surgery or osteopathic medicine and surgery;

(3) Pharmacy has the definition found in section 71-425;

(4) Prescribing practitioner means a health care practitioner licensed under the Uniform Credentialing Act who is authorized to prescribe drugs;

(5) Prescription drug has the definition found in section 38-2841 excluding controlled substances as defined in section 28-401 and any drugs subject to the requirements of 21 U.S.C. 355-1(f)(3); and

(6) Program means the Prescription Drug Donation Program approved pursuant to section 71-2498.

Source: Laws 2024, LB1035, § 2.
Effective date July 19, 2024.

Cross References

Uniform Credentialing Act, see section 38-101.

71-2498 Prescription drug donation program; approval; administration; participation; voluntary.

The department shall approve a prescription drug donation program that meets the criteria set forth in section 71-24,100 and designate a nonprofit organization to administer the program. Participation in the program shall be voluntary.

Source: Laws 2024, LB1035, § 3.
Effective date July 19, 2024.

71-2499 Donations; handling fee.

Any individual or entity, including, but not limited to, a prescription drug manufacturer or health care facility, may donate prescription drugs, over-the-counter medicines and products, and supplies to the program. A health care facility or pharmacy may charge a handling fee for distributing or dispensing prescription drugs or supplies under the program.

Source: Laws 2024, LB1035, § 4.
Effective date July 19, 2024.

71-24,100 Donated prescription drugs; requirements.

The department shall ensure that donated prescription drugs meet the following requirements:

(1) A prescription drug or supply is in its original, unopened, sealed, and tamper-evident packaging. A prescription drug packaged in single-unit doses may be accepted and dispensed if the outside packaging is opened but the single-unit-dose packaging is unopened. There shall be no limitation on the number of doses that can be donated to the program;

(2) The prescription drug or supply is inspected by the program before the prescription drug or supply is dispensed by a licensed pharmacist and such drugs are only dispensed pursuant to a prescription issued by a prescribing

practitioner. Such drugs may be distributed to another health care facility or pharmacy for dispensing; and

(3) The prescription drug (a) bears an expiration date that is more than six months after the date the prescription drug was donated, except that such drug may be accepted and distributed if the drug is in high demand as determined by the program and can be dispensed for use, (b) is not adulterated or misbranded as defined in section 71-2461 or 71-2470, (c) has not expired, and (d) does not have restricted distribution by the federal Food and Drug Administration.

Source: Laws 2024, LB1035, § 5.
Effective date July 19, 2024.

71-24,101 Program; requirements.

(1) The program shall (a) comply with all applicable provisions of state and federal law relating to the storage, distribution, and dispensing of donated prescription drugs and (b) not resell donated prescription drugs and supplies.

(2) Nothing in the Prescription Drug Donation Program Act shall be construed to restrict the use of samples by a prescribing practitioner during the course of such practitioner's duties at a health care facility or pharmacy.

Source: Laws 2024, LB1035, § 6.
Effective date July 19, 2024.

71-24,102 Liability; professional disciplinary action; criminal prosecution.

(1) Any individual or entity which exercises reasonable care in donating, accepting, distributing, or dispensing prescription drugs or supplies under the Prescription Drug Donation Program Act or rules and regulations adopted and promulgated by the department shall be immune from civil or criminal liability or professional disciplinary action of any kind for any injury, death, or loss to person or property relating to such activities.

(2) Any nonprofit organization administering such program shall be immune from civil or criminal liability or professional disciplinary action of any kind for any injury, death, or loss to person or property relating to such activities.

(3) A drug manufacturer shall not, in the absence of bad faith or a finding of gross negligence, be subject to criminal prosecution or liability in tort or other civil action, for injury, death, or loss to a person or property for matters related to the donation, acceptance, or dispensing of a drug manufactured by the drug manufacturer that is donated by any person under the program, including, but not limited to, liability for failure to transfer or communicate product or consumer information or the expiration date of the donated prescription drug.

Source: Laws 2024, LB1035, § 7.
Effective date July 19, 2024.

ARTICLE 26

STATE BOARD OF HEALTH

Section
71-2605. Board; members; per diem; expenses.
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.

71-2605 Board; members; per diem; expenses.

The members of the State Board of Health shall receive the sum of twenty dollars per diem, while actually engaged in the business of the board, and shall be reimbursed for expenses incurred in the performance of their duties as provided in sections 81-1174 to 81-1177.

Source: Laws 1953, c. 335, § 11, p. 1103; Laws 1981, LB 204, § 123; Laws 2020, LB381, § 63.

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.

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.

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.

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.

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.

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.

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.

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.
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.

71-3101 Transferred to section 81-15,271.

71-3102 Transferred to section 81-15,272.

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 32
PRIVATE DETECTIVES

Section
71-3204. Secretary of State; rules and regulations; fees.

71-3204 Secretary of State; rules and regulations; fees.

(1) The secretary may adopt and promulgate and alter from time to time rules and regulations relating to the administration of, but not inconsistent with, sections 71-3201 to 71-3213.

(2) The secretary shall establish fees for initial and renewal applications for applicants at rates sufficient to cover the costs of administering sections

71-3201 to 71-3213. The secretary shall remit the fees received pursuant to this section to the State Treasurer for credit to the Secretary of State Cash Fund.

Source: Laws 1959, c. 329, § 4, p. 1197; Laws 2002, Second Spec. Sess., LB 25, § 1; Laws 2020, LB910, § 31.

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.

Cross References

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

ARTICLE 34

REDUCTION IN MORBIDITY AND MORTALITY

(b) CHILD AND MATERNAL DEATHS

Section

(c) DOMESTIC ABUSE DEATHS

(d) OVERDOSE FATALITIES

(b) CHILD AND MATERNAL DEATHS

71-3404 Child and Maternal Death Review Act, how cited; child deaths; stillbirths; maternal deaths and severe maternal morbidity; legislative findings and intent.

(1) Sections 71-3404 to 71-3411 shall be known and may be cited as the Child and Maternal Death Review Act.

(2) The Legislature finds and declares that it is in the best interests of the state, its residents, and especially the children of this state that the number and causes of death of children, including stillbirths, in this state be examined. There is a need for a comprehensive integrated review of all child deaths and stillbirths in Nebraska and a system for statewide retrospective review of existing records relating to each child death and stillbirth.

(3) The Legislature further finds and declares that it is in the best interests of the state and its residents that the number and causes of maternal death and severe maternal morbidity in this state be examined. There is a need for a comprehensive integrated review of all maternal deaths and incidents of severe maternal morbidity in Nebraska and a system for statewide retrospective review of existing records relating to each maternal death and incident of severe maternal morbidity.

(4) It is the intent of the Legislature, by creation of the Child and Maternal Death Review Act, to:

(a) Identify trends from the review of past records to prevent future child deaths, stillbirths, maternal deaths, and incidents of severe maternal morbidity from similar causes when applicable;

(b) Recommend systematic changes for the creation of a cohesive method for responding to certain child deaths, stillbirths, maternal deaths, and incidents of severe maternal morbidity; and

(c) When appropriate, cause referral to be made to those agencies as required in section 28-711 or as otherwise required by state law.

Source: Laws 1993, LB 431, § 1; Laws 2013, LB361, § 1; Laws 2022, LB741, § 47; Laws 2023, LB227, § 95.

71-3405 Terms, defined.

For purposes of the Child and Maternal Death Review Act:

(1) Child means a person from birth to eighteen years of age;

(2) Investigation of child death means a review of existing records and other information regarding the child or stillbirth from relevant agencies, professionals, and providers of medical, dental, prenatal, and mental health care. The records to be reviewed may include, but not be limited to, medical records, coroner's reports, autopsy reports, social services records, records of alternative response cases under alternative response implemented in accordance with sections 28-710.01, 28-712, and 28-712.01, educational records, emergency and paramedic records, and law enforcement reports;

(3) Investigation of maternal death means a review of existing records and other information regarding the woman from relevant agencies, professionals, and providers of medical, dental, prenatal, and mental health care. The records to be reviewed may include, but not be limited to, medical records, coroner's

reports, autopsy reports, social services records, educational records, emergency and paramedic records, and law enforcement reports;

(4) Maternal death means the death of a woman during pregnancy or the death of a postpartum woman;

(5) Postpartum woman means a woman during the period of time beginning when the woman ceases to be pregnant and ending one year after the woman ceases to be pregnant;

(6) Preventable child death means the death of any child or stillbirth which reasonable medical, social, legal, psychological, or educational intervention may have prevented. Preventable child death includes, but is not limited to, the death of a child or stillbirth resulting from (a) intentional and unintentional injuries, (b) medical misadventures, including untoward results, malpractice, and foreseeable complications, (c) lack of access to medical care, (d) neglect and reckless conduct, including failure to supervise and failure to seek medical care for various reasons, and (e) preventable premature birth;

(7) Preventable maternal death means the death of a pregnant or postpartum woman when there was at least some chance of the death being averted by one or more reasonable changes to (a) the patient, (b) the patient's family, (c) the health care provider, facility, or system, or (d) community factors;

(8) Reasonable means taking into consideration the condition, circumstances, and resources available;

(9) Severe maternal morbidity means the unexpected outcomes of labor and delivery resulting in significant short- or long-term consequences to a woman's health;

(10) Stillbirth means a spontaneous fetal death which resulted in a fetal death certificate pursuant to section 71-606; and

(11) Teams means the State Child Death Review Team and the State Maternal Death Review Team.

Source: Laws 1993, LB 431, § 2; Laws 2013, LB361, § 2; Laws 2014, LB853, § 46; Laws 2020, LB1061, § 10; Laws 2022, LB741, § 48; Laws 2023, LB227, § 96.

71-3406 State Child Death Review Team and State Maternal Death Review Team; members; terms; chairpersons; not considered public body; meetings; expenses.

(1) The chief executive officer of the Department of Health and Human Services shall appoint a minimum of twelve members each to the State Child Death Review Team and the State Maternal Death Review Team. A person seeking appointment shall apply using an application process developed by the chief executive officer.

(2) The core members shall serve on both teams and shall be (a) a physician employed by the department, who shall be a permanent member of the teams, (b) a forensic pathologist, (c) a law enforcement representative, (d) a mental health provider, and (e) an attorney.

(3) Additional required members appointed to the State Child Death Review Team shall include the Inspector General of Nebraska Child Welfare and a senior department staff member with child protective services, who shall be permanent members. The remaining members appointed to the State Child

Death Review Team may include, but shall not be limited to, the following: (a) A county attorney; (b) a Federal Bureau of Investigation agent responsible for investigations on Native American reservations; (c) a social worker; and (d) members of organizations which represent hospitals or physicians.

(4) The remaining members appointed to the State Maternal Death Review Team may include, but shall not be limited to, the following: (a) County attorneys; (b) representatives of tribal organizations; (c) social workers; (d) medical providers, including, but not limited to, the practice areas of obstetrics, maternal-fetal medicine, and anesthesiology; (e) public health workers; (f) community birth workers; and (g) community advocates. In appointing members to the State Maternal Death Review Team, the chief executive officer of the department shall consider members working in and representing communities that are diverse with regard to race, ethnicity, immigration status, and English proficiency and include members from differing geographic regions in the state, including both rural and urban areas.

(5) The department shall be responsible for the general administration of the activities of the teams and shall employ or contract with team coordinators to provide administrative support for each team and shall provide a team data abstractor for the teams.

(6) Members shall serve four-year terms with the exception of the permanent members. Each team shall annually elect a chairperson from among its members.

(7) The teams shall not be considered a public body for purposes of the Open Meetings Act. The teams shall meet a minimum of four times a year. Members of the teams shall be reimbursed for expenses as provided in sections 81-1174 to 81-1177.

Source: Laws 1993, LB 431, § 3; Laws 1996, LB 1044, § 648; Laws 1997, LB 307, § 187; Laws 1998, LB 1073, § 125; Laws 2003, LB 467, § 1; Laws 2004, LB 821, § 17; Laws 2007, LB296, § 563; Laws 2013, LB269, § 12; Laws 2013, LB361, § 3; Laws 2020, LB381, § 64; Laws 2022, LB741, § 49.

Cross References

Open Meetings Act, see section 84-1407.

71-3407 Teams; purposes; duties; powers.

(1) The purpose of the teams shall be to (a) develop an understanding of the causes and incidence of child deaths, stillbirths, maternal deaths, and severe maternal morbidity in this state, (b) develop recommendations for changes within relevant agencies and organizations which may serve to prevent child deaths, stillbirths, maternal deaths, and incidents of severe maternal morbidity and (c) advise the Governor, the Legislature, and the public on changes to law, policy, and practice which will prevent child deaths, stillbirths, maternal deaths, and incidents of severe maternal morbidity.

(2) The teams shall:

(a) Undertake annual statistical studies of the causes and incidence of child or maternal deaths in this state. The studies shall include, but not be limited to, an analysis of the records of community, public, and private agency involvement with the children, the pregnant or postpartum women, and their families prior to and subsequent to the child or maternal deaths;

(b) Develop a protocol for retrospective investigation of child or maternal deaths by the teams;

(c) Develop a protocol for collection of data regarding child or maternal deaths by the teams;

(d) Consider training needs, including cross-agency training, and service gaps;

(e) Include in its annual report recommended changes to any law, rule, regulation, or policy needed to decrease the incidence of preventable child or maternal deaths;

(f) Educate the public regarding the incidence and causes of child or maternal deaths, the public role in preventing child or maternal deaths, and specific steps the public can undertake to prevent child or maternal deaths. The teams may enlist the support of civic, philanthropic, and public service organizations in the performance of educational duties;

(g) Provide the Governor, the Legislature, and the public with annual reports which shall include the teams' findings and recommendations for each of their duties. Each team shall submit an annual report on or before each December 31 to the Legislature electronically; and

(h) When appropriate, make referrals to those agencies as required in section 28-711 or as otherwise required by state law.

(3) The teams may enter into consultation agreements with relevant experts to evaluate the information and records collected. All of the confidentiality provisions of section 71-3411 shall apply to the activities of a consulting expert.

(4) The teams may enter into written agreements with entities to provide for the secure storage of electronic data, including data that contains personal or incident identifiers. Such agreements shall provide for the protection of the security and confidentiality of the content of the information, including access limitations, storage of the information, and destruction of the information. All of the confidentiality provisions of section 71-3411 shall apply to the activities of the data storage entity.

(5) The teams may enter into agreements with a local public health department as defined in section 71-1626 to act as the agent of the teams in conducting all information gathering and investigation necessary for the purposes of the Child and Maternal Death Review Act. All of the confidentiality provisions of section 71-3411 shall apply to the activities of the agent.

(6) For purposes of this section, entity means an organization which provides collection and storage of data from multiple agencies but is not solely controlled by the agencies providing the data.

Source: Laws 1993, LB 431, § 4; Laws 2012, LB782, § 116; Laws 2012, LB1160, § 18; Laws 2013, LB361, § 4; Laws 2017, LB506, § 5; Laws 2022, LB741, § 50; Laws 2023, LB227, § 97.

71-3408 Chairperson; team coordinator; duties; team data abstractor; qualifications; duties.

(1) The chairperson of each team shall:

(a) Chair meetings of the teams; and

(b) Ensure identification of strategies to prevent child or maternal deaths.

(2) The team coordinator of each team provided under subsection (5) of section 71-3406 shall:

(a) Have the necessary information from investigative reports, medical records, coroner's reports, autopsy reports, educational records, and other relevant items made available to the team;

(b) Ensure timely notification of the team members of an upcoming meeting;

(c) Ensure that all team-reporting and data-collection requirements are met;

(d) Oversee adherence to the review process established by the Child and Maternal Death Review Act; and

(e) Perform such other duties as the team deems appropriate.

(3) The team data abstractor provided under subsection (5) of section 71-3406 shall:

(a) Possess qualifying experience, a demonstrated understanding of child and maternal outcomes, strong professional communication skills, data entry and relevant computer skills, experience in medical record review, flexibility and ability to accomplish tasks in short time frames, appreciation of the community, knowledge of confidentiality laws, the ability to serve as an objective unbiased storyteller, and a demonstrated understanding of social determinants of health;

(b) Request records for identified cases from sources described in section 71-3410;

(c) Upon receipt of such records, review all pertinent records to complete fields in child, stillbirth, maternal death, and severe maternal morbidity databases;

(d) Summarize findings in a case summary; and

(e) Report all findings to the team coordinators.

Source: Laws 1993, LB 431, § 5; Laws 2013, LB361, § 5; Laws 2022, LB741, § 51; Laws 2023, LB227, § 98.

71-3409 Review of child deaths, stillbirths, maternal deaths, and severe maternal morbidity; manner.

(1)(a) The State Child Death Review Team shall review child deaths in the manner provided in this subsection.

(b) The members shall review the death certificate, birth certificate, coroner's report or autopsy report if done, and indicators of child or family involvement with the department. The members shall classify the nature of the death, whether accidental, homicide, suicide, undetermined, or natural causes, determine the completeness of the death certificate, and identify discrepancies and inconsistencies.

(c) A review shall not be conducted on any child death under active investigation by a law enforcement agency or under criminal prosecution. The members may seek records described in section 71-3410. The members shall identify the preventability of death, the possibility of child abuse or neglect, the medical care issues of access and adequacy, and the nature and extent of interagency communication.

(2)(a) The team may review stillbirths in the manner provided in this subsection.

(b) The members may review the death certificates and other documentation which will allow the team to identify preventable causes of stillbirths.

(c) Nothing in this subsection shall be interpreted to require review of any stillbirth death.

(3)(a) The State Maternal Death Review Team shall review all maternal deaths in the manner provided in this subsection.

(b) The members shall review the maternal death records in accordance with evidence-based best practices in order to determine: (i) If the death is pregnancy-related; (ii) the cause of death; (iii) if the death was preventable; (iv) the factors that contributed to the death; (v) recommendations and actions that address those contributing factors; and (vi) the anticipated impact of those actions if implemented.

(c) A review shall not be conducted on any maternal death under active investigation by a law enforcement agency or under criminal prosecution. The members may seek records described in section 71-3410. The members shall identify the preventability of death, the possibility of domestic abuse, the medical care issues of access and adequacy, and the nature and extent of interagency communication.

(4)(a) The team may review incidents of severe maternal morbidity in the manner provided in this subsection and additionally, may use guidelines published by the Centers for Disease Control and Prevention or develop its own guidelines for such review.

(b) The members may review any records or documents which will allow the team to identify preventable causes of severe maternal morbidity.

(c) Nothing in this subsection shall be interpreted to require the review of any incident of severe maternal morbidity.

Source: Laws 1993, LB 431, § 6; Laws 1996, LB 1044, § 649; Laws 2013, LB361, § 6; Laws 2022, LB741, § 52; Laws 2023, LB227, § 99.

71-3410 Provision of information and records; subpoenas.

(1) Upon request, the teams shall be immediately provided:

(a) Information and records maintained by a provider of medical, dental, prenatal, and mental health care, including medical reports, autopsy reports, and emergency and paramedic records; and

(b) All information and records maintained by any agency of state, county, or local government, any other political subdivision, any school district, or any public or private educational institution, including, but not limited to, birth and death certificates, law enforcement investigative data and reports, coroner investigative data and reports, educational records, parole and probation information and records, and information and records of any social services agency that provided services to the child, the pregnant or postpartum woman, or the family of the child or woman.

(2) The Department of Health and Human Services shall have the authority to issue subpoenas to compel production of any of the records and information specified in subdivisions (1)(a) and (b) of this section, except records and information on any child death, stillbirth, maternal death, or incident of severe maternal morbidity under active investigation by a law enforcement agency or

which is at the time the subject of a criminal prosecution, and shall provide such records and information to the teams.

Source: Laws 1993, LB 431, § 7; Laws 1996, LB 1044, § 650; Laws 1998, LB 1073, § 126; Laws 2007, LB296, § 564; Laws 2013, LB361, § 7; Laws 2022, LB741, § 53; Laws 2023, LB227, § 100.

71-3411 Information and records; confidentiality; release; conditions; disclosure; limitations.

(1)(a) All information and records acquired by the teams in the exercise of their purposes and duties pursuant to the Child and Maternal Death Review Act shall be confidential and exempt from disclosure and may only be disclosed as provided in this section and as provided in section 71-3407. Statistical compilations of data made by the teams which do not contain any information that would permit the identification of any person to be ascertained shall be public records.

(b) De-identified information and records obtained by the teams may be released to a researcher, upon proof of identity and qualifications of the researcher, if the researcher is employed by a research organization, university, institution, or government agency and is conducting scientific, medical, or public health research and if there is no publication or disclosure of any name or facts that could lead to the identity of any person included in the information or records. Such release shall provide for a written agreement with the Department of Health and Human Services providing protection of the security of the content of the information, including access limitations, storage of the information, destruction of the information, and use of the information. The release of such information pursuant to this subdivision shall not make otherwise confidential information a public record.

(c) De-identified information and records obtained by the teams may be released to the United States Public Health Service or its successor, a government health agency, or a local public health department as defined in section 71-1626 if there is no publication or disclosure of any name or facts that could lead to the identity of any person included in the information or records. Such release shall provide for protection of the security of the content of the information, including access limitations, storage of the information, destruction of the information, and use of the information. The release of such information pursuant to this subdivision shall not make otherwise confidential information a public record.

(2) Except as necessary to carry out the teams' purposes and duties, members of the teams and persons attending team meetings may not disclose what transpired at the meetings and shall not disclose any information the disclosure of which is prohibited by this section.

(3) Members of the teams and persons attending team meetings shall not testify in any civil, administrative, licensure, or criminal proceeding, including depositions, regarding information reviewed in or opinions formed as a result of team meetings. This subsection shall not be construed to prevent a person from testifying to information obtained independently of the teams or which is public information.

(4) Information, documents, and records of the teams shall not be subject to subpoena, discovery, or introduction into evidence in any civil or criminal proceeding, except that information, documents, and records otherwise avail-

able from other sources shall not be immune from subpoena, discovery, or introduction into evidence through those sources solely because they were presented during proceedings of the teams or are maintained by the teams.

Source: Laws 1993, LB 431, § 8; Laws 2013, LB361, § 8; Laws 2022, LB741, § 54.

(c) DOMESTIC ABUSE DEATHS

71-3412 Domestic Abuse Death Review Act, how cited.

Sections 71-3412 to 71-3421 shall be known and may be cited as the Domestic Abuse Death Review Act.

Source: Laws 2022, LB741, § 37.

71-3413 Legislative findings and declarations; purpose of act.

(1) The Legislature finds and declares that it is in the best interests of the state, its residents, and especially the families of this state, that the number and causes of death related to domestic abuse be examined. There is a need for a comprehensive integrated review of all domestic abuse deaths in Nebraska and a system for statewide retrospective review of existing records relating to each domestic abuse death.

(2) The purpose of the Domestic Abuse Death Review Act is to prevent future domestic abuse deaths by:

(a) Providing for the examination of the incidence, causes, and contributing factors of domestic abuse deaths in Nebraska; and

(b) Developing recommendations for changes within communities, public and private agencies, institutions, and systems, based on an analysis of these causes and contributing factors which may serve to prevent future domestic abuse deaths.

Source: Laws 2022, LB741, § 38.

71-3414 Terms, defined.

For purposes of the Domestic Abuse Death Review Act:

(1) Associated victim means a family or household member of the decedent victim who also experienced abuse committed by the perpetrator;

(2) Decedent victim means a person who died by homicide or suicide as a result of domestic abuse;

(3) Domestic abuse means abuse as defined in section 42-903;

(4) Domestic abuse death means:

(a) A homicide that involves, or is a result of, domestic abuse;

(b) The death of a decedent victim who was a member of a law enforcement agency, emergency medical service, or other agency responding to a domestic abuse incident;

(c) The death of a decedent victim who was responding to a domestic abuse incident; or

(d) A suicide of a decedent victim if there are circumstances indicating the suicide involved, or was the result of, domestic abuse within two years prior to the suicide, including: (i) The decedent victim had applied for or received a

protection order against the perpetrator within two years prior to the suicide; (ii) the decedent victim had received counseling, treatment, or sought other supportive services as a result of the domestic abuse within two years prior to the suicide; or (iii) the decedent victim had reported domestic abuse to law enforcement within two years prior to the suicide;

(5) Family or household member has the same meaning as in section 42-903;

(6) Investigation means a domestic abuse death investigation as described in section 71-3415;

(7) Law enforcement agency means the police department or town marshal in incorporated municipalities, the office of the county sheriff, and the Nebraska State Patrol;

(8) Perpetrator means the person who has been the predominant aggressor of domestic abuse;

(9) Survivor of domestic abuse means a person who is a current or prior victim of domestic abuse; and

(10) Team means the State Domestic Abuse Death Review Team as provided in section 71-3416.

Source: Laws 2022, LB741, § 39.

71-3415 Domestic abuse death investigation.

(1) A domestic abuse death investigation shall involve a review of existing records, documents, and other information regarding the decedent victim and perpetrator from relevant agencies, professionals, providers of health care, and family and household members of the decedent victim or perpetrator. The records to be reviewed may include: Protection orders; dissolution, mediation, custody, and support agreements and related court records; medical records; mental health records; therapy records; autopsy reports; birth and death certificates; court records, including juvenile cases and dismissed criminal cases; social services records, including juvenile records; educational records; emergency medical services records; Department of Correctional Services information and records; parole and probation information and records; and law enforcement agency investigative information and reports.

(2) Records shall not be made available to the team until the criminal or juvenile legal system response is completed due to:

(a) The death of the perpetrator;

(b) The criminal conviction or acquittal of the perpetrator and any codefendants;

(c) The conclusion of grand jury proceedings resulting in a no true bill;

(d) Adjudication in a juvenile court proceeding pursuant to subdivision (1), (2), or (4) of section 43-247;

(e) Completion of a criminal investigation in which the county attorney declines to file charges; or

(f) Completion of the investigation of the suicide of the decedent victim.

Source: Laws 2022, LB741, § 40.

71-3416 State Domestic Abuse Death Review Team; members; terms; Attorney General; duties; not considered public body; expenses.

(1) The State Domestic Abuse Death Review Team is created.

(2) The Attorney General shall appoint the following members to the State Domestic Abuse Death Review Team:

(a) At least two survivors of domestic abuse;

(b) A representative who is an employee of a statewide coalition representing nonprofit organizations that have an affiliation agreement with the Department of Health and Human Services to provide services to victims of domestic abuse under the Protection from Domestic Abuse Act;

(c) A representative who is an employee of a nonprofit organization that primarily provides services and support to victims of domestic abuse in metropolitan areas;

(d) A representative who is an employee of a nonprofit organization that primarily provides services and support to victims of domestic abuse in rural areas;

(e) A representative who is an employee of child advocacy centers;

(f) A representative who is a member of a federally recognized Indian tribe residing within the State of Nebraska with preference given to a person with experience in domestic abuse;

(g) A licensed physician or nurse with experience in forensics who is knowledgeable concerning domestic abuse injuries and deaths in Nebraska;

(h) A licensed mental health professional who is knowledgeable concerning domestic abuse in Nebraska;

(i) An officer of a law enforcement agency from a metropolitan jurisdiction with experience investigating domestic abuse in Nebraska;

(j) An officer of a law enforcement agency from a rural jurisdiction with experience investigating domestic abuse in Nebraska;

(k) An active county attorney or active deputy county attorney with experience prosecuting domestic abuse cases in Nebraska;

(l) An attorney from the office of the Attorney General; and

(m) The team coordinator pursuant to subsection (4) of this section.

(3) The remaining members of the State Domestic Abuse Death Review Team shall be appointed as follows: (a) The Superintendent of Law Enforcement and Public Safety or designee shall appoint an employee representative of the Nebraska State Patrol; (b) the chief executive officer of the Department of Health and Human Services shall appoint an employee representative of the department; and (c) the probation administrator shall appoint an employee representative of the Office of Probation Administration.

(4) The Attorney General shall be responsible for the general administration of the activities of the team and shall employ or contract with a team coordinator to provide administrative support for the team.

(5) Members of the team appointed by the Attorney General shall serve four-year terms. The remaining members shall serve two-year terms.

(6) The team shall not be considered a public body for purposes of the Open Meetings Act. Members of the team shall be reimbursed for expenses as provided in sections 81-1174 to 81-1177.

(7) In appointing members to the team, the Attorney General shall consider persons working in and representing communities that are diverse with regard

to race, ethnicity, immigration status, and English proficiency and shall include members from differing geographic regions of the state, including both rural and urban areas.

Source: Laws 2022, LB741, § 41.

Cross References

Open Meetings Act, see section 84-1407.
Protection from Domestic Abuse Act, see section 42-901.

71-3417 Team; purpose; duties; powers; confidentiality.

(1) The purpose of the team shall be to prevent future domestic abuse deaths by:

(a) Conducting investigations to understand the contributing factors in domestic abuse deaths;

(b) Examining the incidence, causes, and contributing factors of domestic abuse deaths; and

(c) Developing recommendations for changes within communities, public and private agencies, institutions, and systems, based on an analysis of the causes and contributing factors of domestic abuse deaths.

(2) The team shall:

(a) Develop protocols for investigations and to maintain the confidentiality of information made available to the team;

(b) Meet a minimum of four times per year and upon the call of the team coordinator selected under section 71-3416, the request of a state agency, or as determined by a majority of the team;

(c) Provide the Governor, the Legislature, and the Attorney General with an annual electronic report on or before August 15 each year beginning with the fiscal year ending June 30, 2024. The report shall not contain personal identifying information of any decedent victim, associated victim, or perpetrator. The report shall be available to the public and include the following:

(i) The causes, manner, and contributing factors of domestic abuse deaths in Nebraska, including trends and patterns and an analysis of information obtained through investigations; and

(ii) Recommendations regarding the prevention of future domestic abuse deaths for changes within communities, public and private agencies, institutions, and systems, based on an analysis of such causes and contributing factors. Such recommendations shall include recommended changes to laws, rules and regulations, policies, training needs, or service gaps to prevent future domestic abuse deaths;

(d) When appropriate, advise and consult with relevant agencies and organizations represented on the team or involved in domestic abuse deaths regarding the recommendations to prevent future domestic abuse deaths; and

(e) When appropriate, educate the public regarding the incidence of domestic abuse deaths, the public role in preventing domestic abuse deaths, and specific steps the public can take to prevent domestic abuse deaths. The team may enlist the support of civic, philanthropic, and public service organizations in the performance of its educational duties.

(3) The team may invite other individuals to participate on the team on an ad hoc basis for a particular investigation. Such individuals may include those

with expertise that would aid in the investigation and representatives from organizations or agencies that had contact with, or provided services to, the decedent victim or associated victim. If the domestic abuse death occurred on tribal lands or if the domestic abuse death involves a member of a federally recognized Indian tribe, additional agencies and tribal representatives may be invited to participate.

(4) The team shall require any person appearing before it to sign a confidentiality agreement to ensure that all the confidentiality provisions of section 71-3421 are satisfied.

(5) The team shall enter into confidentiality agreements with social service agencies, nonprofit organizations, and private agencies to obtain otherwise confidential information and to ensure that all confidentiality provisions of section 71-3421 are satisfied.

(6) The team may enter into consultation agreements with relevant experts to evaluate the information and records collected by the team. All of the confidentiality provisions of section 71-3421 shall apply to the activities of a consulting expert.

(7) The team may enter into written agreements with entities to provide for the secure storage of electronic data based on information and records collected by the team as part of an investigation, including data that contains personal or incident identifiers. Such agreements shall provide for the protection of the security and confidentiality of the information, including access limitations, storage, and destruction of the information. The confidentiality provisions of section 71-3421 shall apply to the activities of the data storage entity.

(8) The team may consult and share information with the State Child Death Review Team or the State Maternal Death Review Team when the decedent victim or any associated victim is also the subject of an investigation of a child death or investigation of a maternal death under the Child and Maternal Death Review Act. The confidentiality provisions of sections 71-3411 and 71-3421 shall apply to the sharing of information between these teams.

Source: Laws 2022, LB741, § 42.

Cross References

Child and Maternal Death Review Act, see section 71-3404.

71-3418 Team coordinator; duties.

(1) The team coordinator selected under section 71-3416 shall (a) convene and lead meetings of the team and (b) ensure the team provides recommendations to prevent domestic abuse deaths.

(2) The team coordinator shall (a) gather, store, and distribute the necessary records and information for investigations made available to the team, (b) ensure timely notification of the team members of upcoming meetings, (c) ensure that all team reporting and data collection requirements are met, (d) oversee adherence to the review process established by the Domestic Abuse Death Review Act and the protocols developed by the team, and (e) perform such other duties as the team deems appropriate.

Source: Laws 2022, LB741, § 43.

71-3419 Team; conduct investigations; requirements.

The team shall conduct investigations in accordance with best practices and shall review all relevant records and information in an investigation to understand the relationship between the decedent victim and the perpetrator in order to determine:

(1) Whether a correlation exists between certain events in the relationship and any escalation of abuse;

(2) The factors that contributed to the domestic abuse death;

(3) The public and private systemic response to the decedent victim, an associated victim, and the perpetrator; and

(4) Recommendations and actions that address the contributing factors in the domestic abuse death for change within individuals, communities, public and private agencies, institutions, and systems based on an analysis of the causes and contributing factors of domestic abuse deaths.

Source: Laws 2022, LB741, § 44.

71-3420 Provision of information and records; subpoenas; contempt.

(1) For purposes of conducting an investigation, and as necessary to fulfill the purposes of the Domestic Abuse Death Review Act, the team shall be immediately provided the following upon request:

(a) Records, documents, or other information maintained by a health care provider, mental health provider, or other medical professional, including medical records, mental health records, therapy records, and emergency medical services records; and

(b) All information and records maintained by any state agency, county or local government, political subdivision, school district, or public or private educational institution, including birth and death certificates; protection orders; dissolution, mediation, custody, and child support agreements; court records, including juvenile cases and dismissed criminal cases; law enforcement agency investigative information and reports; autopsy reports; educational records; Department of Correctional Services information and records; parole and probation information and records; and information and records of any social services agency, including juvenile records, that provided services to the decedent victim, an associated victim, or the perpetrator.

(2) Except as provided in section 71-3415, the Attorney General shall have the authority to issue subpoenas to compel production of any of the records and information specified in this section.

(3) Any failure to respond to such subpoena shall be certified by the Attorney General to the district court of Lancaster County for enforcement or punishment for contempt of court.

Source: Laws 2022, LB741, § 45.

71-3421 Information and records; confidentiality; release; conditions; disclosure; limitations.

(1) All information and records acquired by the team in the exercise of its duties pursuant to the Domestic Abuse Death Review Act shall be confidential and exempt from disclosure except as provided in this section and section 71-3417. Statistical compilations of data or recommendations made by the

team that do not contain any personal identifying information shall be public records.

(2) De-identified information and records obtained by the team may be released to a researcher, research organization, university, institution, or governmental agency for the purpose of conducting scientific, medical, or public health research upon proof of identity and execution of a confidentiality agreement as provided in this section and section 71-3417. Such release shall provide for a written agreement with the Attorney General providing protection of the security of the information, including access limitations, and the storage, destruction, and use of the information. The release of such information pursuant to this subsection shall not make otherwise confidential information a public record.

(3) Except as necessary to carry out the team's purposes and duties, members of the team and individuals attending a team meeting shall not disclose any discussion among team members at a meeting and shall not disclose any information prohibited from disclosure by this section.

(4) Members of a team and individuals attending a team meeting shall not testify in any civil, administrative, licensure, or criminal proceeding, including depositions, regarding information reviewed in or an opinion formed as a result of a team meeting. This subsection shall not be construed to prevent a person from testifying to information obtained independently of the team or that is public information.

(5) Conclusions, findings, recommendations, information, documents, and records of the team shall not be subject to subpoena, discovery, or introduction into evidence in any civil or criminal proceeding, except that conclusions, findings, recommendations, information, documents, and records otherwise available from other sources shall not be immune from subpoena, discovery, or introduction into evidence through those sources solely because they were presented during proceedings of the team or are maintained by the team.

Source: Laws 2022, LB741, § 46.

(d) OVERDOSE FATALITIES

71-3422 Overdose Fatality Review Teams Act, how cited.

Sections 71-3422 to 71-3437 shall be known and may be cited as the Overdose Fatality Review Teams Act.

Source: Laws 2023, LB227, § 79.

71-3423 Legislative findings.

The Legislature finds that:

(1) Substance use disorders and drug overdoses are major health problems that affect the lives of many people and multiple services systems and lead to profound consequences, including permanent injury and death;

(2) Overdoses caused by heroin, fentanyl, other opioids, stimulants, controlled substance analogs, novel psychoactive substances, and other legal and illegal drugs are a public health crisis that stress and strain financial, public health, health care, and public safety resources in Nebraska;

(3) Overdose fatality reviews, which are designed to uncover the who, what, when, where, why, and how of fatal overdoses, allow local authorities to

examine and understand the circumstances leading to a fatal drug overdose; and

(4) Through a comprehensive and multidisciplinary review, overdose fatality review teams can better understand the individual and population factors and characteristics of potential overdose victims. This provides local authorities with a greater sense of the strategies and multiagency coordination needed to prevent future overdoses and results in the more productive allocation of overdose prevention resources and services within Nebraska communities.

Source: Laws 2023, LB227, § 80.

71-3424 Purposes of act.

The purposes of the Overdose Fatality Review Teams Act are to:

(1) Create a legislative framework for establishing county-level, multidisciplinary overdose fatality review teams in Nebraska;

(2) Provide overdose fatality review teams with duties and responsibilities to examine and understand the circumstances leading up to overdoses so that the teams can make recommendations on policy changes and resource allocation to prevent future overdoses; and

(3) Allow overdose fatality review teams to obtain and review records and other documentation related to overdoses from relevant agencies, entities, and individuals while remaining compliant with local, state, and federal confidentiality laws and regulations.

Source: Laws 2023, LB227, § 81.

71-3425 Terms, defined.

For purposes of the Overdose Fatality Review Teams Act:

(1) De-identified information means information that does not identify an individual and with respect to which there is no reasonable basis to believe that the information can be used to identify an individual;

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

(3) Drug means a substance that produces a physiological effect when ingested or otherwise introduced into the body, and includes both legal and illicit substances. Drug does not include alcohol;

(4) Health care provider means any of the following individuals who are licensed, certified, or registered to perform specified health services consistent with state law: A physician, a physician assistant, or an advanced practice registered nurse;

(5) Lead organization means a local public health department as defined in section 71-1626;

(6) Local team means the multidisciplinary and multiagency drug overdose fatality review team established by a lead organization for such organization's jurisdiction or for a group of cities, counties, or districts, pursuant to an agreement between multiple lead organizations;

(7) Mental health provider means:

(a) A psychiatrist licensed to practice under the Medicine and Surgery Practice Act;

(b) A psychologist licensed to engage in the practice of psychology in this state as provided in section 38-3111 or as provided in similar provisions of the Psychology Interjurisdictional Compact;

(c) A person licensed as an independent mental health practitioner under the Mental Health Practice Act; or

(d) A professional counselor who holds a privilege to practice in Nebraska as a professional counselor under the Licensed Professional Counselors Interstate Compact;

(8) Personal identifying information means information that permits the identity of an individual to whom the information applies to be reasonably inferred by either direct or indirect means;

(9) Overdose means injury to the body that happens when one or more drugs are taken in excessive amounts. An overdose can be fatal or nonfatal;

(10) Overdose fatality review means a process in which a local team performs a series of individual overdose fatality reviews to effectively identify system gaps and innovative, community-specific overdose prevention and intervention strategies;

(11) Substance use disorder means a pattern of use of alcohol or other drugs leading to clinical or functional impairment, in accordance with the definition in the Diagnostic and Statistical Manual of Disorders (DSM-5) of the American Psychiatric Association, or a subsequent edition of such manual; and

(12) Substance use disorder treatment provider means any individual or entity who is licensed, registered, or certified within Nebraska to treat substance use disorders or who has a federal Drug Addiction Treatment Act of 2000 waiver from the Substance Abuse and Mental Health Services Administration of the United States Department of Health and Human Services to treat individuals with substance use disorder using medications approved for that indication by the United States Food and Drug Administration.

Source: Laws 2023, LB227, § 82.

Cross References

Licensed Professional Counselors Interstate Compact, see section 38-4201.
Medicine and Surgery Practice Act, see section 38-2001.
Mental Health Practice Act, see section 38-2101.
Psychology Interjurisdictional Compact, see section 38-3901.

71-3426 Lead organization; establish a local team; membership; chairperson; duties.

(1) A lead organization may establish a local team for the lead organization's jurisdiction or for a group of cities, counties, or districts, pursuant to an agreement between multiple lead organizations. If multiple lead organizations decide to form a local team, only one shall fulfill the role of lead organization. The lead organization shall select the members of the local team.

(2) A local team shall consist of the core members that may include one or more members from the following backgrounds:

(a) Officials from the lead organization or from another local public health department or such officials' designees;

(b) Behavioral health providers or officials;

(c) Law enforcement personnel;

(d) Representatives of jails or detention centers;

(e) The coroner or the coroner's designee;

(f) Health care providers who specialize in the prevention, diagnosis, and treatment of substance use disorders;

(g) Mental health providers who specialize in substance use disorders;

(h) Representatives of emergency medical services providers in the county;

(i) The Director of Children and Family Services of the Division of Children and Family Services of the Department of Health and Human Services or the director's designee; and

(j) Representatives from the Board of Parole, the Office of Probation Administration, the Division of Parole Supervision, or the Community Corrections Division of the Nebraska Commission on Law Enforcement and Criminal Justice.

(3) A local team may also include, either as permanent or temporary members:

(a) A local school superintendent or the superintendent's designee;

(b) A representative of a local hospital;

(c) A health care provider who specializes in emergency medicine;

(d) A health care provider who specializes in pain management;

(e) A pharmacist with a background in prescription drug misuse and diversion;

(f) A substance use disorder treatment provider from a licensed substance use disorder treatment program;

(g) A poison control center representative;

(h) A mental health provider who is a generalist;

(i) A prescription drug monitoring program administrator or such administrator's designee;

(j) A representative from a harm reduction provider;

(k) A recovery coach, peer support worker, or other representative of the recovery community;

(l) A representative from the local drug court; and

(m) Any other individual necessary for the work of the local team.

(4) The lead organization shall select a chairperson for the local team. The chairperson shall be an official of the lead organization or such official's designee. The chairperson shall:

(a) Solicit and recruit members and appoint replacement members to fill vacancies that may arise on the team. In carrying out this responsibility, the chairperson shall, at a minimum, attempt to appoint at least one member from each of the backgrounds or positions described in subsection (2) of this section;

(b) Facilitate local team meetings and implement the protocols and procedures of the local team;

(c) Request and collect the records and information needed for the local team's case review. The chairperson shall remove all personal identifying information from any records or information prior to providing it to the local team;

(d) Gather, store, and distribute the necessary records and information for reviews conducted by the team. The chairperson shall carry out such duties in

compliance with all local, state, and federal confidentiality laws and regulations;

(e) Ensure that team members receive timely notification of upcoming meetings;

(f) Ensure the team fulfills the requirements of section 71-3427 to publish an annual report, including recommendations to prevent future drug overdose deaths;

(g) Ensure that all members of the local team and all guest observers and participants sign confidentiality forms as required under section 71-3433;

(h) Oversee compliance with the Overdose Fatality Review Teams Act and the protocols developed by the team;

(i) Serve as a liaison for the local team; and

(j) Perform such other duties as the team deems appropriate.

(5) Members of the local team shall not receive compensation for their services as team members.

Source: Laws 2023, LB227, § 83.

71-3427 Local team; duties; limitation; report; department; duties.

(1) A local team shall:

(a) Promote cooperation and coordination among agencies involved in the investigation of drug overdose fatalities;

(b) Examine the incidence, causes, and contributing factors of drug overdose deaths in jurisdictions where the local team operates;

(c) Develop recommendations for changes within communities, public and private agencies, institutions, and systems, based on an analysis of the causes and contributing factors of drug overdose deaths;

(d) Advise local, regional, and state policymakers about potential changes to law, policy, funding, or practices to prevent drug overdoses;

(e) Establish and implement protocols and procedures for overdose investigations and to maintain confidentiality;

(f) Conduct a multidisciplinary review of information received pursuant to section 71-3430 regarding a person who died of a drug overdose. Such review shall be limited to records and information from which the chairperson has removed all personally identifying information. Such review shall include, but not be limited to:

(i) Consideration of the decedent's points of contact with health care systems, social services, educational institutions, child and family services, law enforcement and the criminal justice system, and any other systems with which the decedent had contact prior to death; and

(ii) Identification of the specific factors and social determinants of health that put the decedent at risk for an overdose;

(g) Recommend prevention and intervention strategies to improve coordination of services and investigations among member agencies and providers to reduce overdose deaths; and

(h) Collect, analyze, interpret, and maintain data on local overdose deaths.

(2) A local team shall only review overdose deaths that are not under active investigation by a law enforcement agency or under criminal prosecution.

(3)(a) On or before June 1, 2024, and on or before each June 1 thereafter, each local team shall submit a report to the department. The report shall include at least the following for the preceding year:

(i) The total number of fatal drug overdoses that occurred within the jurisdiction of the local team;

(ii) The number of fatal drug overdoses investigated by the local team;

(iii) The causes, manner, and contributing factors of drug overdose deaths in the team's jurisdiction, including trends;

(iv) Recommendations regarding the prevention of fatal and nonfatal drug overdoses for changes within communities, public and private agencies, institutions, and systems, based on an analysis of such causes and contributing factors. Such recommendations shall include recommended changes to laws, rules and regulations, policies, training needs, or service gaps to prevent future drug overdose deaths; and

(v) Follow-up analysis of the implementation of and results from any recommendations made by the local team, including, but not limited to, changes in local or state law, policy, or funding made as a result of the local team's recommendations.

(b) The report shall include only de-identified information and shall not identify any victim, living or dead, of a drug overdose.

(c) The report is not confidential and shall be made available to the public.

(d) The department may analyze each annual report submitted pursuant to this subsection and create a single report containing an aggregate of the data submitted. The department shall make any such report publicly available and submit it electronically to the Clerk of the Legislature.

Source: Laws 2023, LB227, § 84.

71-3428 Local team meetings; participants and attendees; requirements; liability; professional disciplinary action; immunity; limitation.

(1) Members of a local team and other individuals in attendance at a local team meeting, including, but not limited to, experts, health care professionals, or other observers:

(a) Shall sign a confidentiality agreement as provided in section 71-3433;

(b) Are bound by all applicable local, state, and federal laws concerning the confidentiality of matters reviewed by the local team, but may discuss confidential matters and share confidential information during such meeting; and

(c) Except as otherwise permitted by law, shall not disclose confidential information outside of the meeting.

(2) A member of a local team or an individual in attendance at a local team meeting shall not be subject to civil or criminal liability or any professional disciplinary action for the sharing or discussion of any confidential matter with the local team during a local team meeting. This immunity does not apply to a local team member or attendee who intentionally or knowingly discloses

confidential information in violation of the Overdose Fatality Review Teams Act or any state or federal law.

Source: Laws 2023, LB227, § 85.

71-3429 Open Meetings Act; local team not considered public body; information and records; confidentiality.

(1) A local team shall not be considered a public body for purposes of the Open Meetings Act.

(2) Except for reports under section 71-3427, information and records acquired or created by a local team are not public records subject to disclosure pursuant to sections 84-712 to 84-712.09, shall be confidential, shall not be subject to subpoena, shall be privileged and inadmissible in evidence in any legal proceeding of any kind or character, and shall not be disclosed to any other department or agency of the State of Nebraska, except the Department of Health and Human Services as specified in the Overdose Fatality Review Teams Act.

Source: Laws 2023, LB227, § 86.

Cross References

Open Meetings Act, see section 84-1407.

71-3430 Lead organization; access to information; subpoena; enforcement.

(1) Except as provided in subsection (4) of this section, on written request of the lead organization, and as necessary to carry out the purpose and duties of the local team, the lead organization shall be provided with the following information:

(a) Nonprivileged information and records regarding the physical health, mental health, and treatment for any substance use disorder maintained by a health care provider, substance use disorder treatment provider, hospital, or health system for an individual whose death is being reviewed by the local team; and

(b) Information and records maintained by a state or local government agency or entity, including, but not limited to, death investigative information, coroner investigative information, law enforcement investigative information, emergency medical services reports, fire department records, prosecutorial records, parole and probation information and records, court records, school records, and information and records of a social services agency, including the department, if the agency or entity provided services to an individual whose death is being reviewed by the local team.

(2) Except as provided in subsection (4) of this section, the following persons shall comply with a records request by the lead organization made pursuant to subsection (1) of this section:

(a) A coroner;

(b) A fire department;

(c) A health system;

(d) A hospital;

(e) A law enforcement agency;

(f) A local or state governmental agency, including, but not limited to, the department, local public health authorities, the Attorney General, county attorneys, public defenders, the Commission on Public Advocacy, the Department of Correctional Services, the Office of Probation Administration, and the Division of Parole Supervision;

(g) A mental health provider;

(h) A health care provider;

(i) A substance use disorder treatment provider;

(j) A school, including a public or private elementary, secondary, or postsecondary institution;

(k) An emergency medical services provider;

(l) A social services provider; and

(m) Any other person who is in possession of records pertinent to the local team's investigation of an overdose fatality.

(3) A person subject to a records request by a lead organization under subsection (1) of this section may charge the lead organization a reasonable fee for the service of duplicating any records requested by the lead organization, not to exceed the actual cost of duplication.

(4)(a) Compliance with any records request under this section is subject to the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, and regulations promulgated thereunder; 42 U.S.C. 290dd-2; 42 C.F.R. part 2; and the Child Protection and Family Safety Act.

(b) The department is not required to comply with a records request under subsection (2) of this section to the extent the information requested:

(i) Was obtained by the prescription drug monitoring program created under section 71-2454;

(ii) Is covered by section 68-313; or

(iii) Is covered by 42 C.F.R. 431.300 et seq.

(c) The disclosure or redisclosure of a medical record developed in connection with the provision of substance abuse treatment services, without the authorization of a person in interest, is subject to any limitations that exist under the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, and regulations promulgated thereunder; 42 U.S.C. 290dd-2; and 42 C.F.R. part 2.

(5) Information requested by the lead organization shall be provided within thirty calendar days after receipt of the written request, unless an extension is granted by the chairperson. Written request includes a request submitted via email or facsimile transmission.

(6)(a) A county attorney or the Attorney General may, upon request by a lead organization, issue subpoenas to compel production of any of the records and information specified in this section.

(b) Any willful failure to comply with such a subpoena may be certified by the county attorney or Attorney General to the district court for enforcement or punishment for contempt of court.

Source: Laws 2023, LB227, § 87.

Cross References

Child Protection and Family Safety Act, see section 28-710.

71-3431 Local team member; contact, interview, or obtain information from family member or friend of deceased.

A member of the local team may contact, interview, or obtain information by request from a family member or friend of an individual whose death is being reviewed by the local team.

Source: Laws 2023, LB227, § 88.

71-3432 Local team meetings; ad hoc participation; confidential information; shared, when; lead organization; powers and duties; local team; consultation agreements.

(1) A chairperson may invite other individuals to participate on the local team on an ad hoc basis for a particular investigation. Such individuals may include those with expertise that would aid in the investigation and representatives from organizations or agencies that had contact with, or provided services to, the overdose victim.

(2) So long as each individual present at a local team meeting has signed the confidentiality form provided for in section 71-3433, any otherwise confidential information received by the local team may be shared at a local team meeting with any nonmember attendees.

(3) Local team meetings in which confidential information is discussed shall be closed to the public.

(4) A lead organization may enter into confidentiality agreements with third-party agencies to obtain otherwise confidential information.

(5) A lead organization shall enter into a data-use agreement with the prescription drug monitoring program created under section 71-2454.

(6) A local team may enter into consultation agreements with relevant experts to evaluate the information and records collected by the team. All of the confidentiality provisions of the Overdose Fatality Review Teams Act shall apply to the activities of a consulting expert.

(7) A lead organization may enter into written agreements with entities to provide for the secure storage of electronic data based on information and records collected in carrying out the local team's duties, including data that contains personal or incident identifiers. Such agreements shall provide for the protection of the security and confidentiality of the information, including access limitations, storage, and destruction of the information. The confidentiality provisions of the Overdose Fatality Review Teams Act shall apply to the activities of the data storage entity.

Source: Laws 2023, LB227, § 89.

71-3433 Local team meetings; confidentiality form; participation requirements; disclosures prohibited; information and records; release permitted; limitations; testify at proceedings; prohibited.

(1) Each local team member and any nonmember in attendance at a meeting shall sign a confidentiality form and review the purposes and goals of the local team before they may participate in the meeting or review. The form shall set out the requirements for maintaining the confidentiality of any information

disclosed during the meeting and the penalties associated with failure to maintain such confidentiality.

(2) Except as necessary to carry out the local team's purposes and duties, members of the local team and individuals attending a team meeting shall not disclose any discussion among team members at a meeting and shall not disclose any information prohibited from disclosure by the Overdose Fatality Review Teams Act.

(3) De-identified information and records obtained by a local team may be released to a researcher, research organization, university, institution, or governmental agency for the purpose of conducting scientific, medical, or public health research upon proof of identity and execution of a confidentiality agreement as provided in this section. Such release shall provide for a written agreement with the department providing protection of the security of the information, including access limitations, and the storage, destruction, and use of the information. The release of such information pursuant to this subsection shall not make otherwise confidential information a public record.

(4) Members of a local team and individuals attending a team meeting shall not testify in any civil, administrative, licensure, or criminal proceeding, including depositions, regarding information reviewed in or an opinion formed as a result of a team meeting. This subsection shall not be construed to prevent a person from testifying to information obtained independently of the team or that is public information.

(5) Conclusions, findings, recommendations, information, documents, and records of a local team shall not be subject to subpoena, discovery, or introduction into evidence in any civil or criminal proceeding, except that conclusions, findings, recommendations, information, documents, and records otherwise available from other sources shall not be immune from subpoena, discovery, or introduction into evidence through those sources solely because they were presented during proceedings of a local team or are maintained by a local team.

Source: Laws 2023, LB227, § 90.

71-3434 Provision of information and records; immunity.

Any person that in good faith provides information or records to a local team shall not be subject to civil or criminal liability or any professional disciplinary action as a result of providing the information or record.

Source: Laws 2023, LB227, § 91.

71-3435 Civil action; authorized; appropriate relief.

A person aggrieved by the intentional or knowing disclosure of confidential information in violation of the Overdose Fatality Review Teams Act by a local team, its members, or a person in attendance at a local team meeting may bring a civil action for appropriate relief against the person who committed such violation. Appropriate relief in an action under this section shall include:

(1) Damages;

(2) Such preliminary and other equitable or declaratory relief as may be appropriate; and

(3) Reasonable attorney's fees and other litigation costs reasonably incurred.

Source: Laws 2023, LB227, § 92.

71-3436 Confidentiality requirements; violation; penalty.

A person who intentionally or knowingly violates the confidentiality requirements of the Overdose Fatality Review Teams Act is guilty of a Class II misdemeanor.

Source: Laws 2023, LB227, § 93.

71-3437 Rules and regulations.

The department may adopt and promulgate such rules and regulations as are necessary to carry out the Overdose Fatality Review Teams Act.

Source: Laws 2023, LB227, § 94.

ARTICLE 35

RADIATION CONTROL AND RADIOACTIVE WASTE

(a) RADIATION CONTROL ACT

(a) RADIATION CONTROL ACT

71-3503 Terms, defined.

For purposes of the Radiation Control Act, unless the context otherwise requires:

(1) Radiation means ionizing radiation and nonionizing radiation as follows:

(a) Ionizing radiation means gamma rays, X-rays, alpha and beta particles, high-speed electrons, neutrons, protons, and other atomic or nuclear particles or rays but does not include sound or radio waves or visible, infrared, or ultraviolet light; and

(b) Nonionizing radiation means (i) any electromagnetic radiation which can be generated during the operations of electronic products to such energy density levels as to present a biological hazard to occupational and public health and safety and the environment, other than ionizing electromagnetic radiation, and (ii) any sonic, ultrasonic, or infrasonic waves which are emitted from an electronic product as a result of the operation of an electronic circuit in such product and to such energy density levels as to present a biological hazard to occupational and public health and safety and the environment;

(2) Radioactive material means any material, whether solid, liquid, or gas, which emits ionizing radiation spontaneously. Radioactive material includes, but is not limited to, accelerator-produced material, byproduct material, naturally occurring material, source material, and special nuclear material;

(3) Radiation-generating equipment means any manufactured product or device, component part of such a product or device, or machine or system which during operation can generate or emit radiation except devices which emit radiation only from radioactive material;

(4) Sources of radiation means any radioactive material, any radiation-generating equipment, or any device or equipment emitting or capable of emitting radiation or radioactive material;

(5) Undesirable radiation means radiation in such quantity and under such circumstances as determined from time to time by rules and regulations adopted and promulgated by the department;

(6) Person means any individual, corporation, partnership, limited liability company, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, any other state or political subdivision or agency thereof, and any legal successor, representative, agent, or agency of the foregoing;

(7) Registration means registration with the department pursuant to the Radiation Control Act;

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

(9) Administrator means the administrator of radiation control designated pursuant to section 71-3504;

(10) Electronic product means any manufactured product, device, assembly, or assemblies of such products or devices which, during operation in an electronic circuit, can generate or emit a physical field of radiation;

(11) License means:

(a) A general license issued pursuant to rules and regulations adopted and promulgated by the department without the filing of an application with the department or the issuance of licensing documents to particular persons to transfer, acquire, own, possess, or use quantities of or devices or equipment utilizing radioactive materials;

(b) A specific license, issued to a named person upon application filed with the department pursuant to the Radiation Control Act and rules and regulations adopted and promulgated pursuant to the act, to use, manufacture, produce, transfer, receive, acquire, own, or possess quantities of or devices or equipment utilizing radioactive materials; or

(c) A license issued to a radon measurement specialist, radon mitigation specialist, radon measurement business, or radon mitigation business;

(12) Byproduct material means:

(a) Any radioactive material, except special nuclear material, yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material;

(b) The tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content, including discrete surface wastes resulting from uranium or thorium solution extraction processes. Underground ore bodies depleted by such solution extraction operations do not constitute byproduct material;

(c)(i) Any discrete source of radium-226 that is produced, extracted, or converted after extraction for use for a commercial, medical, or research activity; or

(ii) Any material that (A) has been made radioactive by use of a particle accelerator and (B) is produced, extracted, or converted after extraction for use for a commercial, medical, or research activity; and

(d) Any discrete source of naturally occurring radioactive material, other than source material, that:

(i) The United States Nuclear Regulatory Commission, in consultation with the Administrator of the United States Environmental Protection Agency, the

United States Secretary of Energy, the United States Secretary of Homeland Security, and the head of any other appropriate federal agency, determines would pose a threat similar to the threat posed by a discrete source of radium-226 to the public health and safety or the common defense and security; and

(ii) Is extracted or converted after extraction for use in a commercial, medical, or research activity;

(13) Source material means:

(a) Uranium or thorium or any combination thereof in any physical or chemical form; or

(b) Ores which contain by weight one-twentieth of one percent or more of uranium, thorium, or any combination thereof. Source material does not include special nuclear material;

(14) Special nuclear material means:

(a) Plutonium, uranium 233, or uranium enriched in the isotope 233 or in the isotope 235 and any other material that the United States Nuclear Regulatory Commission pursuant to the provisions of section 51 of the federal Atomic Energy Act of 1954, as amended, determines to be special nuclear material but does not include source material; or

(b) Any material artificially enriched by any material listed in subdivision (14)(a) of this section but does not include source material;

(15) Users of sources of radiation means:

(a) Physicians using radioactive material or radiation-generating equipment for human use;

(b) Natural persons using radioactive material or radiation-generating equipment for education, research, or development purposes;

(c) Natural persons using radioactive material or radiation-generating equipment for manufacture or distribution purposes;

(d) Natural persons using radioactive material or radiation-generating equipment for industrial purposes; and

(e) Natural persons using radioactive material or radiation-generating equipment for any other similar purpose;

(16) Civil penalty means any monetary penalty levied on a licensee or registrant because of violations of statutes, rules, regulations, licenses, or registration certificates but does not include criminal penalties;

(17) Closure means all activities performed at a waste handling, processing, management, or disposal site, such as stabilization and contouring, to assure that the site is in a stable condition so that only minor custodial care, surveillance, and monitoring are necessary at the site following termination of licensed operation;

(18) Decommissioning means final operational activities at a facility to dismantle site structures, to decontaminate site surfaces and remaining structures, to stabilize and contain residual radioactive material, and to carry out any other activities to prepare the site for postoperational care;

(19) Disposal means the permanent isolation of low-level radioactive waste pursuant to the Radiation Control Act and rules and regulations adopted and promulgated pursuant to such act;

(20) Generate means to produce low-level radioactive waste when used in relation to low-level radioactive waste;

(21) High-level radioactive waste means:

(a) Irradiated reactor fuel;

(b) Liquid wastes resulting from the operation of the first cycle solvent extraction system or equivalent and the concentrated wastes from subsequent extraction cycles or the equivalent in a facility for reprocessing irradiated reactor fuel; and

(c) Solids into which such liquid wastes have been converted;

(22) Low-level radioactive waste means radioactive waste not defined as high-level radioactive waste, spent nuclear fuel, or byproduct material as defined in subdivision (12)(b) of this section;

(23) Management of low-level radioactive waste means the handling, processing, storage, reduction in volume, disposal, or isolation of such waste from the biosphere in any manner;

(24) Source material mill tailings or mill tailings means the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content, including discrete surface wastes resulting from underground solution extraction processes, but not including underground ore bodies depleted by such solution extraction processes;

(25) Source material milling means any processing of ore, including underground solution extraction of unmined ore, primarily for the purpose of extracting or concentrating uranium or thorium therefrom and which results in the production of source material and source material mill tailings;

(26) Spent nuclear fuel means irradiated nuclear fuel that has undergone at least one year of decay since being used as a source of energy in a power reactor. Spent nuclear fuel includes the special nuclear material, byproduct material, source material, and other radioactive material associated with fuel assemblies;

(27) Transuranic waste means radioactive waste material containing alpha-emitting radioactive elements, with radioactive half-lives greater than five years, having an atomic number greater than 92 in concentrations in excess of one hundred nanocuries per gram;

(28) Licensed practitioner means a person licensed to practice medicine, dentistry, podiatry, chiropractic, osteopathic medicine and surgery, or as an osteopathic physician;

(29) X-ray system means an assemblage of components for the controlled production of X-rays, including, but not limited to, an X-ray high-voltage generator, an X-ray control, a tube housing assembly, a beam-limiting device, and the necessary supporting structures. Additional components which function with the system are considered integral parts of the system;

(30) Licensed facility operator means any person or entity who has obtained a license under the Low-Level Radioactive Waste Disposal Act to operate a facility, including any person or entity to whom an assignment of a license is approved by the Department of Environment and Energy; and

(31) Deliberate misconduct means an intentional act or omission by a person that (a) would intentionally cause a licensee, registrant, or applicant for a

license or registration to be in violation of any rule, regulation, or order of or any term, condition, or limitation of any license or registration issued by the department under the Radiation Control Act or (b) constitutes an intentional violation of a requirement, procedure, instruction, contract, purchase order, or policy under the Radiation Control Act by a licensee, a registrant, an applicant for a license or registration, or a contractor or subcontractor of a licensee, registrant, or applicant for a license or registration.

Source: Laws 1963, c. 406, § 3, p. 1297; Laws 1975, LB 157, § 3; Laws 1978, LB 814, § 3; Laws 1984, LB 716, § 3; Laws 1987, LB 390, § 4; Laws 1989, LB 342, § 32; Laws 1990, LB 1064, § 17; Laws 1993, LB 121, § 434; Laws 1993, LB 536, § 83; Laws 1995, LB 406, § 42; Laws 1996, LB 1044, § 651; Laws 1996, LB 1201, § 1; Laws 2002, LB 93, § 12; Laws 2002, LB 1021, § 71; Laws 2005, LB 301, § 42; Laws 2006, LB 994, § 103; Laws 2007, LB296 § 566; Laws 2007, LB463, § 1209; Laws 2008, LB928, § 23; Laws 2012, LB794, § 1; Laws 2019, LB302, § 89.

Cross References

Low-Level Radioactive Waste Disposal Act, see section 81-1578.

ARTICLE 36
TUBERCULOSIS DETECTION AND PREVENTION ACT

Section
71-3608. Commitment; voluntary hospitalization or treatment.
71-3610. Commitment; treatment; expenses; payment by state.
71-3613. Department; powers and duties.
71-3614. Cost of drugs and patient care; transportation; payment.

71-3608 Commitment; voluntary hospitalization or treatment.

No person having communicable tuberculosis who in his or her home or elsewhere obeys the rules, regulations, and orders of the department for the control of tuberculosis or who voluntarily accepts hospitalization or treatment in a health care facility which is licensed and approved for such use under the Health Care Facility Licensure Act by the department, or other location as approved by the Governor, and obeys the rules, regulations, and orders of the department for the control of communicable tuberculosis shall be committed under the Tuberculosis Detection and Prevention Act.

Source: Laws 1963, c. 399, § 8, p. 1276; Laws 1972, LB 1492, § 1; Laws 1996, LB 1044, § 660; Laws 2000, LB 819, § 108; Laws 2004, LB 1005, § 91; Laws 2024, LB1215, § 34.
Operative date July 19, 2024.

Cross References

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

71-3610 Commitment; treatment; expenses; payment by state.

The expenses incurred in the care, maintenance, and treatment of patients committed under the Tuberculosis Detection and Prevention Act shall be paid from state funds appropriated to the department for the purpose of entering into agreements to provide for the care, maintenance, and treatment of such

patients and those other persons having communicable tuberculosis who voluntarily agree to and accept care and treatment.

Source: Laws 1963, c. 399, § 10, p. 1277; Laws 1972, LB 1492, § 2; Laws 1996, LB 1044, § 661; Laws 2004, LB 1005, § 93; Laws 2007, LB296, § 577; Laws 2024, LB1215, § 35.
Operative date July 19, 2024.

71-3613 Department; powers and duties.

The department shall have and may exercise the following powers and duties in its administration of the Tuberculosis Detection and Prevention Act:

(1) To adopt and promulgate rules and regulations relating to the care, maintenance, and treatment of patients committed under the Tuberculosis Detection and Prevention Act and other persons having communicable tuberculosis who voluntarily agree to and accept care and treatment on either an inpatient or an outpatient basis;

(2) To inspect and supervise to the extent necessary the facilities, operations, and administration of those health care facilities receiving support from the department for the purpose of providing care, treatment, or maintenance for persons infected with communicable tuberculosis;

(3) To provide visiting nursing services to those persons having communicable tuberculosis who are being treated on an outpatient basis;

(4) To adopt rules and regulations, and issue orders based thereon, relative to reports and statistics on tuberculosis from counties and the care, treatment, and maintenance of persons having tuberculosis, especially of those in the communicable or contagious stage thereof; and

(5) To set standards by rule and regulation for the types and level of medical care and treatment to be used by those health care facilities caring for tuberculous persons and to set standards by rule and regulation dealing with such matters as program standards, maximum and minimum costs and rates, administrative procedures to be followed and reports to be made, and arbitration by third parties.

Source: Laws 1972, LB 1492, § 3; Laws 1996, LB 1044, § 664; Laws 2000, LB 819, § 109; Laws 2004, LB 1005, § 96; Laws 2024, LB1215, § 36.
Operative date July 19, 2024.

Cross References

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

71-3614 Cost of drugs and patient care; transportation; payment.

(1) When any person who has communicable tuberculosis and who has relatives, friends, or a private or public agency or organization willing to undertake the obligation to support him or her or to aid in supporting him or her in any other state or country, the department may furnish him or her with the cost of transportation to such other state or country if it finds that the interest of the State of Nebraska and the welfare of such person will be promoted thereby. The expense of such transportation shall be paid by the department out of funds appropriated to it for the purpose of carrying out the Tuberculosis Detection and Prevention Act.

(2) No funds appropriated to the department for the purpose of carrying out the act shall be used for meeting the cost of the care, maintenance, or treatment of any person who has communicable tuberculosis, for directed health measures, or for transportation to another state or country, to the extent that such cost is covered by an insurer or other third-party payor or any other entity under obligation to such person by contract, policy, certificate, or any other means whatsoever. The department in no case shall expend any such funds to the extent that any such person is able to bear the cost of such care, maintenance, treatment, or transportation. To protect the health and safety of the public, the department may pay, in part or in whole, the cost of drugs and medical care used to treat any person for or to prevent the spread of communicable tuberculosis and for evaluation and diagnosis of persons who have been identified as contacts of a person with communicable tuberculosis. The department shall determine the ability of a person to pay by consideration of the following factors: (a) The person's age, (b) the number of his or her dependents and their ages and physical condition, (c) the person's length of care, maintenance, or treatment, (d) his or her liabilities, (e) the extent that such cost is covered by an insurer or other third-party payor, and (f) his or her assets. Pursuant to the Administrative Procedure Act, the department shall adopt and promulgate rules and regulations for making the determinations required by this subsection.

Source: Laws 1972, LB 1492, § 6; Laws 1996, LB 1044, § 665; Laws 2004, LB 1005, § 97; Laws 2009, LB195, § 82; Laws 2024, LB1215, § 37.
Operative date July 19, 2024.

Cross References

Administrative Procedure Act, see section 84-920.

ARTICLE 37
BRAIN INJURY ASSISTANCE ACT

Section
71-3701. Act, how cited.
71-3702. Terms, defined.
71-3703. Brain Injury Oversight Committee; created; members; terms; meetings; expenses.
71-3704. Committee; duties.
71-3705. Brain Injury Assistance Program; created; administration.
71-3706. Legislative intent.

71-3701 Act, how cited.

Sections 71-3701 to 71-3706 shall be known and may be cited as the Brain Injury Assistance Act.

Source: Laws 2019, LB481, § 1; Laws 2022, LB971, § 1.

71-3702 Terms, defined.

For purposes of the Brain Injury Assistance Act:

(1) Brain injury has the definition found in section 81-654; and

(2) Committee means the Brain Injury Oversight Committee created in section 71-3703.

Source: Laws 2019, LB481, § 2; Laws 2022, LB971, § 2.

71-3703 Brain Injury Oversight Committee; created; members; terms; meetings; expenses.

(1) The Brain Injury Oversight Committee is created. The committee shall consist of nine public members and the following directors, or their designees: The Commissioner of Education; the Director of Behavioral Health of the Department of Health and Human Services; and the Director of Public Health of the Department of Health and Human Services. The Governor shall appoint the nine public members which shall include individuals with a brain injury or family members of individuals with a brain injury, a representative of a public or private health-related organization, a representative of a developmental disability advisory or planning group within Nebraska, a representative of service providers for individuals with a brain injury, and a representative of a nonprofit brain injury advocacy organization.

(2) The Governor shall appoint the public members within ninety days after July 15, 2020. The Governor shall designate the initial terms so that three members serve one-year terms, three members serve two-year terms, and three members serve three-year terms. Their successors shall be appointed for four-year terms. Any vacancy shall be filled from the same category for the remainder of the unexpired term. Any member of the committee shall be eligible for reappointment. At least one member of the committee shall be appointed from each congressional district.

(3) The committee shall select a chairperson and such other officers as it deems necessary to perform its functions and shall establish policies to govern its procedures. The committee shall meet at least four times annually, and at any other time as the business of the committee requires, and shall meet at such place as may be established by the chairperson. The public members of the committee shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177.

Source: Laws 2019, LB481, § 3.

71-3704 Committee; duties.

The committee shall:

(1) Provide financial oversight and direction to the University of Nebraska Medical Center in the management of the Brain Injury Assistance Program;

(2) Develop criteria for expenditures from the Brain Injury Assistance Program; and

(3) Represent the interests of individuals with a brain injury and their families through advocacy, education, training, rehabilitation, research, and prevention.

Source: Laws 2019, LB481, § 4; Laws 2022, LB971, § 3.

71-3705 Brain Injury Assistance Program; created; administration.

(1) The Brain Injury Assistance Program is created. The program shall be administered by the Department of Health and Human Services through a contract with the University of Nebraska Medical Center. The program shall provide assistance for individuals with a brain injury by paying for contracts with outside sources that specialize in the area of brain injury. Such outside sources shall operate, at a minimum, statewide, and also in targeted areas as defined and determined in the contract, with individuals with a brain injury;

work to secure and develop community-based services for individuals with a brain injury; provide support groups and access to pertinent information, medical resources, and service referrals for individuals with a brain injury; and educate professionals who work with individuals with a brain injury.

(2) The program may provide assistance with the following activities, including, but not limited to:

(a) Resource facilitation. Resource facilitation shall be given priority and made available to provide ongoing support for individuals with a brain injury and their families for coping with brain injuries. Resource facilitation may provide a linkage to existing services and increase the capacity of the state's providers of services to individuals with a brain injury by providing brain-injury-specific information, support, and resources and enhancing the usage of support commonly available in a community. Agencies providing resource facilitation shall specialize in providing services to individuals with a brain injury and their families;

(b) Voluntary training for service providers in the appropriate provision of services to individuals with a brain injury;

(c) Followup contact to provide information on brain injuries for individuals on the brain injury registry established in the Brain Injury Registry Act;

(d) Activities to promote public awareness of brain injury and prevention methods;

(e) Supporting research in the field of brain injury;

(f) Providing and monitoring quality improvement processes with standards of care among brain injury service providers; and

(g) Collecting data and evaluating how the needs of individuals with a brain injury and their families are being met in this state.

(3) Administration costs of the program shall not be more than ten percent of the total expenditures of the program.

(4) Data collection and evaluation conducted pursuant to this section shall not be a burden or unnecessary hardship to individuals with a brain injury or service providers.

(5) Nothing in this section shall require a professional, provider, caregiver, or individual to receive training as a condition of receiving or providing nonmedical services to individuals with a brain injury.

Source: Laws 2019, LB481, § 5; Laws 2022, LB971, § 4.

Cross References

Brain Injury Registry Act, see section 81-653.

71-3706 Legislative intent.

It is the intent of the Legislature to appropriate five hundred thousand dollars from the Nebraska Health Care Cash Fund annually beginning in fiscal year 2020-21 to the Brain Injury Assistance Program for purposes of carrying out the Brain Injury Assistance Act.

Source: Laws 2019, LB481, § 6; Laws 2022, LB971, § 5.

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.

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.

ARTICLE 43
SWIMMING POOLS

Section
71-4301. Transferred to section 81-15,264.
71-4302. Transferred to section 81-15,265.

Section
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 44
RABIES

Section
71-4401. Terms, defined.
71-4402.01. Repealed. Laws 2019, LB61, § 7.
71-4402.03. Control and prevention of rabies; rules and regulations.
71-4403. Veterinarian; vaccination for rabies; certificate; contents.
71-4406. Post-incident management.
71-4407. Domestic or hybrid animal or livestock; postexposure management.

71-4401 Terms, defined.

For purposes of sections 71-4401 to 71-4412, unless the context otherwise requires:

(1) Compendium means the Compendium of Animal Rabies Prevention and Control as published by the National Association of State Public Health Veterinarians;

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

(3) Domestic animal means any dog of the species Canis familiaris, cat of the species Felis domesticus, or ferret of the species Mustela putorius furo, and cat means a cat which is a household pet;

(4) Hybrid animal means any animal which is the product of the breeding of a domestic dog with a nondomestic canine species;

(5) Own, unless otherwise specified, means to possess, keep, harbor, or have control of, charge of, or custody of a domestic or hybrid animal. This term does not apply to domestic or hybrid animals owned by other persons which are temporarily maintained on the premises of a veterinarian or kennel operator for a period of not more than thirty days;

(6) Owner means any person possessing, keeping, harboring, or having charge or control of any domestic or hybrid animal or permitting any domestic or hybrid animal to habitually be or remain on or be lodged or fed within such person's house, yard, or premises. This term does not apply to veterinarians or

kennel operators temporarily maintaining on their premises domestic or hybrid animals owned by other persons for a period of not more than thirty days;

(7) Rabies control authority means county, township, city, or village health and law enforcement officials who shall enforce sections 71-4401 to 71-4412 relating to the vaccination and impoundment of domestic or hybrid animals. Such public officials are not responsible for any accident or disease of a domestic or hybrid animal resulting from the enforcement of such sections; and

(8) Vaccination against rabies means the inoculation of a domestic or hybrid animal with a United States Department of Agriculture-licensed rabies vaccine administered consistent with its labeling. Such vaccination shall be performed by a veterinarian duly licensed to practice veterinary medicine in the State of Nebraska or licensed in the state where the vaccination was administered.

Source: Laws 1969, c. 445, § 1, p. 1484; Laws 1987, LB 104, § 1; Laws 1996, LB 1044, § 674; Laws 2000, LB 1115, § 75; Laws 2007, LB25, § 1; Laws 2007, LB296, § 585; Laws 2019, LB61, § 1.

71-4402.01 Repealed. Laws 2019, LB61, § 7.

71-4402.03 Control and prevention of rabies; rules and regulations.

To protect the health, safety, and welfare of the public and to ensure, to the greatest extent possible, efficient and adequate practices, the department shall adopt and promulgate rules and regulations for the control and prevention of rabies. Such rules and regulations shall generally comply with the compendium and the recommendations of the Centers for Disease Control and Prevention of the United States Public Health Service of the United States Department of Health and Human Services. The department may consider changes in the compendium and recommendations of the Centers for Disease Control and Prevention of the United States Public Health Service of the United States Department of Health and Human Services when adopting and promulgating such rules and regulations.

Source: Laws 2007, LB25, § 4; Laws 2019, LB61, § 2.

71-4403 Veterinarian; vaccination for rabies; certificate; contents.

It shall be the duty of each veterinarian, at the time of vaccinating any domestic or hybrid animal, to complete a certificate of rabies vaccination which shall include, but not be limited to, the following information:

(1) The owner's name and address;

(2) An adequate description of the domestic or hybrid animal, including, but not limited to, such items as the domestic or hybrid animal's breed, sex, age, name, and distinctive markings;

(3) The date of vaccination;

(4) The rabies vaccination tag number;

(5) The type of rabies vaccine administered by dosage and number of years of effectiveness;

(6) The manufacturer's serial number of the vaccine used; and

(7) The date by which the next vaccination is due.

Such veterinarian shall issue a tag with the certificate of vaccination.

Source: Laws 1969, c. 445, § 3, p. 1485; Laws 1987, LB 104, § 3; Laws 2007, LB25, § 5; Laws 2019, LB61, § 3.

71-4406 Post-incident management.

Any domestic animal which has bitten any person or caused an abrasion of the skin of any person shall be subjected to post-incident management as provided in rules and regulations adopted and promulgated by the department.

Source: Laws 1969, c. 445, § 6, p. 1486; Laws 1987, LB 104, § 6; Laws 1989, LB 51, § 1; Laws 2007, LB25, § 8; Laws 2019, LB61, § 4.

71-4407 Domestic or hybrid animal or livestock; postexposure management.

Domestic or hybrid animals or livestock known to have been exposed to a confirmed or suspected rabid animal shall be subjected to postexposure management as provided in rules and regulations adopted and promulgated by the department.

Source: Laws 1969, c. 445, § 7, p. 1487; Laws 1987, LB 104, § 7; Laws 2007, LB25, § 9; Laws 2019, LB61, § 5.

ARTICLE 45

PALLIATIVE CARE AND QUALITY OF LIFE ACT

Section
71-4504. Palliative Care and Quality of Life Advisory Council; created; duties; members; meetings; expenses.

71-4504 Palliative Care and Quality of Life Advisory Council; created; duties; members; meetings; expenses.

(1) The Palliative Care and Quality of Life Advisory Council is created. The council shall consult with and advise the Department of Health and Human Services on matters relating to palliative care initiatives. The council shall:

(a) Survey palliative care providers regarding best practices and recommendations;

(b) Work with the department; and

(c) Make recommendations to the department regarding information on the website pursuant to section 71-4503 as standards of care change.

(2) The council shall be composed of nine members appointed by the Governor for three-year terms. At least two of the members shall be physicians or nurses certified under the Hospice and Palliative Medicine Certification Program administered by the American Board of Internal Medicine. One member shall be an employee of the department familiar with hospice and palliative medicine. The remaining members shall (a) have palliative care work experience, (b) have experience with palliative care delivery models in a variety of settings, such as acute care, long-term care, and hospice care, and with a variety of populations, including pediatric patients, youth patients, and adult patients, or (c) be representatives of palliative care patients and their family caregivers.

(3) The council shall meet at least twice each calendar year. The members shall elect a chairperson and vice-chairperson. The members shall be reim-

bursed for expenses as provided in sections 81-1174 to 81-1177 but shall not receive any other compensation for such services.

(4) The department shall provide a place and time for the council to meet and provide staffing assistance as necessary for the meetings.

Source: Laws 2017, LB323, § 4; Laws 2020, LB381, § 65.

ARTICLE 46

MANUFACTURED HOMES, RECREATIONAL VEHICLES, AND MOBILE HOME PARKS

(a) MANUFACTURED HOMES AND RECREATIONAL VEHICLES

(b) MOBILE HOME PARKS

(a) MANUFACTURED HOMES AND RECREATIONAL VEHICLES

71-4603 Terms, defined.

For purposes of the Uniform Standard Code for Manufactured Homes and Recreational Vehicles, unless the context otherwise requires:

(1) Camping trailer means a vehicular portable unit mounted on wheels and constructed with collapsible partial side walls which fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters for recreational, camping, or travel use;

(2) Commission means the Public Service Commission;

(3) Dealer means a person licensed by the state pursuant to the Motor Vehicle Industry Regulation Act as a dealer in manufactured homes or recreational vehicles or any other person, other than a manufacturer, who sells, offers to sell, distributes, or leases manufactured homes or recreational vehicles primarily to persons who in good faith purchase or lease a manufactured home or recreational vehicle for purposes other than resale;

(4) Defect means a failure to conform to an applicable construction standard that renders the manufactured home or recreational vehicle or any component of the manufactured home or recreational vehicle not fit for the ordinary use for which it was intended but does not result in an unreasonable risk of injury or death to occupants;

(5) Distributor means any person engaged in the sale and distribution of manufactured homes or recreational vehicles for resale;

(6) Failure to conform means a defect, a serious defect, noncompliance, or an imminent safety hazard related to the code;

(7) Fifth-wheel trailer means a unit mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, of such size or weight as not to require a special highway movement permit, and designed to be towed by a motorized vehicle that contains a towing mechanism that is mounted above or forward of the tow vehicle's rear axle;

(8) Gross trailer area means the total plan area measured on the exterior to the maximum horizontal projections of exterior wall in the setup mode and includes all siding, corner trims, moldings, storage spaces, expandable room sections regardless of height, and areas enclosed by windows but does not include roof overhangs. Storage lofts contained within the basic unit shall have ceiling heights less than five feet and shall not constitute additional square footage. Appurtenances, as defined in subdivision (2)(k) of section 60-6,288, shall not be considered in calculating the gross trailer area as provided in such subdivision;

(9) Imminent safety hazard means a hazard that presents an imminent and unreasonable risk of death or severe personal injury;

(10) 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 in the structure, except that manufactured home includes any structure that meets all of the requirements of this subdivision other than the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States Secretary of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, as such act existed on September 1, 2001, 42 U.S.C. 5401 et seq.;

(11) Manufactured-home construction means all activities relating to the assembly and manufacture of a manufactured home, including, but not limited to, activities relating to durability, quality, and safety;

(12) Manufactured-home safety means the performance of a manufactured home in such a manner that the public is protected against any unreasonable risk of the occurrence of accidents due to the design or construction of such manufactured home or any unreasonable risk of death or injury to the user or to the public if such accidents do occur;

(13) Manufacturer means any person engaged in manufacturing, assembling, or completing manufactured homes or recreational vehicles;

(14) Motor home means a vehicular unit primarily designed to provide temporary living quarters which are built into an integral part of, or permanently attached to, a self-propelled motor vehicle chassis or van, containing permanently installed independent life-support systems that meet the state standard for recreational vehicles and providing at least four of the following facilities: Cooking; refrigeration or ice box; self-contained toilet; heating, air conditioning, or both; a potable water supply system including a faucet and

sink; separate one-hundred-twenty-nominal-volt electrical power supply; or LP gas supply;

(15) Noncompliance means a failure to comply with an applicable construction standard that does not constitute a defect, a serious defect, or an imminent safety hazard;

(16) Park model recreational vehicle means a vehicular unit which meets the following criteria:

(a) Is designed and marketed as temporary living quarters for recreational, camping, travel, or seasonal use;

(b) Is not permanently affixed to real property for use as a permanent dwelling;

(c) Is built on a single chassis mounted on wheels with a gross trailer area not exceeding four hundred square feet in the set up mode; and

(d) Is certified by the manufacturer as complying with the ANSI A119.5 Park Model Recreational Vehicle Standard of the American National Standards Institute, 2020 edition;

(17) Person means any individual, partnership, limited liability company, company, corporation, or association engaged in manufacturing, selling, offering to sell, or leasing manufactured homes or recreational vehicles;

(18) Purchaser means the first person purchasing a manufactured home or recreational vehicle in good faith for purposes other than resale;

(19) Recreational vehicle means a vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which unit either has its own motive power or is mounted on or towed by another vehicle. Recreational vehicle includes, but is not limited to, travel trailer, park model recreational vehicle, camping trailer, truck camper, motor home, and van conversion;

(20) Seal means a device or insignia issued by the Department of Health and Human Services Regulation and Licensure prior to May 1, 1998, or by the Public Service Commission on or after May 1, 1998, to be displayed on the exterior of a manufactured home or recreational vehicle to evidence compliance with state standards. The federal manufactured-home label shall be recognized as a seal;

(21) Serious defect means a failure to conform to an applicable construction standard that renders the manufactured home or recreational vehicle or any component of the manufactured home or recreational vehicle not fit for the ordinary use for which it was intended and which results in an unreasonable risk of injury or death to the occupants;

(22) Travel trailer means a vehicular unit mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use of such size or weight as not to require special highway movement permits when towed by a motorized vehicle;

(23) Truck camper means a portable unit constructed to provide temporary living quarters for recreational, travel, or camping use, consisting of a roof, floor, and sides and designed to be loaded onto and unloaded from the bed of a pickup truck; and

(24) Van conversion means a completed vehicle permanently altered cosmetically, structurally, or both which has been recertified by the state as a multipur-

pose passenger vehicle but which does not conform to or otherwise meet the definition of a motor home in this section and which contains at least one plumbing, heating, or one-hundred-twenty-nominal-volt electrical component subject to the provisions of the state standard for recreational vehicles. Van conversion does not include any such vehicle that lacks any plumbing, heating, or one-hundred-twenty-nominal-volt electrical system but contains an extension of the low-voltage automotive circuitry.

Source: Laws 1969, c. 557, § 3, p. 2272; Laws 1975, LB 300, § 3; Laws 1985, LB 313, § 7; Laws 1993, LB 121, § 435; Laws 1993, LB 536, § 86; Laws 1996, LB 1044, § 675; Laws 1998, LB 1073, § 128; Laws 2001, LB 376, § 6; Laws 2008, LB797, § 13; Laws 2010, LB816, § 90; Laws 2012, LB751, § 48; Laws 2022, LB1147, § 1.

Cross References

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

(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 47
HEARING

(b) COMMISSION FOR THE DEAF AND HARD OF HEARING

Section
71-4720. Commission for the Deaf and Hard of Hearing; created; members; appointment; qualifications.
71-4723. Members; expenses.
71-4728.05. Interpreter Review Board; members; duties; expenses.

(d) LANGUAGE ASSESSMENT PROGRAM

71-4745. Terms, defined.

(b) COMMISSION FOR THE DEAF AND HARD OF HEARING

71-4720 Commission for the Deaf and Hard of Hearing; created; members; appointment; qualifications.

There is hereby created the Commission for the Deaf and Hard of Hearing which shall consist of nine members to be appointed by the Governor subject to approval by the Legislature. The commission members shall include three deaf persons, three hard of hearing persons, and three persons who have an interest in and knowledge of deafness and hearing loss issues. A majority of the commission members who are deaf or hard of hearing shall be able to express themselves through sign language. Employees of any state agency other than employees of the commission shall be eligible to serve on the commission. When appointing members to the commission, the Governor shall consider recommendations from individuals, organizations, and the public.

Source: Laws 1979, LB 101, § 1; Laws 1981, LB 250, § 1; Laws 1987, LB 376, § 16; Laws 1995, LB 25, § 1; Laws 1997, LB 851, § 12; Laws 2019, LB248, § 6.

71-4723 Members; expenses.

The members of the commission shall receive no compensation for their services as such but shall be reimbursed for expenses in attending meetings of the commission and in carrying out their official duties as provided in sections 81-1174 to 81-1177.

Source: Laws 1979, LB 101, § 4; Laws 1981, LB 204, § 131; Laws 2020, LB381, § 66.

71-4728.05 Interpreter Review Board; members; duties; expenses.

(1) The commission shall appoint the Interpreter Review Board as required in section 20-156.

(2) Members of the Interpreter Review Board shall be as follows:

(a) A representative of the Department of Health and Human Services and the executive director of the commission or his or her designee, both of whom shall serve continuously and without limitation;

(b) One qualified interpreter, appointed for a term to expire on June 30, 2008;

(c) One representative of local government, appointed for a term to expire on June 30, 2008;

(d) One deaf or hard of hearing person, appointed for a term to expire on June 30, 2009;

(e) One qualified interpreter, appointed for a term to expire on June 30, 2009;

(f) One deaf or hard of hearing person, appointed for a term to expire on June 30, 2010; and

(g) One representative of local government, appointed for a term to expire on June 30, 2010.

(3) Upon the expiration of the terms described in subsection (2) of this section, members other than those identified in subdivision (2)(a) of this section shall be appointed for terms of three years. No such member may serve more than two consecutive three-year terms beginning June 30, 2007, except that members whose terms have expired shall continue to serve until their successors have been appointed and qualified.

(4) The commission may remove a member of the board for inefficiency, neglect of duty, or misconduct in office after delivering to such member a copy of the charges and a public hearing in accordance with the Administrative Procedure Act. If a vacancy occurs on the board, the commission shall appoint another member with the same qualifications as the vacating member to serve the remainder of the term. The members of the board shall receive no compensation but shall be reimbursed for expenses as provided in sections 81-1174 to 81-1177 in attending meetings of the commission and in carrying out their official duties as provided in this section and section 20-156.

(5) The board shall establish policies, standards, and procedures for evaluating and licensing interpreters, including, but not limited to, testing, training, issuance, renewal, and denial of licenses, continuing education and continuing competency assessment, investigation of complaints, and disciplinary actions against a license pursuant to section 20-156.

Source: Laws 2002, LB 22, § 17; Laws 2006, LB 87, § 5; Laws 2007, LB296, § 590; Laws 2020, LB381, § 67.

Cross References

Administrative Procedure Act, see section 84-920.

(d) LANGUAGE ASSESSMENT PROGRAM

71-4745 Terms, defined.

For purposes of sections 71-4745 to 71-4747:

(1) Communication means a two-way, interactive process to convey meaning from one person or group to another through the use of mutually understood signs, symbols, or voice;

(2) Credentialed teacher of the deaf means a certificated teacher with a special education endorsement in deaf or hard of hearing education;

(3) English means English literacy, spoken English, signing exact English and morphemic system of signs, conceptually accurate signed English, cued speech, and any other visual supplements;

(4) Language means a complex and dynamic system of conventional symbols that is used in various modes for thought and communication; and

(5) Literacy includes the developmental stages of literacy, which are necessary beginning stages to master a language and which include pre-emergent, emergent, and novice levels.

Source: Laws 2020, LB965, § 4.

71-4746 Language assessment program; children from birth through five years of age; scope; report.

(1) The State Department of Education, in collaboration with the Commission for the Deaf and Hard of Hearing, shall establish and coordinate a language

assessment program for children who are deaf or hard of hearing. The program shall assess, monitor, and track the language developmental milestones for children from birth through five years of age who are deaf or hard of hearing. The scope of the program shall include children who use one or more communication modes in American Sign Language, English literacy, and, if applicable, spoken English and visual supplements.

(2) Language assessments shall be given as needed to each child who is deaf or hard of hearing and who is less than six years of age in compliance with the Special Education Act and the federal Individuals with Disabilities Education Act, as such act existed on January 1, 2020. Such language assessments shall be provided in accordance with the provisions of this section and any recommendations adopted pursuant to this section.

(3) On or before December 31, 2022, and on or before each December 31 thereafter, the State Department of Education and the Commission for the Deaf and Hard of Hearing shall publish a joint report that is specific to language and literacy developmental milestones for each age from birth through five years of age of children who are deaf or hard of hearing, including children who are deaf or hard of hearing and have another disability, relative to such children's peers who are not deaf or hard of hearing. Such report shall be based on existing data annually reported by the State Department of Education in compliance with the federally required state performance plan on pupils with disabilities. The State Department of Education and the Commission for the Deaf and Hard of Hearing shall each publish the report on their respective websites. The report shall be electronically submitted to the Education Committee of the Legislature and the Clerk of the Legislature.

Source: Laws 2020, LB965, § 5.

Cross References

Special Education Act, see section 79-1110.

71-4747 Advisory committee; members; meetings; quorum; duties; termination.

(1) The Commission for the Deaf and Hard of Hearing shall appoint an advisory committee to advise the commission regarding all aspects of the language assessment program established pursuant to section 71-4746. The advisory committee shall consist of fourteen members as follows:

(a) One member shall be a credentialed teacher of the deaf who uses both American Sign Language and English during instruction;

(b) One member shall be a credentialed teacher of the deaf who uses spoken English, with or without visual supplements, during instruction;

(c) One member shall be a credentialed teacher of the deaf who has expertise in curriculum development and instruction for American Sign Language and English;

(d) One member shall be a credentialed teacher of the deaf who has expertise in assessing language development in both American Sign Language and English;

(e) One member shall be a speech language pathologist who has experience working with children from birth through five years of age;

(f) One member shall be a professional with a linguistic background who conducts research on language outcomes of children who are deaf or hard of hearing and who uses both American Sign Language and English;

(g) One member shall be a parent of a child who is deaf or hard of hearing and who uses both American Sign Language and English;

(h) One member shall be a parent of a child who is deaf or hard of hearing and who uses spoken English with or without visual supplements;

(i) One member shall be knowledgeable about teaching and using both American Sign Language and English in the education of children who are deaf or hard of hearing;

(j) One member shall be a community member representing the deaf community;

(k) One member shall be a community member representing the hard of hearing community;

(l) One member shall be the state liaison for any regional programs for the education of children who are deaf or hard of hearing, coordinated through the State Department of Education, or the state liaison's designee;

(m) One member shall be a member of the Commission for the Deaf and Hard of Hearing; and

(n) One member shall be the coordinator of a network that provides service coordination for children with special needs who are below three years of age or the coordinator's designee.

(2) On or before December 30, 2020, the executive director of the Commission for the Deaf and Hard of Hearing shall call an organizational meeting of the advisory committee. At such organizational meeting, the members shall elect a chairperson and vice-chairperson from the membership of the advisory committee. The advisory committee may meet at any time and at any place within the state on the call of the chairperson. A quorum of the advisory committee shall be six members. All actions of the advisory committee shall be by motion adopted by a majority of those members present when there is a quorum.

(3) On or before July 1, 2022, the advisory committee shall develop specific action plans and make recommendations necessary to fully implement the language assessment program. The advisory committee shall:

(a) Collaborate with the coordinating council for a network that provides service coordination for children with special needs who are below three years of age and an advisory council that provides policy guidance to the State Department of Education;

(b) Solicit input from professionals trained in the language development and education of children who are deaf or hard of hearing on the selection of specific language developmental milestones;

(c) Review and recommend the use of existing and available language assessments for children who are deaf or hard of hearing;

(d) Recommend qualifications for identifying language professionals with knowledge of the use of evidence-based, best practices in English and American Sign Language who can be available to advocate at individualized family service plan or individualized education program team meetings;

(e) Recommend qualifications for identifying language assessment evaluators with knowledge of the use of evidence-based, best practices with children who are deaf or hard of hearing and the resources for locating such evaluators; and

(f) Recommend procedures and methods for communicating information on language acquisition, assessment results, milestones, assessment tools used, and progress of the child to the parent or legal guardian of such child and the teachers and other professionals involved in the early intervention and education of such child.

(4) The specific action plans and recommendations developed by the advisory committee shall include, but are not limited to, the following:

(a) Language assessments that include data collection and timely tracking of the child's development so as to provide information about the child's receptive and expressive language compared to such child's linguistically age-appropriate peers who are not deaf or hard of hearing;

(b) Language assessments conducted in accordance with standardized norms and timelines in order to monitor and track language developmental milestones in receptive, expressive, social, and pragmatic language acquisition and developmental stages to show progress in American Sign Language literacy, English literacy, or both, for all children from birth through five years of age who are deaf or hard of hearing;

(c) Language assessments delivered in the child's mode of communication and which have been validated for the specific purposes for which each assessment is used, and appropriately normed;

(d) Language assessments administered by individuals who are proficient in American Sign Language for American Sign Language assessments and English for English assessments;

(e) Use of assessment results, in addition to the results of the assessment required by federal law, for guidance in the language developmental discussions by individualized family service plan or individualized education program team meetings when assessing the child's progress in language development;

(f) Reporting of assessment results to the parents or legal guardian of the child and any applicable agency;

(g) Reporting of assessment results on an aggregated basis to the Education Committee of the Legislature, the Clerk of the Legislature, and the Governor; and

(h) Reporting of assessment results to the members of the child's individualized family service plan or individualized education program team, which assessment results may be used, in addition to the results of the assessment required by federal law, by the child's individualized family service plan or individualized education program team, as applicable, to track the child's progress, and to establish or modify the individualized family service plan or individualized education program.

(5) The advisory committee appointed pursuant to this section shall terminate on July 1, 2022.

Source: Laws 2020, LB965, § 6.

ARTICLE 48
ANATOMICAL GIFTS

(c) BONE MARROW DONATIONS

(c) BONE MARROW DONATIONS

71-4819 Department of Health and Human Services; education regarding bone marrow donors; powers and duties.

(1) The Department of Health and Human Services shall educate residents of the state about:

(a) The need for bone marrow donors;

(b) Patient populations benefiting from bone marrow donations;

(c) How to acquire a free buccal swab kit from a bone marrow registry;

(d) The procedures required to become registered as a potential bone marrow donor, including the procedures for determining tissue type; and

(e) The medical procedures a donor must undergo to donate bone marrow and the attendant risks of the procedures.

(2) The department shall provide information and educational materials to the public regarding bone marrow donation. The department shall seek assistance from the national marrow donor program to establish a system to distribute materials, ensure that the materials are updated periodically, and fully disclose the risks involved in donating bone marrow. The department shall make special efforts to educate and recruit persons of racial and ethnic minorities to volunteer as potential bone marrow donors.

(3) The department may use the press, radio, and television and may place educational materials in appropriate health care facilities, blood banks, and state and local agencies. The department, in conjunction with the Director of Motor Vehicles, shall make educational materials available at all places where motor vehicle operators' licenses are issued or renewed.

Source: Laws 1992, LB 1099, § 1; Laws 1996, LB 1044, § 685; Laws 2007, LB296, § 601; Laws 2020, LB541, § 1.

71-4821 Physician; inquire of new patient; provide information.

Each physician may inquire of a new patient who is at least eighteen years of age and younger than forty-five years of age on the new patient's intake form as to whether the patient is registered with the bone marrow registry. If the patient states that the patient is not registered with the bone marrow registry, the physician may provide information developed and disseminated by the Department of Health and Human Services regarding the bone marrow registry to the patient.

Source: Laws 2020, LB541, § 2.

(d) DONOR REGISTRY OF NEBRASKA

71-4822 Donor Registry of Nebraska; establishment; duties; restriction on information.

(1) The federally designated organ procurement organization for Nebraska shall use the information received from the Department of Motor Vehicles under section 60-494 and the Game and Parks Commission under section 37-406.01 to establish and maintain the Donor Registry of Nebraska. A procurement organization located outside of Nebraska may obtain information from the Donor Registry of Nebraska when a Nebraska resident is listed as a donor on the registry and is not located in Nebraska immediately preceding or at the time of his or her death. The federally designated organ procurement organization for Nebraska may receive donor information from sources other than the Department of Motor Vehicles and shall pay all costs associated with creating and maintaining the Donor Registry of Nebraska.

(2) It is the intent of the Legislature that the Donor Registry of Nebraska facilitate organ and tissue donations and not inhibit such donations. A person does not need to be listed on the Donor Registry of Nebraska to be an organ and tissue donor.

(3) No person shall obtain information from the Donor Registry of Nebraska for the purpose of fundraising or other commercial use. Information obtained from the Donor Registry of Nebraska may only be used to facilitate the donation process at the time of the donor's death. General statistical information may be provided upon request to the federally designated organ procurement organization for Nebraska.

Source: Laws 2004, LB 559, § 7; Laws 2010, LB1036, § 39; Laws 2022, LB1082, § 3.

ARTICLE 51

EMERGENCY MEDICAL SERVICES

(e) NEBRASKA EMERGENCY MEDICAL SYSTEM OPERATIONS FUND

Section

(e) NEBRASKA EMERGENCY MEDICAL SYSTEM OPERATIONS FUND

71-51,103 Nebraska Emergency Medical System Operations Fund; created; use; investment; Department of Health and Human Services; report.

(1) There is hereby created the Nebraska Emergency Medical System Operations Fund. The fund may receive gifts, bequests, grants, fees, or other contributions or donations from public or private entities.

(2)(a) The fund shall be used to carry out the purposes of the Statewide Trauma System Act and the Emergency Medical Services Practice Act, including:

(i) Activities related to the design, maintenance, or enhancement of the statewide trauma system;

(ii) Support for emergency medical services programs;

(iii) Support for the emergency medical services programs for children;

(iv) Financial support for the statewide patient care reporting system and trauma registry described in section 71-8248; and

(v) Financial support for recruitment, retention, and training emergency care providers.

(b) The Department of Health and Human Services may adopt and promulgate rules and regulations to carry out this subsection.

(3) The Department of Health and Human Services shall electronically deliver a report to the Clerk of the Legislature by December 31 of each year that includes the following information from the most recent previous fiscal year:

(a) The amount of money appropriated to the Department of Health and Human Services from the Nebraska Emergency Medical System Operations Fund that was not spent and an explanation for why such money was not spent; and

(b) The amount of money appropriated to the Department of Health and Human Services from the Nebraska Emergency Medical System Operations Fund that was spent and an explanation for how such money was spent.

(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 2001, LB 191, § 2; Laws 2007, LB296, § 606; Laws 2007, LB463 § 1222; Laws 2012, LB782, § 119; Laws 2013, LB222, § 28; Laws 2024, LB1108, § 2.
Effective date April 16, 2024.

Cross References

Emergency Medical Services Practice Act, see section 38-1201.
Nebraska Capital Expansion Act, see section 72-1269.
Nebraska State Funds Investment Act, see section 72-1260.
Statewide Trauma System Act, see section 71-8201.

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.

(b) DRINKING WATER STATE REVOLVING FUND ACT

71-5316. Terms, defined.

Section
71-5318. Drinking Water Facilities Loan Fund; Land Acquisition and Source Water Loan Fund; Drinking Water Administration Fund; created; use; investment.
71-5322. Department; powers and duties.
71-5325. Loan terms.
71-5327. Reserves authorized.

(c) LEAD SERVICE LINES

71-5328. Lead Service Line Cash Fund; created; use; investment; Department of Environment and Energy; grants; authorized.

(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.

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.

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.

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.

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 Labora-

tory, 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.

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.

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.

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.

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.

(b) DRINKING WATER STATE REVOLVING FUND ACT

71-5316 Terms, defined.

For purposes of the Drinking Water State Revolving Fund Act, unless the context otherwise requires:

(1) Safe Drinking Water Act means the federal Safe Drinking Water Act, as the act existed on October 23, 2018;

(2) Construction means any of the following: Preliminary planning to determine the feasibility of a safe drinking water project for a public water system; engineering, architectural, legal, fiscal, or economic investigations or studies; surveys, designs, plans, working drawings, specifications, procedures, or other necessary preliminary actions; erection, building, acquisition, alteration, remodeling, improvement, or extension of public water systems; or the inspection or supervision of any of such items;

(3) Council means the Environmental Quality Council;

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

(5) Director means the Director of Environment and Energy;

(6) Operate and maintain means all necessary activities, including the normal replacement of equipment or appurtenances, to assure the dependable and economical function of a public water system in accordance with its intended purpose;

(7) Owner means any person owning or operating a public water system;

(8) Public water system has the definition found in section 71-5301; and

(9) Safe drinking water project means the structures, equipment, surroundings, and processes required to establish and operate a public water system.

Source: Laws 1997, LB 517, § 5; Laws 2001, LB 667, § 45; Laws 2019, LB302, § 91; Laws 2019, LB307, § 1.

71-5318 Drinking Water Facilities Loan Fund; Land Acquisition and Source Water Loan Fund; Drinking Water Administration Fund; created; use; investment.

(1) The Drinking Water Facilities Loan Fund is created. The fund shall be held as a trust fund for the purposes and uses described in the Drinking Water State Revolving Fund Act.

The fund shall consist of federal capitalization grants, state matching appropriations, proceeds of state match bond issues credited to the fund, repayments of principal and interest on loans, transfers made pursuant to section 71-5327, and other money designated for the fund. The director may make loans from the fund pursuant to the Drinking Water State Revolving Fund Act and may conduct activities related to financial administration of the fund, administration

or provision of technical assistance through public water system source water assessment programs, and implementation of a source water petition program under the Safe Drinking Water Act. The state investment officer shall invest any money in the fund available for investment pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act, except that any bond proceeds in the fund shall be invested in accordance with the terms of the documents under which the bonds are issued. The state investment officer may direct that the bond proceeds shall be deposited with the bond trustee for investment. Investment earnings shall be credited to the fund.

The department may create or direct the creation of accounts within the fund as the department determines to be appropriate and useful in administering the fund and in providing for the security, investment, and repayment of bonds.

The fund and the assets thereof may be used, to the extent permitted by the Safe Drinking Water Act and the regulations adopted and promulgated pursuant to such act, to (a) pay or to secure the payment of bonds and the interest thereon, except that amounts deposited into the fund from state appropriations and the earnings on such appropriations may not be used to pay or to secure the payment of bonds or the interest thereon, and (b) buy or refinance the debt obligation of any municipality for a public water supply system if the debt was incurred and construction began after July 1, 1993.

The director may transfer any money in the Drinking Water Facilities Loan Fund to the Wastewater Treatment Facilities Construction Loan Fund to meet the purposes of section 71-5327. The director shall identify any such transfer in the intended use plan presented to the council for annual review and adoption pursuant to section 71-5321.

(2) The Land Acquisition and Source Water Loan Fund is created. The fund shall be held as a trust for the purposes and uses described in the Drinking Water State Revolving Fund Act.

The fund shall consist of federal capitalization grants, state matching appropriations, proceeds of state match bond issues credited to the fund, repayments of principal and interest on loans, and other money designated for the fund. The director may make loans from the fund pursuant to the Drinking Water State Revolving Fund Act and may conduct activities other than the making of loans permitted under section 1452(k) of the Safe Drinking Water Act. The state investment officer shall invest any money in the fund available for investment pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act, except that any bond proceeds in the fund shall be invested in accordance with the terms of the documents under which the bonds are issued. The state investment officer may direct that the bond proceeds shall be deposited with the bond trustee for investment. Investment earnings shall be credited to the fund.

The department may create or direct the creation of accounts within the fund as the department determines to be appropriate and useful in administering the fund and in providing for security, investment, and repayment of bonds.

The fund and assets thereof may be used, to the extent permitted by the Safe Drinking Water Act and the regulations adopted and promulgated pursuant to such act, to pay or secure the payment of bonds and the interest thereon, except that amounts credited to the fund from state appropriations and the earnings on such appropriations may not be used to pay or to secure the payment of bonds or the interest thereon.

The director may transfer any money in the Land Acquisition and Source Water Loan Fund to the Drinking Water Facilities Loan Fund.

(3) There is hereby created the Drinking Water Administration Fund. Any funds available for administering loans or fees collected pursuant to the Drinking Water State Revolving Fund Act shall be remitted to the State Treasurer for credit to such fund. The fund shall be administered by the department for the purposes of the act. The state investment officer shall invest any money in the fund available for investment pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. Investment earnings shall be credited to the fund.

The fund and assets thereof may be used, to the extent permitted by the Safe Drinking Water Act and the regulations adopted and promulgated pursuant to such act, to fund subdivisions (9), (11), and (12) of section 71-5322. The annual obligation of the state pursuant to subdivisions (9) and (12) of section 71-5322 shall not exceed sixty-five percent of the revenue from administrative fees collected pursuant to section 71-5321 in the prior fiscal year.

The director may transfer any money in the Drinking Water Administration Fund to the Drinking Water Facilities Loan Fund to meet the state matching appropriation requirements of any applicable federal capitalization grants or to meet the purposes of subdivision (9) of section 71-5322.

Source: Laws 1997, LB 517, § 7; Laws 2001, LB 667, § 46; Laws 2007, LB80, § 1; Laws 2007, LB296, § 620; Laws 2019, LB307, § 2; Laws 2022, LB809, § 2; Laws 2024, LB880, § 1.
Effective date July 19, 2024.

Cross References

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

71-5322 Department; powers and duties.

The department shall have the following powers and duties:

(1) The power to establish a program to make loans to owners of public water systems, individually or jointly, for construction or modification of safe drinking water projects in accordance with the Drinking Water State Revolving Fund Act and the rules and regulations of the council adopted and promulgated pursuant to such act;

(2) The power, if so authorized by the council pursuant to section 71-5321, to execute and deliver documents obligating the Drinking Water Facilities Loan Fund or the Land Acquisition and Source Water Loan Fund and the assets thereof to the extent permitted by section 71-5318 to repay, with interest, loans to or credits into such funds and to execute and deliver documents pledging to the extent permitted by section 71-5318 all or part of such funds and assets to secure, directly or indirectly, the loans or credits;

(3) The duty to prepare an annual report for the Governor and the Legislature. The report submitted to the Legislature shall be submitted electronically;

(4) The duty to establish fiscal controls and accounting procedures sufficient to assure proper accounting during appropriate accounting periods, including the following:

(a) Accounting from the Nebraska Investment Finance Authority for the costs associated with the issuance of bonds pursuant to the act;

(b) Accounting for payments or deposits received by the funds;

(c) Accounting for disbursements made by the funds; and

(d) Balancing the funds at the beginning and end of the accounting period;

(5) The duty to establish financial capability requirements that assure sufficient revenue to operate and maintain a facility for its useful life and to repay the loan for such facility;

(6) The power to determine the rate of interest to be charged on a loan in accordance with the rules and regulations adopted and promulgated by the council;

(7) The power to develop an intended use plan for adoption by the council;

(8) The power to enter into required agreements with the United States Environmental Protection Agency pursuant to the Safe Drinking Water Act;

(9) The power to enter into agreements to provide grants and loan forgiveness concurrent with loans to public water systems that provide service to ten thousand persons or less, that are operated by political subdivisions, and that demonstrate serious financial hardships. The department may enter into agreements for up to seventy-five percent of the eligible project cost. Such agreements shall contain a provision that payment of the amount allocated is conditional upon the availability of appropriated funds;

(10) The power to enter into agreements to provide grants and loan forgiveness, for up to seventy-five percent of eligible project costs, concurrent with loans to public water systems for lead service line replacement projects in accordance with all federal regulatory and statutory provisions;

(11) The power to provide emergency funding to public water systems operated by political subdivisions with drinking water facilities which have been damaged or destroyed by natural disaster or other unanticipated actions or circumstances. Such funding shall not be used for routine repair or maintenance of facilities;

(12) The power to provide financial assistance consistent with the intended use plan, described in subdivision (7) of this section, for completion of engineering studies, research projects to investigate low-cost options for achieving compliance with safe drinking water standards, preliminary engineering reports, regional water system planning, source water protection, and other studies for the purpose of enhancing the ability of communities to meet the requirements of the Safe Drinking Water Act, to public water systems that provide service to ten thousand persons or less, that are operated by political subdivisions, and that demonstrate serious financial hardships. The department may enter into agreements for up to ninety percent of the eligible project cost. Such agreements shall contain a provision that payment of the amount obligated is conditional upon the availability of appropriated funds; and

(13) Such other powers as may be necessary and appropriate for the exercise of the duties created under the Drinking Water State Revolving Fund Act.

Source: Laws 1997, LB 517, § 11; Laws 2001, LB 667, § 47; Laws 2007, LB80, § 2; Laws 2007, LB296, § 621; Laws 2012, LB782, § 122; Laws 2017, LB182, § 1; Laws 2022, LB809, § 3; Laws 2024, LB880, § 2.
Effective date July 19, 2024.

71-5325 Loan terms.

Loan terms shall include, but not be limited to, the following:

(1) The term of the loan shall not exceed thirty years, except for systems serving disadvantaged communities which term may not exceed forty years;

(2) The interest rate shall be at or below market interest rates;

(3) The annual principal and interest payment shall commence not later than one year after completion of any project; and

(4) The loan recipient shall immediately repay any loan when a grant has been received which covers costs provided for by such loan.

Source: Laws 1997, LB 517, § 14; Laws 2019, LB307, § 3.

71-5327 Reserves authorized.

At any time after the first year the fund is effective the director may: (1) Reserve a dollar amount equal to thirty-three percent of a capitalization grant made pursuant to section 1452 of the Safe Drinking Water Act and add the funds reserved to any funds provided to the state pursuant to section 601 of the Federal Water Pollution Control Act; and (2) reserve in any year a dollar amount up to the dollar amount that may be reserved under subdivision (1) of this section of the capitalization grants made pursuant to section 601 of the Federal Water Pollution Control Act and add the reserved funds to any funds provided to the state pursuant to section 1452 of the federal Safe Drinking Water Act.

Source: Laws 1997, LB 517, § 16; Laws 2019, LB307, § 4.

(c) LEAD SERVICE LINES

71-5328 Lead Service Line Cash Fund; created; use; investment; Department of Environment and Energy; grants; authorized.

(1) For purposes of this section:

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

(b) Metropolitan utilities district means a district created pursuant to section 14-2101; and

(c) Qualified labor training organization means any job training service provider headquartered in the State of Nebraska with a demonstrated history of providing workforce training relevant to the skilled labor necessary for the removal and replacement of lead service lines.

(2) The Lead Service Line Cash Fund is created. The fund shall be administered by the department. The fund shall consist of funds transferred by the Legislature. The fund shall be used for grants under subsections (3) and (4) of this section. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(3) The department shall utilize not more than twenty percent of the money in the Lead Service Line Cash Fund for the purpose of providing grants to qualified labor training organizations for the following:

(a) Infrastructure expenditures necessary to establish a lead service line training facility or for any expenditures necessary to establish a lead service line training program; or

(b) Labor training or any educational programming expenditures necessary to provide the proper trade skills necessary for laborers and plumbers to replace lead service lines.

(4) The department shall utilize all remaining money in the Lead Service Line Cash Fund for the purpose of providing grants to metropolitan utilities districts for the following:

(a) Removing and replacing lead service lines;

(b) Repaying debt incurred for any loan received by the metropolitan utilities district for the purpose of replacing lead service lines, including any loan or loans under the federal Drinking Water State Revolving Fund or any other loan incurred specifically for the purpose of removing lead service lines;

(c) Providing information to residents on the benefits of removing lead service lines;

(d) Performing necessary construction, assessment, mapping, or any other labor, management, or contracted services required for and associated with removing and replacing lead service lines; or

(e) Acquiring any equipment, materials, or supplies necessary to replace lead service lines.

(5) The department may adopt and promulgate rules and regulations to carry out this section.

Source: Laws 2023, LB818, § 40; Laws 2024, LB1413, § 45.
Effective date April 2, 2024.

Cross References

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

ARTICLE 56
RURAL HEALTH

(d) RURAL HEALTH SYSTEMS AND PROFESSIONAL INCENTIVE ACT

(d) RURAL HEALTH SYSTEMS AND PROFESSIONAL INCENTIVE ACT

71-5657 Commission members; expenses.

Members of the commission shall be reimbursed for expenses as provided in sections 81-1174 to 81-1177 from funds appropriated for the Rural Health Systems and Professional Incentive Act.

Source: Laws 1991, LB 400, § 8; Laws 2020, LB381, § 68.

71-5661 Financial incentives; funding; Rural Health Professional Incentive Fund; created; use; investment.

(1) The financial incentives provided by the Rural Health Systems and Professional Incentive Act shall consist of (a) student loans to eligible students for attendance at an eligible school as determined pursuant to section 71-5662, (b) the repayment of qualified educational debts owed by physicians and psychiatrists in an approved medical specialty residency program in Nebraska as determined pursuant to section 71-5662, and (c) the repayment of qualified educational debts owed by eligible health professionals as determined pursuant to section 71-5662. Funds for such incentives shall be appropriated from the General Fund to the department for such purposes.

(2) The Rural Health Professional Incentive Fund is created. The fund shall be used to carry out the purposes of the act, except that transfers may be made from the fund to the General Fund at the direction of the Legislature. Money credited pursuant to section 71-5670.01 and payments received pursuant to sections 71-5666, 71-5668, and 71-5669.01 shall be remitted to the State Treasurer for credit to the Rural Health Professional Incentive Fund. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1991, LB 400, § 12; Laws 1994, LB 1223, § 58; Laws 1995, LB 7, § 79; Laws 1996, LB 1155, § 50; Laws 1999, LB 242, § 1; Laws 2001, LB 214, § 3; Laws 2004, LB 1005, § 103; Laws 2009, First Spec. Sess., LB3, § 46; Laws 2015, LB196, § 4; Laws 2023, LB50, § 36.

Cross References

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

71-5662 Student loan; medical resident incentive; loan repayment; eligibility.

(1) To be eligible for a student loan under the Rural Health Systems and Professional Incentive Act, an applicant or a recipient shall be enrolled or accepted for enrollment in an accredited medical or dental education program or physician assistant education program or an approved mental health practice program in Nebraska.

(2) To be eligible for the medical resident incentive under the act, an applicant or a recipient shall be enrolled or accepted for enrollment in an approved medical specialty residency program in Nebraska.

(3) To be eligible for loan repayment under the act, an applicant or a recipient shall be a pharmacist, a dentist, a physical therapist, an occupational therapist, a mental health practitioner, a psychologist licensed under the requirements of section 38-3114 or the equivalent thereof, a nurse practitioner, a physician assistant, a psychiatrist, or a physician in an approved specialty and shall be licensed to practice in Nebraska, not be enrolled in a residency program, not be practicing under a provisional or temporary license, and enter practice in a designated health profession shortage area in Nebraska.

Source: Laws 1991, LB 400, § 13; Laws 1994, LB 1223, § 59; Laws 1996, LB 1155, § 51; Laws 1997, LB 577, § 2; Laws 2000, LB 1115, § 81; Laws 2004, LB 1005, § 104; Laws 2007, LB463, § 1234; Laws 2008, LB797, § 19; Laws 2015, LB196, § 5; Laws 2023, LB50, § 37.

71-5663 Amount of financial assistance; limitation.

(1) The amount of financial assistance provided through student loans pursuant to the Rural Health Systems and Professional Incentive Act shall be limited to thirty thousand dollars for each recipient for each academic year and, except as provided in subdivision (4)(a) of this section, shall not exceed one hundred twenty thousand dollars per medical, dental, or doctorate-level mental health student or thirty thousand dollars per master's level mental health or physician assistant student.

(2) The amount of financial assistance provided through the medical resident incentive program pursuant to the act shall be limited to forty thousand dollars for each recipient for each year of residency and, except as provided in subdivision (4)(b) of this section, shall not exceed one hundred twenty thousand dollars.

(3) The amount of financial assistance provided by the state through loan repayments pursuant to the act (a) for physicians, psychiatrists, dentists, and psychologists shall be limited to thirty thousand dollars per recipient per year of full-time practice in a designated health profession shortage area and, except as provided in subdivision (4)(c) of this section, shall not exceed ninety thousand dollars per recipient and (b) for physician assistants, nurse practitioners, pharmacists, physical therapists, occupational therapists, and mental health practitioners shall be limited to fifteen thousand dollars per recipient per year of full-time practice in a designated health profession shortage area and, except as provided in subdivision (4)(c) of this section, shall not exceed forty-five thousand dollars per recipient.

(4)(a) The total amount of financial assistance provided through student loans for a doctorate-level mental health student or master's level mental health student shall be the full amount of such loans for a person who practices psychiatry, psychology, or mental health practice:

(i) For at least five years in a designated health profession shortage area; and

(ii) If all or a majority of such practice consists of the treatment of members of the community supervision population.

(b) The total amount of financial assistance provided through the medical resident incentive program for a psychiatrist shall be the full amount of such psychiatrist's qualified educational debts if such person practices psychiatry:

(i) For at least five years in a designated health profession shortage area; and

(ii) If all or a majority of such practice consists of the treatment of members of the community supervision population.

(c) The total amount of financial assistance provided through loan repayments pursuant to the act for psychiatrists, psychologists, and mental health practitioners shall be the full amount of such person's qualified educational debts if such person practices psychiatry, psychology, or mental health practice:

(i) For at least five years in a designated health profession shortage area; and

(ii) If all or a majority of such practice consists of the treatment of members of the community supervision population.

(5) For purposes of this section, community supervision population means persons on probation, post-release supervision, and pretrial release.

Source: Laws 1991, LB 400, § 14; Laws 1994, LB 1223, § 60; Laws 1997, LB 577, § 3; Laws 2000, LB 1115, § 82; Laws 2004, LB 1005, § 105; Laws 2006, LB 962, § 2; Laws 2008, LB797, § 20; Laws 2015, LB196, § 6; Laws 2023, LB50, § 38.

71-5665 Commission; designate health profession shortage areas; factors.

The commission shall periodically designate health profession shortage areas within the state for the following professions: Medicine and surgery, psychiatry, physician assistants' practice, nurse practitioners' practice, psychology, and mental health practitioners' practice. The commission shall also periodically designate separate health profession shortage areas for each of the following professions: Pharmacy, dentistry, physical therapy, and occupational therapy. In making such designations the commission shall consider, after consultation with other appropriate agencies concerned with health services and with appropriate professional organizations, among other factors:

(1) The latest reliable statistical data available regarding the number of health professionals practicing in an area and the population to be served by such practitioners;

(2) Inaccessibility of health care services to residents of an area;

(3) Particular local health problems;

(4) Age or incapacity of local practitioners rendering services; and

(5) Demographic trends in an area both past and future.

Source: Laws 1991, LB 400, § 16; Laws 1994, LB 1223, § 62; Laws 1996, LB 1155, § 53; Laws 1997, LB 577, § 4; Laws 2000, LB 1115, § 83; Laws 2004, LB 1005, § 106; Laws 2008, LB797, § 21; Laws 2023, LB50, § 39.

71-5666 Student loan recipient agreement; contents.

Each student loan recipient shall execute an agreement with the state. Such agreement shall be exempt from the requirements of the State Procurement Act and shall include the following terms, as appropriate:

(1) The borrower agrees to practice the equivalent of one year of full-time practice of an approved specialty in a designated health profession shortage area in Nebraska for each year of education for which a loan is received, or a longer period as required in subdivision (4)(a) of section 71-5663, and agrees to accept medicaid patients in his or her practice;

(2) If the borrower practices an approved specialty in a designated health profession shortage area in Nebraska, the loan shall be forgiven as provided in this section and subdivision (4)(a) of section 71-5663. Practice in a designated area shall commence within three months of the completion of formal education, which may include a period not to exceed five years to complete specialty training in an approved specialty. The commission may approve exceptions to any period required for completion of training upon showing good cause. Loan forgiveness shall occur on a quarterly basis, with completion of the equivalent of three months of full-time practice resulting in the cancellation of one-fourth of the annual loan amount. Part-time practice in a shortage area shall result in a prorated reduction in the cancellation of the loan amount;

(3) If the borrower practices an approved specialty in Nebraska but not in a designated health profession shortage area, practices a specialty other than an approved specialty in Nebraska, does not practice the profession for which the loan was given, discontinues practice of the profession for which the loan was given, or practices outside Nebraska, the borrower shall repay one hundred fifty percent of the outstanding loan principal with interest at a rate of eight percent simple interest per year from the date of default. Such repayment shall

commence within six months of the completion of formal education, which may include a period not to exceed five years to complete specialty training in an approved specialty, and shall be completed within a period not to exceed twice the number of years for which loans were awarded;

(4) If a borrower who is a medical, dental, or doctorate-level mental health student determines during the first or second year of medical, dental, or doctorate-level mental health education that his or her commitment to the loan program cannot be honored, the borrower may repay the outstanding loan principal, plus six percent simple interest per year from the date the loan was granted, prior to graduation from medical or dental school or a mental health practice program without further penalty or obligation. Master's level mental health and physician assistant student loan recipients shall not be eligible for this provision;

(5) If the borrower discontinues the course of study for which the loan was granted, the borrower shall repay one hundred percent of the outstanding loan principal. Such repayment shall commence within six months of the date of discontinuation of the course of study and shall be completed within a period of time not to exceed the number of years for which loans were awarded;

(6) Any practice or payment obligation incurred by the student loan recipient under the student loan program is canceled in the event of the student loan recipient's total and permanent disability or death; and

(7) For a borrower seeking benefits under subdivision (4)(a) of section 71-5663, the borrower agrees to such other terms as the department deems appropriate.

Source: Laws 1991, LB 400, § 17; Laws 1994, LB 1223, § 63; Laws 1996, LB 1155, § 54; Laws 2001, LB 214, § 4; Laws 2004, LB 1005, § 107; Laws 2007, LB374, § 1; Laws 2009, LB196, § 1; Laws 2012, LB858, § 1; Laws 2015, LB196, § 7; Laws 2023, LB50, § 40; Laws 2024, LB461, § 26.
Effective date July 19, 2024.

Cross References

State Procurement Act, see section 73-801.

71-5667 Agreements under prior law; renegotiation.

Agreements executed prior to July 1, 2007, under the Rural Health Systems and Professional Incentive Act may be renegotiated and new agreements executed to reflect the terms required by section 71-5666. No funds repaid by borrowers under the terms of agreements executed prior to July 1, 2007, shall be refunded. Any repayments being made under the terms of prior agreements may be discontinued upon execution of a new agreement if conditions permit. Any agreement renegotiated pursuant to this section shall be exempt from the requirements of the State Procurement Act.

Source: Laws 1991, LB 400, § 18; Laws 1996, LB 1155, § 55; Laws 2007, LB374, § 2; Laws 2009, LB196, § 2; Laws 2012, LB858, § 2; Laws 2015, LB196, § 8; Laws 2024, LB461, § 27.
Effective date July 19, 2024.

Cross References

State Procurement Act, see section 73-801.

71-5668 Loan repayment recipient agreement; contents; funding; limitation.

Each loan repayment recipient shall execute an agreement with the department and a local entity. Such agreement shall be exempt from the requirements of the State Procurement Act and shall include, at a minimum, the following terms:

(1) The loan repayment recipient agrees to practice his or her profession, and a physician, psychiatrist, dentist, nurse practitioner, or physician assistant also agrees to practice an approved specialty, in a designated health profession shortage area for at least three years, or the period required by subdivision (4)(c) of section 71-5663, and to accept medicaid patients in his or her practice;

(2) In consideration of the agreement by the recipient, the State of Nebraska and a local entity within the designated health profession shortage area will provide equal funding for the repayment of the recipient's qualified educational debts except as provided in subdivision (5) of this section, in amounts up to thirty thousand dollars per year per recipient for physicians, psychiatrists, dentists, and psychologists and up to fifteen thousand dollars per year per recipient for physician assistants, nurse practitioners, pharmacists, physical therapists, occupational therapists, and mental health practitioners toward qualified educational debts for up to three years or a longer period as required by subdivision (4)(c) of section 71-5663. The department shall make payments directly to the recipient;

(3) If the loan repayment recipient discontinues practice in the shortage area prior to completion of the three-year requirement or the period required by subdivision (4)(c) of section 71-5663, as applicable, the recipient shall repay to the state one hundred fifty percent of the total amount of funds provided to the recipient for loan repayment with interest at a rate of eight percent simple interest per year from the date of default. Upon repayment by the recipient to the department, the department shall reimburse the local entity its share of the funds which shall not be more than the local entity's share paid to the loan repayment recipient;

(4) Any practice or payment obligation incurred by the loan repayment recipient under the loan repayment program is canceled in the event of the loan repayment recipient's total and permanent disability or death;

(5) For a loan repayment recipient seeking benefits under subdivision (4)(c) of section 71-5663, the recipient agrees to such other terms as the department deems appropriate; and

(6) Beginning on July 1, 2022, any agreements entered into by December 31, 2024, shall first use federal funds from the federal American Rescue Plan Act of 2021 for the purposes of repaying qualified educational debts prior to using any state or local funds. Agreements using federal funds from the federal American Rescue Plan Act of 2021 shall not require equal funding from a local entity. Any federal funds from the act committed to agreements during this time period shall be used by December 31, 2026.

Source: Laws 1991, LB 400, § 19; Laws 1993, LB 536, § 101; Laws 1994, LB 1223, § 64; Laws 1996, LB 1155, § 56; Laws 1997, LB 577, § 5; Laws 2000, LB 1115, § 84; Laws 2001, LB 214, § 5; Laws 2004, LB 1005, § 108; Laws 2006, LB 962, § 3; Laws 2008, LB797, § 22; Laws 2009, LB196, § 3; Laws 2012, LB858, § 3;

Laws 2015, LB196, § 9; Laws 2022, LB1007, § 1; Laws 2023, LB50, § 41; Laws 2024, LB461, § 28.
Effective date July 19, 2024.

Cross References

State Procurement Act, see section 73-801.

71-5669.01 Medical resident incentive recipient; agreement; contents.

Each medical resident incentive recipient shall execute an agreement with the department. Such agreement shall be exempt from the requirements of the State Procurement Act and shall include, at a minimum, the following terms:

(1) The medical resident incentive recipient agrees to practice an approved medical specialty the equivalent of one year of full-time practice in a designated health profession shortage area, or for a longer period as required by subdivision (4)(b) of section 71-5663, and to accept medicaid patients in his or her practice;

(2) In consideration of the agreement by the medical resident incentive recipient, the State of Nebraska will provide funding for the repayment of the recipient's qualified educational debts, in amounts up to forty thousand dollars per year for up to three years while in an approved medical specialty residency program in Nebraska, or for a longer period as required by subdivision (4)(b) of section 71-5663. The department shall make payments directly to the medical resident incentive recipient;

(3) If the medical resident incentive recipient extends his or her residency training but not in an approved specialty, practices an approved specialty in Nebraska but not in a designated health profession shortage area, practices a specialty other than an approved specialty in Nebraska, does not practice the profession for which the loan was given, discontinues practice of the profession for which the loan was given, or practices outside Nebraska, the medical resident incentive recipient shall repay to the state one hundred fifty percent of the outstanding loan principal with interest at a rate of eight percent simple interest per year from the date of default. Such repayment shall commence within six months of the completion or discontinuation of an approved specialty residency training in Nebraska and shall be completed within a period not to exceed twice the number of years for which the medical resident incentive recipient received awards;

(4) Any practice or payment obligation incurred by the medical resident incentive recipient under the medical resident incentive program is canceled in the event of the medical resident incentive recipient's total and permanent disability or death; and

(5) For a medical resident incentive recipient seeking benefits under subdivision (4)(b) of section 71-5663, the recipient agrees to such other terms as the department deems appropriate.

Source: Laws 2015, LB196, § 10; Laws 2023, LB50, § 42; Laws 2024, LB461, § 29.
Effective date July 19, 2024.

Cross References

State Procurement Act, see section 73-801.

ARTICLE 57
SMOKING AND TOBACCO

(d) NEBRASKA CLEAN INDOOR AIR ACT

(d) NEBRASKA CLEAN INDOOR AIR ACT

71-5716 Act, how cited.

Sections 71-5716 to 71-5735 shall be known and may be cited as the Nebraska Clean Indoor Air Act.

Source: Laws 2008, LB395, § 1; Laws 2015, LB118, § 8; Laws 2020, LB840, § 1.

71-5717 Purpose of act.

The purpose of the Nebraska Clean Indoor Air Act is to protect the public health and welfare by prohibiting smoking in public places and places of employment with limited exceptions for guestrooms and suites, research, tobacco retail outlets, electronic smoking device retail outlets, and cigar shops. The limited exceptions permit smoking in public places where the public would reasonably expect to find persons smoking, including guestrooms and suites which are subject to expectations of privacy like private residences, institutions engaged in research related to smoking, and tobacco retail outlets, electronic smoking device retail outlets, and cigar shops which provide the public legal retail outlets to sample, use, and purchase tobacco products and products related to smoking. The act shall not be construed to prohibit or otherwise restrict smoking in outdoor areas. The act shall not be construed to permit smoking where it is prohibited or otherwise restricted by other applicable law, ordinance, or resolution. The act shall be liberally construed to further its purpose.

Source: Laws 2008, LB395, § 2; Laws 2015, LB118, § 9; Laws 2020, LB840, § 2.

71-5718 Definitions, where found.

For purposes of the Nebraska Clean Indoor Air Act, the definitions found in sections 71-5718.01 to 71-5728 apply.

Source: Laws 2008, LB395, § 3; Laws 2020, LB840, § 3.

71-5718.01 Electronic smoking device, defined.

Electronic smoking device means an electronic nicotine delivery system as defined in section 28-1418.01. The term includes any such device regardless of

whether it is manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, or vape pen or under any other product name or descriptor. The term also includes any substance that is used in an electronic smoking device. The term does not include a diffuser, humidifier, prescription inhaler, or similar device.

Source: Laws 2020, LB840, § 4.

71-5718.02 Electronic smoking device retail outlet, defined; persons allowed to enter; employees; age restrictions.

(1) Electronic smoking device retail outlet means a store that:

(a) Is licensed as provided under sections 28-1421 and 28-1422;

(b) Sells electronic smoking devices and products directly related to electronic smoking devices;

(c) Does not sell alcohol or gasoline;

(d) Derives no more than twenty percent of its revenue from the sale of food and food ingredients as defined in section 77-2704.24; and

(e) Prohibits persons under twenty-one years of age from entering the store in accordance with subsection (2) of this section.

(2)(a) Prior to January 1, 2022, an electronic smoking device retail outlet shall not allow a person under twenty-one years of age to enter the store but may allow an employee who is under twenty-one years of age to work in the store.

(b) On and after January 1, 2022, an electronic smoking device retail outlet shall not allow a person under twenty-one years of age to enter the store and shall not allow an employee who is under twenty-one years of age to work in the store.

Source: Laws 2020, LB840, § 5.

71-5727 Smoke or smoking, defined.

Smoke or smoking means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, pipe, hookah, or any other lighted or heated tobacco or plant product intended for inhalation, whether natural or synthetic, in any manner or in any form. The term includes the use of an electronic smoking device which creates an aerosol or vapor, in any manner or in any form.

Source: Laws 2008, LB395, § 12; Laws 2020, LB840, § 6.

71-5730 Exemptions; legislative findings; legislative intent.

(1) The following indoor areas are exempt from section 71-5729:

(a) Guestrooms and suites that are rented to guests and that are designated as smoking rooms, except that not more than twenty percent of rooms rented to guests in an establishment may be designated as smoking rooms. All smoking rooms on the same floor shall be contiguous, and smoke from such rooms shall not infiltrate into areas where smoking is prohibited under the Nebraska Clean Indoor Air Act;

(b) Indoor areas used in connection with a research study on the health effects of smoking conducted in a scientific or analytical laboratory under state or federal law or at a college or university approved by the Coordinating Commission for Postsecondary Education;

(c) Tobacco retail outlets; and

(d) Cigar shops as defined in section 53-103.08.

(2) Electronic smoking device retail outlets are exempt from section 71-5729 as it relates to the use of electronic smoking devices only.

(3)(a) The Legislature finds that allowing smoking in tobacco retail outlets as a limited exception to the Nebraska Clean Indoor Air Act does not interfere with the original intent that the general public and employees not be unwillingly subjected to second-hand smoke since the general public does not frequent tobacco retail outlets and should reasonably expect that there would be second-hand smoke in tobacco retail outlets and could choose to avoid such exposure. The products that tobacco retail outlets sell are legal for customers who meet the age requirement. Customers should be able to try them within the tobacco retail outlet, especially given the way that tobacco customization may occur in how tobacco is blended and cigars are produced. The Legislature finds that exposure to second-hand smoke is inherent in the selling and sampling of cigars and pipe tobacco and that this exposure is inextricably connected to the nature of selling this legal product, similar to other inherent hazards in other professions and employment.

(b) It is the intent of the Legislature to allow cigar and pipe smoking in tobacco retail outlets that meet specific statutory criteria not inconsistent with the fundamental nature of the business. This exception to the Nebraska Clean Indoor Air Act is narrowly tailored in accordance with the intent of the act to protect public places and places of employment.

(4)(a) The Legislature finds that allowing smoking in cigar shops as a limited exception to the Nebraska Clean Indoor Air Act does not interfere with the original intent that the general public and employees not be unwillingly subjected to second-hand smoke. This exception poses a de minimis restriction on the public and employees given the limited number of cigar shops compared to other businesses that sell alcohol, cigars, and pipe tobacco, and any member of the public should reasonably expect that there would be second-hand smoke in a cigar shop given the nature of the business and could choose to avoid such exposure.

(b) The Legislature finds that (i) cigars and pipe tobacco have different characteristics than other forms of tobacco such as cigarettes, (ii) cigars are customarily paired with various spirits such as cognac, single malt whiskey, bourbon, rum, rye, port, and others, and (iii) unlike cigarette smokers, cigar and pipe smokers may take an hour or longer to enjoy a cigar or pipe while cigarettes simply serve as a mechanism for delivering nicotine. Cigars paired with selected liquor creates a synergy unique to the particular pairing similar to wine paired with particular foods. Cigars are a pure, natural product wrapped in a tobacco leaf that is typically not inhaled in order to enjoy the taste of the smoke, unlike cigarettes that tend to be processed with additives and wrapped in paper and are inhaled. Cigars have a different taste and smell than cigarettes due to the fermentation process cigars go through during production. Cigars tend to cost considerably more than cigarettes, and their quality and characteristics vary depending on the type of tobacco plant, the geography and climate where the tobacco was grown, and the overall quality of the manufacturing process. Not only does the customized blending of the tobacco influence the smoking experience, so does the freshness of the cigars, which is dependent on how the cigars were stored and displayed. These variables are similar to fine

wines, which can also be very expensive to purchase. It is all of these variables that warrant a customer wanting to sample the product before making such a substantial purchase.

(c) The Legislature finds that exposure to second-hand smoke is inherent in the selling and sampling of cigars and pipe tobacco and that this exposure is inextricably connected to the nature of selling this legal product, similar to other inherent hazards in other professions and employment.

(d) It is the intent of the Legislature to allow cigar and pipe smoking in cigar shops that meet specific statutory criteria not inconsistent with the fundamental nature of the business. This exception to the Nebraska Clean Indoor Air Act is narrowly tailored in accordance with the intent of the act to protect public places and places of employment.

Source: Laws 2008, LB395, § 15; Laws 2009, LB355, § 6; Laws 2010, LB861, § 82; Laws 2015, LB118, § 10; Laws 2020, LB840, § 7.

71-5735 Tobacco retail outlet; sign required; waiver signed by employee; form; owner; duties.

(1) The owner of a tobacco retail outlet shall post a sign on all entrances to the tobacco retail outlet, on the outside of each door, in a conspicuous location slightly above or next to the door, with the following statement: SMOKING OF CIGARS AND PIPES IS ALLOWED INSIDE THIS BUSINESS. SMOKING OF CIGARETTES AND ELECTRONIC SMOKING DEVICES IS NOT ALLOWED.

(2) Beginning November 1, 2015, the owner shall provide to the Division of Public Health a copy of a waiver signed prior to employment by each employee on a form prescribed by the division. The waiver shall expressly notify the employee that he or she will be exposed to second-hand smoke, and the employee shall acknowledge that he or she understands the risks of exposure to second-hand smoke.

(3) The owner shall not allow cigarette smoking or the use of an electronic smoking device in the tobacco retail outlet.

Source: Laws 2015, LB118, § 11; Laws 2020, LB840, § 8.

ARTICLE 59

ASSISTED-LIVING FACILITY ACT

Section
71-5901. Act, how cited.
71-5905. Admission or retention; conditions; services of employees; requirements; written information provided to applicant for admission; resident services agreement; third-party guarantee of payment, conditions.
71-5907. State Fire Code classification.
71-5909. Grievance procedure.

71-5901 Act, how cited.

Sections 71-5901 to 71-5909 shall be known and may be cited as the Assisted-Living Facility Act.

Source: Laws 2004, LB 1005, § 45; Laws 2019, LB571, § 1.

71-5905 Admission or retention; conditions; services of employees; requirements; written information provided to applicant for admission; resident services agreement; third-party guarantee of payment, conditions.

(1) An assisted-living facility shall determine if an applicant for admission to the assisted-living facility is admitted or if a resident of the assisted-living facility is retained based on the care needs of the applicant or resident, the ability to meet those care needs within the assisted-living facility, and the degree to which the admission or retention of the applicant or resident poses a danger to the applicant or resident or others.

(2) Any complex nursing intervention or noncomplex intervention provided by an employee of the assisted-living facility shall be performed in accordance with applicable state law.

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

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

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

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

(d) The criteria for admission to and continued residence in the assisted-living facility and the process for addressing issues that may prevent admission to or continued residence in the assisted-living facility;

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

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

(g) Whether or not the assisted-living facility provides part-time or intermittent complex nursing interventions.

(4) Each assisted-living facility shall enter into a resident services agreement in consultation with each resident.

(5)(a) A facility shall not request or require a third-party guarantee of payment as a condition of admission, expedited admission, or continued stay in the facility.

(b) A facility may request and require a resident representative who has legal access to a resident's income or resources to sign a contract, without incurring personal financial liability, to provide payment to the facility from such resident's income or resources. For purposes of this subsection, resident representative has the same meaning as defined in 42 C.F.R. 483.5, as such regulation existed on January 31, 2024.

(c) If a person other than the resident informs the assisted-living facility that such person wants to guarantee payment of a resident's expenses, the person shall execute a separate written agreement. No provision in the separate written agreement shall conflict with this subsection. The separate written agreement shall be provided to the guarantor of payment and shall contain the following statements:

(i) ''Do not sign this agreement unless you voluntarily agree to be financially liable for paying the patient's expenses.'';

(ii) ''You may change your mind within forty-eight hours after signing this agreement by notifying the facility that you want to revoke this agreement.''; and

(iii) ''You may call the state long-term care ombudsman for an explanation of your rights.''.

(d) Nothing in this subsection shall permit an individual with legal access to a resident's income or resources to avoid liability for violation of such individual's fiduciary duty.

Source: Laws 2004, LB 1005, § 49; Laws 2011, LB401, § 1; Laws 2018, LB439, § 6; Laws 2024, LB1195, § 13.
Effective date July 19, 2024.

Cross References

Medical Assistance Act, see section 68-901.

71-5907 State Fire Code classification.

For purposes of the State Fire Code under section 81-503.01, an assisted-living facility shall be classified as (1) residential board and care if the facility meets the residential board and care classification requirements of the State Fire Code or (2) limited care if the facility meets the limited care classification requirements of the State Fire Code.

Source: Laws 2004, LB 1005, § 51; Laws 2019, LB195, § 1.

71-5909 Grievance procedure.

(1) For purposes of this section:

(a) Grievance means a written expression of dissatisfaction that may or may not be the result of an unresolved complaint; and

(b) Grievance procedure means the written policy of an assisted-living facility for addressing a grievance from an individual including an employee or resident.

(2) Each assisted-living facility shall, on or before January 1, 2020, provide to the department the grievance procedure provided to an applicant for admission to the assisted-living facility. When such grievance procedure is modified, updated, or otherwise changed, the new grievance procedure shall be provided to the department within seven business days after such new grievance procedure takes effect. The department shall make such grievance procedure available to the deputy public counsel for institutions.

Source: Laws 2019, LB571, § 2.

ARTICLE 61

INTERIOR DESIGN

Section
71-6101. Act, how cited.
71-6102. Registered interior designer; regulation; registration; required, when.
71-6103. Terms, defined.
71-6104. Registration; requirements.
71-6105. Interior design registry; created; listing; term; eligibility; examinations.
71-6106. Seal; design; use.
71-6107. Registration; required; exceptions.
71-6108. State Treasurer; powers and duties.

71-6101 Act, how cited.

Sections 71-6101 to 71-6108 shall be known and may be cited as the Interior Design Voluntary Registration Act.

Source: Laws 2024, LB16, § 14.
Effective date July 19, 2024.

71-6102 Registered interior designer; regulation; registration; required, when.

In order to safeguard life, health, and property, to promote the public welfare, and to recognize the need for design professionals to obtain government-issued permits or approval that may only be obtained with a construction document stamp, the profession of interior design is declared to be subject to regulation in the public interest. On and after January 1, 2025, it shall be unlawful for any person to hold oneself out to be a registered interior designer unless the person is registered under the Interior Design Voluntary Registration Act.

Source: Laws 2024, LB16, § 15.
Effective date July 19, 2024.

71-6103 Terms, defined.

For purposes of the Interior Design Voluntary Registration Act:

(1) Design means the preparation of schematics, layouts, plans, drawings, specifications, calculations, and other diagnostic documents which show the features of a registered interior design project;

(2) Direct supervision means having full professional knowledge over work that constitutes the practice of registered interior design;

(3) Good ethical character means such character that will enable a person to discharge the fiduciary duties of a registered interior designer to such person's client and to the public for the protection of the public health, safety, and welfare;

(4) Interior alteration or construction project means a project for an interior space or area within a proposed or existing building or structure, including construction, modification, renovation, rehabilitation, or historic preservation that involves changing or altering:

(a) The design function or layout of rooms; or

(b) The state of permanent fixtures or equipment;

(5) Interior nonstructural element means an element or component of a building that does not require structural bracing, is not load-bearing, and is not essential to the structural or seismic integrity of the building;

(6)(a) Practice of registered interior design means the design of interior spaces as part of an interior alteration or construction project in conformity with public health, safety, and welfare requirements, including the preparation of any document relating to a building code description, any project egress plan that does not require additional exits in the space affected, any space planning, any finish material, any furnishing, any fixture, any equipment, and the preparation of any document and technical submission relating to interior construction; and

(b) Services that are not in the scope of the practice of registered interior design include:

(i) Services that constitute:

(A) The practice of professional engineering; or

(B) The practice of professional architecture, except as specifically provided for within the Engineers and Architects Regulation Act;

(ii) The construction or alteration of:

(A) The structural system of a building, including changing the building's live or dead load on the structural system;

(B) The building envelope, including an exterior wall, wall covering, or wall opening, an exterior window, an exterior door, any architectural trim, a balcony or similar projection, a bay, an oriel window, any roof assembly and rooftop structure, and any glass and glazing for exterior use in both vertical and sloped applications;

(C) Any mechanical, plumbing, heating, air conditioning, ventilation, electrical, vertical transportation, fire sprinkler, or fire alarm system;

(D) An egress system beyond the exit access component of such system; and

(E) Any life safety system such as a fire safety or fire protection of structural elements and smoke evacuation and compartmentalization system or a fire-rated vertical shaft in multistory structures;

(iii) Changes to an occupancy classification of greater hazard as determined by the International Building Code; and

(iv) Changes to the construction classification of the building or structure according to the International Building Code;

(7) Project means one or more related activities that require the practice of registered interior design for completion; and

(8) Registered interior designer or registrant means a person who is listed on the registry of interior designers under the Interior Design Voluntary Registration Act.

Source: Laws 2024, LB16, § 16.
Effective date July 19, 2024.

Cross References

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

71-6104 Registration; requirements.

To be a registered interior designer, an individual shall:

(1) Apply to the State Treasurer in a form and manner prescribed by the State Treasurer;

(2) Pay an application fee of not more than fifty dollars as determined by the State Treasurer; and

(3) Satisfy the requirements for placement on the registry as provided in section 71-6105.

Source: Laws 2024, LB16, § 17.
Effective date July 19, 2024.

71-6105 Interior design registry; created; listing; term; eligibility; examinations.

(1)(a) The interior design registry is created.

(b) The State Treasurer shall list each interior designer registration in the registry. A listing in the registry shall be valid for the term of the registration and upon renewal unless such listing is refused renewal or is removed as provided in the Interior Design Voluntary Registration Act.

(c) The registry shall contain (i) the individual's full name and (ii) any other information as the State Treasurer may require by rules and regulations.

(2) Except as otherwise provided in this section or section 71-6107, the following shall be considered as the minimum evidence satisfactory to the State Treasurer that an applicant is eligible for listing on the interior design registry:

(a) Education eligibility as outlined by the Council for Interior Design Qualification to sit for an examination on technical and professional subjects of interior design as required by the council;

(b) Experience eligibility as outlined by the Council for Interior Design Qualification to sit for an examination on technical and professional subjects of interior design as required by the council;

(c) Successful passage of an examination on technical and professional subjects of interior design as required by the Council for Interior Design Qualification;

(d) Passage of an examination on the statutes, rules and regulations, and other requirements unique to this state regarding the practice of registered interior design; and

(e) Demonstration of good reputation and good ethical character by attestation of references. The names and complete addresses of references acceptable to the State Treasurer shall be included in the application for registration.

(3) An individual holding a credential to practice interior design issued by a proper authority of any jurisdiction, based on credentials that do not conflict with subsection (2) of this section, may, upon application, be listed on the interior design registry after:

(a) Successful passage of an examination on the statutes, rules and regulations, and other requirements unique to this state regarding the practice of registered interior design; and

(b) Demonstration of good reputation and good ethical character by attestation of references. The names and complete addresses of references acceptable to the State Treasurer shall be included in the application for registration.

(4) An individual who holds a current and valid certification issued by the Council for Interior Design Qualification and who submits satisfactory evidence of such certification to the State Treasurer may, upon application, be listed on the interior design registry after:

(a) Successful passage of an examination on the statutes, rules and regulations, and other requirements unique to this state regarding the practice of registered interior design; and

(b) Demonstration of good reputation and good ethical character by attestation of references. The names and complete addresses of references acceptable to the State Treasurer shall be included in the application for registration.

(5) An individual who has been credentialed to practice interior design for fifteen years or more in one or more jurisdictions and who has practiced interior design for fifteen years in compliance with the credentialing laws in the jurisdictions where such individual interior design practice has occurred since initial issuance of the credential may, upon application, be listed on the interior design registry after:

(a) Successful passage of an examination on the statutes, rules and regulations, and other requirements unique to this state regarding the practice of registered interior design; and

(b) Demonstration of good reputation and good ethical character by attestation of references. The names and complete addresses of references acceptable to the State Treasurer shall be included in the application for registration.

(6) None of the examination materials described in this section shall be considered public records.

(7) The State Treasurer or the State Treasurer's agent shall direct the time and place of the interior design examinations referenced in this section.

(8) The State Treasurer may adopt the examinations and grading procedures of the Council for Interior Design Qualification. The State Treasurer may also adopt guidelines published by the council.

(9) Registration shall be effective upon listing in the registry.

Source: Laws 2024, LB16, § 18.
Effective date July 19, 2024.

71-6106 Seal; design; use.

(1) Each registered interior designer shall obtain a seal. The design of the seal shall be determined by the State Treasurer. The following information shall be on the seal: State of Nebraska; registrant's name; registrant's business city; and the words Registered Interior Designer.

(2) Whenever the seal is applied, the registrant's signature shall be across the seal. The seal and date of its placement shall be on all technical submissions and calculations whenever presented to a client or any public or governmental agency. It shall be unlawful for a registrant to affix such registrant's seal or to permit such seal to be affixed to any document after the expiration of the registration or for the purpose of aiding or abetting any other person to evade or attempt to evade the Interior Design Voluntary Registration Act.

(3) The seal and date shall be placed on all originals, copies, tracings, or other reproducible drawing and the first and last pages of specifications, reports, and studies in such a manner that the seal, signature, and date will be reproduced and be in compliance with the Interior Design Voluntary Registration Act. The application of the registrant's seal shall constitute certification that the work was done by the registrant or under the registrant's control.

(4) A registered interior designer shall not affix such registered interior designer's seal and signature to technical submissions that are subject to the Engineers and Architects Regulation Act unless the technical submissions were:

(a) Prepared entirely by the registered interior designer; or

(b) Prepared entirely under the direct supervision of the registered interior designer.

(5) A registered interior designer may affix such registered interior designer's seal to technical submissions not subject to the Engineers and Architects Regulation Act if the registered interior designer has reviewed or adapted in whole or in part such submissions and integrated them into such registered interior designer's work.

Source: Laws 2024, LB16, § 19.
Effective date July 19, 2024.

Cross References

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

71-6107 Registration; required; exceptions.

(1) Beginning January 1, 2025, it is unlawful for any person to use the title registered interior designer or similar description to convey the impression that such person is a registered interior designer unless the person is registered under the Interior Design Voluntary Registration Act.

(2) Nothing in the Interior Design Voluntary Registration Act shall be construed to: (a) Require a person to be a registered interior designer in order to engage in an activity traditionally performed by an interior designer or interior decorator, including any professional service limited to the planning, design, and implementation of kitchen and bathroom spaces or the specification of products for kitchen and bathroom areas; or (b) prevent or restrict the practice, service, or activity of any person licensed to practice a profession or an occupation in this state from engaging in such profession or occupation.

(3) A licensed architect holding a license in good standing under the Engineers and Architects Regulation Act may register with the State Treasurer as a registered interior designer without having to meet the registration requirements outlined in section 71-6105.

Source: Laws 2024, LB16, § 20.
Effective date July 19, 2024.

Cross References

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

71-6108 State Treasurer; powers and duties.

(1) The State Treasurer shall:

(a) Operate an interior designer registry listing registered interior designers;

(b) Credit fees collected under the Interior Design Voluntary Registration Act to the State Treasurer Administrative Fund; and

(c) Prescribe individually identifiable seals to be used by registered interior designers pursuant to section 71-6106.

(2) The State Treasurer may adopt and promulgate rules and regulations to carry out the Interior Design Voluntary Registration Act.

Source: Laws 2024, LB16, § 21.
Effective date July 19, 2024.

ARTICLE 62

NEBRASKA REGULATION OF HEALTH PROFESSIONS ACT

Section
71-6227. Rules and regulations; professional and clerical services; expenses.

71-6227 Rules and regulations; professional and clerical services; expenses.

(1) The director may, with the advice of the board, adopt and promulgate rules and regulations necessary to carry out the Nebraska Regulation of Health Professions Act.

(2) The director shall provide all necessary professional and clerical services to assist the committees and the board. Records of all official actions and minutes of all business coming before the committees and the board shall be kept. The director shall be the custodian of all records, documents, and other property of the committees and the board.

(3) Committee members shall receive no salary but shall be reimbursed for expenses as provided in sections 81-1174 to 81-1177.

Source: Laws 1985, LB 407, § 27; Laws 2020, LB381, § 69.

ARTICLE 63

ENVIRONMENTAL HAZARDS

(a) ASBESTOS CONTROL

Section
71-6303. Administration of act; rules and regulations; fees; department; powers and duties.

(b) RESIDENTIAL LEAD-BASED PAINT PROFESSIONS PRACTICE ACT

71-6321. Administration of act; rules and regulations; department; powers and duties.

(a) ASBESTOS CONTROL

71-6303 Administration of act; rules and regulations; fees; department; powers and duties.

(1) The department shall administer the Asbestos Control Act.

(2) The department shall adopt and promulgate rules and regulations necessary to carry out the act. The department shall adopt state standards governing asbestos projects and may adopt or incorporate part or all of any federal standards in the state standards so long as state standards are no less stringent than federal standards.

(3)(a) The department shall prescribe fees based upon the following schedule:

(i) For a business entity license or license renewal, not less than two thousand dollars or more than five thousand dollars;

(ii) For waiver on an emergency basis of a business entity license, not less than two thousand dollars or more than five thousand dollars;

(iii) For waiver of a license for a business entity not primarily engaged in asbestos projects, not less than two thousand dollars or more than five thousand dollars;

(iv) For approval of an initial training course, not less than one thousand dollars or more than two thousand five hundred dollars, which fee shall include one onsite inspection if the inspection is required by the department;

(v) For approval of a review course or a four-hour course on Nebraska law, rules, and regulations, not less than five hundred dollars or more than one thousand dollars, which fee shall include one onsite inspection if the inspection is required by the department;

(vi) For an onsite inspection of an asbestos project other than an initial inspection, not less than one hundred fifty dollars or more than two hundred fifty dollars. Such fees shall not be assessed for more than three onsite inspections per year during the period an actual asbestos project is in progress; and

(vii) For a project review of each asbestos project of a licensed business entity which is equal to or greater than two hundred sixty linear feet or any combination which is equal to or greater than one hundred sixty square feet and linear feet, including any initial onsite inspection, not less than two hundred dollars or more than five hundred dollars.

(b) Any business applicant whose application is rejected shall be allowed the return of the application fee, except that an administrative charge of three hundred dollars for a license and one hundred dollars for approval of a training course shall be retained by the department.

(c) All fees shall be based on the costs of administering the Asbestos Control Act. In addition to the fees prescribed in this section, the department may charge and receive reimbursement for board, room, and travel by employees in excess of three hundred dollars, which reimbursement shall not exceed the amounts allowable in sections 81-1174 to 81-1177. All such fees collected by the department shall be remitted to the State Treasurer for credit to the Health and Human Services Cash Fund. Money credited to the fund pursuant to this section shall be used by the department for the purpose of administering the act.

(4) At least once a year during the continuation of an asbestos project, the department shall conduct an onsite inspection of each licensed business entity's procedures for performing asbestos projects.

(5) The department may enter into agreements or contracts with public agencies to conduct any inspections required under the act.

(6) The department shall adopt and promulgate rules and regulations defining work practices for asbestos projects. The department may provide for alternatives to specific work practices when the health, safety, and welfare of all classes of asbestos occupations and the general public are adequately protected.

(7) The department may apply for and receive funds from the federal government and any other public or private entity for the purposes of administering the act.

Source: Laws 1986, LB 1051, § 3; Laws 1988, LB 1073, § 3; Laws 1991, LB 703, § 52; Laws 1995, LB 406, § 74; Laws 1996, LB 1044, § 762; Laws 2002, LB 1021, § 99; Laws 2003, LB 242, § 144; Laws 2007, LB296, § 655; Laws 2007, LB463, § 1244; Laws 2020, LB381, § 70.

(b) RESIDENTIAL LEAD-BASED PAINT PROFESSIONS PRACTICE ACT

71-6321 Administration of act; rules and regulations; department; powers and duties.

(1) The department shall administer the Residential Lead-Based Paint Professions Practice Act.

(2) The department shall adopt and promulgate rules and regulations necessary to carry out such act. The department shall adopt state standards governing abatement projects and may adopt or incorporate part or all of any federal standards in such state standards so long as state standards are no less stringent than federal standards.

(3) The department shall prescribe fees based upon the following schedule:

(a) For an annual firm license or license renewal, not less than two hundred dollars or more than five hundred dollars;

(b) For accreditation of a training program, not less than one thousand dollars or more than two thousand five hundred dollars, which fee shall include one onsite inspection if such inspection is required by the department;

(c) For accreditation of a review course or a course on Nebraska law, rules, and regulations, not less than five hundred dollars or more than one thousand dollars, which fee shall include one onsite inspection if such inspection is required by the department;

(d) For onsite inspections other than initial inspections, not less than one hundred fifty dollars or more than two hundred fifty dollars. Such fees shall not be assessed for more than three onsite inspections per year during the period an actual abatement project is in progress; and

(e) For a project review of each abatement project of a licensed firm, not less than two hundred dollars or more than five hundred dollars.

Any business applicant whose application is rejected shall be allowed the return of the application fee, except that an administrative charge of one hundred dollars for a firm license and for accreditation of a training program shall be retained by the department.

All fees shall be based on the costs of administering the act. In addition to the fees prescribed in this section, the department may charge and receive reimbursement for board, room, and travel by employees in excess of three hundred dollars, which reimbursement shall not exceed the amounts allowable in sections 81-1174 to 81-1177. All such fees collected by the department shall be remitted to the State Treasurer for credit to the Health and Human Services Cash Fund. Money credited to the fund pursuant to this section shall be used by the department for the purpose of administering the act.

(4) At least once a year during the continuation of an abatement project the department shall conduct an onsite inspection of each licensed firm's procedures for performing abatement projects.

(5) The department may enter into agreements or contracts with public agencies to conduct any inspections required under the act if such agencies have the appropriate licensure or accreditation as described in the act.

(6) The department shall adopt and promulgate rules and regulations defining work practices for abatement projects, for the licensure of lead-based paint professions, for the accreditation of training programs, for the accreditation of training program providers, for the dissemination of prerenovation information to homeowners and occupants, for the facilitation of compliance with federal lead-based paint hazard control grant programs, and for the implementation of lead-based paint compliance monitoring and enforcement activities. The department may provide for alternatives to specific work practices when the

health, safety, and welfare of all classes of lead-based paint professions and the general public are adequately protected.

(7) The department may apply for and receive funds from the federal government and any other public or private entity for the purposes of administering the act. Any funds applied for, received, or used by the department or any political subdivision from the federal government or any public entity may be used only to abate lead-based paint hazards and for the administration of lead-based paint programs which address health and environmental hazards caused by lead-based paint.

Source: Laws 1994, LB 1210, § 169; Laws 1996, LB 1044, § 764; Laws 1999, LB 863, § 44; Laws 2001, LB 668, § 3; Laws 2002, LB 1021, § 101; Laws 2003, LB 242, § 145; Laws 2007, LB296, § 661; Laws 2007, LB463, § 1274; Laws 2020, LB381, § 71.

ARTICLE 64

BUILDING CONSTRUCTION

Section
71-6401. Act, how cited.
71-6403. State building code; adopted; amendments.
71-6404. State building code; applicability.
71-6405. State building code; compliance required.
71-6406. County, city, or village; building code; adopt; amend; enforce; copy; fees.
71-6408. Refrigerant; state building code; regulation; restrictions.

71-6401 Act, how cited.

Sections 71-6401 to 71-6408 shall be known and may be cited as the Building Construction Act.

Source: Laws 1987, LB 227, § 1; Laws 2023, LB531, § 26.

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.

71-6404 State building code; applicability.

(1) For purposes of the Building Construction Act:

(a) Component means a portion of the state building code created pursuant to section 71-6403; and

(b) Radon resistant new construction has the same meaning as in section 76-3503.

(2) The state building code shall be the building and construction standard within the state and shall be applicable:

(a) To all buildings and structures owned by the state or any state agency;

(b) In each county, city, or village which elects to adopt the state building code as its local building or construction code pursuant to section 71-6406; and

(c) In each county, city, or village which has not adopted a local building or construction code pursuant to section 71-6406 within two years after an update to the state building code.

Source: Laws 1987, LB 227, § 4; Laws 1993, LB 319, § 2; Laws 2010, LB799, § 2; Laws 2016, LB704, § 213; Laws 2019, LB96, § 1; Laws 2019, LB130, § 2.

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.

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.

71-6408 Refrigerant; state building code; regulation; restrictions.

No provision of the state building code may prohibit or otherwise limit the use of a refrigerant designated as acceptable for use pursuant to and in accordance with 42 U.S.C. 7671k, as such section existed on January 1, 2023, as long as any equipment containing such refrigerant is listed and installed in accordance with safety standards and use conditions imposed pursuant to such designation.

Source: Laws 2023, LB531, § 27.

ARTICLE 65
IN-HOME PERSONAL SERVICES

Section
71-6501. Terms, defined.

71-6501 Terms, defined.

For purposes of sections 71-6501 to 71-6504:

(1) Activities of daily living has the definition found in section 71-6602;

(2) Attendant services means services provided to nonmedically fragile persons, including hands-on assistance with activities of daily living, transfer, grooming, bathing, medication reminders, and similar activities;

(3) Companion services means the provision of companionship and assistance with letter writing, reading, and similar activities;

(4) Homemaker services means assistance with household tasks, including, but not limited to, housekeeping, personal laundry, shopping, incidental transportation, and meals;

(5) In-home personal services means attendant services, companion services, and homemaker services that do not require the exercise of medical or nursing judgment provided to a person in his or her residence to enable the person to remain safe and comfortable in such residence;

(6) In-home personal services agency means an entity that provides or offers to provide in-home personal services for compensation by employees of the agency or by persons with whom the agency has contracted to provide such services. In-home personal services agency does not include a local public health department as defined in section 71-1626, a health care facility as defined in section 71-413, a health care service as defined in section 71-415, programs supported by the federal Corporation for National and Community Service, an unlicensed home care registry or similar entity that screens and schedules independent contractors as caregivers for persons, or an agency that provides only housecleaning services. A home health agency may be an in-home personal services agency; and

(7) In-home personal services worker means a person who meets the requirements of section 71-6502 and provides in-home personal services.

Source: Laws 2007, LB236, § 39; Laws 2022, LB824, § 1.

ARTICLE 66
HOME HEALTH AIDE SERVICES

Section
71-6602. Terms, defined.

71-6602 Terms, defined.

As used in sections 71-6601 to 71-6615, unless the context otherwise requires:

(1) Activities of daily living means assistance with ambulation, bathing, toileting, feeding, and similar activities;

(2) Basic therapeutic care means basic health care procedures, including, but not limited to, measuring vital signs, applying hot and cold applications and nonsterile dressings, and assisting with, but not administering, internal and

external medications which are normally self-administered. Basic therapeutic care does not include health care procedures which require the exercise of nursing or medical judgment;

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

(4) Home health agency means a home health agency as defined in section 71-417;

(5) Home health aide means a person who is employed by a home health agency to provide personal care, assistance with the activities of daily living, and basic therapeutic care to patients of the home health agency;

(6) Personal care means hair care, nail care, shaving, dressing, oral care, and similar activities;

(7) Supervised practical training means training in a laboratory or other setting in which the trainee demonstrates knowledge while performing tasks on an individual under the direct supervision of a registered nurse or licensed practical nurse; and

(8) Vital signs means temperature, pulse, respiration, and blood pressure.

Source: Laws 1988, LB 1100, § 117; Laws 1991, LB 703, § 54; Laws 1996, LB 1044, § 765; Laws 1998, LB 1354, § 41; Laws 2000, LB 819, § 136; Laws 2007, LB296, § 662; Laws 2022, LB824, § 2.

ARTICLE 67

MEDICATION REGULATION

(b) MEDICATION AIDE ACT

Section
71-6720. Purpose of act; applicability.

(b) MEDICATION AIDE ACT

71-6720 Purpose of act; applicability.

(1) The purposes of the Medication Aide Act are to ensure the health, safety, and welfare of the public by providing for the accurate, cost-effective, efficient, and safe utilization of medication aides to assist in the administration of medications by (a) competent individuals, (b) caretakers who are parents, foster parents, family, friends or legal guardians, and (c) licensed health care professionals.

(2) The act applies to all settings in which medications are administered except the home, unless the in-home administration of medication is provided through a licensed home health agency, a licensed or certified home and community-based provider, or a licensed PACE center as defined in section 71-424.01.

(3) The act does not apply to the provision of reminders to persons to self-administer medication or assistance to persons in the delivery of nontherapeutic topical applications by in-home personal services workers. For purposes of this subsection, in-home personal services worker has the definition found in section 71-6501.

Source: Laws 1998, LB 1354, § 10; Laws 2007, LB236, § 44; Laws 2020, LB1053, § 20.

ARTICLE 69
ABORTION

(b) PREBORN CHILD PROTECTION ACT

Section
71-6912. Act, how cited.
71-6913. Act; applicability.
71-6914. Terms, defined.
71-6915. Abortion; physician; duties; unlawful acts; exceptions.
71-6916. Medical emergency; sexual assault or incest; written certification.
71-6917. Act; violation; exemption from liability.

(b) PREBORN CHILD PROTECTION ACT

71-6912 Act, how cited.

Sections 71-6912 to 71-6917 shall be known and may be cited as the Preborn Child Protection Act.

Source: Laws 2023, LB574, § 1.

71-6913 Act; applicability.

The Preborn Child Protection Act only applies to intrauterine pregnancies.

Source: Laws 2023, LB574, § 2.

71-6914 Terms, defined.

For purposes of the Preborn Child Protection Act:

(1)(a) Abortion means the prescription or use of any instrument, device, medicine, drug, or substance to or upon a woman known to be pregnant with the specific intent of terminating the life of her preborn child.

(b) Abortion shall under no circumstances be interpreted to include:

(i) Removal of an ectopic pregnancy;

(ii) Removal of the remains of a preborn child who has already died;

(iii) An act done with the intention to save the life or preserve the health of the preborn child;

(iv) The accidental or unintentional termination of the life of a preborn child; or

(v) During the practice of in vitro fertilization or another assisted reproductive technology, the termination or loss of the life of a preborn child who is not being carried inside a woman's body;

(2) Gestational age means the age of a preborn child as calculated from the first day of the last menstrual period of the pregnant woman;

(3)(a) Medical emergency means any condition which, in reasonable medical judgment, so complicates the medical condition of the pregnant woman as to necessitate the termination of her pregnancy to avert her death or for which a delay in terminating her pregnancy will create a serious risk of substantial and irreversible physical impairment of a major bodily function.

(b) No condition shall be deemed a medical emergency if based on a claim or diagnosis that the woman will engage in conduct which would result in her death or in substantial and irreversible physical impairment of a major bodily function;

(4) Preborn child means an individual living member of the species homo sapiens, throughout the embryonic and fetal stages of development to full gestation and childbirth;

(5) Pregnant means the condition of having a living preborn child inside one's body; and

(6) Reasonable medical judgment means a medical judgment that could be made by a reasonably prudent physician, knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved.

Source: Laws 2023, LB574, § 3.

71-6915 Abortion; physician; duties; unlawful acts; exceptions.

(1) Except as provided in subsection (3) of this section, a physician, before performing or inducing an abortion, shall first:

(a) Determine, using standard medical practice, the gestational age of the preborn child; and

(b) Record in the pregnant woman's medical record:

(i) The method used to determine the gestational age of the preborn child; and

(ii) The date, time, and results of such determination.

(2) Except as provided in subsection (3) of this section, it shall be unlawful for any physician to perform or induce an abortion:

(a) Before fulfilling the requirements of subsection (1) of this section; or

(b) If the probable gestational age of the preborn child has been determined to be twelve or more weeks.

(3) It shall not be a violation of subsection (1) or (2) of this section for a physician to perform or induce an abortion in the case of:

(a) Medical emergency;

(b) Pregnancy resulting from sexual assault as defined in section 28-319 or 28-319.01; or

(c) Pregnancy resulting from incest as defined in section 28-703.

Source: Laws 2023, LB574, § 4.

71-6916 Medical emergency; sexual assault or incest; written certification.

(1) If a physician performs or induces an abortion because of a medical emergency pursuant to subdivision (3)(a) of section 71-6915, the physician shall certify in writing that a medical emergency existed and explain the medical emergency in the written certification. The physician shall keep the written certification in the woman's medical record.

(2) If a physician performs or induces an abortion in the case of sexual assault or incest pursuant to subdivision (3)(b) or (c) of section 71-6915, the physician shall certify in writing that the abortion was performed because of sexual assault or incest and that the physician complied with all applicable duties imposed by section 28-902. The physician shall keep the written certification in the woman's medical record.

Source: Laws 2023, LB574, § 5.

71-6917 Act; violation; exemption from liability.

No woman upon whom an abortion is attempted, induced, or performed shall be liable for a violation of the Preborn Child Protection Act.

Source: Laws 2023, LB574, § 6.

ARTICLE 70

BREAST AND CERVICAL CANCER AND MAMMOGRAPHY

Section
71-7012. Breast and Cervical Cancer Advisory Committee; established; members; appointment; terms; duties; expenses.

71-7012 Breast and Cervical Cancer Advisory Committee; established; members; appointment; terms; duties; expenses.

The Breast and Cervical Cancer Advisory Committee is established. The committee consists of the members of the Mammography Screening Committee serving immediately prior to September 9, 1995, and eight additional members appointed by the chief executive officer of the department or his or her designee who have expertise or a personal interest in cervical cancer. The committee shall consist of not more than twenty-four volunteer members, at least eight of whom are women, appointed by the chief executive officer or his or her designee. Members of the committee shall be persons interested in health care, the promotion of breast cancer screening, and cervical cancer and shall be drawn from both the private sector and the public sector. At least one member shall be a person who has or who has had breast cancer.

Of the initial members of the committee, four shall be appointed for terms of one year and four shall be appointed for terms of two years. Thereafter all appointments shall be for terms of two years. All members shall serve until their successors are appointed. No member shall serve more than two successive two-year terms. Vacancies in the membership of the committee for any cause shall be filled by appointment by the chief executive officer or his or her designee for the unexpired term.

Duties of the committee shall include, but not be limited to, encouraging payment of public and private funds to the Breast and Cervical Cancer Cash Fund, researching and recommending to the department reimbursement limits, planning and implementing outreach and educational programs to Nebraska women, advising the department on its operation of the early detection of breast and cervical cancer grant from the United States Department of Health and Human Services, and encouraging payment of public and private funds to the fund. Members of the committee shall be reimbursed for expenses as provided in sections 81-1174 to 81-1177.

Source: Laws 1991, LB 256, § 12; Laws 1995, LB 68, § 10; Laws 1995, LB 406, § 84; Laws 1996, LB 1044, § 772; Laws 2007, LB296, § 668; Laws 2008, LB797, § 25; Laws 2020, LB381, § 72.

ARTICLE 71

CRITICAL INCIDENT STRESS MANAGEMENT

Section
71-7104. Critical Incident Stress Management Program; created; duties.

71-7104 Critical Incident Stress Management Program; created; duties.

There is hereby created the Critical Incident Stress Management Program. The focus of the program shall be to minimize the harmful effects of critical

incident stress for emergency service personnel, with a high priority on confidentiality and respect for the individuals involved. The program shall:

(1) Provide a stress management session to emergency service personnel who appropriately request such assistance in an effort to address critical incident stress;

(2) Assist in providing the emotional and educational support necessary to ensure optimal functioning of emergency service personnel;

(3) Conduct preincident educational programs to acquaint emergency service personnel with stress management techniques;

(4) Promote interagency cooperation;

(5) Provide an organized statewide response to the emotional needs of emergency service personnel impacted by critical incidents;

(6) Develop guidelines for resilience training for first responders under section 48-101.01;

(7) Set reimbursement rates for mental health examinations and resilience training under section 48-101.01; and

(8) Set an annual limit on the hours or quantity of resilience training for which reimbursement is required under section 48-101.01.

Source: Laws 1991, LB 703, § 4; Laws 1997, LB 184, § 4; Laws 2020, LB963, § 3; Laws 2023, LB191, § 18.

ARTICLE 73

LET THEM GROW ACT

Section
71-7301. Act, how cited.
71-7302. Legislative findings.
71-7303. Terms, defined.
71-7304. Gender-altering procedures; prohibited, when; considered unprofessional conduct; applicability of section.
71-7305. Nonsurgical gender-altering procedures; rules and regulations.
71-7306. Gender-altering procedures; state funds; use prohibited, when.
71-7307. Civil action, authorized; attorney's fees.

71-7301 Act, how cited.

Sections 71-7301 to 71-7307 shall be known and may be cited as the Let Them Grow Act.

Source: Laws 2023, LB574, § 14.

71-7302 Legislative findings.

The Legislature finds that:

(1) The state has a compelling government interest in protecting the health and safety of its citizens, especially vulnerable children;

(2) Genital and nongenital gender-altering surgeries are generally not recommended for children, although evidence indicates referral for children to have such surgeries are becoming more frequent; and

(3) Genital and nongenital gender-altering surgery includes several irreversible and invasive procedures for biological males and biological females and involves the alteration of biologically healthy and functional body parts.

Source: Laws 2023, LB574, § 15.

71-7303 Terms, defined.

For purposes of the Let Them Grow Act:

(1) Biological sex means the biological indication of male and female in the context of reproductive potential or capacity, such as sex chromosomes, naturally occurring sex hormones, gonads, and nonambiguous internal and external genitalia present at birth, without regard to an individual's psychological, chosen, or subjective experience of gender;

(2) Cross-sex hormones means testosterone or other androgens given to biological females in amounts that are larger or more potent than would normally occur naturally in healthy biological sex females and estrogen given to biological males in amounts that are larger or more potent than would normally occur naturally in healthy biological sex males;

(3) Gender means the psychological, behavioral, social, and cultural aspects of being male or female;

(4) Gender-altering surgery means any medical or surgical service that seeks to surgically alter or remove healthy physical or anatomical characteristics or features that are typical for the individual's biological sex in order to instill or create physiological or anatomical characteristics that resemble a sex different from the individual's biological sex, including without limitation, genital or nongenital gender-altering surgery performed for the purpose of assisting an individual with a gender alteration;

(5) Gender alteration means the process in which a person goes from identifying with and living as a gender that corresponds to his or her biological sex to identifying with and living as a gender different from his or her biological sex and may involve social, legal, or physical changes;

(6)(a) Gender-altering procedures includes any medical or surgical service, including without limitation physician's services, inpatient and outpatient hospital services, or prescribed drugs related to gender alteration, that seeks to:

(i) Alter or remove physical or anatomical characteristics or features that are typical for the individual's biological sex; or

(ii) Instill or create physiological or anatomical characteristics that resemble a sex different from the individual's biological sex, including without limitation medical services that provide puberty-blocking drugs, cross-sex hormones, or other mechanisms to promote the development of feminizing or masculinizing features in the opposite biological sex, or genital or nongenital gender-altering surgery performed for the purpose of assisting an individual with a gender alteration;

(b) Gender-altering procedures does not include:

(i) Services to persons born with a medically verifiable disorder of sex development, including a person with external biological sex characteristics that are irresolvably ambiguous, such as those born with 46 XX chromosomes with virilization, 46 XY chromosomes with undervirilization, or having both ovarian and testicular tissue;

(ii) Services provided when a health care practitioner has otherwise diagnosed a disorder of sexual development that the health care practitioner has determined, through genetic or biochemical testing, that the person does not have normal sex-chromosome structure, sex-steroid production, or sex-steroid hormone action;

(iii) The acute and chronic treatment of any infection, injury, disease, or disorder that has been caused by or exacerbated by the performance of a gender-altering procedure, whether or not the gender-altering procedure was performed in accordance with state and federal law; or

(iv) Any procedure undertaken because the individual suffers from a physical disorder, physical injury, or physical illness that would, as certified by the health care practitioner, place the individual in imminent danger of death or impairment of major bodily function unless surgery is performed;

(7) Genital gender-altering surgery means a medical procedure performed for the purpose of assisting an individual with a gender alteration, including without limitation:

(a) Surgical procedures such as penectomy, orchiectomy, vaginoplasty, clitoroplasty, or vulvoplasty for biologically male patients or hysterectomy or ovariectomy for biologically female patients;

(b) Reconstruction of the fixed part of the urethra with or without a metoidioplasty; or

(c) Phalloplasty, vaginectomy, scrotoplasty, or implantation of erection or testicular prostheses for biologically female patients;

(8) Health care practitioner means a person licensed or certified under the Uniform Credentialing Act;

(9) Puberty-blocking drugs means gonadotropin-releasing hormone analogues or other synthetic drugs used in biological males to stop luteinizing hormone secretion and therefore testosterone secretion, or synthetic drugs used in biological females which stop the production of estrogens and progesterone, when used to delay or suppress pubertal development in children for the purpose of assisting an individual with a gender alteration; and

(10) Nongenital gender-altering surgery means medical procedures performed for the purpose of assisting an individual with a gender alteration, including without limitation:

(a) Surgical procedures for biologically male patients, such as voice surgery or thyroid cartilage reduction; or

(b) Surgical procedures for biologically female patients, such as subcutaneous mastectomy or voice surgery.

Source: Laws 2023, LB574, § 16.

Cross References

Uniform Credentialing Act, see section 38-101.

71-7304 Gender-altering procedures; prohibited, when; considered unprofessional conduct; applicability of section.

(1) Except as provided in the Let Them Grow Act and the rules and regulations adopted and promulgated pursuant to the act, a health care practitioner shall not perform gender-altering procedures in this state for an individual younger than nineteen years of age.

(2) The intentional and knowing performance of gender-altering procedures by a health care practitioner for an individual younger than nineteen years of age in violation of subsection (1) of this section shall be considered unprofessional conduct as defined in section 38-179.

(3) This section does not apply to the continuation of treatment using puberty-blocking drugs, cross-sex hormones, or both when the course of treatment began before October 1, 2023.

(4) This section does not apply to nonsurgical gender-altering procedures when such procedures are provided in compliance with the rules and regulations adopted and promulgated pursuant to section 71-7305.

Source: Laws 2023, LB574, § 17.

71-7305 Nonsurgical gender-altering procedures; rules and regulations.

(1) The chief medical officer as designated in section 81-3115 shall adopt and promulgate such rules and regulations as are necessary to provide for nonsurgical gender-altering procedures for individuals younger than nineteen years of age, such as puberty-blocking drugs, cross-sex hormones, or both. Such rules and regulations shall be consistent with the Let Them Grow Act and, at a minimum, include the following:

(a) Specify that a health care practitioner may prescribe approved puberty-blocking drugs, cross-sex hormones, or both to an individual younger than nineteen years of age if such individual has a long-lasting and intense pattern of gender nonconformity or gender dysphoria which began or worsened at the start of puberty;

(b) Specific criteria, obligations, or conditions regulating the administration, prescribing, delivery, sale, or use of puberty-blocking drugs, cross-sex hormones, or both involving an individual younger than nineteen years of age in accordance with subdivision (1)(a) of this section, which shall, at a minimum, set forth the following:

(i) The minimum number of gender-identity-focused therapeutic hours required prior to an individual receiving puberty-blocking drugs, cross-sex hormones, or both;

(ii) Patient advisory requirements necessary for a health care practitioner to obtain informed patient consent;

(iii) Patient medical record documentation requirements to ensure compliance with the act; and

(iv) A minimum waiting period between the time the health care practitioner obtains informed patient consent and the administration, prescribing, or delivery of puberty-blocking drugs, cross-sex hormones, or both to such patient; and

(c) Specify that section 71-7304 does not apply to nonsurgical gender-altering procedures when such procedures are provided in compliance with the rules and regulations adopted and promulgated pursuant to this section.

(2) The Department of Health and Human Services may adopt and promulgate rules and regulations not inconsistent with the rules and regulations adopted and promulgated by the chief medical officer that are necessary to carry out the Let Them Grow Act.

Source: Laws 2023, LB574, § 18.

71-7306 Gender-altering procedures; state funds; use prohibited, when.

State funds shall not be directly or indirectly used, granted, paid, or distributed to any entity, organization, or individual for providing gender-altering procedures to an individual younger than nineteen years of age in violation of

the Let Them Grow Act and the rules and regulations adopted and promulgated pursuant to the act.

Source: Laws 2023, LB574, § 19.

71-7307 Civil action, authorized; attorney's fees.

An individual that received a gender-altering procedure in violation of section 71-7304 after October 1, 2023, and while such individual was younger than nineteen years of age, or the parent or guardian of such an individual, may bring a civil action for appropriate relief against the health care practitioner who performed the gender-altering procedure. Appropriate relief in an action under this section includes actual damages and reasonable attorney's fees. An action under this section shall be brought within two years after discovery of damages.

Source: Laws 2023, LB574, § 20.

ARTICLE 74

WHOLESALE DRUG DISTRIBUTOR LICENSING

Section
71-7436. Emergency medical reasons, defined.
71-7444. Wholesale drug distribution, defined.

71-7436 Emergency medical reasons, defined.

(1) Emergency medical reasons means the alleviation of a temporary shortage by transfers of prescription drugs between any of the following: (a) Holders of pharmacy licenses, (b) health care practitioner facilities as defined in section 71-414, (c) hospitals as defined in section 71-419, and (d) emergency medical services as defined in section 38-1207.

(2) Emergency medical reasons does not include regular and systematic sales (a) of prescription drugs to emergency medical services as defined in section 38-1207 or (b) to practitioners as defined in section 38-2838 of prescription drugs that will be used for routine office procedures.

Source: Laws 1992, LB 1019, § 9; Laws 1998, LB 1073, § 157; Laws 2001, LB 398, § 82; R.S.1943, (2003), § 71-7409; Laws 2006, LB 994, § 10; Laws 2007, LB463, § 1294; Laws 2015, LB37, § 89; Laws 2020, LB1002, § 47.

71-7444 Wholesale drug distribution, defined.

(1) Wholesale drug distribution means the distribution of prescription drugs to a person other than a consumer or patient.

(2) Wholesale drug distribution does not include:

(a) Intracompany sales of prescription drugs, including any transaction or transfer between any division, subsidiary, or parent company and an affiliated or related company under common ownership or common control;

(b) The sale, purchase, or trade of or an offer to sell, purchase, or trade a prescription drug by a charitable organization described in section 501(c)(3) of the Internal Revenue Code, a state, a political subdivision, or any other governmental agency to a nonprofit affiliate of the organization, to the extent otherwise permitted by law;

(c) The sale, purchase, or trade of or an offer to sell, purchase, or trade a prescription drug among hospitals or other health care entities operating under common ownership or common control;

(d) The sale, purchase, or trade of or an offer to sell, purchase, or trade a prescription drug for emergency medical reasons or for a practitioner to use for routine office procedures, not to exceed five percent of sales as provided in section 71-7454;

(e) The sale, purchase, or trade of, an offer to sell, purchase, or trade, or the dispensing of a prescription drug pursuant to a prescription;

(f) The distribution of drug samples by representatives of a manufacturer or of a wholesale drug distributor;

(g) The sale, purchase, or trade of blood and blood components intended for transfusion;

(h) The delivery of or the offer to deliver a prescription drug by a common carrier solely in the usual course of business of transporting such drugs as a common carrier if the common carrier does not store, warehouse, or take legal ownership of such drugs; or

(i) The restocking of prescription drugs by a hospital for an emergency medical service as defined in section 38-1207 if the emergency medical service transports a patient to the hospital and such drugs were used for the patient prior to or during transportation of such patient to such hospital.

(3) Except as provided in subdivision (2)(c) of this section, wholesale drug distribution includes (a) the restocking of prescription drugs by a hospital for an emergency medical service as defined in section 38-1207 if such prescription drugs were not used for a patient prior to or during transportation to such hospital or (b) the general stocking of prescription drugs for an emergency medical service as defined in section 38-1207.

Source: Laws 1992, LB 1019, § 12; Laws 1995, LB 574, § 60; R.S.1943, (2003), § 71-7412; Laws 2006, LB 994, § 18; Laws 2015, LB37, § 90; Laws 2020, LB1002, § 48.

ARTICLE 76

HEALTH CARE

(b) NEBRASKA HEALTH CARE FUNDING ACT

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

(b) NEBRASKA HEALTH CARE FUNDING ACT

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

(1) The Nebraska Health Care Cash Fund is created. The State Treasurer shall transfer (a) sixty million three hundred thousand dollars on or before July 15, 2014, (b) sixty million three hundred fifty thousand dollars on or before July 15, 2015, (c) sixty million three hundred fifty thousand dollars on or before July 15, 2016, (d) sixty million seven hundred thousand dollars on or before July 15, 2017, (e) five hundred thousand dollars on or before May 15, 2018, (f) sixty-one million six hundred thousand dollars on or before July 15, 2018, (g) sixty-two million dollars on or before July 15, 2019, (h) sixty-one million four hundred fifty thousand dollars on or before July 15, 2020, (i) sixty-six million two

hundred thousand dollars on or before July 15, 2022, (j) fifty-six million seven hundred thousand dollars on or before July 15, 2023, (k) fifty-four million dollars on or before July 15, 2024, and (l) fifty-four million one hundred fifty thousand dollars on or before every July 15 thereafter from the Nebraska Medicaid Intergovernmental Trust Fund and the Nebraska Tobacco Settlement Trust Fund to the Nebraska Health Care Cash Fund, except that such amount shall be reduced by the amount of the unobligated balance in the Nebraska Health Care Cash Fund at the time the transfer is made. The state investment officer shall advise the State Treasurer on the amounts to be transferred first from the Nebraska Medicaid Intergovernmental Trust Fund until the fund balance is depleted and from the Nebraska Tobacco Settlement Trust Fund thereafter in order to sustain such transfers in perpetuity. The state investment officer shall report electronically to the Legislature on or before October 1 of every even-numbered year on the sustainability of such transfers. The Nebraska Health Care Cash Fund shall also include money received pursuant to section 77-2602. Except as otherwise provided by law, no more than the amounts specified in this subsection may be appropriated or transferred from the Nebraska Health Care Cash Fund in any fiscal year.

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

Except as otherwise provided in subsections (5) and (6) of this section, it is the intent of the Legislature that no additional programs are funded through the Nebraska Health Care Cash Fund until funding for all programs with an appropriation from the fund during FY2012-13 are restored to their FY2012-13 levels.

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

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

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

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

(6) The State Treasurer shall transfer fifteen million dollars from the Nebraska Health Care Cash Fund on or after July 1, 2022, but before June 30, 2023, to the Board of Regents of the University of Nebraska for the University of Nebraska Medical Center for pancreatic cancer research at the University of Nebraska Medical Center. Transfers from the Nebraska Health Care Cash Fund in this subsection shall be contingent upon receipt of any matching funds from private or other sources, up to fifteen million dollars, certified by the budget administrator of the budget division of the Department of Administrative Services. Upon receipt of any matching funds certified by the budget adminis-

trator, the State Treasurer shall transfer an equal amount of funds to the Board of Regents of the University of Nebraska.

Source: Laws 1998, LB 1070, § 7; Laws 2000, LB 1427, § 9; Laws 2001, LB 692, § 18; Laws 2003, LB 412, § 8; Laws 2004, LB 1091, § 7; Laws 2005, LB 426, § 12; Laws 2007, LB322, § 19; Laws 2007, LB482, § 6; Laws 2008, LB480, § 2; Laws 2008, LB830, § 9; Laws 2008, LB961, § 5; Laws 2009, LB27, § 7; Laws 2009, LB316, § 19; Laws 2012, LB782, § 125; Laws 2012, LB969, § 9; Laws 2013, LB199, § 29; Laws 2014, LB906, § 18; Laws 2015, LB390, § 12; Laws 2015, LB661, § 32; Laws 2017, LB331, § 38; Laws 2018, LB439, § 9; Laws 2018, LB793, § 10; Laws 2018, LB945, § 17; Laws 2019, LB298, § 17; Laws 2019, LB481, § 7; Laws 2019, LB570, § 1; Laws 2019, LB600, § 19; Laws 2019, LB641, § 2; Laws 2021, LB384, § 12; Laws 2022, LB1012, § 11; Laws 2023, LB818, § 15; Laws 2024, LB1413, § 46.
Effective date April 2, 2024.

Cross References

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

ARTICLE 78
PRIMARY CARE INVESTMENT ACT

Section
71-7801. Act, how cited.
71-7802. Federal Consolidated Appropriations Act, 2021; requirements; Primary Care Investment Council; purpose.
71-7803. Terms, defined.
71-7804. Primary Care Investment Council; created; members; termination.
71-7805. Primary Care Investment Council; duties.
71-7806. Primary Care Investment Council; convene; review and update.
71-7807. Primary Care Investment Council; report.

71-7801 Act, how cited.

Sections 71-7801 to 71-7807 shall be known and may be cited as the Primary Care Investment Act.

Source: Laws 2022, LB863, § 11.

71-7802 Federal Consolidated Appropriations Act, 2021; requirements; Primary Care Investment Council; purpose.

On December 27, 2020, the federal Consolidated Appropriations Act, 2021, Public Law 116-260, became law. It requires group health plans, health insurance issuers, and health insurance plans to provide data to the federal government on the total amount of spending on hospital costs; health care provider and clinical service costs, for primary care and specialty care separately; costs for prescription drugs; and other medical costs, including wellness services. Primary care is important to the health of individuals and has been associated with better health outcomes at lower costs. The purpose of the Primary Care Investment Council is to analyze the data collected by the federal government in accordance with the federal Consolidated Appropriations Act, 2021, and other data sources, to assist the Legislature in understanding:

(1) The current amount of health care spending on primary care in Nebraska from public and private sources;

(2) Barriers to residents of Nebraska accessing primary care;

(3) Barriers to health payors and medical providers in investing in primary care;

(4) Alternative payment models that deliver high-quality care and spend health care dollars more wisely;

(5) The public health benefits for Nebraska residents if the level of primary care investment in Nebraska increased;

(6) The estimated cost savings for health care consumers as well as public and private payors if the level of primary care investment increased in Nebraska;

(7) Nebraska's investment in primary care services relative to other states; and

(8) Health outcomes in Nebraska relative to other states.

Source: Laws 2022, LB863, § 12.

71-7803 Terms, defined.

For purposes of the Primary Care Investment Act:

(1) Department means the Department of Insurance; and

(2) Primary care physician means a physician licensed under the Uniform Credentialing Act and practicing in the area of family medicine, pediatrics, internal medicine, geriatrics, obstetrics and gynecology, or general medicine.

Source: Laws 2022, LB863, § 13.

Cross References

Uniform Credentialing Act, see section 38-101.

71-7804 Primary Care Investment Council; created; members; termination.

(1) The Primary Care Investment Council is created. The council shall consist of fifteen voting members and two ex officio, nonvoting members.

(2) The Primary Care Investment Council shall consist of the following voting members:

(a) Three representatives of primary care physicians, one representing each congressional district;

(b) A representative of behavioral health providers;

(c) A representative of hospitals;

(d) A representative of academia with experience in health care data;

(e) Two other representatives of health providers who are not primary care physicians or hospitals;

(f) Three representatives of health insurers, one of which shall be a representative of a managed care organization;

(g) One representative of large employers that purchase health insurance for employees, which representative is not an insurer;

(h) One representative of small employers that purchase group health insurance for employees, which representative is not an insurer;

(i) One health care consumer advocate who is knowledgeable about the private health insurance market; and

(j) A representative of organizations that facilitate health information exchange in Nebraska.

(3) The following officials or their designees shall serve as ex officio, nonvoting members:

(a) The Director of Insurance; and

(b) The Director of Medicaid and Long-Term Care of the Division of Medicaid and Long-Term Care of the Department of Health and Human Services.

(4) The Governor shall appoint the voting members of the council. The Governor shall appoint the initial members by October 1, 2022. Any member who ceases to meet the requirements for his or her appointment regarding representation or practice shall cease to be a member of the council. Any vacancy shall be filled in the same manner as the original appointment.

(5) The council shall select one of its members to serve as chairperson for a one-year term. The council shall conduct its organizational meeting in October 2022.

(6) The council shall terminate on July 1, 2029.

Source: Laws 2022, LB863, § 14.

71-7805 Primary Care Investment Council; duties.

The Primary Care Investment Council shall:

(1) Develop an appropriate definition for primary care investment;

(2) Measure the current level of primary care investment, measured as a part of overall health care spending, by public and private payors in Nebraska;

(3) Conduct a comparison of spending on primary care services and health outcomes in Nebraska with surrounding states and nationally;

(4) Develop an appropriate target level of primary care investment by public and private payors in Nebraska;

(5) Recommend strategies to achieve the target level of primary care investment through alternative payment models;

(6) Identify the public health benefits and estimated cost savings that would result from meeting the target level of primary care investment through alternative payment models; and

(7) Identify solutions to barriers for Nebraska residents from accessing primary care and for health payors and medical providers from investing in primary care.

Source: Laws 2022, LB863, § 15.

71-7806 Primary Care Investment Council; convene; review and update.

The Primary Care Investment Council shall convene at least once a year through 2028 to review the state's progress in meeting the target level of primary care investment, update the data regarding public health benefits and cost savings as a result of investments in primary care, update the strategies to achieve the target level of primary care investment, and consider other information as necessary.

Source: Laws 2022, LB863, § 16.

71-7807 Primary Care Investment Council; report.

On or before November 1, 2023, and on or before each November 1 until November 1, 2028, the Primary Care Investment Council shall prepare and the department shall electronically submit a report to the Executive Board of the Legislative Council and the Governor which contains, at a minimum, the Primary Care Investment Council's findings under section 71-7805 and any additional findings from the council regarding health care spending and health outcomes.

Source: Laws 2022, LB863, § 17.

ARTICLE 79

HEALTH CARE QUALITY IMPROVEMENT ACT

(b) HEALTH CARE QUALITY IMPROVEMENT ACT

(b) HEALTH CARE QUALITY IMPROVEMENT ACT

71-7904 Act, how cited.

Sections 71-7904 to 71-7913 shall be known and may be cited as the Health Care Quality Improvement Act.

Source: Laws 2011, LB431, § 1; Laws 2019, LB119, § 1.

71-7906 Definitions, where found.

For purposes of the Health Care Quality Improvement Act, the definitions found in sections 71-7907 to 71-7910.01 apply.

Source: Laws 2011, LB431, § 3; Laws 2019, LB119, § 2.

71-7907 Health care provider, defined.

Health care provider means:

(1) A facility licensed under the Health Care Facility Licensure Act;

(2) A health care professional licensed under the Uniform Credentialing Act;

(3) A professional health care service entity; and

(4) An organization or association of health care professionals licensed under the Uniform Credentialing Act.

Source: Laws 2011, LB431, § 4; Laws 2019, LB119, § 3.

Cross References

Health Care Facility Licensure Act, see section 71-401.
Uniform Credentialing Act, see section 38-101.

71-7910 Peer review committee, defined; policies and procedures.

(1) Peer review committee means a utilization review committee, quality assessment committee, performance improvement committee, tissue committee, credentialing committee, or other committee established by a professional health care service entity or by the governing board of a facility which is a health care provider that does either of the following:

(a) Conducts professional credentialing or quality review activities involving the competence of, professional conduct of, or quality of care provided by a health care provider, including both an individual who provides health care and an entity that provides health care; or

(b) Conducts any other attendant hearing process initiated as a result of a peer review committee's recommendations or actions.

(2) To conduct peer review pursuant to the Health Care Quality Improvement Act, a professional health care service entity shall adopt and adhere to written policies and procedures governing the peer review committee of the professional health care service entity.

Source: Laws 2011, LB431, § 7; Laws 2019, LB119, § 5.

71-7910.01 Professional health care service entity, defined.

Professional health care service entity means an entity which is organized under the Nebraska Nonprofit Corporation Act, the Nebraska Professional Corporation Act, the Nebraska Uniform Limited Liability Company Act, or the Uniform Partnership Act of 1998 and which renders health care services through individuals credentialed under the Uniform Credentialing Act.

Source: Laws 2019, LB119, § 4; Laws 2020, LB783, § 3.

Cross References

Nebraska Nonprofit Corporation Act, see section 21-1901.
Nebraska Professional Corporation Act, see section 21-2201.
Nebraska Uniform Limited Liability Company Act, see section 21-101.
Uniform Credentialing Act, see section 38-101.
Uniform Partnership Act of 1998, see section 67-401.

71-7911 Liability for activities relating to peer review.

(1) A health care provider or an individual (a) serving as a member or employee of a peer review committee, working on behalf of a peer review committee, furnishing counsel or services to a peer review committee, or participating in a peer review activity as an officer, director, employee, or member of a professional health care service entity or an officer, director, employee, or member of the governing board of a facility which is a health care provider and (b) acting without malice shall not be held liable in damages to any person for any acts, omissions, decisions, or other conduct within the scope of the functions of a peer review committee.

(2) A person who makes a report or provides information to a peer review committee shall not be subject to suit as a result of providing such information if such person acts without malice.

Source: Laws 2011, LB431, § 8; Laws 2019, LB119, § 6.

71-7912 Confidentiality; discovery; availability of medical records, documents, or information; limitation; burden of proof.

(1) The proceedings, records, minutes, and reports of a peer review committee shall be held in confidence and shall not be subject to discovery or

introduction into evidence in any civil action. No person who attends a meeting of a peer review committee, works for or on behalf of a peer review committee, provides information to a peer review committee, or participates in a peer review activity as an officer, director, employee, or member of a professional health care service entity or an officer, director, employee, or member of the governing board of a facility which is a health care provider shall be permitted or required to testify in any such civil action as to any evidence or other matters produced or presented during the proceedings or activities of the peer review committee or as to any findings, recommendations, evaluations, opinions, or other actions of the peer review committee or any members thereof.

(2) Nothing in this section shall be construed to prevent discovery or use in any civil action of medical records, documents, or information otherwise available from original sources and kept with respect to any patient in the ordinary course of business, but the records, documents, or information shall be available only from the original sources and cannot be obtained from the peer review committee's proceedings or records.

(3) A health care provider or individual claiming the privileges under this section has the burden of proving that the communications and documents are protected.

Source: Laws 2011, LB431, § 9; Laws 2019, LB119, § 7.

71-7913 Incident report or risk management report; how treated; burden of proof.

(1) An incident report or risk management report and the contents of an incident report or risk management report are not subject to discovery in, and are not admissible in evidence in the trial of, a civil action for damages for injury, death, or loss to a patient of a health care provider. A person who prepares or has knowledge of the contents of an incident report or risk management report shall not testify and shall not be required to testify in any civil action as to the contents of the report.

(2) A health care provider or individual claiming the privileges under this section has the burden of proving that the communications and documents are protected.

Source: Laws 2011, LB431, § 10; Laws 2019, LB119, § 8.

ARTICLE 82

STATEWIDE TRAUMA SYSTEM ACT

Section

Section
71-8237. State Trauma Advisory Board; duties.
71-8238. Repealed. Laws 2023, LB227, § 121.
71-8239. Statewide trauma system; rules and regulations; state trauma medical director and regional medical directors; appointment.
71-8240. Department; statewide duties.
71-8241. Department; coordination.
71-8242. Department; duties.
71-8243. Centers; categorized.
71-8244. Designated center; requirements; request; appeal; revocation or suspension; notice; hearing.
71-8245. Designation of trauma centers; reviews; applicant; duties; confidentiality; fees.
71-8246. Repealed. Laws 2023, LB227, § 121.
71-8247. Trauma system quality assurance program; how established; participation.
71-8248. Statewide trauma registry.
71-8249. Statewide trauma registry; data; confidentiality.
71-8251. Repealed. Laws 2023, LB227, § 121.
71-8252. Repealed. Laws 2023, LB227, § 121.
71-8253. Act; how construed.

71-8202 Legislative findings.

The Legislature finds and declares that:

(1) Trauma is a severe health problem in the State of Nebraska and a major cause of death and long-term disability;

(2) Trauma care is very limited in many parts of Nebraska, particularly in rural areas where there is a growing danger that some communities may be left without adequate emergency medical care;

(3) It is in the best interests of the citizens of Nebraska to establish an efficient and well-coordinated statewide trauma system to reduce costs and incidence of inappropriate and inadequate trauma care and emergency medical service; and

(4) The goals and objectives of a statewide trauma system are to: (a) Pursue trauma prevention activities to decrease the incidence of trauma; (b) provide optimal care for trauma victims; (c) prevent unnecessary death and disability from trauma and emergency illness; and (d) contain costs of trauma care and trauma system implementation.

Source: Laws 1997, LB 626, § 2; Laws 2023, LB227, § 101.

71-8208 Repealed. Laws 2023, LB227, § 121.

71-8216 Repealed. Laws 2023, LB227, § 121.

71-8220 Repealed. Laws 2023, LB227, § 121.

71-8222 Repealed. Laws 2023, LB227, § 121.

71-8226 Repealed. Laws 2023, LB227, § 121.

71-8227 Repealed. Laws 2023, LB227, § 121.

71-8228 Regional medical director, defined.

Regional medical director means a physician licensed under the Uniform Credentialing Act.

Source: Laws 1997, LB 626, § 28; Laws 1999, LB 594, § 62; Laws 2007, LB296, § 689; Laws 2007, LB463, § 1303; Laws 2023, LB227, § 102.

Cross References

Uniform Credentialing Act, see section 38-101.

71-8230 Specialty level burn or pediatric trauma center, defined.

Specialty level burn or pediatric trauma center means a trauma center that provides specialized care in the areas of burns or pediatrics.

Source: Laws 1997, LB 626, § 30; Laws 2009, LB195, § 95; Laws 2015, LB46, § 8; Laws 2023, LB227, § 103.

71-8231 State trauma medical director, defined.

State trauma medical director means a physician licensed under the Uniform Credentialing Act who advises the department and carries out duties under the Statewide Trauma System Act.

Source: Laws 1997, LB 626, § 31; Laws 1999, LB 594, § 63; Laws 2007, LB296, § 690; Laws 2007, LB463, § 1304; Laws 2023, LB227, § 104.

Cross References

Uniform Credentialing Act, see section 38-101.

71-8234 Trauma team, defined.

Trauma team means a team of physicians, nurses, medical technicians, and other personnel compiled to respond to an acutely injured patient upon the patient's arrival at the hospital.

Source: Laws 1997, LB 626, § 34; Laws 2009, LB195, § 97; Laws 2023, LB227, § 105.

71-8235 Trauma system, defined.

Trauma system means an organized approach to providing care to trauma patients that provides personnel, facilities, and equipment for effective and coordinated trauma care. The trauma system shall identify facilities with specific capabilities to provide care and provide that trauma patients be treated at a designated trauma center appropriate to the patient's level of injury. Trauma system includes prevention, prehospital or out-of-hospital care, hospital care, and rehabilitative services.

Source: Laws 1997, LB 626, § 35; Laws 2009, LB195, § 98; Laws 2023, LB227, § 106.

71-8236 State Trauma Advisory Board; created; members; terms; expenses.

The State Trauma Advisory Board is created. The board shall be composed of representatives knowledgeable in emergency medical services and trauma care, including emergency medical providers such as physicians, nurses, hospital personnel, prehospital or emergency care providers, local government officials, state officials, consumers, and persons affiliated professionally with health

science schools. The Director of Public Health or his or her designee shall appoint the members of the board for staggered terms of three years each. The department shall provide administrative support to the board. All members of the board may be reimbursed for expenses incurred in the performance of their duties as provided in sections 81-1174 to 81-1177. The terms of members representing the same field shall not expire at the same time.

The board shall elect a chairperson and a vice-chairperson whose terms of office shall be for two years. The board shall meet at least twice per year by written request of the director or the chairperson.

Source: Laws 1997, LB 626, § 36; Laws 1998, LB 898, § 1; Laws 1999, LB 594, § 64; Laws 2007, LB296, § 691; Laws 2020, LB381, § 73; Laws 2020, LB1002, § 51; Laws 2023, LB227, § 107.

71-8237 State Trauma Advisory Board; duties.

The State Trauma Advisory Board shall:

(1) Advise the department regarding trauma care needs throughout the state;

(2) Advise the Board of Emergency Medical Services regarding trauma care to be provided throughout the state by emergency medical services;

(3) Review proposed departmental rules and regulations for trauma care; and

(4) Recommend modifications in rules regarding trauma care.

Source: Laws 1997, LB 626, § 37; Laws 2009, LB195, § 99; Laws 2020, LB1002, § 52; Laws 2023, LB227, § 108.

71-8238 Repealed. Laws 2023, LB227, § 121.

71-8239 Statewide trauma system; rules and regulations; state trauma medical director and regional medical directors; appointment.

(1) The department, in consultation with and having solicited the advice of the State Trauma Advisory Board, shall maintain the statewide trauma system.

(2) The department, with the advice of the board, shall adopt and promulgate rules and regulations and develop injury prevention strategies to carry out the Statewide Trauma System Act.

(3) The Director of Public Health or his or her designee shall appoint the state trauma medical director and the regional medical directors.

(4) The department, with the advice of the board, shall identify the state and regional activities that create, operate, maintain, and enhance the statewide trauma system.

Source: Laws 1997, LB 626, § 39; Laws 2007, LB296, § 692; Laws 2009, LB195, § 100; Laws 2023, LB227, § 109.

71-8240 Department; statewide duties.

The department shall establish and maintain the following on a statewide basis:

(1) Trauma system objectives and priorities;

(2) Minimum trauma standards for facilities, equipment, and personnel for advanced, basic, comprehensive, and general level trauma centers and specialty level burn or pediatric trauma centers;

(3) Minimum standards for facilities, equipment, and personnel for advanced, intermediate, and general level rehabilitation centers;

(4) Minimum trauma standards for the development of facility patient care protocols;

(5) Trauma care regions as provided for in section 71-8250;

(6) A program for emergency medical services and trauma care research and development; and

(7) The designation of hospitals and health care facilities to provide designated trauma care services.

Source: Laws 1997, LB 626, § 40; Laws 2009, LB195, § 101; Laws 2015, LB46, § 9; Laws 2020, LB1002, § 53; Laws 2023, LB227, § 110.

71-8241 Department; coordination.

The department shall facilitate coordination of the State Trauma Advisory Board and the Board of Emergency Medical Services to advise the department on development of the statewide trauma system.

Source: Laws 1997, LB 626, § 41; Laws 2023, LB227, § 111.

71-8242 Department; duties.

The department shall:

(1) Maintain the statewide trauma registry pursuant to section 71-8248 to assess the effectiveness of trauma delivery and modify standards and other requirements of the statewide trauma system to improve the provision of emergency medical services and trauma care;

(2) Develop patient outcome measures to assess the effectiveness of trauma care in the system;

(3) Develop standards for regional trauma care quality assurance programs; and

(4) Coordinate and develop trauma prevention and education programs.

The department shall administer funding allocated to the department for the purpose of creating, maintaining, or enhancing the statewide trauma system.

Source: Laws 1997, LB 626, § 42; Laws 2009, LB195, § 102; Laws 2023, LB227, § 112.

71-8243 Centers; categorized.

Designated trauma centers and rehabilitation centers that receive trauma patients shall be categorized according to designation under the Statewide Trauma System Act.

Source: Laws 1997, LB 626, § 43; Laws 1999, LB 594, § 65; Laws 2009, LB195, § 103; Laws 2023, LB227, § 113.

71-8244 Designated center; requirements; request; appeal; revocation or suspension; notice; hearing.

(1) Any hospital, facility, rehabilitation center, or specialty level burn or pediatric trauma center that desires to be a designated center shall request designation from the department whereby each agrees to maintain a level of commitment and resources sufficient to meet responsibilities and standards

required by the statewide trauma system. The department shall determine by rule and regulation the manner and form of such requests.

(2) Upon receiving a request, the department shall review the request to determine whether there is compliance with standards for the trauma care level for which designation is desired or whether the appropriate verification or accreditation documentation has been submitted. Any hospital, facility, rehabilitation center, or specialty level burn or pediatric trauma center which submits verification or accreditation documentation from a recognized independent verification or accreditation body or public agency with standards that are at least as stringent as those of the State of Nebraska for the trauma care level for which designation is desired, as determined by the State Trauma Advisory Board, shall be designated by the department and shall be included in the trauma system or plan established under the Statewide Trauma System Act. Any medical facility that is currently verified or accredited shall be designated by the department at the corresponding level of designation for the same time period in Nebraska without the necessity of an onsite review by the department.

(3) Any medical facility applying for designation may appeal its designation. The appeal shall be in accordance with the Administrative Procedure Act.

(4) Except as otherwise provided in subsection (2) of this section, designation is valid for a period of four years and is renewable upon receipt of a request from the medical facility for renewal prior to expiration.

(5) The department may revoke or suspend a designation if it determines that the medical facility is substantially out of compliance with the standards and has refused or been unable to comply after a reasonable period of time has elapsed. The department shall promptly notify the regional trauma medical director of designation suspensions and revocations. Any rehabilitation or trauma center may request an administrative hearing to review a revocation or suspension action of the department.

Source: Laws 1997, LB 626, § 44; Laws 2009, LB195, § 104; Laws 2015, LB46, § 10; Laws 2023, LB227, § 114.

Cross References

Administrative Procedure Act, see section 84-920.

71-8245 Designation of trauma centers; reviews; applicant; duties; confidentiality; fees.

(1) The department may contract for reviews of such hospitals and health care facilities to determine compliance with required standards as part of the process to designate and renew the designation of hospitals and health care facilities as advanced, basic, comprehensive, or general level trauma centers. The applicant shall submit to the department documentation of current verification or accreditation as part of the process to designate a health care facility as a general, intermediate, or advanced level rehabilitation center or a specialty level burn or pediatric trauma center.

(2) Members of review teams and staff included in onsite visits shall not divulge and cannot be subpoenaed to divulge information obtained or reports written pursuant to this section in any civil action, except pursuant to a court order which provides for the protection of sensitive information of interested parties, including the department, in actions arising out of:

(a) The designation of a hospital or health care facility pursuant to section 71-8244;

(b) The revocation or suspension of a designation under such section; or

(c) The restriction or revocation of the clinical or staff privileges of a health care provider, subject to any further restrictions on disclosure that may apply.

(3) Information that identifies an individual patient shall not be publicly disclosed without the patient's consent.

(4) The department may establish fees to defray the costs of carrying out onsite reviews required by this section, but such fees shall not be assessed to health care facilities designated as basic or general level trauma centers.

(5) This section does not restrict the authority of a hospital or a health care provider to provide services which it has been authorized to provide by state law.

Source: Laws 1997, LB 626, § 45; Laws 2009, LB195, § 105; Laws 2015, LB46, § 11; Laws 2023, LB227, § 115.

71-8246 Repealed. Laws 2023, LB227, § 121.

71-8247 Trauma system quality assurance program; how established; participation.

The board shall establish a committee for each trauma region to maintain a trauma system quality assurance program established and maintained by the health care facilities designated as advanced, basic, comprehensive, and general level trauma centers. The quality assurance program shall evaluate trauma data quality, trauma care delivery, patient care outcomes, and compliance with the Statewide Trauma System Act. The regional medical director shall participate in the program and all health care providers and facilities which provide trauma care services within the region shall be invited to participate in the quality assurance program.

Source: Laws 1997, LB 626, § 47; Laws 2009, LB195, § 107; Laws 2023, LB227, § 116.

71-8248 Statewide trauma registry.

The department shall establish and maintain a statewide trauma registry to collect and analyze data on the incidence, severity, and causes of trauma, including traumatic brain injury. The registry shall be used to improve the availability and delivery of prehospital or emergency care and hospital trauma care services. Specific data elements of the registry shall be defined by rule and regulation of the department. Every health care facility designated as an advanced, a basic, a comprehensive, or a general level trauma center, a specialty level burn or pediatric trauma center, an advanced, an intermediate, or a general level rehabilitation center, or a prehospital or emergency care provider shall furnish data to the registry. All other hospitals may furnish trauma data as required by the department by rule and regulation. All hospitals involved in the care of a trauma patient shall have unrestricted access to all prehospital reports for the trauma registry for that specific trauma occurrence.

Source: Laws 1997, LB 626, § 48; Laws 2009, LB195, § 108; Laws 2015, LB46, § 12; Laws 2020, LB1002, § 54.

71-8249 Statewide trauma registry; data; confidentiality.

(1) All data collected under section 71-8248 shall be held confidential pursuant to sections 81-663 to 81-675. Confidential patient medical record data shall only be released as (a) Class I, II, or IV medical records under sections 81-663 to 81-675, (b) aggregate or case-specific data to the regional trauma system quality assurance program and the regional trauma advisory boards, (c) protected health information to a public health authority, as such terms are defined under the federal Health Insurance Portability and Accountability Act of 1996, as such act existed on January 1, 2008, and (d) protected health information, as defined under the federal Health Insurance Portability and Accountability Act of 1996, as such act existed on January 1, 2008, to an emergency medical service, to an emergency care provider, to a licensed health care facility, or to a center that will treat or has treated a specific patient.

A record may be shared with the emergency medical service, the emergency care provider, the licensed health care facility, or center that reported that specific record.

(2) Patient care quality assurance proceedings, records, and reports developed pursuant to this section and section 71-8248 are confidential and are not subject to discovery by subpoena or admissible as evidence in any civil action, except pursuant to a court order which provides for the protection of sensitive information of interested parties, including the department, pursuant to section 25-12,123.

Source: Laws 1997, LB 626, § 49; Laws 2007, LB185, § 46; Laws 2008, LB797, § 27; Laws 2020, LB1002, § 55.

71-8251 Repealed. Laws 2023, LB227, § 121.

71-8252 Repealed. Laws 2023, LB227, § 121.

71-8253 Act; how construed.

(1) If there are conflicts between the Statewide Trauma System Act and the Emergency Medical Services Practice Act pertaining to emergency medical services, the Emergency Medical Services Practice Act shall control.

(2) Nothing in the Statewide Trauma System Act shall limit a patient's right to choose the physician, hospital, facility, rehabilitation center, specialty level burn or pediatric trauma center, or other provider of health care services.

Source: Laws 1997, LB 626, § 53; Laws 2007, LB463, § 1305; Laws 2020, LB1002, § 57.

Cross References

Emergency Medical Services Practice Act, see section 38-1201.

ARTICLE 84
MEDICAL RECORDS

Section
71-8402. Terms, defined.

71-8402 Terms, defined.

For purposes of sections 71-8401 to 71-8407:

(1) Medical records means a provider's record of a patient's health history and treatment rendered;

(2) Mental health medical records means medical records or parts thereof created by or under the direction or supervision of a licensed psychiatrist, a licensed psychologist, a mental health practitioner licensed or certified pursuant to the Mental Health Practice Act, or a professional counselor who holds a privilege to practice in Nebraska as a professional counselor under the Licensed Professional Counselors Interstate Compact;

(3) Patient includes a patient or former patient;

(4) Patient request or request of a patient includes the request of a patient's guardian or other authorized representative; and

(5) Provider means a physician, psychologist, chiropractor, dentist, hospital, clinic, and any other licensed or certified health care practitioner or entity.

Source: Laws 1999, LB 17, § 2; Laws 2007, LB247, § 56; Laws 2007, LB463, § 1306; Laws 2022, LB752, § 29.

Cross References

Licensed Professional Counselors Interstate Compact, see section 38-4201.
Mental Health Practice Act, see section 38-2101.

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.

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.

(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; Laws 2024, LB1215, § 38.
Operative date July 19, 2024.

ARTICLE 86

BLIND AND VISUALLY IMPAIRED

Section
71-8604. Commission for the Blind and Visually Impaired; created; per diem; expenses.

Section
71-8607. Commission; powers and duties.
71-8611. Vending facilities; license; priority status.

71-8604 Commission for the Blind and Visually Impaired; created; per diem; expenses.

(1) The Commission for the Blind and Visually Impaired is created. The governing board of the commission shall consist of five members appointed by the Governor with the approval of a majority of the members of the Legislature. All board members shall have reasonable knowledge or experience in issues related to blindness which may include, but is not limited to, reasonable knowledge or experience acquired through membership in consumer organizations of the blind. No board member or his or her immediate family shall be a current employee of the commission. At least three board members shall be blind persons: One member shall be a member or designee of the National Federation of the Blind of Nebraska; one member shall be a member or designee of the American Council of the Blind of Nebraska; and one member may be a member of another consumer organization of the blind.

(2) Board members shall be appointed for staggered terms with the initial members appointed for terms as follows: Two members for terms ending on December 31, 2001, and three members for terms ending December 31, 2003. Subsequent appointments shall be for terms of four years with no board member appointed to more than two consecutive terms. Board members whose terms have expired shall continue to serve until their successors have been appointed. In the case of a vacancy, the Governor shall appoint a successor for the unexpired term. Board members may be removed for cause.

(3) A majority of the board members constitutes a quorum for the transaction of business. The board shall annually elect a chairperson from its membership.

(4) Board members shall receive a per diem of seventy dollars for each day spent in the performance of their official duties and shall be reimbursed for expenses incurred in the performance of their official duties as provided in sections 81-1174 to 81-1177. Aside from the provisions of this subsection, a board member shall not receive other compensation, perquisites, or allowances for the performance of official duties.

Source: Laws 2000, LB 352, § 4; Laws 2020, LB381, § 75.

71-8607 Commission; powers and duties.

(1) The commission shall:

(a) Apply for, receive, and administer money from any state or federal agency to be used for purposes relating to blindness, including federal funds relating to vocational rehabilitation of blind persons as provided in subsection (1) of section 71-8610;

(b) Receive on behalf of the state any gifts, donations, or bequests from any source to be used in carrying out the purposes of the Commission for the Blind and Visually Impaired Act;

(c) Promote self-support of blind persons as provided in sections 71-8608, 71-8609, and 71-8611;

(d) Provide itinerant training of alternative skills of blindness, including, but not limited to, braille, the long white cane for independent travel, adaptive technology, and lifestyle maintenance;

(e) Establish, equip, and maintain a residential training center with qualified instructors for comprehensive prevocational training of eligible blind persons. The center shall also provide comprehensive independent living training as well as orientation and adjustment counseling for blind persons;

(f) Administer and operate a vending facility program in the state, in its capacity as the designated licensing agency pursuant to the federal Randolph-Sheppard Act, as the act existed on January 1, 2019, 20 U.S.C. 107 et seq., for the benefit of blind persons;

(g) Contract for the purchase of information services for blind persons; and

(h) Perform other duties necessary to fulfill the purposes of the Commission for the Blind and Visually Impaired Act.

(2) The commission may perform educational services relating to blindness and may cooperate and consult with other public and private agencies relating to educational issues.

Source: Laws 2000, LB 352, § 7; Laws 2019, LB220, § 1.

71-8611 Vending facilities; license; priority status.

For the purpose of providing blind persons with remunerative employment, enlarging the economic opportunities of blind persons, and stimulating blind persons to greater efforts in striving to make themselves self-supporting, the commission shall administer and operate vending facilities programs pursuant to the federal Randolph-Sheppard Act, as the act existed on January 1, 2019, 20 U.S.C. 107 et seq. Blind persons licensed by the commission pursuant to its rules and regulations are authorized to operate vending facilities in any federally owned building or on any federally owned or controlled property, in any state-owned building or on any property owned or controlled by the state, or on any property owned or controlled by any county, city, or municipality with the approval of the local governing body, when, in the judgment of the director of the commission, such vending facilities may be properly and satisfactorily operated by blind persons. With respect to vending facilities in any state-owned building or on any property owned or controlled by the state, priority shall be given to blind persons, except that this shall not apply to the Game and Parks Commission or the University of Nebraska. If a blind person is selected to operate vending facilities in such building or on such property, he or she shall do so on a rent-free basis and offer products at prices comparable to similar products sold in similar buildings or on similar property.

Source: Laws 1961, c. 443, § 1, p. 1363; Laws 1973, LB 32, § 1; Laws 1976, LB 674, § 3; Laws 1996, LB 1044, § 929; R.S.1943, (1999), § 83-210.03; Laws 2000, LB 352, § 11; Laws 2004, LB 1005, § 134; Laws 2012, LB858, § 4; Laws 2019, LB220, § 2.

ARTICLE 87

PATIENT SAFETY IMPROVEMENT ACT

Section
71-8701. Act, how cited.
71-8722. Patient Safety Cash Fund; created; use; investment.

71-8701 Act, how cited.

Sections 71-8701 to 71-8722 shall be known and may be cited as the Patient Safety Improvement Act.

Source: Laws 2005, LB 361, § 1; Laws 2019, LB25, § 2.

71-8722 Patient Safety Cash Fund; created; use; investment.

The Patient Safety Cash Fund is created. The Patient Safety Cash Fund shall only be used to support the activities of a patient safety organization. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 2019, LB25, § 3.

Cross References

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

ARTICLE 88
STEM CELL RESEARCH ACT

Section
71-8803. Stem Cell Research Advisory Committee; created; qualifications; terms; meetings; stipend; expenses.

71-8803 Stem Cell Research Advisory Committee; created; qualifications; terms; meetings; stipend; expenses.

(1) The Stem Cell Research Advisory Committee is created. The committee shall consist of the dean of every medical school in Nebraska that is accredited by the Liaison Committee on Medical Education or his or her designee and additional members appointed as follows: (a) The dean of every medical school in Nebraska shall nominate three scientists from outside Nebraska conducting human stem cell research with funding from the National Institutes of Health of the United States Department of Health and Human Services; and (b) the chief medical officer as designated in section 81-3115 shall select two of such scientists from each set of nominations to serve on the committee. Appointments by the chief medical officer pursuant to this subsection shall be approved by the Legislature. Members appointed by the chief medical officer shall serve for staggered terms of three years each and until their successors are appointed and qualified. Such members may be reappointed for additional three-year terms.

(2) The committee shall meet not less than twice each year.

(3) Members of the committee not employed by medical schools in Nebraska shall receive a stipend per meeting to be determined by the Division of Public Health of the Department of Health and Human Services based on standard consultation fees, and all members of the committee shall be reimbursed for expenses incurred in service on the committee pursuant to sections 81-1174 to 81-1177.

Source: Laws 2008, LB606, § 3; Laws 2020, LB381, § 76.

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.

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.

CHAPTER 72
PUBLIC LANDS, BUILDINGS, AND FUNDS

Article.
2. School Lands and Funds. 72-201 to 72-235.
7. State Capital and Capitol Building. 72-729.01.
8. Public Buildings. 72-804 to 72-820.
10. Building Funds. 72-1001, 72-1005.
12. Investment of State Funds.
(a) Nebraska State Funds Investment Act. 72-1237 to 72-1250.01.
(d) Review of Nebraska Investment Council. 72-1277, 72-1278.
20. Niobrara River Corridor. 72-2007.
21. Governor's Residence. 72-2103.
22. Nebraska State Capitol Preservation and Restoration Act. 72-2201 to 72-2216.
23. Public Facilities Construction and Finance Act. 72-2305, 72-2306.
26. Grant Programs. 72-2601.

ARTICLE 2
SCHOOL LANDS AND FUNDS

Section
72-201. Board of Educational Lands and Funds; members; appointment; terms; compensation; expenses; duties; qualifications; organization; chairperson; meetings; secretary.
72-224.03. Condemnation proceedings; procedure; board; membership; appeal; award; filing; effect.
72-232. School lands; rules and regulations; soil conservation program.
72-232.02 School lands; administration costs; payment; cash fund.
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.

72-201 Board of Educational Lands and Funds; members; appointment; terms; compensation; expenses; duties; qualifications; organization; chairperson; meetings; secretary.

(1) The Board of Educational Lands and Funds shall consist of five members to be appointed by the Governor with the consent of a majority of the members elected to the Legislature. One member shall be appointed from each of the congressional districts as the districts were constituted on January 1, 1961, and a fifth member shall be appointed from the state at large. One member of the board shall be competent in the field of investments. The initial members shall be appointed to take office on October 1, 1955, and shall hold office for the following periods of time: The member from the first congressional district for one year; the member from the second congressional district for two years; the member from the third congressional district for three years; the member from the fourth congressional district for four years; and the member from the state at large for five years. As the terms of the members expire, the Governor shall appoint or reappoint a member of the board for a term of five years, except members appointed to fill vacancies whose tenures shall be the unexpired terms for which they are appointed. If the Legislature is not in session when such

members, or some of them, are appointed by the Governor, such members shall take office and act as recess appointees until the Legislature next thereafter convenes. The compensation of the members shall be fifty dollars per day for each day's time actually engaged in the performance of the duties of their office. Each member shall be reimbursed for expenses incurred while upon business of the board as provided in sections 81-1174 to 81-1177. The board shall cause all school, university, agricultural college, and state college lands, owned by or the title to which may hereafter vest in the state, to be registered, leased, and sold as provided in sections 72-201 to 72-251 and shall have the general management and control of such lands and make necessary rules not provided by law. The funds arising from these lands shall be disposed of in the manner provided by the Constitution of Nebraska, sections 72-201 to 72-251, and other laws of Nebraska not inconsistent herewith.

(2) No person shall be eligible to membership on the board who is actively engaged in the teaching profession, who holds or has any financial interest in a school land lease, who is a holder of or a candidate for any state office or a member of any state board or commission, or who has not resided in this state for at least three years.

(3) The board shall elect one of its members as chairperson of the Board of Educational Lands and Funds. In the absence of the chairperson, any member of the board may, upon motion duly carried, act in his or her behalf as such chairperson. It shall keep a record of all proceedings and orders made by it. No order shall be made except upon the concurrence of at least three members of the board. It shall make all orders pertaining to the handling of all lands and funds set apart for educational purposes.

(4) The board shall maintain an office in Lincoln and shall meet in its office not less than once each month.

(5) The board may appoint a secretary for the board. The compensation of the secretary shall be payable monthly, as fixed by the board.

Source: Laws 1899, c. 69, § 1, p. 300; R.S.1913, § 5845; C.S.1922, § 5181; C.S.1929, § 72-201; Laws 1935, c. 163, § 1, p. 594; Laws 1937, c. 162, § 1, p. 628; C.S.Supp.,1941, § 72-201; R.S.1943, § 72-201; Laws 1945, c. 175, § 1, p. 559; Laws 1951, c. 338, § 3, p. 117; Laws 1953, c. 252, § 1, p. 857; Laws 1955, c. 276, § 1, p. 874; Laws 1955, c. 277, § 1, p. 877; Laws 1961, c. 282, § 5, p. 822; Laws 1965, c. 434, § 1, p. 1383; Laws 1969, c. 589, § 1, p. 2438; Laws 1981, LB 204, § 141; Laws 1999, LB 779, § 12; Laws 2011, LB332, § 1; Laws 2014, LB967, § 3; Laws 2020, LB381, § 77.

Cross References

Constitutional provisions:
Board of Educational Lands and Funds, duties, membership, see Article VII, section 6, Constitution of Nebraska.
Fees, see sections 25-1280 and 33-104.
Other provisions relating to the board, see Chapter 84, article 4.
State-owned geothermal resources, authority to lease, see section 66-1104.

72-224.03 Condemnation proceedings; procedure; board; membership; appeal; award; filing; effect.

Except as otherwise provided in section 72-222.02, any public body that has or hereafter shall be granted by the Legislature the authority to acquire

educational lands for public use shall be required to condemn the interest of the state, as trustee for the public schools, in educational lands in the following manner:

(1) The proceedings shall be had before a board consisting of (a) the superintendent of a school district offering instruction in grades kindergarten through twelve, (b) a certified public accountant, and (c) a credentialed real property appraiser, all appointed by the Governor for a term of six years, except that of the initial appointees one shall serve for a term of two years, one for a term of four years, and one for a term of six years as designated by the Governor. The members of the board shall each receive fifty dollars for each day actually engaged in the performance of official duties and shall be reimbursed for expenses as provided in sections 81-1174 to 81-1177 to be paid by the Board of Educational Lands and Funds;

(2) The condemnation proceedings shall be commenced by the filing of a plat and complete description of the lands to be acquired together with an application for that purpose with the secretary of the Board of Educational Lands and Funds. Notice of the pendency of such application and the date of hearing shall be given by serving a copy of the application, together with notice of the date of hearing, upon the Governor and the Attorney General. The date of hearing shall be not less than ten days from the date of the filing of the application;

(3) The condemner and the Board of Educational Lands and Funds may present evidence before the board of appraisers. The board shall have the power to administer oaths and subpoena witnesses at the request of either party or on its own motion;

(4) After hearing the evidence, the board of appraisers shall make the award and file same in the office of the Board of Educational Lands and Funds. Such award may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act; and

(5) Upon payment of the amount of the award by the condemner, it shall be the duty of the secretary of the Board of Educational Lands and Funds to transmit a certified copy of the award to the condemner for filing in the office of the register of deeds in the county or counties where the land is located. The filing of such certified copy of the award shall have the force and effect of a deed of conveyance of the real estate and shall constitute a transfer of the title thereto.

Source: Laws 1949, c. 213, § 1(3), p. 608; Laws 1951, c. 237, § 1, p. 843; Laws 1963, Spec. Sess., c. 17, § 3, p. 149; Laws 1967, c. 466, § 5, p. 1446; Laws 1969, c. 514, § 7, p. 2106; Laws 1979, LB 381, § 1; Laws 1981, LB 121, § 1; Laws 1981, LB 204, § 142; Laws 1988, LB 352, § 146; Laws 1990, LB 1153, § 56; Laws 1991, LB 203, § 3; Laws 1994, LB 1107, § 3; Laws 2006, LB 778, § 6; Laws 2020, LB381, § 78.

Cross References

Administrative Procedure Act, see section 84-920.

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.

72-232.02 School lands; administration costs; payment; cash fund.

The Board of Educational Lands and Funds shall pay the costs of administering the unsold school lands out of receipts from school land income. A cash fund is hereby authorized and the State Treasurer shall, out of the receipts for school land income, deposit in such cash fund that amount appropriated by the Legislature for each fiscal year on the first day of each fiscal year. Beginning October 1, 2024, any investment earnings from investment of money in the fund shall be credited to the General Fund.

Source: Laws 1967, c. 459, § 1, p. 1429; Laws 1978, LB 460, § 1; Laws 2024, First Spec. Sess., LB3, § 26.
Effective date August 21, 2024.

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.

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.

72-234.01 Repealed. Laws 2021, LB528, § 74.

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.

ARTICLE 7

STATE CAPITAL AND CAPITOL BUILDING

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

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

There is hereby created the Hall of Fame Trust Fund to be administered by the Nebraska Hall of Fame Commission for the purpose of the creation, design, size, configuration, and placement of busts or other appropriate objects as authorized in section 72-729. Deposits to such fund shall include money received from public donation and from funds appropriated specifically for such purpose by the Legislature. The State Treasurer shall transfer ten thousand dollars from the General Fund to the Hall of Fame Trust Fund annually beginning with fiscal year 2021-22, between July 1 and July 30 of each year, on such date as directed by the budget administrator of the budget division of the Department of Administrative Services, except that if the balance of the Hall of Fame Trust Fund exceeds fifty thousand dollars on the last day of the preceding fiscal year, such transfer shall not take place. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1973, LB 282, § 1; Laws 1998, LB 1129, § 8; Laws 2021, LB384, § 13; Laws 2023, LB818, § 16.

Cross References

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

ARTICLE 8
PUBLIC BUILDINGS

Section

72-804 New state building; code requirements.

(1) Any new state building shall meet or exceed the requirements of the 2018 International Energy Conservation Code published by the International Code Council.

(2) Any new lighting, heating, cooling, ventilating, or water heating equipment or controls in a state-owned building and any new building envelope components installed in a state-owned building shall meet or exceed the requirements of the 2018 International Energy Conservation Code.

(3) The State Building Administrator of the Department of Administrative Services, in consultation with the Department of Environment and Energy, may specify:

(a) A more recent edition of the International Energy Conservation Code;

(b) Additional energy efficiency or renewable energy requirements for buildings; and

(c) Waivers of specific requirements which are demonstrated through life-cycle cost analysis to not be in the state's best interest. The agency receiving the funding shall be required to provide a life-cycle cost analysis to the State Building Administrator.

Source: Laws 1999, LB 755, § 1; Laws 2003, LB 643, § 3; Laws 2004, LB 888, § 1; Laws 2011, LB329, § 1; Laws 2019, LB302, § 92; Laws 2019, LB405, § 3.

72-805 Buildings constructed with state funds; code requirements.

The 2018 International Energy Conservation Code, published by the International Code Council, applies to all new buildings constructed in whole or in part with state funds after July 1, 2020. The Department of Environment and Energy shall review building plans and specifications necessary to determine whether a building will meet the requirements of this section. The department shall provide a copy of its review to the agency receiving funding. The agency receiving the funding shall verify that the building as constructed meets or exceeds the code. The verification shall be provided to the department. The Director of Environment and Energy may, in consultation with the State Building Administrator of the Department of Administrative Services, adopt and promulgate rules and regulations to carry out this section.

Source: Laws 1999, LB 755, § 2; Laws 2004, LB 888, § 2; Laws 2011, LB329, § 2; Laws 2019, LB302, § 93; Laws 2019, LB405, § 4.

72-806 Enforcement.

The enforcement provisions of Chapter 1 of the 2018 International Energy Conservation Code, published by the International Code Council, shall not apply to buildings subject to section 72-804.

Source: Laws 1999, LB 755, § 3; Laws 2003, LB 643, § 4; Laws 2004, LB 888, § 3; Laws 2011, LB329, § 3; Laws 2019, LB405, § 5.

72-819 Museum and visitor center honoring Chief Standing Bear; grants; Fort Robinson State Park; museum; Game and Parks Commission; powers and duties; appropriations; legislative intent; Nebraska State Historical Society; memorandum of understanding or contract, authorized.

(1) The Game and Parks Commission shall award grants to a federally recognized Indian tribe to construct, develop, and manage a museum and visitor center honoring Chief Standing Bear.

(2) It is the intent of the Legislature to appropriate to the Game and Parks Commission for the Chief Standing Bear Museum and visitor center:

(a) Not more than fifteen million dollars for fiscal year 2025-26 from the Museum Construction and Maintenance Fund for construction of the museum and visitor center; and

(b) Seven hundred fifty thousand dollars for fiscal year 2024-25 from the Museum Construction and Maintenance Fund for exhibit fabrication and historical interpretation.

(3)(a) The Game and Parks Commission shall construct, develop, and manage a museum at Fort Robinson State Park.

(b) It is the intent of the Legislature to appropriate to the Game and Parks Commission for the museum at Fort Robinson State Park not more than seven million dollars for fiscal year 2025-26 from the Museum Construction and Maintenance Fund.

(c) The Game and Parks Commission may execute a memorandum of understanding or contract with the Nebraska State Historical Society for purposes of museum development, exhibit fabrication, and historical interpretation at Fort Robinson State Park.

Source: Laws 2023, LB531, § 53; Laws 2024, LB164, § 15; Laws 2024, LB1413, § 47.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB164, section 15, with LB1413, section 47, to reflect all amendments.

Note: Changes made by LB164 became operative April 17, 2024. Changes made by LB1413 became effective April 2, 2024.

72-819.01 Museum Construction and Maintenance Fund; created; use; investment.

The Museum Construction and Maintenance Fund is hereby created. The fund shall consist of transfers at the direction of the Legislature and any gifts, bequests, or other contributions to such fund from public or private entities. The Game and Parks Commission shall administer the fund. The fund shall be used to (1) provide grants to a federally recognized Indian tribe for the purposes of construction of a museum and visitor center honoring Chief Standing Bear, including visitor center development, exhibit fabrication, and historical interpretation, and for any administrative costs related to the grants, and (2) construct, develop, and manage a museum at Fort Robinson State Park.

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

Source: Laws 2024, LB164, § 44; Laws 2024, LB1413, § 31.

Note: Changes made by LB164 became operative April 17, 2024. Changes made by LB1413 became effective April 2, 2024.

Cross References

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

72-820 Mayhew Cabin historical site; Game and Parks Commission; duties.

The Game and Parks Commission shall purchase or receive by donation, and subsequently rehabilitate and manage, the Mayhew Cabin historical site located in Nebraska City, Nebraska.

Source: Laws 2023, LB531, § 54.

ARTICLE 10

BUILDING FUNDS

Section
72-1001. Nebraska Capital Construction Fund; created; use; investment.
72-1005. Repealed. Laws 2021, LB509, § 25.

72-1001 Nebraska Capital Construction Fund; created; use; investment.

The Nebraska Capital Construction Fund is created. The fund shall consist of revenue and transfers credited to the fund as authorized by law. Money shall be appropriated from the fund to state agencies for making payments on projects as determined by the Legislature, including, but not limited to, purchases of land, structural improvements to land, acquisition of buildings, construction of buildings, including architectural and engineering costs, replacement of or major repairs to structural improvements to land or buildings, additions to existing structures, remodeling of buildings, and acquisition of equipment and furnishings of new or remodeled buildings. The fund shall be administered by the State Treasurer as a multiple-agency-use fund and appropriated to state agencies as determined by the Legislature. Transfers may be made from the fund to the Capitol Restoration Cash Fund at the direction of the Legislature. Any money in the Nebraska Capital Construction Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. Any investment earnings from investment of money in the Nebraska Capital Construction Fund shall be credited to such fund, except that for fiscal years 2023-24, 2024-25, and 2025-26, any investment earnings from investment of money in the Nebraska Capital Construction Fund from transfers credited to such fund that are designated for the construction of a new state prison shall be credited as provided in section 84-622.

Source: Laws 2005, LB 426, § 1; Laws 2009, First Spec. Sess., LB2, § 3; Laws 2017, LB331, § 39; Laws 2023, LB531, § 28; Laws 2024, LB164, § 16.
Operative date April 17, 2024.

Cross References

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

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

ARTICLE 12

INVESTMENT OF STATE FUNDS

(a) NEBRASKA STATE FUNDS INVESTMENT ACT

(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.

Cross References

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

72-1239 Nebraska Investment Council; purpose; members; meetings; compensation; expenses.

The purpose of the council is to formulate and establish such policies as it may deem necessary and proper which shall govern the methods, practices, and procedures followed by the state investment officer for the investment or reinvestment of state funds and funds described in section 83-133 and the purchase, sale, or exchange of securities as provided by the Nebraska State Funds Investment Act. The council shall meet from time to time as directed by the Governor or the chairperson or as requested by the state investment officer. The members of the council, except the State Treasurer, the director of the Nebraska Public Employees Retirement Systems, and beginning January 1, 2017, each administrator of a retirement system provided for under the Class V School Employees Retirement Act, shall be paid seventy-five dollars per diem. The members shall be reimbursed for expenses incurred in connection with the performance of their duties as members as provided in sections 81-1174 to 81-1177.

Source: Laws 1969, c. 584, § 3, p. 2350; Laws 1981, LB 204, § 145; Laws 1985, LB 335, § 1; Laws 1991, LB 368, § 2; Laws 1996, LB 847, § 20; Laws 1997, LB 4, § 1; Laws 2005, LB 503, § 6; Laws 2016, LB447, § 3; Laws 2020, LB381, § 79.

Cross References

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

72-1239.01 Council; duties and responsibilities.

(1)(a) The appointed members of the council shall have the responsibility for the investment management of the assets of the retirement systems administered by the Public Employees Retirement Board as provided in section 84-1503, the assets of the Nebraska educational savings plan trust created pursuant to sections 85-1801 to 85-1817, the assets of the achieving a better life experience program pursuant to sections 77-1401 to 77-1409, and beginning January 1, 2017, the assets of each retirement system provided for under the Class V School Employees Retirement Act. Except as provided in subsection (4) of this section, the appointed members shall be deemed fiduciaries with respect to the investment of the assets of the retirement systems, of the Nebraska educational savings plan trust, and of the achieving a better life experience program and shall be held to the standard of conduct of a fiduciary specified in subsection (3) of this section. The nonvoting, ex officio members of the council shall not be deemed fiduciaries.

(b) As fiduciaries, the appointed members of the council and the state investment officer shall discharge their duties with respect to the assets of the retirement systems, of the Nebraska educational savings plan trust, and of the achieving a better life experience program solely in the interests of the members and beneficiaries of the retirement systems or the interests of the participants and beneficiaries of the Nebraska educational savings plan trust and the achieving a better life experience program, as the case may be, for the exclusive purposes of providing benefits to members, members' beneficiaries, participants, and participants' beneficiaries and defraying reasonable expenses incurred within the limitations and according to the powers, duties, and purposes prescribed by law.

(2)(a) The appointed members of the council shall have the responsibility for the investment management of the assets of state funds. The appointed members shall be deemed fiduciaries with respect to the investment of the assets of state funds and shall be held to the standard of conduct of a fiduciary specified in subsection (3) of this section. The nonvoting, ex officio members of the council shall not be deemed fiduciaries.

(b) As fiduciaries, the appointed members of the council and the state investment officer shall discharge their duties with respect to the assets of state funds solely in the interests of the citizens of the state within the limitations and according to the powers, duties, and purposes prescribed by law.

(3) The appointed members of the council shall act with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims by diversifying the investments of the assets of the retirement systems, the Nebraska educational savings plan trust, the achieving a better life experience program, and state funds so as to minimize risk of large losses, unless in light of such circumstances it is clearly prudent not to do so. No assets of the retirement systems, the Nebraska educational savings plan trust, or the achieving a better life experience program shall be invested or reinvested if the sole or primary investment objective is for economic development or social purposes or objectives.

(4) Neither the appointed members of the council nor the state investment officer shall be deemed fiduciaries with respect to investments of the assets of a retirement system provided for under the Class V School Employees Retirement Act made by or on behalf of the board of education as defined in section 79-978 or the board of trustees provided for in section 79-980. Neither the council nor any member thereof nor the state investment officer shall be liable for the action or inaction of the board of education or the board of trustees with respect to the investment of the assets of a retirement system provided for under the Class V School Employees Retirement Act, the consequences of any such action or inaction of the board of education or the board of trustees, and any claims, suits, losses, damages, fees, and costs related to such action or inaction or consequences thereof.

Source: Laws 1996, LB 847, § 21; Laws 2002, LB 407, § 18; Laws 2003, LB 574, § 25; Laws 2015, LB591, § 11; Laws 2016, LB447, § 4; Laws 2019, LB610, § 6.

Cross References

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

72-1243 State investment officer; investment and reinvestment of funds; duties; council; analysis required; plan; contents.

(1) Except as otherwise specifically provided by law, the state investment officer shall direct the investment and reinvestment of money in all state funds not currently needed and all funds described in section 83-133 and order the purchase, sale, or exchange of securities for such funds. He or she shall notify the State Treasurer of any payment, receipt, or delivery that may be required as a result of any investment decision, which notification shall be the authorization and direction for the State Treasurer to make such disbursement, receipt, or delivery from the appropriate fund.

(2) The council shall have an analysis made of the investment returns that have been achieved on the assets of each retirement system administered by the Public Employees Retirement Board as provided in section 84-1503 and on the assets of each retirement system provided for under the Class V School Employees Retirement Act. By March 31 of each year, the analysis shall be presented to the board and the Nebraska Retirement Systems Committee of the Legislature. The analysis shall be prepared by an independent organization which has demonstrated expertise to perform this type of analysis and for which there exists no conflict of interest in the analysis being provided. The analysis may be waived by the council for any retirement system with assets of less than one million dollars.

(3) By April 10 of each year, the council shall prepare a written plan of action and shall present such plan to the Nebraska Retirement Systems Committee of the Legislature at a public hearing. The plan shall include, but not be limited to, the council's investment portfolios, investment strategies, the duties and limitations of the state investment officer, and an organizational structure of the council's office.

Source: Laws 1969, c. 584, § 7, p. 2351; Laws 1971, LB 53, § 7; Laws 1985, LB 335, § 2; Laws 1991, LB 549, § 21; Laws 1996, LB 847, § 24; Laws 2005, LB 503, § 7; Laws 2011, LB509, § 14; Laws 2016, LB447, § 5; Laws 2019, LB33, § 1; Laws 2022, LB700, § 4.

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, manage-

ment, 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.

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.

Cross References

State Treasurer, duties, see section 84-602.

(d) REVIEW OF NEBRASKA INVESTMENT COUNCIL

72-1277 Legislative findings.

The Legislature finds that:

(1) The Nebraska Investment Council was created by the Legislature in Laws 1967, LB 335. Additional legislation was passed in Laws 1969, LB 1345, which provided for centralization of the investment of state funds and addressed types of authorized investments and since then the statutory framework of the council has been modified periodically by the Legislature;

(2) The laws of Nebraska provide that the appointed members of the council and the state investment officer are deemed fiduciaries with respect to investment of the assets (a) in the retirement systems, the achieving a better life experience program pursuant to sections 77-1401 to 77-1409, and the Nebraska educational savings plan trust and as fiduciaries are required to discharge their duties with respect to such assets solely in the best interest of the members and beneficiaries of such plans and (b) of other state funds solely in the best interest of the residents of Nebraska;

(3) As fiduciaries, the appointed members of the council and the officer must act with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in like capacity and familiar with such

matters would use in the conduct of an enterprise of like character with like aims by diversifying the investments of assets in the various plans so as to minimize the risk of large losses;

(4) The council managed over fifteen billion three hundred million dollars of assets as of September 30, 2007. Those assets have quadrupled since 1995. The assets managed by the council produced almost one billion five hundred million dollars in investment earnings in 2006 and almost seven billion dollars of investment earnings since December 31, 1995;

(5) The council has the responsibility of the management of portfolios for over thirty state entities. The financial markets and investment strategies that must be employed to achieve satisfactory returns have become more complex and the best practices of similar state government investment agencies have evolved since the creation of the council; and

(6) Pursuant to section 72-1249.02, the operating costs of the council are charged to the income of each fund managed by the council, and such charges are transferred to the State Investment Officer's Cash Fund. Management, custodial, and service costs that are a direct expense of state funds are paid from the income of such funds.

Source: Laws 2008, LB1147, § 17; Laws 2019, LB33, § 2.

72-1278 Nebraska Investment Council; comprehensive review of council; contract.

The Nebraska Investment Council shall enter into a contract with a qualified independent organization familiar with similar state investment offices to complete a comprehensive review of the current statutory, regulatory, and organizational situation of the council, review best practices of similar state investment offices, and make recommendations to the council, the Governor, and the Legislature for changes needed to ensure that the council has adequate authority to independently execute its fiduciary responsibilities to the members and beneficiaries of the retirement systems, the achieving a better life experience program pursuant to sections 77-1401 to 77-1409, and the Nebraska educational savings plan trust and the residents of Nebraska with regards to other state funds. The recommendations submitted to the Legislature shall be submitted electronically.

Source: Laws 2008, LB1147, § 18; Laws 2012, LB782, § 131; Laws 2019, LB33, § 3.

ARTICLE 20

NIOBRARA RIVER CORRIDOR

Section
72-2007. Niobrara Council; created; members; terms; meetings; expenses.

72-2007 Niobrara Council; created; members; terms; meetings; expenses.

(1) The Niobrara Council is created. The council membership shall include:

(a) A commissioner from each of the county boards of Brown, Cherry, Keya Paha, and Rock counties chosen by the county board of the respective county;

(b) A representative of the Middle Niobrara Natural Resources District and the Lower Niobrara Natural Resources District chosen by the board of the respective district;

(c) The secretary of the Game and Parks Commission or his or her designee;

(d) The regional director for the National Park Service or his or her designee and the regional director for the United States Fish and Wildlife Service or his or her designee. The members under this subdivision shall be nonvoting members unless and until the agencies represented by these members formally authorize such members to vote on all matters before the council by notifying the council and the Governor in writing;

(e) An individual from each of Brown, Cherry, Keya Paha, and Rock counties who resides in the Niobrara River drainage area and owns land in the Niobrara scenic river corridor chosen by the Governor from a list of at least three individuals, or fewer if there are not at least three qualified individuals, from each county submitted by the county board members on the council;

(f) A representative from a recreational business operating within the Niobrara scenic river corridor chosen by the Governor from a list of at least three individuals, or fewer if there are not at least three qualified individuals, submitted by the county board members on the council;

(g) A timber industry representative operating within the Niobrara scenic river corridor chosen by the Governor from a list of at least three individuals, or fewer if there are not at least three qualified individuals, submitted by the county board members on the council; and

(h) A representative of a recognized, nonprofit environmental, conservation, or wildlife organization chosen by the Governor from a list of at least three individuals, or fewer if there are not at least three qualified individuals, submitted by the county board members on the council.

The council members shall hold office for three-year terms and until a successor is appointed and qualified. The council members shall serve at the pleasure of the appointing board or the Governor.

(2) The council shall elect a chairperson, a vice-chairperson, a secretary, and a treasurer who shall jointly serve as the executive committee for the council. The council shall meet on a regular basis with a minimum of six meetings per year. Special meetings may be called by any member of the executive committee or at the request of a simple majority of the members of the council.

(3) A quorum shall be present at a meeting before any action may be taken by the council. A quorum shall be a majority of the members who are selected and serving and who vote on issues before the council. All actions of the council require a majority vote of the quorum present at any meeting, except that any vote to reject or adopt any zoning regulation or variance under section 72-2010 requires a vote of two-thirds of all the council members who are selected and serving and who vote on issues before the council.

(4) Members shall be reimbursed for expenses incurred in carrying out their duties on the council as provided in sections 81-1174 to 81-1177.

Source: Laws 2000, LB 1234, § 3; Laws 2001, LB 182, § 1; Laws 2015, LB310, § 1; Laws 2016, LB1038, § 15; Laws 2020, LB381, § 80; Laws 2020, LB858, § 18.

ARTICLE 21

GOVERNOR'S RESIDENCE

Section
72-2103. Commission members; expenses.

72-2103 Commission members; expenses.

The members of the Governor's Residence Advisory Commission shall serve without compensation. The members shall be reimbursed for expenses as provided in sections 81-1174 to 81-1177.

Source: Laws 1998, LB 1129, § 30; Laws 2020, LB381, § 81.

ARTICLE 22

NEBRASKA STATE CAPITOL PRESERVATION AND RESTORATION ACT

Section
72-2201. Act, how cited.
72-2208. Repealed. Laws 2023, LB818, § 45.
72-2211. Capitol Restoration Cash Fund; created; use; investment.
72-2215. Flags of Indian tribes; display in State Capitol; powers and duties.
72-2216. Capitol Preservation, Restoration, and Enhancement Endowment Fund; created; use; investment.

72-2201 Act, how cited.

Sections 72-2201 to 72-2216 shall be known and may be cited as the Nebraska State Capitol Preservation and Restoration Act.

Source: Laws 2004, LB 439, § 1; Laws 2005, LB 684, § 1; Laws 2020, LB848, § 10; Laws 2023, LB818, § 17.

72-2208 Repealed. Laws 2023, LB818, § 45.

72-2211 Capitol Restoration Cash Fund; created; use; investment.

(1) The Capitol Restoration Cash Fund is created. The administrator shall administer the fund, which shall consist of money received from the sale of material, rental revenue, private donations, public donations, transfers from the Capitol Preservation, Restoration, and Enhancement Endowment Fund, and transfers from the Nebraska Capital Construction Fund as directed by the Legislature.

(2)(a) The Capitol Restoration Cash Fund shall be used to finance projects for the restoration, preservation, and enhancement of the State Capitol and its courtyards and grounds, to purchase and conserve items to be added to the Nebraska Capitol Collections housed in the State Capitol, to produce promotional material concerning the State Capitol, its grounds, and the Nebraska State Capitol Environs District, and to pay the expenditures for a project manager for the Capitol Heating, Ventilation, and Air Conditioning Systems Replacement Project until such time as the project is completed, except that transfers may be made from the fund to the General Fund at the direction of the Legislature. Such expenditures shall be prescribed by the administrator and approved by the commission.

(b) Money transferred to the fund from the Capitol Preservation, Restoration, and Enhancement Endowment Fund shall only be used for the restoration, preservation, and enhancement of the courtyards located at the State Capitol.

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

Source: Laws 2004, LB 439, § 11; Laws 2009, First Spec. Sess., LB3, § 50; Laws 2017, LB331, § 40; Laws 2023, LB818, § 18.

Cross References

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

72-2215 Flags of Indian tribes; display in State Capitol; powers and duties.

(1)(a) The Clerk of the Legislature shall cause to be displayed within the Warner Legislative Chamber flags representing the four federally recognized tribes with headquarters in Nebraska: the Omaha Tribe of Nebraska, the Ponca Tribe of Nebraska, the Santee Sioux Nation, and the Winnebago Tribe of Nebraska.

(b) The Commission on Indian Affairs shall obtain such flags, as well as poles and bases, through donations from the tribes. The Commission on Indian Affairs shall be responsible for replacing such flags, poles, and bases.

(c) The Clerk of the Legislature shall approve placement locations within the Warner Legislative Chamber. The size, proportion, and placement of such flags shall be similar to that of the flag of the United States and the flag of the State of Nebraska.

(2)(a) The State Capitol Administrator shall cause to be displayed in the Memorial Chamber on the fourteenth floor of the State Capitol the flags of any Indian tribes with historic and regional connections to Nebraska.

(b) The Commission on Indian Affairs shall designate the tribes with historic and regional connections to Nebraska and the flags to be displayed under subdivision (2)(a) of this section. The Commission on Indian Affairs shall obtain such flags, as well as poles and bases, through donations from the tribes. The Commission on Indian Affairs shall be responsible for replacing such flags, poles, and bases.

(c) The Nebraska Capitol Commission shall approve placement locations in the Memorial Chamber.

Source: Laws 2020, LB848, § 11.

72-2216 Capitol Preservation, Restoration, and Enhancement Endowment Fund; created; use; investment.

(1) The Capitol Preservation, Restoration, and Enhancement Endowment Fund is created. The commission shall administer the fund. The fund shall consist of money transferred to the fund by the Legislature and bequests, donations, gifts, grants, or other money received from any federal or state agency or public or private source for the preservation, restoration, and enhancement of the State Capitol and capitol grounds. Any money accepted by the state for credit to the fund that is subject to conditions shall be held in trust and used subject to such conditions. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) The State Treasurer shall transfer money from the Capitol Preservation, Restoration, and Enhancement Endowment Fund to the Capitol Restoration Cash Fund in amounts and at times as directed by the commission. Money transferred from the Capitol Preservation, Restoration, and Enhancement Endowment Fund in any year shall not exceed four percent of the total balance in the fund as the balance existed on January 1 of the most recent odd-numbered year.

Source: Laws 2023, LB818, § 19.

Cross References

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

ARTICLE 23
PUBLIC FACILITIES CONSTRUCTION AND FINANCE ACT

Section

72-2305 Public buildings, recreational facilities, drainage, streets, and roads; bonds; amount authorized.

For joint projects described in subdivision (2)(a) of section 72-2303, the principal amount of bonds which may be issued by a qualified public agency under the Public Facilities Construction and Finance Act shall not exceed five million dollars as to the total principal amount of such bonds which may be outstanding at any time, and the annual amounts due by reason of such bonds from each qualified public agency shall not exceed five percent of the total revenue from all sources of the obligated qualified public agency in the year prior to issuance. The principal amount of bonds of qualified public agencies in the aggregate issued for any one such joint project shall not exceed five million dollars.

Source: Laws 2005, LB 217, § 5; Laws 2024, First Spec. Sess., LB34, § 18.
Effective date August 21, 2024.

72-2306 Information technology for libraries; bonds; amount authorized.

For joint projects described in subdivision (2)(b) of section 72-2303, the principal amount of bonds which may be issued by a qualified public agency under the Public Facilities Construction and Finance Act shall not exceed two hundred fifty thousand dollars for cities of the metropolitan and primary classes, one hundred thousand dollars for counties, cities of the first class, school districts, educational service units, and community colleges, and fifty thousand dollars for cities of the second class and villages, as to the total principal amount of such bonds which may be outstanding at any time, and the annual amounts due by reason of such bonds from each qualified public agency shall not exceed five percent of the total revenue from all sources of the obligated qualified public agency in the year prior to issuance. The principal amount of bonds of a qualified public agency in the aggregate issued for any one such joint project shall not exceed two hundred fifty thousand dollars for cities of the metropolitan and primary classes and one hundred thousand dollars for counties, cities of the first class, cities of the second class, villages, school districts, educational service units, and community colleges.

Source: Laws 2005, LB 217, § 6; Laws 2024, First Spec. Sess., LB34, § 19.
Effective date August 21, 2024.

ARTICLE 26
GRANT PROGRAMS

Section
72-2601. Grant program; probation or parole; effect on consideration for award.

72-2601 Grant program; probation or parole; effect on consideration for award.

(1) Except as provided in subsection (2) of this section, in administering any grant program, a state agency or political subdivision shall not exclude any person from consideration solely because such person, or any person associated with such person, is currently or has previously been on probation or parole.

(2) This section does not:

(a) Apply to the extent that it would jeopardize federal funding for a grant program; or

(b) Prohibit a state agency or political subdivision from requiring that a person currently or previously on probation or parole have an undersigner or co-grantee who has not previously been convicted of a criminal offense.

Source: Laws 2024, LB631, § 22.
Effective date July 19, 2024.

CHAPTER 73
PUBLIC LETTINGS AND CONTRACTS

Article.
1. Public Lettings. 73-101 to 73-101.02.
3. Contracts for Personal Services. 73-301.
5. State Contracts for Services. Transferred.
6. Transparency in Government Procurement Act. 73-603.
7. State Procurement Practices. Repealed.
8. State Procurement Act. 73-801 to 73-819.
9. Foreign Adversary Contracting Prohibition Act. 73-901 to 73-907.

ARTICLE 1
PUBLIC LETTINGS

Section
73-101. Public lettings; how conducted.
73-101.01. Repealed. Laws 2024, LB461, § 53.
73-101.02. Repealed. Laws 2024, LB461, § 53.

73-101 Public lettings; how conducted.

Whenever the State of Nebraska, or any department or any agency thereof, any county board, county clerk, county highway superintendent, the mayor and city council or commissioner of any municipality, any entity created pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act, or the officers of any school district, township, or other governmental subdivision, shall advertise for bids in pursuance of any statutes of the State of Nebraska, on any road contract work or any public improvements work, or for supplies, construction, repairs, and improvements, and in all other cases where bids for supplies or work, of any character whatsoever, are received for the various departments and agencies of the state, and other subdivisions and agencies enumerated in this section, they shall fix not only the day upon which such bids shall be returned, received, or opened, as provided by other statutes, but shall also fix the hour at which such bids shall close, or be received or opened, and they shall also provide that such bids shall be immediately and simultaneously opened in the presence of the bidders, or representatives of the bidders, when the hour is reached for the bids to close. Such bids may be withheld from disclosure until an intent to award is issued. If bids are being opened on more than one contract, the officials having in charge the opening of such bids may, if they deem it advisable, award each contract as the bids are opened. Sections 73-101 to 73-106 shall not apply to the State Park System Construction Alternatives Act or sections 39-2808 to 39-2823.

Source: Laws 1923, c. 131, § 1, p. 324; C.S.1929, § 73-101; Laws 1935, c. 145, § 1, p. 539; C.S.Supp.,1941, § 73-101; R.S.1943, § 73-101; Laws 1959, c. 181, § 18, p. 662; Laws 1999, LB 87, § 84; Laws 2016, LB960, § 28; Laws 2018, LB775, § 34; Laws 2024, LB461, § 30.
Effective date July 19, 2024.

Cross References

Interlocal Cooperation Act, see section 13-801.
Joint Public Agency Act, see section 13-2501.
State Park System Construction Alternatives Act, see section 37-1701.

73-101.01 Repealed. Laws 2024, LB461, § 53.

73-101.02 Repealed. Laws 2024, LB461, § 53.

ARTICLE 3
CONTRACTS FOR PERSONAL SERVICES

Section
73-301. Director of Administrative Services; duties.

73-301 Director of Administrative Services; duties.

The Director of Administrative Services shall review and approve or disapprove any contract for personal services between a private entity and any state agency, other than (1) the University of Nebraska, (2) the Nebraska state colleges, and (3) any other board, commission, or agency established by the Constitution of Nebraska, if, on the effective date of the contract, the personal services are performed by permanent state employees of the agency and will be replaced by services performed by the private entity. The contract shall be subject to the public bidding procedures established in the State Procurement Act except in emergencies approved by the Governor.

For purposes of this section, contract for personal services means an agreement by a contractor to provide human labor but does not mean a contract to supply only goods or personal property. The term includes contracts with private service providers, consultants, and independent service contractors.

Source: Laws 1995, LB 519, § 5; Laws 2024, LB461, § 31.
Effective date July 19, 2024.

Cross References

State Procurement Act, see section 73-801.

ARTICLE 5
STATE CONTRACTS FOR SERVICES

Section
73-501. Transferred to section 73-802.
73-502. Transferred to section 73-803.
73-503. Transferred to section 73-806.
73-504. Transferred to section 73-807.
73-505. Transferred to section 73-805.
73-506. Transferred to section 73-812.
73-507. Transferred to section 73-813.
73-508. Transferred to section 73-815.
73-509. Transferred to section 73-816.
73-510. Transferred to section 73-817.

73-501 Transferred to section 73-802.

73-502 Transferred to section 73-803.

73-503 Transferred to section 73-806.

73-504 Transferred to section 73-807.

73-505 Transferred to section 73-805.

73-506 Transferred to section 73-812.

73-507 Transferred to section 73-813.

73-508 Transferred to section 73-815.

73-509 Transferred to section 73-816.

73-510 Transferred to section 73-817.

ARTICLE 6
TRANSPARENCY IN GOVERNMENT PROCUREMENT ACT

Section
73-603. Department of Administrative Services; report; contents.

73-603 Department of Administrative Services; report; contents.

(1) The Department of Administrative Services shall create an annual report that includes:

(a) The total number and value of contracts awarded by the department;

(b) The total number and value of contracts awarded by the department to contractors within this state; and

(c) The total number and value of contracts awarded by the department to foreign contractors.

(2) Such report shall be submitted to the Governor and the Legislature on or before September 1 each year and shall include the required information from the most recent fiscal year ending prior to such date. The reports submitted to the Legislature and the Governor shall be submitted electronically. Each annual report shall be made available to the public through publication on the department's website on or before September 1 of each year.

Source: Laws 2014, LB371, § 3; Laws 2024, LB461, § 32.
Effective date July 19, 2024.

ARTICLE 7
STATE PROCUREMENT PRACTICES

Section
73-701. Repealed. Laws 2024, LB461, § 53.

73-701 Repealed. Laws 2024, LB461, § 53.

ARTICLE 8
STATE PROCUREMENT ACT

Section
73-801. Act, how cited.
73-802. Purposes of act.
73-803. Terms, defined.
73-804. Materiel division; powers and duties.
73-805. State agency directors; duties.

Section
73-806. Documentation; requirements.
73-807. Competitive bidding requirements.
73-808. Competitive bids; award to responsible bidders; considerations; responsibility; elements considered; energy star certified appliances.
73-809. Competitive bids; time requirements; waiver; solicitation; form.
73-810. Competitive bids; rejection; grounds.
73-811. Personal property; form of contract.
73-812. State agency contracts; requirements.
73-813. Bidding requirements; exceptions.
73-814. Direct contracts; approval required, when; report required; criteria; Department of Correctional Services; purchases authorized.
73-815. Preapproval; required; when.
73-816. Pre-process; required; when; procedure.
73-817. New proposed contract for services in excess of fifteen million dollars; proof-of-need analysis; information required; cost savings; analysis.
73-818. Materiel division; University of Nebraska; purchase agreements.
73-819. Laboratory tests; fee.

73-801 Act, how cited.

Sections 73-801 to 73-819 shall be known and may be cited as the State Procurement Act.

Source: Laws 2024, LB461, § 1.
Effective date July 19, 2024.

73-802 Purposes of act.

The purposes of the State Procurement Act are to establish a standardized, open, and fair process for selection of contracts and to create an accurate reporting of expended funds for such contracts. This process shall promote a standardized method of selection for state contracts, assuring a fair assessment of qualifications and capabilities for project completion or compliance with specifications. There shall also be an accountable, efficient reporting method of expenditures for these contracts.

Source: Laws 2003, LB 626, § 1; Laws 2012, LB858, § 5; R.S.1943, (2018), § 73-501; Laws 2024, LB461, § 2.
Effective date July 19, 2024.

73-803 Terms, defined.

For purposes of the State Procurement Act:

(1) Contract includes any contract for services and contract for personal property;

(2) Contract for personal property means any contract entered into by the state with another party for a stated consideration, which provides that the state agency is to receive the personal property or use of such personal property furnished by the other party. Contract for personal property includes leases;

(3) Contract for services means any contract that directly engages the time or effort of an independent contractor whose purpose is to perform an identifiable task, study, or report rather than to furnish an end item of supply, goods, equipment, or material;

(4) Cooperative agreement means a legal instrument reflecting a relationship between the State of Nebraska and any other entity where (a) the principal purpose of the relationship is to transfer a thing of value to the entity to carry

out a public purpose of support or stimulation by law instead of acquiring property or services for the direct benefit of the State of Nebraska and (b) substantial involvement is expected between the State of Nebraska and the entity when carrying out the activity contemplated in the agreement;

(5) Division means the materiel division of the Department of Administrative Services;

(6) Emergency means necessary to meet an urgent or unexpected requirement or when health and public safety or the conservation of public resources is at risk;

(7) Grant agreement means a legal instrument reflecting a relationship between the State of Nebraska and any other entity where (a) the principal purpose of the relationship is to transfer a thing of value to the entity to carry out a public purpose of support or stimulation by law instead of acquiring property or services for the direct benefit of the State of Nebraska and (b) substantial involvement is not expected between the State of Nebraska and the entity when carrying out the activity contemplated in the agreement;

(8) Occasional means seasonal, irregular, or fluctuating in nature;

(9) Personal property includes all materials, supplies, furniture, equipment, printing, stationery, automotive and road equipment, and other chattels, goods, wares, and merchandise;

(10) Sole source means of such a unique nature that the contractor selected is clearly and justifiably the only practicable source to provide the service or personal property. Determination that the contractor selected is justifiably the sole source is based on either the uniqueness of the service or personal property or sole availability at the location required;

(11) State agency means any agency, board, or commission of this state, except for the University of Nebraska or the Nebraska state colleges. For purposes of procurement of services, state agency does not include the University of Nebraska, the Nebraska state colleges, the courts, the Legislature, or any officer or state agency established by the Constitution of Nebraska; and

(12) Temporary means a finite period of time with respect to a specific task or result relating to a contract for services.

Source: Laws 2003, LB 626, § 2; Laws 2012, LB858, § 6; R.S.1943, (2018), § 73-502; Laws 2024, LB461, § 3.
Effective date July 19, 2024.

73-804 Materiel division; powers and duties.

The division shall:

(1) Establish by rules and regulations a process for resolving complaints from both vendors and state agencies;

(2) Maintain a record and written justification of purchases as follows:

(a) A list of and explanation for emergency purchases;

(b) A list of open market purchases made by the division; and

(c) A list of all purchases waived from the minimum time period requirement between bid advertisement and bid opening; and

(3) Have the authority to enter into joint purchasing agreements with political subdivisions in the state.

Source: Laws 1981, LB 381, § 30; R.S.1943, (2014), § 81-1118.05; Laws 2024, LB461, § 4.
Effective date July 19, 2024.

73-805 State agency directors; duties.

State agency directors shall be responsible for maintaining accurate documentation of the process used for selection of all contracts and for ensuring and documenting that services and personal property required under the contract are being performed or provided in compliance with the terms of the contract. Such documentation shall be kept with each contract.

Source: Laws 2003, LB 626, § 5; R.S.1943, (2018), § 73-505; Laws 2024, LB461, § 5.
Effective date July 19, 2024.

73-806 Documentation; requirements.

(1) All state agencies shall process and document all contracts through the state accounting system. The Director of Administrative Services shall specify the format and type of information for state agencies to provide and approve any alternatives to such formats. All state agencies shall enter the information on new contracts and amendments to existing contracts. State agency directors shall ensure that contracts are coded appropriately into the state accounting system.

(2) The requirements of this section also apply to the courts, the Legislature, and any officer or state agency established by the Constitution of Nebraska, but not to the University of Nebraska or the Nebraska state colleges.

(3) The Director of Administrative Services shall establish a centralized database, either through the state accounting system or through an alternative system, which specifically identifies where a copy of each contract may be found.

Source: Laws 2003, LB 626, § 3; Laws 2012, LB858, § 7; R.S.1943, (2018), § 73-503; Laws 2024, LB461, § 6.
Effective date July 19, 2024.

73-807 Competitive bidding requirements.

Except as provided in section 73-813:

(1) All state agencies shall comply with the review and competitive bidding processes provided in this section. Unless otherwise exempt, no state agency shall expend funds for contracts without complying with this section;

(2) All proposed state agency contracts in excess of fifty thousand dollars shall be bid by a competitive formal bidding process in the manner prescribed by the division procurement manual or a process approved by the Director of Administrative Services. Bidding for contracts for services may be performed at the state agency level or by the division. The division shall administer the public notice and bidding procedures for any contract for personal property;

(3) If the bidding process is at the state agency level, then state agency directors shall ensure that bid documents for each contract in excess of fifty thousand dollars are prereviewed by the division and that any changes to the

proposed contract that differ from the bid documents in the proposed contract are reviewed by the division before signature by the parties;

(4) State agency directors shall be responsible for appropriate public notice of an impending contract in excess of fifty thousand dollars in accordance with the division's procurement manual and the State Procurement Act;

(5) State agency directors shall be responsible for ensuring that a request for a contract in excess of fifty thousand dollars is filed with the division for dissemination or website access to vendors interested in competing for contracts; and

(6) When the division is responsible for the procurement of services or personal property, the state agency shall at the time, in the form, and for the periods prescribed by the division, present to the division a detailed requisition for all services and personal property to be contracted.

Source: Laws 2003, LB 626, § 4; Laws 2012, LB858, § 8; R.S.1943, (2018), § 73-504; Laws 2024, LB461, § 7.
Effective date July 19, 2024.

73-808 Competitive bids; award to responsible bidders; considerations; responsibility; elements considered; energy star certified appliances.

(1) All contracts which by law are required to be based on competitive bids shall be made only to responsible bidders, taking into consideration, as applicable:

(a) The best interests of the state;

(b) The quality or performance of the personal property or services proposed to be supplied;

(c) The conformity with the solicitation;

(d) The purposes for which required;

(e) The times of delivery;

(f) The life-cycle costs of the personal property in relation to the purchase price and specific use of the item;

(g) The performance of the personal property, taking into consideration any commonly accepted tests and standards of product usability and user requirements;

(h) The energy efficiency ratio as stated by the bidder for alternative choices of appliances or equipment;

(i) The information furnished by each bidder concerning life-cycle costs between alternatives for all classes of equipment, evidence of expected life, repair and maintenance costs, and energy consumption on a per-year basis;

(j) The results of the United States Environmental Protection Agency tests on fleet performance of motor vehicles. Each bidder shall furnish information relating to such results; and

(k) Such other information as may be secured having a bearing on the decision to award the contract.

(2) In determining responsibility, the following elements shall be given consideration:

(a) The ability, capacity, and skill of the bidder to perform the contract required;

(b) The character, integrity, reputation, judgment, experience, and efficiency of the bidder;

(c) Whether the bidder can perform the contract within the time specified;

(d) The quality of performance of previous contracts; and

(e) The previous and existing compliance by the bidder with laws relating to the contract.

(3) Any appliance purchased or leased pursuant to this section shall be energy star certified, except that the materiel administrator may exempt the purchase or lease of an appliance from this subsection if he or she determines that the cost of compliance would exceed the projected energy cost savings.

(4) All political subdivisions may follow the procurement principles set forth in this section if they are deemed applicable by the official authorized to make purchases for such political subdivision.

(5) For purposes of this section, energy star certified means approval of energy usage by the United States Environmental Protection Agency and the United States Department of Energy. Such approval may be signified by the display of the energy star label.

Source: Laws 1943, c. 215, § 17, p. 709; R.S.1943, § 81-161; Laws 1963, c. 508, § 9, p. 1619; Laws 1969, c. 780, § 3, p. 2955; Laws 1975, LB 359, § 8; Laws 1980, LB 954, § 60; Laws 1992, LB 1241, § 17; Laws 2000, LB 654, § 13; Laws 2010, LB978, § 1; R.S. 1943, (2014), § 81-161; Laws 2024, LB461, § 8.
Effective date July 19, 2024.

73-809 Competitive bids; time requirements; waiver; solicitation; form.

(1) A minimum of fifteen days shall elapse between the time formal bids are advertised and the time of their opening, except that this requirement may be waived by the materiel administrator upon a showing by the state agency of an emergency, sole or specialized source, or other unique requirement.

(2) A solicitation shall be in the form of a public notice of the proposed purchase or lease and a general description of the personal property or services needed in a paper of general circulation in the area where the agency will be operating or by any other method approved by the materiel administrator.

Source: Laws 1963, c. 508, § 10, p. 1620; Laws 1975, LB 447, § 4; Laws 1981, LB 381, § 6; Laws 2000, LB 654, § 14; R.S.1943, (2014), § 81-161.01; Laws 2024, LB461, § 9.
Effective date July 19, 2024.

73-810 Competitive bids; rejection; grounds.

(1) For the purposes of this section:

(a) Realistic price means a price at which the goods or services can actually and sufficiently be provided in accordance with the awarded contract and price bid; and

(b) Reasonable price means the price of the goods or services is fair compensation for such goods or services.

(2) Any or all bids may be rejected by the state agency in accordance with the procurement manual. A state agency may reject a bid if the price is not reasonable or is not realistic.

(3) In considering whether a bid's price is not reasonable or not realistic, a state agency may consider factors, including prices bid by other bidders, the fair market value of the products or services, the availability of the products or services, historical prices, or independent cost estimates.

Source: Laws 1963, c. 508, § 11, p. 1620; Laws 2000, LB 654, § 15; R.S.1943, (2014), § 81-161.02; Laws 2024, LB461, § 10.
Effective date July 19, 2024.

73-811 Personal property; form of contract.

A contract for personal property may be made in any of the following forms:

(1) For the furnishing of specific personal property at specific prices;

(2) For the furnishing of personal property, according to the specifications, at a fixed rate for a minimum quantity, subject to furnishing a greater quantity at the same or a lesser rate; or

(3) For the furnishing of personal property, according to the specifications without a stated minimum at a rate stated, commonly known as a price agreement.

The form of the contract to be used in any case shall be subject to the discretion of the division.

Source: Laws 1943, c. 215, § 18, p. 709; R.S.1943, § 81-162; Laws 1975, LB 359, § 11; Laws 1992, LB 1241, § 20; R.S.1943, (2014), § 81-162; Laws 2024, LB461, § 11.
Effective date July 19, 2024.

73-812 State agency contracts; requirements.

State agency contracts shall be subject to the following requirements:

(1) Payments shall be made when contractual deliverables are received or in accordance with specific contractual terms and conditions;

(2) State agencies shall not enter into contracts with an unspecified or unlimited duration, and no contract shall be amended to extend the duration of the contract for a period of more than fifty percent of the initial contract term. Following the adoption of any amendment to extend the contract for a period of fifty percent or less of the initial contract term, no further extensions of the original contract shall be permitted. This subdivision does not prohibit the exercise of any renewal option expressly provided in the original contract;

(3) State agencies shall not structure contracts to avoid any of the requirements of the State Procurement Act;

(4) State agencies shall not enter into contracts in excess of fifteen million dollars unless the state agency has complied with section 73-817;

(5) A state agency shall not enter into a contract that purports to:

(a) Obligate the state to indemnify a contracting party from that party's own errors, omissions, or negligence;

(b) Consent to the jurisdiction of another state for the purposes of court proceedings; or

(c) Consent to venue in another state for the purposes of court proceedings;

(6) The Department of Administrative Services shall be the sole and final authority on contracts for personal property by a state agency. When the

approval of the Governor is required, the Governor may confer complete authority upon the Department of Administrative Services in the review and approval for contract proposals;

(7) The Department of Administrative Services may adopt and promulgate rules and regulations to (a) develop and implement purchasing and leasing policies and procedures that ensure economical and efficient operations of state agencies and (b) carry out the State Procurement Act;

(8) State agencies shall use contracts designated by the division for statewide use, unless otherwise permitted by the materiel administrator; and

(9) The Director of Administrative Services shall not issue any warrant for the disbursement of money to pay for any contract that is not approved according to law.

Source: Laws 2003, LB 626, § 6; Laws 2012, LB858, § 9; Laws 2017, LB151, § 5; R.S.1943, (2018), § 73-506; Laws 2024, LB461, § 12.
Effective date July 19, 2024.

73-813 Bidding requirements; exceptions.

(1) Subject to review by the Director of Administrative Services, the division shall provide procedures to grant limited exceptions from sections 73-807, 73-815, and 73-816 for:

(a) Sole source contracts, emergency contracts, and contracts when the price has been established by the federal General Services Administration or competitively bid by another state or group of states, a group of states and any political subdivision of any other state, a political subdivision of another state, or a cooperative purchasing organization on behalf of a group of states or political subdivisions of other states; and

(b) Other circumstances or specific contracts when any of the requirements of sections 73-807, 73-815, and 73-816 are not appropriate for or are not compatible with the circumstances or contract. The division shall provide a written rationale which shall be kept on file when granting an exception under this subdivision.

(2) The following types of contracts are not subject to sections 73-807, 73-815, 73-816, and 73-817:

(a) Contracts for services subject to the Nebraska Consultants' Competitive Negotiation Act;

(b) Contracts for services subject to federal law, regulation, or policy or state statute, under which a state agency is required to use a different selection process or to contract with an identified contractor or type of contractor;

(c) Contracts for professional legal services and services of expert witnesses, hearing officers, or administrative law judges retained by state agencies for administrative or court proceedings;

(d) Grant agreements or cooperative agreements;

(e) Contracts with a value of fifteen million dollars or less with direct providers of medical, behavioral, or developmental health services, child care, or child welfare services to an individual;

(f) Agreements for services to be performed for a state agency by another state or local government agency or contracts made by a state agency with a local government agency for the direct provision of services to the public;

(g) Agreements for services between a state agency and the University of Nebraska, the Nebraska state colleges, the courts, the Legislature, or other officers or state agencies established by the Constitution of Nebraska;

(h) Department of Insurance contracts for financial or actuarial examination, for rehabilitation, conservation, reorganization, or liquidation of licensees, and for professional services related to residual pools or excess funds under the agency's control;

(i) Department of Transportation contracts for all road and bridge projects;

(j) Nebraska Investment Council contracts;

(k) Contracts under section 57-1503;

(l) Contracts for the erection of, construction of, renovation of, repair of, or addition to any building; for original equipment for any building; for the construction of any road or bridge; or for the performance of any work related to such contracts;

(m) Subject to section 83-146, contracts for the purchase or use of the products of the labor of the inmates of any charitable, reformatory, or penal institution of the state;

(n) Contracts for leases by the state or a state agency of real property;

(o) Contracts for works of art;

(p) Contracts for advertising or public announcements; and

(q) Direct or miscellaneous purchases pursuant to section 73-814.

Source: Laws 2003, LB 626, § 7; Laws 2011, First Spec. Sess., LB4, § 5; Laws 2012, LB858, § 10; Laws 2014, LB974, § 1; Laws 2017, LB339, § 250; R.S.1943, (2018), § 73-507; Laws 2024, LB461, § 13.
Effective date July 19, 2024.

Cross References

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

73-814 Direct contracts; approval required, when; report required; criteria; Department of Correctional Services; purchases authorized.

(1) The division may, by written order, permit contracts to be made by any state agency directly with the vendor or supplier whenever it appears to the satisfaction of the division that, because of the unique nature of the personal property, the price in connection therewith, the quantity to be purchased, the location of the state agency, the time of the use of the personal property, or any other circumstance, the interests of the state will be served better by purchasing or contracting direct.

(2) Such permission shall be revocable and shall be operative for a period not exceeding twelve months from the date of issue. Upon the request of the division, state agencies receiving such permission shall report their acts and expenditures under such orders to the division in writing at such time and covering such period as may be required by the division.

(3) The division shall adopt and promulgate rules and regulations establishing criteria which must be met by any agency seeking direct market purchase authorization. Purchases for miscellaneous needs may be made directly by any agency without prior approval from the division for purchases of less than fifty thousand dollars if the agency has completed a certification program as prescribed by the division.

(4) The Department of Correctional Services may purchase raw materials, supplies, component parts, and equipment perishables directly for industries established pursuant to section 83-183, whether such purchases are made to fill specific orders or for general inventories. Any such purchase shall not exceed fifty thousand dollars. The department shall comply with the bidding process of the division and shall be subject to audit by the division for such purchases.

Source: Laws 1943, c. 215, § 16, p. 709; R.S.1943, § 81-160; Laws 1963, c. 508, § 12, p. 1620; Laws 1975, LB 359, § 9; Laws 1975, LB 447, § 5; Laws 1981, LB 381, § 7; Laws 1984, LB 933, § 13; Laws 1987, LB 354, § 1; Laws 1992, LB 1241, § 18; Laws 1997, LB 314, § 6; Laws 2000, LB 654, § 16; Laws 2007, LB256, § 5; Laws 2016, LB1080, § 1; Laws 2017, LB320, § 2; R.S.Supp.,2022, § 81-161.03; Laws 2024, LB461, § 14.
Effective date July 19, 2024.

73-815 Preapproval; required; when.

Except as provided in section 73-813, all proposals for sole source contracts for services in excess of fifty thousand dollars shall be preapproved by the division except in emergencies. In case of an emergency, contract approval by the state agency director or his or her designee is required. A copy of the contract and state agency justification of the emergency shall be provided to the Director of Administrative Services within three business days after contract approval. The state agency shall retain a copy of the justification with the contract in the state agency files. The Director of Administrative Services shall maintain a complete record of such sole source contracts for services.

Source: Laws 2003, LB 626, § 8; Laws 2007, LB256, § 3; Laws 2012, LB858, § 11; R.S.1943, (2018), § 73-508; Laws 2024, LB461, § 15.
Effective date July 19, 2024.

73-816 Pre-process; required; when; procedure.

Each proposed contract for services in excess of fifty thousand dollars which requests services that are now performed or have, within the year immediately preceding the date of the proposed contract, been performed by a state employee covered by the classified personnel system or by any labor contract shall use a pre-process prescribed by the division. The pre-process shall include evaluation of the displacement of the employee of the state agency or position held by the employee of the state agency within the preceding year and of the disadvantages of such a contract for services against the expected advantages, whether economic or otherwise. Documentation of each evaluation shall be maintained in the contract file by the state agency.

Source: Laws 2003, LB 626, § 9; Laws 2012, LB858, § 12; R.S.1943, (2018), § 73-509; Laws 2024, LB461, § 16.
Effective date July 19, 2024.

73-817 New proposed contract for services in excess of fifteen million dollars; proof-of-need analysis; information required; cost savings; analysis.

(1) A state agency shall not enter into a new proposed contract for services in excess of fifteen million dollars unless the state agency has conducted, prior to the advertisement for bids or the execution of the contract when section 73-813 applies, a proof-of-need analysis described in this section.

(2) The proof-of-need analysis shall require state agencies to provide a review of any expected long-term actual cost savings and an explanation of the analysis used to determine such savings or a justification for contracting the service if the proposed contract is not expected to result in cost savings to the state.

(3) Upon conclusion of the contract, if the contract was expected to result in long-term actual cost savings, the state agency shall submit an analysis of whether the contract actually produced such cost savings. If the contract did not produce the expected cost savings, the state agency shall receive certification from the division prior to entering into another contract in excess of fifteen million dollars for the same services.

Source: Laws 2012, LB858, § 13; Laws 2013, LB563, § 1; R.S.1943, (2018), § 73-510; Laws 2024, LB461, § 17.
Effective date July 19, 2024.

73-818 Materiel division; University of Nebraska; purchase agreements.

The division shall make available copies of current purchase agreements and standard specifications to the University of Nebraska. The University of Nebraska may utilize such purchase agreements if it determines that it would be to its advantage to do so. The division may utilize purchase agreements entered into by the University of Nebraska upon a finding by the materiel administrator that the use of such agreements would be in the best interests of the state. For purposes of this section, purchase agreements do not include contracts for personal services subject to sections 73-301 to 73-307.

Source: Laws 1981, LB 381, § 4; Laws 2000, LB 654, § 11; R.S.1943, (2014), § 81-154.01; Laws 2024, LB461, § 18.
Effective date July 19, 2024.

73-819 Laboratory tests; fee.

The fee, required by any state or other laboratory for any analysis or test made by any prospective vendor prior to the award of a contract, shall be paid by such prospective vendor.

Source: Laws 1943, c. 215, § 12, p. 708; R.S.1943, § 81-156; R.S.1943, (2014), § 81-156; Laws 2024, LB461, § 19.
Effective date July 19, 2024.

ARTICLE 9

FOREIGN ADVERSARY CONTRACTING PROHIBITION ACT

Section

Section
73-905. Technology-related product or service; certifications required.
73-906. Technology-related product or service; certain contracts prohibited; exceptions.
73-907. Violations of act; contract; null and void; liability; action; procedure.

73-901 Act, how cited.

Sections 73-901 to 73-907 shall be known and may be cited as the Foreign Adversary Contracting Prohibition Act.

Source: Laws 2024, LB1300, § 7.
Operative date April 17, 2024.

73-902 Legislative findings.

The Legislature finds that:

(1) Dealings with commercial entities that are organized under the laws of a foreign adversary or that have their principal place of business within a foreign adversary tend to be less commercially sound because such entities are unusually likely to be acting on noncommercial motivations and carry increased political risk, including from United States federal sanction authorities;

(2) When such a commercial entity is a state-owned entity, it presents heightened concerns and threatens this state's security, including by making accessible to the foreign adversary information about the structure, operations, resources, and infrastructure of the government of this state; and

(3) Dealings with such commercial entities, and especially state-owned entities, threaten the privacy and security of residents of this state, to the extent that they involve the personal information of such residents.

Source: Laws 2024, LB1300, § 8.
Operative date April 17, 2024.

73-903 Terms, defined.

For purposes of the Foreign Adversary Contracting Prohibition Act:

(1) Company means any sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company, or other entity or business association that exists for the purpose of making a profit, including all wholly owned subsidiaries, majority owned subsidiaries, parent companies, or affiliates of any such entity or business association;

(2) Foreign adversary means a foreign adversary as determined pursuant to 15 C.F.R. 7.4;

(3) Owned in whole or in part means:

(a) For a publicly traded company, any share of ownership that entails the ability to direct or influence the operations of the company, the ability to appoint or discharge any board members, officers, or directors, or any other rights beyond those available to a retail investor holding an equivalent share of ownership; and

(b) For a privately held company, any share of ownership;

(4) Public entity means the state or any department, agency, commission, or other body of state government, including publicly funded institutions of higher education, any political subdivision of the state, and any other public or private

agency, person, partnership, corporation, or business entity acting on behalf of any such public entity;

(5) Scrutinized company means:

(a) Any company organized under the laws of a foreign adversary or having its principal place of business within a foreign adversary, and any subsidiary of any such company;

(b) Any company owned in whole or in part or operated by the government of a foreign adversary, an entity controlled by the government of a foreign adversary, or any subsidiary or parent of any such company; or

(c) Any company that sells to a public entity a final technology-related product or service that originates with a company described in subdivision (5)(a) or (b) of this section without incorporating that product or service into another final product or service; and

(6) Technology-related product or service means a product or service used for information systems, surveillance, light detection and ranging, or communications.

Source: Laws 2024, LB1300, § 9.
Operative date April 17, 2024.

73-904 Technology-related product or service; scrutinized company; contract prohibited.

A scrutinized company shall not bid on, submit a proposal for, or enter into, directly or indirectly through a third party, any contract or contract renewal with any public entity for any technology-related product or service.

Source: Laws 2024, LB1300, § 10.
Operative date April 17, 2024.

73-905 Technology-related product or service; certifications required.

A public entity shall require a company that submits a bid or proposal or enters into any contract or contract renewal with any public entity for any technology-related product or service to certify:

(1) That the company is not a scrutinized company;

(2) That the company will not subcontract with any scrutinized company for any aspect of performance of the contemplated contract; and

(3) That any products or services to be provided do not originate with a scrutinized company.

Source: Laws 2024, LB1300, § 11.
Operative date April 17, 2024.

73-906 Technology-related product or service; certain contracts prohibited; exceptions.

(1) No public entity shall enter into any contract or contract renewal that would result in any state or local government funds being transferred:

(a) To a scrutinized company in connection with any technology-related product or service; or

(b) To any company in connection with any technology-related product or service that originates with a scrutinized company.

(2) Notwithstanding subsection (1) of this section, a public entity may enter into a contract for goods manufactured by a scrutinized company if:

(a)(i) There is no other reasonable option for procuring such good;

(ii) The contract is preapproved by the Department of Administrative Services; and

(iii) Not procuring such good would pose a greater threat to the state than the threat associated with the good itself; or

(b) The purchasing entity is an electric supplier that is not out of compliance with the Critical Infrastructure Protection requirements issued by the North American Electric Reliability Corporation.

Source: Laws 2024, LB1300, § 12.
Operative date April 17, 2024.

73-907 Violations of act; contract; null and void; liability; action; procedure.

(1) Any contract entered into in violation of the Foreign Adversary Contracting Prohibition Act shall be null and void.

(2) Any scrutinized company that violates section 73-904 or that violates the certification provided pursuant to section 73-905:

(a) Shall be liable for a civil penalty in an amount equal to the highest of the following three amounts:

(i) Two hundred fifty thousand dollars;

(ii) Twice the amount of the contract for which a bid or proposal was submitted; or

(iii) The amount of any losses suffered by the public entity as a result of such violation; and

(b) Shall be ineligible to enter into any contract with any public entity for a period of five years.

(3) The Attorney General may bring an action in any court of competent jurisdiction against any person that violates the Foreign Adversary Contracting Prohibition Act.

(4) If a public entity believes that a company has violated the certification provided pursuant to section 73-905, the public entity shall give such company notice of the alleged violation. The company shall then have sixty days to respond to the notice. The public entity shall make a final determination on whether a violation of such certification has occurred within sixty days after receipt of the response from the company. If the public entity determines that a violation has occurred, the public entity may refer the matter to the Attorney General.

(5) Any individual may act as a whistleblower and report suspected violations of section 73-904 or suspected violations of the certification provided pursuant to section 73-905 to the Attorney General. If the reported violation results in a civil penalty under this section, the whistleblower shall be entitled to a reward equal to thirty percent of the civil penalty assessed.

Source: Laws 2024, LB1300, § 13.
Operative date April 17, 2024.

CHAPTER 74
RAILROADS

Article.
13. Railroad Safety.
(b) Railroad Crossings. 74-1317.

ARTICLE 13
RAILROAD SAFETY

(b) RAILROAD CROSSINGS

Section
74-1317. Grade Crossing Protection Fund; created; purpose; investment.

(a) RAILROAD CROSSINGS

74-1317 Grade Crossing Protection Fund; created; purpose; investment.

In order to promote public safety at the intersection of railroad lines and all classes of highways, there is hereby created a special fund known as the Grade Crossing Protection Fund which shall be established in the state treasury to be used in furnishing financial assistance in the improvement of the safety of railroad grade crossings in this state, including the elimination of such crossings, the construction, substantial modification, or improvement of and the maintenance of automatic crossing protection at such grade crossings, and the construction and maintenance of overpasses and underpasses at railroad crossings. 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. Beginning October 1, 2024, any investment earnings from investment of money in the fund shall be credited to the General Fund.

Source: Laws 1961, c. 359, § 1, p. 1126; R.S.Supp.,1961, § 75-219.01; Laws 1963, c. 241, § 1, p. 732; Laws 1969, c. 584, § 40, p. 2368; Laws 1973, LB 144, § 1; R.S.Supp.,1973, § 39-7,136; Laws 1975, LB 249, § 1; R.S.Supp.,1979, § 39-6,194; Laws 1979, LB 42, § 8; Laws 1995, LB 7, § 85; Laws 2024, First Spec. Sess., LB3, § 27. Effective date August 21, 2024.

Cross References

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

CHAPTER 75
PUBLIC SERVICE COMMISSION

Article.
1. Organization and Composition, Regulatory Scope, and Procedure. 75-101.01 to 75-161.
3. Motor Carriers.
   (a) Intrastate Motor Carriers. 75-301 to 75-311.
   (e) Safety Regulations. 75-362 to 75-369.03.
   (j) Division of Motor Carrier Services. 75-386.
   (l) Unified Carrier Registration Plan and Agreement. 75-392 to 75-3,100.
9. Grain Dealer Act. 75-902 to 75-903.02.
11. 211 Information and Referral Network. 75-1101.

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.
75-104. Commissioners; salary; commissioners and employees; expenses; when allowed.
75-109.01. Jurisdiction.
75-118. Commission; duties.
75-124. Rates; publication.
75-126. Unjust discrimination and practices prohibited; exceptions.
75-156. Civil penalty; procedure; order; appeal.
75-161. Special party buses; buses providing charter services; distinguishing signs or other indicia.

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

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.

75-104 Commissioners; salary; commissioners and employees; expenses; when allowed.

(1) Until January 4, 2007, the annual salary of each commissioner shall be fifty thousand dollars. Commencing January 4, 2007, the annual salary of each commissioner shall be seventy-five thousand dollars.

(2) Each commissioner shall be entitled to receive from the state his or her mileage expenses incurred while traveling in the line of duty to and from his or her residence to the office of the Public Service Commission in Lincoln pursuant to the following conditions:

(a) The Public Service Commission has adopted and promulgated rules and regulations establishing guidelines for allowable reimbursement of such mileage expenses, except that such mileage rate shall not exceed the mileage rate established by the Department of Administrative Services pursuant to section 81-1176;

(b) The request for such reimbursement falls within such guidelines; and

(c) The total amounts authorized for such reimbursement of mileage expenses in any fiscal year does not cause the total expenses to exceed the total funds appropriated to the program established for commissioners' expenses. In addition thereto, the commissioners, executive director, clerks, and other employees of the commission shall be reimbursed for expenses, including the cost of transportation while traveling on the business of the commission, to be paid in the same manner as other requests for payment or reimbursement from the state. In computing the cost of transportation for the commissioners, executive director, clerks, and other employees, no mileage or other traveling expense

shall be requested or allowed unless sections 81-1174 to 81-1177 are strictly complied with.

Source: Laws 1963, c. 425, art. I, § 4, p. 1355; Laws 1967, c. 477, § 1, p. 1473; Laws 1969, c. 603, § 1, p. 2464; Laws 1972, LB 1389, § 1; Laws 1975, LB 311, § 1; Laws 1980, LB 872, § 1; Laws 1984, LB 826, § 2; Laws 1986, LB 43, § 3; Laws 1988, LB 864, § 11; Laws 1990, LB 503, § 1; Laws 1994, LB 414, § 27; Laws 1994, LB 872, § 16; Laws 1995, LB 16, § 1; Laws 2000, LB 956, § 1; Laws 2006, LB 817, § 1; Laws 2020, LB381, § 82.

75-109.01 Jurisdiction.

Except as otherwise specifically provided by law, the Public Service Commission shall have jurisdiction, as prescribed, over the following subjects:

(1) Common carriers, generally, pursuant to sections 75-101 to 75-158;

(2) Grain pursuant to the Grain Dealer Act and the Grain Warehouse Act and sections 89-1,104 to 89-1,108;

(3) Manufactured homes and recreational vehicles pursuant to the Uniform Standard Code for Manufactured Homes and Recreational Vehicles;

(4) Modular housing units pursuant to the Nebraska Uniform Standards for Modular Housing Units Act;

(5) Motor carrier registration, licensure, and safety pursuant to sections 75-301 to 75-343, 75-369.03, 75-370, and 75-371;

(6) Pipeline carriers and rights-of-way pursuant to the Major Oil Pipeline Siting Act, the State Natural Gas Regulation Act, and sections 75-501 to 75-503. If the provisions of Chapter 75 are inconsistent with the provisions of the Major Oil Pipeline Siting Act, the provisions of the Major Oil Pipeline Siting Act control;

(7) Railroad carrier safety pursuant to sections 74-918, 74-919, 74-1323, and 75-401 to 75-430;

(8) Telecommunications carriers pursuant to the Automatic Dialing-Announcing Devices Act, the Emergency Telephone Communications Systems Act, the Enhanced Wireless 911 Services Act, the 911 Service System Act, the Intrastate Pay-Per-Call Regulation Act, the Nebraska Telecommunications Regulation Act, the Nebraska Telecommunications Universal Service Fund Act, the Telecommunications Relay System Act, the Telephone Consumer Slamming Prevention Act, sections 86-574 to 86-578, 86-1031, 86-1307, and 86-1308;

(9) Transmission lines and rights-of-way pursuant to sections 70-301 and 75-702 to 75-724;

(10) Water service pursuant to the Water Service Regulation Act; and

(11) Jurisdictional utilities governed by the State Natural Gas Regulation Act. If the provisions of Chapter 75 are inconsistent with the provisions of the State Natural Gas Regulation Act, the provisions of the State Natural Gas Regulation Act control.

Source: Laws 2002, LB 1105, § 482; Laws 2003, LB 790, § 63; Laws 2006, LB 1069, § 1; Laws 2006, LB 1249, § 12; Laws 2011, First Spec. Sess., LB1, § 14; Laws 2015, LB629, § 1; Laws 2015, LB461, § 1; Laws 2020, LB461, § 1; Laws 2020, LB992, § 10;

Laws 2022, LB1144, § 1; Laws 2023, LB818, § 20; Laws 2024, LB1031, § 1.
Operative date July 19, 2024.

Cross References

Automatic Dialing-Announcing Devices Act, see section 86-236.
Emergency Telephone Communications Systems Act, see section 86-420.
Enhanced Wireless 911 Services Act, see section 86-442.
Grain Dealer Act, see section 75-901.
Grain Warehouse Act, see section 88-525.
Intrastate Pay-Per-Call Regulation Act, see section 86-258.
Major Oil Pipeline Siting Act, see section 57-1401.
Nebraska Telecommunications Regulation Act, see section 86-101.
Nebraska Telecommunications Universal Service Fund Act, see section 86-316.
Nebraska Uniform Standards for Modular Housing Units Act, see section 71-1555.
911 Service System Act, see section 86-1001.
State Natural Gas Regulation Act, see section 66-1801.
Telecommunications Relay System Act, see section 86-301.
Telephone Consumer Slamming Prevention Act, see section 86-201.
Uniform Standard Code for Manufactured Homes and Recreational Vehicles, see section 71-4601.
Water Service Regulation Act, see section 75-1001.

75-118 Commission; duties.

The commission shall:

(1) Until July 1, 2021, fix all necessary rates, charges, and regulations governing and regulating the transportation, storage, or handling of household goods by any common carrier in Nebraska intrastate commerce;

(2) Fix all necessary rates, charges, and regulations governing and regulating the transportation of passengers by any common carrier in Nebraska intrastate commerce;

(3) Until July 1, 2021, make all necessary classifications of household goods that may be transported, stored, or handled by any common carrier in Nebraska intrastate commerce, such classifications applying to and being the same for all common carriers;

(4) Authorize the transportation of (a) household goods under a license issued pursuant to section 75-304.03 or (b) employees of a railroad carrier under a license issued pursuant to section 75-304.04;

(5) Prevent and correct the unjust discriminations set forth in section 75-126;

(6) Enforce all statutes and commission regulations pertaining to rates and, if necessary, institute actions in the appropriate court of any county in which the common carrier involved operates except actions instituted pursuant to sections 75-140 and 75-156 to 75-158. All suits shall be brought and penalties recovered in the name of the state by or under the direction of the Attorney General; and

(7) Enforce the Major Oil Pipeline Siting Act and the State Natural Gas Regulation Act.

Source: Laws 1963, c. 425, art. I, § 18, p. 1360; Laws 1989, LB 78, § 8; Laws 1994, LB 414, § 36; Laws 1995, LB 424, § 10; Laws 2003, LB 790, § 66; Laws 2011, First Spec. Sess., LB1, § 17; Laws 2020, LB461, § 2.

Cross References

Major Oil Pipeline Siting Act, see section 57-1401.
State Natural Gas Regulation Act, see section 66-1801.

75-124 Rates; publication.

The commission may compile and reproduce tariffs containing the schedules of rates and charges for transportation of persons and, until July 1, 2021, household goods. The commission may make a charge for copies of such tariffs to cover the cost of reproducing, supplementing, and mailing the same. Every common carrier shall reproduce, keep for public inspection, and file with the commission in the manner prescribed by the commission, schedules showing the rates, fares, and charges for the transportation of passengers and, until July 1, 2021, household goods, which have been fixed and established as provided in Chapter 75, articles 1 and 3, and which are in force at the time with respect to such common carrier.

Source: Laws 1963, c. 425, art. I, § 24, p. 1363; Laws 1995, LB 424, § 11; Laws 2020, LB461, § 3.

75-126 Unjust discrimination and practices prohibited; exceptions.

(1) Except as otherwise provided in this section, no common carrier shall:

(a) Charge, demand, collect, or receive from any person a greater or lesser compensation for any services rendered than it charges, demands, collects, or receives from any other person for doing a like or contemporaneous service unless required under section 86-465;

(b) Make or give any undue or unreasonable preference or advantage to any particular person;

(c) Subject any type of traffic to any undue or unreasonable prejudice, delay, or disadvantage in any respect whatsoever;

(d) Charge or receive any greater compensation in the aggregate for the transportation of a like kind of property or passengers for a shorter than for a longer distance over the same line or route, except as the commission may prescribe in special cases to prevent manifest injuries, except that no manifest injustice shall be imposed upon any person at intermediate points. This section shall not prevent the commission from making group or emergency rates;

(e) Demand, charge, or collect, by any device whatsoever, a lesser or greater compensation for any service rendered than that filed with or prescribed by the commission; or

(f) Change any rate, schedule, or classification in any manner whatsoever before application has been made to the commission and permission granted for that purpose, except as otherwise provided in section 86-155.

(2) This section shall not prohibit any common carrier from, and a common carrier shall not be subject to any fine, penalty, or forfeiture for, performing services free or at reduced rates to:

(a) The United States, the State of Nebraska, or any governmental subdivision thereof;

(b) The employees, both present and retired, of such common carrier;

(c) Any person when the object is to provide relief in case of any disaster;

(d) Any person who transports property for charitable purposes;

(e) Ministers and others giving their entire time to religious or charitable work;

(f) Any person who is legally blind or visually handicapped; or

(g) Any person who is sixty-five years of age or older.

Source: Laws 1963, c. 425, art. I, § 26, p. 1364; Laws 1967, c. 479, § 7, p. 1477; Laws 1982, LB 633, § 1; Laws 1994, LB 414, § 41; Laws 1995, LB 424, § 12; Laws 1998, LB 1056, § 7; Laws 2002, LB 1105, § 486; Laws 2008, LB755, § 2; Laws 2022, LB750, § 78.

75-156 Civil penalty; procedure; order; appeal.

(1) In addition to other penalties and relief provided by law, the Public Service Commission may, upon a finding that the violation is proven by clear and convincing evidence, assess a civil penalty of up to ten thousand dollars per day against any person, motor carrier, regulated motor carrier, common carrier, contract carrier, licensee, grain dealer, or grain warehouse operator for each violation of (a) any provision of the laws of this state within the jurisdiction of the commission as enumerated in section 75-109.01, (b) any term, condition, or limitation of any certificate, permit, license, or authority issued by the commission pursuant to the laws of this state within the jurisdiction of the commission as enumerated in section 75-109.01, or (c) any rule, regulation, or order of the commission issued under authority delegated to the commission pursuant to the laws of this state within the jurisdiction of the commission as enumerated in section 75-109.01.

(2) In addition to other penalties and relief provided by law, the Public Service Commission may, upon a finding that the violation is proven by clear and convincing evidence, assess a civil penalty not less than one hundred dollars and not more than one thousand dollars against any jurisdictional utility for each violation of (a) any provision of the State Natural Gas Regulation Act, (b) any rule, regulation, order, or lawful requirement issued by the commission pursuant to the act, (c) any final judgment or decree made by any court upon appeal from any order of the commission, or (d) any term, condition, or limitation of any certificate issued by the commission issued under authority delegated to the commission pursuant to the act. The amount of the civil penalty assessed in each case shall be based on the severity of the violation charged. The commission may compromise or mitigate any penalty prior to hearing if all parties agree. In determining the amount of the penalty, the commission shall consider the appropriateness of the penalty in light of the gravity of the violation and the good faith of the violator in attempting to achieve compliance after notification of the violation is given.

(3) In addition to other penalties and relief provided by law, the Public Service Commission may, upon a finding that the violation is proven by clear and convincing evidence, assess a civil penalty of up to ten thousand dollars per day against any wireless carrier for each violation of the Enhanced Wireless 911 Services Act or any rule, regulation, or order of the commission issued under authority delegated to the commission pursuant to the act.

(4) In addition to other penalties and relief provided by law, the Public Service Commission may, upon a finding that the violation is proven by clear and convincing evidence, assess a civil penalty of up to one thousand dollars against any person for each violation of the Nebraska Uniform Standards for Modular Housing Units Act or the Uniform Standard Code for Manufactured Homes and Recreational Vehicles or any rule, regulation, or order of the commission issued under the authority delegated to the commission pursuant to either act. Each such violation shall constitute a separate violation with

respect to each modular housing unit, manufactured home, or recreational vehicle, except that the maximum penalty shall not exceed one million dollars for any related series of violations occurring within one year from the date of the first violation.

(5) The civil penalty assessed under this section shall not exceed two million dollars per year for each violation except as provided in subsection (4) of this section. The amount of the civil penalty assessed in each case shall be based on the severity of the violation charged. The commission may compromise or mitigate any penalty prior to hearing if all parties agree. In determining the amount of the penalty, the commission shall consider the appropriateness of the penalty in light of the gravity of the violation and the good faith of the violator in attempting to achieve compliance after notification of the violation is given.

(6) Upon notice and hearing in accordance with this section and section 75-157, the commission may enter an order assessing a civil penalty of up to one hundred dollars against any person, firm, partnership, limited liability company, corporation, cooperative, or association for failure to file an annual report or pay the fee as required by section 75-116 and as prescribed by commission rules and regulations or for failure to register as required by section 86-125 and as prescribed by commission rules and regulations. Each day during which the violation continues after the commission has issued an order finding that a violation has occurred constitutes a separate offense. Any party aggrieved by an order of the commission under this section may appeal. The appeal shall be in accordance with section 75-136.

(7) When any person or party is accused of any violation listed in this section, the commission shall notify such person or party in writing (a) setting forth the date, facts, and nature of each act or omission upon which each charge of a violation is based, (b) specifically identifying the particular statute, certificate, permit, rule, regulation, or order purportedly violated, (c) that a hearing will be held and the time, date, and place of the hearing, (d) that in addition to the civil penalty, the commission may enforce additional penalties and relief as provided by law, and (e) that upon failure to pay any civil penalty determined by the commission, the penalty may be collected by civil action in the district court of Lancaster County.

Source: Laws 1995, LB 424, § 18; Laws 1996, LB 1218, § 41; Laws 2000, LB 1285, § 9; Laws 2002, LB 1105, § 493; Laws 2002, LB 1211, § 10; Laws 2003, LB 187, § 22; Laws 2003, LB 735, § 1; Laws 2003, LB 790, § 73; Laws 2005, LB 319, § 3; Laws 2008, LB755, § 3; Laws 2013, LB545, § 8; Laws 2020, LB461, § 4; Laws 2024, LB262, § 23.
Operative date July 19, 2024.

Cross References

Enhanced Wireless 911 Services Act, see section 86-442.
Nebraska Uniform Standards for Modular Housing Units Act, see section 71-1555.
State Natural Gas Regulation Act, see section 66-1801.
Uniform Standard Code for Manufactured Homes and Recreational Vehicles, see section 71-4601.

75-161 Special party buses; buses providing charter services; distinguishing signs or other indicia.

The Public Service Commission shall, in consultation with the Nebraska Liquor Control Commission, adopt and promulgate rules and regulations for

signs or other indicia distinguishing between buses providing special party services and buses providing charter services.

Source: Laws 2020, LB734, § 11.

ARTICLE 3
MOTOR CARRIERS

(a) INTRASTATE MOTOR CARRIERS

(e) SAFETY REGULATIONS

(j) DIVISION OF MOTOR CARRIER SERVICES

(l) UNIFIED CARRIER REGISTRATION PLAN AND AGREEMENT

(a) INTRASTATE MOTOR CARRIERS

75-301 Motor carriers; regulation; legislative policy.

(1) It is the policy of the Legislature to comply with the laws of the United States, to promote uniformity of regulation, to prevent motor vehicle accidents, deaths, and injuries, to protect the public safety, to reduce redundant regulation, to promote financial responsibility on the part of all motor carriers operating in and through the state, and to foster the development, coordination, and preservation of a safe, sound, adequate, and productive motor carrier system which is vital to the economy of the state.

(2) It is the policy of the Legislature to (a) regulate transportation by motor carriers of passengers and household goods in intrastate commerce upon the public highways of Nebraska in such manner as to recognize and preserve the inherent advantages of and foster sound economic conditions in such transportation and among such carriers, in the public interest, (b) authorize upon the

public highways of Nebraska the transportation in intrastate commerce of (i) household goods by motor carriers under licenses issued pursuant to section 75-304.03 and (ii) employees of railroad carriers engaged in interstate commerce to or from their work locations under licenses issued pursuant to section 75-304.04, (c) promote adequate economical and efficient service by motor carriers and reasonable charges therefor without unjust discrimination, undue preferences or advantages, and unfair or destructive competitive practices, (d) improve the relations between and coordinate transportation by and regulation of such motor carriers and other carriers, (e) develop and preserve a highway transportation system properly adapted to the needs of the commerce of Nebraska, (f) cooperate with the several states and the duly authorized officials thereof, and (g) cooperate with the United States Government in the administration and enforcement of the unified carrier registration plan and agreement.

The commission, the Division of Motor Carrier Services, and the carrier enforcement division shall enforce all provisions of section 75-126 and Chapter 75, article 3, so as to promote, encourage, and ensure a safe, dependable, responsive, and adequate transportation system for the public as a whole.

Source: Laws 1963, c. 425, art. III, § 1, p. 1374; Laws 1989, LB 78, § 14; Laws 1995, LB 424, § 21; Laws 1996, LB 1218, § 42; Laws 2009, LB331, § 14; Laws 2020, LB461, § 5.

75-302 Terms, defined.

For purposes of sections 75-301 to 75-343 and in all rules and regulations adopted and promulgated by the commission pursuant to such sections, unless the context otherwise requires:

(1) Attended services means an attendant or caregiver accompanying a minor or a person who has a physical, mental, or developmental disability and is unable to travel or wait without assistance or supervision;

(2) Carrier enforcement division means the carrier enforcement division of the Nebraska State Patrol or the Nebraska State Patrol;

(3) Certificate means a certificate of public convenience and necessity issued under Chapter 75, article 3, to common carriers by motor vehicle;

(4) Civil penalty means any monetary penalty assessed by the commission or carrier enforcement division due to a violation of Chapter 75, article 3, or section 75-126 as such section applies to any person or carrier specified in Chapter 75, article 3; any term, condition, or limitation of any certificate or permit issued pursuant to Chapter 75, article 3; or any rule, regulation, or order of the commission, the Division of Motor Carrier Services, or the carrier enforcement division issued pursuant to Chapter 75, article 3;

(5) Commission means the Public Service Commission;

(6) Common carrier means any person who or which undertakes to transport passengers or, until July 1, 2021, household goods, for the general public in intrastate commerce by motor vehicle for hire, whether over regular or irregular routes, upon the highways of this state. Beginning July 1, 2021, common carrier does not include a motor carrier operating under a license issued pursuant to section 75-304.03;

(7) Contract carrier means any motor carrier which transports passengers or, until July 1, 2021, household goods, for hire other than as a common carrier designed to meet the distinct needs of each individual customer or a specifically

designated class of customers without any limitation as to the number of customers it can serve within the class. Beginning on January 1, 2021, contract carrier does not include a motor carrier operating under a license issued pursuant to section 75-304.04;

(8) Division of Motor Carrier Services means the Division of Motor Carrier Services of the Department of Motor Vehicles;

(9) Highway means the roads, highways, streets, and ways in this state;

(10) Household goods means personal effects and property used or to be used in a dwelling, when a part of the equipment or supply of such dwelling, and similar property as the commission may provide by regulation if the transportation of such effects or property, is:

(a) Arranged and paid for by the householder, including transportation of property from a factory or store when the property is purchased by the householder with the intent to use in his or her dwelling; or

(b) Arranged and paid for by another party;

(11) Intrastate commerce means commerce between any place in this state and any other place in this state and not in part through any other state;

(12) License means a license issued to a motor carrier engaged in the for-hire, intrastate transportation of (a) household goods under section 75-304.03 or (b) employees of a railroad carrier engaged in interstate commerce to or from their work locations under section 75-304.04;

(13) Licensed care transportation services means transportation provided by an entity licensed by the Department of Health and Human Services as a residential child-caring agency as defined in section 71-1926 or child-placing agency as defined in section 71-1926 or a child care facility licensed under the Child Care Licensing Act to a client of the entity or facility when the person providing transportation services also assists and supervises the passenger or, if the client is a minor, to a family member of a minor when it is necessary for agency or facility staff to accompany or facilitate the transportation in order to provide necessary services and support to the minor. Licensed care transportation services must be incidental to and in furtherance of the social services provided by the entity or facility to the transported client;

(14) Motor carrier means any person other than a regulated motor carrier who or which owns, controls, manages, operates, or causes to be operated any motor vehicle used to transport passengers or property over any public highway in this state;

(15) Motor vehicle means any vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used upon the highways in the transportation of passengers or property but does not include any vehicle, locomotive, or car operated exclusively on a rail or rails;

(16) Permit means a permit issued under Chapter 75, article 3, to contract carriers by motor vehicle;

(17) Person means any individual, firm, partnership, limited liability company, corporation, company, association, or joint-stock association and includes any trustee, receiver, assignee, or personal representative thereof;

(18) Private carrier means any motor carrier which owns, controls, manages, operates, or causes to be operated a motor vehicle to transport passengers or property to or from its facility, plant, or place of business or to deliver to

purchasers its products, supplies, or raw materials (a) when such transportation is within the scope of and furthers a primary business of the carrier other than transportation and (b) when not for hire. Nothing in sections 75-301 to 75-322 shall apply to private carriers;

(19) Regulated motor carrier means any person who or which owns, controls, manages, operates, or causes to be operated any motor vehicle used to transport passengers, other than those excepted under section 75-303, or, until July 1, 2021, household goods, over any public highway in this state. Beginning July 1, 2021, regulated motor carrier does not include a motor carrier operating under a license issued pursuant to section 75-304.03. Beginning on January 1, 2021, regulated motor carrier does not include a motor carrier operating under a license issued pursuant to section 75-304.04;

(20) Residential care means care for a minor or a person who is physically, mentally, or developmentally disabled who resides in a residential home or facility regulated by the Department of Health and Human Services, including, but not limited to, a foster home, treatment facility, residential child-caring agency, or shelter;

(21) Residential care transportation services means transportation services to persons in residential care when such residential care transportation services and residential care are provided as part of a services contract with the Department of Health and Human Services or pursuant to a subcontract entered into incident to a services contract with the department;

(22) Supported transportation services means transportation services to a minor or for a person who is physically, mentally, or developmentally disabled when the person providing transportation services also assists and supervises the passenger or transportation services to a family member of a minor when it is necessary for provider staff to accompany or facilitate the transportation in order to provide necessary services and support to the minor. Supported transportation services must be provided as part of a services contract with the Department of Health and Human Services or pursuant to a subcontract entered into incident to a services contract with the department, and the driver must meet department requirements for (a) training or experience working with minors or persons who are physically, mentally, or developmentally disabled, (b) training with regard to the specific needs of the client served, (c) reporting to the department, and (d) age. Assisting and supervising the passenger shall not necessarily require the person providing transportation services to stay with the passenger after the transportation services have been provided; and

(23) Transportation network company has the definition found in section 75-323. A transportation network company shall not own, control, operate, or manage drivers' personal vehicles.

Source: Laws 1963, c. 425, art. III, § 2, p. 1375; Laws 1969, c. 606, § 1, p. 2467; Laws 1972, LB 1370, § 1; Laws 1989, LB 78, § 18; Laws 1990, LB 980, § 25; Laws 1993, LB 121, § 464; Laws 1993, LB 412, § 2; Laws 1995, LB 424, § 22; Laws 1996, LB 1218, § 43; Laws 1999, LB 594, § 66; Laws 2006, LB 1069, § 3; Laws 2007, LB358, § 12; Laws 2011, LB112, § 1; Laws 2013, LB265, § 45; Laws 2015, LB629, § 23; Laws 2020, LB461, § 6.

Cross References

Child Care Licensing Act, see section 71-1908.

75-303 Motor carriers; scope of law.

Sections 75-301 to 75-322 shall apply to transportation by a motor carrier or the transportation of passengers and, until July 1, 2021, household goods, by a regulated motor carrier for hire in intrastate commerce except for the following:

(1) A motor carrier for hire in the transportation of school children and teachers to and from school;

(2) A motor carrier for hire operated in connection with a part of a streetcar system;

(3) A motor carrier for hire providing transportation services for passengers in vehicles with a rated seating capacity of eight or more passengers when (a) such services are incidental to agritourism activities as defined in section 82-603, (b) the destination for such agritourism activities is outside any incorporated city or village, and (c) the point of origination and termination is outside a county that includes a city of the metropolitan class or primary class;

(4) An ambulance, ambulance owner, hearse, or automobile used exclusively as an incident to conducting a funeral;

(5) A motor carrier exempt by subdivision (1) of this section which hauls for hire (a) persons of a religious, fraternal, educational, or charitable organization, (b) pupils of a school to athletic events, (c) players of American Legion baseball teams when the point of origin or termination is within five miles of the domicile of the carrier, and (d) the elderly as defined in section 13-1203 and their spouses and dependents under a contract with a municipality or county authorized in section 13-1208;

(6) A motor carrier operated by a city and engaged in the transportation of passengers, and such exempt operations shall be no broader than those authorized in intrastate commerce at the time the city or other political subdivision assumed ownership of the operation;

(7) A motor vehicle owned and operated by a nonprofit organization which is exempt from payment of federal income taxes, as provided by section 501(c)(4), Internal Revenue Code, transporting solely persons over age sixty, persons who are spouses and dependents of persons over age sixty, and handicapped persons;

(8) A motor carrier engaged in the transportation of passengers operated by a transit authority or regional metropolitan transit authority established under and acting pursuant to the laws of the State of Nebraska;

(9) Except as provided in section 75-304.03, a motor carrier engaged in the transportation of household goods;

(10) Except as provided in section 75-304.04, a motor carrier engaged in the transportation of employees of a railroad carrier engaged in interstate commerce to or from their work locations;

(11) A motor carrier operated by a municipality or county, as authorized in section 13-1208, in the transportation of elderly persons;

(12) A motor vehicle having a seating capacity of twenty or less which is operated by a governmental subdivision or a qualified public-purpose organiza-

tion as defined in section 13-1203 engaged in the transportation of passengers in the state;

(13) A motor vehicle owned and operated by a nonprofit entity organized for the purpose of furnishing electric service;

(14) A motor carrier engaged in attended services under contract or subcontract with the Department of Health and Human Services or with any agency organized under the Nebraska Community Aging Services Act;

(15) A motor carrier engaged in residential care transportation services if the motor carrier complies with the requirements of the Department of Health and Human Services adopted, promulgated, and enforced to protect the safety and well-being of the passengers, including insurance, training, and age requirements;

(16) A motor carrier engaged in supported transportation services if the motor carrier complies with the requirements of the Department of Health and Human Services adopted, promulgated, and enforced to protect the safety and well-being of the passengers, including insurance, training, and age requirements; and

(17) A motor carrier engaged in licensed care transportation services if the motor carrier files a certificate with the commission that such provider meets the minimum driver standards, insurance requirements, and equipment standards prescribed by the commission. Insurance requirements established by the commission shall be consistent with the insurance requirements established by the Department of Health and Human Services for attended services, residential care transportation services, and supported transportation services.

Source: Laws 1963, c. 425, art. III, § 3, p. 1376; Laws 1969, c. 606, § 2, p. 2468; Laws 1972, LB 1178, § 1; Laws 1973, LB 54, § 1; Laws 1973, LB 70, § 1; Laws 1973, LB 345, § 2; Laws 1974, LB 762, § 1; Laws 1981, LB 85, § 2; Laws 1981, LB 144, § 8; Laws 1983, LB 98, § 1; Laws 1989, LB 78, § 19; Laws 1993, LB 412, § 3; Laws 1993, LB 413, § 3; Laws 1995, LB 424, § 23; Laws 1996, LB 1218, § 44; Laws 1999, LB 594, § 67; Laws 2011, LB112, § 2; Laws 2019, LB492, § 41; Laws 2020, LB461, § 7.

Cross References

Nebraska Community Aging Services Act, see section 81-2201.

75-304.02 Repealed. Laws 2020, LB461, § 15.

75-304.03 Mover of household goods; license; application; fee; issuance; conditions; renewal; fee; failure to comply; effect; commission; authority.

(1) Beginning July 1, 2021, any mover of household goods operating in this state and engaged in the intrastate transportation for hire of household goods shall apply to the commission for a license prior to transporting household goods in intrastate commerce. A license shall be issued by the commission to any qualified applicant upon payment of a license fee of two hundred fifty dollars and receipt of a completed application in which the principal place of business of the applicant in the State of Nebraska is identified and the applicant agrees and affirms to perform the service in conformance with applicable sections 75-301 to 75-322 and the rules and regulations of the commission adopted and promulgated under such sections. Otherwise the application shall be denied. Applications for initial and renewal licenses shall be on forms

prescribed by the commission. A license issued under this section shall be valid for one year and may be renewed annually for a fee of two hundred fifty dollars. A license may be suspended or revoked by the commission after notice and hearing for failure to comply with applicable sections 75-101 to 75-801, any rule or regulation adopted and promulgated under such sections, or any lawful order of the commission.

(2) Any person who applies for a license pursuant to this section shall comply with the requirements of section 75-307. The commission shall have no authority to regulate the rates of any motor carrier who is issued a license under this section.

Source: Laws 2020, LB461, § 8.

75-304.04 Transportation of railroad carrier employees; license; application; fee; issuance; conditions; renewal; fee; failure to comply; effect; commission; authority.

(1) Any motor carrier operating in this state engaged in the intrastate transportation for hire of employees of a railroad carrier engaged in interstate commerce to or from their work locations shall apply to the commission for a license prior to transporting such employees in intrastate commerce. A license shall be issued by the commission to any qualified applicant upon payment of a license fee of two hundred fifty dollars and receipt of a completed application in which the principal place of business of the applicant in the State of Nebraska is identified and the applicant agrees and affirms to perform the service in conformance with section 75-307 and the rules and regulations adopted and promulgated by the commission relating to driver qualifications, equipment, operating standards, and record keeping. Otherwise the application shall be denied. Applications for initial and renewal licenses shall be on forms prescribed by the commission. A license issued under this section shall be valid for one year and may be renewed annually for a fee of two hundred fifty dollars. A license may be suspended or revoked by the commission after notice and hearing for failure to comply with section 75-307, and any rule or regulation adopted and promulgated under this section, or any lawful order of the commission.

(2) Any person who applies for a license pursuant to this section shall comply with the requirements of section 75-307. The commission shall have no authority to regulate the rates of any motor carrier who is issued a license under this section.

Source: Laws 2020, LB461, § 9.

75-307 Insurance and bond requirements; subrogation; applicability of section.

(1) Certificated intrastate motor carriers, including common and contract carriers, any motor carrier transporting household goods under a license issued pursuant to section 75-304.03, and any motor carrier transporting employees of a railroad carrier under a license issued pursuant to section 75-304.04 shall comply with reasonable rules and regulations prescribed by the commission governing the filing with the commission, the approval of the filings, and the maintenance of proof at such carrier's principal place of business of surety bonds, policies of insurance, qualifications as a self-insurer, or other securities or agreements, in such reasonable amount as required by the commission,

conditioned to pay, within the amount of such surety bonds, policies of insurance, qualifications as a self-insurer, or other securities or agreements, any final judgment recovered against such motor carrier for bodily injuries to or the death of any person resulting from the negligent operation, maintenance, or use of motor vehicles under such certificate, permit, or license or for loss or damage to property of others. No certificate or permit shall be issued to a common or contract carrier, no license shall be issued to a motor carrier transporting household goods under section 75-304.03 or employees of a railroad carrier under section 75-304.04, nor shall such certificate, permit, or license remain in force unless such carrier complies with this section and the rules and regulations prescribed by the commission pursuant to this section.

(2) The commission may, in its discretion and under its rules and regulations, require any certificated carrier, any motor carrier transporting household goods under a license issued pursuant to section 75-304.03, and any motor carrier transporting employees of a railroad carrier under a license issued pursuant to section 75-304.04 to file a surety bond, policies of insurance, qualifications as a self-insurer, or other securities or agreements, in a sum to be determined by the commission, to be conditioned upon such carrier making compensation to shippers or consignees for all property belonging to shippers or consignees and coming into the possession of such carrier in connection with its transportation service. Any carrier which may be required by law to compensate a shipper or consignee for any loss, damage, or default for which a connecting motor common carrier is legally responsible shall be subrogated to the rights of such shipper or consignee under any such bond, policies of insurance, or other securities or agreements to the extent of the sum so paid.

(3) In carrying out this section, the commission may classify motor carriers and regulated motor carriers taking into consideration the hazards of the operations of such carriers and the value of the household goods carried. Nothing contained in this section shall be construed to authorize the commission to compel motor carriers other than those transporting household goods under section 75-309 or under a license issued pursuant to section 75-304.03 to carry cargo insurance.

(4) This section does not apply to transportation network companies.

Source: Laws 1963, c. 425, art. III, § 7, p. 1379; Laws 1989, LB 78, § 23; Laws 1990, LB 980, § 26; Laws 1995, LB 424, § 30; Laws 2007, LB358, § 13; Laws 2015, LB629, § 27; Laws 2020, LB461, § 10.

75-308 Tariff; publication; unlawful practices.

It is unlawful for a regulated motor carrier to engage in the transportation of passengers or, until July 1, 2021, household goods, in intrastate commerce unless the motor carrier has filed, published, and kept open for inspection its tariff schedule as provided in section 75-124 in the manner prescribed by the commission pursuant to such section. Until July 1, 2021, no regulated motor carrier shall engage in the transportation of household goods in intrastate commerce unless it has obtained a copy of the most current applicable tariff, or a tariff prepared by a tariff publishing bureau or an individual, which conforms with the rates and charges prescribed by the commission.

Source: Laws 1963, c. 425, art. III, § 8, p. 1380; Laws 1983, LB 309, § 1; Laws 1995, LB 424, § 34; Laws 2020, LB461, § 11.

75-311 Certificates; permits; designation of authority; issuance; review by commission; effect.

(1) A certificate shall be issued to any qualified applicant authorizing the whole or any part of the operations covered by the application if it is found after notice and hearing that (a) the applicant is fit, willing, and able properly to perform the service proposed and to conform to the provisions of sections 75-301 to 75-322 and the requirements, rules, and regulations of the commission under such sections and (b) the proposed service, to the extent to be authorized by the certificate, whether regular or irregular, is or will be required by the present or future public convenience and necessity. Otherwise the application shall be denied.

(2) A permit shall be issued to any qualified applicant therefor authorizing in whole or in part the operations covered by the application if it appears after notice and hearing from the application or from any hearing held on the application that (a) the applicant is fit, willing, and able properly to perform the service of a contract carrier by motor vehicle and to conform to the provisions of such sections and the lawful requirements, rules, and regulations of the commission under such sections and (b) the proposed operation, to the extent authorized by the permit, will be consistent with the public interest by providing services designed to meet the distinct needs of each individual customer or a specifically designated class of customers as defined in subdivision (7) of section 75-302. Otherwise the application shall be denied.

(3) A designation of authority shall be issued to any regulated motor carrier holding a certificate under subsection (1) of this section or a permit under subsection (2) of this section authorizing such carrier to provide medicaid nonemergency medical transportation services pursuant to a contract with (i) the Department of Health and Human Services, (ii) a medicaid-managed care organization under contract with the department, or (iii) another agent working on the department's behalf as provided under section 75-303.01, if it is found after notice and hearing from the application or from any hearing held on the application that the authorization is or will be required by the present or future convenience and necessity to serve the distinct needs of medicaid clients. In determining whether the authorization is or will be required by the present or future convenience and necessity to serve the distinct needs of medicaid clients, the commission shall consult with the Director of Medicaid and Long-Term Care of the Division of Medicaid and Long-Term Care of the department or his or her designee.

(4) Until July 1, 2021, no person shall at the same time hold a certificate as a common carrier and a permit as a contract carrier for transportation of household goods by motor vehicles over the same route or within the same territory unless the commission finds that it is consistent with the public interest and with the policy declared in section 75-301.

(5) Until July 1, 2021, after the issuance of a certificate or permit, the commission shall review the operations of all common or contract carriers who hold authority from the commission to determine whether there are insufficient operations in the transportation of household goods to justify the commission's finding that such common or contract carrier has willfully failed to perform transportation under sections 75-301 to 75-322 and rules and regulations promulgated under such sections. If the commission determines that there are

insufficient operations, then the commission shall commence proceedings under section 75-315 to revoke the certificate or permit involved.

(6) This section shall not apply to transportation network companies holding a permit under section 75-324 or operations pursuant to a contract authorized by sections 75-303.02 and 75-303.03.

Source: Laws 1963, c. 425, art. III, § 11, p. 1381; Laws 1969, c. 606, § 6, p. 2471; Laws 1972, LB 1370, § 2; Laws 1974, LB 438, § 2; Laws 1989, LB 78, § 25; Laws 1990, LB 980, § 27; Laws 1993, LB 412, § 10; Laws 1994, LB 414, § 74; Laws 1995, LB 424, § 38; Laws 1996, LB 1218, § 50; Laws 2011, LB112, § 3; Laws 2015, LB629, § 30; Laws 2017, LB263, § 87; Laws 2020, LB461, § 12.

(e) SAFETY REGULATIONS

75-362 Federal regulations; terms, defined.

For purposes of sections 75-362 to 75-369.07, unless the context otherwise requires:

(1) Accident means:

(a) Except as provided in subdivision (b) of this subdivision, an occurrence involving a commercial motor vehicle operating on a highway in interstate or intrastate commerce which results in:

(i) A fatality;

(ii) Bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or

(iii) One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicles to be transported away from the scene by a tow truck or other motor vehicle.

(b) The term accident does not include:

(i) An occurrence involving only boarding and alighting from a stationary motor vehicle; or

(ii) An occurrence involving only the loading or unloading of cargo;

(2) Bulk packaging means a packaging, other than a vessel or a barge, including a transport vehicle or freight container, in which hazardous materials are loaded with no intermediate form of containment. A large packaging in which hazardous materials are loaded with an intermediate form of containment, such as one or more articles or inner packagings, is also a bulk packaging. Additionally, a bulk packaging has:

(a) A maximum capacity greater than one hundred nineteen gallons as a receptacle for a liquid;

(b) A maximum net mass greater than eight hundred eighty-two pounds and a maximum capacity greater than one hundred nineteen gallons as a receptacle for a solid; or

(c) A water capacity greater than one thousand pounds as a receptacle for a gas as defined in 49 C.F.R. 173.115;

(3) Cargo tank means a bulk packaging that:

(a) Is a tank intended primarily for the carriage of liquids or gases and includes appurtenances, reinforcements, fittings, and closures;

(b) Is permanently attached to or forms a part of a motor vehicle or is not permanently attached to a motor vehicle but which, by reason of its size, construction, or attachment to a motor vehicle, is loaded or unloaded without being removed from the motor vehicle; and

(c) Is not fabricated under a specification for cylinders, intermediate bulk containers, multi-unit tank-car tanks, portable tanks, or tank cars;

(4) Cargo tank motor vehicle means a motor vehicle with one or more cargo tanks permanently attached to or forming an integral part of the motor vehicle;

(5) Commercial enterprise means any business activity relating to or based upon the production, distribution, or consumption of goods or services;

(6) Commercial motor vehicle means any self-propelled or towed motor vehicle used on a highway in interstate commerce or intrastate commerce to transport passengers or property when the vehicle:

(a) Has a gross vehicle weight rating or gross combination weight rating or gross vehicle weight or gross combination weight of ten thousand one pounds or more, whichever is greater;

(b) Is designed or used to transport more than eight passengers, including the driver, for compensation;

(c) Is designed or used to transport more than fifteen passengers, including the driver, and is not used to transport passengers for compensation; or

(d) Is used in transporting material found to be hazardous and such material is transported in a quantity requiring placarding pursuant to section 75-364;

(7) Compliance review means an onsite examination of motor carrier operations, such as drivers' hours of service, maintenance and inspection, driver qualification, commercial driver's license requirements, financial responsibility, accidents, hazardous materials, and other safety and transportation records to determine whether a motor carrier meets the safety fitness standard. A compliance review may be conducted in response to a request to change a safety rating, to investigate potential violations of safety regulations by motor carriers, or to investigate complaints or other evidence of safety violations. The compliance review may result in the initiation of an enforcement action with penalties;

(8)(a) Covered farm vehicle means a motor vehicle, including an articulated motor vehicle:

(i) That:

(A) Is traveling in the state in which the vehicle is registered or another state;

(B) Is operated by:

(I) A farm owner or operator;

(II) A ranch owner or operator; or

(III) An employee or family member of an individual specified in subdivision (8)(a)(i)(B)(I) or (8)(a)(i)(B)(II) of this section;

(C) Is transporting to or from a farm or ranch:

(I) Agricultural commodities;

(II) Livestock; or

(III) Machinery or supplies;

(D) Except as provided in subdivision (8)(b) of this section, is not used in the operations of a for-hire motor carrier; and

(E) Is equipped with a special license plate or other designation by the state in which the vehicle is registered to allow for identification of the vehicle as a farm vehicle by law enforcement personnel; and

(ii) That has a gross vehicle weight rating or gross vehicle weight, whichever is greater, that is:

(A) Less than twenty-six thousand one pounds; or

(B) Twenty-six thousand one pounds or more and is traveling within the state or within one hundred fifty air miles of the farm or ranch with respect to which the vehicle is being operated.

(b) Covered farm vehicle includes a motor vehicle that meets the requirements of subdivision (8)(a) of this section, except for subdivision (8)(a)(i)(D) of this section, and:

(i) Is operated pursuant to a crop share farm lease agreement;

(ii) Is owned by a tenant with respect to that agreement; and

(iii) Is transporting the landlord's portion of the crops under that agreement.

(c) Covered farm vehicle does not include:

(i) A combination of truck-tractor and semitrailer which is operated by a person under eighteen years of age; or

(ii) A combination of truck-tractor and semitrailer which is used in the transportation of materials found to be hazardous for the purposes of the federal Hazardous Materials Transportation Act and which require the combination to be placarded under 49 C.F.R. part 172, subpart F;

(9) Disabling damage means damage which precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs.

(a) Inclusions: Damage to motor vehicles that could have been driven but would have been further damaged if so driven.

(b) Exclusions:

(i) Damage which can be remedied temporarily at the scene of the accident without special tools or parts;

(ii) Tire disablement without other damage even if no spare tire is available;

(iii) Headlight or taillight damage; and

(iv) Damage to turnsignals, horn, or windshield wipers which makes them inoperative;

(10) Driver means any person who operates any commercial motor vehicle;

(11) Elevated temperature material means a material which, when offered for transportation or transported in a bulk packaging:

(a) Is in a liquid phase and at a temperature at or above two hundred twelve degrees Fahrenheit;

(b) Is in a liquid phase with a flash point at or above one hundred degrees Fahrenheit that is intentionally heated and offered for transportation or transported at or above its flash point; or

(c) Is in a solid phase and at a temperature at or above four hundred sixty-four degrees Fahrenheit;

(12) Employee means any individual, other than an employer, who is employed by an employer and who in the course of his or her employment directly affects commercial motor vehicle safety. Such term includes a driver of a commercial motor vehicle, including an independent contractor while in the course of operating a commercial motor vehicle, a mechanic, and a freight handler. Such term does not include an employee of the United States, any state, any political subdivision of a state, or any agency established under a compact between states and approved by the Congress of the United States who is acting within the course of such employment;

(13) Employer means any person engaged in a business affecting commerce who owns or leases a commercial motor vehicle in connection with that business or assigns employees to operate it. Such term does not include the United States, any state, any political subdivision of a state, or an agency established under a compact between states approved by the Congress of the United States;

(14) Exempt motor carrier means a person engaged in transportation exempt from economic regulation under 49 U.S.C. 13506. An exempt motor carrier is subject to the safety regulations adopted in sections 75-362 to 75-369.07;

(15) Farm vehicle driver means a person who drives only a commercial motor vehicle that is controlled and operated by a farmer as a private motor carrier of property;

(16) Farmer means any person who operates a farm or is directly involved in the cultivation of land, crops, or livestock which:

(a) Are owned by that person; or

(b) Are under the direct control of that person;

(17) Fatality means any injury which results in the death of a person at the time of the motor vehicle accident or within thirty days after the accident;

(18) Fertilizer and agricultural chemical application and distribution equipment means:

(a) Self-propelled or towed equipment, designed and used exclusively to apply commercial fertilizer, as that term is defined in section 81-2,162.02, chemicals, or related products to agricultural soil and crops; or

(b) Towed equipment designed and used exclusively to carry commercial fertilizer, as that term is defined in section 81-2,162.02, chemicals, or related products for use on agricultural soil and crops, which are equipped with implement or floatation tires;

(19) For-hire motor carrier means a person engaged in the transportation of goods or passengers for compensation;

(20) Gross combination weight means the sum of the empty weight of a motor vehicle plus the total weight of any load carried thereon and the empty weight of the towed unit or units plus the total weight of any load carried on such towed unit or units;

(21) Gross combination weight rating means the greater of (a) a value specified by the manufacturer of the power unit, if such value is displayed on the Federal Motor Vehicle Safety Standard certification label required by the National Highway Traffic Safety Administration, or (b) the sum of the gross vehicle weight ratings or the gross vehicle weights of the power unit and the towed unit or units, or any combination thereof, that produces the highest

value. Gross combination weight rating does not apply to a commercial motor vehicle if the power unit is not towing another vehicle;

(22) Gross vehicle weight means the sum of the empty weight of a motor vehicle plus the total weight of any load carried thereon;

(23) Gross vehicle weight rating means the value specified by the manufacturer as the loaded weight of a single motor vehicle. In the absence of such value specified by the manufacturer or the absence of any marking of such value on the vehicle, the gross vehicle weight rating shall be determined from the sum of the axle weight ratings of the vehicle or the sum of the tire weight ratings as marked on the sidewall of the tires, whichever is greater. In the absence of any tire sidewall marking, the tire weight ratings shall be determined for the specified tires from any of the publications of any of the organizations listed in 49 C.F.R. 571.119;

(24) Hazardous material means a substance or material that the Secretary of the United States Department of Transportation has determined is capable of posing an unreasonable risk to health, safety, and property when transported in commerce and has designated as hazardous under 49 U.S.C. 5103. The term includes hazardous substances, hazardous wastes, marine pollutants, elevated temperature materials, materials designated as hazardous in the Hazardous Materials Table, 49 C.F.R. 172.101, and materials that meet the defining criteria for hazard classes and divisions in 49 C.F.R. part 173;

(25) Hazardous substance means a material, including its mixtures and solutions, that is listed in 49 C.F.R. 172.101, Appendix A, List Of Hazardous Substances and Reportable Quantities, and is in a quantity, in one package, which equals or exceeds the reportable quantity listed in 49 C.F.R. 172.101, Appendix A. This definition does not apply to petroleum products that are lubricants or fuels or to mixtures or solutions of hazardous substances if in a concentration less than that shown in the table in 49 C.F.R. 171.8 under the definition of hazardous substance based on the reportable quantity specified for the materials listed in 49 C.F.R. 172.101, Appendix A;

(26) Hazardous waste means any material that is subject to the hazardous waste manifest requirements of the United States Environmental Protection Agency specified in 40 C.F.R. 262;

(27) Highway means the entire width between the boundary limits of any street, road, avenue, boulevard, or way which is publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel;

(28) Interstate commerce means trade, traffic, or transportation provided in the furtherance of a commercial enterprise in the United States:

(a) Between a place in a state and a place outside of such state, including a place outside of the United States;

(b) Between two places in a state through another state or a place outside of the United States; or

(c) Between two places in a state as part of trade, traffic, or transportation originating or terminating outside the state or the United States;

(29) Intrastate commerce means any trade, traffic, or transportation provided in the furtherance of a commercial enterprise between any place in the State of Nebraska and any other place in Nebraska and not through any other state;

(30) Large packaging means a packaging that:

(a) Consists of an outer packaging that contains articles or inner packagings;

(b) Is designated for mechanical handling;

(c) Exceeds a net mass of four hundred kilograms or four hundred fifty liters (one hundred nineteen gallons) capacity;

(d) Has a volume of not more than three cubic meters; and

(e) Conforms to the requirements for the construction, testing, and marking of large packagings as specified in subparts P and Q of 49 C.F.R. part 178.

(31) Marine pollutant means a material which is listed in the Hazardous Materials Table, 49 C.F.R. 172.101, Appendix B, as a marine pollutant (see 49 C.F.R. 171.4 for applicability to marine pollutants) and, when in a solution or mixture of one or more marine pollutants, is packaged in a concentration which equals or exceeds:

(a) Ten percent by weight of the solution or mixture for materials listed in 49 C.F.R. 172.101, Appendix B; or

(b) One percent by weight of the solution or mixture for materials that are identified as severe marine pollutants in the Hazardous Materials Table, 49 C.F.R. 172.101, Appendix B;

(32) Motor carrier means a for-hire motor carrier or a private motor carrier. The term includes a motor carrier's agents, officers, and representatives as well as employees responsible for hiring, supervising, training, assigning, or dispatching of drivers and employees concerned with the installation, inspection, and maintenance of motor vehicle equipment or accessories. This definition includes the terms employer and exempt motor carrier;

(33) Motor vehicle means any vehicle, truck, truck-tractor, trailer, or semitrailer propelled or drawn by mechanical power except (a) farm tractors, (b) vehicles which run only on rails or tracks, and (c) road and general-purpose construction and maintenance machinery which by design and function is obviously not intended for use on a public highway, including, but not limited to, motor scrapers, earthmoving equipment, backhoes, trenchers, motor graders, compactors, tractors, bulldozers, bucket loaders, ditchdigging apparatus, asphalt spreaders, leveling graders, power shovels, and crawler tractors;

(34) Nonbulk packaging means a packaging which has:

(a) A maximum capacity of four hundred fifty liters (one hundred nineteen gallons) or less as a receptacle for a liquid;

(b) A maximum net mass of four hundred kilograms (eight hundred eighty-two pounds) or less and a maximum capacity of four hundred fifty liters (one hundred nineteen gallons) or less as a receptacle for a solid;

(c) A water capacity of four hundred fifty-four kilograms (one thousand pounds) or less as a receptacle for a gas as defined in 49 C.F.R. 173.115; or

(d) Regardless of the definition of bulk packaging, a maximum net mass of four hundred kilograms (eight hundred eighty-two pounds) or less for a bag or box conforming to the applicable requirements for specification packagings, including the maximum net mass limitations provided in subpart L of 49 C.F.R. 178;

(35) Out-of-service order means a declaration by an authorized enforcement officer of a federal, state, Canadian, Mexican, or local jurisdiction that a driver, a commercial motor vehicle, or a motor carrier operation is out of service

pursuant to 49 C.F.R. 386.72, 392.5, 392.9a, 395.13, or 396.9, or compatible laws or the North American Uniform Out-of-Service Criteria;

(36) Packaging means a receptacle and any other components or materials necessary for the receptacle to perform its containment function in conformance with the minimum packing requirements of Title 49 of the Code of Federal Regulations. For radioactive materials packaging, see 49 C.F.R. 173.403;

(37) Person means any individual, partnership, association, corporation, business trust, or any other organized group of individuals;

(38) Planting and harvesting season means the period beginning on January 1 up to and including December 31 of each calendar year;

(39) Principal place of business means the single location designated by the motor carrier, normally its headquarters, for purposes of identification. The motor carrier must make records required by the regulations referred to in sections 75-362 to 75-369.07 available for inspection at this location within forty-eight hours, Saturdays, Sundays, and state or federal holidays excluded, after a request has been made by an officer of the Nebraska State Patrol;

(40) Private motor carrier means a person who provides transportation of property or passengers by commercial motor vehicle and is not a for-hire motor carrier;

(41) Safety audit means an examination of a motor carrier's operations to provide educational and technical assistance on drivers' hours of service, maintenance and inspection, driver qualification, commercial driver's license requirements, financial responsibility, accidents, hazardous materials, and other safety and transportation records to determine whether a motor carrier meets the safety fitness standard. The purpose of a safety audit is to gather critical safety data needed to make an assessment of the carrier's safety performance and basic safety management controls. Safety audits do not result in safety ratings; and

(42) Tank means a container, consisting of a shell and heads, that forms a pressure-tight vessel having openings designed to accept pressure-tight fittings or closures, but excludes any appurtenances, reinforcements, fittings, or closures.

Source: Laws 2006, LB 1007, § 14; Laws 2010, LB725, § 2; Laws 2010, LB805, § 12; Laws 2014, LB983, § 60; Laws 2016, LB311, § 23; Laws 2020, LB944, § 77.

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, 2024, are adopted as Nebraska law.

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

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

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

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

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

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

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

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

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

(b) Part 385 - SAFETY FITNESS PROCEDURES;

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

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

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

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

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

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

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

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

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

(l) Part 398 - TRANSPORTATION OF MIGRANT WORKERS.

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

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

(a) All of part 391;

(b) Section 395.8 of part 395; and

(c) Section 396.11 of part 396.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Source: Laws 1986, LB 301, § 1; Laws 1987, LB 224, § 23; Laws 1988, LB 884, § 1; Laws 1989, LB 285, § 140; Laws 1990, LB 980, § 29; Laws 1991, LB 854, § 3; Laws 1993, LB 410, § 1; Laws 1994, LB 1061, § 5; Laws 1995, LB 461, § 1; Laws 1996, LB 938, § 4; Laws 1997, LB 722, § 1; Laws 1998, LB 1056, § 8; Laws 1999, LB 161, § 1; Laws 1999, LB 704, § 49; Laws 2000, LB 1361, § 11; Laws 2001, LB 375, § 1; Laws 2002, LB 499, § 5; Laws 2003, LB 480, § 2; Laws 2004, LB 878, § 1; Laws 2005, LB 83, § 1; Laws 2005, LB 274, § 271; Laws 2006, LB 1007, § 13; Laws 2007, LB239, § 8; Laws 2008, LB756, § 28; Laws 2008, LB845, § 1; Laws 2009, LB48, § 1; Laws 2009, LB331, § 15; Laws 2010, LB725, § 3; Laws 2010, LB805, § 13; Laws 2011, LB178, § 21; Laws 2011, LB212, § 7; Laws 2012, LB751, § 49; Laws 2013, LB35, § 6; Laws 2014, LB983, § 61; Laws 2015, LB313, § 7; Laws 2016, LB929, § 11; Laws 2017, LB263, § 88; Laws 2018, LB909, § 121; Laws 2019, LB79, § 22; Laws 2020, LB944, § 78; Laws 2021, LB149, § 21; Laws 2022, LB750, § 79; Laws 2023, LB138, § 51; Laws 2024, LB1200, § 60.
Operative date April 16, 2024.

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, 2024, are adopted as part of Nebraska law and shall be applicable to all motor carriers whether engaged in interstate or intrastate commerce, drivers of such motor carriers, and vehicles of such motor carriers:

(1) Part 107 - HAZARDOUS MATERIALS PROGRAM PROCEDURES, subpart F - Registration of Cargo Tank and Cargo Tank Motor Vehicle Manufacturers, Assemblers, Repairers, Inspectors, Testers, and Design Certifying Engineers;

(2) Part 107 - HAZARDOUS MATERIALS PROGRAM PROCEDURES, subpart G - Registration of Persons Who Offer or Transport Hazardous Materials;

(3) Part 171 - GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS;

(4) Part 172 - HAZARDOUS MATERIALS TABLE, SPECIAL PROVISIONS, HAZARDOUS MATERIALS COMMUNICATIONS, EMERGENCY RESPONSE INFORMATION, TRAINING REQUIREMENTS, AND SECURITY PLANS;

(5) Part 173 - SHIPPERS - GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS;

(6) Part 177 - CARRIAGE BY PUBLIC HIGHWAY;

(7) Part 178 - SPECIFICATIONS FOR PACKAGINGS; and

(8) Part 180 - CONTINUING QUALIFICATION AND MAINTENANCE OF PACKAGINGS.

Source: Laws 1986, LB 301, § 2; Laws 1987, LB 538, § 1; Laws 1988, LB 884, § 2; Laws 1990, LB 980, § 30; Laws 1991, LB 854, § 4; Laws 1993, LB 410, § 2; Laws 1994, LB 1061, § 6; Laws 1995, LB 461, § 2; Laws 1996, LB 938, § 5; Laws 1997, LB 722, § 2; Laws 1998, LB 1056, § 9; Laws 1999, LB 161, § 2; Laws 2000, LB 1361, § 12; Laws 2001, LB 375, § 2; Laws 2002, LB 499, § 6; Laws 2003, LB 480, § 3; Laws 2004, LB 878, § 2; Laws 2005, LB 83, § 2; Laws 2006, LB 1007, § 15; Laws 2007, LB239, § 9; Laws 2008, LB756, § 29; Laws 2009, LB48, § 2; Laws 2009, LB331, § 16; Laws 2010, LB805, § 14; Laws 2011, LB178, § 22; Laws 2011, LB212, § 8; Laws 2012, LB751, § 50; Laws 2013, LB35, § 7; Laws 2014, LB983, § 62; Laws 2015, LB313, § 8; Laws 2016, LB929, § 12; Laws 2017, LB263, § 89; Laws 2018, LB909, § 122; Laws 2019, LB79, § 23; Laws 2020, LB944, § 79; Laws 2021, LB149, § 22; Laws 2022, LB750, § 80; Laws 2023, LB138, § 52; Laws 2024, LB1200, § 61.
Operative date April 16, 2024.

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, 2024, and federal hazardous materials regulations, as such regulations existed on January 1, 2024, and is authorized to enter upon, inspect, and examine any and all lands, buildings, and equipment of any motor carrier, any shipper, and any other person subject to the federal Interstate Commerce Act, the federal Department of Transportation Act, and other related federal laws and to inspect and copy any and all accounts, books, records, memoranda, correspondence, and other documents of a motor carrier, a shipper, and any other person subject to Chapter 75, article 3, for the purposes of enforcing Chapter 75, article 3. To promote uniformity of enforcement, the carrier enforcement division of the Nebraska State Patrol shall cooperate and consult with the Public Service Commission and the Division of Motor Carrier Services.

Source: Laws 1986, LB 301, § 4; Laws 1987, LB 538, § 2; Laws 1990, LB 980, § 31; Laws 1995, LB 424, § 48; Laws 1996, LB 1218, § 60; Laws 2002, LB 93, § 18; Laws 2003, LB 480, § 4; Laws 2012, LB751, § 51; Laws 2013, LB35, § 8; Laws 2014, LB983, § 63; Laws 2015, LB313, § 9; Laws 2016, LB929, § 13; Laws 2017, LB263, § 90; Laws 2018, LB909, § 123; Laws 2019, LB79, § 24; Laws 2020, LB944, § 80; Laws 2021, LB149, § 23; Laws 2022,

LB750, § 81; Laws 2023, LB138, § 53; Laws 2024, LB1200, § 62.
Operative date April 16, 2024.

75-369.03 Violations; civil penalty; referral to federal agency or Public Service Commission; when.

(1) The Superintendent of Law Enforcement and Public Safety may issue an order imposing a civil penalty against a motor carrier transporting persons or property in interstate commerce for a violation of sections 75-392 to 75-3,100 or against a motor carrier transporting persons or property in intrastate commerce for a violation or violations of section 75-363 or 75-364 based upon an inspection conducted pursuant to section 75-366 in an amount which shall not exceed nine hundred seventy-one dollars for any single violation in any proceeding or series of related proceedings against any person or motor carrier as defined in 49 C.F.R. 390.5 as adopted in section 75-363.

(2) The superintendent shall issue an order imposing a civil penalty in an amount not to exceed nineteen thousand three hundred eighty-nine dollars against a motor carrier transporting persons or property in interstate commerce for a violation of subdivision (2)(e) of section 60-4,162 based upon a conviction of such a violation.

(3) The superintendent shall issue an order imposing a civil penalty against a driver operating a commercial motor vehicle, as defined in section 60-465, that requires a commercial driver's license or CLP-commercial learner's permit, in violation of an out-of-service order. The civil penalty shall be in an amount not less than three thousand seven hundred forty dollars for a first violation and not less than seven thousand four hundred eighty-one dollars for a second or subsequent violation.

(4) The superintendent shall issue an order imposing a civil penalty against a motor carrier who knowingly allows, requires, permits, or authorizes the operation of a commercial motor vehicle, as defined in section 60-465, that requires a commercial driver's license or CLP-commercial learner's permit, in violation of an out-of-service order. The civil penalty shall be not less than six thousand seven hundred fifty-five dollars but not more than thirty-seven thousand four hundred dollars per violation.

(5) Upon the discovery of any violation by a motor carrier transporting persons or property in interstate commerce of section 75-307, 75-363, or 75-364 or sections 75-392 to 75-3,100 based upon an inspection conducted pursuant to section 75-366, the superintendent shall immediately refer such violation to the appropriate federal agency for disposition, and upon the discovery of any violation by a motor carrier transporting persons or property in intrastate commerce of section 75-307 based upon such inspection, the superintendent shall refer such violation to the Public Service Commission for disposition.

Source: Laws 1994, LB 358, § 3; Laws 1996, LB 1218, § 62; Laws 2002, LB 499, § 7; Laws 2006, LB 1007, § 20; Laws 2007, LB358, § 14; Laws 2008, LB845, § 2; Laws 2009, LB331, § 17; Laws 2014, LB983, § 64; Laws 2017, LB263, § 91; Laws 2018, LB909, § 124; Laws 2020, LB944, § 81; Laws 2022, LB750, § 82; Laws 2023, LB138, § 54; Laws 2024, LB1200, § 63.
Operative date April 16, 2024.

(j) DIVISION OF MOTOR CARRIER SERVICES

75-386 Division of Motor Carrier Services; duties.

The Division of Motor Carrier Services shall:

(1) Foster, promote, and preserve the motor carrier industry of the State of Nebraska;

(2) Protect and promote the public health and welfare of the citizens of the state by ensuring that the motor carrier industry is operated in an efficient and safe manner;

(3) Promote and provide for efficient and uniform governmental oversight of the motor carrier industry;

(4) Promote financial responsibility on the part of motor carriers operating in and through the State of Nebraska;

(5) Administer all provisions of the International Fuel Tax Agreement Act, the International Registration Plan Act, and the unified carrier registration plan and agreement pursuant to sections 75-392 to 75-3,100;

(6) Provide for the issuance of certificates of title to apportioned registered motor vehicles as provided for by subsection (6) of section 60-144; and

(7) Carry out such other duties and responsibilities as directed by the Legislature.

Source: Laws 1996, LB 1218, § 2; Laws 2003, LB 563, § 41; Laws 2005, LB 276, § 110; Laws 2005, LB 284, § 4; Laws 2007, LB358, § 17; Laws 2009, LB331, § 18; Laws 2020, LB944, § 82.

Cross References

International Fuel Tax Agreement Act, see section 66-1401.
International Registration Plan Act, see section 60-3,192.

(l) 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, 2024.

Source: Laws 2007, LB358, § 1; Laws 2014, LB776, § 7; Laws 2016, LB929, § 14; Laws 2017, LB263, § 92; Laws 2018, LB909, § 125; Laws 2019, LB79, § 25; Laws 2020, LB944, § 83; Laws 2021, LB149, § 24; Laws 2022, LB750, § 83; Laws 2023, LB138, § 55; Laws 2024, LB1200, § 64.
Operative date April 16, 2024.

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, 2024, and may file on behalf of this state

the plan required by such plan and agreement for enforcement of the act in this state.

Source: Laws 2007, LB358, § 2; Laws 2009, LB331, § 19; Laws 2011, LB212, § 9; Laws 2012, LB751, § 52; Laws 2013, LB35, § 9; Laws 2014, LB776, § 8; Laws 2015, LB313, § 10; Laws 2016, LB929, § 15; Laws 2017, LB263, § 93; Laws 2018, LB909, § 126; Laws 2019, LB79, § 26; Laws 2020, LB944, § 84; Laws 2021, LB149, § 25; Laws 2022, LB750, § 84; Laws 2023, LB138, § 56; Laws 2024, LB1200, § 65.
Operative date April 16, 2024.

75-398 Violations; penalty.

Any foreign or domestic motor carrier, private carrier, leasing company, broker, or freight forwarder operating any motor vehicle in violation of sections 75-392 to 75-3,100, any rule or regulation adopted and promulgated pursuant to such sections, or any order of the division issued pursuant to such sections is guilty of a Class IV misdemeanor and shall also be subject to section 75-369.03. Each day of the violation constitutes a separate offense.

Source: Laws 2007, LB358, § 7; Laws 2009, LB331, § 23; Laws 2020, LB944, § 85.

75-399 Sections not applicable to intrastate commerce.

Sections 75-392 to 75-3,100 do not apply to a foreign or domestic motor carrier, private carrier, leasing company, broker, or freight forwarder, including a transporter of waste or recyclable materials, engaged exclusively in intrastate commerce.

Source: Laws 2007, LB358, § 8; Laws 2020, LB944, § 86.

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.

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.

ARTICLE 9
GRAIN DEALER ACT

Section

75-902 Terms, defined.

For purposes of the Grain Dealer Act, unless the context otherwise requires:

(1) Commission means the Public Service Commission;

(2) Direct delivery grain has the same meaning as in section 88-526;

(3) Direct delivery obligation has the same meaning as in section 88-526;

(4)(a) Grain means, but is not limited to, all unprocessed beans, whole corn, milo and other sorghum, wheat, rye, barley, oats, millet, safflower seed and processed plant pellets, alfalfa pellets, and any other bulk pelleted agricultural storable commodity, except grain which has been processed or packaged for distribution as seed.

(b) Grain includes all commodities described in subdivision (4)(a) of this section whether grown and marketed as fungible commodities or within segregated marketing channels, including, but not limited to, certified organic commodities;

(5)(a) Grain dealer means any person, partnership, limited liability company, corporation, or association that (i) buys grain from the producer of the grain within this state for purposes of selling such grain or (ii) acts as an employee or agent of a buyer or seller for purposes of collective bargaining in the marketing of grain.

(b) Grain dealer does not include (i) a feeder or custom feeder of livestock or poultry or (ii) a warehouse licensee under the Grain Warehouse Act or a warehouse licensee under the United States Warehouse Act of a warehouse located in Nebraska if the warehouse licensee does not buy, sell, or transport grain other than grain that is received at its licensed warehouse facilities;

(6) In-store transfer has the same meaning as in section 88-526;

(7) Post-direct delivery storage position has the same meaning as in section 88-526; and

(8) Producer means the owner, tenant, or operator of land in this state who has an interest in and receives all or part of the proceeds from the sale of grain produced on that land.

Source: Laws 1985, LB 389, § 4; Laws 1987, LB 507, § 2; Laws 1996, LB 1123, § 1; Laws 2003, LB 735, § 3; Laws 2005, LB 439, § 1; Laws 2015, LB183, § 1; Laws 2024, LB262, § 24.
Operative date July 19, 2024.

Cross References

Grain Warehouse Act, see section 88-525.

75-903 Grain dealer; licensure; requirements; fee.

All grain dealers doing business in this state shall be licensed by the commission. If the applicant is an individual, the application shall include the applicant's social security number. To procure and maintain a license, each grain dealer shall:

(1) Pay an annual fee of one hundred dollars which shall be due on or before the date established by the commission for each license. Such fees shall be paid to the State Treasurer and credited to the General Fund;

(2) File security which may be a bond issued by a corporate surety company and payable to the commission, an irrevocable letter of credit, or a certificate of deposit, subject to the approval of the commission, for the benefit of any producer who files a valid claim arising from a sale to a grain dealer. The security shall be in an amount set by the commission of not less than thirty-five thousand dollars and not more than one million dollars. Amounts used in the calculation of the security shall include all direct delivery grain purchases and exchanges valued on the date delivery is made. Amounts used in the calculation of the security shall not include any transactions in which direct delivery grain is exchanged for a post-direct delivery storage position and the post-direct delivery storage position is created by an in-store transfer on the same date as the delivery of the direct delivery grain. Such security shall be furnished on the condition that the licensee will pay for any grain purchased upon demand, not later than fifteen days after the date of the last shipment of any contract. The liability of the surety shall cover purchases made by the grain dealer during the time the bond is in force. A grain dealer's bond filed with the commission shall be in continuous force and effect until canceled by the surety. The liability of the surety on any bond required by this section shall not accumulate for each successive license period during which the bond is in force; and

(3) File a reviewed or audited fiscal year-end financial statement prepared by an independent certified public accounting firm. If licensing as an individual, the financial statement shall be prepared in accordance with Other Comprehensive Basis of Accountancy, as filed with the board, for a personal financial

statement, using historical cost and accrual basis of accounting. If licensing as a partnership, corporation, or limited liability company, the financial statement shall be prepared in accordance with accounting principles generally accepted. The financial statement shall include: (a) A statement of income showing profit or loss; (b) a balance sheet; (c) a statement of cash flow; (d) a statement of proprietor's capital or retained earnings; (e) the volume and dollar value of the grain purchases the licensee made in Nebraska during the fiscal year; (f) the volume and dollar value of transactions in which direct delivery grain is exchanged for a post-direct delivery storage position and the post-direct delivery storage position is not created by an in-store transfer on the same date as the delivery of the direct delivery grain; and (g) the accounting firm's certification, assurances, opinions, and comments and the notes with respect to the financial statement. If the volume and dollar value of the grain purchases is not reported, the grain dealer shall file the maximum grain dealer security as required by the Grain Dealer Act.

(4) If an applicant for a grain dealer license is a wholly owned subsidiary of a parent company and such a financial statement is not prepared for the subsidiary, the parent company shall submit its reviewed or audited fiscal year-end financial statement and shall execute an unconditional guarantee agreement as prescribed by the commission.

Source: Laws 1985, LB 389, § 5; Laws 1987, LB 507, § 3; Laws 1996, LB 1123, § 2; Laws 1997, LB 752, § 201; Laws 2003, LB 187, § 24; Laws 2003, LB 735, § 4; Laws 2005, LB 52, § 1; Laws 2005, LB 439, § 2; Laws 2015, LB183, § 2; Laws 2024, LB262, § 25. Operative date July 19, 2024.

75-903.02 Criminal history record information check; fingerprinting; when.

For each application filed under section 75-903 after January 1, 2004, one of the following primary parties shall be subject to fingerprinting and a check of his or her criminal history record information maintained by the Federal Bureau of Investigation through the Nebraska State Patrol: (1) If the applicant is not an individual, the chief executive officer, president, or general manager; or (2) if the applicant is an individual, the individual. If a primary party has been subject to a check of his or her criminal history record information pursuant to another law, the commission may waive such requirement under this section. A primary party shall furnish to the Nebraska State Patrol a full set of fingerprints to enable a criminal background investigation to be conducted. The primary party shall request that the Nebraska State Patrol submit the fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The primary party shall pay the actual cost, if any, of the fingerprinting and check of his or her criminal history record information. The primary party shall authorize release of the national criminal history record check to the commission. The criminal history record information check shall be completed within ninety days after the date the application for a license is received in the commission's office, and if not, the application shall be returned to the applicant. The commission shall deny a grain dealer license to any applicant whose primary party has been convicted of a felony financial crime.

Source: Laws 2003, LB 735, § 5; Laws 2005, LB 52, § 2; Laws 2024, LB262, § 26.
Operative date July 19, 2024.

ARTICLE 11

211 INFORMATION AND REFERRAL NETWORK

Section
75-1101. 211 Information and Referral Network; Public Service Commission; award grant; application; eligibility; use; 211 Cash Fund; created; use; investment.

75-1101 211 Information and Referral Network; Public Service Commission; award grant; application; eligibility; use; 211 Cash Fund; created; use; investment.

(1) For purposes of this section, 211 Information and Referral Network means a statewide information and referral network providing information to the public regarding disaster and emergency response and health and human services provided by public and private entities throughout the state.

(2) The Public Service Commission shall award a grant annually to a 211 Information and Referral Network which submits an application and meets the requirements of this section.

(3) To be eligible for a grant, the 211 Information and Referral Network shall update the information and referral services on the network at least annually, shall geographically index the services to provide information on a county-by-county basis, and shall be accredited as meeting the standards for service delivery and quality by the Alliance of Information and Referral Systems or a similar organization approved by the commission.

(4) The grant may be used to establish a website which includes links to providers of health and human services, the name, address, and telephone number of any organization listed on the website, a description of the type of services provided by the organization, and other information to educate the public about the health and human services available on a geographic basis. The grant may also be used to provide access to the network twenty-four hours per day, seven days per week, through telephone access and website access.

(5) There is hereby created the 211 Cash Fund. The fund shall be used solely for the purpose of providing grants pursuant to this section and associated administrative costs. All money received by the Public Service Commission for such grants shall be remitted to the State Treasurer for credit to such fund. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 2019, LB641, § 1; Laws 2022, LB1012, § 12; Laws 2024, LB607, § 1.
Effective date July 19, 2024.

Cross References

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

CHAPTER 76
REAL PROPERTY

Article.

ARTICLE 2

CONVEYANCES

(d) FORMALITIES OF EXECUTION

Section

(q) REAL ESTATE CLOSING AGENTS

(u) UNIFORM EASEMENT RELOCATION ACT

(d) FORMALITIES OF EXECUTION

76-214 Deed, memorandum of contract, or land contract; recorded; death certificate filed; statement required; access.

(1) Except as provided in subsection (4) of this section, every grantee who has a deed to real estate recorded and every purchaser of real estate who has a memorandum of contract or land contract recorded shall, at the time such deed, memorandum of contract, or land contract is presented for recording, file with the register of deeds a completed statement as prescribed by the Tax Commissioner. For all deeds and all memoranda of contract and land contracts recorded on and after January 1, 2001, the statement shall not require the social security number of the grantee or purchaser or the federal employer identification number of the grantee or purchaser. This statement may require the recitation of any information contained in the deed, memorandum of contract, or land contract, the total consideration paid, the amount of the total consideration attributable to factors other than the purchase of the real estate itself, and other factors which may influence the transaction. If a death certificate is recorded as provided in subsection (2) of this section, this statement may require a date of death, the name of the decedent, and whether the title is affected as a result of a transfer on death deed, a joint tenancy deed, or the expiration of a life estate or by any other means. This statement shall ask whether the affidavit described in section 76-2,141 is required with respect to the deed, memorandum of contract, or land contract and, if so, whether such affidavit has been completed. This statement shall be signed and filed by the grantee, the purchaser, or his or her authorized agent. The register of deeds shall forward the statement to the county assessor. If the grantee or purchaser fails to furnish the prescribed statement, the register of deeds shall not record the deed, memorandum of contract, or land contract. The register of deeds shall indicate on the statement the book and page or computer system reference where the deed, memorandum of contract, or land contract is recorded and shall immediately forward the statement to the county assessor. The county assessor shall process the statement according to the instructions of the Property Tax Administrator and shall, pursuant to the rules and regulations of the Tax Commissioner, forward the statement to the Tax Commissioner.

(2)(a) The statement described in subsection (1) of this section shall be filed at the time that a certified or authenticated copy of the grantor's death certificate

is filed if such death certificate is required to be filed under section 76-2,126 and the conveyance of real estate was pursuant to a transfer on death deed.

(b) The statement described in subsection (1) of this section shall not be required to be filed at the time that a transfer on death deed is filed or at the time that an instrument of revocation of a transfer on death deed as described in subdivision (a)(1)(B) of section 76-3413 is filed.

(3) Any person shall have access to the statements at the office of the Tax Commissioner, county assessor, or register of deeds if the statements are available and have not been disposed of pursuant to the records retention and disposition schedule as approved by the State Records Administrator.

(4) The statement described in subsection (1) of this section shall not be required if the document being recorded is an easement or an oil, gas, or mineral lease, or any subsequent assignment of an easement or such lease, except that such statement shall be required for conservation easements and preservation easements as such terms are defined in section 76-2,111.

Source: Laws 1917, c. 224, § 1, p. 549; C.S.1922, § 5662; C.S.1929, § 76-268; R.S.1943, § 76-214; Laws 1965, c. 456, § 1, p. 1450; Laws 1965, c. 457, § 1, p. 1451; Laws 1981, LB 28, § 1; Laws 1981, LB 179, § 1; Laws 1984, LB 679, § 13; Laws 1985, LB 273, § 37; Laws 1986, LB 1027, § 200; Laws 1994, LB 902, § 13; Laws 1994, LB 1275, § 6; Laws 1995, LB 490, § 26; Laws 1995, LB 527, § 1; Laws 2000, LB 968, § 21; Laws 2007, LB334, § 12; Laws 2008, LB965, § 1; Laws 2009, LB348, § 1; Laws 2012, LB536, § 29; Laws 2014, LB780, § 1; Laws 2016, LB725, § 1; Laws 2017, LB535, § 2; Laws 2024, LB1120, § 2.
Effective date July 19, 2024.

Cross References

Violation of section, penalty, see section 76-215.

(q) REAL ESTATE CLOSING AGENTS

76-2,121 Real estate closing agents; terms, defined.

For purposes of sections 76-2,121 to 76-2,123:

(1) Federally insured financial institution means an institution in which the monetary deposits are insured by the Federal Deposit Insurance Corporation or National Credit Union Administration;

(2) Good funds means: (a) Lawful money of the United States; (b) wired funds when unconditionally held by the real estate closing agent or employee; (c) cashier's checks, certified checks, bank money orders, or teller's checks issued by a federally insured financial institution and unconditionally held by the real estate closing agent or employee; (d) United States treasury checks, federal reserve bank checks, federal home loan bank checks, State of Nebraska warrants, and warrants of a city of the metropolitan or primary class; or (e) real-time or instant payments through the FedNow® Service of the United States Federal Reserve System or through the RTP® network of The Clearing House Payments Company L.L.C.;

(3) Real estate closing agent means a person who collects and disburses funds on behalf of another in closing a real estate transaction but does not include a

seller or buyer closing a real estate transaction on his or her own behalf or a lender closing a real estate loan transaction; and

(4) Regulating entity means the:

(a) Department of Insurance;

(b) Supreme Court;

(c) State Real Estate Commission;

(d) Department of Banking and Finance;

(e) Federal Deposit Insurance Corporation;

(f) Office of the Comptroller of the Currency;

(g) Consumer Financial Protection Bureau;

(h) Federal Farm Credit Administration; or

(i) National Credit Union Administration.

Source: Laws 1994, LB 1275, § 1; Laws 1999, LB 248, § 1; Laws 2019, LB258, § 16; Laws 2024, LB1073, § 26.
Operative date April 16, 2024.

76-2,122 Real estate closing agents; requirements; exemptions; enforcement; violation; penalty.

(1) To act as a real estate closing agent, a person shall be (a) licensed or regulated by one or more regulating entities or (b) employed by a person or entity regulated by one or more regulating entities, unless employing such person to act as a real estate closing agent is otherwise prohibited by statute, rule, or regulation.

(2) A person acting as a real estate closing agent shall:

(a) Have received good funds which are available for disbursement at the time of closing a real estate transaction, except that up to one thousand five hundred dollars need not be available for disbursement from good funds;

(b) Except as provided in section 81-885.21, deposit all funds received on behalf of another person in a trust account controlled by the real estate closing agent in a federally insured financial institution, except that up to one thousand five hundred dollars may be paid by one party directly to another party without first being deposited in a trust account controlled by the real estate closing agent; and

(c) Except as provided in section 81-885.21, disburse closing funds only from the real estate closing agent's trust account in a federally insured financial institution in the form of good funds or in the form of a check drawn from the real estate closing agent's trust account.

(3) The following real estate transactions are exempt from this section:

(a) Transactions with a political subdivision which is exercising its power of condemnation or eminent domain;

(b) Lease or rental transactions; and

(c) Real estate transactions in which the closing occurs within one business day following another real estate closing and in which one party is a principal to both transactions, but only to the extent that the funds disbursed in the subsequent transaction are drawn upon funds properly received by a real estate closing agent in the prior transaction which were deposited in that real estate

closing agent's trust account in a federally insured financial institution or as otherwise provided in section 81-885.21.

(4) The Attorney General or any county attorney may act to enjoin the performance of real estate closings which violate this section.

(5) A person acting as a real estate closing agent in violation of this section shall be guilty of a Class V misdemeanor.

Source: Laws 1994, LB 1275, § 2; Laws 1995, LB 774, § 1; Laws 2024, LB1073, § 27.
Operative date April 16, 2024.

Cross References

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

(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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

(v) AFFIDAVIT FOR COVERED REAL ESTATE

76-2,141 Covered real estate; affidavit; required when; form; penalty.

(1) For purposes of this section, covered real estate means real estate described in 31 C.F.R. 802.211(b)(3).

(2) Whenever there is a conveyance of covered real estate, the purchaser of the real estate shall complete and sign an affidavit stating that such purchaser is not affiliated with any foreign government or nongovernment person determined to be a foreign adversary pursuant to 15 C.F.R. 7.4.

(3) The affidavit shall be submitted to the register of deeds of the county in which the covered real estate is located. The register of deeds shall not record any instrument reflecting the conveyance of such real estate until he or she has received such affidavit. The register of deeds shall send a copy of the affidavit to the Attorney General.

(4) Any person who swears falsely on such an affidavit shall be guilty of a violation of section 28-915.01.

(5) The responsibility for determining whether an affidavit is required under this section rests solely with the purchaser, and no individual or entity other than the purchaser shall bear any civil or criminal liability under this section. A violation of this section shall not make any title or interest in land invalid or unmarketable.

(6) The affidavit required under this section shall be in substantially the following form:

STATE OF NEBRASKA)
) ss.
COUNTY OF _____)

I, _____ (Purchaser), certify under penalty of perjury that I am not affiliated with any foreign government or nongovernment person determined to be a foreign adversary pursuant to 15 C.F.R. 7.4.

_____ _____
Signature of Purchaser Date

Source: Laws 2024, LB1120, § 1.
Effective date July 19, 2024.

(w) RIGHT-TO-LIST HOME SALE AGREEMENTS

76-2,142 Right-to-list home sale agreements; prohibited acts; void and unenforceable, when; recordation, effect.

(1) No person shall present for recording, cause to be presented for recording, or record in the office of the register of deeds or county clerk any (a) right-to-list home sale agreement as defined in section 81-885.01 or (b) lien or encumbrance resulting from such right-to-list home sale agreement.

(2) Any right-to-list home sale agreement as defined in section 81-885.01 or lien or encumbrance resulting from such right-to-list home sale agreement that is executed, modified, or extended after April 16, 2024, is void and unenforceable.

(3) If a right-to-list home sale agreement as defined in section 81-885.01 is recorded in this state, it shall not provide actual or constructive notice of such agreement against an otherwise bona fide purchaser or creditor.

(4) Any assignment or transfer of the right to provide any service under a real estate service agreement recorded prior to April 16, 2024, that would otherwise be in violation of this section is void and unenforceable without a written notice provided to and a written agreement by each party to such service agreement.

Source: Laws 2024, LB1073, § 28.
Operative date April 16, 2024.

ARTICLE 4

ESCHEAT AND ALIEN OWNERSHIP OF LAND

(b) FOREIGN AND ALIEN OWNERSHIP

Section
76-402. Transferred to section 76-3703.
76-403. Repealed. Laws 2024, LB1301, § 26.
76-404. Transferred to section 76-3704.
76-405. Transferred to section 76-3705.
76-406. Transferred to section 76-3706.
76-407. Transferred to section 76-3707.
76-408. Repealed. Laws 2024, LB1301, § 26.
76-409. Repealed. Laws 2024, LB1301, § 26.
76-410. Repealed. Laws 2024, LB1301, § 26.
76-411. Repealed. Laws 2024, LB1301, § 26.
76-412. Transferred to section 76-3708.
76-413. Transferred to section 76-3709.
76-414. Transferred to section 76-3710.
76-415. Repealed. Laws 2024, LB1301, § 26.

(b) FOREIGN AND ALIEN OWNERSHIP

76-402 Transferred to section 76-3703.

76-403 Repealed. Laws 2024, LB1301, § 26.
Operative date January 1, 2025.

76-404 Transferred to section 76-3704.

76-405 Transferred to section 76-3705.

76-406 Transferred to section 76-3706.

76-407 Transferred to section 76-3707.

76-408 Repealed. Laws 2024, LB1301, § 26.
Operative date January 1, 2025.

76-409 Repealed. Laws 2024, LB1301, § 26.
Operative date January 1, 2025.

76-410 Repealed. Laws 2024, LB1301, § 26.
Operative date January 1, 2025.

76-411 Repealed. Laws 2024, LB1301, § 26.
Operative date January 1, 2025.

76-412 Transferred to section 76-3708.

76-413 Transferred to section 76-3709.

76-414 Transferred to section 76-3710.

76-415 Repealed. Laws 2024, LB1301, § 26.
Operative date January 1, 2025.

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.

ARTICLE 8

CONDOMINIUM LAW

(a) CONDOMINIUM PROPERTY ACT

(c) NEBRASKA CONDOMINIUM ACT

CREATION, ALTERATION, AND TERMINATION OF CONDOMINIUMS

MANAGEMENT OF CONDOMINIUM

PROTECTION OF CONDOMINIUM PURCHASERS

(a) CONDOMINIUM PROPERTY ACT

76-808 Co-owner; use of common elements; responsibility for maintenance, repair, and replacement.

(1) Each co-owner may use the elements held in common in accordance with the purpose for which they are intended, without hindering or encroaching upon the lawful rights of the other co-owners.

(2) The association of co-owners and board of administrators, or other administrative body governing the condominium, is responsible for maintenance, repair, and replacement of the common elements. Each co-owner of an apartment is responsible for maintenance, repair, and replacement of such co-owner's apartment.

Source: Laws 1963, c. 429, § 8, p. 1439; Laws 2019, LB42, § 1.

76-816 Board of administrators; records; examination; condominium statement; filing with register of deeds.

(1) The board of administrators or other administrative body specified in the bylaws shall keep or cause to be kept a book with a detailed account, in

chronological order, of the receipts and expenditures affecting the condominium property regime and its administration and specifying the maintenance and repair expenses of the common elements and all other expenses incurred. Both the book and the vouchers accrediting the entries made thereupon shall be available for examination by any co-owner or any prospective purchaser at convenient hours on working days that shall be set and announced for general knowledge. Any prospective purchaser must be designated as such by a co-owner in writing. For condominiums created in this state before January 1, 1984, the provision on the records of the administrative body or association in section 76-876 shall apply to the extent necessary in construing the provisions of sections 76-827, 76-829 to 76-831, 76-840, 76-841, 76-869, 76-874, 76-876, 76-884, and 76-891.01, and subdivisions (a)(1) to (a)(6) and (a)(11) to (a)(16) of section 76-860 which apply to events and circumstances which occur after January 1, 1984.

(2) The association of co-owners and board of administrators, or other administrative body governing the condominium property regime, and its common elements, shall file with the register of deeds of the county in which the condominium is located a condominium statement listing the name of such board or other administrative body and the names and addresses of the current officers of such board or other administrative body. Such filing shall be made every year on or before December 31. The receipt of any legal notice by or service of process on such officer personally or at such officer's filed address shall constitute notice to the board or other administrative body administering the condominium and its common elements. If the board or other administrative body fails to make the filing required by this subsection, the posting of the legal notice or process at the entrance, main office, or other prominent location in the common area of the condominium shall constitute notice to the board or other administrative body until such filing is made.

Source: Laws 1963, c. 429, § 16, p. 1442; Laws 1974, LB 730, § 9; Laws 1983, LB 433, § 77; Laws 1993, LB 478, § 6; Laws 2019, LB42, § 2.

(c) NEBRASKA CONDOMINIUM ACT

CREATION, ALTERATION, AND TERMINATION OF CONDOMINIUMS

76-842 Declaration; contents.

(a) The declaration for a condominium must contain:

(1) the name of the condominium, which must include the word condominium or be followed by the words a condominium, and the name of the association;

(2) the name of every county in which any part of the condominium is situated;

(3) a legally sufficient description of the real estate included in the condominium;

(4) a statement of the anticipated number of units which the declarant reserves the right to create, subject to an amendment of the declaration to add more units pursuant to the Nebraska Condominium Act;

(5) a description of the boundaries of each unit created by the declaration, including the unit's identifying number;

(6) a description of any limited common elements, other than those specified in subdivision (b)(8) of section 76-846;

(7) a general description of any development rights and other special declarant rights defined in subdivision (23) of section 76-827 reserved by the declarant;

(8) an allocation to each unit of the allocated interests in the manner described in section 76-844;

(9) any restrictions on use, occupancy, and alienation of the units;

(10) for a condominium project with more than fifteen units, exclusive of common area, a plan prepared by a licensed engineer or architect for the preventive maintenance of the condominium and all common elements therein, including, but not limited to, depreciation studies and reserve analyses, an annually updated five-year capital plan, and minimum financial reserves based on the reserve analyses; and

(11) all matters required by sections 76-843 to 76-846, 76-852, and 76-853, and subsection (d) of section 76-861.

(b) Except as otherwise provided in section 76-856, the declaration may contain any other matters the declarant deems appropriate.

Source: Laws 1983, LB 433, § 18; Laws 2013, LB442, § 3; Laws 2020, LB808, § 41.

76-844 Allocation of common elements, expenses, and votes; how made.

(a) The declaration shall allocate a fraction or percentage of undivided interests in the common elements and in the common expenses of the association, and a portion of the votes in the association, to each unit and state the formulas used to establish those allocations.

(b) If units may be added to or withdrawn from the condominium, the declaration must state the formulas to be used to reallocate the allocated interests among all units included in the condominium after the addition or withdrawal.

(c) The declaration may provide: (i) that different allocations of votes shall be made to the units on particular matters specified in the declaration; (ii) for cumulative voting only for the purpose of electing members of the executive board; and (iii) for class voting on specified issues affecting the class if necessary to protect valid interests of the class. A declarant may not utilize cumulative or class voting for the purpose of evading any limitation imposed on declarants by the Nebraska Condominium Act, nor may units constitute a class because they are owned by a declarant.

(d) Except for minor variations due to rounding, the sum of the undivided interests in the common elements and common expense liabilities allocated at any time to all the units must equal one if stated as fractions or one hundred percent if stated as percentages. In the event of discrepancy between an allocated interest and the result derived from application of the pertinent formula, the allocated interest prevails.

(e) The common elements are not subject to partition, and any purported conveyance, encumbrance, judicial sale, or other voluntary or involuntary

transfer of an undivided interest in the common elements made without the unit to which that interest is allocated, is void.

Source: Laws 1983, LB 433, § 20; Laws 2020, LB808, § 42.

76-846 Plats and plans; requirements.

(a) Plats and plans are a part of the declaration. Separate plats and plans are not required by sections 76-825 to 76-894 if all the information required by this section is contained in either a plat or plan.

(b) Each plat must show:

(1) the name and a survey or general schematic map of the entire condominium;

(2) the extent of any existing encroachments by or upon any portion of the condominium;

(3) to the extent feasible, a legally sufficient description or drawing of all easements serving or burdening any portion of the condominium;

(4) the location and dimensions of any vertical unit boundaries not shown or projected on plans recorded pursuant to subsection (d) of this section and that unit's identifying number;

(5) the location with reference to an established datum of any horizontal unit boundaries not shown or projected on plans recorded pursuant to subsection (d) of this section and that unit's identifying number;

(6) a legally sufficient description of any real estate in which the unit owners will own only an estate for years, labeled as leasehold real estate;

(7) the distance between noncontiguous parcels of real estate comprising the condominium; and

(8) the location and dimensions of limited common elements, including porches, balconies, and patios, other than parking spaces and the other limited common elements described in subdivisions (2) and (4) of section 76-839.

(c) A plat may also show the intended location and dimensions of any contemplated improvement to be constructed anywhere within the condominium. Any contemplated improvement shown must be labeled either Must Be Built or Need Not Be Built.

(d) To the extent not shown or projected on the plats, plans of the units must show or project:

(1) the location and dimensions of the vertical boundaries of each unit, and that unit's identifying number;

(2) any horizontal unit boundaries, with reference to an established datum, and that unit's identifying number; and

(3) any units in which the declarant has reserved the right to create additional units or common elements pursuant to subsection (c) of section 76-847, identified appropriately.

(e) Unless the declaration provides otherwise, the horizontal boundaries of part of a unit located outside of a building have the same elevation as the horizontal boundaries of the inside part, and need not be depicted on the plats and plans.

(f) Upon exercising any development right, the declarant shall record either new plats and plans necessary to conform to the requirements of subsections

(a), (b), and (d) of this section, or new certifications of plats and plans previously recorded if those plats and plans otherwise conform to the requirements of those subsections.

(g) Any plat or plan required by sections 76-825 to 76-894 must be prepared by a professional land surveyor, an architect, or a professional engineer.

Source: Laws 1983, LB 433, § 22; Laws 1997, LB 622, § 113; Laws 2024, LB102, § 9.
Operative date September 1, 2024.

76-854 Amendment to declaration; procedure.

(a) Except in cases of amendments that may be executed by (1) a declarant under subsection (f) of section 76-846 or under section 76-847, (2) the association under section 76-831 or 76-850, subsection (d) of section 76-843, subsection (c) of section 76-845, or subsection (a) of section 76-849, or (3) certain unit owners under subsection (b) of section 76-845, subsection (a) of section 76-849, subsection (b) of section 76-850, or subsection (b) of section 76-855, and except as limited by subsection (d) of this section, the declaration, including the plats and plans, may be amended only by vote or agreement of unit owners of units to which at least sixty-seven percent of the votes in the association are allocated or any larger majority the declaration specifies up to eighty percent of the votes in the association exclusive of the declarant. The declaration may specify a smaller number only if all of the units are restricted exclusively to nonresidential use.

(b) No action to challenge the validity of an amendment adopted by the association pursuant to this section may be brought more than one year after the amendment is recorded.

(c) Every amendment to the declaration must be recorded in every county in which any portion of the condominium is located and is effective only upon recordation.

(d) Except to the extent expressly permitted or required by other provisions of the Nebraska Condominium Act, no amendment may create or increase special declarant rights, increase the number of units, or change the boundaries of any unit, the allocated interests of a unit, or the uses to which any unit is restricted in the absence of the unanimous consent of the unit owners. In addition, no amendment may change the boundaries of any unit, increase the allocated interests of any unit, or change the uses to which any unit is restricted, without the consent of the owner of the unit.

(e) Amendments to the declaration required by the act to be recorded by the association shall be prepared, executed, recorded, and certified on behalf of the association by any officer of the association designated for that purpose or, in the absence of designation, by the president of the association.

Source: Laws 1983, LB 433, § 30; Laws 1984, LB 1105, § 5; Laws 1993, LB 478, § 15; Laws 2020, LB808, § 43.

76-856 Rights of secured lenders; limitations; restrictions on lien.

(a) The declaration may require that all or a specified number or percentage of the mortgagees or beneficiaries of deeds of trust encumbering the units approve specified actions of the unit owners or the association as a condition to the effectiveness of those actions, but such a requirement shall be enforceable

only as to matters involving the subdivision of any unit and the creation of any timeshare or as to proposed amendments to the declaration that adversely affect the priority of the mortgagee's or beneficiary's lien or the mortgagee's or beneficiary's rights to foreclose its lien by judicial or nonjudicial means, or that otherwise materially affect the rights and interests of the mortgagee or beneficiary and no requirement for approval may operate to (i) deny or delegate control over the general administrative affairs of the association by the unit owners or the executive board, or (ii) prevent the association or the executive board from commencing, intervening in, or settling any litigation or proceeding, or receiving and distributing any insurance proceeds except pursuant to section 76-871. The declaration may not provide that a lien on a member's unit for any assessment levied against the unit relates back to the date of filing of the declaration or that such lien takes priority over any mortgage or deed of trust on the unit recorded subsequent to the filing of the declaration and prior to the recording by the association of the notice required under subsection (a) of section 76-874.

(b) In securing approval from a mortgagee or beneficiary of a deed of trust for a proposed amendment to a declaration, the association shall be entitled to rely upon public records to identify the holders of outstanding mortgages or beneficiaries of deeds of trust. The association may use the address provided in the original recorded mortgage or deed of trust document, unless there is a different address for the holder of the mortgage or beneficiary of the deed of trust in a recorded assignment or modification of the mortgage or deed of trust, which recorded assignment or modification shall reference the official records book and page on which the original mortgage or deed of trust was recorded. Once the association has identified the recorded mortgages or deeds of trust of record, the association shall, in writing, request of each unit owner whose unit is encumbered by a mortgage or deed of trust of record any information the owner has in the owner's possession regarding the name and address of the person to whom mortgage or deed of trust payments are currently being made. Notice shall be sent to such person if the address provided in the original recorded mortgage or deed of trust document is different from the name and address of the mortgagee or assignee of the mortgage or beneficiary or assignee of the deed of trust as shown by the public record. The association shall be deemed to have complied with this requirement by making the written request of the unit owners required under this subsection. Any notices required to be sent to the mortgagees, beneficiaries, or assignees under this subsection shall be sent to all available addresses provided to the association.

(c) If any mortgagee or beneficiary of a deed of trust encumbering a unit has been requested by certified mail, return receipt requested, to approve a proposed amendment to a declaration, and such mortgagee or beneficiary fails to approve or object to such request in writing delivered to the requestor by certified mail within sixty days after the date such request has been received by the mortgagee or beneficiary, such failure to respond shall be deemed approval to the amendment.

(d) Any amendment adopted without the required approval of a mortgagee or beneficiary of the deed of trust shall be voidable only by a mortgagee or beneficiary who was entitled to notice and an opportunity to approve. An action to void an amendment shall be subject to the statute of limitations beginning five years after the adoption of an amendment to a declaration. This subsection

shall apply to all mortgages, regardless of the date of recordation of the mortgage or deed of trust.

Source: Laws 1983, LB 433, § 32; Laws 2013, LB442, § 4; Laws 2024, LB1073, § 29.
Operative date July 19, 2024.

76-857 Corporation, unincorporated association, master association, executive board; powers authorized.

(a) If the declaration for a condominium provides that any of the powers described in section 76-860 are to be exercised by or may be delegated to a profit or nonprofit corporation, or unincorporated association, which exercises those or other powers on behalf of one or more condominiums or for the benefit of the unit owners of one or more condominiums, all provisions of the Nebraska Condominium Act applicable to unit owners associations apply to any such corporation or unincorporated association, except as modified by this section. However, in no case shall the declaration provide that the power to institute or intervene as a plaintiff in litigation or administrative proceedings, other than litigation or administrative proceedings to enforce covenants, bylaws, or rules against unit owners or the unit owners association, be delegated to or exercised by any party other than the unit owners or the declarant.

(b) Unless a master association is acting in the capacity of an association described in section 76-859, it may exercise the powers set forth in subdivision (a)(2) of section 76-860 only to the extent expressly permitted in the declarations of condominiums which are part of the master association or expressly described in the delegations of power from those condominiums to the master association.

(c) If the declaration of any condominium provides that the executive board may delegate certain powers to a master association, the members of the executive board have no liability for the acts or omissions of the master association with respect to those powers following delegation.

(d) The rights and responsibilities of unit owners with respect to the unit owners association set forth in sections 76-861, 76-866 to 76-868, and 76-870 apply in the conduct of the affairs of a master association only to those persons who elect the board of a master association, whether or not those persons are otherwise unit owners within the meaning of the act.

(e) Notwithstanding the provisions of subsection (f) of section 76-861 with respect to the election of the executive board of an association, by all unit owners after the period of declarant control ends, and even if a master association is also an association described in section 76-859, the articles of incorporation or other instrument creating the master association and the declaration of each condominium the powers of which are assigned by the declaration or delegated to the master association may provide that the executive board of the master association must be elected after the period of declarant control in any of the following ways:

(1) All unit owners of all condominiums subject to the master association may elect all members of that executive board.

(2) All members of the executive boards of all condominiums subject to the master association may elect all members of that executive board.

(3) All unit owners of each condominium subject to the master association may elect specified members of that executive board.

(4) All members of the executive board of each condominium subject to the master association may elect specified members of that executive board.

Source: Laws 1983, LB 433, § 33; Laws 1984, LB 1105, § 6; Laws 2020, LB808, § 44.

MANAGEMENT OF CONDOMINIUM

76-859 Unit owners association; organization.

A unit owners association must be organized no later than the date the units in the condominium equal to one-half of the total number of units plus one are conveyed. The membership of the association at all times shall consist exclusively of all the unit owners or, following termination of the condominium, of all former unit owners entitled to distributions of proceeds under section 76-855 or their heirs, successors, or assigns. The association shall be organized as a profit or nonprofit corporation or as an unincorporated association.

Source: Laws 1983, LB 433, § 35; Laws 2020, LB808, § 45.

76-860 Unit owners association; powers.

(a) Except as provided in subsection (b) of this section and subject to the provisions of the declaration, the association, even if unincorporated, may:

(1) Adopt and amend bylaws and rules and regulations;

(2) Adopt and amend budgets for revenue, expenditures, and reserves and collect assessments for common expenses from unit owners;

(3) Hire and discharge managing agents and other employees, agents, and independent contractors;

(4) Institute or intervene as a plaintiff in litigation or administrative proceedings, other than litigation or administrative proceedings to enforce covenants, bylaws, or rules against unit owners or the unit owners association, in its own name on behalf of itself or two or more unit owners on matters affecting the condominium upon the affirmative vote of at least eighty percent of the votes in the association exclusive of the declarant;

(5) Make contracts and incur liabilities;

(6) Regulate the use, maintenance, repair, replacement, and modification of common elements;

(7) Cause additional improvements to be made as a part of the common elements;

(8) Acquire, hold, encumber, and convey in its own name any right, title, or interest to real or personal property, but common elements may be encumbered, conveyed, or subjected to a security interest only pursuant to section 76-870;

(9) Grant easements, leases, licenses, and concessions through or over the common elements;

(10) Impose and receive any payments, fees, or charges for the use, rental, or operation of the common elements, other than limited common elements described in subdivisions (2) and (4) of section 76-839, and for services provided to unit owners;

(11) Impose charges for late payment of assessments and, after notice and opportunity to be heard, levy reasonable fines for violations of the declaration, bylaws, and rules and regulations for the association;

(12) Impose reasonable charges for the preparation and recordation of amendments to the declaration, resale statements required by section 76-884, or statements of unpaid assessments;

(13) Provide for the indemnification of its officers and executive board and maintain directors' and officers' liability insurance;

(14) Assign its right to future income, including the right to receive common expense assessments, but only to the extent the declaration expressly so provides;

(15) Exercise any other powers conferred by the declaration or bylaws;

(16) Exercise all other powers that may be exercised in this state by legal entities of the same type as the association; and

(17) Exercise any other powers necessary and proper for the governance and operation of the association.

(b) The declaration may not impose limitations on the power of the association to deal with the declarant which are more restrictive than the limitations imposed on the power of the association to deal with other persons.

Source: Laws 1983, LB 433, § 36; Laws 1984, LB 1105, § 7; Laws 2020, LB808, § 46.

76-861 Executive board; members and officers; powers and duties; condominium statement; filing with register of deeds.

(a) Except as provided in the declaration, the bylaws, subsection (b) of this section, or other provisions of the Nebraska Condominium Act, the executive board may act in all instances on behalf of the association. In the performance of their duties, the officers and members of the executive board are required to exercise ordinary and reasonable care.

(b) The executive board may not act on behalf of the association to commence litigation on behalf of the unit owners or the unit owners association, to amend the declaration pursuant to section 76-854, to terminate the condominium pursuant to section 76-855, or to elect members of the executive board or determine the qualifications, powers and duties, or terms of office of executive board members pursuant to subsection (f) of this section, but the executive board may fill vacancies in its membership for the unexpired portion of any term.

(c) Within thirty days after adoption of any proposed budget for the condominium, the executive board shall provide a summary of the budget to all the unit owners, and shall set a date for a meeting of the unit owners to consider ratification of the budget not less than fourteen nor more than thirty days after mailing of the summary. Unless at that meeting a majority of all votes in the association or any larger vote specified in the declaration reject the budget, the budget is ratified, whether or not a quorum is present. In the event the proposed budget is rejected, the periodic budget last ratified by the unit owners shall be continued until such time as the unit owners ratify a subsequent budget proposed by the executive board.

(d) Subject to subsection (e) of this section, the declaration may provide for a period of declarant control of the association, during which period a declarant, or persons designated by him or her, may appoint and remove the officers and members of the executive board. Regardless of the period provided in the declaration, a period of declarant control terminates no later than the earlier of: (i) Sixty days after conveyance of ninety percent of the units which may be created to unit owners other than a declarant; or (ii) two years after all declarants have ceased to offer units for sale in the ordinary course of business. A declarant may voluntarily surrender the right to appoint and remove officers and members of the executive board before termination of that period, but in that event he or she may require, for the duration of the period of declarant control, that specified actions of the association or executive board, as described in a recorded instrument executed by the declarant, be approved by the declarant before they become effective. Successor boards following declarant control may not discriminate nor act arbitrarily with respect to units still owned by a declarant or a successor declarant.

(e) Not later than sixty days after conveyance of fifty percent of the units which may be created to unit owners other than a declarant, at least one member and not less than twenty-five percent of the members of the executive board shall be elected exclusively by unit owners other than the declarant.

(f) Not later than the termination of any period of declarant control, the unit owners shall elect an executive board of at least three members, at least a majority of whom must be unit owners. The executive board shall elect the officers. The executive board members and officers shall take office upon election.

(g) Notwithstanding any provision of the declaration or bylaws to the contrary, the unit owners, by a two-thirds vote of all persons present and entitled to vote at any meeting of the unit owners at which a quorum is present, may remove any member of the executive board with or without cause, other than a member appointed by the declarant.

(h) The association shall file with the register of deeds of the county in which the condominium is located a condominium statement listing the name of the association and the names and addresses of the current officers of the association. Such filing shall be made every year on or before December 31. The receipt of any legal notice by or service of process on such officer personally or at such officer's filed address shall constitute notice to the association. If the association fails to make the filing required by this subsection, the posting of the legal notice or process at the entrance, main office, or other prominent location in the common area of the condominium shall constitute notice to the association until such filing is made.

Source: Laws 1983, LB 433, § 37; Laws 2019, LB42, § 3; Laws 2020, LB808, § 47.

76-867 Quorums.

(a) Unless the bylaws provide otherwise, a quorum is present throughout any meeting of the association if persons entitled to cast thirty-five percent of the votes which may be cast for election of the executive board are present in person or by proxy at the beginning of the meeting.

(b) Unless the bylaws specify a larger percentage, a quorum is deemed present throughout any meeting of the executive board if persons entitled to

cast fifty percent of the votes on that board are present at the beginning of the meeting.

Source: Laws 1983, LB 433, § 43; Laws 2020, LB808, § 48.

76-869 Tort and contract liability.

(a) Neither the association nor any unit owner except the declarant is liable for that declarant's torts in connection with any part of the condominium which that declarant has the responsibility to maintain. Otherwise, an action alleging a wrong done by the association must be brought against the association and not against any unit owner. If the wrong occurred during any period of declarant control and the association gives the declarant reasonable notice of and an opportunity to defend against the action, the declarant who then controlled the association is liable to the association or to any unit owner only for costs the association would not have incurred but for a breach of contract or other negligent act or omission by the declarant. A unit owner is not precluded from bringing an action contemplated by this section because he or she is a unit owner or a member or officer of the association. Liens resulting from judgments against the association are governed by section 76-875.

(b) The declarant shall not be liable for any action, loss, or cost pursuant to this section if at the time the loss occurred, insurance required by section 76-871 was in place.

Source: Laws 1983, LB 433, § 45; Laws 2020, LB808, § 49.

76-870 Encumbrance or conveyance of common elements; procedure.

(a) Portions of the common elements may be encumbered or conveyed or otherwise subjected to a security interest by the association if persons entitled to cast at least sixty-seven percent of the votes in the association, including sixty-seven percent of the votes allocated to units not owned by a declarant, or any larger percentage the declaration specifies, agree to that action; but all the owners of units to which any limited common element is allocated must agree to encumber or convey that limited common element or subject it to a security interest. The declaration may specify a smaller percentage only if all of the units are restricted exclusively to nonresidential uses. Proceeds of the sale are an asset of the association.

(b) An agreement to encumber or convey common elements or subject them to a security interest must be evidenced by the execution of an agreement, or ratifications thereof, in the same manner as a deed, by the requisite number of unit owners. The agreement must specify a date after which the agreement will be void unless recorded before that date. The agreement and all ratifications thereof must be recorded in every county in which a portion of the condominium is situated and is effective only upon recordation.

(c) The association, on behalf of the unit owners, may contract to encumber or convey common elements or subject them to a security interest, but the contract is not enforceable against the association until approved pursuant to subsections (a) and (b) of this section. Thereafter, the association has all powers necessary and appropriate to effect the conveyance or encumbrance, including the power to execute deeds or other instruments.

(d) Any purported conveyance, encumbrance, judicial sale, or other voluntary transfer of common elements, unless made pursuant to this section, is void.

(e) A conveyance or an encumbrance of common elements pursuant to this section does not deprive any unit of its rights of access and support.

(f) Unless the declaration otherwise provides, a conveyance or an encumbrance of common elements pursuant to this section does not affect the priority or validity of preexisting encumbrances.

Source: Laws 1983, LB 433, § 46; Laws 1984, LB 1105, § 11; Laws 2020, LB808, § 50.

PROTECTION OF CONDOMINIUM PURCHASERS

76-884 Resale of unit; information required.

(a) Except in the case of a sale where delivery of a public-offering statement is required or unless exempt under subsection (b) of section 76-878, the unit owner and any other person in the business of selling real estate who offers a unit to a purchaser shall furnish to a purchaser before conveyance a copy of the declaration other than the plats and plans, the bylaws, the rules or regulations of the association, and the following information:

(1) a statement setting forth the amount of the monthly common expense assessment and any unpaid common expense or special assessment currently due and payable from the selling unit owner;

(2) any other fees payable by unit owners;

(3) the most recent regularly prepared balance sheet and income and expense statement, if any, of the association;

(4) the current operating budget of the association, if any;

(5) a statement that a copy of any insurance policy provided for the benefit of unit owners is available from the association upon request;

(6) a statement of the remaining term of any leasehold estate affecting the condominium and the provisions governing any extension or renewal thereof; and

(7) a disclosure of any threatened or pending litigation involving the unit or the association.

(b) The association, within ten days after a request by a unit owner, shall furnish in writing the information necessary to enable the unit owner to comply with this section. A unit owner providing information pursuant to subsection (a) of this section is not liable to the purchaser for any erroneous information provided by the association and included in the certificate.

(c) A purchaser is not liable for any unpaid assessment or fee greater than the amount set forth in the information prepared by the association. The unit owner or any other person in the business of selling real estate who offers a unit to a purchaser is not liable to a purchaser for the failure or delay of the association to provide such information in a timely manner.

Source: Laws 1983, LB 433, § 60; Laws 1984, LB 1105, § 18; Laws 2020, LB808, § 51.

76-890 Warranties; statute of limitations; judicial proceedings; notice; effect; strict compliance; required.

(a) A judicial proceeding for breach of any obligation arising under section 76-887 or 76-888 must be commenced within two years after the cause of

action accrues, but the parties may agree to reduce the period of limitation to not less than one year. With respect to a unit that may be occupied for residential use, an agreement to reduce the period of limitation must be evidenced by an instrument executed by the purchaser. Prior to commencing any judicial proceeding under this section, the person seeking to commence the judicial proceeding must (1) provide written notice of the proposed proceeding and the specific alleged defect or defects to the prospective defendant or defendants and (2) give the prospective defendant or defendants at least three months to cure the alleged defect or defects. If the defect or defects are such that they cannot reasonably be cured within three months, the cure period shall extend as long as the prospective defendant has commenced and is diligently proceeding with repairs. Providing the notice in this section in a manner reasonably understood to inform the prospective defendant of the specific alleged defect or defects shall toll any applicable statute of limitations until the alleged defect or defects are cured. Any proceeding commenced without strict compliance with this section is subject to dismissal for such noncompliance.

(b) Subject to subsection (c) of this section, a cause of action for breach of warranty, regardless of the purchaser's lack of knowledge of the breach, accrues:

(1) as to a unit, at the time the purchaser to whom the warranty is first made enters into possession if a possessory interest was conveyed or at the time of acceptance of the instrument of conveyance if a nonpossessory interest was conveyed; and

(2) as to each common element, at the time the common element is completed or, if later, (i) as to a common element that may be added to the condominium or portion thereof, at the time the first unit therein is conveyed to a bona fide purchaser, or (ii) as to a common element within any other portion of the condominium, at the time the first unit in the condominium is conveyed to a bona fide purchaser.

(c) If a warranty explicitly extends to future performance or duration of any improvement or component of the condominium, the cause of action accrues at the time the breach is discovered or at the end of the period for which the warranty explicitly extends, whichever is earlier.

Source: Laws 1983, LB 433, § 66; Laws 1984, LB 1105, § 21; Laws 2020, LB808, § 52.

ARTICLE 10
TRUST DEEDS

Section

76-1007 Sale of trust property; notice; contents; time and place of sale.

(1) The trustee or the attorney for the trustee shall give written notice of the time and place of sale particularly describing the property to be sold by publication of such notice, at least five times, once a week for five consecutive weeks, the last publication to be at least ten days but not more than thirty days

prior to the sale, in some newspaper having a general circulation in each county in which the property to be sold, or some part thereof, is situated.

(2) The sale shall be held at the time and place designated in the notice of sale which shall be between the hours of nine a.m. and five p.m. and at (a) the premises, (b) the courthouse of the county in which the property to be sold, or some part thereof, is situated, or (c) a public building wherein one or more county offices are located within the county in which the property to be sold, or some part thereof, is situated.

(3) The notice of sale shall be sufficient if made in substantially the following form:

Notice of Trustee's Sale

The following described property will be sold at public auction to the highest bidder at the _____ door of the county courthouse in _____, County of _____, Nebraska, on _____, 20____ .

(Name of Trustee) _____

Source: Laws 1965, c. 451, § 7, p. 1426; Laws 2004, LB 813, § 29; Laws 2006, LB 876, § 53; Laws 2023, LB92, § 80.

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.

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.

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.

ARTICLE 14

LANDLORD AND TENANT

(a) UNIFORM RESIDENTIAL LANDLORD AND TENANT ACT

(b) MOBILE HOME LANDLORD AND TENANT ACT

(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.

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.

Cross References

Protection from Domestic Abuse Act, see section 42-901.

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.

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.

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.

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.

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.

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.

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.

(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.

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.

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.

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.

ARTICLE 15
AGRICULTURAL LANDS, SPECIAL PROVISIONS

(d) REPORTS ON FARMING OR RANCHING

(d) REPORTS ON FARMING OR RANCHING

76-1522 Repealed. Laws 2020, LB910, § 49.

ARTICLE 19
FARM HOMESTEAD PROTECTION ACT

76-1902 Terms, defined.

As used in the Farm Homestead Protection Act, unless the context otherwise requires:

(1) Designation of homestead shall mean a sworn written statement by an individual mortgagor, trustor, or judgment debtor which describes his or her homestead, executed on or after November 21, 1986. Such statement shall include a legal description of the homestead. If only a portion of the homestead will be encumbered by the mortgage, trust deed, or judgment lien with respect to which a designation is made, then such portion so encumbered shall also be identified by proper legal description. If the homestead or the encumbered portion of the homestead is not separately described in its entirety in the mortgage or trust deed with respect to which a designation is made, or cannot be accurately described as a fractional part of a section, the designation shall be accompanied by a survey which includes a metes and bounds description with reference to established datum. The survey and description shall be prepared by and bear the signature and seal of a professional land surveyor. The designation shall include statements by the individual mortgagor, trustor, or judgment debtor that (a) he or she resides in a dwelling house located upon the homestead, (b) all appurtenances to such dwelling and an adequate supply of potable water and an adequate system of sewage disposal exist upon the homestead, (c) both the water supply and sewage disposal system are located entirely upon the homestead and neither will require access to or an easement across any part of the nondesignated agricultural land encumbered by such mortgage or trust deed, (d) both the homestead and the nonhomestead real estate encumbered by such mortgage or trust deed have existing legal access to a public roadway, and (e) provide a complete listing of all structures and other improvements situated on the portion of the homestead so encumbered, together with a representation that such structures and improvements are within the homestead boundary and do not encroach upon any of the nonhomestead real estate encumbered by such mortgage or trust deed;

(2) Agricultural land shall mean a parcel of land larger than twenty acres not located in any incorporated city or village which is owned by an individual and used in farming operations carried on by the owner at any time within the preceding three-year period for the production of farm products as defined in

section 9-102, Uniform Commercial Code. Agricultural land shall include wasteland lying within or contiguous to and in common individual ownership with land used in farming operations for the production of farm products;

(3) Homestead shall mean a parcel of agricultural land encumbered in whole or in part by the lien of a mortgage, trust deed, or judgment, for which a designation of homestead has been made pursuant to the Farm Homestead Protection Act, and which possesses all of the attributes legally requisite to its selection by the mortgagor, trustor, or judgment debtor as his or her homestead under Chapter 40, except that the value limitation of section 40-101 shall not be construed to limit or impede any such designation;

(4) Protected real estate shall mean agricultural land which is encumbered by the lien of a judgment entered or a mortgage or trust deed executed on or after November 21, 1986, which lien is of a first and paramount priority over any other lien except a tax lien; and

(5) Redemptive homestead shall mean that portion of any protected real estate for which an owner has made a designation of homestead as provided in the Farm Homestead Protection Act.

Source: Laws 1986, Third Spec. Sess., LB 3, § 2; Laws 1999, LB 550, § 43; Laws 2024, LB102, § 10.
Operative date September 1, 2024.

ARTICLE 21

MEMBERSHIP CAMPGROUNDS

Section

76-2102 Terms, defined.

For purposes of the Membership Campground Act:

(1) Advertisement means an attempt by publication, dissemination, solicitation, or circulation to induce, directly or indirectly, any person to enter into an obligation or acquire a title or interest in a membership camping contract;

(2) Affiliate means any person who, directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with the person specified;

(3) Business day means any day except Saturday, Sunday, or a legal holiday;

(4) Campground means real property made available to persons for camping, whether by tent, trailer, camper, cabin, recreational vehicle, or similar device, and includes the outdoor recreational facilities located on the real property.

Campground does not include a mobile home park as defined in section 76-1464;

(5) Campsite means a space:

(a) Designed and promoted for the purpose of locating a trailer, tent, tent trailer, recreational vehicle, pickup camper, or other similar device used for camping; and

(b) With no permanent dwelling on it;

(6) Commission means the State Real Estate Commission;

(7) Controlling persons of a membership camping operator means each director and officer and each owner of twenty-five percent or more of the stock of the operator, if the operator is a corporation, each general partner and each owner of twenty-five percent or more of the partnership or other interests, if the operator is a general or limited partnership or other person doing business as a membership camping operator, and each member owning twenty-five percent or more of the limited liability company, if the operator is a limited liability company;

(8) Facilities means any of the following amenities provided and located on the campground: Campsites; rental trailers; swimming pools; sport courts; recreation buildings and trading posts; or grocery stores;

(9) Membership camping contract means an agreement offered or sold within this state evidencing a purchaser's right to use a campground of a membership camping operator for more than thirty days during the term of the agreement;

(10) Membership camping operator or operator means any person, other than one who is tax exempt under section 501(c)(3) of the Internal Revenue Code, who owns or operates a campground and offers or sells membership camping contracts paid for by a fee or periodic payments. Membership camping operator does not include the operator of a mobile home park as defined in section 76-1464;

(11) Offer means an inducement, solicitation, or attempt to encourage a person to acquire a membership camping contract;

(12) Person means any individual, partnership, limited liability company, firm, corporation, or association;

(13) Purchaser means a person who enters into a membership camping contract with a membership camping operator and obtains the right to use the campground owned or operated by the membership camping operator;

(14) Sale or sell means entering into or other disposition of a membership camping contract for value. For purposes of this subdivision, value does not include a fee to offset the reasonable costs of a transfer of a membership camping contract; and

(15) Salesperson means any individual, other than a membership camping operator, who is engaged in obtaining commitments of persons to enter into membership camping contracts by making a direct sales presentation to the person but does not include any individual engaged in the referral of persons without making any representations about the camping program or a direct sales presentation to such persons.

Source: Laws 1990, LB 656, § 2; Laws 1993, LB 121, § 487; Laws 1995, LB 574, § 62; Laws 2024, LB152, § 1.
Effective date July 19, 2024.

76-2103 Repealed. Laws 2024, LB152, § 7.

76-2104 Prohibited acts.

No person shall, in connection with the offering, sale, or lease of an interest in a membership campground:

(1) Employ any device, scheme, or artifice to defraud;

(2) Make any untrue statement of a material fact;

(3) Fail to state a material fact necessary to make a statement clear;

(4) Issue, circulate, or publish any prospectus, circular, advertisement, printed matter, document, pamphlet, leaflet, or other literature containing an untrue statement of a material fact or that fails to state a material fact necessary to make the statements on the literature clear; or

(5) Issue, circulate, or publish any advertising matter or make any written representation unless the name of the person issuing, circulating, or publishing the matter or making the representation is clearly indicated.

Source: Laws 1990, LB 656, § 4; Laws 2024, LB152, § 2.
Effective date July 19, 2024.

76-2105 Repealed. Laws 2024, LB152, § 7.

76-2106 Exemptions from act.

The Membership Campground Act shall not apply to the following transactions:

(1) The offer, sale, or transfer by any one person of not more than one membership camping contract in any twelve-month period;

(2) The offer or sale by a government, government agency, or other subdivision of government;

(3) The bona fide pledge of a membership camping contract; and

(4) Transactions subject to regulation pursuant to the Nebraska Time-Share Act.

Source: Laws 1990, LB 656, § 6; Laws 2024, LB152, § 3.
Effective date July 19, 2024.

Cross References

Nebraska Time-Share Act, see section 76-1701.

76-2107 Repealed. Laws 2024, LB152, § 7.

76-2108 Repealed. Laws 2024, LB152, § 7.

76-2109 Repealed. Laws 2024, LB152, § 7.

76-2110 Disclosure statement; contents.

(1) A membership camping operator shall provide a disclosure statement to a purchaser or prospective purchaser before the person signs a membership camping contract or gives any money or thing of value for the purchase of a membership camping contract.

(2) The front cover or first page of the disclosure statement shall contain only the following in the order stated:

(a) Membership camping operator's disclosure statement printed at the top in boldface type of a minimum size of ten points;

(b) The name and principal business address of the membership camping operator and any material affiliate of the membership camping operator;

(c) A statement that the membership camping operator is in the business of offering for sale membership camping contracts;

(d) A statement printed in double-spaced, boldface type of a minimum size of ten points which reads as follows:

THIS DISCLOSURE STATEMENT CONTAINS IMPORTANT MATTERS TO BE CONSIDERED IN THE EXECUTION OF A MEMBERSHIP CAMPING CONTRACT. THE MEMBERSHIP CAMPING OPERATOR IS REQUIRED BY LAW TO DELIVER TO YOU A COPY OF THIS DISCLOSURE STATEMENT BEFORE YOU EXECUTE A MEMBERSHIP CAMPING CONTRACT. THE STATEMENTS CONTAINED IN THIS DOCUMENT ARE ONLY SUMMARY IN NATURE. YOU, AS A PROSPECTIVE PURCHASER, SHOULD REVIEW ALL REFERENCES, EXHIBITS, CONTRACT DOCUMENTS, AND SALES MATERIALS. YOU SHOULD NOT RELY UPON ANY ORAL REPRESENTATIONS AS BEING CORRECT. ANY ORAL MISREPRESENTATION SHALL BE A VIOLATION OF THE MEMBERSHIP CAMPGROUND ACT. REFER TO THIS DOCUMENT AND TO THE ACCOMPANYING EXHIBITS FOR CORRECT REPRESENTATIONS. THE MEMBERSHIP CAMPING OPERATOR IS PROHIBITED FROM MAKING ANY REPRESENTATIONS WHICH CONFLICT WITH THOSE CONTAINED IN THE CONTRACT AND THIS DISCLOSURE STATEMENT; and

(e) A statement printed in double-spaced, boldface type of a minimum size of ten points which reads as follows:

IF YOU EXECUTE A MEMBERSHIP CAMPING CONTRACT, YOU HAVE THE UNQUALIFIED RIGHT TO CANCEL THE CONTRACT. THIS RIGHT OF CANCELLATION CANNOT BE WAIVED. THE RIGHT TO CANCEL EXPIRES AT MIDNIGHT ON THE THIRD BUSINESS DAY FOLLOWING THE DATE ON WHICH THE CONTRACT WAS EXECUTED OR THE DATE OF RECEIPT OF THIS DISCLOSURE STATEMENT, WHICHEVER EVENT OCCURS LATER. TO CANCEL THE MEMBERSHIP CAMPING CONTRACT, YOU, AS THE PURCHASER, MUST HAND DELIVER OR MAIL NOTICE OF YOUR INTENT TO CANCEL TO THE MEMBERSHIP CAMPING OPERATOR AT THE ADDRESS SHOWN IN THE MEMBERSHIP CAMPING CONTRACT, POSTAGE PREPAID. THE MEMBERSHIP CAMPING OPERATOR IS REQUIRED BY LAW TO RETURN ALL MONEY PAID BY YOU IN CONNECTION WITH THE EXECUTION OF THE MEMBERSHIP CAMPING CONTRACT UPON YOUR PROPER AND TIMELY CANCELLATION OF THE CONTRACT AND RETURN OF ALL MEMBERSHIP AND RECIPROCAL-USE PROGRAM MATERIALS FURNISHED AT THE TIME OF PURCHASE.

(3) The following pages of the disclosure statement shall contain all of the following in the order stated:

(a) The name, principal occupation, and address of every director, partner, limited liability company member, or controlling person of the membership camping operator;

(b) A description of the nature of the purchaser's right or license to use the campground and the facilities which are to be available for use by purchasers;

(c) A description of the membership camping operator's experience in the membership camping business, including the length of time the operator has been in the membership camping business;

(d) The location of each of the campgrounds which is to be available for use by purchasers and a description of the facilities at each campground which are currently available for use by purchasers. Facilities which are planned, incomplete, or not yet available for use shall be clearly identified as incomplete or unavailable. A description of any facilities that are or will be available to nonpurchasers and a projected date of completion shall also be provided. The description shall include, but not be limited to, the number of campsites in each campground and campsites in each campground with full or partial hookups, swimming pools, tennis courts, recreation buildings, restrooms and showers, laundry rooms, trading posts, and grocery stores;

(e) The fees and charges that purchasers are or may be required to pay for the use of the campground or any facilities;

(f) Any initial, additional, or special fee due from the purchaser, together with a description of the purpose and method of calculating the fee;

(g) The extent to which financial arrangements, if any, have been provided for the completion of facilities, together with a statement of the membership camping operator's obligation to complete planned facilities. The statement shall include a description of any restrictions or limitations on the membership camping operator's obligation to begin or to complete the facilities;

(h) The names of the managing entity, if any, and the significant terms of any management contract, including, but not limited to, the circumstances under which the membership camping operator may terminate the management contract;

(i) A statement, whether by way of supplement or otherwise, of the rules, regulations, restrictions, or covenants regulating the purchaser's use of the campground and the facilities which are to be available for use by the purchaser, including a statement of whether and how the rules, regulations, restrictions, or covenants may be changed;

(j) A statement of the policies covering the availability of campsites, the availability of reservations, and the conditions under which they are made;

(k) A statement of any grounds for forfeiture of a purchaser's membership camping contract;

(l) A statement of whether the membership camping operator has the right to withdraw permanently from use all or any portion of any campground devoted to membership camping and, if so, the conditions under which the withdrawal shall be permitted;

(m) A statement describing the material terms and conditions of any reciprocal program to be available to the purchaser, including a statement concerning whether the purchaser's participation in any reciprocal program is dependent on the continued affiliation of the membership camping operator with that reciprocal program, whether additional costs may be required to use reciprocal facilities, and whether the membership camping operator reserves the right to terminate such affiliation;

(n) As to all memberships offered by the membership camping operator at each campground, all of the following:

(i) The form of membership offered;

(ii) The types of duration of membership along with a summary of the major privileges, restrictions, and limitations applicable to each type;

(iii) Provisions that have been made for public utilities at each campsite, including water, electricity, telephone, and sewage facilities; and

(iv) The number of memberships to be sold to that campground; and

(o) A statement of the assistance, if any, that the membership camping operator will provide to the purchaser in the resale of membership camping contracts and a detailed description of how any such resale program is operated.

Source: Laws 1990, LB 656, § 10; Laws 1993, LB 121, § 489; Laws 2024, LB152, § 4.
Effective date July 19, 2024.

76-2114 Repealed. Laws 2024, LB152, § 7.

76-2115 Repealed. Laws 2024, LB152, § 7.

76-2116 Repealed. Laws 2024, LB152, § 7.

76-2117 Advertisement, communication, or sales literature; restrictions; disclosures required; rain check; prohibited acts.

(1) Any advertisement, communication, or sales literature relating to membership camping contracts, including oral statements by a salesperson or any other person, shall not contain:

(a) Any untrue statement of material fact or any omission of material fact which would make the statements misleading in light of the circumstances under which the statements were made;

(b) Any statement or representation that the membership camping contracts are offered without risk or that loss is impossible; or

(c) Any statement or representation or pictorial presentation of proposed improvements or nonexistent scenes without clearly indicating that the improvements are proposed and the scenes do not exist.

(2) A person shall not by any means, as part of an advertising program, offer any item of value as an inducement to the recipient to visit a location, attend a sales presentation, or contact a salesperson unless the person clearly and conspicuously discloses in writing in the offer in readily understandable language each of the following:

(a) The name and street address of the owner of the real or personal property or the provider of the services which are the subject of such visit, sales presentation, or contact with a salesperson;

(b) A general description of the business of the owner or provider identified and the purpose of any requested visit, sales presentation, or contact with a salesperson, including a general description of the facilities or proposed facilities or services which are the subject of the sales presentation;

(c) A statement of the odds, in arabic numerals, of receiving each item offered;

(d) All restrictions, qualifications, and other conditions that shall be satisfied before the recipient is entitled to receive the item, including all of the following:

(i) Any deadline by which the recipient shall visit the location, attend the sales presentation, or contact the salesperson in order to receive the item;

(ii) The approximate duration of any visit and sales presentation; and

(iii) Any other conditions, such as a minimum age qualification, a financial qualification, or a requirement that if the recipient is married both spouses be present in order to receive the item;

(e) A statement that the owner or provider reserves the right to provide a rain check or a substitute or like item if these rights are reserved;

(f) A statement that a recipient who receives an offered item may request and will receive evidence showing that the item provided matches the item randomly or otherwise selected for distribution to that recipient; and

(g) All other rules, terms, and conditions of the offer, plan, or program.

(3) A person, a person's employee, or an agent of the person shall not offer any item relating to a membership campground contract if the person, employee, or agent knows or has reason to know that the offered item will not be available in a sufficient quantity based on the reasonably anticipated response to the offer.

(4) A person, a person's employee, or an agent of the person shall not fail to provide any offered item relating to a membership campground contract which a recipient is entitled to receive, unless the failure to provide the item is due to a higher than reasonably anticipated response to the offer which caused the item to be unavailable and the offer discloses the reservation of a right to provide a rain check or a like or substitute item if the offered item is unavailable.

(5) If the person, person's employee, or agent of the person making an offer is unable to provide an offered item relating to a membership campground contract because of limitations of supply not reasonably foreseeable or controllable by the person, employee, or agent making the offer, the person, employee, or agent making the offer shall inform the recipient of the recipient's right to receive a rain check for the item offered or receive a like or substitute item of equal or greater value at no additional cost or obligation to the recipient.

(6) If a rain check is provided, the person, employee, or agent making an offer relating to a membership campground contract, within a reasonable time, and in any event not later than thirty calendar days after the rain check is issued, shall deliver the agreed item to the recipient's address without additional cost or obligation to the recipient unless the item for which the rain check is provided remains unavailable because of limitations of supply not reasonably foreseeable or controllable by the person, employee, or agent making the offer. If the item is unavailable for such reasons, the person, employee, or agent, not later than thirty days after the expiration of the thirty-day period, shall deliver a like or substitute item of equal or greater retail value to the recipient.

(7) On the request of a recipient who has received or claims a right to receive any offered item, the person, person's employee, or agent of the person making an offer relating to a membership campground contract shall furnish to the recipient sufficient evidence showing that the item provided matches the item randomly or otherwise selected for distribution to that recipient.

(8) A person, person's employee, or agent of the person making an offer relating to a membership campground contract shall not do any of the following:

(a) Misrepresent the size, quantity, identity, or quality of any prize, gift, money, or other item of value offered;

(b) Misrepresent in any manner the odds of receiving a particular gift, prize, amount of money, or other item of value;

(c) Represent directly or by implication that the number of participants has been significantly limited or that any person has been selected to receive a particular prize, gift, money, or other item of value, unless the representation is true;

(d) Label any offer a notice of termination or notice of cancellation; and

(e) Misrepresent in any manner the offer, plan, or program.

Source: Laws 1990, LB 656, § 17; Laws 2024, LB152, § 5.
Effective date July 19, 2024.

ARTICLE 22

REAL PROPERTY APPRAISER ACT

Section

Section

76-2201 Act, how cited.

Sections 76-2201 to 76-2250 shall be known and may be cited as the Real Property Appraiser Act.

Source: Laws 1990, LB 1153, § 1; Laws 1991, LB 203, § 6; Laws 1994, LB 1107, § 6; Laws 1999, LB 618, § 1; Laws 2001, LB 162, § 1; Laws 2006, LB 778, § 13; Laws 2014, LB717, § 1; Laws 2015, LB139, § 1; Laws 2016, LB729, § 1; Laws 2018, LB741, § 1; Laws 2022, LB707, § 47; Laws 2024, LB992, § 1.
Effective date March 13, 2024.

76-2202 Legislative findings.

The Legislature finds that as a result of the enactment of the Dodd-Frank Wall Street Reform and Consumer Protection Act and the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Nebraska's laws providing for regulation of real property appraisers require restructuring and updating in order to comply with such acts. Compliance with the acts is necessary to ensure an adequate number of real property appraisers in Nebraska to conduct appraisals of real estate involved in federally related transactions as defined in such acts.

Source: Laws 1990, LB 1153, § 2; Laws 1991, LB 203, § 7; Laws 1994, LB 1107, § 7; Laws 2006, LB 778, § 14; Laws 2010, LB931, § 1; Laws 2012, LB714, § 1; Laws 2014, LB717, § 2; Laws 2015, LB139, § 2; Laws 2016, LB731, § 1; Laws 2018, LB741, § 2; Laws 2020, LB808, § 53.

76-2203 Definitions, where found.

For purposes of the Real Property Appraiser Act, the definitions found in sections 76-2203.01 to 76-2219.02 shall be used.

Source: Laws 1990, LB 1153, § 3; Laws 1991, LB 203, § 8; Laws 1994, LB 1107, § 8; Laws 1999, LB 618, § 2; Laws 2001, LB 162, § 2; Laws 2006, LB 778, § 15; Laws 2014, LB717, § 3; Laws 2015, LB139, § 3; Laws 2018, LB741, § 3; Laws 2022, LB707, § 48; Laws 2024, LB992, § 2.
Effective date March 13, 2024.

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.

76-2204 Appraisal, defined.

Appraisal means (1) as a noun, an opinion of value or the act or process of developing an opinion of value or (2) as an adjective, pertaining to appraising and related functions such as real property appraisal practice. An appraisal is numerically expressed as a specific amount, as a range of numbers, or as a relationship to a previous value opinion or numerical benchmark.

Source: Laws 1990, LB 1153, § 4; Laws 2001, LB 162, § 3; Laws 2006, LB 778, § 16; Laws 2015, LB139, § 4; Laws 2020, LB808, § 54.

76-2205.01 Repealed. Laws 2020, LB808, § 101.

76-2205.02 Appraisal review, defined.

Appraisal review means (1) as a noun, the act or process of developing an opinion about the quality of a real property appraiser's work that was performed as part of real property appraisal practice or (2) as an adjective, of or pertaining to an opinion about the quality of another real property appraiser's work that was performed as part of real property appraisal practice.

Source: Laws 2015, LB139, § 7; Laws 2018, LB741, § 4; Laws 2020, LB808, § 55.

76-2207.01 Assignment, defined.

Assignment means a valuation service that is performed by a real property appraiser as a consequence of an agreement with a client.

Source: Laws 2015, LB139, § 9; Laws 2018, LB741, § 5; Laws 2020, LB808, § 56.

76-2207.17 Assignment results, defined.

Assignment results means the opinions or conclusions, not limited to value, developed by a real property appraiser when performing valuation services specific to real property appraisal practice.

Source: Laws 2018, LB741, § 6; Laws 2020, LB808, § 57.

76-2207.22 Client, defined.

Client means the person or persons who engage a real property appraiser by employment or contract in a specific assignment whether directly or through an agent.

Source: Laws 2015, LB139, § 14; R.S.Supp.,2016, § 76-2207.06; Laws 2018, LB741, § 11; Laws 2020, LB808, § 58.

76-2207.23 Completed application, defined.

Completed application means an application for credentialing has been processed, all statutory requirements for a credential to be issued have been met by the applicant, and all required documentation is submitted to the board for final consideration.

Source: Laws 2014, LB717, § 5; R.S.Supp.,2014, § 76-2210.03; Laws 2015, LB139, § 15; R.S.Supp.,2016, § 76-2207.07; Laws 2018, LB741, § 12; Laws 2022, LB707, § 49.

76-2207.26 Credential holder, defined.

Credential holder means (1) any person who holds a valid credential as a trainee real property appraiser, licensed real property appraiser, certified residential real property appraiser, or certified general real property appraiser and (2) any person who holds a temporary credential to engage in real property appraisal practice within this state.

Source: Laws 2015, LB139, § 18; R.S.Supp.,2016, § 76-2207.10; Laws 2018, LB741, § 15; Laws 2020, LB808, § 59.

76-2207.27 Education provider, defined.

Education provider means: Any real property appraisal or real-estate-related organization; proprietary school; accredited degree-awarding community college, college, or university; state or federal agency; or such other provider that may be approved by the board that provides real property appraiser training or education.

Source: Laws 2015, LB139, § 19; R.S.Supp.,2016, § 76-2207.11; Laws 2018, LB741, § 16; Laws 2019, LB77, § 1; Laws 2020, LB808, § 60.

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, 2024.

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; Laws 2022, LB707, § 50; Laws 2024, LB992, § 3.
Effective date March 13, 2024.

76-2212.03 Jurisdiction of practice, defined.

Jurisdiction of practice means any jurisdiction in which an appraiser devotes his or her time engaged in real property appraisal practice.

Source: Laws 2014, LB717, § 9; Laws 2015, LB139, § 25; Laws 2020, LB808, § 62.

76-2213.03 PAREA program, defined.

PAREA program means a practical applications of real estate appraisal program approved by the Appraiser Qualifications Board as prescribed by rules and regulations of the Real Property Appraiser Board.

Source: Laws 2022, LB707, § 51.

76-2213.04 Personal inspection, defined.

Personal inspection means a real property appraiser's in-person observation of identified real estate or real property without the use of special testing or special equipment performed as part of an evaluation assignment, valuation assignment, or appraisal review assignment.

Source: Laws 2024, LB992, § 4.
Effective date March 13, 2024.

76-2215 Real property appraisal practice, defined.

Real property appraisal practice means any act or process performed by a real property appraiser involved in developing and reporting an analysis, opinion, or conclusion relating to the specified interests in or aspects of identified real estate or real property or an appraisal review. Real property appraisal practice includes, but is not limited to, evaluation assignments, valuation assignments, and appraisal review assignments.

Source: Laws 1990, LB 1153, § 15; Laws 2001, LB 162, § 7; Laws 2006, LB 778, § 33; Laws 2015, LB139, § 29; Laws 2018, LB741, § 22; Laws 2020, LB808, § 63.

76-2216 Real property appraiser, defined.

Real property appraiser means a person who is a credential holder.

Source: Laws 1990, LB 1153, § 16; Laws 2001, LB 162, § 8; Laws 2006, LB 778, § 34; Laws 2010, LB931, § 5; Laws 2015, LB139, § 30; Laws 2020, LB808, § 64.

76-2216.02 Report, defined.

Report means any communication, written, oral, or by electronic means, of assignment results transmitted to the client or a party authorized by the client upon completion of an assignment. Testimony related to assignment results is deemed to be an oral report.

Source: Laws 1990, LB 1153, § 6; Laws 2006, LB 778, § 19; Laws 2010, LB931, § 2; R.S.Supp.,2014, § 76-2206; Laws 2015, LB139, § 32; Laws 2018, LB741, § 23; Laws 2020, LB808, § 65.

76-2216.03 Repealed. Laws 2020, LB808, § 101.

76-2218 Two-year continuing education period, defined.

(1) Except as provided in subsections (2) through (6) of this section, two-year continuing education period means the period of twenty-four months commencing on January 1 and completed on December 31 of the following year.

(2) For a new real property appraiser credentialed prior to July 1 pursuant to section 76-2228.01, 76-2230, 76-2231.01, or 76-2232, two-year continuing education period means the period commencing on the date of initial credentialing and completed on December 31 of the following year.

(3) For a new real property appraiser credentialed on or after July 1 pursuant to section 76-2228.01, 76-2230, 76-2231.01, or 76-2232, two-year continuing education period means the period of twenty-four months commencing on January 1 of the year following the date of initial credentialing.

(4) For a new real property appraiser credentialed pursuant to section 76-2233 who held a valid credential of the same class to engage in real property appraisal practice under the laws of another jurisdiction on January 1 of the year in which the credential was issued by the board, two-year continuing education period means the period of twenty-four months commencing on January 1 of the year in which the credential was issued by the board.

(5) For a new real property appraiser credentialed pursuant to section 76-2233 who (a) did not hold a valid credential of the same class to engage in real property appraisal practice under the laws of another jurisdiction on January 1 of the year in which the credential was issued by the board and (b) was credentialed pursuant to section 76-2233 prior to July 1, two-year continuing education period means the period commencing on the date of initial credentialing and completed on December 31 of the following year.

(6) For a new real property appraiser credentialed pursuant to section 76-2233 who (a) did not hold a valid credential of the same class to engage in real property appraisal practice under the laws of another jurisdiction on January 1 of the year in which the credential was issued by the board and (b) was credentialed pursuant to section 76-2233 on or after July 1, two-year continuing education period means the period of twenty-four months commencing on January 1 of the year following the date of initial credentialing.

Source: Laws 1990, LB 1153, § 18; Laws 1991, LB 203, § 19; Laws 1994, LB 1107, § 15; Laws 2001, LB 162, § 10; Laws 2006, LB 778, § 38; Laws 2015, LB139, § 35; Laws 2022, LB707, § 52.

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, 2024.

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; Laws 2024, LB992, § 5.
Effective date March 13, 2024.

76-2219.01 Valuation services, defined.

Valuation services means services pertaining to an aspect of property value, including a service performed by real property appraisers.

Source: Laws 2015, LB139, § 38; Laws 2018, LB741, § 25; Laws 2020, LB808, § 67.

76-2219.02 Workfile, defined.

Workfile means documentation necessary to support a real property appraiser's analysis, opinions, and conclusions.

Source: Laws 2015, LB139, § 39; Laws 2020, LB808, § 68; Laws 2024, LB992, § 6.
Effective date March 13, 2024.

76-2220 Proper credentialing required; violation of act; cease and desist order.

(1) Except as provided in section 76-2221, it shall be unlawful for anyone to act as a real property appraiser in this state without first obtaining proper credentialing as required under the Real Property Appraiser Act.

(2) Except as provided in section 76-2221, any person who, directly or indirectly for another, offers, attempts, agrees to engage, or engages in real property appraisal practice, or who advertises or holds himself or herself out to the general public as a real property appraiser, shall be deemed a real property appraiser within the meaning of the Real Property Appraiser Act, and such action shall constitute sufficient contact with this state for the exercise of personal jurisdiction over such person in any action arising out of such act. Committing a single act described in this section by a person required to be credentialed under the Real Property Appraiser Act and not so credentialed shall constitute a violation of the act for which the board may impose sanctions pursuant to this section for the protection of the public health, safety, or welfare.

(3) The board may issue a cease and desist order against any person who violates this section. Such order shall be final ten days after issuance unless such person requests a hearing pursuant to section 76-2240. The board may, through the Attorney General, obtain an order from the district court for the enforcement of the cease and desist order.

Source: Laws 1990, LB 1153, § 20; Laws 1991, LB 203, § 21; Laws 1994, LB 1107, § 16; Laws 2001, LB 162, § 12; Laws 2006, LB 778, § 40; Laws 2015, LB139, § 40; Laws 2018, LB741, § 26; Laws 2020, LB808, § 69.

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;

(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;

(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 real property appraisal 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; Laws 2022, LB707, § 53; Laws 2024, LB992, § 7.
Effective date March 13, 2024.

76-2222 Real Property Appraiser Board; created; members; terms; compensation; expenses.

(1) The Real Property Appraiser Board is hereby created. The board shall consist of five members. One member who is a certified real property appraiser shall be selected from each of the three congressional districts, and two members shall be selected at large. The two members selected at large shall include one representative of financial institutions and one licensed real estate broker. The Governor shall appoint the members of the board.

(2) The term of each member of the board shall be five years. Upon the expiration of his or her term, a member of the board shall continue to hold office until the appointment and qualification of his or her successor. No person shall serve as a member of the board for consecutive terms. Any vacancy shall be filled in the same manner as the original appointment. The Governor may remove a member for cause.

(3) The members of the board shall elect a chairperson during the first meeting of each year from among the members.

(4) Three members of the board, at least two of whom are real property appraisers, shall constitute a quorum.

(5) Each member of the board shall receive a per diem of one hundred dollars per day (a) for each scheduled meeting of the board or a committee of the board at which the member is present and (b) actually spent in traveling to and from and attending meetings and conferences of the Association of Appraiser Regulatory Officials and its committees and subcommittees or of The Appraisal Foundation and its committees and subcommittees, board committee meetings, or other business as authorized by the board.

(6) Each member of the board shall be reimbursed for expenses incident to the performance of his or her duties under the Real Property Appraiser Act and Nebraska Appraisal Management Company Registration Act as provided in sections 81-1174 to 81-1177.

Source: Laws 1990, LB 1153, § 22; Laws 1991, LB 203, § 23; Laws 1994, LB 1107, § 18; Laws 2001, LB 162, § 14; Laws 2006, LB 778,

§ 42; Laws 2008, LB1011, § 5; Laws 2015, LB139, § 42; Laws 2016, LB731, § 8; Laws 2018, LB741, § 28; Laws 2019, LB77, § 3; Laws 2020, LB381, § 83.

Cross References

Nebraska Appraisal Management Company Registration Act, see section 76-3201.

76-2223 Real Property Appraiser Board; powers and duties; rules and regulations.

(1) The Real Property Appraiser Board shall administer and enforce the Real Property Appraiser Act and may:

(a) Receive applications for credentialing under the act, process such applications and regulate the issuance of credentials to qualified applicants, and maintain a directory of the names and addresses of persons who receive credentials under the act;

(b) Hold meetings, public hearings, informal conferences, and administrative hearings, prepare or cause to be prepared specifications for all real property appraiser classifications, solicit bids and enter into contracts with one or more testing services, and administer or contract for the administration of examinations approved by the Appraiser Qualifications Board in such places and at such times as deemed appropriate;

(c) Develop the specifications for credentialing examinations, including timing, location, and security necessary to maintain the integrity of the examinations;

(d) Review the procedures and criteria of a contracted testing service to ensure that the testing meets with the approval of the Appraiser Qualifications Board;

(e) Collect all fees required or permitted by the act. The Real Property Appraiser Board shall remit all such receipts to the State Treasurer for credit to the Real Property Appraiser Fund. In addition, the board may collect and transmit to the appropriate federal authority any fees established under the Financial Institutions Reform, Recovery, and Enforcement Act of 1989;

(f) Establish appropriate administrative procedures for disciplinary proceedings conducted pursuant to the Real Property Appraiser Act;

(g) Issue subpoenas to compel the attendance of witnesses and the production of books, documents, records, and other papers, administer oaths, and take testimony and require submission of and receive evidence concerning all matters within its jurisdiction. In case of disobedience of a subpoena, the Real Property Appraiser Board may make application to the district court of Lancaster County to require the attendance and testimony of witnesses and the production of documentary evidence. If any person fails to obey an order of the court, he or she may be punished by the court as for contempt thereof;

(h) Deny an application or censure, suspend, or revoke a credential if it finds that the applicant or credential holder has committed any of the acts or omissions set forth in section 76-2238 or otherwise violated the act. Any disciplinary matter may be resolved through informal disposition pursuant to section 84-913;

(i) Take appropriate disciplinary action against a credential holder if the Real Property Appraiser Board determines that a credential holder has violated any

provision of the act or the Uniform Standards of Professional Appraisal Practice;

(j) Enter into consent decrees and issue cease and desist orders upon a determination that a violation of the act has occurred;

(k) Promote research and conduct studies relating to the profession of real property appraisal, sponsor real property appraisal educational activities, and incur, collect fees for, and pay the necessary expenses in connection with activities which shall be open to all credential holders;

(l) Establish and adopt minimum standards for appraisals as required under section 76-2237;

(m) Adopt and promulgate rules and regulations to carry out the act. The rules and regulations may include provisions establishing minimum standards for education providers, courses, and instructors. The rules and regulations shall be adopted and promulgated pursuant to the Administrative Procedure Act; and

(n) Do all other things necessary to carry out the Real Property Appraiser Act.

(2) The Real Property Appraiser Board shall also administer and enforce the Nebraska Appraisal Management Company Registration Act.

Source: Laws 1990, LB 1153, § 23; Laws 1991, LB 203, § 24; Laws 1994, LB 1107, § 19; Laws 2001, LB 162, § 15; Laws 2006, LB 778, § 43; Laws 2007, LB186, § 8; Laws 2008, LB1011, § 6; Laws 2010, LB931, § 7; Laws 2011, LB410, § 21; Laws 2012, LB714, § 3; Laws 2014, LB717, § 13; Laws 2015, LB139, § 43; Laws 2020, LB808, § 71.

Cross References

Administrative Procedure Act, see section 84-920.
Nebraska Appraisal Management Company Registration Act, see section 76-3201.

76-2227 Credentials; application; requirements.

(1) Applications for initial credentials, upgrade of credentials, credentials through reciprocity, temporary credentials, and renewal of credentials, including authorization to take the appropriate examination, shall be made in writing to the board on forms approved by the board. The payment of the appropriate fee in an amount established by the board pursuant to section 76-2241 shall accompany all applications.

(2) Applications for credentials shall include the applicant's social security number and such other information as the board may require.

(3) At the time of filing an application for a credential, the applicant shall sign a pledge that he or she has read and will comply with the Uniform Standards of Professional Appraisal Practice. Each applicant shall also certify that he or she understands the types of misconduct for which disciplinary proceedings may be initiated.

(4) To qualify for an initial credential, an upgrade of a credential, a credential through reciprocity, a temporary credential, or a renewal of a credential, an applicant shall:

(a) Certify that disciplinary proceedings are not pending against him or her in any jurisdiction or state the nature of any pending disciplinary proceedings;

(b) Certify that he or she has not surrendered an appraiser credential, or any other registration, license, or certification, issued by any other regulatory agency or held in any other jurisdiction, in lieu of disciplinary action pending or threatened within the five-year period immediately preceding the date of application;

(c) Certify that his or her appraiser credential, or any other registration, license, or certification, issued by any other regulatory agency or held in any other jurisdiction, has not been revoked or suspended within the five-year period immediately preceding the date of application;

(d) Not have been convicted of, including a conviction based upon a plea of guilty or nolo contendere:

(i) Any felony or, if so convicted, has had his or her civil rights restored;

(ii) Any crime of fraud, dishonesty, breach of trust, money laundering, misrepresentation, or deceit involving real estate, financial services, or in the making of an appraisal within the five-year period immediately preceding the date of application; or

(iii) Any other crime which is related to the qualifications, functions, or duties of a real property appraiser within the five-year period immediately preceding the date of application;

(e) Certify that no civil judicial actions, including dismissal with settlement, in connection with real estate, financial services, or in the making of an appraisal have been brought against him or her within the five-year period immediately preceding the date of application;

(f) Demonstrate character and general fitness such as to command the confidence and trust of the public; and

(g) Not possess a background that would call into question public trust or a credential holder's fitness for credentialing.

(5) Credentials shall be issued only to persons who have a good reputation for honesty, trustworthiness, integrity, and competence to perform real property appraisal practice assignments in such manner as to safeguard the interest of the public and only after satisfactory proof of such qualification has been presented to the board upon request and a completed application has been approved.

(6) No credential shall be issued to a person other than an individual.

Source: Laws 1990, LB 1153, § 27; Laws 1991, LB 203, § 28; Laws 1993, LB 121, § 490; Laws 1994, LB 1107, § 23; Laws 2001, LB 162, § 18; Laws 2006, LB 778, § 47; Laws 2007, LB186, § 10; Laws 2014, LB717, § 14; Laws 2015, LB139, § 44; Laws 2016, LB731, § 9; Laws 2018, LB741, § 29; Laws 2020, LB808, § 72.

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)(i)(A) If submitting an application on or before December 31, 2025, 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. 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

(B) If submitting an application after December 31, 2025, have successfully completed and passed examination for no fewer than eighty-three 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. 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 (b)(i) of this subsection;

(c) 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

(d) 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 twenty-four 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. Successful completion of examination shall be valid for twenty-four months.

(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)(b)(ii) of section 76-2230; and

(b) Meet the experience requirements pursuant to subdivision (1)(c) 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)(i) If submitting an application on or before December 31, 2025, successfully complete and pass proctored, closed-book examinations for no fewer than one hundred twenty-five additional class hours in board-approved qualifying education courses conducted by education providers as prescribed by rules and regulations of the board, or hold a 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; or

(ii) If submitting an application after December 31, 2025, successfully complete and pass proctored, closed-book examinations for no fewer than one hundred seventeen 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.

(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)(i) If submitting an application on or before December 31, 2025, 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; or

(ii) If submitting an application after December 31, 2025, successfully complete and pass proctored, closed-book examinations for no fewer than two hundred seventeen 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 real property appraisal 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; Laws 2024, LB992, § 8.
Effective date March 13, 2024.

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) Conducting a personal inspection with the trainee real property appraiser as is consistent with his or her scope of real property appraisal 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; Laws 2024, LB992, § 9.
Effective date March 13, 2024.

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)(i)(A) If submitting an application on or before December 31, 2025, 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. Each course shall include a proctored, closed-book examination pertinent to the material presented; or

(B) If submitting an application after December 31, 2025, have successfully completed and passed examination for no fewer than one hundred fifty-eight 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. 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 (b)(i) of this subsection;

(c)(i) 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; or

(ii) Successfully complete a PAREA program. If the PAREA program does not satisfy all required experience for credentialing, the remaining experience hours shall be completed pursuant to subdivision (c)(i) of this subsection;

(d) 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

(e) Within the twenty-four 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. Successful completion of examination shall be valid for twenty-four months.

(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 twenty-four 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. Successful completion of examination shall be valid for twenty-four months.

(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)(i) If submitting an application on or before December 31, 2025, 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; or

(ii) If submitting an application after December 31, 2025, successfully complete and pass proctored, closed-book examinations for no fewer than forty-two 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)(i) If submitting an application on or before December 31, 2025, 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 regula-

tions 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; or

(ii) If submitting an application after December 31, 2025, successfully complete and pass proctored, closed-book examinations for no fewer than one hundred forty-two 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 real property appraisal practice for a licensed residential real property appraiser shall be limited to noncomplex residential real property or real estate having no more than four units, if any, with a transaction value, or market value if no transaction takes place, 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, or market value if no transaction takes place, of less than four hundred thousand dollars. Subdivisions for which a development analysis or appraisal is necessary are not included in the scope of real property appraisal 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; Laws 2022, LB707, § 54; Laws 2024, LB992, § 10.
Effective date March 13, 2024.

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 that includes:

(A) Three semester hours in each of the following subject matter areas: College algebra; college composition modular; principles of macroeconomics; principles of microeconomics; introductory business law; and information systems; and

(B) Six semester hours in each of the following subject matter areas: College composition; and college mathematics; 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. 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)(i) 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; or

(ii) Successfully complete a PAREA program. If the PAREA program does not satisfy all required experience for credentialing, the remaining experience hours shall be completed pursuant to subdivision (e)(i) of this subsection;

(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 twenty-four 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. Successful completion of examination shall be valid for twenty-four months.

(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 twenty-four 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. Successful completion of examination shall be valid for twenty-four months.

(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 real property appraisal practice for a certified residential real property appraiser shall be limited to residential real property or real estate having no more than four residential units, if any, without regard to transaction value or complexity. Subdivisions for which a development analysis or appraisal is necessary are not included in the scope of real property appraisal 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; Laws 2022, LB707, § 55; Laws 2024, LB992, § 11.
Effective date March 13, 2024.

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. 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)(i) 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; or

(ii) Successfully complete a PAREA program. If the PAREA program does not satisfy all required experience for credentialing, the remaining experience hours shall be completed pursuant to subdivision (e)(i) of this subsection;

(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 twenty-four 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. Successful completion of examination shall be valid for twenty-four months.

(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 real property appraisal practice for the certified general real property appraiser shall include all types of real property or real estate that the real property 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; Laws 2022, LB707, § 56; Laws 2024, LB992, § 12.
Effective date March 13, 2024.

76-2233 Reciprocity; credential; issuance; when; applicant; duties; fingerprints; national criminal history record check; verification of status.

(1) A person currently credentialed to engage in real property appraisal practice concerning real estate and real property under the laws of another jurisdiction may qualify for a credential through reciprocity as a licensed residential real property appraiser, a certified residential real property appraiser, or a certified general real property appraiser by complying with all of the provisions of the Real Property Appraiser Act relating to the appropriate classification of credentialing.

(2) An applicant under this section may qualify for a credential if, in the determination of the board:

(a) The requirements for credentialing in the applicant's jurisdiction of practice specified in an application for credentialing meet or exceed the minimum requirements of the Real Property Appraiser Qualification Criteria as adopted and promulgated by the Appraiser Qualifications Board of The Appraisal Foundation; and

(b) The regulatory program of the applicant's jurisdiction of practice specified in an application for credentialing is determined to be effective in accordance with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 by the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

(3) The status of an applicant's jurisdiction of practice specified in an application for credentialing through reciprocity shall be verified through the most recent Compliance Review Report issued by the Appraisal Subcommittee of the Federal Financial Institutions Examination Council. In the case that findings pertaining to the adoption or implementation of the Real Property Appraiser Qualification Criteria indicate that one or more credentialing requirements do not meet or exceed the Real Property Appraiser Qualification Criteria as promulgated by the Appraiser Qualifications Board of The Appraisal Foundation, the board may request evidence from the jurisdiction of practice or the Appraisal Subcommittee of the Federal Financial Institutions Examination Council showing that progress has been made to mitigate the findings in the Compliance Review Report.

(4) To qualify for a credential through reciprocity, the applicant shall:

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

(b) Submit an irrevocable consent that service of process upon him or her may be made by delivery of the process to the director of the board if the plaintiff cannot, in the exercise of due diligence, effect personal service upon the applicant in an action against the applicant in a court of this state arising out of the applicant's activities as a real property appraiser in this state; and

(c) Comply with such other terms and conditions as may be determined by the board.

(5) The credential status of an applicant under this section, including current standing and any disciplinary action imposed against his or her credentials, shall be verified through the Appraiser Registry of the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

Source: Laws 1990, LB 1153, § 33; Laws 1991, LB 203, § 35; Laws 1994, LB 1107, § 31; Laws 1997, LB 752, § 208; Laws 2001, LB 162, § 25; Laws 2006, LB 778, § 55; Laws 2007, LB186, § 18; Laws 2008, LB1011, § 13; Laws 2010, LB931, § 16; Laws 2014, LB717, § 20; Laws 2015, LB139, § 52; Laws 2016, LB731, § 15; Laws 2018, LB741, § 30; Laws 2020, LB808, § 78; Laws 2024, LB989, § 1; Laws 2024, LB992, § 13.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB989, section 1, with LB992, section 13, to reflect all amendments.

Note: Changes made by LB989 became effective July 19, 2024. Changes made by LB992 became effective March 13, 2024.

76-2233.01 Nonresident; temporary credential; issuance; when; investigation of violations.

(1) A nonresident currently credentialed to engage in real property appraisal practice concerning real estate and real property under the laws of another jurisdiction may obtain a temporary credential as a licensed residential real property appraiser, a certified residential real property appraiser, or a certified general real property appraiser to engage in real property appraisal practice in this state.

(2) To qualify for the issuance of a temporary credential, an applicant shall:

(a) Submit an application on a form approved by the board;

(b) Submit a letter of engagement or a contract indicating the location of the real property appraisal practice assignment;

(c) Submit an irrevocable consent that service of process upon him or her may be made by delivery of the process to the director of the board if the plaintiff cannot, in the exercise of due diligence, effect personal service upon the applicant in an action against the applicant in a court of this state arising out of the applicant's activities in this state; and

(d) Pay the appropriate application fee in an amount established by the board pursuant to section 76-2241.

(3) The credential status of an applicant under this section, including current standing and any disciplinary action imposed against his or her credentials, shall be verified through the Appraiser Registry of the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

(4) Application for a temporary credential is valid for one year from the date application is made to the board or upon the expiration of the assignment specified in the letter of engagement, whichever occurs first.

(5) A temporary credential issued under this section shall be expressly limited to a grant of authority to engage in real property appraisal practice required for an assignment in this state. Each temporary credential shall expire upon the completion of the assignment or upon the expiration of a period of six months from the date of issuance, whichever occurs first. A temporary credential may be renewed for one additional six-month period.

(6) Any person issued a temporary credential to engage in real property appraisal practice in this state shall comply with all of the provisions of the Real Property Appraiser Act relating to the appropriate classification of credentialing. The board may, upon its own motion, and shall, upon the written complaint of any aggrieved person, cause an investigation to be made with respect to an alleged violation of the act by a person who is engaged in, or who has engaged in, real property appraisal practice as a temporary credential holder, and that person shall be deemed a real property appraiser within the meaning of the act.

Source: Laws 1991, LB 203, § 36; Laws 1994, LB 1107, § 32; Laws 1997, LB 752, § 209; Laws 2001, LB 162, § 26; Laws 2006, LB 778, § 56; Laws 2007, LB186, § 19; Laws 2010, LB931, § 17; Laws 2015, LB139, § 53; Laws 2016, LB731, § 16; Laws 2020, LB808, § 79; Laws 2022, LB707, § 57; Laws 2024, LB989, § 2; Laws 2024, LB992, § 14.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB989, section 2, with LB992, section 14, to reflect all amendments.

Note: Changes made by LB989 became effective July 19, 2024. Changes made by LB992 became effective March 13, 2024.

76-2233.02 Credential; expiration; renewal; fees.

(1) A credential issued under the Real Property Appraiser Act other than a temporary credential shall remain in effect until December 31 of the designated year unless surrendered, revoked, suspended, or canceled prior to such date. To renew a valid credential, the credential holder shall file an application on a form approved by the board and pay the appropriate renewal fee in an amount established by the board pursuant to section 76-2241. A credential may be renewed for one year or two years. In every second year of the two-year continuing education period, as specified in section 76-2236, evidence of completion of continuing education requirements shall accompany renewal application or be on file with the board prior to renewal.

(2) If a credential holder fails to apply and meet the requirements for renewal by November 30 of the designated year, such credential holder may obtain a renewal of such credential by satisfying all of the requirements for renewal and paying the appropriate late processing fee in an amount established by the board pursuant to section 76-2241 if such late renewal takes place prior to July 1 of the following year. If a credential holder that first obtained his or her credential at the current level on or after November 1 fails to apply and meet the requirements for renewal by December 31 of the designated year, such credential holder may obtain a renewal of such credential by satisfying all the requirements for renewal and paying a late processing fee if such late renewal takes place prior to July 1 of the following year. The board may refuse to renew any credential if the credential holder has continued to, directly or indirectly for another, offer, attempt, agree to engage in, or engage in real property appraisal practice in this state following the expiration of his or her credential. If a credential is not renewed prior to July 1, a credential holder shall reapply for credentialing and meet the current requirements in place at the time of application, except as provided in section 76-2233.03.

Source: Laws 1991, LB 203, § 37; Laws 1994, LB 1107, § 33; Laws 2001, LB 162, § 27; Laws 2006, LB 778, § 57; Laws 2010, LB931, § 18; Laws 2014, LB717, § 21; Laws 2015, LB139, § 54; Laws 2020, LB808, § 80; Laws 2024, LB992, § 15.
Effective date March 13, 2024.

76-2233.03 Credential; inactive status; application; prohibited acts; reinstatement; expiration; reapplication.

(1) A credential holder may request that his or her credential be placed on inactive status for a period not to exceed two years. Such requests shall be submitted to the board on an application form prescribed by the board. The payment of the appropriate fee in an amount established by the board pursuant to section 76-2241 shall accompany all applications for requests of inactive status.

(2) A credential holder whose credential is placed on inactive status shall not:

(a) Assume or use any title, designation, or abbreviation likely to create the impression that such person holds an active credential issued by the board; or

(b) Engage in real property appraisal practice or act as a credentialed real property appraiser.

(3) A credential holder whose credential is placed on inactive status may make a request to the board that such credential be reinstated to active status on an application form prescribed by the board. The payment of the appropriate fee in an amount established by the board pursuant to section 76-2241 shall accompany all applications for reinstatement of a credential.

(4) A credential holder's application for reinstatement shall include evidence that he or she has met the continuing education requirements as specified in section 76-2236 while the credential was on inactive status.

(5) If a credential holder's credential expires during the inactive period, an application for renewal of the credential shall accompany the application for reinstatement. All requirements for renewal specified in section 76-2233.02 shall be met, except for the requirement to pay a late processing fee for applications received after November 30 of the designated year.

(6) If a credential holder fails to reinstate his or her credential to active status prior to the completion of the two-year period, his or her credential will return to the status as if the credential was not placed on inactive status. If a credential holder's credential is expired at the completion of the two-year period, the credential holder shall reapply for credentialing and meet the current requirements in place at the time of application.

Source: Laws 2015, LB139, § 55; Laws 2018, LB741, § 31; Laws 2020, LB808, § 81.

76-2236 Continuing education; requirements.

(1) Every credential holder shall furnish evidence to the board that he or she has satisfactorily completed no fewer than twenty-eight hours of approved continuing education activities in each two-year continuing education period. Hours of satisfactorily completed approved continuing education activities cannot be carried over from one two-year continuing education period to another. Evidence of successful completion of such continuing education activities for the two-year continuing education period, including passing examination if applicable, shall be submitted to the board in the manner prescribed by the board. No continuing education activity shall be less than two hours in duration. A person who holds a temporary credential does not have to meet any continuing education requirements in the Real Property Appraiser Act.

(2) As prescribed by rules and regulations of the Real Property Appraiser Board and at least once every two years, the seven-hour National Uniform Standards of Professional Appraisal Practice Continuing Education Course as approved by the Appraiser Qualifications Board or the equivalent of the course as approved by the Real Property Appraiser Board, shall be included in the continuing education requirement of each credential holder. An instructor certified by the Appraiser Qualifications Board satisfies this requirement by successfully completing an instructor recertification course and examination, if applicable, as approved by the Appraiser Qualifications Board.

(3) A continuing education activity conducted in another jurisdiction in which the activity is approved to meet the continuing education requirements for renewal of a credential in such other jurisdiction shall be accepted by the board if that jurisdiction has adopted and enforces standards for such continuing

education activity that meet or exceed the standards established by the Real Property Appraiser Act and the rules and regulations of the board.

(4) The board may adopt a program of continuing education for individual credentials as long as the program is compliant with the Appraiser Qualifications Board's criteria specific to continuing education.

(5) No more than fourteen hours may be approved by the Real Property Appraiser Board as continuing education in each two-year continuing education period for participation, other than as a student, in appraisal educational processes and programs, which includes teaching, program development, authorship of textbooks, or similar activities that are determined by the board to be equivalent to obtaining continuing education. Evidence of participation shall be submitted to the board upon completion of the appraisal educational process or program. No preapproval will be granted for participation in appraisal educational processes or programs.

(6) As prescribed by rules and regulations of the Real Property Appraiser Board, qualifying education, as approved by the board, successfully completed by a credential holder shall be approved by the board as continuing education.

(7) Beginning January 1, 2026, as prescribed by rules and regulations of the Real Property Appraiser Board and at least once every two years, a successfully completed board-approved valuation bias and fair housing laws course shall be included in the continuing education requirement of each credential holder.

(8) A board-approved supervisory real property appraiser and trainee course successfully completed by a certified real property appraiser shall be approved by the board as continuing education no more than once during each two-year continuing education period.

(9) The Real Property Appraiser Board shall approve continuing education activities and instructors which it determines would protect the public by improving the competency of credential holders.

Source: Laws 1990, LB 1153, § 36; Laws 1991, LB 203, § 40; Laws 1994, LB 1107, § 37; Laws 1997, LB 29, § 4; Laws 2001, LB 162, § 28; Laws 2006, LB 778, § 58; Laws 2007, LB186, § 20; Laws 2010, LB931, § 19; Laws 2012, LB714, § 9; Laws 2014, LB717, § 22; Laws 2015, LB139, § 56; Laws 2016, LB731, § 17; Laws 2018, LB741, § 32; Laws 2019, LB77, § 9; Laws 2020, LB808, § 82; Laws 2022, LB707, § 58; Laws 2024, LB992, § 16.
Effective date March 13, 2024.

76-2238 Disciplinary action; denial of application; grounds.

The following acts and omissions shall be considered grounds for disciplinary action or denial of an application by the board:

(1) Failure to meet the minimum qualifications for credentialing established by or pursuant to the Real Property Appraiser Act;

(2) Procuring or attempting to procure a credential under the act by knowingly making a false statement, submitting false information, or making a material misrepresentation in an application filed with the board or procuring or attempting to procure a credential through fraud or misrepresentation;

(3) Paying money or other valuable consideration other than the fees provided for by the act to any member or employee of the board to procure a credential;

(4) An act or omission involving real estate or real property appraisal practice which constitutes dishonesty, fraud, or misrepresentation with or without the intent to substantially benefit the credential holder or another person or with the intent to substantially injure another person;

(5) Failure to demonstrate character and general fitness such as to command the confidence and trust of the public;

(6) Conviction, including a conviction based upon a plea of guilty or nolo contendere, of any felony unless his or her civil rights have been restored;

(7) Entry of a final civil or criminal judgment, including dismissal with settlement, on grounds of fraud, dishonesty, breach of trust, money laundering, misrepresentation, or deceit involving real estate, financial services, or real property appraisal practice;

(8) Conviction, including a conviction based upon a plea of guilty or nolo contendere, of a crime which is related to the qualifications, functions, or duties of a real property appraiser;

(9) Performing valuation services as a credentialed real property appraiser under an assumed or fictitious name;

(10) Paying a finder's fee or a referral fee to any person in connection with a real property appraisal practice assignment, except that an intracompany payment for business development shall not be considered to be unethical or a violation of this subdivision;

(11) Making a false or misleading statement in that portion of a written report that deals with professional qualifications or in any testimony concerning professional qualifications;

(12) Any violation of the act or any rules and regulations adopted and promulgated pursuant to the act;

(13) Failure to maintain, or to make available for inspection and copying, records required by the board;

(14) Demonstrating negligence, incompetence, or unworthiness to act as a real property appraiser, whether of the same or of a different character as otherwise specified in this section;

(15) Suspension or revocation of an appraisal credential or a license in another regulated occupation, trade, or profession in this or any other jurisdiction or disciplinary action taken by another jurisdiction that limits the real property appraiser's ability to engage in real property appraisal practice;

(16) Failure to renew or surrendering an appraisal credential or any other registration, license, or certification issued by any other regulatory agency or held in any other jurisdiction in lieu of disciplinary action pending or threatened;

(17) Failure to report disciplinary action taken against an appraisal credential or any other registration, license, or certification issued by any other regulatory agency or held in any other jurisdiction within sixty days of receiving notice of such disciplinary action;

(18) Failure to comply with terms of a consent agreement or settlement agreement;

(19) Failure to submit or produce books, records, documents, workfiles, reports, or other materials requested by the board concerning any matter under investigation;

(20) Failure of an education provider to produce records, documents, reports, or other materials, including, but not limited to, required student attendance reports, to the board;

(21) Knowingly offering or attempting to offer a qualifying or continuing education course or activity as being approved by the board to a real property appraiser or an applicant, without first obtaining approval of the activity from the board, except for courses required by an accredited degree-awarding college or university for completion of a degree in real estate, if the college or university had its curriculum approved by the Appraiser Qualifications Board as qualifying education;

(22) Presentation to the Real Property Appraiser Board of any check which is returned to the State Treasurer unpaid, whether payment of fee is for an initial or renewal credential or for examination; and

(23) Failure to pass the examination.

Source: Laws 1990, LB 1153, § 38; Laws 1991, LB 203, § 42; Laws 1994, LB 1107, § 39; Laws 2001, LB 162, § 30; Laws 2006, LB 778, § 60; Laws 2010, LB931, § 21; Laws 2014, LB717, § 23; Laws 2015, LB139, § 59; Laws 2016, LB731, § 18; Laws 2018, LB741, § 34; Laws 2019, LB77, § 10; Laws 2020, LB808, § 83.

76-2239 Investigations; authorized; disciplinary action; cease and desist order; complaint; procedure; hearing.

(1) The board may, upon its own motion, and shall, upon the written complaint of any aggrieved person, cause an investigation to be made with respect to an alleged violation of the Real Property Appraiser Act. The board may revoke or suspend the credential or otherwise discipline a credential holder, revoke or suspend a qualifying or continuing education course or activity, deny any application, or issue a cease and desist order for any violation of the Real Property Appraiser Act. Any disciplinary action taken against a credentialed real property appraiser, including any action that limits a credentialed real property appraiser's ability to engage in real property appraisal practice, shall be reported to federal authorities as required by Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989. Upon receipt of information indicating that a person may have violated any provision of the Real Property Appraiser Act, the board shall make an investigation of the facts to determine whether or not there is evidence of a violation. If technical assistance is required, the board may contract with or use qualified persons.

(2)(a) If an investigation indicates that a person may have violated a provision of the act, the board may offer the person an opportunity to voluntarily and informally discuss the alleged violation before the board. The board may enter into consent agreements or negotiate settlements.

(b) If an investigation indicates that a person not holding a credential under the act has violated a provision of the act, the board may issue a cease and desist order or refer the investigation to the appropriate county attorney for the consideration of formal charges.

(c) If an investigation indicates that a credential holder has violated a provision of the act, a formal complaint shall be prepared by the board and served upon the credential holder. The complaint shall require the credential holder to file an answer within thirty days of the date of service. In responding

to a complaint, the credential holder may admit the allegations of the complaint, deny the allegations of the complaint, or plead otherwise. Failure to make a timely response shall be deemed an admission of the allegations of the complaint. Upon receipt of an answer to the complaint, the director or chairperson of the board shall set a date, time, and place for an administrative hearing on the complaint. The date of the hearing shall not be less than thirty nor more than one hundred twenty days from the date that the answer is filed unless such date is extended for good cause.

Source: Laws 1990, LB 1153, § 39; Laws 1991, LB 203, § 43; Laws 1994, LB 1107, § 40; Laws 2001, LB 162, § 31; Laws 2006, LB 778, § 61; Laws 2015, LB139, § 60; Laws 2020, LB808, § 84.

76-2241 Fees.

(1) The board shall charge and collect appropriate fees for its services under the Real Property Appraiser Act as follows:

(a) A credential application fee of no more than two hundred dollars;

(b) An examination fee of no more than three hundred dollars. The board may direct applicants to pay the fee directly to a third party who has contracted to administer the examination;

(c) An initial and renewal credentialing fee, other than temporary credentialing, of no more than three hundred fifty dollars;

(d) A late processing fee of no more than twenty-five dollars for each month or portion of a month the fee is late;

(e) A temporary credential application fee for a licensed residential real property appraiser, a certified residential real property appraiser, or a certified general real property appraiser of no more than one hundred fifty dollars;

(f) A temporary credentialing fee of no more than one hundred dollars for a licensed residential real property appraiser, certified residential real property appraiser, or certified general real property appraiser holding a temporary credential under the act;

(g) An inactive credential application fee of no more than one hundred dollars;

(h) An inactive credentialing fee of no more than three hundred dollars;

(i) A duplicate proof of credentialing fee of no more than twenty-five dollars;

(j) A certificate of good standing fee of no more than ten dollars; and

(k) A criminal history record check fee of no more than one hundred dollars.

(2) All fees for credentialing through reciprocity shall be the same as those paid by others pursuant to this section.

(3) In addition to the fees set forth in this section, the board may collect and transmit to the appropriate federal authority any fees established under the provisions of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989. The board may establish such fees as it deems appropriate for special examinations and other services provided by the board.

(4) All fees and other revenue collected pursuant to the Real Property Appraiser Act shall be remitted by the board to the State Treasurer for credit to the Real Property Appraiser Fund.

Source: Laws 1990, LB 1153, § 41; Laws 1991, LB 203, § 45; Laws 1994, LB 1107, § 42; Laws 2001, LB 162, § 33; Laws 2006, LB 778, § 62; Laws 2007, LB186, § 22; Laws 2008, LB1011, § 14; Laws 2010, LB931, § 23; Laws 2012, LB714, § 10; Laws 2014, LB717, § 24; Laws 2015, LB139, § 61; Laws 2016, LB731, § 19; Laws 2024, LB992, § 17.
Effective date March 13, 2024.

76-2243 Professional corporation; real property appraisal practice.

Nothing contained in the Real Property Appraiser Act shall be deemed to prohibit any credential holder under the act from engaging in real property appraisal practice as a professional corporation in accordance with the Nebraska Professional Corporation Act.

Source: Laws 1990, LB 1153, § 43; Laws 1991, LB 203, § 47; Laws 2001, LB 162, § 35; Laws 2006, LB 778, § 64; Laws 2015, LB139, § 63; Laws 2020, LB808, § 85.

Cross References

Nebraska Professional Corporation Act, see section 21-2201.

76-2245 Action for compensation; conditions.

No person engaged in real property appraisal practice in this state or acting in the capacity of a real property appraiser in this state may bring or maintain any action in any court of this state to collect compensation for the performance of valuation services for which credentialing is required by the Real Property Appraiser Act without alleging and proving that he or she was duly credentialed under the act in this state at all times during the performance of such services.

Source: Laws 1990, LB 1153, § 45; Laws 1991, LB 203, § 49; Laws 2001, LB 162, § 37; Laws 2006, LB 778, § 65; Laws 2015, LB139, § 65; Laws 2018, LB741, § 35; Laws 2020, LB808, § 86.

76-2246 Appraisal without credentials; penalty.

Any person required to be credentialed by the Real Property Appraiser Act who, directly or indirectly for another, offers, attempts, agrees to engage in, or engages in real property appraisal practice or who advertises or holds himself or herself out to the general public as a real property appraiser in this state without obtaining proper credentialing under the act shall be guilty of a Class III misdemeanor and shall be ineligible to apply for credentialing under the act for a period of one year from the date of his or her conviction of such offense. The board may, in its discretion, credential such person within such one-year period upon application and after an administrative hearing.

Source: Laws 1990, LB 1153, § 46; Laws 1991, LB 203, § 50; Laws 1994, LB 1107, § 44; Laws 2001, LB 162, § 38; Laws 2006, LB 778, § 66; Laws 2015, LB139, § 66; Laws 2018, LB741, § 36; Laws 2020, LB808, § 87.

76-2247.01 Services; authorized; standards applicable.

(1) A person may retain or employ a real property appraiser credentialed under the Real Property Appraiser Act to perform valuation services. In each case, the valuation services specific to real property appraisal practice, including any report, shall comply with the Real Property Appraiser Act and the Uniform Standards of Professional Appraisal Practice.

(2) In a valuation assignment, the real property appraiser shall remain an impartial, disinterested third party. When providing an evaluation assignment, the real property appraiser may respond to a client's stated objective but shall also remain an impartial, disinterested third party.

Source: Laws 1991, LB 203, § 51; Laws 1994, LB 1107, § 45; Laws 2001, LB 162, § 39; Laws 2006, LB 778, § 67; Laws 2007, LB186, § 24; Laws 2015, LB139, § 67; Laws 2018, LB741, § 37; Laws 2020, LB808, § 88.

76-2249 Directory of appraisers; information; distribution.

(1) The board may prepare a directory showing the name, place of business, and effective and expiration dates for credentials of credential holders under the Real Property Appraiser Act which may be made available on the board's website. Printed copies of the directory shall be made available to the public at such reasonable price per copy as may be fixed by the board. The directory shall be provided to federal authorities as required by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

(2) The board shall provide without charge to any credential holder under the Real Property Appraiser Act a set of rules and regulations adopted and promulgated by the board and any other information which the board deems important in the area of real property appraisal in this state. The information may be made available electronically or printed in a booklet, a pamphlet, or any other form the board determines appropriate. The board may update such material as often as it deems necessary. The board may provide such material to any other person upon request and may charge a fee for the material. The fee shall be reasonable and shall not exceed any reasonable or necessary costs of producing the material for distribution.

Source: Laws 1990, LB 1153, § 49; Laws 1991, LB 203, § 53; Laws 1993, LB 842, § 1; Laws 1994, LB 1107, § 46; Laws 2001, LB 162, § 41; Laws 2006, LB 778, § 69; Laws 2008, LB1011, § 16; Laws 2010, LB931, § 24; Laws 2012, LB714, § 11; Laws 2014, LB717, § 25; Laws 2015, LB139, § 69; Laws 2024, LB992, § 18.
Effective date March 13, 2024.

ARTICLE 23

ONE-CALL NOTIFICATION SYSTEM

Section

Section

76-2301 Act, how cited.

Sections 76-2301 to 76-2334 shall be known and may be cited as the One-Call Notification System Act.

Source: Laws 1994, LB 421, § 1; Laws 2002, LB 1105, § 494; Laws 2013, LB589, § 1; Laws 2014, LB930, § 1; Laws 2019, LB462, § 1; Laws 2023, LB683, § 4.

76-2303 Definitions, where found.

For purposes of the One-Call Notification System Act, the definitions found in sections 76-2303.01 to 76-2317 shall be used.

Source: Laws 1994, LB 421, § 3; Laws 2013, LB589, § 2; Laws 2019, LB462, § 2; Laws 2023, LB683, § 5.

76-2305 Center, defined.

Center means a call center which shall have as its principal purpose the statewide receipt and dissemination to participating operators of information on a fair and uniform basis concerning intended excavations by excavators in areas where operators have underground facilities.

Source: Laws 1994, LB 421, § 5; Laws 2019, LB462, § 3.

76-2305.01 Committee, defined.

Committee means the Underground Excavation Safety Committee.

Source: Laws 2023, LB683, § 6.

76-2310.01 Locator, defined.

Locator means a person who identifies and marks underground facilities for an operator, including a contractor who performs such location services for an operator.

Source: Laws 2019, LB462, § 4.

76-2315 Person, defined.

Person means an individual, partnership, limited liability company, association, municipality, state, county, political subdivision, utility, joint venture, or

corporation and shall include the employer, employee, or contractor of an individual.

Source: Laws 1994, LB 421, § 15; Laws 2019, LB462, § 5.

76-2316 Repealed. Laws 2019, LB462, § 24.

76-2316.01 Ticket, defined.

Ticket means the compilation of data received by the center in the notice of excavation and the facility locations provided to the center and which is assigned a unique identifying number.

Source: Laws 2019, LB462, § 6.

76-2318 Center; membership required.

Operators of underground facilities shall become members of and participate in the center.

Source: Laws 1994, LB 421, § 18; Laws 2019, LB462, § 7.

76-2319 Board of directors; rules and regulations; selection of vendor.

(1) The center shall be governed by a board of directors who shall oversee operation of the center pursuant to rules and regulations adopted and promulgated by the State Fire Marshal to carry out the One-Call Notification System Act. The board of directors shall have the authority to propose rules and regulations which may be adopted and promulgated pursuant to this section and have such other authority as provided by rules and regulations adopted and promulgated by the State Fire Marshal that are not inconsistent with the One-Call Notification System Act.

(2) The board of directors shall also establish a competitive bidding procedure to select a vendor to provide the notification service, establish a procedure by which members of the center share the costs of the center on a fair, reasonable, and nondiscriminatory basis, and do all other things necessary to implement the purpose of the center. Any agreement between the center and a vendor for the notification service may be modified from time to time by the board of directors, and any agreement shall be reviewed by the board of directors at least once every three years, with an opportunity to receive new bids if desired by the board of directors.

(3) The rules and regulations adopted and promulgated by the State Fire Marshal to carry out subsection (2) of this section may provide for:

(a) Any requirements necessary to comply with United States Department of Transportation programs;

(b) The qualifications, appointment, retention, and composition of the board of directors; and

(c) Best practices for the marking, location, and notification of proposed excavations which shall govern the center, excavators, and operators of underground facilities.

(4) Any rule or regulation adopted and promulgated by the State Fire Marshal pursuant to subdivision (3)(c) of this section shall originate with the board of directors.

Source: Laws 1994, LB 421, § 19; Laws 2017, LB263, § 95; Laws 2019, LB462, § 8.

76-2319.01 Board of directors; duties; report.

The board of directors shall assess the effectiveness of enforcement programs, enforcement actions, and its damage prevention and public awareness programs and make a report to the Governor and the Legislature no later than December 1, 2021, and by December 1 every odd-numbered year thereafter. The report to the Legislature shall be made electronically.

Source: Laws 2019, LB462, § 11.

76-2320.01 Locator; training required.

Any locator acting as a contractor for an operator to perform location services shall be trained in locator standards and practices applicable to the industry. The board of directors may review locator training materials provided by operators, locators, and excavators and may make recommendations regarding best practices for locators, if deemed appropriate.

Source: Laws 2019, LB462, § 9.

76-2320.02 Use of plastic or nonmetallic underground facilities; installation requirements.

Notwithstanding any other provision of the One-Call Notification System Act, any plastic or nonmetallic underground facilities installed underground on or after January 1, 2021, shall be installed in such a manner as to be locatable, either by mapping or by use of tracer wire, by the operator for purposes of the act.

Source: Laws 2019, LB462, § 10.

76-2322 Excavator; notice to center.

An excavator shall serve notice of intent to excavate upon the center by submitting a locate request using a method provided by the center. The center shall inform the excavator of all operators to whom such notice will be transmitted and shall promptly transmit such notice to every operator having an underground facility in the area of intended excavation. The notice shall be transmitted to operators and excavators as a ticket. The center shall assign an identification number to each notice received, which number shall be evidenced on the ticket.

Source: Laws 1994, LB 421, § 22; Laws 2014, LB736, § 1; Laws 2019, LB462, § 12.

76-2323 Underground facilities; mark or identify; excavator; violations.

(1) Upon receipt of the information contained in the notice pursuant to section 76-2321, an operator shall advise the excavator of the approximate location of underground facilities in the area of the proposed excavation by marking or identifying the location of the underground facilities with stakes, flags, paint, or any other clearly identifiable marking or reference point and shall indicate if the underground facilities are subject to section 76-2331. The location of the underground facility given by the operator shall be within a strip of land eighteen inches on either side of the marking or identification plus one-half of the width of the underground facility. If in the opinion of the operator the precise location of a facility cannot be determined and marked as required, the operator shall provide all pertinent information and field locating assistance

to the excavator at a mutually agreed to time. The location shall be marked or identified using color standards prescribed by the center. The operator shall respond no later than two business days after receipt of the information in the notice or at a time mutually agreed to by the parties.

(2) The marking or identification shall be done in a manner that will last for a minimum of five business days on any nonpermanent surface and a minimum of ten business days on any permanent surface. If the excavation will continue for longer than five business days, the operator shall remark or reidentify the location of the underground facility upon the request of the excavator. The request for remarking or reidentification shall be made through the center.

(3)(a) Beginning September 1, 2024, it shall be a violation of the One-Call Notification System Act for an excavator to (i) serve notice of intent to excavate upon the center for an area in which the excavation cannot be reasonably commenced within seventeen calendar days after the excavation start date indicated pursuant to section 76-2321 or (ii) request remarking or reidentification for any area in which the excavation cannot be reasonably commenced or continued within fourteen calendar days after the date remarking or reidentification is completed.

(b) After receiving notice of any alleged violation of this subsection pursuant to subsection (2) of section 76-2325, the excavator shall in its answer describe the circumstances which prevented the commencement or continuation of excavation within the timeframes set forth in this subsection.

(4) An operator who determines that such operator does not have any underground facility located in the area of the proposed excavation shall notify the center of the determination prior to the date of commencement of the excavation, or prior to two full business days after transmittal of the ticket, whichever occurs sooner. All ticket responses made under this subsection shall be transmitted to the operator and excavator by the center.

Source: Laws 1994, LB 421, § 23; Laws 2014, LB930, § 3; Laws 2019, LB462, § 13; Laws 2023, LB683, § 7.

76-2325 Violations; civil penalty; investigation; State Fire Marshal; committee; duties; hearing; civil penalty; costs.

(1) Until September 1, 2024:

(a) Any person who violates section 76-2320, 76-2320.01, 76-2320.02, 76-2321, 76-2322, 76-2323, 76-2326, 76-2330, or 76-2331 shall be subject to a civil penalty as follows:

(i) For a violation by an excavator or an operator related to a gas or hazardous liquid underground pipeline facility or a fiber optic telecommunications facility, an amount not to exceed ten thousand dollars for each violation for each day the violation persists, up to a maximum of five hundred thousand dollars; and

(ii) For a violation by an excavator or an operator related to any other underground facility, an amount not to exceed five thousand dollars for each day the violation persists, up to a maximum of fifty thousand dollars; and

(b) An action to recover a civil penalty shall be brought by the Attorney General or a prosecuting attorney on behalf of the State of Nebraska in any court of competent jurisdiction of this state. The trial shall be before the court, which shall consider the nature, circumstances, and gravity of the violation

and, with respect to the person found to have committed the violation, the degree of culpability, the absence or existence of prior violations, whether the violation was a willful act, any good faith attempt to achieve compliance, and such other matters as justice may require in determining the amount of penalty imposed. All penalties shall be remitted to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

(2) Beginning September 1, 2024:

(a)(i) When the State Fire Marshal has reason to believe that any person has committed any violation described in subdivision (b) of this subsection, the State Fire Marshal may conduct an investigation to determine the facts and circumstances of such alleged violation and, if conducted, shall give prior notice of such investigation by first-class mail or electronic mail to such person.

(ii) When any person other than the State Fire Marshal has reason to believe that any violation described in subdivision (b) of this subsection has occurred, such person may submit information to the State Fire Marshal regarding such violation on a form prescribed by the State Fire Marshal. Upon receipt of such information, the State Fire Marshal may conduct an investigation to determine the facts and circumstances of such alleged violation and, if conducted, shall give prior notice of such investigation by first-class mail or electronic mail to both the person being investigated and the person who submitted the information to the State Fire Marshal.

(iii) The State Fire Marshal shall refer the findings of the investigation to the committee for its determination. Except as otherwise provided in subdivision (2)(a)(iv) of this section, the committee shall issue a written determination stating findings of fact, conclusions of law, and the civil penalty, if any, to be assessed for such violation and serve a copy of the written determination by personal service or by certified mail, return receipt requested, upon such person. If the State Fire Marshal's investigation was commenced based on information provided pursuant to subdivision (2)(a)(ii) of this section, a copy of the written determination shall also be delivered by first-class mail to the person providing such information.

(iv) If the committee determines that the civil penalty to be assessed for any violation exceeds the amount described in subdivision (2)(b)(iv) of this section, the committee shall refer the matter, together with the State Fire Marshal's findings and the committee's written determination, to the Attorney General for prosecution pursuant to subdivision (2)(b)(v) of this section.

(v) Not later than thirty days after receipt of the committee's written determination, any party may submit a written request to the State Fire Marshal for a hearing on the matter. The committee shall then appoint a hearing officer to conduct such hearing and set a hearing date and provide written notice of hearing to the parties at least thirty days prior to the date of the hearing. Such notice shall contain the name, address, and telephone number of the hearing officer, a copy of the written determination upon which the hearing shall be held, and the date, time, and place of hearing. The notice of hearing may be served by personal service or by certified mail. If no hearing is requested in answer to the written determination by the person found to have committed any violation as described in subdivision (b) of this subsection, or if a request for a hearing is withdrawn, such person shall pay any civil penalty assessed within thirty days after receipt of the written determination or within thirty days after cancellation of the hearing, whichever is applicable.

(vi) In the preparation and conduct of the hearing, the hearing officer shall have the power, on the hearing officer's own motion or upon the request of any party, to compel the attendance of any witness and the production of any documents by subpoena to ensure a fair hearing. The hearing officer may administer oaths and examine witnesses and receive any evidence pertinent to the determination of the matter. Any witnesses so subpoenaed shall be entitled to the same fees as prescribed by law in judicial proceedings in the district court of this state in a civil action and mileage at the same rate provided in section 81-1176 for state employees.

(vii) A party may appear at the hearing with or without the assistance of counsel to present testimony, examine witnesses, and offer evidence. A stenographic record of all testimony and other evidence received at the hearing shall be made and preserved pending final disposition of the matter.

(viii) Unless all requests for hearing are withdrawn prior to the hearing, following the hearing the hearing officer shall prepare written findings of fact and conclusions of law, and based on such findings of fact and conclusions of law, the committee shall affirm, modify, or reverse the written determination issued under subdivision (2)(a)(iii) of this section and issue a final order. The committee's final order may include an assessment of costs incurred in conducting the hearing, including the costs of the hearing officer and compelling the attendance of witnesses, and assess such costs against the parties. Any party aggrieved by the final order of the committee may appeal the decision, and such appeal shall be in accordance with the Administrative Procedure Act; and

(b)(i) Except as provided in subdivision (2)(b)(ii) of this section, any person who violates section 76-2320, 76-2320.01, 76-2320.02, 76-2321, 76-2322, 76-2323, 76-2326, 76-2330, or 76-2331 or any rule or regulation adopted and promulgated by the State Fire Marshal pursuant to section 76-2319 shall be subject to a civil penalty as follows:

(A) For a violation by an excavator or an operator related to a gas or hazardous liquid underground pipeline facility or a fiber optic telecommunications facility, an amount not to exceed ten thousand dollars for each violation for each day the violation persists, up to a maximum of five hundred thousand dollars; and

(B) For a violation by an excavator or an operator related to any other underground facility, an amount not to exceed five thousand dollars for each day the violation persists, up to a maximum of fifty thousand dollars.

(ii) In addition to or in lieu of assessing a civil penalty as provided in subdivision (i) of this subsection, the committee may order that a violator take and complete continuing education regarding compliance with the One-Call Notification System Act. Such continuing education shall be approved by the State Fire Marshal.

(iii) When imposing a civil penalty, the committee shall consider the nature, circumstances, and gravity of the violation and, with respect to the person found to have committed the violation, the degree of culpability, the absence or existence of prior violations, whether the violation was a willful act, any good faith attempt to achieve compliance, and such other matters as justice may require.

(iv) The committee shall not assess a civil penalty that is more than ten thousand dollars per violation. The violator shall pay the costs of the investigation as billed by the State Fire Marshal. The State Fire Marshal shall remit such

paid costs to the State Treasurer for credit to the fund from which the costs were expended.

(v) As provided in subdivision (2)(a)(iv) of this section, for any investigation in which a civil penalty in excess of the amount described in subdivision (2)(b)(iv) of this section is deemed justified by the committee, the committee shall refer such matter to the Attorney General or a prosecuting attorney who shall bring an action on behalf of the State of Nebraska to recover such penalty in any court of competent jurisdiction of this state. The trial shall be before the court, which shall consider the nature, circumstances, and gravity of the violation and, with respect to the person found to have committed the violation, the degree of culpability, the absence or existence of prior violations, whether the violation was a willful act, any good faith attempt to achieve compliance, and such other matters as justice may require in determining the amount of penalty imposed.

(vi) Costs incurred by the investigation conducted pursuant to subdivision (2)(a) of this section may be sought as part of any judgment against a violator. The State Fire Marshal shall remit any such recovered costs to the State Treasurer for credit to the fund from which the costs were expended.

(vii) All civil penalties collected pursuant to this subsection shall be remitted to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

Source: Laws 1994, LB 421, § 25; Laws 2014, LB930, § 5; Laws 2017, LB263, § 97; Laws 2019, LB462, § 14; Laws 2023, LB683, § 9.

Cross References

Administrative Procedure Act, see section 84-920.

76-2325.02 Repealed. Laws 2023, LB683, § 30.

76-2332 State Fire Marshal; powers.

The State Fire Marshal may, by rule and regulation, define occurrences relating to damage of an underground facility that creates an emergency condition that requires an excavator to immediately notify an operator or a locator, if applicable, and the center regarding the location and extent of damage to an underground facility.

Source: Laws 2019, LB462, § 16.

76-2333 Underground Excavation Safety Committee; created; members; appointment; expenses; duties.

(1) Beginning September 1, 2024, the Underground Excavation Safety Committee is created. The committee shall consist of the following members: (a) The State Fire Marshal or the State Fire Marshal's designee, (b) three representatives of operators, (c) three representatives of excavators, and (d) one alternate representative of operators and one alternate representative of excavators. An alternate representative described in subdivision (d) of this subsection shall only participate in a committee meeting if a corresponding representative described in subdivision (b) or (c) of this subsection has declared a conflict of interest and recused himself or herself from participation in a matter before the committee or is otherwise unavailable for a committee meeting. In such instance, the chairperson shall notify the alternate representative to serve in the

place of the recused or absent representative for any meeting related to such particular conflict or for the duration of such absence.

(2) The representative members shall be appointed by the Governor. The Governor shall appoint one of the three initial representatives of operators described in subdivision (1)(b) of this section, one of the three initial representatives of excavators described in subdivision (1)(c) of this section, and both alternate representatives described in subdivision (1)(d) of this section for two-year terms. The other initial representatives shall be appointed for four-year terms. All succeeding terms shall be for four years. A representative member may be reappointed at the end of such member's term. If there is a vacancy on the committee, the Governor shall appoint a member to serve the remainder of the unexpired term of the vacating member. All representative members shall be subject to approval by the Legislature.

(3) The committee shall select from among its members a chairperson. The committee shall not select an alternate representative to serve as chairperson. The committee shall govern its procedures pursuant to rules and regulations adopted and promulgated by the State Fire Marshal. No representative member shall receive any compensation for services rendered as a member of the committee but may be reimbursed for expenses as provided in sections 81-1174 to 81-1177.

(4) The committee shall meet not less than monthly and also at such other times and at such places as may be established by the chairperson. The committee may meet by videoconference with approval of a majority of the committee members. Any action taken by the committee shall require a majority vote of the members.

(5)(a) The committee shall (i) review investigations completed pursuant to subdivision (2)(a) of section 76-2325, (ii) determine based on such review whether any person has committed any violation described in subdivision (2)(b) of section 76-2325, and (iii) determine the appropriate civil penalty, if any, to be assessed for such violation consistent with subdivision (2)(b)(ii) of section 76-2325.

(b) No member of the committee who participated in an investigation conducted under subdivision (2)(a) of section 76-2325 shall participate in a hearing upon any question in which such member or any business with which such member is associated is a party.

Source: Laws 2023, LB683, § 8.

76-2334 Rules and regulations.

The State Fire Marshal shall adopt and promulgate rules and regulations to carry out section 76-2333 and subsection (2) of section 76-2325, including general rules of practice and procedure relating to the committee, training requirements for investigators, and rules governing the investigation process.

Source: Laws 2023, LB683, § 10.

ARTICLE 25

NEBRASKA PLANE COORDINATE SYSTEM ACT

Section
76-2502. Nebraska Plane Coordinate System, defined.
76-2503. Plane coordinate values.

Section
76-2504. Plane coordinates; recording; waiver.
76-2505. Use of term; restriction.
76-2506. Tracts of land; how described.

76-2502 Nebraska Plane Coordinate System, defined.

(1) For purposes of the Nebraska Plane Coordinate System Act, Nebraska Plane Coordinate System means the system of plane coordinates for designating the geographic position of points on, within, or above the surface of the earth, within the State of Nebraska, defined or located in reference to the National Spatial Reference System, or its successors, which have been established by the National Ocean Service/National Geodetic Survey, or its successors, for defining and stating the geographic positions or locations of points on the surface of the earth, within the State of Nebraska; and

(2) For purposes of more precisely defining the Nebraska Plane Coordinate System, it shall be the most recent system of plane coordinates adopted by the Geographic Information Systems Council, supported and published by the National Geodetic Survey, based on the National Spatial Reference System, and known as the State Plane Coordinate System, for defining and stating the geographic positions or locations of points within the State of Nebraska.

Source: Laws 1998, LB 924, § 64; R.S.1943, (1999), § 86-1602; Laws 2002, LB 1105, § 498; Laws 2024, LB102, § 11.
Operative date September 1, 2024.

76-2503 Plane coordinate values.

The plane coordinate values for a point on the earth's surface used to express the geographic position or location of such point of the Nebraska Plane Coordinate System shall consist of two distances expressed in feet and decimals of a foot or meters and decimals of a meter when using the Nebraska Plane Coordinate System. When the values are expressed in feet, a definition of one foot equals 0.3048 meters exactly must be used. One of the distances, to be known as the ''northing or y-coordinate'', shall give the position in a north-and-south direction. The other, to be known as the ''easting or x-coordinate'', shall give the position in an east-and-west direction.

Source: Laws 1998, LB 924, § 65; R.S.1943, (1999), § 86-1603; Laws 2002, LB 1105, § 499; Laws 2024, LB102, § 12.
Operative date September 1, 2024.

76-2504 Plane coordinates; recording; waiver.

No coordinate or coordinates based on the Nebraska Plane Coordinate System purporting to define the position of a point on a land boundary shall be presented to be recorded in any public land record, plat, easement, exhibit, certified corner record, or deed record unless such coordinate or coordinates are accompanied by a description of the horizontal datum, realization, and methodology used and published within the same document. The State Surveyor may grant a waiver of the requirements of this section upon submission of evidence that the standards of accuracy and specifications used exceed the requirements of this section.

Source: Laws 1998, LB 924, § 66; R.S.1943, (1999), § 86-1604; Laws 2002, LB 1105, § 500; Laws 2024, LB102, § 13.
Operative date September 1, 2024.

76-2505 Use of term; restriction.

(1) The use of the term ''Nebraska Plane Coordinate System'' on any map, report, survey, or other document shall be limited to coordinates based upon the Nebraska Plane Coordinate System.

(2) The provisions of the Nebraska Plane Coordinate System Act shall not be construed to prohibit the appropriate use of other geodetic reference networks.

Source: Laws 1998, LB 924, § 67; R.S.1943, (1999), § 86-1605; Laws 2002, LB 1105, § 501; Laws 2024, LB102, § 14.
Operative date September 1, 2024.

76-2506 Tracts of land; how described.

(1) Descriptions of tracts of land by reference to subdivisions, lines or corners of the United States Public Land Survey System or other original pertinent surveys, are recognized as the basic and prevailing method for describing tracts of land. Whenever coordinates of the Nebraska Plane Coordinate System are used in descriptions of tracts of land, they shall be construed as being supplementary to such descriptions. In the event of any conflict, coordinates of the Nebraska Plane Coordinate System shall not determine the issue, but may be used as collateral facts to show additional evidence.

(2) Descriptions of tracts of land shall not be described entirely by coordinates of the Nebraska Plane Coordinate System or any other plane coordinate system.

(3) Nothing in this section requires a purchaser, mortgagee, or insurer of real property to rely on a land description, any part of which depends exclusively upon the Nebraska Plane Coordinate System.

Source: Laws 1998, LB 924, § 68; R.S.1943, (1999), § 86-1606; Laws 2002, LB 1105, § 502; Laws 2024, LB102, § 15.
Operative date September 1, 2024.

ARTICLE 26

UNIFORM ENVIRONMENTAL COVENANTS ACT

Section
76-2602. Terms, defined.
76-2608. Recording.

76-2602 Terms, defined.

In the Uniform Environmental Covenants Act:

(1) Activity and use limitations means restrictions or obligations created under the act with respect to real property.

(2) Agency means the Department of Environment and Energy or any other Nebraska or federal agency that determines or approves the environmental response project pursuant to which the environmental covenant is created.

(3) Common interest community means a condominium, cooperative, or other real property with respect to which a person, by virtue of the person's ownership of a parcel of real property, is obligated to pay property taxes or insurance premiums, or for maintenance, or improvement of other real property described in a recorded covenant that creates the common interest community.

(4) Environmental covenant means a servitude arising under an environmental response project that imposes activity and use limitations.

(5) Environmental response project means a plan or work performed for environmental remediation of real property and conducted:

(A) Under a federal or state program governing environmental remediation of real property, including the Petroleum Release Remedial Action Act;

(B) Incident to closure of a solid or hazardous waste management unit, if the closure is conducted with approval of an agency; or

(C) Under a state voluntary cleanup program authorized by the Remedial Action Plan Monitoring Act.

(6) Holder means the grantee of an environmental covenant as specified in subsection (a) of section 76-2603.

(7) Person means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

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

(9) State means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

Source: Laws 2005, LB 298, § 3; Laws 2019, LB302, § 94.

Cross References

Petroleum Release Remedial Action Act, see section 66-1501.
Remedial Action Plan Monitoring Act, see section 81-15,181.

76-2608 Recording.

(a) An environmental covenant, any amendment or termination of the covenant under section 76-2609 or 76-2610, and any subordination agreement must be recorded in every county in which any portion of the real property subject to the covenant is located. For purposes of indexing, a holder shall be treated as a grantee.

(b) Except as otherwise provided in subsection (c) of section 76-2609, an environmental covenant is subject to the laws of this state governing recording and priority of interests in real property.

(c) A copy of a document recorded under subsection (a) of this section shall also be provided to the Department of Environment and Energy if the department has not signed the covenant.

(d) The department shall make available to the public a listing of all documents under subsection (a) of this section or documents under subsection (c) of this section which have been provided to the department.

Source: Laws 2005, LB 298, § 9; Laws 2019, LB302, § 95.

ARTICLE 32

NEBRASKA APPRAISAL MANAGEMENT COMPANY REGISTRATION ACT

Section

76-3201 Act, how cited.

Sections 76-3201 to 76-3223 shall be known and may be cited as the Nebraska Appraisal Management Company Registration Act.

Source: Laws 2011, LB410, § 1; Laws 2018, LB17, § 2; Laws 2024, LB989, § 3.
Effective date July 19, 2024.

76-3202 Terms, defined.

For purposes of the Nebraska Appraisal Management Company Registration Act:

(1) Affiliate means any person that controls, is controlled by, or is under common control with, another person;

(2) AMC appraiser means a person who holds a valid credential or equivalent to appraise real estate and real property under the laws of this state or another jurisdiction, and holds the status of active on the Appraiser Registry of the Appraisal Subcommittee of the Federal Financial Institutions Examination Council in one or more jurisdictions;

(3) AMC Registry means the registry of appraisal management companies that hold a registration as an appraisal management company issued by the board or the equivalent issued in another jurisdiction, and federally regulated appraisal management companies, maintained by the Appraisal Subcommittee;

(4) AMC rule means, collectively, the rules adopted by the federal agencies as required in section 1124 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as such rules existed on January 1, 2024;

(5) Appraisal has the same meaning as in section 76-2204;

(6) Appraisal management company means a person that:

(a) Provides appraisal management services to creditors or to secondary mortgage market participants, including affiliates;

(b) Provides appraisal management services in connection with valuing a consumer's principal dwelling as security for a consumer credit transaction or incorporating such transactions into securitizations; and

(c) Within a twelve-month period, oversees an appraiser panel of:

(i) More than fifteen AMC appraisers in this state; or

(ii) Twenty-five or more AMC appraisers in two or more jurisdictions;

(7) Appraisal management services means one or more of the following:

(a) To recruit, select, and retain AMC appraisers;

(b) To contract with AMC appraisers to perform assignments;

(c) To manage the process of having an appraisal performed, including providing administrative services such as receiving appraisal orders and reports, submitting completed reports to creditors and secondary mortgage market participants, collecting fees from creditors and secondary mortgage market participants for services provided, and paying AMC appraisers for valuation services performed; or

(d) To review and verify the work of AMC appraisers;

(8) Appraisal Subcommittee means the Appraisal Subcommittee of the Federal Financial Institutions Examination Council;

(9) Appraiser panel means a network, list, or roster of AMC appraisers approved by an appraisal management company to perform appraisals as independent contractors for the appraisal management company;

(10) Assignment has the same meaning as in section 76-2207.01;

(11) Board has the same meaning as in section 76-2207.18;

(12) Consumer credit means credit offered or extended to a consumer primarily for personal, family, or household purposes;

(13) Contact person means a person designated by the appraisal management company as the main contact for all communication between the appraisal management company and the board;

(14) Covered transaction means any consumer credit transaction secured by the consumer's principal dwelling;

(15) Credential has the same meaning as in section 76-2207.25;

(16) Creditor means a person who regularly extends consumer credit that is subject to a finance charge or is payable by written agreement in more than four installments, not including a downpayment, and to whom the obligation is initially payable, either on the face of the note or contract or by agreement when there is no note or contract. A person regularly extends consumer credit if:

(a) The person extended credit, other than credit subject to the requirements of 12 C.F.R. 1026.32, as such regulation existed on January 1, 2019, more than five times for transactions secured by a dwelling in the preceding calendar year, or in the current calendar year if a person did not meet these standards in the preceding calendar year; and

(b) In any twelve-month period, the person originates more than one credit extension that is subject to the requirements of 12 C.F.R. 1026.32, as such regulation existed on January 1, 2019, or one or more such credit extensions through a mortgage broker;

(17) Dwelling means a residential structure that contains one to four units, whether or not that structure is attached to real property, including an individual condominium unit, cooperative unit, mobile home, or trailer if used as a residence. With respect to a dwelling:

(a) A consumer may have only one principal dwelling at a time;

(b) A vacation or secondary dwelling is not a principal dwelling; and

(c) A dwelling bought or built by a consumer with the intention of that dwelling becoming the consumer's principal dwelling within one year, or upon completion of construction, is considered to be the consumer's principal dwelling for the purpose of the Nebraska Appraisal Management Company Registration Act;

(18) Federally regulated appraisal management company means an appraisal management company that is:

(a) Owned and controlled by an insured depository institution as defined in 12 U.S.C. 1813, as such section existed on January 1, 2024; and

(b) Regulated by the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, or the successor of any such agencies;

(19) Federal agencies means the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, the National Credit Union Administration, the Consumer Financial Protection Bureau, the Federal Housing Finance Agency, or the successor of any of such agencies;

(20) Financial Institutions Reform, Recovery, and Enforcement Act of 1989 has the same meaning as in section 76-2207.30;

(21) Independent contractor means a person established as an independent contractor by the appraisal management company for the purpose of federal income taxation;

(22) Jurisdiction has the same meaning as in section 76-2207.32;

(23) Person has the same meaning as in section 76-2213.02;

(24) Real estate has the same meaning as in section 76-2214;

(25) Real property has the same meaning as in section 76-2214.01;

(26) Real property appraisal practice has the same meaning as in section 76-2215;

(27) Real property appraiser has the same meaning as in section 76-2216;

(28) Registration means a registration as an appraisal management company in this state issued by the board if all requirements for approval as an appraisal management company required in the Nebraska Appraisal Management Company Registration Act have been met by a person making application to the board, including the submission of all required fees, and the board has granted all rights to the person to operate as an appraisal management company in this state as allowed under the act;

(29) Report has the same meaning as in section 76-2216.02;

(30) Secondary mortgage market participant means a guarantor or insurer of mortgage-backed securities, or an underwriter or issuer of mortgage-backed securities, and only includes an individual investor in a mortgage-backed

security if that investor also serves in the capacity of a guarantor, insurer, underwriter, or issuer for the mortgage-backed security;

(31) Uniform Standards of Professional Appraisal Practice has the same meaning as in section 76-2218.02; and

(32) Valuation services has the same meaning as in section 76-2219.01.

Source: Laws 2011, LB410, § 2; Laws 2015, LB139, § 72; Laws 2018, LB17, § 3; Laws 2019, LB77, § 11; Laws 2020, LB808, § 89; Laws 2024, LB989, § 4.
Effective date July 19, 2024.

76-3203 Registration; application; contents; form; surety bond; qualifications; renewal.

(1) An application for issuance of a registration shall be made in writing to the board on forms approved by the board, which includes, but is not limited to, all information required by the board necessary to administer and enforce the Nebraska Appraisal Management Company Registration Act, and the name of the contact person for the appraisal management company.

(2) An applicant for issuance of a registration shall furnish to the board, at the time of making application, a surety bond in the amount of twenty-five thousand dollars. The surety bond required under this subsection shall be issued by a bonding company or insurance company authorized to do business in this state, and a copy of the bond shall be filed with the board. The bond shall be in favor of the state for the benefit of any person who is damaged by any violation of the Nebraska Appraisal Management Company Registration Act. The bond shall also be in favor of any person damaged by such a violation. Any person claiming against the bond for a violation of the act may maintain an action at law against the appraisal management company and against the surety. The aggregate liability of the surety to all persons damaged by a violation of the act by an appraisal management company shall not exceed the amount of the bond. The bond shall be maintained until one year after the date that the appraisal management company ceases operation in this state.

(3) A registration shall be issued only to persons who:

(a) Meet the requirements for issuance of a registration;

(b) Have a good reputation for honesty, trustworthiness, integrity, and competence to perform appraisal management services in such manner as to safeguard the interest of the public as determined by the board; and

(c) Have not had a final civil or criminal judgment entered against them for fraud, dishonesty, breach of trust, or misrepresentation involving real estate, financial services, or appraisal management services within a five-year period immediately preceding the date of application.

(4) A registration shall be valid for a period of twelve months beginning on the date which the registration was issued or renewed unless canceled, revoked, or surrendered.

(5) All information related to an appraisal management company's registration shall be reported to the Appraisal Subcommittee as required by Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the AMC rule, and any policy or rule established by the Appraisal Subcommittee.

(6) The renewal of a registration includes the same requirements found in subsections (1) through (5) of this section. An application for renewal of a registration shall be furnished to the board no later than sixty days prior to the date of expiration of the registration.

(7) For the purpose of subdivision (6) of section 76-3202, the twelve-month period for renewal of a registration shall consist of the twelve months pursuant to subsection (4) of this section.

Source: Laws 2011, LB410, § 3; Laws 2018, LB17, § 4; Laws 2019, LB77, § 12; Laws 2024, LB989, § 5.
Effective date July 19, 2024.

76-3203.01 Appraiser panel; removal; notice; reconsideration of removal.

(1) Only AMC appraisers considered to be in good standing in all jurisdictions in which an active credential is held shall be included on an appraisal management company's appraiser panel.

(2) An appraisal management company shall remove any AMC appraiser from its appraiser panel within thirty days after receiving notice that the AMC appraiser:

(a) Is no longer considered to be in good standing in one or more jurisdictions in which he or she holds an active credential or equivalent;

(b) The AMC appraiser's credential or equivalent has been refused, denied, canceled, or revoked; or

(c) The AMC appraiser has surrendered his or her credential or equivalent in lieu of revocation.

(3) Pursuant to subdivision (6)(c) of section 76-3202, an appraiser panel shall include each AMC appraiser as of the earliest date on which such person was accepted by the appraisal management company:

(a) For consideration for future assignments in covered transactions or for secondary mortgage market participants in connection with covered transactions; or

(b) For engagement to perform one or more appraisals on behalf of a creditor for a covered transaction or for a secondary mortgage market participant in connection with covered transactions.

(4) Any AMC appraiser included on an appraisal management company's appraiser panel pursuant to subsection (3) of this section shall remain on such appraiser panel until the date on which the appraisal management company:

(a) Sends written notice to the AMC appraiser removing him or her from the appraiser panel. Such written notice shall include an explanation of the action taken by the appraisal management company;

(b) Receives written notice from the AMC appraiser requesting that he or she be removed from the appraiser panel. Such written notice shall include an explanation of the action requested by the AMC appraiser; or

(c) Receives written notice on behalf of the AMC appraiser of the death or incapacity of the AMC appraiser. Such written notice shall include an explanation on behalf of the AMC appraiser.

(5) Upon receipt of notice that he or she has been removed from the appraisal management company's appraiser panel, an AMC appraiser shall have thirty days to provide a response to the appraisal management company that removed

the AMC appraiser from its appraiser panel. Upon receipt of the AMC appraiser's response, the appraisal management company shall have thirty days to reconsider the removal and provide a written response to the AMC appraiser.

(6) If an AMC appraiser is removed from an appraisal management company's appraiser panel pursuant to subsection (4) of this section, nothing shall prevent the appraisal management company at any time during the twelve months after removal from the appraiser panel from considering such person for future assignments in covered transactions or for secondary mortgage market participants in connection with covered transactions, or for engagement to perform one or more appraisals on behalf of a creditor for a covered transaction or for a secondary mortgage market participant in connection with covered transactions. If such consideration or engagement takes place, the removal shall be deemed not to have occurred and such person shall be deemed to have been included on the appraiser panel without interruption.

(7) Any AMC appraiser included on an appraisal management company's appraiser panel engaged in real property appraisal practice as a result of an assignment provided by an appraisal management company shall be free from inappropriate influence and coercion as required by the appraisal independence standards established under section 129E of the federal Truth in Lending Act, as such section existed on January 1, 2018, including the requirements for payment of a reasonable and customary fee to AMC appraisers when the appraisal management company is engaged in providing appraisal management services.

(8) An appraisal management company shall select an AMC appraiser from its appraiser panel for an assignment who is independent of the transaction and who has the requisite education, expertise, and experience necessary to competently complete the assignment for the particular market and property type.

Source: Laws 2018, LB17, § 5; Laws 2019, LB77, § 13; Laws 2020, LB808, § 90.

76-3203.02 Federally regulated appraisal management company; report; board; fees; powers.

(1) A federally regulated appraisal management company must report all information required to be submitted to the Appraisal Subcommittee pursuant to Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the AMC rule, and any policy or rule established by the Appraisal Subcommittee related to its operation in this state, including, but not limited to, the collection of information related to ownership limitations.

(2) The board may collect and transmit to the Appraisal Subcommittee any fees established by the Appraisal Subcommittee pursuant to Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the AMC rule, and any policy or rule established by the Appraisal Subcommittee required for inclusion on the AMC Registry, and collect any fees as deemed appropriate by the board for services provided as related to a federally regulated appraisal management company's operation in this state.

(3) Nothing in the Nebraska Appraisal Management Company Registration Act shall prevent issuance by the board of a registration to a federally regulated appraisal management company.

(4) Except for a federally regulated appraisal management company that holds a registration issued by the board, section 76-3202, and this section, a federally regulated appraisal management company is exempt from the Nebraska Appraisal Management Company Registration Act.

Source: Laws 2018, LB17, § 6; Laws 2024, LB989, § 6.
Effective date July 19, 2024.

76-3204 Act; exemptions.

The Nebraska Appraisal Management Company Registration Act does not apply to:

(1) A department or division of a person that provides appraisal management services only to itself; or

(2) A person that provides appraisal management services but does not meet the requirement established by subdivision (6)(c) of section 76-3202.

Source: Laws 2011, LB410, § 4; Laws 2015, LB139, § 73; Laws 2018, LB17, § 7; Laws 2019, LB77, § 14.

76-3206 Board; fees.

(1) The board shall charge and collect fees for its services under the Nebraska Appraisal Management Company Registration Act as follows:

(a) An application fee of no more than three hundred fifty dollars;

(b) An initial registration fee of no more than two thousand dollars;

(c) A renewal registration fee of no more than two thousand dollars; and

(d) A late renewal processing fee of twenty-five dollars for each month or portion of a month the renewal registration fee is late.

(2) The board may collect and transmit to the Appraisal Subcommittee any fees established by the Appraisal Subcommittee under Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the AMC rule, and any policy or rule established by the Appraisal Subcommittee required for inclusion on the AMC Registry.

Source: Laws 2011, LB410, § 6; Laws 2018, LB17, § 9; Laws 2024, LB989, § 7.
Effective date July 19, 2024.

76-3207 Applicant for registration or renewal; ownership restrictions; fingerprint submission; criminal history record check; costs.

(1) A person applying for issuance of a registration or renewal of a registration shall not:

(a) In whole or in part, directly or indirectly, be owned by any person who has had a real property appraiser credential or equivalent refused, denied, canceled, or revoked or who has surrendered a real property appraiser credential or equivalent in lieu of revocation in any jurisdiction for a substantive cause as determined by the board; and

(b) Be more than ten percent owned by a person who is not of good moral character, which for purposes of this section shall require that such person has not been convicted of, or entered a plea of nolo contendere to, a felony relating to the real property appraisal practice or any crime involving fraud, misrepresentation, or moral turpitude or failed to submit to a criminal history record

check through the Nebraska State Patrol and the Federal Bureau of Investigation.

(2) For purposes of subdivision (1)(b) of this section, each individual owner of more than ten percent of an appraisal management company shall:

(a) At the time an application for issuance of a registration is made, submit two copies of legible ink-rolled fingerprint cards or equivalent electronic fingerprint submissions to the board for delivery to the Nebraska State Patrol in a form approved by both the Nebraska State Patrol and the Federal Bureau of Investigation;

(b) At the time an application for renewal of a registration is made, submit two copies of legible ink-rolled fingerprint cards or equivalent electronic fingerprint submissions to the board for delivery to the Nebraska State Patrol in a form approved by both the Nebraska State Patrol and the Federal Bureau of Investigation if a fingerprint-based national criminal history records check has not been completed pursuant to subdivision (2)(a) of this section; and

(c) At the time an individual owner of more than ten percent of an appraisal management company is identified by the board, submit two copies of legible ink-rolled fingerprint cards or equivalent electronic fingerprint submissions to the board for delivery to the Nebraska State Patrol in a form approved by both the Nebraska State Patrol and the Federal Bureau of Investigation if a fingerprint-based national criminal history records check has not been completed pursuant to subdivision (2)(a) or (2)(b) of this section.

(3) The board shall pay the Nebraska State Patrol the costs associated with conducting a fingerprint-based national criminal history record check through the Nebraska State Patrol and the Federal Bureau of Investigation with such record check to be carried out by the board.

(4) For the purpose of subdivision (1)(a) of this section, a person is not barred from issuance of a registration if the real property appraiser credential or equivalent of the person with an ownership interest was not refused, denied, canceled, revoked, or surrendered in lieu of revocation for a substantive cause as determined by the board and has been reinstated by the jurisdiction in which the action was taken.

Source: Laws 2011, LB410, § 7; Laws 2018, LB17, § 10; Laws 2020, LB808, § 91; Laws 2024, LB989, § 8.
Effective date July 19, 2024.

76-3209 Repealed. Laws 2024, LB989, § 13.

76-3210 Compliance with Real Property Appraiser Act.

Any employee of or independent contractor to an appraisal management company that holds a registration, including any AMC appraiser included on an appraisal management company's appraiser panel engaged in real property appraisal practice, shall comply with the Real Property Appraiser Act, including the Uniform Standards of Professional Appraisal Practice.

Source: Laws 2011, LB410, § 10; Laws 2018, LB17, § 12; Laws 2020, LB808, § 92.

Cross References

Real Property Appraiser Act, see section 76-2201.

76-3211 Repealed. Laws 2024, LB989, § 13.

76-3216 Prohibited acts; board; violations; enforcement actions; fine; considerations; report required.

(1) It is unlawful for a person to directly or indirectly engage in or attempt to engage in business as an appraisal management company or to advertise or hold itself out as engaging in or conducting business as an appraisal management company in this state without first obtaining a registration or by meeting the requirements as a federally regulated appraisal management company.

(2) Except as provided in section 76-3204, any person who, directly or indirectly for another, offers, attempts, or agrees to perform all actions described in subdivision (6) of section 76-3202 or any action described in subdivision (7) of such section, shall be deemed an appraisal management company within the meaning of the Nebraska Appraisal Management Company Registration Act, and such action shall constitute sufficient contact with this state for the exercise of personal jurisdiction over such person in any action arising out of the act.

(3) The board may issue a cease and desist order against any person who violates this section by performing any action described in subdivision (6) or (7) of section 76-3202 without the appropriate registration. Such order shall be final ten days after issuance unless such person requests a hearing pursuant to section 76-3217. The board may, through the Attorney General, obtain an order from the district court for the enforcement of the cease and desist order.

(4) To the extent permitted by any applicable federal legislation or regulation, the board may censure an appraisal management company, conditionally or unconditionally suspend or revoke its registration, or levy fines or impose civil penalties not to exceed five thousand dollars for a first offense and not to exceed ten thousand dollars for a second or subsequent offense, if the board determines that an appraisal management company is attempting to perform, has performed, or has attempted to perform any of the following:

(a) A material violation of the act;

(b) A violation of any rule or regulation adopted and promulgated by the board; or

(c) Procurement of a registration for itself or any other person by fraud, misrepresentation, or deceit.

(5) In order to promote voluntary compliance, encourage appraisal management companies to correct errors promptly, and ensure a fair and consistent approach to enforcement, the board shall endeavor to impose fines or civil penalties that are reasonable in light of the nature, extent, and severity of the violation. The board shall also take action against an appraisal management company's registration only after less severe sanctions have proven insufficient to ensure behavior consistent with the Nebraska Appraisal Management Company Registration Act. When deciding whether to impose a sanction permitted by subsection (4) of this section, determining the sanction that is most appropriate in a specific instance, or making any other discretionary decision regarding the enforcement of the act, the board shall consider whether an appraisal management company:

(a) Has an effective program reasonably designed to ensure compliance with the act;

(b) Has taken prompt and appropriate steps to correct and prevent the recurrence of any detected violations; and

(c) Has independently reported to the board any significant violations or potential violations of the act prior to an imminent threat of disclosure or investigation and within a reasonably prompt time after becoming aware of the occurrence of such violations.

(6) Any violation of appraisal-related laws or rules and regulations, and disciplinary action taken against an appraisal management company, shall be reported to the Appraisal Subcommittee as required by Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the AMC rule, and any policy or rule established by the Appraisal Subcommittee.

Source: Laws 2011, LB410, § 16; Laws 2018, LB17, § 17; Laws 2019, LB77, § 15; Laws 2024, LB989, § 9.
Effective date July 19, 2024.

76-3220 Material noncompliance; referral to board.

An appraisal management company that has a reasonable basis to believe that an AMC appraiser has failed to comply with applicable laws or the Uniform Standards of Professional Appraisal Practice shall refer the matter to the board if the failure to comply is material.

Source: Laws 2011, LB410, § 20; Laws 2024, LB989, § 10.
Effective date July 19, 2024.

76-3223 Immunity.

Any member of the board, employee of the board, or person under contract with the board shall be immune from any civil action or criminal prosecution for initiating or assisting in any lawful investigation of the actions of or any disciplinary proceeding concerning an appraisal management company pursuant to the Nebraska Appraisal Management Company Registration Act if the member, employee, or person initiates or assists in such investigation or proceeding without malicious intent and in the reasonable belief that the investigation or proceeding was allowed by the powers vested in such member, employee, or person.

Source: Laws 2024, LB989, § 11.
Effective date July 19, 2024.

ARTICLE 34

NEBRASKA UNIFORM REAL PROPERTY TRANSFER ON DEATH ACT

Section
76-3413. Revocation by instrument authorized; revocation by act not permitted.

76-3413 Revocation by instrument authorized; revocation by act not permitted.

(a) Subject to subsection (b) of this section, an instrument is effective to revoke a recorded transfer on death deed, or any part of it, only if the instrument:

(1) Is one of the following:

(A) A transfer on death deed that revokes the deed or part of the deed expressly or by inconsistency;

(B) An instrument of revocation that expressly revokes the deed or part of the deed and that is executed with the same formalities as required in section 76-3409;

(C) An inter vivos deed that expressly or by inconsistency revokes the transfer on death deed or part of the deed; or

(D) An inter vivos deed to a bona fide purchaser that expressly or by inconsistency revokes the transfer on death deed or part of the deed; and

(2) Is an instrument under subdivisions (1)(A), (B), and (C) of this subsection that is acknowledged by the transferor after the acknowledgment of the deed being revoked and is recorded before the transferor's death. For any instrument under subdivision (1)(D) of this subsection, such instrument must be acknowledged by the transferor after the acknowledgment of the deed being revoked and must be recorded before the later of thirty days after being executed or the transferor's death. Any instrument under this subsection shall be recorded in the public records in the office of the register of deeds of the county where the deed being revoked is recorded.

(b) If a transfer on death deed is made by more than one transferor:

(1) Revocation by a transferor does not affect the deed as to the interest of another transferor; and

(2) A deed of joint owners is revoked only if it is revoked by all of the living joint owners who were transferors.

(c) After a transfer on death deed is recorded, it may not be revoked by a revocatory act on the deed.

(d) This section does not limit the effect of an inter vivos transfer of the property.

(e) A bona fide purchaser is a purchaser for value in good faith and without notice of any adverse claim.

Source: Laws 2012, LB536, § 13; Laws 2020, LB966, § 19.

ARTICLE 35

RADON RESISTANT NEW CONSTRUCTION ACT

Section
76-3501. Act, how cited.
76-3502. Legislative findings.
76-3503. Terms, defined.
76-3504. Radon resistant new construction; minimum standards.
76-3505. New construction not required to use radon resistant new construction; when.
76-3506. Conversion of passive radon mitigation system to active radon mitigation system authorized.
76-3507. Department; duties.

76-3501 Act, how cited.

Sections 76-3501 to 76-3507 shall be known and may be cited as the Radon Resistant New Construction Act.

Source: Laws 2017, LB9, § 1; Laws 2019, LB130, § 4.

76-3502 Legislative findings.

The Legislature finds that:

(1) Radon is a radioactive element that is part of the radioactive decay chain of naturally occurring uranium in soil;

(2) Radon is the leading cause of lung cancer among nonsmokers and is the number one risk in homes according to the Harvard Center for Risk Analysis at the Harvard T.H. Chan School of Public Health;

(3) The World Health Organization Handbook on Indoor Radon includes key messages which state:

(a) ''There is no known threshold concentration below which radon exposure presents no risk.''; and

(b) ''The majority of radon-induced lung cancers are caused by low and moderate radon concentrations rather than by high radon concentrations, because in general less people are exposed to high indoor radon concentrations.'';

(4) The Surgeon General of the United States urged Americans to test their homes to find out how much radon they might be breathing;

(5) The United States Environmental Protection Agency estimates that more than twenty thousand Americans die of radon-related lung cancer each year;

(6) The United States Environmental Protection Agency has identified radon levels in Nebraska as the third highest in the United States because of the high concentration of uranium in the soil; and

(7) In 2018, the Radon Resistant New Construction Task Force recommended minimum standards for radon resistant new construction to the Governor, the Health and Human Services Committee of the Legislature, and the Urban Affairs Committee of the Legislature.

Source: Laws 2017, LB9, § 2; Laws 2019, LB130, § 5.

76-3503 Terms, defined.

For purposes of the Radon Resistant New Construction Act:

(1) Active radon mitigation system means a family of radon mitigation systems involving mechanically driven soil depressurization, including subslab depressurization, drain tile depressurization, block wall depressurization, and submembrane depressurization. Active radon mitigation system is also known as active soil depressurization;

(2) Building contractor means any individual, corporation, partnership, limited liability company, or other business entity that engages in new construction;

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

(4) New construction means any original construction of a single-family home or a multifamily dwelling, including apartments, group homes, condominiums, and townhouses, or any original construction of a building used for commercial, industrial, educational, or medical purposes. New construction does not include additions to existing structures or remodeling of existing structures;

(5) Passive radon mitigation system means a pipe installed in new construction that relies solely on the convective flow of air upward for soil gas depressurization and may consist of multiple pipes routed through conditioned space from below the foundation to above the roof;

(6) Radon mitigation specialist means an individual who is licensed by the department as a radon mitigation specialist in accordance with the Radiation Control Act; and

(7) Radon resistant new construction means construction that utilizes design elements and construction techniques that passively resist radon entry and prepare a building for an active postconstruction mitigation system.

Source: Laws 2017, LB9, § 3; Laws 2019, LB130, § 6.

Cross References

Radiation Control Act, see section 71-3519.

76-3504 Radon resistant new construction; minimum standards.

Except as provided in section 76-3505, new construction built after September 1, 2019, in the State of Nebraska that is intended to be regularly occupied by people shall be built using radon resistant new construction. Such construction shall meet the following minimum standards:

(1) Sumps:

(a) A sump pit open to soil or serving as the termination point for subslab or exterior drain tile loops shall be covered with a gasketed or otherwise sealed lid;

(b) A sump used as the suction point in a subslab depressurization system shall have a lid designed to accommodate the vent pipe; and

(c) A sump used as a floor drain shall have a lid equipped with a trapped inlet;

(2) A passive subslab depressurization system shall be installed during construction in basement or slab-on-grade buildings, including the following components:

(a) Vent pipe:

(i)(A) A minimum three-inch diameter acrylonitrile butadiene styrene (ABS), polyvinyl chloride (PVC), or equivalent gas-tight pipe shall be embedded vertically into the subslab permeable material before the slab is cast. A ''T'' fitting or equivalent method shall be used to ensure that the pipe opening remains within the subslab permeable material; or

(B) A minimum three-inch diameter ABS, PVC, or equivalent gas-tight pipe shall be inserted directly into an interior perimeter drain tile loop or through a sealed sump cover where the sump is exposed to the subslab or connected to it through a drainage system;

(ii) The pipe shall be extended up through the building floors and terminate at least twelve inches above the surface of the roof in a location at least ten feet away from any window or other opening into the conditioned spaces of the building that is less than two feet below the exhaust point and ten feet from any window or other opening in adjoining or adjacent buildings; and

(iii) In buildings where interior footings or other barriers separate the subslab gas-permeable material, each area shall be fitted with an individual vent pipe. Vent pipes shall connect to a single vent that terminates above the roof or each individual vent pipe shall terminate separately above the roof. All exposed and visible interior radon vent pipes shall be identified with at least one label on each floor and in accessible attics. Such label shall read: Radon Reduction System; and

(3) Power source: In order to provide for future installation of an active radon mitigation system, an electrical circuit terminated in an approved box

shall be installed during construction in the attic or other anticipated location of vent pipe fans.

Source: Laws 2017, LB9, § 4; Laws 2019, LB130, § 7.

76-3505 New construction not required to use radon resistant new construction; when.

New construction after September 1, 2019, shall not be required to use radon resistant new construction if (1) the construction project utilizes the design of an architect or professional engineer licensed under the Engineers and Architects Regulation Act, (2) the construction project is located in a county in which the average radon concentration is less than two and seven-tenths picocuries per liter of air as determined by the department pursuant to section 76-3507, or (3) other than for any residential dwelling unit, a local building official makes a determination, after a review of relevant guidelines for the intended use of the structure and property conditions, that radon resistant new construction is not necessary.

Source: Laws 2017, LB9, § 5; Laws 2019, LB130, § 8.

Cross References

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

76-3506 Conversion of passive radon mitigation system to active radon mitigation system authorized.

A building contractor or a subcontractor of a building contractor may convert a passive radon mitigation system to an active radon mitigation system in accordance with rules and regulations adopted and promulgated by the department under the Radiation Control Act for radon mitigation, but the contractor or subcontractor is not required to be a radon mitigation specialist to convert such system. A radon mitigation specialist shall conduct any postinstallation testing of such system.

Source: Laws 2019, LB130, § 9.

Cross References

Radiation Control Act, see section 71-3519.

76-3507 Department; duties.

On or before January 1, 2020, and on or before January 1 of each year thereafter, the department shall compile the results of the radon measurements performed in the past five years that were reported to the department pursuant to the rules and regulations adopted and promulgated by the department regarding the control of radiation and report such compilation electronically to the Clerk of the Legislature. Such report shall determine the average radon concentration in Nebraska by county and identify each county in which such average concentration exceeds two and seven-tenths picocuries per liter of air.

Source: Laws 2019, LB130, § 10.

ARTICLE 36

HOME INSPECTION

Section
76-3601. Terms, defined.

Section

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.

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

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

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

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

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

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

(2) A home inspector may apply to renew a registration by submitting an application for renewal in a form prescribed by the Secretary of State within forty-five days prior to the expiration of the registration.

(3) A registration for a home inspector is valid for two years.

Source: Laws 2021, LB423, § 2; Laws 2023, LB531, § 29.

76-3603 Fee; certificate of insurance.

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

(1) Pay a registration or renewal fee to the Secretary of State. The Secretary of State shall set such registration or renewal fee in an amount sufficient to defray the administrative costs of registration or renewal but not to exceed three hundred dollars. The Secretary of State shall remit such registration or

renewal fee to the State Treasurer for credit to the Secretary of State Cash Fund; and

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

Source: Laws 2021, LB423, § 3; Laws 2023, LB531, § 30.

76-3604 Required information; report changes.

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

Source: Laws 2021, LB423, § 4; Laws 2023, LB531, § 31.

76-3605 Violation; penalty.

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

Source: Laws 2021, LB423, § 5.

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.

ARTICLE 37

FOREIGN-OWNED REAL ESTATE NATIONAL SECURITY ACT

Section

76-3701 Act, how cited.

Sections 76-3701 to 76-3717 shall be known and may be cited as the Foreign-owned Real Estate National Security Act.

Source: Laws 2024, LB1301, § 4.
Operative date January 1, 2025.

76-3702 Terms, defined.

For purposes of the Foreign-owned Real Estate National Security Act:

(1) Nonresident alien means any person who:

(a) Is not a citizen of the United States;

(b) Is not a national of the United States;

(c) Is not a lawful permanent resident of the United States; and

(d) Has not been physically present in the United States for at least one hundred eighty-three days during a three-year period that includes the current year and the two years immediately preceding the current year; and

(2) Restricted entity means:

(a) Any person or entity identified on the sanctions lists maintained by the Office of Foreign Assets Control of the United States Department of the Treasury as such sanctions lists existed on January 1, 2025; or

(b) Any person or foreign government or entity determined by the United States Secretary of Commerce to have engaged in a long-term pattern or serious instances of conduct significantly adverse to the national security of the United States pursuant to 15 C.F.R. 7.4, as such regulation existed on January 1, 2025.

Source: Laws 2024, LB1301, § 5.
Operative date January 1, 2025.

76-3703 Foreign-owned real estate; prohibited; when.

(1) Except as provided in the Foreign-owned Real Estate National Security Act, a nonresident alien, a foreign corporation, a government other than the United States Government or a government of its states, political subdivisions, territories, or possessions, or an agent, a trustee, or a fiduciary thereof:

(a) Shall not purchase, acquire title to, or take any real estate or any leasehold interest extending for a period for more than five years or any other greater interest less than fee in any real estate in this state by descent, devise, purchase or otherwise on or after January 1, 2025, except as provided in the Foreign-owned Real Estate National Security Act; and

(b) Shall be in compliance with the federal Agricultural Foreign Investment Disclosure Act of 1978, 7 U.S.C. 3501 et seq., with respect to any real estate in Nebraska.

(2) Except as provided in the Foreign-owned Real Estate National Security Act, a restricted entity, a nonresident alien, a foreign corporation, a government other than the United States Government or a government of its states, political subdivisions, territories, or possessions, or an agent, a trustee, or a fiduciary thereof, that on or after January 1, 2025, purchases, acquires title to, or takes any real estate or any leasehold interest in violation of the Foreign-owned Real Estate National Security Act shall be subject to divestment as prescribed under section 76-3712.

Source: Laws 1889, c. 58, § 1, p. 483; R.S.1913, § 6273; Laws 1921, c. 142, § 1, p. 608; C.S.1922, § 5687; C.S.1929, § 76-502; Laws 1939, c. 97, § 1, p. 417; C.S.Supp.,1941, § 76-502; R.S.1943, § 76-402; R.S.1943, (2018), § 76-402; Laws 2024, LB1301, § 6.
Operative date January 1, 2025.

76-3704 Oil and gas leases permitted; when.

(1) Except as provided in subsection (2) of this section, corporations incorporated under the laws of the United States of America, or under the laws of any state of the United States of America, or any foreign corporation or any nonresident alien, doing business in this state, may acquire, own, hold, or operate leases for oil, gas, or other hydrocarbon substances, for a period as long as ten years and as long thereafter as oil, gas, or other hydrocarbon substances shall or can be produced in commercial quantities.

(2) Subsection (1) of this section shall not apply to a restricted entity or an agent, trustee, or fiduciary thereof. A restricted entity that violates subsection (1) of this section shall be in violation of the Foreign-owned Real Estate National Security Act and subject to divestment as prescribed under section 76-3712.

Source: Laws 1939, c. 97, § 1, p. 417; C.S.Supp.,1941, § 76-502; R.S. 1943, § 76-404; Laws 1955, c. 286, § 1, p. 895; Laws 1982, LB 571, § 1; R.S.1943, (2018), § 76-404; Laws 2024, LB1301, § 7.
Operative date January 1, 2025.

76-3705 Land acquired by devise or descent; sale within five years required; exception.

Any nonresident alien may acquire title to lands in this state by devise or descent only, except that such nonresident alien shall be required to sell and convey such real estate within five years after the date of acquiring it, and if the nonresident alien fails to dispose of it to a bona fide purchaser for value within such time, the nonresident alien shall be in violation of the Foreign-owned Real Estate National Security Act and the real estate shall be subject to divestment as prescribed in section 76-3712. If a person no longer meets the definition of nonresident alien within five years of acquiring title to real estate by devise or descent, such person shall not be required to dispose or divest of the property.

Source: Laws 1921, c. 142, § 1, p. 608; C.S.1922, § 5687; C.S.1929, § 76-502; Laws 1939, c. 97, § 1, p. 417; C.S.Supp.,1941, § 76-502; R.S.1943, § 76-405; R.S.1943, (2018), § 76-405; Laws 2024, LB1301, § 8.
Operative date January 1, 2025.

76-3706 Corporations; board of directors; election of nonresident aliens; restrictions.

No corporation organized under the laws of this state and no corporation organized under the laws of any other state or country, doing business in this state, which was organized to hold or is holding real estate, except as provided in the Foreign-owned Real Estate National Security Act, shall elect nonresident aliens as members of its board of directors or board of trustees in a number sufficient to constitute a majority of such board, nor elect nonresident aliens as executive officers or managers nor have a majority of its capital stock owned by nonresident aliens.

Source: Laws 1921, c. 142, § 1, p. 608; C.S.1922, § 5687; C.S.1929, § 76-502; Laws 1939, c. 97, § 1, p. 417; C.S.Supp.,1941, § 76-502; R.S.1943, § 76-406; Laws 1955, c. 286, § 2, p. 896; R.S.1943, (2018), § 76-406; Laws 2024, LB1301, § 9.
Operative date January 1, 2025.

76-3707 Corporations; violations; penalties.

Any corporation described in section 76-3706 violating such section shall be construed and held to be a nonresident alien and within the provisions of the Foreign-owned Real Estate National Security Act applicable to nonresident aliens. Any such domestic corporation violating section 76-3706 shall forfeit its charter and be dissolved. Any such foreign corporation violating section 76-3706 shall forfeit its right to do business in the State of Nebraska.

Source: Laws 1921, c. 142, § 1, p. 608; C.S.1922, § 5687; C.S.1929, § 76-502; Laws 1939, c. 97, § 1, p. 417; C.S.Supp.,1941, § 76-502; R.S.1943, § 76-407; R.S.1943, (2018), § 76-407; Laws 2024, LB1301, § 10.
Operative date January 1, 2025.

76-3708 Real estate of railroads, public utilities, and common carriers; applicability of sections.

(1) Except as provided in subsection (2) of this section, the provisions of sections 76-3703, 76-3706, and 76-3707 shall not apply to the real estate necessary for the construction and operation of railroads, public utilities, and common carriers.

(2) Subsection (1) of this section shall not apply to a restricted entity or an agent, trustee, or fiduciary thereof. A restricted entity that violates subsection (1) of this section shall be in violation of the Foreign-owned Real Estate National Security Act and subject to divestment as prescribed under section 76-3712.

Source: Laws 1889, c. 58, § 4, p. 485; R.S.1913, § 6276; Laws 1919, c. 136, § 1, p. 313; Laws 1921, c. 142, § 3, p. 609; C.S.1922, § 5690; C.S.1929, § 76-505; Laws 1931, c. 128, § 1, p. 361; C.S.Supp.,1941, § 76-505; R.S.1943, § 76-412; R.S.1943, (2018), § 76-412; Laws 2024, LB1301, § 11.
Operative date January 1, 2025.

76-3709 Manufacturing or industrial establishments or establishments for storage, sale, and distribution of petroleum products or hydrocarbon substances; foreign ownership; allowed; when.

(1) Except as provided in subsection (2) of this section, any nonresident alien, foreign corporation, government other than the United States Government or a government of its states, political subdivisions, territories, or possessions, or agent, trustee, or fiduciary thereof:

(a) May purchase, acquire, hold title to, or be a lessor or lessee of as much real estate as shall be necessary for the purpose of (i) erecting on such real estate manufacturing or industrial establishments, and in addition thereto such real estate as may be required for facilities incidental to such establishments, or (ii) erecting and maintaining establishments primarily operated for the storage, sale, and distribution of petroleum products or hydrocarbon substances, commonly known as filling stations or bulk stations; and

(b) Shall not expand establishments or facilities purchased, acquired, held, or leased pursuant to subdivision (1)(a) of this section or build new such establishments or facilities if a restricted entity or an agent, trustee, or fiduciary thereof.

(2) A restricted entity, or an agent, trustee, or fiduciary thereof, shall not purchase, acquire, hold title to, or be a lessor or lessee of real estate pursuant to subdivision (1)(a) of this section unless such restricted entity has a national security agreement with the Committee on Foreign Investment in the United States as of January 1, 2025, maintains such national security agreement, and certifies the validity of such national security agreement annually to the Department of Agriculture within thirty days after January 1, 2025, and on or before January 15 of each year thereafter.

(3) A restricted entity that violates this section shall be in violation of the Foreign-owned Real Estate National Security Act and subject to divestment as prescribed under section 76-3712.

Source: Laws 1889, c. 58, § 4, p. 485; R.S.1913, § 6276; Laws 1919, c. 136, § 1, p. 313; Laws 1921, c. 142, § 3, p. 609; C.S.1922, § 5690; C.S.1929, § 76-505; Laws 1931, c. 128, § 1, p. 361; C.S.Supp.,1941, § 76-505; R.S.1943, § 76-413; Laws 1945, c. 184, § 1, p. 573; Laws 1953, c. 264, § 1, p. 875; R.S.1943, (2018), § 76-413; Laws 2024, LB1301, § 12.
Operative date January 1, 2025.

76-3710 Real estate within cities and villages; manufacturing or industrial establishments; applicability of act.

(1) Except as provided in subsection (2) of this section, the provisions of the Foreign-owned Real Estate National Security Act shall not apply to any real estate lying within the corporate limits of cities and villages, or within three miles of such corporate limits, nor to any manufacturing or industrial establishment described in section 76-3709.

(2) A restricted entity, or an agent, trustee, or fiduciary thereof, that purchases, acquires, holds title to, or is the lessor or lessee of any real estate lying within the corporate limits of cities and villages, or within three miles of such corporate limits, or any manufacturing or industrial establishment described in section 76-3709 shall be subject to sections 76-3703 and 76-3709. A restricted entity that violates this subsection shall be subject to divestment as prescribed under section 76-3712.

Source: Laws 1889, c. 58, § 4, p. 485; R.S.1913, § 6276; Laws 1919, c. 136, § 1, p. 313; Laws 1921, c. 142, § 3, p. 609; C.S.1922, § 5690; C.S.1929, § 76-505; Laws 1931, c. 128, § 1, p. 361; C.S.Supp.,1941, § 76-505; R.S.1943, § 76-414; Laws 1953, c. 264, § 2, p. 876; Laws 1957, c. 318, § 1, p. 1135; R.S.1943, (2018), § 76-414; Laws 2024, LB1301, § 13.
Operative date January 1, 2025.

76-3711 Attorney General; powers and duties.

(1) The Attorney General shall establish a process by which any person may submit information or concerns to the Attorney General regarding real estate transactions in Nebraska.

(2) The Attorney General may submit a report concerning real estate transactions that the Attorney General has identified in Nebraska to the Committee on Foreign Investment in the United States.

(3) The Attorney General shall (a) retain a copy of any documents submitted to the Committee on Foreign Investment in the United States that are included with any report submitted under subsection (2) of this section and (b) notify the Legislature and the Governor as soon as practicable after submitting such report and included documents to the Committee on Foreign Investment in the United States.

Source: Laws 2024, LB1301, § 14.
Operative date January 1, 2025.

76-3712 Violations; investigation; voluntary divestment; action for divestment; procedure.

(1) Any person may notify the Department of Agriculture or the Attorney General of a violation or potential violation of the Foreign-owned Real Estate National Security Act.

(2) The Department of Agriculture shall investigate violations of the Foreign-owned Real Estate National Security Act. If the Director of Agriculture has reasonable suspicion to believe that a violation of the act has occurred, the director shall refer the suspected violation to the Attorney General or outside counsel retained by the Department of Agriculture for enforcement.

(3) The Attorney General or retained outside counsel, upon a referral by the Director of Agriculture or upon the receipt of any information from any person that gives the Attorney General or retained counsel reasonable suspicion to believe that a violation of the Foreign-owned Real Estate National Security Act has occurred, may issue subpoenas requiring the appearance of witnesses, the production of documents, and the giving of relevant testimony. Service of any subpoena shall be made in the same manner as a subpoena issued by any court in this state.

(4)(a) After investigation, if the Attorney General or retained outside counsel believes that a violation of the Foreign-owned Real Estate National Security Act has occurred, the Attorney General or retained outside counsel shall notify any restricted entity believed to be committing such violation that such entity may voluntarily divest any interest in real estate that is the subject of the violation.

(b) The restricted entity shall indicate to the Attorney General or retained outside counsel whether such entity is voluntarily divesting any interest in real estate that is the subject of the violation within thirty days of receiving the notice under subdivision (4)(a) of this section.

(c) If the restricted entity indicates that it is voluntarily divesting any interest in real estate that is the subject of the violation, the restricted entity shall be entitled to a grace period of one hundred eighty days to voluntarily divest the interest.

(d) The grace period of one hundred eighty days shall begin upon the end of the thirty-day period under subdivision (4)(b) of this section.

(e) The restricted entity shall not sell or otherwise transfer the real estate to a person or entity prohibited under the act. A restricted entity who violates this subdivision shall be subject to a civil penalty not to exceed fifty thousand dollars per parcel of real estate sold or otherwise transferred to a person or entity prohibited under the act.

(5) The Attorney General or retained outside counsel shall commence an action in either the district court in the county in which all or part of the real estate is located or in the district court of Lancaster County if:

(a) The restricted entity fails to indicate to the Attorney General or retained outside counsel that the entity is voluntarily divesting any interest in real estate that is the subject of the violation within the thirty-day period under subdivision (4)(b) of this section; or

(b) The restricted entity fails to voluntarily divest any interest in the real estate that is the subject of the violation within the grace period of one hundred eighty days.

(6) Upon commencement of an action under this section, the Attorney General or retained counsel shall:

(a) Promptly record a notice of the pendency of the action in records with the register of deeds in each county in which all or part of the real estate is located; and

(b) Serve a copy of the petition by service of process in the same manner as in civil cases as follows on:

(i) The owner of the real estate if the owner's address is known;

(ii) Any secured party who has registered or filed a lien, mortgage, or trust deed against the real estate or filed a financing statement against the real estate as provided by law if the identity of the secured party can be ascertained by the entity filing the petition by making a good faith effort to ascertain the identity of the secured party;

(iii) Any other bona fide lienholder or secured party or other person holding an interest in the real estate if such party is known; and

(iv) Any person residing on the real estate subject to divestment at the time the petition is filed.

(7) The court shall have power to hear and determine the questions presented in such case and to declare such real estate to be divested. The burden is on the state to prove by clear and convincing evidence that the real estate is subject to divestment under the Foreign-owned Real Estate National Security Act. If the court finds that the real estate that is the subject of an action commenced under the act was purchased, acquired, taken, or held in violation of the act, the court shall enter an order that:

(a) States the findings of the court;

(b) Orders the divestment of the interest in the real estate of the person or entity that violated the act;

(c) Notifies the Governor that the title to such real estate is ordered divested by the decree of the court;

(d) Orders the Attorney General or retained outside counsel to promptly record a copy of such divestment order with the register of deeds of each county in which all or part of the real estate is located;

(e) Appoints a receiver subject to sections 25-1081 to 25-1092 to manage and control the real estate through the final disposition of the real estate; and

(f) Authorizes the proceeds of the divestment to be disbursed in the following order:

(i) The payment of any taxes and assessments due;

(ii) The payment of court costs related to the action or actions commenced under the Foreign-owned Real Estate National Security Act;

(iii) The payment of authorized costs of the sale, including all approved fees and pending sale expenses and expenses of the referee;

(iv) Reimbursement of investigation and litigation costs and expenses, in an amount approved by the court, to the Attorney General or retained outside counsel;

(v) Payment to bona fide lienholders of the real estate, in order of lien priority, except for liens which under the terms of the divestment are to remain on the real estate; and

(vi) Remittance of any remaining proceeds to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

(8) If the interest is a lease, easement, or interest other than fee title, the court shall have power to declare such interest terminated.

(9) If the respondent fails to answer or appear for the action commenced pursuant to this section, the court may enter default judgment.

Source: Laws 2024, LB1301, § 15.
Operative date January 1, 2025.

76-3713 Receiver; sale of divested real estate.

The receiver shall sell any real estate ordered to be divested pursuant to section 76-3712 at public auction no later than one year after the date such divestment is ordered by the court. The receiver shall execute the sale of the real estate in the manner provided for in the Nebraska Trust Deeds Act. The purchaser at any sale conducted by the receiver pursuant to the Foreign-owned Real Estate National Security Act shall receive title to the real estate purchased, free from all claims of the owner or prior holder thereof and of all persons claiming through or under the owner or prior holder. The receiver shall execute all documents necessary to complete the transfer of title.

Source: Laws 2024, LB1301, § 16.
Operative date January 1, 2025.

Cross References

Nebraska Trust Deeds Act, see section 76-1018.

76-3714 Violations; effect on title to real estate.

No title to an interest in real estate shall be invalid, voided, or subject to divestiture by reason of a violation of the Foreign-owned Real Estate National Security Act by any former owner or other person who held a former interest in such real estate.

Source: Laws 2024, LB1301, § 17.
Operative date January 1, 2025.

76-3715 Act, how construed; civil and criminal immunity.

Nothing in the Foreign-owned Real Estate National Security Act shall be construed to require any person or entity to determine or inquire whether another person or entity is subject to or in violation of the act, and such person or entity shall bear no civil or criminal liability under the act for the failure to make such determination or inquiry. The Attorney General, retained outside

counsel, and Director of Agriculture are responsible for determining whether a person or entity is subject to or in violation of the act.

Source: Laws 2024, LB1301, § 18.
Operative date January 1, 2025.

76-3716 Penalties; distribution.

Any penalties collected pursuant to the Foreign-owned Real Estate National Security Act shall be remitted to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

Source: Laws 2024, LB1301, § 19.
Operative date January 1, 2025.

76-3717 Rules and regulations.

The Director of Agriculture and the Attorney General may adopt and promulgate rules and regulations necessary to carry out the Foreign-owned Real Estate National Security Act.

Source: Laws 2024, LB1301, § 20.
Operative date January 1, 2025.

CHAPTER 77
REVENUE AND TAXATION

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ARTICLE 1

DEFINITIONS

Section
77-101. Definitions, where found.
77-103. Real property, defined.
77-106. Money, defined.
77-117. Improvements on leased land, defined.
77-118. Nebraska adjusted basis, defined; trade in of property; how treated.
77-133. Central bank digital currency, defined.

77-101 Definitions, where found.

For purposes of Chapter 77 and any statutes dealing with taxation, unless the context otherwise requires, the definitions found in sections 77-102 to 77-133 shall be used.

Source: Report of 1943 Statute Commission, § 77-101; Laws 1943, c. 115, § 1, p. 401; R.S.1943, § 77-101; Laws 1987, LB 508, § 1; Laws

1992, LB 1063, § 43; Laws 1992, Second Spec. Sess., LB 1, § 42; Laws 1997, LB 270, § 2; Laws 1999, LB 194, § 5; Laws 2000, LB 968, § 22; Laws 2001, LB 170, § 2; Laws 2003, LB 292, § 3; Laws 2005, LB 263, § 2; Laws 2024, LB1317, § 70.
Operative date January 1, 2025.

77-103 Real property, defined.

Real property shall mean:

(1) All land;

(2) All buildings, improvements, and fixtures, except trade fixtures;

(3) All electric generation, transmission, distribution, and street lighting structures or facilities owned by a political subdivision of the state;

(4) Mobile homes, cabin trailers, and similar property, not registered for highway use, which are used, or designed to be used, for residential, office, commercial, agricultural, or other similar purposes, but not including mobile homes, cabin trailers, and similar property when unoccupied and held for sale by persons engaged in the business of selling such property when such property is at the location of the business;

(5) Mines, minerals, quarries, mineral springs and wells, oil and gas wells, overriding royalty interests, and production payments with respect to oil or gas leases; and

(6) All privileges pertaining to real property described in subdivisions (1) through (5) of this section.

Source: Laws 1903, c. 73, § 1, p. 389; R.S.1913, § 6289; Laws 1921, c. 133, art. I, § 2, p. 545; C.S.1922, § 5809; C.S.1929, § 77-102; R.S.1943, § 77-103; Laws 1951, c. 257, § 1, p. 881; Laws 1961, c. 372, § 1, p. 1147; Laws 1969, c. 638, § 1, p. 2551; Laws 1989, Spec. Sess., LB 1, § 1; Laws 1991, LB 829, § 5; Laws 1992, LB 1063, § 44; Laws 1992, Second Spec. Sess., LB 1, § 43; Laws 1997, LB 270, § 3; Laws 2007, LB334, § 13; Laws 2019, LB218, § 1.

77-106 Money, defined.

The term money includes all kinds of coin and all kinds of paper, issued by or under authority of the United States, circulating as money. Money does not include central bank digital currency.

Source: Laws 1903, c. 73, § 4, p. 389; R.S.1913, § 6292; Laws 1921, c. 133, art. I, § 5, p. 545; C.S.1922, § 5812; C.S.1929, § 77-105; R.S.1943, § 77-106; Laws 2024, LB1317, § 71.
Operative date January 1, 2025.

77-117 Improvements on leased land, defined.

Improvements on leased land shall mean any item of real property defined in subdivisions (2) through (5) of section 77-103 which is located on land owned by a person other than the owner of the item.

Source: Laws 1992, LB 1063, § 45; Laws 1992, Second Spec. Sess., LB 1, § 44; Laws 1997, LB 270, § 5; Laws 2019, LB218, § 2.

77-118 Nebraska adjusted basis, defined; trade in of property; how treated.

(1) Nebraska adjusted basis shall mean the adjusted basis of property as determined under the Internal Revenue Code increased by the total amount allowed under the code for depreciation or amortization or pursuant to an election to expense depreciable property under section 179 of the code.

(2) For purchases of depreciable personal property occurring on or after January 1, 2018, if similar personal property is traded in as part of the payment for the newly acquired property, the Nebraska adjusted basis shall be the remaining federal tax basis of the property traded in, plus the additional amount that was paid by the taxpayer for the newly acquired property.

Source: Laws 1992, LB 1063, § 47; Laws 1992, Second Spec. Sess., LB 1, § 46; Laws 1995, LB 574, § 63; Laws 2018, LB1089, § 1; Laws 2019, LB663, § 1.

77-133 Central bank digital currency, defined.

Central bank digital currency means any digital currency, digital medium of exchange, or digital monetary unit of account issued by the United States Federal Reserve System, a federal agency, a foreign government, a foreign central bank, or a foreign reserve system, that is made directly available to a consumer by such entities, and includes any such digital currency, digital medium of exchange, or digital monetary unit of account that is processed or validated directly by such entities.

Source: Laws 2024, LB1317, § 72.
Operative date January 1, 2025.

ARTICLE 2

PROPERTY TAXABLE, EXEMPTIONS, LIENS

Section

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.

77-202 Property taxable; exemptions enumerated.

(1) The following property shall be exempt from property taxes:

(a) Property of the state and its governmental subdivisions to the extent used or being developed for use by the state or governmental subdivision for a public purpose. For purposes of this subdivision:

(i) Property of the state and its governmental subdivisions means (A) property held in fee title by the state or a governmental subdivision or (B) property beneficially owned by the state or a governmental subdivision in that it is used for a public purpose and is being acquired under a lease-purchase agreement, financing lease, or other instrument which provides for transfer of legal title to the property to the state or a governmental subdivision upon payment of all amounts due thereunder. If the property to be beneficially owned by a governmental subdivision has a total acquisition cost that exceeds the threshold amount or will be used as the site of a public building with a total estimated construction cost that exceeds the threshold amount, then such property shall qualify for an exemption under this section only if the question of acquiring such property or constructing such public building has been submitted at a primary, general, or special election held within the governmental subdivision and has been approved by the voters of the governmental subdivision. For purposes of this subdivision, threshold amount means the greater of fifty thousand dollars or six-tenths of one percent of the total actual value of real and personal property of the governmental subdivision that will beneficially own the property as of the end of the governmental subdivision's prior fiscal year; and

(ii) Public purpose means use of the property (A) to provide public services with or without cost to the recipient, including the general operation of government, public education, public safety, transportation, public works, civil and criminal justice, public health and welfare, developments by a public housing authority, parks, culture, recreation, community development, and cemetery purposes, or (B) to carry out the duties and responsibilities conferred by law with or without consideration. Public purpose does not include leasing of property to a private party unless the lease of the property is at fair market value for a public purpose. Leases of property by a public housing authority to low-income individuals as a place of residence are for the authority's public purpose;

(b) Unleased property of the state or its governmental subdivisions which is not being used or developed for use for a public purpose but upon which a payment in lieu of taxes is paid for public safety, rescue, and emergency services and road or street construction or maintenance services to all governmental units providing such services to the property. Except as provided in Article VIII, section 11, of the Constitution of Nebraska, the payment in lieu of taxes shall be based on the proportionate share of the cost of providing public safety, rescue, or emergency services and road or street construction or maintenance services unless a general policy is adopted by the governing body of the governmental subdivision providing such services which provides for a different method of determining the amount of the payment in lieu of taxes. The governing body may adopt a general policy by ordinance or resolution for determining the amount of payment in lieu of taxes by majority vote after a hearing on the ordinance or resolution. Such ordinance or resolution shall nevertheless result in an equitable contribution for the cost of providing such services to the exempt property;

(c) Property owned by and used exclusively for agricultural and horticultural societies;

(d)(i) Property owned by educational, religious, charitable, or cemetery organizations, or any organization for the exclusive benefit of any such educational, religious, charitable, or cemetery organization, and used exclusively for educational, religious, charitable, or cemetery purposes, when such property is not (A) owned or used for financial gain or profit to either the owner or user, (B) used for the sale of alcoholic liquors for more than twenty hours per week, or (C) owned or used by an organization which discriminates in membership or employment based on race, color, or national origin.

(ii) For purposes of subdivision (1)(d) of this section:

(A) Educational organization means (I) an institution operated exclusively for the purpose of offering regular courses with systematic instruction in academic, vocational, or technical subjects or assisting students through services relating to the origination, processing, or guarantying of federally reinsured student loans for higher education, (II) a museum or historical society operated exclusively for the benefit and education of the public, or (III) a nonprofit organization that owns or operates a child care facility; and

(B) Charitable organization includes (I) an organization operated exclusively for the purpose of the mental, social, or physical benefit of the public or an indefinite number of persons and (II) a fraternal benefit society organized and licensed under sections 44-1072 to 44-10,109.

(iii) The property tax exemption authorized in subdivision (1)(d)(i) of this section shall apply to any skilled nursing facility as defined in section 71-429, nursing facility as defined in section 71-424, or assisted-living facility as defined in section 71-5903 that provides housing for medicaid beneficiaries, except that the exemption amount for such property shall be a percentage of the property taxes that would otherwise be due. Such percentage shall be equal to the average percentage of occupied beds in the facility provided to medicaid beneficiaries over the most recent three-year period.

(iv) The property tax exemption authorized in subdivision (1)(d)(i) of this section shall apply to a building that (A) is owned by a charitable organization, (B) is made available to students in attendance at an educational institution, and (C) is recognized by such educational institution as approved student housing, except that the exemption shall only apply to the commons area of such building, including any common rooms and cooking and eating facilities; and

(e) Household goods and personal effects not owned or used for financial gain or profit to either the owner or user.

(2) The increased value of land by reason of shade and ornamental trees planted along the highway shall not be taken into account in the valuation of land.

(3) Tangible personal property which is not depreciable tangible personal property as defined in section 77-119 shall be exempt from property tax.

(4) Motor vehicles, trailers, and semitrailers required to be registered for operation on the highways of this state shall be exempt from payment of property taxes.

(5) Business and agricultural inventory shall be exempt from the personal property tax. For purposes of this subsection, business inventory includes

personal property owned for purposes of leasing or renting such property to others for financial gain only if the personal property is of a type which in the ordinary course of business is leased or rented thirty days or less and may be returned at the option of the lessee or renter at any time and the personal property is of a type which would be considered household goods or personal effects if owned by an individual. All other personal property owned for purposes of leasing or renting such property to others for financial gain shall not be considered business inventory.

(6) Any personal property exempt pursuant to subsection (2) of section 77-4105 or section 77-5209.02 shall be exempt from the personal property tax.

(7) Livestock shall be exempt from the personal property tax.

(8) Any personal property exempt pursuant to the Nebraska Advantage Act or the ImagiNE Nebraska Act shall be exempt from the personal property tax.

(9) Any depreciable tangible personal property used directly in the generation of electricity using wind as the fuel source shall be exempt from the property tax levied on depreciable tangible personal property. Any depreciable tangible personal property used directly in the generation of electricity using solar, biomass, or landfill gas as the fuel source shall be exempt from the property tax levied on depreciable tangible personal property if such depreciable tangible personal property was installed on or after January 1, 2016, and has a nameplate capacity of one hundred kilowatts or more. Depreciable tangible personal property used directly in the generation of electricity using wind, solar, biomass, or landfill gas as the fuel source includes, but is not limited to, wind turbines, rotors and blades, towers, solar panels, trackers, generating equipment, transmission components, substations, supporting structures or racks, inverters, and other system components such as wiring, control systems, switchgears, and generator step-up transformers.

(10) Any tangible personal property that is acquired by a person operating a data center located in this state, that is assembled, engineered, processed, fabricated, manufactured into, attached to, or incorporated into other tangible personal property, both in component form or that of an assembled product, for the purpose of subsequent use at a physical location outside this state by the person operating a data center shall be exempt from the personal property tax. Such exemption extends to keeping, retaining, or exercising any right or power over tangible personal property in this state for the purpose of subsequently transporting it outside this state for use thereafter outside this state. For purposes of this subsection, data center means computers, supporting equipment, and other organized assembly of hardware or software that are designed to centralize the storage, management, or dissemination of data and information, environmentally controlled structures or facilities or interrelated structures or facilities that provide the infrastructure for housing the equipment, such as raised flooring, electricity supply, communication and data lines, Internet access, cooling, security, and fire suppression, and any building housing the foregoing.

(11) For tax years prior to tax year 2020, each person who owns property required to be reported to the county assessor under section 77-1201 shall be allowed an exemption amount as provided in the Personal Property Tax Relief Act. For tax years prior to tax year 2020, each person who owns property required to be valued by the state as provided in section 77-601, 77-682,

77-801, or 77-1248 shall be allowed a compensating exemption factor as provided in the Personal Property Tax Relief Act.

(12)(a) Broadband equipment shall be exempt from the personal property tax if such broadband equipment is:

(i) Deployed in an area funded in whole or in part by funds from the Broadband Equity, Access, and Deployment Program, authorized by the federal Infrastructure Investment and Jobs Act, Public Law 117-58; or

(ii) Deployed in a qualified census tract located within the corporate limits of a city of the metropolitan class and being utilized to provide end-users with access to the Internet at speeds of at least one hundred megabits per second for downloading and at least one hundred megabits per second for uploading.

(b) An owner of broadband equipment seeking an exemption under this section shall apply for an exemption to the county assessor on or before December 31 of the year preceding the year for which the exemption is to begin. If the broadband equipment meets the criteria described in this subsection, the county assessor shall approve the application within thirty calendar days after receiving the application. The application shall be on forms prescribed by the Tax Commissioner.

(c) For purposes of this subsection:

(i) Broadband communications service means telecommunications service as defined in section 86-121, video programming as defined in 47 U.S.C. 522, as such section existed on January 1, 2024, or Internet access as defined in section 1104 of the federal Internet Tax Freedom Act, Public Law 105-277;

(ii) Broadband equipment means machinery or equipment used to provide broadband communications service and includes, but is not limited to, wires, cables, fiber, conduits, antennas, poles, switches, routers, amplifiers, rectifiers, repeaters, receivers, multiplexers, duplexers, transmitters, circuit cards, insulating and protective materials and cases, power equipment, backup power equipment, diagnostic equipment, storage devices, modems, and other general central office or headend equipment, such as channel cards, frames, and cabinets, or equipment used in successor technologies, including items used to monitor, test, maintain, enable, or facilitate qualifying equipment, machinery, software, ancillary components, appurtenances, accessories, or other infrastructure that is used in whole or in part to provide broadband communications service. Machinery or equipment used to produce broadband communications service does not include personal consumer electronics, including, but not limited to, smartphones, computers, and tablets; and

(iii) Qualified census tract means a qualified census tract as defined in 26 U.S.C. 42(d)(5)(B)(ii)(I), as such section existed on January 1, 2024.

Source: Laws 1903, c. 73, § 13, p. 390; R.S.1913, § 6301; Laws 1921, c. 133, art. II, § 2, p. 547; C.S.1922, § 5821; C.S.1929, § 77-202; R.S.1943, § 77-202; Laws 1955, c. 290, § 1, p. 921; Laws 1965, c. 468, § 1, p. 1514; Laws 1965, c. 469, § 1, p. 1516; Laws 1967, c. 494, § 1, p. 1685; Laws 1967, c. 495, § 1, p. 1686; Laws 1971, LB 945, § 2; Laws 1975, LB 530, § 3; Laws 1980, LB 882, § 1; Laws 1980, LB 913, § 1; Laws 1982, LB 383, § 5; Laws 1984, LB 891, § 1; Laws 1985, LB 268, § 1; Laws 1986, LB 732, § 1; Laws 1987, LB 775, § 13; Laws 1988, LB 855, § 3; Laws 1989, Spec. Sess., LB 7, § 2; Laws 1991, LB 829, § 7; Laws 1992, LB 1063,

§ 53; Laws 1992, Second Spec. Sess., LB 1, § 51; Laws 1994, LB 961, § 7; Laws 1997, LB 271, § 39; Laws 1999, LB 271, § 4; Laws 2002, LB 994, § 10; Laws 2005, LB 312, § 4; Laws 2008, LB1027, § 1; Laws 2010, LB1048, § 11; Laws 2011, LB360, § 2; Laws 2012, LB902, § 1; Laws 2012, LB1080, § 1; Laws 2015, LB259, § 5; Laws 2015, LB414, § 2; Laws 2015, LB424, § 3; Laws 2016, LB775, § 3; Laws 2020, LB1107, § 121; Laws 2024, LB874, § 10; Laws 2024, LB1317, § 73.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB874, section 10, with LB1317, section 73, to reflect all amendments.

Note: Changes made by LB874 became effective July 19, 2024. Changes made by LB1317 became operative July 19, 2024.

Cross References

ImagiNE Nebraska Act, see section 77-6801.
Nebraska Advantage Act, see section 77-5701.
Personal Property Tax Relief Act, see section 77-1237.

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. For applications involving property described in subdivision (1)(d)(iii) or (iv) of section 77-202, the county assessor shall also calculate the exemption amount for the property and shall submit such calculation to the county board of equalization along with his or her recommendations. 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, shall calculate the exemption amount for any property described in subdivision (1)(d)(iii) or (iv) of section 77-202, 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; Laws 2024, LB1317, § 74.
Operative date July 19, 2024.

77-202.03 Property taxable; exempt status; period of exemption; change of status; late filing authorized; when; penalty; lien; new applications; reviewed; hearing; procedure; list.

(1) Except as provided in section 77-202.10 and subsection (2) of this section, a properly granted exemption of real or tangible personal property provided for in subdivisions (1)(c) and (d) of section 77-202 shall continue for a period of four years if the statement of reaffirmation of exemption required by subsection (3) of this section is filed when due. The four-year period shall begin with years evenly divisible by four.

(2) An owner of property which has been granted an exemption under subdivision (1)(d)(iii) or (iv) of section 77-202 shall be required to reapply for the exemption each year so that the exemption amount for the year can be recalculated.

(3) In each intervening year occurring between application years, the organization or society which filed the granted exemption application for the real or tangible personal property, except real property used for cemetery purposes and real property described in subdivision (1)(d)(iii) or (iv) of section 77-202, shall file a statement of reaffirmation of exemption with the county assessor on or before December 31 of the year preceding the year for which the exemption is sought, on forms prescribed by the Tax Commissioner, certifying that the ownership and use of the exempted property has not changed during the year. Any organization or society which misses the December 31 deadline for filing the statement of reaffirmation of exemption may file the statement of reaffirmation of exemption by June 30. Such filing shall maintain the tax-exempt status of the property without further action by the county and regardless of any previous action by the county board of equalization to deny the exemption due to late filing of the statement of reaffirmation of exemption. Upon any such late filing, the county assessor shall assess a penalty against the property of ten percent of the tax that would have been assessed had the statement of reaffirmation of exemption not been filed or one hundred dollars, whichever is less, for each calendar month or fraction thereof for which the filing of the statement of reaffirmation of exemption is late. The penalty shall be collected and distributed in the same manner as a tax on the property and interest shall be assessed at the rate specified in section 45-104.01, as such rate may from time to time be adjusted by the Legislature, from the date the tax would have

been delinquent until paid. The penalty shall also become a lien in the same manner as a tax pursuant to section 77-203.

(4)(a) If any organization or society seeks a tax exemption for any real or tangible personal property acquired on or after January 1 of any year or converted to exempt use on or after January 1 of any year, the organization or society shall make application for exemption on or before July 1 of that year as provided in subsection (1) of section 77-202.01. The procedure for reviewing the application shall be as in sections 77-202.01 to 77-202.05, except that the exempt use shall be determined as of the date of application and the review by the county board of equalization shall be completed by August 15.

(b) If an organization as described in subdivision (1)(c) or (d) of section 77-202 purchases, between July 1 and the levy date, property that has been granted tax exemption and the property continues to be qualified for a property tax exemption, the purchaser shall on or before November 15 make application for exemption as provided in section 77-202.01. The procedure for reviewing the application shall be as in sections 77-202.01 to 77-202.05, and the review by the county board of equalization shall be completed by December 15.

(5) In any year, the county assessor or the county board of equalization may cause a review of any exemption to determine whether the exemption is proper. Such a review may be taken even if the ownership or use of the property has not changed from the date of the allowance of the exemption. If it is determined that a change in an exemption is warranted, the procedure for hearing set out in section 77-202.02 shall be followed, except that the published notice shall state that the list provided in the county assessor's office only includes those properties being reviewed. If an exemption is denied, the county board of equalization shall place the property on the tax rolls retroactive to January 1 of that year if on the date of the decision of the county board of equalization the property no longer qualifies for an exemption.

The county board of equalization shall give notice of the assessed value of the real property in the same manner as outlined in section 77-1507, and the procedures for filing a protest shall be the same as those in section 77-1502.

When personal property which was exempt becomes taxable because of lost exemption status, the owner or his or her agent has thirty days after the date of denial to file a personal property return with the county assessor. Upon the expiration of the thirty days for filing a personal property return pursuant to this subsection, the county assessor shall proceed to list and value the personal property and apply the penalty pursuant to section 77-1233.04.

(6) During the month of September of each year, the county board of equalization shall cause to be published in a paper of general circulation in the county a list of all real estate in the county exempt from taxation for that year pursuant to subdivisions (1)(c) and (d) of section 77-202. Such list shall be grouped into categories as provided by the Property Tax Administrator. An electronic copy of the list of real property exemptions and a copy of the proof of publication shall be forwarded to the Property Tax Administrator on or before November 1 of each year.

Source: Laws 1963, c. 441, § 3, p. 1460; Laws 1965, c. 470, § 1, p. 1517; Laws 1969, c. 641, § 1, p. 2554; Laws 1973, LB 114, § 1; Laws 1973, LB 530, § 1; Laws 1976, LB 786, § 1; Laws 1979, LB 17, § 8; Laws 1980, LB 688, § 3; Laws 1981, LB 179, § 3; Laws 1983, LB 494, § 1; Laws 1986, LB 817, § 2; Laws 1989, LB 133,

§ 1; Laws 1990, LB 919, § 1; Laws 1993, LB 734, § 42; Laws 1995, LB 490, § 30; Laws 1996, LB 1122, § 2; Laws 1997, LB 270, § 14; Laws 1997, LB 271, § 42; Laws 1998, LB 1104, § 6; Laws 1999, LB 194, § 11; Laws 1999, LB 271, § 6; Laws 2000, LB 968, § 28; Laws 2004, LB 973, § 7; Laws 2007, LB166, § 4; Laws 2007, LB334, § 17; Laws 2010, LB708, § 1; Laws 2019, LB512, § 10; Laws 2024, LB1317, § 75.
Operative date July 19, 2024.

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.

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.

ARTICLE 3
DEPARTMENT OF REVENUE

77-376 Tax Commissioner; examination of financial records; no release of information; sharing of information; confidentiality.

(1) The Tax Commissioner may examine or cause to be examined in his or her behalf, and make memoranda from, any of the financial records of state and local subdivisions, persons, and corporations subject to the tax laws of this state, including the social security numbers of employees of such state and local subdivisions, persons, and corporations. No information shall be released that is not so authorized by existing statutes. Unless otherwise prohibited by law, the Tax Commissioner may share the information examined with the taxing or law enforcement authorities of this state, other states, and the federal government.

(2) The audit and examination selection criteria and standards, the discovery techniques, the design of technological systems to detect fraud and inconsistencies, and all other techniques utilized by the Department of Revenue to discover fraud, misstatements, inconsistencies, underreporting, and tax avoidance shall be confidential information. The department may disclose this information to certain persons to further its enforcement activities and as provided under section 50-1213, but such limited disclosure shall not change the confidential nature of the information.

Source: Laws 1965, c. 459, § 10, p. 1458; R.S.1943, (1976), § 77-329; Laws 1980, LB 834, § 17; Laws 1995, LB 490, § 43; Laws 1999, LB 36, § 10; Laws 2015, LB261, § 6; Laws 2018, LB1089, § 2; Laws 2022, LB1150, § 1.

77-377.02 Delinquent tax collection; collection agency; fees; remit funds.

(1) Fees for services, reimbursements, or other remuneration to such collection agency shall be based on the amount of tax, penalty, and interest actually collected and shall not be subject to the requirements of section 73-203 or 73-204. Each contract entered into between the Tax Commissioner and the collection agency shall provide for the payment of fees for such services, reimbursements, or other remuneration not in excess of fifty percent of the total amount of delinquent taxes, penalties, and interest actually collected.

(2) All funds collected, less the fees for collection services as provided in the contract, shall be remitted to the Tax Commissioner within forty-five days from the date of collection from a taxpayer. Forms to be used for such remittances shall be prescribed by the Tax Commissioner.

Source: Laws 1981, LB 170, § 2; Laws 2019, LB512, § 11.

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.

77-3,110 Department of Revenue Miscellaneous Receipts Fund; created; use; investment.

(1) All funds received pursuant to sections 77-3,109 and 77-3,118 shall be remitted to the State Treasurer for credit to the Department of Revenue Miscellaneous Receipts Fund which is hereby created.

(2) On or before September 1, 2020, the State Treasurer shall transfer fifty-nine thousand five hundred dollars from the College Savings Plan Expense Fund to the Department of Revenue Miscellaneous Receipts Fund.

(3) All money in the Department of Revenue Miscellaneous Receipts Fund shall be administered by the Department of Revenue and shall be used as follows:

(a) Any money transferred to the fund under subsection (2) of this section shall be used by the Department of Revenue to defray the costs incurred to implement Laws 2020, LB1042; and

(b) All other funds shall be used to defray the cost of production of the publications listed in section 77-3,109 or of the listings described in section 77-3,118 and to carry out any administrative responsibilities of the department.

(4) Transfers may be made from the fund to the General Fund at the direction of the Legislature. Any money in the Department of Revenue Miscellaneous Receipts Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1986, LB 1027, § 212; Laws 1993, LB 345, § 10; Laws 1994, LB 1066, § 79; Laws 2009, First Spec. Sess., LB3, § 54; Laws 2020, LB1042, § 1.

Cross References

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

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.

77-3,120 Financial Institution Data Match Act, how cited.

Sections 77-3,120 to 77-3,127 shall be known and may be cited as the Financial Institution Data Match Act.

Source: Laws 2024, LB1317, § 24.
Operative date July 19, 2024.

77-3,121 Terms, defined.

For purposes of the Financial Institution Data Match Act:

(1) Account means a demand deposit account, checking or negotiable withdrawal order account, savings account, time deposit account, or money-market mutual fund account;

(2) Department means the Department of Revenue;

(3) Financial institution means every federal or state commercial or savings bank, including savings and loan associations and cooperative banks, federal or state chartered credit unions, benefit associations, insurance companies, safe deposit companies, any money-market mutual fund that meets the requirements of section 851(a) of the Internal Revenue Code and 17 C.F.R. 270.2a-7, any broker, brokerage firm, trust company, or unit investment trust, or any other similar entity doing business or authorized to do business in the State of Nebraska;

(4) Match means a comparison by name and social security number or federal employer identification number of a list of tax debtors provided to a financial institution by the department and a list of depositors of any financial institution. Such comparison may be carried out by automated or other means; and

(5) Tax debtor means a person liable to pay any delinquent (a) tax, (b) fee, or (c) other type of repayment under any program administered by the Tax Commissioner.

Source: Laws 2024, LB1317, § 25.
Operative date July 19, 2024.

77-3,122 Data match system; authorized; department; financial institution; duties.

(1) The department shall operate a data match system with each financial institution doing business in the State of Nebraska.

(2) Under the data match system, a financial institution shall receive from the department a listing of tax debtors to be used in matches within the financial institution's system. The listing from the department shall include the name and social security number or federal employer identification number of each tax debtor. The financial institution shall receive the listing within thirty days after the end of each calendar quarter subsequent to July 19, 2024. Within thirty days after receiving the listing, the financial institution shall match the listing to its records of accounts held in one or more persons' names which are open accounts or accounts that were closed within the preceding calendar quarter. The financial institution shall provide the department with a match listing of all matches made within five working days of the match. The match listing from the financial institution shall include the name, address, and social security number or federal employer identification number of each tax debtor matched and the balance of each account. The financial institution shall also provide the names and addresses of all other owners of accounts in the match listing as

reflected on a signature card or other similar document on file with the financial institution. The financial institution shall submit all match listings by an electronic medium approved by the department.

(3) Nothing in this section shall (a) require a financial institution to disclose the account number assigned to the account of any person or (b) serve to encumber the ownership interest of any person in or impact any right of setoff against an account.

(4) To maintain the confidentiality of the listing and match listing, the department shall implement appropriate security provisions for the listing and match listing which are as stringent as those established under the federal Tax Information Security Guidelines for Federal, State and Local Agencies.

Source: Laws 2024, LB1317, § 26.
Operative date July 19, 2024.

77-3,123 Department; agreements with financial institutions; authorized.

The department may enter into agreements with financial institutions doing business in this state to operate the data match system described in section 77-3,122. A financial institution may charge a reasonable fee, not to exceed actual cost, to be paid by the department for the service of reporting matches as required by section 77-3,122.

Source: Laws 2024, LB1317, § 27.
Operative date July 19, 2024.

77-3,124 Department; contracts with vendors; authorized; Tax Commissioner; State Treasurer; duties; report.

(1) The department may contract with one or more vendors to develop the data match system and perform the matches required under section 77-3,122. Vendors entering into a contract with the department pursuant to this section are subject to the requirements and penalties of the confidentiality laws of this state regarding tax information, including, but not limited to, the provisions and penalties in sections 77-2711 and 77-27,119.

(2)(a) Within fifteen days after the end of fiscal year 2024-25 and each fiscal year thereafter, the Tax Commissioner shall determine and certify to the State Treasurer the following amounts:

(i) The total amount of any fees for services or reimbursements paid by the department or other costs incurred by the department during the previous fiscal year due to the contracts entered into pursuant to this section; and

(ii) The total amount of taxes, penalties, and interest collected during the previous fiscal year as a result of contracts entered into pursuant to this section.

(b) After receiving such certification, the State Treasurer shall transfer the amount certified under subdivision (2)(a)(i) of this section or two percent of the amount certified under subdivision (2)(a)(ii) of this section, whichever amount is less, from the General Fund to the Department of Revenue Enforcement Fund.

(3) The Tax Commissioner shall submit electronically an annual report to the Revenue Committee of the Legislature and the Appropriations Committee of the Legislature on the amount of taxes, penalties, and interest collected during the

most recently completed fiscal year as a result of contracts entered into pursuant to this section.

Source: Laws 2024, LB1317, § 28.
Operative date July 19, 2024.

77-3,125 Financial institution; confidentiality; requirements.

A financial institution receiving information from the department under section 77-3,122 and the employees, agents, officers, and directors of the financial institution shall maintain the confidentiality of the information supplied by the department and use such information only for the purposes described in section 77-3,122 and shall be subject to the requirements and penalties of the confidentiality laws of this state regarding tax information, including, but not limited to, the provisions and penalties in sections 77-2711 and 77-27,119.

Source: Laws 2024, LB1317, § 29.
Operative date July 19, 2024.

77-3,126 Financial institution; immunity from liability; when.

(1) A financial institution is not liable under any state or local law to any individual or to the department for disclosure or release of information to the department for the purpose of complying with the requirements of section 77-3,122.

(2) The Financial Institution Data Match Act shall not be construed to make a financial institution responsible or liable to any extent for assuring that the department maintains the confidentiality of information disclosed under section 77-3,122.

(3) A financial institution is not liable to any extent for failing to disclose to a depositor or account holder that the name, address, and social security number or federal employer identification number of a tax debtor was included in the match listing provided to the department pursuant to section 77-3,122.

(4) A financial institution may disclose to its depositors or account holders that the department has the authority to request and obtain certain identifying information on certain depositors or account holders pursuant to the Financial Institution Data Match Act for state tax collection purposes.

Source: Laws 2024, LB1317, § 30.
Operative date July 19, 2024.

77-3,127 Rules and regulations.

The department may adopt and promulgate rules and regulations to carry out the Financial Institution Data Match Act.

Source: Laws 2024, LB1317, § 31.
Operative date July 19, 2024.

ARTICLE 6

ASSESSMENT AND EQUALIZATION OF RAILROAD PROPERTY

(c) ADJUSTMENT TO VALUE

Section
77-693. Adjustment to value of railroad and car line property; Property Tax Administrator; powers and duties.

(c) ADJUSTMENT TO VALUE

77-693 Adjustment to value of railroad and car line property; Property Tax Administrator; powers and duties.

(1) The Property Tax Administrator in determining the taxable value of railroads and car lines shall determine the following ratios involving railroad and car line property and commercial and industrial property:

(a) The ratio of the taxable value of all commercial and industrial personal property in the state actually subjected to property tax divided by the market value of all commercial and industrial personal property in the state;

(b) The ratio of the taxable value of all commercial and industrial real property in the state actually subjected to property tax divided by the market value of all commercial and industrial real property in the state;

(c) The ratio of the taxable value of railroad personal property to the market value of railroad personal property. The numerator of the ratio shall be the taxable value of railroad personal property. The denominator of the ratio shall be the railroad system value allocated to Nebraska and multiplied by a factor representing the net book value of rail transportation personal property divided by the net book value of total rail transportation property;

(d) The ratio of the taxable value of railroad real property to the market value of railroad real property. The numerator of the ratio shall be the taxable value of railroad real property. The denominator of the ratio shall be the railroad system value allocated to Nebraska and multiplied by a factor representing the net book value of rail transportation real property divided by the net book value of total rail transportation property; and

(e) Similar calculations shall be made for car line taxable properties.

(2) If the ratio of the taxable value of railroad and car line personal or real property exceeds the ratio of the comparable taxable commercial and industrial property by more than five percent, the Property Tax Administrator may adjust the value of such railroad and car line property to the percentage of the comparable taxable commercial and industrial property pursuant to federal statute or Nebraska federal court decisions applicable thereto.

(3) For purposes of this section, commercial and industrial property shall mean all real and personal property which is devoted to commercial or industrial use other than rail transportation property and land used primarily for agricultural purposes.

(4) For tax years prior to tax year 2020, after the adjustment made pursuant to subsections (1) and (2) of this section, the Property Tax Administrator shall multiply the value of the tangible personal property of each railroad and car line by the compensating exemption factor calculated in section 77-1238.

Source: Laws 1992, LB 719A, § 219; Laws 1995, LB 490, § 86; Laws 2015, LB259, § 6; Laws 2020, LB1107, § 122.

ARTICLE 7

PROPERTY ASSESSMENT DIVISION

Section
77-702. Property Tax Administrator; qualifications; duties.

77-702 Property Tax Administrator; qualifications; duties.

(1) The Governor shall appoint a Property Tax Administrator with the approval of a majority of the members of the Legislature. The Property Tax Administrator shall have experience and training in the fields of taxation and property appraisal and shall meet all the qualifications required for members of the Tax Equalization and Review Commission under subsections (1) and (2) of section 77-5004.

(2) In addition to any duties, powers, or responsibilities otherwise conferred upon the Property Tax Administrator, he or she shall administer and enforce all laws related to the state supervision of local property tax administration and the central assessment of property subject to property taxation. The Property Tax Administrator shall also advise county assessors regarding the administration and assessment of taxable property within the state and measure assessment performance in order to determine the accuracy and uniformity of assessments.

Source: Laws 1999, LB 36, § 22; Laws 2001, LB 465, § 1; Laws 2007, LB334, § 44; Laws 2011, LB210, § 4; Laws 2011, LB384, § 5; Laws 2019, LB512, § 12.

ARTICLE 8

PUBLIC SERVICE ENTITIES

Section
77-801. Public service entity; furnish information; confidentiality; Property Tax Administrator; duties.

77-801 Public service entity; furnish information; confidentiality; Property Tax Administrator; duties.

(1) All public service entities shall, on or before April 15 of each year, furnish a statement specifying such information as may be required by the Property Tax Administrator on forms prescribed by the Tax Commissioner to determine and distribute the entity's total taxable value including the franchise value. All information reported by the public service entities, not available from any other public source, and any memorandum thereof shall be confidential and available to taxing officials only. For good cause shown, the Property Tax Administrator may allow an extension of time in which to file such statement. Such extension shall not exceed fifteen days after April 15.

(2) The returns of public service entities shall not be held to be conclusive as to the taxable value of the property, but the Property Tax Administrator shall, from all the information which he or she is able to obtain, find the taxable value of all such property, including tangible property and franchises, and shall assess such property on the same basis as other property is required to be assessed.

(3) The county assessor shall assess all nonoperating property of any public service entity. A public service entity operating within the State of Nebraska shall, on or before January 1 of each year, report to the county assessor of each county in which it has situs all nonoperating property belonging to such entity which is not subject to assessment and assessed by the Property Tax Administrator under section 77-802.

(4) For tax years prior to tax year 2020, the Property Tax Administrator shall multiply the value of the tangible personal property of each public service entity by the compensating exemption factor calculated in section 77-1238.

Source: Laws 1903, c. 73, § 68, p. 408; Laws 1903, c. 73, § 76, p. 411; Laws 1903, c. 73, § 80, p. 412; Laws 1911, c. 104, § 6, p. 373; R.S.1913, §§ 6358, 6366, 6370; Laws 1921, c. 133, art. IX, § 1, p. 586; C.S.1922, § 5890; C.S.1929, § 77-801; R.S.1943, § 77-801; Laws 1981, LB 179, § 8; Laws 1983, LB 353, § 1; Laws 1985, LB 269, § 2; Laws 1995, LB 490, § 87; Laws 1997, LB 270, § 37; Laws 2000, LB 968, § 38; Laws 2004, LB 973, § 13; Laws 2009, LB166, § 7; Laws 2015, LB259, § 7; Laws 2020, LB1107, § 123.

ARTICLE 9
INSURANCE COMPANIES

Section
77-908. Insurance companies; tax on gross premiums; rate; exceptions.
77-913. Insurance Tax Fund; created; use; investment; allocation.

77-908 Insurance companies; tax on gross premiums; rate; exceptions.

Every insurance company organized under the stock, mutual, assessment, or reciprocal plan, except fraternal benefit societies, which is transacting business in this state shall, on or before March 1 of each year, pay a tax to the director of one percent of the gross amount of direct writing premiums received by it during the preceding calendar year for business done in this state, except that (1) for group sickness and accident insurance the rate of such tax shall be five-tenths of one percent and (2) for property and casualty insurance, excluding individual sickness and accident insurance, the rate of such tax shall be one percent. A captive insurer authorized under the Captive Insurers Act that is transacting business in this state shall, on or before March 1 of each year, pay to the director a tax of one-fourth of one percent of the gross amount of direct writing premiums received by such insurer during the preceding calendar year for business transacted in the state. The taxable premiums shall include premiums paid on the lives of persons residing in this state and premiums paid for risks located in this state whether the insurance was written in this state or not, including that portion of a group premium paid which represents the premium for insurance on Nebraska residents or risks located in Nebraska included within the group when the number of lives in the group exceeds five hundred. The tax shall also apply to premiums received by domestic companies for insurance written on individuals residing outside this state or risks located outside this state if no comparable tax is paid by the direct writing domestic company to any other appropriate taxing authority. Companies whose scheme of operation contemplates the return of a portion of premiums to policyholders, without such policyholders being claimants under the terms of their policies, may deduct such return premiums or dividends from their gross premiums for the purpose of tax calculations. Any such insurance company shall receive a credit on the tax imposed as provided in the Creating High Impact Economic Futures Act, the Nebraska Job Creation and Mainstreet Revitalization Act, the New Markets Job Growth Investment Act, the Nebraska Higher Blend Tax Credit Act, the Relocation Incentive Act, the Sustainable Aviation Fuel Tax

Credit Act, the Nebraska Shortline Rail Modernization Act, and the Affordable Housing Tax Credit Act.

Source: Laws 1951, c. 256, § 2, p. 878; Laws 1984, LB 372, § 13; Laws 1986, LB 1114, § 10; Laws 1989, LB 92, § 275; Laws 1992, LB 1063, § 91; Laws 1992, Second Spec. Sess., LB 1, § 64; Laws 2001, LB 433, § 1; Laws 2002, Second Spec. Sess., LB 9, § 3; Laws 2006, LB 1248, § 83; Laws 2007, LB117, § 53; Laws 2007, LB367, § 5; Laws 2010, LB698, § 3; Laws 2012, LB1128, § 21; Laws 2014, LB191, § 15; Laws 2016, LB884, § 18; Laws 2022, LB1261, § 9; Laws 2024, LB937, § 66; Laws 2024, LB1023, § 7; Laws 2024, LB1344, § 8.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB937, section 66, with LB1023, section 7, and LB1344, section 8, to reflect all amendments.

Note: Changes made by LB937 became operative July 19, 2024. Changes made by LB1023 became operative July 19, 2024. Changes made by LB1344 became operative January 1, 2025.

Cross References

Affordable Housing Tax Credit Act, see section 77-2501.
Captive Insurers Act, see section 44-8201.
Creating High Impact Economic Futures Act, see section 77-3113.
Nebraska Higher Blend Tax Credit Act, see section 77-7001.
Nebraska Job Creation and Mainstreet Revitalization Act, see section 77-2901.
Nebraska Shortline Rail Modernization Act, see section 77-3134.
New Markets Job Growth Investment Act, see section 77-1101.
Relocation Incentive Act, see section 77-3107.
Sustainable Aviation Fuel Tax Credit Act, see section 77-7017.

77-913 Insurance Tax Fund; created; use; investment; allocation.

The Insurance Tax Fund is created. The State Treasurer shall receive the funds paid pursuant to Chapter 77, article 9, and except as provided in sections 77-912 and 77-918 shall keep all money received in the Insurance Tax Fund. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Prior to June 1 of each year, the State Treasurer shall disburse or allocate all of the funds in the Insurance Tax Fund on May 1 of each year as follows:

(1) Ten percent of the total shall be allocated to the counties proportionately in the proportion that the population of each county bears to the entire state, as shown by the last federal decennial census;

(2) Thirty percent of the total shall be allocated to the Municipal Equalization Fund; and

(3) Sixty percent of the total shall be allocated to the State Department of Education for distribution to school districts as equalization aid pursuant to the Tax Equity and Educational Opportunities Support Act as follows: The Commissioner of Education shall (a) include the amount certified by the State Treasurer pursuant to this section in the state aid certified to each school district pursuant to section 79-1022 and (b) distribute such funds as equalization aid under the provisions of the act during the ensuing fiscal year.

Source: Laws 1951, c. 256, § 7, p. 880; Laws 1986, LB 1114, § 18; Laws 1990, LB 1090, § 1; Laws 1996, LB 1050, § 1; Laws 1996, LB 1177, § 17; Laws 1997, LB 269, § 36; Laws 1999, LB 113, § 4; Laws 2003, LB 8, § 1; Laws 2023, LB818, § 21.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.
Tax Equity and Educational Opportunities Support Act, see section 79-1001.

ARTICLE 11

NEW MARKETS JOB GROWTH INVESTMENT ACT

Section

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

ARTICLE 12

PERSONAL PROPERTY, WHERE AND HOW LISTED

Section
77-1229. Tangible personal property; form of return; time of filing; exemption; procedure.
77-1238. Exemption from taxation; Property Tax Administrator; duties.
77-1239. Reimbursement for tax revenue lost because of exemption; calculation.
77-1248. Taxation of air carriers; taxable value; allocation; Property Tax Administrator; duties.

77-1229 Tangible personal property; form of return; time of filing; exemption; procedure.

(1) Every person required by section 77-1201 to list and value taxable tangible personal property shall list such property upon the forms prescribed by the Tax Commissioner. The forms shall be available from the county assessor and when completed shall be signed by each person or his or her agent and be filed with the county assessor. The forms shall be filed on or before May 1 of each year.

(2) Any person seeking a personal property exemption pursuant to subsection (2) of section 77-4105, the Nebraska Advantage Act, or the ImagiNE Nebraska Act shall annually file a copy of the forms required pursuant to section 77-4105 or the act with the county assessor in each county in which the person is requesting exemption. The copy shall be filed on or before May 1. Failure to timely file the required forms shall cause the forfeiture of the exemption for the tax year. If a taxpayer pursuant to this subsection also has taxable tangible personal property, such property shall be listed and valued as required under subsection (1) of this section.

Source: Laws 1903, c. 73, § 49, p. 399; Laws 1909, c. 111, § 1, p. 437; R.S.1913, § 6336; C.S.1922, § 5938; C.S.1929, § 77-1425; R.S. 1943, § 77-1229; Laws 1947, c. 250, § 16, p. 793; Laws 1947, c. 251, § 26, p. 819; Laws 1959, c. 355, § 16, p. 1260; Laws 1959, c. 365, § 8, p. 1289; Laws 1959, c. 367, § 1, p. 1296; Laws 1969, c. 665, § 1, p. 2587; Laws 1987, LB 508, § 35; Laws 1992, LB 1063, § 98; Laws 1992, Second Spec. Sess., LB 1, § 71; Laws 1995, LB 490, § 92; Laws 1997, LB 270, § 50; Laws 2000, LB 968, § 43; Laws 2005, LB 312, § 5; Laws 2007, LB334, § 52; Laws 2020, LB1107, § 124.

Cross References

ImagiNE Nebraska Act, see section 77-6801.
Nebraska Advantage Act, see section 77-5701.

77-1238 Exemption from taxation; Property Tax Administrator; duties.

(1) For tax years prior to tax year 2020, every person who is required to list his or her taxable tangible personal property as defined in section 77-105, as required under section 77-1229, shall receive an exemption from taxation for the first ten thousand dollars of valuation of his or her tangible personal property in each tax district as defined in section 77-127 in which a personal property return is required to be filed. Failure to report tangible personal property on the personal property return required by section 77-1229 shall result in a forfeiture of the exemption for any tangible personal property not timely reported for that year.

(2) For tax years prior to tax year 2020, the Property Tax Administrator shall reduce the value of the tangible personal property owned by each railroad, car line company, public service entity, and air carrier by a compensating exemption factor to reflect the exemption allowed in subsection (1) of this section for all other personal property taxpayers. The compensating exemption factor is calculated by multiplying the value of the tangible personal property of the railroad, car line company, public service entity, or air carrier by a fraction, the numerator of which is the total amount of locally assessed tangible personal property that is actually subjected to property tax after the exemption allowed in subsection (1) of this section, and the denominator of which is the net book value of locally assessed tangible personal property prior to the exemptions allowed in subsection (1) of this section.

Source: Laws 2015, LB259, § 2; Laws 2020, LB1107, § 125.

77-1239 Reimbursement for tax revenue lost because of exemption; calculation.

(1) For tax years prior to tax year 2020, reimbursement to taxing subdivisions for tax revenue that will be lost because of the personal property tax exemptions allowed in subsection (1) of section 77-1238 shall be as provided in this subsection. The county assessor and county treasurer shall, on or before November 30 of each year, certify to the Tax Commissioner, on forms prescribed by the Tax Commissioner, the total tax revenue that will be lost to all taxing subdivisions within his or her county from taxes levied and assessed in that year because of the personal property tax exemptions allowed in subsection (1) of section 77-1238. The county assessor and county treasurer may amend the certification to show any change or correction in the total tax revenue that will be lost until May 30 of the next succeeding year. The Tax Commissioner shall, on or before January 1 next following the certification, notify the Director of Administrative Services of the amount so certified to be reimbursed by the state. Reimbursement of the tax revenue lost shall be made to each county according to the certification and shall be distributed in two approximately equal installments on the last business day of February and the last business day of June. The State Treasurer shall, on the business day preceding the last business day of February and the last business day of June, notify the Director of Administrative Services of the amount of funds available in the General Fund to pay the reimbursement. The Director of Administrative Services shall, on the last business day of February and the last business day of June, draw warrants against funds appropriated. Out of the amount received, the county treasurer shall distribute to each of the taxing subdivisions within his or her county the

full tax revenue lost by each subdivision, except that one percent of such amount shall be deposited in the county general fund.

(2) For tax years prior to tax year 2020, reimbursement to taxing subdivisions for tax revenue that will be lost because of the compensating exemption factor in subsection (2) of section 77-1238 shall be as provided in this subsection. The Property Tax Administrator shall establish the average tax rate that will be used for purposes of reimbursing taxing subdivisions pursuant to this subsection. The average tax rate shall be equal to the total property taxes levied in the state divided by the total taxable value of all taxable property in the state as certified pursuant to section 77-1613.01. The total valuation that will be lost to all taxing subdivisions within each county because of the compensating exemption factor in subsection (2) of section 77-1238, multiplied by the average tax rate calculated pursuant to this subsection, shall be the tax revenue to be reimbursed to the taxing subdivisions by the state. Reimbursement of the tax revenue lost for public service entities shall be made to each county according to the certification and shall be distributed among the taxing subdivisions within each county in the same proportion as all public service entity taxes levied by the taxing subdivisions. Reimbursement of the tax revenue lost for railroads shall be made to each county according to the certification and shall be distributed among the taxing subdivisions within each county in the same proportion as all railroad taxes levied by taxing subdivisions. Reimbursement of the tax revenue lost for car line companies shall be distributed in the same manner as the taxes collected pursuant to section 77-684. Reimbursement of the tax revenue lost for air carriers shall be distributed in the same manner as the taxes collected pursuant to section 77-1250.

(3) Each taxing subdivision shall, in preparing its annual or biennial budget, take into account the amounts to be received under this section.

Source: Laws 2015, LB259, § 3; Laws 2019, LB512, § 13; Laws 2020, LB1107, § 126.

77-1248 Taxation of air carriers; taxable value; allocation; Property Tax Administrator; duties.

(1) The Property Tax Administrator shall ascertain from the reports made and from any other information obtained by him or her the taxable value of the flight equipment of air carriers and the proportion allocated to this state for the purposes of taxation as provided in section 77-1245.

(2)(a) In determining the taxable value of the flight equipment of air carriers pursuant to subsection (1) of this section, the Property Tax Administrator shall determine the following ratios:

(i) The ratio of the taxable value of all commercial and industrial depreciable tangible personal property in the state actually subjected to property tax to the market value of all commercial and industrial depreciable tangible personal property in the state; and

(ii) The ratio of the taxable value of flight equipment of air carriers to the market value of flight equipment of air carriers.

(b) If the ratio of the taxable value of flight equipment of air carriers exceeds the ratio of the taxable value of commercial and industrial depreciable tangible personal property by more than five percent, the Property Tax Administrator may adjust the value of such flight equipment of air carriers to the percentage

of the taxable commercial and industrial depreciable tangible personal property pursuant to federal law applicable to air carrier transportation property or Nebraska federal court decisions applicable thereto.

(c) For purposes of this subsection, commercial and industrial depreciable tangible personal property means all personal property which is devoted to commercial or industrial use other than flight equipment of air carriers.

(3) For tax years prior to tax year 2020, the Property Tax Administrator shall multiply the valuation of each air carrier by the compensating exemption factor calculated in section 77-1238.

Source: Laws 1949, c. 231, § 2, p. 641; Laws 1969, c. 669, § 1, p. 2591; Laws 1992, LB 1063, § 109; Laws 1992, Second Spec. Sess., LB 1, § 82; Laws 1995, LB 490, § 101; Laws 2015, LB259, § 8; Laws 2015, LB261, § 7; Laws 2020, LB1107, § 127.

ARTICLE 13

ASSESSMENT OF PROPERTY

Section

77-1301 Real property; assessment date; notice of preliminary valuation; destroyed real property; adjustment.

(1) All real property in this state subject to taxation shall be assessed as of January 1 at 12:01 a.m., and such assessment shall be used as a basis of taxation until the next assessment unless the property is destroyed real property as defined in section 77-1307, in which case the assessed value for the destroyed real property shall be adjusted as provided in sections 77-1307 to 77-1309.

(2) Beginning January 1, 2014, in any county with a population of at least one hundred fifty thousand inhabitants according to the most recent federal decennial census, the county assessor shall provide notice of preliminary valuations to real property owners on or before January 15 of each year. Such notice shall be (a) mailed to the taxpayer or (b) published on a website maintained by the county assessor or by the county.

(3) The county assessor shall complete the assessment of real property on or before March 19 of each year, except beginning January 1, 2014, in any county with a population of at least one hundred fifty thousand inhabitants according to the most recent federal decennial census, the county assessor shall complete the assessment of real property on or before March 25 of each year.

Source: Laws 1903, c. 73, § 105, p. 422; R.S.1913, § 6420; Laws 1921, c. 125, § 1, p. 535; C.S.1922, § 5955; Laws 1925, c. 167, § 1, p. 439; C.S.1929, § 77-1601; Laws 1933, c. 130, § 1, p. 507; C.S.Supp.,1941, § 77-1601; R.S.1943, § 77-1301; Laws 1945, c. 188, § 1, p. 581; Laws 1947, c. 251, § 31, p. 823; Laws 1947, c. 255, § 1, p. 835; Laws 1953, c. 270, § 1, p. 891; Laws 1953, c. 269, § 1, p. 889; Laws 1955, c. 288, § 19, p. 913; Laws 1959, c. 355, § 20, p. 1263; Laws 1959, c. 370, § 1, p. 1301; Laws 1963, c. 450, § 1, p. 1474; Laws 1980, LB 742, § 1; Laws 1984, LB 833, § 1; Laws 1987, LB 508, § 36; Laws 1992, LB 1063, § 114; Laws 1992, Second Spec. Sess., LB 1, § 87; Laws 1997, LB 270, § 63; Laws 1999, LB 194, § 15; Laws 2004, LB 973, § 18; Laws 2011, LB384, § 6; Laws 2019, LB512, § 14.

77-1307 Destroyed real property; legislative findings and declarations; terms, defined.

(1) The Legislature finds and declares that fires, earthquakes, floods, and tornadoes occur with enough frequency in this state that provision should be made to grant property tax relief to owners of real property adversely affected by such events.

(2) For purposes of sections 77-1307 to 77-1309:

(a) Calamity means a disastrous event, including, but not limited to, a fire, an earthquake, a flood, a tornado, or other natural event which significantly affects the assessed value of real property;

(b) Destroyed real property means real property that suffers significant property damage as a result of a calamity occurring on or after January 1, 2019, and before July 1 of the current assessment year. Destroyed real property does not include property suffering significant property damage that is caused by the owner of the property; and

(c) Significant property damage means:

(i) Damage to an improvement exceeding twenty percent of the improvement's assessed value in the current tax year as determined by the county assessor;

(ii) Damage to land exceeding twenty percent of a parcel's assessed land value in the current tax year as determined by the county assessor; or

(iii) Damage exceeding twenty percent of the property's assessed value in the current tax year as determined by the county assessor if (A) such property is located in an area that has been declared a disaster area by the Governor and (B) a housing inspector or health inspector has determined that the property is uninhabitable or unlivable.

Source: Laws 2019, LB512, § 15.

77-1308 Destroyed real property; property owner; file report; form; county board of equalization; duties.

(1) If real property becomes destroyed real property during the current assessment year, the property owner shall file a report of the destroyed real property with the county assessor and county clerk of the county in which the property is located on or before July 15 of the current assessment year. The report of destroyed real property shall be made on a form prescribed by the Tax Commissioner.

(2) If the destroyed real property was a mobile home that was moved pursuant to section 77-3708 and required to pay an accelerated tax pursuant to section 77-1725.01, the property owner shall report the destroyed real property on or before July 15 in the same manner as other real property. The property owner may make a request for refund of the accelerated tax paid pursuant to section 77-1734.01 for any portion of value reduced by the county board of equalization pursuant to section 77-1309.

(3) The county board of equalization shall consider any report of destroyed real property received pursuant to this section, and the assessment of such property shall be made by the county board of equalization in accordance with section 77-1309. After county board of equalization action pursuant to section 77-1309, the county assessor shall correct the current year's assessment roll as provided in section 77-1613.02.

Source: Laws 2019, LB512, § 16.

77-1309 Destroyed real property; county board of equalization; adjust assessed valuation; notice; protests; filing; decision; appeal.

(1) If the county board of equalization receives a report of destroyed real property pursuant to section 77-1308, the county board of equalization shall adjust the assessed value of the destroyed real property to its assessed value on the date it suffers significant property damage.

(2) The county board of equalization may meet on or after June 1 and on or before July 25, or on or before August 10 if the board has adopted a resolution to extend the deadline for hearing protests under section 77-1502, for the purpose of considering the assessed value of destroyed real property pursuant to this section. Any action of the county board of equalization which changes the assessed value of destroyed real property pursuant to this section shall be for the current assessment year only.

(3) The county board of equalization shall give notice of the assessed value of the destroyed real property to the record owner or agent at his or her last-known address. Protests of the assessed value proposed for destroyed real property pursuant to this section shall be filed with the county board of equalization within thirty days after the mailing of the notice. All provisions of section 77-1502 except dates for filing a protest, the period for hearing protests, and the date for mailing notice of the county board of equalization's decision are applicable to any protest filed pursuant to this section. The county board of equalization shall issue its decision on the protest within thirty days after the filing of the protest. Within seven days after the county board of equalization's final decision, the county clerk shall mail to the protester written notice of the decision. The notice shall contain a statement advising the protester that a report of the decision is available at the county clerk's or county assessor's office, whichever is appropriate.

(4) The action of the county board of equalization upon a protest filed pursuant to this section may be appealed to the Tax Equalization and Review Commission within thirty days after the board's final decision.

Source: Laws 2019, LB512, § 17.

77-1311.03 County assessor; systematic inspection and review; adjustment required.

On or before March 19 of each year, each county assessor shall conduct a systematic inspection and review by class or subclass of a portion of the taxable real property parcels in the county for the purpose of achieving uniform and proportionate valuations and assuring that the real property record data accurately reflects the property, except beginning January 1, 2014, in any county with a population of at least one hundred fifty thousand inhabitants according to the most recent federal decennial census, the inspection and review shall be conducted on or before March 25. The county assessor shall adjust the value of all other taxable real property parcels by class or subclass in the county so that the value of all real property is uniform and proportionate. The county assessor shall determine the portion to be inspected and reviewed each year to assure that all parcels of real property in the county have been inspected and reviewed no less frequently than every six years. Inspection of real property shall be completed in the manner as directed by the county assessor.

Source: Laws 2007, LB334, § 100; Laws 2011, LB384, § 9; Laws 2024, LB317, § 1.
Effective date July 19, 2024.

77-1333 Rent-restricted housing projects; county assessor; perform income-approach calculation; owner; duties; Rent-Restricted Housing Projects Valuation Committee; created; members; meetings; report; county board of equalization; filing; hearing; Tax Commissioner; powers; petition; hearing.

(1) For purposes of this section, rent-restricted housing project means a project consisting of five or more houses or residential units that has received an allocation of federal low-income housing tax credits under section 42 of the Internal Revenue Code from the Nebraska Investment Finance Authority or its successor agency and, for the year of assessment, is a project as defined in section 58-219 involving rental housing as defined in section 58-220.

(2) The Legislature finds that:

(a) The provision of safe, decent, and affordable housing to all residents of the State of Nebraska is a matter of public concern and represents a legitimate and compelling state need, affecting the general welfare of all residents;

(b) Rent-restricted housing projects effectively provide safe, decent, and affordable housing for residents of Nebraska;

(c) Such projects are restricted by federal law as to the rents paid by the tenants thereof. Such restrictions are set forth in a land-use restriction agreement, which is a restriction applicable to real property under section 77-112;

(d) Of all the professionally accepted mass appraisal methodologies, which include the sales comparison approach, the income approach, and the cost approach, the utilization of the income-approach methodology results in the most accurate determination of the actual value of such projects; and

(e) This section is intended to (i) further the provision of safe, decent, and affordable housing to all residents of Nebraska and (ii) comply with Article VIII, section 1, of the Constitution of Nebraska, which empowers the Legislature to prescribe standards and methods for the determination of value of real property at uniform and proportionate values.

(3) Except as otherwise provided in this section, the county assessor shall utilize an income-approach calculation to determine the actual value of a rent-restricted housing project when determining the assessed valuation to place on the property for each assessment year. The income-approach calculation shall be consistent with this section and any rules and regulations adopted and promulgated by the Tax Commissioner and shall comply with professionally accepted mass appraisal techniques.

(4) The Rent-Restricted Housing Projects Valuation Committee is created. For administrative purposes only, the committee shall be within the Department of Revenue. The committee's purpose shall be to develop a market-derived capitalization rate to be used by county assessors in determining the assessed valuation for rent-restricted housing projects. The committee shall consist of the following four persons:

(a) A representative of county assessors appointed by the Tax Commissioner. Such representative shall be skilled in the valuation of property and shall hold a certificate issued under section 77-422;

(b) A representative of the low-income housing industry appointed by the Tax Commissioner. The appointment shall be based on a recommendation made by the Nebraska Commission on Housing and Homelessness;

(c) The Property Tax Administrator or a designee of the Property Tax Administrator who holds a certificate issued under section 77-422. Such person shall serve as the chairperson of the committee; and

(d) An appraiser from the private sector appointed by the Tax Commissioner. Such appraiser must hold either a valid credential as a certified general real property appraiser under the Real Property Appraiser Act or an MAI designation from the Appraisal Institute.

(5) The owner of a rent-restricted housing project shall file a statement electronically on a form prescribed by the Tax Commissioner with the Rent-Restricted Housing Projects Valuation Committee on or before July 1 of each year that includes (a) actual income and actual expense data for the prior year or, in the case of an initial statement filed for any project under this subsection, the estimated income and expenses for the first year of operation taken from the application for an allocation of tax credits or private activity bonds, (b) a description of any land-use restrictions, (c) a description of the terms of any mortgage loans, including loan amount, interest rate, and amortization period, and (d) such other information as the committee or the county assessor may require for purposes of this section. The Department of Revenue, on behalf of the committee, shall forward such statements on or before August 15 of each year to the county assessor of each county in which a rent-restricted housing project is located.

(6) The Rent-Restricted Housing Projects Valuation Committee shall meet annually in November to examine the information on rent-restricted housing projects that was provided pursuant to subsection (5) of this section. The Department of Revenue shall electronically publish notice of such meeting no less than thirty days in advance. The committee shall also solicit information on

the sale of any such rent-restricted housing projects and information on the yields generated to investors in rent-restricted housing projects. The committee shall, after reviewing all such information, calculate a market-derived capitalization rate on an annual basis using the band-of-investment technique or other generally accepted technique used to derive capitalization rates depending upon the data available. The capitalization rate shall be a composite rate weighted by the proportions of total property investment represented by equity and debt, with equity weighted at eighty percent and debt weighted at twenty percent unless a substantially different market capital structure can be verified to the county assessor. The yield for equity shall be calculated using the data on investor returns gathered by the committee. The yield for debt shall be calculated using the data provided to the committee pursuant to subsection (5) of this section. If the committee determines that a particular county or group of counties requires a different capitalization rate than that calculated for the rest of the state pursuant to this subsection, then the committee may calculate an additional capitalization rate that will apply only to such county or group of counties.

(7) After the Rent-Restricted Housing Projects Valuation Committee has calculated the capitalization rate or rates under subsection (6) of this section, the committee shall provide such rate or rates and the information reviewed by the committee in calculating such rate or rates in an annual report. Such report shall be forwarded by the Property Tax Administrator to each county assessor in Nebraska no later than December 1 of each year for his or her use in determining the valuation of rent-restricted housing projects. The Department of Revenue shall publish the annual report electronically but may charge a fee for paper copies. The Tax Commissioner shall set the fee based on the reasonable cost of producing the report.

(8) Except as provided in subsections (9) through (11) of this section, each county assessor shall use the capitalization rate or rates contained in the report received under subsection (7) of this section and the income and expense data filed by owners of rent-restricted housing projects under subdivision (5)(a) of this section in the county assessor's income-approach calculation for the year. The county assessor shall then use the calculated amount, along with the calculated amounts from the prior two years, to determine a three-year average. Such three-year average shall be the valuation placed on the rent-restricted housing project for the current year. If only two calculated amounts are available, the county assessor shall determine a two-year average, and such two-year average shall be the valuation placed on the rent-restricted housing project for the current year. If only one calculated amount is available, such calculated amount shall be the valuation placed on the rent-restricted housing project for the current year. Any low-income housing tax credits authorized under section 42 of the Internal Revenue Code that were granted to owners of the project shall not be considered income for purposes of the calculation.

(9) If the income and expense data required to be filed for a rent-restricted housing project under subdivision (5)(a) of this section is not filed in a timely manner, the county assessor may use any method for determining actual value for such rent-restricted housing project that is consistent with professionally accepted mass appraisal methods described in section 77-112, so long as such method values the property as a rent-restricted housing project.

(10) If a county assessor, based on the facts and circumstances, believes that the income-approach calculation does not result in a valuation of a specific

rent-restricted housing project at its actual value as a rent-restricted housing project, then the county assessor shall present such facts and circumstances to the county board of equalization. If the county board of equalization, based on such facts and circumstances, concurs with the county assessor, then the county board of equalization shall petition the Tax Equalization and Review Commission to consider the county assessor's utilization of another professionally accepted mass appraisal technique that, based on the facts and circumstances presented by a county board of equalization, would result in a substantially different determination of actual value of the rent-restricted housing project. Petitions must be filed no later than January 31. The burden of proof is on the petitioning county board of equalization to show that failure to make a determination that a different methodology should be used would result in a value for such rent-restricted housing project that is not equitable and in accordance with the law. At the hearing, the commission may receive testimony from any interested person. After a hearing, the commission shall, within the powers granted in section 77-5007, enter its order based on evidence presented to it at such hearing.

(11) If the Tax Commissioner, based on the facts and circumstances, believes that the applicable capitalization rate set by the Rent-Restricted Housing Projects Valuation Committee to value a rent-restricted housing project does not result in a valuation at actual value for such rent-restricted housing project, then the Tax Commissioner shall petition the Tax Equalization and Review Commission to consider an adjustment to the capitalization rate of such rent-restricted housing project. Petitions must be filed no later than January 31. The burden of proof is on the Tax Commissioner to show that failure to make an adjustment to the capitalization rate employed would result in a value that is not equal to the rent-restricted housing project's actual value as a rent-restricted housing project. At the hearing, the commission may receive testimony from any interested person. After a hearing, the commission shall, within the powers granted in section 77-5007, enter its order based on evidence presented to it at such hearing.

Source: Laws 2005, LB 263, § 6; Laws 2007, LB334, § 68; Laws 2015, LB356, § 1; Laws 2017, LB217, § 5; Laws 2024, LB1317, § 76. Operative date July 19, 2024.

Cross References

Nebraska Investment Finance Authority Act, see section 58-201.
Real Property Appraiser Act, see section 76-2201.

77-1344 Agricultural or horticultural land; special valuation; when applicable.

(1) Agricultural or horticultural land which has an actual value as defined in section 77-112 reflecting purposes or uses other than agricultural or horticultural purposes or uses shall be assessed as provided in subsection (3) of section 77-201 if the land meets the qualifications of this subsection and an application for such special valuation is filed and approved pursuant to section 77-1345. In order for the land to qualify for special valuation, the land shall be agricultural or horticultural land and (a) the land shall consist of five contiguous acres or more or (b) if the land consists of less than five contiguous acres, the owner or lessee of the land shall provide an Internal Revenue Service Schedule F or other suitable tax document reporting a profit or loss from farming for two out of the last three years for such land.

(2) The eligibility of land for the special valuation provisions of this section shall be determined each year as of January 1. If the land so qualified becomes disqualified on or before December 31 of that year, it shall continue to receive the special valuation until January 1 of the year following.

(3) The special valuation placed on such land by the county assessor under this section shall be subject to equalization by the county board of equalization and the Tax Equalization and Review Commission.

Source: Laws 1974, LB 359, § 2; Laws 1983, LB 26, § 2; Laws 1985, LB 271, § 16; Laws 1989, LB 361, § 10; Laws 1991, LB 320, § 5; Laws 1996, LB 934, § 2; Laws 1996, LB 1039, § 1; Laws 1997, LB 270, § 76; Laws 1998, LB 611, § 3; Laws 2000, LB 968, § 49; Laws 2001, LB 170, § 10; Laws 2004, LB 973, § 26; Laws 2005, LB 261, § 5; Laws 2006, LB 808, § 28; Laws 2007, LB166, § 6; Laws 2009, LB166, § 10; Laws 2019, LB185, § 1; Laws 2021, LB9, § 2; Laws 2023, LB727, § 46; Laws 2024, LB877, § 1. Effective date April 3, 2024.

77-1347 Agricultural or horticultural lands; special valuation; disqualification.

Upon approval of an application, the county assessor shall value the land as provided in section 77-1344 until the land becomes disqualified for such valuation by:

(1) Written notification by the applicant or his or her successor in interest to the county assessor to remove such special valuation;

(2) Inclusion of the land within the corporate boundaries of any sanitary and improvement district, city, or village, except that this subdivision shall not apply on or after January 1, 2023;

(3) The land no longer qualifying as agricultural or horticultural land; or

(4) For land that consists of less than five contiguous acres, the owner or lessee of the land not providing an Internal Revenue Service Schedule F or other suitable tax document reporting a profit or loss from farming for two out of the last three years.

Source: Laws 1974, LB 359, § 5; Laws 1983, LB 26, § 4; Laws 1985, LB 271, § 19; Laws 1989, LB 361, § 12; Laws 2000, LB 968, § 53; Laws 2001, LB 170, § 11; Laws 2002, LB 994, § 18; Laws 2005, LB 263, § 12; Laws 2006, LB 808, § 31; Laws 2010, LB806, § 1; Laws 2019, LB185, § 2; Laws 2023, LB727, § 47; Laws 2024, LB877, § 2. Effective date April 3, 2024.

77-1359 Agricultural and horticultural land; legislative findings; terms, defined.

The Legislature finds and declares that agricultural land and horticultural land shall be a separate and distinct class of real property for purposes of assessment. The assessed value of agricultural land and horticultural land shall not be uniform and proportionate with all other real property, but the assessed value shall be uniform and proportionate within the class of agricultural land and horticultural land.

For purposes of this section and section 77-1363:

(1)(a) Agricultural land and horticultural land means a parcel of land, excluding land associated with a building or enclosed structure located on the parcel, which is primarily used for agricultural or horticultural purposes, including wasteland lying in or adjacent to and in common ownership or management with other agricultural land and horticultural land.

(b) Agricultural land and horticultural land does not include land used for commercial purposes that are not agricultural or horticultural purposes, such as land used for a solar farm or wind farm;

(2)(a) Agricultural or horticultural purposes means used for the commercial production of any plant or animal product in a raw or unprocessed state that is derived from the science and art of agriculture, aquaculture, or horticulture.

(b) Agricultural or horticultural purposes includes the following uses of land:

(i) Land retained or protected for future agricultural or horticultural purposes under a conservation easement as provided in the Conservation and Preservation Easements Act except when the parcel or a portion thereof is being used for purposes other than agricultural or horticultural purposes; and

(ii) Land enrolled in a federal or state program in which payments are received for removing such land from agricultural or horticultural production.

(c) Whether a parcel of land is primarily used for agricultural or horticultural purposes shall be determined without regard to whether some or all of the parcel is platted and subdivided into separate lots or developed with improvements consisting of streets, sidewalks, curbs, gutters, sewer lines, water lines, or utility lines;

(3) Farm home site means land contiguous to a farm site which includes an inhabitable residence and improvements used for residential purposes and which is located outside of urban areas or outside a platted and zoned subdivision; and

(4) Farm site means the portion of land contiguous to land actively devoted to agriculture which includes improvements that are agricultural or horticultural in nature, including any uninhabitable or unimproved farm home site.

Source: Laws 1985, LB 271, § 4; Laws 1986, LB 817, § 11; Laws 1988, LB 1207, § 3; Laws 1989, LB 361, § 14; Laws 1991, LB 320, § 7; Laws 1996, LB 934, § 3; Laws 1997, LB 270, § 77; Laws 2000, LB 419, § 1; Laws 2006, LB 808, § 35; Laws 2008, LB777, § 1; Laws 2012, LB750, § 1; Laws 2017, LB217, § 6; Laws 2024, LB1317, § 78.
Operative date July 19, 2024.

Cross References

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

77-1363 Agricultural and horticultural land; classes and subclasses.

Agricultural land and horticultural land shall be divided into classes and subclasses of real property under section 77-103.01, including, but not limited to, irrigated cropland, dryland cropland, grassland, wasteland, nurseries, feedlots, and orchards, so that the categories reflect uses appropriate for the valuation of such land according to law. Classes shall be inventoried by subclasses of real property based on soil classification standards developed by the Natural Resources Conservation Service of the United States Department of Agriculture as converted into land capability groups by the Property Tax

Administrator. Land capability groups shall be Natural Resources Conservation Service specific to the applied use and not all based on a dryland farming criterion. County assessors shall utilize soil surveys from the Natural Resources Conservation Service of the United States Department of Agriculture as directed by the Property Tax Administrator. Nothing in this section shall be construed to limit the classes and subclasses of real property that may be used by county assessors or the Tax Equalization and Review Commission to achieve more uniform and proportionate valuations.

Source: Laws 1985, LB 271, § 8; Laws 1988, LB 1207, § 5; Laws 1989, LB 361, § 17; Laws 1991, LB 320, § 9; Laws 1994, LB 902, § 19; Laws 1995, LB 490, § 139; Laws 1997, LB 270, § 81; Laws 1999, LB 403, § 7; Laws 2001, LB 170, § 15; Laws 2004, LB 973, § 30; Laws 2006, LB 808, § 36; Laws 2006, LB 1115, § 31; Laws 2010, LB877, § 3; Laws 2019, LB372, § 1.

77-1376 Improvements on leased lands; how assessed; notice.

Improvements on leased lands, other than leased public lands, shall be assessed to the owner of the leased lands unless on or before March 1, following any construction thereof or change in the improvements made on or before January 1, the owner of the leased lands or the lessee thereof files with the county assessor, on a form prescribed by the Tax Commissioner, a request stating that specifically designated improvements on such leased lands are the property of the lessee. The improvements shall be assessed as real property, and the taxes imposed on the improvements shall be collected by levy and sale of the interest of the owner in the same manner as in all other cases of the collection of taxes on real property. When the request is filed by the owner of the leased lands, notice shall be given by the county assessor to the lessee at the address on the request.

Source: Laws 1963, c. 434, § 1, p. 1451; Laws 1985, LB 268, § 27; Laws 1987, LB 508, § 32; R.S.1943, (1990), § 77-1209.03; Laws 1992, LB 1063, § 113; Laws 1992, Second Spec. Sess., LB 1, § 86; Laws 1995, LB 490, § 143; Laws 1997, LB 270, § 84; Laws 2007, LB334, § 77; Laws 2024, LB146, § 1.
Effective date July 19, 2024.

77-1395 Sales-restricted house; assessment; application; county assessor; duties.

(1) The Legislature finds that:

(a) The provision of safe, decent, and affordable housing to all residents of the State of Nebraska is a matter of public concern and represents a legitimate and compelling state need, affecting the general welfare of all residents;

(b) Sales-restricted houses effectively provide safe, decent, and affordable housing to residents of Nebraska;

(c) Sales-restricted houses are restricted by tools such as deed restrictions, covenants, land-lease agreements, and other similar recorded instruments that establish a period of affordability for low-income persons; and

(d) These restrictions alter the value of the property by limiting an owner's ability to sell the property.

(2) For purposes of this section:

(a) Charitable nonprofit housing organization means a charitable nonprofit organization whose primary purpose is the construction or renovation of residential housing for conveyance to low-income persons;

(b) Low-income person means a person with a household income of not more than one hundred twenty percent of the area median income, as determined by the United States Department of Housing and Urban Development;

(c) Primary residence means the home or place in which an individual's habitation is fixed and to which the individual has a present intention of returning after an absence therefrom, regardless of the duration of the absence; and

(d) Sales-restricted house means a residential single-family property that is subject to restrictions, created pursuant to a deed restriction, covenant, land-lease agreement, or other similar recorded instrument, that:

(i) Limit the ability of the owner to sell the property in an arm's length transaction;

(ii) Are attached to the property for a minimum period of twenty years;

(iii) Require the property to be the primary residence of an owner of the property;

(iv) Restrict the owner from selling the property to any buyer who is not a low-income person or a charitable nonprofit housing organization; and

(v) Were placed on the property by a charitable nonprofit housing organization upon such organization's conveyance of the property to a low-income person.

(3) Any organization or individual that owns a sales-restricted house may file an application with the county assessor of the county in which the sales-restricted house is located for a property valuation under this section. Application shall be made on a form prescribed by the Tax Commissioner. The application shall include (a) information describing the location of the sales-restricted house and (b) details on the sales restriction.

(4) Upon receipt of the application, the county assessor shall determine:

(a) The value of the sales-restricted house at its unrestricted appraised value; and

(b) The maximum sales price allowed for the sales-restricted house under the applicable restrictions.

(5) The county assessor shall use the lesser of the two values described in subsection (4) of this section for purposes of determining the value of the property under section 77-201.

Source: Laws 2024, LB1317, § 77.
Operative date July 19, 2024.

ARTICLE 14

ACHIEVING A BETTER LIFE EXPERIENCE PROGRAM

Section
77-1403. Account owner; designated beneficiary; death of designated beneficiary; transfer or distribution of account balances; notice regarding potential tax consequences; state claim or recovery; when prohibited.

77-1403 Account owner; designated beneficiary; death of designated beneficiary; transfer or distribution of account balances; notice regarding potential tax consequences; state claim or recovery; when prohibited.

(1) Unless otherwise permitted under section 529A, the owner of an account shall be the designated beneficiary of the account, except that if the designated beneficiary of the account is a minor or has a custodian or other fiduciary appointed for the purposes of managing such beneficiary's financial affairs, a custodian or fiduciary for such designated beneficiary may serve as the account owner if such form of ownership is permitted or not prohibited under section 529A.

(2) Unless otherwise permitted under section 529A, the designated beneficiary of an account shall be a resident of the state or of a contracting state. The State Treasurer shall determine residency of Nebraska residents for such purpose in such manner as may be required or permissible under section 529A or, in the absence of any guidance under section 529A, by such other means as the State Treasurer shall consider advisable for purposes of satisfying the requirements of section 529A.

(3) To the extent permitted by federal law, upon the death of a designated beneficiary of an account, the owner of the account or the personal representative of the designated beneficiary may have the balance of the account transferred to another account under the program specified by the owner of the account, the designated beneficiary, or the estate of the designated beneficiary. If the balance of the account on the date of death is less than or equal to five thousand dollars, the owner of the account or the personal representative of the designated beneficiary may also have the balance of the account distributed to an individual or individuals specified by the designated beneficiary, the owner of the account, or the personal representative of the designated beneficiary.

(4) At the time an account is established under the program and prior to any transfer or distribution pursuant to subsection (3) of this section, the State Treasurer shall notify the owner of the account, the designated beneficiary, and the estate of the designated beneficiary, if applicable, of the potential tax consequences of transferring or distributing funds pursuant to subsection (3) of this section.

(5) Upon the death of a designated beneficiary and after the Department of Health and Human Services has received approval from the Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services:

(a) The state shall not seek recovery of any amount remaining in the account of the designated beneficiary for any amount of medical assistance received by the designated beneficiary or his or her spouse or dependent under the medical assistance program pursuant to the Medical Assistance Act after the establishment of the account; and

(b) The state shall not file a claim for the payment under subdivision (f) of section 529A of the Internal Revenue Code, as amended.

Source: Laws 2015, LB591, § 3; Laws 2020, LB705, § 1; Laws 2023, LB727, § 48.

Cross References

Medical Assistance Act, see section 68-901.

ARTICLE 15
EQUALIZATION BY COUNTY BOARD

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.

77-1514 Abstract of property assessment rolls; prepared by county assessor; file with Property Tax Administrator.

(1) The county assessor shall prepare an abstract of the property assessment rolls of locally assessed real property of his or her county on forms prescribed and furnished by the Tax Commissioner. The county assessor shall file the abstract with the Property Tax Administrator on or before March 19, except beginning January 1, 2014, in any county with a population of at least one hundred fifty thousand inhabitants according to the most recent federal decennial census, the real property abstract shall be filed on or before March 25. The abstract shall show the taxable value of real property in the county as determined by the county assessor and any other information as required by the Property Tax Administrator. The Property Tax Administrator, upon written request from the county assessor, may for good cause shown extend the final filing due date for the abstract and the statutory deadlines provided in section 77-5027. The Property Tax Administrator may extend the statutory deadline in section 77-5028 for a county if the deadline is extended for that county. Beginning January 1, 2014, in any county with a population of at least one hundred fifty thousand inhabitants according to the most recent federal decennial census, the county assessor shall request an extension of the final filing due date by March 22.

(2) For tax years prior to tax year 2020, the county assessor shall prepare an abstract of the property assessment rolls of locally assessed personal property of his or her county on forms prescribed and furnished by the Tax Commissioner. The county assessor shall electronically file the abstract with the Property Tax Administrator on or before July 20.

Source: Laws 1903, c. 73, § 125, p. 431; R.S.1913, § 6442; C.S.1922, § 5977; C.S.1929, § 77-1707; R.S.1943, § 77-1514; Laws 1945, c. 190, § 1, p. 590; Laws 1947, c. 251, § 39, p. 827; Laws 1959, c. 371, § 4, p. 1309; Laws 1987, LB 508, § 49; Laws 1992, LB 1063, § 129; Laws 1992, Second Spec. Sess., LB 1, § 102; Laws 1994, LB 902, § 24; Laws 1995, LB 452, § 28; Laws 1995, LB 490, § 155; Laws 1997, LB 270, § 91; Laws 1999, LB 194, § 28; Laws 2000, LB 968, § 59; Laws 2004, LB 973, § 37; Laws 2005, LB 15, § 6; Laws 2005, LB 261, § 7; Laws 2007, LB334, § 79; Laws 2011, LB162, § 1; Laws 2011, LB384, § 18; Laws 2015, LB259, § 9; Laws 2020, LB1107, § 128.

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.
77-1613.02. Tax list; corrections; prohibited acts; violation; penalty.
77-1630. Property Tax Request Act, how cited.
77-1631. Terms, defined.
77-1632. Property tax request; procedure; public hearing; resolution or ordinance; contents.

Section
77-1633. Property tax request; increase by more than allowable growth percentage; notice and hearing; resolution or ordinance; requirements; certification; county clerk; county assessor; duties.
77-1634. 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.

Cross References

Property Tax Request Act, see section 77-1630.

77-1601.02 Transferred to section 77-1632.

77-1613.02 Tax list; corrections; prohibited acts; violation; penalty.

The county assessor or county clerk shall correct the assessment and tax rolls after action of the county board of equalization or final order of an applicable administrative body or court. Each correction shall be made in triplicate, each set of triplicate forms being consecutively numbered, and there shall be entered upon such form all data pertaining to the assessment which is to be corrected. The correction shall show all additions and reductions, the amount of tax added or reduced, with the reason therefor, and the page or pages of the tax rolls upon which such change is to be made. The original copy shall be delivered to the county treasurer, the duplicate copy to the county clerk, and the triplicate copy shall remain in the office of the county assessor. The county assessor or county clerk shall provide upon demand a listing showing each entry and sorted by tax year. The county treasurer shall thereupon correct the tax roll to conform to the correction copy and all changes shall be made in red ink, drawing a line through the original or erroneous figures, but not erasing the same. No county assessor shall reduce or increase the valuation of any property, real or personal, without the approval of the county board of equalization or an applicable administrative body or court, as provided for in this section. Any county assessor who shall willfully reduce or increase the valuation of any property, without the approval of the county board of equalization or an applicable administrative body or court, as provided in this section, shall be guilty of a misdemeanor and shall, upon conviction thereof, be fined not less than twenty dollars nor more than one hundred dollars.

Source: Laws 1921, c. 133, art. XI, § 6, p. 592; C.S.1922, § 5903; C.S.1929, § 77-1006; Laws 1939, c. 100, § 1, p. 457; C.S.Supp.,1941, § 77-1006; R.S.1943, § 77-519; Laws 1947, c. 250, § 12, p. 791; Laws 1951, c. 261, § 1, p. 887; R.S.1943, (1986), § 77-519; Laws 1995, LB 490, § 160; Laws 1997, LB 270, § 93; Laws 2007, LB166, § 10; Laws 2024, LB126, § 1.
Operative date January 1, 2025.

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.

77-1631 Terms, defined.

For purposes of the Property Tax Request Act:

(1) Allowable growth percentage means a percentage equal to the sum of (a) two percent plus (b) the political subdivision's real growth percentage;

(2) Excess value means an amount equal to the assessed value of the real property included in a tax increment financing project minus the redevelopment project valuation for such real property;

(3) Property tax request means the total amount of property taxes requested to be raised for a political subdivision through the levy imposed pursuant to section 77-1601, excluding the amount to be levied for the payment of principal or interest on bonds issued or authorized to be issued by a school district;

(4) Real growth percentage means the percentage obtained by dividing (a) the political subdivision's real growth value by (b) the political subdivision's total real property valuation from the prior year;

(5) Real growth value means and includes:

(a) The increase in a political subdivision's real property valuation from the prior year to the current year due to (i) improvements to real property as a result of new construction and additions to existing buildings, (ii) any other improvements to real property which increase the value of such property, (iii) annexation of real property by the political subdivision, and (iv) a change in the use of real property; and

(b) The annual increase in the excess value for any tax increment financing project located in the political subdivision;

(6) Redevelopment project valuation has the same meaning as in section 18-2103; and

(7) Tax increment financing project means a redevelopment project as defined in section 18-2103 that is financed through the division of taxes as provided in section 18-2147.

Source: Laws 2021, LB644, § 2; Laws 2023, LB727, § 49.

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, subject to the limitations provided in the School District Property Tax Limitation Act and the Property Tax Growth Limitation Act, 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, subject to the limitations provided in the School District Property Tax Limitation Act and the Property Tax Growth Limitation Act, 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, B103, § 1; Laws 2019, LB212, § 4; R.S.Supp.,2020, § 77-1601.02; Laws 2021, LB528, § 18; Laws 2021, LB644, § 3; Laws 2023, LB243, § 9; Laws 2024, First Spec. Sess., LB34, § 20.
Effective date August 21, 2024.

Cross References

Property Tax Growth Limitation Act, see section 13-3401.
School District Property Tax Limitation Act, see section 79-3401.

77-1633 Property tax request; increase by more than allowable growth percentage; notice and hearing; resolution or ordinance; requirements; certification; county clerk; county assessor; duties.

(1) For purposes of this section, political subdivision means any county, city, school district, or community college.

(2) If any political subdivision seeks to increase its property tax request by more than the allowable growth percentage, such political subdivision may do so, subject to the limitations provided in the School District Property Tax Limitation Act and the Property Tax Growth Limitation Act, if the following requirements are met:

(a) A public hearing is held and notice of such hearing is provided in compliance with subsection (3) of this section; and

(b) The governing body of such political subdivision passes a resolution or an ordinance that complies with subsection (4) of this section.

(3)(a) Each political subdivision within a county that seeks to increase its property tax request by more than the allowable growth percentage shall participate in a joint public hearing. Each such political subdivision shall designate one representative to attend the joint public hearing on behalf of the political subdivision. If a political subdivision includes area in more than one county, the political subdivision shall be deemed to be within the county in which the political subdivision's principal headquarters are located. At such hearing, there shall be no items on the agenda other than discussion on each political subdivision's intent to increase its property tax request by more than the allowable growth percentage.

(b) At least one elected official from each participating political subdivision shall attend the joint public hearing. An elected official may be the designated representative from a participating political subdivision. The presence of a quorum or the participation of elected officials at the joint public hearing does not constitute a meeting as defined by section 84-1409 of the Open Meetings Act.

(c) The joint public hearing shall be held on or after September 14 and prior to September 24 and before any of the participating political subdivisions file their adopted budget statement pursuant to section 13-508.

(d) The joint public hearing shall be held after 6 p.m. local time on the relevant date.

(e) The joint public hearing shall be organized by the county clerk or his or her designee. At the joint public hearing, the designated representative of each political subdivision shall give a brief presentation on the political subdivision's intent to increase its property tax request by more than the allowable growth percentage and the effect of such request on the political subdivision's budget. The presentation shall include:

(i) The name of the political subdivision;

(ii) The amount of the property tax request; and

(iii) The following statements:

(A) The total assessed value of property differs from last year's total assessed value by ..... percent;

(B) The tax rate which would levy the same amount of property taxes as last year, when multiplied by the new total assessed value of property, would be $..... per $100 of assessed value;

(C) The (name of political subdivision) proposes to adopt a property tax request that will cause its tax rate to be $..... per $100 of assessed value;

(D) Based on the proposed property tax request and changes in other revenue, the total operating budget of (name of political subdivision) will exceed last year's by ..... percent; and

(E) To obtain more information regarding the increase in the property tax request, citizens may contact the (name of political subdivision) at (telephone number and email address of political subdivision).

(f) Any member of the public shall be allowed to speak at the joint public hearing and shall be given a reasonable amount of time to do so.

(g) Notice of the joint public hearing shall be provided:

(i) By sending a postcard to all affected property taxpayers. The postcard shall be sent to the name and address to which the property tax statement is mailed;

(ii) By posting notice of the hearing on the home page of the relevant county's website, except that this requirement shall only apply if the county has a population of more than ten thousand inhabitants; and

(iii) By publishing notice of the hearing in a legal newspaper in or of general circulation in the relevant county.

(h) Each political subdivision that participates in the joint public hearing shall electronically send the information prescribed in subdivision (3)(i) of this section to the county assessor by September 4. The county clerk shall notify the county assessor of the date, time, and location of the joint public hearing no later than September 4. The county clerk shall notify each participating political subdivision of the date, time, and location of the joint public hearing. The county assessor shall send the information required to be included on the postcards pursuant to subdivision (3)(i) of this section to a printing service designated by the county board. The initial cost for printing the postcards shall be paid from the county general fund. Such postcards shall be mailed at least

seven calendar days before the joint public hearing. The cost of creating and mailing the postcards, including staff time, materials, and postage, shall be charged proportionately to the political subdivisions participating in the joint public hearing based on the total number of parcels in each participating political subdivision. Each participating political subdivision shall also maintain a prominently displayed and easily accessible link on the home page of the political subdivision's website to the political subdivision's proposed budget, except that this requirement shall not apply if the political subdivision is a county with a population of less than ten thousand inhabitants, a city with a population of less than one thousand inhabitants, or, for joint public hearings prior to January 1, 2024, a school district.

(i) The postcard sent under this subsection and the notice posted on the county's website, if required under subdivision (3)(g)(ii) of this section, and published in the newspaper shall include the date, time, and location for the joint public hearing, a listing of and telephone number for each political subdivision that will be participating in the joint public hearing, and the amount of each participating political subdivision's property tax request. The postcard shall also contain the following information:

(i) The following words in capitalized type at the top of the postcard: NOTICE OF PROPOSED TAX INCREASE;

(ii) The name of the county that will hold the joint public hearing, which shall appear directly underneath the capitalized words described in subdivision (3)(i)(i) of this section;

(iii) The following statement: The following political subdivisions are proposing a revenue increase which would result in an overall increase in property taxes in (insert current tax year). THE ACTUAL TAX ON YOUR PROPERTY MAY INCREASE OR DECREASE. This notice contains estimates of the tax on your property as a result of this revenue increase. These estimates are calculated on the basis of the proposed (insert current tax year) data. The actual tax on your property may vary from these estimates.

(iv) The parcel number for the property;

(v) The name of the property owner and the address of the property;

(vi) The property's assessed value in the previous tax year;

(vii) The amount of property taxes due in the previous tax year for each participating political subdivision;

(viii) The property's assessed value for the current tax year;

(ix) The amount of property taxes due for the current tax year for each participating political subdivision;

(x) The change in the amount of property taxes due for each participating political subdivision from the previous tax year to the current tax year; and

(xi) The following statement: To obtain more information regarding the tax increase, citizens may contact the political subdivision at the telephone number provided in this notice.

(4) After the joint public hearing required in subsection (3) of this section, the governing body of each participating political subdivision shall pass an ordinance or resolution to set such political subdivision's property tax request. If the political subdivision is increasing its property tax request over the amount from the prior year, including any increase in excess of the allowable growth

percentage, then such ordinance or resolution shall include, but not be limited to, the following information:

(a) The name of the political subdivision;

(b) The amount of the property tax request;

(c) The following statements:

(i) The total assessed value of property differs from last year's total assessed value by ..... percent;

(ii) The tax rate which would levy the same amount of property taxes as last year, when multiplied by the new total assessed value of property, would be $..... per $100 of assessed value;

(iii) The (name of political subdivision) proposes to adopt a property tax request that will cause its tax rate to be $..... per $100 of assessed value; and

(iv) Based on the proposed property tax request and changes in other revenue, the total operating budget of (name of political subdivision) will exceed last year's by ..... percent; and

(d) The record vote of the governing body in passing such resolution or ordinance.

(5) Any resolution or ordinance setting a property tax request under this section shall be certified and forwarded to the county clerk on or before October 15 of the year for which the tax request is to apply.

(6) The county clerk, or his or her designee, shall prepare a report which shall include:

(a) The names of the designated representatives of the political subdivisions participating in the joint public hearing;

(b) The name and address of each individual who spoke at the joint public hearing, unless the address requirement is waived to protect the security of the individual, and the name of any organization represented by each such individual;

(c) The name of each political subdivision that participated in the joint public hearing;

(d) The real growth value and real growth percentage for each participating political subdivision;

(e) The amount each participating political subdivision seeks to increase its property tax request in excess of the allowable growth percentage; and

(f) The number of individuals who signed in to attend the joint public hearing.

Such report shall be delivered to the political subdivisions participating in the joint public hearing within ten days after such hearing.

Source: Laws 2021, LB644, § 4; Laws 2022, LB927, § 10; Laws 2023, LB243, § 10; Laws 2023, LB727, § 50; Laws 2024, First Spec. Sess., LB34, § 21.
Effective date August 21, 2024.

Cross References

Open Meetings Act, see section 84-1407.
Property Tax Growth Limitation Act, see section 13-3401.
School District Property Tax Limitation Act, see section 79-3401.

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. A political subdivision that has complied with the Property Tax Request Act shall not have its property tax request invalidated due to any other political subdivision's failure to comply with the Property Tax Request Act. 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; Laws 2022, LB927, § 11.

ARTICLE 17

COLLECTION OF TAXES

Section

77-1701 Collection of taxes; county treasurer tax collector; statements; contents; special assessments; de minimis amount; how treated.

(1) The county treasurer shall be ex officio county collector of all taxes levied within the county. The county board shall designate a county official to mail or otherwise deliver a statement of the amount of taxes due and a notice that special assessments are due, to the last-known address of the person, firm, association, or corporation against whom such taxes or special assessments are assessed or to the lending institution or other party responsible for paying such taxes or special assessments. Such statement shall clearly indicate, for each political subdivision, the levy rate and the amount of taxes due to fund public safety services as defined in section 13-320, county attorneys, and public defenders. Such statement shall also clearly indicate, for each political subdivision, the levy rate and the amount of taxes due as the result of principal or interest payments on bonds issued by the political subdivision and shall show such rate and amount separate from any other levy. When taxes on real property are delinquent for a prior year, the county treasurer shall indicate this information on the current year tax statement in bold letters. The information provided shall inform the taxpayer that delinquent taxes and interest are due for the prior year or years and shall indicate the specific year or years for which such taxes and interest remain unpaid. The language shall read ''Back Taxes and Interest Due For'', followed by numbers to indicate each year for which back taxes and interest are due and a statement indicating that failure to pay the back taxes and interest may result in the loss of the real property. Failure to receive such statement or notice shall not relieve the taxpayer from

any liability to pay such taxes or special assessments and any interest or penalties accrued thereon. In any county in which a city of the metropolitan class is located, all statements of taxes shall also include notice that special assessments for cutting weeds, removing litter, and demolishing buildings are due.

(2) Notice that special assessments are due shall not be required for special assessments levied by sanitary and improvement districts organized under Chapter 31, article 7, except that such notice may be provided by the county at the discretion of the county board or by the sanitary and improvement district with the approval of the county board.

(3) A statement of the amount of taxes due and a notice that special assessments are due shall not be required to be mailed or otherwise delivered pursuant to subsection (1) of this section if the total amount of the taxes and special assessments due is less than two dollars. Failure to receive the statement or notice shall not relieve the taxpayer from any liability to pay the taxes or special assessments but shall relieve the taxpayer from any liability for interest or penalties. Taxes and special assessments of less than two dollars shall be added to the amount of taxes and special assessments due in subsequent years and shall not be considered delinquent until the total amount is two dollars or more.

Source: Laws 1903, c. 73, § 144, p. 439; R.S.1913, § 6473; C.S.1922, § 5996; C.S.1929, § 77-1901; R.S.1943, § 77-1701; Laws 1969, c. 678, § 1, p. 2604; Laws 1979, LB 150, § 1; Laws 1981, LB 179, § 12; Laws 1983, LB 391, § 4; Laws 1995, LB 412, § 1; Laws 1996, LB 1362, § 8; Laws 1999, LB 194, § 31; Laws 1999, LB 881, § 7; Laws 2000, LB 968, § 60; Laws 2023, LB727, § 51; Laws 2024, First Spec. Sess., LB34, § 22.
Effective date August 21, 2024.

77-1704.01 Collection of taxes; notice; receipt; statement; contents.

(1) The county treasurer shall include with each tax notice to every taxpayer and with each receipt provided to a taxpayer the following information:

(a) The total amount of aid from state sources appropriated to the county and each city, village, and school district in the county;

(b) The net amount of property taxes to be levied by the county and each city, village, school district, and learning community in the county;

(c) For real property, the amount of taxes reflected on the statement that are levied by the county, city, village, school district, learning community, and other subdivisions for the tax year and for the immediately past year on the same parcel;

(d) For real property that has its taxes divided under section 18-2147 as part of a redevelopment project under the Community Development Law, the amount of taxes reflected on the statement that are allocated to the county, city, village, school district, learning community, and other subdivisions, the amount of taxes reflected on the statement that are allocated to the redevelopment project, and a statement explaining that taxes on the real property have been divided as part of a redevelopment project under the Community Development Law; and

(e) For taxes levied for fiscal year 2017-18 on real property within a learning community, statements explaining that the school district levies for learning community member districts are increasing, in part, as a result of the expiration of the learning community common levies, the proceeds of which were distributed directly to school districts, and that the remaining learning community levies fund activities of the learning community.

(2) The necessary form for furnishing the information required by subdivisions (1)(a), (b), and (e) of this section shall be prescribed by the Department of Revenue. The necessary information required by subdivision (1)(a) of this section shall be furnished to the county treasurer by the Department of Revenue prior to October 1 of each year. The form prescribed by the Department of Revenue shall contain the following statement:

THE AMOUNT OF STATE FUNDS SHOWN ABOVE WOULD HAVE BEEN ADDITIONAL PROPERTY TAXES IF NOT ALLOCATED TO THE COUNTY, CITY, VILLAGE, AND SCHOOL DISTRICT BY THE LEGISLATURE.

Source: Laws 1972, LB 674, § 1; Laws 1995, LB 490, § 163; Laws 1997, LB 270, § 98; Laws 1999, LB 881, § 8; Laws 2006, LB 1024, § 9; Laws 2012, LB851, § 2; Laws 2016, LB1067, § 8; Laws 2018, LB874, § 36; Laws 2020, LB1021, § 16.

Cross References

Community Development Law, see section 18-2101.

77-1725.01 Collection of taxes; real property; removal or demolition; public officials; duties; lien on personal property.

Except in any city or village that has adopted a building code with provisions for demolition of unsafe buildings or structures, it shall be the duty of any assessor, sheriff, constable, city council member, and village trustee to at once inform the county treasurer of the removal or demolition of or a levy of attachment upon any item of real property known to him or her. Except for property considered to be destroyed real property as defined in section 77-1307, it shall be the duty of the county treasurer to immediately proceed with the collection of any delinquent or current taxes when such acts become known to him or her in any manner. Except for property considered to be destroyed real property as defined in section 77-1307, the taxes shall be due and collectible, which taxes shall include taxes on all real property then assessed upon which the tax shall be computed on the basis of the last preceding levy, and a distress warrant shall be issued when (1) any person attempts to remove or demolish all or a substantial portion of his or her real property or (2) a levy of attachment is made upon the real property. From the date the taxes are due and collectible, the taxes shall be a first lien upon the personal property of the person to whom assessed until paid.

Source: Laws 1992, LB 1063, § 137; Laws 1992, Second Spec. Sess., LB 1, § 110; Laws 2019, LB512, § 18.

77-1734.01 Refund of tax paid; claim; verification required; county board approval.

(1) In the case of an amended federal income tax return or whenever a person's return is changed or corrected by the Internal Revenue Service or other competent authority that decreases the Nebraska adjusted basis of the

person's taxable tangible personal property, the county treasurer shall refund that portion of the tax paid that is in excess of the amount due after the amendment or correction.

(2) In case of payment made of any property taxes or any payments in lieu of taxes with respect to property as a result of a clerical error or honest mistake or misunderstanding, on the part of a county or other political subdivision of the state or any taxpayer, or accelerated tax paid for real property that was later adjusted by the county board of equalization under sections 77-1307 to 77-1309, the county treasurer to whom the tax was paid shall refund that portion of the tax paid as a result of the clerical error or honest mistake or misunderstanding or that portion of the tax paid that is in excess of the amount due after the adjustment under sections 77-1307 to 77-1309. A claim for a refund pursuant to this section shall be made in writing to the county treasurer to whom the tax was paid within three years after the date the tax was due or within ninety days after filing the amended return or the correction becomes final.

(3) Before the refund is made, the county treasurer shall receive verification from the county assessor or other taxing official that such error or mistake was made, such adjustment was made, or the amended return was filed or the correction made, and the claim for refund shall be submitted to the county board. Upon verification, the county board shall approve the claim. The refund shall be made in the manner prescribed in section 77-1736.06. Such refund shall not have a dispositional effect on any similar refund for another taxpayer. This section may not be used to challenge the valuation of property, the equalization of property, or the constitutionality of a tax.

Source: Laws 1957, c. 336, § 1, p. 1173; Laws 1959, c. 373, § 1, p. 1312; Laws 1961, c. 385, § 1, p. 1179; Laws 1977, LB 245, § 1; Laws 1988, LB 819, § 1; Laws 1989, LB 762, § 2; Laws 1991, LB 829, § 12; Laws 1992, LB 719A, § 174; Laws 1999, LB 194, § 32; Laws 2008, LB965, § 17; Laws 2019, LB512, § 19.

77-1736.06 Property tax refund; procedure.

The following procedure shall apply when making a property tax refund:

(1)(a) 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.

(b) 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, and that for any political subdivision whose share of the refund is one thousand dollars or less,

the governing body of the political subdivision may waive this notice requirement by notifying the county treasurer in writing. Notification shall be by (i) first-class mail, postage prepaid, to the last-known address of record of the political subdivision or (ii) electronic means if requested in writing by the governing body of the political subdivision.

(c) The county treasurer shall pay the refund from funds in his or her possession belonging to any political subdivision, including any school district receiving a distribution pursuant to section 79-1073 and any land bank receiving real property taxes pursuant to subdivision (3)(a) of section 18-3411, which received any part of the tax or penalty being refunded. If sufficient funds are not available, the county treasurer shall register the refund or portion thereof which remains unpaid as a claim against such political subdivision and shall issue the person entitled to the refund a receipt for the registration of the claim;

(2) The refund of a tax or penalty or the receipt for the registration of a claim made or issued pursuant to this section shall be satisfied in full as soon as practicable. If a receipt for the registration of a claim is given:

(a) The governing body of the political subdivision shall make provisions in its next budget for the amount of such claim; or

(b) If mutually agreed to by the governing body of the political subdivision and the person holding the receipt, such receipt shall be applied to satisfy any tax levied or assessed by that political subdivision which becomes due from the person holding the receipt until the claim is satisfied in full;

(3) The county treasurer shall mail the refund or the receipt by first-class mail, postage prepaid, to the last-known address of the person entitled thereto. Multiple refunds to the same person may be combined into one refund. If a refund is not claimed by June 1 of the year following the year of mailing, the refund shall be canceled and the resultant amount credited to the various funds originally charged;

(4) When the refund involves property valued by the state, the Tax Commissioner shall be authorized to negotiate a settlement of the amount of the refund or claim due pursuant to this section on behalf of the political subdivision from which such refund or claim is due. Any political subdivision which does not agree with the settlement terms as negotiated may reject such terms, and the refund or claim due from the political subdivision then shall be satisfied as set forth in this section as if no such negotiation had occurred;

(5) In the event that the Legislature appropriates state funds to be disbursed for the purposes of satisfying all or any portion of any refund or claim, the Tax Commissioner shall order the county treasurer to disburse such refund amounts directly to the persons entitled to the refund in partial or total satisfaction of such persons' claims. The county treasurer shall disburse such amounts within forty-five days after receipt thereof;

(6) If all or any portion of the refund is reduced by way of settlement or forgiveness by the person entitled to the refund, the proportionate amount of the refund that was paid by an appropriation of state funds shall be reimbursed by the county treasurer to the State Treasurer within forty-five days after receipt of the settlement agreement or receipt of the forgiven refund. The amount so reimbursed shall be credited to the General Fund; and

(7) For any refund or claim due under this section, interest shall accrue on the unpaid balance at the rate of fourteen percent beginning thirty days after

the date the county assessor certifies the amount of refund based upon the final nonappealable order or other action approving the refund.

Source: Laws 1991, LB 829, § 15; Laws 1992, LB 1063, § 138; Laws 1992, Second Spec. Sess., LB 1, § 111; Laws 1993, LB 555, § 1; Laws 1995, LB 490, § 167; Laws 2007, LB334, § 82; Laws 2008, LB965, § 18; Laws 2010, LB1070, § 3; Laws 2013, LB97, § 19; Laws 2016, LB1067, § 9; Laws 2020, LB424, § 19; Laws 2021, LB644, § 20; Laws 2023, LB243, § 11; Laws 2024, LB147, § 1.
Effective date July 19, 2024.

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. For fiscal years beginning prior to July 1, 2025, 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; Laws 2024, First Spec. Sess., LB34, § 23.
Effective date August 21, 2024.

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.

ARTICLE 18

COLLECTION OF DELINQUENT REAL PROPERTY TAXES BY SALE OF REAL PROPERTY

Section

77-1802 Real property taxes; delinquent tax list; notice of sale.

The county treasurer shall, not less than four nor more than six weeks prior to the first Monday of March in each year, make out a list of all real property subject to sale and the amount of all delinquent taxes against each item with an accompanying notice stating that so much of such property described in the list as may be necessary for that purpose will, on the first Monday of March next thereafter, be sold by such county treasurer at public auction at his or her office for the taxes, interest, and costs thereon. In making such list, the county treasurer shall describe the property as it is described on the tax list and shall include the name of the owner of record of the property, the property's parcel number, if any, and the property's street address, if any.

Source: Laws 1903, c. 73, § 194, p. 459; R.S.1913, § 6522; C.S.1922, § 6050; Laws 1929, c. 169, § 1, p. 583; C.S.1929, § 77-2002; Laws 1933, c. 136, § 5, p. 519; Laws 1937, c. 167, § 24, p. 655; Laws 1939, c. 98, § 24, p. 442; Laws 1941, c. 157, § 24, p. 626; C.S.Supp.,1941, § 77-2002; R.S.1943, § 77-1802; Laws 1986, LB 531, § 2; Laws 1992, LB 1063, § 139; Laws 1992, Second Spec. Sess., LB 1, § 112; Laws 2019, LB463, § 1; Laws 2023, LB727, § 52.

77-1807 Real property taxes; delinquent tax sale; how conducted; sale of part; bid by land bank; effect.

(1)(a) This subsection applies until January 1, 2015.

(b) Except as otherwise provided in subdivision (c) of this subsection, the person who offers to pay the amount of taxes due on any real property for the smallest portion of the same shall be the purchaser, and when such person designates the smallest portion of the real property for which he or she will pay the amount of taxes assessed against any such property, the portion thus designated shall be considered an undivided portion.

(c) If a land bank gives an automatically accepted bid for the real property pursuant to section 18-3417, the land bank shall be the purchaser, regardless of the bid of any other person.

(d) If no person bids for a less quantity than the whole and no land bank has given an automatically accepted bid pursuant to section 18-3417, the treasurer

may sell any real property to any one who will take the whole and pay the taxes and charges thereon.

(e) If the homestead is listed separately as a homestead, it shall be sold only for the taxes delinquent thereon.

(2)(a) This subsection applies beginning January 1, 2015.

(b) If a land bank gives an automatically accepted bid for real property pursuant to section 18-3417, the land bank shall be the purchaser and no public or private auction shall be held under sections 77-1801 to 77-1863.

(c) If no land bank has given an automatically accepted bid pursuant to section 18-3417, the person who offers to pay the amount of taxes, delinquent interest, and costs due on any real property shall be the purchaser.

(d) The county treasurer shall announce bidding rules at the beginning of the public auction, and such rules shall apply to all bidders throughout the public auction.

(e) The sale, if conducted in a round-robin format, shall be conducted in the following manner:

(i) At the commencement of the sale, a count shall be taken of the number of registered bidders present who want to be eligible to purchase property. Each registered bidder shall only be counted once. If additional registered bidders appear at the sale after the commencement of a round, such registered bidders shall have the opportunity to participate at the end of the next following round, if any, as provided in subdivision (v) of this subdivision;

(ii) Sequentially enumerated tickets shall be placed in a receptacle. The number of tickets in the receptacle for the first round shall equal the count taken in subdivision (i) of this subdivision, and the number of tickets in the receptacle for each subsequent round shall equal the number of the count taken in subdivision (i) of this subdivision plus additional registered bidders as provided in subdivision (v) of this subdivision;

(iii) In a manner determined by the county treasurer, tickets shall be selected from the receptacle by hand for each registered bidder whereby each ticket has an equal chance of being selected. Tickets shall be selected until there are no tickets remaining in the receptacle;

(iv) The number on the ticket selected for a registered bidder shall represent the order in which a registered bidder may purchase property consisting of one parcel subject to sale from the list per round; and

(v) If property listed remains unsold at the end of a round, a new round shall commence until all property listed is either sold or, if any property listed remains unsold, each registered bidder has consecutively passed on the opportunity to make a purchase. Registered bidders who are not present when it is their turn to purchase property shall be considered to have passed on the opportunity to make a purchase. At the beginning of the second and any subsequent rounds, the county treasurer shall inquire whether there are additional registered bidders. If additional registered bidders are present, tickets for each such bidder shall be placed in a receptacle and selected as provided in subdivisions (ii) through (iv) of this subdivision. The second and any subsequent rounds shall proceed in the same manner and purchase order as the last preceding round, except that any additional registered bidders shall be given the opportunity to purchase at the end of the round in the order designated on their ticket.

(f) Any property remaining unsold upon completion of the public auction shall be sold at a private sale pursuant to section 77-1814.

(g) A bidder shall (i) register with the county treasurer prior to participating in the sale, (ii) provide proof that it maintains a registered agent for service of process with the Secretary of State if the bidder is a foreign corporation, and (iii) pay a twenty-five-dollar registration fee. The fee is not refundable upon redemption.

Source: Laws 1903, c. 73, § 199, p. 461; R.S.1913, § 6527; C.S.1922, § 6055; C.S.1929, § 77-2007; Laws 1937, c. 167, § 11, p. 643; Laws 1939, c. 98, § 11, p. 428; Laws 1941, c. 157, § 11, p. 614; C.S.Supp.,1941, § 77-2007; R.S.1943, § 77-1807; Laws 1992, LB 1063, § 143; Laws 1992, Second Spec. Sess., LB 1, § 116; Laws 2013, LB97, § 21; Laws 2013, LB341, § 1; Laws 2014, LB851, § 9; Laws 2020, LB424, § 20.

77-1810 Real property taxes; delinquent tax sales; purchase by political subdivisions authorized.

(1) Except as otherwise provided in subsection (2) of this section, whenever any real property subject to sale for taxes is within the corporate limits of any city, village, school district, drainage district, or irrigation district, it shall have the right and power through its governing board or body to purchase such real property for the use and benefit and in the name of the city, village, school district, drainage district, or irrigation district as the case may be. The treasurer of the city, village, school district, drainage district, or irrigation district may assign the certificate of purchase by endorsement of his or her name on the back thereof when directed so to do by written order of the governing board.

(2) No such sale shall be made to any city, village, school district, drainage district, or irrigation district by the county treasurer (a) when the real property has been previously sold to the county, but in any such case, the city, village, school district, drainage district, or irrigation district may purchase the tax certificate held by the county or (b) if a land bank has given an automatically accepted bid on such real property pursuant to section 18-3417.

Source: Laws 1903, c. 73, § 202, p. 462; R.S.1913, § 6530; Laws 1917, c. 118, § 1, p. 292; C.S.1922, § 6058; C.S.1929, § 77-2010; Laws 1937, c. 167, § 35, p. 662; Laws 1939, c. 98, § 35, p. 450; Laws 1941, c. 159, § 1, p. 641; Laws 1941, c. 157, § 35, p. 633; C.S.Supp.,1941, § 77-2010; R.S.1943, § 77-1810; Laws 1992, LB 1063, § 145; Laws 1992, Second Spec. Sess., LB 1, § 118; Laws 2013, LB97, § 23; Laws 2020, LB424, § 21.

77-1818 Real property taxes; certificate of purchase; lien of purchaser; subsequent taxes; purchaser provide notice; contents; prove service of notice; administrative fee.

(1) The purchaser of any real property sold by the county treasurer for taxes shall be entitled to a certificate in writing, describing the real property so purchased, the sum paid, and the time when the purchaser will be entitled to a deed, which certificate shall be signed by the county treasurer in his or her official capacity and shall be presumptive evidence of the regularity of all prior proceedings. Each tax lien shall be shown on a single certificate. The purchaser acquires a perpetual lien of the tax on the real property, and if after the taxes

become delinquent he or she subsequently pays any taxes levied on the property, whether levied for any year or years previous or subsequent to such sale, he or she shall have the same lien for them and may add them to the amount paid by him or her in the purchase.

(2) Upon issuance of the certificate, the purchaser shall notify, by personal service, the property owner of the real property that was sold for taxes at the address listed for such owner in the records of the county assessor. The notice shall (a) state that a certificate has been issued, (b) include a brief description of the property owner's legal rights to redeem the real property, (c) identify the real property by the street address listed in the records of the county assessor, (d) include the total amount of taxes, interest, and costs for which the property was sold and a recitation that interest and fees may accrue, and (e) include a prominent warning that failure to act may result in forfeiture of the property after three years. The purchaser shall prove such service of notice by affidavit, and such affidavit shall be filed with the application for the tax deed pursuant to section 77-1837. An administrative fee shall be allowed for any service of notice under this subsection. The administrative fee shall be equal to the greater of one hundred dollars or the actual cost incurred by the purchaser for such service of notice. The amount of such fee shall be noted by the county treasurer in the record opposite the real property described in the notice and shall be collected by the county treasurer in case of redemption for the benefit of the holder of the certificate. The purchaser shall notify the county treasurer of the amount of such fee within thirty days after completion of the service of notice.

Source: Laws 1903, c. 73, § 209, p. 464; R.S.1913, § 6537; C.S.1922, § 6065; C.S.1929, § 77-2017; R.S.1943, § 77-1818; Laws 1992, LB 1063, § 149; Laws 1992, Second Spec. Sess., LB 1, § 122; Laws 2013, LB341, § 5; Laws 2023, LB727, § 53.

77-1824 Real property taxes; redemption from sale; when and how made.

The owner or occupant of any real property sold for taxes or any person having a lien thereupon or interest therein may redeem the same. The right of redemption expires when the purchaser files an application for tax deed with the county treasurer. A redemption shall not be accepted by the county treasurer, or considered valid, unless received prior to the close of business on the day the application for the tax deed is received by the county treasurer. Redemption shall be accomplished by paying the county treasurer for the use of such purchaser or his or her heirs or assigns the sum mentioned in his or her certificate, with interest thereon at the rate specified in section 45-104.01, as such rate may from time to time be adjusted by the Legislature, from the date of purchase to date of redemption, together with all other taxes subsequently paid, whether for any year or years previous or subsequent to the sale, and interest thereon at the same rate from date of such payment to date of redemption. The amount due for redemption shall include the issuance fee charged pursuant to section 77-1823 and the administrative fee charged pursuant to subsection (2) of section 77-1818.

Source: Laws 1903, c. 73, § 212, p. 466; Laws 1905, c. 114, § 1, p. 518; R.S.1913, § 6540; C.S.1922, § 6068; Laws 1923, c. 105, § 1, p. 261; Laws 1925, c. 168, § 1, p. 441; C.S.1929, § 77-2020; Laws 1933, c. 136, § 8, p. 520; Laws 1937, c. 167, § 28, p. 658; Laws 1939, c. 98, § 28, p. 445; Laws 1941, c. 157, § 28, p. 629;

C.S.Supp.,1941, § 77-2020; R.S.1943, § 77-1824; Laws 1969, c. 646, § 3, p. 2564; Laws 1979, LB 84, § 3; Laws 1981, LB 167, § 45; Laws 1992, LB 1063, § 152; Laws 1992, Second Spec. Sess., LB 1, § 125; Laws 2012, LB370, § 1; Laws 2013, LB341, § 8; Laws 2023, LB727, § 54.

77-1824.01 Repealed. Laws 2019, LB463, § 10.

77-1831 Real property taxes; issuance of treasurer's tax deed; notice given by purchaser; contents.

No purchaser at any sale for taxes or his or her assignees shall be entitled to a tax deed from the county treasurer for the real property so purchased unless such purchaser or assignee, at least three months before applying for the tax deed, serves or causes to be served a notice that states, after the expiration of at least three months from the date of service of such notice, the tax deed will be applied for.

The notice shall include:

(1) The following statement in sixteen-point type: UNLESS YOU ACT YOU WILL LOSE THIS PROPERTY;

(2) The date when the purchaser purchased the real property sold by the county for taxes;

(3) The description of the real property;

(4) In whose name the real property was assessed;

(5) The amount of taxes represented by the tax sale certificate, the year the taxes were levied or assessed, and a statement that subsequent taxes may have been paid and interest may have accrued as of the date the notice is signed by the purchaser; and

(6) The following statements:

(a) That the issuance of a tax deed is subject to the right of redemption under sections 77-1824 to 77-1830;

(b) The right of redemption requires payment to the county treasurer, for the use of such purchaser, or his or her heirs or assigns, the amount of taxes represented by the tax sale certificate for the year the taxes were levied or assessed and any subsequent taxes paid and interest accrued as of the date payment is made to the county treasurer; and

(c) The right of redemption expires at the close of business on the date of application for the tax deed, and a deed may be applied for after the expiration of three months from the date of service of this notice.

Source: Laws 1903, c. 73, § 214, p. 467; Laws 1905, c. 115, § 1, p. 520; R.S.1913, § 6542; Laws 1921, c. 143, § 1, p. 610; C.S.1922, § 6070; C.S.1929, § 77-2022; R.S.1943, § 77-1831; Laws 1992, LB 1063, § 157; Laws 1992, Second Spec. Sess., LB 1, § 130; Laws 2012, LB370, § 4; Laws 2013, LB341, § 12; Laws 2019, LB463, § 2.

77-1832 Real property taxes; issuance of treasurer's tax deed; service of notice; upon whom made.

(1) Service of the notice provided by section 77-1831 shall be made by:

(a) Personal or residence service as described in section 25-505.01 upon a person in actual possession or occupancy of the real property and upon the person in whose name the title to the real property appears of record who can be found in this state. If a person in actual possession or occupancy of the real property cannot be served by personal or residence service, service of the notice shall be made upon such person by certified mail service or designated delivery service as described in section 25-505.01, and the notice shall be sent to the address of the property. If the person in whose name the title to the real property appears of record cannot be found in this state or if such person cannot be served by personal or residence service, service of the notice shall be made upon such person by certified mail service or designated delivery service as described in section 25-505.01, and the notice shall be sent to the name and address to which the property tax statement was mailed; and

(b) Certified mail or designated delivery service as described in section 25-505.01 upon every encumbrancer of record found by the title search required in section 77-1833. The notice shall be sent to the encumbrancer's name and address appearing of record as shown in the encumbrance filed with the register of deeds.

(2) Personal or residence service shall be made by the county sheriff of the county where service is made or by a person authorized by section 25-507. The sheriff or other person serving the notice shall be entitled to the statutory fee prescribed in section 33-117.

Source: Laws 1903, c. 73, § 214, p. 467; Laws 1905, c. 115, § 1, p. 520; R.S.1913, § 6542; Laws 1921, c. 143, § 1, p. 610; C.S.1922, § 6070; C.S.1929, § 77-2022; R.S.1943, § 77-1832; Laws 1987, LB 93, § 20; Laws 1992, LB 1063, § 158; Laws 1992, Second Spec. Sess., LB 1, § 131; Laws 2003, LB 319, § 1; Laws 2012, LB370, § 5; Laws 2013, LB341, § 13; Laws 2017, LB217, § 7; Laws 2019, LB463, § 3.

77-1833 Real property taxes; issuance of treasurer's tax deed; proof of service; fees.

The service of notice provided by section 77-1832 shall be proved by affidavit. The purchaser or assignee shall also affirm in the affidavit that a title search was conducted by a registered abstracter to determine those persons entitled to notice pursuant to such section. If personal or residence service is used, the receipt or returns provided by the person authorized in subsection (2) of section 77-1832 to carry out such service shall be filed with and accompany the affidavit. If certified mail or designated delivery service is used, the certified mail return receipt or a copy of the signed delivery receipt shall be filed with and accompany the affidavit. The affidavit, a copy of the notice, and a copy of such title search shall be filed with the application for the tax deed pursuant to section 77-1837. For each service of such notice, a fee of one dollar shall be allowed. The amount of such fees shall be noted by the county treasurer in the record opposite the real property described in the notice and shall be collected by the county treasurer in case of redemption for the benefit of the holder of the certificate.

Source: Laws 1903, c. 73, § 214, p. 467; Laws 1905, c. 115, § 1, p. 520; R.S.1913, § 6542; Laws 1921, c. 143, § 1, p. 610; C.S.1922, § 6070; C.S.1929, § 77-2022; R.S.1943, § 77-1833; Laws 1969, c.

645, § 9, p. 2561; Laws 1992, LB 1063, § 159; Laws 1992, Second Spec. Sess., LB 1, § 132; Laws 2003, LB 319, § 2; Laws 2012, LB370, § 6; Laws 2013, LB341, § 14; Laws 2017, LB217, § 8; Laws 2019, LB463, § 4.

77-1834 Real property taxes; issuance of treasurer's tax deed; notice to owner or encumbrancer by publication.

If any person or encumbrancer who is entitled to notice under subsection (1) of section 77-1832 cannot, upon diligent inquiry, be found, the purchaser or his or her assignee shall publish the notice in a newspaper of general circulation in the county which has been designated by the county board in the year publication is required under this section.

Source: Laws 1903, c. 73, § 215, p. 467; R.S.1913, § 6543; C.S.1922, § 6071; C.S.1929, § 77-2023; R.S.1943, § 77-1834; Laws 1992, LB 1063, § 160; Laws 1992, Second Spec. Sess., LB 1, § 133; Laws 2003, LB 319, § 3; Laws 2008, LB893, § 1; Laws 2012, LB370, § 7; Laws 2019, LB463, § 5.

77-1835 Real property taxes; issuance of treasurer's tax deed; manner and proof of publication; false affidavit; penalty.

The notice provided by section 77-1834 shall be published three consecutive weeks, the last time not less than three months before applying for the tax deed. Proof of publication shall be made by filing in the county treasurer's office the affidavit of the publisher, manager, or other employee of such newspaper, affirming that to his or her personal knowledge, the notice was published for the time and in the manner provided in this section, setting out a copy of the notice and the date upon which the same was published. The purchaser or assignee shall also file in the county treasurer's office an affidavit affirming that a title search was conducted by a registered abstracter to determine those persons entitled to notice pursuant to section 77-1832 and a copy of such title search. The affidavits, the copy of the notice, and the copy of the title search shall be filed with the application for the tax deed pursuant to section 77-1837. Such documents shall be preserved as a part of the files of the office. Any publisher, manager, or employee of a newspaper knowingly or negligently making a false affidavit regarding any such matters shall be guilty of perjury and shall be punished accordingly. Section 25-520.01 does not apply to publication of notice pursuant to section 77-1834.

Source: Laws 1903, c. 73, § 215, p. 467; R.S.1913, § 6543; C.S.1922, § 6071; C.S.1929, § 77-2023; R.S.1943, § 77-1835; Laws 2012, LB370, § 8; Laws 2019, LB463, § 6.

Cross References

Perjury, see section 28-915.

77-1837 Real property taxes; issuance of treasurer's tax deed; when; proceed by foreclosure; when.

(1) At any time within nine months after the expiration of three years after the date of sale of any real estate for taxes or special assessments, if such real estate has not been redeemed and the requirements of subsection (2) of this section have been met, the purchaser or his or her assignee may apply to the county treasurer for a tax deed for the real estate described in such purchaser's

or assignee's tax sale certificate. The county treasurer shall execute and deliver a deed of conveyance for the real estate described in such tax sale certificate if he or she has received the following:

(a) The tax sale certificate;

(b) The issuance fee for the tax deed and the fee of the notary public or other officer acknowledging the tax deed, as required under section 77-1823;

(c) The affidavit proving personal service of the notice required in subsection (2) of section 77-1818;

(d) For any notice provided pursuant to section 77-1832, the affidavit proving service of notice, the copy of the notice, and the copy of the title search required under section 77-1833; and

(e) For any notice provided by publication pursuant to section 77-1834, the affidavit of the publisher, manager, or other employee of the newspaper, the copy of the notice, the affidavit of the purchaser or assignee, and the copy of the title search required under section 77-1835.

(2) The purchaser or his or her assignee may apply for a tax deed under this section if one hundred ten percent of the assessed value of the real estate described in the tax sale certificate, less the amount that would be needed to redeem such real estate, is twenty-five thousand dollars or less. If such requirement is not met, the purchaser or his or her assignee shall foreclose the lien represented by the tax sale certificate pursuant to section 77-1902.

(3) The failure of the county treasurer to issue the deed of conveyance if requested within the timeframe provided in subsection (1) of this section shall not impair the validity of such deed if there has otherwise been compliance with sections 77-1801 to 77-1863.

Source: Laws 1903, c. 73, § 217, p. 468; R.S.1913, § 6545; C.S.1922, § 6073; C.S.1929, § 77-2025; R.S.1943, § 77-1837; Laws 1975, LB 78, § 1; Laws 1987, LB 215, § 2; Laws 2001, LB 118, § 1; Laws 2012, LB370, § 9; Laws 2013, LB341, § 16; Laws 2019, LB463, § 7; Laws 2023, LB727, § 55.

77-1837.01 Real property taxes; tax deed proceedings; changes in law not retroactive; exceptions.

(1) Except as otherwise provided in subsections (2) and (3) of this section, the laws in effect on the date of the issuance of a tax sale certificate govern all matters related to tax deed proceedings, including noticing and application, and foreclosure proceedings. Changes in law shall not apply retroactively with regard to the tax sale certificates previously issued.

(2) Tax sale certificates sold and issued between January 1, 2010, and December 31, 2016, shall be governed by the laws and statutes that were in effect on December 31, 2009, with regard to all matters relating to tax deed proceedings, including noticing and application, and foreclosure proceedings.

(3) Tax sale certificates sold and issued between January 1, 2017, and September 7, 2019, shall be governed by the laws and statutes that are in effect on September 7, 2019, with regard to all matters relating to tax deed proceedings, including noticing and application, and foreclosure proceedings.

Source: Laws 2012, LB370, § 10; Laws 2014, LB851, § 10; Laws 2017, LB217, § 9; Laws 2019, LB463, § 8.

77-1838 Real property taxes; issuance of treasurer's tax deed; execution, acknowledgment, and recording; effect; lien for special assessments; pay surplus to previous owner.

(1) The deed made by the county treasurer shall be under the official seal of office and acknowledged by the county treasurer before some officer authorized to take the acknowledgment of deeds. When so executed and acknowledged, it shall be recorded in the same manner as other conveyances of real estate. When recorded it shall vest in the grantee and his or her heirs and assigns the title of the property described in the deed, subject to any lien on real estate for special assessments levied by a sanitary and improvement district which special assessments have not been previously offered for sale by the county treasurer.

(2) Within thirty days after recording of the deed, the grantee shall pay the surplus to the previous owner of the property described in the deed. For purposes of this subsection, the surplus shall be calculated as follows:

(a) If the property has been sold since recording of the deed, the surplus shall be equal to the amount received from such sale, minus (i) the amount that would have been needed to redeem such property, (ii) the amount needed to pay all encumbrances on such property, and (iii) an administrative fee of five hundred dollars or reasonable attorney's fees in the event of judicial foreclosure, which may be retained by the grantee to offset the costs incurred in obtaining the deed; or

(b) If the property has not been sold since recording of the deed, the surplus shall be equal to the assessed value of such property, minus (i) the amount that would have been needed to redeem such property, (ii) the amount needed to pay all encumbrances on such property, and (iii) an administrative fee of five hundred dollars or reasonable attorney's fees in the event of judicial foreclosure, which may be retained by the grantee to offset the costs incurred in obtaining the deed.

Source: Laws 1903, c. 73, § 218, p. 469; R.S.1913, § 6546; C.S.1922, § 6074; C.S.1929, § 77-2026; R.S.1943, § 77-1838; Laws 2015, LB277, § 1; Laws 2023, LB727, § 56.

ARTICLE 20

INHERITANCE TAX

Section
77-2002. Inheritance tax; property taxable; transfer in contemplation of death.
77-2004. Inheritance tax; rate; transfer to immediate relatives; exemption.
77-2005. Inheritance tax; rate; transfer to remote relatives; exemption.
77-2005.01. Relatives of decedent; computation of inheritance tax.
77-2006. Inheritance tax; rate; other transfers; exemption.
77-2015. Inheritance tax; reports required; contents; department; duties.
77-2018.02. Inheritance tax; independent proceeding for determination in absence of probate of estate; petition; notice; waiver of notice; notice to Department of Health and Human Services.

77-2002 Inheritance tax; property taxable; transfer in contemplation of death.

(1) Any interest in property whether created or acquired prior or subsequent to August 27, 1951, shall be subject to tax at the rates prescribed by sections 77-2004 to 77-2006, except property exempted by the provisions of Chapter 77, article 20, if it shall be transferred by deed, grant, sale, or gift, in trust or

otherwise, and: (a) Made in contemplation of the death of the grantor; (b) intended to take effect in possession or enjoyment, after his or her death; (c) by reason of death, any person shall become beneficially entitled in possession or expectation to any property or income thereof; or (d) held as joint owners or joint tenants by the decedent and any other person in their joint names, except such part thereof as may be shown to have originally belonged to such other person and never to have been received or acquired by the latter from the decedent for less than an adequate and full consideration in money or property, except that when such property or any part thereof, or part of the consideration with which such property was acquired, is shown to have been at any time acquired by such other person from the decedent for less than an adequate and full consideration in money or property, there shall be excepted only such part of the value of such property as is proportionate to the consideration furnished by such other person or, when any property has been acquired by gift, bequest, devise, or inheritance by the decedent and any other person as joint owners or joint tenants and their interests are not otherwise specified or fixed by law, then to the extent of the value of a fractional part to be determined by dividing the value of the property by the number of joint owners or joint tenants.

(2) For the purpose of subsection (1) of this section, if the decedent, within a period of three years ending with the date of his or her death, except in the case of a bona fide sale for an adequate and full consideration for money or money's worth, transferred an interest in property for which a federal gift tax return is required to be filed under the provisions of the Internal Revenue Code, such transfer shall be deemed to have been made in contemplation of death within the meaning of subsection (1) of this section; no such transfer made before such three-year period shall be treated as having been made in contemplation of death in any event.

(3) Proceeds of life insurance receivable by a trustee, of either an inter vivos trust or a testamentary trust, as insurance under policies upon the life of the decedent shall not be subject to inheritance tax. This subsection shall not apply if the decedent's estate is the beneficiary of the trust.

Source: Laws 1901, c. 54, § 1, p. 414; Laws 1905, c. 117, § 1, p. 523; Laws 1907, c. 103, § 1, p. 356; R.S.1913, § 6622; C.S.1922, § 6153; Laws 1923, c. 187, § 1, p. 430; C.S.1929, § 77-2201; Laws 1931, c. 132, § 1, p. 371; C.S.Supp.,1941, § 77-2201; R.S. 1943, § 77-2002; Laws 1945, c. 198, § 4, p. 604; Laws 1947, c. 263, § 1, p. 853; Laws 1951, c. 267, § 2, p. 899; Laws 1953, c. 282, § 1, p. 913; Laws 1955, c. 299, § 1, p. 935; Laws 1976, LB 585, § 2; Laws 1982, LB 480, § 2; Laws 1995, LB 574, § 66; Laws 2019, LB315, § 1.

77-2004 Inheritance tax; rate; transfer to immediate relatives; exemption.

(1) In the case of a father, mother, grandfather, grandmother, brother, sister, son, daughter, child or children legally adopted as such in conformity with the laws of the state where adopted, any lineal descendant, any lineal descendant legally adopted as such in conformity with the laws of the state where adopted, any person to whom the deceased for not less than ten years prior to death stood in the acknowledged relation of a parent, or the spouse or surviving spouse of any such persons, the rate of tax shall be:

(a) For decedents dying prior to January 1, 2023, one percent of the clear market value of the property received by each person in excess of forty thousand dollars; and

(b) For decedents dying on or after January 1, 2023, one percent of the clear market value of the property received by each person in excess of one hundred thousand dollars.

(2) Any interest in property, including any interest acquired in the manner set forth in section 77-2002, which may be valued at a sum less than or equal to the applicable exempt amount under subsection (1) of this section shall not be subject to tax. In addition the homestead allowance, exempt property, and family maintenance allowance shall not be subject to tax. Interests passing to the surviving spouse by will, in the manner set forth in section 77-2002, or in any other manner shall not be subject to tax. Any interest passing to a person described in subsection (1) of this section who is under twenty-two years of age shall not be subject to tax.

Source: Laws 1901, c. 54, § 1, p. 414; Laws 1905, c. 117, § 1, p. 523; Laws 1907, c. 103, § 1, p. 356; R.S.1913, § 6622; C.S.1922, § 6153; Laws 1923, c. 187, § 1, p. 430; C.S.1929, § 77-2201; Laws 1931, c. 132, § 1, p. 371; C.S.Supp.,1941, § 77-2201; R.S. 1943, § 77-2004; Laws 1951, c. 267, § 3, p. 900; Laws 1953, c. 282, § 2, p. 914; Laws 1957, c. 337, § 1, p. 1174; Laws 1965, c. 497, § 1, p. 1585; Laws 1975, LB 481, § 31; Laws 1976, LB 585, § 4; Laws 1977, LB 456, § 1; Laws 1982, LB 480, § 4; Laws 1988, LB 845, § 1; Laws 1997, LB 16, § 1; Laws 2007, LB502, § 1; Laws 2022, LB310, § 1.

77-2005 Inheritance tax; rate; transfer to remote relatives; exemption.

(1) In the case of an uncle, aunt, niece, or nephew related to the deceased by blood or legal adoption, or other lineal descendant of the same, or the spouse or surviving spouse of any of such persons, the rate of tax shall be:

(a) For decedents dying prior to January 1, 2023, thirteen percent of the clear market value of the property received by each person in excess of fifteen thousand dollars; and

(b) For decedents dying on or after January 1, 2023, eleven percent of the clear market value of the property received by each person in excess of forty thousand dollars.

(2) If the clear market value of the beneficial interest is less than or equal to the applicable exempt amount under subsection (1) of this section, it shall not be subject to tax. In addition, any interest passing to a person described in subsection (1) of this section who is under twenty-two years of age shall not be subject to tax.

Source: Laws 1901, c. 54, § 1, p. 414; Laws 1905, c. 117, § 1, p. 523; Laws 1907, c. 103, § 1, p. 356; R.S.1913, § 6622; C.S.1922, § 6153; Laws 1923, c. 187, § 1, p. 430; C.S.1929, § 77-2201; Laws 1931, c. 132, § 1, p. 371; C.S.Supp.,1941, § 77-2201; R.S. 1943, § 77-2005; Laws 1947, c. 262, § 1, p. 851; Laws 1951, c. 267, § 4, p. 900; Laws 1959, c. 353, § 5, p. 1245; Laws 1965, c. 497, § 2, p. 1586; Laws 1976, LB 585, § 5; Laws 2007, LB502, § 2; Laws 2022, LB310, § 2.

77-2005.01 Relatives of decedent; computation of inheritance tax.

(1) For the purposes of sections 77-2004 and 77-2005, relatives of the decedent shall include:

(a) Relatives of a former spouse to whom the decedent was married at the time of the death of the former spouse and relatives of a spouse to whom the decedent was married at the time of his or her death; and

(b) Relatives of a spouse or former spouse of the decedent's parent, grandparent, child, sibling, uncle, aunt, niece, or nephew, if the decedent's parent, grandparent, child, sibling, uncle, aunt, niece, or nephew was married to the spouse at the date of death of the decedent or at the date of death of such spouse.

(2) The computation of any tax due pursuant to sections 77-2004, 77-2005, and 77-2006 shall be made without regard to Nebraska inheritance tax apportionment.

Source: Laws 1976, LB 585, § 6; Laws 1977, LB 456, § 2; Laws 2022, LB310, § 3.

77-2006 Inheritance tax; rate; other transfers; exemption.

(1) In all other cases the rate of tax shall be:

(a) For decedents dying prior to January 1, 2023, eighteen percent of the clear market value of the beneficial interests received by each person in excess of ten thousand dollars; and

(b) For decedents dying on or after January 1, 2023, fifteen percent of the clear market value of the beneficial interests received by each person in excess of twenty-five thousand dollars.

(2) If the clear market value of the beneficial interest is less than or equal to the applicable exempt amount under subsection (1) of this section, it shall not be subject to any tax. In addition, any interest passing to a person who is under twenty-two years of age shall not be subject to tax.

Source: Laws 1901, c. 54, § 1, p. 414; Laws 1905, c. 117, § 1, p. 523; Laws 1907, c. 103, § 1, p. 356; R.S.1913, § 6622; C.S.1922, § 6153; Laws 1923, c. 187, § 1, p. 430; C.S.1929, § 77-2201; Laws 1931, c. 132, § 1, p. 371; C.S.Supp.,1941, § 77-2201; R.S. 1943, § 77-2006; Laws 1947, c. 262, § 2, p. 851; Laws 1965, c. 497, § 3, p. 1586; Laws 1988, LB 845, § 2; Laws 2007, LB502, § 3; Laws 2022, LB310, § 4.

77-2015 Inheritance tax; reports required; contents; department; duties.

(1)(a) Each petitioner in a proceeding to determine inheritance tax shall, upon the entry of an order determining inheritance tax, if any, submit a report regarding inheritance taxes to the county treasurer of each county in which inheritance tax is owed. If such reported inheritance taxes are changed or amended, the petitioner shall submit an amended report regarding such changed or amended inheritance taxes to the county treasurer of each county in which the inheritance taxes were changed or amended. No inheritance tax may be paid or refunded before the report or amended report, if required, is submitted. In the event of noncompliance by the petitioner, the county treasurer or county attorney of the county in which inheritance tax is owed may complete the form in place of the petitioner.

(b) Until June 30, 2024, the report or amended report shall be submitted on a form prescribed by the Department of Revenue and shall include the following information:

(i) The amount of inheritance tax revenue generated under section 77-2004 and the number of persons receiving property that was subject to tax under section 77-2004 and on which inheritance tax was assessed;

(ii) The amount of inheritance tax revenue generated under section 77-2005 and the number of persons receiving property that was subject to tax under section 77-2005 and on which inheritance tax was assessed;

(iii) The amount of inheritance tax revenue generated under section 77-2006 and the number of persons receiving property that was subject to tax under section 77-2006 and on which inheritance tax was assessed; and

(iv) The number of persons who do not reside in this state and who received any property that was subject to tax under section 77-2004, 77-2005, or 77-2006 and on which inheritance tax was assessed.

(c) Beginning July 1, 2024, the report or amended report shall be submitted on a form prescribed by the Department of Revenue and shall include the following information:

(i) The amount of inheritance tax paid under section 77-2004 and the number of persons receiving property that was subject to tax under section 77-2004 and on which inheritance tax was assessed;

(ii) The amount of inheritance tax paid under section 77-2005 and the number of persons receiving property that was subject to tax under section 77-2005 and on which inheritance tax was assessed;

(iii) The amount of inheritance tax paid under section 77-2006 and the number of persons receiving property that was subject to tax under section 77-2006 and on which inheritance tax was assessed; and

(iv) The number of persons who do not reside in this state and who received any property that was subject to tax under section 77-2004, 77-2005, or 77-2006 and on which inheritance tax was assessed.

(2)(a) The county treasurer of each county shall compile and submit a report regarding inheritance taxes generated from January 1, 2023, through June 30, 2023, to the Department of Revenue on or before August 1, 2023. The county treasurer of each county shall compile and submit a report regarding annual inheritance taxes generated from July 1, 2023, through June 30, 2024, to the Department of Revenue on or before August 1, 2024. Beginning July 1, 2024, the county treasurer of each county shall compile and submit a report regarding annual inheritance taxes paid from July 1 of each year through June 30 of the next year, to the Department of Revenue on or before August 1, 2025, and on or before August 1 of each year thereafter.

(b) Until June 30, 2024, the reports shall be submitted on a form prescribed by the Department of Revenue and shall include the following information:

(i) The amount of inheritance tax revenue generated under section 77-2004 and the number of persons receiving property that was subject to tax under section 77-2004 and on which inheritance tax was assessed;

(ii) The amount of inheritance tax revenue generated under section 77-2005 and the number of persons receiving property that was subject to tax under section 77-2005 and on which inheritance tax was assessed;

(iii) The amount of inheritance tax revenue generated under section 77-2006 and the number of persons receiving property that was subject to tax under section 77-2006 and on which inheritance tax was assessed; and

(iv) The number of persons who do not reside in this state and who received any property that was subject to tax under section 77-2004, 77-2005, or 77-2006 and on which inheritance tax was assessed.

(c) Beginning July 1, 2024, the reports shall be submitted on a form prescribed by the Department of Revenue and shall include the following information:

(i) The amount of inheritance tax paid under section 77-2004 and the number of persons receiving property that was subject to tax under section 77-2004 and on which inheritance tax was assessed;

(ii) The amount of inheritance tax paid under section 77-2005 and the number of persons receiving property that was subject to tax under section 77-2005 and on which inheritance tax was assessed;

(iii) The amount of inheritance tax paid under section 77-2006 and the number of persons receiving property that was subject to tax under section 77-2006 and on which inheritance tax was assessed; and

(iv) The number of persons who do not reside in this state and who received any property that was subject to tax under section 77-2004, 77-2005, or 77-2006 and on which inheritance tax was assessed.

(3) On or before September 1, 2023, and on or before September 1 of each year thereafter, the Department of Revenue shall compile and aggregate such treasurer reports received from each county and make each county report and a statewide aggregate of such county reports available to the public on the Department of Revenue's website.

Source: Laws 2022, LB310, § 5; Laws 2023, LB727, § 57; Laws 2024, LB1317, § 79.
Operative date April 24, 2024.

77-2018.02 Inheritance tax; independent proceeding for determination in absence of probate of estate; petition; notice; waiver of notice; notice to Department of Health and Human Services.

(1) In the absence of any proceeding brought under Chapter 30, article 24 or 25, in this state, an independent proceeding for the sole purpose of determining the tax may be instituted in the county court of the county where the property or any part thereof which might be subject to tax is situated.

(2) Upon the filing of a petition to initiate such an independent proceeding, the county court shall order the petition set for hearing, not less than two nor more than four weeks after the date of filing the petition, and shall cause notice thereof to be given to all persons interested in the estate of the deceased and the property described in the petition, except as provided in subsections (4) and (5) of this section, in the manner provided for in subsection (3) of this section.

(3) The notice, provided for by subsection (2) of this section, shall be given by one publication in a legal newspaper of the county or, in the absence of such legal newspaper, then in a legal newspaper of some adjoining county of general circulation in the county. In addition to such publication of notice, personal service of notice of the hearing shall be had upon the county attorney of each

county in which the property described in the petition is located, at least one week prior to the hearing.

(4) If it appears to the county court, upon the filing of the petition, by any person other than the county attorney, that no assessment of inheritance tax could result, it shall forthwith enter thereon an order directing the county attorney to show cause, within one week from the service thereof, why determination should not be made that no inheritance tax is due on account of the property described in the petition and the potential lien thereof on such property extinguished. Upon service of such order to show cause and failure of such showing by the county attorney, notice of such hearing by publication shall be dispensed with, and the petitioner shall be entitled without delay to a determination of no tax due on account of the property described in the petition, and any potential lien shall be extinguished.

(5) If it appears to the county court that (a) the county attorney of each county in which the property described in the petition is located has executed a waiver of notice upon him or her to show cause, or of the time and place of hearing, and has entered a voluntary appearance in such proceeding in behalf of the county and the State of Nebraska, and (b) either (i) all persons against whom an inheritance tax may be assessed are either a petitioner or have executed a waiver of notice upon them to show cause, or of the time and place of hearing, and have entered a voluntary appearance, or (ii) a party to the proceeding has agreed to pay to the proper counties the full inheritance tax so determined, the court may dispense with the notice provided for in subsections (2) and (3) of this section and proceed without delay to make a determination of inheritance tax, if any, due on account of the property described in the petition.

(6) If a petition is filed to initiate an independent proceeding under this section and the decedent was fifty-five years of age or older or resided in a medical institution as defined in subsection (1) of section 68-919, notice of the filing of such petition shall be provided to the Department of Health and Human Services with the decedent's social security number and, if the decedent was predeceased by a spouse, the name and social security number of such spouse. A certificate of the providing of the notice to the department shall be filed in the independent proceeding by an attorney for the petitioner or, if there is no attorney, by the petitioner, prior to the entry of an order pursuant to this section. The notice shall be provided to the department in a delivery manner and at an address designated by the department, which manner may include email. The department shall post the acceptable manner of delivering notice on its website. Any notice that fails to conform with such manner is void.

Source: Laws 1953, c. 282, § 8, p. 917; Laws 1959, c. 375, § 1, p. 1314; Laws 1969, c. 682, § 1, p. 2609; Laws 1975, LB 481, § 33; Laws 1976, LB 585, § 15; Laws 1977, LB 456, § 3; Laws 2015, LB72, § 5; Laws 2017, LB268, § 16; Laws 2019, LB315, § 2; Laws 2019, LB593, § 10.

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.

Cross References

State Miscellaneous Claims Act, see section 81-8,294.

ARTICLE 23
DEPOSIT AND INVESTMENT OF PUBLIC FUNDS

(a) GENERAL PROVISIONS

Section
77-2341. Funds of governmental subdivision; investment of surplus; securities authorized.

(b) PUBLIC FUNDS DEPOSIT SECURITY ACT

77-2386. Public Funds Deposit Security Act, how cited.
77-2387. Terms, defined.
77-2388. Authorized depositories; security; requirements.
77-2391. Security; delivery requirements; perfection.
77-2392. Substitution or exchange of securities authorized.
77-2393. Withdrawal of securities; when; effect.
77-2394. Deposit guaranty bond; statement required.
77-2395. Custodial official; duties.
77-2396. Custodial official; liability.
77-2397. Depositories of public money or public funds; powers.
77-2398. Deposits in excess of insured or guaranteed amount; requirements.
77-2399. Governmental unit; deposits in excess of insured amount; 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.
77-23,107. Liability.
77-23,108. Rules and regulations.

(c) PUBLIC ENTITIES POOLED INVESTMENT ACT

77-23,109. Public Entities Pooled Investment Act, how cited.
77-23,110. Terms, defined.
77-23,111. Local government investment pool; authorized; restrictions.
77-23,112. Required disclosure statements.
77-23,113. General investment strategy.
77-23,114. License or registration; required, when.

(a) GENERAL PROVISIONS

77-2341 Funds of governmental subdivision; investment of surplus; securities authorized.

(1) Whenever any county, city, village, or other governmental subdivision, other than a school district, of the State of Nebraska has accumulated a surplus of any fund in excess of its current needs or has accumulated a sinking fund for the payment of its bonds and the money in such sinking fund exceeds the amount necessary to pay the principal and interest of any such bonds which become due during the current year, the governing body of such county, city, village, or other governmental subdivision may invest any such surplus in excess of current needs or such excess in its sinking fund in certificates of deposit, in time deposits, and in any securities in which the state investment officer is authorized to invest pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act and as provided in the authorized investment guidelines of the Nebraska Investment Council in effect on the date the investment is made. The state investment officer shall upon request furnish a copy of current authorized investment guidelines of the Nebraska Investment Council.

(2) Whenever any school district of the State of Nebraska has accumulated a surplus of any fund in excess of its current needs or has accumulated a fund for the payment of bonds and the money in such fund exceeds the amount necessary to pay the principal and interest of any such bonds which become due during the current year, the board of education of such school district may invest any such surplus in excess of current needs or such excess in the bond fund in securities in which such board of education is authorized to invest pursuant to section 79-1043.

(3) Nothing in subsection (1) of this section shall be construed to restrict investments authorized pursuant to section 14-563.

(4) Nothing in subsections (1), (2), and (3) of this section shall be construed to authorize investments in venture capital or to expand the investment authority of a local government investment pool under the Public Entities Pooled Investment Act.

Source: Laws 1931, c. 152, § 1, p. 411; C.S.Supp.,1941, § 77-2528; Laws 1943, c. 179, § 1, p. 624; R.S.1943, § 77-2341; Laws 1959, c. 263, § 18, p. 947; Laws 1961, c. 392, § 4, p. 1191; Laws 1989, LB 221, § 6; Laws 1994, LB 1066, § 83; Laws 1996, LB 900, § 1062; Laws 2024, LB1074, § 96.
Operative date July 19, 2024.

Cross References

For investments for the Board of Educational Lands and Funds, see sections 72-202, 77-2204, and 77-2205.
Nebraska Capital Expansion Act, see section 72-1269.
Nebraska State Funds Investment Act, see section 72-1260.
Public Entities Pooled Investment Act, see section 77-23,109.

(b) PUBLIC FUNDS DEPOSIT SECURITY ACT

77-2386 Public Funds Deposit Security Act, how cited.

Sections 77-2386 to 77-23,108 shall be known and may be cited as the Public Funds Deposit Security Act.

Source: Laws 1996, LB 1274, § 1; Laws 2000, LB 932, § 38; Laws 2019, LB622, § 1.

77-2387 Terms, defined.

For purposes of the Public Funds Deposit Security Act, unless the context otherwise requires:

(1) Affiliate means any entity that controls, is controlled by, or is under common control with another entity;

(2) Bank means any state-chartered or federally chartered bank which has a main chartered office in this state, any branch thereof in this state, or any branch in this state of a state-chartered or federally chartered bank which maintained a main chartered office in this state prior to becoming a branch of such state-chartered or federally chartered bank;

(3) Capital stock financial institution means a capital stock state building and loan association, a capital stock federal savings and loan association, a capital stock federal savings bank, and a capital stock state savings bank, which has a main chartered office in this state, any branch thereof in this state, or any branch in this state of a capital stock financial institution which maintained a main chartered office in this state prior to becoming a branch of such capital stock financial institution;

(4) Control means to own directly or indirectly or to control in any manner twenty-five percent of the voting shares of any bank, capital stock financial institution, or holding company or to control in any manner the election of the majority of directors of any bank, capital stock financial institution, or holding company;

(5) Custodial official means an officer or an employee of the State of Nebraska or any political subdivision who, by law, is made custodian of or has control over public money or public funds subject to the act or the security for the deposit of public money or public funds subject to the act;

(6) Deposit guaranty bond means a bond underwritten by an insurance company authorized to do business in this state which provides coverage for deposits of a governing authority which are in excess of the amounts insured or guaranteed by the Federal Deposit Insurance Corporation;

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

(8) Event of default means the issuance of an order by a supervisory authority or a receiver which restrains a bank, capital stock financial institution, or qualifying mutual financial institution from paying its deposit liabilities;

(9) Governing authority means the official, or the governing board, council, or other body or group of officials, authorized to designate a bank, capital stock financial institution, or qualifying mutual financial institution as a depository of public money or public funds subject to the act;

(10) Governmental unit means the State of Nebraska or any political subdivision thereof;

(11) Political subdivision means any county, city, village, township, district, authority, or other public corporation or entity, whether organized and existing under direct provisions of the Constitution of Nebraska or laws of the State of Nebraska or by virtue of a charter, corporate articles, or other legal instruments executed under authority of the constitution or laws, including any entity created pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act;

(12) Qualifying mutual financial institution shall have the same meaning as in section 77-2365.01;

(13) Repurchase agreement means an agreement to purchase securities by the governing authority by which the counterparty bank, capital stock financial institution, or qualifying mutual financial institution will repurchase the securities on or before a specified date and for a specified amount and the counterparty bank, capital stock financial institution, or qualifying mutual financial institution will deliver the underlying securities to the governing authority by book entry, physical delivery, or third-party custodial agreement. The transfer of underlying securities to the counterparty bank's, capital stock financial institution's, or qualifying mutual financial institution's customer book entry account may be used for book entry delivery if the governing authority so chooses; and

(14) Securities means:

(a) Bonds or obligations fully and unconditionally guaranteed both as to principal and interest by the United States Government;

(b) United States Government notes, certificates of indebtedness, or treasury bills of any issue;

(c) United States Government bonds;

(d) United States Government guaranteed bonds or notes;

(e) Bonds or notes of United States Government agencies;

(f) Bonds of any state or political subdivision which are fully defeased as to principal and interest by any combination of bonds or notes authorized in subdivision (c), (d), or (e) of this subdivision;

(g) Bonds or obligations, including mortgage-backed securities and collateralized mortgage obligations, issued by or backed by collateral one hundred percent guaranteed by the Federal Home Loan Mortgage Corporation, the Federal Farm Credit System, a Federal Home Loan Bank, or the Federal National Mortgage Association;

(h) Student loans backed or partially guaranteed by the United States Department of Education;

(i) Repurchase agreements the subject securities of which are any of the securities described in subdivisions (a) through (g) of this subdivision;

(j) Securities issued under the authority of the Federal Farm Loan Act;

(k) Loan participations which carry the guarantee of the Commodity Credit Corporation, an instrumentality of the United States Department of Agriculture;

(l) Guaranty agreements of the Small Business Administration of the United States Government;

(m) Bonds or obligations of any county, city, village, metropolitan utilities district, public power and irrigation district, sewer district, fire protection district, rural water district, or school district in this state which have been issued as required by law;

(n) Bonds of the State of Nebraska or of any other state which are purchased by the Board of Educational Lands and Funds of this state for investment in the permanent school fund or which are purchased by the state investment officer of this state for investment in the permanent school fund;

(o) Bonds or obligations of another state, or a political subdivision of another state, which are rated within the two highest classifications by at least one of the standard rating services, with such classifications to include the underlying credit rating or enhanced credit rating, whichever is higher, with respect to bonds or obligations of a political subdivision of another state;

(p) Warrants of the State of Nebraska;

(q) Warrants of any county, city, village, local hospital district, or school district in this state;

(r) Irrevocable, nontransferable, unconditional standby letters of credit issued by a Federal Home Loan Bank; and

(s) Certificates of deposit fully insured or guaranteed by the Federal Deposit Insurance Corporation that are issued to a bank, capital stock financial institution, or qualifying mutual financial institution furnishing securities pursuant to the Public Funds Deposit Security Act.

Source: Laws 1996, LB 1274, § 2; Laws 1997, LB 275, § 2; Laws 2000, LB 932, § 39; Laws 2001, LB 362, § 82; Laws 2001, LB 420, § 35; Laws 2003, LB 131, § 37; Laws 2003, LB 175, § 14; Laws 2004, LB 999, § 50; Laws 2009, LB259, § 27; Laws 2011, LB78, § 1; Laws 2013, LB155, § 1; Laws 2019, LB622, § 2; Laws 2020, LB808, § 93; Laws 2022, LB707, § 59.

Cross References

Interlocal Cooperation Act, see section 13-801.
Joint Public Agency Act, see section 13-2501.

77-2388 Authorized depositories; security; requirements.

Any bank, capital stock financial institution, or qualifying mutual financial institution subject to a requirement by law to secure the deposit of public money or public funds in excess of the amount insured or guaranteed by the Federal Deposit Insurance Corporation may give security by furnishing securities or providing a deposit guaranty bond, or any combination thereof, pursuant to the Public Funds Deposit Security Act in satisfaction of the requirement.

Source: Laws 1996, LB 1274, § 3; Laws 2001, LB 362, § 83; Laws 2009, LB259, § 28; Laws 2019, LB622, § 3.

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 (14) 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 (14) 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.

77-2392 Substitution or exchange of securities authorized.

A bank, capital stock financial institution, or qualifying mutual financial institution which has furnished securities pursuant to the Public Funds Deposit Security Act shall have the right at any time and without prior approval to substitute or exchange other securities of equal value in lieu of securities furnished except that such securities substituted or exchanged shall be those provided for under the act and such substitution or exchange shall not reduce the market value of the securities to an amount that is less than one hundred two percent of the total amount of public money or public funds less the portion of such public money or public funds insured or guaranteed by the Federal Deposit Insurance Corporation. Following any substitution or exchange of securities pursuant to this section by a bank, capital stock financial institution, or qualifying mutual financial institution utilizing the dedicated method as provided in subdivision (2)(a) of section 77-2398, the custodial official shall report such substitution or exchange to the governing authority.

Source: Laws 1996, LB 1274, § 7; Laws 2001, LB 362, § 87; Laws 2019, LB622, § 4.

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.

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.

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.

77-2396 Custodial official; liability.

No custodial official shall be liable on his or her official bond as such custodial official for public money or public funds on deposit in a bank, capital stock financial institution, or qualifying mutual financial institution designated as a depository if the depository has furnished securities or provided a deposit guaranty bond, or any combination thereof, pursuant to the Public Funds Deposit Security Act.

Source: Laws 1996, LB 1274, § 11; Laws 2001, LB 362, § 91; Laws 2019, LB622, § 7.

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.

77-2398 Deposits in excess of insured or guaranteed amount; requirements.

(1) As an alternative to the requirements to secure the deposit of public money or public funds in excess of the amount insured or guaranteed by the Federal Deposit Insurance Corporation pursuant to sections 77-2389 and 77-2394, a bank, capital stock financial institution, or qualifying mutual financial institution designated as a public depositary may secure the deposits of one or more governmental units by providing a deposit guaranty bond or by depositing, pledging, or granting a security interest in a single pool of securities or by a combination thereof to secure the repayment of all public money or public funds deposited in the bank, capital stock financial institution, or qualifying mutual financial institution by such governmental units and not otherwise secured pursuant to law, if at all times the total value of the deposit guaranty bond and the aggregate market value of the pool of securities so deposited, pledged, or in which a security interest is granted is at least equal to one hundred two percent of the amount on deposit which is in excess of the amount so insured or guaranteed. Each such bank, capital stock financial institution, or qualifying mutual financial institution shall carry on its accounting records at all times a general ledger or other appropriate account of the total amount of all public money or public funds to be secured by a deposit guaranty bond or by the pool of securities, or any combination thereof, as determined at the opening of business each day, and the total value of the deposit guaranty bond or the aggregate market value of the pool of securities deposited, pledged, or in which a security interest is granted to secure such public money or public funds. For purposes of this section, a pool of securities shall include shares of investment companies registered under the federal Investment Company Act of 1940 when the investment companies' assets are limited to obligations that are eligible for investment by the bank, capital stock

financial institution, or qualifying mutual financial institution and limited by their prospectuses to owning securities enumerated in section 77-2387.

(2) A bank, capital stock financial institution, or qualifying mutual financial institution may secure the deposit of public money or public funds using the dedicated method, the single bank pooled method, or both methods as set forth in subsection (1) of this section.

(a) Under the dedicated method, a bank, capital stock financial institution, or qualifying mutual financial institution may secure the deposit of public money or public funds by each governmental unit separately by furnishing securities or providing a deposit guaranty bond, or any combination thereof, pursuant to the Public Funds Deposit Security Act.

(b)(i) Under the single bank pooled method, a bank, capital stock financial institution, or qualifying mutual financial institution may secure the deposit of public money or public funds of one or more governmental units by providing a deposit guaranty bond or through a pool of eligible securities established by such bank, capital stock financial institution, or qualifying mutual financial institution with a qualified trustee, or any combination thereof, to be held subject to the order of the director or the administrator for the benefit of the governmental units having public money or public funds with such bank, capital stock financial institution, or qualifying mutual financial institution as set forth in subsection (1) of this section. A bank, capital stock financial institution, or qualifying mutual financial institution may not retain any deposit of public money or public funds which is required to be secured unless, within ten days thereafter or such shorter period as has been agreed upon by the bank, capital stock financial institution, or qualifying mutual financial institution and the director or administrator, it has secured the deposits for the benefit of the governmental units having public money or public funds with such bank, capital stock financial institution, or qualifying mutual financial institution pursuant to this section.

(ii) The director shall designate a bank, savings association, trust company, or other qualified firm, corporation, or association which is authorized to transact business in this state to serve as the administrator with respect to a single bank pooled method. Fees and expenses of such administrator shall be paid by the banks, capital stock financial institutions, or qualifying mutual financial institutions utilizing the single bank pooled method.

(iii) If a bank, capital stock financial institution, or qualifying mutual financial institution elects to secure the deposit of public money or public funds through the use of the single bank pooled method, such bank, capital stock financial institution, or qualifying mutual financial institution shall notify the administrator in writing that it has elected to utilize the single bank pooled method and the proposed effective date thereof.

(iv) The single bank pooled method shall not be utilized by any bank, capital stock financial institution, or qualifying mutual financial institution unless an administrator has been designated by the director pursuant to subdivision (2)(b)(ii) of this section and is acting as the administrator.

(3) Only a deposit guaranty bond and the securities listed in subdivision (14) of section 77-2387 may be provided and accepted as security for the deposit of public money or public funds and shall be eligible as collateral. The qualified

trustee shall not accept any securities which are not listed in subdivision (14) of section 77-2387.

Source: Laws 2000, LB 932, § 43; Laws 2001, LB 362, § 92; Laws 2009, LB259, § 31; Laws 2011, LB78, § 2; Laws 2013, LB155, § 2; Laws 2019, LB622, § 9; Laws 2020, LB909, § 52.

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 (14) 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.

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.

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 (14) 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.

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.

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.

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.

77-23,107 Liability.

The director and the administrator under the Public Funds Deposit Security Act shall, except for actions or inactions that constitute gross negligence or

intentional wrongful acts, be immune from liability for any act required of or authorized for the director and the administrator under the act.

Source: Laws 2019, LB622, § 14.

77-23,108 Rules and regulations.

The director may adopt and promulgate rules and regulations, establish policies and procedures, prescribe forms, or issue orders as may be necessary to accomplish the purposes of the Public Funds Deposit Security Act.

Source: Laws 2019, LB622, § 15.

(c) PUBLIC ENTITIES POOLED INVESTMENT ACT

77-23,109 Public Entities Pooled Investment Act, how cited.

Sections 77-23,109 to 77-23,114 shall be known and may be cited as the Public Entities Pooled Investment Act.

Source: Laws 2024, LB1074, § 31.
Operative date July 19, 2024.

77-23,110 Terms, defined.

For purposes of the Public Entities Pooled Investment Act:

(1) Bank means a state-chartered or federally chartered bank which has a main chartered office in this state, any branch thereof in this state, or any branch in this state of a state-chartered or federally chartered bank which maintained a main chartered office in this state prior to becoming a branch of such state-chartered or federally chartered bank;

(2) Capital stock financial institution means a capital stock state building and loan association, a capital stock federal savings and loan association, a capital stock federal savings bank, or a capital stock state savings bank, which has a main chartered office in this state, any branch thereof in this state, or any branch in this state of a capital stock financial institution which maintained a main chartered office in this state prior to becoming a branch of such capital stock financial institution;

(3) Eligible entity means any governmental, public, or quasi-public entity, joint public agency created pursuant to the Joint Public Agency Act, or joint entity created pursuant to the Interlocal Cooperation Act, located in the state, including, but not limited to, an entity designated as a political subdivision, vested with taxing authority, or whose membership is wholly comprised by such entities and funds created by such entities. Eligible entity does not include the State of Nebraska or any department, division, office, board, commission, or other agency of the state, or any court, constitutional office, or elected or appointed officer of the state;

(4) Eligible investment means:

(a) Obligations, including letters of credit, of any agency or instrumentality of the United States, including bonds, debentures, or notes issued by the Federal Home Loan Bank System;

(b) Direct obligations of or other obligations the principal of and interest on which are guaranteed by the United States or its agencies or instrumentalities, including collateralized mortgage obligations and obligations that are fully

guaranteed or insured by the Federal Deposit Insurance Corporation or by the full faith and credit of the United States;

(c) Direct obligations of the state, its agencies, and its instrumentalities receiving an investment quality rating by a nationally recognized investment rating firm not less than A or its equivalent at the time of purchase;

(d) Obligations of other states, agencies, counties, cities, and political subdivisions of any state receiving an investment quality rating by a nationally recognized investment rating firm not less than A or its equivalent at the time of purchase;

(e) Commercial paper, if such commercial paper:

(i) Is issued by a United States corporation;

(ii) Has a stated maturity of two hundred seventy days or fewer from its date of issuance;

(iii) Is rated in the highest short-term rating quality category by at least two nationally recognized statistical rating organizations at the time of purchase;

(iv) Is limited to no more than fifty percent of the total funds available for investment by a local government investment pool at the time of purchase; and

(v) Is limited to no more than five percent of the total funds available for investment by a local government investment pool being invested in the commercial paper of a single issuer;

(f) Money market mutual funds whose shares are sold without commissions or other sales charges unrelated to fund expenses, that have a fixed net asset value of one dollar, and that are comprised of obligations of the United States, its agencies, or its instrumentalities;

(g) Fully collateralized repurchase agreements if such agreements:

(i) Have a defined termination date;

(ii) Are secured by a combination of cash and obligations of the United States, its agencies, or its instrumentalities;

(iii) Require securities purchased by the trust or cash held by the trust to be pledged to the trust, held in the trust's name, and deposited at the time the investment is made with the trust or with a third party selected and approved by the trust; and

(iv) Are invested through a primary government securities dealer, as defined by the Board of Governors of the Federal Reserve System, or a financial institution; and

(h) Certificates of deposit and time deposit open accounts in banks, capital stock financial institutions, or qualifying mutual financial institutions;

(5) Local government investment pool means an investment pool or trust created pursuant to the laws of this state, including, but not limited to, the Interlocal Cooperation Act, for the purpose of pooling and investing the funds of two or more eligible entities; and

(6) Qualifying mutual financial institution has the same meaning as in section 77-2365.01.

Source: Laws 2024, LB1074, § 32.
Operative date July 19, 2024.

Cross References

Interlocal Cooperation Act, see section 13-801.
Joint Public Agency Act, see section 13-2501.

77-23,111 Local government investment pool; authorized; restrictions.

An eligible entity may invest its funds and funds under its control through a local government investment pool if the governing body of the eligible entity by ordinance or resolution authorizes investment in the pool. A local government investment pool may only invest the funds it receives from eligible entities in eligible investments.

Source: Laws 2024, LB1074, § 33.
Operative date July 19, 2024.

77-23,112 Required disclosure statements.

A local government investment pool shall display and include in all advertising, in all marketing materials, and on any Internet website or mobile application it maintains the following conspicuous statements:

(1) Investments in a local government investment pool are not insured or guaranteed by the Federal Deposit Insurance Corporation or any other government agency; and

(2) Investments in a local government investment pool are subject to liquidity risk, which may impact the pool's ability to sell investments in a timely fashion or at near face value in order to fulfill a participant's redemption request. Such investments are also subject to market risk, issuer risk, and default risk. Participants may lose money by investing in a local government investment pool.

Source: Laws 2024, LB1074, § 34.
Operative date July 19, 2024.

77-23,113 General investment strategy.

The general investment strategy for a local government investment pool shall be to invest all funds of eligible entities to accomplish the following objectives, which are listed in order of priority:

(1) Preservation and safety of principal;

(2) Liquidity; and

(3) Yield.

Source: Laws 2024, LB1074, § 35.
Operative date July 19, 2024.

77-23,114 License or registration; required, when.

Any agent, employee, or representative of an investment advisor acting on behalf of a local government investment pool who solicits, purchases, or sells securities or eligible investments on behalf of the local government investment pool shall hold and maintain any license or registration required by federal or state law to solicit, purchase, or sell securities or eligible investments on behalf of a local government investment pool.

Source: Laws 2024, LB1074, § 36.
Operative date July 19, 2024.

ARTICLE 25
AFFORDABLE HOUSING TAX CREDIT ACT

Section
77-2501. Act, how cited.
77-2502. Terms, defined.
77-2503. Application; form; qualified project; allocation of credit; transfer, sale, or assignment; use of credit.
77-2505. Insurance company; no additional retaliatory tax.
77-2508. Changes made by Laws 2022, LB800; applicability.

77-2501 Act, how cited.

Sections 77-2501 to 77-2508 shall be known and may be cited as the Affordable Housing Tax Credit Act.

Source: Laws 2016, LB884, § 11; Laws 2022, LB800, § 338.

77-2502 Terms, defined.

For purposes of the Affordable Housing Tax Credit Act:

(1) Allocation year means the year for which the authority awards Nebraska affordable housing tax credits pursuant to the act;

(2) Authority means the Nebraska Investment Finance Authority;

(3) Eligibility statement means a statement authorized and issued by the authority certifying that a given project is a qualified project that qualifies for Nebraska affordable housing tax credits;

(4) Federal low-income housing tax credit means the federal tax credit provided in section 42 of the Internal Revenue Code of 1986, as amended;

(5) Nebraska affordable housing tax credit means the nonrefundable tax credit authorized in section 77-2503;

(6) Qualified project means a qualified low-income building or buildings, as that term is defined in section 42 of the Internal Revenue Code of 1986, as amended;

(7) Qualified taxpayer means a taxpayer owning an interest, direct or indirect, in a qualified project; and

(8) Taxpayer means a person, firm, corporation, or other business entity subject to the income tax imposed by section 77-2715 or 77-2734.02, an insurance company subject to premium and related retaliatory tax liability imposed by section 44-150, 77-908, or 81-523, or a financial institution subject to the franchise tax imposed by sections 77-3801 to 77-3807.

Source: Laws 2016, LB884, § 12; Laws 2022, LB800, § 339.

77-2503 Application; form; qualified project; allocation of credit; transfer, sale, or assignment; use of credit.

(1) An owner of an affordable housing project seeking a Nebraska affordable housing tax credit shall file an application with the authority on a form prescribed by the authority. A qualified taxpayer shall be allowed a nonrefundable tax credit if the authority determines that the project for which tax credits are sought is a qualified project.

(2) If the requirements of subsection (1) of this section are met, the authority shall issue an eligibility statement to the owner of such qualified project stating

the amount of Nebraska affordable housing tax credits allocated to the qualified project. The amount of such tax credits shall be the amount of federal low-income housing tax credits available to such project, except as otherwise provided in subsection (4) of this section. Tax credits for each building in a qualified project shall be issued for the first six years of the credit period as defined in 26 U.S.C. 42(f)(1), except that any reduction in the credit allowable in the first year of the credit period due to the calculation in 26 U.S.C. 42(f)(2) shall be allowable in the seventh year of the credit period. The authority shall only allocate tax credits to qualified projects that are placed in service after January 1, 2018.

(3) If the owner of the qualified project is (a) a partnership, (b) a limited liability company, or (c) a corporation having an election in effect under subchapter S of the Internal Revenue Code of 1986, as amended, the Nebraska affordable housing tax credit shall be allocated among some or all of the partners, members, or shareholders of the owner of the qualified project in any manner agreed to by such persons, but only if such persons have been admitted as partners or members, or have acquired their shares, on or prior to February 15 of the year in which the tax return, or amended return, claiming the tax credit is filed. A qualified taxpayer may transfer, sell, or assign all or part of his or her ownership interest, including his or her interest in the tax credits authorized in this section. For any tax year in which such an interest is transferred, sold, or assigned pursuant to this subsection, the transferor shall notify the Department of Revenue of the transfer, sale, or assignment and provide the tax identification number of the new owner at least thirty days prior to the new owner claiming the tax credits. The notification shall be in the manner prescribed by the department.

(4) The maximum amount of Nebraska affordable housing tax credits awarded to all qualified projects in any given allocation year shall be no more than one hundred percent of the total amount of federal low-income housing tax credits awarded by the authority in the same allocation year. Notwithstanding any other provision of the Affordable Housing Tax Credit Act, the authority is prohibited from awarding to a qualified project any combined amount of federal low-income housing tax credits and Nebraska affordable housing tax credits that is more than necessary to make the qualified project financially feasible.

(5) Any Nebraska affordable housing tax credits granted under this section may be used to offset any income taxes due under section 77-2715 or 77-2734.02, any premium and related retaliatory taxes due under section 44-150, 77-908, or 81-523, or any franchise taxes due under sections 77-3801 to 77-3807.

(6) The tax credit shall not be used to reduce the tax liability of the qualified taxpayer to less than zero. Any tax credit claimed but not used in a taxable year may be carried forward.

Source: Laws 2016, LB884, § 13; Laws 2017, LB217, § 10; Laws 2022, LB800, § 340.

77-2505 Insurance company; no additional retaliatory tax.

An insurance company claiming a Nebraska affordable housing tax credit against any premium and related retaliatory taxes due under section 44-150, 77-908, or 81-523 shall not be required to pay any additional retaliatory tax as

a result of claiming the tax credit. The tax credit may fully offset any retaliatory tax imposed under Nebraska law. Any tax credit claimed shall be considered a payment of tax for purposes of subsection (1) of section 77-2734.03.

Source: Laws 2016, LB884, § 15; Laws 2022, LB800, § 341.

77-2508 Changes made by Laws 2022, LB800; applicability.

The changes made in sections 77-2502, 77-2503, and 77-2505 by Laws 2022, LB800, shall apply to taxable years beginning or deemed to begin on or after January 1, 2023.

Source: Laws 2022, LB800, § 342.

ARTICLE 26

CIGARETTE TAX

Section
77-2601. Terms, defined.
77-2602. Cigarette tax; rate; disposition of proceeds; priority.
77-2603. Tax; stamps; tax meter impressions; requirements; stamping agent; license; application; form; service of process; corporate surety bond; Tax Commissioner; duties; directory license; application; term.

77-2601 Terms, defined.

For purposes of sections 77-2601 to 77-2615:

(1) Person means and includes every individual, firm, association, joint-stock company, partnership, limited liability company, syndicate, corporation, trustee, or other legal entity, including any Indian tribe or instrumentality thereof;

(2) Wholesale dealer means a person who sells cigarettes to licensed retail dealers other than branch stores operated by or connected with such wholesale dealer for purposes of resale and is licensed under section 28-1423;

(3) Retail dealer includes every person other than a wholesale dealer engaged in the business of selling cigarettes in this state irrespective of quantity, amount, or number of sales thereof;

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

(5) Cigarette means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains (a) any roll of tobacco wrapped in paper or in any substance not containing tobacco; (b) tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette; or (c) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in subdivision (5)(a) of this section;

(6) Consumer means any person, firm, association, partnership, limited liability company, joint-stock company, syndicate, or corporation not having a license to sell cigarettes;

(7) Sales entity affiliate means an entity that (a) sells cigarettes that it acquires directly from a manufacturer or importer and (b) is affiliated with that manufacturer or importer. Entities are affiliated with each other if one directly, or indirectly through one or more intermediaries, controls or is controlled by or

is under common control with the other. Unless provided otherwise, manufacturer or importer includes any sales entity affiliate of that manufacturer or importer;

(8) Stamping agent has the same meaning as in section 69-2705; and

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

Source: Laws 1947, c. 267, § 1, p. 861; Laws 1978, LB 748, § 41; Laws 1993, LB 121, § 499; Laws 2002, LB 989, § 9; Laws 2003, LB 572, § 9; Laws 2011, LB590, § 19; Laws 2019, LB397, § 21.

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.

Cross References

Deferred Building Renewal Act, see section 81-190.

77-2603 Tax; stamps; tax meter impressions; requirements; stamping agent; license; application; form; service of process; corporate surety bond; Tax Commissioner; duties; directory license; application; term.

(1) The tax, as levied in section 77-2602, shall be paid and stamps or cigarette tax meter impressions shall be affixed or printed with a cigarette tax meter by the person having possession and ownership of such cigarettes after the same shall have come to rest in this state and intended to be sold or given away in this state. Nothing in sections 77-2601 to 77-2615 shall be construed to require a stamping agent to fix the retail price or to require any retail dealer to sell at any particular price. Subject to such rules and regulations as the Tax Commissioner shall prescribe, tax meter machines may be used when approved by the Tax Commissioner to affix a suitable stamp or impression on each package of cigarettes and cigarettes with a tax meter impression shall be treated as stamped cigarettes for purposes of sections 69-2701 to 69-2711 and 77-2601 to 77-2615. Before any person is issued a license to affix stamps or cigarette tax meter impressions, the person shall make application to become licensed as a stamping agent to the Tax Commissioner on a form provided by the Tax Commissioner to engage in such activity.

(2) Any manufacturer, importer, sales entity affiliate, wholesale dealer, or retail dealer that engages in the business of selling cigarettes may apply to be licensed as a stamping agent in accordance with this section. A license shall be issued by the Tax Commissioner to an applicant upon the applicant's:

(a) Meeting all requirements of sections 69-2701 to 69-2711 and 77-2601 to 77-2615 and rules and regulations pursuant to such sections;

(b) Certifying on a form prescribed by the Tax Commissioner that it will comply with the requirements of section 69-2708; and

(c) In the case of an applicant located outside of the state, designating an agent for service of process in Nebraska, and providing notice thereof as required by section 69-2707, in connection with enforcement of sections 69-2701 to 69-2711 and 77-2601 to 77-2615, and, if approval is given by the Tax Commissioner, the manufacturer, importer, sales entity affiliate, wholesale dealer, or retail dealer shall furnish a corporate surety bond, conditioned to faithfully comply with all the requirements of sections 77-2601 to 77-2615, in a sum not less than ten thousand dollars. Such bond shall be subject to forfeiture if the stamping agent fails to pay the shortfall amount under subsection (1) of section 69-2708.01 unless the stamping agent is excused from liability under subsection (3) of section 69-2708.01.

(3) Nothing in sections 77-2601 to 77-2615 shall prevent the Tax Commissioner from affixing the stamps or meter impressions in lieu of the provisions for affixing stamps and meter impressions by stamping agents as determined by such rules and regulations adopted by the Tax Commissioner.

(4) The Tax Commissioner shall list on its website the names of all persons licensed as stamping agents under this section. Manufacturers, importers, and sales entity affiliates shall be entitled to rely upon the list in selling cigarettes as provided in section 69-2706.

(5) A manufacturer, importer, sales entity affiliate, wholesale dealer, or retail dealer that engages in the business of selling cigarettes and that holds a valid stamping agent license under subsection (1) of this section may apply for a directory license allowing it to purchase or possess in the state cigarettes of a manufacturer or brand family not at the time of purchase listed in the directory for sale into another state if permitted under section 69-2706. A directory license shall be issued by the Tax Commissioner to an applicant upon the applicant's (a) demonstrating that it holds a valid license under subsection (1) of this section and (b) providing a certification by an officer thereof on a form prescribed by the Tax Commissioner that any cigarettes of a manufacturer or brand family not listed in the directory will be purchased or possessed solely for sale or transfer into another state as permitted by section 69-2706. The directory license shall remain in effect for a period of one year.

(6) No directory license may be issued to a person that acted inconsistently with a certification it previously made under subsection (2) of this section.

(7) The Tax Commissioner shall list on its website the names of all persons holding a directory license. Manufacturers, importers, sales entity affiliates, and stamping agents shall be entitled to rely upon the list in selling cigarettes as provided in section 69-2706.

Source: Laws 1947, c. 267, § 3, p. 862; Laws 1949, c. 245, § 1, p. 665; Laws 1951, c. 271, § 1, p. 905; Laws 1963, c. 458, § 1, p. 1484; Laws 2002, LB 989, § 11; Laws 2003, LB 572, § 10; Laws 2011, LB590, § 24; Laws 2019, LB397, § 22.

ARTICLE 27

SALES AND INCOME TAX

(a) ACT, RATES, AND DEFINITIONS

(b) SALES AND USE TAX

(c) INCOME TAX

Section

(d) GENERAL PROVISIONS

77-27,132. Revenue Distribution Fund; created; use; collections under act; disposition.
77-27,135. Notice; how given.

(e) GOVERNMENTAL SUBDIVISION AID

77-27,139.04. Aid to municipalities; funds; how distributed.

(g) LOCAL OPTION REVENUE ACT

77-27,142. Incorporated municipalities; sales and use tax; authorized; election.
77-27,144. Municipalities; sales and use tax; Tax Commissioner; collection; distribution; refunds; notice; deductions; qualifying business; duty to provide information.

(h) AIR AND WATER POLLUTION CONTROL TAX REFUND ACT

77-27,150. Refund; application; when; contents; hearing; approval.
77-27,151. Refund; notice to Tax Commissioner; Department of Environment and Energy; duties.
77-27,152. Refund; notice; modify or revoke; when; effect.
77-27,153. Appeal; procedure.
77-27,154. Rules and regulations.

(i) ECONOMIC FORECASTING

77-27,157. Board; membership; terms; officers; quorum; expenses.

(m) NEBRASKA ADVANTAGE RURAL DEVELOPMENT ACT

77-27,187.01. Terms, defined.
77-27,187.02. Application; deadline; contents; fee; written agreement; contents.
77-27,188. Tax credit; allowed; when; amount; repayment.
77-27,195. Report; contents; joint hearing.

(q) COUNTY LICENSE OR OCCUPATION TAX ON ADMISSIONS

77-27,223. County; license or occupation tax; authorized; election.

(t) BIODIESEL FACILITY INVESTMENT CREDIT

77-27,236. Biodiesel facility tax credit; conditions; facility; requirements; information not public record.

(w) ONLINE HOSTING PLATFORM

77-27,239. Online hosting platform; Tax Commissioner; agreement authorized; powers.

(x) CREDIT FOR EMPLOYING INDIVIDUAL CONVICTED OF FELONY

77-27,240. Individual convicted of a felony; employer; tax credit; application; Department of Revenue; powers and duties.

(y) FOOD BANK, FOOD PANTRY, OR FOOD RESCUE DONATION CREDIT

77-27,241. Food bank, food pantry, or food rescue donation; credit; eligibility; application; approval; annual limit; tax credit certification.

(z) DEDUCTION FOR BUSINESS ASSETS AND RESEARCH OR EXPERIMENTAL EXPENDITURES

77-27,242. Business assets; research or experimental expenditures; deduction; authorized; rules and regulations.

(a) ACT, RATES, AND DEFINITIONS

77-2701 Act, how cited.

Sections 77-2701 to 77-27,135.01, 77-27,222, 77-27,235, 77-27,236, and 77-27,238 to 77-27,242 shall be known and may be cited as the Nebraska Revenue Act of 1967.

Source: Laws 1967, c. 487, § 1, p. 1533; Laws 1984, LB 1124, § 2; Laws 1985, LB 715, § 1; Laws 1985, LB 273, § 40; Laws 1987, LB 773,

§ 1; Laws 1987, LB 772, § 1; Laws 1987, LB 775, § 14; Laws 1987, LB 523, § 12; Laws 1989, LB 714, § 1; Laws 1989, LB 762, § 9; Laws 1991, LB 444, § 1; Laws 1991, LB 773, § 6; Laws 1991, LB 829, § 19; Laws 1992, LB 871, § 3; Laws 1992, LB 1063, § 180; Laws 1992, Second Spec. Sess., LB 1, § 153; Laws 1992, Fourth Spec. Sess., LB 1, § 22; Laws 1993, LB 138, § 69; Laws 1993, LB 240, § 1; Laws 1993, LB 345, § 14; Laws 1993, LB 587, § 20; Laws 1993, LB 815, § 22; Laws 1994, LB 901, § 1; Laws 1994, LB 938, § 1; Laws 1995, LB 430, § 2; Laws 1996, LB 106, § 2; Laws 1997, LB 182A, § 1; Laws 1998, LB 924, § 27; Laws 2001, LB 172, § 10; Laws 2001, LB 433, § 2; Laws 2002, LB 57, § 2; Laws 2002, LB 947, § 3; Laws 2003, LB 72, § 1; Laws 2003, LB 168, § 1; Laws 2003, LB 282, § 6; Laws 2003, LB 759, § 4; Laws 2004, LB 1017, § 2; Laws 2005, LB 28, § 1; Laws 2005, LB 312, § 6; Laws 2006, LB 872, § 1; Laws 2006, LB 968, § 3; Laws 2006, LB 1189, § 1; Laws 2007, LB223, § 3; Laws 2007, LB343, § 1; Laws 2007, LB367, § 9; Laws 2008, LB916, § 5; Laws 2009, LB9, § 2; Laws 2012, LB727, § 34; Laws 2012, LB830, § 1; Laws 2012, LB970, § 1; Laws 2012, LB1080, § 2; Laws 2014, LB96, § 1; Laws 2014, LB867, § 8; Laws 2015, LB3, § 1; Laws 2015, LB419, § 1; Laws 2016, LB774, § 2; Laws 2017, LB217, § 14; Laws 2019, LB57, § 2; Laws 2021, LB26, § 1; Laws 2021, LB595, § 2; Laws 2022, LB917, § 1; Laws 2022, LB984, § 1; Laws 2023, LB727, § 58; Laws 2024, LB937, § 67; Laws 2024, LB1023, § 8; Laws 2024, LB1317, § 80.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB937, section 67, with LB1023, section 8, and LB1317, section 80, to reflect all amendments.

Note: Changes made by LB937 became operative October 1, 2024. Changes made by LB1023 became operative July 19, 2024. Changes made by LB1317 became operative January 1, 2025.

77-2701.02 Sales tax; rate.

Pursuant to section 77-2715.01:

(1) Until July 1, 1998, the rate of the sales tax levied pursuant to section 77-2703 shall be five percent;

(2) Commencing July 1, 1998, and until July 1, 1999, the rate of the sales tax levied pursuant to section 77-2703 shall be four and one-half percent;

(3) Commencing July 1, 1999, and until the start of the first calendar quarter after July 20, 2002, the rate of the sales tax levied pursuant to section 77-2703 shall be five percent;

(4) Commencing on the start of the first calendar quarter after July 20, 2002, and until July 1, 2023, the rate of the sales tax levied pursuant to section 77-2703 shall be five and one-half percent;

(5) Commencing July 1, 2023, and until July 1, 2024, the rate of the sales tax levied pursuant to section 77-2703 shall be five and one-half percent, except that such rate shall be two and three-quarters percent on transactions occurring within a good life district as defined in section 77-4403; and

(6) Commencing July 1, 2024, the rate of the sales tax levied pursuant to section 77-2703 shall be five and one-half percent, except that such rate shall be two and three-quarters percent on transactions that occur within that portion

of a good life district established pursuant to the Good Life Transformational Projects Act which is located within the corporate limits of a city or village.

Source: Laws 1984, LB 892, § 2; Laws 1986, LB 539, § 2; Laws 1990, LB 1059, § 33; Laws 1998, LB 1104, § 12; Laws 2002, LB 1085, § 2; Laws 2003, LB 759, § 5; Laws 2023, LB727, § 59; Laws 2024, LB1317, § 81.
Operative date April 24, 2024.

Cross References

Good Life Transformational Projects Act, see section 77-4401.

77-2701.04 Definitions, where found.

For purposes of sections 77-2701.04 to 77-2713 and 77-27,239, unless the context otherwise requires, the definitions found in sections 77-2701.05 to 77-2701.56 shall be used.

Source: Laws 1992, LB 871, § 4; Laws 1992, Fourth Spec. Sess., LB 1, § 23; Laws 1993, LB 345, § 15; Laws 1998, LB 924, § 28; R.S.Supp.,2002, § 77-2702.03; Laws 2003, LB 282, § 8; Laws 2003, LB 759, § 6; Laws 2004, LB 1017, § 3; Laws 2005, LB 312, § 7; Laws 2006, LB 968, § 4; Laws 2006, LB 1189, § 2; Laws 2007, LB223, § 4; Laws 2007, LB367, § 10; Laws 2008, LB916, § 6; Laws 2009, LB9, § 3; Laws 2012, LB727, § 35; Laws 2012, LB830, § 2; Laws 2012, LB1080, § 3; Laws 2014, LB96, § 2; Laws 2014, LB867, § 9; Laws 2015, LB419, § 2; Laws 2019, LB57, § 3; Laws 2021, LB26, § 2; Laws 2021, LB595, § 3; Laws 2022, LB984, § 2; Laws 2023, LB727, § 60; Laws 2024, LB937, § 68; Laws 2024, LB1317, § 82.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB937, section 68, with LB1317, section 82, to reflect all amendments.

Note: Changes made by LB937 became operative October 1, 2024. Changes made by LB1317 became operative January 1, 2025.

77-2701.13 Engaged in business in this state, defined.

(1) Engaged in business in this state means conducting operations in this state that exceed the limitations of the commerce clause and due process clause of the United States Constitution and includes, but is not limited to, any of the following:

(a) Maintaining, occupying, or using, permanently or temporarily, directly or indirectly, or through a subsidiary or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse, storage place, or other place of business in this state;

(b) Having any representative, agent, salesperson, canvasser, facilitator, or solicitor operating in this state under the authority of the retailer or its subsidiary for the purpose of selling, delivering, or taking orders for any property;

(c) Deriving rentals from a lease of property in this state by any retailer;

(d) Soliciting retail sales of property from residents of this state on a continuous, regular, or systematic basis by means of advertising which is broadcast into this state or installed onto an electronic device located in this state;

(e) Soliciting or facilitating orders from or sales to residents of this state if the activities are continuous, regular, seasonal, or systematic or if the retailer benefits from any activities occurring in this state or benefits from the location in this state of authorized installation, servicing, or repair facilities;

(f) Being owned or controlled by the same interests which own or control any retailer engaged in business in this state; or

(g) Maintaining or having a franchisee or licensee operating under the retailer's trade name in this state if the franchisee or licensee is required to collect the tax under the Nebraska Revenue Act of 1967.

(2) A retailer who lacks a physical presence in this state and who operates a website or other digital medium or media to execute sales to purchasers of property subject to sales or use taxes in this state, or who uses a multivendor marketplace platform that acts as an intermediary by facilitating sales between a seller and the purchaser of property subject to sales or use taxes in this state, shall be deemed to be engaged in business in this state if:

(a) Such retailer made total retail sales of property in this state that exceeded one hundred thousand dollars in the previous or current calendar year; or

(b) Such retailer made retail sales in this state in two hundred or more separate transactions in the previous or current calendar year.

(3) A multivendor marketplace platform that acts as an intermediary by facilitating sales between a seller and the purchaser of property subject to sales or use taxes in this state shall be deemed to be engaged in business in this state if:

(a) The multivendor marketplace platform made or facilitated total retail sales of property in this state that exceeded one hundred thousand dollars in the previous or current calendar year; or

(b) The multivendor marketplace platform made or facilitated retail sales in this state in two hundred or more separate transactions in the previous or current calendar year.

Source: Laws 1992, LB 871, § 7; Laws 1993, LB 345, § 17; R.S.1943, (1996), § 77-2702.06; Laws 2003, LB 282, § 17; Laws 2019, LB284, § 1.

77-2701.16 Gross receipts, defined.

(1) Gross receipts means the total amount of the sale or lease or rental price, as the case may be, of the retail sales of retailers.

(2) Gross receipts of every person engaged as a public utility specified in this subsection, as a community antenna television service operator, or as a satellite service operator or any person involved in connecting and installing services defined in subdivision (2)(a), (b), or (d) of this section means:

(a)(i) In the furnishing of telephone communication service, other than mobile telecommunications service as described in section 77-2703.04, the gross income received from furnishing ancillary services, except for conference bridging services, and intrastate telecommunications services, except for value-added, nonvoice data service.

(ii) In the furnishing of mobile telecommunications service as described in section 77-2703.04, the gross income received from furnishing mobile telecom-

munications service that originates and terminates in the same state to a customer with a place of primary use in Nebraska;

(b) In the furnishing of telegraph service, the gross income received from the furnishing of intrastate telegraph services;

(c)(i) In the furnishing of gas, sewer, water, and electricity service, other than electricity service to a customer-generator as defined in section 70-2002, the gross income received from the furnishing of such services upon billings or statements rendered to consumers for such utility services.

(ii) In the furnishing of electricity service to a customer-generator as defined in section 70-2002, the net energy use upon billings or statements rendered to customer-generators for such electricity service;

(d) In the furnishing of community antenna television service or satellite service, the gross income received from the furnishing of such community antenna television service as regulated under sections 18-2201 to 18-2205 or 23-383 to 23-388 or satellite service; and

(e) The gross income received from the provision, installation, construction, servicing, or removal of property used in conjunction with the furnishing, installing, or connecting of any public utility services specified in subdivision (2)(a) or (b) of this section or community antenna television service or satellite service specified in subdivision (2)(d) of this section, except when acting as a subcontractor for a public utility, this subdivision does not apply to the gross income received by a contractor electing to be treated as a consumer of building materials under subdivision (2) or (3) of section 77-2701.10 for any such services performed on the customer's side of the utility demarcation point. This subdivision also does not apply to:

(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.

77-2701.32 Retailer, defined.

(1) Retailer means any seller.

(2) To facilitate the proper administration of the Nebraska Revenue Act of 1967, the following persons have the duties and responsibilities of sellers for the purposes of sales and use taxes:

(a) Any person in the business of making sales subject to tax under section 77-2703 at auction of property owned by the person or others;

(b) Any person collecting the proceeds of the auction, other than the owner of the property, together with his or her principal, if any, when the person collecting the proceeds of the auction is not the auctioneer or an agent or employee of the auctioneer. The seller does not include the auctioneer in such case;

(c) Every person who has elected to be considered a retailer pursuant to subdivision (1) of section 77-2701.10;

(d) Every person operating, organizing, or promoting a flea market, craft show, fair, or similar event;

(e) Every person engaged in the business of providing any service defined in subsection (4) of section 77-2701.16; and

(f) Every person operating a multivendor marketplace platform that (i) acts as the intermediary by facilitating sales between a seller and the purchaser or that engages directly or indirectly through one or more affiliated persons in transmitting or otherwise communicating the offer or acceptance between the seller and purchaser and (ii) either directly or indirectly through agreements or arrangements with third parties, collects payment from the purchaser and transmits payment to the seller.

(3) For the proper administration of the Nebraska Revenue Act of 1967, the following persons do not have the duties and responsibilities of a seller for purposes of sales and use taxes:

(a) Any person who leases or rents films when an admission tax is charged under the Nebraska Revenue Act of 1967;

(b) Any person who leases or rents railroad rolling stock interchanged pursuant to the provisions of the federal Interstate Commerce Act;

(c) Any person engaged in the business of furnishing rooms in a facility licensed under the Health Care Facility Licensure Act in which rooms, lodgings, or accommodations are regularly furnished for a consideration or a facility operated by an educational institution established under Chapter 79 or Chapter 85 in which rooms are regularly used to house students for a consideration for periods in excess of thirty days;

(d) Any person making sales at a flea market, craft show, fair, or similar event when such person does not have a sales tax permit and has arranged to pay sales taxes collected to the person operating, organizing, or promoting such event; or

(e) Any payment processor appointed by a retailer whose sole activity with regard to a sale or lease transaction is to process the payment made from the customer to the retailer.

Source: Laws 1992, LB 871, § 15; Laws 1993, LB 345, § 23; Laws 2000, LB 819, § 149; Laws 2002, LB 1085, § 7; R.S.Supp.,2002, § 77-2702.14; Laws 2003, LB 282, § 36; Laws 2003, LB 759, § 10; Laws 2008, LB916, § 8; Laws 2019, LB284, § 3.

Cross References

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

77-2701.41 Taxpayer, defined.

Taxpayer means any person subject to a tax imposed by sections 77-2701 to 77-2713.

Source: Laws 1992, LB 871, § 23; R.S.1943, (1996), § 77-2702.22; Laws 2003, LB 282, § 45; Laws 2021, LB26, § 3; Laws 2021, LB595, § 5; Laws 2022, LB984, § 3; Laws 2023, LB727, § 61; Laws 2024, LB937, § 69.
Operative date October 1, 2024.

77-2701.56 Buyer-based exemption, defined.

Buyer-based exemption means an exemption based on who purchases the product. An exemption that is available to all individuals shall not be considered a buyer-based exemption.

Source: Laws 2023, LB727, § 62.

(b) SALES AND USE TAX

77-2703 Sales and use tax; rate; collection; collection fee; understatement; prohibited acts; violation; penalty; interest.

(1) There is hereby imposed a tax at the rate provided in section 77-2701.02 upon the gross receipts from all sales of tangible personal property sold at retail

in this state; the gross receipts of every person engaged as a public utility, as a community antenna television service operator, or as a satellite service operator, any person involved in the connecting and installing of the services defined in subdivision (2)(a), (b), (d), or (e) of section 77-2701.16, or every person engaged as a retailer of intellectual or entertainment properties referred to in subsection (3) of section 77-2701.16; the gross receipts from the sale of admissions in this state; the gross receipts from the sale of warranties, guarantees, service agreements, or maintenance agreements when the items covered are subject to tax under this section; beginning January 1, 2008, the gross receipts from the sale of bundled transactions when one or more of the products included in the bundle are taxable; the gross receipts from the provision of services defined in subsection (4) of section 77-2701.16; and the gross receipts from the sale of products delivered electronically as described in subsection (9) of section 77-2701.16. Except as provided in section 77-2701.03, when there is a sale, the tax shall be imposed at the rate in effect at the time the gross receipts are realized under the accounting basis used by the retailer to maintain his or her books and records.

(a) The tax imposed by this section shall be collected by the retailer from the consumer. It shall constitute a part of the purchase price and until collected shall be a debt from the consumer to the retailer and shall be recoverable at law in the same manner as other debts. The tax required to be collected by the retailer from the consumer constitutes a debt owed by the retailer to this state.

(b) It is unlawful for any retailer to advertise, hold out, or state to the public or to any customer, directly or indirectly, that the tax or part thereof will be assumed or absorbed by the retailer, that it will not be added to the selling, renting, or leasing price of the property sold, rented, or leased, or that, if added, it or any part thereof will be refunded. The provisions of this subdivision shall not apply to a public utility.

(c) The tax required to be collected by the retailer from the purchaser, unless otherwise provided by statute or by rule and regulation of the Tax Commissioner, shall be displayed separately from the list price, the price advertised in the premises, the marked price, or other price on the sales check or other proof of sales, rentals, or leases.

(d) For the purpose of more efficiently securing the payment, collection, and accounting for the sales tax and for the convenience of the retailer in collecting the sales tax, it shall be the duty of the Tax Commissioner to provide a schedule or schedules of the amounts to be collected from the consumer or user to effectuate the computation and collection of the tax imposed by the Nebraska Revenue Act of 1967. Such schedule or schedules shall provide that the tax shall be collected from the consumer or user uniformly on sales according to brackets based on sales prices of the item or items. Retailers may compute the tax due on any transaction on an item or an invoice basis. The rounding rule provided in section 77-3,117 applies.

(e) The use of tokens or stamps for the purpose of collecting or enforcing the collection of the taxes imposed in the Nebraska Revenue Act of 1967 or for any other purpose in connection with such taxes is prohibited.

(f) For the purpose of the proper administration of the provisions of the Nebraska Revenue Act of 1967 and to prevent evasion of the retail sales tax, it shall be presumed that all gross receipts are subject to the tax until the contrary is established. The burden of proving that a sale of property is not a sale at

retail is upon the person who makes the sale unless he or she takes from the purchaser (i) a resale certificate to the effect that the property is purchased for the purpose of reselling, leasing, or renting it, (ii) an exemption certificate pursuant to subsection (7) of section 77-2705, or (iii) a direct payment permit pursuant to sections 77-2705.01 to 77-2705.03. Receipt of a resale certificate, exemption certificate, or direct payment permit shall be conclusive proof for the seller that the sale was made for resale or was exempt or that the tax will be paid directly to the state.

(g) In the rental or lease of automobiles, trucks, trailers, semitrailers, and truck-tractors as defined in the Motor Vehicle Registration Act, the tax shall be collected by the lessor on the rental or lease price, except as otherwise provided within this section.

(h) In the rental or lease of automobiles, trucks, trailers, semitrailers, and truck-tractors as defined in the act, for periods of one year or more, the lessor may elect not to collect and remit the sales tax on the gross receipts and instead pay a sales tax on the cost of such vehicle. If such election is made, it shall be made pursuant to the following conditions:

(i) Notice of the desire to make such election shall be filed with the Tax Commissioner and shall not become effective until the Tax Commissioner is satisfied that the taxpayer has complied with all conditions of this subsection and all rules and regulations of the Tax Commissioner;

(ii) Such election when made shall continue in force and effect for a period of not less than two years and thereafter until such time as the lessor elects to terminate the election;

(iii) When such election is made, it shall apply to all vehicles of the lessor rented or leased for periods of one year or more except vehicles to be leased to common or contract carriers who provide to the lessor a valid common or contract carrier exemption certificate. If the lessor rents or leases other vehicles for periods of less than one year, such lessor shall maintain his or her books and records and his or her accounting procedure as the Tax Commissioner prescribes; and

(iv) The Tax Commissioner by rule and regulation shall prescribe the contents and form of the notice of election, a procedure for the determination of the tax base of vehicles which are under an existing lease at the time such election becomes effective, the method and manner for terminating such election, and such other rules and regulations as may be necessary for the proper administration of this subdivision.

(i) The tax imposed by this section on the sales of motor vehicles, semitrailers, and trailers as defined in sections 60-339, 60-348, and 60-354 shall be the liability of the purchaser and, with the exception of motor vehicles, semitrailers, and trailers registered pursuant to section 60-3,198, the tax shall be collected by the county treasurer as provided in the Motor Vehicle Registration Act or by an approved licensed dealer participating in the electronic dealer services system pursuant to section 60-1507 at the time the purchaser makes application for the registration of the motor vehicle, semitrailer, or trailer for operation upon the highways of this state. The tax imposed by this section on motor vehicles, semitrailers, and trailers registered pursuant to section 60-3,198 shall be collected by the Department of Motor Vehicles at the time the purchaser makes application for the registration of the motor vehicle, semitrailer, or trailer for operation upon the highways of this state. At the time of the sale of

any motor vehicle, semitrailer, or trailer, the seller shall (i) state on the sales invoice the dollar amount of the tax imposed under this section and (ii) furnish to the purchaser a certified statement of the transaction, in such form as the Tax Commissioner prescribes, setting forth as a minimum the total sales price, the allowance for any trade-in, and the difference between the two. The sales tax due shall be computed on the difference between the total sales price and the allowance for any trade-in as disclosed by such certified statement. Any seller who willfully understates the amount upon which the sales tax is due shall be subject to a penalty of one thousand dollars. A copy of such certified statement shall also be furnished to the Tax Commissioner. Any seller who fails or refuses to furnish such certified statement shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars. If the purchaser does not register such motor vehicle, semitrailer, or trailer for operation on the highways of this state within thirty days of the purchase thereof, the tax imposed by this section shall immediately thereafter be paid by the purchaser to the county treasurer or the Department of Motor Vehicles. If the tax is not paid on or before the thirtieth day after its purchase, the county treasurer or Department of Motor Vehicles shall also collect from the purchaser interest from the thirtieth day through the date of payment and sales tax penalties as provided in the Nebraska Revenue Act of 1967. The county treasurer or Department of Motor Vehicles shall report and remit the tax so collected to the Tax Commissioner by the fifteenth day of the following month. The county treasurer, for his or her collection fee, shall deduct and withhold, from all amounts required to be collected under this subsection, the collection fee permitted to be deducted by any retailer collecting the sales tax, all of which shall be deposited in the county general fund, plus an additional amount equal to one-half of one percent of all amounts in excess of six thousand dollars remitted each month. Prior to January 1, 2023, fifty percent of such additional amount shall be deposited in the county general fund and fifty percent of such additional amount shall be deposited in the county road fund. On and after January 1, 2023, seventy-five percent of such additional amount shall be deposited in the county general fund and twenty-five percent of such additional amount shall be deposited in the county road fund. In any county with a population of one hundred fifty thousand inhabitants or more, the county treasurer shall remit one dollar of his or her collection fee for each of the first five thousand motor vehicles, semitrailers, or trailers registered with such county treasurer on or after January 1, 2020, to the State Treasurer for credit to the Department of Revenue Enforcement Fund. The Department of Motor Vehicles, for its collection fee, shall deduct, withhold, and deposit in the Motor Carrier Division Cash Fund the collection fee permitted to be deducted by any retailer collecting the sales tax. The collection fee for the county treasurer or the Department of Motor Vehicles shall be forfeited if the county treasurer or department violates any rule or regulation pertaining to the collection of the use tax.

(j)(i) The tax imposed by this section on the sale of a motorboat as defined in section 37-1204 shall be the liability of the purchaser. The tax shall be collected by the county treasurer at the time the purchaser makes application for the registration of the motorboat. At the time of the sale of a motorboat, the seller shall (A) state on the sales invoice the dollar amount of the tax imposed under this section and (B) furnish to the purchaser a certified statement of the

transaction, in such form as the Tax Commissioner prescribes, setting forth as a minimum the total sales price, the allowance for any trade-in, and the difference between the two. The sales tax due shall be computed on the difference between the total sales price and the allowance for any trade-in as disclosed by such certified statement. Any seller who willfully understates the amount upon which the sales tax is due shall be subject to a penalty of one thousand dollars. A copy of such certified statement shall also be furnished to the Tax Commissioner. Any seller who fails or refuses to furnish such certified statement shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars. If the purchaser does not register such motorboat within thirty days of the purchase thereof, the tax imposed by this section shall immediately thereafter be paid by the purchaser to the county treasurer. If the tax is not paid on or before the thirtieth day after its purchase, the county treasurer shall also collect from the purchaser interest from the thirtieth day through the date of payment and sales tax penalties as provided in the Nebraska Revenue Act of 1967. The county treasurer shall report and remit the tax so collected to the Tax Commissioner by the fifteenth day of the following month. The county treasurer, for his or her collection fee, shall deduct and withhold for the use of the county general fund, from all amounts required to be collected under this subsection, the collection fee permitted to be deducted by any retailer collecting the sales tax. The collection fee shall be forfeited if the county treasurer violates any rule or regulation pertaining to the collection of the use tax.

(ii) In the rental or lease of motorboats, the tax shall be collected by the lessor on the rental or lease price.

(k)(i) The tax imposed by this section on the sale of an all-terrain vehicle as defined in section 60-103 or a utility-type vehicle as defined in section 60-135.01 shall be the liability of the purchaser. The tax shall be collected by the county treasurer or by an approved licensed dealer participating in the electronic dealer services system pursuant to section 60-1507 at the time the purchaser makes application for the certificate of title for the all-terrain vehicle or utility-type vehicle. At the time of the sale of an all-terrain vehicle or a utility-type vehicle, the seller shall (A) state on the sales invoice the dollar amount of the tax imposed under this section and (B) furnish to the purchaser a certified statement of the transaction, in such form as the Tax Commissioner prescribes, setting forth as a minimum the total sales price, the allowance for any trade-in, and the difference between the two. The sales tax due shall be computed on the difference between the total sales price and the allowance for any trade-in as disclosed by such certified statement. Any seller who willfully understates the amount upon which the sales tax is due shall be subject to a penalty of one thousand dollars. A copy of such certified statement shall also be furnished to the Tax Commissioner. Any seller who fails or refuses to furnish such certified statement shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars. If the purchaser does not obtain a certificate of title for such all-terrain vehicle or utility-type vehicle within thirty days of the purchase thereof, the tax imposed by this section shall immediately thereafter be paid by the purchaser to the county treasurer. If the tax is not paid on or before the thirtieth day after its purchase, the county treasurer shall also collect from the purchaser interest from the thirtieth day through the date of payment and sales tax penalties as provided in the Nebraska Revenue Act of 1967. The county

treasurer shall report and remit the tax so collected to the Tax Commissioner by the fifteenth day of the following month. The county treasurer, for his or her collection fee, shall deduct and withhold for the use of the county general fund, from all amounts required to be collected under this subsection, the collection fee permitted to be deducted by any retailer collecting the sales tax. The collection fee shall be forfeited if the county treasurer violates any rule or regulation pertaining to the collection of the use tax.

(ii) In the rental or lease of an all-terrain vehicle or a utility-type vehicle, the tax shall be collected by the lessor on the rental or lease price.

(iii) County treasurers are appointed as sales and use tax collectors for all sales of all-terrain vehicles or utility-type vehicles made outside of this state to purchasers or users of all-terrain vehicles or utility-type vehicles which are required to have a certificate of title in this state. The county treasurer shall collect the applicable use tax from the purchaser of an all-terrain vehicle or a utility-type vehicle purchased outside of this state at the time application for a certificate of title is made. The full use tax on the purchase price shall be collected by the county treasurer if a sales or occupation tax was not paid by the purchaser in the state of purchase. If a sales or occupation tax was lawfully paid in the state of purchase at a rate less than the tax imposed in this state, use tax must be collected on the difference as a condition for obtaining a certificate of title in this state.

(l) The Tax Commissioner shall adopt and promulgate necessary rules and regulations for determining the amount subject to the taxes imposed by this section so as to insure that the full amount of any applicable tax is paid in cases in which a sale is made of which a part is subject to the taxes imposed by this section and a part of which is not so subject and a separate accounting is not practical or economical.

(2) A use tax is hereby imposed on the storage, use, or other consumption in this state of property purchased, leased, or rented from any retailer and on any transaction the gross receipts of which are subject to tax under subsection (1) of this section on or after June 1, 1967, for storage, use, or other consumption in this state at the rate set as provided in subsection (1) of this section on the sales price of the property or, in the case of leases or rentals, of the lease or rental prices.

(a) Every person storing, using, or otherwise consuming in this state property purchased from a retailer or leased or rented from another person for such purpose shall be liable for the use tax at the rate in effect when his or her liability for the use tax becomes certain under the accounting basis used to maintain his or her books and records. His or her liability shall not be extinguished until the use tax has been paid to this state, except that a receipt from a retailer engaged in business in this state or from a retailer who is authorized by the Tax Commissioner, under such rules and regulations as he or she may prescribe, to collect the sales tax and who is, for the purposes of the Nebraska Revenue Act of 1967 relating to the sales tax, regarded as a retailer engaged in business in this state, which receipt is given to the purchaser pursuant to subdivision (b) of this subsection, shall be sufficient to relieve the purchaser from further liability for the tax to which the receipt refers.

(b) Every retailer engaged in business in this state and selling, leasing, or renting property for storage, use, or other consumption in this state shall, at the time of making any sale, collect any tax which may be due from the purchaser

and shall give to the purchaser, upon request, a receipt therefor in the manner and form prescribed by the Tax Commissioner.

(c) The Tax Commissioner, in order to facilitate the proper administration of the use tax, may designate such person or persons as he or she may deem necessary to be use tax collectors and delegate to such persons such authority as is necessary to collect any use tax which is due and payable to the State of Nebraska. The Tax Commissioner may require of all persons so designated a surety bond in favor of the State of Nebraska to insure against any misappropriation of state funds so collected. The Tax Commissioner may require any tax official, city, county, or state, to collect the use tax on behalf of the state. All persons designated to or required to collect the use tax shall account for such collections in the manner prescribed by the Tax Commissioner. Nothing in this subdivision shall be so construed as to prevent the Tax Commissioner or his or her employees from collecting any use taxes due and payable to the State of Nebraska.

(d) All persons designated to collect the use tax and all persons required to collect the use tax shall forward the total of such collections to the Tax Commissioner at such time and in such manner as the Tax Commissioner may prescribe. Such collectors of the use tax shall deduct and withhold from the amount of taxes collected three percent of the first five thousand dollars remitted each month as reimbursement for the cost of collecting the tax. Any such deduction shall be forfeited to the State of Nebraska if such collector violates any rule, regulation, or directive of the Tax Commissioner.

(e) For the purpose of the proper administration of the Nebraska Revenue Act of 1967 and to prevent evasion of the use tax, it shall be presumed that property sold, leased, or rented by any person for delivery in this state is sold, leased, or rented for storage, use, or other consumption in this state until the contrary is established. The burden of proving the contrary is upon the person who purchases, leases, or rents the property.

(f) For the purpose of the proper administration of the Nebraska Revenue Act of 1967 and to prevent evasion of the use tax, for the sale of property to an advertising agency which purchases the property as an agent for a disclosed or undisclosed principal, the advertising agency is and remains liable for the sales and use tax on the purchase the same as if the principal had made the purchase directly.

Source: Laws 1967, c. 487, § 3, p. 1543; Laws 1967, c. 490, § 2, p. 1652; Laws 1969, c. 684, § 1, p. 2646; Laws 1969, c. 683, § 2, p. 2621; Laws 1974, LB 820, § 2; Laws 1981, LB 179, § 14; Laws 1983, LB 17, § 2; Laws 1983, LB 169, § 1; Laws 1983, LB 571, § 1; Laws 1985, LB 715, § 3; Laws 1985, LB 273, § 42; Laws 1986, LB 1027, § 204; Laws 1987, LB 224, § 28; Laws 1987, LB 523, § 14; Laws 1991, LB 239, § 1; Laws 1991, LB 47, § 7; Laws 1991, LB 829, § 21; Laws 1992, LB 871, § 25; Laws 1992, LB 1063, § 182; Laws 1992, Second Spec. Sess., LB 1, § 155; Laws 1992, Fourth Spec. Sess., LB 1, § 26; Laws 1993, LB 112, § 45; Laws 1993, LB 345, § 33; Laws 1993, LB 767, § 1; Laws 1994, LB 123, § 24; Laws 1994, LB 994, § 1; Laws 1994, LB 1207, § 15; Laws 1995, LB 17, § 1; Laws 1996, LB 1041, § 6; Laws 1996, LB 1218, § 65; Laws 1997, LB 62, § 1; Laws 1997, LB 182A, § 3; Laws 2002, LB 1085, § 11; Laws 2002, Second Spec.

Sess., LB 32, § 1; Laws 2003, LB 282, § 48; Laws 2003, LB 381, § 3; Laws 2003, LB 563, § 43; Laws 2003, LB 759, § 12; Laws 2004, LB 1017, § 10; Laws 2005, LB 274, § 274; Laws 2007, LB223, § 7; Laws 2007, LB367, § 15; Laws 2008, LB916, § 15; Laws 2011, LB211, § 3; Laws 2012, LB801, § 98; Laws 2014, LB814, § 9; Laws 2017, LB263, § 98; Laws 2019, LB237, § 1; Laws 2022, LB984, § 4.

Cross References

Facilitating Business Rapid Response to State Declared Disasters Act, see section 48-3201.
Motor Vehicle Registration Act, see section 60-301.

77-2703.01 General sourcing rules.

(1) The determination of whether a sale or use of property or the provision of services is in this state, in a municipality that has adopted a tax under the Local Option Revenue Act, or in a county that has adopted a tax under section 13-319 or 77-6403 shall be governed by the sourcing rules in sections 77-2703.01 to 77-2703.04.

(2) When the property or service is received by the purchaser at a business location of the retailer, the sale is sourced to that business location.

(3) When the property or service is not received by the purchaser at a business location of the retailer, the sale is sourced to the location where receipt by the purchaser or the purchaser's donee, designated as such by the purchaser, occurs, including the location indicated by instructions for delivery to the purchaser or donee, known to the retailer.

(4) When subsection (2) or (3) of this section does not apply, the sale is sourced to the location indicated by an address or other information for the purchaser that is available from the business records of the retailer that are maintained in the ordinary course of the retailer's business when use of this address does not constitute bad faith.

(5) When subsection (2), (3), or (4) of this section does not apply, the sale is sourced to the location indicated by an address for the purchaser obtained during the consummation of the sale, including the address of a purchaser's payment instrument, if no other address is available, when use of this address does not constitute bad faith.

(6) When subsection (2), (3), (4), or (5) of this section does not apply, including the circumstance in which the retailer is without sufficient information to apply the rules in any such subsection, then the location will be determined by the address from which property was shipped, from which the digital good was first available for transmission by the retailer, or from which the service was provided disregarding for these purposes any location that merely provided the digital transfer of the product sold.

(7) The lease or rental of tangible personal property, other than property identified in subsection (8) or (9) of this section, shall be sourced as follows:

(a) For a lease or rental that requires recurring periodic payments, the first periodic payment is sourced the same as a retail sale in accordance with the provisions of subsections (2) through (6) of this section. Periodic payments made subsequent to the first payment are sourced to the primary property location for each period covered by the payment. The primary property location shall be as indicated by an address for the property provided by the lessee that

is available to the lessor from its records maintained in the ordinary course of business when use of this address does not constitute bad faith. The property location shall not be altered by intermittent use at different locations, such as use of business property that accompanies employees on business trips and service calls; and

(b) For a lease or rental that does not require recurring periodic payments, the payment is sourced the same as a retail sale in accordance with the provisions of subsections (2) through (6) of this section.

This subsection does not affect the imposition or computation of sales or use tax on leases or rentals based on a lump-sum or accelerated basis or on the acquisition of property for lease.

(8) The lease or rental of motor vehicles, trailers, semitrailers, or aircraft that do not qualify as transportation equipment under subsection (9) of this section shall be sourced as follows:

(a) For a lease or rental that requires recurring periodic payments, each periodic payment is sourced to the primary property location. The primary property location shall be as indicated by an address for the property provided by the lessee that is available to the lessor from its records maintained in the ordinary course of business when use of this address does not constitute bad faith. This location shall not be altered by intermittent use at different locations; and

(b) For a lease or rental that does not require recurring periodic payments, the payment is sourced the same as a retail sale in accordance with the provisions of subsections (2) through (6) of this section.

This subsection does not affect the imposition or computation of sales or use tax on leases or rentals based on a lump-sum or accelerated basis or on the acquisition of property for lease.

(9) The retail sale, including lease or rental, of transportation equipment shall be sourced the same as a retail sale in accordance with subsections (2) through (6) of this section. Transportation equipment means any of the following:

(a) Locomotives and railcars that are utilized for the carriage of persons or property in interstate commerce;

(b) Trucks and truck-tractors with a gross vehicle weight rating of ten thousand one pounds or greater, trailers, semitrailers, or passenger buses that are (i) registered through the International Registration Plan and (ii) operated under authority of a carrier authorized and certificated by the United States Department of Transportation or another federal authority to engage in the carriage of persons or property in interstate commerce;

(c) Aircraft operated by air carriers authorized and certificated by the United States Department of Transportation or another federal authority or a foreign authority to engage in the carriage of persons or property in interstate or foreign commerce; and

(d) Containers designed for use on and component parts attached or secured on the items set forth in subdivisions (9)(a) through (c) of this section.

(10) For purposes of this section, receive and receipt mean taking possession of tangible personal property, making first use of services, or taking possession or making first use of digital goods, whichever comes first. The terms receive and receipt do not include possession by a shipping company on behalf of the purchaser. For purposes of sourcing detective services subject to tax under

subdivision (4)(h) of section 77-2701.16, making first use of a service shall be deemed to be at the individual's residence, in the case of a customer who is an individual, or at the principal place of business, in the case of a business customer.

(11) The sale, not including lease or rental, of a motor vehicle, semitrailer, or trailer as defined in the Motor Vehicle Registration Act shall be sourced to the place of registration of the motor vehicle, semitrailer, or trailer for operation upon the highways of this state or, if no such registration has occurred, the place where such motor vehicle, semitrailer, or trailer is required to be registered, except that beginning January 1, 2021, the sale of any motor vehicle or trailer operated by a public power district and registered under section 60-3,228 shall be sourced to the place where the motor vehicle or trailer has situs as defined in section 60-349.

(12) The sale or lease for one year or more of motorboats shall be sourced to the place of registration of the motorboat. The lease of motorboats for less than one year shall be sourced to the point of delivery.

Source: Laws 2003, LB 282, § 49; Laws 2003, LB 759, § 13; Laws 2004, LB 1017, § 11; Laws 2005, LB 274, § 275; Laws 2007, LB367, § 16; Laws 2008, LB916, § 16; Laws 2014, LB851, § 11; Laws 2018, LB1030, § 2; Laws 2019, LB472, § 10.

Cross References

Local Option Revenue Act, see section 77-27,148.
Motor Vehicle Registration Act, see section 60-301.

77-2703.04 Telecommunications sourcing rule.

(1) Except for the telecommunications service defined in subsection (3) of this section, the sale of telecommunications service sold on a call-by-call basis shall be sourced to (a) each level of taxing jurisdiction where the call originates and terminates in that jurisdiction or (b) each level of taxing jurisdiction where the call either originates or terminates and in which the service address is also located.

(2) Except for the telecommunications service defined in subsection (3) of this section, a sale of telecommunications service sold on a basis other than a call-by-call basis and ancillary services are sourced to the customer's place of primary use.

(3)(a) For mobile telecommunications service and ancillary services provided and billed to a customer by a home service provider:

(i) Notwithstanding any other provision of law or any local ordinance or resolution, such mobile telecommunications service is deemed to be provided by the customer's home service provider;

(ii) All taxable charges for such mobile telecommunications service and ancillary services shall be subject to tax by the state or other taxing jurisdiction in this state whose territorial limits encompass the customer's place of primary use regardless of where the mobile telecommunications service originates, terminates, or passes through; and

(iii) No taxes, charges, or fees may be imposed on a customer with a place of primary use outside this state.

(b) In accordance with the federal Mobile Telecommunications Sourcing Act, as such act existed on July 20, 2002, the Tax Commissioner may, but is not required to:

(i) Provide or contract for a tax assignment database based upon standards identified in 4 U.S.C. 119, as such section existed on July 20, 2002, with the following conditions:

(A) If such database is provided, a home service provider shall be held harmless for any tax that otherwise would result from any errors or omissions attributable to reliance on such database; or

(B) If such database is not provided, a home service provider may rely on an enhanced zip code for identifying the proper taxing jurisdictions and shall be held harmless for any tax that otherwise would result from any errors or omissions attributable to reliance on such enhanced zip code if the home service provider identified the taxing jurisdiction through the exercise of due diligence and complied with any procedures that may be adopted by the Tax Commissioner. Any such procedure shall be in accordance with 4 U.S.C. 120, as such section existed on July 20, 2002; and

(ii) Adopt procedures for correcting errors in the assignment of primary use that are consistent with 4 U.S.C. 121, as such section existed on July 20, 2002.

(c) If charges for mobile telecommunications service that are not subject to tax are aggregated with and not separately stated on the bill from charges that are subject to tax, the total charge to the customer shall be subject to tax unless the home service provider can reasonably separate charges not subject to tax using the records of the home service provider that are kept in the regular course of business.

(d) For purposes of this subsection:

(i) Customer means an individual, business, organization, or other person contracting to receive mobile telecommunications service from a home service provider. Customer does not include a reseller of mobile telecommunications service or a serving carrier under an arrangement to serve the customer outside the home service provider's service area;

(ii) Home service provider means a telecommunications company as defined in section 86-322 that has contracted with a customer to provide mobile telecommunications service;

(iii) Mobile telecommunications service means a wireless communication service carried on between mobile stations or receivers and land stations, and by mobile stations communicating among themselves, and includes (A) both one-way and two-way wireless communication services, (B) a mobile service which provides a regularly interacting group of base, mobile, portable, and associated control and relay stations, whether on an individual, cooperative, or multiple basis for private one-way or two-way land mobile radio communications by eligible users over designated areas of operation, and (C) any personal communication service;

(iv) Place of primary use means the street address representative of where the customer's use of mobile telecommunications service primarily occurs. The place of primary use shall be the residential street address or the primary business street address of the customer and shall be within the service area of the home service provider; and

(v) Tax means the sales taxes levied under sections 13-319, 77-2703, 77-27,142, and 77-6403, the surcharges levied under the Enhanced Wireless 911 Services Act, the Nebraska Telecommunications Universal Service Fund Act, and the Telecommunications Relay System Act, and any other tax levied against the customer based on the amount charged to the customer. Tax does not mean an income tax, property tax, franchise tax, or any other tax levied on the home service provider that is not based on the amount charged to the customer.

(4) A sale of post-paid calling service is sourced to the origination point of the telecommunications signal as first identified by either (a) the seller's telecommunications system, or (b) information received by the seller from its service provider, where the system used to transport such signals is not that of the seller.

(5) A sale of prepaid calling service or a sale of a prepaid wireless calling service is sourced in accordance with section 77-2703.01, except that in the case of a sale of a prepaid wireless calling service, the rule provided in section 77-2703.01 shall include as an option the location associated with the mobile telephone number.

(6) A sale of a private communication service is sourced as follows:

(a) Service for a separate charge related to a customer channel termination point is sourced to each level of jurisdiction in which such customer channel termination point is located;

(b) Service where all customer termination points are located entirely within one jurisdiction or levels of jurisdiction is sourced in such jurisdiction in which the customer channel termination points are located;

(c) Service for segments of a channel between two customer channel termination points located in different jurisdictions and which segments of channel are separately charged is sourced fifty percent in each level of jurisdiction in which the customer channel termination points are located; and

(d) Service for segments of a channel located in more than one jurisdiction or levels of jurisdiction and which segments are not separately billed is sourced in each jurisdiction based on the percentage determined by dividing the number of customer channel termination points in such jurisdiction by the total number of customer channel termination points.

(7) For purposes of this section:

(a) 800 service means a telecommunications service that allows a caller to dial a toll-free number without incurring a charge for the call. The service is typically marketed under the name 800, 855, 866, 877, and 888 toll-free calling, and any subsequent numbers designated by the Federal Communications Commission;

(b) 900 service means an inbound toll telecommunications service purchased by a subscriber that allows the subscriber's customers to call in to the subscriber's prerecorded announcement or live service. 900 service does not include the charge for collection services provided by the seller of the telecommunications services to the subscriber or service or product sold by the subscriber to the subscriber's customer. The service is typically marketed under the name 900 service, and any subsequent numbers designated by the Federal Communications Commission;

(c) Air-to-ground radiotelephone service means a radio telecommunication service, as that term is defined in 47 C.F.R. 22.99, as such regulation existed on January 1, 2007, in which common carriers are authorized to offer and provide radio telecommunications service for hire to subscribers in aircraft;

(d) Ancillary services means services that are associated with or incidental to the provision of telecommunications services, including, but not limited to, detailed telecommunications billings, directory assistance, vertical service, and voice mail services;

(e) Call-by-call basis means any method of charging for telecommunications service where the price is measured by individual calls;

(f) Coin-operated telephone service means a telecommunications service paid for by inserting money into a telephone accepting direct deposits of money to operate;

(g) Communications channel means a physical or virtual path of communications over which signals are transmitted between or among customer channel termination points;

(h) Conference bridging service means an ancillary service that links two or more participants of an audio or video conference call and may include the provision of a telephone number. Conference bridging service does not include the telecommunications services used to reach the conference bridge;

(i) Customer means the person or entity that contracts with the seller of telecommunications service. If the end user of telecommunications service is not the contracting party, the end user of the telecommunications service is the customer of the telecommunications service, but this sentence only applies for the purpose of sourcing sales of telecommunications service under this section. Customer does not include a reseller of telecommunications service or for mobile telecommunications service of a serving carrier under an agreement to serve the customer outside the home service provider's licensed service area;

(j) Customer channel termination point means the location where the customer either inputs or receives the communications;

(k) Detailed telecommunications billing service means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement;

(l) Directory assistance means an ancillary service of providing telephone number information and address information;

(m) End user means the person who utilizes the telecommunications service. In the case of an entity, end user means the individual who utilizes the service on behalf of the entity;

(n) Fixed wireless service means a telecommunications service that provides radio communication between fixed points;

(o) International means a telecommunications service that originates or terminates in the United States and terminates or originates outside the United States, respectively. United States includes the District of Columbia or a United States territory or possession;

(p) Interstate means a telecommunications service that originates in one state of the United States, or a territory or possession of the United States, and terminates in a different state, territory, or possession of the United States;

(q) Intrastate means a telecommunications service that originates in one state of the United States, or a territory or possession of the United States, and terminates in the same state, territory, or possession of the United States;

(r) Mobile wireless service means a telecommunications service that is transmitted, conveyed, or routed regardless of the technology used, whereby the origination and termination points of the transmission, conveyance, or routing are not fixed, including, by way of example only, telecommunications services that are provided by a commercial mobile radio service provider;

(s) Paging service means a telecommunications service that provides transmission of coded radio signals for the purpose of activating specific pagers. Such transmission may include messages and sounds;

(t) Pay telephone services means a telecommunications service provided through pay telephones;

(u) Post-paid calling service means the telecommunications service obtained by making a payment on a call-by-call basis either through the use of a credit card or payment mechanism, such as a bank card, travel card, credit card, or debit card, or by a charge made to a telephone number which is not associated with the origination or termination of the telecommunications service. A post-paid calling service includes a telecommunications service, except a prepaid wireless calling service, that would be a prepaid calling service except it is not exclusively a telecommunications service;

(v) Prepaid calling service means the right to access exclusively telecommunications service, which is paid for in advance and which enables the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units or dollars of which the number declines with use in a known amount;

(w) Prepaid wireless calling service means a telecommunications service that provides the right to utilize mobile wireless service as well as other nontelecommunications services, including the download of digital products delivered electronically, content, and ancillary services, which must be paid for in advance, that is sold in predetermined units of dollars or which the number declines with use in a known amount;

(x) Private communication service means a telecommunications service that entitles the customer to exclusive or priority use of a communications channel or group of channels between or among termination points, regardless of the manner in which such channel or channels are connected, and includes switching capacity, extension lines, stations, and any other associated services that are provided in connection with the use of such channel or channels;

(y) Residential telecommunications service means a telecommunications service or ancillary services provided to an individual for personal use at a residential address, including an individual dwelling unit such as an apartment. In the case of institutions where individuals reside, such as schools or nursing homes, telecommunications service is considered residential if it is provided to and paid for by an individual resident rather than the institution;

(z) Service address means the location of the telecommunications equipment to which a customer's call is charged and from which the call originates or terminates, regardless of where the call is billed or paid. If this location is not known, service address means the origination point of the signal of the telecommunications service first identified either by the seller's telecommunica-

tions system, or in information received by the seller from its service provider, where the system used to transport such signals is not that of the seller. If both locations are not known, the service address means the location of the customer's place of primary use;

(aa) Telecommunications service means the electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points. Telecommunications service includes such transmission, conveyance, or routing in which computer processing applications are used to act on the form, code, or protocol of the content for purposes of transmission, conveyance, or routing without regard to whether such service is referred to as voice over Internet protocol services or is classified by the Federal Communications Commission as enhanced or value-added. Telecommunications service does not include:

(i) Data processing and information services that allow data to be generated, acquired, stored, processed, or retrieved and delivered by an electronic transmission to a purchaser when such purchaser's primary purpose for the underlying transaction is the processed data or information;

(ii) Installation or maintenance of wiring or equipment on a customer's premises;

(iii) Tangible personal property;

(iv) Advertising, including, but not limited to, directory advertising;

(v) Billing and collection services provided to third parties;

(vi) Internet access service;

(vii) Radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance, and routing of such services by the programming service provider. Radio and television audio and video programming services shall include, but not be limited to, cable service as defined in 47 U.S.C. 522, as such section existed on January 1, 2007, and audio and video programming services delivered by providers of commercial mobile radio service as defined in 47 C.F.R. 20.3, as such regulation existed on January 1, 2007;

(viii) Ancillary services; or

(ix) Digital products delivered electronically, including, but not limited to, software, music, video, reading materials, or ringtones;

(bb) Value-added, nonvoice data service means a service that otherwise meets the definition of telecommunications services in which computer processing applications are used to act on the form, content, code, or protocol of the information or data primarily for a purpose other than transmission, conveyance, or routing;

(cc) Vertical service means an ancillary service that is offered in connection with one or more telecommunications services, which offers advanced calling features that allow customers to identify callers and to manage multiple calls and call connections, including conference bridging services; and

(dd) Voice mail service means an ancillary service that enables the customer to store, send, or receive recorded messages. Voice mail service does not

include any vertical services that the customer may be required to have in order to utilize the voice mail service.

Source: Laws 2003, LB 282, § 52; Laws 2007, LB223, § 8; Laws 2009, LB165, § 7; Laws 2019, LB472, § 11.

Cross References

Enhanced Wireless 911 Services Act, see section 86-442.
Nebraska Telecommunications Universal Service Fund Act, see section 86-316.
Telecommunications Relay System Act, see section 86-301.

77-2704.12 Nonprofit religious, service, educational, or medical organization; exemption; purchasing agents.

(1) Sales and use taxes shall not be imposed on the gross receipts from the sale, lease, or rental of and the storage, use, or other consumption in this state of purchases by (a) any nonprofit organization created exclusively for religious purposes, (b) any nonprofit organization providing services exclusively to the blind, (c) any nonprofit private educational institution established under sections 79-1601 to 79-1607, (d) any accredited, nonprofit, privately controlled college or university with its primary campus physically located in Nebraska, (e) any nonprofit (i) hospital, (ii) health clinic when one or more hospitals or the parent corporations of the hospitals own or control the health clinic for the purpose of reducing the cost of health services or when the health clinic receives federal funds through the United States Public Health Service for the purpose of serving populations that are medically underserved, (iii) skilled nursing facility, (iv) intermediate care facility, (v) assisted-living facility, (vi) intermediate care facility for persons with developmental disabilities, (vii) nursing facility, (viii) home health agency, (ix) hospice or hospice service, (x) respite care service, (xi) mental health substance use treatment center licensed under the Health Care Facility Licensure Act, or (xii) center for independent living as defined in 29 U.S.C. 796a, (f) any nonprofit licensed residential child-caring agency, (g) any nonprofit licensed child-placing agency, (h) any nonprofit organization certified by the Department of Health and Human Services to provide community-based services for persons with developmental disabilities, (i) any nonprofit organization certified or contracted by a regional behavioral health authority or the Division of Behavioral Health of the Department of Health and Human Services to provide community-based mental health or substance use services, or (j) any nonprofit organization for purchases of property that will be transferred to an organization listed in subdivisions (a) through (i) of this subsection until the property is transferred or the contract is completed, provided that the nonprofit organization (i) acquires property that will be transferred to an organization listed in subdivisions (a) through (i) of this subsection or (ii) enters into a contract of construction, improvement, or repair upon property annexed to real estate if the property will be transferred to an organization listed in subdivisions (a) through (i) of this subsection.

(2) Any organization listed in subsection (1) of this section shall apply for an exemption on forms provided by the Tax Commissioner. The application shall be approved and a numbered certificate of exemption received by the applicant organization in order to be exempt from the sales and use tax.

(3) The appointment of purchasing agents shall be recognized for the purpose of altering the status of the construction contractor as the ultimate consumer of building materials which are physically annexed to the structure and which subsequently belong to the owner of the organization or institution. The

appointment of purchasing agents shall be in writing and occur prior to having any building materials annexed to real estate in the construction, improvement, or repair. The contractor who has been appointed as a purchasing agent may apply for a refund of or use as a credit against a future use tax liability the tax paid on inventory items annexed to real estate in the construction, improvement, or repair of a project for a licensed not-for-profit institution.

(4) Any organization listed in subsection (1) of this section which enters into a contract of construction, improvement, or repair upon property annexed to real estate without first issuing a purchasing agent authorization to a contractor or repairperson prior to the building materials being annexed to real estate in the project may apply to the Tax Commissioner for a refund of any sales and use tax paid by the contractor or repairperson on the building materials physically annexed to real estate in the construction, improvement, or repair.

(5) Any person purchasing, storing, using, or otherwise consuming building materials in the performance of any construction, improvement, or repair by or for any institution enumerated in subsection (1) of this section which is licensed upon completion although not licensed at the time of construction or improvement, which building materials are annexed to real estate and which subsequently belong to the owner of the institution, shall pay any applicable sales or use tax thereon. Upon becoming licensed and receiving a numbered certificate of exemption, the institution organized not for profit shall be entitled to a refund of the amount of taxes so paid in the performance of such construction, improvement, or repair and shall submit whatever evidence is required by the Tax Commissioner sufficient to establish the total sales and use tax paid upon the building materials physically annexed to real estate in the construction, improvement, or repair.

Source: Laws 1992, LB 871, § 36; Laws 1993, LB 345, § 42; Laws 1994, LB 977, § 3; Laws 1996, LB 900, § 1063; Laws 2000, LB 819, § 151; Laws 2002, LB 989, § 18; Laws 2004, LB 841, § 1; Laws 2004, LB 1017, § 13; Laws 2005, LB 216, § 6; Laws 2006, LB 1189, § 5; Laws 2008, LB575, § 1; Laws 2011, LB637, § 24; Laws 2012, LB40, § 1; Laws 2012, LB1097, § 1; Laws 2013, LB23, § 43; Laws 2013, LB265, § 46; Laws 2016, LB774, § 3; Laws 2018, LB1034, § 71; Laws 2021, LB528, § 19; Laws 2023, LB727, § 63; Laws 2024, LB937, § 70.
Operative date October 1, 2024.

Cross References

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

77-2704.15 Purchases by state, schools, or governmental units; exemption; purchasing agents.

(1)(a) Sales and use taxes shall not be imposed on the gross receipts from the sale, lease, or rental of and the storage, use, or other consumption in this state of purchases by the state, including public educational institutions recognized or established under the provisions of Chapter 85, or by any county, township, city, village, rural or suburban fire protection district, city airport authority, county airport authority, joint airport authority, drainage district organized under sections 31-401 to 31-450, sanitary drainage district organized under sections 31-501 to 31-553, land bank created under the Nebraska Municipal Land Bank Act, natural resources district, county agricultural society, elected

county fair board, housing agency as defined in section 71-1575 except for purchases for any commercial operation that does not exclusively benefit the residents of an affordable housing project, cemetery created under section 12-101, or joint entity or agency formed by any combination of two or more counties, townships, cities, villages, or other exempt governmental units pursuant to the Interlocal Cooperation Act, the Integrated Solid Waste Management Act, or the Joint Public Agency Act, except for purchases for use in the business of furnishing gas, water, electricity, or heat, or by any irrigation or reclamation district, the irrigation division of any public power and irrigation district, or public schools or learning communities established under Chapter 79.

(b) For purposes of this subsection, purchases by the state or by a governmental unit listed in subdivision (a) of this subsection include purchases by any nonprofit corporation under a lease-purchase agreement, financing lease, or other instrument which provides for transfer of title to the property to the state or governmental unit upon payment of all amounts due thereunder. If any nonprofit corporation will be making purchases under a lease-purchase agreement, financing lease, or other instrument as part of a project with a total estimated cost that exceeds the threshold amount, then such purchases shall qualify for an exemption under this section only if the question of proceeding with such project has been submitted at a primary, general, or special election held within the governmental unit that will be a party to the lease-purchase agreement, financing lease, or other instrument and has been approved by the voters of such governmental unit or the governmental unit's expenditure towards the project is paid in whole or in part with redevelopment bonds. For purposes of this subdivision, (i) project means the acquisition of real property or the construction of a public building and (ii) threshold amount means the greater of fifty thousand dollars or six-tenths of one percent of the total actual value of real and personal property of the governmental unit that will be a party to the lease-purchase agreement, financing lease, or other instrument as of the end of the governmental unit's prior fiscal year.

(2) The appointment of purchasing agents shall be recognized for the purpose of altering the status of the construction contractor as the ultimate consumer of building materials which are physically annexed to the structure and which subsequently belong to the state or the governmental unit. The appointment of purchasing agents shall be in writing and occur prior to having any building materials annexed to real estate in the construction, improvement, or repair. The contractor who has been appointed as a purchasing agent may apply for a refund of or use as a credit against a future use tax liability the tax paid on inventory items annexed to real estate in the construction, improvement, or repair of a project for the state or a governmental unit.

(3) Any governmental unit listed in subsection (1) of this section, except the state, which enters into a contract of construction, improvement, or repair upon property annexed to real estate without first issuing a purchasing agent authorization to a contractor or repairperson prior to the building materials being annexed to real estate in the project may apply to the Tax Commissioner for a refund of any sales and use tax paid by the contractor or repairperson on the building materials physically annexed to real estate in the construction, improvement, or repair.

Source: Laws 1992, LB 871, § 39; Laws 1993, LB 345, § 44; Laws 1994, LB 977, § 5; Laws 1994, LB 1207, § 16; Laws 1999, LB 87, § 86; Laws 1999, LB 232, § 1; Laws 2000, LB 557, § 1; Laws 2002, LB

123, § 1; Laws 2004, LB 1017, § 14; Laws 2006, LB 1189, § 6; Laws 2009, LB392, § 8; Laws 2011, LB252, § 2; Laws 2012, LB902, § 2; Laws 2013, LB97, § 26; Laws 2015, LB52, § 1; Laws 2016, LB774, § 5; Laws 2022, LB800, § 343; Laws 2023, LB727, § 64.

Cross References

Integrated Solid Waste Management Act, see section 13-2001.
Interlocal Cooperation Act, see section 13-801.
Joint Public Agency Act, see section 13-2501.
Nebraska Municipal Land Bank Act, see section 18-3401.

77-2704.20 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.

77-2704.31 Sales or use tax paid in another state; credit given.

If any person who causes property or service to be brought into this state has already paid a tax in another state with respect to the sale or use of such property or service in an amount less than the tax imposed by sections 13-319, 13-2813, 77-2703, 77-27,142, and 77-6403, the provisions of subsection (2) of section 77-2703 shall apply, but at a rate measured by the difference only between the rate imposed by such sections and the rate by which the previous tax on the sale or use was computed. If such tax imposed and paid in such other state is equal to or more than the tax imposed by such sections, then no use tax shall be due in this state on such property if such other state, territory, or possession grants a reciprocal exclusion or exemption to similar transactions in this state.

Source: Laws 1992, LB 871, § 54; Laws 1993, LB 345, § 50; Laws 1999, LB 34, § 2; Laws 2001, LB 142, § 55; Laws 2002, LB 1085, § 16; Laws 2019, LB472, § 12.

77-2704.36 Agricultural machinery and equipment; net wrap, bailing wire, and twine; exemption.

(1) Sales and use tax shall not be imposed on the gross receipts from the sale, lease, or rental of:

(a) Depreciable agricultural machinery and equipment purchased, leased, or rented on or after January 1, 1993, for use in commercial agriculture; or

(b) Net wrap, baling wire, and twine purchased for use in commercial agriculture.

(2) For purposes of this section:

(a)(i) Agricultural machinery and equipment means tangible personal property that is used directly in (A) cultivating or harvesting a crop, (B) raising or caring for animal life, (C) protecting the health and welfare of animal life, including fans, curtains, and climate control equipment within livestock buildings, or (D) collecting or processing an agricultural product on a farm or ranch, regardless of the degree of attachment to any real property; and

(ii) Agricultural machinery and equipment includes, but is not limited to, header trailers, head haulers, header transports, and seed tender trailers and excludes any current tractor model as defined in section 2-2701.01 not permitted for sale in Nebraska pursuant to sections 2-2701 to 2-2711;

(b) Baling wire means wire used in the baling of livestock feed or bedding;

(c) Net wrap means plastic wrap used in the baling of livestock feed or bedding; and

(d) Twine means a strong string of two or more strands twisted together used in the baling of livestock feed or bedding.

Source: Laws 1992, Fourth Spec. Sess., LB 1, § 24; Laws 2004, LB 1017, § 17; Laws 2012, LB907, § 6; Laws 2021, LB595, § 6; Laws 2022, LB984, § 5; Laws 2023, LB727, § 65.

77-2704.66 Currency or bullion; exemption.

(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 currency or bullion.

(2) For purposes of this section:

(a) Bullion means coins, bars, ingots, notes, leaf, foil, film, or commemorative medallions of gold, silver, platinum, or palladium, or a combination of these, for which the value depends primarily on its content and not the form; and

(b) Currency means a coin or currency made of gold, silver, or other metal or paper which is or has been used as legal tender.

Source: Laws 2014, LB867, § 14; Laws 2024, LB1317, § 83.
Operative date January 1, 2025.

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.

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.

77-2704.70 Feminine hygiene products; exemption.

(1) Sales and use taxes shall not be imposed on the gross receipts from the sale, storage, use, or other consumption in this state of feminine hygiene products.

(2) For purposes of this section:

(a) Feminine hygiene products means tampons, panty liners, menstrual cups, sanitary napkins, and other similar tangible personal property designed for

feminine hygiene in connection with the human menstrual cycle but does not include grooming and hygiene products; and

(b) Grooming and hygiene products means soaps and cleaning solutions, shampoo, toothpaste, mouthwash, antiperspirants, and sun tan lotions and screens, regardless of whether the items meet the definition of over-the-counter drug in section 77-2704.09.

Source: Laws 2022, LB984, § 6.

77-2704.71 Diapers; exemption.

(1) Beginning July 1, 2027, sales and use taxes shall not be imposed on the gross receipts from the sale, storage, use, or other consumption in this state of diapers.

(2) For purposes of this section, diapers means absorbent garments worn by humans who are incapable of or have difficulty controlling their bladder or bowel movements.

Source: Laws 2024, LB937, § 71.
Operative date October 1, 2024.

77-2704.72 Electric energy for motor vehicle; exemption.

Sales and use taxes shall not be imposed on the gross receipts from the sale, use, or other consumption in this state of electric energy when stored, used, or consumed by a motor vehicle and the electricity was subject to the excise tax imposed in subsection (2) of section 66-4,105.

Source: Laws 2024, LB1317, § 84.
Operative date January 1, 2025.

77-2705 Sales and use tax; retailer; registration; permit; form; revocation; restoration; appeal; exempt sale certificate; violations; penalty; wrongful disclosure; online registration system.

(1) Except as provided in subsection (10) of this section, every retailer shall register with the Tax Commissioner and give:

(a) The name and address of all agents operating in this state;

(b) The location of all distribution or sales houses or offices or other places of business in this state;

(c) The name and address of any officer, director, partner, limited liability company member, or employee, other than an employee whose duties are purely ministerial in nature, or any person with a substantial interest in the applicant, who is or who will be responsible for the collection or remittance of the sales tax;

(d) Such other information as the Tax Commissioner may require; and

(e) If the retailer is an individual, his or her social security number.

(2) Every person furnishing public utility service as defined in subsection (2) of section 77-2701.16 shall register with the Tax Commissioner and give:

(a) The address of each office open to the public in which such public utility service business is transacted with consumers; and

(b) Such other information as the Tax Commissioner may require.

(3)(a) It shall be unlawful for any person to engage in or transact business as a seller within this state after June 1, 1967, unless a permit or permits shall have been issued to him or her as prescribed in this section.

(b) Every person desiring to engage in or to conduct business as a seller within this state shall file with the Tax Commissioner an application for a permit for each place of business. There shall be no charge to the retailer for the application for or issuance of a permit except as otherwise provided in this section.

(c) If a retailer becomes engaged in business in this state during a calendar year by exceeding one of the thresholds in subsection (2) or (3) of section 77-2701.13 for the first time, the retailer must obtain a permit and begin collecting the sales tax on or before the first day of the second calendar month after the threshold was exceeded. Such retailer shall also be subject to the Local Option Revenue Act and sections 13-319 and 13-2813 and shall collect and remit the sales tax due under such act and sections.

(4) Every application for a permit shall:

(a) Be made upon a form prescribed by the Tax Commissioner;

(b) Set forth the name under which the applicant transacts or intends to transact business and the location of his or her place or places of business;

(c) Set forth such other information as the Tax Commissioner may require; and

(d) Be signed by the owner and include his or her social security number if he or she is a natural person; in the case of an association or partnership, by a member or partner; in the case of a limited liability company, by a member or some person authorized by the limited liability company to sign such kinds of applications; and in the case of a corporation, by an executive officer or some person authorized by the corporation to sign such kinds of applications.

(5) After compliance with subsections (1) through (4) of this section by the applicant, the Tax Commissioner shall grant and issue to each applicant a separate permit for each place of business within the state. A permit shall not be assignable and shall be valid only for the person in whose name it is issued and for the transaction of business at the place designated therein. It shall at all times be conspicuously displayed at the place for which issued and shall be valid and effective until revoked by the Tax Commissioner.

(6)(a) Whenever the holder of a permit issued under subsection (5) of this section or any person required to be identified in subdivision (1)(c) of this section (i) fails to comply with any provision of the Nebraska Revenue Act of 1967 relating to the retail sales tax or with any rule or regulation of the Tax Commissioner relating to such tax prescribed and adopted under such act, (ii) fails to provide for inspection or audit any book, record, document, or item required by law, rule, or regulation, or (iii) makes a misrepresentation of or fails to disclose a material fact to the Department of Revenue, the Tax Commissioner upon hearing, after giving the person twenty days' notice in writing specifying the time and place of hearing and requiring him or her to show cause why his or her permit or permits should not be revoked, may revoke or suspend any one or more of the permits held by the person. The Tax Commissioner shall give to the person written notice of the suspension or revocation of any of his or her permits. The notices may be served personally or by mail in the manner prescribed for service of notice of a deficiency determination.

(b) The Tax Commissioner shall have the power to restore permits which have been revoked but shall not issue a new permit after the revocation of a permit unless he or she is satisfied that the former holder of the permit will comply with the provisions of such act relating to the retail sales tax and the regulations of the Tax Commissioner. A seller whose permit has been previously suspended or revoked under this subsection shall pay the Tax Commissioner a fee of twenty-five dollars for the renewal or issuance of a permit in the event of a first revocation and fifty dollars for renewal after each successive revocation.

(c) The action of the Tax Commissioner may be appealed by the taxpayer in the same manner as a final deficiency determination.

(7) For the purpose of more efficiently securing the payment, collection, and accounting for the sales and use taxes and for the convenience of the retailer in collecting the sales tax, it shall be the duty of the Tax Commissioner to formulate and promulgate appropriate rules and regulations providing a form and method for the registration of exempt purchases and the documentation of exempt sales.

(8) If any person, firm, corporation, association, or agent thereof presents an exempt sale certificate to the seller for property which is purchased by a taxpayer or for a use other than those enumerated in the Nebraska Revenue Act of 1967 as exempted from the computation of sales and use taxes, the Tax Commissioner may, in addition to other penalties provided by law, impose, assess, and collect from the purchaser or the agent thereof a penalty of one hundred dollars or ten times the tax, whichever amount is larger, for each instance of such presentation and misuse of an exempt sale certificate. Such amount shall be in addition to any tax, interest, or penalty otherwise imposed.

(9) Any report, name, or information which is supplied to the Tax Commissioner regarding a violation specified in this section, including the identity of the informer, shall be subject to the pertinent provisions regarding wrongful disclosure in section 77-2711.

(10) Pursuant to the streamlined sales and use tax agreement, the state shall participate in an online registration system that will allow retailers to register in all the member states. The state hereby agrees to honor and abide by the retailer registration decisions made by the governing board pursuant to the agreement.

Source: Laws 1967, c. 487, § 5, p. 1553; Laws 1967, c. 490, § 4, p. 1663; Laws 1982, LB 928, § 65; Laws 1984, LB 962, § 9; Laws 1992, LB 871, § 60; Laws 1993, LB 121, § 502; Laws 1993, LB 345, § 54; Laws 1997, LB 752, § 212; Laws 2002, Second Spec. Sess., LB 32, § 2; Laws 2003, LB 282, § 70; Laws 2003, LB 759, § 20; Laws 2008, LB916, § 24; Laws 2019, LB284, § 4.

Cross References

Local Option Revenue Act, see section 77-27,148.

77-2706.02 Construction contractor; buyer-based exemption; appointment of purchasing agent; procedure; failure; client; apply for refund.

(1) This section applies on and after July 1, 2026.

(2) The appointment of purchasing agents shall be recognized for the purpose of permitting a construction contractor to purchase materials tax free based on the buyer-based exemption of the contractor's client for items that are physical-

ly annexed to the structure and which subsequently belong to the client who is eligible for the buyer-based exemption. The appointment of purchasing agents shall be in writing and occur prior to having any buyer-based tax-exempt items annexed to real estate in the construction, improvement, or repair. The contractor who has been appointed as a purchasing agent may purchase the materials tax free or may apply for a refund of or use as a credit against a future use tax liability the tax paid on inventory items annexed to real estate in the construction, improvement, or repair of a project that belongs to the client who is eligible for the buyer-based exemption.

(3) A client described in subsection (2) of this section which enters into a contract of construction, improvement, or repair with respect to buyer-based tax-exempt items annexed to real estate without first issuing a purchasing agent authorization to a construction contractor prior to such items being annexed to real estate in the project may apply to the Tax Commissioner for a refund of any sales and use tax paid by the contractor on such items physically annexed to real estate in the construction, improvement, or repair.

Source: Laws 2023, LB727, § 66.

77-2708 Sales and use tax; returns; date due; failure to file; penalty; deduction; amount; claim for refund; allowance; disallowance; proceedings; Tax Commissioner; duties regarding refund.

(1)(a) The sales and use taxes imposed by the Nebraska Revenue Act of 1967 shall be due and payable to the Tax Commissioner monthly on or before the twentieth day of the month next succeeding each monthly period unless otherwise provided pursuant to the Nebraska Revenue Act of 1967.

(b)(i) On or before the twentieth day of the month following each monthly period or such other period as the Tax Commissioner may require, a return for such period, along with all taxes due, shall be filed with the Tax Commissioner in such form and content as the Tax Commissioner may prescribe and containing such information as the Tax Commissioner deems necessary for the proper administration of the Nebraska Revenue Act of 1967. The Tax Commissioner, if he or she deems it necessary in order to insure payment to or facilitate the collection by the state of the amount of sales or use taxes due, may require returns and payment of the amount of such taxes for periods other than monthly periods in the case of a particular seller, retailer, or purchaser, as the case may be. The Tax Commissioner shall by rule and regulation require reports and tax payments from sellers, retailers, or purchasers depending on their yearly tax liability. Except as required by the streamlined sales and use tax agreement, annual returns shall be required if such sellers', retailers', or purchasers' yearly tax liability is less than nine hundred dollars, quarterly returns shall be required if their yearly tax liability is nine hundred dollars or more and less than three thousand dollars, and monthly returns shall be required if their yearly tax liability is three thousand dollars or more. The Tax Commissioner shall have the discretion to allow an annual return for seasonal retailers, even when their yearly tax liability exceeds the amounts listed in this subdivision.

The Tax Commissioner may adopt and promulgate rules and regulations to allow annual, semiannual, or quarterly returns for any retailer making monthly remittances or payments of sales and use taxes by electronic funds transfer or for any retailer remitting tax to the state pursuant to the streamlined sales and

use tax agreement. Such rules and regulations may establish a method of determining the amount of the payment that will result in substantially all of the tax liability being paid each quarter. At least once each year, the difference between the amount paid and the amount due shall be reconciled. If the difference is more than ten percent of the amount paid, a penalty of fifty percent of the unpaid amount shall be imposed.

(ii) For purposes of the sales tax, a return shall be filed by every retailer liable for collection from a purchaser and payment to the state of the tax, except that a combined sales tax return may be filed for all licensed locations which are subject to common ownership. For purposes of this subdivision, common ownership means the same person or persons own eighty percent or more of each licensed location. For purposes of the use tax, a return shall be filed by every retailer engaged in business in this state and by every person who has purchased property, the storage, use, or other consumption of which is subject to the use tax, but who has not paid the use tax due to a retailer required to collect the tax.

(iii) The Tax Commissioner may require that returns be signed by the person required to file the return or by his or her duly authorized agent but need not be verified by oath.

(iv) A taxpayer who keeps his or her regular books and records on a cash basis, an accrual basis, or any generally recognized accounting basis which correctly reflects the operation of the business may file the sales and use tax returns required by the Nebraska Revenue Act of 1967 on the same accounting basis that is used for the regular books and records, except that on credit, conditional, and installment sales, the retailer who keeps his or her books on an accrual basis may report such sales on the cash basis and pay the tax upon the collections made during each month. If a taxpayer transfers, sells, assigns, or otherwise disposes of an account receivable, he or she shall be deemed to have received the full balance of the consideration for the original sale and shall be liable for the remittance of the sales tax on the balance of the total sale price not previously reported, except that such transfer, sale, assignment, or other disposition of an account receivable by a retailer to a subsidiary shall not be deemed to require the retailer to pay the sales tax on the credit sale represented by the account transferred prior to the time the customer makes payment on such account. If the subsidiary does not obtain a Nebraska sales tax permit, the taxpayer shall obtain a surety bond in favor of the State of Nebraska to insure payment of the tax and any interest and penalty imposed thereon under this section in an amount not less than two times the amount of tax payable on outstanding accounts receivable held by the subsidiary as of the end of the prior calendar year. Failure to obtain either a sales tax permit or a surety bond in accordance with this section shall result in the payment on the next required filing date of all sales taxes not previously remitted. When the retailer has adopted one basis or the other of reporting credit, conditional, or installment sales and paying the tax thereon, he or she will not be permitted to change from that basis without first having notified the Tax Commissioner.

(c) Except as provided in the streamlined sales and use tax agreement, the taxpayer required to file the return shall deliver or mail any required return together with a remittance of the net amount of the tax due to the office of the Tax Commissioner on or before the required filing date. Failure to file the return, filing after the required filing date, failure to remit the net amount of the tax due, or remitting the net amount of the tax due after the required filing

date shall be cause for a penalty, in addition to interest, of ten percent of the amount of tax not paid by the required filing date or twenty-five dollars, whichever is greater, unless the penalty is being collected under subdivision (1)(i), (1)(j)(i), or (1)(k)(i) of section 77-2703 by a county treasurer or the Department of Motor Vehicles, in which case the penalty shall be five dollars.

(d) The taxpayer shall deduct and withhold, from the taxes otherwise due from him or her on his or her tax return, three percent of the first five thousand dollars remitted each month to reimburse himself or herself for the cost of collecting the tax. Taxpayers filing a combined return as allowed by subdivision (1)(b)(ii) of this subsection shall compute such collection fees on the basis of the receipts and liability of each licensed location.

(e) A retailer that makes sales into Nebraska using a multivendor marketplace platform is relieved of its obligation to collect and remit sales taxes to Nebraska with regard to any sales taxes collected and remitted by the multivendor marketplace platform. Such a retailer must include all sales into Nebraska in its gross receipts in its return, but may claim credit for any sales taxes collected and remitted by the multivendor marketplace platform with respect to such retailer's sales. Such retailer is liable for the sales tax due on sales into Nebraska as provided in section 77-2704.35.

(f) A multivendor marketplace platform is relieved of its obligation to collect and remit the correct amount of state and local sales taxes to Nebraska to the extent that the multivendor marketplace platform can establish that the error was due to insufficient or incorrect information given to the multivendor marketplace platform by the seller and relied on by the multivendor marketplace platform. This subdivision shall not apply if the multivendor marketplace platform and the seller are related persons under either section 267(b) or (c) or section 707(b) of the Internal Revenue Code of 1986 or if the seller is also the multivendor marketplace platform operator.

(2)(a) If the Tax Commissioner determines that any sales or use tax amount, penalty, or interest has been paid more than once, has been erroneously or illegally collected or computed, or has been paid and the purchaser qualifies for a refund under section 77-2708.01, the Tax Commissioner shall set forth that fact in his or her records and the excess amount collected or paid may be credited on any sales, use, or income tax amounts then due and payable from the person under the Nebraska Revenue Act of 1967. Any balance may be refunded to the person by whom it was paid or his or her successors, administrators, or executors.

(b) No refund shall be allowed unless a claim therefor is filed with the Tax Commissioner by the person who made the overpayment or his or her attorney, executor, or administrator within three years from the required filing date following the close of the period for which the overpayment was made, within six months after any determination becomes final under section 77-2709, or within six months from the date of overpayment with respect to such determinations, whichever of these three periods expires later, unless the credit relates to a period for which a waiver has been given. Failure to file a claim within the time prescribed in this subsection shall constitute a waiver of any demand against the state on account of overpayment.

(c) Every claim shall be in writing on forms prescribed by the Tax Commissioner and shall state the specific amount and grounds upon which the claim is founded. No refund shall be made in any amount less than two dollars.

(d) The Tax Commissioner shall allow or disallow a claim within one hundred eighty days after it has been filed. A request for a hearing shall constitute a waiver of the one-hundred-eighty-day period. The claimant and the Tax Commissioner may also agree to extend the one-hundred-eighty-day period. If a hearing has not been requested and the Tax Commissioner has neither allowed nor disallowed a claim within either the one hundred eighty days or the period agreed to by the claimant and the Tax Commissioner, the claim shall be deemed to have been allowed.

(e) Within thirty days after disallowing any claim in whole or in part, the Tax Commissioner shall serve notice of his or her action on the claimant in the manner prescribed for service of notice of a deficiency determination.

(f) Within thirty days after the mailing of the notice of the Tax Commissioner's action upon a claim filed pursuant to the Nebraska Revenue Act of 1967, the action of the Tax Commissioner shall be final unless the taxpayer seeks review of the Tax Commissioner's determination as provided in section 77-27,127.

(g) Upon the allowance of a credit or refund of any sum erroneously or illegally assessed or collected, of any penalty collected without authority, or of any sum which was excessive or in any manner wrongfully collected, interest shall be allowed and paid on the amount of such credit or refund at the rate specified in section 45-104.02, as such rate may from time to time be adjusted, from the date such sum was paid or from the date the return was required to be filed, whichever date is later, to the date of the allowance of the refund or, in the case of a credit, to the due date of the amount against which the credit is allowed, but in the case of a voluntary and unrequested payment in excess of actual tax liability or a refund under section 77-2708.01, no interest shall be allowed when such excess is refunded or credited.

(h) No suit or proceeding shall be maintained in any court for the recovery of any amount alleged to have been erroneously or illegally determined or collected unless a claim for refund or credit has been duly filed.

(i) The Tax Commissioner may recover any refund or part thereof which is erroneously made and any credit or part thereof which is erroneously allowed by issuing a deficiency determination within one year from the date of refund or credit or within the period otherwise allowed for issuing a deficiency determination, whichever expires later.

(j)(i) Credit shall be allowed to the retailer, contractor, or repairperson for sales or use taxes paid pursuant to the Nebraska Revenue Act of 1967 on any deduction taken that is attributed to bad debts not including interest. Bad debt has the same meaning as in 26 U.S.C. 166, as such section existed on January 1, 2003. However, the amount calculated pursuant to 26 U.S.C. 166 shall be adjusted to exclude: Financing charges or interest; sales or use taxes charged on the purchase price; uncollectible amounts on property that remains in the possession of the seller until the full purchase price is paid; and expenses incurred in attempting to collect any debt and repossessed property.

(ii) Bad debts may be deducted on the return for the period during which the bad debt is written off as uncollectible in the claimant's books and records and is eligible to be deducted for federal income tax purposes. A claimant who is not required to file federal income tax returns may deduct a bad debt on a return filed for the period in which the bad debt is written off as uncollectible in the claimant's books and records and would be eligible for a bad debt

deduction for federal income tax purposes if the claimant was required to file a federal income tax return.

(iii) If a deduction is taken for a bad debt and the debt is subsequently collected in whole or in part, the tax on the amount so collected must be paid and reported on the return filed for the period in which the collection is made.

(iv) When the amount of bad debt exceeds the amount of taxable sales for the period during which the bad debt is written off, a refund claim may be filed within the otherwise applicable statute of limitations for refund claims. The statute of limitations shall be measured from the due date of the return on which the bad debt could first be claimed.

(v) If filing responsibilities have been assumed by a certified service provider, the service provider may claim, on behalf of the retailer, any bad debt allowance provided by this section. The certified service provider shall credit or refund the full amount of any bad debt allowance or refund received to the retailer.

(vi) For purposes of reporting a payment received on a previously claimed bad debt, any payments made on a debt or account are applied first proportionally to the taxable price of the property or service and the sales tax thereon, and secondly to interest, service charges, and any other charges.

(vii) In situations in which the books and records of the party claiming the bad debt allowance support an allocation of the bad debts among the member states in the streamlined sales and use tax agreement, the state shall permit the allocation.

(3) Beginning July 1, 2020, if a refund claim under this section involves a refund of a tax imposed under the Local Option Revenue Act or section 13-319, 13-2813, or 77-6403 and the amount of such tax to be refunded is at least five thousand dollars, the Tax Commissioner shall notify the affected city, village, county, or municipal county of such claim within twenty days after receiving the claim. If the Tax Commissioner allows the claim and the refund of such tax is at least five thousand dollars, the Tax Commissioner shall notify the affected city, village, county, or municipal county of such refund and shall give the city, village, county, or municipal county the option of having such refund deducted from its tax proceeds in one lump sum or in twelve equal monthly installments. The city, village, county, or municipal county shall make its selection and shall certify the selection to the Tax Commissioner within twenty days after receiving notice of the refund. The Tax Commissioner shall then deduct such refund from the applicable tax proceeds in accordance with the selection when he or she deducts refunds pursuant to section 13-324, 13-2814, or 77-6403 or subsection (1) of section 77-27,144, whichever is applicable. This subsection shall not apply to any refund that is subject to subdivision (2)(a) or (2)(b)(ii) or subsection (3) or (4) of section 77-27,144.

Source: Laws 1967, c. 487, § 8, p. 1558; Laws 1967, c. 490, § 5, p. 1665; Laws 1969, c. 683, § 5, p. 2635; Laws 1976, LB 996, § 1; Laws 1981, LB 179, § 15; Laws 1981, LB 167, § 51; Laws 1982, Spec. Sess., LB 2, § 1; Laws 1983, LB 101, § 1; Laws 1983, LB 571, § 2; Laws 1984, LB 758, § 1; Laws 1985, LB 715, § 7; Laws 1985, LB 273, § 46; Laws 1987, LB 775, § 15; Laws 1987, LB 523, § 16; Laws 1988, LB 1234, § 1; Laws 1991, LB 829, § 23; Laws 1992, LB 1063, § 183; Laws 1992, Second Spec. Sess., LB 1, § 156; Laws 1992, Fourth Spec. Sess., LB 1, § 28; Laws 1993,

LB 128, § 1; Laws 1993, LB 345, § 56; Laws 1995, LB 9, § 1; Laws 1995, LB 118, § 1; Laws 1996, LB 1041, § 7; Laws 2002, Second Spec. Sess., LB 32, § 3; Laws 2003, LB 282, § 71; Laws 2005, LB 216, § 8; Laws 2008, LB916, § 25; Laws 2011, LB210, § 9; Laws 2012, LB801, § 99; Laws 2014, LB814, § 10; Laws 2018, LB745, § 1; Laws 2019, LB284, § 5; Laws 2019, LB472, § 13; Laws 2022, LB984, § 7; Laws 2022, LB1150, § 2.

Cross References

Local Option Revenue Act, see section 77-27,148.

77-2711 Sales and use tax; Tax Commissioner; enforcement; records; retain; reports; wrongful disclosures; exceptions; information provided to municipality; penalty; waiver; streamlined sales and use tax agreement; confidentiality rights.

(1)(a) The Tax Commissioner shall enforce sections 77-2701.04 to 77-2713 and may prescribe, adopt, and enforce rules and regulations relating to the administration and enforcement of such sections.

(b) The Tax Commissioner may prescribe the extent to which any ruling or regulation shall be applied without retroactive effect.

(2) The Tax Commissioner may employ accountants, auditors, investigators, assistants, and clerks necessary for the efficient administration of the Nebraska Revenue Act of 1967 and may delegate authority to his or her representatives to conduct hearings, prescribe regulations, or perform any other duties imposed by such act.

(3)(a) Every seller, every retailer, and every person storing, using, or otherwise consuming in this state property purchased from a retailer shall keep such records, receipts, invoices, and other pertinent papers in such form as the Tax Commissioner may reasonably require.

(b) Every such seller, retailer, or person shall keep such records for not less than three years from the making of such records unless the Tax Commissioner in writing sooner authorized their destruction.

(4) The Tax Commissioner or any person authorized in writing by him or her may examine the books, papers, records, and equipment of any person selling property and any person liable for the use tax and may investigate the character of the business of the person in order to verify the accuracy of any return made or, if no return is made by the person, to ascertain and determine the amount required to be paid. In the examination of any person selling property or of any person liable for the use tax, an inquiry shall be made as to the accuracy of the reporting of city and county sales and use taxes for which the person is liable under the Local Option Revenue Act or sections 13-319, 13-324, 13-2813, and 77-6403 and the accuracy of the allocation made between the various counties, cities, villages, and municipal counties of the tax due. The Tax Commissioner may make or cause to be made copies of resale or exemption certificates and may pay a reasonable amount to the person having custody of the records for providing such copies.

(5) The taxpayer shall have the right to keep or store his or her records at a point outside this state and shall make his or her records available to the Tax Commissioner at all times.

(6) In administration of the use tax, the Tax Commissioner may require the filing of reports by any person or class of persons having in his, her, or their possession or custody information relating to sales of property, the storage, use, or other consumption of which is subject to the tax. The report shall be filed when the Tax Commissioner requires and shall set forth the names and addresses of purchasers of the property, the sales price of the property, the date of sale, and such other information as the Tax Commissioner may require.

(7) It shall be a Class I misdemeanor for the Tax Commissioner or any official or employee of the Tax Commissioner, the State Treasurer, or the Department of Administrative Services to make known in any manner whatever the business affairs, operations, or information obtained by an investigation of records and activities of any retailer or any other person visited or examined in the discharge of official duty or the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed in any return, or to permit any return or copy thereof, or any book containing any abstract or particulars thereof to be seen or examined by any person not connected with the Tax Commissioner. Nothing in this section shall be construed to prohibit (a) the delivery to a taxpayer, his or her duly authorized representative, or his or her successors, receivers, trustees, executors, administrators, assignees, or guarantors, if directly interested, of a certified copy of any return or report in connection with his or her tax, (b) the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof, (c) the inspection by the Attorney General, other legal representative of the state, or county attorney of the reports or returns of any taxpayer when either (i) information on the reports or returns is considered by the Attorney General to be relevant to any action or proceeding instituted by the taxpayer or against whom an action or proceeding is being considered or has been commenced by any state agency or the county or (ii) the taxpayer has instituted an action to review the tax based thereon or an action or proceeding against the taxpayer for collection of tax or failure to comply with the Nebraska Revenue Act of 1967 is being considered or has been commenced, (d) the furnishing of any information to the United States Government or to states allowing similar privileges to the Tax Commissioner, (e) the disclosure of information and records to a collection agency contracting with the Tax Commissioner pursuant to sections 77-377.01 to 77-377.04, (f) the disclosure to another party to a transaction of information and records concerning the transaction between the taxpayer and the other party, (g) the disclosure of information pursuant to section 77-27,195, 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 work papers 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, over assessments, or tax payments, whether the taxpayer's return was, is being, or will be examined or subject to other investigation or processing or (B) any other data

received by, recorded by, prepared by, furnished to, or collected by the Tax Commissioner with respect to a return or the determination of the existence or possible existence of liability or the amount of liability of any person for any tax, penalty, interest, fine, forfeiture, or other imposition or offense; and

(ii) Any part of any written determination or any background file document relating to such written determination; and

(c) Tax return or return means any tax or information return or claim for refund required by, provided for, or permitted under sections 77-2701 to 77-2713 which is filed with the Tax Commissioner by, on behalf of, or with respect to any person and any amendment or supplement thereto, including supporting schedules, attachments, or lists which are supplemental to or part of the filed return.

(13) Notwithstanding the provisions of subsection (7) of this section, the Tax Commissioner shall, upon request, provide any municipality which has adopted the local option sales tax under the Local Option Revenue Act with a list of the names and addresses of the retailers which have collected the local option sales tax for the municipality. The request may be made annually and shall be submitted to the Tax Commissioner on or before June 30 of each year. The information provided by the Tax Commissioner shall indicate only the names and addresses of the retailers. The Tax Commissioner may provide additional information to a municipality so long as the information does not include any data detailing the specific revenue, expenses, or operations of any particular business.

(14)(a) Notwithstanding the provisions of subsection (7) of this section, the Tax Commissioner shall, upon written request, provide an individual certified under subdivision (b) of this subsection representing a municipality which has adopted the local option sales and use tax under the Local Option Revenue Act with confidential sales and use tax returns and sales and use tax return information regarding taxpayers that possess a sales tax permit and the amounts remitted by such permitholders at locations within the boundaries of the requesting municipality or with confidential business use tax returns and business use tax return information regarding taxpayers that file a Nebraska and Local Business Use Tax Return and the amounts remitted by such taxpayers at locations within the boundaries of the requesting municipality. Any written request pursuant to this subsection shall provide the Department of Revenue with no less than ten business days to prepare the sales and use tax returns and sales and use tax return information requested. The individual certified under subdivision (b) of this subsection shall review such returns and return information only upon the premises of the department, except that such limitation shall not apply if the certifying municipality has an agreement in effect under the Nebraska Advantage Transformational Tourism and Redevelopment Act. In such case, the individual certified under subdivision (b) of this subsection may request that copies of such returns and return information be sent to him or her by electronic transmission, secured in a manner as determined by the Tax Commissioner.

(b) Each municipality that seeks to request information under subdivision (a) of this subsection shall certify to the Department of Revenue one individual who is authorized by such municipality to make such request and review the documents described in subdivision (a) of this subsection. The individual may

be a municipal employee or an individual who contracts with the requesting municipality to provide financial, accounting, or other administrative services.

(c) No individual certified by a municipality pursuant to subdivision (b) of this subsection shall disclose to any person any information obtained pursuant to a review under this subsection. An individual certified by a municipality pursuant to subdivision (b) of this subsection shall remain subject to this subsection after he or she (i) is no longer certified or (ii) is no longer in the employment of or under contract with the certifying municipality.

(d) Any person who violates the provisions of this subsection shall be guilty of a Class I misdemeanor.

(e) The Department of Revenue shall not be held liable by any person for an impermissible disclosure by a municipality or any agent or employee thereof of any information obtained pursuant to a review under this subsection.

(15) In all proceedings under the Nebraska Revenue Act of 1967, the Tax Commissioner may act for and on behalf of the people of the State of Nebraska. The Tax Commissioner in his or her discretion may waive all or part of any penalties provided by the provisions of such act or interest on delinquent taxes specified in section 45-104.02, as such rate may from time to time be adjusted.

(16)(a) The purpose of this subsection is to set forth the state's policy for the protection of the confidentiality rights of all participants in the system operated pursuant to the streamlined sales and use tax agreement and of the privacy interests of consumers who deal with model 1 sellers.

(b) For purposes of this subsection:

(i) Anonymous data means information that does not identify a person;

(ii) Confidential taxpayer information means all information that is protected under a member state's laws, regulations, and privileges; and

(iii) Personally identifiable information means information that identifies a person.

(c) The state agrees that a fundamental precept for model 1 sellers is to preserve the privacy of consumers by protecting their anonymity. With very limited exceptions, a certified service provider shall perform its tax calculation, remittance, and reporting functions without retaining the personally identifiable information of consumers.

(d) The governing board of the member states in the streamlined sales and use tax agreement may certify a certified service provider only if that certified service provider certifies that:

(i) Its system has been designed and tested to ensure that the fundamental precept of anonymity is respected;

(ii) Personally identifiable information is only used and retained to the extent necessary for the administration of model 1 with respect to exempt purchasers;

(iii) It provides consumers clear and conspicuous notice of its information practices, including what information it collects, how it collects the information, how it uses the information, how long, if at all, it retains the information, and whether it discloses the information to member states. Such notice shall be satisfied by a written privacy policy statement accessible by the public on the website of the certified service provider;

(iv) Its collection, use, and retention of personally identifiable information is limited to that required by the member states to ensure the validity of exemp-

tions from taxation that are claimed by reason of a consumer's status or the intended use of the goods or services purchased; and

(v) It provides adequate technical, physical, and administrative safeguards so as to protect personally identifiable information from unauthorized access and disclosure.

(e) The state shall provide public notification to consumers, including exempt purchasers, of the state's practices relating to the collection, use, and retention of personally identifiable information.

(f) When any personally identifiable information that has been collected and retained is no longer required for the purposes set forth in subdivision (16)(d)(iv) of this section, such information shall no longer be retained by the member states.

(g) When personally identifiable information regarding an individual is retained by or on behalf of the state, it shall provide reasonable access by such individual to his or her own information in the state's possession and a right to correct any inaccurately recorded information.

(h) If anyone other than a member state, or a person authorized by that state's law or the agreement, seeks to discover personally identifiable information, the state from whom the information is sought should make a reasonable and timely effort to notify the individual of such request.

(i) This privacy policy is subject to enforcement by the Attorney General.

(j) All other laws and regulations regarding the collection, use, and maintenance of confidential taxpayer information remain fully applicable and binding. Without limitation, this subsection does not enlarge or limit the state's authority to:

(i) Conduct audits or other reviews as provided under the agreement and state law;

(ii) Provide records pursuant to the federal Freedom of Information Act, disclosure laws with governmental agencies, or other regulations;

(iii) Prevent, consistent with state law, disclosure of confidential taxpayer information;

(iv) Prevent, consistent with federal law, disclosure or misuse of federal return information obtained under a disclosure agreement with the Internal Revenue Service; and

(v) Collect, disclose, disseminate, or otherwise use anonymous data for governmental purposes.

Source: Laws 1967, c. 487, § 11, p. 1566; Laws 1969, c. 683, § 7, p. 2641; Laws 1977, LB 39, § 239; Laws 1981, LB 170, § 6; Laws 1982, LB 705, § 2; Laws 1984, LB 962, § 12; Laws 1985, LB 344, § 4; Laws 1987, LB 523, § 17; Laws 1991, LB 773, § 10; Laws 1992, LB 871, § 61; Laws 1992, Fourth Spec. Sess., LB 1, § 31; Laws 1993, LB 345, § 60; Laws 1994, LB 1175, § 1; Laws 1995, LB 134, § 3; Laws 1996, LB 1177, § 18; Laws 2001, LB 142, § 56; Laws 2003, LB 282, § 73; Laws 2005, LB 216, § 9; Laws 2005, LB 312, § 11; Laws 2006, LB 588, § 8; Laws 2007, LB94, § 1; Laws 2007, LB223, § 9; Laws 2008, LB914, § 8; Laws 2009, LB165, § 10; Laws 2010, LB563, § 14; Laws 2010, LB879, § 9; Laws 2012, LB209, § 1; Laws 2012, LB1053, § 25; Laws 2013,

LB39, § 12; Laws 2014, LB867, § 15; Laws 2015, LB539, § 6; Laws 2016, LB1022, § 4; Laws 2019, LB472, § 14; Laws 2020, LB236, § 1; Laws 2020, LB1107, § 129; Laws 2021, LB26, § 5; Laws 2021, LB544, § 31; Laws 2021, LB595, § 8; Laws 2022, LB984, § 8; Laws 2023, LB727, § 67; Laws 2024, LB937, § 72. Operative date October 1, 2024.

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.

77-2712.05 Streamlined sales and use tax agreement; requirements.

By agreeing to the terms of the streamlined sales and use tax agreement, this state agrees to abide by the following requirements:

(1) Uniform state rate. The state shall comply with restrictions to achieve over time more uniform state rates through the following:

(a) Limiting the number of state rates;

(b) Limiting the application of maximums on the amount of state tax that is due on a transaction; and

(c) Limiting the application of thresholds on the application of state tax;

(2) Uniform standards. The state hereby establishes uniform standards for the following:

(a) Sourcing of transactions to taxing jurisdictions as provided in sections 77-2703.01 to 77-2703.04;

(b) Administration of exempt sales as set out by the agreement and using procedures as determined by the governing board;

(c) Allowances a seller can take for bad debts as provided in section 77-2708; and

(d) Sales and use tax returns and remittances. To comply with the agreement, the Tax Commissioner shall:

(i) Require only one remittance for each return except as provided in this subdivision. If any additional remittance is required, it may only be required from retailers that collect more than thirty thousand dollars in sales and use taxes in the state during the preceding calendar year as provided in this subdivision. The amount of any additional remittance may be determined through a calculation method rather than actual collections. Any additional remittance shall not require the filing of an additional return;

(ii) Require, at his or her discretion, all remittances from sellers under models 1, 2, and 3 to be remitted electronically;

(iii) Allow for electronic payments by both automated clearinghouse credit and debit;

(iv) Provide an alternative method for making same day payments if an electronic funds transfer fails;

(v) Provide that if a due date falls on a legal banking holiday, the taxes are due to that state on the next succeeding business day; and

(vi) Require that any data that accompanies a remittance be formatted using uniform tax type and payment type codes approved by the governing board of the member states to the streamlined sales and use tax agreement;

(3) Uniform definitions. (a) The state shall utilize the uniform definitions of sales and use tax terms as provided in the agreement. The definitions enable Nebraska to preserve its ability to make taxability and exemption choices not inconsistent with the uniform definitions.

(b) The state may enact a product-based exemption without restriction if the agreement does not have a definition for the product or for a term that includes the product. If the agreement has a definition for the product or for a term that includes the product, the state may exempt all items included within the definition but shall not exempt only part of the items included within the definition unless the agreement sets out the exemption for part of the items as an acceptable variation.

(c) The state may enact an entity-based or a use-based exemption without restriction if the agreement does not have a definition for the product whose use or purchase by a specific entity is exempt or for a term that includes the product. If the agreement has a definition for the product whose use or specific purchase is exempt, states may enact an entity-based or a use-based exemption that applies to that product as long as the exemption utilizes the agreement definition of the product. If the agreement does not have a definition for the product whose use or specific purchase is exempt but has a definition for a term that includes the product, states may enact an entity-based or a use-based exemption for the product without restriction.

(d) For purposes of complying with the requirements in this section, the inclusion of a product within the definition of tangible personal property is disregarded;

(4) Central registration. The state shall participate in an electronic central registration system that allows a seller to register to collect and remit sales and use taxes for all member states. Under the system:

(a) A retailer registering under the agreement is registered in this state;

(b) The state agrees not to require the payment of any registration fees or other charges for a retailer to register in the state if the retailer has no legal requirement to register;

(c) A written signature from the retailer is not required;

(d) An agent may register a retailer under uniform procedures adopted by the member states pursuant to the agreement;

(e) A retailer may cancel its registration under the system at any time under uniform procedures adopted by the governing board. Cancellation does not relieve the retailer of its liability for remitting to the proper states any taxes collected;

(f) When registering, the retailer that is registered under the agreement may select one of the following methods of remittances or other method allowed by state law to remit the taxes collected:

(i) Model 1, wherein a seller selects a certified service provider as an agent to perform all the seller's sales or use tax functions, other than the seller's obligation to remit tax on its own purchases;

(ii) Model 2, wherein a seller selects a certified automated system to use which calculates the amount of tax due on a transaction; and

(iii) Model 3, wherein a seller utilizes its own proprietary automated sales tax system that has been certified as a certified automated system; and

(g) Sellers who register within twelve months after this state's first approval of a certified service provider are relieved from liability, including the local option tax, for tax not collected or paid if the seller was not registered between October 1, 2004, and September 30, 2005. Such relief from liability shall be in accordance with the terms of the agreement;

(5) No nexus attribution. The state agrees that registration with the central registration system and the collection of sales and use taxes in the state will not be used as a factor in determining whether the seller has nexus with the state for any tax at any time;

(6) Local sales and use taxes. The agreement requires the reduction of the burdens of complying with local sales and use taxes as provided in sections 13-319, 13-324, 13-326, 77-2701.03, 77-27,142, 77-27,143, 77-27,144, and 77-6403 that require the following:

(a) No variation between the state and local tax bases;

(b) Statewide administration of all sales and use taxes levied by local jurisdictions within the state so that sellers collecting and remitting these taxes will not have to register or file returns with, remit funds to, or be subject to independent audits from local taxing jurisdictions;

(c) Limitations on the frequency of changes in the local sales and use tax rates and setting effective dates for the application of local jurisdictional boundary changes to local sales and use taxes; and

(d) Uniform notice of changes in local sales and use tax rates and of changes in the boundaries of local taxing jurisdictions;

(7) Complete a taxability matrix approved by the governing board. (a) Notice of changes in the taxability of the products or services listed will be provided as required by the governing board.

(b) The entries in the matrix shall be provided and maintained in a database that is in a downloadable format approved by the governing board.

(c) Sellers, model 2 sellers, and certified service providers are relieved from liability, including the local option tax, for having charged and collected the incorrect amount of sales or use tax resulting from the seller or certified service provider relying on erroneous data provided by the member state in the taxability matrix or for relying on product-based classifications that have been reviewed and approved by the state. The state shall notify the certified service provider or model 2 seller if an item or transaction is incorrectly classified as to its taxability.

(d) Purchasers are relieved from liability for penalty for having failed to pay the correct amount of tax resulting from the purchaser's reliance on erroneous data provided by the member state in the taxability matrix or rates and boundaries databases or for relying on product-based classifications that have been reviewed and approved by the state;

(8) Monetary allowances. The state agrees to allow any monetary allowances that are to be provided by the states to sellers or certified service providers in

exchange for collecting sales and use taxes as provided in Article VI of the agreement;

(9) State compliance. The agreement requires the state to certify compliance with the terms of the agreement prior to joining and to maintain compliance, under the laws of the member state, with all provisions of the agreement while a member;

(10) Consumer privacy. The state hereby adopts a uniform policy for certified service providers that protects the privacy of consumers and maintains the confidentiality of tax information as provided in section 77-2711; and

(11) Advisory councils. The state agrees to the recognition of an advisory council of private-sector representatives and an advisory council of member and nonmember state representatives to consult with in the administration of the agreement.

Source: Laws 2001, LB 172, § 6; Laws 2003, LB 282, § 77; Laws 2004, LB 1017, § 20; Laws 2005, LB 16, § 1; Laws 2006, LB 887, § 4; Laws 2007, LB223, § 11; Laws 2009, LB165, § 11; Laws 2019, LB472, § 15.

77-2713 Sales and use tax; failure to collect; false return; violations; penalty; statute of limitations.

(1) Any person required under the provisions of sections 77-2701.04 to 77-2713 to collect, account for, or pay over any tax imposed by the Nebraska Revenue Act of 1967 who willfully fails to collect or truthfully account for or pay over such tax and any person who willfully attempts in any manner to evade any tax imposed by such provisions of such act or the payment thereof shall, in addition to other penalties provided by law, be guilty of a Class IV felony.

(2) Any person who willfully aids or assists in, procures, counsels, or advises the preparation or presentation of a false or fraudulent return, affidavit, claim, or document under or in connection with any matter arising under sections 77-2701.04 to 77-2713 shall, whether or not such falsity or fraud is with the knowledge or consent of the person authorized or required to present such return, affidavit, claim, or document, be guilty of a Class IV felony.

(3) A person who engages in business as a retailer in this state without a permit or permits or after a permit has been suspended and each officer of any corporation which so engages in business shall be guilty of a Class IV misdemeanor. Each day of such operation shall constitute a separate offense.

(4) Any person who gives a resale certificate to the seller for property which he or she knows, at the time of purchase, is purchased for the purpose of use rather than for the purpose of resale, lease, or rental by him or her in the regular course of business shall be guilty of a Class IV misdemeanor.

(5) Any violation of the provisions of sections 77-2701.04 to 77-2713, except as otherwise provided, shall be a Class IV misdemeanor.

(6) Any prosecution under sections 77-2701.04 to 77-2713 shall be instituted within three years after the commission of the offense. If such offense is the failure to do an act required by any of such sections to be done before a certain date, a prosecution for such offense may be commenced not later than three years after such date. The failure to do any act required by sections 77-2701.04 to 77-2713 shall be deemed an act committed in part at the principal office of

the Tax Commissioner. Any prosecution under the provisions of the Nebraska Revenue Act of 1967 may be conducted in any county where the person or corporation to whose liability the proceeding relates resides or has a place of business or in any county in which such criminal act is committed. The Attorney General shall have concurrent jurisdiction with the county attorney in the prosecution of any offenses under the provisions of the Nebraska Revenue Act of 1967.

Source: Laws 1967, c. 487, § 13, p. 1574; Laws 1977, LB 39, § 240; Laws 1989, LB 459, § 1; Laws 1992, LB 871, § 62; Laws 2003, LB 282, § 78; Laws 2021, LB26, § 6; Laws 2021, LB595, § 9; Laws 2022, LB984, § 9; Laws 2023, LB727, § 68; Laws 2024, LB937, § 73. Operative date October 1, 2024.

(c) INCOME TAX

77-2715.03 Individual income tax brackets and rates; Tax Commissioner; duties; tax tables; other taxes; tax rate.

(1) For taxable years beginning or deemed to begin on or after January 1, 2013, and before January 1, 2014, the following brackets and rates are hereby established for the Nebraska individual income tax:

Individual Income Tax Brackets and Rates

Bracket Number	Single Individuals	Married, Filing Jointly	Head of Household	Married, Filing Separate	Estates and Trusts	Tax Rate
1	$0-2,399	$0-4,799	$0-4,499	$0-2,399	$0-499	2.46%
2	$2,400-17,499	$4,800-34,999	$4,500-27,999	$2,400-17,499	$500-4,699	3.51%
3	$17,500-26,999	$35,000-53,999	$28,000-39,999	$17,500-26,999	$4,700-15,149	5.01%
4	$27,000 and Over	$54,000 and Over	$40,000 and Over	$27,000 and Over	$15,150 and Over	6.84%

(2)(a) For taxable years beginning or deemed to begin on or after January 1, 2014, the following brackets and rates are hereby established for the Nebraska individual income tax:

Individual Income Tax Brackets and Rates

Bracket Number	Single Individuals	Married, Filing Jointly	Head of Household	Married, Filing Separate	Estates and Trusts	Tax Rate
1	$0-2,999	$0-5,999	$0-5,599	$0-2,999	$0-499	2.46%
2	$3,000-17,999	$6,000-35,999	$5,600-28,799	$3,000-17,999	$500-4,699	3.51%
3	$18,000-28,999	$36,000-57,999	$28,800-42,999	$18,000-28,999	$4,700-15,149	Rate Three
4	$29,000 and Over	$58,000 and Over	$43,000 and Over	$29,000 and Over	$15,150 and Over	Rate Four

(b) For purposes of this subsection, rate three shall be:

(i) 5.01% for taxable years beginning or deemed to begin on or after January 1, 2014, and before January 1, 2026;

(ii) 4.55% for taxable years beginning or deemed to begin on or after January 1, 2026, and before January 1, 2027; and

(iii) 3.99% for taxable years beginning or deemed to begin on or after January 1, 2027.

(c) For purposes of this subsection, rate four shall be:

(i) 6.84% for taxable years beginning or deemed to begin on or after January 1, 2014, and before January 1, 2023;

(ii) 6.64% for taxable years beginning or deemed to begin on or after January 1, 2023, and before January 1, 2024;

(iii) 5.84% for taxable years beginning or deemed to begin on or after January 1, 2024, and before January 1, 2025;

(iv) 5.20% for taxable years beginning or deemed to begin on or after January 1, 2025, and before January 1, 2026;

(v) 4.55% for taxable years beginning or deemed to begin on or after January 1, 2026, and before January 1, 2027; and

(vi) 3.99% for taxable years beginning or deemed to begin on or after January 1, 2027.

(3)(a) For taxable years beginning or deemed to begin on or after January 1, 2015, the minimum and maximum dollar amounts for each income tax bracket provided in subsection (2) of this section shall be adjusted for inflation by the percentage determined under subdivision (3)(b) of this section. The rate applicable to any such income tax bracket shall not be changed as part of any adjustment under this subsection. The minimum and maximum dollar amounts for each income tax bracket as adjusted shall be rounded to the nearest ten-dollar amount. If the adjusted amount for any income tax bracket ends in a five, it shall be rounded up to the nearest ten-dollar amount.

(b)(i) For taxable years beginning or deemed to begin on or after January 1, 2015, and before January 1, 2018, the Tax Commissioner shall adjust the income tax brackets by the percentage determined pursuant to the provisions of section 1(f) of the Internal Revenue Code of 1986, as it existed prior to December 22, 2017, except that in section 1(f)(3)(B) of the code the year 2013 shall be substituted for the year 1992. For 2015, the Tax Commissioner shall then determine the percent change from the twelve months ending on August 31, 2013, to the twelve months ending on August 31, 2014, and in each subsequent year, from the twelve months ending on August 31, 2013, to the twelve months ending on August 31 of the year preceding the taxable year. The Tax Commissioner shall prescribe new tax rate schedules that apply in lieu of the schedules set forth in subsection (2) of this section.

(ii) For taxable years beginning or deemed to begin on or after January 1, 2018, the Tax Commissioner shall adjust the income tax brackets based on the percentage change in the Consumer Price Index for All Urban Consumers published by the federal Bureau of Labor Statistics from the twelve months ending on August 31, 2016, to the twelve months ending on August 31 of the year preceding the taxable year. The Tax Commissioner shall prescribe new tax rate schedules that apply in lieu of the schedules set forth in subsection (2) of this section.

(4) Whenever the tax brackets or tax rates are changed by the Legislature, the Tax Commissioner shall update the tax rate schedules to reflect the new tax brackets or tax rates and shall publish such updated schedules.

(5) The Tax Commissioner shall prepare, from the rate schedules, tax tables which can be used by a majority of the taxpayers to determine their Nebraska tax liability. The design of the tax tables shall be determined by the Tax Commissioner. The size of the tax table brackets may change as the level of

income changes. The difference in tax between two tax table brackets shall not exceed fifteen dollars. The Tax Commissioner may build the personal exemption credit and standard deduction amounts into the tax tables.

(6) For taxable years beginning or deemed to begin on or after January 1, 2013, the tax rate applied to other federal taxes included in the computation of the Nebraska individual income tax shall be 29.6 percent.

(7) The Tax Commissioner may require by rule and regulation that all taxpayers shall use the tax tables if their income is less than the maximum income included in the tax tables.

Source: Laws 2012, LB970, § 5; Laws 2014, LB987, § 1; Laws 2018, LB1090, § 1; Laws 2022, LB873, § 1; Laws 2023, LB754, § 7.

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 Microen-

terprise Tax Credit Act, the Nebraska Advantage Research and Development Act, the Reverse Osmosis System Tax Credit 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 programs or projects certified for tax credit status as provided in the Creating High Impact Economic Futures Act. Each partner, each shareholder of an electing subchapter S corporation, each beneficiary of an estate or trust, or each member of a limited liability company shall report his or her share of the credit in the same manner and proportion as he or she reports the partnership, subchapter S corporation, estate, trust, or limited liability company income;

(c) A credit for investment in a biodiesel facility as provided in section 77-27,236;

(d) A credit as provided in the New Markets Job Growth Investment Act;

(e) A credit as provided in the Nebraska Job Creation and Mainstreet Revitalization Act;

(f) A credit to employers as provided in sections 77-27,238 and 77-27,240;

(g) A credit as provided in the Affordable Housing Tax Credit Act;

(h) A credit to grocery store retailers, restaurants, and agricultural producers as provided in section 77-27,241;

(i) A credit as provided in the Sustainable Aviation Fuel Tax Credit Act;

(j) A credit as provided in the Nebraska Shortline Rail Modernization Act;

(k) A credit as provided in the Nebraska Pregnancy Help Act; and

(l) A credit as provided in the Caregiver 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 programs or projects certified for tax credit status as provided in the Creating High Impact Economic Futures 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 Cast and Crew Nebraska Act, the Nebraska Biodiesel Tax Credit Act, the Nebraska Higher Blend Tax Credit Act, the Nebraska Property Tax Incentive Act, the Relocation Incentive Act, and the Renewable Chemical Production Tax Credit Act.

(9)(a) For taxable years beginning or deemed to begin on or after January 1, 2022, under the Internal Revenue Code of 1986, as amended, a refundable credit against the income tax imposed by the Nebraska Revenue Act of 1967 shall be allowed to the parent of a stillborn child if:

(i) A fetal death certificate is filed pursuant to subsection (1) of section 71-606 for such child;

(ii) Such child had advanced to at least the twentieth week of gestation; and

(iii) Such child would have been a dependent of the individual claiming the credit.

(b) The amount of the credit shall be two thousand dollars.

(c) The credit shall be allowed for the taxable year in which the stillbirth occurred.

(10) There shall be allowed to all individuals refundable credits against the income tax imposed by the Nebraska Revenue Act of 1967 as provided in section 77-7203 and nonrefundable credits against the income tax imposed by the Nebraska Revenue Act of 1967 as provided in section 77-7204.

(11) There shall be allowed to all individuals refundable credits against the income tax imposed by the Nebraska Revenue Act of 1967 as provided in section 77-3157 and nonrefundable credits against the income tax imposed by the Nebraska Revenue Act of 1967 as provided in sections 77-3156, 77-3158, and 77-3159.

Source: Laws 1987, LB 773, § 6; Laws 1989, LB 739, § 2; Laws 1993, LB 5, § 3; Laws 1993, LB 121, § 503; Laws 1993, LB 240, § 4; Laws 1993, LB 815, § 23; Laws 1994, LB 977, § 12; Laws 1996, LB 898, § 5; Laws 1998, LB 1028, § 2; Laws 1999, LB 630, § 1; Laws 2001, LB 433, § 4; Laws 2005, LB 312, § 12; Laws 2006, LB 968, § 8; Laws 2006, LB 990, § 1; Laws 2007, LB343, § 3; Laws 2007, LB367, § 20; Laws 2007, LB456, § 1; Laws 2009, LB165, § 12; Laws 2011, LB389, § 12; Laws 2012, LB1128, § 22; Laws 2014, LB191, § 17; Laws 2015, LB591, § 12; Laws 2016, LB774, § 7; Laws 2016, LB884, § 19; Laws 2016, LB886, § 6; Laws 2016, LB889, § 10; Laws 2019, LB86, § 10; Laws 2019, LB560, § 1; Laws 2020, LB1107, § 130; Laws 2021, LB432, § 11; Laws 2022, LB917, § 3; Laws 2022, LB1261, § 10; Laws 2023, LB727, § 69; Laws 2023, LB753, § 14; Laws 2023, LB754, § 8; Laws 2024, LB937, § 74; Laws 2024, LB1023, § 9; Laws 2024, LB1344, § 9; Laws 2024, LB1402, § 2.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB937, section 74, with LB1023, section 9, LB1344, section 9, and LB1402, section 2, to reflect all amendments.

Note: Changes made by LB937 became operative July 19, 2024. Changes made by LB1023 became operative July 19, 2024. Changes made by LB1344 became operative January 1, 2025. Changes made by LB1402 became operative October 31, 2024.

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.
Caregiver Tax Credit Act, see section 77-3163.
Cast and Crew Nebraska Act, see section 77-3121.
Creating High Impact Economic Futures Act, see section 77-3113.
Nebraska Advantage Microenterprise Tax Credit Act, see section 77-5901.
Nebraska Advantage Research and Development Act, see section 77-5801.
Nebraska Biodiesel Tax Credit Act, see section 77-7009.
Nebraska Higher Blend Tax Credit Act, see section 77-7001.
Nebraska Job Creation and Mainstreet Revitalization Act, see section 77-2901.
Nebraska Pregnancy Help Act, see section 77-3144.
Nebraska Property Tax Incentive Act, see section 77-6701.
Nebraska Revenue Act of 1967, see section 77-2701.
Nebraska Shortline Rail Modernization Act, see section 77-3134.
New Markets Job Growth Investment Act, see section 77-1101.
Relocation Incentive Act, see section 77-3107.
Renewable Chemical Production Tax Credit Act, see section 77-6601.
Reverse Osmosis System Tax Credit Act, see section 77-3167.
Sustainable Aviation Fuel Tax Credit Act, see section 77-7017.
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 compa-

ny and by any expenses incurred in the production of interest or dividend income described in this subsection to the extent that such expenses, including amortizable bond premiums, are deductible in determining federal taxable income.

(ii) Any amount added under this subsection shall be reduced by any expenses incurred in the production of such income to the extent disallowed in the computation of federal taxable income.

(2) There shall be allowed a net operating loss derived from or connected with Nebraska sources computed under rules and regulations adopted and promulgated by the Tax Commissioner consistent, to the extent possible under the Nebraska Revenue Act of 1967, with the laws of the United States. For a resident individual, estate, or trust, the net operating loss computed on the federal income tax return shall be adjusted by the modifications contained in this section. For a nonresident individual, estate, or trust or for a partial-year resident individual, the net operating loss computed on the federal return shall be adjusted by the modifications contained in this section and any carryovers or carrybacks shall be limited to the portion of the loss derived from or connected with Nebraska sources.

(3) There shall be subtracted from federal adjusted gross income for all taxable years beginning on or after January 1, 1987, the amount of any state income tax refund to the extent such refund was deducted under the Internal Revenue Code, was not allowed in the computation of the tax due under the Nebraska Revenue Act of 1967, and is included in federal adjusted gross income.

(4) Federal adjusted gross income, or, for a fiduciary, federal taxable income shall be modified to exclude the portion of the income or loss received from a small business corporation with an election in effect under subchapter S of the Internal Revenue Code or from a limited liability company organized pursuant to the Nebraska Uniform Limited Liability Company Act that is not derived from or connected with Nebraska sources as determined in section 77-2734.01.

(5) There shall be subtracted from federal adjusted gross income or, for corporations and fiduciaries, federal taxable income dividends received or deemed to be received from corporations which are not subject to the Internal Revenue Code.

(6) There shall be subtracted from federal taxable income a portion of the income earned by a corporation subject to the Internal Revenue Code of 1986 that is actually taxed by a foreign country or one of its political subdivisions at a rate in excess of the maximum federal tax rate for corporations. The taxpayer may make the computation for each foreign country or for groups of foreign countries. The portion of the taxes that may be deducted shall be computed in the following manner:

(a) The amount of federal taxable income from operations within a foreign taxing jurisdiction shall be reduced by the amount of taxes actually paid to the foreign jurisdiction that are not deductible solely because the foreign tax credit was elected on the federal income tax return;

(b) The amount of after-tax income shall be divided by one minus the maximum tax rate for corporations in the Internal Revenue Code; and

(c) The result of the calculation in subdivision (b) of this subsection shall be subtracted from the amount of federal taxable income used in subdivision (a) of

this subsection. The result of such calculation, if greater than zero, shall be subtracted from federal taxable income.

(7) Federal adjusted gross income shall be modified to exclude any amount repaid by the taxpayer for which a reduction in federal tax is allowed under section 1341(a)(5) of the Internal Revenue Code.

(8)(a) Federal adjusted gross income or, for corporations and fiduciaries, federal taxable income shall be reduced, to the extent included, by income from interest, earnings, and state contributions received from the Nebraska educational savings plan trust created in sections 85-1801 to 85-1817 and any account established under the achieving a better life experience program as provided in sections 77-1401 to 77-1409.

(b) Federal adjusted gross income or, for corporations and fiduciaries, federal taxable income shall be reduced by any contributions as a participant in the Nebraska educational savings plan trust or contributions to an account established under the achieving a better life experience program made for the benefit of a beneficiary as provided in sections 77-1401 to 77-1409, to the extent not deducted for federal income tax purposes, but not to exceed five thousand dollars per married filing separate return or ten thousand dollars for any other return. With respect to a qualified rollover within the meaning of section 529 of the Internal Revenue Code from another state's plan, any interest, earnings, and state contributions received from the other state's educational savings plan which is qualified under section 529 of the code shall qualify for the reduction provided in this subdivision. For contributions by a custodian of a custodial account including rollovers from another custodial account, the reduction shall only apply to funds added to the custodial account after January 1, 2014.

(c) For taxable years beginning or deemed to begin on or after January 1, 2021, under the Internal Revenue Code of 1986, as amended, federal adjusted gross income shall be reduced, to the extent included in the adjusted gross income of an individual, by the amount of any contribution made by the individual's employer into an account under the Nebraska educational savings plan trust owned by the individual, not to exceed five thousand dollars per married filing separate return or ten thousand dollars for any other return.

(d) Federal adjusted gross income or, for corporations and fiduciaries, federal taxable income shall be increased by:

(i) The amount resulting from the cancellation of a participation agreement refunded to the taxpayer as a participant in the Nebraska educational savings plan trust to the extent previously deducted under subdivision (8)(b) of this section; and

(ii) The amount of any withdrawals by the owner of an account established under the achieving a better life experience program as provided in sections 77-1401 to 77-1409 for nonqualified expenses to the extent previously deducted under subdivision (8)(b) of this section.

(9)(a) For income tax returns filed after September 10, 2001, for taxable years beginning or deemed to begin before January 1, 2006, under the Internal Revenue Code of 1986, as amended, federal adjusted gross income or, for corporations and fiduciaries, federal taxable income shall be increased by eighty-five percent of any amount of any federal bonus depreciation received under the federal Job Creation and Worker Assistance Act of 2002 or the federal Jobs and Growth Tax Act of 2003, under section 168(k) or section

1400L of the Internal Revenue Code of 1986, as amended, for assets placed in service after September 10, 2001, and before December 31, 2005.

(b) For a partnership, limited liability company, cooperative, including any cooperative exempt from income taxes under section 521 of the Internal Revenue Code of 1986, as amended, limited cooperative association, subchapter S corporation, or joint venture, the increase shall be distributed to the partners, members, shareholders, patrons, or beneficiaries in the same manner as income is distributed for use against their income tax liabilities.

(c) For a corporation with a unitary business having activity both inside and outside the state, the increase shall be apportioned to Nebraska in the same manner as income is apportioned to the state by section 77-2734.05.

(d) The amount of bonus depreciation added to federal adjusted gross income or, for corporations and fiduciaries, federal taxable income by this subsection shall be subtracted in a later taxable year. Twenty percent of the total amount of bonus depreciation added back by this subsection for tax years beginning or deemed to begin before January 1, 2003, under the Internal Revenue Code of 1986, as amended, may be subtracted in the first taxable year beginning or deemed to begin on or after January 1, 2005, under the Internal Revenue Code of 1986, as amended, and twenty percent in each of the next four following taxable years. Twenty percent of the total amount of bonus depreciation added back by this subsection for tax years beginning or deemed to begin on or after January 1, 2003, may be subtracted in the first taxable year beginning or deemed to begin on or after January 1, 2006, under the Internal Revenue Code of 1986, as amended, and twenty percent in each of the next four following taxable years.

(10) For taxable years beginning or deemed to begin on or after January 1, 2003, and before January 1, 2006, under the Internal Revenue Code of 1986, as amended, federal adjusted gross income or, for corporations and fiduciaries, federal taxable income shall be increased by the amount of any capital investment that is expensed under section 179 of the Internal Revenue Code of 1986, as amended, that is in excess of twenty-five thousand dollars that is allowed under the federal Jobs and Growth Tax Act of 2003. Twenty percent of the total amount of expensing added back by this subsection for tax years beginning or deemed to begin on or after January 1, 2003, may be subtracted in the first taxable year beginning or deemed to begin on or after January 1, 2006, under the Internal Revenue Code of 1986, as amended, and twenty percent in each of the next four following tax years.

(11)(a) For taxable years beginning or deemed to begin before January 1, 2018, under the Internal Revenue Code of 1986, as amended, federal adjusted gross income shall be reduced by contributions, up to two thousand dollars per married filing jointly return or one thousand dollars for any other return, and any investment earnings made as a participant in the Nebraska long-term care savings plan under the Long-Term Care Savings Plan Act, to the extent not deducted for federal income tax purposes.

(b) For taxable years beginning or deemed to begin before January 1, 2018, under the Internal Revenue Code of 1986, as amended, federal adjusted gross income shall be increased by the withdrawals made as a participant in the Nebraska long-term care savings plan under the act by a person who is not a qualified individual or for any reason other than transfer of funds to a spouse, long-term care expenses, long-term care insurance premiums, or death of the

participant, including withdrawals made by reason of cancellation of the participation agreement, to the extent previously deducted as a contribution or as investment earnings.

(12) There shall be added to federal adjusted gross income for individuals, estates, and trusts any amount taken as a credit for franchise tax paid by a financial institution under sections 77-3801 to 77-3807 as allowed by subsection (5) of section 77-2715.07.

(13)(a) For taxable years beginning or deemed to begin on or after January 1, 2015, and before January 1, 2024, under the Internal Revenue Code of 1986, as amended, federal adjusted gross income shall be reduced by the amount received as benefits under the federal Social Security Act which are included in the federal adjusted gross income if:

(i) For taxpayers filing a married filing joint return, federal adjusted gross income is fifty-eight thousand dollars or less; or

(ii) For taxpayers filing any other return, federal adjusted gross income is forty-three thousand dollars or less.

(b) For taxable years beginning or deemed to begin on or after January 1, 2020, and before January 1, 2024, under the Internal Revenue Code of 1986, as amended, the Tax Commissioner shall adjust the dollar amounts provided in subdivisions (13)(a)(i) and (ii) of this section by the same percentage used to adjust individual income tax brackets under subsection (3) of section 77-2715.03.

(c) For taxable years beginning or deemed to begin on or after January 1, 2021, and before January 1, 2024, under the Internal Revenue Code of 1986, as amended, a taxpayer may claim the reduction to federal adjusted gross income allowed under this subsection or the reduction to federal adjusted gross income allowed under subsection (14) of this section, whichever provides the greater reduction.

(14)(a) For taxable years beginning or deemed to begin on or after January 1, 2021, under the Internal Revenue Code of 1986, as amended, federal adjusted gross income shall be reduced by a percentage of the social security benefits that are received and included in federal adjusted gross income. The pertinent percentage shall be:

(i) Five percent for taxable years beginning or deemed to begin on or after January 1, 2021, and before January 1, 2022, under the Internal Revenue Code of 1986, as amended;

(ii) Forty percent for taxable years beginning or deemed to begin on or after January 1, 2022, and before January 1, 2023, under the Internal Revenue Code of 1986, as amended;

(iii) Sixty percent for taxable years beginning or deemed to begin on or after January 1, 2023, and before January 1, 2024, under the Internal Revenue Code of 1986, as amended; and

(iv) One hundred percent for taxable years beginning or deemed to begin on or after January 1, 2024, under the Internal Revenue Code of 1986, as amended.

(b) For purposes of this subsection, social security benefits means benefits received under the federal Social Security Act.

(c) For taxable years beginning or deemed to begin on or after January 1, 2021, and before January 1, 2024, under the Internal Revenue Code of 1986, as amended, a taxpayer may claim the reduction to federal adjusted gross income allowed under this subsection or the reduction to federal adjusted gross income allowed under subsection (13) of this section, whichever provides the greater reduction.

(15)(a) For taxable years beginning or deemed to begin on or after January 1, 2015, and before January 1, 2022, under the Internal Revenue Code of 1986, as amended, an individual may make a one-time election within two calendar years after the date of his or her retirement from the military to exclude income received as a military retirement benefit by the individual to the extent included in federal adjusted gross income and as provided in this subdivision. The individual may elect to exclude forty percent of his or her military retirement benefit income for seven consecutive taxable years beginning with the year in which the election is made or may elect to exclude fifteen percent of his or her military retirement benefit income for all taxable years beginning with the year in which he or she turns sixty-seven years of age.

(b) For taxable years beginning or deemed to begin on or after January 1, 2022, under the Internal Revenue Code of 1986, as amended, an individual may exclude one hundred percent of the military retirement benefit income received by such individual to the extent included in federal adjusted gross income.

(c) For purposes of this subsection, military retirement benefit means retirement benefits that are periodic payments attributable to service in the uniformed services of the United States for personal services performed by an individual prior to his or her retirement. The term includes retirement benefits described in this subdivision that are reported to the individual on either:

(i) An Internal Revenue Service Form 1099-R received from the United States Department of Defense; or

(ii) An Internal Revenue Service Form 1099-R received from the United States Office of Personnel Management.

(16) For taxable years beginning or deemed to begin on or after January 1, 2021, under the Internal Revenue Code of 1986, as amended, federal adjusted gross income shall be reduced by the amount received as a Segal AmeriCorps Education Award, to the extent such amount is included in federal adjusted gross income.

(17) For taxable years beginning or deemed to begin on or after January 1, 2022, under the Internal Revenue Code of 1986, as amended, federal adjusted gross income shall be reduced by the amount received by or on behalf of a firefighter for cancer benefits under the Firefighter Cancer Benefits Act to the extent included in federal adjusted gross income.

(18) There shall be subtracted from the federal adjusted gross income of individuals any amount received by the individual as student loan repayment assistance under the Teach in Nebraska Today Act, to the extent such amount is included in federal adjusted gross income.

(19) For taxable years beginning or deemed to begin on or after January 1, 2023, under the Internal Revenue Code of 1986, as amended, a retired individual who was employed full time as a firefighter or certified law enforcement officer for at least twenty years and who is at least sixty years of age as of the end of the taxable year may reduce his or her federal adjusted gross income by

the amount of health insurance premiums paid by such individual during the taxable year, to the extent such premiums were not already deducted in determining the individual's federal adjusted gross income.

(20) For taxable years beginning or deemed to begin on or after January 1, 2024, under the Internal Revenue Code of 1986, as amended, an individual may reduce his or her federal adjusted gross income by the amounts received as annuities under the Civil Service Retirement System which were earned for being employed by the federal government, to the extent such amounts are included in federal adjusted gross income.

(21) For taxable years beginning or deemed to begin on or after January 1, 2025, under the Internal Revenue Code of 1986, as amended, an individual who is a member of the Nebraska National Guard may exclude one hundred percent of the income received from any of the following sources to the extent such income is included in the individual's federal adjusted gross income:

(a) Serving in a 32 U.S.C. duty status such as members attending drills, annual training, and military schools and members who are serving in a 32 U.S.C. active guard reserve or active duty for operational support duty status;

(b) Employment as a 32 U.S.C. federal dual-status technician with the Nebraska National Guard; or

(c) Serving in a state active duty status.

(22)(a) For taxable years beginning or deemed to begin on or after January 1, 2024, under the Internal Revenue Code of 1986, as amended, an individual may reduce his or her federal adjusted gross income by the amount of interest and principal balance of medical debt discharged under the Medical Debt Relief Act, to the extent included in such individual's federal adjusted gross income.

(b) For taxable years beginning or deemed to begin on or after January 1, 2024, under the Internal Revenue Code of 1986, as amended, federal adjusted gross income or, for corporations and fiduciaries, federal taxable income shall be reduced by the amount of contributions made to the Medical Debt Relief Fund, to the extent not deducted for federal income tax purposes.

(23) For taxable years beginning or deemed to begin on or after January 1, 2025, under the Internal Revenue Code of 1986, as amended, an individual who is a qualifying employee as defined in section 77-3108 may reduce his or her federal adjusted gross income by the amount allowed under section 77-3111.

(24) For taxable years beginning or deemed to begin on or after January 1, 2026, under the Internal Revenue Code of 1986, as amended, federal adjusted gross income or, for corporations and fiduciaries, federal taxable income shall be reduced by the amounts allowed to be deducted pursuant to section 77-27,242.

(25) There shall be added to federal adjusted gross income or, for corporations and fiduciaries, federal taxable income for all taxable years beginning on or after January 1, 2025, the amount of any net capital loss that is derived from the sale or exchange of gold or silver bullion to the extent such loss is included in federal adjusted gross income except that such loss shall not be added if the loss is derived from the sale of bullion as a taxable distribution from any retirement plan account that holds gold or silver bullion. For the purposes of this subsection, bullion has the same meaning as in section 77-2704.66.

(26) There shall be subtracted from federal adjusted gross income or, for corporations and fiduciaries, federal taxable income for all taxable years

beginning on or after January 1, 2025, the amount of any net capital gain that is derived from the sale or exchange of gold or silver bullion to the extent such gain is included in federal adjusted gross income except that such gain shall not be subtracted if the gain is derived from the sale of bullion as a taxable distribution from any retirement plan account that holds gold or silver bullion. For the purposes of this subsection, bullion has the same meaning as in section 77-2704.66.

Source: Laws 1967, c. 487, § 16, p. 1579; Laws 1983, LB 619, § 1; Laws 1984, LB 962, § 15; Laws 1984, LB 1124, § 3; Laws 1985, LB 273, § 50; Laws 1986, LB 774, § 9; Laws 1987, LB 523, § 20; Laws 1987, LB 773, § 9; Laws 1989, LB 458, § 2; Laws 1989, LB 459, § 3; Laws 1991, LB 773, § 13; Laws 1993, LB 121, § 504; Laws 1994, LB 977, § 13; Laws 1997, LB 401, § 2; Laws 1998, LB 1028, § 3; Laws 2000, LB 1003, § 15; Laws 2002, LB 1085, § 18; Laws 2003, LB 596, § 1; Laws 2005, LB 216, § 10; Laws 2006, LB 965, § 6; Laws 2006, LB 968, § 9; Laws 2007, LB338, § 1; Laws 2007, LB368, § 135; Laws 2007, LB456, § 2; Laws 2010, LB197, § 1; Laws 2010, LB888, § 104; Laws 2013, LB283, § 6; Laws 2013, LB296, § 1; Laws 2014, LB987, § 2; Laws 2015, LB591, § 13; Laws 2016, LB756, § 1; Laws 2016, LB776, § 3; Laws 2018, LB738, § 1; Laws 2019, LB610, § 7; Laws 2020, LB153, § 1; Laws 2020, LB477, § 1; Laws 2020, LB1042, § 2; Laws 2021, LB64, § 1; Laws 2021, LB387, § 1; Laws 2021, LB432, § 12; Laws 2022, LB873, § 2; Laws 2022, LB1218, § 9; Laws 2022, LB1273, § 1; Laws 2023, LB727, § 70; Laws 2023, LB754, § 9; Laws 2024, LB937, § 75; Laws 2024, LB1023, § 10; Laws 2024, LB1317, § 85; Laws 2024, LB1394, § 1.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB937, section 75, with LB1023, section 10, LB1317, section 85, and LB1394, section 1, to reflect all amendments.

Note: Changes made by LB937 became operative July 19, 2024. Changes made by LB1023 became operative July 19, 2024. Changes made by LB1317 became operative July 19, 2024. Changes made by LB1394 became effective July 19, 2024.

Cross References

Firefighter Cancer Benefits Act, see section 35-1002.
Long-Term Care Savings Plan Act, see section 77-6101.
Medical Debt Relief Act, see section 45-1301.
Nebraska Uniform Limited Liability Company Act, see section 21-101.
Teach in Nebraska Today Act, see section 79-8,146.

77-2716.01 Personal exemptions; standard deduction; computation.

(1)(a) Through tax year 2017, every individual shall be allowed to subtract from his or her income tax liability an amount for personal exemptions. The amount allowed to be subtracted shall be the credit amount for the year as provided in this subdivision multiplied by the number of exemptions allowed on the federal return. For tax year 1993, the credit amount shall be sixty-five dollars; for tax year 1994, the credit amount shall be sixty-nine dollars; for tax year 1995, the credit amount shall be sixty-nine dollars; for tax year 1996, the credit amount shall be seventy-two dollars; for tax year 1997, the credit amount shall be eighty-six dollars; for tax year 1998, the credit amount shall be eighty-eight dollars; for tax year 1999, and each year thereafter through tax year 2017, the credit amount shall be adjusted for inflation by the method provided in section 151 of the Internal Revenue Code of 1986, as it existed prior to December 22, 2017. The eighty-eight-dollar credit amount shall be adjusted for cumulative inflation since 1998. If any credit amount is not an even dollar

amount, the amount shall be rounded to the nearest dollar. For nonresident individuals and partial-year resident individuals, the personal exemption credit shall be subtracted as specified in subsection (3) of section 77-2715.

(b) Beginning with tax year 2018, every individual, except an individual that can be claimed for a child credit or dependent credit on the federal return of another taxpayer, shall be allowed to subtract from his or her income tax liability an amount for personal exemptions. The amount allowed to be subtracted shall be the credit amount for the year as provided in this subdivision multiplied by the sum of the number of child credits and dependent credits taken on the federal return, plus two for a married filing jointly return or plus one for any other return. For tax year 2018, the credit amount shall be one hundred thirty-four dollars. For tax year 2019 and each tax year thereafter, the credit amount shall be adjusted for inflation based on the percentage change in the Consumer Price Index for All Urban Consumers published by the federal Bureau of Labor Statistics from the twelve months ending on August 31, 2017, to the twelve months ending on August 31 of the year preceding the taxable year. If any credit amount is not an even dollar amount, the amount shall be rounded to the nearest dollar. For nonresident individuals and partial-year resident individuals, the personal exemption credit shall be subtracted as specified in subsection (3) of section 77-2715.

(2)(a) For tax years beginning or deemed to begin on or after January 1, 2003, and before January 1, 2004, under the Internal Revenue Code of 1986, as amended, every individual who did not itemize deductions on his or her federal return shall be allowed to subtract from federal adjusted gross income a standard deduction based on the filing status used on the federal return except as the amount is adjusted under section 77-2716.03. The standard deduction shall be the smaller of the federal standard deduction actually allowed or (i) for single taxpayers four thousand seven hundred fifty dollars, (ii) for head of household taxpayers seven thousand dollars, (iii) for married filing jointly taxpayers seven thousand nine hundred fifty dollars, and (iv) for married filing separately taxpayers three thousand nine hundred seventy-five dollars. Taxpayers who are allowed additional federal standard deduction amounts because of age or blindness shall be allowed an increase in the Nebraska standard deduction for each additional amount allowed on the federal return. The additional amounts shall be for married taxpayers, nine hundred fifty dollars, and for single or head of household taxpayers, one thousand one hundred fifty dollars.

(b) For tax years beginning or deemed to begin on or after January 1, 2007, and before January 1, 2018, under the Internal Revenue Code of 1986, as amended, every individual who did not itemize deductions on his or her federal return shall be allowed to subtract from federal adjusted gross income a standard deduction based on the filing status used on the federal return. The standard deduction shall be the smaller of the federal standard deduction actually allowed or (i) for single taxpayers three thousand dollars and (ii) for head of household taxpayers four thousand four hundred dollars. The standard deduction for married filing jointly taxpayers shall be double the standard deduction for single taxpayers, and for married filing separately taxpayers, the standard deduction shall be the same as single taxpayers. Taxpayers who are allowed additional federal standard deduction amounts because of age or blindness shall be allowed an increase in the Nebraska standard deduction for each additional amount allowed on the federal return. The additional amounts

shall be for married taxpayers six hundred dollars and for single or head of household taxpayers seven hundred fifty dollars. The amounts in this subdivision will be indexed using 1987 as the base year.

(c) For tax years beginning or deemed to begin on or after January 1, 2007, and before January 1, 2018, the standard deduction amounts, including the additional standard deduction amounts, in this subsection shall be adjusted for inflation by the method provided in section 151 of the Internal Revenue Code of 1986, as it existed prior to December 22, 2017. If any amount is not a multiple of fifty dollars, the amount shall be rounded to the next lowest multiple of fifty dollars.

(3)(a) For tax years beginning or deemed to begin on or after January 1, 2018, every individual who did not itemize deductions on his or her federal return shall be allowed to subtract from federal adjusted gross income a standard deduction based on the filing status used on the federal return. The standard deduction shall be the smaller of the federal standard deduction actually allowed or (i) six thousand seven hundred fifty dollars for single taxpayers and (ii) nine thousand nine hundred dollars for head of household taxpayers. The standard deduction for married filing jointly taxpayers or qualifying widows or widowers shall be double the standard deduction for single taxpayers, and the standard deduction for married filing separately taxpayers shall be the same as the standard deduction for single taxpayers. Taxpayers who are allowed additional federal standard deduction amounts because of age or blindness shall be allowed an increase in the Nebraska standard deduction for each additional amount allowed on the federal return. The additional amounts shall be one thousand three hundred dollars for married taxpayers and one thousand six hundred dollars for single or head of household taxpayers.

(b) For tax years beginning or deemed to begin on or after January 1, 2019, the standard deduction amounts, including the additional standard deduction amounts, in this subsection shall be adjusted for inflation based on the percentage change in the Consumer Price Index for All Urban Consumers published by the federal Bureau of Labor Statistics from the twelve months ending on August 31, 2017, to the twelve months ending on August 31 of the year preceding the taxable year. If any amount is not a multiple of fifty dollars, the amount shall be rounded to the next lowest multiple of fifty dollars.

(4) Every individual who itemized deductions on his or her federal return shall be allowed to subtract from federal adjusted gross income the greater of either the standard deduction allowed in this section or his or her federal itemized deductions as defined in section 63(d) of the Internal Revenue Code of 1986, as amended, except for the amount for state or local income taxes included in federal itemized deductions before any federal disallowance.

Source: Laws 1987, LB 773, § 10; Laws 1988, LB 1234, § 2; Laws 1989, LB 739, § 3; Laws 1991, LB 300, § 3; Laws 1993, LB 240, § 5; Laws 1997, LB 401, § 3; Laws 1998, LB 1028, § 4; Laws 2003, LB 596, § 2; Laws 2004, LB 355, § 1; Laws 2006, LB 968, § 10; Laws 2007, LB367, § 21; Laws 2018, LB1090, § 2; Laws 2019, LB512, § 20.

77-2717 Income tax; estates; trusts; rate; fiduciary return; contents; filing; state income tax; contents; credits.

(1)(a)(i) For taxable years beginning or deemed to begin before January 1, 2014, the tax imposed on all resident estates and trusts shall be a percentage of the federal taxable income of such estates and trusts as modified in section 77-2716, plus a percentage of the federal alternative minimum tax and the federal tax on premature or lump-sum distributions from qualified retirement plans. The additional taxes shall be recomputed by (A) substituting Nebraska taxable income for federal taxable income, (B) calculating what the federal alternative minimum tax would be on Nebraska taxable income and adjusting such calculations for any items which are reflected differently in the determination of federal taxable income, and (C) applying Nebraska rates to the result. The federal credit for prior year minimum tax, after the recomputations required by the Nebraska Revenue Act of 1967, and the credits provided in the Nebraska Advantage Microenterprise Tax Credit Act and the Nebraska Advantage Research and Development Act shall be allowed as a reduction in the income tax due. A refundable income tax credit shall be allowed for all resident estates and trusts under the Angel Investment Tax Credit Act, the Nebraska Advantage Microenterprise Tax Credit Act, and the Nebraska Advantage Research and Development Act. A nonrefundable income tax credit shall be allowed for all resident estates and trusts as provided in the New Markets Job Growth Investment Act.

(ii) For taxable years beginning or deemed to begin on or after January 1, 2014, the tax imposed on all resident estates and trusts shall be a percentage of the federal taxable income of such estates and trusts as modified in section 77-2716, plus a percentage of the federal tax on premature or lump-sum distributions from qualified retirement plans. The additional taxes shall be recomputed by substituting Nebraska taxable income for federal taxable income and applying Nebraska rates to the result. The credits provided in the Nebraska Advantage Microenterprise Tax Credit Act and the Nebraska Advantage Research and Development Act shall be allowed as a reduction in the income tax due. A refundable income tax credit shall be allowed for all resident estates and trusts under the Angel Investment Tax Credit Act, the Cast and Crew Nebraska Act, the Nebraska Advantage Microenterprise Tax Credit Act, the Nebraska Advantage Research and Development Act, the Nebraska Biodiesel Tax Credit Act, the Nebraska Higher Blend Tax Credit Act, the Nebraska Property Tax Incentive Act, the Relocation Incentive Act, and the Renewable Chemical Production Tax Credit Act. A nonrefundable income tax credit shall be allowed for all resident estates and trusts as provided in the Nebraska Job Creation and Mainstreet Revitalization Act, the New Markets Job Growth Investment Act, the School Readiness Tax Credit Act, the Child Care Tax Credit Act, the Affordable Housing Tax Credit Act, the Sustainable Aviation Fuel Tax Credit Act, the Nebraska Shortline Rail Modernization Act, the Nebraska Pregnancy Help Act, the Individuals with Intellectual and Developmental Disabilities Support Act, and sections 77-27,238, 77-27,240, and 77-27,241.

(b) The tax imposed on all nonresident estates and trusts shall be the portion of the tax imposed on resident estates and trusts which is attributable to the income derived from sources within this state. The tax which is attributable to income derived from sources within this state shall be determined by multiplying the liability to this state for a resident estate or trust with the same total income by a fraction, the numerator of which is the nonresident estate's or trust's Nebraska income as determined by sections 77-2724 and 77-2725 and the denominator of which is its total federal income after first adjusting each by

the amounts provided in section 77-2716. The federal credit for prior year minimum tax, after the recomputations required by the Nebraska Revenue Act of 1967, reduced by the percentage of the total income which is attributable to income from sources outside this state, and the credits provided in the Nebraska Advantage Microenterprise Tax Credit Act and the Nebraska Advantage Research and Development Act shall be allowed as a reduction in the income tax due. A refundable income tax credit shall be allowed for all nonresident estates and trusts under the Angel Investment Tax Credit Act, the Cast and Crew Nebraska Act, the Nebraska Advantage Microenterprise Tax Credit Act, the Nebraska Advantage Research and Development Act, the Nebraska Biodiesel Tax Credit Act, the Nebraska Higher Blend Tax Credit Act, the Nebraska Property Tax Incentive Act, the Relocation Incentive Act, and the Renewable Chemical Production Tax Credit Act. A nonrefundable income tax credit shall be allowed for all nonresident estates and trusts as provided in the Nebraska Job Creation and Mainstreet Revitalization Act, the New Markets Job Growth Investment Act, the School Readiness Tax Credit Act, the Child Care Tax Credit Act, the Affordable Housing Tax Credit Act, the Sustainable Aviation Fuel Tax Credit Act, the Nebraska Shortline Rail Modernization Act, the Nebraska Pregnancy Help Act, the Individuals with Intellectual and Developmental Disabilities Support Act, and sections 77-27,238, 77-27,240, and 77-27,241.

(2) In all instances wherein a fiduciary income tax return is required under the provisions of the Internal Revenue Code, a Nebraska fiduciary return shall be filed, except that a fiduciary return shall not be required to be filed regarding a simple trust if all of the trust's beneficiaries are residents of the State of Nebraska, all of the trust's income is derived from sources in this state, and the trust has no federal tax liability. The fiduciary shall be responsible for making the return for the estate or trust for which he or she acts, whether the income be taxable to the estate or trust or to the beneficiaries thereof. The fiduciary shall include in the return a statement of each beneficiary's distributive share of net income when such income is taxable to such beneficiaries.

(3) The beneficiaries of such estate or trust who are residents of this state shall include in their income their proportionate share of such estate's or trust's federal income and shall reduce their Nebraska tax liability by their proportionate share of the credits as provided in the Angel Investment Tax Credit Act, the Nebraska Advantage Microenterprise Tax Credit Act, the Nebraska Advantage Research and Development Act, the Nebraska Job Creation and Mainstreet Revitalization Act, the New Markets Job Growth Investment Act, the School Readiness Tax Credit Act, the Child Care Tax Credit Act, the Affordable Housing Tax Credit Act, the Nebraska Biodiesel Tax Credit Act, the Nebraska Higher Blend Tax Credit Act, the Nebraska Property Tax Incentive Act, the Relocation Incentive Act, the Renewable Chemical Production Tax Credit Act, the Sustainable Aviation Fuel Tax Credit Act, the Nebraska Shortline Rail Modernization Act, the Cast and Crew Nebraska Act, the Nebraska Pregnancy Help Act, the Individuals with Intellectual and Developmental Disabilities Support Act, and sections 77-27,238, 77-27,240, and 77-27,241. There shall be allowed to a beneficiary a refundable income tax credit under the Beginning Farmer Tax Credit Act for all taxable years beginning or deemed to begin on or after January 1, 2001, under the Internal Revenue Code of 1986, as amended.

(4) If any beneficiary of such estate or trust is a nonresident during any part of the estate's or trust's taxable year, he or she shall file a Nebraska income tax

return which shall include (a) in Nebraska adjusted gross income that portion of the estate's or trust's Nebraska income, as determined under sections 77-2724 and 77-2725, allocable to his or her interest in the estate or trust and (b) a reduction of the Nebraska tax liability by his or her proportionate share of the credits as provided in the Angel Investment Tax Credit Act, the Nebraska Advantage Microenterprise Tax Credit Act, the Nebraska Advantage Research and Development Act, the Nebraska Job Creation and Mainstreet Revitalization Act, the New Markets Job Growth Investment Act, the School Readiness Tax Credit Act, the Child Care Tax Credit Act, the Affordable Housing Tax Credit Act, the Nebraska Biodiesel Tax Credit Act, the Nebraska Higher Blend Tax Credit Act, the Nebraska Property Tax Incentive Act, the Relocation Incentive Act, the Renewable Chemical Production Tax Credit Act, the Sustainable Aviation Fuel Tax Credit Act, the Nebraska Shortline Rail Modernization Act, the Cast and Crew Nebraska Act, the Nebraska Pregnancy Help Act, the Individuals with Intellectual and Developmental Disabilities Support Act, and sections 77-27,238, 77-27,240, and 77-27,241 and shall execute and forward to the fiduciary, on or before the original due date of the Nebraska fiduciary return, an agreement which states that he or she will file a Nebraska income tax return and pay income tax on all income derived from or connected with sources in this state, and such agreement shall be attached to the Nebraska fiduciary return for such taxable year.

(5) In the absence of the nonresident beneficiary's executed agreement being attached to the Nebraska fiduciary return, the estate or trust shall remit a portion of such beneficiary's income which was derived from or attributable to Nebraska sources with its Nebraska return for the taxable year. For taxable years beginning or deemed to begin before January 1, 2013, the amount of remittance, in such instance, shall be the highest individual income tax rate determined under section 77-2715.02 multiplied by the nonresident beneficiary's share of the estate or trust income which was derived from or attributable to sources within this state. For taxable years beginning or deemed to begin on or after January 1, 2013, the amount of remittance, in such instance, shall be the highest individual income tax rate determined under section 77-2715.03 multiplied by the nonresident beneficiary's share of the estate or trust income which was derived from or attributable to sources within this state. The amount remitted shall be allowed as a credit against the Nebraska income tax liability of the beneficiary.

(6) The Tax Commissioner may allow a nonresident beneficiary to not file a Nebraska income tax return if the nonresident beneficiary's only source of Nebraska income was his or her share of the estate's or trust's income which was derived from or attributable to sources within this state, the nonresident did not file an agreement to file a Nebraska income tax return, and the estate or trust has remitted the amount required by subsection (5) of this section on behalf of such nonresident beneficiary. The amount remitted shall be retained in satisfaction of the Nebraska income tax liability of the nonresident beneficiary.

(7) For purposes of this section, unless the context otherwise requires, simple trust shall mean any trust instrument which (a) requires that all income shall be distributed currently to the beneficiaries, (b) does not allow amounts to be paid, permanently set aside, or used in the tax year for charitable purposes, and (c) does not distribute amounts allocated in the corpus of the trust. Any trust which does not qualify as a simple trust shall be deemed a complex trust.

(8) For purposes of this section, any beneficiary of an estate or trust that is a grantor trust of a nonresident shall be disregarded and this section shall apply as though the nonresident grantor was the beneficiary.

Source: Laws 1967, c. 487, § 17, p. 1579; Laws 1969, c. 690, § 1, p. 2683; Laws 1973, LB 531, § 1; Laws 1985, LB 273, § 51; Laws 1987, LB 523, § 21; Laws 1991, LB 773, § 14; Laws 1994, LB 977, § 14; Laws 2000, LB 1223, § 1; Laws 2001, LB 433, § 5; Laws 2005, LB 312, § 13; Laws 2006, LB 1003, § 6; Laws 2007, LB367, § 22; Laws 2008, LB915, § 1; Laws 2011, LB389, § 13; Laws 2012, LB970, § 6; Laws 2012, LB1128, § 23; Laws 2013, LB308, § 2; Laws 2014, LB191, § 18; Laws 2016, LB774, § 8; Laws 2016, LB884, § 20; Laws 2016, LB889, § 11; Laws 2020, LB1107, § 131; Laws 2022, LB917, § 4; Laws 2022, LB1261, § 11; Laws 2023, LB727, § 71; Laws 2023, LB753, § 15; Laws 2023, LB754, § 10; Laws 2024, LB937, § 76; Laws 2024, LB1023, § 12; Laws 2024, LB1402, § 3.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB937, section 76, with LB1023, section 12, and LB1402, section 3, to reflect all amendments.

Note: Changes made by LB937 became operative July 19, 2024. Changes made by LB1023 became operative July 19, 2024. Changes made by LB1402 became operative October 31, 2024.

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.
Cast and Crew Nebraska Act, see section 77-3121.
Child Care Tax Credit Act, see section 77-7201.
Individuals with Intellectual and Developmental Disabilities Support Act, see section 77-3154.
Nebraska Advantage Microenterprise Tax Credit Act, see section 77-5901.
Nebraska Advantage Research and Development Act, see section 77-5801.
Nebraska Biodiesel Tax Credit Act, see section 77-7009.
Nebraska Higher Blend Tax Credit Act, see section 77-7001.
Nebraska Job Creation and Mainstreet Revitalization Act, see section 77-2901.
Nebraska Pregnancy Help Act, see section 77-3144.
Nebraska Property Tax Incentive Act, see section 77-6701.
Nebraska Shortline Rail Modernization Act, see section 77-3134.
New Markets Job Growth Investment Act, see section 77-1101.
Relocation Incentive Act, see section 77-3107.
Renewable Chemical Production Tax Credit Act, see section 77-6601.
School Readiness Tax Credit Act, see section 77-3601.
Sustainable Aviation Fuel Tax Credit Act, see section 77-7017.

77-2727 Income tax; partnership; subject to act; credit; election to file return at entity level; how treated.

(1) Except as provided in subsection (6) of this section and subsection (5) of section 77-2775, a partnership as such shall not be subject to the income tax imposed by the Nebraska Revenue Act of 1967. Persons or their authorized representatives carrying on business as partners shall be liable for the income tax imposed by the Nebraska Revenue Act of 1967 only in their separate or individual capacities.

(2) The partners of such partnership who are residents of this state or corporations shall include in their incomes their proportionate share of such partnership's income.

(3) If any partner of such partnership is a nonresident individual during any part of the partnership's reporting year, he or she shall file a Nebraska income tax return which shall include in Nebraska adjusted gross income that portion of the partnership's Nebraska income, as determined under the provisions of sections 77-2728 and 77-2729, allocable to his or her interest in the partnership

and shall execute and forward to the partnership, on or before the original due date of the Nebraska partnership return, an agreement which states that he or she will file a Nebraska income tax return and pay income tax on all income derived from or attributable to sources in this state, and such agreement shall be attached to the partnership's Nebraska return for such reporting year.

(4)(a) Except as provided in subdivision (c) of this subsection, in the absence of the nonresident individual partner's executed agreement being attached to the Nebraska partnership return, the partnership shall remit a portion of such partner's income which was derived from or attributable to Nebraska sources with its Nebraska return for the reporting year. For tax years beginning or deemed to begin before January 1, 2013, the amount of remittance, in such instance, shall be the highest individual income tax rate determined under section 77-2715.02 multiplied by the nonresident individual partner's share of the partnership income which was derived from or attributable to sources within this state. For tax years beginning or deemed to begin on or after January 1, 2013, the amount of remittance, in such instance, shall be the highest individual income tax rate determined under section 77-2715.03 multiplied by the nonresident individual partner's share of the partnership income which was derived from or attributable to sources within this state.

(b) Any amount remitted on behalf of any partner shall be allowed as a credit against the Nebraska income tax liability of the partner.

(c) Subdivision (a) of this subsection does not apply to a publicly traded partnership as defined by section 7704(b) of the Internal Revenue Code of 1986, as amended, that is treated as a partnership for the purposes of the code and that has agreed to file an annual information return with the Department of Revenue reporting the name, address, taxpayer identification number, and other information requested by the department of each unit holder with an income in the state in excess of five hundred dollars.

(5) The Tax Commissioner may allow a nonresident individual partner to not file a Nebraska income tax return if the nonresident individual partner's only source of Nebraska income was his or her share of the partnership's income which was derived from or attributable to sources within this state, the nonresident did not file an agreement to file a Nebraska income tax return, and the partnership has remitted the amount required by subsection (4) of this section on behalf of such nonresident individual partner. The amount remitted shall be retained in satisfaction of the Nebraska income tax liability of the nonresident individual partner.

(6) Notwithstanding any provision of this section to the contrary:

(a) For tax years beginning or deemed to begin on or after January 1, 2018, a partnership may annually make an irrevocable election to pay the taxes, interest, or penalties levied by the Nebraska Revenue Act of 1967 at the entity level for the taxable period covered by such return. For tax years beginning on or after January 1, 2023, such election must be made on or before the due date for filing the applicable income tax return, including any extensions that have been granted;

(b) An electing partnership with respect to a taxable period shall pay an income tax equivalent to the highest individual income tax rate provided in section 77-2715.03 multiplied by the electing partnership's net income as apportioned or allocated to this state in accordance with the Nebraska Revenue Act of 1967, for such taxable period;

(c) An electing partnership shall be treated as a corporation with respect to the requirements of section 77-2769 for payments of estimated tax. The requirement for payment of estimated tax under section 77-2769 shall not apply for tax years beginning prior to January 1, 2024. Payments of estimated tax made by an eligible partnership that does not make an election under this subsection shall be treated as income tax withholding on behalf of the partners;

(d) Except as provided in subdivision (e) of this subsection, the partners of an electing partnership must file a Nebraska return to report their pro rata or distributive share of the income of the electing partnership in accordance with the Nebraska Revenue Act of 1967, as applicable. In determining the sum of its pro rata or distributive share and computing the tax under this subsection, an electing partnership shall add back any amount of Nebraska tax imposed under the Nebraska Revenue Act of 1967 and deducted by the electing partnership for federal income tax purposes under section 164 of the Internal Revenue Code;

(e) A nonresident individual who is a partner of an electing partnership shall not be required to file a Nebraska tax return for a taxable year if, for such taxable year, the only source of income derived from or connected with sources within this state for such partner, or for the partner and the partner's spouse if a joint federal income tax return is filed, is from one or more electing partnerships or electing small business corporations as defined in subdivision (9)(a) of section 77-2734.01 for such taxable year and such nonresident individual partner's tax under the Nebraska Revenue Act of 1967 would be fully satisfied by the credit allowed to such partner under subdivision (g) of this subsection;

(f) If the amount calculated under subdivision (a) of this subsection results in a net operating loss, such net operating loss may not be carried forward to succeeding taxable years;

(g)(i) A refundable credit shall be available to the partners in an amount equal to their pro rata or distributive share of the Nebraska income tax paid by the electing partnership;

(ii) In the case of a partnership or small business corporation that is a partner of an electing partnership, the refundable credit under this subdivision (g) shall (A) be allowed to its partners or shareholders in accordance with the determination of income and distributive share of the Nebraska income tax paid by the electing partnership or (B) be applied against the partner's tax, interest, and penalty. Any excess credit deemed an overpayment may be refunded or applied to the subsequent tax year;

(iii) If a partnership making the election under this subsection is a partner of another electing partnership, net income shall be computed as provided in subsection (1) of this section. The upper tier electing partnership shall claim a credit for the tax paid by the lower tier electing partnership. The upper tier electing partnership shall distribute out the pro rata or distributive share of the credits to its partners for tax paid under this subsection by all tiers of electing partnerships. As used in this subdivision, the term lower tier electing partnership means an electing partnership in which some or all of the partners are an electing partnership. The term upper tier electing partnership means an electing partnership that is a partner of a lower tier electing partnership. An electing partnership may have two or more tiers; and

(h)(i) For tax years beginning or deemed to begin on or after January 1, 2018, but prior to January 1, 2023, the electing partnership must make the election

under this subsection on or after January 1, 2023, but before December 31, 2025, in the form and manner prescribed by the Tax Commissioner for all years for which the election under this subsection is made on behalf of the electing partnership. The Tax Commissioner shall establish the form and manner, which shall not include any changes to the past returns other than those that are directly related to the election under this subsection.

(ii) Notwithstanding any other provision of law, if an electing partnership files in the form and manner as specified in subdivision (h)(i) of this subsection, the deadline for filing a claim for credit or refund prescribed in section 77-2793 shall be extended for affected partners of the electing partnership until the timeframe specified in section 77-2793 or January 31, 2026, whichever is later. The resulting claim of refund for tax years beginning prior to January 1, 2023, shall be submitted in the form and manner as prescribed by the Tax Commissioner. Neither the electing partnership nor its partners shall incur any penalties for late filing nor owe interest on such amounts. The Tax Commissioner shall not be required to pay interest on any amounts owed to the partners resulting from such refund claims.

(iii) Notwithstanding the dates provided in subdivision (h)(i) of this subsection, the Tax Commissioner shall have one year from the date an electing partnership files in the form and manner as specified in subdivision (h)(i) of this subsection to review and make a written proposed deficiency determination in accordance with section 77-2786. Any notice of deficiency determination made as specified in this subdivision may be enforced at any time within six years from the date of the notice of deficiency determination.

(7) For purposes of this section:

(a) Electing partnership means, with respect to a taxable period, an eligible partnership that has made an election pursuant to subsection (6) of this section with respect to such taxable period; and

(b) Eligible partnership means any partnership as provided for in section 7701(a)(2) of the Internal Revenue Code that has a filing requirement under the Nebraska Revenue Act of 1967 other than a publicly traded partnership as defined in section 7704 of the Internal Revenue Code. An eligible partnership includes any entity, including a limited liability company, treated as a partnership for federal income tax purposes that otherwise meets the requirements of this subdivision.

(8) For purposes of this section, any partner that is a grantor trust of a nonresident shall be disregarded and this section shall apply as though the nonresident grantor was the partner.

Source: Laws 1967, c. 487, § 27, p. 1583; Laws 1973, LB 531, § 2; Laws 1985, LB 273, § 52; Laws 1991, LB 773, § 15; Laws 2005, LB 216, § 11; Laws 2008, LB915, § 2; Laws 2012, LB970, § 7; Laws 2023, LB754, § 11.

77-2730 Individual; resident estate or trust; income derived from another state; credit.

(1) A resident individual and a resident estate or trust shall be allowed a credit against the income tax otherwise due for the amount of any income tax imposed on him or her for each taxable year commencing on or after January 1, 1983, by another state of the United States or a political subdivision thereof

or the District of Columbia on income derived from sources therein and which is also subject to income tax under sections 77-2714 to 77-27,123.

(2) The credit provided under sections 77-2714 to 77-27,135 shall not exceed the proportion of the income tax otherwise due under such sections that the amount of the taxpayer's adjusted gross income or total income derived from sources in the other taxing jurisdiction bears to federal adjusted gross income or total federal income.

(3) For purposes of subsection (1) of this section, a resident individual, estate, or trust shall be deemed to have paid a portion of the income tax imposed by another state, a political subdivision thereof, or the District of Columbia on the income of any partnership, trust, or estate when such resident individual, estate, or trust is a partner, or beneficiary and (a) the income taxed is included in the federal taxable income of the resident individual, estate, or trust and (b) the taxation of such partnership, trust, or estate by the other state is inconsistent with the taxation of such entity under the Internal Revenue Code, including any tax similar to the tax imposed under subsection (6) of section 77-2727 and subsection (8) of section 77-2734.01 for the taxable year imposed by another state of the United States or a political subdivision of such a state, or by the District of Columbia, with respect to the direct and indirect taxable income attributable to the resident individual, estate, or trust from an entity that is also subject to tax under sections 77-2714 to 77-2734.16. The amount of income tax deemed paid by the resident individual, estate, or trust shall be the same percentage of the total tax paid by the entity as the income included in federal taxable income of the resident is to the total taxable income of the entity as computed for the other state.

Source: Laws 1967, c. 487, § 30, p. 1584; Laws 1973, LB 526, § 2; Laws 1985, LB 273, § 53; Laws 1987, LB 6, § 2; Laws 1987, LB 773, § 14; Laws 1993, LB 121, § 505; Laws 1994, LB 884, § 90; Laws 2023, LB754, § 12.

77-2733 Income tax; nonresident; income in Nebraska; method of determination of tax; exception.

(1) The income of a nonresident individual derived from sources within this state shall be the sum of the following:

(a) The net amount of items of income, gain, loss, and deduction entering into his or her federal taxable income which are derived from or connected with sources in this state including (i) his or her distributive share of partnership income and deductions determined under section 77-2729, (ii) his or her share of small business corporation or limited liability company income determined under section 77-2734.01, and (iii) his or her share of estate or trust income and deductions determined under section 77-2725; and

(b) The portion of the modifications described in section 77-2716 which relates to income derived from sources in this state, including any modifications attributable to him or her as a partner.

(2) Items of income, gain, loss, and deduction derived from or connected with sources within this state are those items attributable to:

(a) The ownership or disposition of any interest in real or tangible personal property in this state;

(b) A business, trade, profession, or occupation carried on in this state; and

(c) Any lottery prize awarded in a lottery game conducted pursuant to the State Lottery Act.

(3) Income from intangible personal property including annuities, dividends, interest, and gains from the disposition of intangible personal property shall constitute income derived from sources within this state only to the extent that such income is from property employed in a business, trade, profession, or occupation carried on in this state.

(4) Deductions with respect to capital losses, net long-term capital gains, and net operating losses shall be based solely on income, gains, losses, and deductions derived from or connected with sources in this state, under rules and regulations to be prescribed by the Tax Commissioner, but otherwise shall be determined in the same manner as the corresponding federal deductions.

(5) If a business, trade, profession, or occupation is carried on partly within and partly without this state, the items of income and deduction derived from or connected with sources within this state shall be determined by apportionment under rules and regulations to be prescribed by the Tax Commissioner.

(6) Compensation paid by the United States for service in the armed forces of the United States performed by a nonresident individual shall not constitute income derived from sources within this state.

(7) Compensation paid by a resident estate or trust for services by a nonresident fiduciary shall constitute income derived from sources within this state.

(8) Except as provided in subsection (9) of this section, compensation paid by a business, trade, or profession shall constitute income derived from sources within this state if:

(a) The individual's service is performed entirely within this state;

(b) The individual's service is performed both within and without this state, but the service performed without this state is incidental to the individual's service within this state;

(c) The individual is a nonresident and the individual's service is performed without this state for his or her convenience, but the service is directly related to a business, trade, or profession carried on within this state and, except for the individual's convenience, the service could have been performed within this state, provided that such individual must be present, in connection with such business, trade, or profession, within this state for more than seven days during the taxable year in which the compensation is earned. Only compensation paid to the individual for services performed within this state shall constitute income derived from sources within this state under this subdivision; or

(d) Some of the service is performed in this state and (i) the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in this state or (ii) the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.

(9)(a) For purposes of this subsection:

(i) An individual shall be considered present and performing employment duties within this state for a day if the individual performs employment duties in this state. Any portion of the day during which the individual is in transit shall not be considered in determining the location of an individual's performance of employment duties;

(ii) Conference means an event bringing individuals together to focus and discuss specific topics that are related to the employment of such individuals;

(iii) Employment duty days means days where an individual is earning wages for work being performed for an employer;

(iv) Time and attendance system means a system through which an individual is required to record the individual's work location for every day worked outside the state where the individual's employment duties are primarily performed and which is designed to allow the employer to allocate the individual's compensation for income tax purposes among all states in which the individual performs employment duties for the employer; and

(v) Training means the process of increasing the knowledge and skills of an employee to assist in the effective performance of the employee's job.

(b) Compensation paid to a nonresident individual shall not constitute income derived from sources within this state if all of the following conditions apply:

(i) The compensation is paid for employment duties performed by the individual while present in this state to attend a conference or training;

(ii) The individual is present in the state for seven or fewer employment duty days in the taxable year;

(iii) The individual performed employment duties in more than one state during the taxable year; and

(iv) Total compensation while in the state does not exceed five thousand dollars in the taxable year.

(c) Compensation paid to a nonresident individual who serves on the board of directors or similar governing body of a business and that relates to board or governing body activities taking place in this state shall not constitute income derived from sources within this state.

(d) The Department of Revenue shall not require the payment of any penalties or interest otherwise applicable for failing to deduct and withhold income taxes if, when determining whether withholding was required, the employer met either of the following conditions:

(i) The employer, in its sole discretion, maintains a time and attendance system specifically designed to allocate employee wages for income tax purposes among all taxing jurisdictions in which an individual performs employment duties for such employer, and the employer relied on data from that system not to withhold; or

(ii) The employer does not maintain a time and attendance system and the employer relied on:

(A) Its own records, maintained in the regular course of business, of the individual's location;

(B) The individual's reasonable determination of the time the individual expected to spend performing employment duties in this state, provided that the employer did not have actual knowledge of fraud on the part of the individual in making the determination and that the employer and the individual did not conspire to evade taxation in making the determination of location;

(C) Travel records;

(D) Travel expense reimbursement records; or

(E) A written statement from the individual of the number of days spent performing services in this state during the taxable year.

Source: Laws 1967, c. 487, § 33, p. 1585; Laws 1973, LB 526, § 3; Laws 1984, LB 1124, § 19; Laws 1987, LB 773, § 16; Laws 1987, LB 523, § 22; Laws 1993, LB 121, § 506; Laws 1995, LB 134, § 4; Laws 2024, LB1023, § 13.
Operative date January 1, 2025.

Cross References

State Lottery Act, see section 9-801.

77-2734.01 Small business corporation shareholders; limited liability company members; determination of income; credit; Tax Commissioner; powers; return; when required; election to file return at entity level; how treated.

(1) Residents of Nebraska who are shareholders of a small business corporation having an election in effect under subchapter S of the Internal Revenue Code or who are members of a limited liability company organized pursuant to the Nebraska Uniform Limited Liability Company Act shall include in their Nebraska taxable income, to the extent includable in federal gross income, their proportionate share of such corporation's or limited liability company's federal income adjusted pursuant to this section. Income or loss from such corporation or limited liability company conducting a business, trade, profession, or occupation shall be included in the Nebraska taxable income of a shareholder or member who is a resident of this state to the extent of such shareholder's or member's proportionate share of the net income or loss from the conduct of such business, trade, profession, or occupation within this state, determined under subsection (2) of this section. A resident of Nebraska shall include in Nebraska taxable income fair compensation for services rendered to such corporation or limited liability company. Compensation actually paid shall be presumed to be fair unless it is apparent to the Tax Commissioner that such compensation is materially different from fair value for the services rendered or has been manipulated for tax avoidance purposes.

(2) The income of any small business corporation having an election in effect under subchapter S of the Internal Revenue Code or limited liability company organized pursuant to the Nebraska Uniform Limited Liability Company Act that is derived from or connected with Nebraska sources shall be determined in the following manner:

(a) If the small business corporation is a member of a unitary group, the small business corporation shall be deemed to be doing business within this state if any part of its income is derived from transactions with other members of the unitary group doing business within this state, and such corporation shall apportion its income by using the apportionment factor determined for the entire unitary group, including the small business corporation, under sections 77-2734.05 to 77-2734.15;

(b) If the small business corporation or limited liability company is not a member of a unitary group and is subject to tax in another state, it shall apportion its income under sections 77-2734.05 to 77-2734.15; and

(c) If the small business corporation or limited liability company is not subject to tax in another state, all of its income is derived from or connected with Nebraska sources.

(3) Nonresidents of Nebraska who are shareholders of such corporations or members of such limited liability companies shall file a Nebraska income tax return and shall include in Nebraska adjusted gross income their proportionate share of the corporation's or limited liability company's Nebraska income as determined under subsection (2) of this section.

(4) The nonresident shareholder or member shall execute and forward to the corporation or limited liability company before the filing of the corporation's or limited liability company's return an agreement which states he or she will file a Nebraska income tax return and pay the tax on the income derived from or connected with sources in this state, and such agreement shall be attached to the corporation's or limited liability company's Nebraska return for such taxable year.

(5) For taxable years beginning or deemed to begin before January 1, 2013, in the absence of the nonresident shareholder's or member's executed agreement being attached to the Nebraska return, the corporation or limited liability company shall remit with the return an amount equal to the highest individual income tax rate determined under section 77-2715.02 multiplied by the nonresident shareholder's or member's share of the corporation's or limited liability company's income which was derived from or attributable to this state. For taxable years beginning or deemed to begin on or after January 1, 2013, in the absence of the nonresident shareholder's or member's executed agreement being attached to the Nebraska return, the corporation or limited liability company shall remit with the return an amount equal to the highest individual income tax rate determined under section 77-2715.03 multiplied by the nonresident shareholder's or member's share of the corporation's or limited liability company's income which was derived from or attributable to this state. The amount remitted shall be allowed as a credit against the Nebraska income tax liability of the shareholder or member.

(6) The Tax Commissioner may allow a nonresident individual shareholder or member to not file a Nebraska income tax return if the nonresident individual shareholder's or member's only source of Nebraska income was his or her share of the small business corporation's or limited liability company's income which was derived from or attributable to sources within this state, the nonresident did not file an agreement to file a Nebraska income tax return, and the small business corporation or limited liability company has remitted the amount required by subsection (5) of this section on behalf of such nonresident individual shareholder or member. The amount remitted shall be retained in satisfaction of the Nebraska income tax liability of the nonresident individual shareholder or member.

(7) A small business corporation or limited liability company return shall be filed if the small business corporation or limited liability company has income derived from Nebraska sources.

(8) Notwithstanding any provision of this section to the contrary:

(a) For tax years beginning or deemed to begin on or after January 1, 2018, a small business corporation may annually make an irrevocable election to pay the taxes, interest, or penalties levied by the Nebraska Revenue Act of 1967 at the entity level for the taxable period covered by such return. For tax years beginning on or after January 1, 2023, such election must be made on or before the due date for filing the applicable income tax return, including any extensions that have been granted;

(b) An electing small business corporation with respect to a taxable period shall pay an income tax equivalent to the highest individual income tax rate provided in section 77-2715.03 multiplied by the electing small business corporation's net income as apportioned or allocated to this state in accordance with the Nebraska Revenue Act of 1967, for such taxable period;

(c) An electing small business corporation shall be treated as a corporation with respect to the requirements of section 77-2769 for payments of estimated tax. The requirement for payment of estimated tax under section 77-2769 shall not apply for tax years beginning prior to January 1, 2024. Payments of estimated tax made by an eligible small business corporation that does not make an election under this subsection shall be treated as income tax withholding on behalf of the shareholders;

(d) Except as provided in subdivision (e) of this subsection, the shareholders of an electing small business corporation must file a Nebraska return to report their pro rata or distributive share of the income of the electing small business corporation in accordance with the Nebraska Revenue Act of 1967, as applicable. In determining the sum of its pro rata or distributive share and computing the tax under this subsection, an electing small business corporation shall add back any amount of Nebraska tax imposed under the Nebraska Revenue Act of 1967 and deducted by the electing small business corporation for federal income tax purposes under section 164 of the Internal Revenue Code;

(e) A nonresident individual who is a shareholder of an electing small business corporation shall not be required to file a Nebraska tax return for a taxable year if, for such taxable year, the only source of income derived from or connected with sources within this state for such shareholder, or for the shareholder and the shareholder's spouse if a joint federal income tax return is filed, is from one or more electing small business corporations or electing partnerships as defined in subdivision (7)(a) of section 77-2727 for such taxable year and such nonresident individual shareholder's tax under the Nebraska Revenue Act of 1967 would be fully satisfied by the credit allowed to such shareholder under subdivision (g) of this subsection;

(f) If the amount calculated under subdivision (a) of this subsection results in a net operating loss, such net operating loss may not be carried forward to succeeding taxable years;

(g) A refundable credit shall be available to the shareholders in an amount equal to their pro rata or distributive share of the Nebraska income tax paid by the electing small business corporation; and

(h)(i) For tax years beginning or deemed to begin on or after January 1, 2018, but prior to January 1, 2023, the electing small business corporation must make the election under this subsection on or after January 1, 2023, but before December 31, 2025, in the form and manner prescribed by the Tax Commissioner for all years for which the election under this subsection is made on behalf of the electing small business corporation. The Tax Commissioner shall establish the form and manner, which shall not include any changes to the past returns other than those that are directly related to the election under this subsection.

(ii) Notwithstanding any other provision of law, if an electing small business corporation files in the form and manner as specified in subdivision (h)(i) of this subsection, the deadline for filing a claim for credit or refund prescribed in section 77-2793 shall be extended for affected shareholders of the electing small

business corporation until the timeframe specified in section 77-2793 or January 31, 2026, whichever is later. The resulting claim of refund for tax years beginning prior to January 1, 2023, shall be submitted in the form and manner as prescribed by the Tax Commissioner. Neither the electing small business corporation nor its shareholders shall incur any penalties for late filing nor owe interest on such amounts. The Tax Commissioner shall not be required to pay interest on any amounts owed to the shareholders resulting from such refund claims.

(iii) Notwithstanding the dates provided in subdivision (h)(i) of this subsection, the Tax Commissioner shall have one year from the date an electing small business corporation files in the form and manner as specified in subdivision (h)(i) of this subsection to review and make a written proposed deficiency determination in accordance with section 77-2786. Any notice of deficiency determination made as specified in this subdivision may be enforced at any time within six years from the date of the notice of deficiency determination.

(9) For purposes of this section:

(a) Electing small business corporation means, with respect to a taxable period, an eligible small business corporation having an election in effect under subchapter S of the Internal Revenue Code that has made an election pursuant to subsection (8) of this section with respect to such taxable period; and

(b) Eligible small business corporation means an entity subject to taxation under subchapter S of the Internal Revenue Code and the regulations thereunder.

(10) For purposes of this section, any shareholder or member of the corporation or limited liability company that is a grantor trust of a nonresident shall be disregarded and this section shall apply as though the nonresident grantor was the shareholder or member.

Source: Laws 1984, LB 1124, § 4; Laws 1985, LB 273, § 54; Laws 1987, LB 523, § 23; Laws 1987, LB 773, § 18; Laws 1991, LB 773, § 16; Laws 1993, LB 121, § 508; Laws 2005, LB 216, § 12; Laws 2008, LB915, § 3; Laws 2010, LB888, § 105; Laws 2012, LB970, § 8; Laws 2013, LB283, § 7; Laws 2019, LB512, § 21; Laws 2023, LB754, § 13.

Cross References

Nebraska Uniform Limited Liability Company Act, see section 21-101.

77-2734.02 Corporate taxpayer; income tax rate; how determined.

(1) Except as provided in subsection (2) of this section, a tax is hereby imposed on the taxable income of every corporate taxpayer that is doing business in this state:

(a) For taxable years beginning or deemed to begin before January 1, 2013, at a rate equal to one hundred fifty and eight-tenths percent of the primary rate imposed on individuals under section 77-2701.01 on the first one hundred thousand dollars of taxable income and at the rate of two hundred eleven percent of such rate on all taxable income in excess of one hundred thousand dollars. The resultant rates shall be rounded to the nearest one hundredth of one percent;

(b) For taxable years beginning or deemed to begin on or after January 1, 2013, and before January 1, 2022, at a rate equal to 5.58 percent on the first

one hundred thousand dollars of taxable income and at the rate of 7.81 percent on all taxable income in excess of one hundred thousand dollars;

(c) For taxable years beginning or deemed to begin on or after January 1, 2022, and before January 1, 2023, at a rate equal to 5.58 percent on the first one hundred thousand dollars of taxable income and at the rate of 7.50 percent on all taxable income in excess of one hundred thousand dollars;

(d) For taxable years beginning or deemed to begin on or after January 1, 2023, and before January 1, 2024, at a rate equal to 5.58 percent on the first one hundred thousand dollars of taxable income and at the rate of 7.25 percent on all taxable income in excess of one hundred thousand dollars;

(e) For taxable years beginning or deemed to begin on or after January 1, 2024, and before January 1, 2025, at a rate equal to 5.58 percent on the first one hundred thousand dollars of taxable income and at the rate of 5.84 percent on all taxable income in excess of one hundred thousand dollars;

(f) For taxable years beginning or deemed to begin on or after January 1, 2025, and before January 1, 2026, at the rate of 5.20 percent on all taxable income;

(g) For taxable years beginning or deemed to begin on or after January 1, 2026, and before January 1, 2027, at the rate of 4.55 percent on all taxable income; and

(h) For taxable years beginning or deemed to begin on or after January 1, 2027, at the rate of 3.99 percent on all taxable income.

For corporate taxpayers with a fiscal year that does not coincide with the calendar year, the individual rate used for this subsection shall be the rate in effect on the first day, or the day deemed to be the first day, of the taxable year.

(2) An insurance company shall be subject to taxation at the lesser of the rate described in subsection (1) of this section or the rate of tax imposed by the state or country in which the insurance company is domiciled if the insurance company can establish to the satisfaction of the Tax Commissioner that it is domiciled in a state or country other than Nebraska that imposes on Nebraska domiciled insurance companies a retaliatory tax against the tax described in subsection (1) of this section.

(3) For a corporate taxpayer that is subject to tax in another state, its taxable income shall be the portion of the taxpayer's federal taxable income, as adjusted, that is determined to be connected with the taxpayer's operations in this state pursuant to sections 77-2734.05 to 77-2734.15.

(4) Each corporate taxpayer shall file only one income tax return for each taxable year.

Source: Laws 1984, LB 1124, § 5; Laws 1987, LB 773, § 19; Laws 1995, LB 300, § 2; Laws 2008, LB888, § 1; Laws 2012, LB970, § 9; Laws 2021, LB432, § 13; Laws 2022, LB873, § 3; Laws 2023, LB754, § 14.

77-2734.03 Income tax; tax credits.

(1)(a) For taxable years commencing prior to January 1, 1997, any (i) insurer paying a tax on premiums and assessments pursuant to section 77-908 or 81-523, (ii) electric cooperative organized under the Joint Public Power Authority Act, or (iii) credit union shall be credited, in the computation of the tax due

under the Nebraska Revenue Act of 1967, with the amount paid during the taxable year as taxes on such premiums and assessments and taxes in lieu of intangible tax.

(b) For taxable years commencing on or after January 1, 1997, any insurer paying a tax on premiums and assessments pursuant to section 77-908 or 81-523, any electric cooperative organized under the Joint Public Power Authority Act, or any credit union shall be credited, in the computation of the tax due under the Nebraska Revenue Act of 1967, with the amount paid during the taxable year as (i) taxes on such premiums and assessments included as Nebraska premiums and assessments under section 77-2734.05 and (ii) taxes in lieu of intangible tax.

(c) For taxable years commencing or deemed to commence prior to, on, or after January 1, 1998, any insurer paying a tax on premiums and assessments pursuant to section 77-908 or 81-523 shall be credited, in the computation of the tax due under the Nebraska Revenue Act of 1967, with the amount paid during the taxable year as assessments allowed as an offset against premium and related retaliatory tax liability pursuant to section 44-4233.

(2) There shall be allowed to corporate taxpayers a tax credit for contributions to programs or projects certified for tax credit status as provided in the Creating High Impact Economic Futures Act.

(3) There shall be allowed to corporate taxpayers a refundable income tax credit under the Beginning Farmer Tax Credit Act for all taxable years beginning or deemed to begin on or after January 1, 2001, under the Internal Revenue Code of 1986, as amended.

(4) The changes made to this section by Laws 2004, LB 983, apply to motor fuels purchased during any tax year ending or deemed to end on or after January 1, 2005, under the Internal Revenue Code of 1986, as amended.

(5) There shall be allowed to corporate taxpayers refundable income tax credits under the Nebraska Advantage Microenterprise Tax Credit Act, the Cast and Crew Nebraska Act, the Nebraska Advantage Research and Development Act, the Nebraska Biodiesel Tax Credit Act, the Nebraska Higher Blend Tax Credit Act, the Nebraska Property Tax Incentive Act, the Relocation Incentive Act, and the Renewable Chemical Production Tax Credit Act.

(6) There shall be allowed to corporate taxpayers a nonrefundable income tax credit for investment in a biodiesel facility as provided in section 77-27,236.

(7) There shall be allowed to corporate taxpayers a nonrefundable income tax credit as provided in the Nebraska Job Creation and Mainstreet Revitalization Act, the New Markets Job Growth Investment Act, the School Readiness Tax Credit Act, the Child Care Tax Credit Act, the Affordable Housing Tax Credit Act, the Sustainable Aviation Fuel Tax Credit Act, the Nebraska Shortline Rail Modernization Act, the Nebraska Pregnancy Help Act, the Individuals with Intellectual and Developmental Disabilities Support Act, and sections 77-27,238, 77-27,240, and 77-27,241.

Source: Laws 1984, LB 1124, § 6; Laws 1985, LB 273, § 55; Laws 1986, LB 1114, § 19; Laws 1992, LB 719A, § 176; Laws 1992, LB 1063, § 184; Laws 1993, LB 5, § 4; Laws 1993, LB 815, § 25; Laws 1996, LB 898, § 6; Laws 1997, LB 55, § 4; Laws 1997, LB 61, § 1; Laws 1998, LB 1035, § 24; Laws 2000, LB 1223, § 2; Laws 2001, LB 433, § 6; Laws 2004, LB 983, § 68; Laws 2005, LB 312,

§ 14; Laws 2007, LB343, § 6; Laws 2007, LB367, § 23; Laws 2012, LB1128, § 24; Laws 2014, LB191, § 19; Laws 2016, LB774, § 9; Laws 2016, LB884, § 21; Laws 2016, LB889, § 12; Laws 2020, LB1107, § 132; Laws 2022, LB917, § 5; Laws 2022, LB1261, § 12; Laws 2023, LB727, § 72; Laws 2023, LB753, § 16; Laws 2023, LB754, § 15; Laws 2024, LB937, § 77; Laws 2024, LB1023, § 14; Laws 2024, LB1344, § 10; Laws 2024, LB1402, § 4.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB937, section 77, with LB1023, section 14, LB1344, section 10, and LB1402, section 4, to reflect all amendments.

Note: Changes made by LB937 became operative July 19, 2024. Changes made by LB1023 became operative July 19, 2024. Changes made by LB1344 became operative January 1, 2025. Changes made by LB1402 became operative October 31, 2024.

Cross References

Affordable Housing Tax Credit Act, see section 77-2501.
Beginning Farmer Tax Credit Act, see section 77-5201.
Cast and Crew Nebraska Act, see section 77-3121.
Child Care Tax Credit Act, see section 77-7201.
Creating High Impact Economic Futures Act, see section 77-3113.
Individuals with Intellectual and Developmental Disabilities Support Act, see section 77-3154.
Joint Public Power Authority Act, see section 70-1401.
Nebraska Advantage Microenterprise Tax Credit Act, see section 77-5901.
Nebraska Advantage Research and Development Act, see section 77-5801.
Nebraska Biodiesel Tax Credit Act, see section 77-7009.
Nebraska Higher Blend Tax Credit Act, see section 77-7001.
Nebraska Job Creation and Mainstreet Revitalization Act, see section 77-2901.
Nebraska Pregnancy Help Act, see section 77-3144.
Nebraska Property Tax Incentive Act, see section 77-6701.
Nebraska Shortline Rail Moderization Act, see section 77-3134.
New Markets Job Growth Investment Act, see section 77-1101.
Relocation Incentive Act, see section 77-3107.
Renewable Chemical Production Tax Credit Act, see section 77-6601.
School Readiness Tax Credit Act, see section 77-3601.
Sustainable Aviation Fuel Tax Credit Act, see section 77-7017.

77-2761 Income tax; return; required by whom.

An income tax return with respect to the income tax imposed by the provisions of the Nebraska Revenue Act of 1967 shall be made by the following:

(1) Every resident individual who is required to file a federal income tax return for the taxable year;

(2) Every nonresident individual who has income from Nebraska sources;

(3) Every resident estate or trust which is required to file a federal income tax return except a simple trust not required to file under subsection (2) of section 77-2717;

(4) Every nonresident estate or trust which has taxable income from Nebraska sources;

(5) Every corporation or any other entity taxed as a corporation under the Internal Revenue Code which is required to file a federal income tax return except the small business corporations not required to file under subsection (7) of section 77-2734.01;

(6) Every limited liability company having income derived from Nebraska sources; and

(7) Every partnership having income derived from Nebraska sources.

Source: Laws 1967, c. 487, § 61, p. 1598; Laws 1987, LB 523, § 25; Laws 1993, LB 121, § 510; Laws 2009, LB165, § 13; Laws 2019, LB512, § 22.

77-2773 Income tax; partnership; taxable year; return.

Every partnership having part of its income derived from Nebraska sources, determined in accordance with the applicable rules of section 77-2733 as in the case of a nonresident individual, shall make a return for the taxable year setting forth such pertinent information as the Tax Commissioner by rule and regulation may prescribe. Such information may include, but shall not be limited to, all items of income, gain, loss, and deduction, the names and addresses of the individuals whether residents or nonresidents who would be entitled to share in the net income if distributed, and the amount of the distributive share of each individual. Such return shall be filed on or before the date prescribed for filing a federal partnership return. For purposes of this section, taxable year shall mean a year or period which would be a taxable year of the partnership if it were subject to tax under the provisions of the Nebraska Revenue Act of 1967.

Source: Laws 1967, c. 487, § 73, p. 1603; Laws 1987, LB 523, § 28; Laws 2019, LB512, § 23.

77-2775 Federal income tax return; modified or amended; change in tax liability owed to this state; taxpayer; duties; partnership; election; effect.

(1) If the amount of a taxpayer's federal adjusted gross income, taxable income, or tax liability reported on his or her federal income tax return for any taxable year is changed or corrected by the Internal Revenue Service or other competent authority or as the result of a renegotiation of a contract or subcontract with the United States, the taxpayer shall report such change or correction in federal adjusted gross income, taxable income, or tax liability within sixty days after the final determination of such change, correction, or renegotiation.

(2) Whenever the amount of a taxpayer's income which is taxable in any state for any taxable year or any tax credits allowable in such state are changed or corrected in a way material to the tax liability owed to this state by the agency having authority to examine returns filed with such state or any other competent authority or whenever an amended return is filed by any taxpayer with a change or correction material to the tax liability owed to this state with another state, such change or correction shall be reported to the Tax Commissioner within sixty days after the final change or correction or filing of the amended return. The Tax Commissioner shall by rule and regulation provide the nature of any change or correction which must be reported.

(3) The taxpayer shall report all changes or corrections required to be reported under this section by filing an amended income tax return and shall give such information as the Tax Commissioner may require. The taxpayer shall concede the accuracy of any change or correction or state why it is erroneous.

(4) Any taxpayer filing an amended federal income tax return shall also file within sixty days thereafter an amended income tax return under the Nebraska Revenue Act of 1967 and shall give such information as the Tax Commissioner may require. For any amended federal income tax return requesting a credit or refund, the amended Nebraska income tax return shall be filed within sixty days after the taxpayer has received proof of federal acceptance of the credit or refund or within the time for filing an amended Nebraska income tax return that would otherwise be applicable notwithstanding the amended federal income tax return, whichever is later.

(5) Notwithstanding the foregoing, any partnership that is required to file an amended return pursuant to this section shall be allowed, at the partnership's election, to file an amended Nebraska income tax return and to pay all Nebraska income tax, penalties, or interest associated with such amended return, determined after taking into consideration offsetting positive and negative adjustments of partnership items, at the top individual tax rate set forth in section 77-2715.03 as if the partnership were an individual. For a partnership making an election pursuant to this subsection and paying the tax, penalties, or interest arising from the amended return, (a) the partners of such electing partnership shall not be required to file amended Nebraska income tax returns for the year of the election and shall not be required to pay Nebraska income tax, penalties, or interest arising as a result of such amended return and (b) the basis, and other tax items in the hands of the partner, arising from the partner's interest in the partnership shall be determined as if the election under this subsection had not been made and shall be determined in a similar manner as set forth for federal income tax purposes.

Source: Laws 1967, c. 487, § 75, p. 1603; Laws 1987, LB 773, § 23; Laws 1993, LB 345, § 62; Laws 1997, LB 62, § 3; Laws 2005, LB 216, § 15; Laws 2008, LB914, § 9; Laws 2023, LB754, § 16.

77-2776 Income tax; Tax Commissioner; return; examination; failure to file; notice; deficiency; notice.

(1) As soon as practical after an income tax return is filed, the Tax Commissioner shall examine it to determine the correct amount of tax. If the Tax Commissioner finds that the amount of tax shown on the return is less than the correct amount, he or she shall notify the taxpayer of the amount of the deficiency proposed to be assessed. If the Tax Commissioner finds that the tax paid is more than the correct amount, he or she shall credit the overpayment against any taxes due by the taxpayer and refund the difference. The Tax Commissioner shall, upon request, make prompt assessment of taxes due as provided by the laws of the United States for federal income tax purposes.

(2) If the taxpayer fails to file an income tax return, the Tax Commissioner shall estimate the taxpayer's tax liability from any available information and notify the taxpayer of the amount proposed to be assessed as in the case of a deficiency.

(3) A notice of deficiency shall set forth the reason for the proposed assessment or for the change in the amount of credit or loss to be carried over to another year. The notice may be mailed to the taxpayer at his or her last-known address. In the case of a joint return, the notice of deficiency may be a single joint notice, except that if the Tax Commissioner is notified by either spouse that separate residences have been established, the Tax Commissioner shall mail joint notices to each spouse. If the taxpayer is deceased or under a legal disability, a notice of deficiency may be mailed to his or her last-known address unless the Tax Commissioner has received notice of the existence of a fiduciary relationship with respect to such taxpayer.

(4) A notice of deficiency regarding an item of entity income may be mailed to the entity at its last-known address or to the address of the entity's tax matters person for federal income tax purposes. Such notice shall be deemed to have been received by each partner, shareholder, or member of such entity, but only for items of entity income reported by the partner, shareholder, or

member. The actions taken thereon on behalf of the partnership, limited liability company, small business corporation, estate, or trust are binding on the partners, members, shareholders, or beneficiaries.

Source: Laws 1967, c. 487, § 76, p. 1604; Laws 2005, LB 216, § 16; Laws 2012, LB727, § 41; Laws 2019, LB512, § 24.

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 retire-

ment 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.

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)(i) For transactions occurring on or after October 1, 2014, and before July 1, 2024, 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; and

(ii) For transactions occurring on or after July 1, 2024, 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, and from such proceeds, transfers shall be made to the Nebraska Emergency Medical System Operations Fund as provided in section 37-327.02;

(b) Credit to the Highway Trust Fund all of the proceeds of the sales and use taxes derived from the sale or lease for periods of more than thirty-one days of motor vehicles, trailers, and semitrailers, except that the proceeds equal to any sales tax rate provided for in section 77-2701.02 that is in excess of five percent derived from the sale or lease for periods of more than thirty-one days of motor vehicles, trailers, and semitrailers shall be credited to the Highway Allocation Fund;

(c) For transactions occurring on or after July 1, 2013, and before July 1, 2042, of the proceeds of the sales and use taxes derived from transactions other than those listed in subdivisions (2)(a), (b), and (e) of this section from a sales tax rate of one-quarter of one percent, credit monthly eighty-five percent to the Highway Trust Fund and fifteen percent to the Highway Allocation Fund;

(d) Of the proceeds of the sales and use taxes derived from transactions other than those listed in subdivisions (2)(a), (b), and (e) of this section, credit to the Property Tax Credit Cash Fund the amount certified under section 77-27,237, if any such certification is made; and

(e) For transactions occurring on or after July 1, 2023, credit to the Department of Transportation Aeronautics Capital Improvement Fund all of the proceeds of the sales and use taxes imposed pursuant to section 77-2703 on the sale or lease of aircraft as defined in section 3-101.

The balance of all amounts collected under the Nebraska Revenue Act of 1967 shall be credited to the General Fund.

Source: Laws 1967, c. 487, § 132, p. 1636; Laws 1969, c. 695, § 1, p. 2692; Laws 1969, c. 313, § 2, p. 1130; Laws 1971, LB 53, § 9; Laws 1972, LB 343, § 23; Laws 1975, LB 233, § 2; Laws 1976, LB 868, § 1; Laws 1984, LB 466, § 5; Laws 1986, LB 599, § 23; Laws 1986, LB 539, § 3; Laws 1987, LB 730, § 30; Laws 1989, LB 258, § 11; Laws 2003, LB 759, § 22; Laws 2006, LB 904, § 4; Laws 2007, LB305, § 1; Laws 2011, LB84, § 6; Laws 2014, LB814, § 11; Laws 2015, LB200, § 2; Laws 2017, LB331, § 42; Laws 2021, LB595, § 10; Laws 2023, LB727, § 73; Laws 2024, LB1108, § 3.
Effective date April 16, 2024.

77-27,135 Notice; how given.

Whenever any notice required to be given by the Tax Commissioner under the provisions of the Nebraska Revenue Act of 1967 may be given by mail, it shall be given by first-class, registered, or certified mail or, with the written permission of the taxpayer, by electronic mail or other electronic means in a secure manner as determined by the Tax Commissioner.

Source: Laws 1967, c. 487, § 135, p. 1637; Laws 2012, LB727, § 44; Laws 2024, LB146, § 2.
Effective date July 19, 2024.

(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.

(g) LOCAL OPTION REVENUE ACT

77-27,142 Incorporated municipalities; sales and use tax; authorized; election.

(1) Any incorporated municipality other than a city of the metropolitan class by ordinance of its governing body is hereby authorized to impose a sales and use tax of one-half percent, one percent, one and one-half percent, one and three-quarters percent, or two percent upon the same transactions that are sourced under the provisions of sections 77-2703.01 to 77-2703.04 within such incorporated municipality on which the State of Nebraska is authorized to impose a tax pursuant to the Nebraska Revenue Act of 1967, as amended from time to time. Any city of the metropolitan class by ordinance of its governing body is hereby authorized to impose a sales and use tax of one-half percent, one percent, or one and one-half percent upon the same transactions that are sourced under the provisions of sections 77-2703.01 to 77-2703.04 within such city of the metropolitan class on which the State of Nebraska is authorized to impose a tax pursuant to the Nebraska Revenue Act of 1967, as amended from time to time. No sales and use tax shall be imposed pursuant to this section until an election has been held and a majority of the qualified electors have approved such tax pursuant to sections 77-27,142.01 and 77-27,142.02.

(2)(a) Any incorporated municipality that proposes to impose a municipal sales and use tax at a rate greater than one and one-half percent or increase a municipal sales and use tax to a rate greater than one and one-half percent shall submit the question of such tax or increase at a primary or general election held within the incorporated municipality. The question shall be submitted upon an affirmative vote by at least seventy percent of all of the members of the governing body of the incorporated municipality.

(b) Any rate greater than one and one-half percent shall be used as follows:

(i) In a city of the primary class, up to fifteen percent of the proceeds from the rate in excess of one and one-half percent may be used for non-public infrastructure projects of an interlocal agreement or joint public agency agreement with another political subdivision within the municipality or the county in which the municipality is located, and the remaining proceeds shall be used for public infrastructure projects or voter-approved infrastructure related to an economic development program as defined in section 18-2705; and

(ii) In any incorporated municipality other than a city of the primary class, the proceeds from the rate in excess of one and one-half percent shall be used

for public infrastructure projects or voter-approved infrastructure related to an economic development program as defined in section 18-2705.

For purposes of this section, public infrastructure project means and includes, but is not limited to, any of the following projects, or any combination thereof: Public highways and bridges and municipal roads, streets, bridges, and sidewalks; solid waste management facilities; wastewater, storm water, and water treatment works and systems, water distribution facilities, and water resources projects, including, but not limited to, pumping stations, transmission lines, and mains and their appurtenances; hazardous waste disposal systems; resource recovery systems; airports; port facilities; buildings and capital equipment used in the operation of municipal government; convention and tourism facilities; redevelopment projects as defined in section 18-2103; mass transit and other transportation systems, including parking facilities; and equipment necessary for the provision of municipal services.

(c) Any rate greater than one and one-half percent shall terminate no more than ten years after its effective date or, if bonds are issued and the local option sales and use tax revenue is pledged for payment of such bonds, upon payment of such bonds and any refunding bonds, whichever date is later, except as provided in subdivision (2)(d) of this section.

(d) If a portion of the rate greater than one and one-half percent is stated in the ballot question as being imposed for the purpose of the interlocal agreement or joint public agency agreement described in subdivision (2)(b)(i) or subsection (3) of this section, and such portion is at least one-eighth percent, there shall be no termination date for the rate representing such portion rounded to the next higher one-quarter or one-half percent.

(e) For fiscal years beginning prior to July 1, 2025, sections 13-518 to 13-522 apply to the revenue from any such tax or increase.

(3)(a) No municipal sales and use tax shall be imposed at a rate greater than one and one-half percent or increased to a rate greater than one and one-half percent unless the municipality is a party to an interlocal agreement pursuant to the Interlocal Cooperation Act or a joint public agency agreement pursuant to the Joint Public Agency Act with a political subdivision within the municipality or the county in which the municipality is located creating a separate legal or administrative entity relating to a public infrastructure project.

(b) Except as provided in subdivision (2)(b)(i) of this section, such interlocal agreement or joint public agency agreement shall contain provisions, including benchmarks, relating to the long-term development of unified governance of public infrastructure projects with respect to the parties. The Legislature may provide additional requirements for such agreements, including benchmarks, but such additional requirements shall not apply to any debt outstanding at the time the Legislature enacts such additional requirements. The separate legal or administrative entity created shall not be one that was in existence for one calendar year preceding the submission of the question of such tax or increase at a primary or general election held within the incorporated municipality.

(c) Any other public agency as defined in section 13-803 may be a party to such interlocal cooperation agreement or joint public agency agreement.

(d) A municipality is not required to use all of the additional revenue generated by a sales and use tax imposed at a rate greater than one and one-half percent or increased to a rate greater than one and one-half percent under

this subsection for the purposes of the interlocal cooperation agreement or joint public agency agreement set forth in this subsection.

(4) The provisions of subsections (2) and (3) of this section do not apply to the first one and one-half percent of a sales and use tax imposed by a municipality.

(5) Notwithstanding any provision of any municipal charter, any incorporated municipality or interlocal agency or joint public agency pursuant to an agreement as provided in subsection (3) of this section may issue bonds in one or more series for any municipal purpose and pay the principal of and interest on any such bonds by pledging receipts from the increase in the municipal sales and use taxes authorized by such municipality. Any municipality which has or may issue bonds under this section may dedicate a portion of its property tax levy authority as provided in section 77-3442 to meet debt service obligations under the bonds. For purposes of this subsection, bond means any evidence of indebtedness, including, but not limited to, bonds, notes including notes issued pending long-term financing arrangements, warrants, debentures, obligations under a loan agreement or a lease-purchase agreement, or any similar instrument or obligation.

Source: Laws 1969, c. 629, § 1, p. 2530; Laws 1978, LB 394, § 1; Laws 1978, LB 902, § 1; Laws 1979, LB 365, § 1; Laws 1981, LB 40, § 1; Laws 1985, LB 116, § 1; Laws 1986, LB 890, § 1; Laws 2003, LB 282, § 80; Laws 2012, LB357, § 1; Laws 2013, LB104, § 1; Laws 2024, First Spec. Sess., LB34, § 24.
Effective date August 21, 2024.

Cross References

Interlocal Cooperation Act, see section 13-801.
Joint Public Agency Act, see section 13-2501.
Nebraska Revenue Act of 1967, see section 77-2701.

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)(a) Deductions for a refund made pursuant to section 77-4105, 77-4106, 77-5725, or 77-5726 and owed by a city of the first class, city of the second class, or village 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 subdivision.

(b) Deductions for a refund made pursuant to section 77-4105, 77-4106, 77-5725, or 77-5726 and owed by a city of the metropolitan class or city of the primary class shall be made as follows:

(i) During calendar year 2023, such deductions shall be made in accordance with subsection (1) of this section; and

(ii) During calendar year 2024 and each calendar year thereafter, such deductions shall be made based on estimated amounts as described in this subdivision. On or before March 1, 2023, and on or before March 1 of each year thereafter, the Department of Revenue shall notify each city of the metropolitan class and city of the primary class of the total amount of such refunds that are estimated to be paid during the following calendar year. Such estimated amount shall be used to establish the total amount to be deducted in the following calendar year. The department shall deduct such amount over the following calendar year in twelve equal monthly amounts. Beginning with the notification sent in calendar year 2025, the notification shall include any adjustment needed for the prior calendar year to account for any difference between the estimated amount deducted in such prior calendar year and the actual amount of refunds paid in such year.

(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 and shall be excluded from the limitations of the Property Tax Growth Limitation Act.

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; Laws 2022, LB1150, § 3; Laws 2024, First Spec. Sess., LB34, § 25.
Effective date August 21, 2024.

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.
Property Tax Growth Limitation Act, see section 13-3401.
Urban Redevelopment Act, see section 77-6901.

(h) AIR AND WATER POLLUTION CONTROL TAX REFUND ACT

77-27,150 Refund; application; when; contents; hearing; approval.

(1) An application for a refund of Nebraska sales and use taxes paid for any air or water pollution control facility may be filed with the Tax Commissioner by the owner of such facility in such manner and in such form as may be prescribed by the commissioner. The application for a refund shall contain: (a) Plans and specifications of such facility including all materials incorporated therein; (b) a descriptive list of all equipment acquired by the applicant for the

purpose of industrial or agricultural waste pollution control; (c) the proposed operating procedure for the facility; (d) the acquisition cost of the facility for which a refund is claimed; and (e) a copy of the final findings of the Department of Environment and Energy issued pursuant to section 77-27,151.

(2) The Tax Commissioner shall offer an applicant a hearing upon request of such applicant. The hearing shall not affect the authority of the Department of Environment and Energy to determine whether or not industrial or agricultural waste pollution control exists within the meaning of the Air and Water Pollution Control Tax Refund Act.

(3) A claim for refund received without a copy of the final findings of the Department of Environment and Energy issued pursuant to section 77-27,151 shall not be considered a valid claim and shall be returned to the applicant.

(4) Notice of the Tax Commissioner's refusal to issue a refund shall be mailed to the applicant.

Source: Laws 1972, LB 716, § 2; Laws 1974, LB 820, § 4; Laws 1977, LB 308, § 1; Laws 1978, LB 244, § 1; Laws 1993, LB 3, § 43; Laws 2002, LB 989, § 20; Laws 2012, LB727, § 45; Laws 2019, LB302, § 96.

77-27,151 Refund; notice to Tax Commissioner; Department of Environment and Energy; duties.

If the Department of Environment and Energy finds that a facility or multiple facilities at a single location are designed and operated primarily for control, capture, abatement, or removal of industrial or agricultural waste from air or water and are suitable, are reasonably adequate, and meet the intent and purposes of the Environmental Protection Act, the Department of Environment and Energy shall so notify the owner of the facility in writing of its findings that the facility, multiple facilities, or the specified portions of any facility are approved. The Department of Environment and Energy shall also notify the Tax Commissioner of its findings and the extent of commercial or productive value derived from any materials captured or recovered by the facility.

Source: Laws 1972, LB 716, § 3; Laws 1974, LB 820, § 5; Laws 1977, LB 308, § 2; Laws 1993, LB 3, § 44; Laws 2002, LB 989, § 21; Laws 2019, LB302, § 97.

Cross References

Environmental Protection Act, see section 81-1532.

77-27,152 Refund; notice; modify or revoke; when; effect.

(1) The Tax Commissioner, after giving notice by mail to the applicant and giving an opportunity for a hearing, shall modify or revoke the refund whenever the following appears: (a) The refund was obtained by fraud or misrepresentation regarding the payment of tax on materials incorporated into the facility or facilities; or (b) the Department of Environment and Energy has modified its findings regarding the facility covered by the refund.

(2) The Department of Environment and Energy may modify its findings when it determines any of the following: (a) The refund was obtained by fraud or misrepresentation regarding the facility or planned operation of the facility; (b) the applicant has failed substantially to operate the facility for the purpose and degree of control specified in the application or an amended application;

or (c) the facility covered by the refund is no longer used for the primary purpose of pollution control.

(3) On the mailing to the refund applicant of notice of the action of the Tax Commissioner modifying or revoking the refund, the refund shall cease to be in force or shall remain in force only as modified. When a refund is revoked because a refund was obtained by fraud or misrepresentation, all taxes which would have been payable if no certificate had been issued shall be immediately due and payable with the maximum interest and penalties prescribed by the Nebraska Revenue Act of 1967. No statute of limitations shall operate in the event of fraud or misrepresentation.

Source: Laws 1972, LB 716, § 4; Laws 1977, LB 308, § 3; Laws 1993, LB 3, § 45; Laws 2002, LB 989, § 22; Laws 2012, LB727, § 46; Laws 2019, LB302, § 98.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

77-27,153 Appeal; procedure.

(1) A party aggrieved by the issuance, refusal to issue, revocation, or modification of a pollution control tax refund may appeal from the finding and order of the Tax Commissioner. The finding and order shall not affect the authority of the Department of Environment and Energy to determine whether or not industrial or agricultural waste pollution control exists within the meaning of the Air and Water Pollution Control Tax Refund Act. The appeal shall be in accordance with the Administrative Procedure Act.

(2) The Department of Environment and Energy shall make its findings for the Air and Water Pollution Control Tax Refund Act in accordance with its normal administrative procedures. Nothing in the act is intended to affect the department's authority to make findings and to determine whether or not industrial or agricultural waste pollution control exists within the meaning of the act.

Source: Laws 1972, LB 716, § 5; Laws 1988, LB 352, § 160; Laws 2002, LB 989, § 23; Laws 2019, LB302, § 99.

Cross References

Administrative Procedure Act, see section 84-920.

77-27,154 Rules and regulations.

The Tax Commissioner may adopt and promulgate rules and regulations that are necessary for the administration of the Air and Water Pollution Control Tax Refund Act. Such rules and regulations shall not abridge the authority of the Department of Environment and Energy to determine whether or not industrial or agricultural waste pollution control exists within the meaning of the act.

Source: Laws 1972, LB 716, § 6; Laws 1977, LB 308, § 4; Laws 1993, LB 3, § 46; Laws 2002, LB 989, § 24; Laws 2019, LB302, § 100.

(i) ECONOMIC FORECASTING

77-27,157 Board; membership; terms; officers; quorum; expenses.

The Nebraska Economic Forecasting Advisory Board shall consist of nine members, five of whom shall be appointed by and serve at the pleasure of the

Executive Board of the Legislative Council and four of whom shall be appointed by and serve at the pleasure of the Governor. The original gubernatorial appointees shall serve for two-year terms. Successive gubernatorial appointees and all legislative appointees shall serve for four-year terms. After appointments are made, the board shall select a chairperson and a vice-chairperson from its membership. The chairperson and vice-chairperson shall serve for two-year terms. The chairperson of the board on September 6, 1985, shall serve until his or her successor is selected. Each member of the board shall have demonstrated expertise in the field of tax policy, economics, or economic forecasting. A majority of the members of the board shall constitute a quorum for the purpose of transacting business and every act of a majority of the members shall be deemed an act of the board. Board members shall serve without compensation but may be reimbursed for expenses as provided in sections 81-1174 to 81-1177. Board members appointed by the Legislative Council shall receive such reimbursement out of the appropriation made to the Legislature's Fiscal and Program Analysis Program. Board members appointed by the Governor shall receive such reimbursement out of the appropriation made to the Department of Revenue for administration.

Source: Laws 1984, LB 892, § 4; Laws 1985, LB 283, § 1; Laws 2020, LB381, § 84.

(m) NEBRASKA ADVANTAGE RURAL DEVELOPMENT ACT

77-27,187.01 Terms, defined.

For purposes of the Nebraska Advantage Rural Development Act, unless the context otherwise requires:

(1) Any term has the same meaning as used in the Nebraska Revenue Act of 1967;

(2) Equivalent employees means the number of employees computed by dividing the total hours paid in a year to employees by the product of forty times the number of weeks in a year;

(3) Livestock means all animals, including cattle, horses, sheep, goats, hogs, dairy animals, chickens, turkeys, and other species of game birds and animals raised and produced subject to permit and regulation by the Game and Parks Commission or the Department of Agriculture;

(4) Livestock modernization or expansion means the construction, improvement, or acquisition of buildings, facilities, or equipment for livestock housing, confinement, feeding, production, and waste management. Livestock modernization or expansion does not include any improvements made to correct a violation of the Environmental Protection Act, the Integrated Solid Waste Management Act, the Livestock Waste Management Act, a rule or regulation adopted and promulgated pursuant to such acts, or any order of the Department of Environment and Energy undertaken within five years after a complaint issued from the Director of Environment and Energy under section 81-1507;

(5) Livestock production means the active use, management, and operation of real and personal property (a) for the commercial production of livestock, (b) for the commercial breeding, training, showing, or racing of horses or for the use of horses in a recreational or tourism enterprise, and (c) for the commercial production of dairy and eggs. The activity will be considered commercial if the

gross income derived from an activity for two or more of the taxable years in the period of seven consecutive taxable years which ends with the taxable year exceeds the deductions attributable to such activity or, if the operation has been in existence for less than seven years, if the activity is engaged in for the purpose of generating a profit;

(6) Qualified employee leasing company means a company which places all employees of a client-lessee on its payroll and leases such employees to the client-lessee on an ongoing basis for a fee and, by written agreement between the employee leasing company and a client-lessee, grants to the client-lessee input into the hiring and firing of the employees leased to the client-lessee;

(7) Related taxpayers includes any corporations that are part of a unitary business under the Nebraska Revenue Act of 1967 but are not part of the same corporate taxpayer, any business entities that are not corporations but which would be a part of the unitary business if they were corporations, and any business entities if at least fifty percent of such entities are owned by the same persons or related taxpayers and family members as defined in the ownership attribution rules of the Internal Revenue Code of 1986, as amended;

(8) Taxpayer means a corporate taxpayer or other person subject to either an income tax imposed by the Nebraska Revenue Act of 1967 or a franchise tax under Chapter 77, article 38, or a partnership, limited liability company, subchapter S corporation, cooperative, including a cooperative exempt under section 521 of the Internal Revenue Code of 1986, as amended, limited cooperative association, or joint venture that is or would otherwise be a member of the same unitary group if incorporated, which is, or whose partners, members, or owners representing an ownership interest of at least ninety percent of the control of such entity are, subject to or exempt from such taxes, and any other partnership, limited liability company, subchapter S corporation, cooperative, including a cooperative exempt under section 521 of the Internal Revenue Code of 1986, as amended, limited cooperative association, or joint venture when the partners, members, or owners representing an ownership interest of at least ninety percent of the control of such entity are subject to or exempt from such taxes; and

(9) Year means the taxable year of the taxpayer.

Source: Laws 1997, LB 886, § 2; Laws 1998, LB 1104, § 15; Laws 1999, LB 539, § 1; Laws 2003, LB 608, § 2; Laws 2005, LB 312, § 17; Laws 2006, LB 990, § 2; Laws 2006, LB 1003, § 8; Laws 2007, LB223, § 16; Laws 2007, LB368, § 136; Laws 2008, LB895, § 2; Laws 2015, LB175, § 6; Laws 2019, LB302, § 101.

Cross References

Environmental Protection Act, see section 81-1532.
Integrated Solid Waste Management Act, see section 13-2001.
Livestock Waste Management Act, see section 54-2416.
Nebraska Revenue Act of 1967, see section 77-2701.

77-27,187.02 Application; deadline; contents; fee; written agreement; contents.

(1) To earn the incentives set forth in the Nebraska Advantage Rural Development Act, the taxpayer shall file an application for an agreement with the Tax Commissioner. There shall be no new applications for incentives filed under this section after December 31, 2027.

(2) The application shall contain:

(a) A written statement describing the full expected employment or type of livestock production and the investment amount for a qualified business, as described in section 77-27,189, in this state;

(b) Sufficient documents, plans, and specifications as required by the Tax Commissioner to support the plan and to define a project; and

(c) An application fee of (i) one hundred dollars for an investment amount of less than twenty-five thousand dollars, (ii) two hundred fifty dollars for an investment amount of at least twenty-five thousand dollars but less than fifty thousand dollars, and (iii) five hundred dollars for an investment amount of fifty thousand dollars or more. The fee shall be remitted to the State Treasurer for credit to the Nebraska Incentives Fund. The application and all supporting information shall be confidential except for the name of the taxpayer, the location of the project, and the amounts of increased employment or investment.

(3)(a) The Tax Commissioner shall approve the application and authorize the total amount of credits expected to be earned as a result of the project if he or she is satisfied that the plan in the application defines a project that (i) meets the requirements established in section 77-27,188 and such requirements will be reached within the required time period and (ii) for projects other than livestock modernization or expansion projects, is located in an eligible county, city, or village.

(b) For applications filed in calendar year 2016 and each year thereafter, the Tax Commissioner shall not approve further applications from applicants described in subsection (1) of section 77-27,188 once the expected credits from approved projects in this category total: For calendar years 2016 through 2022, one million dollars; and for calendar year 2023 and each calendar year thereafter, two million dollars. For applications filed in calendar year 2016 and each year thereafter, the Tax Commissioner shall not approve further applications from applicants described in subsection (2) of section 77-27,188 once the expected credits from approved projects in this category total: For calendar year 2016, five hundred thousand dollars; for calendar years 2017 and 2018, seven hundred fifty thousand dollars; for calendar years 2019, 2020, and 2021, one million dollars; and for calendar year 2022 and each calendar year thereafter, ten million dollars. Four hundred dollars of the application fee shall be refunded to the applicant if the application is not approved because the expected credits from approved projects exceed such amounts.

(c) Applications for benefits shall be considered separately and in the order in which they are received for the categories represented by subsections (1) and (2) of section 77-27,188.

(d) Applications shall be filed by November 1 and shall be complete by December 1 of each calendar year. Any application that is filed after November 1 or that is not complete on December 1 shall be considered to be filed during the following calendar year.

(4) After approval, the taxpayer and the Tax Commissioner shall enter into a written agreement. The taxpayer shall agree to complete the project, and the Tax Commissioner, on behalf of the State of Nebraska, shall designate the approved plans of the taxpayer as a project and, in consideration of the taxpayer's agreement, agree to allow the taxpayer to use the incentives contained in the Nebraska Advantage Rural Development Act up to the total

amount that were authorized by the Tax Commissioner at the time of approval. The application, and all supporting documentation, to the extent approved, shall be considered a part of the agreement. The agreement shall state:

(a) The levels of employment and investment required by the act for the project;

(b) The time period under the act in which the required level must be met;

(c) The documentation the taxpayer will need to supply when claiming an incentive under the act;

(d) The date the application was filed; and

(e) The maximum amount of credits authorized.

Source: Laws 2003, LB 608, § 3; Laws 2005, LB 312, § 18; Laws 2006, LB 990, § 3; Laws 2007, LB223, § 17; Laws 2008, LB895, § 3; Laws 2008, LB914, § 17; Laws 2009, LB164, § 2; Laws 2011, LB389, § 14; Laws 2015, LB175, § 7; Laws 2015, LB538, § 10; Laws 2016, LB1022, § 6; Laws 2022, LB1261, § 13; Laws 2023, LB727, § 74.

77-27,188 Tax credit; allowed; when; amount; repayment.

(1) A refundable credit against the taxes imposed by the Nebraska Revenue Act of 1967 shall be allowed to any taxpayer who has an approved application pursuant to the Nebraska Advantage Rural Development Act, who is engaged in a qualified business as described in section 77-27,189, and who after January 1, 2006:

(a)(i) Increases employment by two new equivalent employees and makes an increased investment of at least one hundred twenty-five thousand dollars prior to the end of the first taxable year after the year in which the application was submitted in (A) any county in this state with a population of fewer than fifteen thousand inhabitants, according to the most recent federal decennial census, (B) any village in this state, or (C) any area within the corporate limits of a city of the metropolitan class consisting of one or more contiguous census tracts, as determined by the most recent federal decennial census, which contain a percentage of persons below the poverty line of greater than thirty percent, and all census tracts contiguous to such tract or tracts; or

(ii) Increases employment by five new equivalent employees and makes an increased investment of at least two hundred fifty thousand dollars prior to the end of the first taxable year after the year in which the application was submitted in any county in this state with a population of less than twenty-five thousand inhabitants, according to the most recent federal decennial census, or any city of the second class; and

(b) Pays a minimum qualifying wage of eight dollars and twenty-five cents per hour to the new equivalent employees for which tax credits are sought under the Nebraska Advantage Rural Development Act. The Department of Revenue shall adjust the minimum qualifying wages required for applications filed after January 1, 2004, and each January 1 thereafter, as follows: The current rural Nebraska average weekly wage shall be divided by the rural Nebraska average weekly wage for 2003; and the result shall be multiplied by the eight dollars and twenty-five cents minimum qualifying wage for 2003 and rounded to the nearest one cent. The amount of increase or decrease in the minimum qualifying wages for any year shall be the cumulative change in the

rural Nebraska average weekly wage since 2003. For purposes of this subsection, rural Nebraska average weekly wage means the most recent average weekly wage paid by all employers in all counties with a population of less than twenty-five thousand inhabitants as reported by October 1 by the Department of Labor.

For purposes of this section, a teleworker working in Nebraska from his or her residence for a taxpayer shall be considered an employee of the taxpayer, and property of the taxpayer provided to the teleworker working in Nebraska from his or her residence shall be considered an investment. Teleworker includes an individual working on a per-item basis and an independent contractor working for the taxpayer so long as the taxpayer withholds Nebraska income tax from wages or other payments made to such teleworker. For purposes of calculating the number of new equivalent employees when the teleworkers are paid on a per-item basis or are independent contractors, the total wages or payments made to all such new employees during the year shall be divided by the qualifying wage as determined in subdivision (b) of this subsection, with the result divided by two thousand eighty hours.

(2) A refundable credit against the taxes imposed by the Nebraska Revenue Act of 1967 shall be allowed to any taxpayer who (a) has an approved application pursuant to the Nebraska Advantage Rural Development Act, (b) is engaged in livestock production, and (c) invests at least fifty thousand dollars for livestock modernization or expansion for applications filed before January 1, 2024, or at least ten thousand dollars for livestock modernization or expansion for applications filed on or after January 1, 2024.

(3) The amount of the credit allowed under subsection (1) of this section shall be three thousand dollars for each new equivalent employee and two thousand seven hundred fifty dollars for each fifty thousand dollars of increased investment. For applications filed before January 1, 2016, the amount of the credit allowed under subsection (2) of this section shall be ten percent of the investment, not to exceed a credit of thirty thousand dollars. For applications filed on or after January 1, 2016, and before April 20, 2022, the amount of the credit allowed under subsection (2) of this section shall be ten percent of the investment, not to exceed a credit of one hundred fifty thousand dollars per application. For applications filed on or after April 20, 2022, the amount of the credit allowed under subsection (2) of this section shall be ten percent of the investment, not to exceed a credit of five hundred thousand dollars per application. For each application, a taxpayer engaged in livestock production may qualify for a credit under either subsection (1) or (2) of this section, but cannot qualify for more than one credit per application.

(4) An employee of a qualified employee leasing company shall be considered to be an employee of the client-lessee for purposes of this section if the employee performs services for the client-lessee. A qualified employee leasing company shall provide the Department of Revenue access to the records of employees leased to the client-lessee.

(5) The credit shall not exceed the amounts set out in the application and approved by the Tax Commissioner.

(6)(a) If a taxpayer who receives tax credits creates fewer jobs or less investment than required in the project agreement, the taxpayer shall repay the tax credits as provided in this subsection.

(b) If less than seventy-five percent of the required jobs in the project agreement are created, one hundred percent of the job creation tax credits shall be repaid. If seventy-five percent or more of the required jobs in the project agreement are created, no repayment of the job creation tax credits is necessary.

(c) If less than seventy-five percent of the required investment in the project agreement is created, one hundred percent of the investment tax credits shall be repaid. If seventy-five percent or more of the required investment in the project agreement is created, no repayment of the investment tax credits is necessary.

(7) For taxpayers who submitted applications for benefits under the Nebraska Advantage Rural Development Act before January 1, 2006, subsection (1) of this section, as such subsection existed immediately prior to such date, shall continue to apply to such taxpayers. The changes made by Laws 2005, LB 312, shall not preclude a taxpayer from receiving the tax incentives earned prior to January 1, 2006.

Source: Laws 1986, LB 1124, § 2; Laws 1987, LB 270, § 2; Laws 1989, LB 335, § 1; Laws 1993, LB 725, § 16; Laws 1995, LB 134, § 6; Laws 1997, LB 886, § 3; Laws 1999, LB 539, § 2; Laws 2001, LB 169, § 2; Laws 2003, LB 608, § 4; Laws 2005, LB 312, § 19; Laws 2006, LB 990, § 4; Laws 2007, LB223, § 18; Laws 2008, LB895, § 4; Laws 2015, LB175, § 8; Laws 2022, LB1261, § 14; Laws 2023, LB727, § 75.

Cross References

Ethanol facility eligible for tax credit, requirements, see section 66-1349.
Nebraska Revenue Act of 1967, see section 77-2701.

77-27,195 Report; contents; joint hearing.

(1) The Tax Commissioner shall prepare a report identifying the amount of investment in this state and the number of equivalent jobs created by each taxpayer claiming a credit pursuant to the Nebraska Advantage Rural Development Act. The report shall include the amount of credits claimed in the aggregate. The report shall be issued on or before October 31 of each year for all credits allowed during the previous fiscal year. The report shall be on a fiscal year, accrual basis that satisfies the requirements set by the Governmental Accounting Standards Board. The Department of Revenue shall, on or before December 15 of each even-numbered 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 January 1, 2006, except for livestock modernization or expansion projects, the report shall provide information on project-specific total incentives used every two years for each approved project and shall disclose (a) the identity of the taxpayer, (b) the 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 incen-

tives 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 containing information on two years of credits used and refunds approved. The incentives used shall include incentives which have been approved by the Department of Revenue, but not necessarily received, during the previous two fiscal years.

(3) For livestock modernization or expansion projects, the report shall disclose (a) the identity of the taxpayer, (b) the total credits used and refunds approved during the preceding fiscal year, and (c) the location of the project.

(4) No information shall be provided in the report that is protected by state or federal confidentiality laws.

Source: Laws 1986, LB 1124, § 9; Laws 1993, LB 725, § 19; Laws 1997, LB 886, § 9; Laws 2003, LB 608, § 11; Laws 2005, LB 312, § 22; Laws 2006, LB 990, § 7; Laws 2013, LB612, § 3; Laws 2022, LB1150, § 4.

(q) COUNTY LICENSE OR OCCUPATION TAX ON ADMISSIONS

77-27,223 County; license or occupation tax; authorized; election.

A county may raise revenue by levying and collecting a license or occupation tax on any person, partnership, limited liability company, corporation, or business engaged in the sale of admissions to recreational, cultural, entertainment, or concert events that are subject to sales tax under sections 77-2701.04 to 77-2713 that occur outside any incorporated municipality, but within the boundary limits of the county. The tax shall be uniform in respect to the class upon which it is imposed. The tax shall be based upon a certain percentage of gross receipts from sales in the county of the person, partnership, limited liability company, corporation, or business, and may include sales of other goods and services at such locations and events, not to exceed one and one-half percent. A county may not impose the tax on sales that are within an incorporated city or village. No county shall levy and collect a license or occupation tax under this section unless approved by a majority of those voting on the question at a special, primary, or general election.

Source: Laws 2002, LB 259, § 1; Laws 2003, LB 282, § 83; Laws 2021, LB26, § 7; Laws 2021, LB595, § 11; Laws 2022, LB984, § 10; Laws 2023, LB727, § 76; Laws 2024, LB937, § 78.
Operative date October 1, 2024.

(t) BIODIESEL FACILITY INVESTMENT CREDIT

77-27,236 Biodiesel facility tax credit; conditions; facility; requirements; information not public record.

(1) A taxpayer who makes an investment after January 1, 2008, and prior to January 1, 2015, in a biodiesel facility shall receive a nonrefundable income tax credit as provided in this section.

(2) The credit provided in subsection (1) of this section shall be equal to thirty percent of the amount invested by the taxpayer in a biodiesel facility. The credit shall be taken over at least four taxable years subject to the following conditions:

(a) No more than ten percent of the credit provided for in subsection (1) of this section shall be taken in each of the first two taxable years the biodiesel facility produces B100 and no more than fifty percent of the credit provided for in subsection (1) of this section shall be taken in the third taxable year the biodiesel facility produces B100. The credit allowed under subsection (1) of this section shall not exceed fifty percent of the taxpayer's liability in any tax year;

(b) Any amount of credit not allowed because of the limitations in this section may be carried forward for up to fifteen taxable years after the taxable year in which the investment was made. The aggregate maximum income tax credit a taxpayer may obtain is two hundred fifty thousand dollars;

(c) The investment shall be at risk in the biodiesel facility. The investment shall be in the form of a purchase of an ownership interest or the right to receive payment of dividends from the biodiesel facility and shall remain in the business for at least three years. The Tax Commissioner may recapture any credits used if the investment does not remain invested for the three-year period. An investment placed in escrow does not qualify under this subdivision;

(d) The entire amount of the investment shall be expended by the biodiesel facility for plant, equipment, research and development, marketing and sales activity, or working capital;

(e) A partnership, a subchapter S corporation, a limited liability company that for tax purposes is treated like a partnership, a cooperative, including a cooperative exempt under section 521 of the Internal Revenue Code of 1986, as amended, or any other pass-through entity that invests in a biodiesel facility shall be considered to be the taxpayer for purposes of the credit limitations. Except for the limitation under subdivision (2)(a) of this section, the amount of the credit allowed to a pass-through entity shall be determined at the partnership, corporate, cooperative, or other organizational level. The amount of the credit determined at the partnership, corporate, cooperative, or other organizational level shall be allowed to the partners, members, or other owners in proportion to their respective ownership interests in the pass-through entity;

(f) The credit shall be taken only if (i) the biodiesel facility produces B100, (ii) the biodiesel facility in which the investment was made produces at a rate of at least seventy percent of its rated capacity continuously for at least one week during the first taxable year the credit is taken and produces at a rate of at least seventy percent of its rated capacity over a six-month period during each of the next two taxable years the credit is taken, (iii) all processing takes place at the biodiesel facility in which the investment was made and which is located in Nebraska, and (iv) at least fifty-one percent of the ownership interest of the biodiesel facility is held by Nebraska resident individuals or Nebraska entities; and

(g) The biodiesel facility shall provide the Department of Revenue written evidence substantiating that the biodiesel facility has received the requisite authority from the Department of Environment and Energy and from the United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives. The biodiesel facility shall annually provide an analysis to the Department of Revenue of samples of the product collected according to procedures specified by the department. The analysis shall be prepared by an independent laboratory meeting standards of the International Organization for Standardization. Prior to collecting the samples, the biodiesel facility shall notify the department which may observe the sampling procedures utilized by

the biodiesel facility to obtain the samples to be submitted for independent analysis.

(3) Any biodiesel facility for which credits are granted shall, whenever possible, employ workers who are residents of the State of Nebraska.

(4) Trade secrets, academic and scientific research work, and other proprietary or commercial information which may be filed with the Tax Commissioner shall not be considered to be public records as defined in section 84-712.01 if the release of such trade secrets, work, or information would give advantage to business competitors and serve no public purpose. Any person seeking release of the trade secrets, work, or information as a public record shall demonstrate to the satisfaction of the department that the release would not violate this section.

(5) For purposes of this section:

(a) Biodiesel facility means a plant or facility related to the processing, marketing, or distribution of biodiesel; and

(b) B100 means pure biodiesel containing mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats, designated as B100, and meeting the American Society for Testing and Materials standard, ASTM D6751.

Source: Laws 2007, LB343, § 2; Laws 2019, LB302, § 102.

(w) ONLINE HOSTING PLATFORM

77-27,239 Online hosting platform; Tax Commissioner; agreement authorized; powers.

(1) For purposes of this section, online hosting platform means a marketplace connected by computer to one or more other computers or networks, as through a commercial electronic information service or the Internet, through which (a) a seller or hotel operator may rent or furnish any room or rooms, lodgings, or accommodations in a hotel, a motel, an inn, a tourist camp, a tourist cabin, or any other place, (b) such room or rooms, lodgings, or accommodations may be advertised or listed, and (c) a purchaser or occupant may arrange for the occupancy of such room or rooms, lodgings, or accommodations.

(2) The Tax Commissioner may enter into an agreement with an online hosting platform to permit the online hosting platform to collect and pay the applicable sales taxes imposed under the Local Option Revenue Act, the Nebraska Revenue Act of 1967, the Nebraska Visitors Development Act, and sections 13-318 to 13-326 and 13-2813 to 13-2816 on behalf of the seller or hotel operator otherwise required to collect such taxes for transactions consummated through the online hosting platform. Upon entering into such agreement with the online hosting platform, the Tax Commissioner shall waive the tax collection responsibility of a seller or hotel operator for transactions consummated through the online hosting platform for which the online hosting platform has assumed this responsibility. The online hosting platform shall give written notice to each seller or hotel operator which is covered by the agreement between the online hosting platform and the Tax Commissioner.

(3) Upon entering into an agreement with the Tax Commissioner under this section, the online hosting platform shall report aggregate information on the

tax return prescribed by the Tax Commissioner, including an aggregate of gross receipts, exemptions, adjustments, and taxable receipts of all transactions subject to the agreement.

Source: Laws 2019, LB57, § 4.

Cross References

Local Option Revenue Act, see section 77-27,148.
Nebraska Visitors Development Act, see section 81-3701.

(x) CREDIT FOR EMPLOYING INDIVIDUAL CONVICTED OF FELONY

77-27,240 Individual convicted of a felony; employer; tax credit; application; Department of Revenue; powers and duties.

(1) For taxable years beginning or deemed to begin on or after January 1, 2023, under the Internal Revenue Code of 1986, as amended, an employer that employs an eligible employee during the taxable year shall be eligible to receive a nonrefundable credit against the income tax imposed by the Nebraska Revenue Act of 1967.

(2) The credit provided in this section shall be an amount equal to ten percent of the wages paid by the employer to the eligible employee during the taxable year, except that:

(a) The credit shall only be allowed with respect to wages paid during the first twelve months of the eligible employee's employment with the employer; and

(b) The total credit taken pursuant to this section with respect to any one eligible employee shall not exceed twenty thousand dollars.

(3) An employer shall apply for the credit provided in this section by submitting an application to the Department of Revenue on a form prescribed by the department. The application shall include:

(a) The number of eligible employees employed by the employer during the taxable year;

(b) The amount of wages paid to each such eligible employee during the taxable year; and

(c) Any other information required by the department to verify the employer's eligibility for the credit.

(4) Subject to subsection (5) of this section, if the Department of Revenue determines that the employer qualifies for a tax credit under this section, the department shall approve the application and certify the amount of the approved credit to the employer.

(5) The Department of Revenue shall consider applications in the order in which they are received and may approve tax credits under this section each year until the total amount of approved credits reaches five million dollars.

(6) The Department of Revenue may adopt and promulgate rules and regulations to carry out this section.

(7) For purposes of this section, eligible employee means an individual who has been convicted of a felony in this or any other state.

Source: Laws 2022, LB917, § 2.

(y) FOOD BANK, FOOD PANTRY, OR FOOD RESCUE DONATION CREDIT

77-27,241 Food bank, food pantry, or food rescue donation; credit; eligibility; application; approval; annual limit; tax credit certification.

(1) For purposes of this section:

(a) Agricultural producer means an individual or entity whose income is primarily attributable to crop or livestock production in the State of Nebraska;

(b) Department means the Department of Revenue;

(c) Food bank means an organization in this state that:

(i) Is exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code of 1986, as amended; and

(ii) Distributes food in ten or more counties in Nebraska and qualifies for the Emergency Food Assistance Program administered by the United States Department of Agriculture;

(d) Food pantry means an organization in this state that:

(i) Is exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code of 1986, as amended; and

(ii) Distributes emergency food supplies to low-income individuals in this state who would otherwise not have access to such food supplies;

(e) Food rescue means an organization in this state that:

(i) Is exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code of 1986, as amended; and

(ii) Accepts donations of food and delivers such food to food banks or food pantries so that such food may be distributed to low-income individuals in this state;

(f) Grocery store retailer means a retailer located in this state that is primarily engaged in business activities classified as code 445110 under the North American Industry Classification System;

(g) Qualifying agricultural food donation means a donation made by an agricultural producer to a food bank, food pantry, or food rescue of fresh or frozen fruits, vegetables, eggs, dairy products, or meat products grown or produced in the State of Nebraska which meets all applicable quality and labeling standards, along with any other applicable requirements of the food bank, food pantry, or food rescue to which the qualifying agricultural food donation is made; and

(h) Restaurant means a business located in this state that is primarily engaged in business activities classified as code 722511, 722513, 722514, or 722515 under the North American Industry Classification System.

(2) For taxable years beginning or deemed to begin on or after January 1, 2025, under the Internal Revenue Code of 1986, as amended, a credit against the income tax imposed by the Nebraska Revenue Act of 1967 shall be allowed to:

(a) Any grocery store retailer or restaurant that donates food to a food bank, food pantry, or food rescue during the taxable year; and

(b) Any agricultural producer that makes a qualifying agricultural food donation to a food bank, food pantry, or food rescue during the taxable year.

(3) Subject to subsection (7) of this section, the credit provided in this section shall be a nonrefundable credit in an amount equal to fifty percent of the value of the food donations or qualifying agricultural food donations made during the taxable year, not to exceed two thousand five hundred dollars. Any amount of the credit that the taxpayer is prohibited from claiming in a taxable year may be carried forward to any of the three subsequent taxable years.

(4) For purposes of this section, food donated by a grocery store retailer or restaurant shall be valued at its wholesale value. A qualifying agricultural food donation shall be valued at the prevailing market value of the product at the time of donation, plus the direct cost incurred by the agricultural producer for processing the product.

(5) To receive a credit under this section, a taxpayer shall submit an application to the department in a form and manner prescribed by the department. The application shall include the amount of food donated during the taxable year and any other information required by the department.

(6) If the department determines that an application is complete and that the taxpayer qualifies for credits, the department shall approve the application within the limits set forth in this section and shall certify the amount of credits approved to the taxpayer.

(7) The department may approve up to five hundred thousand dollars of credits in fiscal year 2025-26 and each fiscal year thereafter. If the amount of credits requested by qualified taxpayers in any year exceeds such limit, the department shall allocate credits proportionally based on the amounts requested so that the limit is not exceeded.

(8) A taxpayer shall claim the credit by attaching the tax credit certification received from the department under subsection (6) of this section to the taxpayer's tax return.

(9) Any amount relating to such food donations or qualifying agricultural food donations that was deducted as a charitable contribution on the taxpayer's federal income tax return must be added back in the determination of Nebraska taxable income before the credit provided in this section may be claimed.

(10) No credit granted under this section shall be transferred, sold, or assigned. No taxpayer shall be eligible to receive a credit under this section if such taxpayer employs persons who are not authorized to work in the United States under federal law. No taxpayer shall be able to claim more than one credit under this section for a single donation.

(11) A food bank, food pantry, or food rescue may accept or reject any food donated under this section for any reason. Any food that is rejected shall not qualify for a credit under this section.

(12) The department may adopt and promulgate rules and regulations to carry out this section.

Source: Laws 2023, LB727, § 77; Laws 2024, LB937, § 79.
Operative date July 19, 2024.

(z) DEDUCTION FOR BUSINESS ASSETS AND RESEARCH OR EXPERIMENTAL EXPENDITURES

77-27,242 Business assets; research or experimental expenditures; deduction; authorized; rules and regulations.

(1) For purposes of this section:

(a) Full expensing means a method for taxpayers to recover their costs for certain expenditures in depreciable business assets by immediately deducting sixty percent of the full cost of such expenditures in the tax year in which the property is placed in service;

(b) Internal Revenue Code means the Internal Revenue Code of 1986, as amended;

(c) Qualified improvement property has the same meaning as in section 168(e)(6) of the Internal Revenue Code and shall apply to property placed in service after December 31, 2024;

(d) Qualified property has the same meaning as in section 168(k) of the Internal Revenue Code and shall apply to property placed in service after December 31, 2024; and

(e) Research or experimental expenditures has the same meaning as in 26 C.F.R. 1.174-2.

(2)(a) For taxable years beginning or deemed to begin on or after January 1, 2025, the cost of expenditures for business assets that are qualified property or qualified improvement property covered under section 168 of the Internal Revenue Code shall be eligible for full expensing and may be deducted as an expense incurred by the taxpayer during the taxable year during which the property is placed in service, notwithstanding any changes to federal law related to depreciation of property beginning January 1, 2023, or on any other date. Such deduction shall be allowed only to the extent that such cost has not already been deducted in determining federal adjusted gross income or, for corporations and fiduciaries, federal taxable income.

(b) If the taxpayer does not fully expense the costs described in this subsection in the taxable year in which the property is placed in service, the taxpayer may elect to depreciate the costs over a five-year irrevocable term.

(3)(a) For taxable years beginning or deemed to begin on or after January 1, 2025, a taxpayer may elect to treat research or experimental expenditures which are paid or incurred by the taxpayer during the taxable year in connection with the taxpayer's trade or business as expenses which are not chargeable to the capital account. The expenditures so treated shall be allowed as a deduction, notwithstanding any changes to the Internal Revenue Code related to the amortization of such research or experimental expenditures. Such deduction shall be allowed only to the extent that such research or experimental expenditures have not already been deducted in determining federal adjusted gross income or, for corporations and fiduciaries, federal taxable income.

(b) If the taxpayer does not fully deduct the research or experimental expenditures in the taxable year in which the expenditures are paid or incurred, the taxpayer may elect to amortize the expenditures over a five-year irrevocable term.

(4) If a deduction under this section is for a corporation having an election in effect under subchapter S of the Internal Revenue Code, a cooperative corporation, a partnership, a limited liability company, an estate, or a trust, the deduction may be claimed by the shareholders, patrons, partners, members, or beneficiaries in the same manner as those shareholders, patrons, partners, members, or beneficiaries account for their proportionate shares of the income

or losses of the corporation, cooperative corporation, partnership, limited liability company, estate, or trust.

(5) The Department of Revenue may adopt and promulgate rules and regulations to implement this section.

Source: Laws 2024, LB1023, § 11.
Operative date July 19, 2024.

ARTICLE 29

NEBRASKA JOB CREATION AND MAINSTREET REVITALIZATION ACT

Section
77-2902. Terms, defined.
77-2903. Local preservation ordinance or resolution; approval.
77-2904. Credit; amount; claim; approval; procedure.
77-2905. Application for credits; form; contents; officer; review; allocation of credits; notice of determination; denial; appeal; limit on credits; holder of allocation; duties.
77-2906. Request for final approval; form; approval; when; department; duties; extension; denial; appeal; credit; issuance of certificates; fee; credit carried forward.
77-2910. Rules and regulations; Nebraska State Historical Society; Department of Revenue; joint report; contents.
77-2912. Application deadline; allocation, issuance, or use of credits deadline.

77-2902 Terms, defined.

For purposes of the Nebraska Job Creation and Mainstreet Revitalization Act:

(1) Department means the Department of Revenue;

(2) Eligible expenditure means any cost incurred for the improvement of historically significant real property located in the State of Nebraska, including, but not limited to, qualified rehabilitation expenditures as defined in section 47(c)(2) of the Internal Revenue Code of 1986, as amended, and the related regulations thereunder, if such improvement is in conformance with the standards;

(3) Historically significant real property means a building or an at-grade or aboveground structure used for any purpose, except for a single-family detached residence, which, at the time of final approval of the work by the officer pursuant to section 77-2906, is:

(a) Individually listed in the National Register of Historic Places;

(b)(i) Located within a district listed in the National Register of Historic Places; and

(ii) Determined by the officer as being historically significant to such district;

(c)(i) Individually designated pursuant to a landmark ordinance or resolution enacted by a political subdivision of the state, which ordinance or resolution has been approved by the officer; and

(ii) Determined by the officer as being historically significant; or

(d)(i) Located within a district designated pursuant to a preservation ordinance or resolution enacted by a county, city, or village of the state or political body comprised thereof providing for the rehabilitation, preservation, or restoration of historically significant real property, which ordinance or resolution has been approved by the officer; and

(ii) Determined by the officer as contributing to the historical significance or economic viability of such district;

(4) Improvement means a rehabilitation, preservation, or restoration project that contributes to the basis, functionality, or value of the historically significant real property and has a total cost which equals or exceeds five thousand dollars;

(5) Officer means the State Historic Preservation Officer;

(6) Person means any natural person, political subdivision, limited liability company, partnership, private domestic or private foreign corporation, or domestic or foreign nonprofit corporation certified pursuant to section 501(c)(3) of the Internal Revenue Code of 1986, as amended;

(7) Placed in service means that either (a) a temporary or final certificate of occupancy has been issued for the improvement or (b) the improvement is sufficiently complete to allow for the intended use of the improvement; and

(8) Standards means (a) the Secretary of the Interior's Standards for the Treatment of Historic Properties as promulgated by the United States Department of the Interior or (b) specific standards for the rehabilitation, preservation, and restoration of historically significant real property contained in a duly adopted local preservation ordinance or resolution that has been approved by the officer pursuant to section 77-2903.

Source: Laws 2014, LB191, § 2; Laws 2023, LB727, § 78.

77-2903 Local preservation ordinance or resolution; approval.

For purposes of establishing standards under subdivision (8)(b) of section 77-2902, the officer shall approve a duly adopted local preservation ordinance or resolution if such ordinance or resolution meets the following requirements:

(1) The ordinance or resolution provides for specific standards and requirements regarding building exteriors that reflect the heritage, values, and character of the political subdivision adopting such ordinance or resolution; and

(2) The ordinance or resolution requires that any building to be rehabilitated, preserved, or restored shall have been originally constructed at least fifty years prior to the proposed rehabilitation, preservation, or restoration and the facade of such building shall not have undergone material structural alteration since its original construction, unless the rehabilitation, preservation, or restoration to be performed proposes to restore the facade to substantially its original condition.

Source: Laws 2014, LB191, § 3; Laws 2023, LB727, § 79.

77-2904 Credit; amount; claim; approval; procedure.

(1) Any person incurring eligible expenditures may receive a nonrefundable credit against any income tax imposed by the Nebraska Revenue Act of 1967 or any tax imposed pursuant to sections 44-101 to 44-165, 77-907 to 77-918, or 77-3801 to 77-3807 for the year the historically significant real property is placed in service.

(2) For historically significant real property located in a county that includes a city of the metropolitan class or a city of the primary class, the credit shall be equal to twenty-five percent of eligible expenditures. For historically significant real property located in any other county, the credit shall be equal to thirty

percent of eligible expenditures. In all cases, the maximum credit allocated to any one project shall be two million dollars.

(3) Any taxpayer that claims a tax credit shall not be required to pay any additional retaliatory tax under section 44-150 as a result of claiming such tax credit. Any tax credit claimed under this section shall be considered a payment of tax for purposes of subsection (1) of section 77-2734.03.

(4) To claim the credit authorized under this section, a person must first apply and receive an allocation of credits and application approval under section 77-2905 and then request and receive final approval under section 77-2906.

(5) Interest shall not be allowed on any refund paid under the Nebraska Job Creation and Mainstreet Revitalization Act.

Source: Laws 2014, LB191, § 4; Laws 2015, LB261, § 12; Laws 2016, LB774, § 11; Laws 2023, LB727, § 80.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

77-2905 Application for credits; form; contents; officer; review; allocation of credits; notice of determination; denial; appeal; limit on credits; holder of allocation; duties.

(1) Prior to commencing work on the historically significant real property, a person shall file an application for credits under the Nebraska Job Creation and Mainstreet Revitalization Act containing all required information with the officer on a form prescribed by the officer and shall include an application fee established by the officer pursuant to section 77-2907. The application shall include plans and specifications, an estimate of the cost of the project prepared by a licensed architect, licensed engineer, or licensed contractor, and a request for a specific amount of credits based on such estimate. The officer shall review the application and, within twenty-one days after receiving the application, shall determine whether the information contained therein is complete. The officer shall notify the applicant in writing of the determination within five business days after making the determination. If the officer fails to provide such notification as required, the application shall be deemed complete as of the twenty-first day after the application is received by the officer. If the officer determines the application is complete or if the application is deemed complete pursuant to this section, the officer shall reserve for the benefit of the applicant an allocation of credits in the amount specified in the application and determined by the officer to be reasonable and shall notify the applicant in writing of the amount of the allocation. The allocation does not entitle the applicant to an issuance of credits until the applicant complies with all other requirements of the Nebraska Job Creation and Mainstreet Revitalization Act for the issuance of credits. The date the officer determines the application is complete or the date the application is deemed complete pursuant to this section shall constitute the applicant's priority date for purposes of allocating credits under this section. For complete applications receiving an allocation under this section, the officer shall determine whether the application conforms to the standards, and, if so, the officer shall approve such application or approve such application with conditions. If the application does not conform to the standards, the officer shall deny such application. The officer shall promptly provide the person filing the application and the department with written notice of the officer's determi-

nation. If the officer does not provide a written notice of his or her determination within thirty days after the date the application is determined or deemed to be complete pursuant to this section, the application shall be deemed approved. The officer shall notify the department of any applications that are deemed approved pursuant to this section. If the officer denies the application, the credits allocated to the applicant under this subsection shall be added to the annual amount available for allocation under subsection (2) of this section. Any denial of an application by the officer pursuant to this section may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

(2) For calendar years beginning before January 1, 2024, the total amount of credits that may be allocated by the officer under this section in any calendar year shall be limited to fifteen million dollars, of which four million dollars shall be reserved for applications seeking an allocation of credits of less than one hundred thousand dollars. For calendar years beginning on or after January 1, 2024, the total amount of credits that may be allocated by the officer under this section in any calendar year shall be limited to two million dollars. If the amount of credits allocated in any calendar year is less than the maximum amount of credits available under this section for that year, the unused amount shall be carried forward to subsequent years and shall be available for allocation in subsequent years until fully utilized, except as otherwise provided in section 77-2912. If the amount of credits reserved for applications seeking an allocation of credits of less than one hundred thousand dollars is not allocated by April 1 of any calendar year, such unallocated credits for the calendar year shall be available for any application seeking an allocation of credits based upon the applicant's priority date as determined by the officer. The officer shall allocate credits based on priority date, from earliest to latest. If the officer determines that the complete applications for credits in any calendar year exceed the maximum amount of credits available under this section for that year, only those applications with a priority date on or before the date on which the officer makes that determination may receive an allocation in that year, and the officer shall not make additional allocations until sufficient credits are available. If the officer suspends allocations of credits pursuant to this section, applications with priority dates on or before the date of such suspension shall retain their priority dates. Once additional credits are available for allocation, the officer shall once again allocate credits based on priority date, from earliest to latest, even if the priority dates are from a prior calendar year.

(3) The holder of an allocation of credits whose application was approved under this section shall start substantial work pursuant to the approved application within twenty-four months after receiving notice of approval of the application or, if no notice of approval is sent by the officer, within twenty-four months after the application is deemed approved pursuant to this section. Failure to comply with this subsection shall result in forfeiture of the allocation of credits received under this section. Any such forfeited allocation shall be added to the aggregate amount of credits available for allocation for the year in which the forfeiture occurred.

(4) Notwithstanding subsection (1) of this section, the person applying for the credit under this section may, at its own risk, incur eligible expenditures up to six months prior to the submission of the application required under subsection (1) of this section if such eligible expenditures are limited to architectural,

engineering, accounting, and legal fees and any costs generally related to the protection of the historically significant real property from deterioration.

Source: Laws 2014, LB191, § 5; Laws 2016, LB774, § 12; Laws 2023, LB727, § 81.

Cross References

Administrative Procedure Act, see section 84-920.

77-2906 Request for final approval; form; approval; when; department; duties; extension; denial; appeal; credit; issuance of certificates; fee; credit carried forward.

(1)(a) Within twelve months after the date on which the historically significant real property is placed in service, a person whose application was approved under section 77-2905 shall file a request for final approval containing all required information with the officer on a form prescribed by the officer and shall include a fee established by the officer pursuant to section 77-2907. The officer shall then determine whether the work substantially conforms to the application approved under section 77-2905. If the work substantially conforms and no other significant improvements have been made to the historically significant real property that do not substantially comply with the standards, the officer shall approve the request for final approval. The person whose request is approved shall then apply to the department to determine the amount of eligible expenditures, calculate the amount of the credit, and issue a certificate to the person evidencing the credit. If the work does not substantially conform to the approved application or if other significant improvements have been made to the historically significant real property that do not substantially comply with the standards, the officer shall deny the request for final approval and provide the person with a written explanation of the decision. The officer shall make a determination on the request for final approval in writing within thirty days after the filing of the request. If the officer does not make a determination within thirty days after the filing of the request, the request shall be deemed approved and the person may apply to the department to determine the amount of eligible expenditures, calculate the amount of the credit, and issue a certificate evidencing the credit.

(b) The department shall determine the amount of eligible expenditures, calculate the amount of the credit, and issue one or more certificates evidencing the credit within sixty days after receiving an application pursuant to subdivision (1)(a) of this section. The person filing the application and the department may also agree to extend the sixty-day period, but such extension shall not exceed an additional thirty days. If the department does not determine the amount of eligible expenditures, calculate the amount of the credit, and issue one or more certificates evidencing the credit within such sixty-day period or agreed-upon longer period, the credit shall be deemed to have been issued by the department for the amount requested in such person's application, except that such amount shall not exceed one hundred ten percent of the amount of credits allocated by the officer under section 77-2905 and such amount shall not increase or decrease the total amount of credits that may be allocated by the officer under section 77-2905 in any calendar year.

(c) Any denial of a request for final approval by the officer or any determination of the amount of eligible expenditures or calculation of the amount of the

credit by the department pursuant to this section may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

(2) The department shall divide the credit and issue multiple certificates to a person who qualifies for the credit upon reasonable request.

(3) In calculating the amount of the credits to be issued pursuant to this section, the department may issue credits in an amount that differs from the amount of credits allocated by the officer under section 77-2905 if such credits are supported by eligible expenditures as determined by the department, except that the department shall not issue credits in an amount exceeding one hundred ten percent of the amount of credits allocated by the officer under section 77-2905. If the amount of credits to be issued under this section is more than the amount of credits allocated by the officer pursuant to section 77-2905, the department shall notify the officer of the difference and such amount shall be subtracted from the annual amount available for allocation under section 77-2905. If the amount of credits to be issued under this section is less than the amount of credits allocated by the officer pursuant to section 77-2905, the department shall notify the officer of the difference and such amount shall be added to the annual amount available for allocation under section 77-2905.

(4) The department shall not issue any certificates for credits under this section until the recipient of the credit has paid to the department:

(a) A fee equal to one-quarter of one percent of the credit amount. The department shall remit such fees to the State Treasurer for credit to the Civic and Community Center Financing Fund; and

(b) A fee equal to six-tenths of one percent of the credit amount. The department shall remit such fees to the State Treasurer for credit to the Department of Revenue Enforcement Fund.

(5) If the recipient of the credit is (a) a corporation having an election in effect under subchapter S of the Internal Revenue Code of 1986, as amended, (b) a partnership, or (c) a limited liability company, the credit may be claimed by the shareholders of the corporation, the partners of the partnership, or the members of the limited liability company in the same manner as those shareholders, partners, or members account for their proportionate shares of the income or losses of the corporation, partnership, or limited liability company, or as provided in the bylaws or other executed agreement of the corporation, partnership, or limited liability company. Credits granted to a partnership, a limited liability company taxed as a partnership, or other multiple owners of property shall be passed through to the partners, members, or owners, respectively, on a pro rata basis or pursuant to an executed agreement among the partners, members, or owners documenting any alternate distribution method.

(6) Subject to section 77-2912, any credit amount that is unused may be carried forward to subsequent tax years until fully utilized.

(7) Credits allowed under this section may be claimed for taxable years beginning or deemed to begin on or after January 1, 2015, under the Internal Revenue Code of 1986, as amended.

Source: Laws 2014, LB191, § 6; Laws 2020, LB310, § 1.

Cross References

Administrative Procedure Act, see section 84-920.

77-2910 Rules and regulations; Nebraska State Historical Society; Department of Revenue; joint report; contents.

(1) The Nebraska State Historical Society and the department may each adopt and promulgate rules and regulations to carry out the Nebraska Job Creation and Mainstreet Revitalization Act.

(2) The Nebraska State Historical Society and the department shall annually issue a joint report electronically to the Revenue Committee of the Legislature no later than December 31 of each year. The report shall include, but not be limited to, (a) the total number of applications submitted under the Nebraska Job Creation and Mainstreet Revitalization Act, (b) the number of applications approved or conditionally approved, (c) the number of applications outstanding, if any, (d) the number of applications denied and the basis for denial, (e) the total amount of eligible expenditures approved, (f) the total amount of credits issued, claimed, and still available for use, (g) the total amount of fees collected, (h) the name and address location of each historically significant real property identified in each application, whether approved or denied, (i) the total amount of credits transferred, sold, and assigned and a certification of the ownership of the credits, (j) the total amount of credits claimed against each tax type by category, and (k) the total amount of credits recaptured, if any. No information shall be provided in the report that is protected by state or federal confidentiality laws.

Source: Laws 2014, LB191, § 10; Laws 2023, LB727, § 82.

77-2912 Application deadline; allocation, issuance, or use of credits deadline.

There shall be no new applications filed under the Nebraska Job Creation and Mainstreet Revitalization Act after December 31, 2030. All applications and all credits pending or approved before such date shall continue in full force and effect, except that no credits shall be allocated under section 77-2905, issued under section 77-2906, or used on any tax return or similar filing after December 31, 2035.

Source: Laws 2014, LB191, § 12; Laws 2015, LB538, § 11; Laws 2016, LB1022, § 7; Laws 2023, LB727, § 83.

ARTICLE 30

MECHANICAL AMUSEMENT DEVICE TAX ACT

Section

Section

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 places and who either directly or indirectly controls or manages a mechanical amusement device within a retail establishment within the State of Nebraska;

(4) Manufacturer means an individual, partnership, corporation, or limited liability company that manufactures, builds, rebuilds, fabricates, assembles, produces, programs, designs, or otherwise makes modifications to cash devices or associated equipment for use or play of cash devices;

(5)(a) 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.

(b) 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;

(6) Net operating revenue means the dollar amount collected by a distributor or operator of any cash device computed pursuant to applicable statutes, rules, and regulations less the total of cash awards paid out to players by the cash device as described in subdivision (1) of this section;

(7) Operator means any person who operates a place of business in which a mechanical amusement device owned by him or her is physically located;

(8) 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; and

(9) Whenever in the Mechanical Amusement Device Tax 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.

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; Laws 2024, LB685, § 4.
Effective date July 19, 2024.

Cross References

Nebraska Racetrack Gaming Act, see section 9-1101.

77-3002 Operator; license; application; limitations; background check; cause for denial; disciplinary action; cash device winnings; duty to check collection system.

(1) Any operator shall be required to procure an annual license from the Tax Commissioner permitting him or her to operate mechanical amusement devices within the State of Nebraska. The Tax Commissioner, upon the application of any person, may issue a license, except that if the applicant (a) is not of good character and reputation in the community in which he or she resides, (b) has been convicted of or has pleaded guilty to a felony under the laws of the State of Nebraska, of any other state, or of the United States, or (c) has been convicted of or has pleaded guilty to being the proprietor of a gambling house, or of any other crime or misdemeanor opposed to decency and morality, no license shall be issued. If the applicant is a corporation whose majority stockholders could not obtain a license, then such corporation shall not be issued a license. If the applicant is an individual, the application shall include the applicant's social security number. Procuring a license shall constitute sufficient contact with this state for the exercise of personal jurisdiction over such person in any action arising out of the operation of mechanical amusement devices in this state.

(2)(a) Except for an applicant that holds a liquor license under the Nebraska Liquor Control Act, an applicant for a license as an operator of a cash device shall be subject to a one-time background check by the department prior to the issuance of a license. An applicant shall pay the costs associated with the background check along with any required fees as determined by the department.

(b) The Tax Commissioner has the authority to deny any application for a license as an operator of a cash device for cause. Cause for denial of a license application includes instances in which the applicant individually, or in the case of a business entity, any officer, director, employee, or limited liability company member of the applicant or licensee other than an employee whose duties are purely ministerial in nature:

(i) Violated the provisions, requirements, conditions, limitations, or duties imposed by the Mechanical Amusement Device Tax Act or any rules or regulations adopted and promulgated pursuant to the act;

(ii) Knowingly caused, aided, abetted, or conspired with another to cause any person to violate any of the provisions of the act or any rules or regulations adopted and promulgated pursuant to the act;

(iii) Obtained a license or permit under the act by fraud, misrepresentation, or concealment;

(iv) Has been convicted of, forfeited bond upon a charge of, or pleaded guilty or nolo contendere to any offense or crime, whether a felony or a misdemeanor, involving any gambling activity or fraud, theft, willful failure to make required payments or reports, or filing false reports with a governmental agency at any level;

(v) Denied the department or its authorized representatives, including authorized law enforcement agencies, access to any place where activity required to be licensed under the act is being conducted or failed to produce for inspection or audit any book, record, document, or item required by law, rule, or regulation;

(vi) Made a misrepresentation of or failed to disclose a material fact to the department;

(vii) Failed to prove by clear and convincing evidence such applicant's qualifications to be licensed in accordance with the act;

(viii) Failed to pay any taxes and additions to taxes, including penalties and interest required by the act or any other taxes imposed pursuant to the Nebraska Revenue Act of 1967; or

(ix) Has been cited for a violation of the Nebraska Liquor Control Act and had a liquor license suspended, canceled, or revoked by the Nebraska Liquor Control Commission for illegal gambling activities on or about the premises licensed by the commission pursuant to the Nebraska Liquor Control Act or the rules and regulations adopted and promulgated pursuant to such act.

(c) No renewal of a license issued pursuant to this section shall be issued when the applicant for renewal would not be eligible for a license upon a first application.

(3) The Tax Commissioner has the authority to suspend or revoke the license of any operator that is in violation of the Mechanical Amusement Device Tax Act.

(4) Beginning on the implementation date designated by the Tax Commissioner pursuant to subsection (2) of section 9-1312, prior to the winnings payment of any cash device winnings as defined in section 9-1303, an operator of a cash device shall check the collection system to determine if the winner has a debt or an outstanding state tax liability as required by the Gambling Winnings Setoff for Outstanding Debt Act. If such operator determines that the winner is subject to the collection system, the operator shall deduct the amount of debt and outstanding state tax liability identified in the collection system from the winnings payment and shall remit the net winnings payment of cash device winnings, if any, to the winner and the amount deducted to the Department of

Revenue to be credited against such debt or outstanding state tax liability as provided in section 9-1306.

Source: Laws 1969, c. 635, § 3, p. 2542; Laws 1982, LB 928, § 68; Laws 1983, LB 447, § 92; Laws 1997, LB 317, § 2; Laws 1997, LB 752, § 213; Laws 2024, LB685, § 5; Laws 2024, LB1317, § 86.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB685, section 5, with LB1317, section 86, to reflect all amendments.

Note: Changes made by LB685 became effective July 19, 2024. Changes made by LB1317 became operative July 19, 2024.

Cross References

Gambling Winnings Setoff for Outstanding Debt Act, see section 9-1301.
Nebraska Liquor Control Act, see section 53-101.
Nebraska Revenue Act of 1967, see section 77-2701.

77-3003 Distributor; license; application; limitations; background check; cause for denial; disciplinary action; fee; cash device winnings; duty to check collection system.

(1) Any distributor shall be required to procure an annual license from the Tax Commissioner permitting him or her to place and either directly or indirectly control or manage a mechanical amusement device within the State of Nebraska. The Tax Commissioner, upon the application of any person, may issue a license, subject to the same limitations as an operator's license under section 77-3002. If the applicant is an individual, the application shall include the applicant's social security number.

(2)(a) Except for an applicant that holds a liquor license under the Nebraska Liquor Control Act, an applicant for a license as a distributor of a cash device shall be subject to a one-time background check by the department prior to issuance of the license. An applicant shall pay the costs associated with the background check along with any required fees as determined by the department.

(b) The Tax Commissioner has the authority to deny any application for a license as a distributor of a cash device for cause. Cause for denial of a license application includes instances in which the applicant individually, or in the case of a business entity, any officer, director, employee, or limited liability company member of the applicant or licensee other than an employee whose duties are purely ministerial in nature:

(i) Violated the provisions, requirements, conditions, limitations, or duties imposed by the Mechanical Amusement Device Tax Act or any rules or regulations adopted and promulgated pursuant to the act;

(ii) Knowingly caused, aided, abetted, or conspired with another to cause any person to violate any of the provisions of the act or any rules or regulations adopted and promulgated pursuant to the act;

(iii) Obtained a license or permit under the act by fraud, misrepresentation, or concealment;

(iv) Has been convicted of, forfeited bond upon a charge of, or pleaded guilty or nolo contendere to any offense or crime, whether a felony or a misdemeanor, involving any gambling activity or fraud, theft, willful failure to make required payments or reports, or filing false reports with a governmental agency at any level;

(v) Denied the department or its authorized representatives, including authorized law enforcement agencies, access to any place where activity required to

be licensed under the act is being conducted or failed to produce for inspection or audit any book, record, document, or item required by law, rule, or regulation;

(vi) Made a misrepresentation of or failed to disclose a material fact to the department;

(vii) Failed to prove by clear and convincing evidence such applicant's qualifications to be licensed in accordance with the act;

(viii) Failed to pay any taxes and additions to taxes, including penalties and interest required by the act or any other taxes imposed pursuant to the Nebraska Revenue Act of 1967; or

(ix) Has been cited for a violation of the Nebraska Liquor Control Act and had a liquor license suspended, canceled, or revoked by the Nebraska Liquor Control Commission for illegal gambling activities on or about the premises licensed by the commission pursuant to the Nebraska Liquor Control Act or the rules and regulations adopted and promulgated pursuant to such act.

(c) No renewal of a license issued pursuant to this section shall be issued when the applicant for renewal would not be eligible for a license upon a first application.

(3) Beginning January 1, 2025, the annual license for a distributor of a cash device shall be accompanied by a fee of one hundred dollars per cash device up to a maximum of five thousand dollars.

(4) The Tax Commissioner has the authority to suspend or revoke the license of any distributor that is in violation of the Mechanical Amusement Device Tax Act.

(5) Beginning on the implementation date designated by the Tax Commissioner pursuant to subsection (2) of section 9-1312, prior to the winnings payment of any cash device winnings as defined in section 9-1303, a distributor of a cash device shall check the collection system to determine if the winner has a debt or an outstanding state tax liability as required by the Gambling Winnings Setoff for Outstanding Debt Act. If such distributor determines that the winner is subject to the collection system, the distributor shall deduct the amount of debt and outstanding state tax liability identified in the collection system from the winnings payment and shall remit the net winnings payment of cash device winnings, if any, to the winner and the amount deducted to the Department of Revenue to be credited against such debt or outstanding state tax liability as provided in section 9-1306.

Source: Laws 1969, c. 635, § 3, p. 2542; Laws 1982, LB 928, § 68; Laws 1997, LB 317, § 3; Laws 1997, LB 752, § 214; Laws 2024, LB685, § 6; Laws 2024, LB1317, § 87.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB685, section 6, with LB1317, section 87, to reflect all amendments.

Note: Changes made by LB685 became effective July 19, 2024. Changes made by LB1317 became operative July 19, 2024.

Cross References

Gambling Winnings Setoff for Outstanding Debt Act, see section 9-1301.
Nebraska Liquor Control Act, see section 53-101.
Nebraska Revenue Act of 1967, see section 77-2701.

77-3003.01 Seizure of mechanical amusement device; penalty; determination cash device complies with act; procedure; Tax Commissioner; powers and duties; mechanical amusement device decal; final decision; appeal; retail establishment; limits on devices; annual decal fee.

(1)(a) The Tax Commissioner or his or her agents or employees, at the direction of the Tax Commissioner, or any peace officer of this state may seize, without a warrant, any mechanical amusement device if there is cause to believe such mechanical amusement device is not in compliance with the Mechanical Amusement Device Tax Act or any rules and regulations adopted and promulgated under the act or if the department determines the response to a request for information is materially deficient without good cause. In addition to seizure, any person placing in service or operating a cash device constituting an illegal game of chance or an unlicensed cash device of any kind within this state shall be subject to a penalty of up to one thousand dollars for each day of such operation. The Tax Commissioner has the authority to suspend or revoke the license of any operator, manufacturer, or distributor of a cash device that is in violation of this section.

(b) For purposes of this subsection, a mechanical amusement device is subject to seizure and penalties as if it were a game of chance if:

(i) The mechanical amusement device is a cash device; and

(ii) The mechanical amusement device does not bear an unexpired decal as required under the Mechanical Amusement Device Tax Act.

(c) This section does not apply to any device (i) used in any bingo, lottery by the sale of pickle cards, or other lottery, raffle, or gift enterprise conducted in accordance with the Nebraska Bingo Act, Nebraska County and City Lottery Act, Nebraska Lottery and Raffle Act, Nebraska Pickle Card Lottery Act, Nebraska Small Lottery and Raffle Act, State Lottery Act, or section 9-701, (ii) used for a prize contest as defined in section 28-1101, (iii) specifically authorized by the laws of this state, or (iv) regulated under the Nebraska Racetrack Gaming Act.

(2) To receive a determination from the department that a cash device is in compliance with the Mechanical Amusement Device Tax Act and any rules and regulations adopted and promulgated under the act, a manufacturer or distributor of the device shall:

(a) Submit an application to the Tax Commissioner containing information regarding the device's location, software, Internet connectivity, and configuration as may be required by the Tax Commissioner;

(b) Submit an application fee of five hundred dollars;

(c) Provide a specimen of the proposed cash device;

(d) Provide all supporting evidence, including a report by an independent testing laboratory certified by the Tax Commissioner, to the Tax Commissioner indicating that, under all configurations, settings, and modes of operation, operation of the cash device constitutes a game of skill and not a game of chance and the use, operation, sale, or manufacture of the cash device would not constitute a violation of section 28-1107; and

(e) Provide an affidavit from the manufacturer or distributor affirming that no functional changes in hardware or software will be made to the approved cash device without further approval from the Tax Commissioner.

(3) The Tax Commissioner shall issue a response in writing to the applicant within forty-five days after the applicant has completed and submitted all application requirements. The Tax Commissioner's response shall state the reason for any denial or the reasons a determination cannot be made.

(4)(a) A cash device shall not be considered a game of skill if one or more of the following apply:

(i) The ability of any player to succeed at the game played on the cash device is impacted by the number or ratio of prior wins to prior losses of players playing such cash device;

(ii) The ability of the player to succeed at the game played on the cash device is impacted by the ability of any person to set a specified win-loss ratio for the cash device or by the cash device having a predetermined win-loss percentage;

(iii) The outcome of the game played on the cash device can be controlled by a source other than any player playing the cash device;

(iv) The success of any player is or may be determined by a chance event which cannot be altered by player action;

(v) There is no possibility for the player to win every game played on the cash device or there are unwinnable games or game modes on the cash device;

(vi) The ability of any player to succeed at the game played on the cash device requires the exercise of skill that no reasonable player could exercise; or

(vii) The primary determination of the prize amount is determined by the presentation or generation of a particular puzzle or group of symbols dealt to the player and the player does not have control over the puzzle or group of symbols presented.

(b) For purposes of this subsection, reasonable player means a player with an average level of intelligence, physical and mental skills, reaction time, and dexterity.

(5) The department or any court considering whether a gambling device is a game of skill may consider:

(a) The results of an analysis by the independent testing laboratory certified by the Tax Commissioner to evaluate the reaction time required for a player of a particular game on such cash device to perform the tasks required by the game to win; or

(b) The results of an analysis by the independent testing laboratory certified by the Tax Commissioner to evaluate factors set forth by the Tax Commissioner, other than reaction time, required for the player of a particular game on such cash device to perform the tasks required by the game to win.

(6) Factors which are not sufficient indications of a skill-based game include, but are not limited to:

(a) Whether a comprehensive list of prizes or outcomes is offered to the player or whether all outcomes are drawn from a finite pool of predetermined outcomes or starting positions;

(b) Whether a player can increase his or her chance of winning based on knowledge of probabilities in general or the probabilities of any particular prize or outcome in a game or on a cash device;

(c) Whether a player can simply choose not to play before committing money or credits; or

(d) A game task consisting solely of moving a symbol up or down, replacing one symbol with another, or any similar action, with or without a timer.

(7) Upon approval of an application based on a determination that the mechanical amusement device is a game of skill and not a game of chance, the

Tax Commissioner shall issue a mechanical amusement device decal for the device as configured and as provided in subsection (8) of this section. No mechanical amusement device decal shall be issued for any cash device unless the department has determined that such cash device is a game of skill and not a game of chance and that the manufacture, sale, transport, placement, possession, or operation of such cash device does not constitute a violation of section 28-1107. If the Tax Commissioner does not approve the application for the cash device, the application shall be denied and the operator shall have the opportunity for an administrative hearing before the Tax Commissioner at which evidence may be presented on the issue of whether the cash device is specifically authorized by law and is not a gambling device as defined in section 28-1101. After such hearing, the Tax Commissioner shall enter a final decision approving or denying the application. The Tax Commissioner's final decision may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

(8)(a) Upon approval of a specimen of a cash device as a game of skill under this section, the department may issue a mechanical amusement device decal for each such cash device:

(i) If certified by the manufacturer to be functionally identical in both hardware and software configurations to the specimen provided to the department; and

(ii) If the application fee described in subdivision (2)(b) of this section and the annual decal fee described in subdivision (c) of this subsection have been paid.

(b)(i) In order for a distributor or operator of a cash device to place a cash device into operation at a retail establishment, other than a retail establishment owned or operated by a fraternal benefit society organized and licensed under sections 44-1072 to 44-10,109 or a recognized veterans organization as defined in section 80-401.01, such retail establishment shall generate at least sixty percent of the gross operating revenue of such retail establishment from sources other than the total gross operating revenue of any cash devices located within the retail establishment.

(ii) The number of cash devices permitted at any retail establishment shall not exceed the lesser of either:

(A) Except for a fraternal benefit society organized and licensed under sections 44-1072 to 44-10,109 or a recognized veterans organization as defined in section 80-401.01, the number of cash devices it takes to generate forty percent of the gross operating revenue of the retail establishment; or

(B) Four cash devices, except that an establishment with over four thousand square feet may have one cash device for each one thousand square feet, up to a maximum of fifteen cash devices.

(c) The distributor or operator of a cash device shall pay an annual decal fee of two hundred fifty dollars to the department for each cash device in operation in Nebraska. The decal issued under this section shall be distinct from other decals issued by the department for mechanical amusement devices that are not required to be evaluated under this section. Regardless of the issuance of a decal by the department, no cash device shall be considered in compliance if it does not bear an unexpired decal in a conspicuous place.

(9) The application process described in this section shall not be construed to limit further investigation by the department or the issuance of further regula-

tions to promote compliance after the application process is completed. At any point after a determination of skill by the department, the department may request from the manufacturer, distributor, or operator information about any cash device in operation in this state, including, but not limited to, information regarding currently operable source code, changes to software or hardware, and communications from or to the device over the Internet. A manufacturer, distributor, or operator that receives a request shall respond with all responsive information in its possession or control within fifteen business days.

(10) If a manufacturer or distributor receives a determination from the department that a cash device is not in compliance with the Mechanical Amusement Device Tax Act, such manufacturer or distributor shall have thirty days after the issuance of that determination to remove any such cash device from operation in Nebraska.

(11) Application fees collected under subsection (2) of this section and annual decal fees collected under subsection (8) of this section shall be remitted to the State Treasurer for credit to the Department of Revenue Enforcement Fund.

Source: Laws 2019, LB538, § 3; Laws 2024, LB685, § 8.
Effective date July 19, 2024.

Cross References

Administrative Procedure Act, see section 84-920.
Nebraska Bingo Act, see section 9-201.
Nebraska County and City Lottery Act, see section 9-601.
Nebraska Lottery and Raffle Act, see section 9-401.
Nebraska Pickle Card Lottery Act, see section 9-301.
Nebraska Racetrack Gaming Act, see section 9-1101.
Nebraska Small Lottery and Raffle Act, see section 9-501.
State Lottery Act, see section 9-801.

77-3003.02 Operation of cash device; restrictions; requirements; licensee; disciplinary action.

(1) No cash device shall be operated using a credit card, charge card, or debit card. No person under twenty-one years of age shall play or participate in any way in the operation of a cash device. No distributor, operator, or employee or agent of any distributor or operator shall knowingly permit any individual under twenty-one years of age to play or participate in any way in the operation of a cash device. The distributor, operator, or employee or agent shall verify the age of any individual requesting to play a cash device.

(2) No distributor or operator shall charge a fee or require a gratuity in return for the payment of any prize money won by a player of a cash device.

(3) The Tax Commissioner has the authority to suspend or revoke the license of any distributor or operator of a cash device for a violation of this section.

(4) The department shall adopt and promulgate rules and regulations for the implementation and enforcement of this section as long as such rules and regulations do not restrict how a cash device manufacturer, distributor, or operator markets or advertises the existence of a cash device, unless the advertiser or marketer of a cash device is willfully conflating the cash device play with casino-style gambling or slot machine wagering.

Source: Laws 2019, LB538, § 4; Laws 2024, LB685, § 9.
Effective date July 19, 2024.

77-3003.03 Manufacturer; license; application; limitations; fee; background check; cause for denial; disciplinary action.

(1) A manufacturer of a cash device shall be required to procure an annual license from the Tax Commissioner permitting such manufacturer to place any cash devices in the State of Nebraska for sale, lease, or distribution through a third party. The Tax Commissioner, upon the application of any person, may issue a license subject to the same limitations as an operator's license under section 77-3002. If the applicant is an individual, the application shall include the applicant's social security number. The license fee for a manufacturer of a cash device shall be five thousand dollars.

(2)(a) Each applicant for a license as a manufacturer of a cash device shall be subject to a one-time background check by the department prior to the issuance of a license. An applicant shall pay the costs associated with the background check and any required fees as determined by the department.

(b) The Tax Commissioner has the authority to deny a license for a manufacturer of a cash device for cause. Cause for denial of a license application includes instances in which the applicant individually, or in the case of a business entity, any officer, director, employee, or limited liability company member of the applicant or licensee other than an employee whose duties are purely ministerial in nature:

(i) Violated the provisions, requirements, conditions, limitations, or duties imposed by the Mechanical Amusement Device Tax Act or any rules or regulations adopted and promulgated pursuant to the act;

(ii) Knowingly caused, aided, abetted, or conspired with another to cause any person to violate any of the provisions of the act or any rules or regulations adopted and promulgated pursuant to the act;

(iii) Obtained a license or permit under the act by fraud, misrepresentation, or concealment;

(iv) Has been convicted of, forfeited bond upon a charge of, or pleaded guilty or nolo contendere to any offense or crime, whether a felony or a misdemeanor, involving any gambling activity or fraud, theft, willful failure to make required payments or reports, or filing false reports with a governmental agency at any level;

(v) Denied the department or its authorized representatives, including authorized law enforcement agencies, access to any place where activity required to be licensed under the act is being conducted or failed to produce for inspection or audit any book, record, document, or item required by law, rule, or regulation;

(vi) Made a misrepresentation of or failed to disclose a material fact to the department;

(vii) Failed to prove by clear and convincing evidence such applicant's qualifications to be licensed in accordance with the act;

(viii) Failed to pay any taxes and additions to taxes, including penalties and interest required by the act or any other taxes imposed pursuant to the Nebraska Revenue Act of 1967; or

(ix) Has been cited for a violation of the Nebraska Liquor Control Act and had a liquor license suspended, canceled, or revoked by the Nebraska Liquor Control Commission for illegal gambling activities on or about the premises

licensed by the commission pursuant to the Nebraska Liquor Control Act or the rules and regulations adopted and promulgated pursuant to such act.

(c) No renewal of a license pursuant to this section shall be issued when the applicant for renewal would not be eligible for a license upon a first application.

(3) The Tax Commissioner has the authority to suspend or revoke the license of any manufacturer of a cash device that is in violation of the Mechanical Amusement Device Tax Act.

Source: Laws 2024, LB685, § 7.
Effective date July 19, 2024.

Cross References

Nebraska Liquor Control Act, see section 53-101.
Nebraska Revenue Act of 1967, see section 77-2701.

77-3004 Mechanical amusement device; not cash devices; occupation tax; amount; payment.

(1) An occupation tax is hereby imposed and levied, in the amount and in accordance with the terms and conditions stated in this section, upon the business of operating mechanical amusement devices that are not cash devices within the State of Nebraska for profit or gain either directly or indirectly received. Every person who now or hereafter engages in the business of operating such mechanical amusement devices that are not cash devices in the State of Nebraska shall pay such occupation tax in the amount and manner specified in this section.

(2) Any distributor or operator of a mechanical amusement device that is not a cash device within the State of Nebraska shall pay an occupation tax for each such mechanical amusement device which he or she places into operation during all of the taxable year. The occupation tax shall be due and payable on January 1 of each year on each mechanical amusement device that is not a cash device in operation on that date, except that it shall be unlawful to pay any such occupation tax unless the sales or use tax has been paid on such mechanical amusement devices. For every mechanical amusement device that is not a cash device put into operation on a date subsequent to January 1, and which has not been included in computing the occupation tax imposed and levied by the Mechanical Amusement Device Tax Act, the occupation tax shall be due and payable therefor prior to the time the mechanical amusement device is placed in operation. All occupation taxes collected pursuant to the act shall be remitted to the State Treasurer for credit to the General Fund.

(3) The amount of the occupation tax shall be thirty-five dollars for each mechanical amusement device that is not a cash device for any period beginning on or after January 1, 2000, except that for such mechanical amusement devices placed in operation after July 1, and before January 1 of each year, the occupation tax shall be twenty dollars for each mechanical amusement device.

Source: Laws 1969, c. 635, § 4, p. 2543; Laws 1977, LB 353, § 2; Laws 1982, LB 928, § 69; Laws 1997, LB 317, § 4; Laws 2024, LB685, § 10.
Effective date July 19, 2024.

77-3005 Occupation tax; addition to other taxes and fees; political subdivision; tax on mechanical amusement devices; prohibited.

(1) The occupation tax levied and imposed by the Mechanical Amusement Device Tax Act shall be in addition to any and all taxes or fees, of any form whatsoever, now imposed by the State of Nebraska upon the business of operating or distributing mechanical amusement devices, except that payment of the tax and license fees due and owing on or before the licensing date of each year shall exempt any such mechanical amusement device from the application of the sales tax which would or could otherwise be imposed under the Nebraska Revenue Act of 1967. Nonpayment of the taxes or fees due and owing on or before the licensing date of each year shall render the exemption provided by this section inapplicable, and the particular mechanical amusement devices shall then be subject to all the provisions of the Nebraska Revenue Act of 1967, including the penalty provisions pertaining to the distributor or operator of such mechanical amusement devices.

(2) No political subdivision of the State of Nebraska shall levy or impose any tax on mechanical amusement devices in addition to the taxes imposed by the Mechanical Amusement Device Tax Act.

Source: Laws 1969, c. 635, § 5, p. 2543; Laws 1997, LB 317, § 5; Laws 2024, LB685, § 11.
Effective date July 19, 2024.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

77-3006 Tax Commissioner; administration of act; department; powers and duties.

(1) The administration of the Mechanical Amusement Device Tax Act is hereby vested in the Tax Commissioner subject to other provisions of law relating to the Tax Commissioner. The Tax Commissioner may prescribe, adopt and promulgate, and enforce rules and regulations relating to the administration and enforcement of the act and may delegate authority to his or her representatives to conduct hearings or perform any other duties imposed under the act. The Tax Commissioner may adopt and promulgate rules and regulations necessary to carry out section 77-3003.01.

(2) The department has the authority to review all documents between a distributor, manufacturer, and operator regarding a cash device. Such documents shall include, but not be limited to, a contract, agreement, lease, revenue-sharing agreement, profit-sharing document, annual report, tax filing, or bill of sale.

(3) The department has the authority to approve all cash device locations across the state. No cash device shall be moved from such cash device's approved location without the prior approval of the department.

(4) The department shall establish retail establishment location standards required for the placement of any cash device in this state.

(5) The following factors shall be considered for the issuance of a license to operate a cash device at a particular retail establishment location:

(a) Whether there are physical walls separating a retail establishment operating a cash device from other businesses located in the same building;

(b) Whether there are dedicated entrances and exits to the retail establishment;

(c) Whether a separate sales tax permit has been obtained by the retail establishment;

(d) Whether the retail establishment has separate points of sale;

(e) Whether the retail establishment has separate points of ticket redemption;

(f) Whether there is diversity of merchandise for sale in the retail establishment;

(g) Whether the retail establishment issues a receipt for sales;

(h) The number of dedicated employees on duty at the same time at the retail establishment;

(i) The level of business activity being conducted in the retail establishment;

(j) Whether the physical space for the retail establishment within the building is contiguous to other businesses; and

(k) Whether there are distinct owners or officers of the retail establishment within the shared building.

Source: Laws 1969, c. 635, § 6, p. 2544; Laws 2019, LB538, § 5; Laws 2024, LB685, § 12.
Effective date July 19, 2024.

77-3007 Occupation tax; payment; decal; form; display.

(1) The payment of the occupation tax imposed by the Mechanical Amusement Device Tax Act shall be evidenced by a separate decal for each mechanical amusement device signifying payment of the tax, in a form prescribed by the Tax Commissioner.

(2) Every distributor or operator shall place such decal in a conspicuous place on each mechanical amusement device to denote payment of the tax for each device for the current year.

Source: Laws 1969, c. 635, § 7, p. 2544; Laws 1977, LB 353, § 3; Laws 2019, LB538, § 6; Laws 2024, LB685, § 13.
Effective date July 19, 2024.

77-3008 Income tax, occupation tax, net operating revenue tax; distributor, operator, manufacturer; payment required, when; cash device prize; form for player, conditions.

(1) Each distributor of a cash device shall pay taxes owed quarterly to be filed January 1, April 1, June 1, and October 1 of each calendar year. Such taxes required to be paid shall include income tax, occupation tax, and net operating revenue tax.

(2)(a) Each operator of a cash device shall pay income taxes on income generated by such cash device quarterly to be filed January 1, April 1, June 1, and October 1 of each calendar year.

(b) Each operator of a cash device shall pay occupation tax and net operating revenue tax for such cash device quarterly to be filed January 1, April 1, June 1, and October 1 of each calendar year if the operator is not subject to a revenue-sharing or other agreement with a distributor who is paying such taxes pursuant to subsection (1) of this section.

(3) Each distributor, operator, or employee or agent of any distributor or operator of a cash device shall provide an Internal Revenue Service Form 1099

to each player that wins a prize in excess of one thousand one hundred ninety-nine dollars from a cash device placed into operation by such distributor or operator. The department shall make this form available on the department's website.

(4) A distributor or manufacturer located outside the State of Nebraska shall pay income taxes in Nebraska on all income earned in Nebraska.

Source: Laws 1969, c. 635, § 8, p. 2545; Laws 2019, LB538, § 7; Laws 2024, LB685, § 14.
Effective date July 19, 2024.

77-3009 Violations; penalties.

(1) Any distributor or operator who places a cash device into operation in the State of Nebraska without the necessary decal being placed conspicuously upon it or without having obtained the necessary license shall be subject to an administrative penalty of up to one thousand dollars per day for each unlicensed cash device.

(2) Any cash device which does not have the necessary decal conspicuously displayed upon it shall be subject to being sealed by the Tax Commissioner or his or her delegate. If such seal is broken prior to payment of the occupation tax upon such cash device, the cash device shall be subject to forfeiture and sale by the Tax Commissioner.

(3) Any person violating the Mechanical Amusement Device Tax Act shall be guilty of a Class II misdemeanor. Each day on which any person engages in or conducts the business of operating or distributing the mechanical amusement devices subject to the Mechanical Amusement Device Tax Act, without having paid the tax or obtained the required license as provided, shall constitute a separate offense.

(4) The department has the authority to levy an administrative penalty of up to one thousand dollars per day for any other violation of the act.

Source: Laws 1969, c. 635, § 9, p. 2545; Laws 1977, LB 39, § 245; Laws 1977, LB 353, § 4; Laws 1979, LB 4, § 7; Laws 1997, LB 317, § 6; Laws 2024, LB685, § 15.
Effective date July 19, 2024.

77-3010 Violations; prosecution; limitation.

Prosecutions for any violations of the Mechanical Amusement Device Tax Act shall be brought by the Attorney General or county attorney in the county in which the violation occurs. Any prosecution for the violation of any of the provisions of the act shall be instituted within three years after the commission of the offense.

Source: Laws 1969, c. 635, § 10, p. 2545; Laws 2019, LB538, § 8.

77-3011 Act, how cited.

Sections 77-3001 to 77-3014 shall be known and may be cited as the Mechanical Amusement Device Tax Act.

Source: Laws 1969, c. 635, § 11, p. 2545; Laws 2019, LB538, § 9; Laws 2024, LB685, § 18; Laws 2024, LB1317, § 88.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB685, section 18, with LB1317, section 88, to reflect all amendments.

Note: Changes made by LB685 became effective July 19, 2024. Changes made by LB1317 became operative July 19, 2024.

77-3012 Net operating revenue; taxation; amount; manner; distribution.

(1) Except as otherwise provided in subsection (5) of this section, a tax is hereby imposed and levied, in the amount and in accordance with this section, upon the net operating revenue of all cash devices operating within the State of Nebraska for profit or gain either directly or indirectly received. The tax shall be paid in the amount and manner specified in this section.

(2) Except as otherwise provided in subsection (5) of this section, beginning on and after July 1, 2025, any distributor of a cash device, and any operator of a cash device if the operator is not subject to a revenue-sharing or other agreement with a distributor who is paying the tax, shall pay a tax for each cash device in operation each calendar quarter during the taxable year. The tax shall be collected by the department and due and payable on January 1, April 1, July 1, and October 1 of each year on each cash device in operation during the preceding calendar quarter. For each cash device put into operation on a date subsequent to a quarterly due date that has not been included in computing the tax imposed and levied by the Mechanical Amusement Device Tax Act, the tax shall be due and payable on the immediately succeeding quarterly due date.

(3) The amount of the tax imposed and levied under this section shall be five percent of the net operating revenue for each cash device. The quarterly tax shall be submitted on a form prescribed by the Tax Commissioner documenting the total gross and net operating revenue for that quarter.

(4) The Tax Commissioner shall remit the taxes collected pursuant to this section to the State Treasurer for credit as follows:

(a) Twenty percent to the Charitable Gaming Operations Fund for enforcement of the act and maintenance of the central server;

(b) Two and one-half percent to the Compulsive Gamblers Assistance Fund;

(c) Two and one-half percent to the General Fund;

(d) Ten percent to the Nebraska Tourism Commission Promotional Cash Fund;

(e) Forty percent to the Property Tax Credit Cash Fund; and

(f) The remaining twenty-five percent to the county treasurer of the county in which the cash device is located to be distributed as follows: (i) If the cash device is located completely within an unincorporated area of a county, the remaining twenty-five percent shall be distributed to the county in which the cash device is located, or (ii) if the cash device is located within the limits of a city or village in such county, one-half of the remaining twenty-five percent shall be distributed to such county and one-half of the remaining twenty-five percent shall be distributed to the city or village in which such cash device is located.

(5) This section does not apply to cash devices operated by a fraternal benefit society organized and licensed under sections 44-1072 to 44-10,109 or a recognized veterans organization as defined in section 80-401.01.

Source: Laws 2024, LB685, § 17.
Effective date July 19, 2024.

77-3013 Central server.

(1) The Tax Commissioner shall establish a central server for purposes of receiving data and accurate revenue and income reporting from cash devices across the State of Nebraska. Such central server shall be in place and operational within one year after July 19, 2024.

(2) Once the central server is operational, each cash device in the State of Nebraska shall be connected at all times to the central server operated by the department. Such central server shall report data including sales, transactions, prizes won and paid, duration of play or transactions, hours of operation, and any other requirements established by the department through adoption and promulgation of rules and regulations to enforce and implement the Mechanical Amusement Device Tax Act.

Source: Laws 2024, LB685, § 16.
Effective date July 19, 2024.

77-3014 Manufacturer; cash device winnings; duty to check collection system.

Beginning on the implementation date designated by the Tax Commissioner pursuant to subsection (2) of section 9-1312, prior to the winnings payment of any cash device winnings as defined in section 9-1303, a manufacturer of a cash device that makes winnings payments shall check the collection system to determine if the winner has a debt or an outstanding state tax liability as required by the Gambling Winnings Setoff for Outstanding Debt Act. If such manufacturer determines that the winner is subject to the collection system, the manufacturer shall deduct the amount of debt and outstanding state tax liability identified in the collection system from the winnings payment and shall remit the net winnings payment of cash device winnings, if any, to the winner and the amount deducted to the Department of Revenue to be credited against such debt or outstanding state tax liability as provided in section 9-1306.

Source: Laws 2024, LB1317, § 89.
Operative date July 19, 2024.

Cross References

Gambling Winnings Setoff for Outstanding Debt Act, see section 9-1301.

ARTICLE 31

MISCELLANEOUS INCOME TAX CREDITS

(a) VOLUNTEER EMERGENCY RESPONDERS INCENTIVE ACT

Section
77-3104. Certification administrator; designation; duties; notice to volunteer member; written certification.
77-3105. Certification administrator; certified list of volunteer members; duties; income tax credit.

(b) RELOCATION INCENTIVE ACT

77-3107. Relocation Incentive Act, how cited.
77-3108. Terms, defined.
77-3109. Tax credit; eligibility; amount; recapture; when; application; approval; claiming credit; procedure.
77-3110. Tax credit; annual limit.
77-3111. Qualifying employee; exclusion of wage income; conditions; recapture; when.
77-3112. Rules and regulations.

Section

(c) CREATING HIGH IMPACT ECONOMIC FUTURES ACT

(d) CAST AND CREW NEBRASKA ACT

(e) NEBRASKA SHORTLINE RAIL MODERNIZATION ACT

(f) NEBRASKA PREGNANCY HELP ACT

(g) INDIVIDUALS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES SUPPORT ACT

(a) VOLUNTEER EMERGENCY RESPONDERS INCENTIVE ACT

77-3104 Certification administrator; designation; duties; notice to volunteer member; written certification.

(1) Each volunteer department serving a county, city, village, or rural or suburban fire protection district shall designate one member of the department to serve as the certification administrator. The designation of such individual as the certification administrator shall be confirmed and approved by the governing body of such county, city, village, or rural or suburban fire protection district. The certification administrator shall keep and maintain records on the activities of all volunteer members and award points for such activities based upon the standard criteria for qualified active service.

(2) No later than July 15 of each year, the certification administrator shall provide each volunteer member with notice of the total points he or she has accumulated during the first six months of the current calendar year of service.

(3) No later than February 1 of each year, the certification administrator shall provide each volunteer member with a written certification stating the total number of points accumulated by the volunteer member during the immediately preceding calendar year of service and whether the volunteer member has qualified as an active emergency responder, active rescue squad member, or active volunteer firefighter for such year. Such certification may be sent electronically or by mail.

Source: Laws 2016, LB886, § 4; Laws 2018, LB760, § 4; Laws 2019, LB222, § 1.

77-3105 Certification administrator; certified list of volunteer members; duties; income tax credit.

(1) The certification administrator of the volunteer department shall file with the Department of Revenue a certified list of those volunteer members who have qualified as active emergency responders, active rescue squad members, or active volunteer firefighters for the immediately preceding calendar year of service no later than February 15. The certification administrator shall also send a copy of such certified list to the governing body of the county, city, village, or rural or suburban fire protection district. Such copy may be sent electronically or by mail.

(2) Each volunteer member on the list described in subsection (1) of this section shall receive a refundable credit against the income tax imposed by the Nebraska Revenue Act of 1967 in an amount equal to two hundred fifty dollars beginning with the second taxable year in which such volunteer member is included on such list. The volunteer member shall claim the credit by including a copy of the certification received under subsection (3) of section 77-3104 with the volunteer member's state income tax return.

Source: Laws 2016, LB886, § 5; Laws 2018, LB760, § 5; Laws 2019, LB222, § 2.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

(b) RELOCATION INCENTIVE ACT

77-3107 Relocation Incentive Act, how cited.

Sections 77-3107 to 77-3112 shall be known and may be cited as the Relocation Incentive Act.

Source: Laws 2024, LB1023, § 1.
Operative date July 19, 2024.

77-3108 Terms, defined.

For purposes of the Relocation Incentive Act:

(1) Department means the Department of Revenue; and

(2) Qualifying employee means an individual who moves to the State of Nebraska for the purpose of accepting a position of employment.

Source: Laws 2024, LB1023, § 2.
Operative date July 19, 2024.

77-3109 Tax credit; eligibility; amount; recapture; when; application; approval; claiming credit; procedure.

(1) For taxable years beginning or deemed to begin on or after January 1, 2025, under the Internal Revenue Code of 1986, as amended, an employer that pays relocation expenses for a qualifying employee shall be eligible to receive a credit that may be used to offset any income taxes due under the Nebraska Revenue Act of 1967, any premium and related retaliatory taxes due under section 44-150, 77-908, or 81-523, or any franchise taxes due under sections 77-3801 to 77-3807.

(2) The credit provided in this section shall be a refundable credit in an amount equal to fifty percent of the relocation expenses that were paid by the employer for a qualifying employee during the taxable year, not to exceed a maximum credit of five thousand dollars per qualifying employee.

(3) No credit shall be granted under this section unless the qualifying employee will receive an annual salary of at least seventy thousand dollars per year and not more than two hundred fifty thousand dollars per year.

(4) Any credit claimed by an employer under this section shall be recaptured by the department if the qualifying employee moves out of the state within two years after the credit is claimed. Any amount required to be recaptured shall be

deemed an underpayment of tax and shall be due and payable on the tax return that is due immediately following the loss of residency.

(5) Notwithstanding any other limitation contained in the laws of this state, collection of any taxes deemed to be an underpayment by this section shall be allowed for a period of three years following the due date of the recaptured taxes.

(6) For taxable years beginning or deemed to begin on or after January 1, 2026, under the Internal Revenue Code of 1986, as amended, the department shall adjust the dollar amounts provided in subsection (3) of this section by the same percentage used to adjust individual income tax brackets under subsection (3) of section 77-2715.03.

(7) An employer shall apply for the credit provided in this section by submitting an application to the department on a form prescribed by the department. Subject to subsection (8) of this section, if the department determines that the employer qualifies for tax credits under this section, the department shall approve the application and certify the amount of credits approved to the employer.

(8) The department shall consider applications in the order in which they are received and may approve tax credits under this section in any year until the aggregate limit allowed under section 77-3110 has been reached.

(9) An employer shall claim any tax credits granted under this section by attaching the tax credit certification received from the department under subsection (7) of this section to the employer's tax return.

(10) An employer claiming a tax credit under the Relocation Incentive Act against any premium and related retaliatory taxes due under section 44-150, 77-908, or 81-523 shall not be required to pay any additional retaliatory tax as a result of claiming the tax credit. The tax credit may fully offset any retaliatory tax imposed under Nebraska law. Any tax credit claimed shall be considered a payment of tax for purposes of subsection (1) of section 77-2734.03.

Source: Laws 2024, LB1023, § 3.
Operative date July 19, 2024.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

77-3110 Tax credit; annual limit.

The department may approve tax credits under the Relocation Incentive Act each year until the total amount of credits approved for the year reaches five million dollars.

Source: Laws 2024, LB1023, § 4.
Operative date July 19, 2024.

77-3111 Qualifying employee; exclusion of wage income; conditions; recapture; when.

(1) For taxable years beginning or deemed to begin on or after January 1, 2025, under the Internal Revenue Code of 1986, as amended, a qualifying employee shall be eligible to make a one-time election within two calendar years of becoming a Nebraska resident to exclude all Nebraska-sourced wage income earned and received from an employer, to the extent included in federal

adjusted gross income, if (a) the annual Nebraska-sourced wage income of the position accepted by the qualifying employee is at least seventy thousand dollars per year but not more than two hundred fifty thousand dollars per year and (b) the qualifying employee was not a resident of the state in the year prior to the year in which residency is being claimed for purposes of qualifying for such exclusion.

(2) For any qualifying employee who fails to maintain residency for two full calendar years following the calendar year in which the exclusion was taken, any reduction in tax as a result of such exclusion shall be fully recaptured from the qualifying employee by the department. The amount required to be recaptured shall be deemed an underpayment of tax and shall be due and payable on the tax return that is due immediately following the loss of residency.

(3) Notwithstanding any other limitation contained in the laws of this state, collection of any taxes deemed to be an underpayment by this section shall be allowed for a period of three years following the due date of the recaptured taxes.

(4) For taxable years beginning or deemed to begin on or after January 1, 2026, under the Internal Revenue Code of 1986, as amended, the department shall adjust the dollar amounts provided in subsection (1) of this section by the same percentage used to adjust individual income tax brackets under subsection (3) of section 77-2715.03.

Source: Laws 2024, LB1023, § 5.
Operative date July 19, 2024.

77-3112 Rules and regulations.

The department may adopt and promulgate rules and regulations to carry out the Relocation Incentive Act.

Source: Laws 2024, LB1023, § 6.
Operative date July 19, 2024.

(c) CREATING HIGH IMPACT ECONOMIC FUTURES ACT

77-3113 Creating High Impact Economic Futures Act, how cited.

Sections 77-3113 to 77-3120 shall be known and may be cited as the Creating High Impact Economic Futures Act and may also be referred to as the CHIEF Act.

Source: Laws 1984, LB 372, § 1; R.S.1943, (2022), § 13-201; Laws 2024, LB1344, § 1.
Operative date January 1, 2025.

77-3114 Legislative findings.

The Legislature hereby finds that areas of chronic economic distress in the State of Nebraska are a detriment to the economic well-being, health, and safety of the citizens of Nebraska. The Legislature further contends that current governmental solutions have not been able to completely resolve certain problems such as overcrowding, unemployment, and poor health and sanitary conditions in a community which lead to further deterioration. Such problems cannot be remedied by the government alone, but can be alleviated through a partnership between the government and private enterprise. It is therefor

declared to be public policy in this state to encourage contributions by business firms and individuals that offer and provide community and neighborhood assistance and community services.

Source: Laws 1984, LB 372, § 2; Laws 2005, LB 334, § 1; R.S.1943, (2022), § 13-202.

77-3115 Terms, defined.

For purposes of the Creating High Impact Economic Futures Act, unless the context otherwise requires:

(1) Accelerator program means a program that (a) provides education and mentorship lasting no more than twenty-four months for early-stage technology companies that have been recruited to a location in this state and (b) has a defined curriculum and mentorship component designed to accelerate a technology company's development and growth;

(2) Agribusiness or agricultural business entity means any person, partnership, limited partnership, corporation, limited liability company, or other entity engaged in a business that processes raw agricultural products, including, but not limited to, corn, or that provides value-added functions with regard to raw agricultural products;

(3) Area of chronic economic distress means an area of the state which meets any of the following conditions:

(a) An unemployment rate which exceeds the statewide average unemployment rate;

(b) A per capita income below the statewide average per capita income; or

(c) A population loss between the two most recent federal decennial censuses;

(4) Business firm means any business entity, including a corporation, a fiduciary, a sole proprietorship, a partnership, a limited liability company, a corporation having an election in effect under Chapter 1, subchapter S of the Internal Revenue Code, as defined in section 49-801.01, subject to the state income tax imposed by section 77-2715 or 77-2734.02, an insurance company paying premium or related retaliatory taxes in this state pursuant to section 44-150 or 77-908, or a financial institution paying the tax imposed pursuant to sections 77-3801 to 77-3807;

(5) Community betterment organization means any:

(a) Organization performing eligible activities in a community development area and to which contributions are tax deductible under the provisions of the Internal Revenue Service of the United States Department of the Treasury;

(b) County, city, or village performing eligible activities;

(c) Inland port authority created pursuant to the Municipal Inland Port Authority Act;

(d) Agribusiness or agricultural business entity; or

(e) Organization designated as an iHub under the Nebraska Innovation Hub Act in a community development area;

(6) Community development area means any:

(a) Village, city, county, unincorporated area of a county, or census tract which has been designated by the department as an area of chronic economic distress;

(b) Economic redevelopment area as defined in section 77-6906;

(c) Enterprise zone designated pursuant to the Enterprise Zone Act;

(d) Qualified census tract in Nebraska as defined in 26 U.S.C. 42(d)(5)(B)(ii)(I), as such section existed on January 1, 2024;

(e) County with a population of less than ten thousand inhabitants; or

(f) Inland port district created pursuant to the Municipal Inland Port Authority Act;

(7) Department means the Department of Economic Development;

(8) Eligible activities include: (a) Employment training; (b) operations of any inland port authority created under the Municipal Inland Port Authority Act; (c) medical services; (d) operation of an agribusiness or agricultural business entity; (e) recreational services or activities, including, but not limited to, operations for a sports complex or sports venue as defined in section 13-3102; (f) home improvement services and programs; (g) crime prevention activities, including, but not limited to, (i) mental health counseling and advice, (ii) community, youth, and senior citizen centers, and (iii) any legal enterprise which aids in the prevention or reduction of crime; (h) construction or operation of intermodal facilities or a shovel-ready site owned by the qualifying organization or by a city or village in this state; (i) creation or operation of an accelerator program for technology companies; or (j) operations of an iHub;

(9) Inland port authority has the same meaning as in section 13-3303;

(10) Inland port district has the same meaning as in section 13-3303; and

(11) Innovation hub or iHub has the same meaning as in section 81-12,108.

Source: Laws 1984, LB 372, § 3; Laws 1985, LB 344, § 1; Laws 1986, LB 1114, § 1; Laws 1987, LB 302, § 1; Laws 1990, LB 1241, § 1; Laws 1991, LB 284, § 1; Laws 1993, LB 121, § 128; Laws 1995, LB 574, § 15; Laws 2001, LB 300, § 2; Laws 2006, LB 1003, § 1; R.S.1943, (2022), § 13-203; Laws 2024, LB1344, § 2.
Operative date January 1, 2025.

Cross References

Enterprise Zone Act, see section 13-2101.01.
Municipal Inland Port Authority Act, see section 13-3301.
Nebraska Innovation Hub Act, see section 81-12,106.

77-3116 Community betterment organization; program or project; tax credit status.

Any community betterment organization which provides eligible activities in a community development area may apply any time during the fiscal year to the department to have one or more programs or projects certified for tax credit status as provided in sections 77-3117 to 77-3120. The proposal shall set forth the program or project to be conducted, the community development area, the estimated amount to be required for completion of the program or project or the annual estimated amount required for an ongoing program or project, the plans for implementing the program or project, and the amount of contributions committed or anticipated for such activities or services.

Source: Laws 1984, LB 372, § 4; Laws 1991, LB 284, § 2; Laws 2005, LB 334, § 2; R.S.1943, (2022), § 13-204; Laws 2024, LB1344, § 3.
Operative date January 1, 2025.

77-3117 Program or project; proposal; contents; department; review; evaluation.

(1) A proposal submitted to the department shall only include all of the following:

(a) A description of the program or project to be conducted, including the eligible activities that will be provided as a result of the program or project;

(b) A description of the community development area, including the geographical location and boundaries of the community development area;

(c) The estimated amount to be required for completion of the program or project, including (i) a proposed budget for the program or project with information on personnel and administrative overhead costs, (ii) the amount of tax credits requested for the year of application, and (iii) the amount of contributions pledged or anticipated from individuals or business firms eligible for tax credits as well as other sources of funding for the program or project;

(d) The annual estimated amount required for an ongoing program or project, including a proposed annual budget with information on personnel and administrative overhead costs, and the amount of tax credits anticipated to be sought in future years;

(e) A description of the community betterment organization's plans and capacity for implementing the program or project and continuing the program or project;

(f) Documentation that the proposal is supported by the appropriate subdivision of local government, including any letters of support on the proposal provided by such subdivision of local government, and information regarding whether the proposal is consistent with any community development plan that may exist for the area in which the community betterment organization will provide eligible activities; and

(g) If the community betterment organization is recognized by the Internal Revenue Service of the United States Department of the Treasury as an organization to which contributions are tax deductible, documentation of such recognition.

(2) The department shall review all proposals based on the following criteria:

(a) The extent to which the proposed program or project will create or maintain jobs, provide youth sport participation, stimulate economic development, or provide an economic benefit to the community development area;

(b) A demonstrated capacity and performance of the community betterment organization to execute the proposed program or project;

(c) The involvement of residents and community support of the affected area in the planning of the proposed program or project and the extent to which they will be involved in its implementation;

(d) The extent to which private sector contributions have been committed to the proposed program or project, contingent upon approval of the program or project by the department; and

(e) Documentation that the proposed program or project is supported by the appropriate subdivision of local government, including any letters of support provided by such subdivision of local government, and information regarding whether the proposed program or project is consistent with any community

development plan that may exist for the area in which the community betterment organization will provide eligible activities.

(3) Proposals submitted subsequent to the first year shall be evaluated on performance of the prior year's program or project, other resources developed, and continued need.

Source: Laws 1984, LB 372, § 5; Laws 1991, LB 284, § 3; R.S.1943, (2022), § 13-205; Laws 2024, LB1344, § 4.
Operative date January 1, 2025.

77-3118 Tax credits; allowance; manner.

(1) The tax credits provided for in sections 77-3117 to 77-3120 shall be available for contributions to a certified program or project which may qualify as a charitable contribution deduction on the federal income tax return filed by the business firm or individual making such contribution. The maximum tax credit allowance approved by the department shall be final for the fiscal year in which the program or project is certified. A copy of all decisions shall be transmitted to the Tax Commissioner. A copy of all credits allowed to business firms under sections 44-150 and 77-908 shall be transmitted to the Director of Insurance.

(2) For all business firms and individuals eligible for the credit allowed by section 77-3119, except for insurance companies paying premium and related retaliatory taxes in this state pursuant to section 44-150 or 77-908, the Tax Commissioner shall provide for the manner in which the credit allowed by section 77-3119 shall be taken and the forms on which such credit shall be allowed. The Tax Commissioner shall adopt and promulgate rules and regulations for the method of providing tax credits. The Director of Insurance shall provide for the manner in which the credit allowed by section 77-3119 to insurance companies paying premium and related retaliatory taxes in this state pursuant to sections 44-150 and 77-908 shall be taken and the forms on which such credit shall be allowed. The Director of Insurance may adopt and promulgate rules and regulations for the method of providing the tax credit. The Tax Commissioner shall allow against any income tax due from the insurance companies paying premium and related retaliatory taxes in this state pursuant to section 44-150 or 77-908 a credit for the credit provided by section 77-3119 and allowed by the Director of Insurance.

(3) The decision of the department to approve or disapprove all or any portion of a proposal or certify a program or project for a designated amount of tax credits shall be provided in writing within forty-five days after receipt of a complete application. If the program or project is approved or certified for a designated amount of tax credits, the department shall prepare and transmit a written agreement to the community betterment organization. The date the written agreement is fully executed by the community betterment organization and the department shall be the date from which contributions may be made to the approved program or project.

(4) Documentation evidencing contributions made to programs or projects certified for tax credit status by the department shall be submitted to the department. The department may request additional documentation as the facts and circumstances may require, or to substantiate the value of the contribution, but documentation shall generally be as follows:

(a) Cash contributions may be shown by a photocopy of both sides of the canceled check or by proof of electronic funds transfer that includes documentation from the bank account of origin and destination. Checks shall be made payable to the community betterment organization and noted specifically for that program or project, and electronic funds transfers shall be transferred into the community betterment organization's bank account for the program or project certified for tax credit status by the department;

(b) Real property contributions may be shown by the deed and documentation of at least one independent appraisal of the real property by a real property appraiser credentialed under the Real Property Appraiser Act;

(c) Contributions of equipment or supplies may be shown by copies of invoices signed by both the contributor and the community betterment organization receiving the equipment or supplies;

(d) Stock contributions shall be converted into cash before the community betterment organization receives the donation. Stock contributions may be shown as cash contributions; and

(e) Other contributions may be shown by affidavit or by other signed statement deemed acceptable by the department that identifies the contribution, the value of the contribution, and how the value was determined along with other information as may be requested by the department for the particular situation.

(5) The value of eligible contributions made to community betterment organizations for programs or projects certified for tax credit status by the department shall be determined based upon the valuation of charitable contributions for federal income tax purposes established by the Internal Revenue Service of the United States Department of the Treasury.

Source: Laws 1984, LB 372, § 6; Laws 1986, LB 1114, § 2; Laws 1987, LB 302, § 2; Laws 1990, LB 1241, § 2; Laws 2001, LB 300, § 3; Laws 2005, LB 334, § 3; Laws 2008, LB855, § 1; R.S.1943, (2022), § 13-206; Laws 2024, LB1344, § 5.
Operative date January 1, 2025.

Cross References

Real Property Appraiser Act, see section 76-2201.

77-3119 Tax credit; eligibility; amount; nonrefundable.

(1) An individual taxpayer who makes one or more contributions to one or more programs or projects certified for tax credit status during a tax year shall be eligible for a tax credit under the Creating High Impact Economic Futures Act. The amount of the credit shall be equal to one hundred percent of the total amount of such contributions made during the tax year.

(2) Taxpayers who are married but file separate returns for a tax year in which they could have filed a joint return may each claim fifty percent of the tax credit that would otherwise have been allowed for a joint return.

(3) Any partnership, limited liability company, or corporation having an election in effect under subchapter S of the Internal Revenue Code of 1986, as amended, that makes one or more contributions to one or more programs or projects certified for tax credit status during a tax year shall be eligible for a tax credit under the Creating High Impact Economic Futures Act. The amount of the credit shall be equal to fifty percent of the total amount of such contribu-

tions made during the tax year. The credit shall be attributed to each partner, member, or shareholder in the same proportion used to report the partnership's, limited liability company's, or subchapter S corporation's income or loss for income tax purposes.

(4) An estate or trust that makes one or more contributions to one or more programs or projects certified for tax credit status during a tax year shall be eligible for a tax credit under the Creating High Impact Economic Futures Act. The amount of the credit shall be equal to fifty percent of the total amount of such contributions made during the tax year. Any credit not used by the estate or trust may be attributed to each beneficiary of the estate or trust in the same proportion used to report the beneficiary's income from the estate or trust for income tax purposes.

(5) A corporate taxpayer as defined in section 77-2734.04 that makes one or more contributions to one or more programs or projects certified for tax credit status during a tax year shall be eligible for a tax credit under the Creating High Impact Economic Futures Act. The amount of the credit shall be equal to fifty percent of the total amount of such contributions made during the tax year.

(6) The tax credit allowed under this section shall be a nonrefundable credit. Any amount of the tax credit that is unused may be carried forward and applied against the taxpayer's income tax liability for the next five years immediately following the tax year in which the credit is first allowed. The tax credit cannot be carried back.

(7) The tax credit allowed under this section is subject to section 77-3120.

Source: Laws 1984, LB 372, § 7; Laws 1985, LB 344, § 2; Laws 1986, LB 1114, § 3; Laws 1987, LB 302, § 3; Laws 1990, LB 1241, § 3; Laws 2001, LB 300, § 4; Laws 2005, LB 334, § 4; R.S.1943, (2022), § 13-207; Laws 2024, LB1344, § 6.
Operative date January 1, 2025.

77-3120 Tax credits; limit.

The annual limit on the total amount of tax credits allowed (1) for calendar years 2025 and 2026 shall be nine hundred thousand dollars per year with a total of three hundred thousand dollars per year for each congressional district and (2) for calendar year 2027 and each calendar year thereafter shall be three million dollars per year with a total of one million dollars per year for each congressional district. Once credits have reached the annual limit for any calendar year, no additional credits shall be allowed for such calendar year. The maximum amount of credits per program or project shall not exceed one hundred fifty thousand dollars per year for the first congressional district and one hundred fifty thousand dollars per year for the third congressional district.

Source: Laws 1984, LB 372, § 8; Laws 2005, LB 334, § 5; Laws 2011, LB345, § 9; Laws 2014, LB1114, § 1; Laws 2016, LB1083, § 7; R.S.1943, (2022), § 13-208; Laws 2024, LB1344, § 7.
Operative date January 1, 2025.

(d) CAST AND CREW NEBRASKA ACT

77-3121 Cast and Crew Nebraska Act, how cited.

Sections 77-3121 to 77-3133 shall be known and may be cited as the Cast and Crew Nebraska Act.

Source: Laws 2024, LB937, § 1.
Operative date July 19, 2024.

77-3122 Legislative findings.

(1) The Legislature finds that:

(a) Film and television production in Nebraska not only provides jobs for residents of Nebraska and dollars for Nebraska businesses but also enhances the state's image nationwide;

(b) The high cost of film and television production is driving such production to other states, and the industry is always seeking attractive locations that can help cut the costs of production;

(c) The retention of Nebraska's youth is one of the top priorities in growing the state's economy. Film studies and creative arts students from the universities and colleges in Nebraska are taking their talents to other states due to the lack of strongly developed media production facilities within the state;

(d) The State of Nebraska, with a competitive incentive, can build on past success as an attractive site for film and television production;

(e) Nebraska is presently among several states with minimal incentives to attract the film and television industry; and

(f) A new and attractive film incentive should be used in conjunction with the Local Option Municipal Economic Development Act, passed by the Ninety-Second Legislature, First Session, 1991, as Legislative Bill 840, for municipalities that have included production of films or television programs as a qualifying business expense.

(2) It is the intent of the Legislature to provide an incentive that will allow the state to compete with other states and increase film and television production in this state.

Source: Laws 2024, LB937, § 2.
Operative date July 19, 2024.

Cross References

Local Option Municipal Economic Development Act, see section 18-2701.

77-3123 Terms, defined.

For purposes of the Cast and Crew Nebraska Act:

(1) Above-the-line employee means production company employees involved in the creative development, direct production, and direction of a production activity including screenwriters, producers, directors, casting directors, and cast;

(2) Below-the-line employee means production company employees that are responsible for keeping production operations on schedule and preparing all lights, sets, props, and other aspects for production;

(3) Department means the Department of Economic Development;

(4)(a) Expatriate means a person that previously resided in Nebraska for at least one year but does not currently reside in Nebraska.

(b) The Nebraska Film Office shall partner with other instate film offices, production companies, chambers of commerce, and convention and visitors bureaus in the state to maintain a roster of cast and crew who are expatriates and shall make such roster available to any production company upon request;

(5) Film office means a specialized office under the authority of a government entity or an administrative office with the purpose of promoting the local region through the development of film, video, and multimedia productions;

(6) Full-length means a production at least sixty minutes in length including credits;

(7) Loan out means payments to a loan out company by a production company if the production company withheld and remitted Nebraska applicable income tax on all payments to the loan out company for services performed in this state. The amount withheld is considered to have been withheld by the loan out company on wages paid to its employees for services performed in this state. Loan out company nonresident employees performing services in this state must be considered taxable nonresidents, and the loan out company is subject to income taxation in the taxable year in which the loan out company's employees perform services in this state;

(8) Loan out company means a United States business entity in which the creator is an employee whose services are loaned out by the corporate body;

(9) Nebraska Film Office means the Nebraska Film Office within the Department of Economic Development or its successor;

(10) Nebraska supplier means a brick and mortar Nebraska-based corporation or limited liability company registered, licensed, and in good standing with the Secretary of State;

(11) Post-production means the time period after the production is completed and the editing of the visual and audio materials begins. Post-production includes, but is not limited to, all of the tasks associated with cutting raw footage, assembling that footage, and adding and dubbing music, sound effects, and visual effects;

(12) Pre-production means the planning process and execution of every task that must take place before production begins;

(13) Principal photography means the creative execution phase of film production between pre-production and post-production;

(14)(a) Production activity means production of a new film, video, or digital project in this state. This includes the scouting, pre-production, principal photography, and post-production of projects filmed or recorded in this state, in whole or in part and in short or long form and animation, fixed on a delivery system, including film, videotape, computer disc, laser disc, and any element of the digital domain, from which the program is viewed or reproduced and which is intended for multimarket commercial distribution via a theater, video on demand, digital or fiber optic distribution platforms, digital video recording, a digital platform designed for distribution of interactive games, licensing for exhibition by individual television stations, groups of stations, networks, advertiser-supported sites, cable television stations, streaming services, or public broadcasting stations.

(b) Production activity includes full-length films, animation projects, documentaries, short-length films, and over-the-air and streaming television programming, except those television programs that are exclusively for news,

weather, sports, financial market reports, or instructional videos, and also includes commercial advertisements, except commercials containing political promotions, infomercials, or commercials distributed only on the Internet.

(c) Production activity does not include any project with sexually explicit or obscene material;

(15) Production company means a corporation, partnership, limited liability company, or other business entity engaged in the business of creating productions and registered with the Secretary of State to engage in business in Nebraska;

(16)(a) Production expenditure report means a report issued and submitted by a certified public accountant that verifies all expenses of a production activity and ensures all expenses have been paid in full.

(b) The production company shall pay the certified public accountant for preparation of the report and such payment is a qualifying expenditure under section 77-3124;

(17) Qualified production activity means any production activity approved by the department after application for qualification;

(18) Resident means any individual domiciled in the State of Nebraska and any other individual who maintains a permanent place of residence within the state even though temporarily absent from the state and who has not established a residence elsewhere;

(19) Scouting means finding places to shoot commercials, television shows, or movies and searching for interior and exterior venues to serve as the setting for scenes depicted in a script during pre-production;

(20) Screen credit means a logo developed by the Nebraska Film Office and mentioned in the production credits and end titles declaring the production activity was filmed in Nebraska;

(21) Screenplay means a film, movie, television show, or other motion picture in written form; and

(22) Short-length means a production more than thirty seconds and less than forty minutes including credits.

Source: Laws 2024, LB937, § 3.
Operative date July 19, 2024.

77-3124 Qualifying expenditures; enumerated; exceptions.

(1) For purposes of the Cast and Crew Nebraska Act, qualifying expenditure includes:

(a) Pre-production, production, and post-production expenditures made in Nebraska that are subject to taxation by the state;

(b) Scouting and spending related to the production activity in the state prior to application for qualification;

(c)(i) Above-the-line employee wages for residents of Nebraska or paid through a Nebraska loan out company.

(ii) Loan out companies will be required to pay applicable Nebraska income taxes.

(iii) The total above-the-line employee wages and related expenses shall be not more than twenty-five percent of the total instate expenditures of a production activity;

(d) Below-the-line employee wages;

(e) Per diems of up to thirty dollars per day per employee; and

(f) Expenditures not otherwise available for rental or purchase within Nebraska and paid for via a Nebraska supplier.

(2) Qualifying expenditures do not include:

(a) Wages paid to independent contractors, or self-employed individuals, except that wages shown to be paid by a Nebraska-based production company for a commercial production activity and wages the taxes of which are shown to be withheld by the employer may be approved by the department on the application for the tax credit;

(b) Above-the-line employee per diems or living allowance expenses;

(c) Taxes imposed pursuant to the Federal Insurance Contributions Act and other payroll taxes;

(d) Contributions under the Federal Unemployment Tax Act and the Employment Security Law; and

(e) Union dues and benefits.

Source: Laws 2024, LB937, § 4.
Operative date July 19, 2024.

Cross References

Employment Security Law, see section 48-601.

77-3125 Tax credit; eligibility; amount.

(1) For taxable years beginning or deemed to begin on or after January 1, 2025, a production company shall be eligible to receive tax credits under the Cast and Crew Nebraska Act for qualifying expenditures incurred by the production company in Nebraska directly attributable to a qualified production activity.

(2) The tax credit under the Cast and Crew Nebraska Act shall be a refundable tax credit allowed against the income tax imposed by the Nebraska Revenue Act of 1967 in an amount equal to twenty percent of the qualifying expenditures incurred by the production company directly attributable to a qualified production activity.

(3) The amount of the tax credit may be increased by any or all of the following amounts:

(a) An additional five percent of the qualifying expenditures incurred by the production company directly attributable to a qualified production activity if the qualified production activity films Nebraska as Nebraska in Nebraska, contains a minimum of seventy percent of the principal photography from the original submitted screenplay based in Nebraska, and uses a screen credit;

(b) An additional five percent of the qualifying expenditures incurred by the production company directly attributable to a full-length qualified production activity if the qualified production activity films entirely in areas at least thirty miles from the corporate limits of a city of the metropolitan class or city of the primary class; and

(c)(i) An additional five percent of qualified expenditures incurred by the production company directly attributable to a full-length qualified production activity that are wages paid, at a rate of at least the Nebraska minimum wage, to Nebraska residents who are employed as first-time actors or first-time below-the-line employees.

(ii) For purposes of subdivision (3)(c)(i) of this section, first-time means the individual's first-time receiving compensation and wages as either an actor or as a below-the-line employee on a full-length film in the State of Nebraska.

(iii) The wages of a maximum of ten first-time actors and below-the-line employees per full-length film can be used in calculating the tax credit in subdivision (3)(c)(i) of this section.

Source: Laws 2024, LB937, § 5.
Operative date July 19, 2024.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

77-3126 Tax credit; limitations.

(1) The total amount of tax credits allowed in any fiscal year under the Cast and Crew Nebraska Act shall not exceed five hundred thousand dollars in fiscal year 2025-26 and one million dollars in any fiscal year thereafter.

(2) The maximum allowable tax credit claimed under the act in any single taxable year for any qualified production activity that is a full-length film, made-for-television movie, television series of at least five episodes, or streaming television series shall not exceed five hundred thousand dollars in fiscal year 2025-26 and one million dollars in any fiscal year thereafter.

Source: Laws 2024, LB937, § 6.
Operative date July 19, 2024.

77-3127 Production activity; application for qualification; contents; fee.

(1) For a production activity to qualify as a qualified production activity under the Cast and Crew Nebraska Act, a production company must file an application for qualification of a production activity to the department at least:

(a) Thirty days prior to the start of principal photography for a full-length film, documentary, or television programming; and

(b) Ten days prior to the start of filming for a short-length film, animation project, or commercial.

(2) The application shall be submitted on a form prescribed by the department and shall include the following:

(a) A nonrefundable fee of five hundred dollars;

(b) A detailed description of the production activity;

(c) An estimate of expected qualifying expenditures for the production activity;

(d) A certificate of general liability insurance with a minimum coverage of one million dollars;

(e) A worker's compensation policy;

(f)(i) Except as provided in subdivision (2)(f)(ii) of this section, documentation that shows the production activity is fully funded other than post-production expenditures.

(ii) If a production activity is a commercial production activity, documentation showing full funding for post-production expenditures shall be included; and

(g) Any other information or documentation required by the department.

Source: Laws 2024, LB937, § 7.
Operative date July 19, 2024.

77-3128 Production activity; application for qualification; approval.

(1) If the department determines that an application for qualification is complete and that the production activity qualifies under the Cast and Crew Nebraska Act, the department shall approve the application, notify the production company of the approval, and issue a screen credit to the production company that can be used to meet the requirements for the tax credit increase under subdivision (3)(a) of section 77-3125.

(2) The department shall consider and approve applications for qualification under the act in the order in which the applications are received.

Source: Laws 2024, LB937, § 8.
Operative date July 19, 2024.

77-3129 Tax credit; application; contents.

To receive tax credits under the Cast and Crew Nebraska Act, the production company shall submit an application to the department on a form prescribed by the department after the completion of the qualified production activity. Such application shall contain the following information:

(1) The total amount of qualifying expenditures for the qualified production activity;

(2) The production expenditure report for the qualified production activity;

(3) Documentation showing the total expenditures for the qualified production activity are greater than or equal to:

(a) Five hundred thousand dollars for a full-length film or made-for-television movie;

(b) Five hundred thousand dollars per over-the-air and streaming television programming episode; or

(c) Twenty-five thousand dollars per short-length film, documentary, animation project, or commercial;

(4) Documentation showing the total amount of individual or loan out company wages or earnings paid during the qualified production activity is five hundred thousand dollars or less;

(5) Documentation showing at least forty percent of the production days for the qualified production activity were in Nebraska and, for full-length films only, at least ten days of production were in Nebraska;

(6) Documentation showing at least forty percent of the below-the-line employees of the qualified production activity were Nebraska residents with

expatriates included in the percentage but not exceeding fifteen percent of the total below-the-line employees;

(7) Documentation showing at least fifteen percent of the cast of the qualified production activity were Nebraska residents with expatriates included in the percentage;

(8) If applying for the tax credit under subdivision (3)(c)(i) of section 77-3125, proof of Nebraska residency for all employees whose wages will be part of the calculation of such credit for the qualified production activity; and

(9) Any other information or documentation required by the department.

Source: Laws 2024, LB937, § 9.
Operative date July 19, 2024.

77-3130 Tax credit; application; approval; audit; tax credit certification.

(1) If the department determines that an application is complete and that the production company qualifies for tax credits under the Cast and Crew Nebraska Act, the department shall approve the application, notify the production company of the approval, and conduct an audit of each qualified production activity.

(2) Each audit shall:

(a) Be completed in accordance with this section and the procedures developed by the department;

(b) Use sampling methods that the department may adopt;

(c) Follow rules and regulations adopted and promulgated by the department;

(d) Verify each reported qualifying expenditure and identify and exclude each such expenditure that does not fully meet the conditions of the act; and

(e) Exclude any expenditure not submitted with or that was incurred after the application required by section 77-3129 was submitted.

(3) Upon completion of the audit, the department shall adjust the value of the tax credit as necessary and issue a tax credit certification to the production company. The certificate shall include the following information:

(a) An identification number for the certificate;

(b) The date of issuance for the certificate; and

(c) The amount of the tax credit allowed under the act for the production company.

(4) The department shall consider and approve applications for tax credits under the act in the order in which the applications are received.

Source: Laws 2024, LB937, § 10.
Operative date July 19, 2024.

77-3131 Tax credit; how claimed; transfer.

(1) A taxpayer shall claim the tax credit under the Cast and Crew Nebraska Act by attaching the tax credit certification received from the department under section 77-3130 to its tax return for the taxable year in which the tax credit certification was issued or in the three taxable years immediately following the taxable year in which the tax credit certification was issued.

(2) The tax credits allowed under the Cast and Crew Nebraska Act may be transferred by the production company to any Nebraska taxpayer at any time

during the taxable year in which the tax credit certification was issued to the transferor or in the three taxable years immediately following the taxable year in which the tax credit certification was issued to the transferor. The transferee shall pay the transferor at least eighty-five percent of the value of the transferred tax credits in order to acquire such credits.

Source: Laws 2024, LB937, § 11.
Operative date July 19, 2024.

77-3132 Tax credit; recipient; effect on grant eligibility.

A production company that receives tax credits under the Cast and Crew Nebraska Act shall not be eligible for a grant under subsection (3) of section 81-1220.

Source: Laws 2024, LB937, § 12.
Operative date July 19, 2024.

77-3133 Rules and regulations.

The department shall adopt and promulgate rules and regulations to carry out the Cast and Crew Nebraska Act.

Source: Laws 2024, LB937, § 13.
Operative date July 19, 2024.

(e) NEBRASKA SHORTLINE RAIL MODERNIZATION ACT

77-3134 Nebraska Shortline Rail Modernization Act, how cited.

Sections 77-3134 to 77-3143 shall be known and may be cited as the Nebraska Shortline Rail Modernization Act.

Source: Laws 2024, LB937, § 14.
Operative date July 19, 2024.

77-3135 Terms, defined.

For purposes of the Nebraska Shortline Rail Modernization Act:

(1) Department means the Department of Revenue;

(2) Eligible taxpayer means any shortline railroad company located wholly or partly in Nebraska that is classified by the federal Surface Transportation Board as a Class III railroad;

(3)(a) Qualified shortline railroad maintenance expenditures means gross expenditures for railroad infrastructure maintenance and capital improvements, including, but not limited to, rail, tie plates, joint bars, fasteners, switches, ballast, subgrade, roadbed, bridges, industrial leads, sidings, signs, safety barriers, crossing signals and gates, and related track structures owned or leased by a Class III railroad.

(b) Qualified shortline railroad maintenance expenditures does not include expenditures used to generate a federal tax credit or expenditures funded by a federal grant; and

(4) Taxpayer means any individual, corporation, partnership, limited liability company, trust, estate, or other entity subject to the income tax imposed by the

Nebraska Revenue Act of 1967 or any tax imposed by sections 77-907 to 77-918 or 77-3801 to 77-3807.

Source: Laws 2024, LB937, § 15.
Operative date July 19, 2024.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

77-3136 Tax credit; amount; limitations.

(1) For taxable years beginning or deemed to begin on or after January 1, 2025, under the Internal Revenue Code of 1986, as amended, an eligible taxpayer shall be allowed a credit against the income tax imposed by the Nebraska Revenue Act of 1967 or any tax imposed by sections 77-907 to 77-918 or 77-3801 to 77-3807 for qualified shortline railroad maintenance expenditures.

(2) The credit provided in this section shall be a nonrefundable tax credit equal to fifty percent of the qualified shortline railroad maintenance expenditures incurred during the taxable year by the eligible taxpayer. The amount of the credit may not exceed an amount equal to one thousand five hundred dollars multiplied by the number of miles of railroad track owned or leased in the state by the eligible taxpayer at the end of the taxable year.

(3) The total amount of tax credits allowed in a fiscal year under the Nebraska Shortline Rail Modernization Act shall not exceed five hundred thousand dollars for fiscal year 2025-26 and one million dollars for any fiscal year thereafter.

Source: Laws 2024, LB937, § 16.
Operative date July 19, 2024.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

77-3137 Tax credit; application; contents.

To receive tax credits under the Nebraska Shortline Rail Modernization Act, an eligible taxpayer shall submit an application to the department on a form prescribed by the department after incurring the relevant qualified shortline railroad maintenance expenditures. The application shall be submitted no later than May 1 of the calendar year immediately following the calendar year in which the expenditures were incurred. The application shall include the following information:

(1) The number of miles of railroad track owned or leased in this state by the eligible taxpayer; and

(2) A description of the amount of qualified shortline railroad maintenance expenditures incurred by the eligible taxpayer.

Source: Laws 2024, LB937, § 17.
Operative date July 19, 2024.

77-3138 Tax credit; application; approval; certificate.

(1) If the department determines that an application is complete and that the eligible taxpayer qualifies for tax credits under the Nebraska Shortline Rail Modernization Act, the department shall approve the application and issue a

tax credit certificate to the eligible taxpayer. The certificate shall include the following information:

(a) An identification number for the certificate;

(b) The date of issuance for the certificate; and

(c) The amount of the tax credit allowed under the act for the eligible taxpayer.

(2) The department shall consider and approve applications for tax credits under the act in the order in which the applications are received.

Source: Laws 2024, LB937, § 18.
Operative date July 19, 2024.

77-3139 Tax credit; how claimed.

(1) A taxpayer shall claim the tax credit under the Nebraska Shortline Rail Modernization Act by attaching the tax credit certification received from the department under section 77-3138 to its tax return.

(2) Any amount of the credit that is unused may be carried forward and applied against the taxpayer's tax liability for the next five taxable years immediately following the taxable year in which the credit was first allowed.

Source: Laws 2024, LB937, § 19.
Operative date July 19, 2024.

77-3140 Tax credit; assignment.

The tax credits allowed under the Nebraska Shortline Rail Modernization Act may be assigned by the eligible taxpayer to another taxpayer by written agreement at any time during the taxable year in which the credit was first allowed for the eligible taxpayer or in the five taxable years immediately following the taxable year in which the credit was first allowed for the eligible taxpayer. The assignor and assignee shall jointly file a copy of the written assignment agreement with the department within thirty days of the assignment. The written agreement shall contain the name, address, and taxpayer identification number of the parties to the assignment, the taxable year the eligible taxpayer incurred the expenditures, the amount of credit being assigned, and all taxable years for which the credit may be claimed.

Source: Laws 2024, LB937, § 20.
Operative date July 19, 2024.

77-3141 Tax credit; distribution.

Any tax credit allowable to a partnership, a limited liability company, a subchapter S corporation, or an estate or trust may be distributed to the partners, limited liability company members, shareholders, or beneficiaries in the same manner as income is distributed.

Source: Laws 2024, LB937, § 21.
Operative date July 19, 2024.

77-3142 Rules and regulations.

The department may adopt and promulgate rules and regulations to carry out the Nebraska Shortline Rail Modernization Act.

Source: Laws 2024, LB937, § 22.
Operative date July 19, 2024.

77-3143 Tax credit; application; deadline.

There shall be no new applications for tax credits filed under the Nebraska Shortline Rail Modernization Act after December 31, 2033. All applications and all credits pending or approved before such date shall continue in full force and effect.

Source: Laws 2024, LB937, § 23.
Operative date July 19, 2024.

(f) NEBRASKA PREGNANCY HELP ACT

77-3144 Nebraska Pregnancy Help Act, how cited.

Sections 77-3144 to 77-3153 shall be known and may be cited as the Nebraska Pregnancy Help Act.

Source: Laws 2024, LB937, § 24.
Operative date January 1, 2025.

77-3145 Legislative findings and declarations.

The Legislature finds and declares that:

(1) Pregnancy help organizations in the State of Nebraska and nationwide provide under-supported pregnant women with services, free of charge, that are crucial for their physical, emotional, and familial wellbeing, including pregnancy testing, pregnancy and prenatal care education, counseling, food, clothing, housing, transportation, parenting and life skills classes, child care, licensed medical care, and referrals to additional community services and material help;

(2) Pregnancy help organizations also provide personal relationships and a strong local support network for such women and their families that cannot be replicated by even the best and most effective government programs; and

(3) It shall be the policy of the State of Nebraska, through the creation of the Nebraska Pregnancy Help Act, to encourage and celebrate pregnancy help organizations in this state and to incentivize private donations for the furtherance of their good work through the creation of a tax credit.

Source: Laws 2024, LB937, § 25.
Operative date January 1, 2025.

77-3146 Terms, defined.

For purposes of the Nebraska Pregnancy Help Act:

(1) Department means the Department of Revenue; and

(2) Eligible charitable organization means an organization that:

(a) Is exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code of 1986, as amended;

(b) Does not receive more than seventy-five percent of its total annual revenue from federal, state, or local governmental grants or sources, either directly or as a contractor;

(c) Is a pregnancy help organization that:

(i) Regularly answers a dedicated telephone number for clients;

(ii) Maintains its physical office, clinic, or maternity home in the State of Nebraska;

(iii) Offers services at no cost to the client for the express purposes of providing assistance to women in order to carry their pregnancies to term, encourage and enable parenting or adoption, prevent abortion, and promote healthy childbirths; and

(iv) Utilizes licensed medical professionals for any medical services offered;

(d) Does not provide, pay for, provide coverage of, refer for, recommend, or promote abortions and does not financially support any entity that provides, pays for, provides coverage of, refers for, recommends, or promotes abortions, including nonsurgical abortions; and

(e) Is approved by the department pursuant to section 77-3147.

Source: Laws 2024, LB937, § 26.
Operative date January 1, 2025.

77-3147 Eligible charitable organization; certification; contents; approval.

(1) An organization seeking to become an eligible charitable organization shall provide the department with a written certification that it meets all criteria to be considered an eligible charitable organization. The certification must be signed by an officer of the organization under penalty of perjury. The certification shall include the following:

(a) Verification of the organization's status under section 501(c)(3) of the Internal Revenue Code of 1986, as amended;

(b) A statement that the organization does not receive more than seventy-five percent of its total annual revenue from federal, state, or local governmental grants or sources, either directly or as a contractor;

(c) A statement that the organization maintains its physical office, clinic, or maternity home in the State of Nebraska; and

(d) A statement that the organization does not provide, pay for, provide coverage of, refer for, recommend, or promote abortions and does not financially support any entity that provides, pays for, provides coverage of, refers for, recommends, or promotes abortions, including nonsurgical abortions.

(2) The department shall review each written certification and determine whether the organization meets all of the criteria to be considered an eligible charitable organization and shall notify the organization of its determination. Any organization whose certification is approved under this section shall be considered an eligible charitable organization.

(3) An organization shall notify the department within sixty days of any changes that may affect its status as an eligible charitable organization.

(4) The department may periodically request recertification from an organization that was previously approved as an eligible charitable organization under this section.

(5) The department shall compile and make available to the public a list of eligible charitable organizations that have been approved under this section.

Source: Laws 2024, LB937, § 27.
Operative date January 1, 2025.

77-3148 Tax credit; individual taxpayer; amount.

(1) An individual taxpayer who makes one or more cash contributions to one or more eligible charitable organizations during a tax year shall be eligible for a credit against the income tax due under the Nebraska Revenue Act of 1967. Except as otherwise provided in the Nebraska Pregnancy Help Act, the amount of the credit shall be equal to the lesser of (a) the total amount of such contributions made during the tax year or (b) fifty percent of the income tax liability of such taxpayer for the tax year. A taxpayer may only claim a credit pursuant to this section for the portion of the contribution that was not claimed as a charitable contribution under the Internal Revenue Code of 1986, as amended.

(2) Taxpayers who are married but file separate returns for a tax year in which they could have filed a joint return may each claim only one-half of the tax credit that would otherwise have been allowed for a joint return.

(3) The tax credit allowed under this section shall be a nonrefundable credit. Any amount of the credit that is unused may be carried forward and applied against the taxpayer's income tax liability for the next five years immediately following the tax year in which the credit is first allowed. The tax credit cannot be carried back.

(4) The tax credit allowed under this section is subject to section 77-3152.

Source: Laws 2024, LB937, § 28.
Operative date January 1, 2025.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

77-3149 Tax credit; partnership, limited liability company, or subchapter S corporation; amount.

(1) Any partnership, limited liability company, or corporation having an election in effect under subchapter S of the Internal Revenue Code of 1986, as amended, that is carrying on any trade or business for which deductions would be allowed under section 162 of the Internal Revenue Code of 1986, as amended, or is carrying on any rental activity, and that makes one or more cash contributions to one or more eligible charitable organizations during a tax year shall be eligible for a credit against the income tax due under the Nebraska Revenue Act of 1967. Except as otherwise provided in the Nebraska Pregnancy Help Act, the amount of the credit shall be equal to the lesser of (a) the total amount of such contributions made during the tax year or (b) fifty percent of the income tax liability of such taxpayer for the tax year. A taxpayer may only claim a credit pursuant to this section for the portion of the contribution that was not claimed as a charitable contribution under the Internal Revenue Code of 1986, as amended. The credit shall be attributed to each partner, member, or shareholder in the same proportion used to report the partnership's, limited liability company's, or subchapter S corporation's income or loss for income tax purposes.

(2) The tax credit allowed under this section shall be a nonrefundable credit. Any amount of the tax credit that is unused may be carried forward and applied against the taxpayer's income tax liability for the next five years immediately following the tax year in which the credit is first allowed. The tax credit cannot be carried back.

(3) The tax credit allowed under this section is subject to section 77-3152.

Source: Laws 2024, LB937, § 29.
Operative date January 1, 2025.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

77-3150 Tax credit; estate or trust; amount.

(1) An estate or trust that makes one or more cash contributions to one or more eligible charitable organizations during a tax year shall be eligible for a credit against the income tax due under the Nebraska Revenue Act of 1967. Except as otherwise provided in the Nebraska Pregnancy Help Act, the amount of the credit shall be equal to the lesser of (a) the total amount of such contributions made during the tax year or (b) fifty percent of the income tax liability of such taxpayer for the tax year. A taxpayer may only claim a credit pursuant to this section for the portion of the contribution that was not claimed as a charitable contribution under the Internal Revenue Code of 1986, as amended. Any credit not used by the estate or trust may be attributed to each beneficiary of the estate or trust in the same proportion used to report the beneficiary's income from the estate or trust for income tax purposes.

(2) The tax credit allowed under this section shall be a nonrefundable credit. Any amount of the tax credit that is unused may be carried forward and applied against the taxpayer's income tax liability for the next five years immediately following the tax year in which the credit is first allowed. The tax credit cannot be carried back.

(3) The tax credit allowed under this section is subject to section 77-3152.

Source: Laws 2024, LB937, § 30.
Operative date January 1, 2025.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

77-3151 Tax credit; corporate taxpayer; amount.

(1) A corporate taxpayer as defined in section 77-2734.04 that makes one or more cash contributions to one or more eligible charitable organizations during a tax year shall be eligible for a credit against the income tax due under the Nebraska Revenue Act of 1967. Except as otherwise provided in the Nebraska Pregnancy Help Act, the amount of the credit shall be equal to the lesser of (a) the total amount of such contributions made during the tax year or (b) fifty percent of the income tax liability of such taxpayer for the tax year. A taxpayer may only claim a credit pursuant to this section for the portion of the contribution that was not claimed as a charitable contribution under the Internal Revenue Code of 1986, as amended.

(2) The tax credit allowed under this section shall be a nonrefundable credit. Any amount of the tax credit that is unused may be carried forward and applied against the taxpayer's income tax liability for the next five years immediately

following the tax year in which the credit is first allowed. The tax credit cannot be carried back.

(3) The tax credit allowed under this section is subject to section 77-3152.

Source: Laws 2024, LB937, § 31.
Operative date January 1, 2025.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

77-3152 Tax credit; contributions; procedure; annual limit.

(1) Prior to making a contribution to an eligible charitable organization, any taxpayer desiring to claim a tax credit under the Nebraska Pregnancy Help Act shall notify the eligible charitable organization of the taxpayer's intent to make a contribution and the amount to be claimed as a tax credit. Upon receiving each such notification, the eligible charitable organization shall notify the department of the intended tax credit amount. If the department determines that the intended tax credit amount in the notification would exceed the limit specified in subsection (3) of this section, the department shall notify the eligible charitable organization of its determination within thirty days after receipt of the notification. The eligible charitable organization shall then promptly notify the taxpayer of the department's determination that the intended tax credit amount in the notification is not available. If an amount less than the amount indicated in the notification is available for a tax credit, the department shall notify the eligible charitable organization of the available amount and the eligible charitable organization shall notify the taxpayer of the available amount within three business days.

(2) In order to be allowed a tax credit as provided by the act, the taxpayer shall make its contribution between thirty-one and sixty days after notifying the eligible charitable organization of the taxpayer's intent to make a contribution. If the eligible charitable organization does not receive the contribution within the required time period, it shall notify the department of such fact and the department shall no longer include such amount when calculating whether the limit prescribed in subsection (3) of this section has been exceeded. If the eligible charitable organization receives the contribution within the required time period, it shall provide the taxpayer with a receipt for the contribution. The receipt shall show the name and address of the eligible charitable organization, the name, address, and, if available, tax identification number of the taxpayer making the contribution, the amount of the contribution, and the date the contribution was received.

(3) The department shall consider notifications regarding intended tax credit amounts in the order in which they are received to ascertain whether the intended tax credit amounts are within the annual limit provided in this subsection. The annual limit on the total amount of tax credits for fiscal year 2025-26 shall be five hundred thousand dollars. The annual limit on the total amount of tax credits for fiscal year 2026-27 and each fiscal year thereafter shall be one million dollars. Once credits have reached the annual limit for any fiscal year, no additional credits shall be allowed for such fiscal year. Credits shall be prorated among the notifications received on the day the annual limit

is exceeded. No more than fifty percent of the credits allowed for any fiscal year shall be for contributions to a single eligible charitable organization.

Source: Laws 2024, LB937, § 32.
Operative date January 1, 2025.

77-3153 Rules and regulations.

The department may adopt and promulgate rules and regulations to carry out the Nebraska Pregnancy Help Act.

Source: Laws 2024, LB937, § 33.
Operative date January 1, 2025.

(g) INDIVIDUALS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES SUPPORT ACT

77-3154 Individuals with Intellectual and Developmental Disabilities Support Act, how cited.

Sections 77-3154 to 77-3162 shall be known and may be cited as the Individuals with Intellectual and Developmental Disabilities Support Act.

Source: Laws 2024, LB937, § 34.
Operative date July 19, 2024.

77-3155 Terms, defined.

For purposes of the Individuals with Intellectual and Developmental Disabilities Support Act:

(1) Department means the Department of Revenue;

(2) Direct support professional means any individual who is employed in this state and provides direct care support or any other form of treatment, services, or care for individuals with intellectual and developmental disabilities; and

(3) Medicaid home and community-based services waiver means a medicaid waiver approved by the federal Centers for Medicare and Medicaid Services under the authority of section 1915(c) of the federal Social Security Act. The term includes a comprehensive developmental disabilities waiver and a developmental disabilities adult day waiver.

Source: Laws 2024, LB937, § 35.
Operative date July 19, 2024.

77-3156 Employer of direct support professional; tax credit; amount; application; approval.

(1) For taxable years beginning or deemed to begin on or after January 1, 2025, under the Internal Revenue Code of 1986, as amended, any employer that employs one or more direct support professionals during the taxable year shall be eligible to receive a credit against the income tax imposed by the Nebraska Revenue Act of 1967.

(2) The tax credit shall be in an amount equal to five hundred dollars multiplied by the number of direct support professionals who:

(a) Are employed by such employer for at least six months during the taxable year; and

(b) Work at least five hundred hours for such employer during the taxable year.

(3) The tax credit provided in this section shall be a nonrefundable tax credit.

(4) An employer shall apply for the credit provided in this section by submitting an application to the department on a form prescribed by the department. Subject to subsection (5) of this section, if the department determines that the employer qualifies for tax credits under this section, the department shall approve the application and certify the amount of credits approved to the employer.

(5) The department shall consider applications in the order in which they are received and may approve tax credits under this section in any year until the aggregate limit allowed under section 77-3160 has been reached.

(6) An employer shall claim any tax credits granted under this section by attaching the tax credit certification received from the department under subsection (4) of this section to the employer's tax return.

Source: Laws 2024, LB937, § 36.
Operative date July 19, 2024.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

77-3157 Direct support professional; tax credit; amount; application; approval.

(1) For taxable years beginning or deemed to begin on or after January 1, 2025, under the Internal Revenue Code of 1986, as amended, a direct support professional shall be eligible to receive a credit against the income tax imposed by the Nebraska Revenue Act of 1967 if he or she:

(a) Is employed as a direct support professional for at least six months during the taxable year; and

(b) Works at least five hundred hours as a direct support professional during the taxable year.

(2) The tax credit shall be in an amount equal to five hundred dollars.

(3) The tax credit provided in this section shall be a refundable tax credit.

(4) A direct support professional shall apply for the credit provided in this section by submitting an application to the department on a form prescribed by the department. Subject to subsection (5) of this section, if the department determines that the direct support professional qualifies for tax credits under this section, the department shall approve the application and certify the amount of credits approved to the direct support professional.

(5) The department shall consider applications in the order in which they are received and may approve tax credits under this section in any year until the aggregate limit allowed under section 77-3160 has been reached.

(6) A direct support professional shall claim any tax credits granted under this section by attaching the tax credit certification received from the department under subsection (4) of this section to the direct support professional's tax return.

Source: Laws 2024, LB937, § 37.
Operative date July 19, 2024.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

77-3158 Employer of individual receiving services; tax credit; amount; application; approval.

(1) For taxable years beginning or deemed to begin on or after January 1, 2025, under the Internal Revenue Code of 1986, as amended, any employer that employs an individual receiving services pursuant to a medicaid home and community-based services waiver shall be eligible to receive a credit against the income tax imposed by the Nebraska Revenue Act of 1967.

(2) The tax credit shall be in an amount equal to one thousand dollars multiplied by the number of employees who:

(a) Are receiving services pursuant to a medicaid home and community-based services waiver;

(b) Are employed by such employer for at least six months during the taxable year; and

(c) Work at least two hundred hours for such employer during the taxable year.

(3) The tax credit provided in this section shall be a nonrefundable tax credit.

(4) An employer shall apply for the credit provided in this section by submitting an application to the department on a form prescribed by the department. Subject to subsection (5) of this section, if the department determines that the employer qualifies for tax credits under this section, the department shall approve the application and certify the amount of credits approved to the employer.

(5) The department shall consider applications in the order in which they are received and may approve tax credits under this section in any year until the aggregate limit allowed under section 77-3160 has been reached.

(6) An employer shall claim any tax credits granted under this section by attaching the tax credit certification received from the department under subsection (4) of this section to the employer's tax return.

Source: Laws 2024, LB937, § 38.
Operative date July 19, 2024.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

77-3159 Employer providing services; tax credit; amount; application; approval.

(1) For taxable years beginning or deemed to begin on or after January 1, 2025, under the Internal Revenue Code of 1986, as amended, an employer shall be eligible to receive a credit against the income tax imposed by the Nebraska Revenue Act of 1967 if such employer provides any of the following types of services to an individual pursuant to a medicaid home and community-based services waiver:

(a) Prevocational;

(b) Supported employment - individual;

(c) Small group vocational support; or

(d) Supported employment - follow along.

(2) The tax credit shall be in an amount equal to one thousand dollars multiplied by the number of individuals described in subsection (1) of this section who received the applicable services from the employer during the taxable year.

(3) The tax credit provided in this section shall be a nonrefundable tax credit.

(4) An employer shall apply for the credit provided in this section by submitting an application to the department on a form prescribed by the department. Subject to subsection (5) of this section, if the department determines that the employer qualifies for tax credits under this section, the department shall approve the application and certify the amount of credits approved to the employer.

(5) The department shall consider applications in the order in which they are received and may approve tax credits under this section in any year until the aggregate limit allowed under section 77-3160 has been reached.

(6) An employer shall claim any tax credits granted under this section by attaching the tax credit certification received from the department under subsection (4) of this section to the employer's tax return.

Source: Laws 2024, LB937, § 39.
Operative date July 19, 2024.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

77-3160 Tax credit; annual limit.

The department may approve tax credits under the Individuals with Intellectual and Developmental Disabilities Support Act each fiscal year until the total amount of credits approved for the fiscal year reaches one million dollars for fiscal year 2025-26, one million five hundred thousand dollars for fiscal year 2026-27, and two million dollars for any fiscal year thereafter.

Source: Laws 2024, LB937, § 40.
Operative date July 19, 2024.

77-3161 Tax credit; distribution.

If any employer receiving a tax credit under the Individuals with Intellectual and Developmental Disabilities Support Act is (1) a partnership, (2) a limited liability company, (3) a corporation having an election in effect under subchapter S of the Internal Revenue Code of 1986, as amended, or (4) an estate or trust, the tax credit may be distributed in the same manner and proportion as the partner, member, shareholder, or beneficiary reports the partnership, limited liability company, subchapter S corporation, estate, or trust income.

Source: Laws 2024, LB937, § 41.
Operative date July 19, 2024.

77-3162 Rules and regulations.

The department may adopt and promulgate rules and regulations to carry out the Individuals with Intellectual and Developmental Disabilities Support Act.

Source: Laws 2024, LB937, § 42.
Operative date July 19, 2024.

(h) CAREGIVER TAX CREDIT ACT

77-3163 Caregiver Tax Credit Act, how cited.

Sections 77-3163 to 77-3166 shall be known and may be cited as the Caregiver Tax Credit Act.

Source: Laws 2024, LB937, § 56.
Operative date July 19, 2024.

77-3164 Terms, defined.

For purposes of the Caregiver Tax Credit Act:

(1) Activities of daily living includes:

(a) Ambulating, which is the extent of the ability of an individual to move from one position to another and walk independently;

(b) Feeding, which is the ability of an individual to feed oneself;

(c) Dressing, which is the ability of an individual to select appropriate clothes and to put the clothes on without aid;

(d) Personal hygiene, which is the ability of an individual to bathe and groom oneself and maintain dental hygiene and nail and hair care;

(e) Continence, which is the ability to control bladder and bowel function; and

(f) Toileting, which is the ability of an individual to get to and from the toilet without aid, using it appropriately, and cleaning oneself;

(2)(a) Eligible expenditure includes:

(i) The improvement or alteration to the primary residence of the family caregiver or eligible family member to permit the eligible family member to live in the residence and to remain mobile, safe, and independent;

(ii) The purchase or lease of equipment by the family caregiver, including, but not limited to, durable medical equipment, that is necessary to assist an eligible family member in carrying out one or more activities of daily living; and

(iii) Other paid or incurred expenses by the family caregiver that assist the family caregiver in providing care to an eligible family member such as expenditures related to:

(A) Hiring a home care aide;

(B) Respite care;

(C) Adult day care;

(D) Personal care attendants;

(E) Health care equipment; and

(F) Technology.

(b) The eligible expenditure shall be directly related to assisting the family caregiver in providing care to an eligible family member. Eligible expenditure shall not include the carrying out of general household maintenance activities such as painting, plumbing, electrical repairs, or exterior maintenance;

(3) Eligible family member means an individual who:

(a) Requires assistance with at least two activities of daily living as certified by a licensed health care provider;

(b) Qualifies as a dependent, spouse, parent, or other relation by blood or marriage to the family caregiver; and

(c) Lives in a private residence and not in an assisted-living center, nursing facility, or residential care home; and

(4) Family caregiver means an individual:

(a) Providing care and support for an eligible family member;

(b) Who has a federal adjusted gross income of less than fifty thousand dollars or, if filing as a married couple jointly, less than one hundred thousand dollars; and

(c) Who has personally incurred uncompensated expenses directly related to the care of an eligible family member.

Source: Laws 2024, LB937, § 57.
Operative date July 19, 2024.

77-3165 Tax credit; amount; application; approval; annual limit.

(1) For all taxable years beginning on or after January 1, 2025, there shall be allowed a credit against the income tax imposed by the Nebraska Revenue Act of 1967 to any family caregiver who incurs eligible expenditures for the care and support of an eligible family member.

(2) The amount of the credit shall be equal to fifty percent of the eligible expenditures incurred during the taxable year by a family caregiver for the care and support of an eligible family member.

(3) The tax credit allowed under this section shall be a nonrefundable credit. Any amount of the credit that is unused may not be carried forward.

(4) The maximum allowable credit in any single taxable year for a family caregiver shall be two thousand dollars unless the eligible family member is a veteran or has a diagnosis of dementia in which case the maximum allowable credit shall be three thousand dollars. If two or more family caregivers claim the tax credit allowed by this section for the same eligible family member, the maximum allowable credit shall be allocated in equal amounts between each of the family caregivers.

(5) A family caregiver shall apply for the tax credit allowed under this section by submitting an application to the Department of Revenue, on a form prescribed by the department, with the following information:

(a) Documentation of the eligible expenditures incurred for the care and support of an eligible family member; and

(b) Any other documentation required by the department.

(6) If the Department of Revenue determines that the family caregiver qualifies for the tax credit under this section, the department shall approve the application and certify the amount of the approved credit to the family caregiver.

(7) The Department of Revenue shall consider applications in the order in which they are received and may approve tax credits under this section each fiscal year until the total amount of credits approved for the fiscal year equals

one million five hundred thousand dollars for fiscal years 2025-26 and 2026-27 and two million five hundred thousand dollars for any fiscal year thereafter.

Source: Laws 2024, LB937, § 58.
Operative date July 19, 2024.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

77-3166 Rules and regulations.

The Department of Revenue may adopt and promulgate rules and regulations necessary to carry out the Caregiver Tax Credit Act.

Source: Laws 2024, LB937, § 59.
Operative date July 19, 2024.

(i) REVERSE OSMOSIS SYSTEM TAX CREDIT ACT

77-3167 Reverse Osmosis System Tax Credit Act, how cited.

Sections 77-3167 to 77-3170 shall be known and may be cited as the Reverse Osmosis System Tax Credit Act.

Source: Laws 2024, LB937, § 60.
Operative date July 19, 2024.

77-3168 Terms, defined.

For purposes of the Reverse Osmosis System Tax Credit Act:

(1) Department means the Department of Revenue;

(2) Hazard Index means a calculation used to evaluate potential health risks from exposure to one or more of the four listed chemicals using their individual health safety limits as established by the United States Environmental Protection Agency. The Hazard Index is the sum of the ratios of actual chemical concentrations to the respective health safety limit;

(3) Reverse osmosis system means a water filtration system that uses a semipermeable membrane to remove impurities from water; and

(4) Taxpayer means any individual subject to the income tax imposed by the Nebraska Revenue Act of 1967.

Source: Laws 2024, LB937, § 61.
Operative date July 19, 2024.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

77-3169 Tax credit; qualifications; amount; application; approval; annual limit.

(1) For taxable years beginning or deemed to begin on or after January 1, 2024, under the Internal Revenue Code of 1986, as amended, a taxpayer shall be eligible to receive a one-time credit against the income tax imposed by the Nebraska Revenue Act of 1967 for the cost of installation of a reverse osmosis system at the primary residence of the taxpayer if test results for the following in the drinking water for such residence are above:

(a) Ten parts per million for nitrate nitrogen;

(b) Four parts per trillion for perfluorooctanoic acid or perfluorooctanesulfonic acid;

(c) Thirty micrograms per liter or thirty parts per billion for uranium; or

(d) One on the Hazard Index for perfluorononanoic acid, perfluorohexanesulfonic acid, hexafluoropropylene oxide dimer acid and its ammonium salt, or perfluorobutanesulfonic acid.

(2) Only one taxpayer per residence may be a recipient of the credit.

(3) The credit provided in this section shall be a refundable tax credit equal to fifty percent of the cost incurred by the taxpayer during the taxable year for installation of the reverse osmosis system, up to a maximum of one thousand dollars.

(4) A taxpayer shall apply for the credit provided in this section by submitting an application to the department with the following information:

(a) Documentation of the test results of the drinking water for the taxpayer's primary residence;

(b) Documentation of the cost of the reverse osmosis system installed at such residence; and

(c) Any other documentation required by the department.

(5) If the department determines that the taxpayer qualifies for the tax credit under this section, the department shall approve the application and certify the amount of the approved credit to the taxpayer.

(6) The department shall consider applications in the order in which they are received and may approve tax credits under this section each fiscal year until the aggregate limit allowed under subsection (7) of this section has been reached.

(7) The department may approve tax credits for each fiscal year until the total amount of credits approved reaches five hundred thousand dollars for fiscal years 2024-25, 2025-26, and 2026-27 and one million dollars for any fiscal year thereafter.

(8) A taxpayer shall claim any tax credits granted under this section by attaching the tax credit certification received from the department under subsection (5) of this section to the taxpayer's tax return.

Source: Laws 2024, LB937, § 62.
Operative date July 19, 2024.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

77-3170 Rules and regulations.

The department may adopt and promulgate rules and regulations to carry out the Reverse Osmosis System Tax Credit Act.

Source: Laws 2024, LB937, § 63.
Operative date July 19, 2024.

ARTICLE 34
POLITICAL SUBDIVISIONS, BUDGET LIMITATIONS

(d) LIMITATION ON PROPERTY TAXES

(e) BASE LIMITATION

(d) LIMITATION ON PROPERTY TAXES

77-3442 Property tax levies; maximum levy; exceptions.

(1) Property tax levies for the support of local governments for fiscal years beginning on or after July 1, 1998, shall be limited to the amounts set forth in this section except as provided in section 77-3444.

(2)(a) Except as provided in subdivisions (2)(b) and (2)(e) of this section, school districts and multiple-district school systems may levy a maximum levy of one dollar and five cents per one hundred dollars of taxable valuation of property subject to the levy.

(b) For each fiscal year prior to fiscal year 2017-18, learning communities may levy a maximum levy for the general fund budgets of member school districts of ninety-five cents per one hundred dollars of taxable valuation of property subject to the levy. The proceeds from the levy pursuant to this subdivision shall be distributed pursuant to section 79-1073.

(c) Except as provided in subdivision (2)(e) of this section, for each fiscal year prior to fiscal year 2017-18, school districts that are members of learning communities may levy for purposes of such districts' general fund budget and special building funds a maximum combined levy of the difference of one dollar and five cents on each one hundred dollars of taxable property subject to the levy minus the learning community levy pursuant to subdivision (2)(b) of this section for such learning community.

(d) Excluded from the limitations in subdivisions (2)(a) and (2)(c) of this section are (i) amounts levied to pay for current and future sums agreed to be paid by a school district to certificated employees in exchange for a voluntary termination of employment occurring prior to September 1, 2017, (ii) amounts levied by a school district otherwise at the maximum levy pursuant to subdivision (2)(a) of this section to pay for current and future qualified voluntary termination incentives for certificated teachers pursuant to subsection (3) of section 79-8,142 that are not otherwise included in an exclusion pursuant to subdivision (2)(d) of this section, (iii) amounts levied by a school district otherwise at the maximum levy pursuant to subdivision (2)(a) of this section to pay for seventy-five percent of the current and future sums agreed to be paid to certificated employees in exchange for a voluntary termination of employment occurring between September 1, 2017, and August 31, 2018, as a result of a collective-bargaining agreement in force and effect on September 1, 2017, that are not otherwise included in an exclusion pursuant to subdivision (2)(d) of this section, (iv) amounts levied by a school district otherwise at the maximum levy pursuant to subdivision (2)(a) of this section to pay for fifty percent of the

current and future sums agreed to be paid to certificated employees in exchange for a voluntary termination of employment occurring between September 1, 2018, and August 31, 2019, as a result of a collective-bargaining agreement in force and effect on September 1, 2017, that are not otherwise included in an exclusion pursuant to subdivision (2)(d) of this section, (v) amounts levied by a school district otherwise at the maximum levy pursuant to subdivision (2)(a) of this section to pay for twenty-five percent of the current and future sums agreed to be paid to certificated employees in exchange for a voluntary termination of employment occurring between September 1, 2019, and August 31, 2020, as a result of a collective-bargaining agreement in force and effect on September 1, 2017, that are not otherwise included in an exclusion pursuant to subdivision (2)(d) of this section, (vi) amounts levied in compliance with sections 79-10,110 and 79-10,110.02, and (vii) amounts levied to pay for special building funds and sinking funds established for projects commenced prior to April 1, 1996, for construction, expansion, or alteration of school district buildings. For purposes of this subsection, commenced means any action taken by the school board on the record which commits the board to expend district funds in planning, constructing, or carrying out the project.

(e) Federal aid school districts may exceed the maximum levy prescribed by subdivision (2)(a) or (2)(c) of this section only to the extent necessary to qualify to receive federal aid pursuant to Title VIII of Public Law 103-382, as such title existed on September 1, 2001. For purposes of this subdivision, federal aid school district means any school district which receives ten percent or more of the revenue for its general fund budget from federal government sources pursuant to Title VIII of Public Law 103-382, as such title existed on September 1, 2001.

(f) For each fiscal year, learning communities may levy a maximum levy of one-half cent on each one hundred dollars of taxable property subject to the levy for elementary learning center facility leases, for remodeling of leased elementary learning center facilities, and for up to fifty percent of the estimated cost for focus school or program capital projects approved by the learning community coordinating council pursuant to section 79-2111.

(g) For each fiscal year, learning communities may levy a maximum levy of one and one-half cents on each one hundred dollars of taxable property subject to the levy for early childhood education programs for children in poverty, for elementary learning center employees, for contracts with other entities or individuals who are not employees of the learning community for elementary learning center programs and services, and for pilot projects, except that no more than ten percent of such levy may be used for elementary learning center employees.

(3) For each fiscal year through fiscal year 2023-24, community college areas may levy the levies provided in subdivisions (2)(a) through (c) of section 85-1517, in accordance with the provisions of such subdivisions. For fiscal year 2024-25 and each fiscal year thereafter, community college areas may levy the levies provided in subdivisions (2)(a) and (b) of section 85-1517, in accordance with the provisions of such subdivisions. A community college area may exceed the levy provided in subdivision (2)(a) of section 85-1517 by the amount necessary to generate sufficient revenue as described in section 85-1543 or 85-2238. A community college area may exceed the levy provided in subdivision (2)(b) of section 85-1517 by the amount necessary to retire general obligation bonds assumed by the community college area or issued pursuant to section

85-1515 according to the terms of such bonds or for any obligation pursuant to section 85-1535 entered into prior to January 1, 1997.

(4)(a) Natural resources districts may levy a maximum levy of four and one-half cents per one hundred dollars of taxable valuation of property subject to the levy.

(b) Natural resources districts shall also have the power and authority to levy a tax equal to the dollar amount by which their restricted funds budgeted to administer and implement ground water management activities and integrated management activities under the Nebraska Ground Water Management and Protection Act exceed their restricted funds budgeted to administer and implement ground water management activities and integrated management 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; Laws 2023, LB243, § 12.

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.

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.

77-3444 Authority to exceed maximum levy; procedure.

(1) A political subdivision may exceed the limits provided in section 77-3442 or a final levy allocation determination as provided in section 77-3443 by an amount not to exceed a maximum levy approved by a majority of registered voters voting on the issue in a primary, general, or special election at which the issue is placed before the registered voters. A vote to exceed the limits provided in section 77-3442 or a final levy allocation as provided in section 77-3443 must be approved prior to October 10 of the fiscal year which is to be the first to exceed the limits or final levy allocation. The governing body of the political subdivision may call for the submission of the issue to the voters (a) by passing a resolution calling for exceeding the limits or final levy allocation by a vote of at least two-thirds of the members of the governing body and delivering a copy of the resolution to the county clerk or election commissioner of every county which contains all or part of the political subdivision or (b) upon receipt of a petition by the county clerk or election commissioner of every county containing all or part of the political subdivision requesting an election signed by at least five percent of the registered voters residing in the political subdivision. The resolution or petition shall include the amount of levy which would be imposed in excess of the limits provided in section 77-3442 or the final levy allocation as provided in section 77-3443 and the duration of the excess levy authority. The excess levy authority shall not have a duration greater than five years. Any resolution or petition calling for a special election shall be filed with the county clerk or election commissioner on or before the fifth Friday prior to the election, and the time of publication and providing a copy of the notice of election required in section 32-802 shall be no later than twenty days prior to the election. The county clerk or election commissioner shall place the issue on the ballot at an election as called for in the resolution or petition which is at least thirty-one days after receipt of the resolution or petition. The election shall be held pursuant to the Election Act. For petitions filed with the county clerk or election commissioner on or after May 1, 1998, the petition shall be in the form as provided in sections 32-628 to 32-631. Any excess levy authority approved under this section shall terminate pursuant to its terms, on a vote of the governing body of the political subdivision to terminate the authority to levy more than the limits, at the end of the fourth fiscal year following the first year in which the levy exceeded the limit or the final levy allocation, or as provided in subsection (4) of this section, whichever is earliest. A governing body may pass no more than one resolution calling for an election pursuant to this section during any one calendar year. Only one election may be held in any one calendar year pursuant to a petition initiated under this section.

(2) The ballot question may include any terms and conditions set forth in the resolution or petition and shall include the following: ''Shall (name of political subdivision) be allowed to levy a property tax not to exceed _____ cents per one hundred dollars of taxable valuation in excess of the limits prescribed by law until fiscal year _____ for the purposes of (general operations; building construction, remodeling, or site acquisition; or both general operations and building construction, remodeling, or site acquisition)?''. If a majority

of the votes cast upon the ballot question are in favor of such tax, the county board shall authorize a tax in excess of the limits in section 77-3442 or the final levy allocation in section 77-3443 but such tax shall not exceed the amount stated in the ballot question. If a majority of those voting on the ballot question are opposed to such tax, the governing body of the political subdivision shall not impose such tax.

(3) In lieu of the election procedures in subsection (1) of this section, any political subdivision subject to section 77-3443 and villages may approve a levy in excess of the limits in section 77-3442 or the final levy allocation provided in section 77-3443 for a period of one year at a meeting of the residents of the political subdivision or village, called after notice is published in a newspaper of general circulation in the political subdivision or village at least twenty days prior to the meeting. At least ten percent of the registered voters residing in the political subdivision or village shall constitute a quorum for purposes of taking action to exceed the limits or final levy allocation. A record shall be made of the registered voters residing in the political subdivision or village who are present at the meeting. The method of voting at the meeting shall protect the secrecy of the ballot. If a majority of the registered voters present at the meeting vote in favor of exceeding the limits or final levy allocation, a copy of the record of that action shall be forwarded to the county board prior to October 10 and the county board shall authorize a levy as approved by the residents for the year. If a majority of the registered voters present at the meeting vote against exceeding the limits or final allocation, the limit or allocation shall not be exceeded and the political subdivision shall have no power to call for an election under subsection (1) of this section.

(4) A political subdivision may rescind or modify a previously approved excess levy authority prior to its expiration by a majority of registered voters voting on the issue in a primary, general, or special election at which the issue is placed before the registered voters. A vote to rescind or modify must be approved prior to October 10 of the fiscal year for which it is to be effective. The governing body of the political subdivision may call for the submission of the issue to the voters (a) by passing a resolution calling for the rescission or modification by a vote of at least two-thirds of the members of the governing body and delivering a copy of the resolution to the county clerk or election commissioner of every county which contains all or part of the political subdivision or (b) upon receipt of a petition by the county clerk or election commissioner of every county containing all or part of the political subdivision requesting an election signed by at least five percent of the registered voters residing in the political subdivision. The resolution or petition shall include the amount and the duration of the previously approved excess levy authority and a statement that either such excess levy authority will be rescinded or such excess levy authority will be modified. If the excess levy authority will be modified, the amount and duration of such modification shall be stated. The modification shall not have a duration greater than five years. The county clerk or election commissioner shall place the issue on the ballot at an election as called for in the resolution or petition which is at least thirty-one days after receipt of the resolution or petition, and the time of publication and providing a copy of the notice of election required in section 32-802 shall be no later than twenty days prior to the election. The election shall be held pursuant to the Election Act.

(5) For purposes of this section, when the political subdivision is a sanitary and improvement district, registered voter means a person qualified to vote as

provided in section 31-735. Any election conducted under this section for a sanitary and improvement district shall be conducted and counted as provided in sections 31-735 to 31-735.06.

(6) For purposes of this section, when the political subdivision is a school district or a multiple-district school system, registered voter includes persons qualified to vote for the members of the school board of the school district which is voting to exceed the maximum levy limits pursuant to this section.

Source: Laws 1996, LB 1114, § 3; Laws 1997, LB 269, § 58; Laws 1997, LB 343, § 1; Laws 1997, LB 806, § 4; Laws 1998, LB 306, § 38; Laws 1998, LB 1104, § 18; Laws 1999, LB 141, § 13; Laws 2007, LB289, § 1; Laws 2018, LB377, § 8; Laws 2022, LB843, § 55.

Cross References

Election Act, see section 32-101.

(e) BASE LIMITATION

77-3446 Base limitation, defined.

Base limitation means the budget limitation rate applicable to school districts and the limitation on growth of restricted funds applicable to other political subdivisions prior to any increases in the rate as a result of special actions taken by a supermajority of any governing board or of any exception allowed by law. The base limitation is two and one-half percent until adjusted, except that the base limitation for school districts for school fiscal years 2017-18 and 2018-19 is one and one-half percent and for school fiscal year 2019-20 is two percent. The base limitation may be adjusted annually by the Legislature to reflect changes in the prices of services and products used by school districts and political subdivisions.

Source: Laws 1998, LB 989, § 15; Laws 2001, LB 365, § 1; Laws 2003, LB 540, § 3; Laws 2009, LB545, § 2; Laws 2009, First Spec. Sess., LB5, § 1; Laws 2011, LB235, § 1; Laws 2013, LB407, § 1; Laws 2017, LB409, § 1; Laws 2019, LB675, § 1.

ARTICLE 35

HOMESTEAD EXEMPTION

Section

Section
77-3521. Tax Commissioner; rules and regulations.
77-3522. Violations; penalty; disallowance of claim; when; revocation of exemption; procedure; appeal.
77-3523. Homestead; exemption; county treasurer and county assessor; certify tax revenue lost within county; reimbursed; manner; distribution.
77-3529. Homestead; exemption; application; denied; other exemption allowed.

77-3501 Definitions, where found.

For purposes of sections 77-3501 to 77-3529, unless the context otherwise requires, the definitions found in sections 77-3501.01 to 77-3505.06 shall be used.

Source: Laws 1979, LB 65, § 1; Laws 1984, LB 809, § 1; Laws 1987, LB 376A, § 1; Laws 1989, LB 84, § 7; Laws 1994, LB 902, § 25; Laws 1995, LB 483, § 2; Laws 1997, LB 182, § 1; Laws 2009, LB94, § 1; Laws 2014, LB1087, § 1; Laws 2024, LB126, § 2. Operative date January 1, 2025.

77-3505.06 Occupy, defined.

Occupy means to reside on a property with the intention of maintaining the property as the owner's primary residence. A departure from the property for reasons of health or legal duty shall not disqualify the owner of the property from receiving an exemption under sections 77-3501 to 77-3529, so long as the owner demonstrates an intention to return to the property.

Source: Laws 2024, LB126, § 3.
Operative date January 1, 2025.

77-3506 Certain veterans; exemption; certain surviving spouses; application.

(1) All homesteads in this state shall be assessed for taxation the same as other property, except that there shall be exempt from taxation, on any homestead described in subsection (2) of this section, one hundred percent of the exempt amount.

(2) The exemption described in subsection (1) of this section shall apply to homesteads of:

(a) A veteran who was discharged or otherwise separated with a characterization of honorable or general (under honorable conditions), who is drawing compensation from the United States Department of Veterans Affairs because of one hundred percent service-connected permanent disability, and who is not eligible for total exemption under sections 77-3526 to 77-3528;

(b) An unremarried surviving spouse of a veteran described in subdivision (2)(a) of this section or a surviving spouse of such a veteran who remarries after attaining the age of fifty-seven years;

(c) A veteran who was discharged or otherwise separated with a characterization of honorable or general (under honorable conditions), who is drawing compensation from the United States Department of Veterans Affairs because of one hundred percent service-connected temporary disability, and who is not eligible for total exemption under sections 77-3526 to 77-3528, an unremarried spouse of such a veteran, or a surviving spouse of such a veteran who remarries after attaining the age of fifty-seven years;

(d) An unremarried surviving spouse of any veteran, including a veteran other than a veteran described in section 80-401.01, who was discharged or otherwise separated with a characterization of honorable or general (under honorable conditions) and who died because of a service-connected disability or a surviving spouse of such a veteran who remarries after attaining the age of fifty-seven years;

(e) An unremarried surviving spouse of a serviceman or servicewoman, including a veteran other than a veteran described in section 80-401.01, whose death while on active duty was service-connected or a surviving spouse of such a serviceman or servicewoman who remarries after attaining the age of fifty-seven years; and

(f) An unremarried surviving spouse of a serviceman or servicewoman who died while on active duty during the periods described in section 80-401.01 or a surviving spouse of such a serviceman or servicewoman who remarries after attaining the age of fifty-seven years.

(3) Application for exemption under subdivision (2)(a) of this section shall be required in every subsequent year evenly divisible by five and shall include certification of the status described in subdivision (2)(a) of this section from the United States Department of Veterans Affairs. Application for exemption under subdivision (2)(b), (c), (d), (e), or (f) of this section shall be required annually and shall include certification of the status described in subdivision (2)(b), (c), (d), (e), or (f) of this section from the United States Department of Veterans Affairs, except that such certification of status shall only be required in every subsequent year evenly divisible by five.

Source: Laws 2014, LB1087, § 5; Laws 2016, LB683, § 1; Laws 2018, LB1089, § 6; Laws 2019, LB512, § 25; Laws 2023, LB727, § 84.

77-3506.03 Exempt amount; reduction; when; continued eligibility for exemption; when.

(1) Except as provided in subsection (2) of this section, for homesteads valued at or above the maximum value, the exempt amount for any exemption under section 77-3507 or 77-3508 shall be reduced by ten percent for each two thousand five hundred dollars of value by which the homestead exceeds the maximum value and any homestead which exceeds the maximum value by twenty thousand dollars or more is not eligible for any exemption under section 77-3507 or 77-3508.

(2)(a) For homesteads valued at or above the maximum value, the exempt amount shall not be reduced and the homestead shall remain eligible for an exemption under section 77-3507 or 77-3508 for the current year if the homestead:

(i) Received an exemption under section 77-3507 or 77-3508 in the previous year;

(ii) Was valued below the maximum value in such previous year; and

(iii) Is not ineligible for an exemption under section 77-3507 or 77-3508 for any reason other than as provided in subsection (1) of this section.

(b) If a homestead remains eligible for an exemption under subdivision (a) of this subsection for any year, the homestead shall continue to be eligible for each year thereafter unless the homestead is not eligible for such exemption for any reason other than as provided in subsection (1) of this section.

(c) The percentage of the exempt amount for a homestead for any year such homestead is valued at or above the maximum value and remains eligible for exemption under this subsection shall be equal to the percentage of the exempt amount for the homestead in the last year the homestead received an exemption under section 77-3507 or 77-3508 and was valued below the maximum value.

(d) If the homestead's increase in value from the previous year to a value at or above the maximum value is due to improvements to the homestead, this subsection shall not apply to such homestead.

(3) This section shall not apply to any exemption under section 77-3506.

Source: Laws 1995, LB 483, § 1; Laws 2014, LB1087, § 4; Laws 2018, LB1089, § 8; Laws 2024, LB126, § 4.
Operative date January 1, 2025.

77-3508 Homesteads; assessment; exemptions; individuals; based on disability and income.

(1)(a) All homesteads in this state shall be assessed for taxation the same as other property, except that there shall be exempt from taxation, on any homestead described in subdivision (b) of this subsection, a percentage of the exempt amount as limited by section 77-3506.03. The exemption shall be based on the household income of a claimant pursuant to subsections (2) through (4) of this section.

(b) The exemption described in subdivision (a) of this subsection shall apply to homesteads of:

(i) Veterans as defined in section 80-401.01 who were discharged or otherwise separated with a characterization of honorable or general (under honorable conditions) and who are totally disabled by a non-service-connected accident or illness;

(ii) Individuals who have a permanent physical disability and have lost all mobility so as to preclude locomotion without the use of a mechanical aid or a prosthetic device as defined in section 77-2704.09;

(iii) Individuals who have undergone amputation of both arms above the elbow or who have a permanent partial disability of both arms in excess of seventy-five percent; and

(iv) Beginning January 1, 2015, individuals who have a developmental disability as defined in section 83-1205.

(c) Application for the exemption described in subdivision (a) of this subsection shall include certification from a qualified medical physician, physician assistant, or advanced practice registered nurse for subdivisions (b)(i) through (b)(iii) of this subsection, certification from the United States Department of Veterans Affairs affirming that the homeowner is totally disabled due to non-service-connected accident or illness for subdivision (b)(i) of this subsection, or certification from the Department of Health and Human Services for subdivision (b)(iv) of this subsection. Such certification from a qualified medical physician, physician assistant, or advanced practice registered nurse or from the Department of Health and Human Services shall be made on forms prescribed by the Department of Revenue. If an individual described in subdivision (b)(i), (ii), (iii), or (iv) of this subsection is granted a homestead exemption pursuant to this section for any year, such individual shall not be required to

submit the certification required under this subdivision in succeeding years if no change in medical condition has occurred, except that the county assessor or the Tax Commissioner may request such certification to verify that no change in medical condition has occurred.

(2) For 2014, for a married or closely related claimant as described in subsection (1) of this section, the percentage of the exempt amount for which the claimant shall be eligible shall be the percentage in Column B which corresponds with the claimant's household income in Column A in the table found in this subsection.

Column A Household Income In Dollars	Column B Percentage Of Relief
0 through 34,700	100
34,701 through 36,400	90
36,401 through 38,100	80
38,101 through 39,800	70
39,801 through 41,500	60
41,501 through 43,200	50
43,201 through 44,900	40
44,901 through 46,600	30
46,601 through 48,300	20
48,301 through 50,000	10
50,001 and over	0

(3) For 2014, for a single claimant as described in subsection (1) of this section, the percentage of the exempt amount for which the claimant shall be eligible shall be the percentage in Column B which corresponds with the claimant's household income in Column A in the table found in this subsection.

Column A Household Income In Dollars	Column B Percentage Of Relief
0 through 30,300	100
30,301 through 31,700	90
31,701 through 33,100	80
33,101 through 34,500	70
34,501 through 35,900	60
35,901 through 37,300	50
37,301 through 38,700	40
38,701 through 40,100	30
40,101 through 41,500	20
41,501 through 42,900	10
42,901 and over	0

(4) For exemption applications filed in calendar years 2015 through 2017, the income eligibility amounts in subsections (2) and (3) of this section shall be adjusted by the percentage determined pursuant to the provisions of section 1(f) of the Internal Revenue Code of 1986, as it existed prior to December 22, 2017. For exemption applications filed in calendar year 2018 and each calendar year thereafter, the income eligibility amounts in subsections (2) and (3) of this section shall be adjusted by the percentage change in the Consumer Price Index for All Urban Consumers published by the federal Bureau of Labor Statistics from the twelve months ending on August 31, 2016, to the twelve months

ending on August 31 of the year preceding the applicable calendar year. The income eligibility amounts shall be adjusted for cumulative inflation since 2014. If any amount is not a multiple of one hundred dollars, the amount shall be rounded to the next lower multiple of one hundred dollars.

Source: Laws 1979, LB 65, § 8; Laws 1980, LB 647, § 5; Laws 1981, LB 478, § 1; Laws 1983, LB 195, § 2; Laws 1986, LB 1258, § 2; Laws 1987, LB 376A, § 5; Laws 1988, LB 1105, § 3; Laws 1991, LB 2, § 17; Laws 1994, LB 902, § 34; Laws 1995, LB 483, § 5; Laws 1997, LB 182, § 5; Laws 1999, LB 179, § 2; Laws 2000, LB 1279, § 2; Laws 2005, LB 17, § 1; Laws 2005, LB 54, § 17; Laws 2014, LB986, § 2; Laws 2016, LB776, § 6; Laws 2017, LB20, § 1; Laws 2018, LB1089, § 10; Laws 2019, LB512, § 26.

77-3511 Homestead; exemption; application; execution.

The application for homestead exemption or for transfer of homestead exemption shall be signed by the owner of the property who qualifies for exemption under sections 77-3501 to 77-3529 unless the owner is an incompetent or unable to make such application, in which case it shall be signed by the guardian. If an owner who in all respects qualifies for a homestead exemption under such sections dies after January 1 and before the last day for filing an application for a homestead exemption and before applying for a homestead exemption, his or her personal representative may file the application for exemption on or before the last day for filing an application for a homestead exemption of that year if the surviving spouse of such owner continues to occupy the homestead. Any exemption granted as a result of such application signed by a personal representative shall be in effect for only the year in which the owner died.

Source: Laws 1979, LB 65, § 11; Laws 1980, LB 647, § 6; Laws 1983, LB 195, § 4; Laws 1983, LB 494, § 3; Laws 1984, LB 809, § 7; Laws 1986, LB 1258, § 5; Laws 1987, LB 376A, § 9; Laws 1988, LB 1105, § 4; Laws 1989, LB 84, § 11; Laws 1994, LB 902, § 37; Laws 2014, LB1087, § 11; Laws 2024, LB126, § 5.
Operative date January 1, 2025.

77-3512 Homestead; exemption; application; when filed; failure to file; effect.

(1) It shall be the duty of each owner who wants a homestead exemption under section 77-3506, 77-3507, or 77-3508 to file an application therefor with the county assessor of the county in which the homestead is located after February 1 and on or before June 30 of each year, except that:

(a) The county board of the county in which the homestead is located may, by majority vote, extend the deadline for an applicant to on or before July 20. An extension shall not be granted to an applicant who received an extension in the immediately preceding year;

(b) An owner may file a late application pursuant to section 77-3514.01 if he or she includes documentation of a medical condition which impaired the owner's ability to file the application in a timely manner;

(c) An owner may file a late application pursuant to section 77-3514.01 if he or she includes a copy of the death certificate of a spouse who died during the year for which the exemption is requested;

(d) A veteran qualifying for a homestead exemption under subdivision (2)(a) of section 77-3506 shall only be required to file an application in every subsequent year evenly divisible by five; and

(e) If a veteran who has been granted a homestead exemption under subdivision (2)(a) of section 77-3506 dies during the five-year exemption period, the surviving spouse of such veteran shall continue to receive such exemption for the remainder of the five-year exemption period. After the expiration of the five-year exemption period, the surviving spouse shall be required to file for an exemption under subdivision (2)(b) of section 77-3506 on an annual basis.

(2) Failure to file an application as required in subsection (1) of this section shall constitute a waiver of the exemption for the year in which the failure occurred.

Source: Laws 1979, LB 65, § 12; Laws 1980, LB 647, § 7; Laws 1983, LB 195, § 5; Laws 1983, LB 396, § 2; Laws 1984, LB 809, § 8; Laws 1985, Second Spec. Sess., LB 6, § 4; Laws 1989, LB 84, § 12; Laws 1991, LB 9, § 5; Laws 1991, LB 773, § 21; Laws 1995, LB 133, § 1; Laws 1996, LB 1039, § 5; Laws 1997, LB 397, § 27; Laws 2003, LB 192, § 2; Laws 2009, LB94, § 3; Laws 2014, LB1087, § 12; Laws 2018, LB1089, § 15; Laws 2021, LB313, § 1; Laws 2023, LB727, § 85.

77-3513 Homestead; exemption; notice; contents.

The county assessor shall mail a notice on or before April 1 to claimants who are the owners of a homestead which was granted an exemption under section 77-3506, 77-3507, or 77-3508 and who are required to refile for such exemption in the current year unless the claimant has already filed the application for the current year or the county assessor has reason to believe there has been a change of circumstances so that the claimant no longer qualifies. The notice shall include the claimant's name, the application deadlines for the current year, a list of documents that must be filed with the application, and the county assessor's office address and telephone number.

Source: Laws 1979, LB 65, § 13; Laws 1980, LB 647, § 8; Laws 1983, LB 195, § 6; Laws 1983, LB 396, § 3; Laws 1984, LB 809, § 9; Laws 1985, Second Spec. Sess., LB 6, § 5; Laws 1986, LB 1258, § 6; Laws 1987, LB 376A, § 10; Laws 1991, LB 773, § 22; Laws 1994, LB 902, § 38; Laws 1995, LB 133, § 2; Laws 1996, LB 1039, § 6; Laws 1997, LB 397, § 28; Laws 1999, LB 179, § 4; Laws 2005, LB 54, § 19; Laws 2007, LB145, § 2; Laws 2009, LB94, § 4; Laws 2014, LB986, § 4; Laws 2014, LB1087, § 13; Laws 2018, LB1089, § 16; Laws 2023, LB727, § 86.

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.

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 informa-

tion 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; Laws 2024, LB126, § 6.
Operative date January 1, 2025.

77-3519 Homestead; exemption; county assessor; rejection; applicant; complaint; contents; hearing; appeal.

In any case when the county assessor rejects an application for homestead exemption, such applicant may obtain a hearing before the county board of equalization by filing a written complaint with the county clerk. If the application for homestead exemption was rejected on the basis of value, the complaint must be filed by June 30. The county board of equalization may, by majority vote, extend such deadline to July 20. If the application for homestead exemption was rejected on any other basis, the complaint must be filed within thirty

days from receipt of the notice from the county assessor showing such rejection. Such complaint shall specify his or her grievances and the pertinent facts in relation thereto, in ordinary and concise language and without repetition, and in such manner as to enable a person of common understanding to know what is intended. The board may take evidence pertinent to such complaint, and for that purpose may compel the attendance of witnesses and the production of books, records, and papers by subpoena. The board shall issue its decision on the complaint within thirty days after the filing of the complaint. Notice of the board's decision shall be mailed by the county clerk to the applicant within seven days after the decision. The taxpayer shall have the right to appeal from the board's decision with reference to the application for homestead exemption to the Tax Equalization and Review Commission in accordance with section 77-5013 within thirty days after the decision.

Source: Laws 1979, LB 65, § 19; Laws 1987, LB 376A, § 14; Laws 1995, LB 490, § 177; Laws 2004, LB 973, § 44; Laws 2011, LB384, § 19; Laws 2019, LB512, § 27.

77-3521 Tax Commissioner; rules and regulations.

It shall be the duty of the Tax Commissioner to adopt and promulgate rules and regulations for the information and guidance of the county assessors and county boards of equalization, not inconsistent with sections 77-3501 to 77-3529, affecting the application, hearing, assessment, or equalization of property which is claimed to be entitled to the exemption granted by such sections.

Source: Laws 1979, LB 65, § 21; Laws 1984, LB 809, § 12; Laws 1989, LB 84, § 15; Laws 1994, LB 902, § 40; Laws 2014, LB1087, § 17; Laws 2024, LB126, § 7.
Operative date January 1, 2025.

77-3522 Violations; penalty; disallowance of claim; when; revocation of exemption; procedure; appeal.

(1) Any person who makes any false or fraudulent claim for exemption or any false statement or false representation of a material fact in support of such claim or any person who knowingly assists another in the preparation of any such false or fraudulent claim or enters into any collusion with another by the execution of a fictitious deed or other instrument for the purpose of obtaining unlawful exemption under sections 77-3501 to 77-3529 shall be guilty of a Class II misdemeanor and shall be subject to a forfeiture of any such exemption for a period of two years from the date of conviction. Any person who shall make an oath or affirmation to any false or fraudulent application for homestead exemption knowing the same to be false or fraudulent shall be guilty of a Class I misdemeanor.

(2) In addition to the penalty provided in subsection (1) of this section, if any person (a) files a claim for exemption as provided in section 77-3506, 77-3507, or 77-3508 which is excessive due to misstatements by the owner filing such claim or (b) fails to notify the county assessor of a change in status of a veteran qualifying for a homestead exemption under subdivision (2)(a) of section 77-3506 which affected all or a portion of the exemption period, including a change in rating, the death of the veteran, or a transfer of property not covered by section 77-3514, the claim may be disallowed in full and, if the claim has

been allowed, an amount equal to the amount of taxes lawfully due during the applicable exemption period but not paid by reason of such unlawful and improper allowance of homestead exemption shall be due and shall upon entry of the amount thereof on the books of the county treasurer be a lien on such property until paid and a penalty and interest on such total sum as provided by statute on delinquent ad valorem taxes shall be assessed. Any amount paid to satisfy a lien imposed pursuant to this subsection shall be paid to the county treasurer in the same manner that other property taxes are paid, and the county treasurer shall remit such amount to the State Treasurer for credit to the General Fund. Any penalty collected pursuant to this subsection shall be retained by the county in which such penalty is assessed.

(3) For any veteran claiming a homestead exemption under subdivision (2)(a) of section 77-3506, the county assessor may revoke such exemption back to the date on which the county assessor has reason to believe that the exemption was improper upon notice to the veteran of the revocation. The veteran may then provide evidence in favor of receiving the exemption to the county assessor, and the county assessor may revise any revocation based on such evidence. Any decision of the county assessor to revoke a homestead exemption under this subsection may be appealed to the county board of equalization within thirty days after the decision. The county board of equalization may reverse or modify the revocation if there is clear and convincing evidence that the veteran qualified for the exemption for a particular period of time.

(4) Any additional taxes or penalties imposed pursuant to this section may be appealed in the same manner as appeals are made under section 77-3519.

Source: Laws 1979, LB 65, § 22; Laws 1984, LB 809, § 13; Laws 1986, LB 1258, § 9; Laws 1989, LB 84, § 16; Laws 1994, LB 902, § 41; Laws 2014, LB1087, § 18; Laws 2018, LB1089, § 20; Laws 2023, LB727, § 87; Laws 2024, LB126, § 8.
Operative date January 1, 2025.

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 one percent of such amount. 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; Laws 2022, LB800, § 344; Laws 2024, LB126, § 9.
Operative date January 1, 2025.

77-3529 Homestead; exemption; application; denied; other exemption allowed.

If any application for exemption pursuant to sections 77-3501 to 77-3529 is denied and the applicant would be qualified for any other exemption under such sections, then such denied application shall be treated as an application for the highest exemption for which qualified. Any additional documentation necessary for such other exemption shall be submitted to the county assessor within a reasonable time after receipt of the notice of denial.

Source: Laws 1979, LB 65, § 29; Laws 1983, LB 195, § 10; Laws 1984, LB 809, § 14; Laws 1987, LB 376A, § 18; Laws 1989, LB 84, § 17; Laws 1994, LB 902, § 43; Laws 2014, LB1087, § 20; Laws 2024, LB126, § 10.
Operative date January 1, 2025.

ARTICLE 36

SCHOOL READINESS TAX CREDIT ACT

Section
77-3603. Terms, defined.
77-3604. Child care and education provider; income tax credit; application; contents; approval; distribution.
77-3605. Eligible staff member; income tax credit; application; contents; approval.
77-3606. Department; limit on credits; claiming credit; procedure; fraud or misrepresentation; disallowance of credit.

77-3603 Terms, defined.

For purposes of the School Readiness Tax Credit Act:

(1) Child means an individual who is five years of age or less;

(2) Child care and education provider means a person who owns or operates an eligible program;

(3) Department means the Department of Revenue;

(4) Eligible program means an applicable child care and early childhood education program as defined in section 71-1954 that has applied to participate

in the quality rating and improvement system developed under the Step Up to Quality Child Care Act and has been assigned a quality scale rating;

(5) Eligible staff member means an individual who is employed with, or who is a self-employed individual providing child care and early childhood education for, an eligible program for at least six months of the taxable year and who is listed in the Nebraska Early Childhood Professional Record System and classified as provided in subsection (4) of section 71-1962. Eligible staff member does not include certificated teaching and administrative staff employed by programs established pursuant to section 79-1104; and

(6) Quality scale rating means the rating of an eligible program under the Step Up to Quality Child Care Act which is expressed in terms of steps, with step one being the lowest rating and step five being the highest rating.

Source: Laws 2016, LB889, § 3; Laws 2020, LB266, § 2.

Cross References

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

77-3604 Child care and education provider; income tax credit; application; contents; approval; distribution.

(1) A child care and education provider whose eligible program provides services to children who participate in the child care subsidy program established pursuant to section 68-1202 may apply to the department to receive a nonrefundable tax credit against the income tax imposed by the Nebraska Revenue Act of 1967.

(2) The nonrefundable credit provided in this section shall be an amount equal to the average monthly number of children described in subsection (1) of this section who are attending the child care and education provider's eligible program, multiplied by an amount based upon the quality scale rating of such eligible program as follows:

Quality Scale Rating of Eligible Program	Tax Credit Per Child Attending Eligible Program
Step Five	$ 1,200
Step Four	$ 1,000
Step Three	$ 800
Step Two	$ 600
Step One	$ 400

(3) A child care and education provider shall apply for the credit provided in this section by submitting an application to the department with the following information:

(a) The number of children described in subsection (1) of this section who attended the child care and education provider's eligible program during each month of the most recently completed taxable year;

(b) Documentation to show the quality scale rating of the child care and education provider's eligible program; and

(c) Any other documentation required by the department.

(4) Subject to subsection (5) of this section, if the department determines that the child care and education provider qualifies for tax credits under this section, it shall approve the application and certify the amount of credits approved to the child care and education provider.

(5) The department shall consider applications in the order in which they are received and may approve tax credits under this section in any taxable year until the aggregate limit allowed under subsection (1) of section 77-3606 has been reached.

(6) If the child care and education provider is (a) a partnership, (b) a limited liability company, (c) a corporation having an election in effect under subchapter S of the Internal Revenue Code of 1986, as amended, or (d) an estate or trust, the tax credit provided in this section may be distributed in the same manner and proportion as the partner, member, shareholder, or beneficiary reports the partnership, limited liability company, subchapter S corporation, estate, or trust income.

(7) The credit provided in this section shall be available for taxable years beginning or deemed to begin on or after January 1, 2024, under the Internal Revenue Code of 1986, as amended.

Source: Laws 2016, LB889, § 4; Laws 2020, LB266, § 3; Laws 2023, LB754, § 17.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

77-3605 Eligible staff member; income tax credit; application; contents; approval.

(1) An eligible staff member may apply to the department to receive a refundable tax credit against the income tax imposed by the Nebraska Revenue Act of 1967. The amount of the credit shall be based on the eligible staff member's classification under subsection (4) of section 71-1962 as follows:

Eligible Staff Member's Classification	Tax Credit
Level Five	$ 3,500
Level Four	$ 3,200
Level Three	$ 2,900
Level Two	$ 2,600
Level One	$ 2,300

(2) An eligible staff member shall apply for the credit provided in this section by submitting an application to the department with the following information:

(a) The eligible staff member's name and place of employment;

(b) An attestation form provided by the Nebraska Early Childhood Professional Record System verifying the level at which the eligible staff member is classified under subsection (4) of section 71-1962; and

(c) Any other documentation required by the department.

(3) Subject to subsection (4) of this section, if the department determines that the eligible staff member qualifies for tax credits under this section, it shall approve the application and certify the amount of credits approved to the eligible staff member.

(4) The department shall consider applications in the order in which they are received and may approve tax credits under this section in any taxable year until the aggregate limit allowed under subsection (1) of section 77-3606 has been reached.

(5) The credit provided in this section shall be available for taxable years beginning or deemed to begin on or after January 1, 2024, under the Internal Revenue Code of 1986, as amended.

(6) For taxable years beginning or deemed to begin on or after January 1, 2025, under the Internal Revenue Code of 1986, as amended, the Tax Commissioner shall adjust the credit amounts provided for in subsection (1) of this section by the percentage change in the Consumer Price Index for All Urban Consumers, as prepared by the United States Department of Labor, Bureau of Labor Statistics, for the twelve-month period ending on August 31 of the year preceding the taxable year.

Source: Laws 2016, LB889, § 5; Laws 2023, LB754, § 18.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

77-3606 Department; limit on credits; claiming credit; procedure; fraud or misrepresentation; disallowance of credit.

(1) The department may approve tax credits under the School Readiness Tax Credit Act each taxable year until the total amount of credits approved for the taxable year reaches seven million five hundred thousand dollars.

(2) A child care and education provider shall claim any tax credits granted under the act by attaching the tax credit certification received from the department under section 77-3604 to the child care and education provider's tax return. An eligible staff member shall claim any tax credits granted under the act by attaching the tax credit certification received from the department under section 77-3605 to the eligible staff member's tax return.

(3) If the department finds that a person has obtained a credit by fraud or misrepresentation, the credits shall be disallowed and the taxpayer's state income tax for such taxable year shall be increased by the amount necessary to recapture the credit.

(4) Credits granted to a taxpayer, but later disallowed, may be recovered by the department within three years from the end of the year in which the credit was claimed.

Source: Laws 2016, LB889, § 6; Laws 2023, LB754, § 19.

ARTICLE 38

FINANCIAL INSTITUTION TAXATION

Section
77-3806. Franchise tax; filing requirements; general provisions applicable; refunds; credit.

77-3806 Franchise tax; filing requirements; general provisions applicable; refunds; credit.

(1) The tax return shall be filed and the total amount of the franchise tax shall be due on the fifteenth day of the third month after the end of the taxable year. No extension of time to pay the tax shall be granted. If the Tax Commissioner determines that the amount of tax can be computed from available information filed by the financial institutions with either state or federal regulatory agencies, the Tax Commissioner may, by regulation, waive the requirement for the financial institutions to file returns.

(2) Sections 77-2714 to 77-27,135 relating to deficiencies, penalties, interest, the collection of delinquent amounts, and appeal procedures for the tax

imposed by section 77-2734.02 shall also apply to the tax imposed by section 77-3802. If the filing of a return is waived by the Tax Commissioner, the payment of the tax shall be considered the filing of a return for purposes of sections 77-2714 to 77-27,135.

(3) No refund of the tax imposed by section 77-3802 shall be allowed unless a claim for such refund is filed within ninety days of the date on which (a) the tax is due or was paid, whichever is later, (b) a change is made to the amount of deposits or the net financial income of the financial institution by a state or federal regulatory agency, or (c) the Nebraska Investment Finance Authority issues an eligibility statement to the financial institution pursuant to the Affordable Housing Tax Credit Act.

(4) Any such financial institution shall receive a credit on the franchise tax as provided under the Affordable Housing Tax Credit Act, the Creating High Impact Economic Futures Act, the Nebraska Higher Blend Tax Credit Act, the Nebraska Job Creation and Mainstreet Revitalization Act, the Nebraska Property Tax Incentive Act, the Relocation Incentive Act, the New Markets Job Growth Investment Act, the Sustainable Aviation Fuel Tax Credit Act, and the Nebraska Shortline Rail Modernization Act.

Source: Laws 1986, LB 774, § 6; Laws 1990, LB 1241, § 16; Laws 2001, LB 433, § 7; Laws 2007, LB367, § 25; Laws 2012, LB1128, § 25; Laws 2014, LB191, § 21; Laws 2016, LB884, § 22; Laws 2020, LB1107, § 135; Laws 2022, LB1261, § 15; Laws 2024, LB937, § 80; Laws 2024, LB1023, § 15; Laws 2024, LB1344, § 11.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB937, section 80, with LB1023, section 15, and LB1344, section 11, to reflect all amendments.

Note: Changes made by LB937 became operative July 19, 2024. Changes made by LB1023 became operative July 19, 2024. Changes made by LB1344 became operative January 1, 2025.

Cross References

Affordable Housing Tax Credit Act, see section 77-2501.
Creating High Impact Economic Futures Act, see section 77-3113.
Nebraska Higher Blend Tax Credit Act, see section 77-7001.
Nebraska Job Creation and Mainstreet Revitalization Act, see section 77-2901.
Nebraska Property Tax Incentive Act, see section 77-6701.
Nebraska Shortline Rail Modernization Act, see section 77-3134.
New Markets Job Growth Investment Act, see section 77-1101.
Relocation Incentive Act, see section 77-3107.
Sustainable Aviation Fuel Tax Credit Act, see section 77-7017.

ARTICLE 39

UNIFORM STATE TAX LIEN REGISTRATION AND ENFORCEMENT

(a) UNIFORM STATE TAX LIEN REGISTRATION AND ENFORCEMENT ACT

Section
77-3903. Notice of lien; filing; requirements; fee; billing.

(a) UNIFORM STATE TAX LIEN REGISTRATION AND ENFORCEMENT ACT

77-3903 Notice of lien; filing; requirements; fee; billing.

(1)(a) A notice of lien provided for in the Uniform State Tax Lien Registration and Enforcement Act upon real property shall be presented in the office of the Secretary of State. Such notice of lien shall be transmitted by the Secretary of State to and filed in the office of the register of deeds by the register of deeds of the county or counties in which the real property subject to the lien is situated

as designated in the notice of lien. The register of deeds shall enter the notice in the alphabetical state tax lien index, showing on one line the name and residence of the person liable named in such notice, the last four digits of the social security number or the federal tax identification number of such person, the Tax Commissioner's or Commissioner of Labor's serial number of such notice, the date and hour of filing, and the amount due. Such presentments to the Secretary of State may be made by direct input to the Secretary of State's database or by other electronic means. All such notices of lien shall be retained in numerical order in a file designated state tax lien notices, except that in offices filing by the roll form of microfilm pursuant to section 23-1517.01, the original notices need not be retained. A lien subject to this subsection shall be effective upon real property when filed by the register of deeds as provided in this subsection.

(b) A notice of lien provided for in the Uniform State Tax Lien Registration and Enforcement Act upon personal property shall be filed in the office of the Secretary of State. The Secretary of State shall enter the notice in the state's central tax lien index, showing on one line the name and residence of the person liable named in such notice, the last four digits of the social security number or the federal tax identification number of such person, the Tax Commissioner's or Commissioner of Labor's serial number of such notice, the date and hour of filing, and the amount due. Such filings with the Secretary of State may be filed by direct input to the Secretary of State's database or by other electronic means. All such notices of lien shall be retained in numerical order in a file designated state tax lien notices.

(2) The uniform fee, payable to the Secretary of State, for presenting for filing, releasing, continuing, or subordinating or for filing, releasing, continuing, or subordinating each tax lien pursuant to the Uniform State Tax Lien Registration and Enforcement Act shall be two times the fee required for recording instruments with the register of deeds as provided in section 33-109. There shall be no fee for the filing of a termination statement. The uniform fee for each county more than one designated pursuant to subdivision (1)(a) of this section shall be the fee required for recording instruments with the register of deeds as provided in section 33-109. The Secretary of State shall remit each fee received pursuant to this subsection to the State Treasurer for credit to the Secretary of State Cash Fund, except that of the fees received pursuant to this subsection, the Secretary of State shall remit the fee required for recording instruments with the register of deeds as provided in section 33-109 to the register of deeds of a county for each designation of such county in a filing pursuant to subdivision (1)(a) of this section.

(3) The Secretary of State shall bill the Tax Commissioner or Commissioner of Labor on a monthly basis for fees for documents presented to or filed with the Secretary of State. No payment of any fee shall be required at the time of presenting or filing any such lien document.

Source: Laws 1986, LB 1027, § 216; Laws 1987, LB 523, § 32; Laws 1995, LB 490, § 179; Laws 1998, LB 1321, § 100; Laws 1999, LB 165, § 4; Laws 1999, LB 550, § 46; Laws 2007, LB223, § 23; Laws 2007, LB334, § 89; Laws 2012, LB14, § 7; Laws 2017, LB152, § 4; Laws 2017, LB268, § 17; Laws 2020, LB910, § 32.

ARTICLE 40
TOBACCO PRODUCTS TAX

77-4001 Act, how cited.

Sections 77-4001 to 77-4025 shall be known and may be cited as the Tobacco Products Tax Act.

Source: Laws 1987, LB 730, § 1; Laws 2009, LB89, § 1; Laws 2023, LB727, § 88; Laws 2024, LB1204, § 25.
Effective date July 19, 2024.

77-4002 Definitions; where found.

For purposes of the Tobacco Products Tax Act, unless the context otherwise requires, the definitions found in sections 77-4003 to 77-4007 shall be used.

Source: Laws 1987, LB 730, § 2; Laws 2009, LB89, § 2; Laws 2023, LB727, § 89.

77-4003 Cancel, defined.

Cancel shall mean to discontinue for up to five years all rights and privileges under a license or certification.

Source: Laws 1987, LB 730, § 3; Laws 2024, LB1204, § 26.
Effective date July 19, 2024.

77-4003.01 Consumable material, defined.

Consumable material means any liquid solution or other material containing nicotine that is depleted as an electronic nicotine delivery system is used.

Source: Laws 2023, LB727, § 90.

77-4003.02 Electronic nicotine delivery system, defined.

Electronic nicotine delivery system has the same meaning as in section 28-1418.01.

Source: Laws 2023, LB727, § 91.

77-4005 Revoke, defined.

Revoke shall mean to permanently void and recall all rights and privileges of a person to obtain a license or certification.

Source: Laws 1987, LB 730, § 5; Laws 2024, LB1204, § 27.
Effective date July 19, 2024.

77-4006 Suspend, defined.

Suspend shall mean to temporarily interrupt for up to one year all rights and privileges under a license or certification.

Source: Laws 1987, LB 730, § 6; Laws 2024, LB1204, § 28.
Effective date July 19, 2024.

77-4007 Tobacco products, defined.

Tobacco products shall mean (1) cigars, (2) cheroots, (3) stogies, (4) periques, (5) granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco, (6) snuff, (7) snuff flour, (8) cavendish, (9) plug and twist tobacco, (10) fine cut and other chewing tobacco, (11) shorts, refuse scraps, clippings, cuttings, and sweepings of tobacco, (12) other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise or both for chewing and smoking, and (13) electronic nicotine delivery systems, except that tobacco products shall not mean cigarettes as defined in section 77-2601.

Source: Laws 1987, LB 730, § 7; Laws 2023, LB727, § 92.

77-4008 Tax imposed; payment.

(1)(a) A tax is hereby imposed upon the first owner of tobacco products to be sold in this state.

(b) The tax on snuff shall be forty-four cents per ounce and a proportionate tax at the like rate on all fractional parts of an ounce. Such tax shall be computed based on the net weight as listed by the manufacturer.

(c) The tax on an electronic nicotine delivery system containing three milliliters or less of consumable material shall be five cents per milliliter of consumable material and a proportionate tax at the like rate on all fractional parts of a milliliter.

(d) The tax on an electronic nicotine delivery system containing more than three milliliters of consumable material shall be ten percent of (i) the purchase price of such electronic nicotine delivery system paid by the first owner or (ii) the price at which the first owner who made, manufactured, or fabricated the electronic nicotine delivery system sells the item to others.

(e) For electronic nicotine delivery systems in the possession of retail dealers for which tax has not been paid, the tax under this subsection shall be imposed at the earliest time the retail dealer: (i) Brings or causes to be brought into the state any electronic nicotine delivery system for sale; (ii) makes, manufactures, or fabricates any electronic nicotine delivery system in this state for sale in this

state; or (iii) sells any electronic nicotine delivery system to consumers within this state.

(f) The tax on tobacco products other than snuff and electronic nicotine delivery systems shall be twenty percent of (i) the purchase price of such tobacco products paid by the first owner or (ii) the price at which a first owner who made, manufactured, or fabricated the tobacco product sells the items to others.

(g) The tax on tobacco products shall be in addition to all other taxes.

(2) Whenever any person who is licensed under section 77-4009 purchases tobacco products from another person licensed under section 77-4009, the seller shall be liable for the payment of the tax.

(3) Amounts collected pursuant to this section shall be used and distributed pursuant to section 77-4025.

Source: Laws 1987, LB 730, § 8; Laws 2002, LB 1085, § 20; Laws 2003, LB 759, § 24; Laws 2009, LB89, § 4; Laws 2023, LB727, § 93.

77-4011.01 Certification required; when; application; contents; fee; issuance of certification.

(1) Each manufacturer of electronic nicotine delivery systems that are sold at retail in this state, whether directly or through a distributor, wholesaler, retailer, or similar intermediary or intermediaries, shall be certified as provided in this section.

(2) An application for certification under this section shall be made on a form and in a manner prescribed by the Tax Commissioner. The application shall include:

(a) The name and address of the applicant or, if the applicant is a firm, partnership, limited liability company, or association, the name and address of each of its members or, if the applicant is a corporation, the name and address of each of its officers and the address of its principal place of business;

(b) The location of the principal place of business to be licensed;

(c) If applicable, a copy of the Prevent All Cigarette Trafficking (PACT) Act Registration Form (ATF Form 5070.1) as submitted by the applicant to the Bureau of Alcohol, Tobacco, Firearms and Explosives of the United States Department of Justice, and an attestation that the applicant is in compliance with, and will continue to comply with, all applicable requirements of 15 U.S.C. 375 and 376;

(d) An attestation that the applicant will comply with all applicable laws of Nebraska and of the applicant's principal place of business;

(e) For an applicant with a principal place of business outside the United States, a declaration, in a form prescribed by the Tax Commissioner, from each of its importers into the United States of any of its brands to be sold in the State of Nebraska, that the importer accepts joint and several liability with the applicant for all liability imposed in accordance with the Tobacco Products Tax Act, including any fees, costs, attorney's fees, and penalties imposed under the act;

(f) An attestation that the applicant's products fully comply with the requirements of the United States Customs and Border Protection agency, including

accurate Entry Summary forms (CPB Form 7501), and that the applicant is not in violation of 18 U.S.C. 541, 542, or 545;

(g) A list of each type or model of electronic nicotine delivery system of the manufacturer which is sold in this state; and

(h) Such other information as the Tax Commissioner may require for the purpose of administering the Tobacco Products Tax Act.

(3) An application for a certification under this section shall be accompanied by a nonrefundable fee in an amount equal to seventy-five dollars for each type or model of electronic nicotine delivery system which is sold in this state.

(4) A manufacturer shall not cause to be sold at retail in this state any type or model of electronic nicotine delivery system not included in the application under this section without first:

(a) Filing an amended certification form in a form and manner prescribed by the Tax Commissioner; and

(b) Paying the appropriate fee under subsection (3) of this section.

(5) Upon receipt of an application in proper form and payment of the fee, the Tax Commissioner shall issue a certification to the applicant, except as provided in section 77-4013. A certification shall not be assignable, shall be valid only for the person in whose name it is issued, and shall be continuously valid unless suspended, canceled, or revoked by the Tax Commissioner.

(6) A manufacturer who is certified under this section shall have established sufficient contact with this state for the exercise of personal jurisdiction over the manufacturer in any matter or issue arising under the Tobacco Products Tax Act.

Source: Laws 2024, LB1204, § 29.
Effective date July 19, 2024.

77-4011.02 Nonresident manufacturer of electronic nicotine delivery systems; appoint agent for service of process.

(1) Any nonresident manufacturer of electronic nicotine delivery systems that has not registered to do business in the State of Nebraska as a foreign corporation or business entity shall, as a condition precedent to being certified pursuant to section 77-4011.01, appoint and continually engage without interruption the services of an agent in the State of Nebraska to act as agent for the service of process on whom all process, and any action or proceeding against such manufacturer concerning or arising out of the enforcement of the Tobacco Products Tax Act, may be served in any manner authorized by law. Such service shall constitute legal and valid service of process on the manufacturer. The manufacturer shall provide the name, address, telephone number, and proof of the appointment and availability of such agent to the Tax Commissioner.

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

termination within five calendar days and shall include proof to the satisfaction of the Tax Commissioner of the appointment of a new agent.

Source: Laws 2024, LB1204, § 30.
Effective date July 19, 2024.

77-4012 License or certification; revoke, cancel, or suspend; procedure.

The Tax Commissioner may revoke, cancel, or suspend any license or certification for a violation of the Tobacco Products Tax Act or any rule or regulation adopted and promulgated by the Tax Commissioner in administering the act. If a license or certification is revoked, canceled, or suspended, the licensee or certified manufacturer shall immediately surrender such license or certification to the Tax Commissioner. No determination of revocation, cancellation, or suspension shall be made until notice has been given and a hearing has been held by the Tax Commissioner as provided in section 77-4019, if requested by the licensee or certified manufacturer.

Source: Laws 1987, LB 730, § 12; Laws 2024, LB1204, § 31.
Effective date July 19, 2024.

77-4013 License or certification; restoration; fee.

The Tax Commissioner may restore licenses or certifications which have been revoked, canceled, or suspended, but the Tax Commissioner shall not issue a new license or certification after the revocation of such a license or certification unless he or she is satisfied that the former licensee or certified manufacturer will comply with the Tobacco Products Tax Act. A person whose license or certification has previously been revoked, canceled, or suspended shall pay the Tax Commissioner a fee of twenty-five dollars for the issuance of a license or certification after each revocation, cancellation, or suspension.

Source: Laws 1987, LB 730, § 13; Laws 2024, LB1204, § 32.
Effective date July 19, 2024.

77-4017 Records; requirements; inspection of business.

(1) Every person licensed or certified under the Tobacco Products Tax Act shall keep complete and accurate records for all places of business, including itemized invoices of tobacco products (a) held, purchased, manufactured, or brought in or caused to be brought into this state or (b) for a person located outside of this state, shipped or transported to retailers in this state. Such records shall be of sufficient detail to identify the manufacturer of each tobacco product held, purchased, manufactured, or brought in or caused to be brought into this state. For snuff, such records shall also include the net weight as listed by the manufacturer.

(2) All books, records, and other papers and documents required to be kept by this section shall be preserved for a period of at least three years after the due date of the tax imposed by the Tobacco Products Tax Act unless the Tax Commissioner, in writing, authorizes their destruction or disposal at an earlier date.

(3) At any time during usual business hours, duly authorized agents or employees of the Tax Commissioner may enter any place of business of a person licensed or certified under the Tobacco Products Tax Act and inspect the premises, the records required to be kept pursuant to this section, and the

tobacco products contained in such place of business for purposes of determining whether or not such person is in full compliance with the act. Refusal to permit such inspection by a duly authorized agent or employee of the Tax Commissioner shall be grounds for revocation, cancellation, or suspension of the license or certification.

Source: Laws 1987, LB 730, § 17; Laws 2009, LB89, § 6; Laws 2024, LB1204, § 33.
Effective date July 19, 2024.

77-4019 Hearing; procedure.

(1) A licensee may request a hearing on any proposed notice of deficiency issued by the Tax Commissioner.

(2) Any person licensed or certified under the Tobacco Products Tax Act may request a hearing after notice that the Tax Commissioner intends to revoke, cancel, or suspend a license or certification.

(3) Such request shall be made within twenty days after the receipt of the notice of deficiency or the notice that the Tax Commissioner intends to revoke, cancel, or suspend a license or certification.

(4) At such hearing the Tax Commissioner, or any officer or employee of the Tax Commissioner designated in writing, may examine any books, papers, or memoranda bearing upon the matter at issue and require the attendance of any person licensed or certified under the Tobacco Products Tax Act or any officer or employee of such person having knowledge pertinent to such hearing. The Tax Commissioner or his or her designee shall have the power to administer oaths to persons testifying at such hearing.

(5) During the hearing, the Tax Commissioner or his or her designee shall not be bound by the technical rules of evidence, and no informality in any proceeding or in the manner of taking testimony shall invalidate any order or decision made or approved by the Tax Commissioner.

Source: Laws 1987, LB 730, § 19; Laws 2024, LB1204, § 34.
Effective date July 19, 2024.

77-4020 Final decision; notification; appeal.

Within a reasonable time after the hearing pursuant to section 77-4019, the Tax Commissioner shall make a final decision or final determination and notify the licensee or certified manufacturer by mail of such decision or determination. If any tax or additional tax becomes due, such notice shall be accompanied by a demand for payment of any tax due. A licensee or certified manufacturer may appeal the decision of the Tax Commissioner, and the appeal shall be in accordance with the Administrative Procedure Act.

Source: Laws 1987, LB 730, § 20; Laws 1988, LB 352, § 162; Laws 2012, LB727, § 51; Laws 2024, LB1204, § 35.
Effective date July 19, 2024.

Cross References

Administrative Procedure Act, see section 84-920.

77-4025 Tobacco Products Administration Cash Fund; created; use; transfers; investment.

(1) There is hereby created a cash fund in the Department of Revenue to be known as the Tobacco Products Administration Cash Fund. All revenue collected or received by the Tax Commissioner from the license fees, certification fees, and taxes imposed by the Tobacco Products Tax Act shall be remitted to the State Treasurer for credit to the Tobacco Products Administration Cash Fund, except that all such revenue relating to electronic nicotine delivery systems shall be remitted to the State Treasurer for credit to the General Fund.

(2) All costs required for administration of the Tobacco Products Tax Act shall be paid from the Tobacco Products Administration Cash Fund. Credits and refunds allowed under the act shall be paid from the Tobacco Products Administration Cash Fund. Any receipts, after credits and refunds, in excess of the amounts sufficient to cover the costs of administration may be transferred to the General Fund at the direction of the Legislature.

(3) The State Treasurer shall transfer nine million dollars from the Tobacco Products Administration Cash Fund to the General Fund on or before June 30, 2026, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services. The State Treasurer shall transfer nine million dollars from the Tobacco Products Administration Cash Fund to the General Fund on or before June 30, 2027, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services. The State Treasurer shall transfer nine million dollars from the Tobacco Products Administration Cash Fund to the General Fund on or before June 30, 2028, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services. The State Treasurer shall transfer nine million dollars from the Tobacco Products Administration Cash Fund to the General Fund on or before June 30, 2029, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

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

Source: Laws 1987, LB 730, § 25; Laws 1989, LB 258, § 12; Laws 1994, LB 1066, § 85; Laws 2002, LB 1085, § 21; Laws 2002, LB 1310, § 10; Laws 2009, LB89, § 7; Laws 2023, LB727, § 94; Laws 2024, LB1204, § 36; Laws 2024, First Spec. Sess., LB3, § 28.

Note: Changes made by Laws 2024, LB1204, became effective July 19, 2024.

Note: Changes made by Laws 2024, First Spec. Sess., LB3, became effective August 21, 2024.

Cross References

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

ARTICLE 41

EMPLOYMENT AND INVESTMENT GROWTH ACT

Section
77-4110. Annual report; contents; joint hearing.
77-4111. Tax Commissioner; rules and regulations.

77-4110 Annual report; contents; joint hearing.

(1) The Tax Commissioner shall submit electronically an annual report to the Legislature no later than October 31 of each year. The report shall be on a fiscal year, accrual basis that satisfies the requirements set by the Governmental Accounting Standards Board. The Department of Revenue shall, on or before December 15 of each even-numbered 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) The report shall list (a) the agreements which have been signed during the previous fiscal year, (b) the agreements which are still in effect, (c) the identity of each taxpayer, and (d) the location of each project.

(3) The report shall also state by industry group (a) the specific incentive options applied for under the Employment and Investment Growth Act, (b) the refunds allowed on the investment, (c) the credits earned, (d) the credits used to reduce the corporate income tax and the credits used to reduce the individual income tax, (e) the credits used to obtain sales and use tax refunds, (f) the number of jobs created, (g) the total number of employees employed in the state by the taxpayer on the last day of the calendar quarter prior to the application date and the total number of employees employed in the state by the taxpayer on subsequent reporting dates, (h) the expansion of capital investment, (i) the estimated wage levels of jobs created subsequent to the application date, (j) the total number of qualified applicants, (k) the projected future state revenue gains and losses, (l) the sales tax refunds owed to the applicants, (m) the credits outstanding, and (n) the value of personal property exempted by class in each county.

(4) No information shall be provided in the report that is protected by state or federal confidentiality laws.

Source: Laws 1987, LB 775, § 10; Laws 1990, LB 431, § 3; Laws 2007, LB223, § 26; Laws 2012, LB782, § 138; Laws 2013, LB612, § 4; Laws 2022, LB1150, § 5.

77-4111 Tax Commissioner; rules and regulations.

The Tax Commissioner may adopt and promulgate all rules and regulations necessary to carry out the purposes of the Employment and Investment Growth Act.

Source: Laws 1988, LB 1234, § 9; Laws 2019, LB512, § 28.

ARTICLE 42

PROPERTY TAX CREDIT ACT

Section
77-4212. Property tax credit; minimum amount; county treasurer; duties; disbursement to counties; Property Tax Administrator; State Treasurer; duties.

77-4212 Property tax credit; minimum amount; county treasurer; duties; disbursement to counties; Property Tax Administrator; State Treasurer; duties.

(1) For tax year 2007, the amount of relief granted under the Property Tax Credit Act shall be one hundred five million dollars. For tax year 2008, the amount of relief granted under the act shall be one hundred fifteen million

dollars. It is the intent of the Legislature to fund the Property Tax Credit Act for tax years after tax year 2008 using available revenue. For tax year 2017, the amount of relief granted under the act shall be two hundred twenty-four million dollars. For tax year 2020 through tax year 2022, the minimum amount of relief granted under the act shall be two hundred seventy-five million dollars. For tax year 2023, the minimum amount of relief granted under the act shall be three hundred sixty million dollars. For tax year 2024, the minimum amount of relief granted under the act shall be three hundred ninety-five million dollars. For tax year 2025, the minimum amount of relief granted under the act shall be four hundred thirty million dollars. For tax year 2026, the minimum amount of relief granted under the act shall be four hundred forty-five million dollars. For tax year 2027, the minimum amount of relief granted under the act shall be four hundred sixty million dollars. For tax year 2028, the minimum amount of relief granted under the act shall be four hundred seventy-five million dollars. For tax year 2029, the minimum amount of relief granted under the act shall be the minimum amount from the prior tax year plus a percentage increase equal to the percentage increase, if any, in the total assessed value of all real property in the state from the prior year to the current year, as determined by the Department of Revenue, plus an additional seventy-five million dollars. For tax year 2030 and each tax year thereafter, the minimum amount of relief granted under the act shall be the minimum amount from the prior tax year plus a percentage increase equal to the percentage increase, if any, in the total assessed value of all real property in the state from the prior year to the current year, as determined by the Department of Revenue. If money is transferred or credited to the Property Tax Credit Cash Fund pursuant to any other state law, such amount shall be added to the minimum amount required under this subsection when determining the total amount of relief granted under the act. The relief shall be in the form of a property tax credit which appears on the property tax statement.

(2)(a) For tax years prior to tax year 2017, to determine the amount of the property tax credit, the county treasurer shall multiply the amount disbursed to the county under subdivision (4)(a) of this section by the ratio of the real property valuation of the parcel to the total real property valuation in the county. The amount determined shall be the property tax credit for the property.

(b) Beginning with tax year 2017, to determine the amount of the property tax credit, the county treasurer shall multiply the amount disbursed to the county under subdivision (4)(b) of this section by the ratio of the credit allocation valuation of the parcel to the total credit allocation valuation in the county. The amount determined shall be the property tax credit for the property.

(3) If the real property owner qualifies for a homestead exemption under sections 77-3501 to 77-3529, the owner shall also be qualified for the relief provided in the act to the extent of any remaining liability after calculation of the relief provided by the homestead exemption. If the credit results in a property tax liability on the homestead that is less than zero, the amount of the credit which cannot be used by the taxpayer shall be returned to the Property Tax Administrator by July 1 of the year the amount disbursed to the county was disbursed. The Property Tax Administrator shall immediately credit any funds returned under this subsection to the Property Tax Credit Cash Fund. Upon the return of any funds under this subsection, the county treasurer shall electroni-

cally file a report with the Property Tax Administrator, on a form prescribed by the Tax Commissioner, indicating the amount of funds distributed to each taxing unit in the county in the year the funds were returned, any collection fee retained by the county in such year, and the amount of unused credits returned.

(4)(a) For tax years prior to tax year 2017, the amount disbursed to each county shall be equal to the amount available for disbursement determined under subsection (1) of this section multiplied by the ratio of the real property valuation in the county to the real property valuation in the state. By September 15, the Property Tax Administrator shall determine the amount to be disbursed under this subdivision to each county and certify such amounts to the State Treasurer and to each county. The disbursements to the counties shall occur in two equal payments, the first on or before January 31 and the second on or before April 1. After retaining one percent of the receipts for costs, the county treasurer shall allocate the remaining receipts to each taxing unit levying taxes on taxable property in the tax district in which the real property is located in the same proportion that the levy of such taxing unit bears to the total levy on taxable property of all the taxing units in the tax district in which the real property is located.

(b) Beginning with tax year 2017, the amount disbursed to each county shall be equal to the amount available for disbursement determined under subsection (1) of this section multiplied by the ratio of the credit allocation valuation in the county to the credit allocation valuation in the state. By September 15, the Property Tax Administrator shall determine the amount to be disbursed under this subdivision to each county and certify such amounts to the State Treasurer and to each county. The disbursements to the counties shall occur in two equal payments, the first on or before January 31 and the second on or before April 1. After retaining one percent of the receipts for costs, the county treasurer shall allocate the remaining receipts to each taxing unit based on its share of the credits granted to all taxpayers in the taxing unit.

(5) For purposes of this section, credit allocation valuation means the taxable value for all real property except agricultural land and horticultural land, one hundred twenty percent of taxable value for agricultural land and horticultural land that is not subject to special valuation, and one hundred twenty percent of taxable value for agricultural land and horticultural land that is subject to special valuation.

(6) The State Treasurer shall transfer from the General Fund to the Property Tax Credit Cash Fund one hundred five million dollars by August 1, 2007, and one hundred fifteen million dollars by August 1, 2008.

(7) The Legislature shall have the power to transfer funds from the Property Tax Credit Cash Fund to the General Fund.

Source: Laws 2007, LB367, § 4; Laws 2014, LB1087, § 21; Laws 2016, LB958, § 1; Laws 2017, LB217, § 22; Laws 2020, LB1107, § 136; Laws 2021, LB509, § 14; Laws 2023, LB243, § 13; Laws 2024, LB126, § 11.
Operative date January 1, 2025.

ARTICLE 44
GOOD LIFE DISTRICTS

(a) GOOD LIFE TRANSFORMATIONAL PROJECTS ACT

(b) GOOD LIFE DISTRICT ECONOMIC DEVELOPMENT ACT

(a) GOOD LIFE TRANSFORMATIONAL PROJECTS ACT

77-4401 Good Life Transformational Projects Act, how cited.

Sections 77-4401 to 77-4407 shall be known and may be cited as the Good Life Transformational Projects Act.

Source: Laws 2023, LB727, § 9.

77-4402 Purpose of act; legislative findings.

(1) The purpose of the Good Life Transformational Projects Act is to promote and develop the general and economic welfare of this state and its communities by providing support for unique Nebraska projects that will attract new industries and employment opportunities and further grow and strengthen Nebraska's retail, entertainment, and tourism industries.

(2) The Legislature finds that it will be beneficial to the economic well-being of the people of this state to encourage transformational development projects within the state that create jobs, infrastructure, and other improvements and attract and retain tourists and college graduates from around the state.

(3) The Legislature further finds that such projects will (a) generate new economic activity, as well as additional state and local taxes from persons residing within and outside the state, (b) create new economic opportunities and jobs for residents, and (c) promote new-to-market retail, entertainment, and dining attractions.

Source: Laws 2023, LB727, § 10.

77-4403 Terms, defined.

For purposes of the Good Life Transformational Projects Act:

(1) Department means the Department of Economic Development;

(2) Good life district means a district established pursuant to section 77-4405; and

(3) Qualified inland port district means an inland port district created pursuant to the Municipal Inland Port Authority Act that is located within a city of the metropolitan class.

Source: Laws 2023, LB727, § 11; Laws 2024, LB1344, § 12.
Operative date July 19, 2024.

Cross References

Municipal Inland Port Authority Act, see section 13-3301.

77-4404 Good life district; application; contents; confidential; limitations.

(1) Until December 31, 2024, any person may apply to the department to create a good life district. All applications shall be in writing and shall contain:

(a) A description of the proposed project to be undertaken within the good life district, including a description of any existing development, an estimate of the total new development costs for the project, and an estimate of the number of new jobs to be created as a result of the project;

(b) A map identifying the good life district to be used for purposes of the project;

(c) A description of the proposed financing of the project;

(d) Documentation of local financial commitment to support the project, including all public and private resources pledged or committed to the project and including a copy of any operating agreement or lease with substantial users of the project area; and

(e) Sufficient documents, plans, and specifications as required by the department to define the project, including the following:

(i) A statement of how the jobs and taxes obtained from the project will contribute significantly to the economic development of the state and region;

(ii) Visitation expectations and a plan describing how the number of visitors to the good life district will be tracked and reported on an annual basis;

(iii) Any unique qualities of the project;

(iv) An economic impact study, including the anticipated effect of the project on the regional and statewide economies;

(v) Project accountability, measured according to best industry practices;

(vi) The expected return on state and local investment the project is anticipated to produce; and

(vii) A summary of community involvement, participation, and support for the project.

(2) Upon receiving an application, the department shall review the application and notify the applicant of any additional information needed for a proper evaluation of the application.

(3) The application and all supporting information shall be confidential except for the location of the project, the total new development costs estimated for the project, and the number of new jobs estimated to be created as a result of the project.

(4) No more than five good life districts may be created statewide. No more than one good life district may be created in any county with a population of five hundred thousand inhabitants or more, excluding any good life district created within a qualified inland port district.

Source: Laws 2023, LB727, § 12; Laws 2024, LB1344, § 13.
Operative date July 19, 2024.

77-4405 Good life district; project; approval; eligibility; reduced sales tax rate; boundary adjustments; procedure; development and design standards.

(1) If the department finds that creation of the good life district would not exceed the limits prescribed in subsection (4) of section 77-4404 and the project described in the application meets the eligibility requirements of this section, the application shall be approved.

(2) A project is eligible if:

(a) The applicant demonstrates that the total new development costs of the project will exceed:

(i) One billion dollars if the project will be located in a city of the metropolitan class;

(ii) Seven hundred fifty million dollars if the project will be located in a city of the primary class;

(iii) Five hundred million dollars if the project will be located in a city of the first class, city of the second class, or village within a county with a population of one hundred thousand inhabitants or more; or

(iv) One hundred million dollars if the project will be located in a city of the first class, city of the second class, village, or sanitary and improvement district within a county with a population of less than one hundred thousand inhabitants;

(b) The applicant demonstrates that the project will directly or indirectly result in the creation of:

(i) One thousand new jobs if the project will be located in a city of the metropolitan class;

(ii) Five hundred new jobs if the project will be located in a city of the primary class;

(iii) Two hundred fifty new jobs if the project will be located in a city of the first class, city of the second class, or village within a county with a population of one hundred thousand inhabitants or more; or

(iv) Fifty new jobs if the project will be located in a city of the first class, city of the second class, village, or sanitary and improvement district within a county with a population of less than one hundred thousand inhabitants; and

(c)(i) For a project that will be located in a county with a population of one hundred thousand inhabitants or more, the applicant demonstrates that, upon completion of the project, at least twenty percent of sales at the project will be made to persons residing outside the State of Nebraska or the project will generate a minimum of six hundred thousand visitors per year who reside outside the State of Nebraska and the project will attract new-to-market retail to the state and will generate a minimum of three million visitors per year. Students from another state who attend a Nebraska public or private university shall not be counted as out-of-state residents for purposes of this subdivision; or

(ii) For a project that will be located in a county with a population of less than one hundred thousand inhabitants, the applicant demonstrates that, upon completion of the project, at least twenty percent of sales at the project will be made to persons residing outside the State of Nebraska. Students from another state who attend a Nebraska public or private university shall not be counted as out-of-state residents for purposes of this subdivision.

(3) The applicant must certify that any anticipated diversion of state sales tax revenue will be offset or exceeded by sales tax paid on anticipated development costs, including construction to real property, during the same period.

(4) A project is not eligible if:

(a) The project includes a licensed racetrack enclosure or an authorized gaming operator as such terms are defined in section 9-1103, except that this subdivision shall not apply to infrastructure or facilities that are (i) publicly owned or (ii) used by or at the direction of the Nebraska State Fair Board, so long as no gaming devices or games of chance are expected to be operated by an authorized gaming operator within any such facilities;

(b) The project received funds pursuant to the Shovel-Ready Capital Recovery and Investment Act or the Economic Recovery Act, except that this subdivision shall not apply to any project located in a qualified inland port district; or

(c) The project includes any portion of a public or private university.

(5) Approval of an application under this section shall establish the good life district as that area depicted in the map accompanying the application as submitted pursuant to subdivision (1)(b) of section 77-4404. Such district shall last for thirty years and shall not exceed two thousand acres in size if in a city of the metropolitan class, three thousand acres in size if in any other class of city or village, or, for any good life district created within a qualified inland port district, the size of the qualified inland port district.

(6)(a) Prior to July 1, 2024, any transactions occurring within a good life district shall be subject to a reduced state sales tax rate as provided in subdivision (5) of section 77-2701.02.

(b) On and after July 1, 2024, any transactions occurring within a good life district shall be subject to a reduced state sales tax rate as provided in subdivision (6) of section 77-2701.02.

(7) After establishment of a good life district pursuant to this section, a good life district applicant may adjust the boundaries of the district by filing an amended map with the department and updates or supplements to the application materials originally submitted by the good life district applicant to demonstrate the eligibility criteria in subsection (2) of this section will be met after the boundaries are adjusted. The department shall approve the new boundaries on the following conditions:

(a) The department determines that the eligibility criteria in subsection (2) of this section will continue to be met after the proposed boundary adjustment based on the materials submitted by the good life district applicant; and

(b) For any area being removed from the district:

(i) The department shall solicit and receive from the city or village in which all or a portion of the good life district is located confirmation that no area being removed is attributable to local sources of revenue which have been pledged for payment of bonds issued pursuant to the Good Life District Economic Development Act. Confirmation may include resolutions, meeting minutes, or other official measures adopted or taken by the city council or village board of trustees; and

(ii) Either the department has received written consent from the owners of real estate proposed to be removed from the good life district, or a hearing is held by the department in the manner described in this subdivision and the department finds that the removal of the affected property is in the best interests of the state and that the removal is consistent with the goals and purposes of the approved application for the good life district. In determining whether removal of the affected property is consistent with the goals and purposes of the approved application for the good life district, the department may consider any formal action taken by the city council or village board of trustees. Proof of such formal action may include resolutions, meeting minutes, or other official measures adopted or taken. Such hearing must be held at least ninety days after delivering written notice via certified mail to the owners of record for the affected real estate proposed to be removed from the good life district. The hearing must be open to the public and for the stated purpose of hearing testimony regarding the proposed removal of property from the good life district. Attendees must be given the opportunity to speak and submit documentary evidence at, prior to, or contemporaneously with such hearing for the department to consider in making its findings.

(8) After establishment of a good life district pursuant to this section, but within twelve months after the approval of the original application or after any modification is made to the boundaries of a good life district pursuant to this section, a city or village in which any part of the applicable good life district is located may file a supplemental request to the department to increase the size of the good life district by up to one thousand acres. Such supplemental request shall be accompanied by such materials and certifications necessary to demonstrate that such increase would not negatively impact the criteria that were necessary for the original establishment of such good life district.

(9) After establishment of a good life district pursuant to this section and after any modification is made to the boundaries of a good life district pursuant to this section, the department shall transmit to any city or village which includes such good life district within its boundaries or within its extraterritorial zoning jurisdiction (a) all information held by the department related to the application

and approval of the application, (b) all documentation which describes the property included within the good life district, and (c) all documentation transmitted to the applicant for such good life district with approval of the application and establishment of the good life district. Such city or village shall be subject to the same confidentiality restrictions as provided in subsection (3) of section 77-4404, except that all such documents, plans, and specifications included in the application which the city or village determine define or describe the project may be provided upon written request of any person who owns property in the applicable good life district.

(10) After establishment of a good life district that exceeds one thousand acres in size, the good life district applicant may apply to the department to establish development and design standards for the good life district. Such standards may include, but are not limited to, standards for architectural design, landscape design, construction materials, and sustainability, but may not require property owners to utilize specific contractors, professionals, suppliers, or service providers. The department may approve the standards after holding a hearing after one hundred eighty days' notice to all property owners in the district if the department finds that the standards will ensure a comprehensive and cohesive character and aesthetic for development in the good life district, and that the standards will further the purposes of the Good Life Transformational Projects Act. The development and design standards must be commercially reasonable and consistent with terminology and accepted practices in the architecture industry, must not conflict with any building code or other similar law or regulation, and must not impose an undue burden on property owners in the district. If approved, the standards shall apply to all new construction inside of the good life district. Notwithstanding the foregoing, any such standards established by the department shall be in addition and supplemental to any local zoning, building code, comprehensive plan, or similar requirements of the city or village, which requirements of the city or village shall control to the extent of any conflict with any design standards established by the department.

(11) Demonstration of meeting the required new development costs for purposes of subdivision (2)(a) of this section may be established by evidence submitted by the good life district applicant, the city or village where the good life district is located, or any other person which submits satisfactory evidence to the department.

Source: Laws 2023, LB727, § 13; Laws 2024, LB1317, § 90; Laws 2024, LB1344, § 14.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB1317, section 90, with LB1344, section 14, to reflect all amendments.

Note: Changes made by LB1317 became operative April 24, 2024. Changes made by LB1344 became operative July 19, 2024.

Cross References

Economic Recovery Act, see section 81-12,238.
Good Life District Economic Development Act, see section 77-4408.
Shovel-Ready Capital Recovery and Investment Act, see section 81-12,219.

77-4406 Good life district; terminate; conditions.

(1) The department shall terminate a good life district established pursuant to section 77-4405 if:

(a) Commitments for ten percent of the investment threshold required under subdivision (2)(a) of section 77-4405 have not been made within three years after establishment of such district;

(b) Commitments for fifty percent of the investment threshold required under subdivision (2)(a) of section 77-4405 have not been made within seven years after establishment of such district; or

(c) Commitments for seventy-five percent of the investment threshold required under subdivision (2)(a) of section 77-4405 have not been made within ten years after establishment of such district.

(2) The department shall measure the amount of commitments for such investment from evidence submitted by the good life district applicant, the city or village in which all or a portion of the district is located, or any other source determined appropriate by the department.

Source: Laws 2023, LB727, § 14; Laws 2024, LB1317, § 91.
Operative date April 24, 2024.

77-4407 Act; not construed to limit authority of political subdivision.

No provision in the Good Life Transformational Projects Act shall be construed to limit the existing statutory authority of any political subdivision.

Source: Laws 2023, LB727, § 15.

(b) GOOD LIFE DISTRICT ECONOMIC DEVELOPMENT ACT

77-4408 Good Life District Economic Development Act, how cited.

Sections 77-4408 to 77-4430 shall be known and may be cited as the Good Life District Economic Development Act.

Source: Laws 2024, LB1317, § 1.
Operative date April 24, 2024.

77-4409 Legislative findings.

The Legislature finds that:

(1) There is a high degree of competition among states and municipalities in our nation in their efforts to provide incentives for businesses to expand or to locate in their respective jurisdictions; and

(2) Municipalities in Nebraska are unable to effectively assist the development within good life districts formed pursuant to the Good Life Transformational Projects Act because of their inability under Nebraska law to raise sufficient capital to replace the state sales tax which is reduced when a good life district is established. Without an efficient replacement of such sales tax with local sources of revenue, development within good life districts will fall short of reaching the full potential intended by the Legislature when it enacted the Good Life Transformational Projects Act, resulting in lower sales tax revenues for the state. To prevent such diminished revenues for the state and to promote local economic development where good life districts exist, local sources of revenue must be established which are tailored to meet the needs of the local community and benefit the state, if the voters in the municipality determine that it is in the best interest of their community to do so.

Source: Laws 2024, LB1317, § 2.
Operative date April 24, 2024.

Cross References

Good Life Transformational Projects Act, see section 77-4401.

77-4410 Terms, defined.

For purposes of the Good Life District Economic Development Act, unless the context otherwise requires:

(1) City means any city of the metropolitan class, city of the primary class, city of the first class, city of the second class, or village, including any city operated under a home rule charter;

(2) Bond has the same meaning as in section 10-134;

(3) Election means any general election, primary election, or special election called by the city as provided by law;

(4) Eligible costs means payment and reimbursement of (a) the costs of acquisition, planning, engineering, designing, financing, construction, improvement, rehabilitation, renewal, replacement, repair, landscaping, irrigation, and maintenance of privately and publicly owned real estate, buildings, improvements, fixtures, equipment, and other physical assets within a good life district and debt service on such real estate, buildings, improvements, fixtures, equipment, and other physical assets, (b) the costs of construction and acquisition of publicly owned infrastructure and publicly owned property rights within or related to a good life district, (c) the costs of development, acquisition, maintenance, and enhancement of technology assets to include hardware, software, and related intellectual property, if the initial exclusive use of such property is in or related to the good life district program area, (d) the costs of marketing, tenant improvement allowances, and tenant and customer acquisition and retention, and (e) city costs related to implementing, operating, and funding a good life district economic development program;

(5) Good life district means any good life district established pursuant to the Good Life Transformational Projects Act;

(6) Good life district applicant means the person who applied for the applicable good life district, which was approved by the Department of Economic Development pursuant to section 77-4405;

(7) Good life district economic development program or program means a program established pursuant to the Good Life District Economic Development Act to utilize funds derived from local sources of revenue for the purpose of paying eligible costs, and for paying principal of and interest on bonds issued pursuant to the act;

(8) Good life district program area means the area established pursuant to section 77-4412 for a good life district economic development program;

(9) Governing body means the city council, board of trustees, or other legislative body charged with governing the city;

(10) Local sources of revenue means the sources of revenue established for a good life district economic development program pursuant to section 77-4413, and any revenue generated from grants, donations, or state and federal funds received by the city for such good life district economic development program subject to any restrictions of the grantor, donor, or state or federal law; and

(11) Qualifying business means any corporation, nonprofit corporation, partnership, limited liability company, or sole proprietorship which owns or leases property or operates its business within a good life district program area, or

plans to own or lease property or operate its business within a good life district program area. The good life district applicant shall be deemed a qualifying business pursuant to this subdivision. Qualifying business shall also include a political subdivision, a state agency, or any other governmental entity which includes any portion of the good life district program area within its territorial boundaries.

Source: Laws 2024, LB1317, § 3.
Operative date April 24, 2024.

Cross References

Good Life Transformational Projects Act, see section 77-4401.

77-4411 Good life district economic development program; election required; procedure.

(1) The authority of a city to establish a good life district economic development program and to appropriate local sources of revenue to such program is subject to approval by a vote of a majority of the registered voters of the city voting upon the question.

(2) The question may be submitted to the voters at a special election or such question may be voted on at an election held in conjunction with the statewide primary or statewide general election. The question may be submitted to the voters before or after any application is submitted to establish a good life district pursuant to the Good Life Transformational Projects Act.

(3) A city shall order submission of the question to the registered voters by resolution. The resolution shall contain the entire wording of the ballot question, which shall state the question as follows: ''Shall the [city or village] of [name of the city or village] be authorized to establish a good life district economic development program for any area within the [city or village] which is included in a good life district established pursuant to the Good Life Transformational Projects Act, and shall the [city or village] be authorized to appropriate the local sources of revenue collected within such good life district program area, which may include local option sales and use taxes and occupation taxes, established pursuant to and as permitted by the Good Life District Economic Development Act?''

(4) The city shall file a copy of the resolution calling the election with the election commissioner or county clerk not later than the eighth Friday prior to a special election or a municipal primary or general election which is not held at the statewide primary or general election, or not later than March 1 prior to a statewide primary election or September 1 prior to a statewide general election. The election shall be conducted in accordance with the Election Act.

(5) If a majority of those voting on the issue vote in favor of the question, the governing body may establish and implement a good life district economic development program upon the terms contained in the Good Life District Economic Development Act. If a majority of those voting on the issue vote against the question, the governing body shall not establish or implement any good life district economic development program. When the question of establishing a good life district economic development program is defeated at an election, resubmission of the question and an election on the question shall not

be held until at least five months have passed from and after the date of such election.

Source: Laws 2024, LB1317, § 4.
Operative date April 24, 2024.

Cross References

Election Act, see section 32-101.
Good Life Transformational Projects Act, see section 77-4401.

77-4412 Good life district economic development program; establishment; ordinance; contents; contracts and agreements; authorized.

(1) Upon approval by the voters, the governing body of the city may establish a good life district economic development program for any area within the city which is included in a good life district established pursuant to the Good Life Transformational Projects Act, and the city shall appropriate the local sources of revenue established in the good life district program area and pledged for such program.

(2) A good life district economic development program shall be established by ordinance, which shall include the following provisions:

(a) The boundaries of the good life district program area, which shall be coterminous with the portion of the applicable good life district as established pursuant to section 77-4405 which is located within the city. Such boundaries of the program area may be expanded to include any area annexed by the city which is also included within such established good life district;

(b) A description of the local sources of revenue which shall be established for the program pursuant to section 77-4413, and a pledge to appropriate such revenues to the program for the time period during which such funds are collected;

(c) The time period within which the funds from local sources of revenue are to be collected within the good life district program area, and the time period during which the good life district economic development program will be in existence;

(d) The manner in which a qualifying business will be required to submit an application for assistance under the good life district economic development program, including the type of information that will be required from the business, the process that will be used to verify the information, and the types of business information provided to the city which will be kept confidential by the city, and the types of agreements which will be permitted with qualifying businesses for development of property within the good life district program area. No additional business information shall be required from a qualifying business that is the good life district applicant. The Department of Economic Development shall provide a copy of the application, approval, and all related documentation establishing the related good life district to the city upon approval by the Department of Economic Development;

(e) Such restrictions on qualifying businesses, limitations on types of eligible costs, and limitations on the amounts of eligible costs as the city determines are in the best interests of the city and the good life district economic development program. Such limitations and restrictions shall include provisions intended to ensure (i) sufficient infrastructure will be available to serve the program area and expectations as to how such infrastructure will be constructed and funded,

(ii) sufficient capital investment in buildings and facilities to generate enough local sources of revenue to sustain the program, and (iii) substantially all of the eligible costs will be used for the benefit of the program area; and

(f) A description of the administrative system that will be established by the city to administer the good life district economic development program, including a description of any personnel structure and the duties and responsibilities of the personnel involved.

(3) All information provided with an application for assistance under any good life district economic development program to the city by a qualifying business shall be kept confidential by the city to the extent required by the terms of the ordinance establishing the good life district economic development program. The city may approve or deny any application for assistance in the discretion of the city, subject to the terms of any contract or agreement with a qualifying business related to such program.

(4) The city may enter into contracts and agreements with qualifying businesses related to assistance under the good life district economic development program, development of property within the applicable good life district program area, use of property within the good life district program area, and other agreements related to the good life district economic development program or good life district program area, which contracts and agreements may extend over multiple years and include such undertakings and designation of responsibilities as the city determines appropriate or convenient for development, use, and operation of the good life district economic development program and the properties in the good life district program area. The city shall not enter into a contract or agreement with a qualifying business for assistance that uses local sources of revenue collected from property owned by the good life district applicant unless the contract or agreement is approved by the good life district applicant. This subsection shall not be construed to provide a city with any power it would not otherwise have by law to restrict a business lawfully permitted to operate in this state from locating in a good life district.

(5) In connection with administration of a good life district economic development program, a city may engage professionals, consultants, and other third parties to assist and provide such services to the city as determined appropriate by the city. All costs of administration of the program which are charged to the program by the city shall be paid from the associated good life district economic development fund prior to payment of any other eligible costs or bonds which may be payable from the fund.

(6) Each good life district economic development program shall remain in effect until thirty years after the date the associated good life district was established or until the program is terminated by the city pursuant to subsection (7) of this section, whichever occurs first. If more than one good life district is established within a city, a separate good life district economic development program shall be established for each such good life district.

(7) The governing body of a city may, at any time after the adoption of the ordinance establishing the good life district economic development program by a two-thirds vote of the members of the governing body, amend or repeal the ordinance in its entirety, subject only to the provisions of any outstanding

bonds or existing contracts relating to such program and the rights of any third parties arising from such bonds or contracts.

Source: Laws 2024, LB1317, § 5.
Operative date April 24, 2024.

Cross References

Good Life Transformational Projects Act, see section 77-4401.

77-4413 Good life district economic development program; local sources of revenue; enumerated; requirements.

(1) Upon establishing a good life district economic development program, the city is authorized to establish any one or more of the following local sources of revenue for the program within the applicable good life district program area:

(a) A local option sales and use tax of up to the greater of (i) the difference between the state sales tax rate levied in general and the state sales tax rate levied on transactions occurring within a good life district or (ii) two and three-quarters percent upon the same transactions that are sourced under the provisions of sections 77-2703.01 to 77-2703.04 within the good life district program area on which the State of Nebraska is authorized to impose a tax pursuant to the Nebraska Revenue Act of 1967, as amended from time to time. The city is authorized to impose such sales and use tax by ordinance of its governing body, and such sales and use tax shall be in addition to any local option sales tax imposed by the city pursuant to section 77-27,142. The administration of such sales and use tax shall be by the Tax Commissioner in the same manner as provided in section 77-27,143. The Tax Commissioner shall collect the tax imposed pursuant to this subdivision 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 such tax to the city levying the tax. All relevant provisions of the Nebraska Revenue Act of 1967, as amended from time to time, and not inconsistent with the Good Life District Economic Development Act, shall govern transactions, proceedings, and activities pursuant to any local option sales and use tax imposed under this subdivision;

(b) A general business occupation tax upon the businesses and users of space within the good life district program area. The city is authorized to impose such occupation tax by ordinance of its governing body, and any occupation tax imposed pursuant to this subdivision shall make a reasonable classification of businesses, users of space, or kinds of transactions for purposes of imposing such tax. The collection of a tax imposed pursuant to this subdivision shall be made and enforced in such a manner as the governing body of the city shall determine in such ordinance to produce the required revenue. The governing body may provide that failure to pay the tax imposed pursuant to this subdivision shall constitute a violation of the ordinance and subject the violator to a fine or other punishment as provided by such ordinance; or

(c) Such portion of a city's local option sales and use tax established pursuant to section 77-27,142 which has been designated by the city for such purpose pursuant to an ordinance, which may only include amounts collected on transactions occurring within the good life district program area, and which may be further restricted by the city in such ordinance, or dedicated to pay such expenses as agreed to between the city and the good life district applicant.

(2) The local option sales and use tax imposed pursuant to subdivision (1)(a) of this section shall be separate and apart from any sales and use tax imposed by the city pursuant to the Local Option Revenue Act and shall not be considered imposed by or pursuant to the Local Option Revenue Act for any purpose under Nebraska law. The local option sales and use tax imposed pursuant to subdivision (1)(a) of this section shall not be subject to deduction for any refunds made pursuant to section 77-4105, 77-4106, 77-5725, or 77-5726, and shall not be affected by or included in the tax incentives available under the Employment and Investment Growth Act, the Nebraska Advantage Act, the ImagiNE Nebraska Act, the Nebraska Advantage Transformational Tourism and Redevelopment Act, the Urban Redevelopment Act, or any other tax incentive act which affects the local option sales tax imposed by a city pursuant to the Local Option Revenue Act.

(3) All local sources of revenue which have been established for a good life district shall remain in effect and shall not end or terminate until the associated good life district economic development program terminates.

Source: Laws 2024, LB1317, § 6.
Operative date April 24, 2024.

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.
Nebraska Advantage Transformational Tourism and Redevelopment Act, see section 77-1001.
Nebraska Revenue Act of 1967, see section 77-2701.
Urban Redevelopment Act, see section 77-6901.

77-4414 Good life district economic development fund; requirements.

(1) Any city which has established a good life district economic development program shall establish a separate good life district economic development fund for such program, and may establish subaccounts in such fund as determined appropriate. All funds derived from local sources of revenue established for the program or received for the program, and any earnings from the investment of such funds, shall be deposited into such fund. Any proceeds from the issuance and sale of bonds pursuant to the Good Life District Economic Development Act to provide funds to carry out the good life district economic development program, shall be deposited into the good life district economic development fund, or with a bond trustee pursuant to any resolution, trust indenture, or other security instrument entered into in connection with the issuance of such bonds, or as otherwise provided in section 77-4423. The city shall not transfer or remove funds from a good life district economic development fund other than for the purposes prescribed in the act, and the money in a good life district economic development fund shall not be commingled with any other city funds.

(2) Distribution of any funds from a good life district economic development fund, including from proceeds of bonds issued pursuant to the Good Life District Economic Development Act, to a qualifying business shall be made only upon receipt of evidence that such distribution is for the payment or reimbursement of eligible costs. A city may establish processes for any such approval in the ordinance establishing the applicable program, with a bond trustee under a bond resolution or trust indenture, or as may otherwise be determined appropriate by the city.

(3) Any money in a good life district economic development fund not currently required or committed for purposes of such good life district economic development program shall be invested as provided for in section 77-2341.

(4) In the event that a good life district economic development program is terminated or ends, the balance of money in such good life district economic development fund not otherwise pledged for payment of bonds or otherwise committed by contract under the program shall be deposited in the general fund of the city. Any funds received by the city by reason of a good life district economic development program after the termination of such program shall be transferred from such good life district economic development fund to the general fund of the city as such funds are received.

(5) A good life district economic development fund shall not be terminated until such time as all bonds, contracts, and other obligations payable from such fund are no longer outstanding or are extinguished as provided in section 77-4418, and all funds related to them fully accounted for, with no further city action required, and after the completion of a final audit pursuant to section 77-4416.

Source: Laws 2024, LB1317, § 7.
Operative date April 24, 2024.

77-4415 Local sources of revenue; use.

All local sources of revenue established for a good life district economic development program, and received for such program, shall be deposited in the applicable good life district economic development fund of the city when received. Any funds in the good life district economic development fund may be appropriated and spent for eligible costs of the good life district economic development program in any amount and at any time at the discretion and direction of the governing body of the city.

Source: Laws 2024, LB1317, § 8.
Operative date April 24, 2024.

77-4416 Good life district economic development program; audit.

The city shall provide for an annual, outside, independent audit of each good life district economic development program by a qualified independent accounting firm, the cost of which may be charged by the city to the applicable good life district economic development fund. The independent auditor shall not, at the time of the audit or for any period during the term subject to the audit, have any contractual or business relationship with any qualifying business receiving funds or assistance under the good life district economic development program. The results of such audit shall be filed with the city clerk and made available for public review during normal business hours.

Source: Laws 2024, LB1317, § 9.
Operative date April 24, 2024.

77-4417 Nebraska Budget Act; not applicable; when.

The Nebraska Budget Act shall not apply to any good life district economic development program or local sources of revenue dedicated to such program.

Source: Laws 2024, LB1317, § 10.
Operative date April 24, 2024.

Cross References

Nebraska Budget Act, see section 13-501.

77-4418 Issuance of bonds; purpose; not general obligation of city.

(1) Any city which has established a good life district economic development program may from time to time issue bonds as provided in sections 77-4418 to 77-4426. Such bonds shall be in such principal amounts as the city's governing body authorizes to provide sufficient funds to carry out any of the purposes of and powers granted pursuant to the Good Life District Economic Development Act, including the payment of eligible costs and all other costs or expenses of the city incident to and necessary or convenient to carry out the good life district economic development program, and the principal of and interest on such bonds shall be payable from the local sources of revenue which are dedicated to the good life district economic development fund. Bonds may also be issued pursuant to the Good Life District Economic Development Act to provide funds to finance or refinance one or more redevelopment projects approved pursuant to the Community Development Law, and the taxes authorized or collected pursuant to sections 18-2142.02 and 18-2147 of the Community Development Law and which are permitted or required to be pledged pursuant to the Community Development Law for payment of bonds for a redevelopment project may be pledged by the city pursuant to the Good Life District Economic Development Act for payment of bonds issued hereunder to finance or refinance such redevelopment projects. Bonds may be issued by the city for such combination of eligible costs and redevelopment projects and other purposes permitted under the Good Life District Economic Development Act as determined appropriate by the city, and may be payable from such combination of local sources of revenue and taxes authorized under the act as determined appropriate by the city.

(2) The obligations of the city with respect to the good life district economic development program, including any bonds issued or contracts of the city entered into under the Good Life District Economic Development Act, shall not be a general obligation of the city or a pledge of its credit or taxing power, nor in any event shall such bonds or contracts be payable out of any funds or properties of the city, other than the local sources of revenue appropriated by the city and dedicated to the program pursuant to the act and the other taxes pledged for payment of bonds pursuant to the act. The bonds issued under the act shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction.

(3) Notwithstanding anything to the contrary in the Good Life District Economic Development Act, any bonds, contracts, or other obligations which remain outstanding or unpaid upon termination of the program pursuant to section 77-4412 shall be deemed canceled and extinguished after all remaining amounts held in the applicable good life district economic development fund have been depleted to pay such bonds, contracts, or other obligations, and the city shall have no continued liability, express or implied, with respect to such bonds, contracts, or other obligations thereafter.

Source: Laws 2024, LB1317, § 11.
Operative date April 24, 2024.

Cross References

Community Development Law, see section 18-2101.

77-4419 Issuance of bonds; immunity.

The members of a city's governing body and any person executing bonds issued under the Good Life District Economic Development Act shall not be liable personally on such bonds by reason of the issuance thereof.

Source: Laws 2024, LB1317, § 12.
Operative date April 24, 2024.

77-4420 Issuance of bonds; authorization; form.

(1) Bonds issued or delivered under the Good Life District Economic Development Act shall be authorized by resolution of the city's governing body, may be issued and secured under a resolution, trust indenture, or other security instrument in one or more series, and shall bear such date or dates, mature at such time or times prior to the expiration of the program, bear interest at such rate or rates, be in such denomination or denominations, bear such title and designation, be in such form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment and at such place or places, and be subject to such terms of redemption, with or without premium, as such resolution, trust indenture, or other security instrument may provide and without limitation by any other law limiting amounts, maturities, interest rates, or redemption provisions. Any officer authorized or designated to sign, countersign, execute, or attest any bond may utilize a facsimile signature in lieu of his or her manual signature. The bonds may be sold at public or private sale as provided by the city's governing body and at such price or prices as determined or directed by such governing body.

(2) Bonds issued or delivered under the Good Life District Economic Development Act may be issued for such combination of eligible costs and redevelopment projects and other purposes, and may be payable from such sources as permitted under the act, as may be provided in the resolution, trust indenture, or other security instrument related to the bonds. The city may make any allocation or designation with respect to the application of proceeds of such bonds, and any allocation or designation of local sources of revenue and other sources permitted under the act to the repayment of such bonds, as determined in or pursuant to such resolution, trust indenture, other security instrument, or other measure of the governing body of the city. To the extent a portion of such bonds are issued to finance or refinance a redevelopment project, any taxes collected by the city pursuant to section 18-2147 which are pledged for and applied to payment of such bonds shall be deemed to be allocated and applied to repayment of such bonds prior to and to the exclusion of any other local sources of revenue or other repayment sources permitted under the Good Life District Economic Development Act.

Source: Laws 2024, LB1317, § 13.
Operative date April 24, 2024.

77-4421 Bonds; signatures; validity.

If any of the officers whose signatures appear on any bonds issued under the Good Life District Economic Development Act cease to be such officers before the delivery of such obligations, such signatures shall nevertheless be valid and

sufficient for all purposes to the same extent as if such officers had remained in office until such delivery.

Source: Laws 2024, LB1317, § 14.
Operative date April 24, 2024.

77-4422 Bonds, contracts, and other obligations; powers of city.

Any city may in connection with the issuance of its bonds, entry into any contract, or delivery of other obligations under the Good Life District Economic Development Act:

(1) Redeem the bonds, covenant for their redemption, and provide the terms and conditions of redemption;

(2) Covenant that the good life district economic development program and local sources of revenue established for such program shall not terminate for purposes of the act until thirty years after the date the associated good life district was established or until the bonds issued for such program and other contractual obligations related to such program are no longer outstanding, whichever occurs first;

(3) Covenant to impose or levy such local sources of revenue determined by the city and pledge the local sources of revenue and other taxes permitted to be pledged to pay the interest and principal payments, whether at maturity or upon sinking-fund redemption, on any outstanding bonds of the city payable from such pledged local sources of revenue and other taxes, and creation and maintenance of any reasonable reserves therefor and to provide for any margins or coverages over and above debt service on the bonds deemed desirable for the marketability or security of the bonds;

(4) Covenant as to the application of the local sources of revenue within the good life district economic development fund, which shall include reasonable provision for the cost of operating and maintaining the associated program by the city, provided that the provisions of section 77-4420 shall govern the application of any taxes received pursuant to section 18-2147 for payment of bonds issued under the Good Life District Economic Development Act;

(5) Covenant and prescribe as to events of default and as to the consequences of default and the remedies of bondholders;

(6) Covenant as to the purposes to which the proceeds from the sale of any bonds may be applied and the pledge of such proceeds to secure the payment of the bonds;

(7) Covenant as to limitations on the issuance of any additional bonds, the terms upon which additional bonds may be issued and secured, and the refunding of outstanding bonds;

(8) Covenant as to the rank or priority of any bonds with respect to any lien or security;

(9) Covenant as to the procedure by which the terms of any contract with or for the benefit of the bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given;

(10) Covenant as to the custody and safekeeping of a good life district economic development fund;

(11) Covenant as to the vesting in a trustee or trustees, within or outside the state, of such properties, rights, powers, and duties in trust as the city may determine;

(12) Covenant as to the appointing and providing for the duties and obligations of a paying agent or paying agents or other fiduciaries within or outside the state;

(13) Make all other covenants and do any and all other acts and things as may be necessary, convenient, or desirable in order to secure its bonds or, in the absolute discretion of the city, tend to make the bonds more marketable, notwithstanding that such other covenants, acts, or things may not be enumerated in this section; and

(14) Execute all instruments necessary or convenient in the exercise of the powers granted pursuant to the Good Life District Economic Development Act or in the performance of covenants or duties of the city incurred under the act, which instruments may contain such covenants and provisions as any purchaser of bonds or other obligations may reasonably require or which may be determined necessary or appropriate.

Source: Laws 2024, LB1317, § 15.
Operative date April 24, 2024.

77-4423 Refunding bonds; authorized; proceeds; investment.

(1) Any city which has issued bonds pursuant to the Good Life District Economic Development Act or the Community Development Law, and such bonds remain unpaid and are outstanding, is hereby authorized to issue refunding bonds with which to call and redeem all or any part of such outstanding bonds at or before the maturity or the redemption date of such bonds. Such city may include various series and issues of the outstanding bonds in a single issue of refunding bonds and issue refunding bonds to pay any redemption premium and interest to accrue and become payable on the outstanding bonds being refunded. The refunding bonds may be issued and delivered at any time prior to the date of maturity or the redemption date of the bonds to be refunded that the governing body of such city determines to be in its best interests. The proceeds derived from the sale of the refunding bonds issued pursuant to this section may be invested in obligations of or guaranteed by the United States Government pending the time the proceeds are required for the purposes for which such refunding bonds were issued. To further secure the refunding bonds, any such city may enter into a contract with any bank or trust company within or without the state with respect to the safekeeping and application of the proceeds of the refunding bonds and the safekeeping and application of the earnings on the investment. All bonds issued under the provisions of this section shall be redeemable at such times and under such conditions as the governing body of the city shall determine at the time of issuance.

(2) Any outstanding bonds issued by any such city for which sufficient funds or obligations of or guaranteed by the United States Government have been pledged and set aside in safekeeping to be applied for the complete payment of such bonds at maturity or upon redemption prior to maturity, interest thereon,

and redemption premium, if any, shall not be considered as outstanding and unpaid pursuant to the Good Life District Economic Development Act.

Source: Laws 2024, LB1317, § 16.
Operative date April 24, 2024.

Cross References

Community Development Law, see section 18-2101.

77-4424 Refunding bonds; provisions applicable.

The issue of refunding bonds, the manner of sale, the maturities, interest rates, form, and other details thereof, the security therefor, the rights of the holders thereof, and the rights, duties, and obligations of the city in respect of the same shall be governed by the provisions of the Good Life District Economic Development Act relating to the issue of bonds other than refunding bonds insofar as the same may be applicable. The city may issue bonds for refunding and nonrefunding purposes as part of the same series of bonds.

Source: Laws 2024, LB1317, § 17.
Operative date April 24, 2024.

77-4425 Bonds; securities; investment authorized.

Bonds issued pursuant to the Good Life District Economic Development Act shall be securities in which all public officers and instrumentalities of the state and all political subdivisions, insurance companies, trust companies, banks, savings and loan associations, investment companies, executors, administrators, personal representatives, trustees, and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds shall be securities which may properly and legally be deposited with and received by any officer or instrumentality of this state or any political subdivision for any purpose for which the deposit of bonds of this state or any political subdivision thereof is now or may hereafter be authorized by law.

Source: Laws 2024, LB1317, § 18.
Operative date April 24, 2024.

77-4426 Bonds, contracts, and other obligations; consent and other proceedings not required.

(1) Bonds may be issued, contracts may be entered into, and other obligations may be incurred, under the Good Life District Economic Development Act without obtaining the consent of any department, division, commission, board, bureau, or instrumentality of this state and without any other proceedings or the happening of any other conditions or things than those proceedings, conditions, or things which are specifically required by the act, and the validity of and security for any bonds, contract, or other obligations shall not be affected by the existence or nonexistence of any such consent or other proceedings, conditions, or things.

(2) No proceedings for the issuance of bonds, entering into contracts, or incurring of obligations of a city under the Good Life District Economic Development Act shall be required other than those required by the Good Life District Economic Development Act; and the provisions of all other laws and city charters, if any, relative to the terms and conditions for the issuance, incurrence, payment, redemption, registration, sale, or delivery of bonds, or

entering into contracts, of public bodies, corporations, or political subdivisions of this state shall not be applicable to bonds, contracts, or other obligations issued or entered into pursuant to the Good Life District Economic Development Act.

Source: Laws 2024, LB1317, § 19.
Operative date April 24, 2024.

77-4427 Validity and enforceability of bonds, contracts, and agreements; presumption.

In any suit, action, or proceeding involving the validity or enforceability of any bonds, contract, or agreement of a city pursuant to the Good Life District Economic Development Act, or the security therefor, brought after the lapse of thirty days after the authorization by the governing body of such city for the issuance of such bonds or entry into such contract or agreement, any such bond, contract or agreement, and the security therefor and provisions therein, reciting in substance that it has been authorized by the city pursuant to the Good Life District Economic Development Act or to provide financing for a good life district economic development program shall be conclusively deemed to have been authorized for such purpose and such bonds, contracts, or agreement, and security therefor and provisions therein, issued or delivered pursuant to such authorization shall be conclusively deemed to have been issued, entered into, provided, and carried out in accordance and compliance with the purposes and provisions of the Good Life District Economic Development Act, and deemed to be valid and binding obligations and agreements of the city for the duration of the term of such obligations and agreements as provided therein. In any suit, action, or proceedings involving the validity or enforceability of any bond of the city issued under the Good Life District Economic Development Act in whole or in part for a redevelopment project or the security therefor, any such bond reciting in substance that it has been issued by the city to aid, in whole or in part, in financing or refinancing a redevelopment project, as herein permitted, shall be conclusively deemed to have been issued for such purpose and such project shall be conclusively deemed to have been planned, located, and carried out in accordance with the purposes and provisions of the Community Development Law.

Source: Laws 2024, LB1317, § 20.
Operative date April 24, 2024.

Cross References

Community Development Law, see section 18-2101.

77-4428 Bonds; tax exempt.

All bonds of a city issued pursuant to the Good Life District Economic Development Act are declared to be issued for an essential public and governmental purpose and, together with interest thereon and income therefrom, shall be exempt from all taxes.

Source: Laws 2024, LB1317, § 21.
Operative date April 24, 2024.

77-4429 Bondholders; pledge and agreement of the state.

The State of Nebraska does hereby pledge to and agree with the holders of any bonds issued pursuant to the Good Life District Economic Development Act and with those persons who may enter into contracts with any city pursuant to the act that the state will not alter, impair, or limit the rights thereby vested until the bonds, together with applicable interest, are fully met and discharged and such contracts are fully performed in accordance with the act. Nothing contained in the act shall preclude such alteration, impairment, or limitation if and when adequate provisions are made by law for the protection of the holders of the bonds or persons entering into contracts with a city.

Source: Laws 2024, LB1317, § 22.
Operative date April 24, 2024.

77-4430 Act, how construed.

The powers conferred by the Good Life District Economic Development Act shall be in addition and supplemental to the powers conferred by any other law and shall be independent of and in addition to any other provisions of the law of Nebraska, including, without limitation, the Local Option Revenue Act, the Community Development Law, the Local Option Municipal Economic Development Act, and the Good Life Transformational Projects Act. The Good Life District Economic Development Act and all grants of power, authority, rights, or discretion to a city under the act shall be liberally construed, and all incidental powers necessary to carry the act into effect are hereby expressly granted to and conferred upon a city.

Insofar as the provisions of the Good Life District Economic Development Act are inconsistent with the provisions of any other law or of any city charter, if any, the provisions of the Good Life District Economic Development Act shall be controlling.

Source: Laws 2024, LB1317, § 23.
Operative date April 24, 2024.

Cross References

Community Development Law, see section 18-2101.
Good Life Transformational Projects Act, see section 77-4401.
Local Option Municipal Economic Development Act, see section 18-2701.
Local Option Revenue Act, see section 77-27,148.

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 each fiscal year, the Tax Commissioner shall determine 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.

(b) If actual General Fund net receipts for the most recently completed fiscal year exceed estimated General Fund net receipts for such fiscal year, the Tax Commissioner shall certify the excess amount to the State Treasurer. The State Treasurer shall transfer the excess amount to the Cash Reserve Fund, except as otherwise provided in subdivision (3)(c) of this section.

(c) If actual General Fund net receipts for the most recently completed fiscal year exceed one hundred three percent of actual General Fund net receipts for the previous fiscal year, the transfer described in subdivision (3)(b) of this section shall be modified as follows:

(i) The amount transferred to the Cash Reserve Fund shall be reduced by the excess amount calculated under subdivision (3)(c) of this section; and

(ii) Such excess amount shall be transferred to the School District Property Tax Relief Credit Fund.

Source: Laws 1993, LB 38, § 2; Laws 1996, LB 1290, § 4; Laws 2019, LB638, § 1; Laws 2020, LB1107, § 137; Laws 2021, LB180, § 1; Laws 2024, First Spec. Sess., LB34, § 26.
Effective date August 21, 2024.

Cross References

Cash Reserve Fund, see section 84-612.
School District Property Tax Relief Credit Fund, see section 77-7304.

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.

ARTICLE 49

QUALITY JOBS ACT

Section
77-4933. Report; contents; joint hearing.

77-4933 Report; contents; joint hearing.

(1) The Department of Revenue shall submit electronically an annual report to the Legislature no later than October 31 of each year. The report shall be on a fiscal year, accrual basis that satisfies the requirements set by the Governmental Accounting Standards Board. The report shall list (a) the agreements which have been signed during the previous fiscal year, (b) the agreements which are still in effect, (c) the identity of each company, and (d) the location of each project. The department shall, on or before December 15 of each even-numbered 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) The report shall also state by industry group (a) the amount of wage benefit credits allowed under the Quality Jobs Act, (b) the number of direct jobs created at the project, (c) the amount of direct capital investment under the act, (d) the estimated wage levels of jobs created by the companies at the projects, (e) the estimated indirect jobs and investment created on account of the projects, and (f) the projected future state and local revenue gains and losses from all revenue sources on account of the direct and indirect jobs and investment created on account of the project.

(3) No information shall be provided in the report that is protected by state or federal confidentiality laws.

Source: Laws 1995, LB 829, § 33; Laws 2007, LB223, § 27; Laws 2012, LB782, § 139; Laws 2013, LB612, § 5; Laws 2022, LB1150, § 6.

ARTICLE 50

TAX EQUALIZATION AND REVIEW COMMISSION ACT

Section
77-5003. Tax Equalization and Review Commission; created; commissioners; term.
77-5004. Commissioner; qualifications; conflict of interests; continuing education; expenses; mileage; salaries.
77-5005. Commission; meetings; quorum; orders.
77-5013. Commission; jurisdiction; time for filing; filing fee.
77-5015.01. Repealed. Laws 2020, LB4, § 4.
77-5015.02. Single commissioner hearing; evidence; record; rehearing.

77-5003 Tax Equalization and Review Commission; created; commissioners; term.

(1) The Tax Equalization and Review Commission is created. The Tax Commissioner has no supervision, authority, or control over the actions or decisions of the commission relating to its duties prescribed by law. Beginning July 1, 2023, the commission shall have four commissioners, one commissioner from each congressional district and one at-large commissioner, with terms as provided in subsection (2) of this section. All commissioners shall be appointed by the Governor with the approval of a majority of the members of the Legislature.

(2) The term of the commissioner from district 1 expires January 1, 2028, the term of the commissioner from district 2 expires January 1, 2024, the term of the commissioner from district 3 expires January 1, 2026, and the term of the at-large commissioner expires January 1, 2028. After the terms of the commissioners are completed as provided in this subsection, each subsequent term shall be for six years beginning and ending on January 1 of the applicable year. Vacancies occurring during a term shall be filled by appointment for the unexpired term. Upon the expiration of his or her term of office, a commissioner shall continue to serve until his or her successor has been appointed.

(3) The commission shall designate pursuant to rule and regulation its chairperson and vice-chairperson on a two-year, rotating basis.

(4) A commissioner may be removed by the Governor for misfeasance, malfeasance, or willful neglect of duty or other cause after notice and a public hearing unless notice and hearing are expressly waived in writing by the commissioner.

Source: Laws 1995, LB 490, § 3; Laws 1998, LB 1104, § 24; Laws 2001, LB 465, § 3; Laws 2003, LB 291, § 5; Laws 2007, LB167, § 4; Laws 2011, LB384, § 21; Laws 2023, LB243, § 14.

77-5004 Commissioner; qualifications; conflict of interests; continuing education; expenses; mileage; salaries.

(1) Each commissioner shall be a qualified voter and resident of the state and a domiciliary of the district from which he or she is appointed.

(2) Each commissioner shall devote his or her full time and efforts to the discharge of his or her duties and shall not hold any other office under the laws of this state, any city or county in this state, or the United States Government while serving on the commission. Each commissioner shall possess:

(a) Appropriate knowledge of terms commonly used in or related to real property appraisal and of the writing of appraisal reports;

(b) Adequate knowledge of depreciation theories, cost estimating, methods of capitalization, and real property appraisal mathematics;

(c) An understanding of the principles of land economics, appraisal processes, and problems encountered in the gathering, interpreting, and evaluating of

data involved in the valuation of real property, including complex industrial properties and mass appraisal techniques;

(d) Knowledge of the law relating to taxation, civil and administrative procedure, due process, and evidence in Nebraska;

(e) At least thirty hours of successfully completed class hours in courses of study, approved by the Real Property Appraiser Board, which relate to appraisal and which include the fifteen-hour National Uniform Standards of Professional Appraisal Practice Course. If a commissioner has not received such training prior to his or her appointment, such training shall be completed within one year after appointment; and

(f) Such other qualifications and skills as reasonably may be requisite for the effective and reliable performance of the commission's duties.

(3) At least one commissioner shall possess the certification or training required to become a licensed residential real property appraiser as set forth in section 76-2230.

(4) At least two commissioners shall have been engaged in the practice of law in the State of Nebraska for at least five years, which may include prior service as a judge, and shall be currently admitted to practice before the Nebraska Supreme Court. The attorney commissioners shall be presiding hearing officers for commission proceedings involving appeal hearings and other proceedings involving panels of more than one commissioner.

(5) No commissioner or employee of the commission shall hold any position of profit or engage in any occupation or business interfering with or inconsistent with his or her duties as a commissioner or employee. A person is not eligible for appointment and may not hold the office of commissioner or be appointed by the commission to or hold any office or position under the commission if he or she holds any official office or position.

(6) Each commissioner shall annually attend a seminar or class of at least two days' duration that is:

(a) Sponsored by a recognized assessment or appraisal organization, in each of these areas: Utility and railroad appraisal; appraisal of complex industrial properties; appraisal of other hard to assess properties; and mass appraisal, residential or agricultural appraisal, or assessment administration; or

(b) Pertaining to management, law, civil or administrative procedure, or other knowledge or skill necessary for performing the duties of the office.

(7) Each commissioner shall within two years after his or her appointment attend at least thirty hours of instruction that constitutes training for judges or administrative law judges.

(8) The commissioners shall be considered employees of the state for purposes of sections 81-1320 to 81-1328 and 84-1601 to 84-1615.

(9) The commissioners shall be reimbursed as prescribed in sections 81-1174 to 81-1177 for expenses in the performance of their official duties pursuant to the Tax Equalization and Review Commission Act.

(10) Due to the domicile requirements of subsection (1) of this section and subsection (1) of section 77-5003, each commissioner shall be reimbursed for mileage at the rate provided in section 81-1176 for actual round trip travel from the commissioner's residence to the state office building described in section 81-1108.37 or to the location of any hearing or other official business of

the commission. Reimbursements under this subsection shall be made from the Tax Equalization and Review Commission Cash Fund.

(11) The salary for commissioners serving as a presiding hearing officer for commission hearings and proceedings involving a panel of more than one commissioner shall be in an amount equal to eighty-five percent of the salary set for the Chief Justice and judges of the Supreme Court. The salary for commissioners not serving as a presiding hearing officer for commission hearings or proceedings involving a panel of more than one commissioner shall be in an amount equal to seventy percent of the salary set for the Chief Justice and judges of the Supreme Court.

Source: Laws 1995, LB 490, § 4; Laws 1996, LB 1038, § 2; Laws 1999, LB 32, § 1; Laws 2001, LB 170, § 19; Laws 2001, LB 465, § 4; Laws 2002, LB 994, § 28; Laws 2003, LB 292, § 15; Laws 2004, LB 973, § 47; Laws 2006, LB 778, § 73; Laws 2007, LB186, § 25; Laws 2008, LB965, § 20; Laws 2010, LB931, § 25; Laws 2011, LB384, § 22; Laws 2020, LB4, § 1; Laws 2020, LB381, § 85; Laws 2023, LB243, § 15.

77-5005 Commission; meetings; quorum; orders.

(1) Within ten days after appointment, the commissioners shall meet at their office in Lincoln, Nebraska, and enter upon the duties of their office.

(2) A majority of the commission shall constitute a quorum to transact business, and one vacancy shall not impair the right of the remaining commissioners to exercise all the powers of the commission, except that two commissioners shall constitute a quorum to hear and determine any appeals or petitions.

(3) Any investigation, inquiry, or hearing held or undertaken by the commission may be held or undertaken by a single commissioner in those appeals designated for hearing pursuant to section 77-5015.02.

(4) All investigations, inquiries, hearings, and decisions of a single commissioner and every order made by a single commissioner shall be deemed to be the order of the commission, except as provided in subsection (6) of section 77-5015.02. The full commission, on an application made within thirty days after the date of an order, may grant a rehearing and determine de novo any decisions of or orders made by the commission. The commission, on an application made within thirty days after the date of an order issued after a hearing by a single commissioner, except for an order dismissing an appeal or petition for failure of the appellant or petitioner to appear at a hearing on the merits, shall grant a rehearing on the merits before the commission. The thirty-day filing period for appeals under subsection (2) of section 77-5019 shall be tolled while a motion for rehearing is pending.

(5) All hearings or proceedings of the commission shall be open to the public.

(6) The Open Meetings Act applies only to hearings or proceedings of the commission held pursuant to the rulemaking authority of the commission.

Source: Laws 1995, LB 490, § 5; Laws 1998, LB 1104, § 25; Laws 2001, LB 465, § 5; Laws 2003, LB 291, § 6; Laws 2004, LB 821, § 23; Laws 2005, LB 15, § 7; Laws 2011, LB384, § 23; Laws 2024, LB1317, § 92.
Operative date April 24, 2024.

Cross References

Open Meetings Act, see section 84-1407.

77-5013 Commission; jurisdiction; time for filing; filing fee.

(1) The commission obtains exclusive jurisdiction over an appeal or petition when:

(a) The commission has the power or authority to hear the appeal or petition;

(b) An appeal or petition is timely filed;

(c) The filing fee, if applicable, is timely received and thereafter paid; and

(d) In the case of an appeal, a copy of the decision, order, determination, or action appealed from, or other information that documents the decision, order, determination, or action appealed from, is timely filed.

Only the requirements of this subsection shall be deemed jurisdictional.

(2) A petition, an appeal, or the information required by subdivision (1)(d) of this section is timely filed and the filing fee, if applicable, is timely received if placed in the United States mail, postage prepaid, with a legible postmark for delivery to the commission, or received by the commission, on or before the date specified by law for filing the appeal or petition. If no date is otherwise provided by law, then an appeal shall be filed within thirty days after the decision, order, determination, or action appealed from is made.

(3) Except as provided in subsection (4) of this section, filing fees shall be as follows:

(a) For each appeal or petition regarding the taxable value of a parcel of real property, the filing fee shall be:

(i) Forty dollars if the taxable value of the parcel is less than two hundred fifty thousand dollars;

(ii) Fifty dollars if the taxable value of the parcel is at least two hundred fifty thousand dollars but less than five hundred thousand dollars;

(iii) Sixty dollars if the taxable value of the parcel is at least five hundred thousand dollars but less than one million dollars; or

(iv) Eighty-five dollars if the taxable value of the parcel is at least one million dollars; or

(b) For any other appeal or petition filed with the commission, the filing fee shall be forty dollars.

(4) No filing fee shall be required for an appeal by a county assessor, the Tax Commissioner, or the Property Tax Administrator acting in his or her official capacity or a county board of equalization acting in its official capacity.

(5) The form and requirements for execution of an appeal or petition may be specified by the commission in its rules and regulations.

Source: Laws 1995, LB 490, § 13; Laws 1998, LB 1104, § 28; Laws 2001, LB 170, § 21; Laws 2004, LB 973, § 49; Laws 2010, LB877, § 8; Laws 2020, LB4, § 2.

77-5015.01 Repealed. Laws 2020, LB4, § 4.

77-5015.02 Single commissioner hearing; evidence; record; rehearing.

(1) A single commissioner may hear an appeal and cross appeal and appeals and cross appeals consolidated with any such appeal and cross appeal when:

(a) The taxable value of each parcel is two million dollars or less as determined by the county board of equalization; and

(b) The appeal and cross appeal has been designated for hearing pursuant to this section by the chairperson of the commission or in such manner as the commission may provide in its rules and regulations.

(2) A proceeding held before a single commissioner shall be informal. The usual common-law or statutory rules of evidence, including rules of hearsay, shall not apply, and the commissioner may consider and utilize all matters presented at the proceeding in making his or her determination.

(3) Any party to an appeal designated for hearing before a single commissioner pursuant to this section may, prior to a hearing, elect in writing to have the appeal heard by the commission. The commissioner conducting a proceeding pursuant to this section may at any time designate the appeal for hearing by the commission.

(4) Documents necessary to establish jurisdiction of the commission shall constitute the record of a proceeding before a single commissioner. No recording shall be made of a proceeding before a single commissioner.

(5) A party to a proceeding before a single commissioner may request a rehearing pursuant to section 77-5005.

(6) An order entered by a single commissioner pursuant to this section may not be appealed pursuant to section 77-5019 or any other provision of law.

(7) Subdivisions (3), (6), (8), (9), (10), (11), and (12) of section 77-5016 apply to proceedings before a single commissioner.

Source: Laws 2011, LB384, § 28; Laws 2023, LB243, § 16.

77-5017 Appeals or petitions; orders authorized.

(1) In resolving an appeal or petition, the commission may make such orders as are appropriate for resolving the dispute but in no case shall the relief be excessive compared to the problems addressed. The commission may make prospective orders requiring changes in assessment practices which will improve assessment practices or affect the general level of assessment or the measures of central tendency in a positive way. If no other relief is adequate to resolve disputes, the commission may order a reappraisal of property within a county, an area within a county, or classes or subclasses of property within a county.

(2) In an appeal specified in subdivision (10) or (11) of section 77-5016 for which the commission determines exempt property to be taxable, the commission shall order the county board of equalization to determine the taxable value of the property, unless the parties stipulate to such taxable value during the hearing before the commission. The order shall require the county board of equalization to determine the taxable value of the property pursuant to section 77-1507, send notice of the taxable value pursuant to section 77-1507 within ninety days after the date the commission's order is certified pursuant to section 77-5018, and apply interest at the rate specified in section 45-104.01, but not penalty, to the taxable value beginning thirty days after the date the commission's order was issued or the date the taxes were delinquent, whichever is later.

(3) A determination of the taxable value of the property made by the county board of equalization pursuant to subsection (2) of this section may be appealed

to the commission within thirty days after the board's decision as provided in section 77-1507.

Source: Laws 1995, LB 490, § 17; Laws 2001, LB 419, § 2; Laws 2004, LB 973, § 61; Laws 2007, LB167, § 7; Laws 2011, LB384, § 30; Laws 2024, LB1317, § 93.
Operative date April 24, 2024.

77-5018 Appeals; decisions and orders; requirements; publication on website; correction of errors.

(1) The commission may issue decisions and orders which are supported by the evidence and appropriate for resolving the matters in dispute. Every final decision and order adverse to a party to the proceeding, rendered by the commission in a case appealed to the commission, shall be in writing or stated in the record and shall be accompanied by findings of fact and conclusions of law. The findings of fact shall consist of a concise statement of the conclusions upon each contested issue of fact. Parties to the proceeding shall be notified of the decision and order in person or by mail. A copy of the decision and order shall be delivered or mailed to each party or his or her attorney of record. Within seven days of issuing a decision and order, the commission shall electronically publish such decision and order on a website maintained by the commission that is accessible to the general public. The full text of final decisions and orders shall be published on the website, except that final decisions and orders that are entered (a) on a dismissal by the appellant or petitioner, (b) on a default order when the appellant or petitioner failed to appear, (c) by agreement of the parties, or (d) by a single commissioner pursuant to section 77-5015.02 may be published on the website in a summary manner identifying the parties, the case number, and the basis for the final decision and order. Any decision rendered by the commission shall be certified to the county treasurer and to the officer charged with the duty of preparing the tax list, and if and when such decision becomes final, such officers shall correct their records accordingly and the tax list pursuant to section 77-1613.02. If the final decision results in taxes due in excess of the original amount and interest at the rate specified in section 45-104.01 is applied, the interest shall not begin to accrue until thirty days after the decision is certified to the county treasurer.

(2) The commission may, on its own motion, modify or change its findings or orders, at any time before an appeal and within ten days after the date of such findings or orders, for the purpose of correcting any ambiguity, clerical error, or patent or obvious error. The time for appeal shall not be lengthened because of the correction unless the correction substantially changes the findings or order.

(3) The Tax Commissioner or the Property Tax Administrator shall have thirty days after a final decision of the commission to appeal the commission's decision pursuant to section 77-5019.

Source: Laws 1995, LB 490, § 18; Laws 1997, LB 397, § 39; Laws 2001, LB 465, § 8; Laws 2005, LB 15, § 10; Laws 2007, LB166, § 11; Laws 2010, LB877, § 10; Laws 2011, LB384, § 31; Laws 2024, LB1317, § 94.
Operative date April 24, 2024.

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.

ARTICLE 52

BEGINNING FARMER TAX CREDIT ACT

Section
77-5203. Terms, defined.
77-5205. Board; members; vacancies; removal.
77-5206. Board; officers; expenses.
77-5208. Board; meetings; application; approval; deadline.
77-5209. Beginning farmer or livestock producer; qualifications.
77-5209.01. Tax credit for financial management program participation.
77-5211. Owner of agricultural assets; tax credit; when.
77-5212. Rental agreement; requirements; appeal.

Section
77-5213. Tax credit; amount; agreement; review.

77-5203 Terms, defined.

For purposes of the Beginning Farmer Tax Credit Act:

(1) Agricultural assets means agricultural land, livestock, farming, or livestock production facilities or buildings and machinery used for farming or livestock production located in Nebraska;

(2) Board means the Beginning Farmer Board created by section 77-5204;

(3) Cash rent agreement means a rental agreement in which the principal consideration given to the owner of agricultural assets is a predetermined amount of money. A flex or variable rent agreement is an alternative form of a cash rent agreement in which a predetermined base rent is adjusted for actual crop yield, crop price, or both according to a predetermined formula;

(4) Farm means any improved or unimproved tract of land used for or devoted to the commercial production of farm products;

(5) Farm product means those plants and animals useful to man and includes, but is not limited to, forages and sod crops, grains and feed crops, dairy and dairy products, poultry and poultry products, livestock, including breeding and grazing livestock, fruits, and vegetables;

(6) Farming or livestock production means the active use, management, and operation of real and personal property for the production of a farm product;

(7) Financial management program means a program for beginning farmers or livestock producers which includes, but is not limited to, assistance in the creation and proper use of record-keeping systems, periodic private consultations with licensed financial management personnel, year-end monthly cash flow analysis, and detailed enterprise analysis;

(8) Owner of agricultural assets means:

(a) An individual or a trustee having an ownership interest in an agricultural asset located within the State of Nebraska who meets any qualifications determined by the board;

(b) A spouse, child, or sibling who acquires an ownership interest in agricultural assets as a joint tenant, heir, or devisee of an individual or trustee who would qualify as an owner of agricultural assets under subdivision (8)(a) of this section; or

(c) A partnership, corporation, limited liability company, or other business entity having an ownership interest in an agricultural asset located within the State of Nebraska which meets any additional qualifications determined by the board;

(9) Qualified beginning farmer or livestock producer means an individual who is a resident individual as defined in section 77-2714.01, who has entered farming or livestock production or is seeking entry into farming or livestock production, who intends to farm or raise crops or livestock on land located within the state borders of Nebraska, and who meets the eligibility guidelines established in section 77-5209 and such other qualifications as determined by the board; and

(10) Share-rent agreement means a rental agreement in which the principal consideration given to the owner of agricultural assets is a predetermined portion of the production of farm products from the rented agricultural assets.

Source: Laws 1999, LB 630, § 4; Laws 2000, LB 1223, § 3; Laws 2006, LB 990, § 9; Laws 2008, LB1027, § 3; Laws 2019, LB560, § 2; Laws 2023, LB562, § 13.

77-5205 Board; members; vacancies; removal.

The board shall consist of the following members:

(1) The Director of Agriculture or his or her designee;

(2) The Tax Commissioner or his or her designee;

(3) One individual representing lenders of agricultural credit;

(4) One individual of the academic community with extensive knowledge and insight in the analysis of agricultural economic issues; and

(5) Three individuals who are currently engaged in farming or livestock production and are representative of a variety of farming or livestock production interests based on size of farm, type of farm operation, net worth of farm operation, and geographic location.

All members of the board shall be resident individuals as defined in section 77-2714.01. Members of the board listed in subdivisions (3) through (5) of this section shall be appointed by the Governor with the approval of a majority of the Legislature. All appointments shall be for terms of four years.

Vacancies in the appointed membership of the board shall be filled for the unexpired term by appointment by the Governor. Members of the board shall serve the full term and until a successor has been appointed by the Governor and approved by the Legislature. Any member is eligible for reappointment. Any member may be removed from the board by the Governor or by an affirmative vote by any four members of the board for incompetence, neglect of duty, or malfeasance.

Source: Laws 1999, LB 630, § 6; Laws 2023, LB562, § 14.

77-5206 Board; officers; expenses.

Once every two years, the members of the board shall elect a chairperson and a vice-chairperson. A member of the board may be reelected to the position of chairperson or vice-chairperson upon the discretion of the board. Members of the board shall be reimbursed for expenses as provided in sections 81-1174 to 81-1177.

Source: Laws 1999, LB 630, § 7; Laws 2020, LB381, § 86.

77-5208 Board; meetings; application; approval; deadline.

The board shall meet at least twice during the year. The board shall review pending applications in order to approve and certify beginning farmers and livestock producers as eligible for the programs provided by the board, to approve and certify owners of agricultural assets as eligible for the tax credits authorized by sections 77-5211 to 77-5213, and to approve and certify qualified beginning farmers and livestock producers as eligible for the tax credit authorized by section 77-5209.01 and for qualification to claim an exemption of taxable tangible personal property as provided by section 77-5209.02. No new

applications for any such programs, tax credits, or exemptions shall be approved or certified by the board after December 31, 2027. Any action taken by the board regarding approval and certification of program eligibility, granting of tax credits, or termination of rental agreements shall require the affirmative vote of at least four members of the board.

Source: Laws 1999, LB 630, § 9; Laws 2006, LB 990, § 10; Laws 2008, LB1027, § 6; Laws 2015, LB538, § 12; Laws 2016, LB1022, § 8; Laws 2021, LB432, § 15; Laws 2023, LB562, § 15.

77-5209 Beginning farmer or livestock producer; qualifications.

(1) The board shall determine who is qualified as a beginning farmer or livestock producer based on the qualifications found in this section. A qualified beginning farmer or livestock producer shall be an individual who: (a) Has a net worth of not more than seven hundred fifty thousand dollars, including any holdings by a spouse or dependent, based on fair market value; (b) provides the majority of the day-to-day physical labor and management of his or her farming or livestock production operations; (c) has, by the judgment of the board, adequate farming or livestock production experience or demonstrates knowledge in the type of farming or livestock production for which he or she seeks assistance from the board; (d) demonstrates to the board a profit potential by submitting board-approved projected earnings statements and agrees that farming or livestock production is intended to become his or her principal source of income; (e) demonstrates to the board a need for assistance; (f) participates in a financial management program approved by the board; (g) submits a nutrient management plan and a soil conservation plan to the board on any applicable agricultural assets purchased or rented from an owner of agricultural assets; (h) is of legal age to enter into and be legally responsible for a binding contract or lease as provided under section 43-2101; and (i) has such other qualifications as specified by the board. The qualified beginning farmer or livestock producer net worth thresholds in subdivision (a) of this subsection shall be adjusted annually beginning October 1, 2023, and each October 1 thereafter, by taking the average Producer Price Index for all commodities, published by the United States Department of Labor, Bureau of Labor Statistics, for the most recent twelve available periods divided by the Producer Price Index for 2022 and multiplying the result by the qualified beginning farmer's or livestock producer's net worth threshold. If the resulting amount is not a multiple of twenty-five thousand dollars, the amount shall be rounded to the next lowest twenty-five thousand dollars.

(2) When determining a qualified beginning farmer's or livestock producer's net worth, the board shall exclude from such determination any pension, retirement, or other types of deferred benefit accounts owned by the beginning farmer or livestock producer, including such accounts owned by a spouse or dependent.

(3) A qualified beginning farmer or livestock producer who has participated in a board approved and certified three-year rental agreement with an owner of agricultural assets shall be eligible to file subsequent applications for different assets.

Source: Laws 1999, LB 630, § 10; Laws 2000, LB 1223, § 5; Laws 2006, LB 990, § 11; Laws 2008, LB1027, § 7; Laws 2009, LB447, § 1; Laws 2019, LB560, § 3; Laws 2023, LB562, § 16.

77-5209.01 Tax credit for financial management program participation.

A qualified beginning farmer or livestock producer shall be allowed a one-time refundable credit against the income tax imposed by the Nebraska Revenue Act of 1967 for the cost of participation in the financial management program required for eligibility under section 77-5209. The amount of the credit shall be the actual cost of participation in an approved program incurred during the tax year for which the credit is claimed, up to a maximum of five hundred dollars.

Source: Laws 2006, LB 990, § 12; Laws 2019, LB560, § 4; Laws 2023, LB562, § 17.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

77-5211 Owner of agricultural assets; tax credit; when.

(1) Except as otherwise disallowed under subsection (7) of this section, an owner of agricultural assets shall be allowed a refundable credit against the income tax imposed by the Nebraska Revenue Act of 1967 for agricultural assets rented on a rental agreement basis, including cash rent of agricultural assets or cash equivalent of a share-rent rental, to qualified beginning farmers or livestock producers. Such asset shall be rented at prevailing community rates as determined by the board.

(2) An owner of agricultural assets who has participated in a board approved and certified three-year rental agreement with a beginning farmer or livestock producer shall be eligible to file subsequent applications for different assets.

(3) Except as allowed pursuant to subsection (5) of this section, tax credits for an agricultural asset may be issued for a maximum of three years.

(4) The credit allowed shall be for renting agricultural assets used for farming or livestock production. Such credit shall be granted by the Department of Revenue only after approval and certification by the board and a written three-year rental agreement for such assets is entered into between an owner of agricultural assets and a qualified beginning farmer or livestock producer. An owner of agricultural assets or qualified beginning farmer or livestock producer may terminate such agreement for reasonable cause upon approval by the board. If an agreement is terminated without fault on the part of the owner of agricultural assets as determined by the board, the tax credit shall not be retroactively disallowed. If an agreement is terminated with fault on the part of the owner of agricultural assets as determined by the board, any prior tax credits claimed by such owner shall be disallowed and recaptured and shall be immediately due and payable to the State of Nebraska.

(5) A credit may be granted to an owner of agricultural assets for renting agricultural assets, including cash rent of agricultural assets or cash equivalent of a share-rent agreement, to any qualified beginning farmer or livestock producer for a period of three years. An owner of agricultural assets shall be eligible for further credits for such assets under the Beginning Farmer Tax Credit Act when the rental agreement is terminated prior to the end of the three-year period through no fault of the owner of agricultural assets. If the board finds that such a termination was not the fault of the owner of the agricultural assets, it may approve the owner for credits arising from a

subsequent qualifying rental agreement on the same asset with a different qualified beginning farmer or livestock producer.

(6) Any credit allowable to a partnership, a corporation, a limited liability company, or an estate or trust may be distributed to the partners, members, shareholders, or beneficiaries. Any credit distributed shall be distributed in the same manner as income is distributed.

(7) The credit allowed under this section shall not be allowed to an owner of agricultural assets for a rental agreement with a beginning farmer or livestock producer who is a relative, as defined in section 36-802, of the owner of agricultural assets or of a partner, member, shareholder, or trustee of the owner of agricultural assets unless the rental agreement is included in a written succession plan. Such succession plan shall be in the form of a written contract or other instrument legally binding the parties to a process and timetable for the transfer of agricultural assets from the owner of agricultural assets to the beginning farmer or livestock producer. The succession plan shall provide for the transfer of assets to be completed within a period of no longer than thirty years, except that when the asset to be transferred is land owned by an individual, the period of transfer may be for a period up to the date of death of the owner. The owner of agricultural assets shall be allowed the credit provided for qualified rental agreements under this section if the board certifies the plan as providing a reasonable manner and probability of successful transfer.

(8) The total amount of credits granted under this section shall not exceed two million dollars per year. In calculating such limit, the board shall consider the cumulative amount of credits requested in the application submitted by the owner of agricultural assets rather than the amount of credits actually claimed by such owner.

Source: Laws 1999, LB 630, § 12; Laws 2000, LB 1223, § 7; Laws 2006, LB 990, § 13; Laws 2008, LB1027, § 8; Laws 2009, LB165, § 15; Laws 2019, LB70, § 17; Laws 2019, LB560, § 5; Laws 2023, LB562, § 18.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

77-5212 Rental agreement; requirements; appeal.

In evaluating a rental agreement between an owner of agricultural assets and a qualified beginning farmer or livestock producer, the board shall not approve and certify credit for an owner of agricultural assets who has, with fault, terminated a prior board approved and certified rental agreement with a qualified beginning farmer or livestock producer or if the agricultural assets have previously been approved in a qualifying rental agreement. Any person aggrieved by a decision of the board may appeal the decision, and the appeal shall be in accordance with the Administrative Procedure Act.

Source: Laws 1999, LB 630, § 13; Laws 2006, LB 990, § 14; Laws 2019, LB560, § 6.

Cross References

Administrative Procedure Act, see section 84-920.

77-5213 Tax credit; amount; agreement; review.

(1) The tax credit approved and certified by the board under section 77-5211 for an owner of agricultural assets in the first, second, or third year of a qualifying rental agreement shall be equal to (a) ten percent of the gross rental income stated in a rental agreement that is a cash rent agreement or (b) fifteen percent of the cash equivalent of the gross rental income in a rental agreement that is a share-rent agreement. Tax credits shall only be approved and certified for rental agreements that are approved and certified by the board under the Beginning Farmer Tax Credit Act.

(2) To qualify for the greater rate of credit allowed under subdivision (1)(b) of this section, a share-rent agreement shall provide for sharing of production expenses or risk of loss, or both, between the agricultural asset owner and the qualified beginning farmer or livestock producer. The board may adopt and promulgate rules and regulations, consistent with the policy objectives of the act, to further define the standards that share-rent agreements shall meet for approval and certification of the tax credit under the act.

(3) The board shall review each existing three-year rental agreement between a beginning farmer or livestock producer and an owner of agricultural assets on an annual basis and shall either certify or terminate program eligibility for beginning farmers or livestock producers or tax credits granted to owners of agricultural assets on an annual basis.

Source: Laws 1999, LB 630, § 14; Laws 2006, LB 990, § 15; Laws 2023, LB562, § 19.

ARTICLE 56

TAX AMNESTY PROGRAM

Section
77-5601. Tax amnesty program; application; department; powers and duties; Department of Revenue Enforcement Fund; created; use; investment.

77-5601 Tax amnesty program; application; department; powers and duties; Department of Revenue Enforcement Fund; created; use; investment.

(1) From August 1, 2004, through October 31, 2004, there shall be conducted a tax amnesty program with regard to taxes due and owing that have not been reported to the Department of Revenue. Any person applying for tax amnesty shall pay all unreported taxes that were due on or before April 1, 2004. Any person that applies for tax amnesty and is accepted by the Tax Commissioner shall have any penalties and interest waived on unreported and delinquent taxes notwithstanding any other provisions of law to the contrary.

(2) To be eligible for the tax amnesty provided by this section, the person shall apply for amnesty within the amnesty period, file a return for each taxable period for which the amnesty is requested by December 31, 2004, if no return has been filed, and pay in full all taxes for which amnesty is sought with the return or within thirty days after the application if a return was filed prior to the amnesty period. Tax amnesty shall not be available for any person that is under civil or criminal audit, investigation, or prosecution for unreported or delinquent taxes by this state or the United States Government on or before April 16, 2004.

(3) The department shall not seek civil or criminal prosecution against any person for any taxable period for which amnesty has been granted. The Tax Commissioner shall develop forms for applying for the tax amnesty program,

develop procedures for qualification for tax amnesty, and conduct a public awareness campaign publicizing the program.

(4) If a person elects to participate in the amnesty program, the election shall constitute an express and irrevocable relinquishment of all administrative and judicial rights to challenge the imposition of the tax or its amount. Nothing in this section shall prohibit the department from adjusting a return as a result of any state or federal audit.

(5)(a) Except for any local option sales tax collected and returned to the appropriate municipality and any motor vehicle fuel, diesel fuel, and compressed fuel taxes, which shall be deposited in the Highway Trust Fund or Highway Allocation Fund as provided by law, no less than eighty percent of all revenue received pursuant to the tax amnesty program shall be deposited in the General Fund and ten percent, not to exceed five hundred thousand dollars, shall be deposited in the Department of Revenue Enforcement Fund. Any amount that would otherwise be deposited in the Department of Revenue Enforcement Fund that is in excess of the five-hundred-thousand-dollar limitation shall be deposited in the General Fund.

(b) For fiscal year 2005-06, all proceeds in the Department of Revenue Enforcement Fund shall be appropriated to the department for purposes of employing investigators, agents, and auditors and otherwise increasing personnel for enforcement of the Nebraska Revenue Act of 1967.

(c) For fiscal years after fiscal year 2005-06, twenty percent of all proceeds received during the previous calendar year due to the efforts of auditors and investigators hired pursuant to subdivision (5)(b) of this section, not to exceed seven hundred fifty thousand dollars, shall be deposited in the Department of Revenue Enforcement Fund for purposes of employing investigators and auditors or continuing such employment for purposes of increasing enforcement of the act.

(d) Ten percent of all proceeds received during each calendar year due to the contracts entered into pursuant to section 77-367 shall be deposited in the Department of Revenue Enforcement Fund for purposes of identifying nonfilers of returns, underreporters, nonpayers of taxes, and improper or fraudulent payments.

(6)(a) The department shall prepare a report by April 1, 2005, and by February 1 of each year thereafter detailing the results of the tax amnesty program and the subsequent enforcement efforts. For the report due April 1, 2005, the report shall include (i) the amount of revenue obtained as a result of the tax amnesty program broken down by tax program, (ii) the amount obtained from instate taxpayers and from out-of-state taxpayers, and (iii) the amount obtained from individual taxpayers and from business enterprises.

(b) For reports due in subsequent years, the report shall include (i) the number of personnel hired for purposes of subdivision (5)(b) of this section and their duties, (ii) a description of lists, software, programming, computer equipment, and other technological methods acquired and the purposes of each, and (iii) the amount of new revenue obtained as a result of the new personnel and acquisitions during the prior calendar year, broken down into the same categories as described in subdivision (6)(a) of this section.

(7) The Department of Revenue Enforcement Fund is created. Transfers may be made from the Department of Revenue Enforcement Fund to the General Fund at the direction of the Legislature. The Department of Revenue Enforce-

ment Fund may receive transfers from the Civic and Community Center Financing Fund at the direction of the Legislature for the purpose of administering the Sports Arena Facility Financing Assistance Act. The Department of Revenue Enforcement Fund shall include any money credited to the fund (a) under section 77-2703, and such money shall be used by the Department of Revenue to defray the costs incurred to implement Laws 2019, LB237, (b) under the Mechanical Amusement Device Tax Act, and such money shall be used by the department to defray the costs incurred to implement and enforce Laws 2019, LB538, and any rules and regulations adopted and promulgated to carry out Laws 2019, LB538, (c) under section 77-2906, and such money shall be used by the Department of Revenue to defray the costs incurred to implement Laws 2020, LB310, and (d) under section 77-3,124. Any money in the Department of Revenue Enforcement Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. Beginning October 1, 2024, any investment earnings from investment of money in the fund shall be credited to the General Fund.

(8) For purposes of this section, taxes mean any taxes collected by the department, including, but not limited to state and local sales and use taxes, individual and corporate income taxes, financial institutions deposit taxes, motor vehicle fuel, diesel fuel, and compressed fuel taxes, cigarette taxes, transfer taxes, and charitable gaming taxes.

Source: Laws 2004, LB 1017, § 23; Laws 2009, First Spec. Sess., LB3, § 58; Laws 2010, LB779, § 18; Laws 2011, LB297, § 10; Laws 2011, LB642, § 2; Laws 2019, LB237, § 2; Laws 2019, LB538, § 10; Laws 2020, LB310, § 2; Laws 2024, LB1317, § 95; Laws 2024, First Spec. Sess., LB3, § 29.

Note: Changes made by Laws 2024, LB1317, became operative July 19, 2024.

Note: Changes made by Laws 2024, First Spec. Sess., LB3, became effective August 21, 2024.

Cross References

Mechanical Amusement Device Tax Act, see section 77-3011.
Nebraska Capital Expansion Act, see section 72-1269.
Nebraska Revenue Act of 1967, see section 77-2701.
Nebraska State Funds Investment Act, see section 72-1260.
Sports Arena Facility Financing Assistance Act, see section 13-3101.

ARTICLE 57

NEBRASKA ADVANTAGE ACT

Section

77-5705 Base year, defined.

Except for a tier 5 project that is sequential to a tier 2 large data center project, base year means the year immediately preceding the year of applica-

tion. For a tier 5 project that is sequential to a tier 2 large data center project, the base year means the last year of the tier 2 large data center project entitlement period relating to sales tax exemptions.

Source: Laws 2005, LB 312, § 27; Laws 2012, LB1118, § 4; Laws 2022, LB1150, § 7.

77-5723 Incentives; application; contents; fee; approval; when; agreements; contents; modification.

(1) In order to utilize the incentives set forth in the Nebraska Advantage Act, the taxpayer shall file an application, on a form developed by the Tax Commissioner, requesting an agreement with the Tax Commissioner.

(2) The application shall contain:

(a) A written statement describing the plan of employment and investment for a qualified business in this state;

(b) Sufficient documents, plans, and specifications as required by the Tax Commissioner to support the plan and to define a project;

(c) If more than one location within this state is involved, sufficient documentation to show that the employment and investment at different locations are interdependent parts of the plan. A headquarters shall be presumed to be interdependent with each other location directly controlled by such headquarters. A showing that the parts of the plan would be considered parts of a unitary business for corporate income tax purposes shall not be sufficient to show interdependence for the purposes of this subdivision;

(d) A nonrefundable application fee of one thousand dollars for a tier 1 project, two thousand five hundred dollars for a tier 2, tier 3, or tier 5 project, five thousand dollars for a tier 4 project, and ten thousand dollars for a tier 6 project. The fee shall be credited to the Nebraska Incentives Fund; and

(e) A timetable showing the expected sales tax refunds and what year they are expected to be claimed. The timetable shall include both direct refunds due to investment and credits taken as sales tax refunds as accurately as possible.

The application and all supporting information shall be confidential except for the name of the taxpayer, the location of the project, the amounts of increased employment and investment, and the information required to be reported by sections 77-5731 and 77-5734.

(3) An application must be complete to establish the date of the application. An application shall be considered complete once it contains the items listed in subsection (2) of this section, regardless of the Tax Commissioner's additional needs pertaining to information or clarification in order to approve or not approve the application.

(4) Once satisfied that the plan in the application defines a project consistent with the purposes stated in the Nebraska Advantage Act in one or more qualified business activities within this state, that the taxpayer and the plan will qualify for benefits under the act, and that the required levels of employment and investment for the project will be met within the applicable time period prescribed in this subsection, the Tax Commissioner shall approve the application. For a tier 6 project submitted and approved by the Tax Commissioner prior to December 1, 2020, or for any tier 1 or tier 3 project, the required levels of employment and investment shall be met prior to the end of the fourth year after the year in which the application was submitted. For a tier 6 project

submitted and approved by the Tax Commissioner on or after December 1, 2020, or for any tier 2, tier 4, or tier 5 project, the required levels of employment and investment shall be met prior to the end of the sixth year after the year in which the application was submitted. For a tier 5 project that is sequential to a tier 2 large data center project, the required level of investment shall be met prior to the end of the fourth year after the expiration of the tier 2 large data center project entitlement period relating to sales tax exemptions.

(5) The Tax Commissioner shall make his or her determination to approve or not approve an application within one hundred eighty days after the date of the application. 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, such one-hundred-eighty-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 one-hundred-eighty-day period. If the Tax Commissioner fails to make his or her determination within the prescribed one-hundred-eighty-day period, the application shall be deemed approved.

(6) Within one hundred eighty days after approval of the application, the Tax Commissioner shall prepare and mail a written agreement to the taxpayer for the taxpayer's signature. The taxpayer and the Tax Commissioner shall enter into a written agreement. The taxpayer shall agree to complete the project, and the Tax Commissioner, on behalf of the State of Nebraska, shall designate the approved plan of the taxpayer as a project and, in consideration of the taxpayer's agreement, agree to allow the taxpayer to use the incentives contained in the Nebraska Advantage Act. 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) A requirement that the company update the Department of Revenue annually on any changes in plans or circumstances which affect the timetable of sales tax refunds as set out in the application. If the company fails to comply with this requirement, the Tax Commissioner may defer any pending sales tax refunds until the company does comply.

(7) The incentives contained in section 77-5725 shall be in lieu of the tax credits allowed by the Nebraska Advantage Rural Development Act for any project. In computing credits under the act, any investment or employment which is eligible for benefits or used in determining benefits under the Nebraska Advantage Act shall be subtracted from the increases computed for determining the credits under section 77-27,188. New investment or employment at a project location that results in the meeting or maintenance of the employment or investment requirements, the creation of credits, or refunds of taxes under the Employment and Investment Growth Act shall not be considered new investment or employment for purposes of the Nebraska Advantage Act. The use of carryover credits under the Employment and Investment

Growth Act, the Invest Nebraska Act, the Nebraska Advantage Rural Development Act, or the Quality Jobs Act shall not preclude investment and employment from being considered new investment or employment under the Nebraska Advantage Act. The use of property tax exemptions at the project under the Employment and Investment Growth Act shall not preclude investment not eligible for the property tax exemption from being considered new investment under the Nebraska Advantage Act.

(8) A taxpayer and the Tax Commissioner may enter into agreements for more than one project and may include more than one project in a single agreement. The projects may be either sequential or concurrent. A project may involve the same location as another project. No new employment or new investment shall be included in more than one project for either the meeting of the employment or investment requirements or the creation of credits. When projects overlap and the plans do not clearly specify, then the taxpayer shall specify in which project the employment or investment belongs.

(9) The taxpayer may request that an agreement be modified if the modification is consistent with the purposes of the act and does not require a change in the description of the project. An agreement may not be modified to a tier that would grant a higher level of benefits to the taxpayer or to a tier 1 project. Once satisfied that the modification to the agreement is consistent with the purposes stated in the act, the Tax Commissioner and taxpayer may amend the agreement. For a tier 6 project, the taxpayer must agree to limit the project to qualified activities allowable under tier 2 and tier 4.

Source: Laws 2005, LB 312, § 45; Laws 2006, LB 1003, § 13; Laws 2008, LB895, § 15; Laws 2008, LB914, § 22; Laws 2009, LB164, § 5; Laws 2012, LB1118, § 6; Laws 2013, LB34, § 6; Laws 2022, LB1150, § 8; Laws 2024, LB1088, § 1.
Effective date July 19, 2024.

Cross References

Employment and Investment Growth Act, see section 77-4101.
Invest Nebraska Act, see section 77-5501.
Nebraska Advantage Rural Development Act, see section 77-27,187.
Quality Jobs Act, see section 77-4901.

77-5725 Tiers; requirements; incentives; enumerated; deadlines.

(1) Applicants may qualify for benefits under the Nebraska Advantage Act in one of six tiers:

(a) Tier 1, investment in qualified property of at least one million dollars and the hiring of at least ten new employees. There shall be no new project applications for benefits under this tier filed after December 31, 2020. All complete project applications filed on or before December 31, 2020, shall be considered by the Tax Commissioner and approved if the project and taxpayer qualify for benefits. Agreements may be executed with regard to completed project applications filed on or before December 31, 2020. All project agreements pending, approved, or entered into before such date shall continue in full force and effect;

(b) Tier 2, (i) investment in qualified property of at least three million dollars and the hiring of at least thirty new employees or (ii) for a large data center project, investment in qualified property for the data center of at least two hundred million dollars and the hiring for the data center of at least thirty new employees. There shall be no new project applications for benefits under this

tier filed after December 31, 2020. All complete project applications filed on or before December 31, 2020, shall be considered by the Tax Commissioner and approved if the project and taxpayer qualify for benefits. Agreements may be executed with regard to completed project applications filed on or before December 31, 2020. All project agreements pending, approved, or entered into before such date shall continue in full force and effect;

(c) Tier 3, the hiring of at least thirty new employees. There shall be no new project applications for benefits under this tier filed after December 31, 2020. All complete project applications filed on or before December 31, 2020, shall be considered by the Tax Commissioner and approved if the project and taxpayer qualify for benefits. Agreements may be executed with regard to completed project applications filed on or before December 31, 2020. All project agreements pending, approved, or entered into before such date shall continue in full force and effect;

(d) Tier 4, investment in qualified property of at least ten million dollars and the hiring of at least one hundred new employees. There shall be no new project applications for benefits under this tier filed after December 31, 2020. All complete project applications filed on or before December 31, 2020, shall be considered by the Tax Commissioner and approved if the project and taxpayer qualify for benefits. Agreements may be executed with regard to completed project applications filed on or before December 31, 2020. All project agreements pending, approved, or entered into before such date shall continue in full force and effect;

(e) Tier 5, (i) investment in qualified property of at least thirty million dollars or (ii) for the production of electricity by using one or more sources of renewable energy to produce electricity for sale as described in subdivision (1)(j) of section 77-5715, investment in qualified property of at least twenty million dollars. Failure to maintain an average number of equivalent employees as defined in section 77-5727 greater than or equal to the number of equivalent employees in the base year shall result in a partial recapture of benefits. There shall be no new project applications for benefits under this tier filed after December 31, 2020. All complete project applications filed on or before December 31, 2020, shall be considered by the Tax Commissioner and approved if the project and taxpayer qualify for benefits. Agreements may be executed with regard to completed project applications filed on or before December 31, 2020. All project agreements pending, approved, or entered into before such date shall continue in full force and effect; and

(f) Tier 6, investment in qualified property of at least ten million dollars and the hiring of at least seventy-five new employees or the investment in qualified property of at least one hundred million dollars and the hiring of at least fifty new employees. There shall be no new project applications for benefits under this tier filed after December 31, 2020. All complete project applications filed on or before December 31, 2020, shall be considered by the Tax Commissioner and approved if the project and taxpayer qualify for benefits. Agreements may be executed with regard to completed project applications filed on or before December 31, 2020. All project agreements pending, approved, or entered into before such date shall continue in full force and effect.

(2) When the taxpayer has met the required levels of employment and investment contained in the agreement for a tier 1, tier 2, tier 4, tier 5, or tier 6 project, the taxpayer shall be entitled to the following incentives:

(a) A refund of all sales and use taxes for a tier 2, tier 4, tier 5, or tier 6 project or a refund of one-half of all sales and use taxes for a tier 1 project paid under the Local Option Revenue Act, the Nebraska Revenue Act of 1967, and sections 13-319, 13-324, 13-2813, and 77-6403 from the date of the application through the meeting of the required levels of employment and investment for all purchases, including rentals, of:

(i) Qualified property used as a part of the project;

(ii) Property, excluding motor vehicles, based in this state and used in both this state and another state in connection with the project except when any such property is to be used for fundraising for or for the transportation of an elected official;

(iii) Tangible personal property by a contractor or repairperson after appointment as a purchasing agent of the owner of the improvement to real estate when such property is incorporated into real estate as a part of a project. The refund shall be based on fifty percent of the contract price, excluding any land, as the cost of materials subject to the sales and use tax;

(iv) Tangible personal property by a contractor or repairperson after appointment as a purchasing agent of the taxpayer when such property is annexed to, but not incorporated into, real estate as a part of a project. The refund shall be based on the cost of materials subject to the sales and use tax that were annexed to real estate; and

(v) Tangible personal property by a contractor or repairperson after appointment as a purchasing agent of the taxpayer when such property is both (A) incorporated into real estate as a part of a project and (B) annexed to, but not incorporated into, real estate as a part of a project. The refund shall be based on fifty percent of the contract price, excluding any land, as the cost of materials subject to the sales and use tax; and

(b)(i) A refund of all sales and use taxes for a tier 2, tier 4, tier 5, or tier 6 project, excluding the tier 2 and tier 5 projects described in subdivision (2)(b)(ii) of this section, or a refund of one-half of all sales and use taxes for a tier 1 project paid under the Local Option Revenue Act, the Nebraska Revenue Act of 1967, and sections 13-319, 13-324, 13-2813, and 77-6403 on the types of purchases, including rentals, listed in subdivision (a) of this subsection for such taxes paid during each year of the entitlement period in which the taxpayer is at or above the required levels of employment and investment; or

(ii) An exemption from all sales and use taxes for a tier 2 large data center project or a tier 5 project that is sequential to a tier 2 large data center project imposed under the Local Option Revenue Act, the Nebraska Revenue Act of 1967, and sections 13-319, 13-324, 13-2813, and 77-6403 on the types of purchases, including rentals, listed in subdivision (a) of this subsection for such purchases, including rentals, occurring during each year of the entitlement period in which the taxpayer is at or above the required levels of employment and investment, except that the exemption shall be for the actual materials purchased with respect to subdivisions (2)(a)(iii), (iv), and (v) of this section. The Tax Commissioner shall issue such rules, regulations, certificates, and forms as are appropriate to implement the efficient use of this exemption.

(3) For agreements involving a tier 2 large data center project or a tier 5 project that is sequential to a tier 2 large data center project:

(a) Within sixty days after January 1, 2023, any taxpayer who meets the requirements of subsection (1) of section 77-2705.01 shall be issued a direct payment permit under section 77-2705.01, unless the taxpayer has opted out of this requirement. For any taxpayer who is issued a direct payment permit, until such taxpayer meets the required levels of employment and investment contained in the agreement, the taxpayer must pay and remit any applicable sales and use taxes as required by the Tax Commissioner. Any taxpayer who is issued a direct payment permit under this subdivision or who otherwise receives the benefit of any refunds or exemptions under this section shall comply with all data disclosure requirements in subsection (6) of section 77-27,144, including disclosures to a municipality which would have received sales and use taxes but for an exemption allowed under this section; and

(b) If the taxpayer meets the required levels of employment and investment contained in the agreement, the taxpayer shall receive the sales tax refunds described in subdivision (2)(a) of this section. For any year in which the taxpayer is not at the required levels of employment and investment, the taxpayer shall report all sales and use taxes owed for the period on the taxpayer's tax return.

(4) Any taxpayer who qualifies for a tier 1, tier 2, tier 3, or tier 4 project shall be entitled to a credit equal to three percent times the average wage of new employees times the number of new employees if the average wage of the new employees equals at least sixty percent of the Nebraska average annual wage for the year of application. The credit shall equal four percent times the average wage of new employees times the number of new employees if the average wage of the new employees equals at least seventy-five percent of the Nebraska average annual wage for the year of application. The credit shall equal five percent times the average wage of new employees times the number of new employees if the average wage of the new employees equals at least one hundred percent of the Nebraska average annual wage for the year of application. The credit shall equal six percent times the average wage of new employees times the number of new employees if the average wage of the new employees equals at least one hundred twenty-five percent of the Nebraska average annual wage for the year of application. For computation of such credit:

(a) Average annual wage means the total compensation paid to employees during the year at the project who are not base-year employees and who are paid wages equal to at least sixty percent of the Nebraska average weekly wage for the year of application, excluding any compensation in excess of one million dollars paid to any one employee during the year, divided by the number of equivalent employees making up such total compensation;

(b) Average wage of new employees means the average annual wage paid to employees during the year at the project who are not base-year employees and who are paid wages equal to at least sixty percent of the Nebraska average weekly wage for the year of application, excluding any compensation in excess of one million dollars paid to any one employee during the year; and

(c) Nebraska average annual wage means the Nebraska average weekly wage times fifty-two.

(5) Any taxpayer who qualifies for a tier 6 project shall be entitled to a credit equal to ten percent times the total compensation paid to all employees, other

than base-year employees, excluding any compensation in excess of one million dollars paid to any one employee during the year, employed at the project.

(6) Any taxpayer who has met the required levels of employment and investment for a tier 2 or tier 4 project shall receive a credit equal to ten percent of the investment made in qualified property at the project. Any taxpayer who has met the required levels of investment and employment for a tier 1 project shall receive a credit equal to three percent of the investment made in qualified property at the project. Any taxpayer who has met the required levels of investment and employment for a tier 6 project shall receive a credit equal to fifteen percent of the investment made in qualified property at the project.

(7) The credits prescribed in subsections (4), (5), and (6) of this section shall be allowable for compensation paid and investments made during each year of the entitlement period that the taxpayer is at or above the required levels of employment and investment.

(8) The credit prescribed in subsection (6) of this section shall also be allowable during the first year of the entitlement period for investment in qualified property at the project after the date of the application and before the required levels of employment and investment were met.

(9)(a) Property described in subdivisions (9)(c)(i) through (v) of this section used in connection with a project or projects, whether purchased or leased, and placed in service by the taxpayer after the date the application was filed shall constitute separate classes of property and are eligible for exemption under the conditions and for the time periods provided in subdivision (9)(b) of this section.

(b)(i) A taxpayer who has met the required levels of employment and investment for a tier 4 project shall receive the exemption of property in subdivisions (9)(c)(ii), (iii), and (iv) of this section. A taxpayer who has met the required levels of employment and investment for a tier 6 project shall receive the exemption of property in subdivisions (9)(c)(ii), (iii), (iv), and (v) of this section. Such property shall be eligible for the exemption from the first January 1 following the end of the year during which the required levels were exceeded through the ninth December 31 after the first year property included in subdivisions (9)(c)(ii), (iii), (iv), and (v) of this section qualifies for the exemption.

(ii) A taxpayer who has filed an application that describes a tier 2 large data center project or a project under tier 4 or tier 6 shall receive the exemption of property in subdivision (9)(c)(i) of this section beginning with the first January 1 following the date the property was placed in service. The exemption shall continue through the end of the period property included in subdivisions (9)(c)(ii), (iii), (iv), and (v) of this section qualifies for the exemption.

(iii) A taxpayer who has filed an application that describes a tier 2 large data center project or a tier 5 project that is sequential to a tier 2 large data center project for which the entitlement period has expired shall receive the exemption of all property in subdivision (9)(c) of this section beginning any January 1 after the date the property was placed in service. Such property shall be eligible for exemption from the tax on personal property from the January 1 preceding the first claim for exemption approved under this subdivision through the ninth December 31 after the year the first claim for exemption is approved.

(iv) A taxpayer who has a project for an Internet web portal or a data center and who has met the required levels of employment and investment for a tier 2 project or the required level of investment for a tier 5 project, taking into account only the employment and investment at the web portal or data center project, shall receive the exemption of property in subdivision (9)(c)(ii) of this section. Such property shall be eligible for the exemption from the first January 1 following the end of the year during which the required levels were exceeded through the ninth December 31 after the first year any property included in subdivisions (9)(c)(ii), (iii), (iv), and (v) of this section qualifies for the exemption.

(v) Such investment and hiring of new employees shall be considered a required level of investment and employment for this subsection and for the recapture of benefits under this subsection only.

(c) The following property used in connection with such project or projects, whether purchased or leased, and placed in service by the taxpayer after the date the application was filed shall constitute separate classes of personal property:

(i) Turbine-powered aircraft, including turboprop, turbojet, and turbofan aircraft, except when any such aircraft is used for fundraising for or for the transportation of an elected official;

(ii) Computer systems, made up of equipment that is interconnected in order to enable the acquisition, storage, manipulation, management, movement, control, display, transmission, or reception of data involving computer software and hardware, used for business information processing which require environmental controls of temperature and power and which are capable of simultaneously supporting more than one transaction and more than one user. A computer system includes peripheral components which require environmental controls of temperature and power connected to such computer systems. Peripheral components shall be limited to additional memory units, tape drives, disk drives, power supplies, cooling units, data switches, and communication controllers;

(iii) Depreciable personal property used for a distribution facility, including, but not limited to, storage racks, conveyor mechanisms, forklifts, and other property used to store or move products;

(iv) Personal property which is business equipment located in a single project if the business equipment is involved directly in the manufacture or processing of agricultural products; and

(v) For a tier 2 large data center project or tier 6 project, any other personal property located at the project.

(d) In order to receive the property tax exemptions allowed by subdivision (9)(c) of this section, the taxpayer shall annually file a claim for exemption with the Tax Commissioner on or before May 1. The form and supporting schedules shall be prescribed by the Tax Commissioner and shall list all property for which exemption is being sought under this section. A separate claim for exemption must be filed for each project and each county in which property is claimed to be exempt. A copy of this form must also be filed with the county assessor in each county in which the applicant is requesting exemption. The Tax Commissioner shall determine whether a taxpayer is eligible to obtain exemption for personal property based on the criteria for exemption and the

eligibility of each item listed for exemption and, on or before August 1, certify such to the taxpayer and to the affected county assessor.

(10)(a) The investment thresholds in this section for a particular year of application shall be adjusted by the method provided in this subsection, except that the investment threshold for a tier 5 project described in subdivision (1)(e)(ii) of this section shall not be adjusted.

(b) For tier 1, tier 2, tier 4, and tier 5 projects other than tier 5 projects described in subdivision (1)(e)(ii) of this section, beginning October 1, 2006, and each October 1 thereafter, the average Producer Price Index for all commodities, published by the United States Department of Labor, Bureau of Labor Statistics, for the most recent twelve available periods shall be divided by the Producer Price Index for the first quarter of 2006 and the result multiplied by the applicable investment threshold. The investment thresholds shall be adjusted for cumulative inflation since 2006.

(c) For tier 6, beginning October 1, 2008, and each October 1 thereafter, the average Producer Price Index for all commodities, published by the United States Department of Labor, Bureau of Labor Statistics, for the most recent twelve available periods shall be divided by the Producer Price Index for the first quarter of 2008 and the result multiplied by the applicable investment threshold. The investment thresholds shall be adjusted for cumulative inflation since 2008.

(d) For a tier 2 large data center project, beginning October 1, 2012, and each October 1 thereafter, the average Producer Price Index for all commodities, published by the United States Department of Labor, Bureau of Labor Statistics, for the most recent twelve available periods shall be divided by the Producer Price Index for the first quarter of 2012 and the result multiplied by the applicable investment threshold. The investment thresholds shall be adjusted for cumulative inflation since 2012.

(e) If the resulting amount is not a multiple of one million dollars, the amount shall be rounded to the next lowest one million dollars.

(f) The investment thresholds established by this subsection apply for purposes of project qualifications for all applications filed on or after January 1 of the following year for all years of the project. Adjustments do not apply to projects after the year of application.

Source: Laws 2005, LB 312, § 47; Laws 2006, LB 1003, § 14; Laws 2007, LB223, § 30; Laws 2007, LB334, § 98; Laws 2008, LB895, § 16; Laws 2008, LB965, § 22; Laws 2009, LB164, § 6; Laws 2010, LB879, § 18; Laws 2010, LB918, § 4; Laws 2012, LB1118, § 7; Laws 2013, LB104, § 4; Laws 2014, LB1067, § 2; Laws 2015, LB538, § 13; Laws 2016, LB1022, § 9; Laws 2017, LB217, § 23; Laws 2019, LB472, § 16; Laws 2022, LB1150, § 9.

Cross References

Local Option Revenue Act, see section 77-27,148.
Nebraska Revenue Act of 1967, see section 77-2701.

77-5726 Credits; use; refund claims; procedures; interest; appointment of purchasing agent; protest; appeal.

(1)(a) The credits prescribed in section 77-5725 for a year shall be established by filing the forms required by the Tax Commissioner with the income tax

return for the taxable year which includes the end of the year the credits were earned. The credits may be used and shall be applied in the order in which they were first allowed. The credits may be used after any other nonrefundable credits to reduce the taxpayer's income tax liability imposed by sections 77-2714 to 77-27,135. Credits may be used beginning with the taxable year which includes December 31 of the year the required minimum levels were reached. The last year for which credits may be used is the taxable year which includes December 31 of the last year of the carryover period. Any decision on how part of the credit is applied shall not limit how the remaining credit could be applied under this section.

(b) The taxpayer may use the credit provided in subsection (4) of section 77-5725 to reduce the taxpayer's income tax withholding employer or payor tax liability under section 77-2756 or 77-2757 to the extent such liability is attributable to the number of new employees at the project, excluding any compensation in excess of one million dollars paid to any one employee during the year. The taxpayer may use the credit provided in subsection (5) of section 77-5725 to reduce the taxpayer's income tax withholding employer or payor tax liability under section 77-2756 or 77-2757 to the extent such liability is attributable to all employees employed at the project, other than base-year employees and excluding any compensation in excess of one million dollars paid to any one employee during the year. To the extent of the credit used, such withholding shall not constitute public funds or state tax revenue and shall not constitute a trust fund or be owned by the state. The use by the taxpayer of the credit shall not change the amount that otherwise would be reported by the taxpayer to the employee under section 77-2754 as income tax withheld and shall not reduce the amount that otherwise would be allowed by the state as a refundable credit on an employee's income tax return as income tax withheld under section 77-2755.

For a tier 1, tier 2, tier 3, or tier 4 project, the amount of credits used against income tax withholding shall not exceed the withholding attributable to new employees employed at the project, excluding any compensation in excess of one million dollars paid to any one employee during the year.

For a tier 6 project, the amount of credits used against income tax withholding shall not exceed the withholding attributable to all employees employed at the project, other than base-year employees and excluding any compensation in excess of one million dollars paid to any one employee during the year.

If the amount of credit used by the taxpayer against income tax withholding exceeds this amount, the excess withholding shall be returned to the Department of Revenue in the manner provided in section 77-2756, such excess amount returned shall be considered unused, and the amount of unused credits may be used as otherwise permitted in this section or shall carry over to the extent authorized in subdivision (1)(e) of this section.

(c) Credits may be used to obtain a refund of sales and use taxes under the Local Option Revenue Act, the Nebraska Revenue Act of 1967, and sections 13-319, 13-324, 13-2813, and 77-6403 which are not otherwise refundable that are paid on purchases, including rentals, for use at the project for a tier 1, tier 2, tier 3, or tier 4 project or for use within this state for a tier 2 large data center project or a tier 6 project.

(d) The credits earned for a tier 6 project may be used to obtain a payment from the state equal to the real property taxes due after the year the required

levels of employment and investment were met and before the end of the carryover period, for real property that is included in such project and acquired by the taxpayer, whether by lease or purchase, after the date the application was filed. Once the required levels of employment and investment for a tier 2 large data center project have been met, the credits earned for a tier 2 large data center project may be used to obtain a payment from the state equal to the real property taxes due after the year of application and before the end of the carryover period, for real property that is included in such project and acquired by the taxpayer, whether by lease or purchase, after the date the application was filed. The payment from the state shall be made only after payment of the real property taxes have been made to the county as required by law. Payments shall not be allowed for any taxes paid on real property for which the taxes are divided under section 18-2147 or 58-507.

(e) Credits may be carried over until fully utilized, except that such credits may not be carried over more than nine years after the year of application for a tier 1 or tier 3 project, fourteen years after the year of application for a tier 2 or tier 4 project, or more than sixteen years past the end of the entitlement period for a tier 6 project.

(2)(a) No refund claims shall be filed until after the required levels of employment and investment have been met.

(b) Refund claims shall be filed no more than once each quarter for refunds under the Nebraska Advantage Act, except that any claim for a refund in excess of twenty-five thousand dollars may be filed at any time.

(c) Refund claims for materials purchased by a purchasing agent shall include:

(i) A copy of the purchasing agent appointment;

(ii) The contract price; and

(iii)(A) For refunds under subdivision (2)(a)(iii) or (2)(a)(v) of section 77-5725, a certification by the contractor or repairperson of the percentage of the materials incorporated into or annexed to the project on which sales and use taxes were paid to Nebraska after appointment as purchasing agent; or

(B) For refunds under subdivision (2)(a)(iv) of section 77-5725, a certification by the contractor or repairperson of the percentage of the contract price that represents the cost of materials annexed to the project and the percentage of the materials annexed to the project on which sales and use taxes were paid to Nebraska after appointment as purchasing agent.

(d) All refund claims shall be filed, processed, and allowed as any other claim under section 77-2708, except that the amounts allowed to be refunded under the Nebraska Advantage Act shall be deemed to be overpayments and shall be refunded notwithstanding any limitation in subdivision (2)(a) of section 77-2708. The refund may be allowed if the claim is filed within three years from the end of the year the required levels of employment and investment are met or within the period set forth in section 77-2708.

(e) If a claim for a refund of sales and use taxes under the Local Option Revenue Act or sections 13-319, 13-324, 13-2813, and 77-6403 of more than twenty-five thousand dollars is filed by June 15 of a given year, the refund shall be made on or after November 15 of the same year. If such a claim is filed on or after June 16 of a given year, the refund shall not be made until on or after November 15 of the following year. The Tax Commissioner shall notify the

affected city, village, county, or municipal county of the amount of refund claims of sales and use taxes under the Local Option Revenue Act or sections 13-319, 13-324, 13-2813, and 77-6403 that are in excess of twenty-five thousand dollars on or before July 1 of the year before the claims will be paid under this section.

(f) Interest shall not be allowed on any taxes refunded under the Nebraska Advantage Act.

(3) The appointment of purchasing agents shall be recognized for the purpose of changing the status of a contractor or repairperson as the ultimate consumer of tangible personal property purchased after the date of the appointment which is physically incorporated into or annexed to the project and becomes the property of the owner of the improvement to real estate or the taxpayer. The purchasing agent shall be jointly liable for the payment of the sales and use tax on the purchases with the owner of the property.

(4) A determination that a taxpayer is not engaged in a qualified business or has failed to meet or maintain the required levels of employment or investment for incentives, exemptions, or recapture may be protested within sixty days after the mailing of the written notice of the proposed determination. If the notice of proposed determination is not protested within the sixty-day period, the proposed determination is a final determination. If the notice is protested, the Tax Commissioner shall issue a written order resolving such protests. The written order of the Tax Commissioner resolving a protest may be appealed to the district court of Lancaster County within thirty days after the issuance of the order.

Source: Laws 2005, LB 312, § 48; Laws 2008, LB895, § 17; Laws 2008, LB914, § 23; Laws 2009, LB164, § 7; Laws 2010, LB879, § 19; Laws 2012, LB1118, § 8; Laws 2013, LB34, § 7; Laws 2017, LB161, § 1; Laws 2019, LB472, § 17; Laws 2022, LB1150, § 10.

Cross References

Local Option Revenue Act, see section 77-27,148.
Nebraska Revenue Act of 1967, see section 77-2701.

77-5727 Recapture or disallowance of incentives.

(1)(a) If the taxpayer fails either to meet the required levels of employment or investment for the applicable project within the time period prescribed in subsection (4) of section 77-5723 or to utilize such project in a qualified business at employment and investment levels at or above those required in the agreement for the entire entitlement period, all or a portion of the incentives set forth in the Nebraska Advantage Act shall be recaptured or disallowed.

(b) In the case of a taxpayer who has failed to meet the required levels of investment or employment within the required time period, all reduction in the personal property tax because of the act shall be recaptured.

(2) In the case of a taxpayer who has failed to maintain the project at the required levels of employment or investment for the entire entitlement period, any reduction in the personal property tax, any refunds in tax or exemptions from tax allowed under subsection (2) of section 77-5725, and any refunds or reduction in tax allowed because of the use of a credit allowed under section 77-5725 shall be partially recaptured from either the taxpayer or the owner of the improvement to real estate and any carryovers of credits shall be partially disallowed. The amount of the recapture shall be a percentage equal to the

number of years the taxpayer did not maintain the project at or above the required levels of investment and employment divided by the number of years of the project's entitlement period multiplied by the refunds and exemptions allowed, reduction in personal property tax, the credits used, and the remaining carryovers. In addition, the last remaining year of personal property tax exemption shall be disallowed for each year the taxpayer did not maintain such project at or above the required levels of employment or investment.

(3) In the case of a taxpayer qualified under tier 5 who has failed to maintain the average number of equivalent employees at the project at the end of the six years following the year the taxpayer attained the required amount of investment, any refunds or exemptions in tax allowed under subsection (2) of section 77-5725 or any reduction in the personal property tax under section 77-5725 shall be partially recaptured from the taxpayer. The amount of recapture shall be the total amount of refunds, exemptions, and reductions in tax allowed for all years times the reduction in the average number of equivalent employees employed at the end of the entitlement period from the number of equivalent employees employed in the base year divided by the number of equivalent employees employed in the base year. For purposes of this subsection, the average number of equivalent employees shall be calculated at the end of the entitlement period by adding the number of equivalent employees in the year the taxpayer attains the required level of investment and each of the next following six years and dividing the result by seven.

(4) If the taxpayer receives any refund, exemption, or reduction in tax to which the taxpayer was not entitled or which was in excess of the amount to which the taxpayer was entitled, the refund, exemption, or reduction in tax shall be recaptured separate from any other recapture otherwise required by this section. Any amount recaptured under this subsection shall be excluded from the amounts subject to recapture under other subsections of this section.

(5) Any refund, exemption, 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 benefits were received in more than one year, the tax benefits received in the most recent year shall be recovered first and then the benefits received in earlier years up to the extent of the required recapture.

(6)(a) Except as provided in subdivision (6)(b) of this section, any personal property tax that would have been due except for the exemption allowed under the Nebraska Advantage Act, to the extent it becomes due under this section, shall be considered delinquent and shall be immediately due and payable to the county or counties in which the property was located when exempted.

(b) For a tier 2 large data center project, any personal property tax that would have been due except for the exemption under the Nebraska Advantage Act, together with interest at the rate provided in section 45-104.01 from the original delinquency date of the tax that would have been due until the date paid, to the extent it becomes due under this section, shall be considered delinquent and shall be immediately payable to the county or counties in which the property was located when exempted.

(c) All amounts received by a county under this section shall be allocated to each taxing unit levying taxes on tangible personal property in the county in the same proportion that the levy on tangible personal property of such taxing unit bears to the total levy of all of such taxing units.

(7) 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 entitlement period.

(8) Any amounts due under this section shall be recaptured notwithstanding other allowable credits and shall not be subsequently refunded under any provision of the Nebraska Advantage Act unless the recapture was in error.

(9) 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 national emergency.

Source: Laws 2005, LB 312, § 49; Laws 2006, LB 1003, § 15; Laws 2008, LB895, § 18; Laws 2009, LB164, § 8; Laws 2012, LB1118, § 9; Laws 2022, LB1150, § 11; Laws 2024, LB1088, § 2.
Effective date July 19, 2024.

77-5731 Reports; content; joint hearing.

(1) The Tax Commissioner shall submit electronically an annual report to the Legislature no later than October 31 of each year. The report shall be on a fiscal year, accrual basis that satisfies the requirements set by the Governmental Accounting Standards Board. The Department of Revenue shall, on or before December 15 of each even-numbered 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) The report shall list (a) the agreements which have been signed during the previous year, (b) the agreements which are still in effect, (c) the identity of each taxpayer who is party to an agreement, and (d) the location of each project.

(3) The report shall also state, for taxpayers who are parties to agreements, by industry group (a) the specific incentive options applied for under the Nebraska Advantage Act, (b) the refunds and exemptions allowed on the investment, (c) the credits earned, (d) the credits used to reduce the corporate income tax and the credits used to reduce the individual income tax, (e) the credits used to obtain sales and use tax refunds, (f) the credits used against withholding liability, (g) the number of jobs created under the act, (h) the expansion of capital investment, (i) the estimated wage levels of jobs created under the act subsequent to the application date, (j) the total number of qualified applicants, (k) the projected future state revenue gains and losses, (l) the sales tax refunds owed, (m) the credits outstanding under the act, (n) the value of personal property exempted by class in each county under the act, (o) the value of property for which payments equal to property taxes paid were allowed in each county, and (p) the total amount of the payments.

(4) In estimating the projected future state revenue gains and losses, the report shall detail the methodology utilized, state the economic multipliers and industry multipliers used to determine the amount of economic growth and positive tax revenue, describe the analysis used to determine the percentage of new jobs attributable to the Nebraska Advantage Act assumption, and identify limitations that are inherent in the analysis method.

(5) The report shall provide an explanation of the audit and review processes of the department in approving and rejecting applications or the grant of incentives and in enforcing incentive recapture. The report shall also specify the median period of time between the date of application and the date the agreement is executed for all agreements executed by June 30 of the current year.

(6) The report shall provide information on project-specific total incentives used every two years for each approved project. The report shall disclose (a) the identity of the taxpayer, (b) the location of the project, and (c) the total credits used, exemptions 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 containing information on two years of credits used, exemptions used, and refunds approved. The incentives used shall include incentives which have been approved by the department, but not necessarily received, during the previous two years.

(7) The report shall include an executive summary which shows aggregate information for all projects for which the information on incentives used in subsection (6) of this section is reported as follows: (a) The total incentives used by all taxpayers for projects detailed in subsection (6) of this section during the previous two years; (b) the number of projects; (c) the new jobs at the project for which credits have been granted; (d) the average compensation paid employees in the state in the year of application and for the new jobs at the project; and (e) the total investment for which incentives were granted. The executive summary shall summarize the number of states which grant investment tax credits, job tax credits, sales and use tax refunds or exemptions for qualified investment, and personal property tax exemptions and the investment and employment requirements under which they may be granted.

(8) No information shall be provided in the report that is protected by state or federal confidentiality laws.

Source: Laws 2005, LB 312, § 53; Laws 2008, LB895, § 19; Laws 2012, LB782, § 146; Laws 2013, LB34, § 9; Laws 2013, LB612, § 7; Laws 2022, LB1150, § 12.

77-5735 Changes to sections; when effective; applicability.

(1) The changes made in sections 77-5703, 77-5708, 77-5712, 77-5714, 77-5715, 77-5723, 77-5725, 77-5726, 77-5727, and 77-5731 by Laws 2008, LB895, and sections 77-5707.01, 77-5719.01, and 77-5719.02 apply to all applications filed on and after April 18, 2008. For all applications filed prior to such date, the provisions of the Nebraska Advantage Act as they existed immediately prior to such date apply.

(2) The changes made in sections 77-5725 and 77-5726 by Laws 2010, LB879, apply to all applications filed on or after July 15, 2010. For all applications filed prior to such date, the taxpayer may make a one-time election, within the time period prescribed by the Tax Commissioner, to have the changes made in sections 77-5725 and 77-5726 by Laws 2010, LB879, apply to such taxpayer's

application, or in the absence of such an election, the provisions of the Nebraska Advantage Act as they existed immediately prior to July 15, 2010, apply to such application.

(3) The changes made in sections 77-5707, 77-5715, 77-5719, and 77-5725 by Laws 2010, LB918, apply to all applications filed on or after July 15, 2010. For all applications filed prior to such date, the provisions of the Nebraska Advantage Act as they existed immediately prior to such date apply.

(4) The changes made in sections 77-5701, 77-5703, 77-5705, 77-5715, 77-5723, 77-5725, 77-5726, and 77-5727 by Laws 2012, LB1118, apply to all applications filed on or after March 8, 2012. For all applications filed prior to such date, the provisions of the Nebraska Advantage Act as they existed immediately prior to such date apply.

(5) The changes made in sections 77-5707.01, 77-5709, 77-5712, 77-5719, 77-5720, 77-5723, and 77-5726 by Laws 2013, LB34, apply to all applications filed on or after September 6, 2013. For all applications filed prior to such date, the provisions of the Nebraska Advantage Act as they existed immediately prior to such date apply.

(6) The changes made in section 77-5726 by Laws 2017, LB161, apply to all applications filed before, on, or after August 24, 2017.

(7) The changes made in sections 77-5705, 77-5723, 77-5725, 77-5726, and 77-5727 and in subsections (3), (6), and (7) of section 77-5731 by Laws 2022, LB1150, apply to any agreement entered into under the Nebraska Advantage Act that is still active on January 1, 2023, if the taxpayer makes a one-time election, within the time period prescribed by the Tax Commissioner, to have such changes apply to such taxpayer's agreement. In the absence of such an election, the provisions of such sections and subsections as they existed immediately prior to January 1, 2023, shall apply to such agreement. For each election made under this subsection, the Tax Commissioner shall disclose such election, the identity of the taxpayer, and the location of the taxpayer's project to each municipality in which the project is located. The Tax Commissioner shall make such disclosures within thirty days after the election.

(8) The changes made in sections 77-5723 and 77-5727 by Laws 2024, LB1088, apply to any agreement entered into under the Nebraska Advantage Act that is still active on July 19, 2024, if the taxpayer makes a one-time election, within the time period prescribed by the Tax Commissioner, to have such changes apply to such taxpayer's agreement. In the absence of such an election, the provisions of such sections as they existed immediately prior to July 19, 2024, shall apply to such agreement.

Source: Laws 2008, LB895, § 20; Laws 2010, LB879, § 20; Laws 2010, LB918, § 5; Laws 2012, LB1118, § 10; Laws 2013, LB34, § 11; Laws 2014, LB851, § 15; Laws 2017, LB161, § 2; Laws 2022, LB1150, § 13; Laws 2024, LB1088, § 3.
Effective date July 19, 2024.

ARTICLE 58

NEBRASKA ADVANTAGE RESEARCH AND DEVELOPMENT ACT

Section
77-5803. Research tax credit; amount.
77-5806. Applicability of act.
77-5807. Report; contents; joint hearing.

Section
77-5808. Employees; verification of status required, when; research tax credit; calculation.

77-5803 Research tax credit; amount.

(1)(a) Except as provided in subdivision (1)(b) of this section, any business firm which makes expenditures in research and experimental activities as defined in section 174 of the Internal Revenue Code of 1986, as amended, in this state shall be allowed a research tax credit as provided in the Nebraska Advantage Research and Development Act. The credit amount under this subdivision shall equal fifteen percent of the federal credit allowed under section 41 of the Internal Revenue Code of 1986, as amended, or as apportioned to this state under subsection (2) of this section. The credit shall be allowed for the first tax year it is claimed and for each tax year following.

(b) Any business firm which makes expenditures in research and experimental activities as defined in section 174 of the Internal Revenue Code of 1986, as amended, on the campus of a college or university in this state or at a facility owned by a college or university in this state shall be allowed a research tax credit as provided in the Nebraska Advantage Research and Development Act. The credit amount under this subdivision shall equal thirty-five percent of the federal credit allowed under section 41 of the Internal Revenue Code of 1986, as amended, or as apportioned to this state under subsection (2) of this section. The credit shall be allowed for the first tax year it is claimed and for each tax year following.

(2) For any business firm doing business both within and without this state, the amount of the credit may be determined either by dividing the amount expended in research and experimental activities in this state in any tax year by the total amount expended in research and experimental activities or by apportioning the amount of the credit on the federal income tax return to the state based on the average of the property factor as determined in section 77-2734.12 and the payroll factor as determined in section 77-2734.13.

Source: Laws 2005, LB 312, § 61; Laws 2007, LB223, § 31; Laws 2008, LB915, § 7; Laws 2009, LB555, § 1; Laws 2012, LB983, § 1; Laws 2023, LB727, § 95.

77-5806 Applicability of act.

The Nebraska Advantage Research and Development Act shall be operative for all tax years beginning or deemed to begin on or after January 1, 2006, under the Internal Revenue Code of 1986, as amended. No business firm shall be allowed to first claim the credit for any tax year beginning or deemed to begin after December 31, 2033, under the Internal Revenue Code of 1986, as amended.

Source: Laws 2005, LB 312, § 64; Laws 2009, LB164, § 10; Laws 2014, LB1067, § 3; Laws 2015, LB538, § 14; Laws 2016, LB1022, § 10; Laws 2023, LB727, § 96.

77-5807 Report; contents; joint hearing.

No later than October 31 of each year, the Tax Commissioner shall prepare a report stating the total amount of credits claimed on income tax returns or as refunds of sales and use tax during the previous fiscal year. The report shall be

on a fiscal year, accrual basis that satisfies the requirements set by the Governmental Accounting Standards Board. The Department of Revenue shall, on or before December 15 of each even-numbered 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. No information shall be provided in the report that is protected by state or federal confidentiality laws.

Source: Laws 2005, LB 312, § 65; Laws 2013, LB612, § 8; Laws 2022, LB1150, § 14.

77-5808 Employees; verification of status required, when; research tax credit; calculation.

(1) This subsection shall apply for tax years beginning or deemed to begin on or after January 1, 2009, and before January 1, 2023. The Tax Commissioner shall not approve or grant to any person any tax incentive under the Nebraska Advantage Research and Development Act unless the taxpayer provides evidence satisfactory to the Tax Commissioner that the taxpayer electronically verified the work eligibility status of newly hired employees employed in Nebraska.

(2) This subsection shall apply for tax years beginning or deemed to begin on or after January 1, 2023. When calculating the research tax credit as provided in the Nebraska Advantage Research and Development Act, the qualified research expenses claimed in computing the federal credit allowed under section 41 of the Internal Revenue Code of 1986, as amended, shall be adjusted to the extent the taxpayer includes, in such qualified research expenses, compensation paid to an employee of such taxpayer hired during or after the first tax year for which the Nebraska Advantage Research and Development Act credit is claimed by such firm and to the extent such compensation is subject to Nebraska income tax. Such compensation, for the tax year in which the credit is being claimed, shall be deducted from the taxpayer's qualified research expenses unless such employee was verified as eligible to work in the United States using the federal E-Verify system within ninety days after the date of hire of such employee or such longer period as may be permitted under the rules of the federal E-Verify system. Such verification may be performed by the taxpayer or by someone on the taxpayer's behalf.

Source: Laws 2009, LB403, § 13; Laws 2023, LB727, § 97.

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; contents; 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.

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.

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.

77-5907 Report; contents; joint hearing.

(1) The Tax Commissioner shall prepare a report identifying the following aggregate amounts for the previous fiscal 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 fiscal year; (c) the tax credits used; and (d) the tentative tax credits that expired. The report shall be issued on or before October 31 of each year. The report shall be on a fiscal year, accrual basis that satisfies the requirements set by the Governmental Accounting Standards Board. The Department of Revenue shall, on or before December 15 of each even-numbered 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; Laws 2022, LB1150, § 15.

ARTICLE 62

NAMEPLATE CAPACITY TAX

Section
77-6202. Terms, defined.
77-6203. Nameplate capacity tax; annual payment; exemptions; Department of Revenue; duties; owner; file report; interest; penalties.

77-6202 Terms, defined.

For purposes of sections 77-6201 to 77-6204:

(1) Commissioned means the renewable energy generation facility has been in commercial operation for at least twenty-four hours. A renewable energy generation facility is not in commercial operation unless the renewable energy generation facility is connected to the electrical grid or to the end user if the renewable energy generation facility is a customer-generator as defined in section 70-2002;

(2) Nameplate capacity means the capacity of a renewable energy generation facility to generate electricity as measured in megawatts, including fractions of a megawatt. Nameplate capacity shall be determined based on the facility's alternating current capacity; and

(3) Renewable energy generation facility means (a) a facility that generates electricity using wind as the fuel source or (b) a facility that generates electricity using solar, biomass, or landfill gas as the fuel source if such facility was installed on or after January 1, 2016, and has a nameplate capacity of one hundred kilowatts or more.

Source: Laws 2010, LB1048, § 13; Laws 2015, LB424, § 5; Laws 2020, LB76, § 1.

77-6203 Nameplate capacity tax; annual payment; exemptions; Department of Revenue; duties; owner; file report; interest; penalties.

(1) The owner of a renewable energy generation facility annually shall pay a nameplate capacity tax equal to the total nameplate capacity of the commissioned renewable energy generation facility multiplied by a tax rate of three thousand five hundred eighteen dollars per megawatt.

(2) No tax shall be imposed on a renewable energy generation facility:

(a) Owned or operated by the federal government, the State of Nebraska, a public power district, a public power and irrigation district, an individual municipality, a registered group of municipalities, an electric membership association, or a cooperative; or

(b) That is a customer-generator as defined in section 70-2002.

(3) No tax levied pursuant to this section shall be construed to constitute restricted funds as defined in section 13-518 for the first five years after the renewable energy generation facility is commissioned.

(4) The presence of one or more renewable energy generation facilities or supporting infrastructure shall not be a factor in the assessment, determination of actual value, or classification under section 77-201 of the real property underlying or adjacent to such facilities or infrastructure.

(5)(a) The Department of Revenue shall collect the tax due under this section.

(b) The tax shall be imposed beginning the first calendar year the renewable energy generation facility is commissioned. A renewable energy generation facility that uses wind as the fuel source which was commissioned prior to July 15, 2010, shall be subject to the tax levied pursuant to sections 77-6201 to 77-6204 on and after January 1, 2010. The amount of property tax on depreciable tangible personal property previously paid on a renewable energy generation facility that uses wind as the fuel source which was commissioned prior to July 15, 2010, which is greater than the amount that would have been paid pursuant to sections 77-6201 to 77-6204 from the date of commissioning until January 1, 2010, shall be credited against any tax due under Chapter 77, and any amount so credited that is unused in any tax year shall be carried over to subsequent tax years until fully utilized.

(c)(i) The tax for the first calendar year shall be prorated based upon the number of days remaining in the calendar year after the renewable energy generation facility is commissioned.

(ii) In the first year in which a renewable energy generation facility is taxed or in any year in which additional commissioned nameplate capacity is added to a renewable energy generation facility, the taxes on the initial or additional nameplate capacity shall be prorated for the number of days remaining in the calendar year.

(iii) When a renewable energy generation facility is decommissioned or made nonoperational by a change in law during a tax year, the taxes shall be prorated for the number of days during which the renewable energy generation facility was not decommissioned or was operational.

(iv) When the capacity of a renewable energy generation facility to produce electricity is reduced but the renewable energy generation facility is not decommissioned, the nameplate capacity of the renewable energy generation facility is deemed to be unchanged.

(6)(a) On March 1 of each year, the owner of a renewable energy generation facility shall file with the Department of Revenue a report on the nameplate capacity of the facility for the previous year from January 1 through December 31. All taxes shall be due on April 1 and shall be delinquent if not paid on a quarterly basis on April 1 and each quarter thereafter. Delinquent quarterly payments shall draw interest at the rate provided for in section 45-104.02, as such rate may from time to time be adjusted.

(b) The owner of a renewable energy generation facility is liable for the taxes under this section with respect to the facility, whether or not the owner of the facility is the owner of the land on which the facility is situated.

(7) Failure to file a report required by subsection (6) of this section, filing such report late, failure to pay taxes due, or underpayment of such taxes shall result in a penalty of five percent of the amount due being imposed for each quarter the report is overdue or the payment is delinquent, except that the penalty shall not exceed ten thousand dollars.

(8) The Department of Revenue shall enforce the provisions of this section. The department may adopt and promulgate rules and regulations necessary for the implementation and enforcement of this section.

(9) The Department of Revenue shall separately identify the proceeds from the tax imposed by this section and shall pay all such proceeds over to the county treasurer of the county where the renewable energy generation facility is located within thirty days after receipt of such proceeds.

Source: Laws 2010, LB1048, § 14; Laws 2011, LB360, § 4; Laws 2015, LB424, § 6; Laws 2016, LB824, § 14; Laws 2019, LB512, § 29.

ARTICLE 63

ANGEL INVESTMENT TAX CREDIT ACT

Section
77-6306. Tax credit; amount; director; allocation; limitation; reallocation; when; notice to director; tax credit certificates issued; holding period.

77-6306 Tax credit; amount; director; allocation; limitation; reallocation; when; notice to director; tax credit certificates issued; holding period.

(1) A qualified investor or qualified fund is eligible for a refundable tax credit equal to forty percent of its qualified investment in a qualified small business. The director shall not allocate more than four million dollars in tax credits to all qualified investors or qualified funds in a calendar year, except that for calendar year 2019, the director shall not allocate more than three million nine hundred thousand dollars in tax credits in such calendar year. If the director does not allocate the entire amount of tax credits authorized for a calendar year, the tax credits that are not allocated shall not carry forward to subsequent years. The director shall not allocate any amount for tax credits for calendar years after 2019.

(2) The director shall not allocate more than a total maximum amount in tax credits for a calendar year to a qualified investor for the investor's cumulative qualified investments as an individual qualified investor and as an investor in a qualified fund as provided in this subsection. For married couples filing joint returns the maximum is three hundred fifty thousand dollars, and for all other filers the maximum is three hundred thousand dollars. The director shall not allocate more than a total of one million dollars in tax credits for qualified investments in any one qualified small business.

(3) The director shall not allocate a tax credit to a qualified investor either as an individual qualified investor or as an investor in a qualified fund if the investor receives more than forty-nine percent of the investor's gross annual income from the qualified small business in which the qualified investment is proposed. A family member of an individual disqualified by this subsection is not eligible for a tax credit under this section. For a married couple filing a joint return, the limitations in this subsection apply collectively to the investor and spouse. For purposes of determining the ownership interest of an investor under this subsection, the rules under section 267(c) and (e) of the Internal Revenue Code of 1986, as amended, apply.

(4) Tax credits shall be allocated to qualified investors or qualified funds in the order that the tax credit applications are filed with the director. Once tax credits have been approved and allocated by the director, the qualified investors and qualified funds shall implement the qualified investment specified

within ninety days after allocation of the tax credits. Qualified investors and qualified funds shall notify the director no later than thirty days after the expiration of the ninety-day period that the qualified investment has been made. If the qualified investment is not made within ninety days after allocation of the tax credits, or the director has not, within thirty days following expiration of the ninety-day period, received notification that the qualified investment was made, the tax credit allocation is canceled and available for reallocation. A qualified investor or qualified fund that fails to invest as specified in the application within ninety days after allocation of the tax credits shall notify the director of the failure to invest within five business days after the expiration of the ninety-day investment period.

(5) All tax credit applications filed with the director on the same day shall be treated as having been filed contemporaneously. If two or more qualified investors or qualified funds file tax credit applications on the same day and the aggregate amount of tax credit allocation requests exceeds the aggregate limit of tax credits under this section or the lesser amount of tax credits that remain unallocated on that day, then the tax credits shall be allocated among the qualified investors or qualified funds who filed on that day on a pro rata basis with respect to the amounts requested. The pro rata allocation for any one qualified investor or qualified fund shall be the product obtained by multiplying a fraction, the numerator of which is the amount of the tax credit allocation request filed on behalf of a qualified investor or qualified fund and the denominator of which is the total of all tax credit allocation requests filed on behalf of all applicants on that day, by the amount of tax credits that remain unallocated on that day for the taxable year.

(6) A qualified investor or qualified fund, or a qualified small business acting on behalf of the investor or fund, shall notify the director when an investment for which tax credits were allocated has been made and shall furnish the director with documentation of the investment date. A qualified fund shall also provide the director with a statement indicating the amount invested by each investor in the qualified fund based on each investor's share of the assets of the qualified fund at the time of the qualified investment. After receiving notification that the qualified investment was made, the director shall issue tax credit certificates for the taxable year in which the qualified investment was made to the qualified investor or, for a qualified investment made by a qualified fund, to each qualified investor who is an investor in the fund. The certificate shall state that the tax credit is subject to revocation if the qualified investor or qualified fund does not hold the investment in the qualified small business for at least three years, consisting of the calendar year in which the investment was made and the two following calendar years. The three-year holding period does not apply if:

(a) The qualified investment by the qualified investor or qualified fund becomes worthless before the end of the three-year period;

(b) Eighty percent or more of the assets of the qualified small business are sold before the end of the three-year period;

(c) The qualified small business is sold or merges with another business before the end of the three-year period;

(d) The qualified small business's common stock begins trading on a public exchange before the end of the three-year period; or

(e) In the case of an individual qualified investor, such investor becomes deceased before the end of the three-year period.

(7) The director shall notify the Tax Commissioner that tax credit certificates have been issued, including the amount of tax credits and all other pertinent tax information.

Source: Laws 2011, LB389, § 6; Laws 2014, LB1067, § 8; Laws 2015, LB156, § 1; Laws 2016, LB1022, § 12; Laws 2017, LB217, § 29; Laws 2019, LB334, § 6.

ARTICLE 64

QUALIFIED JUDGMENT PAYMENT ACT

Section
77-6401. Act, how cited.
77-6402. Qualified judgment, defined.
77-6403. Imposition of sales and use tax; procedure; Tax Commissioner; duties.
77-6404. Imposition of sales and use tax; limitation.
77-6405. Property tax levy; required.
77-6406. Act, termination.

77-6401 Act, how cited.

Sections 77-6401 to 77-6406 shall be known and may be cited as the Qualified Judgment Payment Act.

Source: Laws 2019, LB472, § 1.
Termination date January 1, 2027.

77-6402 Qualified judgment, defined.

For purposes of the Qualified Judgment Payment Act, qualified judgment means a judgment that is rendered against a county by a federal court for a violation of federal law.

Source: Laws 2019, LB472, § 2.
Termination date January 1, 2027.

77-6403 Imposition of sales and use tax; procedure; Tax Commissioner; duties.

(1) Any county that has a qualified judgment in excess of twenty-five million dollars rendered against it may, upon adoption of a resolution by the affirmative vote of at least a two-thirds majority of all elected members of the county board, impose a sales and use tax of one-half of one percent on transactions that are subject to the state sales and use tax under the Nebraska Revenue Act of 1967, as amended from time to time, and that are sourced as provided in sections 77-2703.01 to 77-2703.04 within the county. Any sales and use tax imposed pursuant to this section shall be used to pay the qualified judgment.

(2) The Tax Commissioner shall administer all sales and use taxes imposed pursuant to this section. The Tax Commissioner may prescribe forms and adopt and promulgate rules and regulations in conformity with the Nebraska Revenue Act of 1967, as amended, for the making of returns and for the ascertainment, assessment, and collection of taxes. The county shall furnish a certified copy of the resolution imposing the tax to the Tax Commissioner. The tax shall begin on the first day of the first calendar quarter which begins at least sixty days after receipt by the Tax Commissioner of the certified copy of the resolution. The Tax

Commissioner shall provide at least thirty days' notice of the adoption of the tax to retailers within the county. Such notice may be provided through the website of the Department of Revenue or by other electronic means.

(3) Any sales and use tax imposed pursuant to this section shall terminate on the first day of the first calendar quarter which begins after the qualified judgment has been paid in full or after seven years, whichever is earlier. The county shall notify the Tax Commissioner of the anticipated termination date at least one hundred twenty days in advance. The Tax Commissioner shall provide at least sixty days' notice of the termination date to retailers within the county. Such notice may be provided through the website of the Department of Revenue or by other electronic means.

(4) The Tax Commissioner shall collect any sales and use tax imposed pursuant to this section concurrently with collection of a state sales and use tax in the same manner as the state tax is collected. The Tax Commissioner shall remit monthly the proceeds of the tax to the county imposing the tax, after deducting the amount of refunds made and three percent of the remainder as an administrative fee necessary to defray the cost of collecting the tax and the expenses incident thereto. The Tax Commissioner shall keep full and accurate records of all money received and distributed. All receipts from the three-percent administrative fee shall be deposited in the state General Fund.

(5) Upon any claim of illegal assessment and collection of any sales and use tax imposed pursuant to this section, the taxpayer has the same remedies provided for claims of illegal assessment and collection of the state sales and use tax.

(6) All relevant provisions of the Nebraska Revenue Act of 1967, as amended, not inconsistent with this section, shall govern transactions, proceedings, and activities related to any sales and use tax imposed pursuant to this section.

(7) For purposes of any sales and use tax imposed pursuant to this section, all retail sales, rentals, and leases, as defined and described in the Nebraska Revenue Act of 1967, shall be sourced as provided in sections 77-2703.01 to 77-2703.04.

Source: Laws 2019, LB472, § 3.
Termination date January 1, 2027.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

77-6404 Imposition of sales and use tax; limitation.

A county shall not impose a sales and use tax pursuant to the Qualified Judgment Payment Act if such county is imposing a tax pursuant to section 13-319.

Source: Laws 2019, LB472, § 4.
Termination date January 1, 2027.

77-6405 Property tax levy; required.

Any county that imposes a sales and use tax pursuant to the Qualified Judgment Payment Act shall set its property tax levy at the maximum levy authorized in section 77-3442 for each year that the county is imposing such

sales and use tax. The county shall use any available revenue from the imposition of such levy to pay the qualified judgment.

Source: Laws 2019, LB472, § 5.
Termination date January 1, 2027.

77-6406 Act, termination.

The Qualified Judgment Payment Act terminates on January 1, 2027.

Source: Laws 2019, LB472, § 6.

ARTICLE 65

KEY EMPLOYER AND JOBS RETENTION ACT

Section
77-6501. Act, how cited.
77-6502. Purpose of act.
77-6503. Definitions, where found.
77-6504. Additional definitions.
77-6505. Base year, defined.
77-6506. Base-year employees, defined.
77-6507. Change in ownership and control, defined.
77-6508. Equivalent employees, defined.
77-6509. Key employer, defined.
77-6510. Nebraska statewide average hourly wage for any year, defined.
77-6511. Performance period, defined.
77-6512. Qualified business, defined.
77-6513. Taxpayer, defined.
77-6514. Wage retention credit, defined.
77-6515. Year, defined.
77-6516. Wage retention credit; amount; use.
77-6517. Wage retention credit; application; fee; confidentiality; approval of application; conditions; notice; agreement.
77-6518. Wage retention credit; recapture or disallowance; interest; penalties.
77-6519. Wage retention credit; transferable; when; effect.
77-6520. Rules and regulations.
77-6521. Reports; joint hearing.
77-6522. Application; valid; when; director; Tax Commissioner; powers and duties.
77-6523. Applications; deadline.

77-6501 Act, how cited.

Sections 77-6501 to 77-6523 shall be known and may be cited as the Key Employer and Jobs Retention Act.

Source: Laws 2020, LB1107, § 44.

77-6502 Purpose of act.

The purpose of the Key Employer and Jobs Retention Act is to provide incentives to encourage key employers to remain in the state and retain well-paid employees in the state when there is a change in ownership and control of the key employer and the new owners are considering moving some or all of the key employer's jobs to other states.

Source: Laws 2020, LB1107, § 45.

77-6503 Definitions, where found.

For purposes of the Key Employer and Jobs Retention Act, the definitions found in sections 77-6504 to 77-6515 shall be used.

Source: Laws 2020, LB1107, § 46.

77-6504 Additional definitions.

Any term defined in the Nebraska Revenue Act of 1967 or in the ImagiNE Nebraska Act has the same meaning in the Key Employer and Jobs Retention Act unless the context or the express language of the Key Employer and Jobs Retention Act requires a different meaning.

Source: Laws 2020, LB1107, § 47.

Cross References

ImagiNE Nebraska Act, see section 77-6801.
Nebraska Revenue Act of 1967, see section 77-2701.

77-6505 Base year, defined.

Base year means the year immediately preceding the year during which the change in ownership and control occurred.

Source: Laws 2020, LB1107, § 48.

77-6506 Base-year employees, defined.

Base-year employees means the number of equivalent employees employed by the taxpayer during the base year in Nebraska who (1) are paid wages at a rate equal to at least one hundred percent of the Nebraska statewide average hourly wage for the year of application and (2) receive a sufficient package of benefits as specified in the ImagiNE Nebraska Act.

Source: Laws 2020, LB1107, § 49.

Cross References

ImagiNE Nebraska Act, see section 77-6801.

77-6507 Change in ownership and control, defined.

Change in ownership and control has the same meaning as described in 34 C.F.R. 600.31, which shall mean the regulation as amended on November 1, 2019, and which took effect on July 1, 2020.

Source: Laws 2020, LB1107, § 50.

77-6508 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. 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, § 51.

77-6509 Key employer, defined.

Key employer means a taxpayer that:

(1) Employs at least one thousand equivalent employees in Nebraska during the base year;

(2) Offers all full-time employees, as defined and described in section 4980H of the Internal Revenue Code of 1986, as amended, the opportunity to enroll in minimum essential coverage under an eligible employer-sponsored plan, as

those terms are defined and described in section 5000A of the Internal Revenue Code of 1986, as amended;

(3) Offers all full-time employees, as defined and described in section 4980H of the Internal Revenue Code of 1986, as amended, a sufficient package of benefits as specified in the ImagiNE Nebraska Act;

(4) Enforces a company policy against any discrimination that is prohibited by federal or state law;

(5) Electronically verifies the work eligibility status of all new employees employed in Nebraska within ninety days after the date of hire during the entire performance period;

(6) Has gone through a change in ownership and control within the twenty-four months immediately prior to the application;

(7) Is at risk of moving more than one thousand existing equivalent employees from the state, as determined by the director;

(8) Retains at least ninety percent of its equivalent base-year employment; and

(9) Is a qualified business.

Source: Laws 2020, LB1107, § 52.

Cross References

ImagiNE Nebraska Act, see section 77-6801.

77-6510 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 2020, LB1107, § 53.

77-6511 Performance period, defined.

Performance period means the year of application plus the next nine years.

Source: Laws 2020, LB1107, § 54.

77-6512 Qualified business, defined.

Qualified business means any business if the majority of the business activities conducted throughout Nebraska by such business meet the requirements for a qualified location as defined in subsection (1) or (2) of section 77-6818. For purposes of this section, the majority of business activities conducted shall be determined based on the number of equivalent employees working in the respective business activities.

Source: Laws 2020, LB1107, § 55.

77-6513 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 2020, LB1107, § 56.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

77-6514 Wage retention credit, defined.

Wage retention credit means the credit described in the Key Employer and Jobs Retention Act.

Source: Laws 2020, LB1107, § 57.

77-6515 Year, defined.

Year means calendar year.

Source: Laws 2020, LB1107, § 58.

77-6516 Wage retention credit; amount; use.

(1) If a key employer has entered into an agreement with the state pursuant to section 77-6517, the key employer shall during each year of the performance period receive the wage retention credit approved by the director in the manner provided in the Key Employer and Jobs Retention Act.

(2) The wage retention credit shall equal five percent of the total compensation paid by the key employer in the year to all retained employees of the key employer in Nebraska who are paid wages for services rendered at a rate equal to at least one hundred percent of the Nebraska statewide average hourly wage for the year of application. The wage retention credit earned for all qualified key employers shall not exceed four million dollars in any year. If two or more key employers qualify for benefits in any given year, the one with the earlier approval will be fully funded first.

(3) The wage retention credits shall be allowed for each year in the performance period. Unused credits may carry over only to the end of the performance period.

(4) The total amount all key employers may receive in credits pursuant to the Key Employer and Jobs Retention Act shall not exceed forty million dollars. If two or more key employers qualify for benefits, the one with the earlier approval will be fully funded first. This benefit is in addition to any benefits the key employer may otherwise qualify for under the ImagiNE Nebraska Act or may have qualified for previously under the Nebraska Advantage Act or the Employment and Investment Growth Act.

(5) The wage retention credit shall be claimed by filing the forms required by the Tax Commissioner with the income tax return for the taxable year which includes the end of the year the credits were earned. The credits may be used

after any other nonrefundable credits to reduce the key employer's income tax liability imposed by sections 77-2714 to 77-27,135. Credits may be used beginning with the taxable year which includes December 31 of the first year in the performance period. The last year for which credits may be used is the taxable year which includes December 31 of the last year of the performance period. Any decision on how part of the credit is applied shall not limit how the remaining credit could be applied under this section.

(6) The key employer may use the wage retention credit to reduce the key employer'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 key employer of the credit shall not change the amount that otherwise would be reported by the key employer 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.

Source: Laws 2020, LB1107, § 59.

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.

77-6517 Wage retention credit; application; fee; confidentiality; approval of application; conditions; notice; agreement.

(1) In order for the key employer to be eligible for the wage retention credit, the key employer shall file an application for an agreement with the director.

(2) The application shall:

(a) State the exact name of the taxpayer and any related companies;

(b) Include a description, in detail, of the nature of the company's business, including the products sold and respective markets;

(c) Request that the company be considered for approval under the Key Employer and Jobs Retention Act;

(d) Acknowledge that the key employer understands and complies with the requirements for providing health insurance, providing a sufficient package of benefits, enforcing a policy against discrimination, and verifying the work eligibility status of all new employees;

(e) State the number of base-year employees; and

(f) Include a nonrefundable application fee of five thousand dollars. The fee shall be remitted to the State Treasurer for credit to the Nebraska Incentives Fund.

(3) The application and all supporting information is confidential except for the name of the taxpayer, the number of employees retained, and whether the application has been approved.

(4) The director shall determine whether to approve the application based upon whether the applicant meets the definition of a key employer which is at risk for moving more than one thousand existing full-time jobs from the state and whether the director believes the applicant would leave the state if the application is not approved.

(5) The director shall notify the applicant in writing as to whether the application has been approved or not. The director shall decide and mail the notice within thirty days after receiving the application, regardless of whether he or she approves or disapproves the application, unless the time is extended by mutual written consent of the director and the applicant.

(6) An application may be approved only if it is consistent with the legislative purposes contained in section 77-6502 and the key employer will retain at least ninety percent of the base-year employees in the state throughout the performance period. This threshold constitutes the required level of employment for purposes of the Key Employer and Jobs Retention Act.

(7) If the application is approved by the director, the key employer and the state shall enter into a written agreement, which shall be executed on behalf of the state by the director. In the agreement, the key employer shall agree to retain at least ninety percent of the base-year employees and, in consideration of the key employer's agreement, the state shall agree to allow the wage retention credits as provided in the Key Employer and Jobs Retention Act. The application, and all supporting documentation, to the extent approved, shall be considered a part of the agreement. The agreement may contain such terms and conditions as the director specifies in order to carry out the legislative purposes of the Key Employer and Jobs Retention Act. The agreement shall contain provisions to allow the Department of Revenue to verify that the required levels of employment have been maintained.

Source: Laws 2020, LB1107, § 60.

77-6518 Wage retention credit; recapture or disallowance; interest; penalties.

(1) If the taxpayer fails to retain the required level of employment through the entire performance period, all or a portion of the wage retention credits shall be recaptured directly by the state from the taxpayer or shall be disallowed. In no event shall any wage retention credits be required to be paid back directly or indirectly by the employees. All such credits must be repaid by the taxpayer.

(2) The recapture or disallowance shall be as follows:

(a) No wage retention credits shall be allowed, and if already allowed shall be recaptured, for the actual year or years in which the required level of employment was not maintained;

(b) For wage retention credits allowed in prior years, one-tenth of the credits shall be recaptured from the taxpayer for each year the required level of employment was not maintained; and

(c) For wage retention credits for future years, one-tenth of the credits shall be disallowed for each year the required level of employment was not maintained in previous years.

(3) Any amounts required to be recaptured shall be deemed to be an underpayment of tax, immediately due and payable, and shall constitute a lien on the assets of the taxpayer. When wage retention credits were received in more than one year, the credits received in the most recent year shall be recovered first and then the credits received in earlier years shall be recovered up to the extent of the required recapture.

(4) Interest shall accrue from the due date for the return for the year in which the taxpayer failed to maintain the required level of employment.

(5) Penalties shall not accrue until ninety days after the requirement for recapture or disallowance becomes known or should have become known to the taxpayer.

(6) The recapture or disallowance required by this section may be waived by the Tax Commissioner if he or she finds the failure to maintain the required level of employment was caused by unavoidable circumstances such as an act of God or a national emergency.

Source: Laws 2020, LB1107, § 61.

77-6519 Wage retention credit; transferable; when; effect.

(1) The wage retention credits allowed under the Key Employer and Jobs Retention Act shall not be transferable except in the following situations:

(a) 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, members, shareholders, patrons, or beneficiaries in the same manner as income is distributed for use against their income tax liabilities, and such partners, members, shareholders, or beneficiaries shall be deemed to have made an underpayment of their income taxes for any recapture required by section 77-6518. A credit distributed shall be considered a credit used and the 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, estate, or trust shall be liable for any repayment required by section 77-6518;

(b) The credit may be transferred to a qualified employee leasing company from a taxpayer who is a client-lessee of the qualified employee leasing company with employees performing services at the qualified location or locations of the client-lessee. The credits transferred must be designated for a specific year and cannot be carried forward by the qualified employee leasing company. The credits may only be used by the qualified employee leasing company to offset the income tax withholding liability under section 77-2756 or 77-2757 for withholding for employees performing services for the client-lessee in Nebraska. The offset to such withholding liability must be computed in accordance with subsection (6) of section 77-6516 based on wages paid to the employees by the qualified employee leasing company, and not the amount paid to the qualified employee leasing company by the client-lessee; and

(c) The credits previously allowed and future credits may be transferred when an agreement is transferred in its entirety 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.

(2) The acquiring taxpayer, as of the date of notification to the director of the completed transfer, shall be entitled to any unused credits and to any future credits allowable under the Key Employer and Jobs Retention Act.

(3) The acquiring taxpayer shall be liable for any recapture that becomes due after the date of the transfer for the repayment of any credits received either before or after the transfer.

(4) If a taxpayer dies and there is a credit remaining after the filing of the final return for the taxpayer, the personal representative shall determine the

distribution of the credit or any remaining carryover 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 Tax Commissioner.

(5) The director and the Tax Commissioner may disclose information to the acquiring taxpayer about the agreement and prior credits that is reasonably necessary to determine the future credits and liabilities of the taxpayer.

Source: Laws 2020, LB1107, § 62.

77-6520 Rules and regulations.

The Department of Economic Development and the Department of Revenue, in consultation with the Governor, may adopt and promulgate rules and regulations necessary or appropriate to carry out the purposes of the Key Employer and Jobs Retention Act.

Source: Laws 2020, LB1107, § 63.

77-6521 Reports; joint hearing.

(1) The Department of Economic Development and the Department of Revenue shall jointly submit electronically an annual report to the Legislature no later than October 31 of each year. The report shall be on a fiscal year, accrual basis that satisfies the requirements set by the Governmental Accounting Standards Board. The Department of Economic Development and the Department of Revenue shall together, on or before December 15 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 must be provided within thirty days after the request.

(2) The report shall list (a) the agreements which have been signed during the previous calendar year, (b) the agreements which are still in effect, and (c) the identity of each taxpayer that is a party to an agreement.

(3) The report shall provide information on agreement-specific total credits used every two years for each agreement. The report shall disclose the identity of the taxpayer and the total credits used during the immediately preceding two years, expressed as a single, aggregated total. The information required to be reported under this subsection shall not be reported for the first year the taxpayer maintains the required employment threshold. The information on first-year credits used shall be combined with and reported as part of the second year. Thereafter, the information on credits used for succeeding years shall be reported for each agreement every two years containing information on two years of credits used.

(4) No information shall be provided in the report that is protected by state or federal confidentiality laws.

Source: Laws 2020, LB1107, § 64.

77-6522 Application; valid; when; director; Tax Commissioner; powers and duties.

(1) Any complete application shall be considered a valid application on the date submitted for the purposes of the Key Employer and Jobs Retention Act.

(2) The director shall be allowed access, by the Tax Commissioner, to information associated with the Nebraska Advantage Act, the Nebraska Advan-

tage Rural Development Act, the ImagiNE Nebraska Act, and the Employment and Investment Growth Act to meet the director's obligations under the Key Employer and Jobs Retention Act.

(3) The director may contract with the Tax Commissioner for services that the director determines are necessary to fulfill the director's responsibilities under the Key Employer and Jobs Retention Act, other than services which constitute the actual actions and decisions required to be taken or made by the director under the Key Employer and Jobs Retention Act.

Source: Laws 2020, LB1107, § 65.

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.

77-6523 Applications; deadline.

There shall be no new applications under the Key Employer and Jobs Retention Act filed after May 31, 2021, without further authorization of the Legislature. All applications and all agreements pending, approved, or entered into on or before May 31, 2021, shall continue in full force and effect.

Source: Laws 2020, LB1107, § 66.

ARTICLE 66

RENEWABLE CHEMICAL PRODUCTION TAX CREDIT ACT

Section
77-6601. Act, how cited.
77-6602. Legislative findings.
77-6603. Terms, defined.
77-6604. Eligible business; program certification application; approval; requirements; agreement.
77-6605. Program certification application; consideration; limitation.
77-6606. Tax credit; application; contents; requirements; approval; effect.
77-6607. Tax credit; amount; use; how claimed.
77-6608. Tax credit; reduction, termination, or rescission; repayment or recapture of tax credit.
77-6609. Trade secret; confidentiality.
77-6610. Reports.
77-6611. Rules and regulations.

77-6601 Act, how cited.

Sections 77-6601 to 77-6611 shall be known and may be cited as the Renewable Chemical Production Tax Credit Act.

Source: Laws 2020, LB1107, § 67.

77-6602 Legislative findings.

The Legislature finds and declares that Nebraska is home to an emerging biotechnology and bioproducts sector that yields important innovations and collaborative opportunities with the existing agricultural sector. The Legislature further finds that advances in biotechnology and bioproducts will play a critical role in addressing global challenges, reducing our environmental footprint, and creating sustainable materials including renewable chemicals made from Nebraska-based agricultural products.

Source: Laws 2020, LB1107, § 68.

77-6603 Terms, defined.

For purposes of the Renewable Chemical Production Tax Credit Act, unless the context otherwise requires:

(1) Biomass feedstock means sugar, starch, polysaccharide, glycerin, lignin, fat, grease, or oil derived from plants, animals, or algae or a protein capable of being converted to a building block chemical by means of a biological or chemical conversion process;

(2) Building block chemical means a molecule that is converted from biomass feedstock as a first product or a secondarily derived product that can be further refined into a higher-value chemical, material, or consumer product;

(3) Director means the Director of Economic Development;

(4) Eligible business means a business that has been certified by the director under section 77-6604;

(5) Food additive means a building block chemical that is not primarily consumed as food but which, when combined with other components, improves the taste, appearance, odor, texture, shelf life, or nutritional content of food. The director, in his or her discretion, shall determine whether or not a biobased chemical is primarily consumed as food;

(6) Pre-eligibility production threshold means, with respect to each eligible business, the number of pounds of renewable chemicals produced, if any, by an eligible business during the calendar year prior to the calendar year in which the business first qualified as an eligible business pursuant to section 77-6604; and

(7)(a) Renewable chemical means a building block chemical with a significant biobased content that can be used for products including polymers, plastics, food additives, solvents, intermediate chemicals, or other formulated products with a significant nonfossil carbon content.

(b) Renewable chemical includes:

(i) Biobased chemicals that can be a food, feed, or fuel additive; and

(ii) Supplements, vitamins, nutraceuticals, and pharmaceuticals.

(c) The director may include additional chemicals or materials in the definition of renewable chemical by rule and regulation after consulting with appropriate experts from the University of Nebraska, including, but not limited to, the Industrial Agricultural Products Center.

(d) Renewable chemical does not include a chemical sold or used as fuel.

Source: Laws 2020, LB1107, § 69.

77-6604 Eligible business; program certification application; approval; requirements; agreement.

(1) A business may apply to the director for certification as an eligible business. The program certification application shall be in the form and be made under the procedures specified by the director.

(2) Within thirty days after receiving a program certification application under this section, the director shall certify the business as satisfying the conditions required of an eligible business, request additional information, or deny the program certification application. If the director requests additional information, the director shall certify the business or deny the program certifi-

cation application within thirty days after receiving the additional information. If the director neither certifies the business nor denies the program certification application within thirty days after receiving the original program certification application or within thirty days after receiving the additional information requested, whichever is later, then the program certification application is deemed approved if the business meets the requirements in subsection (3) of this section. A business that applies for program certification and is denied may reapply.

(3) To be certified as an eligible business under the Renewable Chemical Production Tax Credit Act, a business shall meet all of the following requirements:

(a) The business produced at least one million pounds of renewable chemicals in this state during the calendar year for which tax credits are sought;

(b) The business is physically located in this state;

(c) The business organized, expanded, or located in this state on or after January 1, 2021; and

(d) The business is in compliance with all agreements entered into under the act and pursuant to any other tax credits or programs administered by the Department of Economic Development or the Department of Revenue.

(4)(a) An eligible business shall enter into an agreement with the director for the successful completion of all requirements of the act. The agreement may certify the business to receive tax credits under the act for up to four years.

(b) As part of the agreement, the eligible business shall agree to collect and provide any information reasonably required by the director or the Department of Revenue in order to allow the director and department to fulfill their reporting obligations under section 77-6610.

Source: Laws 2020, LB1107, § 70.

77-6605 Program certification application; consideration; limitation.

The director shall consider program certification applications under section 77-6604 in the order in which they are received. The director may accept program certification applications on a continuous basis or may establish, by rule and regulation, an annual program certification application deadline. The director may approve program certification applications for eligible businesses for a total of up to three million dollars in tax credits for calendar years 2022 and 2023 and up to six million dollars per calendar year for calendar years 2024 and beyond. Program certification applications approved after such annual limit has been reached shall be placed on a wait list in the order in which they are received.

Source: Laws 2020, LB1107, § 71.

77-6606 Tax credit; application; contents; requirements; approval; effect.

(1) An eligible business may apply to the Department of Revenue for tax credits under the Renewable Chemical Production Tax Credit Act.

(2) To receive tax credits, the eligible business shall submit a tax credit application to the Department of Revenue on a form prescribed by the department. The tax credit application shall be made during the calendar year following the calendar year in which the eligible business produced the renewa-

ble chemicals for which it seeks tax credits. The tax credit application shall include the following information:

(a) The number of pounds of renewable chemicals produced in the state by the eligible business during the calendar year for which tax credits are sought; and

(b) Any other information reasonably required by the department in order to establish and verify the amount of credits earned under the act.

(3) An eligible business shall fulfill all the requirements of the act and its agreement with the director under section 77-6604 before receiving tax credits under the act or entering into a subsequent agreement. If an agreement is not successfully fulfilled, the director may decline to enter into a subsequent agreement and the Department of Revenue may decline to issue a tax credit.

(4) If the department determines that a tax credit application is complete, that an eligible business qualifies for tax credits, and that the eligible business has fulfilled all requirements of its agreement with the director, the department shall approve the tax credit application within the limits set forth in sections 77-6605 and 77-6607 and shall certify the amount of tax credits approved to the eligible business.

Source: Laws 2020, LB1107, § 72.

77-6607 Tax credit; amount; use; how claimed.

(1) The tax credit under the Renewable Chemical Production Tax Credit Act shall be in an amount equal to the product of seven and one-half cents multiplied by the number of pounds of renewable chemicals produced in this state by the eligible business during each calendar year in excess of the eligible business's pre-eligibility production threshold. The maximum amount of tax credits that may be issued to an eligible business under a single tax credit application shall not exceed one million five hundred thousand dollars per year.

(2) The tax credit shall be a refundable credit that may be used against any income tax imposed by the Nebraska Revenue Act of 1967. Any credit in excess of the eligible business's tax liability shall be refunded to the taxpayer.

(3) An eligible business shall not receive a tax credit for renewable chemicals produced before the date the business first qualified as an eligible business.

(4) The tax credit shall not be available for any renewable chemicals produced before the 2022 calendar year.

(5) Any tax credit allowable to a partnership, a limited liability company, a subchapter S corporation, or an estate or trust may be distributed to the partners, limited liability company members, shareholders, or beneficiaries in the same manner as income is distributed.

(6) An eligible business shall claim the tax credit by attaching the tax credit certification received from the department under section 77-6606 to its tax return for the tax year in which the credit was approved.

Source: Laws 2020, LB1107, § 73.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

77-6608 Tax credit; reduction, termination, or rescission; repayment or recapture of tax credit.

The failure by an eligible business in fulfilling any requirement of the Renewable Chemical Production Tax Credit Act or any of the terms and obligations of an agreement entered into pursuant to section 77-6604 may result in the reduction, termination, or rescission of the tax credits under the act and may subject the eligible business to the repayment or recapture of tax credits claimed.

Source: Laws 2020, LB1107, § 74.

77-6609 Trade secret; confidentiality.

Except for the identity of a recipient of tax credits under the Renewable Chemical Production Tax Credit Act and the amount of such credits, any information or record in the possession of the Department of Economic Development or Department of Revenue with respect to the act shall be presumed by such departments to be a trade secret and shall be kept confidential by such departments unless otherwise ordered by a court.

Source: Laws 2020, LB1107, § 75.

77-6610 Reports.

(1) On or before January 31, 2024, and on or before each January 31 thereafter, the director and the Department of Revenue shall electronically submit a report on the Renewable Chemical Production Tax Credit Act to the Revenue Committee of the Legislature. At a minimum, the report shall include the following information regarding tax credits and the recipients of such credits:

(a) The aggregate number of pounds, and a list of each type, of renewable chemicals produced in Nebraska by all recipients (i) during the calendar year prior to the calendar year for which each recipient first received tax credits and (ii) for each calendar year thereafter;

(b) The aggregate sales of all renewable chemicals produced by all recipients in each calendar year for which there are at least five recipients;

(c) The aggregate number of pounds, and a list of each type, of biomass feedstock used in the production of renewable chemicals in Nebraska by all recipients (i) during the calendar year prior to the calendar year for which each recipient first received tax credits and (ii) for each calendar year thereafter;

(d) The number of employees located in Nebraska of all recipients (i) during the calendar year prior to the calendar year for which each recipient first received tax credits and (ii) for each calendar year thereafter;

(e) The number and aggregate amount of tax credits issued for each calendar year;

(f) The number of eligible businesses placed on the wait list for each calendar year and the total number of eligible businesses remaining on the wait list at the end of that calendar year;

(g) The dollar amount of tax credit claims placed on the wait list for each calendar year and the total dollar amount of tax credit claims remaining on the wait list at the end of that calendar year;

(h) For each eligible business which received tax credits during each calendar year: (i) The identity of the eligible business; (ii) the amount of the tax credits; and (iii) the manner in which the eligible business first qualified as an

eligible business, whether by organizing, expanding, or locating in the state; and

(i) The total amount of all tax credits claimed during each calendar year, and the portion issued as refunds.

(2) In order to protect the presumption of confidentiality provided for in section 77-6609, the director and Department of Revenue shall report all information in an aggregate form to prevent, to the extent reasonably possible, information being attributable to any particular eligible business, except as provided in subdivision (1)(h) of this section.

Source: Laws 2020, LB1107, § 76.

77-6611 Rules and regulations.

The Department of Economic Development and Department of Revenue may adopt and promulgate rules and regulations necessary to carry out the Renewable Chemical Production Tax Credit Act.

Source: Laws 2020, LB1107, § 77.

ARTICLE 67

NEBRASKA PROPERTY TAX INCENTIVE ACT

Section
77-6701. Act, how cited.
77-6702. Terms, defined.
77-6703. Tax credit for school district taxes paid.
77-6704. Tax credit; refundable; procedure for certain taxpayers.
77-6705. Rules and regulations.
77-6706. Tax credit for community college taxes paid.

77-6701 Act, how cited.

Sections 77-6701 to 77-6706 shall be known and may be cited as the Nebraska Property Tax Incentive Act.

Source: Laws 2020, LB1107, § 111; Laws 2022, LB873, § 4.

77-6702 Terms, defined.

For purposes of the Nebraska Property Tax Incentive Act:

(1) Community college taxes means property taxes levied on real property in this state by a community college area, excluding the following:

(a) Any property taxes levied for bonded indebtedness;

(b) Any property taxes levied as a result of an override of limits on property tax levies approved by voters pursuant to section 77-3444; and

(c) Any property taxes that, as of the time of payment, were delinquent for five years or more;

(2) Department means the Department of Revenue;

(3) Eligible taxpayer means any individual, corporation, partnership, limited liability company, trust, estate, or other entity that pays school district taxes or community college taxes during a taxable year; and

(4) School district taxes means property taxes levied on real property in this state by a school district or multiple-district school system, excluding the following:

(a) Any property taxes levied for bonded indebtedness;

(b) Any property taxes levied as a result of an override of limits on property tax levies approved by voters pursuant to section 77-3444; and

(c) Any property taxes that, as of the time of payment, were delinquent for five years or more.

Source: Laws 2020, LB1107, § 112; Laws 2022, LB873, § 5; Laws 2023, LB243, § 17; Laws 2023, LB727, § 98; Laws 2024, First Spec. Sess., LB34, § 27.
Effective date August 21, 2024.

77-6703 Tax credit for school district taxes paid.

(1) For taxable years beginning or deemed to begin on or after January 1, 2020, and before January 1, 2024, under the Internal Revenue Code of 1986, as amended, 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 2022, the department shall set the credit percentage so that the total amount of credits for such taxable years shall be five hundred forty-eight million dollars; and

(b) For taxable years beginning or deemed to begin during calendar year 2023, the department shall set the credit percentage so that the total amount of credits for such taxable years shall be five hundred sixty million seven hundred thousand dollars.

(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, and before January 1, 2024, under the Internal Revenue Code of 1986, as amended, the refundable credit shall be claimed by the corporation having an election in effect under subchapter S of the Internal Revenue Code, the partnership, the limited liability company, the trust, or the estate that paid the school district taxes.

(4) For any fiscal year or short year taxpayer, the credit may be claimed in the first taxable year that begins following the calendar year for which the credit percentage was determined. The credit shall be taken for the school district taxes paid by the taxpayer during the immediately preceding calendar year.

(5) For the first taxable year beginning or deemed to begin on or after January 1, 2021, and before January 1, 2022, under the Internal Revenue Code

of 1986, as amended, for a corporation having an election in effect under subchapter S of the Internal Revenue Code, a partnership, a limited liability company, a trust, or an estate that paid school district taxes in calendar year 2020 but did not claim the credit directly or allocate such school district taxes to the shareholders, partners, members, or beneficiaries as permitted under subsection (3) of this section, there shall be allowed an additional refundable credit. This credit shall be equal to six percent, multiplied by the amount of school district taxes paid during 2020 by the eligible taxpayer.

Source: Laws 2020, LB1107, § 113; Laws 2021, LB181, § 1; Laws 2022, LB873, § 6; Laws 2023, LB243, § 18; Laws 2024, First Spec. Sess., LB34, § 28.
Effective date August 21, 2024.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

77-6704 Tax credit; refundable; procedure for certain taxpayers.

The department shall develop a procedure which will allow eligible taxpayers who are not subject to Nebraska income tax or franchise tax to be able to claim and receive the refundable credits allowed under the Nebraska Property Tax Incentive Act.

Source: Laws 2020, LB1107, § 114.

77-6705 Rules and regulations.

The department may adopt and promulgate rules and regulations to carry out the Nebraska Property Tax Incentive Act.

Source: Laws 2020, LB1107, § 115.

77-6706 Tax credit for community college taxes paid.

(1) For taxable years beginning or deemed to begin on or after January 1, 2022, under the Internal Revenue Code of 1986, as amended, there shall be allowed to each eligible taxpayer a refundable credit against the income tax imposed by the Nebraska Revenue Act of 1967 or against the franchise tax imposed by sections 77-3801 to 77-3807.

(2) For taxable years beginning or deemed to begin during calendar year 2022, the credit shall be equal to the credit percentage for the taxable year, as set by the department under this subsection, multiplied by the amount of community college taxes paid by the eligible taxpayer during such taxable year. The department shall set the credit percentage so that the total amount of credits for such taxable years shall be fifty million dollars.

(3) For taxable years beginning or deemed to begin during calendar year 2023, the credit shall be equal to the credit percentage for the taxable year, as set by the department under this subsection, multiplied by the amount of community college taxes paid by the eligible taxpayer during such taxable year. The department shall set the credit percentage so that the total amount of credits for such taxable years shall be one hundred million dollars.

(4) For taxable years beginning or deemed to begin on or after January 1, 2024, the credit shall be equal to one hundred percent of the community college taxes paid by the eligible taxpayer during the taxable year.

(5) If the community college taxes are paid by a corporation having an election in effect under subchapter S of the Internal Revenue Code, a partnership, a limited liability company, a trust, or an estate, the refundable credit shall be claimed by such corporation, partnership, limited liability company, trust, or estate.

(6) For any fiscal year or short year taxpayer, the credit allowed under subsection (2) or (3) of this section may be claimed in the first taxable year that begins following the calendar year for which the credit percentage was determined. The credit shall be taken for the community college taxes paid by the taxpayer during the immediately preceding calendar year.

Source: Laws 2022, LB873, § 7; Laws 2023, LB243, § 19.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

ARTICLE 68
IMAGINE NEBRASKA ACT

Section

Section
77-6835. Refunds; interest not allowable.
77-6836. Application; valid; when; director; Tax Commissioner; powers and duties.
77-6837. Reports; contents; joint hearing.
77-6838. Rules and regulations.
77-6839. Tax incentives; estimates required; when; exceed base authority; limit on applications.
77-6840. Employment and wage data information; Department of Labor; duty.
77-6841. Workforce training and infrastructure development; revolving loan program; legislative findings; Department of Economic Development; duties; ImagiNE Nebraska Revolving Loan Fund; created; use; investment.
77-6842. Workforce training loan; application; partnering entities; loan approval; factors considered.
77-6843. Infrastructure development loan; application; approval; factors considered.
77-6844. Nebraska-based covered entity under federal law; application; approval; conditions; director; issue agreement, when.
77-6845. Nebraska-based covered entity under federal law; agreement; contents; limitations.
77-6846. Nebraska-based covered entity under federal law; incentives or credits; use.

77-6801 Act, how cited.

Sections 77-6801 to 77-6846 shall be known and may be cited as the ImagiNE Nebraska Act.

Source: Laws 2020, LB1107, § 1; Laws 2023, LB92, § 81.

77-6802 Policy.

The Legislature hereby finds and declares that it is the policy of this state to modernize its economic development platform in order to (1) encourage new businesses to relocate to Nebraska, (2) encourage existing businesses to remain and grow in Nebraska, (3) encourage the creation and retention of new, high-paying jobs in Nebraska, (4) attract and retain investment capital in Nebraska, (5) develop the Nebraska workforce, (6) simplify the administration of the tax incentive program created in the ImagiNE Nebraska Act for both businesses and the state, and (7) improve the transparency and accountability of such program.

Source: Laws 2020, LB1107, § 2.

77-6803 Definitions, where found.

For purposes of the ImagiNE Nebraska Act, the definitions found in sections 77-6804 to 77-6825 shall be used.

Source: Laws 2020, LB1107, § 3.

77-6804 Additional definitions.

Any term shall have the same meaning as used in Chapter 77, article 27, except as otherwise defined in the ImagiNE Nebraska Act.

Source: Laws 2020, LB1107, § 4.

77-6805 Base year, defined.

Base year means the year immediately preceding the year of application, subject to the following exceptions:

(1) Except as otherwise provided in subdivision (2) of this section, 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 or locations; and

(2) If the year of application is 2021 or 2022 and the applicant increased the number of equivalent employees at the qualified location or locations in either 2020 or 2021 in response to the COVID-19 pandemic, the base year is 2019.

Source: Laws 2020, LB1107, § 5; Laws 2022, LB1150, § 16.

77-6806 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 or locations.

Source: Laws 2020, LB1107, § 6.

77-6807 Carryover period, defined.

Carryover period means the period of three years immediately following the end of the performance period.

Source: Laws 2020, LB1107, § 7.

77-6808 Compensation, defined.

Compensation means the wages and other payments subject to the federal medicare tax.

Source: Laws 2020, LB1107, § 8.

77-6809 Director, defined.

Director means the Director of Economic Development.

Source: Laws 2020, LB1107, § 9.

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.

77-6811 Investment, defined.

Investment means the value of qualified property incorporated into or used at the qualified location or locations. For qualified property owned by the taxpayer, the value shall be the original cost of the property. Improvements to real estate qualify as investment even if the entire improvement is not finished or ready for use. The percentage of completion of the improvement determines the portion of the investment that has occurred for any given year. 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 2020, LB1107, § 11; Laws 2022, LB1150, § 17.

77-6812 Motor vehicle, defined.

Motor vehicle means any motor vehicle, trailer, or semitrailer as defined in the Motor Vehicle Registration Act and subject to registration for operation on the highways.

Source: Laws 2020, LB1107, § 12.

Cross References

Motor Vehicle Registration Act, see section 60-301.

77-6813 NAICS, defined.

NAICS means the North American Industry Classification System established by the United States Department of Commerce and applied to classify the locations owned or leased by the taxpayer, including the specific NAICS codes and code definitions in effect on January 1, 2020.

Source: Laws 2020, LB1107, § 13.

77-6814 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 2020, LB1107, § 14.

77-6815 Number of new employees, defined.

(1) Number of new employees, for purposes of subdivisions (1)(b), (4)(d), (5)(c), and (8)(b)(iii) of section 77-6831, means the lesser of:

(a) The number of equivalent employees that are employed at the qualified location or locations during a year that are in excess of the number of equivalent employees during the base year; or

(b) The sum of:

(i) The number of equivalent employees employed full-time at the qualified location or locations during a year who are not base-year employees, who meet the health coverage requirement of subsection (7) of this section, and who are paid compensation at a rate equal to at least one hundred fifty percent of the Nebraska statewide average hourly wage for the year of application; and

(ii) The number of equivalent employees who were not employed full-time at the qualified location during the base year and became employed full-time at the qualified location after the base year, after subtracting the hours worked by such employees in the base year, who meet the health coverage requirement of subsection (7) of this section, and who are paid compensation at a rate equal to at least one hundred fifty percent of the Nebraska statewide average hourly wage for the year of application.

(2) Number of new employees, for purposes of subdivisions (4)(a)(i) and (5)(a)(i) of section 77-6831, means the lesser of:

(a) The number of equivalent employees that are employed at the qualified location or locations during a year that are in excess of the number of equivalent employees during the base year; or

(b) The sum of:

(i) The number of equivalent employees employed full-time at the qualified location or locations during a year who are not base-year employees, who meet the health coverage requirement of subsection (7) of this section, and who are paid compensation at a rate equal to at least ninety percent of the Nebraska statewide average hourly wage for the year of application; and

(ii) The number of equivalent employees who were not employed full-time at the qualified location during the base year and became employed full-time at the qualified location after the base year, after subtracting the hours worked by such employees in the base year, who meet the health coverage requirement of subsection (7) of this section, and who are paid compensation at a rate equal to at least ninety percent of the Nebraska statewide average hourly wage for the year of application.

(3) Number of new employees, for purposes of subdivisions (4)(a)(ii) and (5)(a)(ii) of section 77-6831, means the lesser of:

(a) The number of equivalent employees that are employed at the qualified location or locations during a year that are in excess of the number of equivalent employees during the base year; or

(b) The sum of:

(i) The number of equivalent employees employed full-time at the qualified location or locations during a year who are not base-year employees, who meet the health coverage requirement of subsection (7) of this section, and who are paid compensation at a rate equal to at least seventy-five percent of the Nebraska statewide average hourly wage for the year of application; and

(ii) The number of equivalent employees who were not employed full-time at the qualified location during the base year and became employed full-time at the qualified location after the base year, after subtracting the hours worked by such employees in the base year, who meet the health coverage requirement of subsection (7) of this section, and who are paid compensation at a rate equal to at least seventy-five percent of the Nebraska statewide average hourly wage for the year of application.

(4) Number of new employees, for purposes of subdivisions (4)(a)(iii), (4)(e), (5)(a)(iii), and (5)(d) of section 77-6831, means the lesser of:

(a) The number of equivalent employees that are employed at the qualified location or locations during a year that are in excess of the number of equivalent employees during the base year; or

(b) The sum of:

(i) The number of equivalent employees employed full-time at the qualified location or locations during a year who are not base-year employees, who meet the health coverage requirement of subsection (7) of this section, and who are paid compensation at a rate equal to at least seventy percent of the Nebraska statewide average hourly wage for the year of application; and

(ii) The number of equivalent employees who were not employed full-time at the qualified location during the base year and became employed full-time at the qualified location after the base year, after subtracting the hours worked by such employees in the base year, who meet the health coverage requirement of subsection (7) of this section, and who are paid compensation at a rate equal to at least seventy percent of the Nebraska statewide average hourly wage for the year of application.

(5) Number of new employees, for all other purposes, except as otherwise provided in the ImagiNE Nebraska Act, means the lesser of:

(a) The number of equivalent employees that are employed at the qualified location or locations during a year that are in excess of the number of equivalent employees during the base year; or

(b) The sum of:

(i) The number of equivalent employees employed full-time at the qualified location or locations during a year who are not base-year employees, who meet the health coverage requirement of subsection (7) of this section, and who are paid compensation at a rate equal to at least the Nebraska statewide average hourly wage for the year of application; and

(ii) The number of equivalent employees who were not employed full-time at the qualified location during the base year and became employed full-time at the qualified location after the base year, after subtracting the hours worked by such employees in the base year, who meet the health coverage requirement of subsection (7) of this section, and who are paid compensation at a rate equal to at least the Nebraska statewide average hourly wage for the year of application.

(6) For employees who work both at a qualified location and also perform services for the taxpayer at other nonqualified locations, they will be included in determining the number of new employees if more than fifty percent of the time for which they are compensated is spent at the qualified location. For any year other than the base year, employees who work at the qualified location fifty percent or less of the time for which they are compensated are not considered employed at the qualified location. For employees who work both at a qualified location and also perform services for the taxpayer at the employee's Nebraska residence, the time for which an employee is compensated for services performed at the employee's Nebraska residence will be considered spent at the qualified location.

(7) An employee meets the health coverage requirement if the taxpayer offers to that employee, for that year, the opportunity to enroll in minimum essential coverage under an eligible employer-sponsored plan, as those terms are defined and described in section 5000A of the Internal Revenue Code of 1986, as amended, and the regulations for such section.

(8) For purposes of this section, employed full-time means that the employee is a full-time employee as defined and described in section 4980H of the

Internal Revenue Code of 1986, as amended, and the regulations for such section.

Source: Laws 2020, LB1107, § 15; Laws 2022, LB1150, § 18.

77-6816 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 sixth year after the year the required increases were met or exceeded.

Source: Laws 2020, LB1107, § 16.

77-6817 Qualified employee leasing company, defined.

Qualified employee leasing company means a company which places all employees of a client-lessee on its payroll and leases such employees to the client-lessee on an ongoing basis for a fee and, by written agreement between the employee leasing company and a client-lessee, grants to the client-lessee input into the hiring and firing of the employees leased to the client-lessee.

Source: Laws 2020, LB1107, § 17.

77-6818 Qualified location, defined.

(1) Qualified location means a location at which the majority of the business activities conducted are within one or more of the following NAICS codes or the following descriptions:

(a) Manufacturing - 31, 32, or 33, including pre-production services;

(b) Testing Laboratories - 541380;

(c) Rail Transportation - 482;

(d) Truck Transportation - 484;

(e) Insurance Carriers - 5241;

(f) Wired Telecommunications Carriers - 517311;

(g) Wireless Telecommunications Carriers (except Satellite) - 517312;

(h) Telemarketing Bureaus and Other Contact Centers - 561422;

(i) Data Processing, Hosting, and Related Services - 518210;

(j) Computer Facilities Management Services - 541513;

(k) Warehousing and Storage - 4931;

(l) The administrative management of the taxpayer's activities, including headquarter facilities relating to such activities, or the administrative management of any of the activities of any business entity or entities in which the taxpayer or a group of its owners hold any direct or indirect ownership interest of at least ten percent, including headquarter facilities relating to such activities;

(m) Logistics Facilities - Portions of NAICS 488210, 488310, and 488490 dealing with independently operated trucking terminals, independently operated railroad and railway terminals, and waterfront terminal and port facility operations;

(n) Services provided on aircraft brought into this state by an individual who is a resident of another state or any other person who has a business location in

another state when the aircraft is not to be registered or based in this state and will not remain in this state more than ten days after the service is completed;

(o) The conducting of research, development, or testing, or any combination thereof, for scientific, agricultural, animal husbandry, food product, industrial, or technology purposes;

(p) The production of electricity by using one or more sources of renewable energy to produce electricity for sale. For purposes of this subdivision, sources of renewable energy includes, but is not limited to, wind, solar, energy storage, geothermal, hydroelectric, biomass, nuclear, and transmutation of elements;

(q) Computer Systems Design and Related Services - 5415;

(r) The performance of financial services. For purposes of this subdivision, financial services includes only financial services provided by any financial institution subject to tax under Chapter 77, article 38, or any person or entity licensed by the Department of Banking and Finance or the federal Securities and Exchange Commission;

(s) Postharvest Crop Activities (except Cotton Ginning) - 115114;

(t) The processing of tangible personal property. For purposes of this subdivision, processing means to subject to a particular method, system, or technique of preparation, handling, or other treatment designed to prepare tangible personal property for market, manufacture, or other commercial use which does not result in the transformation of such property into a substantially different character; or

(u) Waste Treatment and Disposal - 5622.

(2)(a) Qualified location also includes any other business location if at least seventy-five percent of the revenue derived at the location is from sales to customers who are not related persons which are delivered or provided from the qualified location to a location that is not within Nebraska according to the sourcing rules in subsections (2) and (3) of section 77-2734.14. Intermediate sales to related persons are included as sales to customers delivered or provided to a location outside Nebraska if the related person delivers or provides the goods or services to a location outside Nebraska. Even if a location meets the seventy-five percent requirement of this subdivision, such location shall not constitute a qualified location under this subdivision if the majority of the business activities conducted at such location are within any of the following NAICS codes or any combination thereof:

(i) Agriculture, Forestry, Fishing and Hunting - 11, excluding NAICS code 115114;

(ii) Transportation and Warehousing - 48-49;

(iii) Information - 51;

(iv) Utilities - 22;

(v) Mining, Quarrying, and Oil and Gas Extraction - 21;

(vi) Public Administration - 92; or

(vii) Construction - 23.

(b) The director may adopt and promulgate rules and regulations establishing an alternative method in circumstances in which subdivision (2)(a) of this section does not accurately reflect the out-of-state sales taking place at locations within Nebraska for a particular industry.

(3) The determination of the majority of the business activities shall be made based on the number of employees working in the respective business activities. The director may adopt and promulgate rules and regulations establishing an alternative method in circumstances in which other factors provide a better reflection of business activities.

(4) The delineation of the types of business activities which enable a location to constitute a qualified location is based on the state's intention to attract certain types of business activities and to responsibly accomplish the purposes of the ImagiNE Nebraska Act by directing the state's incentive capabilities towards business activities which, due to their national nature, could locate outside of Nebraska and which therefore would, through the use of incentives, be motivated to locate in Nebraska. By listing specific types of business activities in subsection (1) of this section, the state has determined such business activities by their nature meet these objectives. By specifying the national nature of a taxpayer's revenue in subsection (2) of this section, the state has determined that certain other types of business activities can meet these objectives.

Source: Laws 2020, LB1107, § 18; Laws 2021, LB18, § 2; Laws 2021, LB84, § 2; Laws 2023, LB727, § 99.

77-6819 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 project. 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 ImagiNE Nebraska Act to another person. Qualified property of the taxpayer located at the residence of an employee working in Nebraska from his or her residence on tasks interdependent with the work performed at the project shall be deemed located and used at the project.

Source: Laws 2020, LB1107, § 19.

77-6820 Ramp-up period, defined.

Ramp-up period means the period of time from the date of the complete application through the end of the fourth year after the year in which the complete application was filed with the director.

Source: Laws 2020, LB1107, § 20.

77-6821 Related persons, defined.

Related persons means any corporations, partnerships, limited liability companies, or joint ventures which are or would otherwise be members of the same unitary group, if incorporated, or any persons who are considered to be related persons under either section 267(b) and (c) or section 707(b) of the Internal Revenue Code of 1986, as amended.

Source: Laws 2020, LB1107, § 21.

77-6822 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 2020, LB1107, § 22.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

77-6823 Wages, defined.

Wages means compensation, not to exceed one million dollars per year for any employee.

Source: Laws 2020, LB1107, § 23.

77-6824 Year, defined.

Year means calendar year.

Source: Laws 2020, LB1107, § 24.

77-6825 Year of application, defined.

Year of application means the year that a completed application is filed under the ImagiNE Nebraska Act.

Source: Laws 2020, LB1107, § 25.

77-6826 Qualified employee leasing company; employees; duty.

An employee of a qualified employee leasing company shall be considered to be an employee of the client-lessee for purposes of the ImagiNE Nebraska Act if the employee performs services for the client-lessee. A qualified employee leasing company shall provide the Department of Revenue with access to the records of employees leased to the client-lessee.

Source: Laws 2020, LB1107, § 26.

77-6827 Incentives; application; contents; fee; approval; when; application; deadlines.

(1) In order to utilize the incentives allowed in the ImagiNE Nebraska Act, the taxpayer shall file an application with the director, on a form developed by the director, requesting an agreement.

(2) The application shall:

(a) Identify the taxpayer applying for incentives;

(b) Identify all locations sought to be within the agreement and the reason each such location constitutes or is expected to constitute a qualified location;

(c) State the estimated, projected amount of new investment and the estimated, projected number of new employees;

(d) Identify the required levels of employment and investment for the various incentives listed within section 77-6831 that will govern the agreement. The taxpayer may identify different levels of employment and investment until the first December 31 following the end of the ramp-up period on a form approved by the director. The identified levels of employment and investment will govern all years covered under the agreement;

(e) Identify whether the agreement is for a single qualified location, all qualified locations within a county, all qualified locations in more than one county, or all qualified locations within the state;

(f) Acknowledge that the taxpayer understands the requirements for offering health coverage, and for reporting the value of such coverage, as specified in the ImagiNE Nebraska Act;

(g) Acknowledge that the taxpayer does not violate any state or federal law against discrimination;

(h) Acknowledge that the taxpayer understands the requirements for providing a sufficient package of benefits to its employees as specified in the ImagiNE Nebraska Act; and

(i) Contain a nonrefundable application fee of five thousand dollars. The fee shall be remitted to the State Treasurer for credit to the Nebraska Incentives Fund.

(3) An application must be complete to establish the date of the application. An application shall be considered complete once it contains the items listed in subsection (2) of this section.

(4) Once satisfied that the application is consistent with the purposes stated in the ImagiNE Nebraska Act for one or more qualified locations within this state, the director shall approve the application, subject to the base authority limitations provided in section 77-6839.

(5) The director shall make his or her determination to approve or not approve an application within ninety days after the date of the application. If the director requests, by mail or by electronic means, additional information or clarification from the taxpayer in order to make his or her determination, such ninety-day period shall be tolled from the time the director makes the request to the time he or she receives the requested information or clarification from the taxpayer. The taxpayer and the director may also agree to extend the ninety-day period. If the director fails to make his or her determination within the prescribed ninety-day period, the application is deemed approved, subject to the base authority limitations provided in section 77-6839.

(6) There shall be no new applications for incentives filed under this section after December 31, 2030. All complete applications filed on or before December 31, 2030, shall be considered by the director and approved if the location or locations and taxpayer qualify for benefits, subject to the base authority limitations provided in section 77-6839. Agreements may be executed with regard to complete applications filed on or before December 31, 2030. All agreements pending, approved, or entered into before such date shall continue in full force and effect.

Source: Laws 2020, LB1107, § 27.

77-6828 Agreement; requirements; contents; confidentiality; exceptions; duration of agreement; incentives; use.

(1) Within ninety days after approval of the application, the director shall prepare and deliver a written agreement to the taxpayer for the taxpayer's signature. The taxpayer and the director shall enter into such written agreement. Under the agreement, the taxpayer shall agree to increase employment or investment at the qualified location or locations, report compensation, wage, and hour data at the qualified location or locations to the Department of Revenue annually, and report all qualified property at the qualified location or locations to the Department of Revenue annually. The director, on behalf of the State of Nebraska, shall agree to allow the taxpayer to use the incentives contained in the ImagiNE Nebraska Act. 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 or locations. If a location or locations are to be qualified under subsection (2) of section 77-6818, the agreement must include a commitment by the taxpayer that the seventy-five percent requirement of such subsection will be met;

(b) The type of documentation the taxpayer will need to supply to support its claim for incentives under the act;

(c) The date the application was complete;

(d) The E-verify number or numbers for the qualified location or locations provided by the United States Citizenship and Immigration Services;

(e) A requirement that the taxpayer provide any information needed by the director or the Tax Commissioner to perform their respective responsibilities under the ImagiNE Nebraska Act, in the manner specified by the director or Tax Commissioner;

(f) A requirement that the taxpayer provide an annually updated timetable showing the expected sales and use tax refunds and what year they are expected to be claimed, in the manner specified by the Tax Commissioner. The timetable shall include both direct refunds due to investment and credits taken as sales and use tax refunds as accurately as reasonably possible;

(g) A requirement that the taxpayer update the Tax Commissioner annually, with its income tax return or in the manner specified by the Tax Commissioner, on any changes in plans or circumstances which it reasonably expects will affect the level of new investment and number of new employees at the qualified location or locations. If the taxpayer fails to comply with this requirement, the Tax Commissioner may defer any pending incentive utilization until the taxpayer does comply;

(h) A requirement that the taxpayer provide information regarding the value of health coverage provided to employees during the year who are not base-year employees and who are paid the required compensation as needed by the director or the Tax Commissioner to perform their respective responsibilities under the ImagiNE Nebraska Act, in the manner specified by the director or Tax Commissioner;

(i) A requirement that the taxpayer not violate any state or federal law against discrimination;

(j) A requirement that the taxpayer offer a sufficient package of benefits to the employees employed full-time at the qualified location or locations during the year who are not base-year employees and who are paid the required compensation. If a taxpayer does not offer a sufficient package of benefits to any such

employee for any year during the performance period, that employee shall not count toward the number of new employees for such year. For purposes of this subdivision, benefits means nonwage remuneration offered to an employee, including medical and dental insurance plans, pension, retirement, and profit-sharing plans, child care services, life insurance coverage, vision insurance coverage, disability insurance coverage, and any other nonwage remuneration as determined by the director. The director may adopt and promulgate rules and regulations to specify what constitutes a sufficient package of benefits. In determining what constitutes a sufficient package of benefits, the director shall consider (i) benefit packages customarily offered in Nebraska by private employers to full-time employees, (ii) the impact of the cost of such benefits on the ability to attract new employment and investment under the ImagiNE Nebraska Act, and (iii) the costs that employees must bear to obtain benefits not offered by an employer; and

(k) A requirement that the taxpayer provide the following information for the purpose of tax incentive performance audits:

(i) The most recent taxable valuations and levy rates for all qualified locations;

(ii) If credits are used for job training pursuant to subdivision (1)(e) of section 77-6832, a program schedule of the job training activities; and

(iii) If credits are used for talent recruitment pursuant to subdivision (1)(e) of section 77-6832, the city and state where recruited employees lived when the talent recruitment activities took place.

(2) The application, the agreement, all supporting information, and all other information reported to the director or the Tax Commissioner shall be kept confidential by the director and the Tax Commissioner, except for the name of the taxpayer, the qualified location or locations in the agreement, the estimated amounts of increased employment and investment stated in the application, the date of complete application, the date the agreement was signed, and the information required to be reported by section 77-6837. 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.

(3) An agreement under the ImagiNE Nebraska Act shall have a duration of no more than fifteen years. A taxpayer with an existing agreement may apply for and receive a new agreement for any qualified location or locations that are not part of an existing agreement under the ImagiNE Nebraska Act, but cannot apply for a new agreement for a qualified location designated in an existing agreement until after the end of the performance period for the existing agreement.

(4) The incentives contained in the ImagiNE Nebraska Act shall be in lieu of the tax credits allowed by the Nebraska Advantage Rural Development Act for any project. In computing credits under the Nebraska Advantage Rural Development Act, any investment or employment which is eligible for benefits or

used in determining benefits under the ImagiNE Nebraska Act shall be subtracted from the increases computed for determining the credits under section 77-27,188. New investment or employment at a project location that results in the meeting or maintenance of the employment or investment requirements, the creation of credits, or refunds of taxes under the Nebraska Advantage Act shall not be considered new investment or employment for purposes of the ImagiNE Nebraska Act. The use of carryover credits under the Nebraska Advantage Act, the Employment and Investment Growth Act, the Invest Nebraska Act, the Nebraska Advantage Rural Development Act, or the Quality Jobs Act shall not preclude investment and employment from being considered new investment or employment under the ImagiNE Nebraska Act. The use of property tax exemptions at the project under the Employment and Investment Growth Act or the Nebraska Advantage Act does not preclude investment not eligible for such property tax exemptions from being considered new investment under the ImagiNE Nebraska Act.

Source: Laws 2020, LB1107, § 28; Laws 2022, LB1150, § 19.

Cross References

Employment and Investment Growth Act, see section 77-4101.
Invest Nebraska Act, see section 77-5501.
Nebraska Advantage Act, see section 77-5701.
Nebraska Advantage Rural Development Act, see section 77-27,187.
Quality Jobs Act, see section 77-4901.

77-6829 Qualified locations; base-year employment, compensation, and wage levels; review and certification; effect.

(1) The taxpayer may request the director to review and certify that the location or locations designated in the application are qualified locations under the ImagiNE Nebraska Act. The taxpayer shall describe in detail the activities taking place at the location or locations or the activities that will be taking place at the location or locations. The director shall make the determination based on the information provided by the taxpayer. The director must complete the review within ninety days after the request. If the director 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 director makes the request to the time he or she receives the requested information or clarification from the taxpayer. The taxpayer and the director may also agree to extend the ninety-day period. If the director fails to make his or her determination within the prescribed ninety-day period, the certification is deemed approved for the disclosed activities.

(2) The taxpayer may request the Tax Commissioner to review and certify that the base-year employment, compensation, and wage levels are as reported by the taxpayer pursuant to subsection (1) of section 77-6828. Upon a request for such review, the Tax Commissioner shall be given access to the employment and business records of the proposed location or locations and must complete the review within one hundred eighty 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 one-hundred-eighty-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 one-hundred-eighty-day period. If the Tax Commissioner fails to make his or her determination within the

prescribed one-hundred-eighty-day period, the certification is deemed approved.

(3) Upon review, the director may approve, reject, or amend the qualified locations sought in the application contingent upon the accuracy of the information or plans disclosed by the taxpayer that describe the expected activity at the qualified location or locations. Upon review, the Tax Commissioner may also approve or amend the base-year employment, compensation, or wage levels reported pursuant to subsection (1) of section 77-6828 based upon the payroll information and other financial records provided by the taxpayer. Once the director or Tax Commissioner certifies the qualified location or locations and the employment, compensation, and wage levels at the qualified location or locations, the certification is binding on the Department of Revenue when the taxpayer claims benefits on a return to the extent the activities performed at the location or locations are as described in the application, the information and plans provided by the taxpayer were accurate, and the base-year information is not affected by transfers of employees from another location in Nebraska, the acquisition of a business, or moving businesses or entities to or from the qualified location or locations.

(4) If the taxpayer does not request review and certification of whether the designated location or locations are qualified, or the base-year employment, compensation, and wage levels, those items are subject to later audit by the Department of Revenue.

Source: Laws 2020, LB1107, § 29.

77-6830 Transactions and activities excluded.

The following transactions or activities shall not create any credits or allow any benefits under the ImagiNE Nebraska Act except as specifically allowed by this section:

(1) The acquisition of a business after the date of application which is continued by the taxpayer as a part of the agreement and which was operated in this state during the three hundred sixty-six days prior to the date of acquisition. All employees of the entities added to the taxpayer by the acquisition during the three hundred sixty-six days prior to the date of acquisition shall be considered employees during the base year. Any investment prior to the date of acquisition made by the entities added to the taxpayer by the acquisition or any investment in the acquisition of such business shall be considered as being made before the date of application;

(2) The moving of a business from one location to another, which business was operated in this state during the three hundred sixty-six days prior to the date of application. All employees of the business during such three hundred sixty-six days shall be considered base-year employees;

(3) The purchase or lease of any property which was previously owned by the taxpayer or a related person. The first purchase by either the taxpayer or a related person shall be treated as investment if the item was first placed in service in the state after the date of the application;

(4) The renegotiation of any lease in existence on the date of application which does not materially change any of the terms of the lease, other than the expiration date, shall be presumed to be a transaction entered into for the purpose of generating benefits under the act and shall not be allowed in the

computation of any benefit or the meeting of any required levels under the agreement;

(5) Any purchase or lease of property from a related person, except that the taxpayer will be allowed any benefits under the act to which the related person would have been entitled on the purchase or lease of the property if the related person was considered the taxpayer;

(6) 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; and

(7) Any activity that results in benefits under the Ethanol Development Act.

Source: Laws 2020, LB1107, § 30.

Cross References

Ethanol Development Act, see section 66-1330.

77-6831 Tax incentives; amount; conditions; fee; ImagiNE Nebraska Cash Fund; created; use; investment.

(1) A taxpayer shall be entitled to the sales and use tax incentives contained in subsection (2) of this section if the taxpayer:

(a) Attains a cumulative investment in qualified property of at least five million dollars and hires at least thirty new employees at the qualified location or locations before the end of the ramp-up period;

(b) Attains a cumulative investment in qualified property of at least two hundred fifty million dollars and hires at least two hundred fifty new employees at the qualified location or locations before the end of the ramp-up period; or

(c) Attains a cumulative investment in qualified property of at least fifty million dollars at the qualified location or locations before the end of the ramp-up period. To receive incentives under this subdivision, the taxpayer must meet the following conditions:

(i) The average compensation of the taxpayer's employees at the qualified location or locations for each year of the performance period must equal at least one hundred fifty percent of the Nebraska statewide average hourly wage for the year of application;

(ii) The taxpayer must offer to its employees who constitute full-time employees as defined and described in section 4980H of the Internal Revenue Code of 1986, as amended, and the regulations for such section, at the qualified location or locations for each year of the performance period, the opportunity to enroll in minimum essential coverage under an eligible employer-sponsored plan, as those terms are defined and described in section 5000A of the Internal Revenue Code of 1986, as amended, and the regulations for such section; and

(iii) The taxpayer must offer a sufficient package of benefits as described in subdivision (1)(j) of section 77-6828.

(2) A taxpayer meeting the requirements of subsection (1) of this section shall be entitled to the following sales and use tax incentives:

(a) A refund of all 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 from the date of the complete application through the meeting of the required levels of employment and investment for all purchases, including rentals, of:

(i) Qualified property used at the qualified location or locations;

(ii) Property, excluding motor vehicles, based in this state and used in both this state and another state in connection with the qualified location or locations except when any such property is to be used for fundraising for or for the transportation of an elected official;

(iii) Tangible personal property by a contractor or repairperson after appointment as a purchasing agent of the owner of the improvement to real estate when such property is incorporated into real estate at the qualified location or locations. The refund shall be based on fifty percent of the contract price, excluding any land, as the cost of materials subject to the sales and use tax;

(iv) Tangible personal property by a contractor or repairperson after appointment as a purchasing agent of the taxpayer when such property is annexed to, but not incorporated into, real estate at the qualified location or locations. The refund shall be based on the cost of materials subject to the sales and use tax that were annexed to real estate; and

(v) Tangible personal property by a contractor or repairperson after appointment as a purchasing agent of the taxpayer when such property is both (A) incorporated into real estate at the qualified location or locations and (B) annexed to, but not incorporated into, real estate at the qualified location or locations. The refund shall be based on fifty percent of the contract price, excluding any land, as the cost of materials subject to the sales and use tax; and

(b) An exemption from all sales and use taxes 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 types of purchases, including rentals, listed in subdivision (a) of this subsection for such purchases, including rentals, occurring during each year of the performance period in which the taxpayer is at or above the required levels of employment and investment, except that the exemption shall be for the actual materials purchased with respect to subdivisions (2)(a)(iii), (iv), and (v) of this section. The Tax Commissioner shall issue such rules, regulations, certificates, and forms as are appropriate to implement the efficient use of this exemption.

(3)(a) Upon execution of the agreement, the taxpayer shall be issued a direct payment permit under section 77-2705.01, notwithstanding the three million dollars in purchases limitation in subsection (1) of section 77-2705.01, for each qualified location specified in the agreement, unless the taxpayer has opted out of this requirement in the agreement. For any taxpayer who is issued a direct payment permit, until such taxpayer makes the investment in qualified property and hires the new employees at the qualified location or locations as specified in subsection (1) of this section, the taxpayer must pay and remit any applicable sales and use taxes as required by the Tax Commissioner.

(b) If the taxpayer makes the investment in qualified property and hires the new employees at the qualified location or locations as specified in subsection (1) of this section, the taxpayer shall receive the sales tax refunds described in subdivision (2)(a) of this section. For any year in which the taxpayer is not at the required levels of employment and investment, the taxpayer shall report all sales and use taxes owed for the period on the taxpayer's tax return.

(4) The taxpayer shall be entitled to one of the following credits for payment of wages to new employees:

(a)(i) If a taxpayer attains a cumulative investment in qualified property of at least one million dollars and hires at least ten new employees at the qualified location or locations before the end of the ramp-up period, the taxpayer shall be entitled to a credit equal to four percent times the average wage of new employees times the number of new employees. Wages in excess of one million dollars paid to any one employee during the year shall be excluded from the calculations under this subdivision;

(ii) If the taxpayer attains a cumulative investment in qualified property of at least one million dollars and hires at least ten new employees at the qualified location or locations before the end of the ramp-up period and the number of new employees and investment are at a qualified location in a county in Nebraska with a population of one hundred thousand or greater, and at which the majority of the business activities conducted are described in subdivision (1)(a) or (1)(n) of section 77-6818, the taxpayer shall be entitled to a credit equal to four percent times the average wage of new employees times the number of new employees. Wages in excess of one million dollars paid to any one employee during the year shall be excluded from the calculations under this subdivision; or

(iii) If the taxpayer attains a cumulative investment in qualified property of at least one million dollars and hires at least ten new employees at the qualified location or locations before the end of the ramp-up period and the number of new employees and investment are at a qualified location or locations within one or more counties in Nebraska that each have a population of less than one hundred thousand, and at which the majority of the business activities conducted are described in subdivision (1)(a) or (1)(n) of section 77-6818, the taxpayer shall be entitled to a credit equal to six percent times the average wage of new employees times the number of new employees. For purposes of meeting the ten-employee requirement of this subdivision, the number of new employees shall be multiplied by two. Wages in excess of one million dollars paid to any one employee during the year shall be excluded from the calculations under this subdivision;

(b) If a taxpayer hires at least twenty new employees at the qualified location or locations before the end of the ramp-up period, the taxpayer shall be entitled to a credit equal to five percent times the average wage of new employees times the number of new employees if the average wage of the new employees equals at least one hundred percent of the Nebraska statewide average hourly wage for the year of application. The credit shall equal seven percent times the average wage of new employees times the number of new employees if the average wage of the new employees equals at least one hundred fifty percent of the Nebraska statewide average hourly wage for the year of application. The credit shall equal nine percent times the average wage of new employees times the number of new employees if the average wage of the new employees equals at least two hundred percent of the Nebraska statewide average hourly wage for the year of application. Wages in excess of one million dollars paid to any one employee during the year shall be excluded from the calculations under this subdivision;

(c) If a taxpayer attains a cumulative investment in qualified property of at least five million dollars and hires at least thirty new employees at the qualified location or locations before the end of the ramp-up period, the taxpayer shall be entitled to a credit equal to five percent times the average wage of new employees times the number of new employees if the average wage of the new

employees equals at least one hundred percent of the Nebraska statewide average hourly wage for the year of application. The credit shall equal seven percent times the average wage of new employees times the number of new employees if the average wage of the new employees equals at least one hundred fifty percent of the Nebraska statewide average hourly wage for the year of application. The credit shall equal nine percent times the average wage of new employees times the number of new employees if the average wage of the new employees equals at least two hundred percent of the Nebraska statewide average hourly wage for the year of application. Wages in excess of one million dollars paid to any one employee during the year shall be excluded from the calculations under this subdivision;

(d) If a taxpayer attains a cumulative investment in qualified property of at least two hundred fifty million dollars and hires at least two hundred fifty new employees at the qualified location or locations before the end of the ramp-up period, the taxpayer shall be entitled to a credit equal to seven percent times the average wage of new employees times the number of new employees if the average wage of the new employees equals at least one hundred fifty percent of the Nebraska statewide average hourly wage for the year of application. The credit shall equal nine percent times the average wage of new employees times the number of new employees if the average wage of the new employees equals at least two hundred percent of the Nebraska statewide average hourly wage for the year of application. Wages in excess of one million dollars paid to any one employee during the year shall be excluded from the calculations under this subdivision; or

(e) If a taxpayer attains a cumulative investment in qualified property of at least two hundred fifty thousand dollars but less than one million dollars and hires at least five new employees at the qualified location or locations before the end of the ramp-up period and the number of new employees and investment are at a qualified location within an economic redevelopment area, the taxpayer shall be entitled to a credit equal to six percent times the average wage of new employees times the number of new employees if the average wage of the new employees equals at least seventy percent of the Nebraska statewide average hourly wage for the year of application. Wages in excess of one million dollars paid to any one employee during the year shall be excluded from the calculations under this subdivision. For purposes of this subdivision, economic redevelopment area means an area in which (i) 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 is at least one hundred fifty percent of the average rate of unemployment in the state during the same period and (ii) the average poverty rate in the area exceeds twenty percent for the total federal census tract or tracts or federal census block group or block groups in the area.

(5) The taxpayer shall be entitled to one of the following credits for new investment:

(a)(i) If a taxpayer attains a cumulative investment in qualified property of at least one million dollars and hires at least ten new employees at the qualified location or locations before the end of the ramp-up period, the taxpayer shall be entitled to a credit equal to four percent of the investment made in qualified property at the qualified location or locations;

(ii) If the taxpayer attains a cumulative investment in qualified property of at least one million dollars and hires at least ten new employees at the qualified location or locations before the end of the ramp-up period and the number of new employees and investment are at a qualified location in a county in Nebraska with a population of one hundred thousand or greater, and at which the majority of the business activities conducted are described in subdivision (1)(a) or (1)(n) of section 77-6818, the taxpayer shall be entitled to a credit equal to four percent of the investment made in qualified property at the qualified location or locations unless the cumulative investment exceeds ten million dollars, in which case the taxpayer shall be entitled to a credit equal to seven percent of the investment made in qualified property at the qualified location or locations; or

(iii) If the taxpayer attains a cumulative investment in qualified property of at least one million dollars and hires at least ten new employees at the qualified location or locations before the end of the ramp-up period and the number of new employees and investment are at a qualified location or locations within one or more counties in Nebraska that each have a population of less than one hundred thousand, and at which the majority of the business activities conducted are described in subdivision (1)(a) or (1)(n) of section 77-6818, the taxpayer shall be entitled to a credit equal to four percent of the investment made in qualified property at the qualified location or locations unless the cumulative investment exceeds ten million dollars, in which case the taxpayer shall be entitled to a credit equal to seven percent of the investment made in qualified property at the qualified location or locations. For purposes of meeting the ten-employee requirement of this subdivision, the number of new employees shall be multiplied by two;

(b) If a taxpayer attains a cumulative investment in qualified property of at least five million dollars and hires at least thirty new employees at the qualified location or locations before the end of the ramp-up period, the taxpayer shall be entitled to a credit equal to seven percent of the investment made in qualified property at the qualified location or locations;

(c) If a taxpayer attains a cumulative investment in qualified property of at least two hundred fifty million dollars and hires at least two hundred fifty new employees at the qualified location or locations before the end of the ramp-up period, the taxpayer shall be entitled to a credit equal to seven percent of the investment made in qualified property at the qualified location or locations; or

(d) If a taxpayer attains a cumulative investment in qualified property of at least two hundred fifty thousand dollars but less than one million dollars and hires at least five new employees at the qualified location or locations before the end of the ramp-up period and the number of new employees and investment are at a qualified location within an economic redevelopment area, the taxpayer shall be entitled to a credit equal to four percent of the investment made in qualified property at the qualified location or locations. For purposes of this subdivision, economic redevelopment area means an area in which (i) 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 is at least one hundred fifty percent of the average rate of unemployment in the state during the same period and (ii) the average poverty rate in the area exceeds twenty percent for the total federal census tract or tracts or federal census block group or block groups in the area.

(6)(a) The credit percentages prescribed in subdivisions (4)(a), (b), (c), and (d) and subdivisions (5)(a), (b), and (c) of this section shall be increased by one percentage point for wages paid and investments made at qualified locations in an extremely blighted area. For purposes of this subdivision, extremely blighted area means an area which, before the end of the ramp-up period, has been declared an extremely blighted area under section 18-2101.02.

(b) The credit percentages prescribed in subsections (4) and (5) of this section shall be increased by one percentage point if the taxpayer:

(i) Is a benefit corporation as defined in section 21-403 and has been such a corporation for at least one year prior to submitting an application under the ImagiNE Nebraska Act; and

(ii) Remains a benefit corporation as defined in section 21-403 for the duration of the taxpayer's agreement under the ImagiNE Nebraska Act.

(c) A taxpayer may, if qualified, receive one or both of the increases provided in this subsection.

(7)(a) The credits prescribed in subsections (4) and (5) of this section shall be allowable for wages paid and investments made during each year of the performance period that the taxpayer is at or above the required levels of employment and investment.

(b) The credits prescribed in subsection (5) of this section shall also be allowable during the first year of the performance period for investment in qualified property at the qualified location or locations after the date of the complete application and before the beginning of the performance period.

(8)(a) Property described in subdivision (8)(c) of this section used at the qualified location or locations, whether purchased or leased, and placed in service by the taxpayer after the date of the complete application, shall constitute separate classes of property and are eligible for exemption under the conditions and for the time periods provided in subdivision (8)(b) of this section.

(b) A taxpayer shall receive the exemption of property in subdivision (8)(c) of this section if the taxpayer attains one of the following employment and investment levels: (i) Cumulative investment in qualified property of at least five million dollars and the hiring of at least thirty new employees at the qualified location or locations before the end of the ramp-up period; (ii) cumulative investment in qualified property of at least fifty million dollars at the qualified location or locations before the end of the ramp-up period, provided the average compensation of the taxpayer's employees at the qualified location or locations for the year in which such investment level was attained equals at least one hundred fifty percent of the Nebraska statewide average hourly wage for the year of application and the taxpayer offers to its employees who constitute full-time employees as defined and described in section 4980H of the Internal Revenue Code of 1986, as amended, and the regulations for such section, at the qualified location or locations for the year in which such investment level was attained, the opportunity to enroll in minimum essential coverage under an eligible employer-sponsored plan, as those terms are defined and described in section 5000A of the Internal Revenue Code of 1986, as amended, and the regulations for such section; or (iii) cumulative investment in qualified property of at least two hundred fifty million dollars and the hiring of at least two hundred fifty new employees at the qualified location or locations before the end of the ramp-up period. Such property shall be eligible for the

exemption from the first January 1 following the end of the year during which the required levels were exceeded through the ninth December 31 after the first year property included in subdivision (8)(c) of this section qualifies for the exemption, except that for a taxpayer who has filed an application under NAICS code 518210 for Data Processing, Hosting, and Related Services and who files a separate sequential application for the same NAICS code for which the ramp-up period begins with the year immediately after the end of the previous project's performance period or a taxpayer who has a project qualifying under subdivision (1)(b)(ii) of section 77-5725 and who files a separate sequential application for NAICS code 518210 for Data Processing, Hosting, and Related Services for which the ramp-up period begins with the year immediately after the end of the previous project's entitlement period, such property described in subdivision (8)(c)(i) of this section shall be eligible for the exemption from the first January 1 following the placement in service of such property through the ninth December 31 after the year the first claim for exemption is approved.

(c) The following personal property used at the qualified location or locations, whether purchased or leased, and placed in service by the taxpayer after the date of the complete application shall constitute separate classes of personal property:

(i) All personal property that constitutes a data center if the taxpayer qualifies under subdivision (8)(b)(i) or (8)(b)(ii) of this section;

(ii) Business equipment that is located at a qualified location or locations and that is involved directly in the manufacture or processing of agricultural products, including business equipment used primarily for the capture and compression of carbon dioxide, the manufacturing of liquid fertilizer or any other chemical applied to agricultural crops, or the manufacturing of any liquid additive for a farm vehicle fuel if the taxpayer qualifies under subdivision (8)(b)(i) or (8)(b)(ii) of this section; or

(iii) All personal property if the taxpayer qualifies under subdivision (8)(b)(iii) of this section.

(d) In order to receive the property tax exemptions allowed by subdivision (8)(c) of this section, the taxpayer shall annually file a claim for exemption with the Tax Commissioner on or before May 1. The form and supporting schedules shall be prescribed by the Tax Commissioner and shall list all property for which exemption is being sought under this section. A separate claim for exemption must be filed for each agreement and each county in which property is claimed to be exempt. A copy of this form must also be filed with the county assessor in each county in which the applicant is requesting exemption. The Tax Commissioner shall determine whether a taxpayer is eligible to obtain exemption for personal property based on the criteria for exemption and the eligibility of each item listed for exemption and, on or before August 1, certify such determination to the taxpayer and to the affected county assessor.

(9) The taxpayer shall, on or before the receipt or use of any incentives under this section, pay to the director a fee of one-half percent of such incentives, except for the exemption on personal property, for administering the ImagiNE Nebraska Act, except that the fee on any sales tax exemption may be paid by the taxpayer with the filing of its sales and use tax return. Such fee may be paid by direct payment to the director or through withholding of available refunds. A credit shall be allowed against such fee for the amount of the fee paid with the

application. All fees collected under this subsection shall be remitted to the State Treasurer for credit to the ImagiNE Nebraska Cash Fund, which fund is hereby created. The fund shall consist of fees credited under this subsection and any other money appropriated to the fund by the Legislature. The fund shall be administered by the Department of Economic Development and shall be used for administration of the ImagiNE Nebraska 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 2020, LB1107, § 31; Laws 2022, LB1150, § 20; Laws 2022, LB1261, § 16; Laws 2024, LB1023, § 16; Laws 2024, LB1317, § 96.

Operative date July 19, 2024.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB1023, section 16, with LB1317, section 96, to reflect all amendments.

Cross References

Local Option Revenue Act, see section 77-27,148.
Nebraska Capital Expansion Act, see section 72-1269.
Nebraska Revenue Act of 1967, see section 77-2701.
Nebraska State Funds Investment Act, see section 72-1260.
Qualified Judgment Payment Act, see section 77-6401.

77-6832 Income tax credits; use; tax incentive credits; use; refund claims; filing requirements; audit; director; Tax Commissioner; powers and duties; appeal.

(1)(a) The credits prescribed in section 77-6831 for a year shall be established by filing the forms required by the Tax Commissioner with the income tax return for the taxable year which includes the end of the year the credits were earned. The credits may be used and shall be applied in the order in which they were first allowable under the ImagiNE Nebraska Act. To the extent the taxpayer has credits under the Nebraska Advantage Act or the Employment and Investment Growth Act still available for use in a year or years which overlap the performance period or carryover period of the ImagiNE Nebraska Act, the credits may be used and shall be applied in the order in which they were first allowable, and when there are credits of the same age, the older tax incentive program's credits shall be applied first. The credits may be used after any other nonrefundable credits to reduce the taxpayer's income tax liability imposed by sections 77-2714 to 77-27,135. Credits may be used beginning with the taxable year which includes December 31 of the year the required minimum levels were reached. The last year for which credits may be used is the taxable year which includes December 31 of the last year of the carryover period. Any decision on how part of the credit is applied shall not limit how the remaining credit could be applied under this section.

(b) The taxpayer may use the credit provided in subsection (4) of section 77-6831 (i) to reduce the taxpayer's income tax withholding employer or payor tax liability under section 77-2756 or 77-2757, to the extent such liability is attributable to the number of new employees employed at the qualified location or locations, excluding any wages in excess of one million dollars paid to any one employee during the year or (ii) to reduce a qualified employee leasing company's income tax withholding employer or payor tax liability under section 77-2756 or 77-2757, when the taxpayer is the client-lessee of such company, to the extent such liability is attributable to the number of new employees performing services for such client-lessee at the qualified location or

locations, excluding any wages in excess of one million dollars paid to any one employee during the year. To the extent of the credit used, such withholding shall not constitute public funds or state tax revenue and shall not constitute a trust fund or be owned by the state. The use by the taxpayer or the qualified employee leasing company of the credit shall not change the amount that otherwise would be reported by the taxpayer, or such qualified employee leasing company, 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 employees employed at the qualified location or locations or, for a qualified employee leasing company, the number of new employees performing services for the applicable client-lessee at the qualified location or locations, excluding any wages in excess of one million dollars paid to any one employee during the year. If the amount of credit used by the taxpayer or the qualified employee leasing company 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 or shall carry over to the extent authorized in subdivision (1)(g) of this section.

(c) Credits may be used to obtain a refund of sales and use taxes under the Local Option Revenue Act, the Nebraska Revenue Act of 1967, the Qualified Judgment Payment Act, and sections 13-319, 13-324, and 13-2813 that are not subject to direct refund under section 77-6831 and that are paid on purchases, including rentals, for use at a qualified location.

(d) The credits provided in subsections (4) and (5) of section 77-6831 may be used to repay a loan for job training or infrastructure development as provided in section 77-6841.

(e) Credits may be used to obtain a payment from the state equal to the amount which the taxpayer demonstrates to the director was paid by the taxpayer after the date of the complete application for job training and talent recruitment of employees who qualify in the number of new employees, to the extent that proceeds from a loan described in section 77-6841 were not used to make such payments. For purposes of this subdivision:

(i) Job training means training for a prospective or new employee that is provided after the date of the complete application by a Nebraska nonprofit college or university, a Nebraska public or private secondary school, a Nebraska educational service unit, or a company that is not a member of the taxpayer's unitary group or a related person to the taxpayer; and

(ii) Talent recruitment means talent recruitment activities that result in a newly recruited employee who is hired by the taxpayer after the date of the complete application and who is paid compensation during the year of hire at a rate equal to at least one hundred percent of the Nebraska statewide average hourly wage for the year of application, including marketing, relocation expenses, and search-firm fees. Talent recruitment payments that may be reimbursed include, without limitation, payment by the taxpayer, without repayment by the employee, of an employee's student loans, an employee's tuition, and an employee's downpayment on a primary residence in Nebraska. Talent recruit-

ment payments that may be reimbursed shall not include payments for the recruitment of a person who constitutes a related person to the taxpayer when the taxpayer is an individual or recruitment of a person who constitutes a related person to an owner of the taxpayer when the taxpayer is a partnership, a limited liability company, or a subchapter S corporation.

(f) The credits provided in subsections (4) and (5) of section 77-6831 may be used to obtain a payment from the state equal to the amount which the taxpayer demonstrates to the director was paid for taxpayer-sponsored child care at the qualified location or locations during the performance period and the carryover period.

(g) Credits may be carried over until fully utilized through the end of the carryover period.

(2)(a) No refund claims shall be filed until after the required levels of employment and investment have been met.

(b) Refund claims shall be filed no more than once each quarter for refunds under the ImagiNE Nebraska Act, except that any claim for a refund in excess of twenty-five thousand dollars may be filed at any time.

(c) Refund claims for materials purchased by a purchasing agent shall include:

(i) A copy of the purchasing agent appointment;

(ii) The contract price; and

(iii)(A) For refunds under subdivision (2)(a)(iii) or (2)(a)(v) of section 77-6831, a certification by the contractor or repairperson of the percentage of the materials incorporated into or annexed to the qualified location on which sales and use taxes were paid to Nebraska after appointment as purchasing agent; or

(B) For refunds under subdivision (2)(a)(iv) of section 77-6831, a certification by the contractor or repairperson of the percentage of the contract price that represents the cost of materials annexed to the qualified location and the percentage of the materials annexed to the qualified location on which sales and use taxes were paid to Nebraska after appointment as purchasing agent.

(d) All refund claims shall be filed, processed, and allowed as any other claim under section 77-2708, except that the amounts allowed to be refunded under the ImagiNE Nebraska Act shall be deemed to be overpayments and shall be refunded notwithstanding any limitation in subdivision (2)(a) of section 77-2708. The refund may be allowed if the claim is filed within three years from the end of the year the required levels of employment and investment are met or within the period set forth in section 77-2708. Refunds shall be paid by the Tax Commissioner within one hundred eighty days after receipt of the refund claim. Such payments shall be subject to later recovery by the Tax Commissioner upon audit.

(e) If a claim for a refund of sales and use taxes under the Local Option Revenue Act, the Qualified Judgment Payment Act, or sections 13-319, 13-324, and 13-2813 of more than twenty-five thousand dollars is filed by June 15 of a given year, the refund shall be made on or after November 15 of the same year. If such a claim is filed on or after June 16 of a given year, the refund shall not be made until on or after November 15 of the following year. The Tax Commissioner shall notify the affected city, village, county, or municipal county of the amount of refund claims of sales and use taxes under the Local Option Revenue Act, the Qualified Judgment Payment Act, or sections 13-319, 13-324,

and 13-2813 that are in excess of twenty-five thousand dollars on or before July 1 of the year before the claims will be paid under this section.

(f) For refunds of sales and use taxes under the Local Option Revenue Act, the deductions made by the Tax Commissioner for such refunds shall be delayed in accordance with section 77-27,144.

(g) Interest shall not be allowed on any taxes refunded under the ImagiNE Nebraska Act.

(3) The appointment of purchasing agents shall be recognized for the purpose of changing the status of a contractor or repairperson as the ultimate consumer of tangible personal property purchased after the date of the appointment which is physically incorporated into or annexed at a qualified location and becomes the property of the owner of the improvement to real estate or the taxpayer. The purchasing agent shall be jointly liable for the payment of the sales and use tax on the purchases with the owner of the property.

(4) The determination of whether the application is complete, whether a location is a qualified location, and whether to approve the application and sign the agreement shall be made by the director. All other interpretations of the ImagiNE Nebraska Act shall be made by the Tax Commissioner. The Commissioner of Labor shall provide the director with such information as the Department of Labor regularly receives with respect to the taxpayer which the director requests from the Commissioner of Labor in order to fulfill the director's duties under the act. The director shall use such information to achieve efficiency in the administration of the act.

(5) Once the director and the taxpayer have signed the agreement under section 77-6828, the taxpayer, and its owners or members where applicable, may report and claim and shall receive all incentives allowed by the ImagiNE Nebraska Act, subject to the base authority limitations provided in section 77-6839, without waiting for a determination by the director or the Tax Commissioner or other taxing authority that the taxpayer has met the required employment and investment levels or otherwise qualifies, has qualified, or continues to qualify for such incentives, provided that the tax return or claim has been signed by an owner, member, manager, or officer of the taxpayer who declares under penalties of perjury that he or she has examined the tax return or claim, including accompanying schedules and statements, and to the best of his or her knowledge and belief (a) the tax return or claim is correct and complete in all material respects, (b) payment of the claim has not been previously made by the state to the taxpayer, and (c) with respect to sales or use tax refund claims, the taxpayer has not claimed or received a refund of such tax from a retailer. The payment or allowance of such a claim shall not prevent the director or the Tax Commissioner or other taxing authority from recovering such payment, exemption, or allowance, within the normal period provided by law, subject to normal appeal rights of a taxpayer, if the director or Tax Commissioner or other taxing authority determines upon review or audit that the taxpayer did not qualify for such incentive or exemption.

(6) An audit of employment and investment thresholds and incentive amounts shall be made by the Tax Commissioner to the extent and in the manner determined by the Tax Commissioner. Upon request by the director or the Tax Commissioner, the Commissioner of Labor shall report to the director and the Tax Commissioner the employment data regularly reported to the Department of Labor relating to number of employees and wages paid for each taxpayer.

The director and Tax Commissioner, to the extent they determine appropriate, shall use such information to achieve efficiency in the administration of the ImagiNE Nebraska Act. The Tax Commissioner may recover any refund or part thereof which is erroneously made and any credit or part thereof which is erroneously allowed by issuing a deficiency determination within three years from the date of refund or credit or within the period otherwise allowed for issuing a deficiency determination, whichever expires later. The director shall not enter into an agreement with any taxpayer unless the taxpayer agrees to electronically verify the work eligibility status of all newly hired employees employed in Nebraska within ninety days after the date of hire. For purposes of calculating any tax incentive under the act, the hours worked and compensation paid to an employee who has not been electronically verified or who is not eligible to work in Nebraska shall be excluded.

(7) A determination by the director that a location is not a qualified location or a determination by the Tax Commissioner that a taxpayer has failed to meet or maintain the required levels of employment or investment for incentives, exemptions, or recapture, or does not otherwise qualify for incentives or exemptions, may be protested by the taxpayer to the Tax Commissioner within sixty days after the mailing to the taxpayer of the written notice of the proposed determination by the director or the Tax Commissioner, as applicable. If the notice of proposed determination is not protested in writing by the taxpayer within the sixty-day period, the proposed determination is a final determination. If the notice is protested, the Tax Commissioner, after a formal hearing by the Tax Commissioner or by an independent hearing officer appointed by the Tax Commissioner, if requested by the taxpayer in such protest, shall issue a written order resolving such protest. The written order of the Tax Commissioner resolving a protest may be appealed to the district court of Lancaster County in accordance with the Administrative Procedure Act within thirty days after the issuance of the order.

Source: Laws 2020, LB1107, § 32; Laws 2022, LB1150, § 21.

Cross References

Administrative Procedure Act, see section 84-920.
Employment and Investment Growth Act, see section 77-4101.
Local Option Revenue Act, see section 77-27,148.
Nebraska Advantage Act, see section 77-5701.
Nebraska Revenue Act of 1967, see section 77-2701.
Qualified Judgment Payment Act, see section 77-6401.

77-6833 Incentives; recapture or disallowance; conditions; procedure.

(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, all or a portion of the incentives set forth in the ImagiNE Nebraska Act shall be recaptured or disallowed. For purposes of this section, the average compensation and health coverage requirements of subdivision (1)(c) of section 77-6831 shall be treated as a required level of employment for each year of the performance period.

(2) In the case of a taxpayer who has failed to maintain the required levels of employment or investment for the entire performance period, any reduction in the personal property tax, any refunds in tax or exemptions from tax allowed under section 77-6831, and any refunds or reduction in tax allowed because of the use of a credit allowed under section 77-6831 shall be partially recaptured from either the taxpayer, the owner of the improvement to real estate, or the

qualified employee leasing company, and any carryovers of credits shall be partially disallowed. The amount of the recapture for each benefit 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 multiplied by the refunds, exemptions, or reductions in tax allowed, reduction in personal property tax, credits used, and the remaining carryovers. In addition, the last remaining year of personal property tax exemption shall be disallowed for each year the taxpayer did not maintain the qualified location or locations at or above the required levels of employment or investment.

(3) If the taxpayer receives any refund, exemption, or reduction in tax to which the taxpayer was not entitled or which was in excess of the amount to which the taxpayer was entitled, the refund, exemption, or reduction in tax shall be recaptured separate from any other recapture otherwise required by this section. Any amount recaptured under this subsection shall be excluded from the amounts subject to recapture under other subsections of this section.

(4) Any refunds, exemptions, 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 benefits were received in more than one year, the tax benefits received in the most recent year shall be recovered first and then the benefits received in earlier years up to the extent of the required recapture.

(5)(a) Any personal property tax that would have been due except for the exemption allowed under the ImagiNE Nebraska Act, to the extent it becomes due under this section, shall be considered delinquent and shall be immediately due and payable to the county or counties in which the property was located when exempted.

(b) All amounts received by a county under this section shall be allocated to each taxing unit levying taxes on tangible personal property in the county in the same proportion that the levy on tangible personal property of such taxing unit bears to the total levy of all of such taxing units.

(6) 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 benefit was allowed, whichever is later.

(7) Any amounts due under this section shall be recaptured notwithstanding other allowable credits and shall not be subsequently refunded under any provision of the ImagiNE Nebraska Act unless the recapture was in error.

(8) 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 2020, LB1107, § 33.

77-6834 Incentives; transferable; when; effect.

(1) The incentives allowed under the ImagiNE Nebraska Act shall not be transferable except in the following situations:

(a) 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, members, shareholders, patrons, or beneficiaries in the same manner as income is distributed for use against their income tax liabilities, and such partners, members, shareholders, or beneficiaries shall be deemed to have made an underpayment of their income taxes for any recapture required by section 77-6833. A credit distributed shall be considered a credit used and the 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, estate, or trust shall be liable for any repayment required by section 77-6833;

(b) The credit prescribed in subsection (4) of section 77-6831 may be transferred to a qualified employee leasing company from a taxpayer who is a client-lessee of the qualified employee leasing company with employees performing services at the qualified location or locations of the client-lessee. The credits transferred must be designated for a specific year and cannot be carried forward by the qualified employee leasing company. The credits may only be used by the qualified employee leasing company to offset the income tax withholding liability under section 77-2756 or 77-2757 for withholding for employees performing services for the client-lessee at the qualified location or locations. The offset to such withholding liability must be computed in accordance with subdivision (1)(b) of section 77-6832 based on wages paid to the employees by the qualified employee leasing company, and not the amount paid to the qualified employee leasing company by the client-lessee; and

(c) The incentives previously allowed and the future allowance of incentives may be transferred when an agreement is transferred in its entirety 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.

(2) The acquiring taxpayer, as of the date of notification to the director of the completed transfer, shall be entitled to any unused credits and to any future incentives allowable under the ImagiNE Nebraska Act.

(3) The acquiring taxpayer shall be liable for any recapture that becomes due after the date of the transfer for the repayment of any benefits received either before or after the transfer.

(4) If a taxpayer dies and there is a credit remaining after the filing of the final return for the taxpayer, the personal representative shall determine the distribution of the credit or any remaining carryover 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.

(5) The director may disclose information to the acquiring taxpayer about the agreement and prior benefits that is reasonably necessary to determine the future incentives and liabilities of the taxpayer.

Source: Laws 2020, LB1107, § 34.

77-6835 Refunds; interest not allowable.

Interest shall not be allowable on any refunds paid because of benefits earned under the ImagiNE Nebraska Act.

Source: Laws 2020, LB1107, § 35.

77-6836 Application; valid; when; director; Tax Commissioner; powers and duties.

(1) Any complete application shall be considered a valid application on the date submitted for the purposes of the ImagiNE Nebraska Act.

(2) The director shall be allowed access, by the Tax Commissioner, to information associated with the Nebraska Advantage Act, the Nebraska Advantage Rural Development Act, and the Employment and Investment Growth Act to meet the director's obligations under the ImagiNE Nebraska Act.

(3) The director may contract with the Tax Commissioner for services that the director determines are necessary to fulfill the director's responsibilities under the ImagiNE Nebraska Act, other than services which constitute the actual actions and decisions required to be taken or made by the director under the ImagiNE Nebraska Act.

(4) The Tax Commissioner shall develop and maintain an electronic application and reporting system to be used by the director and Tax Commissioner to administer the ImagiNE Nebraska Act.

Source: Laws 2020, LB1107, § 36.

Cross References

Employment and Investment Growth Act, see section 77-4101.
Nebraska Advantage Act, see section 77-5701.
Nebraska Advantage Rural Development Act, see section 77-27,187.

77-6837 Reports; contents; joint hearing.

(1) Beginning in 2021, the director and the Tax Commissioner shall jointly submit electronically an annual report for the previous fiscal year to the Legislature no later than October 31 of each year. The report shall be on a fiscal year, accrual basis that satisfies the requirements set by the Governmental Accounting Standards Board. The Department of Economic Development and the Department of Revenue shall together, on or before December 15 of each even-numbered 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) The report shall list (a) the agreements which have been signed during the previous year, (b) the agreements which are still in effect, (c) the identity of each taxpayer who is party to an agreement, and (d) the qualified location or locations.

(3) The report shall also state, for taxpayers who are parties to agreements, by industry group (a) the specific incentive options applied for under the ImagiNE Nebraska Act, (b) the refunds and reductions in tax allowed on the investment, (c) the credits earned, (d) the credits used to reduce the corporate income tax and the credits used to reduce the individual income tax, (e) the credits used to obtain sales and use tax refunds, (f) the credits used against withholding liability, (g) the credits used for job training, (h) the credits used for infrastructure development, (i) the number of jobs created under the act, (j) the expansion of capital investment, (k) the estimated wage levels of jobs created under the act subsequent to the application date, (l) the total number of qualified applicants, (m) the projected future state revenue gains and losses, (n) the sales tax refunds owed, (o) the credits outstanding under the act, (p) the

value of personal property exempted by class in each county under the act, (q) the total amount of the payments, (r) the amount of workforce training and infrastructure development loans issued, outstanding, repaid, and delinquent, and (s) the value of health coverage provided to employees at qualified locations during the year who are not base-year employees and who are paid the required compensation. The report shall include the estimate of the amount of sales and use tax refunds to be paid and tax credits to be used as were required for the October forecast under section 77-6839.

(4) In estimating the projected future state revenue gains and losses, the report shall detail the methodology utilized, state the economic multipliers and industry multipliers used to determine the amount of economic growth and positive tax revenue, describe the analysis used to determine the percentage of new jobs attributable to the ImagiNE Nebraska Act, and identify limitations that are inherent in the analysis method.

(5) The report shall provide an explanation of the audit and review processes of the Department of Economic Development and the Department of Revenue, as applicable, in approving and rejecting applications or the grant of incentives and in enforcing incentive recapture. The report shall also specify the median period of time between the date of application and the date the agreement is executed for all agreements executed by June 30 of the current year.

(6) The report shall provide information on agreement-specific total incentives used every two years for each agreement. The report shall disclose (a) the identity of the taxpayer, (b) the qualified location or locations, 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 agreement every two years containing information on two years of credits used and refunds approved. The incentives used shall include incentives which have been approved by the director or Tax Commissioner, as applicable, but not necessarily received, during the previous two years.

(7) The report shall include an executive summary which shows aggregate information for all agreements for which the information on incentives used in subsection (6) of this section is reported as follows: (a) The total incentives used by all taxpayers for agreements detailed in subsection (6) of this section during the previous two years; (b) the number of agreements; (c) the new jobs at the qualified location or locations for which credits have been granted; (d) the average compensation paid to employees in the state in the year of application and for the new jobs at the qualified location or locations; and (e) the total investment for which incentives were granted. The executive summary shall summarize the number of states which grant investment tax credits, job tax credits, sales and use tax refunds for qualified investment, and personal property tax exemptions and the investment and employment requirements under which they may be granted.

(8) No information shall be provided in the report or in supplemental information that is protected by state or federal confidentiality laws.

Source: Laws 2020, LB1107, § 37; Laws 2022, LB1150, § 22.

77-6838 Rules and regulations.

Except as otherwise stated in the ImagiNE Nebraska Act, the director, with input from the Tax Commissioner, may adopt and promulgate all procedures and rules and regulations necessary to carry out the purposes of the ImagiNE Nebraska Act.

Source: Laws 2020, LB1107, § 38.

77-6839 Tax incentives; estimates required; when; exceed base authority; limit on applications.

(1) The Department of Economic Development and the Department of Revenue shall jointly, on or before the fifteenth day of October and February of every year and the fifteenth day of April in odd-numbered years, make an estimate of the amount of sales and use tax refunds to be paid and tax credits to be used under the ImagiNE Nebraska Act during the fiscal years to be forecast under section 77-27,158. The estimate shall be based on the most recent data available, including pending and approved applications and updates thereof as are required by subdivision (1)(f) of section 77-6828. The estimate shall be forwarded to the Legislative Fiscal Analyst and the Nebraska Economic Forecasting Advisory Board and made a part of the advisory forecast required by section 77-27,158.

(2)(a) In addition to the estimates required under subsection (1) of this section, the Department of Economic Development shall, on or before the fifteenth day of October and February of every year, make an estimate of the amount of sales and use tax refunds to be paid and tax credits to be used under the ImagiNE Nebraska Act for each of the upcoming three calendar years and shall report such estimate to the Governor. The estimate shall be based on the most recent data available, including pending and approved applications and updates thereof as are required by subdivision (1)(f) of section 77-6828. If the estimate for any such calendar year exceeds the base authority:

(i) The Department of Economic Development shall prepare an analysis explaining why the estimate exceeds the base authority. The department shall include such analysis in the report it submits to the Governor under this subsection; and

(ii) The director shall not approve any additional applications under the ImagiNE Nebraska Act that would include refunds or credits in the calendar year in which the base authority is projected to be exceeded. Applications shall be considered in the order in which they are received. Any applications that are not approved because the base authority has been exceeded shall be placed on a wait list in the order in which they were received and shall be given first priority once applications may again be approved. Applications on the wait list retain the same application date and base year as if they had been approved within the time set forth in section 77-6827.

(b) For purposes of this section, base authority means the total amount of refunds and credits that may be approved in any calendar year. Notwithstanding any other provision of the ImagiNE Nebraska Act to the contrary, no refunds may be paid and no credits may be used in any calendar year in excess of the base authority for such calendar year. The base authority shall be equal to twenty-five million dollars for calendar years 2021 and 2022, one hundred million dollars for calendar years 2023 and 2024, and one hundred fifty million dollars for calendar year 2025. Beginning with calendar year 2026 and every

three years thereafter, the director shall adjust the base authority to an amount equal to three percent of the actual General Fund net receipts for the most recent fiscal year for which such information is available. Any amount of base authority that is unused in a calendar year shall carry forward to the following calendar year and shall be added to the limit applicable to such following calendar year, except that in no case shall the base authority for any calendar year prior to 2026 exceed four hundred million dollars.

Source: Laws 2020, LB1107, § 39; Laws 2022, LB1150, § 23.

77-6840 Employment and wage data information; Department of Labor; duty.

The Department of Labor shall, as requested, provide to the director and the Tax Commissioner the employment and wage data information necessary to meet the responsibilities of the director and Tax Commissioner under the ImagiNE Nebraska Act, to the extent the Department of Labor collects such information.

Source: Laws 2020, LB1107, § 40.

77-6841 Workforce training and infrastructure development; revolving loan program; legislative findings; Department of Economic Development; duties; ImagiNE Nebraska Revolving Loan Fund; created; use; investment.

(1) The Legislature finds that providing job training is critical to the public purpose of attracting and retaining businesses and that the growth of high-paying jobs in Nebraska is limited by an unmet need for workforce training and infrastructure development. The Legislature further finds that many communities in Nebraska lack the infrastructure, including broadband access, necessary to provide high-paying jobs for residents. The Legislature further finds that workforce training and infrastructure development help businesses and improve the quality of life for workers and communities in Nebraska. Because there is a statewide benefit from workforce training and infrastructure development, the Legislature intends to provide a revolving loan program as a rational means to address these needs.

(2) The Department of Economic Development shall establish and administer a revolving loan program for workforce training and infrastructure development expenses to be incurred by applicants for incentives under the ImagiNE Nebraska Act.

(3) The ImagiNE Nebraska Revolving Loan Fund is hereby created. The fund shall receive money from appropriations from the Legislature, grants, private contributions, repayment of loans, 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. It is the intent of the Legislature to transfer five million dollars from the General Fund to the ImagiNE Nebraska Revolving Loan Fund for fiscal years 2022-23 and 2023-24 for purposes of carrying out the workforce training and infrastructure development revolving loan program pursuant to the ImagiNE Nebraska Act. It is the intent of the Legislature to appropriate five million dollars for fiscal years 2022-23 and 2023-24 for purposes of carrying out the workforce training and infrastructure development revolving loan program pursuant to the ImagiNE Nebraska Act.

(4) The Department of Economic Development, as part of its comprehensive business development strategy, shall administer the ImagiNE Nebraska Revolving Loan Fund and may loan funds to applicants under the ImagiNE Nebraska Act to secure new, high-paying jobs in Nebraska based on the criteria established in sections 77-6842 and 77-6843. Loans made to applicants under the ImagiNE Nebraska Act and interest on such loans may be repaid using credits earned under the ImagiNE Nebraska Act. If that occurs, the Department of Revenue shall certify the credit usage to the State Treasurer, who shall, within thirty days, transfer the amount of the credit used from the General Fund to the ImagiNE Nebraska Revolving Loan Fund.

(5) If a taxpayer with an agreement under the ImagiNE Nebraska Act obtains a loan under this section and fails to attain the required minimum number of new employees, minimum compensation, and minimum required cumulative investment necessary for that taxpayer to earn a credit, the principal and interest of the loan shall be considered an underpayment of tax and may be recovered by the Department of Revenue.

(6) Whether repaid using credits or repaid directly by the recipient of the loan, loans made from the ImagiNE Nebraska Revolving Loan Fund shall be repaid with interest at the rate established in section 45-102.

Source: Laws 2020, LB1107, § 41.

Cross References

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

77-6842 Workforce training loan; application; partnering entities; loan approval; factors considered.

(1) A taxpayer with an application under the ImagiNE Nebraska Act may apply for a workforce training loan by submitting an application to the Department of Economic Development which includes, but is not limited to:

(a) The number of jobs to be created that will require training or the number of existing positions that will be trained;

(b) The nature of the business and the type of jobs to be created that will require training or positions to be trained;

(c) The estimated wage levels of the jobs to be created or positions to be trained; and

(d) A program schedule for the workforce training project.

(2) A taxpayer may partner with a postsecondary educational institution in Nebraska, a private, nonprofit educational organization in Nebraska holding a certificate of exemption under section 501(c)(3) of the Internal Revenue Code of 1986, as amended, a Nebraska educational service unit, or a school district in Nebraska to assist in providing the workforce training. The application shall specify the role of the partnering entity in identifying and training potential job applicants for the applicant business.

(3) The director shall determine whether to approve the taxpayer's application for a workforce training loan under the ImagiNE Nebraska Act based upon the director's determination as to whether the loan will help enable the state to accomplish the purposes stated in section 77-6841. The director shall be governed by and shall take into consideration all of the following factors in making such determination:

(a) The department's comprehensive business development strategy;

(b) The necessity of the loan to assure that the applicant will expand employment in Nebraska;

(c) The number of jobs to be created; and

(d) The expected pay of the jobs to be created.

Source: Laws 2020, LB1107, § 42.

77-6843 Infrastructure development loan; application; approval; factors considered.

(1) A taxpayer with an application under the ImagiNE Nebraska Act may apply for an infrastructure development loan by submitting an application to the Department of Economic Development which includes, but is not limited to:

(a) The nature of the business and the type and number of jobs to be created or retained;

(b) The estimated wage levels of the jobs to be created or retained; and

(c) A brief description of the infrastructure need that the loan is intended to fill.

(2) The director shall determine whether to approve the taxpayer's application for an infrastructure development loan under the ImagiNE Nebraska Act based upon the director's determination as to whether the loan will help enable the state to accomplish the purposes stated in section 77-6841. The director shall be governed by and shall take into consideration all of the following factors in making such determination:

(a) The department's comprehensive business development strategy;

(b) The necessity of the loan to assure that the applicant will expand employment in Nebraska;

(c) The number of jobs to be created; and

(d) The expected pay of the jobs to be created.

Source: Laws 2020, LB1107, § 43.

77-6844 Nebraska-based covered entity under federal law; application; approval; conditions; director; issue agreement, when.

(1) It is the intent of the Legislature that an application made by a taxpayer that is a Nebraska-based covered entity as defined in 15 U.S.C. 4651 under the Creating Helpful Incentives to Produce Semiconductors (CHIPS) for America Act, Public Law 116-283, be approved upon receipt if:

(a) The taxpayer's application contains the items listed in subsection (2) of section 77-6827; and

(b) The taxpayer's application meets the federal eligibility requirements of the Creating Helpful Incentives to Produce Semiconductors (CHIPS) for America Act, Public Law 116-283.

(2) Not more than thirty days after receipt and approval of an application under subsection (1) of this section, the director shall issue to such taxpayer a written agreement conforming to the requirements of sections 77-6828, 77-6845, and 77-6846.

Source: Laws 2023, LB92, § 82.

77-6845 Nebraska-based covered entity under federal law; agreement; contents; limitations.

(1) An agreement issued pursuant to section 77-6844 shall contain total incentives, refunds, and credits earned through the ImagiNE Nebraska Act sufficient to equal twenty-five percent of the taxpayer's investment in qualified property for the fabrication, assembly, testing, advanced packaging, or production of semiconductors or technologies with extensive microelectronic content. The director shall ensure that such agreement creates no additional obligation upon the General Fund.

(2) With respect to an application or agreement with a taxpayer that is a Nebraska-based covered entity as defined in 15 U.S.C. 4651 under the Creating Helpful Incentives to Produce Semiconductors (CHIPS) for America Act, Public Law 116-283:

(a) The provisions of section 77-6839 shall not apply, except that the annual credits and incentives redeemed by the taxpayer may be limited to one-fifteenth of the total credits and incentives eligible to be earned during a fifteen-year performance period, as defined by section 77-6816; and

(b) The taxpayer may not carryover earned but unused incentives past the performance period.

Source: Laws 2023, LB92, § 83.

77-6846 Nebraska-based covered entity under federal law; incentives or credits; use.

A taxpayer that is also a Nebraska-based covered entity as described in 15 U.S.C. 4651 that qualifies under the Creating Helpful Incentives to Produce Semiconductors (CHIPS) for America Act, Public Law 116-283, may use earned incentives or credits under the ImagiNE Nebraska Act:

(1) To obtain a refund from the state equal to the amount that the taxpayer demonstrates to the director was paid by the taxpayer after the date of the complete application to repay the principal or interest on revenue bonds issued by an inland port authority pursuant to section 13-3308;

(2) To provide financial assistance to public and private sector initiatives that are intended to improve Nebraska's ability to attract microelectronic-based enterprises, especially those incentivized under the Creating Helpful Incentives to Produce Semiconductors (CHIPS) for America Act, Public Law 116-283, by making necessary investments in the semiconductor industry and technologies with extensive microelectronic content, including, but not limited to, grants for the establishment of private sector entities for such purposes within eligible economically disadvantaged areas in Nebraska, as set forth in section 9902(a)(2)(B) of the Creating Helpful Incentives to Produce Semiconductors (CHIPS) for America Act, Public Law 116-283;

(3) To provide financial assistance to a community college located in a city of the metropolitan class working in collaboration with private sector partners and any interested university, college, other community college, and technical school located in this state to support education expansion and curricula development in order to meet the needs of the domestic semiconductor workforce in Nebraska as set forth in section 9902(a)(2)(B) of the Creating Helpful Incentives to Produce Semiconductors (CHIPS) for America Act, Public Law 116-283; and

(4) For any other eligible use authorized pursuant to the ImagiNE Nebraska Act.

Source: Laws 2023, LB92, § 84.

ARTICLE 69
URBAN REDEVELOPMENT ACT

Section
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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.

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.

77-6903 Additional definitions.

Any term has the same meaning as used in the Nebraska Revenue Act of 1967.

Source: Laws 2021, LB544, § 3.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

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.

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.

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.

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.

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.

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.

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.

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.

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 agreement.

Source: Laws 2021, LB544, § 12; Laws 2022, LB1261, § 17.

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.

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.

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.

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.

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.

77-6918 Year, defined.

Year means the taxable year of the taxpayer.

Source: Laws 2021, LB544, § 18.

77-6919 Incentives; application; contents; fee; approval; conditions; agreement; confidentiality; limitation on new applications.

(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 or locations where the new investment and employment will occur, including documentation to show that each 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 if he or she is satisfied that the qualified location or locations meet 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 increase the levels of employment and investment required by the act and the director, on behalf of the State of Nebraska, shall, 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; Laws 2022, LB1261, § 18.

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 or locations 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 or locations 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; Laws 2022, LB1261, § 19.

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.

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.

Cross References

Local Option Revenue Act, see section 77-27,148.
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.

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.

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 Develop-

ment 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.

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.

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.

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.

ARTICLE 70

MOTOR FUEL TAX CREDITS

(a) NEBRASKA HIGHER BLEND TAX CREDIT ACT

Section
77-7001. Act, how cited.
77-7002. Terms, defined.
77-7003. Tax credit; eligibility; amount; use; application.
77-7004. Tax credit; application; approval; limitation; department; duties.
77-7005. Tax credit; how claimed; excess; how treated.
77-7006. Tax credit; distribution.
77-7007. Limitation on new applications.
77-7008. Rules and regulations.

(b) NEBRASKA BIODIESEL TAX CREDIT ACT

77-7009. Nebraska Biodiesel Tax Credit Act, how cited.
77-7010. Terms, defined.
77-7011. Tax credit; eligibility; amount; use; application.
77-7012. Tax credit; application; approval; limitation; department; duties.
77-7013. Tax credit; how claimed; excess; how treated.
77-7014. Tax credit; distribution.
77-7015. Limitation on new applications.
77-7016. Rules and regulations.

(c) SUSTAINABLE AVIATION FUEL TAX CREDIT ACT

77-7017. Sustainable Aviation Fuel Tax Credit Act, how cited.
77-7018. Terms, defined.
77-7019. Tax credit; amount; qualifications; application; approval; annual limit.

Section
77-7020. Tax credit; distribution.
77-7021. Rules and regulations.
77-7022. Act; termination.

(a) NEBRASKA HIGHER BLEND TAX CREDIT ACT

77-7001 Act, how cited.

Sections 77-7001 to 77-7008 shall be known and may be cited as the Nebraska Higher Blend Tax Credit Act.

Source: Laws 2022, LB1261, § 1.

77-7002 Terms, defined.

For purposes of the Nebraska Higher Blend Tax Credit Act:

(1) Department means the Department of Revenue;

(2) E-15 means ethanol blended gasoline formulated with a percentage of more than ten percent but no more than fifteen percent by volume of ethanol;

(3) E-25 means ethanol blended gasoline formulated with a percentage of twenty-five percent by volume of ethanol;

(4) E-30 means ethanol blended gasoline formulated with a percentage of thirty percent by volume of ethanol;

(5) E-85 means ethanol blended gasoline formulated with a percentage of fifty-one percent to eighty-three percent by volume of ethanol;

(6) Motor fuel pump means a meter or similar commercial weighing and measuring device used to measure and dispense motor fuel originating from a motor fuel storage tank;

(7) Retail dealer means a person engaged in the business of storing and dispensing motor fuel from a motor fuel pump for sale on a retail basis;

(8) Retail motor fuel site means a geographic location in this state where a retail dealer sells and dispenses motor fuel from a motor fuel pump on a retail basis; and

(9) Taxpayer means any natural person or any limited liability company, partnership, private domestic or private foreign corporation, or domestic or foreign nonprofit corporation certified pursuant to section 501(c)(3) of the Internal Revenue Code of 1986, as amended.

Source: Laws 2022, LB1261, § 2; Laws 2023, LB562, § 20.

77-7003 Tax credit; eligibility; amount; use; application.

(1) Any taxpayer who is a retail dealer and who sold and dispensed E-15 or higher blend on a retail basis during the prior calendar year through a motor fuel pump located at the taxpayer's retail motor fuel site shall be eligible to receive tax credits under the Nebraska Higher Blend Tax Credit Act.

(2)(a) Through calendar year 2023, the tax credit shall be in an amount equal to (i) five cents multiplied by the total number of gallons of E-15 sold by the taxpayer on a retail basis during the prior calendar year through a motor fuel pump located at the taxpayer's retail motor fuel site and (ii) eight cents multiplied by the total number of gallons of E-25 or higher blend sold by the taxpayer on a retail basis during the prior calendar year through a motor fuel pump located at the taxpayer's retail motor fuel site.

(b) For calendar year 2024, the tax credit shall be in an amount equal to eight cents multiplied by the total number of gallons of E-15 or higher blend sold by the taxpayer on a retail basis during the prior calendar year through a motor fuel pump located at the taxpayer's retail motor fuel site.

(c) For calendar year 2025, the tax credit shall be in an amount equal to nine cents multiplied by the total number of gallons of E-15 or higher blend sold by the taxpayer on a retail basis during the prior calendar year through a motor fuel pump located at the taxpayer's retail motor fuel site.

(d) For calendar year 2026, the tax credit shall be in an amount equal to eight cents multiplied by the total number of gallons of E-15 or higher blend sold by the taxpayer on a retail basis during the prior calendar year through a motor fuel pump located at the taxpayer's retail motor fuel site.

(e) For calendar year 2027, the tax credit shall be in an amount equal to seven cents multiplied by the total number of gallons of E-15 or higher blend sold by the taxpayer on a retail basis during the prior calendar year through a motor fuel pump located at the taxpayer's retail motor fuel site.

(f) For calendar year 2028, the tax credit shall be in an amount equal to five cents multiplied by the total number of gallons of E-15 or higher blend sold by the taxpayer on a retail basis during the prior calendar year through a motor fuel pump located at the taxpayer's retail motor fuel site.

(3) The tax credit shall be a refundable credit that may be used against any income tax imposed by the Nebraska Revenue Act of 1967 or any tax imposed pursuant to sections 77-907 to 77-918 or 77-3801 to 77-3807.

(4) Tax credits allowed under this section may be claimed for taxable years beginning or deemed to begin on or after January 1, 2022, under the Internal Revenue Code of 1986, as amended.

(5) To receive tax credits, a taxpayer shall submit an application to the department on a form prescribed by the department. The application shall include the following information:

(a) The name and address of the taxpayer;

(b) The total number of gallons of E-15 sold by the taxpayer on a retail basis during the prior calendar year through a motor fuel pump located at the taxpayer's retail motor fuel site;

(c) The total number of gallons of E-25 sold by the taxpayer on a retail basis during the prior calendar year through a motor fuel pump located at the taxpayer's retail motor fuel site;

(d) The total number of gallons of E-30 sold by the taxpayer on a retail basis during the prior calendar year through a motor fuel pump located at the taxpayer's retail motor fuel site;

(e) The total number of gallons of E-85 sold by the taxpayer on a retail basis during the prior calendar year through a motor fuel pump located at the taxpayer's retail motor fuel site; and

(f) Any other documentation required by the department.

Source: Laws 2022, LB1261, § 3; Laws 2023, LB562, § 21.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

77-7004 Tax credit; application; approval; limitation; department; duties.

(1) If the department determines that an application is complete and that the taxpayer qualifies for tax credits, the department shall approve the application within the limits set forth in this section and shall certify the amount of tax credits approved to the taxpayer.

(2) The department shall consider applications in the order in which they are received and may approve tax credits until the annual limit for the calendar year has been reached. For calendar year 2022, the annual limit on tax credits shall be two million dollars. For calendar year 2023, the annual limit on tax credits shall be calculated by taking the annual limit from the prior calendar year and then multiplying such amount by (a) two hundred percent if the amount of tax credits approved in the prior calendar year exceeded ninety percent of the annual limit applicable to that calendar year or (b) one hundred percent if the amount of tax credits approved in the prior calendar year did not exceed ninety percent of the annual limit applicable to that calendar year. For calendar years 2024 through 2028, the annual limit on tax credits shall be five million dollars.

Source: Laws 2022, LB1261, § 4; Laws 2023, LB562, § 22.

77-7005 Tax credit; how claimed; excess; how treated.

(1) A taxpayer shall claim the tax credit by attaching the tax credit certification received from the department under section 77-7004 to the taxpayer's tax return.

(2) Any credit in excess of the taxpayer's tax liability shall be refunded to the taxpayer. In lieu of claiming a refund, the taxpayer may elect to have the excess carried forward to subsequent taxable years. A taxpayer may carry forward the excess tax credits until fully utilized.

Source: Laws 2022, LB1261, § 5.

77-7006 Tax credit; distribution.

Any tax credit allowable to a partnership, a limited liability company, a subchapter S corporation, or an estate or trust may be distributed to the partners, limited liability company members, shareholders, or beneficiaries in the same manner as income is distributed.

Source: Laws 2022, LB1261, § 6.

77-7007 Limitation on new applications.

There shall be no new applications filed under the Nebraska Higher Blend Tax Credit Act after December 31, 2028. All applications and all tax credits pending or approved before such date shall continue in full force and effect.

Source: Laws 2022, LB1261, § 7; Laws 2023, LB562, § 23.

77-7008 Rules and regulations.

The department may adopt and promulgate rules and regulations to carry out the Nebraska Higher Blend Tax Credit Act.

Source: Laws 2022, LB1261, § 8.

(b) NEBRASKA BIODIESEL TAX CREDIT ACT

77-7009 Nebraska Biodiesel Tax Credit Act, how cited.

Sections 77-7009 to 77-7016 shall be known and may be cited as the Nebraska Biodiesel Tax Credit Act.

Source: Laws 2023, LB727, § 1.

77-7010 Terms, defined.

For purposes of the Nebraska Biodiesel Tax Credit Act:

(1) Biodiesel means mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats which conform to American Society for Testing and Materials D6751 specifications for use in diesel engines. Biodiesel refers to the pure fuel with less than one percent blended with diesel fuel;

(2) Department means the Department of Revenue;

(3) Motor fuel pump means a meter or similar commercial weighing and measuring device used to measure and dispense motor fuel originating from a motor fuel storage tank;

(4) Retail dealer means a person engaged in the business of storing and dispensing motor fuel from a motor fuel pump for sale on a retail basis;

(5) Retail motor fuel site means a geographic location in this state where a retail dealer sells and dispenses motor fuel from a motor fuel pump on a retail basis, including a permanent or mobile location; and

(6) Taxpayer means any natural person or any limited liability company, partnership, private domestic or private foreign corporation, or domestic or foreign nonprofit corporation certified pursuant to section 501(c)(3) of the Internal Revenue Code of 1986, as amended.

Source: Laws 2023, LB727, § 2.

77-7011 Tax credit; eligibility; amount; use; application.

(1) Any taxpayer who is a retail dealer and who sold and dispensed biodiesel on a retail basis during the prior calendar year through a motor fuel pump located at the taxpayer's retail motor fuel site shall be eligible to receive tax credits under the Nebraska Biodiesel Tax Credit Act.

(2) The tax credit shall be in an amount equal to fourteen cents multiplied by the total number of gallons of biodiesel sold by the taxpayer on a retail basis during the prior calendar year through a motor fuel pump located at the taxpayer's retail motor fuel site. If the product sold by the taxpayer is a blend of biodiesel and diesel fuel, the tax credit shall only apply to the portion of the product that is biodiesel.

(3) The tax credit shall be a refundable credit that may be used against the income tax imposed by the Nebraska Revenue Act of 1967.

(4) Tax credits allowed under this section may be claimed for taxable years beginning or deemed to begin on or after January 1, 2024, under the Internal Revenue Code of 1986, as amended.

(5) To receive tax credits, a taxpayer shall submit an application to the department on a form prescribed by the department. Applications may be submitted from January 1 to April 15 of each calendar year beginning in 2024. The application shall include the following information:

(a) The name and address of the taxpayer;

(b) The total number of gallons of biodiesel sold by the taxpayer on a retail basis during the prior calendar year through a motor fuel pump located at the taxpayer's retail motor fuel site; and

(c) Any other documentation required by the department.

Source: Laws 2023, LB727, § 3; Laws 2024, LB1095, § 4.
Effective date July 19, 2024.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

77-7012 Tax credit; application; approval; limitation; department; duties.

(1) If the department determines that an application is complete and that the taxpayer qualifies for tax credits, the department shall approve the application within the limits set forth in this section and shall certify the amount of tax credits approved to the taxpayer.

(2) The department may approve up to one million dollars in tax credits in fiscal year 2024-25 and up to one million five hundred thousand dollars in tax credits in any fiscal year thereafter. If the total amount of tax credits requested in any fiscal year exceeds such limit, the department shall allocate the tax credits proportionally based upon amounts requested.

Source: Laws 2023, LB727, § 4; Laws 2024, LB937, § 81.
Operative date July 19, 2024.

77-7013 Tax credit; how claimed; excess; how treated.

(1) A taxpayer shall claim the tax credit by attaching the tax credit certification received from the department under section 77-7012 to the taxpayer's tax return.

(2) Any credit in excess of the taxpayer's tax liability shall be refunded to the taxpayer. In lieu of claiming a refund, the taxpayer may elect to have the excess carried forward to subsequent taxable years. A taxpayer may carry forward the excess tax credits until fully utilized.

Source: Laws 2023, LB727, § 5.

77-7014 Tax credit; distribution.

Any tax credit allowable to a partnership, a limited liability company, a subchapter S corporation, a cooperative corporation, or an estate or trust may be distributed to the partners, limited liability company members, shareholders, cooperative members, or beneficiaries in the same manner as income is distributed.

Source: Laws 2023, LB727, § 6.

77-7015 Limitation on new applications.

There shall be no new applications filed under the Nebraska Biodiesel Tax Credit Act after December 31, 2029. All applications and all tax credits pending or approved before such date shall continue in full force and effect.

Source: Laws 2023, LB727, § 7; Laws 2024, LB937, § 82.
Operative date July 19, 2024.

77-7016 Rules and regulations.

The department may adopt and promulgate rules and regulations to carry out the Nebraska Biodiesel Tax Credit Act.

Source: Laws 2023, LB727, § 8.

(c) SUSTAINABLE AVIATION FUEL TAX CREDIT ACT

77-7017 Sustainable Aviation Fuel Tax Credit Act, how cited.

Sections 77-7017 to 77-7022 shall be known and may be cited as the Sustainable Aviation Fuel Tax Credit Act.

Source: Laws 2024, LB937, § 50.
Operative date July 19, 2024.
Termination date January 1, 2035.

77-7018 Terms, defined.

For purposes of the Sustainable Aviation Fuel Tax Credit Act:

(1) Applicable material means:

(a) Monoglycerides, diglycerides, and triglycerides;

(b) Free fatty acids; and

(c) Fatty acid esters;

(2) Applicable supplementary amount means an amount equal to one cent for each percentage point by which the lifecycle greenhouse gas emissions reduction percentage of the sustainable aviation fuel exceeds fifty percent. In no event shall the applicable supplementary amount determined under this subdivision exceed fifty cents;

(3) Biomass has the same meaning as in 26 U.S.C. 45K(c)(3), as such section existed on January 1, 2024;

(4) Department means the Department of Revenue;

(5) Lifecycle greenhouse gas emissions reduction percentage means the percentage reduction in lifecycle greenhouse gas emissions achieved by sustainable aviation fuel as compared with petroleum-based jet fuel, as defined in accordance with:

(a) The most recent Carbon Offsetting and Reduction Scheme for International Aviation which has been adopted by the International Civil Aviation Organization with the agreement of the United States; or

(b) Any similar methodology which satisfies the criteria under 42 U.S.C. 7545(o)(1)(H), as such section existed on January 1, 2024;

(6) Qualified mixture means a mixture of sustainable aviation fuel and kerosene if:

(a) Such mixture is produced by the taxpayer in the United States;

(b) Such mixture is used by the taxpayer or sold by the taxpayer for use in an aircraft;

(c) Such sale or use is in the ordinary course of a trade or business of the taxpayer; and

(d) The transfer of such mixture to the fuel tank of such aircraft occurs in the United States; and

(7) Sustainable aviation fuel means liquid fuel, the portion of which is not kerosene, which:

(a) Meets the requirements of:

(i) The American Society for Testing and Materials International Standard D7566; or

(ii) The Fischer-Tropsch provisions of the American Society for Testing and Materials International Standard D1655, Annex A1;

(b) Is not derived from coprocessing an applicable material or materials derived from an applicable material with a feedstock which is not biomass;

(c) Is not derived from palm or palm derivatives; and

(d) Has been certified as having a lifecycle greenhouse gas emissions reduction percentage of at least fifty percent, as determined by a test that shows that:

(i) The fuel production pathway achieves at least a fifty percent reduction of the aggregate attributional core lifecycle emissions and the positive induced land use change values under the lifecycle methodology for sustainable aviation fuels adopted by the International Civil Aviation Organization with the agreement of the United States; or

(ii) The fuel production pathway achieves at least a fifty percent reduction of the aggregate attributional core lifecycle greenhouse gas emissions values utilizing the most recent version of Argonne National Laboratory's GREET model, inclusive of agricultural practices and carbon capture and sequestration.

Source: Laws 2024, LB937, § 51.
Operative date July 19, 2024.
Termination date January 1, 2035.

77-7019 Tax credit; amount; qualifications; application; approval; annual limit.

(1) For taxable years beginning or deemed to begin on or after January 1, 2027, under the Internal Revenue Code of 1986, as amended, there shall be allowed a credit against the income tax imposed by the Nebraska Revenue Act of 1967 or any tax imposed pursuant to sections 77-907 to 77-918 or 77-3801 to 77-3807 to any producer of sustainable aviation fuel for any sale or use of a qualified mixture.

(2) The credit shall be a nonrefundable credit and the amount of the credit shall be equal to the number of gallons of sustainable aviation fuel in all sold or used qualified mixtures multiplied by the sum of seventy-five cents plus the applicable supplementary amount.

(3) In order to qualify for the credit under this section, a producer of sustainable aviation fuel shall:

(a) Register with the department as a producer of sustainable aviation fuel; and

(b) Provide:

(i) Certification in such form and manner as prescribed by the department from an unrelated party demonstrating compliance with:

(A) Any general requirements, supply chain traceability requirements, and information transmission requirements established under the Carbon Offsetting

and Reduction Scheme for International Aviation described in subdivision (5)(a) of section 77-7018; or

(B) In the case of any methodology described in subdivision (5)(b) of section 77-7018, requirements similar to the requirements described in subdivision (3)(b)(i)(A) of this section; and

(ii) Any other information the department may require.

(4) A producer of sustainable aviation fuel shall only claim the credit under this section in a total of five taxable years.

(5) A producer of sustainable aviation fuel shall apply for the credit provided in this section by submitting an application to the department on a form prescribed by the department. Subject to subsection (6) of this section, if the department determines that the producer of sustainable aviation fuel qualifies for tax credits under this section, the department shall approve the application and certify the amount of credits approved to the producer of sustainable aviation fuel.

(6) The department shall consider applications in the order in which they are received and may approve tax credits under this section in any fiscal year until the aggregate limit allowed under subsection (7) of this section has been reached.

(7) The department may approve tax credits under this section each fiscal year until the total amount of credits approved for the fiscal year reaches five hundred thousand dollars.

(8) A producer of sustainable aviation fuel shall claim any tax credits granted under this section by attaching the tax credit certification received from the department under subsection (5) of this section to the producer's tax return.

Source: Laws 2024, LB937, § 52.
Operative date July 19, 2024.
Termination date January 1, 2035.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

77-7020 Tax credit; distribution.

Any tax credit allowable to a partnership, a limited liability company, a subchapter S corporation, or an estate or trust may be distributed to the partners, limited liability company members, shareholders, or beneficiaries in the same manner as income is distributed.

Source: Laws 2024, LB937, § 53.
Operative date July 19, 2024.
Termination date January 1, 2035.

77-7021 Rules and regulations.

The department may adopt and promulgate rules and regulations to carry out the Sustainable Aviation Fuel Tax Credit Act.

Source: Laws 2024, LB937, § 54.
Operative date July 19, 2024.
Termination date January 1, 2035.

77-7022 Act; termination.

The Sustainable Aviation Fuel Tax Credit Act terminates on January 1, 2035.

Source: Laws 2024, LB937, § 55.
Operative date July 19, 2024.
Termination date January 1, 2035.

ARTICLE 71

OPPORTUNITY SCHOLARSHIPS ACT

Section
77-7101. Repealed. Laws 2024, LB1402, § 7.
77-7102. Repealed. Laws 2024, LB1402, § 7.
77-7103. Repealed. Laws 2024, LB1402, § 7.
77-7104. Repealed. Laws 2024, LB1402, § 7.
77-7105. Repealed. Laws 2024, LB1402, § 7.
77-7106. Repealed. Laws 2024, LB1402, § 7.
77-7107. Repealed. Laws 2024, LB1402, § 7.
77-7108. Repealed. Laws 2024, LB1402, § 7.
77-7109. Repealed. Laws 2024, LB1402, § 7.
77-7110. Repealed. Laws 2024, LB1402, § 7.
77-7111. Repealed. Laws 2024, LB1402, § 7.
77-7112. Repealed. Laws 2024, LB1402, § 7.
77-7113. Repealed. Laws 2024, LB1402, § 7.

77-7101 Repealed. Laws 2024, LB1402, § 7.
Operative date October 31, 2024.

77-7102 Repealed. Laws 2024, LB1402, § 7.
Operative date October 31, 2024.

77-7103 Repealed. Laws 2024, LB1402, § 7.
Operative date October 31, 2024.

77-7104 Repealed. Laws 2024, LB1402, § 7.
Operative date October 31, 2024.

77-7105 Repealed. Laws 2024, LB1402, § 7.
Operative date October 31, 2024.

77-7106 Repealed. Laws 2024, LB1402, § 7.
Operative date October 31, 2024.

77-7107 Repealed. Laws 2024, LB1402, § 7.
Operative date October 31, 2024.

77-7108 Repealed. Laws 2024, LB1402, § 7.
Operative date October 31, 2024.

77-7109 Repealed. Laws 2024, LB1402, § 7.
Operative date October 31, 2024.

77-7110 Repealed. Laws 2024, LB1402, § 7.
Operative date October 31, 2024.

77-7111 Repealed. Laws 2024, LB1402, § 7.
Operative date October 31, 2024.

77-7112 Repealed. Laws 2024, LB1402, § 7.
Operative date October 31, 2024.

77-7113 Repealed. Laws 2024, LB1402, § 7.
Operative date October 31, 2024.

ARTICLE 72
CHILD CARE TAX CREDIT ACT

Section
77-7201. Act, how cited.
77-7202. Terms, defined.
77-7203. Parent or legal guardian; tax credit; eligibility; amount; application; approval, conditions.
77-7204. Taxpayer; qualifying contribution; tax credit; amount; eligibility; application; approval, conditions.
77-7205. Rules and regulations.

77-7201 Act, how cited.

Sections 77-7201 to 77-7205 shall be known and may be cited as the Child Care Tax Credit Act.

Source: Laws 2023, LB754, § 1.

77-7202 Terms, defined.

For purposes of the Child Care Tax Credit Act:

(1) Child means an individual who is five years of age or less;

(2) Department means the Department of Revenue;

(3) Eligible program means a program that is licensed as a family child care home I, family child care home II, child care center, or preschool and operates as a for-profit child care business or is a nonprofit organization under the Internal Revenue Code of 1986, as amended;

(4) Intermediary means any organization that distributes funds for the purpose of supporting an eligible program;

(5) Parent or legal guardian means an individual who claims a child as a dependent for federal income tax purposes;

(6) Qualifying contribution means a contribution in the form of cash, check, cash equivalent, agricultural commodity, livestock, or publicly traded security that is made:

(a) For the establishment or operation of an eligible program;

(b) For the establishment of a grant or loan program for parents requiring financial assistance for an eligible program;

(c) To an early childhood collaborative or another intermediary to provide training, technical assistance, or mentorship to child care providers;

(d) For the establishment or ongoing costs of an information dissemination program that assists parents with information and referral services for child care;

(e) To a for-profit child care business, including family home providers. The for-profit child care business must use the proceeds of a qualifying contribution for (i) the acquisition or improvement of child care facilities, (ii) the acquisition of equipment, (iii) providing services, or (iv) employee retention; or

(f) To an intermediary for the establishment or operation of an eligible program or for the establishment of a grant or loan program for parents requiring financial assistance for an eligible program;

(7) Taxpayer means any person subject to the income tax imposed by the Nebraska Revenue Act of 1967. The term includes resident and nonresident individuals, estates, trusts, and corporations; and

(8) Total household income means federal modified adjusted gross income.

Source: Laws 2023, LB754, § 2.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

77-7203 Parent or legal guardian; tax credit; eligibility; amount; application; approval, conditions.

(1) For taxable years beginning or deemed to begin on or after January 1, 2024, under the Internal Revenue Code of 1986, as amended, a parent or legal guardian shall be eligible to receive a credit against the income tax imposed by the Nebraska Revenue Act of 1967 if:

(a) The parent's or legal guardian's child is enrolled in a child care program licensed pursuant to the Child Care Licensing Act;

(b) The parent's or legal guardian's child receives care from an approved license-exempt provider enrolled in the child care subsidy program pursuant to sections 68-1202 and 68-1206; or

(c) The parent's or legal guardian's total household income is less than or equal to one hundred percent of the federal poverty level.

(2) The credit provided in this section shall be a refundable tax credit equal to:

(a) Two thousand dollars per child if the parent's or legal guardian's total household income is no more than seventy-five thousand dollars; or

(b) One thousand dollars per child if the parent's or legal guardian's total household income is more than seventy-five thousand dollars but no more than one hundred fifty thousand dollars.

(3) A parent or legal guardian shall not be eligible for a credit under this section if the parent's or legal guardian's total household income is more than one hundred fifty thousand dollars.

(4) A parent or legal guardian shall apply for the credit provided in this section by submitting an application to the department with the following information:

(a) The number of children for which the parent or legal guardian is claiming a credit;

(b) Documentation of the parent's or legal guardian's total household income; and

(c) Any other documentation required by the department.

(5) Subject to subsection (6) of this section, if the department determines that the parent or legal guardian qualifies for tax credits under this section, the department shall approve the application and certify the amount of credits approved to the parent or legal guardian.

(6) The department shall consider applications in the order in which they are received and may approve tax credits under this section each year until the total amount of credits approved for the year equals fifteen million dollars.

Source: Laws 2023, LB754, § 3.

Cross References

Child Care Licensing Act, see section 71-1908.
Nebraska Revenue Act of 1967, see section 77-2701.

77-7204 Taxpayer; qualifying contribution; tax credit; amount; eligibility; application; approval, conditions.

(1) For taxable years beginning or deemed to begin on or after January 1, 2024, under the Internal Revenue Code of 1986, as amended, any taxpayer who makes a qualifying contribution during the taxable year shall be eligible to receive a credit against the income tax imposed by the Nebraska Revenue Act of 1967.

(2) The credit provided in this section shall be a nonrefundable credit equal to either one hundred percent or seventy-five percent of the taxpayer's qualifying contribution made during the taxable year, except that the credit for a taxpayer shall not exceed one hundred thousand dollars for any single taxable year.

(3) The credit shall be equal to one hundred percent of the qualifying contribution if:

(a) The eligible program that receives the contribution has a physical presence in an opportunity zone in this state designated pursuant to the federal Tax Cuts and Jobs Act, Public Law 115-97; or

(b) The eligible program that receives the contribution has at least one child enrolled in the child care subsidy program established pursuant to sections 68-1202 and 68-1206 and the child care provider is actively caring and billing for the child as verified by the Department of Health and Human Services. Attracting child care providers into the child care subsidy program and retaining providers in the program are directly connected to the administration of the program. Verifying that the child care provider is actively caring and billing for an eligible child is in furtherance of the child care subsidy program. The Department of Revenue shall not use any verification information obtained from the Department of Health and Human Services except for purposes directly connected with the administration of the Child Care Tax Credit Act.

(4) The credit shall be equal to seventy-five percent of the qualifying contribution if subsection (3) of this section does not apply.

(5) A taxpayer shall not be eligible for the credit provided in this section if the taxpayer claimed a charitable contribution deduction for the qualifying contribution on the taxpayer's federal income tax return.

(6) A taxpayer shall apply for the credit provided in this section by submitting an application to the department with the following information:

(a) Documentation to show that the contribution is a qualifying contribution; and

(b) Any other documentation required by the department.

(7) Subject to subsection (8) of this section, if the department determines that the taxpayer qualifies for tax credits under this section, the department shall

approve the application and certify the amount of credits approved to the taxpayer.

(8) The department shall consider applications in the order in which they are received and may approve tax credits under this section each year until the total amount of credits approved for the year equals two million five hundred thousand dollars.

(9) If a taxpayer's credit under this section exceeds the total tax due, the taxpayer may carry forward the excess credit for up to five taxable years after the taxable year in which the credit was first allowed, but the taxpayer must use the carryover credit in the earliest taxable year possible.

(10) A contribution shall not qualify for a credit under this section if the contribution is made to a child care provider in which the taxpayer or a person related to the taxpayer has a financial interest, unless the contribution is part of a bona fide arm's length transaction.

Source: Laws 2023, LB754, § 4.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

77-7205 Rules and regulations.

The department may adopt and promulgate rules and regulations to carry out the Child Care Tax Credit Act.

Source: Laws 2023, LB754, § 5.

ARTICLE 73

SCHOOL DISTRICT PROPERTY TAX RELIEF ACT

Section
77-7301. Act, how cited.
77-7302. Purpose of act.
77-7303. Terms, defined
77-7304. School District Property Tax Relief Credit Fund; created; use; investment; fund transfers.
77-7305. Property tax credit; amount; county treasurer; duties; disbursement to counties and school districts.

77-7301 Act, how cited.

Sections 77-7301 to 77-7305 shall be known and may be cited as the School District Property Tax Relief Act.

Source: Laws 2024, First Spec. Sess., LB34, § 9.
Effective date August 21, 2024.

77-7302 Purpose of act.

The purpose of the School District Property Tax Relief Act is to provide property tax relief for property taxes levied against real property by school districts. The property tax relief will be made to owners of real property in the form of a property tax credit.

Source: Laws 2024, First Spec. Sess., LB34, § 10.
Effective date August 21, 2024.

77-7303 Terms, defined.

For purposes of the School District Property Tax Relief Act:

(1) School district has the same meaning as in section 79-101; and

(2) School district taxes means property taxes levied on real property in this state by a school district or multiple-district school system, excluding any property taxes levied for bonded indebtedness and any property taxes levied as a result of an override of limits on property tax levies approved by voters pursuant to section 77-3444.

Source: Laws 2024, First Spec. Sess., LB34, § 11.
Effective date August 21, 2024.

77-7304 School District Property Tax Relief Credit Fund; created; use; investment; fund transfers.

(1) The School District Property Tax Relief Credit Fund is created. The fund shall only be used pursuant to the School District Property Tax Relief 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)(a) The State Treasurer shall transfer seven hundred fifty million dollars from the General Fund to the School District Property Tax Relief Credit Fund in fiscal year 2024-25, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

(b) It is the intent of the Legislature that seven hundred eighty million dollars be transferred from the General Fund to the School District Property Tax Relief Credit Fund in fiscal year 2025-26.

(c) It is the intent of the Legislature that eight hundred eight million dollars be transferred from the General Fund to the School District Property Tax Relief Credit Fund in fiscal year 2026-27.

(d) It is the intent of the Legislature that eight hundred thirty-eight million dollars be transferred from the General Fund to the School District Property Tax Relief Credit Fund in fiscal year 2027-28.

(e) It is the intent of the Legislature that eight hundred seventy million dollars be transferred from the General Fund to the School District Property Tax Relief Credit Fund in fiscal year 2028-29.

(f) It is the intent of the Legislature that nine hundred two million dollars be transferred from the General Fund to the School District Property Tax Relief Credit Fund in fiscal year 2029-30.

(g) It is the intent of the Legislature that the amount transferred from the General Fund to the School District Property Tax Relief Credit Fund in fiscal year 2030-31 and each fiscal year thereafter be equal to the total amount transferred in the preceding fiscal year increased by three percent.

Source: Laws 2024, First Spec. Sess., LB34, § 12.
Effective date August 21, 2024.

Cross References

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

77-7305 Property tax credit; amount; county treasurer; duties; disbursement to counties and school districts.

(1) The School District Property Tax Relief Act shall apply to tax year 2024 and each tax year thereafter. For tax year 2024, the total amount of relief granted under the act shall be seven hundred fifty million dollars. For tax year 2025, the total amount of relief granted under the act shall be seven hundred eighty million dollars. For tax year 2026, the total amount of relief granted under the act shall be eight hundred eight million dollars. For tax year 2027, the total amount of relief granted under the act shall be eight hundred thirty-eight million dollars. For tax year 2028, the total amount of relief granted under the act shall be eight hundred seventy million dollars. For tax year 2029, the total amount of relief granted under the act shall be nine hundred two million dollars. For tax year 2030 and each tax year thereafter, the total amount of relief granted under the act shall be the total amount of relief from the prior year increased by three percent. The relief shall be in the form of property tax credits which appear on property tax statements. Property tax credits granted under the act shall be credited against the amount of property taxes owed to school districts.

(2) To determine the amount of the property tax credit for each parcel, the county treasurer shall multiply the amount disbursed to the county under subsection (4) of this section by the ratio of the school district taxes levied in the prior year on the parcel to the school district taxes levied in the prior year on all real property in the county. The amount so determined shall be the property tax credit for that parcel.

(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 property tax credit provided in this section to the extent of any remaining liability after calculation of the homestead exemption. If the property tax credit provided in this section 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 School District Property Tax Relief Credit 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 school district in the county in the year the funds were returned and the amount of unused credits returned.

(4) The amount disbursed to each county under this section shall be equal to the amount available for disbursement under subsection (1) of this section multiplied by the ratio of the school district taxes levied in the prior year on all real property in the county to the school district taxes levied in the prior year on all real property in the state. By September 15, 2024, and by September 15 of each year thereafter, the Property Tax Administrator shall determine the amount to be disbursed under this subsection to each county and shall 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.

(5) The county treasurer shall disburse amounts received under subsection (4) of this section, which are credited against the amount of property taxes owed to

school districts, in the same manner as if such funds had been received in the form of property tax payments for property taxes owed to school districts, meaning any amounts attributable to divided taxes pursuant to section 18-2147 of the Community Development Law shall be remitted to the applicable authority for which such taxes were divided.

(6) The School District Property Tax Relief Credit Fund shall be used for purposes of making the disbursements to counties required under subsection (4) of this section.

Source: Laws 2024, First Spec. Sess., LB34, § 13.
Effective date August 21, 2024.

Cross References

Community Development Law, see section 18-2101.

UNIFORM COMMERCIAL CODE

Article.

1. General Provisions.
   - Part 1. General Provisions. 1-112.
   - Part 2. General Definitions and Principles of Interpretation. 1-201, 1-204.
   - Part 3. Territorial Applicability and General Rules. 1-301, 1-306.
2. Sales.
   - Part 1. Short Title, General Construction, and Subject Matter. 2-102, 2-106.
   - Part 2. Form, Formation, and Readjustment of Contract. 2-201 to 2-209.

2A. Leases.
   - Part 1. General Provisions. 2A-102 to 2A-107.
   - Part 2. Formation and Construction of Lease Contract. 2A-201 to 2A-208.

3. Negotiable Instruments.
   - Part 1. General Provisions and Definitions. 3-104, 3-105.
   - Part 4. Liability of Parties. 3-401.
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4A. Funds Transfers.
   - Part 1. Subject Matter and Definitions. 4A-103, 4A-108.
   - Part 2. Issue and Acceptance of Payment Order. 4A-201 to 4A-211.
   - Part 3. Execution of Sender's Payment Order by Receiving Bank. 4A-305.

5. Letters of Credit.
   - Part 1. General Provisions. 5-104, 5-116.

7. Documents of Title.
   - Part 1. General. 7-102, 7-106.

8. Investment Securities.
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9. Secured Transactions.
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     - Subpart 1. Short Title, Definitions, and General Concepts. 9-102 to 9-107B.
   - Part 2. Effectiveness of Security Agreement; Attachment of Security Interest; Rights of Parties to Security Agreement.
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   - Part 3. Perfection and Priority.
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     - Subpart 4. Rights of Bank. 9-341.
   - Part 4. Rights of Third Parties. 9-404 to 9-408.
   - Part 5. Filing.
     - Subpart 1. Filing Office; Contents and Effectiveness of Financing Statement. 9-509, 9-513.
   - Part 6. Default.
     - Subpart 1. Default and Enforcement of Security Interest. 9-601 to 9-624.
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11. Effective Date and Transition Provisions in Conjunction with the Adoption of Article 9 of the Code as Revised in 1972.
12. Controllable Electronic Records. 12-101 to 12-109.

12A. Transitional Provisions for Uniform Commercial Code Amendments (2022).
   - Part 1. Title and Definitions. 12A-101, 12A-102.
   - Part 2. Saving Clause and Special Transitional Rule. 12A-201, 12A-202.
   - Part 3. Security Interest; Perfection and Priority. 12A-301 to 12A-306.

ARTICLE 1
GENERAL PROVISIONS

Part 1
GENERAL PROVISIONS

Part 2
GENERAL DEFINITIONS AND PRINCIPLES OF INTERPRETATION

Part 3
TERRITORIAL APPLICABILITY AND GENERAL RULES

Part 1

GENERAL PROVISIONS

1-112 Uniform Commercial Code, how construed.

The Uniform Commercial Code shall not be construed to support, endorse, create, or implement a national digital currency or central bank digital currency.

Source: Laws 2024, LB94, § 1.
Effective date July 19, 2024.

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, based on the totality of the circumstances, 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.

(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 an authoritative tangible copy of a record evidencing 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, other than pursuant to section 7-106(g), 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 that is 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. The term does not include an electronic record that is a medium of exchange recorded and transferable in a system that existed and operated for the medium of exchange before the medium of exchange was authorized or adopted by the government.

(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, or any other legal or commercial entity. The term includes a protected series, however denominated, of an entity if the protected series is established under law other than the Uniform Commercial Code that limits, or limits if conditions specified under the law are satisfied, the ability of a creditor of the entity or of any other protected series of the entity to satisfy a claim from assets of the protected series.

(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 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 it would have been received if properly sent under subdivision (A).

(37) ''Sign'' means, with present intent to authenticate or adopt a record:

(A) execute or adopt a tangible symbol; or

(B) attach to or logically associate with the record an electronic symbol, sound, or process.

''Signed'', ''signing'', and ''signature'' have corresponding meanings.

(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; Laws 2024, LB94, § 2.
Effective date July 19, 2024.

Cross References

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

1-204 Value.

Except as otherwise provided in articles 3, 4, 5, and 12, a person gives value for rights if the person acquires them:

(1) in return for a binding commitment to extend credit or for the extension of immediately available credit, whether or not drawn upon and whether or not a charge back is provided for in the event of difficulties in collection;

(2) as security for, or in total or partial satisfaction of, a preexisting claim;

(3) by accepting delivery under a preexisting contract for purchase; or

(4) in return for any consideration sufficient to support a simple contract.

Source: Laws 2005, LB 570, § 17; Laws 2024, LB94, § 3.
Effective date July 19, 2024.

Part 3

TERRITORIAL APPLICABILITY AND GENERAL RULES

1-301 Territorial applicability; parties' power to choose applicable law.

(a) Except as otherwise provided in this section, when a transaction bears a reasonable relation to this state and also to another state or nation the parties may agree that the law either of this state or of such other state or nation shall govern their rights and duties.

(b) In the absence of an agreement effective under subsection (a), and except as provided in subsection (c), the Uniform Commercial Code applies to transactions bearing an appropriate relation to this state.

(c) If one of the following provisions of the Uniform Commercial Code specifies the applicable law, that provision governs and a contrary agreement is effective only to the extent permitted by the law so specified:

(1) Section 2-402;

(2) Sections 2A-105 and 2A-106;

(3) Section 4-102;

(4) Section 4A-507;

(5) Section 5-116;

(6) Section 8-110;

(7) Sections 9-301 through 9-307;

(8) Section 12-107.

Source: Laws 2005, LB 570, § 20; Laws 2024, LB94, § 4.
Effective date July 19, 2024.

1-306 Waiver or renunciation of claim or right after breach.

A claim or right arising out of an alleged breach may be discharged in whole or in part without consideration by agreement of the aggrieved party in a signed record.

Source: Laws 2005, LB 570, § 25; Laws 2024, LB94, § 5.
Effective date July 19, 2024.

ARTICLE 2

SALES

Part 1
SHORT TITLE, GENERAL CONSTRUCTION, AND SUBJECT MATTER

Section
2-102. Scope; certain security and other transactions excluded from this article.
2-106. Definitions; contract; agreement; contract for sale; sale; present sale; conforming to contract; termination; cancellation; hybrid transaction.

Part 2
FORM, FORMATION, AND READJUSTMENT OF CONTRACT

2-201. Formal requirements; statute of frauds.
2-202. Final expression; parol or extrinsic evidence.
2-203. Seals inoperative.
2-205. Firm offers.
2-209. Modification, rescission, and waiver.

Part 1

SHORT TITLE, GENERAL CONSTRUCTION, AND SUBJECT MATTER

2-102 Scope; certain security and other transactions excluded from this article.

(1) Unless the context otherwise requires, and except as provided in subsection (3), this article applies to transactions in goods and, in the case of a hybrid transaction, it applies to the extent provided in subsection (2).

(2) In a hybrid transaction:

(a) If the sale-of-goods aspects do not predominate, only the provisions of this article which relate primarily to the sale-of-goods aspects of the transaction

apply, and the provisions that relate primarily to the transaction as a whole do not apply.

(b) If the sale-of-goods aspects predominate, this article applies to the transaction but does not preclude application in appropriate circumstances of other law to aspects of the transaction which do not relate to the sale of goods.

(3) This article does not:

(a) apply to a transaction that, even though in the form of an unconditional contract to sell or present sale, operates only to create a security interest; or

(b) impair or repeal a statute regulating sales to consumers, farmers, or other specified classes of buyers.

Source: Laws 1963, c. 544, Art. II, § 2-102, p. 1706; Laws 2024, LB94, § 6.
Effective date July 19, 2024.

2-106 Definitions; contract; agreement; contract for sale; sale; present sale; conforming to contract; termination; cancellation; hybrid transaction.

(1) In this article unless the context otherwise requires ''contract'' and ''agreement'' are limited to those relating to the present or future sale of goods. ''Contract for sale'' includes both a present sale of goods and a contract to sell goods at a future time. A ''sale'' consists in the passing of title from the seller to the buyer for a price (section 2-401). A ''present sale'' means a sale which is accomplished by the making of the contract.

(2) Goods or conduct including any part of a performance are ''conforming'' or conform to the contract when they are in accordance with the obligations under the contract.

(3) ''Termination'' occurs when either party pursuant to a power created by agreement or law puts an end to the contract otherwise than for its breach. On ''termination'' all obligations which are still executory on both sides are discharged but any right based on prior breach or performance survives.

(4) ''Cancellation'' occurs when either party puts an end to the contract for breach by the other and its effect is the same as that of ''termination'' except that the canceling party also retains any remedy for breach of the whole contract or any unperformed balance.

(5) ''Hybrid transaction'' means a single transaction involving a sale of goods and:

(a) the provision of services;

(b) a lease of other goods; or

(c) a sale, lease, or license of property other than goods.

Source: Laws 1963, c. 544, Art. II, § 2-106, p. 1709; Laws 2024, LB94, § 7.
Effective date July 19, 2024.

Part 2

FORM, FORMATION, AND READJUSTMENT OF CONTRACT

2-201 Formal requirements; statute of frauds.

(1) Except as otherwise provided in this section a contract for the sale of goods for the price of five hundred dollars or more is not enforceable by way of

action or defense unless there is a record sufficient to indicate that a contract for sale has been made between the parties and signed by the party against whom enforcement is sought or by the party's authorized agent or broker. A record is not insufficient because it omits or incorrectly states a term agreed upon but the contract is not enforceable under this subsection beyond the quantity of goods shown in the record.

(2)(a) Between merchants if within a reasonable time a record in confirmation of the contract and sufficient against the sender is received and the party receiving it has reason to know its contents, it satisfies the requirements of subsection (1) against the party unless notice in a record of objection to its contents is given within ten days after it is received.

(b) Between a merchant and a buyer or seller of grain not a merchant, if (i) the contract is an oral contract for the sale of grain, (ii) within a reasonable time a writing in confirmation of the contract and sufficient against the sender is received, (iii) the party receiving it has reason to know its contents, (iv) it contains a statement of the kind of grain, quantity of grain, per unit price, date of contract, and delivery date of the grain, and (v) notice appears on the face of the written confirmation stating that the contract will be enforceable according to the terms contained in the confirmation unless written notice of objection is given within ten days, the writing satisfies the requirements of subsection (1) of this section against the party receiving it unless written notice of objection to its contents is given within ten days after it is received.

(3) A contract which does not satisfy the requirements of subsection (1) but which is valid in other respects is enforceable

(a) if the goods are to be specially manufactured for the buyer and are not suitable for sale to others in the ordinary course of the seller's business and the seller, before notice of repudiation is received and under circumstances which reasonably indicate that the goods are for the buyer, has made either a substantial beginning of their manufacture or commitments for their procurement; or

(b) if the party against whom enforcement is sought admits in his or her pleading, testimony or otherwise in court that a contract for sale was made, but the contract is not enforceable under this provision beyond the quantity of goods admitted; or

(c) with respect to goods for which payment has been made and accepted or which have been received and accepted (section 2-606).

Source: Laws 1963, c. 544, Art. II, § 2-201, p. 1711; Laws 1983, LB 188, § 1; Laws 2024, LB94, § 8.
Effective date July 19, 2024.

2-202 Final expression; parol or extrinsic evidence.

Terms with respect to which the confirmatory memoranda of the parties agree or which are otherwise set forth in a record intended by the parties as a final expression of their agreement with respect to such terms as are included therein may not be contradicted by evidence of any prior agreement or of a contemporaneous oral agreement but may be explained or supplemented:

(a) by course of performance, course of dealing, or usage of trade (section 1-303); and

(b) by evidence of consistent additional terms unless the court finds the record to have been intended also as a complete and exclusive statement of the terms of the agreement.

Source: Laws 1963, c. 544, Art. II, § 2-202, p. 1712; Laws 2005, LB 570, § 32; Laws 2024, LB94, § 9.
Effective date July 19, 2024.

2-203 Seals inoperative.

The affixing of a seal to a record evidencing a contract for sale or an offer to buy or sell goods does not constitute the record a sealed instrument and the law with respect to sealed instruments does not apply to such a contract or offer.

Source: Laws 1963, c. 544, Art. II, § 2-203, p. 1712; Laws 2024, LB94, § 10.
Effective date July 19, 2024.

2-205 Firm offers.

An offer by a merchant to buy or sell goods in a signed record which by its terms gives assurance that it will be held open is not revocable, for lack of consideration, during the time stated or if no time is stated for a reasonable time, but in no event may such period of irrevocability exceed three months; but any such term of assurance on a form supplied by the offeree must be separately signed by the offeror.

Source: Laws 1963, c. 544, Art. II, § 2-205, p. 1713; Laws 2024, LB94, § 11.
Effective date July 19, 2024.

2-209 Modification, rescission, and waiver.

(1) An agreement modifying a contract within this article needs no consideration to be binding.

(2) A signed agreement which excludes modification or rescission except by a signed writing or other signed record cannot be otherwise modified or rescinded, but except as between merchants such a requirement on a form supplied by the merchant must be separately signed by the other party.

(3) The requirements of the statute of frauds section of this article (section 2-201) must be satisfied if the contract as modified is within its provisions.

(4) Although an attempt at modification or rescission does not satisfy the requirements of subsection (2) or (3) it can operate as a waiver.

(5) A party who has made a waiver affecting an executory portion of the contract may retract the waiver by reasonable notification received by the other party that strict performance will be required of any term waived, unless the retraction would be unjust in view of a material change of position in reliance on the waiver.

Source: Laws 1963, c. 544, Art. II, § 2-209, p. 1715; Laws 2024, LB94, § 12.
Effective date July 19, 2024.

ARTICLE 2A

LEASES

Part 1
GENERAL PROVISIONS

Part 2
FORMATION AND CONSTRUCTION OF LEASE CONTRACT

Part 1

GENERAL PROVISIONS

2A-102 Scope.

(1) This article applies to any transaction, regardless of form, that creates a lease and, in the case of a hybrid lease, it applies to the extent provided in subsection (2).

(2) In a hybrid lease:

(a) if the lease-of-goods aspects do not predominate:

(i) only the provisions of this article which relate primarily to the lease-of-goods aspects of the transaction apply, and the provisions that relate primarily to the transaction as a whole do not apply;

(ii) section 2A-209 applies if the lease is a finance lease; and

(iii) section 2A-407 applies to the promises of the lessee in a finance lease to the extent the promises are consideration for the right to possession and use of the leased goods; and

(b) if the lease-of-goods aspects predominate, this article applies to the transaction, but does not preclude application in appropriate circumstances of other law to aspects of the lease which do not relate to the lease of goods.

Source: Laws 1991, LB 159, § 4; Laws 2024, LB94, § 13.
Effective date July 19, 2024.

2A-103 Definitions and index of definitions.

(1) In this article unless the context otherwise requires:

(a) ''Buyer in ordinary course of business'' means a person who in good faith and without knowledge that the sale to him or her is in violation of the ownership rights or security interest or leasehold interest of a third party in the goods, buys in ordinary course from a person in the business of selling goods of that kind but does not include a pawnbroker. ''Buying'' may be for cash or by exchange of other property or on secured or unsecured credit and includes acquiring goods or documents of title under a preexisting contract for sale but

does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

(b) ''Cancellation'' occurs when either party puts an end to the lease contract for default by the other party.

(c) ''Commercial unit'' means such a unit of goods as by commercial usage is a single whole for purposes of lease and division of which materially impairs its character or value on the market or in use. A commercial unit may be a single article, as a machine, or a set of articles, as a suite of furniture or a line of machinery, or a quantity, as a gross or carload, or any other unit treated in use or in the relevant market as a single whole.

(d) ''Conforming'' goods or performance under a lease contract means goods or performance that are in accordance with the obligations under the lease contract.

(e) ''Consumer lease'' means a lease that a lessor regularly engaged in the business of leasing or selling makes to a lessee who is an individual and who takes under the lease primarily for a personal, family, or household purpose, if the total payments to be made under the lease contract, excluding payments for options to renew or buy, do not exceed twenty-five thousand dollars.

(f) ''Fault'' means wrongful act, omission, breach, or default.

(g) ''Finance lease'' means a lease with respect to which:

(i) the lessor does not select, manufacture, or supply the goods;

(ii) the lessor acquires the goods or the right to possession and use of the goods in connection with the lease; and

(iii) one of the following occurs:

(A) the lessee receives a copy of the contract by which the lessor acquired the goods or the right to possession and use of the goods before signing the lease contract;

(B) the lessee's approval of the contract by which the lessor acquired the goods or the right to possession and use of the goods is a condition to effectiveness of the lease contract;

(C) the lessee, before signing the lease contract, receives an accurate and complete statement designating the promises and warranties, and any disclaimers of warranties, limitations or modifications of remedies, or liquidated damages, including those of a third party, such as the manufacturer of the goods, provided to the lessor by the person supplying the goods in connection with or as part of the contract by which the lessor acquired the goods or the right to possession and use of the goods; or

(D) if the lease is not a consumer lease, the lessor, before the lessee signs the lease contract, informs the lessee in writing (a) of the identity of the person supplying the goods to the lessor, unless the lessee has selected that person and directed the lessor to acquire the goods or the right to possession and use of the goods from that person, (b) that the lessee is entitled under this article to the promises and warranties, including those of any third party, provided to the lessor by the person supplying the goods in connection with or as part of the contract by which the lessor acquired the goods or the right to possession and use of the goods, and (c) that the lessee may communicate with the person supplying the goods to the lessor and receive an accurate and complete

statement of those promises and warranties, including any disclaimers and limitations of them or of remedies.

(h) ''Goods'' means all things that are movable at the time of identification to the lease contract, or are fixtures (section 2A-309), but the term does not include money, documents, instruments, accounts, chattel paper, general intangibles, or minerals or the like, including oil and gas, before extraction. The term also includes the unborn young of animals.

(h.1) ''Hybrid lease'' means a single transaction involving a lease of goods and:

(i) the provision of services;

(ii) a sale of other goods; or

(iii) a sale, lease, or license of property other than goods.

(i) ''Installment lease contract'' means a lease contract that authorizes or requires the delivery of goods in separate lots to be separately accepted, even though the lease contract contains a clause ''each delivery is a separate lease'' or its equivalent.

(j) ''Lease'' means a transfer of the right to possession and use of goods for a term in return for consideration, but a sale, including a sale on approval or a sale or return, or retention or creation of a security interest is not a lease. Unless the context clearly indicates otherwise, the term includes a sublease.

(k) ''Lease agreement'' means the bargain, with respect to the lease, of the lessor and the lessee in fact as found in their language or by implication from other circumstances including course of dealing or usage of trade or course of performance as provided in this article. Unless the context clearly indicates otherwise, the term includes a sublease agreement.

(l) ''Lease contract'' means the total legal obligation that results from the lease agreement as affected by this article and any other applicable rules of law. Unless the context clearly indicates otherwise, the term includes a sublease contract.

(m) ''Leasehold interest'' means the interest of the lessor or the lessee under a lease contract.

(n) ''Lessee'' means a person who acquires the right to possession and use of goods under a lease. Unless the context clearly indicates otherwise, the term includes a sublessee.

(o) ''Lessee in ordinary course of business'' means a person who in good faith and without knowledge that the lease to him or her is in violation of the ownership rights or security interest or leasehold interest of a third party in the goods leases in ordinary course from a person in the business of selling or leasing goods of that kind but does not include a pawnbroker. ''Leasing'' may be for cash or by exchange of other property or on secured or unsecured credit and includes acquiring goods or documents of title under a preexisting lease contract but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

(p) ''Lessor'' means a person who transfers the right to possession and use of goods under a lease. Unless the context clearly indicates otherwise, the term includes a sublessor.

(q) ''Lessor's residual interest'' means the lessor's interest in the goods after expiration, termination, or cancellation of the lease contract.

(r) ''Lien'' means a charge against or interest in goods to secure payment of a debt or performance of an obligation, but the term does not include a security interest.

(s) ''Lot'' means a parcel or a single article that is the subject matter of a separate lease or delivery, whether or not it is sufficient to perform the lease contract.

(t) ''Merchant lessee'' means a lessee that is a merchant with respect to goods of the kind subject to the lease.

(u) ''Present value'' means the amount as of a date certain of one or more sums payable in the future, discounted to the date certain. The discount is determined by the interest rate specified by the parties if the rate was not manifestly unreasonable at the time the transaction was entered into; otherwise, the discount is determined by a commercially reasonable rate that takes into account the facts and circumstances of each case at the time the transaction was entered into.

(v) ''Purchase'' includes taking by sale, lease, mortgage, security interest, pledge, gift, or any other voluntary transaction creating an interest in goods.

(w) ''Sublease'' means a lease of goods the right to possession and use of which was acquired by the lessor as a lessee under an existing lease.

(x) ''Supplier'' means a person from whom a lessor buys or leases goods to be leased under a finance lease.

(y) ''Supply contract'' means a contract under which a lessor buys or leases goods to be leased.

(z) ''Termination'' occurs when either party pursuant to a power created by agreement or law puts an end to the lease contract otherwise than for default.

(2) Other definitions applying to this article and the sections in which they appear are:

''Accessions''.	Section 2A-310(1).
''Construction mortgage''.	Section 2A-309(1)(d).
''Encumbrance''.	Section 2A-309(1)(e).
''Fixtures''.	Section 2A-309(1)(a).
''Fixture filing''.	Section 2A-309(1)(b).
''Purchase money lease''.	Section 2A-309(1)(c).

(3) The following definitions in other articles apply to this article:

''Account''.	Section 9-102(a)(2).
''Between merchants''.	Section 2-104(3).
''Buyer''.	Section 2-103(1)(a).
''Chattel paper''.	Section 9-102(a)(11).
''Consumer goods''.	Section 9-102(a)(23).
''Document''.	Section 9-102(a)(30).
''Entrusting''.	Section 2-403(3).
''General intangible''.	Section 9-102(a)(42).
''Good faith''.	Section 2-103(1)(b).
''Instrument''.	Section 9-102(a)(47).
''Merchant''.	Section 2-104(1).
''Mortgage''.	Section 9-102(a)(55).
''Pursuant to commitment''.	Section 9-102(a)(69).
''Receipt''.	Section 2-103(1)(c).

''Sale''.	Section 2-106(1).
''Sale on approval''.	Section 2-326.
''Sale or return''.	Section 2-326.
''Seller''.	Section 2-103(1)(d).

(4) In addition, article 1 contains general definitions and principles of construction and interpretation applicable throughout this article.

Source: Laws 1991, LB 159, § 5; Laws 1999, LB 550, § 59; Laws 2005, LB 570, § 42; Laws 2011, LB90, § 1; Laws 2024, LB94, § 14. Effective date July 19, 2024.

2A-107 Waiver or renunciation of claim or right after default.

Any claim or right arising out of an alleged default or breach of warranty may be discharged in whole or in part without consideration by a waiver or renunciation in a signed record delivered by the aggrieved party.

Source: Laws 1991, LB 159, § 9; Laws 2024, LB94, § 15. Effective date July 19, 2024.

Part 2

FORMATION AND CONSTRUCTION OF LEASE CONTRACT

2A-201 Statute of frauds.

(1) A lease contract is not enforceable by way of action or defense unless:

(a) the total payments to be made under the lease contract, excluding payments for options to renew or buy, are less than one thousand dollars; or

(b) there is a record, signed by the party against whom enforcement is sought or by that party's authorized agent, sufficient to indicate that a lease contract has been made between the parties and to describe the goods leased and the lease term.

(2) Any description of leased goods or of the lease term is sufficient and satisfies subsection (1)(b), whether or not it is specific, if it reasonably identifies what is described.

(3) A record is not insufficient because it omits or incorrectly states a term agreed upon, but the lease contract is not enforceable under subsection (1)(b) beyond the lease term and the quantity of goods shown in the record.

(4) A lease contract that does not satisfy the requirements of subsection (1), but which is valid in other respects, is enforceable:

(a) if the goods are to be specially manufactured or obtained for the lessee and are not suitable for lease or sale to others in the ordinary course of the lessor's business, and the lessor, before notice of repudiation is received and under circumstances that reasonably indicate that the goods are for the lessee, has made either a substantial beginning of their manufacture or commitments for their procurement;

(b) if the party against whom enforcement is sought admits in that party's pleading, testimony, or otherwise in court that a lease contract was made, but the lease contract is not enforceable under this provision beyond the quantity of goods admitted; or

(c) with respect to goods that have been received and accepted by the lessee.

(5) The lease term under a lease contract referred to in subsection (4) is:

(a) if there is a record signed by the party against whom enforcement is sought or by that party's authorized agent specifying the lease term, the term so specified;

(b) if the party against whom enforcement is sought admits in that party's pleading, testimony, or otherwise in court a lease term, the term so admitted; or

(c) a reasonable lease term.

Source: Laws 1991, LB 159, § 12; Laws 2024, LB94, § 16.
Effective date July 19, 2024.

2A-202 Final expression: parol or extrinsic evidence.

Terms with respect to which the confirmatory memoranda of the parties agree or which are otherwise set forth in a record intended by the parties as a final expression of their agreement with respect to such terms as are included therein may not be contradicted by evidence of any prior agreement or of a contemporaneous oral agreement but may be explained or supplemented:

(a) by course of dealing or usage of trade or by course of performance; and

(b) by evidence of consistent additional terms unless the court finds the record to have been intended also as a complete and exclusive statement of the terms of the agreement.

Source: Laws 1991, LB 159, § 13; Laws 2024, LB94, § 17.
Effective date July 19, 2024.

2A-203 Seals inoperative.

The affixing of a seal to a record evidencing a lease contract or an offer to enter into a lease contract does not render the record a sealed instrument and the law with respect to sealed instruments does not apply to the lease contract or offer.

Source: Laws 1991, LB 159, § 14; Laws 2024, LB94, § 18.
Effective date July 19, 2024.

2A-205 Firm offers.

An offer by a merchant to lease goods to or from another person in a signed record that by its terms gives assurance it will be held open is not revocable, for lack of consideration, during the time stated or, if no time is stated, for a reasonable time, but in no event may the period of irrevocability exceed three months. Any such term of assurance on a form supplied by the offeree must be separately signed by the offeror.

Source: Laws 1991, LB 159, § 16; Laws 2024, LB94, § 19.
Effective date July 19, 2024.

2A-208 Modification, rescission, and waiver.

(1) An agreement modifying a lease contract needs no consideration to be binding.

(2) A signed lease agreement that excludes modification or rescission except by a signed record may not be otherwise modified or rescinded, but, except as

between merchants, such a requirement on a form supplied by a merchant must be separately signed by the other party.

(3) Although an attempt at modification or rescission does not satisfy the requirements of subsection (2), it may operate as a waiver.

(4) A party who has made a waiver affecting an executory portion of a lease contract may retract the waiver by reasonable notification received by the other party that strict performance will be required of any term waived, unless the retraction would be unjust in view of a material change of position in reliance on the waiver.

Source: Laws 1991, LB 159, § 19; Laws 2024, LB94, § 20.
Effective date July 19, 2024.

ARTICLE 3

NEGOTIABLE INSTRUMENTS

Part 1
GENERAL PROVISIONS AND DEFINITIONS

Part 4
LIABILITY OF PARTIES

Part 6
DISCHARGE AND PAYMENT

Part 1

GENERAL PROVISIONS AND DEFINITIONS

3-104 Negotiable instrument.

(a) Except as provided in subsections (c) and (d), ''negotiable instrument'' means an unconditional promise or order to pay a fixed amount of money, with or without interest or other charges described in the promise or order, if it:

(1) is payable to bearer or to order at the time it is issued or first comes into possession of a holder;

(2) is payable on demand or at a definite time; and

(3) does not state any other undertaking or instruction by the person promising or ordering payment to do any act in addition to the payment of money, but the promise or order may contain (i) an undertaking or power to give, maintain, or protect collateral to secure payment, (ii) an authorization or power to the holder to confess judgment or realize on or dispose of collateral, (iii) a waiver of the benefit of any law intended for the advantage or protection of an obligor, (iv) a term that specifies the law that governs the promise or order, or (v) an undertaking to resolve in a specified forum a dispute concerning the promise or order.

(b) ''Instrument'' means a negotiable instrument.

(c) An order that meets all of the requirements of subsection (a), except subdivision (1), and otherwise falls within the definition of ''check'' in subsection (f) is a negotiable instrument and a check.

(d) A promise or order other than a check is not an instrument if, at the time it is issued or first comes into possession of a holder, it contains a conspicuous statement, however expressed, to the effect that the promise or order is not negotiable or is not an instrument governed by this article.

(e) An instrument is a ''note'' if it is a promise and is a ''draft'' if it is an order. If an instrument falls within the definition of both ''note'' and ''draft'', a person entitled to enforce the instrument may treat it as either.

(f) ''Check'' means (i) a draft, other than a documentary draft, payable on demand and drawn on a bank, (ii) a cashier's check or teller's check, or (iii) a demand draft. An instrument may be a check even though it is described on its face by another term, such as ''money order''.

(g) ''Cashier's check'' means a draft with respect to which the drawer and drawee are the same bank or branches of the same bank.

(h) ''Teller's check'' means a draft drawn by a bank (i) on another bank, or (ii) payable at or through a bank.

(i) ''Traveler's check'' means an instrument that (i) is payable on demand, (ii) is drawn on or payable at or through a bank, (iii) is designated by the term ''traveler's check'' or by a substantially similar term, and (iv) requires, as a condition to payment, a countersignature by a person whose specimen signature appears on the instrument.

(j) ''Certificate of deposit'' means an instrument containing an acknowledgment by a bank that a sum of money has been received by the bank and a promise by the bank to repay the sum of money. A certificate of deposit is a note of the bank.

(k) ''Demand draft'' means a writing not signed by a customer, as defined in section 4-104, that is created by a third party under the purported authority of the customer for the purpose of charging the customer's account with a bank. A demand draft shall contain the customer's account number and may contain any or all of the following:

(i) The customer's printed or typewritten name;

(ii) A notation that the customer authorized the draft; or

(iii) The statement ''no signature required'', ''authorization on file'', ''signature on file'', or words to that effect.

Demand draft does not include a check purportedly drawn by and bearing the signature of a fiduciary, as defined in section 3-307.

Source: Laws 1991, LB 161, § 8; Laws 2003, LB 128, § 2; Laws 2024, LB94, § 21.
Effective date July 19, 2024.

3-105 Issue of instrument.

(a) ''Issue'' means:

(1) the first delivery of an instrument by the maker or drawer, whether to a holder or nonholder, for the purpose of giving rights on the instrument to any person; or

(2) if agreed by the payee, the first transmission by the drawer to the payee of an image of an item and information derived from the item that enables the depositary bank to collect the item by transferring or presenting under federal law an electronic check.

(b) An unissued instrument, or an unissued incomplete instrument that is completed, is binding on the maker or drawer, but nonissuance is a defense. An instrument that is conditionally issued or is issued for a special purpose is binding on the maker or drawer, but failure of the condition or special purpose to be fulfilled is a defense.

(c) ''Issuer'' applies to issued and unissued instruments and means a maker or drawer of an instrument.

Source: Laws 1991, LB 161, § 9; Laws 2024, LB94, § 22.
Effective date July 19, 2024.

Part 4

LIABILITY OF PARTIES

3-401 Signature necessary for liability on instrument.

A person is not liable on an instrument unless (i) the person signed the instrument, or (ii) the person is represented by an agent or representative who signed the instrument and the signature is binding on the represented person under section 3-402.

Source: Laws 1991, LB 161, § 42; Laws 2024, LB94, § 23.
Effective date July 19, 2024.

Part 6

DISCHARGE AND PAYMENT

3-604 Discharge by cancellation or renunciation.

(a) A person entitled to enforce an instrument, with or without consideration, may discharge the obligation of a party to pay the instrument (i) by an intentional voluntary act, such as surrender of the instrument to the party, destruction, mutilation, or cancellation of the instrument, cancellation or striking out of the party's signature, or the addition of words to the instrument indicating discharge, or (ii) by agreeing not to sue or otherwise renouncing rights against the party by a signed record. The obligation of a party to pay a check is not discharged solely by destruction of the check in connection with a process in which information is extracted from the check and an image of the check is made and, subsequently, the information and image are transmitted for payment.

(b) Cancellation or striking out of an indorsement pursuant to subsection (a) does not affect the status and rights of a party derived from the indorsement.

Source: Laws 1991, LB 161, § 70; Laws 2024, LB94, § 24.
Effective date July 19, 2024.

ARTICLE 4A

FUNDS TRANSFERS

Part 1
SUBJECT MATTER AND DEFINITIONS

Part 2
ISSUE AND ACCEPTANCE OF PAYMENT ORDER

Part 3
EXECUTION OF SENDER'S PAYMENT ORDER BY RECEIVING BANK

Part 1

SUBJECT MATTER AND DEFINITIONS

4A-103 Payment order - definitions.

(a) In this article:

(1) ''Payment order'' means an instruction of a sender to a receiving bank, transmitted orally or in a record, to pay, or to cause another bank to pay, a fixed or determinable amount of money to a beneficiary if:

(i) the instruction does not state a condition to payment to the beneficiary other than time of payment,

(ii) the receiving bank is to be reimbursed by debiting an account of, or otherwise receiving payment from, the sender, and

(iii) the instruction is transmitted by the sender directly to the receiving bank or to an agent, funds-transfer system, or communication system for transmittal to the receiving bank.

(2) ''Beneficiary'' means the person to be paid by the beneficiary's bank.

(3) ''Beneficiary's bank'' means the bank identified in a payment order in which an account of the beneficiary is to be credited pursuant to the order or which otherwise is to make payment to the beneficiary if the order does not provide for payment to an account.

(4) ''Receiving bank'' means the bank to which the sender's instruction is addressed.

(5) ''Sender'' means the person giving the instruction to the receiving bank.

(b) If an instruction complying with subsection (a)(1) is to make more than one payment to a beneficiary, the instruction is a separate payment order with respect to each payment.

(c) A payment order is issued when it is sent to the receiving bank.

Source: Laws 1991, LB 160, § 4; Laws 2024, LB94, § 25.
Effective date July 19, 2024.

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, 2024.

(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, 2024, 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, 2024.

(c) In a funds transfer to which this article applies, in the event of an inconsistency between an applicable provision of this article and an applicable provision of the federal Electronic Fund Transfer Act, the provision of the federal Electronic Fund Transfer Act governs to the extent of the inconsistency.

Source: Laws 1991, LB 160, § 9; Laws 2013, LB146, § 1; Laws 2019, LB258, § 18; Laws 2020, LB909, § 54; Laws 2021, LB363, § 33; Laws 2022, LB707, § 61; Laws 2023, LB92, § 85; Laws 2024, LB1074, § 99.
Operative date April 18, 2024.

Part 2

ISSUE AND ACCEPTANCE OF PAYMENT ORDER

4A-201 Security procedure.

''Security procedure'' means a procedure established by agreement of a customer and a receiving bank for the purpose of (i) verifying that a payment order or communication amending or canceling a payment order is that of the customer, or (ii) detecting error in the transmission or the content of the payment order or communication. A security procedure may impose an obligation on the receiving bank or the customer and may require the use of algorithms or other codes, identifying words, numbers, symbols, sounds, biometrics, encryption, callback procedures, or similar security devices. Comparison of a signature on a payment order or communication with an authorized specimen signature of the customer or requiring a payment order to be sent from a known email address, IP address, or telephone number is not by itself a security procedure.

Source: Laws 1991, LB 160, § 10; Laws 2024, LB94, § 26.
Effective date July 19, 2024.

4A-202 Authorized and verified payment orders.

(a) A payment order received by the receiving bank is the authorized order of the person identified as sender if that person authorized the order or is otherwise bound by it under the law of agency.

(b) If a bank and its customer have agreed that the authenticity of payment orders issued to the bank in the name of the customer as sender will be verified pursuant to a security procedure, a payment order received by the receiving

bank is effective as the order of the customer, whether or not authorized, if (i) the security procedure is a commercially reasonable method of providing security against unauthorized payment orders, and (ii) the bank proves that it accepted the payment order in good faith and in compliance with the bank's obligations under the security procedure and any agreement or instruction of the customer, evidenced by a record, restricting acceptance of payment orders issued in the name of the customer. The bank is not required to follow an instruction that violates an agreement with the customer, evidenced by a record, or notice of which is not received at a time and in a manner affording the bank a reasonable opportunity to act on it before the payment order is accepted.

(c) Commercial reasonableness of a security procedure is a question of law to be determined by considering the wishes of the customer expressed to the bank, the circumstances of the customer known to the bank, including the size, type, and frequency of payment orders normally issued by the customer to the bank, alternative security procedures offered to the customer, and security procedures in general use by customers and receiving banks similarly situated. A security procedure is deemed to be commercially reasonable if (i) the security procedure was chosen by the customer after the bank offered, and the customer refused, a security procedure that was commercially reasonable for that customer, and (ii) the customer expressly agreed in a record to be bound by any payment order, whether or not authorized, issued in its name and accepted by the bank in compliance with the bank's obligations under the security procedure chosen by the customer.

(d) The term ''sender'' in this article includes the customer in whose name a payment order is issued if the order is the authorized order of the customer under subsection (a), or it is effective as the order of the customer under subsection (b).

(e) This section applies to amendments and cancellations of payment orders to the same extent it applies to payment orders.

(f) Except as provided in this section and in section 4A-203(a)(1), rights and obligations arising under this section or section 4A-203 may not be varied by agreement.

Source: Laws 1991, LB 160, § 11; Laws 2024, LB94, § 27.
Effective date July 19, 2024.

4A-203 Unenforceability of certain verified payment orders.

(a) If an accepted payment order is not, under section 4A-202(a), an authorized order of a customer identified as sender, but is effective as an order of the customer pursuant to section 4A-202(b), the following rules apply:

(1) By express agreement evidenced by a record, the receiving bank may limit the extent to which it is entitled to enforce or retain payment of the payment order.

(2) The receiving bank is not entitled to enforce or retain payment of the payment order if the customer proves that the order was not caused, directly or indirectly, by a person (i) entrusted at any time with duties to act for the customer with respect to payment orders or the security procedure, or (ii) who obtained access to transmitting facilities of the customer or who obtained, from a source controlled by the customer and without authority of the receiving

bank, information facilitating breach of the security procedure, regardless of how the information was obtained or whether the customer was at fault. Information includes any access device, computer software, or the like.

(b) This section applies to amendments of payment orders to the same extent it applies to payment orders.

Source: Laws 1991, LB 160, § 12; Laws 2024, LB94, § 28.
Effective date July 19, 2024.

4A-207 Misdescription of beneficiary.

(a) Subject to subsection (b), if, in a payment order received by the beneficiary's bank, the name, bank account number, or other identification of the beneficiary refers to a nonexistent or unidentifiable person or account, no person has rights as a beneficiary of the order and acceptance of the order cannot occur.

(b) If a payment order received by the beneficiary's bank identifies the beneficiary both by name and by an identifying or bank account number and the name and number identify different persons, the following rules apply:

(1) Except as otherwise provided in subsection (c), if the beneficiary's bank does not know that the name and number refer to different persons, it may rely on the number as the proper identification of the beneficiary of the order. The beneficiary's bank need not determine whether the name and number refer to the same person.

(2) If the beneficiary's bank pays the person identified by name or knows that the name and number identify different persons, no person has rights as beneficiary except the person paid by the beneficiary's bank if that person was entitled to receive payment from the originator of the funds transfer. If no person has rights as beneficiary, acceptance of the order cannot occur.

(c) If (i) a payment order described in subsection (b) is accepted, (ii) the originator's payment order described the beneficiary inconsistently by name and number, and (iii) the beneficiary's bank pays the person identified by number as permitted by subsection (b)(1), the following rules apply:

(1) If the originator is a bank, the originator is obliged to pay its order.

(2) If the originator is not a bank and proves that the person identified by number was not entitled to receive payment from the originator, the originator is not obliged to pay its order unless the originator's bank proves that the originator, before acceptance of the originator's order, had notice that payment of a payment order issued by the originator might be made by the beneficiary's bank on the basis of an identifying or bank account number even if it identifies a person different from the named beneficiary. Proof of notice may be made by any admissible evidence. The originator's bank satisfies the burden of proof if it proves that the originator, before the payment order was accepted, signed a record stating the information to which the notice relates.

(d) In a case governed by subsection (b)(1), if the beneficiary's bank rightfully pays the person identified by number and that person was not entitled to receive payment from the originator, the amount paid may be recovered from that person to the extent allowed by the law governing mistake and restitution as follows:

(1) If the originator is obliged to pay its payment order as stated in subsection (c), the originator has the right to recover.

(2) If the originator is not a bank and is not obliged to pay its payment order, the originator's bank has the right to recover.

Source: Laws 1991, LB 160, § 16; Laws 2024, LB94, § 29.
Effective date July 19, 2024.

4A-208 Misdescription of intermediary bank or beneficiary's bank.

(a) This subsection applies to a payment order identifying an intermediary bank or the beneficiary's bank only by an identifying number.

(1) The receiving bank may rely on the number as the proper identification of the intermediary or beneficiary's bank and need not determine whether the number identifies a bank.

(2) The sender is obliged to compensate the receiving bank for any loss and expenses incurred by the receiving bank as a result of its reliance on the number in executing or attempting to execute the order.

(b) This subsection applies to a payment order identifying an intermediary bank or the beneficiary's bank both by name and an identifying number if the name and number identify different persons.

(1) If the sender is a bank, the receiving bank may rely on the number as the proper identification of the intermediary or beneficiary's bank if the receiving bank, when it executes the sender's order, does not know that the name and number identify different persons. The receiving bank need not determine whether the name and number refer to the same person or whether the number refers to a bank. The sender is obliged to compensate the receiving bank for any loss and expenses incurred by the receiving bank as a result of its reliance on the number in executing or attempting to execute the order.

(2) If the sender is not a bank and the receiving bank proves that the sender, before the payment order was accepted, had notice that the receiving bank might rely on the number as the proper identification of the intermediary or beneficiary's bank even if it identifies a person different from the bank identified by name, the rights and obligations of the sender and the receiving bank are governed by subsection (b)(1), as though the sender were a bank. Proof of notice may be made by any admissible evidence. The receiving bank satisfies the burden of proof if it proves that the sender, before the payment order was accepted, signed a record stating the information to which the notice relates.

(3) Regardless of whether the sender is a bank, the receiving bank may rely on the name as the proper identification of the intermediary or beneficiary's bank if the receiving bank, at the time it executes the sender's order, does not know that the name and number identify different persons. The receiving bank need not determine whether the name and number refer to the same person.

(4) If the receiving bank knows that the name and number identify different persons, reliance on either the name or the number in executing the sender's payment order is a breach of the obligation stated in section 4A-302(a)(1).

Source: Laws 1991, LB 160, § 17; Laws 2024, LB94, § 30.
Effective date July 19, 2024.

4A-210 Rejection of payment order.

(a) A payment order is rejected by the receiving bank by a notice of rejection transmitted to the sender orally or in a record. A notice of rejection need not use any particular words and is sufficient if it indicates that the receiving bank

is rejecting the order or will not execute or pay the order. Rejection is effective when the notice is given if transmission is by a means that is reasonable in the circumstances. If notice of rejection is given by a means that is not reasonable, rejection is effective when the notice is received. If an agreement of the sender and receiving bank establishes the means to be used to reject a payment order, (i) any means complying with the agreement is reasonable and (ii) any means not complying is not reasonable unless no significant delay in receipt of the notice resulted from the use of the noncomplying means.

(b) This subsection applies if a receiving bank other than the beneficiary's bank fails to execute a payment order despite the existence on the execution date of a withdrawable credit balance in an authorized account of the sender sufficient to cover the order. If the sender does not receive notice of rejection of the order on the execution date and the authorized account of the sender does not bear interest, the bank is obliged to pay interest to the sender on the amount of the order for the number of days elapsing after the execution date to the earlier of the day the order is canceled pursuant to section 4A-211(d) or the day the sender receives notice or learns that the order was not executed, counting the final day of the period as an elapsed day. If the withdrawable credit balance during that period falls below the amount of the order, the amount of interest is reduced accordingly.

(c) If a receiving bank suspends payments, all unaccepted payment orders issued to it are deemed rejected at the time the bank suspends payments.

(d) Acceptance of a payment order precludes a later rejection of the order. Rejection of a payment order precludes a later acceptance of the order.

Source: Laws 1991, LB 160, § 19; Laws 2024, LB94, § 31.
Effective date July 19, 2024.

4A-211 Cancellation and amendment of payment order.

(a) A communication of the sender of a payment order canceling or amending the order may be transmitted to the receiving bank orally or in a record. If a security procedure is in effect between the sender and the receiving bank, the communication is not effective to cancel or amend the order unless the communication is verified pursuant to the security procedure or the bank agrees to the cancellation or amendment.

(b) Subject to subsection (a), a communication by the sender canceling or amending a payment order is effective to cancel or amend the order if notice of the communication is received at a time and in a manner affording the receiving bank a reasonable opportunity to act on the communication before the bank accepts the payment order.

(c) After a payment order has been accepted, cancellation or amendment of the order is not effective unless the receiving bank agrees or a funds-transfer system rule allows cancellation or amendment without agreement of the bank.

(1) With respect to a payment order accepted by a receiving bank other than the beneficiary's bank, cancellation or amendment is not effective unless a conforming cancellation or amendment of the payment order issued by the receiving bank is also made.

(2) With respect to a payment order accepted by the beneficiary's bank, cancellation or amendment is not effective unless the order was issued in execution of an unauthorized payment order, or because of a mistake by a

sender in the funds transfer which resulted in the issuance of a payment order (i) that is a duplicate of a payment order previously issued by the sender, (ii) that orders payment to a beneficiary not entitled to receive payment from the originator, or (iii) that orders payment in an amount greater than the amount the beneficiary was entitled to receive from the originator. If the payment order is canceled or amended, the beneficiary's bank is entitled to recover from the beneficiary any amount paid to the beneficiary to the extent allowed by the law governing mistake and restitution.

(d) An unaccepted payment order is canceled by operation of law at the close of the fifth funds-transfer business day of the receiving bank after the execution date or payment date of the order.

(e) A canceled payment order cannot be accepted. If an accepted payment order is canceled, the acceptance is nullified and no person has any right or obligation based on the acceptance. Amendment of a payment order is deemed to be cancellation of the original order at the time of amendment and issue of a new payment order in the amended form at the same time.

(f) Unless otherwise provided in an agreement of the parties or in a funds-transfer system rule, if the receiving bank, after accepting a payment order, agrees to cancellation or amendment of the order by the sender or is bound by a funds-transfer system rule allowing cancellation or amendment without the bank's agreement, the sender, whether or not cancellation or amendment is effective, is liable to the bank for any loss and expenses, including reasonable attorney's fees, incurred by the bank as a result of the cancellation or amendment or attempted cancellation or amendment.

(g) A payment order is not revoked by the death or legal incapacity of the sender unless the receiving bank knows of the death or of an adjudication of incapacity by a court of competent jurisdiction and has reasonable opportunity to act before acceptance of the order.

(h) A funds-transfer system rule is not effective to the extent it conflicts with subsection (c)(2).

Source: Laws 1991, LB 160, § 20; Laws 2024, LB94, § 32.
Effective date July 19, 2024.

Part 3

EXECUTION OF SENDER'S PAYMENT ORDER BY RECEIVING BANK

4A-305 Liability for late or improper execution or failure to execute payment order.

(a) If a funds transfer is completed but execution of a payment order by the receiving bank in breach of section 4A-302 results in delay in payment to the beneficiary, the bank is obliged to pay interest to either the originator or the beneficiary of the funds transfer for the period of delay caused by the improper execution. Except as provided in subsection (c), additional damages are not recoverable.

(b) If execution of a payment order by a receiving bank in breach of section 4A-302 results in (i) noncompletion of the funds transfer, (ii) failure to use an intermediary bank designated by the originator, or (iii) issuance of a payment order that does not comply with the terms of the payment order of the originator, the bank is liable to the originator for its expenses in the funds

transfer and for incidental expenses and interest losses, to the extent not covered by subsection (a), resulting from the improper execution. Except as provided in subsection (c), additional damages are not recoverable.

(c) In addition to the amounts payable under subsections (a) and (b), damages, including consequential damages, are recoverable to the extent provided in an express agreement of the receiving bank, evidenced by a record.

(d) If a receiving bank fails to execute a payment order it was obliged by express agreement to execute, the receiving bank is liable to the sender for its expenses in the transaction and for incidental expenses and interest losses resulting from the failure to execute. Additional damages, including consequential damages, are recoverable to the extent provided in an express agreement of the receiving bank, evidenced by a record, but are not otherwise recoverable.

(e) Reasonable attorney's fees are recoverable if demand for compensation under subsection (a) or (b) is made and refused before an action is brought on the claim. If a claim is made for breach of an agreement under subsection (d) and the agreement does not provide for damages, reasonable attorney's fees are recoverable if demand for compensation under subsection (d) is made and refused before an action is brought on the claim.

(f) Except as stated in this section, the liability of a receiving bank under subsections (a) and (b) may not be varied by agreement.

Source: Laws 1991, LB 160, § 26; Laws 2024, LB94, § 33.
Effective date July 19, 2024.

ARTICLE 5

LETTERS OF CREDIT

Part 1
GENERAL PROVISIONS

Part 1

GENERAL PROVISIONS

5-104 Formal requirements.

A letter of credit, confirmation, advice, transfer, amendment, or cancellation may be issued in any form that is a signed record.

Source: Laws 1996, LB 1028, § 6; Laws 2024, LB94, § 34.
Effective date July 19, 2024.

5-116 Choice of law and forum.

(a) The liability of an issuer, nominated person, or adviser for action or omission is governed by the law of the jurisdiction chosen by an agreement in the form of a record signed by the affected parties or by a provision in the person's letter of credit, confirmation, or other undertaking. The jurisdiction whose law is chosen need not bear any relation to the transaction.

(b) Unless subsection (a) applies, the liability of an issuer, nominated person, or adviser for action or omission is governed by the law of the jurisdiction in

which the person is located. The person is considered to be located at the address indicated in the person's undertaking. If more than one address is indicated, the person is considered to be located at the address from which the person's undertaking was issued.

(c) For the purpose of jurisdiction, choice of law, and recognition of interbranch letters of credit, but not enforcement of a judgment, all branches of a bank are considered separate juridical entities and a bank is considered to be located at the place where its relevant branch is considered to be located under subsection (d).

(d) A branch of a bank is considered to be located at the address indicated in the branch's undertaking. If more than one address is indicated, the branch is considered to be located at the address from which the undertaking was issued.

(e) Except as otherwise provided in this subsection, the liability of an issuer, nominated person, or adviser is governed by any rules of custom or practice, such as the Uniform Customs and Practice for Documentary Credits, to which the letter of credit, confirmation, or other undertaking is expressly made subject. If (i) this article would govern the liability of an issuer, nominated person, or adviser under subsection (a) or (b), (ii) the relevant undertaking incorporates rules of custom or practice, and (iii) there is conflict between this article and those rules as applied to that undertaking, those rules govern except to the extent of any conflict with the nonvariable provisions specified in section 5-103(c).

(f) If there is conflict between this article and article 3, 4, 4A, or 9, this article governs.

(g) The forum for settling disputes arising out of an undertaking within this article may be chosen in the manner and with the binding effect that governing law may be chosen in accordance with subsection (a).

Source: Laws 1996, LB 1028, § 18; Laws 2024, LB94, § 35.
Effective date July 19, 2024.

ARTICLE 7
DOCUMENTS OF TITLE

Part 1
GENERAL

Section

Part 1

GENERAL

7-102 Definitions and index of definitions.

(a) In this article, unless the context otherwise requires:

(1) ''Bailee'' means a person that by a warehouse receipt, bill of lading, or other document of title acknowledges possession of goods and contracts to deliver them.

(2) ''Carrier'' means a person that issues a bill of lading.

(3) ''Consignee'' means a person named in a bill of lading to which or to whose order the bill promises delivery.

(4) ''Consignor'' means a person named in a bill of lading as the person from which the goods have been received for shipment.

(5) ''Delivery order'' means a record that contains an order to deliver goods directed to a warehouse, carrier, or other person that in the ordinary course of business issues warehouse receipts or bills of lading.

(6) ''Good faith'' means honesty in fact and the observance of reasonable commercial standards of fair dealing.

(7) ''Goods'' means all things that are treated as movable for the purposes of a contract for storage or transportation.

(8) ''Issuer'' means a bailee that issues a document of title or, in the case of an unaccepted delivery order, the person that orders the possessor of goods to deliver. The term includes a person for which an agent or employee purports to act in issuing a document if the agent or employee has real or apparent authority to issue documents, even if the issuer did not receive any goods, the goods were misdescribed, or in any other respect the agent or employee violated the issuer's instructions.

(9) ''Person entitled under the document'' means the holder, in the case of a negotiable document of title, or the person to which delivery of the goods is to be made by the terms of, or pursuant to instructions in a record under, a nonnegotiable document of title.

(10) [Reserved.]

(11) [Reserved.]

(12) ''Shipper'' means a person that enters into a contract of transportation with a carrier.

(13) ''Warehouse'' means a person engaged in the business of storing goods for hire.

(b) Definitions in other articles applying to this article and the sections in which they appear are:

(1) ''Contract for sale'', section 2-106.

(2) ''Lessee in ordinary course of business'', section 2A-103.

(3) ''Receipt'' of goods, section 2-103.

(c) In addition, article 1 contains general definitions and principles of construction and interpretation applicable throughout this article.

Source: Laws 2005, LB 570, § 58; Laws 2024, LB94, § 36.
Effective date July 19, 2024.

7-106 Control of electronic document of title.

(a) A person has control of an electronic document of title if a system employed for evidencing the transfer of interests in the electronic document reliably establishes that person as the person to which the electronic document was issued or transferred.

(b) A system satisfies subsection (a), and a person has control of an electronic document of title, if the document is created, stored, and transferred in a manner that:

(1) a single authoritative copy of the document exists which is unique, identifiable, and, except as otherwise provided in subdivisions (4), (5), and (6), unalterable;

(2) the authoritative copy identifies the person asserting control as:

(A) the person to which the document was issued; or

(B) if the authoritative copy indicates that the document has been transferred, the person to which the document was most recently transferred;

(3) the authoritative copy is communicated to and maintained by the person asserting control or its designated custodian;

(4) copies or amendments that add or change an identified transferee of the authoritative copy can be made only with the consent of the person asserting control;

(5) each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and

(6) any amendment of the authoritative copy is readily identifiable as authorized or unauthorized.

(c) A system satisfies subsection (a), and a person has control of an electronic document of title, if an authoritative electronic copy of the document, a record attached to or logically associated with the electronic copy, or a system in which the electronic copy is recorded:

(1) enables the person readily to identify each electronic copy as either an authoritative copy or a nonauthoritative copy;

(2) enables the person readily to identify itself in any way, including by name, identifying number, cryptographic key, office, or account number, as the person to which each authoritative electronic copy was issued or transferred; and

(3) gives the person exclusive power, subject to subsection (d), to:

(A) prevent others from adding or changing the person to which each authoritative electronic copy has been issued or transferred; and

(B) transfer control of each authoritative electronic copy.

(d) Subject to subsection (e), a power is exclusive under subsection (c)(3)(A) and (B) even if:

(1) the authoritative electronic copy, a record attached to or logically associated with the authoritative electronic copy, or a system in which the authoritative electronic copy is recorded limits the use of the document of title or has a protocol that is programmed to cause a change, including a transfer or loss of control; or

(2) the power is shared with another person.

(e) A power of a person is not shared with another person under subsection (d)(2) and the person's power is not exclusive if:

(1) the person can exercise the power only if the power also is exercised by the other person; and

(2) the other person:

(A) can exercise the power without exercise of the power by the person; or

(B) is the transferor to the person of an interest in the document of title.

(f) If a person has the powers specified in subsection (c)(3)(A) and (B), the powers are presumed to be exclusive.

(g) A person has control of an electronic document of title if another person, other than the transferor to the person of an interest in the document:

(1) has control of the document and acknowledges that it has control on behalf of the person; or

(2) obtains control of the document after having acknowledged that it will obtain control of the document on behalf of the person.

(h) A person that has control under this section is not required to acknowledge that it has control on behalf of another person.

(i) If a person acknowledges that it has or will obtain control on behalf of another person, unless the person otherwise agrees or law other than this article or article 9 otherwise provides, the person does not owe any duty to the other person and is not required to confirm the acknowledgment to any other person.

Source: Laws 2005, LB 570, § 62; Laws 2024, LB94, § 37.
Effective date July 19, 2024.

ARTICLE 8

INVESTMENT SECURITIES

Part 1
SHORT TITLE AND GENERAL MATTERS

Part 3
TRANSFER OF CERTIFICATED AND UNCERTIFICATED SECURITIES

Part 1

SHORT TITLE AND GENERAL MATTERS

8-102 Definitions and index of definitions.

(a) In this article:

(1) ''Adverse claim'' means a claim that a claimant has a property interest in a financial asset and that it is a violation of the rights of the claimant for another person to hold, transfer, or deal with the financial asset.

(2) ''Bearer form,'' as applied to a certificated security, means a form in which the security is payable to the bearer of the security certificate according to its terms but not by reason of an indorsement.

(3) ''Broker'' means a person defined as a broker or dealer under the federal securities laws, but without excluding a bank acting in that capacity.

(4) ''Certificated security'' means a security that is represented by a certificate.

(5) ''Clearing corporation'' means:

(i) a person that is registered as a ''clearing agency'' under the federal securities laws;

(ii) a federal reserve bank; or

(iii) any other person that provides clearance or settlement services with respect to financial assets that would require it to register as a clearing agency under the federal securities laws but for an exclusion or exemption from the registration requirement, if its activities as a clearing corporation, including promulgation of rules, are subject to regulation by a federal or state governmental authority.

(6) ''Communicate'' means to:

(i) send a signed record; or

(ii) transmit information by any mechanism agreed upon by the persons transmitting and receiving the information.

(7) ''Entitlement holder'' means a person identified in the records of a securities intermediary as the person having a security entitlement against the securities intermediary. If a person acquires a security entitlement by virtue of section 8-501(b)(2) or (3), that person is the entitlement holder.

(8) ''Entitlement order'' means a notification communicated to a securities intermediary directing transfer or redemption of a financial asset to which the entitlement holder has a security entitlement.

(9) ''Financial asset,'' except as otherwise provided in section 8-103, means:

(i) a security;

(ii) an obligation of a person or a share, participation, or other interest in a person or in property or an enterprise of a person, which is, or is of a type, dealt in or traded on financial markets, or which is recognized in any area in which it is issued or dealt in as a medium for investment; or

(iii) any property that is held by a securities intermediary for another person in a securities account if the securities intermediary has expressly agreed with the other person that the property is to be treated as a financial asset under this article. As context requires, the term means either the interest itself or the means by which a person's claim to it is evidenced, including a certificated or uncertificated security, a security certificate, or a security entitlement.

(10) ''Good faith,'' for purposes of the obligation of good faith in the performance or enforcement of contracts or duties within this article, means honesty in fact and the observance of reasonable commercial standards of fair dealing.

(11) ''Indorsement'' means a signature that alone or accompanied by other words is made on a security certificate in registered form or on a separate document for the purpose of assigning, transferring, or redeeming the security or granting a power to assign, transfer, or redeem it.

(12) ''Instruction'' means a notification communicated to the issuer of an uncertificated security which directs that the transfer of the security be registered or that the security be redeemed.

(13) ''Registered form,'' as applied to a certificated security, means a form in which:

(i) the security certificate specifies a person entitled to the security; and

(ii) a transfer of the security may be registered upon books maintained for that purpose by or on behalf of the issuer, or the security certificate so states.

(14) ''Securities intermediary'' means:

(i) a clearing corporation; or

(ii) a person, including a bank or broker, that in the ordinary course of its business maintains securities accounts for others and is acting in that capacity.

(15) ''Security,'' except as otherwise provided in section 8-103, means an obligation of an issuer or a share, participation, or other interest in an issuer or in property or an enterprise of an issuer:

(i) which is represented by a security certificate in bearer or registered form, or the transfer of which may be registered upon books maintained for that purpose by or on behalf of the issuer;

(ii) which is one of a class or series or by its terms is divisible into a class or series of shares, participations, interests, or obligations; and

(iii) which:

(A) is, or is of a type, dealt in or traded on securities exchanges or securities markets; or

(B) is a medium for investment and by its terms expressly provides that it is a security governed by this article.

(16) ''Security certificate'' means a certificate representing a security.

(17) ''Security entitlement'' means the rights and property interest of an entitlement holder with respect to a financial asset specified in part 5 of this article.

(18) ''Uncertificated security'' means a security that is not represented by a certificate.

(b) The following definitions in this article and other articles apply to this article:

''Appropriate person''.	Section 8-107.
''Control''.	Section 8-106.
''Controllable account''.	Section 9-102.
''Controllable electronic record''.	Section 12-102.
''Controllable payment intangible''.	Section 9-102.
''Delivery''.	Section 8-301.
''Investment company security''.	Section 8-103.
''Issuer''.	Section 8-201.
''Overissue''.	Section 8-210.
''Protected purchaser''.	Section 8-303.
''Securities account''.	Section 8-501.

(c) In addition, article 1 contains general definitions and principles of construction and interpretation applicable throughout this article.

(d) The characterization of a person, business, or transaction for purposes of this article does not determine the characterization of the person, business, or transaction for purposes of any other law, regulation, or rule.

Source: Laws 1995, LB 97, § 6; Laws 2024, LB94, § 38.
Effective date July 19, 2024.

8-103 Rules for determining whether certain obligations and interests are securities or financial assets.

(a) A share or similar equity interest issued by a corporation, business trust, joint stock company, or similar entity is a security.

(b) An ''investment company security'' is a security. ''Investment company security'' means a share or similar equity interest issued by an entity that is registered as an investment company under the federal investment company laws, an interest in a unit investment trust that is so registered, or a face-amount certificate issued by a face-amount certificate company that is so registered. Investment company security does not include an insurance policy or endowment policy or annuity contract issued by an insurance company.

(c) An interest in a partnership or limited liability company is not a security unless it is dealt in or traded on securities exchanges or in securities markets, its terms expressly provide that it is a security governed by this article, or it is an investment company security. However, an interest in a partnership or limited liability company is a financial asset if it is held in a securities account.

(d) A writing that is a security certificate is governed by this article and not by article 3, even though it also meets the requirements of that article. However, a negotiable instrument governed by article 3 is a financial asset if it is held in a securities account.

(e) An option or similar obligation issued by a clearing corporation to its participants is not a security, but is a financial asset.

(f) A commodity contract, as defined in section 9-102(a)(15), is not a security or a financial asset.

(g) A document of title is not a financial asset unless section 8-102(a)(9)(iii) applies.

(h) A controllable account, controllable electronic record, or controllable payment intangible is not a financial asset unless section 8-102(a)(9)(iii) applies.

Source: Laws 1995, LB 97, § 7; Laws 1999, LB 550, § 66; Laws 2005, LB 570, § 100; Laws 2024, LB94, § 39.
Effective date July 19, 2024.

8-106 Control.

(a) A purchaser has ''control'' of a certificated security in bearer form if the certificated security is delivered to the purchaser.

(b) A purchaser has ''control'' of a certificated security in registered form if the certificated security is delivered to the purchaser, and:

(1) the certificate is indorsed to the purchaser or in blank by an effective indorsement; or

(2) the certificate is registered in the name of the purchaser, upon original issue or registration of transfer by the issuer.

(c) A purchaser has ''control'' of an uncertificated security if:

(1) the uncertificated security is delivered to the purchaser; or

(2) the issuer has agreed that it will comply with instructions originated by the purchaser without further consent by the registered owner.

(d) A purchaser has ''control'' of a security entitlement if:

(1) the purchaser becomes the entitlement holder;

(2) the securities intermediary has agreed that it will comply with entitlement orders originated by the purchaser without further consent by the entitlement holder; or

(3) another person, other than the transferor to the purchaser of an interest in the security entitlement:

(A) has control of the security entitlement and acknowledges that it has control on behalf of the purchaser; or

(B) obtains control of the security entitlement after having acknowledged that it will obtain control of the security entitlement on behalf of the purchaser.

(e) If an interest in a security entitlement is granted by the entitlement holder to the entitlement holder's own securities intermediary, the securities intermediary has control.

(f) A purchaser who has satisfied the requirements of subsection (c) or (d) has control, even if the registered owner in the case of subsection (c) or the entitlement holder in the case of subsection (d) retains the right to make substitutions for the uncertificated security or security entitlement, to originate instructions or entitlement orders to the issuer or securities intermediary, or otherwise to deal with the uncertificated security or security entitlement.

(g) An issuer or a securities intermediary may not enter into an agreement of the kind described in subsection (c)(2) or (d)(2) without the consent of the registered owner or entitlement holder, but an issuer or a securities intermediary is not required to enter into such an agreement even though the registered owner or entitlement holder so directs. An issuer or securities intermediary that has entered into such an agreement is not required to confirm the existence of the agreement to another party unless requested to do so by the registered owner or entitlement holder.

(h) A person that has control under this section is not required to acknowledge that it has control on behalf of a purchaser.

(i) If a person acknowledges that it has or will obtain control on behalf of a purchaser, unless the person otherwise agrees or law other than this article or article 9 otherwise provides, the person does not owe any duty to the purchaser and is not required to confirm the acknowledgment to any other person.

Source: Laws 1995, LB 97, § 10; Laws 1999, LB 550, § 67; Laws 2024, LB94, § 40.
Effective date July 19, 2024.

8-110 Applicability; choice of law.

(a) The local law of the issuer's jurisdiction, as specified in subsection (d), governs:

(1) the validity of a security;

(2) the rights and duties of the issuer with respect to registration of transfer;

(3) the effectiveness of registration of transfer by the issuer;

(4) whether the issuer owes any duties to an adverse claimant to a security; and

(5) whether an adverse claim can be asserted against a person to whom transfer of a certificated or uncertificated security is registered or a person who obtains control of an uncertificated security.

(b) The local law of the securities intermediary's jurisdiction, as specified in subsection (e), governs:

(1) acquisition of a security entitlement from the securities intermediary;

(2) the rights and duties of the securities intermediary and entitlement holder arising out of a security entitlement;

(3) whether the securities intermediary owes any duties to an adverse claimant to a security entitlement; and

(4) whether an adverse claim can be asserted against a person who acquires a security entitlement from the securities intermediary or a person who purchases a security entitlement or interest therein from an entitlement holder.

(c) The local law of the jurisdiction in which a security certificate is located at the time of delivery governs whether an adverse claim can be asserted against a person to whom the security certificate is delivered.

(d) ''Issuer's jurisdiction'' means the jurisdiction under which the issuer of the security is organized or, if permitted by the law of that jurisdiction, the law of another jurisdiction specified by the issuer. An issuer organized under the law of this state may specify the law of another jurisdiction as the law governing the matters specified in subdivisions (a)(2) through (5).

(e) The following rules determine a ''securities intermediary's jurisdiction'' for purposes of this section:

(1) If an agreement between the securities intermediary and its entitlement holder governing the securities account expressly provides that a particular jurisdiction is the securities intermediary's jurisdiction for purposes of this part, this article, or article 9, that jurisdiction is the securities intermediary's jurisdiction.

(2) If subdivision (1) does not apply and an agreement between the securities intermediary and its entitlement holder governing the securities account expressly provides that the agreement is governed by the law of a particular jurisdiction, that jurisdiction is the securities intermediary's jurisdiction.

(3) If neither subdivision (1) nor subdivision (2) applies and an agreement between the securities intermediary and its entitlement holder governing the securities account expressly provides that the securities account is maintained at an office in a particular jurisdiction, that jurisdiction is the securities intermediary's jurisdiction.

(4) If none of the preceding subdivisions applies, the securities intermediary's jurisdiction is the jurisdiction in which the office identified in an account statement as the office serving the entitlement holder's account is located.

(5) If none of the preceding subdivisions applies, the securities intermediary's jurisdiction is the jurisdiction in which the chief executive office of the securities intermediary is located.

(f) A securities intermediary's jurisdiction is not determined by the physical location of certificates representing financial assets, or by the jurisdiction in which is organized the issuer of the financial asset with respect to which an entitlement holder has a security entitlement, or by the location of facilities for data processing or other record keeping concerning the account.

(g) The local law of the issuer's jurisdiction or the securities intermediary's jurisdiction governs a matter or transaction specified in subsection (a) or (b) even if the matter or transaction does not bear any relation to the jurisdiction.

Source: Laws 1995, LB 97, § 14; Laws 1999, LB 550, § 68; Laws 2024, LB94, § 41.
Effective date July 19, 2024.

Part 3

TRANSFER OF CERTIFICATED AND UNCERTIFICATED SECURITIES

8-303 Protected purchaser.

(a) ''Protected purchaser'' means a purchaser of a certificated or uncertificated security, or of an interest therein, who:

(1) gives value;

(2) does not have notice of any adverse claim to the security; and

(3) obtains control of the certificated or uncertificated security.

(b) A protected purchaser also acquires its interest in the security free of any adverse claim.

Source: Laws 1995, LB 97, § 33; Laws 2024, LB94, § 42.
Effective date July 19, 2024.

ARTICLE 9

SECURED TRANSACTIONS

Part 1
GENERAL PROVISIONS

Subpart 1
SHORT TITLE, DEFINITIONS, AND GENERAL CONCEPTS

Part 2
EFFECTIVENESS OF SECURITY AGREEMENT; ATTACHMENT OF SECURITY INTEREST; RIGHTS OF PARTIES TO SECURITY AGREEMENT

Subpart 1
EFFECTIVENESS AND ATTACHMENT

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PERFECTION AND PRIORITY

Subpart 1
LAW GOVERNING PERFECTION AND PRIORITY

Part 1

GENERAL PROVISIONS

Subpart 1

SHORT TITLE, DEFINITIONS, AND GENERAL CONCEPTS

9-102 Definitions and index of definitions.

(a) In this article:

(1) ''Accession'' means goods that are physically united with other goods in such a manner that the identity of the original goods is not lost.

(2) ''Account'', except as used in ''account for'', ''account statement'', ''account to'', ''commodity account'' in subdivision (14), ''customer's account'', ''deposit account'' in subdivision (29), ''on account of'', and ''statement of account'', 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 controllable accounts and health-care-insurance receivables. The term does not include (i) chattel paper, (ii) commercial tort claims, (iii) deposit accounts, (iv) investment property, (v) letter-of-credit rights or letters of credit, (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, or (vii) rights to payment evidenced by an instrument.

(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 negotiable instrument evidences chattel paper.

(4) ''Accounting'', except as used in ''accounting for'', means a record:

(A) signed 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) [Reserved.]

(7A) ''Assignee'', except as used in ''assignee for benefit of creditors'', means a person (i) in whose favor a security interest that secures an obligation is created or provided for under a security agreement, whether or not the obligation is outstanding or (ii) to which an account, chattel paper, payment intangible, or promissory note has been sold. The term includes a person to which a security interest has been transferred by a secured party.

(7B) ''Assignor'' means a person that (i) under a security agreement creates or provides for a security interest that secures an obligation or (ii) sells an account, chattel paper, payment intangible, or promissory note. The term includes a secured party that has transferred a security interest to another person.

(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) a right to payment of a monetary obligation secured by specific goods, if the right to payment and security agreement are evidenced by a record; or

(B) a right to payment of a monetary obligation owed by a lessee under a lease agreement with respect to specific goods and a monetary obligation owed by the lessee in connection with the transaction giving rise to the lease, if:

(i) the right to payment and lease agreement are evidenced by a record; and

(ii) the predominant purpose of the transaction giving rise to the lease was to give the lessee the right to possession and use of the goods.

The term does not include a right to payment arising out of a charter or other contract involving the use or hire of a vessel or 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.

(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.

(27A) ''Controllable account'' means an account evidenced by a controllable electronic record that provides that the account debtor undertakes to pay the person that has control under section 12-105 of the controllable electronic record.

(27B) ''Controllable payment intangible'' means a payment intangible evidenced by a controllable electronic record that provides that the account debtor undertakes to pay the person that has control under section 12-105 of the controllable electronic record.

(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) [Reserved.]

(31A) ''Electronic money'' means money in an electronic form.

(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 controllable electronic records, 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, (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, or (iv) writings that evidence chattel paper.

(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.

(54A) ''Money'' has the meaning in section 1-201(b)(24), but does not include (i) a deposit account or (ii) money in an electronic form that cannot be subjected to control under section 9-105A.

(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. The term includes a controllable payment intangible.

(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 signed 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) [Reserved.]

(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) [Reserved.]

(79A) ''Tangible money'' means money in a tangible form.

(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.
''Protected purchaser''.	Section 8-303.
''Prove''.	Section 3-103.
''Qualifying purchaser''.	Section 12-102.
''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; Laws 2024, LB94, § 43.
Effective date July 19, 2024.

9-104 Control of deposit account.

(a) A secured party has control of a deposit account if:

(1) the secured party is the bank with which the deposit account is maintained;

(2) the debtor, secured party, and bank have agreed in a signed record that the bank will comply with instructions originated by the secured party directing disposition of the funds in the deposit account without further consent by the debtor;

(3) the secured party becomes the bank's customer with respect to the deposit account; or

(4) another person, other than the debtor:

(A) has control of the deposit account and acknowledges that it has control on behalf of the secured party; or

(B) obtains control of the deposit account after having acknowledged that it will obtain control of the deposit account on behalf of the secured party.

(b) A secured party that has satisfied subsection (a) has control, even if the debtor retains the right to direct the disposition of funds from the deposit account.

Source: Laws 1999, LB 550, § 77; Laws 2000, LB 929, § 26; Laws 2024, LB94, § 44.
Effective date July 19, 2024.

9-105 Control of electronic copy of record evidencing chattel paper.

(a) A purchaser has control of an authoritative electronic copy of a record evidencing chattel paper if a system employed for evidencing the assignment of interests in the chattel paper reliably establishes the purchaser as the person to which the authoritative electronic copy was assigned.

(b) A system satisfies subsection (a) if the record or records evidencing the chattel paper are created, stored, and assigned in such a manner that:

(1) a single authoritative copy of the record or records exists which is unique, identifiable, and, except as otherwise provided in subdivisions (4), (5), and (6), unalterable;

(2) the authoritative copy identifies the purchaser as the assignee of the record or records;

(3) the authoritative copy is communicated to and maintained by the purchaser or its designated custodian;

(4) copies or amendments that add or change an identified assignee of the authoritative copy can be made only with the consent of the purchaser;

(5) each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and

(6) any amendment of the authoritative copy is readily identifiable as authorized or unauthorized.

(c) A system satisfies subsection (a), and a purchaser has control of an authoritative electronic copy of a record evidencing chattel paper, if the electronic copy, a record attached to or logically associated with the electronic copy, or a system in which the electronic copy is recorded:

(1) enables the purchaser readily to identify each electronic copy as either an authoritative copy or a nonauthoritative copy;

(2) enables the purchaser readily to identify itself in any way, including by name, identifying number, cryptographic key, office, or account number, as the assignee of the authoritative electronic copy; and

(3) gives the purchaser exclusive power, subject to subsection (d), to:

(A) prevent others from adding or changing an identified assignee of the authoritative electronic copy; and

(B) transfer control of the authoritative electronic copy.

(d) Subject to subsection (e), a power is exclusive under subsection (c)(3)(A) and (B) even if:

(1) the authoritative electronic copy, a record attached to or logically associated with the authoritative electronic copy, or a system in which the authoritative electronic copy is recorded limits the use of the authoritative electronic copy or has a protocol programmed to cause a change, including a transfer or loss of control; or

(2) the power is shared with another person.

(e) A power of a purchaser is not shared with another person under subsection (d)(2) and the purchaser's power is not exclusive if:

(1) the purchaser can exercise the power only if the power also is exercised by the other person; and

(2) the other person:

(A) can exercise the power without exercise of the power by the purchaser; or

(B) is the transferor to the purchaser of an interest in the chattel paper.

(f) If a purchaser has the powers specified in subsection (c)(3)(A) and (B), the powers are presumed to be exclusive.

(g) A purchaser has control of an authoritative electronic copy of a record evidencing chattel paper if another person, other than the transferor to the purchaser of an interest in the chattel paper:

(1) has control of the authoritative electronic copy and acknowledges that it has control on behalf of the purchaser; or

(2) obtains control of the authoritative electronic copy after having acknowledged that it will obtain control of the electronic copy on behalf of the purchaser.

Source: Laws 1999, LB 550, § 78; Laws 2011, LB90, § 3; Laws 2024, LB94, § 45.
Effective date July 19, 2024.

9-105A Control of electronic money.

(a) A person has control of electronic money if:

(1) the electronic money, a record attached to or logically associated with the electronic money, or a system in which the electronic money is recorded gives the person:

(A) power to avail itself of substantially all the benefit from the electronic money; and

(B) exclusive power, subject to subsection (b), to:

(i) prevent others from availing themselves of substantially all the benefit from the electronic money; and

(ii) transfer control of the electronic money to another person or cause another person to obtain control of other electronic money as a result of the transfer of the electronic money; and

(2) the electronic money, a record attached to or logically associated with the electronic money, or a system in which the electronic money is recorded enables the person readily to identify itself in any way, including by name, identifying number, cryptographic key, office, or account number, as having the powers under subdivision (1).

(b) Subject to subsection (c), a power is exclusive under subsection (a)(1)(B)(i) and (ii) even if:

(1) the electronic money, a record attached to or logically associated with the electronic money, or a system in which the electronic money is recorded limits the use of the electronic money or has a protocol programmed to cause a change, including a transfer or loss of control; or

(2) the power is shared with another person.

(c) A power of a person is not shared with another person under subsection (b)(2) and the person's power is not exclusive if:

(1) the person can exercise the power only if the power also is exercised by the other person; and

(2) the other person:

(A) can exercise the power without exercise of the power by the person; or

(B) is the transferor to the person of an interest in the electronic money.

(d) If a person has the powers specified in subsection (a)(1)(B)(i) and (ii), the powers are presumed to be exclusive.

(e) A person has control of electronic money if another person, other than the transferor to the person of an interest in the electronic money:

(1) has control of the electronic money and acknowledges that it has control on behalf of the person; or

(2) obtains control of the electronic money after having acknowledged that it will obtain control of the electronic money on behalf of the person.

Source: Laws 2024, LB94, § 46.
Effective date July 19, 2024.

9-107A Control of controllable electronic record, controllable account, or controllable payment intangible.

(a) A secured party has control of a controllable electronic record as provided in section 12-105.

(b) A secured party has control of a controllable account or controllable payment intangible if the secured party has control of the controllable electronic record that evidences the controllable account or controllable payment intangible.

Source: Laws 2021, LB649, § 51; Laws 2024, LB94, § 47.
Effective date July 19, 2024.

9-107B No requirement to acknowledge or confirm; no duties.

(a) A person that has control under section 9-104, 9-105, or 9-105A is not required to acknowledge that it has control on behalf of another person.

(b) If a person acknowledges that it has or will obtain control on behalf of another person, unless the person otherwise agrees or law other than this article otherwise provides, the person does not owe any duty to the other person and is not required to confirm the acknowledgment to any other person.

Source: Laws 2024, LB94, § 48.
Effective date July 19, 2024.

Part 2

EFFECTIVENESS OF SECURITY AGREEMENT; ATTACHMENT OF SECURITY INTEREST; RIGHTS OF PARTIES TO SECURITY AGREEMENT

Subpart 1

EFFECTIVENESS AND ATTACHMENT

9-203 Attachment and enforceability of security interest; proceeds; supporting obligations; formal requisites.

(a) A security interest attaches to collateral when it becomes enforceable against the debtor with respect to the collateral, unless an agreement expressly postpones the time of attachment.

(b) Except as otherwise provided in subsections (c) through (i), a security interest is enforceable against the debtor and third parties with respect to the collateral only if:

(1) value has been given;

(2) the debtor has rights in the collateral or the power to transfer rights in the collateral to a secured party; and

(3) one of the following conditions is met:

(A) the debtor has signed a security agreement that provides a description of the collateral and, if the security interest covers timber to be cut, a description of the land concerned;

(B) the collateral is not a certificated security and is in the possession of the secured party under section 9-313 pursuant to the debtor's security agreement;

(C) the collateral is a certificated security in registered form and the security certificate has been delivered to the secured party under section 8-301 pursuant to the debtor's security agreement;

(D) the collateral is controllable accounts, controllable electronic records, controllable payment intangibles, deposit accounts, electronic documents, electronic money, investment property, or letter-of-credit rights, and the secured party has control under section 7-106, 9-104, 9-105, 9-105A, 9-106, 9-107, or 9-107A pursuant to the debtor's security agreement; or

(E) the collateral is chattel paper and the secured party has possession and control under section 9-314A pursuant to the debtor's security agreement.

(c) Subsection (b) is subject to section 4-210 on the security interest of a collecting bank, section 5-118 on the security interest of a letter-of-credit issuer or nominated person, section 9-110 on a security interest arising under article 2 or 2A, and section 9-206 on security interests in investment property.

(d) A person becomes bound as debtor by a security agreement entered into by another person if, by operation of law other than this article or by contract:

(1) the security agreement becomes effective to create a security interest in the person's property; or

(2) the person becomes generally obligated for the obligations of the other person, including the obligation secured under the security agreement, and acquires or succeeds to all or substantially all of the assets of the other person.

(e) If a new debtor becomes bound as debtor by a security agreement entered into by another person:

(1) the agreement satisfies subdivision (b)(3) with respect to existing or after-acquired property of the new debtor to the extent the property is described in the agreement; and

(2) another agreement is not necessary to make a security interest in the property enforceable.

(f) The attachment of a security interest in collateral gives the secured party the rights to proceeds provided by section 9-315 and is also attachment of a security interest in a supporting obligation for the collateral.

(g) The attachment of a security interest in a right to payment or performance secured by a security interest or other lien on personal or real property is also attachment of a security interest in the security interest, mortgage, or other lien.

(h) The attachment of a security interest in a securities account is also attachment of a security interest in the security entitlements carried in the securities account.

(i) The attachment of a security interest in a commodity account is also attachment of a security interest in the commodity contracts carried in the commodity account.

Source: Laws 1999, LB 550, § 86; Laws 2005, LB 570, § 102; Laws 2024, LB94, § 49.
Effective date July 19, 2024.

9-204 After-acquired property; future advances.

(a) Except as otherwise provided in subsection (b), a security agreement may create or provide for a security interest in after-acquired collateral.

(b) Subject to subsection (b.1), a security interest does not attach under a term constituting an after-acquired property clause to:

(1) consumer goods, other than an accession when given as additional security, unless the debtor acquires rights in them within ten days after the secured party gives value; or

(2) a commercial tort claim.

(b.1) Subsection (b) does not prevent a security interest from attaching:

(1) to consumer goods as proceeds under section 9-315(a) or commingled goods under section 9-336(c);

(2) to a commercial tort claim as proceeds under section 9-315(a); or

(3) under an after-acquired property clause to property that is proceeds of consumer goods or a commercial tort claim.

(c) A security agreement may provide that collateral secures, or that accounts, chattel paper, payment intangibles, or promissory notes are sold in connection with, future advances or other value, whether or not the advances or value are given pursuant to commitment.

Source: Laws 1999, LB 550, § 87; Laws 2024, LB94, § 50.
Effective date July 19, 2024.

Subpart 2

RIGHTS AND DUTIES

9-207 Rights and duties of secured party having possession or control of collateral.

(a) Except as otherwise provided in subsection (d), a secured party shall use reasonable care in the custody and preservation of collateral in the secured party's possession. In the case of chattel paper or an instrument, reasonable care includes taking necessary steps to preserve rights against prior parties unless otherwise agreed.

(b) Except as otherwise provided in subsection (d), if a secured party has possession of collateral:

(1) reasonable expenses, including the cost of insurance and payment of taxes or other charges, incurred in the custody, preservation, use, or operation of the collateral are chargeable to the debtor and are secured by the collateral;

(2) the risk of accidental loss or damage is on the debtor to the extent of a deficiency in any effective insurance coverage;

(3) the secured party shall keep the collateral identifiable, but fungible collateral may be commingled; and

(4) the secured party may use or operate the collateral:

(A) for the purpose of preserving the collateral or its value;

(B) as permitted by an order of a court having competent jurisdiction; or

(C) except in the case of consumer goods, in the manner and to the extent agreed by the debtor.

(c) Except as otherwise provided in subsection (d), a secured party having possession of collateral or control of collateral under section 7-106, 9-104, 9-105, 9-105A, 9-106, 9-107, or 9-107A:

(1) may hold as additional security any proceeds, except money or funds, received from the collateral;

(2) shall apply money or funds received from the collateral to reduce the secured obligation, unless remitted to the debtor; and

(3) may create a security interest in the collateral.

(d) If the secured party is a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignor:

(1) subsection (a) does not apply unless the secured party is entitled under an agreement:

(A) to charge back uncollected collateral; or

(B) otherwise to full or limited recourse against the debtor or a secondary obligor based on the nonpayment or other default of an account debtor or other obligor on the collateral; and

(2) subsections (b) and (c) do not apply.

Source: Laws 1999, LB 550, § 90; Laws 2005, LB 570, § 103; Laws 2024, LB94, § 51.
Effective date July 19, 2024.

9-208 Additional duties of secured party having control of collateral.

(a) This section applies to cases in which there is no outstanding secured obligation and the secured party is not committed to make advances, incur obligations, or otherwise give value.

(b) Within ten days after receiving a signed demand by the debtor:

(1) a secured party having control of a deposit account under section 9-104(a)(2) shall send to the bank with which the deposit account is maintained a signed record that releases the bank from any further obligation to comply with instructions originated by the secured party;

(2) a secured party having control of a deposit account under section 9-104(a)(3) shall:

(A) pay the debtor the balance on deposit in the deposit account; or

(B) transfer the balance on deposit into a deposit account in the debtor's name;

(3) a secured party, other than a buyer, having control under section 9-105 of an authoritative electronic copy of a record evidencing chattel paper shall transfer control of the electronic copy to the debtor or a person designated by the debtor;

(4) a secured party having control of investment property under section 8-106(d)(2) or 9-106(b) shall send to the securities intermediary or commodity intermediary with which the security entitlement or commodity contract is maintained a signed record that releases the securities intermediary or commodity intermediary from any further obligation to comply with entitlement orders or directions originated by the secured party;

(5) a secured party having control of a letter-of-credit right under section 9-107 shall send to each person having an unfulfilled obligation to pay or

deliver proceeds of the letter of credit to the secured party a signed release from any further obligation to pay or deliver proceeds of the letter of credit to the secured party;

(6) a secured party having control under section 7-106 of an authoritative electronic copy of an electronic document of title shall transfer control of the electronic copy to the debtor or a person designated by the debtor;

(7) a secured party having control under section 9-105A of electronic money shall transfer control of the electronic money to the debtor or a person designated by the debtor; and

(8) a secured party having control under section 12-105 of a controllable electronic record, other than a buyer of a controllable account or controllable payment intangible evidenced by the controllable electronic record, shall transfer control of the controllable electronic record to the debtor or a person designated by the debtor.

Source: Laws 1999, LB 550, § 91; Laws 2005, LB 570, § 104; Laws 2024, LB94, § 52.
Effective date July 19, 2024.

9-209 Duties of secured party if account debtor has been notified of assignment.

(a) Except as otherwise provided in subsection (c), this section applies if:

(1) there is no outstanding secured obligation; and

(2) the secured party is not committed to make advances, incur obligations, or otherwise give value.

(b) Within ten days after receiving a signed demand by the debtor, a secured party shall send to an account debtor that has received notification under section 9-406(a) or 12-106(b) of an assignment to the secured party as assignee a signed record that releases the account debtor from any further obligation to the secured party.

(c) This section does not apply to an assignment constituting the sale of an account, chattel paper, or payment intangible.

Source: Laws 1999, LB 550, § 92; Laws 2024, LB94, § 53.
Effective date July 19, 2024.

9-210 Request for accounting; request regarding list of collateral or statement of account.

(a) In this section:

(1) ''Request'' means a record of a type described in subdivision (2), (3), or (4).

(2) ''Request for an accounting'' means a record signed by a debtor requesting that the recipient provide an accounting of the unpaid obligations secured by collateral and reasonably identifying the transaction or relationship that is the subject of the request.

(3) ''Request regarding a list of collateral'' means a record signed by a debtor requesting that the recipient approve or correct a list of what the debtor believes to be the collateral securing an obligation and reasonably identifying the transaction or relationship that is the subject of the request.

(4) ''Request regarding a statement of account'' means a record signed by a debtor requesting that the recipient approve or correct a statement indicating what the debtor believes to be the aggregate amount of unpaid obligations secured by collateral as of a specified date and reasonably identifying the transaction or relationship that is the subject of the request.

(b) Subject to subsections (c), (d), (e), and (f), a secured party, other than a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignor, shall comply with a request within fourteen days after receipt:

(1) in the case of a request for an accounting, by signing and sending to the debtor an accounting; and

(2) in the case of a request regarding a list of collateral or a request regarding a statement of account, by signing and sending to the debtor an approval or correction.

(c) A secured party that claims a security interest in all of a particular type of collateral owned by the debtor may comply with a request regarding a list of collateral by sending to the debtor a signed record including a statement to that effect within fourteen days after receipt.

(d) A person that receives a request regarding a list of collateral, claims no interest in the collateral when it receives the request, and claimed an interest in the collateral at an earlier time shall comply with the request within fourteen days after receipt by sending to the debtor a signed record:

(1) disclaiming any interest in the collateral; and

(2) if known to the recipient, providing the name and mailing address of any assignee of or successor to the recipient's interest in the collateral.

(e) A person that receives a request for an accounting or a request regarding a statement of account, claims no interest in the obligations when it receives the request, and claimed an interest in the obligations at an earlier time shall comply with the request within fourteen days after receipt by sending to the debtor a signed record:

(1) disclaiming any interest in the obligations; and

(2) if known to the recipient, providing the name and mailing address of any assignee of or successor to the recipient's interest in the obligations.

(f) A debtor is entitled without charge to one response to a request under this section during any six-month period. The secured party may require payment of a charge not exceeding twenty-five dollars for each additional response.

Source: Laws 1999, LB 550, § 93; Laws 2000, LB 929, § 27; Laws 2024, LB94, § 54.
Effective date July 19, 2024.

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 9-306B, 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 negotiable tangible documents, goods, instruments, or tangible money 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; Laws 2024, LB94, § 55.
Effective date July 19, 2024.

9-304 Law governing perfection and priority of security interests in deposit accounts.

(a) The local law of a bank's jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a deposit account maintained with that bank even if the transaction does not bear any relation to the bank's jurisdiction.

(b) The following rules determine a bank's jurisdiction for purposes of this part:

(1) If an agreement between the bank and its customer governing the deposit account expressly provides that a particular jurisdiction is the bank's jurisdiction for purposes of this part, this article, or the Uniform Commercial Code, that jurisdiction is the bank's jurisdiction.

(2) If subdivision (1) does not apply and an agreement between the bank and its customer governing the deposit account expressly provides that the agreement is governed by the law of a particular jurisdiction, that jurisdiction is the bank's jurisdiction.

(3) If neither subdivision (1) nor subdivision (2) applies and an agreement between the bank and its customer governing the deposit account expressly provides that the deposit account is maintained at an office in a particular jurisdiction, that jurisdiction is the bank's jurisdiction.

(4) If none of the preceding subdivisions applies, the bank's jurisdiction is the jurisdiction in which the office identified in an account statement as the office serving the customer's account is located.

(5) If none of the preceding subdivisions applies, the bank's jurisdiction is the jurisdiction in which the chief executive office of the bank is located.

Source: Laws 1999, LB 550, § 97; Laws 2011, LB90, § 4; Laws 2024, LB94, § 56.
Effective date July 19, 2024.

9-305 Law governing perfection and priority of security interests in investment property.

(a) Except as otherwise provided in subsection (c), the following rules apply:

(1) While a security certificate 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 the certificated security represented thereby.

(2) The local law of the issuer's jurisdiction as specified in section 8-110(d) governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in an uncertificated security.

(3) The local law of the securities intermediary's jurisdiction as specified in section 8-110(e) governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a security entitlement or securities account.

(4) The local law of the commodity intermediary's jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a commodity contract or commodity account.

(5) Subdivisions (2), (3), and (4) apply even if the transaction does not bear any relation to the jurisdiction.

(b) The following rules determine a commodity intermediary's jurisdiction for purposes of this part:

(1) If an agreement between the commodity intermediary and commodity customer governing the commodity account expressly provides that a particular jurisdiction is the commodity intermediary's jurisdiction for purposes of this part, this article, or the Uniform Commercial Code, that jurisdiction is the commodity intermediary's jurisdiction.

(2) If subdivision (1) does not apply and an agreement between the commodity intermediary and commodity customer governing the commodity account expressly provides that the agreement is governed by the law of a particular jurisdiction, that jurisdiction is the commodity intermediary's jurisdiction.

(3) If neither subdivision (1) nor subdivision (2) applies and an agreement between the commodity intermediary and commodity customer governing the commodity account expressly provides that the commodity account is maintained at an office in a particular jurisdiction, that jurisdiction is the commodity intermediary's jurisdiction.

(4) If none of the preceding subdivisions applies, the commodity intermediary's jurisdiction is the jurisdiction in which the office identified in an account statement as the office serving the commodity customer's account is located.

(5) If none of the preceding subdivisions applies, the commodity intermediary's jurisdiction is the jurisdiction in which the chief executive office of the commodity intermediary is located.

(c) The local law of the jurisdiction in which the debtor is located governs:

(1) perfection of a security interest in investment property by filing;

(2) automatic perfection of a security interest in investment property created by a broker or securities intermediary; and

(3) automatic perfection of a security interest in a commodity contract or commodity account created by a commodity intermediary.

Source: Laws 1999, LB 550, § 98; Laws 2024, LB94, § 57.
Effective date July 19, 2024.

9-306A Law governing perfection and priority of security interests in chattel paper.

(a) Except as provided in subsection (d), if chattel paper is evidenced only by an authoritative electronic copy of the chattel paper or is evidenced by an authoritative electronic copy and an authoritative tangible copy, the local law of the chattel paper's jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in the chattel paper, even if the transaction does not bear any relation to the chattel paper's jurisdiction.

(b) The following rules determine the chattel paper's jurisdiction under this section:

(1) If the authoritative electronic copy of the record evidencing chattel paper, or a record attached to or logically associated with the electronic copy and readily available for review, expressly provides that a particular jurisdiction is the chattel paper's jurisdiction for purposes of this part, this article, or the Uniform Commercial Code, that jurisdiction is the chattel paper's jurisdiction.

(2) If subdivision (1) does not apply and the rules of the system in which the authoritative electronic copy is recorded are readily available for review and expressly provide that a particular jurisdiction is the chattel paper's jurisdiction for purposes of this part, this article, or the Uniform Commercial Code, that jurisdiction is the chattel paper's jurisdiction.

(3) If subdivisions (1) and (2) do not apply and the authoritative electronic copy, or a record attached to or logically associated with the electronic copy and readily available for review, expressly provides that the chattel paper is governed by the law of a particular jurisdiction, that jurisdiction is the chattel paper's jurisdiction.

(4) If subdivisions (1), (2), and (3) do not apply and the rules of the system in which the authoritative electronic copy is recorded are readily available for review and expressly provide that the chattel paper or the system is governed by the law of a particular jurisdiction, that jurisdiction is the chattel paper's jurisdiction.

(5) If subdivisions (1) through (4) do not apply, the chattel paper's jurisdiction is the jurisdiction in which the debtor is located.

(c) If an authoritative tangible copy of a record evidences chattel paper and the chattel paper is not evidenced by an authoritative electronic copy, while the authoritative tangible copy of the record evidencing chattel paper is located in a jurisdiction, the local law of that jurisdiction governs:

(1) perfection of a security interest in the chattel paper by possession under section 9-314A; and

(2) the effect of perfection or nonperfection and the priority of a security interest in the chattel paper.

(d) The local law of the jurisdiction in which the debtor is located governs perfection of a security interest in chattel paper by filing.

Source: Laws 2024, LB94, § 58.
Effective date July 19, 2024.

9-306B Law governing perfection and priority of security interests in controllable accounts, controllable electronic records, and controllable payment intangibles.

(a) Except as provided in subsection (b), the local law of the controllable electronic record's jurisdiction specified in section 12-107(c) and (d) governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a controllable electronic record and a security interest in a controllable account or controllable payment intangible evidenced by the controllable electronic record.

(b) The local law of the jurisdiction in which the debtor is located governs:

(1) perfection of a security interest in a controllable account, controllable electronic record, or controllable payment intangible by filing; and

(2) automatic perfection of a security interest in a controllable payment intangible created by a sale of the controllable payment intangible.

Source: Laws 2024, LB94, § 59.
Effective date July 19, 2024.

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 controllable accounts, controllable electronic records, controllable payment intangibles, deposit accounts, electronic documents, investment property, or letter-of-credit rights which is perfected by control under section 9-314;

(8.1) in chattel paper which is perfected by possession and control under section 9-314A;

(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; Laws 2024, LB94, § 60.
Effective date July 19, 2024.

9-312 Perfection of security interests in chattel paper, controllable accounts, controllable electronic records, controllable payment intangibles, deposit accounts, negotiable documents, goods covered by documents, instruments, investment property, 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, controllable accounts, controllable electronic records, controllable payment intangibles, instruments, investment property, or negotiable documents 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) 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;

(3) a security interest in tangible money may be perfected only by the secured party's taking possession under section 9-313; and

(4) a security interest in electronic money may be perfected only by control under section 9-314.

(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 a signed 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; Laws 2024, LB94, § 61.
Effective date July 19, 2024.

9-313 When possession by or delivery to secured party perfects security interest without filing.

(a) Except as otherwise provided in subsection (b), a secured party may perfect a security interest in goods, instruments, negotiable tangible documents, or tangible money by taking possession of the collateral. A secured party may perfect a security interest in certificated securities by taking delivery of the certificated securities under section 8-301.

(b) With respect to goods covered by a certificate of title issued by this state, a secured party may perfect a security interest in the goods by taking possession of the goods only in the circumstances described in section 9-316(d).

(c) With respect to collateral other than certificated securities and goods covered by a document, a secured party takes possession of collateral in the possession of a person other than the debtor, the secured party, or a lessee of the collateral from the debtor in the ordinary course of the debtor's business, when:

(1) the person in possession signs a record acknowledging that it holds possession of the collateral for the secured party's benefit; or

(2) the person takes possession of the collateral after having signed a record acknowledging that it will hold possession of the collateral for the secured party's benefit.

(d) If perfection of a security interest depends upon possession of the collateral by a secured party, perfection occurs not earlier than the time the secured party takes possession and continues only while the secured party retains possession.

(e) A security interest in a certificated security in registered form is perfected by delivery when delivery of the certificated security occurs under section 8-301 and remains perfected by delivery until the debtor obtains possession of the security certificate.

(f) A person in possession of collateral is not required to acknowledge that it holds possession for a secured party's benefit.

(g) If a person acknowledges that it holds possession for the secured party's benefit:

(1) the acknowledgment is effective under subsection (c) or section 8-301(a), even if the acknowledgment violates the rights of a debtor; and

(2) unless the person otherwise agrees or law other than this article otherwise provides, the person does not owe any duty to the secured party and is not required to confirm the acknowledgment to another person.

(h) A secured party having possession of collateral does not relinquish possession by delivering the collateral to a person other than the debtor or a lessee of the collateral from the debtor in the ordinary course of the debtor's business if the person was instructed before the delivery or is instructed contemporaneously with the delivery:

(1) to hold possession of the collateral for the secured party's benefit; or

(2) to redeliver the collateral to the secured party.

(i) A secured party does not relinquish possession, even if a delivery under subsection (h) violates the rights of a debtor. A person to which collateral is delivered under subsection (h) does not owe any duty to the secured party and is not required to confirm the delivery to another person unless the person otherwise agrees or law other than this article otherwise provides.

Source: Laws 1999, LB 550, § 106; Laws 2005, LB 570, § 108; Laws 2024, LB94, § 62.
Effective date July 19, 2024.

9-314 Perfection by control.

(a) A security interest in controllable accounts, controllable electronic records, controllable payment intangibles, deposit accounts, electronic documents, electronic money, investment property, or letter-of-credit rights may be perfected by control of the collateral under section 7-106, 9-104, 9-105, 9-105A, 9-106, 9-107, or 9-107A.

(b) A security interest in controllable accounts, controllable electronic records, controllable payment intangibles, deposit accounts, electronic documents, electronic money, or letter-of-credit rights is perfected by control under section 7-106, 9-104, 9-105, 9-105A, 9-107, or 9-107A not earlier than the time 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 not earlier than 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; Laws 2024, LB94, § 63.
Effective date July 19, 2024.

9-314A Perfection by possession and control of chattel paper.

(a) A secured party may perfect a security interest in chattel paper by taking possession of each authoritative tangible copy of the record evidencing the chattel paper and obtaining control of each authoritative electronic copy of the electronic record evidencing the chattel paper.

(b) A security interest is perfected under subsection (a) not earlier than the time the secured party takes possession and obtains control and remains perfected under subsection (a) only while the secured party retains possession and control.

(c) Section 9-313(c) and (f) through (i) applies to perfection by possession of an authoritative tangible copy of a record evidencing chattel paper.

Source: Laws 2024, LB94, § 64.
Effective date July 19, 2024.

9-316 Continued perfection of security interest following change in governing law.

(a) A security interest perfected pursuant to the law of the jurisdiction designated in section 9-301(1), 9-305(c), 9-306A(d), or 9-306B(b) remains perfected until the earliest of:

(1) the time perfection would have ceased under the law of that jurisdiction;

(2) the expiration of four months after a change of the debtor's location to another jurisdiction; or

(3) the expiration of one year after a transfer of collateral to a person that thereby becomes a debtor and is located in another jurisdiction.

(b) If a security interest described in subsection (a) becomes perfected under the law of the other jurisdiction before the earliest time or event described in that subsection, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earliest time or event, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

(c) A possessory security interest in collateral, other than goods covered by a certificate of title and as-extracted collateral consisting of goods, remains continuously perfected if:

(1) the collateral is located in one jurisdiction and subject to a security interest perfected under the law of that jurisdiction;

(2) thereafter the collateral is brought into another jurisdiction; and

(3) upon entry into the other jurisdiction, the security interest is perfected under the law of the other jurisdiction.

(d) Except as otherwise provided in subsection (e), a security interest in goods covered by a certificate of title which is perfected by any method under the law of another jurisdiction when the goods become covered by a certificate of title from this state remains perfected until the security interest would have become unperfected under the law of the other jurisdiction had the goods not become so covered.

(e) A security interest described in subsection (d) becomes unperfected as against a purchaser of the goods for value and is deemed never to have been perfected as against a purchaser of the goods for value if the applicable requirements for perfection under section 9-311(b) or 9-313 are not satisfied before the earlier of:

(1) the time the security interest would have become unperfected under the law of the other jurisdiction had the goods not become covered by a certificate of title from this state; or

(2) the expiration of four months after the goods had become so covered.

(f) A security interest in chattel paper, controllable accounts, controllable electronic records, controllable payment intangibles, deposit accounts, letter-of-credit rights, or investment property which is perfected under the law of the chattel paper's jurisdiction, the controllable electronic record's jurisdiction, the bank's jurisdiction, the issuer's jurisdiction, a nominated person's jurisdiction, the securities intermediary's jurisdiction, or the commodity intermediary's jurisdiction, as applicable, remains perfected until the earlier of:

(1) the time the security interest would have become unperfected under the law of that jurisdiction; or

(2) the expiration of four months after a change of the applicable jurisdiction to another jurisdiction.

(g) If a security interest described in subsection (f) becomes perfected under the law of the other jurisdiction before the earlier of the time or the end of the period described in that subsection, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earlier of that time or the end of that period, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

(h) The following rules apply to collateral to which a security interest attaches within four months after the debtor changes its location to another jurisdiction:

(1) A financing statement filed before the change pursuant to the law of the jurisdiction designated in section 9-301(1) or 9-305(c) is effective to perfect a security interest in the collateral if the financing statement would have been effective to perfect a security interest in the collateral had the debtor not changed its location.

(2) If a security interest perfected by a financing statement that is effective under subdivision (1) becomes perfected under the law of the other jurisdiction before the earlier of the time the financing statement would have become ineffective under the law of the jurisdiction designated in section 9-301(1) or 9-305(c) or the expiration of the four-month period, it remains perfected

thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earlier time or event, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

(i) If a financing statement naming an original debtor is filed pursuant to the law of the jurisdiction designated in section 9-301(1) or 9-305(c) and the new debtor is located in another jurisdiction, the following rules apply:

(1) The financing statement is effective to perfect a security interest in collateral acquired by the new debtor before, and within four months after, the new debtor becomes bound under section 9-203(d), if the financing statement would have been effective to perfect a security interest in the collateral had the collateral been acquired by the original debtor.

(2) A security interest perfected by the financing statement and which becomes perfected under the law of the other jurisdiction before the earlier of the time the financing statement would have become ineffective under the law of the jurisdiction designated in section 9-301(1) or 9-305(c) or the expiration of the four-month period remains perfected thereafter. A security interest that is perfected by the financing statement but which does not become perfected under the law of the other jurisdiction before the earlier time or event becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

Source: Laws 1999, LB 550, § 109; Laws 2011, LB90, § 8; Laws 2024, LB94, § 65.
Effective date July 19, 2024.

Subpart 3

PRIORITY

9-317 Interests that take priority over or take free of security interest or agricultural lien.

(a) A security interest or agricultural lien is subordinate to the rights of:

(1) a person entitled to priority under section 9-322; and

(2) except as otherwise provided in subsection (e), a person that becomes a lien creditor before the earlier of the time:

(A) the security interest or agricultural lien is perfected; or

(B) one of the conditions specified in section 9-203(b)(3) is met and a financing statement covering the collateral is filed.

(b) Except as otherwise provided in subsection (e), a buyer, other than a secured party, of goods, instruments, tangible documents, or a security certificate takes free of a security interest or agricultural lien if the buyer gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(c) Except as otherwise provided in subsection (e), a lessee of goods takes free of a security interest or agricultural lien if the lessee gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(d) Subject to subsections (f) through (i), a licensee of a general intangible or a buyer, other than a secured party, of collateral other than electronic money,

goods, instruments, tangible documents, or a certificated security takes free of a security interest if the licensee or buyer gives value without knowledge of the security interest and before it is perfected.

(e) Except as otherwise provided in sections 9-320 and 9-321, if a person files a financing statement with respect to a purchase-money security interest before or within thirty days after the debtor receives delivery of the collateral, the security interest takes priority over the rights of a buyer, lessee, or lien creditor which arise between the time the security interest attaches and the time of filing.

(f) A buyer, other than a secured party, of chattel paper takes free of a security interest if, without knowledge of the security interest and before it is perfected, the buyer gives value and:

(1) receives delivery of each authoritative tangible copy of the record evidencing the chattel paper; and

(2) if each authoritative electronic copy of the record evidencing the chattel paper can be subjected to control under section 9-105, obtains control of each authoritative electronic copy.

(g) A buyer of an electronic document takes free of a security interest if, without knowledge of the security interest and before it is perfected, the buyer gives value and, if each authoritative electronic copy of the document can be subjected to control under section 7-106, obtains control of each authoritative electronic copy.

(h) A buyer of a controllable electronic record takes free of a security interest if, without knowledge of the security interest and before it is perfected, the buyer gives value and obtains control of the controllable electronic record.

(i) A buyer, other than a secured party, of a controllable account or a controllable payment intangible takes free of a security interest if, without knowledge of the security interest and before it is perfected, the buyer gives value and obtains control of the controllable account or controllable payment intangible.

Source: Laws 1999, LB 550, § 110; Laws 2000, LB 929, § 29; Laws 2005, LB 82, § 8; Laws 2005, LB 570, § 110; Laws 2011, LB90, § 9; Laws 2024, LB94, § 66.
Effective date July 19, 2024.

9-323 Future advances.

(a) Except as otherwise provided in subsection (c), for purposes of determining the priority of a perfected security interest under section 9-322(a)(1), perfection of the security interest dates from the time an advance is made to the extent that the security interest secures an advance that:

(1) is made while the security interest is perfected only:

(A) under section 9-309 when it attaches; or

(B) temporarily under section 9-312(e), (f), or (g); and

(2) is not made pursuant to a commitment entered into before or while the security interest is perfected by a method other than under section 9-309 or 9-312(e), (f), or (g).

(b) Except as otherwise provided in subsection (c), a security interest is subordinate to the rights of a person that becomes a lien creditor to the extent

that the security interest secures an advance made more than forty-five days after the person becomes a lien creditor unless the advance is made:

(1) without knowledge of the lien; or

(2) pursuant to a commitment entered into without knowledge of the lien.

(c) Subsections (a) and (b) do not apply to a security interest held by a secured party that is a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignor.

(d) Except as otherwise provided in subsection (e), a buyer of goods takes free of a security interest to the extent that it secures advances made after the earlier of:

(1) the time the secured party acquires knowledge of the buyer's purchase; or

(2) forty-five days after the purchase.

(e) Subsection (d) does not apply if the advance is made pursuant to a commitment entered into without knowledge of the buyer's purchase and before the expiration of the forty-five-day period.

(f) Except as otherwise provided in subsection (g), a lessee of goods takes the leasehold interest free of a security interest to the extent that it secures advances made after the earlier of:

(1) the time the secured party acquires knowledge of the lease; or

(2) forty-five days after the lease contract becomes enforceable.

(g) Subsection (f) does not apply if the advance is made pursuant to a commitment entered into without knowledge of the lease and before the expiration of the forty-five-day period.

Source: Laws 1999, LB 550, § 116; Laws 2000, LB 929, § 30; Laws 2024, LB94, § 67.
Effective date July 19, 2024.

9-324 Priority of purchase-money security interests.

(a) Except as otherwise provided in subsection (g), a perfected purchase-money security interest in goods other than inventory or livestock has priority over a conflicting security interest in the same goods, and, except as otherwise provided in section 9-327, a perfected security interest in its identifiable proceeds also has priority, if the purchase-money security interest is perfected when the debtor receives possession of the collateral or within thirty days thereafter.

(b) Subject to subsection (c) and except as otherwise provided in subsection (g), a perfected purchase-money security interest in inventory has priority over a conflicting security interest in the same inventory, has priority over a conflicting security interest in chattel paper or an instrument constituting proceeds of the inventory and in proceeds of the chattel paper, if so provided in section 9-330, and, except as otherwise provided in section 9-327, also has priority in identifiable cash proceeds of the inventory to the extent the identifiable cash proceeds are received on or before the delivery of the inventory to a buyer, if:

(1) the purchase-money security interest is perfected when the debtor receives possession of the inventory;

(2) the purchase-money secured party sends a signed notification to the holder of the conflicting security interest;

(3) the holder of the conflicting security interest receives the notification within five years before the debtor receives possession of the inventory; and

(4) the notification states that the person sending the notification has or expects to acquire a purchase-money security interest in inventory of the debtor and describes the inventory.

(c) Subdivisions (b)(2) through (4) apply only if the holder of the conflicting security interest had filed a financing statement covering the same types of inventory:

(1) if the purchase-money security interest is perfected by filing, before the date of the filing; or

(2) if the purchase-money security interest is temporarily perfected without filing or possession under section 9-312(f), before the beginning of the twenty-day period thereunder.

(d)(1) Subject to subsection (e) and except as otherwise provided in subsection (g), a perfected purchase-money security interest in livestock that are farm products has priority over a conflicting security interest in the same livestock, and, except as otherwise provided in section 9-327, a perfected security interest in their identifiable proceeds and identifiable products in their unmanufactured states also has priority, if:

(A) the purchase-money security interest is perfected when the debtor receives possession of the livestock;

(B) the purchase-money secured party sends a signed notification to the holder of the conflicting security interest;

(C) the holder of the conflicting security interest receives the notification within six months before the debtor receives possession of the livestock; and

(D) the notification states that the person sending the notification has or expects to acquire a purchase-money security interest in livestock of the debtor and describes the livestock.

(2) For purposes of this subsection, possession means (A) possession by the debtor or (B) possession by a third party on behalf of or at the direction of the debtor, including, but not limited to, possession by a bailee or an agent of the debtor.

(e) Subdivisions (d)(1)(B) through (D) apply only if the holder of the conflicting security interest had filed a financing statement covering the same types of livestock:

(1) if the purchase-money security interest is perfected by filing, before the date of the filing; or

(2) if the purchase-money security interest is temporarily perfected without filing or possession under section 9-312(f), before the beginning of the twenty-day period thereunder.

(f) Except as otherwise provided in subsection (g), a perfected purchase-money security interest in software has priority over a conflicting security interest in the same collateral, and, except as otherwise provided in section 9-327, a perfected security interest in its identifiable proceeds also has priority, to the extent that the purchase-money security interest in the goods in which

the software was acquired for use has priority in the goods and proceeds of the goods under this section.

(g) If more than one security interest qualifies for priority in the same collateral under subsection (a), (b), (d), or (f):

(1) a security interest securing an obligation incurred as all or part of the price of the collateral has priority over a security interest securing an obligation incurred for value given to enable the debtor to acquire rights in or the use of collateral; and

(2) in all other cases, section 9-322(a) applies to the qualifying security interests.

Source: Laws 1999, LB 550, § 117; Laws 2005, LB 82, § 9; Laws 2008, LB851, § 27; Laws 2024, LB94, § 68.
Effective date July 19, 2024.

9-326A Priority of security interest in controllable account, controllable electronic record, and controllable payment intangible.

A security interest in a controllable account, controllable electronic record, or controllable payment intangible held by a secured party having control of the account, electronic record, or payment intangible has priority over a conflicting security interest held by a secured party that does not have control.

Source: Laws 2024, LB94, § 69.
Effective date July 19, 2024.

9-330 Priority of purchaser of chattel paper or instrument.

(a) A purchaser of chattel paper has priority over a security interest in the chattel paper which is claimed merely as proceeds of inventory subject to a security interest if:

(1) in good faith and in the ordinary course of the purchaser's business, the purchaser gives new value, takes possession of each authoritative tangible copy of the record evidencing the chattel paper, and obtains control under section 9-105 of each authoritative electronic copy of the record evidencing the chattel paper; and

(2) the authoritative copies of the record evidencing the chattel paper do not indicate that the chattel paper has been assigned to an identified assignee other than the purchaser.

(b) A purchaser of chattel paper has priority over a security interest in the chattel paper which is claimed other than merely as proceeds of inventory subject to a security interest if the purchaser gives new value, takes possession of each authoritative tangible copy of the record evidencing the chattel paper, and obtains control under section 9-105 of each authoritative electronic copy of the record evidencing the chattel paper in good faith, in the ordinary course of the purchaser's business, and without knowledge that the purchase violates the rights of the secured party.

(c) Except as otherwise provided in section 9-327, a purchaser having priority in chattel paper under subsection (a) or (b) also has priority in proceeds of the chattel paper to the extent that:

(1) section 9-322 provides for priority in the proceeds; or

(2) the proceeds consist of the specific goods covered by the chattel paper or cash proceeds of the specific goods, even if the purchaser's security interest in the proceeds is unperfected.

(d) Except as otherwise provided in section 9-331(a), a purchaser of an instrument has priority over a security interest in the instrument perfected by a method other than possession if the purchaser gives value and takes possession of the instrument in good faith and without knowledge that the purchase violates the rights of the secured party.

(e) For purposes of subsections (a) and (b), the holder of a purchase-money security interest in inventory gives new value for chattel paper constituting proceeds of the inventory.

(f) For purposes of subsections (b) and (d), if the authoritative copies of the record evidencing chattel paper or an instrument indicate that the chattel paper or instrument has been assigned to an identified secured party other than the purchaser, a purchaser of the chattel paper or instrument has knowledge that the purchase violates the rights of the secured party.

Source: Laws 1999, LB 550, § 123; Laws 2024, LB94, § 70.
Effective date July 19, 2024.

9-331 Priority of rights of purchasers of controllable accounts, controllable electronic records, controllable payment intangibles, documents, instruments, and securities under other articles; priority of interests in financial assets and security entitlements and protection against assertion of claim under articles 8 and 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 qualifying purchaser of a controllable account, controllable electronic record, or controllable payment intangible. 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; Laws 2024, LB94, § 71.
Effective date July 19, 2024.

9-332 Transfer of money; transfer of funds from deposit account.

(a) A transferee of tangible money takes the money free of a security interest if the transferee receives possession of the money without acting in collusion with the debtor in violating the rights of the secured party.

(b) A transferee of funds from a deposit account takes the funds free of a security interest in the deposit account if the transferee receives the funds without acting in collusion with the debtor in violating the rights of the secured party.

(c) A transferee of electronic money takes the money free of a security interest if the transferee obtains control of the money without acting in collusion with the debtor in violating the rights of the secured party.

Source: Laws 1999, LB 550, § 125; Laws 2024, LB94, § 72.
Effective date July 19, 2024.

9-334 Priority of security interests in fixtures and crops.

(a) A security interest under this article may be created in goods that are fixtures or may continue in goods that become fixtures. A security interest does not exist under this article in ordinary building materials incorporated into an improvement on land.

(b) This article does not prevent creation of an encumbrance upon fixtures under real property law.

(c) In cases not governed by subsections (d) through (h), a security interest in fixtures is subordinate to a conflicting interest of an encumbrancer or owner of the related real property other than the debtor.

(d) Except as otherwise provided in subsection (h), a perfected security interest in fixtures has priority over a conflicting interest of an encumbrancer or owner of the real property if the debtor has an interest of record in or is in possession of the real property and:

(1) the security interest is a purchase-money security interest;

(2) the interest of the encumbrancer or owner arises before the goods become fixtures; and

(3) the security interest is perfected by a fixture filing before the goods become fixtures or within twenty days thereafter.

(e) A perfected security interest in fixtures has priority over a conflicting interest of an encumbrancer or owner of the real property if:

(1) the debtor has an interest of record in the real property or is in possession of the real property and the security interest:

(A) is perfected by a fixture filing before the interest of the encumbrancer or owner is of record; and

(B) has priority over any conflicting interest of a predecessor in title of the encumbrancer or owner;

(2) before the goods become fixtures, the security interest is perfected by any method permitted by this article and the fixtures are readily removable:

(A) factory or office machines;

(B) equipment that is not primarily used or leased for use in the operation of the real property; or

(C) replacements of domestic appliances that are consumer goods;

(3) the conflicting interest is a lien on the real property obtained by legal or equitable proceedings after the security interest was perfected by any method permitted by this article; or

(4) the security interest is:

(A) created in a manufactured home in a manufactured-home transaction; and

(B) perfected pursuant to a statute described in section 9-311(a)(2).

(f) A security interest in fixtures, whether or not perfected, has priority over a conflicting interest of an encumbrancer or owner of the real property if:

(1) the encumbrancer or owner has, in a signed record, consented to the security interest or disclaimed an interest in the goods as fixtures; or

(2) the debtor has a right to remove the goods as against the encumbrancer or owner.

(g) The priority of the security interest under subdivision (f)(2) continues for a reasonable time if the debtor's right to remove the goods as against the encumbrancer or owner terminates.

(h) A mortgage is a construction mortgage to the extent that it secures an obligation incurred for the construction of an improvement on land, including the acquisition cost of the land, if a recorded record of the mortgage so indicates. Except as otherwise provided in subsections (e) and (f), a security interest in fixtures is subordinate to a construction mortgage if a record of the mortgage is recorded before the goods become fixtures and the goods become fixtures before the completion of the construction. A mortgage has this priority to the same extent as a construction mortgage to the extent that it is given to refinance a construction mortgage.

(i) A perfected security interest in crops growing on real property has priority over a conflicting interest of an encumbrancer or owner of the real property if the debtor has an interest of record in or is in possession of the real property.

(j) Subsection (i) prevails over any inconsistent provisions of the law of this state.

Source: Laws 1999, LB 550, § 127; Laws 2000, LB 929, § 32; Laws 2024, LB94, § 73.
Effective date July 19, 2024.

Subpart 4

RIGHTS OF BANK

9-341 Bank's rights and duties with respect to deposit account.

Except as otherwise provided in section 9-340(c), and unless the bank otherwise agrees in a signed record, a bank's rights and duties with respect to a deposit account maintained with the bank are not terminated, suspended, or modified by:

(1) the creation, attachment, or perfection of a security interest in the deposit account;

(2) the bank's knowledge of the security interest; or

(3) the bank's receipt of instructions from the secured party.

Source: Laws 1999, LB 550, § 134; Laws 2024, LB94, § 74.
Effective date July 19, 2024.

Part 4

RIGHTS OF THIRD PARTIES

9-404 Rights acquired by assignee; claims and defenses against assignee.

(a) Unless an account debtor has made an enforceable agreement not to assert defenses or claims, and subject to subsections (b) through (e), the rights of an assignee are subject to:

(1) all terms of the agreement between the account debtor and assignor and any defense or claim in recoupment arising from the transaction that gave rise to the contract; and

(2) any other defense or claim of the account debtor against the assignor which accrues before the account debtor receives a notification of the assignment signed by the assignor or the assignee.

(b) Subject to subsection (c) and except as otherwise provided in subsection (d), the claim of an account debtor against an assignor may be asserted against an assignee under subsection (a) only to reduce the amount the account debtor owes.

(c) 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.

(d) In a consumer transaction, if a record evidences the account debtor's obligation, law other than this article requires that the record include a statement to the effect that the account debtor's recovery against an assignee with respect to claims and defenses against the assignor may not exceed amounts paid by the account debtor under the record, and the record does not include such a statement, the extent to which a claim of an account debtor against the assignor may be asserted against an assignee is determined as if the record included such a statement.

(e) This section does not apply to an assignment of a health-care-insurance receivable.

Source: Laws 1999, LB 550, § 139; Laws 2024, LB94, § 75.
Effective date July 19, 2024.

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 (l), 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, signed 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 (l), 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 (l), 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) In this subsection, ''promissory note'' includes a negotiable instrument that evidences chattel paper. Except as otherwise provided in subsections (e) and (k) 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 subsection (k) and 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 (l), 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 (d), (f), and (j) do not apply to a security interest in an ownership interest in a general partnership, limited partnership, or limited liability company.

(l) Subsections (a), (b), (c), and (g) do not apply to a controllable account or controllable payment intangible.

Source: Laws 1999, LB 550, § 141; Laws 2000, LB 929, § 34; Laws 2011, LB90, § 11; Laws 2021, LB649, § 57; Laws 2024, LB94, § 76. Effective date July 19, 2024.

9-408 Restrictions on assignment of promissory notes, health-care-insurance receivables, and certain general intangibles ineffective.

(a) Except as otherwise provided in subsections (b) and (f), a term in a promissory note or in an agreement between an account debtor and a debtor which relates to a health-care-insurance receivable or a general intangible, including a contract, permit, license, or franchise, and which term prohibits, restricts, or requires the consent of the person obligated on the promissory note or the account debtor to, the assignment or transfer of, or creation, attachment, or perfection of a security interest in, the promissory note, health-care-insurance receivable, or general intangible, is ineffective to the extent that the term:

(1) would impair the creation, attachment, or perfection of a security interest; or

(2) provides that the assignment or transfer or the creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the promissory note, health-care-insurance receivable, or general intangible.

(b) Subsection (a) applies to a security interest in a payment intangible or promissory note only if the security interest arises out of a sale of the payment intangible or promissory note, other than a sale pursuant to a disposition under section 9-610 or an acceptance of collateral under section 9-620.

(c) Except as otherwise provided in subsection (f), a rule of law, statute, or regulation that prohibits, restricts, or requires the consent of a government, governmental body or official, person obligated on a promissory note, or account debtor to the assignment or transfer of, or creation of a security interest in, a promissory note, health-care-insurance receivable, or general intangible, including a contract, permit, license, or franchise between an account debtor and a debtor, is ineffective to the extent that the rule of law, statute, or regulation:

(1) would impair the creation, attachment, or perfection of a security interest; or

(2) provides that the assignment or transfer or the creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the promissory note, health-care-insurance receivable, or general intangible.

(d) To the extent that a term in a promissory note or in an agreement between an account debtor and a debtor which relates to a health-care-insurance receivable or general intangible or a rule of law, statute, or regulation described in subsection (c) would be effective under law other than this article but is ineffective under subsection (a) or (c), the creation, attachment, or perfection of a security interest in the promissory note, health-care-insurance receivable, or general intangible:

(1) is not enforceable against the person obligated on the promissory note or the account debtor;

(2) does not impose a duty or obligation on the person obligated on the promissory note or the account debtor;

(3) does not require the person obligated on the promissory note or the account debtor to recognize the security interest, pay or render performance to the secured party, or accept payment or performance from the secured party;

(4) does not entitle the secured party to use or assign the debtor's rights under the promissory note, health-care-insurance receivable, or general intangible, including any related information or materials furnished to the debtor in the transaction giving rise to the promissory note, health-care-insurance receivable, or general intangible;

(5) does not entitle the secured party to use, assign, possess, or have access to any trade secrets or confidential information of the person obligated on the promissory note or the account debtor; and

(6) does not entitle the secured party to enforce the security interest in the promissory note, health-care-insurance receivable, or general intangible.

(e) This section prevails over any inconsistent provisions of the law of this state.

(f) This section does not apply to a security interest in an ownership interest in a general partnership, limited partnership, or limited liability company.

(g) In this section, ''promissory note'' includes a negotiable instrument that evidences chattel paper.

Source: Laws 1999, LB 550, § 143; Laws 2000, LB 929, § 36; Laws 2011, LB90, § 12; Laws 2024, LB94, § 77.
Effective date July 19, 2024.

Part 5

FILING

Subpart 1

FILING OFFICE; CONTENTS AND EFFECTIVENESS OF FINANCING STATEMENT

9-509 Persons entitled to file a record.

(a) A person may file an initial financing statement, amendment that adds collateral covered by a financing statement, or amendment that adds a debtor to a financing statement only if:

(1) the debtor authorizes the filing in a signed record or pursuant to subsection (b) or (c); or

(2) the person holds an agricultural lien that has become effective at the time of filing and the financing statement covers only collateral in which the person holds an agricultural lien.

(b) By signing or becoming bound as debtor by a security agreement, a debtor or new debtor authorizes the filing of an initial financing statement, and an amendment, covering:

(1) the collateral described in the security agreement; and

(2) property that becomes collateral under section 9-315(a)(1)(B), whether or not the security agreement expressly covers proceeds.

(c) By acquiring collateral in which a security interest or agricultural lien continues under section 9-315(a)(1)(A), a debtor authorizes the filing of an initial financing statement, and an amendment, covering the collateral and property that becomes collateral under section 9-315(a)(1)(B).

(d) A person may file an amendment other than an amendment that adds collateral covered by a financing statement or an amendment that adds a debtor to a financing statement only if:

(1) the secured party of record authorizes the filing; or

(2) the amendment is a termination statement for a financing statement as to which the secured party of record has failed to file or send a termination statement as required by section 9-513(a), the debtor authorizes the filing, and the termination statement indicates that the debtor authorized it to be filed.

(e) If there is more than one secured party of record for a financing statement, each secured party of record may authorize the filing of an amendment under subsection (d).

Source: Laws 1999, LB 550, § 153; Laws 2000, LB 929, § 39; Laws 2024, LB94, § 78.
Effective date July 19, 2024.

9-513 Termination statement.

(a) Within twenty days after a secured party receives a signed demand from a debtor, the secured party shall cause the secured party of record for a financing statement to send to the debtor a termination statement for the financing statement or file the termination statement in the filing office if:

(1) except in the case of a financing statement covering accounts or chattel paper that has been sold or goods that are the subject of a consignment, there is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value;

(2) the financing statement covers accounts or chattel paper that has been sold but as to which the account debtor or other person obligated has discharged its obligation;

(3) the financing statement covers goods that were the subject of a consignment to the debtor but are not in the debtor's possession; or

(4) the debtor did not authorize the filing of the initial financing statement.

(b) Except as otherwise provided in section 9-510, upon the filing of a termination statement with the filing office, the financing statement to which the termination statement relates ceases to be effective. Except as otherwise provided in section 9-510, for purposes of sections 9-519(g), 9-522(a), and

9-523(c), the filing with the filing office of a termination statement relating to a financing statement that indicates that the debtor is a transmitting utility also causes the effectiveness of the financing statement to lapse.

(c) There is no fee for the filing of a termination statement.

Source: Laws 1999, LB 550, § 157; Laws 2000, LB 929, § 40; Laws 2024, LB94, § 79.
Effective date July 19, 2024.

Part 6

DEFAULT

Subpart 1

DEFAULT AND ENFORCEMENT OF SECURITY INTEREST

9-601 Rights after default; judicial enforcement; consignor or buyer of accounts, chattel paper, payment intangibles, or promissory notes.

(a) After default, a secured party has the rights provided in this part and, except as otherwise provided in section 9-602, those provided by agreement of the parties. A secured party:

(1) may reduce a claim to judgment, foreclose, or otherwise enforce the claim, security interest, or agricultural lien by any available judicial procedure; and

(2) if the collateral is documents, may proceed either as to the documents or as to the goods they cover.

(b) A secured party in possession of collateral or control of collateral under section 7-106, 9-104, 9-105, 9-105A, 9-106, 9-107, or 9-107A has the rights and duties provided in section 9-207.

(c) The rights under subsections (a) and (b) are cumulative and may be exercised simultaneously.

(d) Except as otherwise provided in subsection (g) and section 9-605, after default, a debtor and an obligor have the rights provided in this part and by agreement of the parties.

(e) If a secured party has reduced its claim to judgment, the lien of any levy that may be made upon the collateral by virtue of an execution based upon the judgment relates back to the earliest of:

(1) the date of perfection of the security interest or agricultural lien in the collateral;

(2) the date of filing a financing statement covering the collateral; or

(3) any date specified in a statute under which the agricultural lien was created.

(f) A sale pursuant to an execution is a foreclosure of the security interest or agricultural lien by judicial procedure within the meaning of this section. A secured party may purchase at the sale and thereafter hold the collateral free of any other requirements of this article.

(g) Except as otherwise provided in section 9-607(c), this part imposes no duties upon a secured party that is a consignor or is a buyer of accounts, chattel paper, payment intangibles, or promissory notes.

Source: Laws 1999, LB 550, § 176; Laws 2005, LB 570, § 112; Laws 2024, LB94, § 80.
Effective date July 19, 2024.

9-605 Unknown debtor or secondary obligor.

(a) Except as provided in subsection (b), a secured party does not owe a duty based on its status as secured party:

(1) to a person that is a debtor or obligor, unless the secured party knows:

(A) that the person is a debtor or obligor;

(B) the identity of the person; and

(C) how to communicate with the person; or

(2) to a secured party or lienholder that has filed a financing statement against a person, unless the secured party knows:

(A) that the person is a debtor; and

(B) the identity of the person.

(b) A secured party owes a duty based on its status as a secured party to a person if, at the time the secured party obtains control of collateral that is a controllable account, controllable electronic record, or controllable payment intangible or at the time the security interest attaches to the collateral, whichever is later:

(1) the person is a debtor or obligor; and

(2) the secured party knows that the information in subsection (a)(1)(A), (B), or (C) relating to the person is not provided by the collateral, a record attached to or logically associated with the collateral, or the system in which the collateral is recorded.

Source: Laws 1999, LB 550, § 180; Laws 2024, LB94, § 81.
Effective date July 19, 2024.

9-608 Application of proceeds of collection or enforcement; liability for deficiency and right to surplus.

(a) If a security interest or agricultural lien secures payment or performance of an obligation, the following rules apply:

(1) A secured party shall apply or pay over for application the cash proceeds of collection or enforcement under section 9-607 in the following order to:

(A) the reasonable expenses of collection and enforcement and, to the extent provided for by agreement and not prohibited by law, reasonable attorney's fees and legal expenses incurred by the secured party;

(B) the satisfaction of obligations secured by the security interest or agricultural lien under which the collection or enforcement is made; and

(C) the satisfaction of obligations secured by any subordinate security interest in or other lien on the collateral subject to the security interest or agricultural lien under which the collection or enforcement is made if the secured party receives a signed demand for proceeds before distribution of the proceeds is completed.

(2) If requested by a secured party, a holder of a subordinate security interest or other lien shall furnish reasonable proof of the interest or lien within a reasonable time. Unless the holder complies, the secured party need not comply with the holder's demand under subdivision (1)(C).

(3) A secured party need not apply or pay over for application noncash proceeds of collection and enforcement under section 9-607 unless the failure to do so would be commercially unreasonable. A secured party that applies or pays over for application noncash proceeds shall do so in a commercially reasonable manner.

(4) A secured party shall account to and pay a debtor for any surplus, and the obligor is liable for any deficiency.

(b) If the underlying transaction is a sale of accounts, chattel paper, payment intangibles, or promissory notes, the debtor is not entitled to any surplus, and the obligor is not liable for any deficiency.

Source: Laws 1999, LB 550, § 183; Laws 2000, LB 929, § 41; Laws 2024, LB94, § 82.
Effective date July 19, 2024.

9-611 Notification before disposition of collateral.

(a) In this section, ''notification date'' means the earlier of the date on which:

(1) a secured party sends to the debtor and any secondary obligor a signed notification of disposition; or

(2) the debtor and any secondary obligor waive the right to notification.

(b) Except as otherwise provided in subsection (d), a secured party that disposes of collateral under section 9-610 shall send to the persons specified in subsection (c) a reasonable signed notification of disposition.

(c) To comply with subsection (b), the secured party shall send a signed notification of disposition to:

(1) the debtor;

(2) any secondary obligor, unless no security for the obligation or indebtedness was taken or contemplated at the time the secondary obligor became accountable in whole or in part for payment or other performance of the obligation; and

(3) if the collateral is other than consumer goods:

(A) any other person from which the secured party has received, before the notification date, a signed notification of a claim of an interest in the collateral;

(B) any other secured party or lienholder that, ten days before the notification date, held a security interest in or other lien on the collateral perfected by the filing of a financing statement that:

(i) identified the collateral;

(ii) was indexed under the debtor's name as of that date; and

(iii) was filed in the office in which to file a financing statement against the debtor covering the collateral as of that date; and

(C) any other secured party that, ten days before the notification date, held a security interest in the collateral perfected by compliance with a statute, regulation, or treaty described in section 9-311(a).

(d) Subsection (b) does not apply if the collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market.

(e) A secured party complies with the requirement for notification prescribed by subdivision (c)(3)(B) if:

(1) not later than twenty days or earlier than thirty days before the notification date, the secured party requests, in a commercially reasonable manner, information concerning financing statements indexed under the debtor's name in the office indicated in subdivision (c)(3)(B); and

(2) before the notification date, the secured party:

(A) did not receive a response to the request for information; or

(B) received a response to the request for information and sent a signed notification of disposition to each secured party or other lienholder named in that response whose financing statement covered the collateral.

Source: Laws 1999, LB 550, § 186; Laws 2001, LB 49, § 3; Laws 2024, LB94, § 83.
Effective date July 19, 2024.

9-613 Contents and form of notification before disposition of collateral: general.

(a) Except in a consumer-goods transaction, the following rules apply:

(1) The contents of a notification of disposition are sufficient if the notification:

(A) describes the debtor and the secured party;

(B) describes the collateral that is the subject of the intended disposition;

(C) states the method of intended disposition;

(D) states that the debtor is entitled to an accounting of the unpaid indebtedness and states the charge, if any, for an accounting; and

(E) states the time and place of a public disposition or the time after which any other disposition is to be made.

(2) Whether the contents of a notification that lacks any of the information specified in subdivision (1) are nevertheless sufficient is a question of fact.

(3) The contents of a notification providing substantially the information specified in subdivision (1) are sufficient, even if the notification includes:

(A) information not specified by that subdivision; or

(B) minor errors that are not seriously misleading.

(4) A particular phrasing of the notification is not required.

(5) In no event shall it be necessary for the notification of disposition to refer to any guarantee agreement, to identify or designate the capacity in which a debtor or secondary obligor is being sent such notification, or to identify or designate the capacity in which the debtor or secondary obligor may be liable for any deficiency existing after sale or disposition of collateral.

(6) The following form of notification and the form appearing in section 9-614(a)(4), when completed in accordance with the instructions in subsection (b) and section 9-614(b), each provides sufficient information:

NOTIFICATION OF DISPOSITION OF COLLATERAL

To: (Name of debtor, obligor, or other person to which the notification is sent)

From: (Name, address, and telephone number of secured party)

{1} Name of any debtor that is not an addressee: (Name of each debtor)

{2} We will sell (describe collateral) (to the highest qualified bidder) at public sale. A sale could include a lease or license. The sale will be held as follows:

(Date)

(Time)

(Place)

{3} We will sell (describe collateral) at private sale sometime after (date). A sale could include a lease or license.

{4} You are entitled to an accounting of the unpaid indebtedness secured by the property that we intend to sell or, as applicable, lease or license.

{5} If you request an accounting you must pay a charge of $ (amount).

{6} You may request an accounting by calling us at (telephone number).

(End of Form)

(b) The following instructions apply to the form of notification in subsection (a)(6):

(1) The instructions in this subsection refer to the numbers in braces before items in the form of notification in subsection (a)(6). Do not include the numbers or braces in the notification. The numbers and braces are used only for the purpose of these instructions.

(2) Include and complete item {1} only if there is a debtor that is not an addressee of the notification and list the name or names.

(3) Include and complete either item {2}, if the notification relates to a public disposition of the collateral, or item {3}, if the notification relates to a private disposition of the collateral. If item {2} is included, include the words ''to the highest qualified bidder'' only if applicable.

(4) Include and complete items {4} and {6}.

(5) Include and complete item {5} only if the sender will charge the recipient for an accounting.

Source: Laws 1999, LB 550, § 188; Laws 2000, LB 929, § 42; Laws 2024, LB94, § 84.
Effective date July 19, 2024.

9-614 Contents and form of notification before disposition of collateral: consumer-goods transaction.

(a) In a consumer-goods transaction, the following rules apply:

(1) A notification of disposition must provide the following information:

(A) the information specified in section 9-613(a)(1);

(B) a description of any liability for a deficiency of the person to which the notification is sent;

(C) a telephone number from which the amount that must be paid to the secured party to redeem the collateral under section 9-623 is available; and

(D) a telephone number or mailing address from which additional information concerning the disposition and the obligation secured is available.

(2) A particular phrasing of the notification is not required.

(3) In no event shall it be necessary for the notification of disposition to refer to any guarantee agreement, to identify or designate the capacity in which a debtor or secondary obligor is being sent such notification, or to identify or designate the capacity in which the debtor or secondary obligor may be liable for any deficiency existing after sale or disposition of collateral.

(4) The following form of notification, when completed in accordance with the instructions in subsection (b), provides sufficient information:

(Name and address of secured party)

(Date)

NOTICE OF OUR PLAN TO SELL PROPERTY

(Name and address of any obligor who is also a debtor)

Subject: (Identify transaction)

We have your (describe collateral), because you broke promises in our agreement.

{1} We will sell (describe collateral) at public sale. A sale could include a lease or license. The sale will be held as follows:

(Date)

(Time)

(Place)

You may attend the sale and bring bidders if you want.

{2} We will sell (describe collateral) at private sale sometime after (date). A sale could include a lease or license.

{3} The money that we get from the sale, after paying our costs, will reduce the amount you owe. If we get less money than you owe, you (will or will not, as applicable) still owe us the difference. If we get more money than you owe, you will get the extra money, unless we must pay it to someone else.

{4} You can get the property back at any time before we sell it by paying us the full amount you owe, not just the past due payments, including our expenses. To learn the exact amount you must pay, call us at (telephone number).

{5} If you want us to explain to you in (writing) (writing or in (description of electronic record)) (description of electronic record) how we have figured the amount that you owe us, {6} call us at (telephone number) (or) (write us at (secured party's address)) (or contact us by (description of electronic communication method)) {7} and request (a written explanation) (a written explanation or an explanation in (description of electronic record)) (an explanation in (description of electronic record)).

{8} We will charge you $ (amount) for the explanation if we sent you another written explanation of the amount you owe us within the last six months.

{9} If you need more information about the sale (call us at (telephone number)) (or) (write us at (secured party's address)) (or contact us by (description of electronic communication method)).

{10} We are sending this notice to the following other people who have an interest in (describe collateral) or who owe money under your agreement: (Names of all other debtors and obligors, if any)

(End of Form)

(5) A notification in the form of subdivision (4) is sufficient, even if additional information appears at the end of the form.

(6) A notification in the form of subdivision (4) is sufficient, even if it includes errors in information not required by subdivision (1), unless the error is misleading with respect to rights arising under this article.

(7) If a notification under this section is not in the form of subdivision (4), law other than this article determines the effect of including information not required by subdivision (1).

(b) The following instructions apply to the form of notification in subsection (a)(4):

(1) The instructions in this subsection refer to the numbers in braces before items in the form of notification in subsection (a)(4). Do not include the numbers or braces in the notification. The numbers and braces are used only for the purpose of these instructions.

(2) Include and complete either item {1}, if the notification relates to a public disposition of the collateral, or item {2}, if the notification relates to a private disposition of the collateral.

(3) Include and complete items {3}, {4}, {5}, {6}, and {7}.

(4) In item {5}, include and complete any one of the three alternative methods for the explanation--writing, writing or electronic record, or electronic record.

(5) In item {6}, include the telephone number. In addition, the sender may include and complete either or both of the two additional alternative methods of communication--writing or electronic communication--for the recipient of the notification to communicate with the sender. Neither of the two additional methods of communication is required to be included.

(6) In item {7}, include and complete the method or methods for the explanation--writing, writing or electronic record, or electronic record--included in item {5}.

(7) Include and complete item {8} only if a written explanation is included in item {5} as a method for communicating the explanation and the sender will charge the recipient for another written explanation.

(8) In item {9}, include either the telephone number or the address or both the telephone number and the address. In addition, the sender may include and complete the additional method of communication--electronic communication--for the recipient of the notification to communicate with the sender. The additional method of electronic communication is not required to be included.

(9) If item {10} does not apply, insert ''None'' after ''agreement:''.

Source: Laws 1999, LB 550, § 189; Laws 2024, LB94, § 85.
Effective date July 19, 2024.

9-615 Application of proceeds of disposition; liability for deficiency and right to surplus.

(a) A secured party shall apply or pay over for application the cash proceeds of disposition under section 9-610 in the following order to:

(1) the reasonable expenses of retaking, holding, preparing for disposition, processing, and disposing, and, to the extent provided for by agreement and not prohibited by law, reasonable attorney's fees and legal expenses incurred by the secured party;

(2) the satisfaction of obligations secured by the security interest or agricultural lien under which the disposition is made;

(3) the satisfaction of obligations secured by any subordinate security interest in or other subordinate lien on the collateral if:

(A) the secured party receives from the holder of the subordinate security interest or other lien a signed demand for proceeds before distribution of the proceeds is completed; and

(B) in a case in which a consignor has an interest in the collateral, the subordinate security interest or other lien is senior to the interest of the consignor; and

(4) a secured party that is a consignor of the collateral if the secured party receives from the consignor a signed demand for proceeds before distribution of the proceeds is completed.

(b) If requested by a secured party, a holder of a subordinate security interest or other lien shall furnish reasonable proof of the interest or lien within a reasonable time. Unless the holder does so, the secured party need not comply with the holder's demand under subdivision (a)(3).

(c) A secured party need not apply or pay over for application noncash proceeds of disposition under section 9-610 unless the failure to do so would be commercially unreasonable. A secured party that applies or pays over for application noncash proceeds shall do so in a commercially reasonable manner.

(d) If the security interest under which a disposition is made secures payment or performance of an obligation, after making the payments and applications required by subsection (a) and permitted by subsection (c):

(1) unless subdivision (a)(4) requires the secured party to apply or pay over cash proceeds to a consignor, the secured party shall account to and pay a debtor for any surplus; and

(2) the obligor is liable for any deficiency.

(e) If the underlying transaction is a sale of accounts, chattel paper, payment intangibles, or promissory notes:

(1) the debtor is not entitled to any surplus; and

(2) the obligor is not liable for any deficiency.

(f) The surplus or deficiency following a disposition is calculated based on the amount of proceeds that would have been realized in a disposition complying with this part to a transferee other than the secured party, a person related to the secured party, or a secondary obligor if:

(1) the transferee in the disposition is the secured party, a person related to the secured party, or a secondary obligor; and

(2) the amount of proceeds of the disposition is significantly below the range of proceeds that a complying disposition to a person other than the secured

party, a person related to the secured party, or a secondary obligor would have brought.

(g) A secured party that receives cash proceeds of a disposition in good faith and without knowledge that the receipt violates the rights of the holder of a security interest or other lien that is not subordinate to the security interest or agricultural lien under which the disposition is made:

(1) takes the cash proceeds free of the security interest or other lien;

(2) is not obligated to apply the proceeds of the disposition to the satisfaction of obligations secured by the security interest or other lien; and

(3) is not obligated to account to or pay the holder of the security interest or other lien for any surplus.

Source: Laws 1999, LB 550, § 190; Laws 2000, LB 929, § 43; Laws 2024, LB94, § 86.
Effective date July 19, 2024.

9-616 Explanation of calculation of surplus or deficiency.

(a) In this section:

(1) ''Explanation'' means a record that:

(A) states the amount of the surplus or deficiency;

(B) provides an explanation in accordance with subsection (c) of how the secured party calculated the surplus or deficiency;

(C) states, if applicable, that future debits, credits, charges, including additional credit service charges or interest, rebates, and expenses may affect the amount of the surplus or deficiency; and

(D) provides a telephone number or mailing address from which additional information concerning the transaction is available.

(2) ''Request'' means a record:

(A) signed by a debtor or consumer obligor;

(B) requesting that the recipient provide an explanation; and

(C) sent after disposition of the collateral under section 9-610.

(b) In a consumer-goods transaction in which the debtor is entitled to a surplus or a consumer obligor is liable for a deficiency under section 9-615, the secured party shall:

(1) send an explanation to the debtor or consumer obligor, as applicable, after the disposition and:

(A) before or when the secured party accounts to the debtor and pays any surplus or first makes demand in a record on the consumer obligor after the disposition for payment of the deficiency; and

(B) within fourteen days after receipt of a request; or

(2) in the case of a consumer obligor who is liable for a deficiency, within fourteen days after receipt of a request, send to the consumer obligor a record waiving the secured party's right to a deficiency.

(c) To comply with subdivision (a)(1)(B), an explanation must provide the following information in the following order:

(1) the aggregate amount of obligations secured by the security interest under which the disposition was made, and, if the amount reflects a rebate of

unearned interest or credit service charge, an indication of that fact, calculated as of a specified date:

(A) if the secured party takes or receives possession of the collateral after default, not more than thirty-five days before the secured party takes or receives possession; or

(B) if the secured party takes or receives possession of the collateral before default or does not take possession of the collateral, not more than thirty-five days before the disposition;

(2) the amount of proceeds of the disposition;

(3) the aggregate amount of the obligations after deducting the amount of proceeds;

(4) the amount, in the aggregate or by type, and types of expenses, including expenses of retaking, holding, preparing for disposition, processing, and disposing of the collateral, and attorney's fees secured by the collateral which are known to the secured party and relate to the current disposition;

(5) the amount, in the aggregate or by type, and types of credits, including rebates of interest or credit service charges, to which the obligor is known to be entitled and which are not reflected in the amount in subdivision (1); and

(6) the amount of the surplus or deficiency.

(d) A particular phrasing of the explanation is not required. An explanation complying substantially with the requirements of subsection (a) is sufficient, even if it includes minor errors that are not seriously misleading.

(e) A debtor or consumer obligor is entitled without charge to one response to a request under this section during any six-month period in which the secured party did not send to the debtor or consumer obligor an explanation pursuant to subdivision (b)(1). The secured party may require payment of a charge not exceeding twenty-five dollars for each additional response.

Source: Laws 1999, LB 550, § 191; Laws 2024, LB94, § 87.
Effective date July 19, 2024.

9-619 Transfer of record or legal title.

(a) In this section, ''transfer statement'' means a record signed by a secured party stating:

(1) that the debtor has defaulted in connection with an obligation secured by specified collateral;

(2) that the secured party has exercised its post-default remedies with respect to the collateral;

(3) that, by reason of the exercise, a transferee has acquired the rights of the debtor in the collateral; and

(4) the name and mailing address of the secured party, debtor, and transferee.

(b) A transfer statement entitles the transferee to the transfer of record of all rights of the debtor in the collateral specified in the statement in any official filing, recording, registration, or certificate-of-title system covering the collateral. If a transfer statement is presented with the applicable fee and request form to the official or office responsible for maintaining the system, the official or office shall:

(1) accept the transfer statement;

(2) promptly amend its records to reflect the transfer; and

(3) if applicable, issue a new appropriate certificate of title in the name of the transferee.

(c) A transfer of the record or legal title to collateral to a secured party under subsection (b) or otherwise is not of itself a disposition of collateral under this article and does not of itself relieve the secured party of its duties under this article.

Source: Laws 1999, LB 550, § 194; Laws 2024, LB94, § 88.
Effective date July 19, 2024.

9-620 Acceptance of collateral in full or partial satisfaction of obligation; compulsory disposition of collateral.

(a) Except as otherwise provided in subsection (g), a secured party may accept collateral in full or partial satisfaction of the obligation it secures only if:

(1) the debtor consents to the acceptance under subsection (c);

(2) the secured party does not receive, within the time set forth in subsection (d), a notification of objection to the proposal signed by:

(A) a person to which the secured party was required to send a proposal under section 9-621; or

(B) any other person, other than the debtor, holding an interest in the collateral subordinate to the security interest that is the subject of the proposal;

(3) if the collateral is consumer goods, the collateral is not in the possession of the debtor when the debtor consents to the acceptance; and

(4) subsection (e) does not require the secured party to dispose of the collateral or the debtor waives the requirement pursuant to section 9-624.

(b) A purported or apparent acceptance of collateral under this section is ineffective unless:

(1) the secured party consents to the acceptance in a signed record or sends a proposal to the debtor; and

(2) the conditions of subsection (a) are met.

(c) For purposes of this section:

(1) a debtor consents to an acceptance of collateral in partial satisfaction of the obligation it secures only if the debtor agrees to the terms of the acceptance in a record signed after default; and

(2) a debtor consents to an acceptance of collateral in full satisfaction of the obligation it secures only if the debtor agrees to the terms of the acceptance in a record signed after default or the secured party:

(A) sends to the debtor after default a proposal that is unconditional or subject only to a condition that collateral not in the possession of the secured party be preserved or maintained;

(B) in the proposal, proposes to accept collateral in full satisfaction of the obligation it secures; and

(C) does not receive a notification of objection signed by the debtor within twenty days after the proposal is sent.

(d) To be effective under subdivision (a)(2), a notification of objection must be received by the secured party:

(1) in the case of a person to which the proposal was sent pursuant to section 9-621, within twenty days after notification was sent to that person; and

(2) in other cases:

(A) within twenty days after the last notification was sent pursuant to section 9-621; or

(B) if a notification was not sent, before the debtor consents to the acceptance under subsection (c).

(e) A secured party that has taken possession of collateral shall dispose of the collateral pursuant to section 9-610 within the time specified in subsection (f) if:

(1) sixty percent of the cash price has been paid in the case of a purchase-money security interest in consumer goods; or

(2) sixty percent of the principal amount of the obligation secured has been paid in the case of a non-purchase-money security interest in consumer goods.

(f) To comply with subsection (e), the secured party shall dispose of the collateral:

(1) within ninety days after taking possession; or

(2) within any longer period to which the debtor and all secondary obligors have agreed in an agreement to that effect entered into and signed after default.

(g) In a consumer transaction, a secured party may not accept collateral in partial satisfaction of the obligation it secures.

Source: Laws 1999, LB 550, § 195; Laws 2024, LB94, § 89.
Effective date July 19, 2024.

9-621 Notification of proposal to accept collateral.

(a) A secured party that desires to accept collateral in full or partial satisfaction of the obligation it secures shall send its proposal to:

(1) any person from which the secured party has received, before the debtor consented to the acceptance, a signed notification of a claim of an interest in the collateral;

(2) any other secured party or lienholder that, ten days before the debtor consented to the acceptance, held a security interest in or other lien on the collateral perfected by the filing of a financing statement that:

(A) identified the collateral;

(B) was indexed under the debtor's name as of that date; and

(C) was filed in the office or offices in which to file a financing statement against the debtor covering the collateral as of that date; and

(3) any other secured party that, ten days before the debtor consented to the acceptance, held a security interest in the collateral perfected by compliance with a statute, regulation, or treaty described in section 9-311(a).

(b) A secured party that desires to accept collateral in partial satisfaction of the obligation it secures shall send its proposal to any secondary obligor in addition to the persons described in subsection (a).

Source: Laws 1999, LB 550, § 196; Laws 2024, LB94, § 90.
Effective date July 19, 2024.

9-624 Waiver.

(a) A debtor or secondary obligor may waive the right to notification of disposition of collateral under section 9-611 only by an agreement to that effect entered into and signed after default.

(b) A debtor may waive the right to require disposition of collateral under section 9-620(e) only by an agreement to that effect entered into and signed after default.

(c) Except in a consumer-goods transaction, a debtor or secondary obligor may waive the right to redeem collateral under section 9-623 only by an agreement to that effect entered into and signed after default.

Source: Laws 1999, LB 550, § 199; Laws 2024, LB94, § 91.
Effective date July 19, 2024.

Subpart 2

NONCOMPLIANCE WITH ARTICLE

9-628 Nonliability and limitation on liability of secured party; liability of secondary obligor.

(a) Subject to subsection (f), unless a secured party knows that a person is a debtor or obligor, knows the identity of the person, and knows how to communicate with the person:

(1) the secured party is not liable to the person, or to a secured party or lienholder that has filed a financing statement against the person, for failure to comply with this article; and

(2) the secured party's failure to comply with this article does not affect the liability of the person for a deficiency.

(b) Subject to subsection (f), a secured party is not liable because of its status as secured party:

(1) to a person that is a debtor or obligor, unless the secured party knows:

(A) that the person is a debtor or obligor;

(B) the identity of the person; and

(C) how to communicate with the person; or

(2) to a secured party or lienholder that has filed a financing statement against a person, unless the secured party knows:

(A) that the person is a debtor; and

(B) the identity of the person.

(c) A secured party is not liable to any person, and a person's liability for a deficiency is not affected, because of any act or omission arising out of the secured party's reasonable belief that a transaction is not a consumer-goods transaction or a consumer transaction or that goods are not consumer goods, if the secured party's belief is based on its reasonable reliance on:

(1) a debtor's representation concerning the purpose for which collateral was to be used, acquired, or held; or

(2) an obligor's representation concerning the purpose for which a secured obligation was incurred.

(d) A secured party is not liable to any person under section 9-625(c)(2) for its failure to comply with section 9-616.

(e) A secured party is not liable under section 9-625(c)(2) more than once with respect to any one secured obligation.

(f) Subsections (a) and (b) do not apply to limit the liability of a secured party to a person if, at the time the secured party obtains control of collateral that is a controllable account, controllable electronic record, or controllable payment intangible or at the time the security interest attaches to the collateral, whichever is later:

(1) the person is a debtor or obligor; and

(2) the secured party knows that the information in subsection (b)(1)(A), (B), or (C) relating to the person is not provided by the collateral, a record attached to or logically associated with the collateral, or the system in which the collateral is recorded.

Source: Laws 1999, LB 550, § 203; Laws 2024, LB94, § 92.
Effective date July 19, 2024.

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. Repealed. Laws 2024, LB 94, § 110.
12-102. Definitions.
12-103. Relation to article 9 and consumer laws.
12-104. Rights in controllable account, controllable electronic record, and controllable payment intangible.
12-105. Control of controllable electronic record.
12-106. Discharge of account debtor on controllable account or controllable payment intangible.
12-107. Governing law.
12-108. Repealed. Laws 2024, LB 94, § 110.
12-109. Repealed. Laws 2024, LB 94, § 110.

12-101 Short title.

This article may be cited as Uniform Commercial Code—Controllable Electronic Records.

Source: Laws 2021, LB649, § 58.

12-101A Repealed. Laws 2024, LB 94, § 110.

12-102 Definitions.

(a) In this article:

(1) ''Controllable electronic record'' means a record stored in an electronic medium that can be subjected to control under section 12-105. The term does not include a controllable account, a controllable payment intangible, a deposit account, an electronic copy of a record evidencing chattel paper, an electronic

document of title, electronic money, investment property, or a transferable record.

(2) ''Qualifying purchaser'' means a purchaser of a controllable electronic record or an interest in a controllable electronic record that obtains control of the controllable electronic record for value, in good faith, and without notice of a claim of a property right in the controllable electronic record.

(3) ''Transferable record'' has the meaning provided for that term in:

(A) Section 201(a)(1) of the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. section 7021(a)(1); or

(B) Section 16(a) of the Uniform Electronic Transactions Act.

(4) ''Value'' has the meaning provided in section 3-303(a), as if references in that subsection to an ''instrument'' were references to a controllable account, controllable electronic record, or controllable payment intangible.

(b) The definitions in article 9 of ''account debtor'', ''controllable account'', ''controllable payment intangible'', ''chattel paper'', ''deposit account'', ''electronic money'', and ''investment property'' apply to this article.

(c) Article 1 contains general definitions and principles of construction and interpretation applicable throughout this article.

Source: Laws 2021, LB649, § 60; Laws 2024, LB94, § 93.
Effective date July 19, 2024.

Cross References

Uniform Electronic Transactions Act, see section 86-612.

12-103 Relation to article 9 and consumer laws.

(a) If there is conflict between this article and article 9, article 9 governs.

(b) A transaction subject to this article is subject to any applicable rule of law that establishes a different rule for consumers.

Source: Laws 2021, LB649, § 61; Laws 2024, LB94, § 94.
Effective date July 19, 2024.

12-104 Rights in controllable account, controllable electronic record, and controllable payment intangible.

(a) This section applies to the acquisition and purchase of rights in a controllable account or controllable payment intangible, including the rights and benefits under subsections (c), (d), (e), (g), and (h) of a purchaser and qualifying purchaser, in the same manner this section applies to a controllable electronic record.

(b) To determine whether a purchaser of a controllable account or a controllable payment intangible is a qualifying purchaser, the purchaser obtains control of the account or payment intangible if it obtains control of the controllable electronic record that evidences the account or payment intangible.

(c) Except as provided in this section, law other than this article determines whether a person acquires a right in a controllable electronic record and the right the person acquires.

(d) A purchaser of a controllable electronic record acquires all rights in the controllable electronic record that the transferor had or had power to transfer,

except that a purchaser of a limited interest in a controllable electronic record acquires rights only to the extent of the interest purchased.

(e) A qualifying purchaser acquires its rights in the controllable electronic record free of a claim of a property right in the controllable electronic record.

(f) Except as provided in subsections (a) and (e) for a controllable account and a controllable payment intangible or law other than this article, a qualifying purchaser takes a right to payment, right to performance, or other interest in property evidenced by the controllable electronic record subject to a claim of a property right in the right to payment, right to performance, or other interest in property.

(g) An action may not be asserted against a qualifying purchaser based on both a purchase by the qualifying purchaser of a controllable electronic record and a claim of a property right in another controllable electronic record, whether the action is framed in conversion, replevin, constructive trust, equitable lien, or other theory.

(h) Filing of a financing statement under article 9 is not notice of a claim of a property right in a controllable electronic record.

Source: Laws 2021, LB649, § 62; Laws 2024, LB94, § 95.
Effective date July 19, 2024.

12-105 Control of controllable electronic record.

(a) A person has control of a controllable electronic record if the electronic record, a record attached to or logically associated with the electronic record, or a system in which the electronic record is recorded:

(1) gives the person:

(A) power to avail itself of substantially all the benefit from the electronic record; and

(B) exclusive power, subject to subsection (b), to:

(i) prevent others from availing themselves of substantially all the benefit from the electronic record; and

(ii) transfer control of the electronic record to another person or cause another person to obtain control of another controllable electronic record as a result of the transfer of the electronic record; and

(2) enables the person readily to identify itself in any way, including by name, identifying number, cryptographic key, office, or account number, as having the powers specified in subdivision (1).

(b) Subject to subsection (c), a power is exclusive under subsection (a)(1)(B)(i) and (ii) even if:

(1) the controllable electronic record, a record attached to or logically associated with the electronic record, or a system in which the electronic record is recorded limits the use of the electronic record or has a protocol programmed to cause a change, including a transfer or loss of control or a modification of benefits afforded by the electronic record; or

(2) the power is shared with another person.

(c) A power of a person is not shared with another person under subsection (b)(2) and the person's power is not exclusive if:

(1) the person can exercise the power only if the power also is exercised by the other person; and

(2) the other person:

(A) can exercise the power without exercise of the power by the person; or

(B) is the transferor to the person of an interest in the controllable electronic record or a controllable account or controllable payment intangible evidenced by the controllable electronic record.

(d) If a person has the powers specified in subsection (a)(1)(B)(i) and (ii), the powers are presumed to be exclusive.

(e) A person has control of a controllable electronic record if another person, other than the transferor to the person of an interest in the controllable electronic record or a controllable account or controllable payment intangible evidenced by the controllable electronic record:

(1) has control of the electronic record and acknowledges that it has control on behalf of the person; or

(2) obtains control of the electronic record after having acknowledged that it will obtain control of the electronic record on behalf of the person.

(f) A person that has control under this section is not required to acknowledge that it has control on behalf of another person.

(g) If a person acknowledges that it has or will obtain control on behalf of another person, unless the person otherwise agrees or law other than this article or article 9 otherwise provides, the person does not owe any duty to the other person and is not required to confirm the acknowledgment to any other person.

Source: Laws 2021, LB649, § 63; Laws 2024, LB94, § 96.
Effective date July 19, 2024.

12-106 Discharge of account debtor on controllable account or controllable payment intangible.

(a) An account debtor on a controllable account or controllable payment intangible may discharge its obligation by paying:

(1) the person having control of the controllable electronic record that evidences the controllable account or controllable payment intangible; or

(2) except as provided in subsection (b), a person that formerly had control of the controllable electronic record.

(b) Subject to subsection (d), the account debtor may not discharge its obligation by paying a person that formerly had control of the controllable electronic record if the account debtor receives a notification that:

(1) is signed by a person that formerly had control or the person to which control was transferred;

(2) reasonably identifies the controllable account or controllable payment intangible;

(3) notifies the account debtor that control of the controllable electronic record that evidences the controllable account or controllable payment intangible was transferred;

(4) identifies the transferee, in any reasonable way, including by name, identifying number, cryptographic key, office, or account number; and

(5) provides a commercially reasonable method by which the account debtor is to pay the transferee.

(c) After receipt of a notification that complies with subsection (b), 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.

(d) Subject to subsection (h), notification is ineffective under subsection (b):

(1) unless, before the notification is sent, the account debtor and the person that, at that time, had control of the controllable electronic record that evidences the controllable account or controllable payment intangible agree in a signed record to a commercially reasonable method by which a person may furnish reasonable proof that control has been transferred;

(2) to the extent an agreement between the account debtor and 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 the account debtor, if the notification notifies the account debtor to:

(A) divide a payment;

(B) make less than the full amount of an installment or other periodic payment; or

(C) pay any part of a payment by more than one method or to more than one person.

(e) Subject to subsection (h), if requested by the account debtor, the person giving the notification under subsection (b) seasonably shall furnish reasonable proof, using the method in the agreement referred to in subsection (d)(1), that control of the controllable electronic record has been transferred. Unless the person complies with the request, 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).

(f) A person furnishes reasonable proof under subsection (e) that control has been transferred if the person demonstrates, using the method in the agreement referred to in subsection (d)(1), that the transferee has the power to:

(1) avail itself of substantially all the benefit from the controllable electronic record;

(2) prevent others from availing themselves of substantially all the benefit from the controllable electronic record; and

(3) transfer the powers specified in subdivisions (1) and (2) to another person.

(g) Subject to subsection (h), an account debtor may not waive or vary its rights under subsections (d)(1) and (e) or its option under subsection (d)(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.

Source: Laws 2021, LB649, § 64; Laws 2024, LB94, § 97.
Effective date July 19, 2024.

12-107 Governing law.

(a) Except as provided in subsection (b), the local law of a controllable electronic record's jurisdiction governs a matter covered by this article.

(b) For a controllable electronic record that evidences a controllable account or controllable payment intangible, the local law of the controllable electronic record's jurisdiction governs a matter covered by section 12-106 unless an effective agreement determines that the local law of another jurisdiction governs.

(c) The following rules determine a controllable electronic record's jurisdiction under this section:

(1) If the controllable electronic record, or a record attached to or logically associated with the controllable electronic record and readily available for review, expressly provides that a particular jurisdiction is the controllable electronic record's jurisdiction for purposes of this article or the Uniform Commercial Code, that jurisdiction is the controllable electronic record's jurisdiction.

(2) If subdivision (1) does not apply and the rules of the system in which the controllable electronic record is recorded are readily available for review and expressly provide that a particular jurisdiction is the controllable electronic record's jurisdiction for purposes of this article or the Uniform Commercial Code, that jurisdiction is the controllable electronic record's jurisdiction.

(3) If subdivisions (1) and (2) do not apply and the controllable electronic record, or a record attached to or logically associated with the controllable electronic record and readily available for review, expressly provides that the controllable electronic record is governed by the law of a particular jurisdiction, that jurisdiction is the controllable electronic record's jurisdiction.

(4) If subdivisions (1), (2), and (3) do not apply and the rules of the system in which the controllable electronic record is recorded are readily available for review and expressly provide that the controllable electronic record or the system is governed by the law of a particular jurisdiction, that jurisdiction is the controllable electronic record's jurisdiction.

(5) If subdivisions (1) through (4) do not apply, the controllable electronic record's jurisdiction is the District of Columbia.

(d) If subsection (c)(5) applies and article 12 is not in effect in the District of Columbia without material modification, the governing law for a matter covered by this article is the law of the District of Columbia as though article 12 were in effect in the District of Columbia without material modification. In this subsection, ''article 12'' means Article 12 of Uniform Commercial Code Amendments (2022).

(e) To the extent subsections (a) and (b) provide that the local law of the controllable electronic record's jurisdiction governs a matter covered by this article, that law governs even if the matter or a transaction to which the matter relates does not bear any relation to the controllable electronic record's jurisdiction.

(f) The rights acquired under section 12-104 by a purchaser or qualifying purchaser are governed by the law applicable under this section at the time of purchase.

Source: Laws 2021, LB649, § 65; Laws 2024, LB94, § 98.
Effective date July 19, 2024.

12-108 Repealed. Laws 2024, LB 94, § 110.

12-109 Repealed. Laws 2024, LB 94, § 110.

ARTICLE 12A

TRANSITIONAL PROVISIONS FOR UNIFORM COMMERCIAL CODE AMENDMENTS (2022)

Part 1
TITLE AND DEFINITIONS

Part 2
SAVING CLAUSE AND SPECIAL TRANSITIONAL RULE

Part 3
SECURITY INTEREST; PERFECTION AND PRIORITY

Part 1

TITLE AND DEFINITIONS

12A-101 Title.

This article may be cited as Transitional Provisions for Uniform Commercial Code Amendments (2022).

Source: Laws 2024, LB94, § 99.
Effective date July 19, 2024.

12A-102 Definitions.

(a) In this article:

(1) ''Adjustment date'' means July 1, 2025.

(2) ''Article 12'' means article 12 of the Uniform Commercial Code.

(3) ''Article 12 property'' means a controllable account, controllable electronic record, or controllable payment intangible.

(b) The following definitions in other articles of the Uniform Commercial Code apply to this article.

''Controllable account''. Section 9-102.

''Controllable electronic record''. Section 12-102.

''Controllable payment intangible''. Section 9-102.

''Electronic money''. Section 9-102.

''Financing statement''. Section 9-102.

(c) Article 1 contains general definitions and principles of construction and interpretation applicable throughout this article.

Source: Laws 2024, LB94, § 100.
Effective date July 19, 2024.

Part 2

SAVING CLAUSE AND SPECIAL TRANSITIONAL RULE

12A-201 Saving clause.

Except as provided in sections 12A-301 to 12A-306, a transaction validly entered into before July 19, 2024, and the rights, duties, and interests flowing from the transaction remain valid thereafter and may be terminated, completed, consummated, or enforced as required or permitted by law other than the Uniform Commercial Code or, if applicable, the Uniform Commercial Code, as though Laws 2024, LB94, had not taken effect.

Source: Laws 2024, LB94, § 101.
Effective date July 19, 2024.

12A-202 Special Transitional Rule.

Except as provided in this article:

(a) Article 12, as in effect prior to July 19, 2024, applies to any transaction involving a controllable electronic record, as defined in Article 12 as then in effect, that arose on or after July 1, 2022, and prior to July 19, 2024, to the extent provided in section 12-108 as then in effect; and

(b) Any transaction involving a controllable electronic record, as defined in Article 12 as in effect prior to July 19, 2024, 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 2024, LB94, § 102.
Effective date July 19, 2024.

Part 3

SECURITY INTEREST; PERFECTION AND PRIORITY

12A-301 Saving clause.

(a) Except as provided in sections 12A-301 to 12A-306, article 9 and article 12 as amended by Laws 2024, LB94, apply to a transaction, lien, or other interest in property, even if the transaction, lien, or interest was entered into, created, or acquired before July 19, 2024.

(b) Except as provided in subsection (c) and sections 12A-302 to 12A-306:

(1) a transaction, lien, or interest in property that was validly entered into, created, or transferred before July 19, 2024, and was not governed by the Uniform Commercial Code, but would be subject to article 9 or article 12 as amended by Laws 2024, LB94, if it had been entered into, created, or transferred on or after July 19, 2024, including the rights, duties, and interests flowing from the transaction, lien, or interest, remains valid on and after July 19, 2024; and

(2) the transaction, lien, or interest may be terminated, completed, consummated, and enforced as required or permitted by Laws 2024, LB94, or by the law that would apply if Laws 2024, LB94, had not taken effect.

(c) Laws 2024, LB94, does not affect an action, a case, or a proceeding commenced before July 19, 2024.

Source: Laws 2024, LB94, § 103.
Effective date July 19, 2024.

12A-302 Security interest perfected before July 19, 2024.

(a) A security interest that is enforceable and perfected immediately before July 19, 2024, is a perfected security interest under Laws 2024, LB94, if, on July 19, 2024, the requirements for enforceability and perfection under Laws 2024, LB94, are satisfied without further action.

(b) If a security interest is enforceable and perfected immediately before July 19, 2024, but the requirements for enforceability or perfection under Laws 2024, LB94, are not satisfied on July 19, 2024, the security interest:

(1) is a perfected security interest until the earlier of the time perfection would have ceased under the law in effect immediately before July 19, 2024, or the adjustment date;

(2) remains enforceable thereafter only if the security interest satisfies the requirements for enforceability under section 9-203, as amended by Laws 2024, LB94, before the adjustment date; and

(3) remains perfected thereafter only if the requirements for perfection under Laws 2024, LB94, are satisfied before the time specified in subdivision (1).

Source: Laws 2024, LB94, § 104.
Effective date July 19, 2024.

12A-303 Security interest unperfected before July 19, 2024.

A security interest that is enforceable immediately before July 19, 2024, but is unperfected at that time:

(1) remains an enforceable security interest until the adjustment date;

(2) remains enforceable thereafter if the security interest becomes enforceable under section 9-203, as amended by Laws 2024, LB94, on July 19, 2024, or before the adjustment date; and

(3) becomes perfected:

(A) without further action, on July 19, 2024, if the requirements for perfection under Laws 2024, LB94, are satisfied before or at that time; or

(B) when the requirements for perfection are satisfied if the requirements are satisfied after that time.

Source: Laws 2024, LB94, § 105.
Effective date July 19, 2024.

12A-304 Effectiveness of actions taken before July 19, 2024.

(a) If action, other than the filing of a financing statement, is taken before July 19, 2024, and the action would have resulted in perfection of the security interest had the security interest become enforceable before July 19, 2024, the action is effective to perfect a security interest that attaches under Laws 2024,

LB94, before the adjustment date. An attached security interest becomes unperfected on the adjustment date unless the security interest becomes a perfected security interest under Laws 2024, LB94, before the adjustment date.

(b) The filing of a financing statement before July 19, 2024, is effective to perfect a security interest on July 19, 2024, to the extent the filing would satisfy the requirements for perfection under Laws 2024, LB94.

(c) The taking of an action before July 19, 2024, is sufficient for the enforceability of a security interest on July 19, 2024, if the action would satisfy the requirements for enforceability under Laws 2024, LB94.

Source: Laws 2024, LB94, § 106.
Effective date July 19, 2024.

12A-305 Priority.

(a) Subject to subsections (b) and (c), Laws 2024, LB94, determines the priority of conflicting claims to collateral.

(b) Subject to subsection (c), if the priorities of claims to collateral were established before July 19, 2024, article 9 as in effect before July 19, 2024, determines priority.

(c) On the adjustment date, to the extent the priorities determined by article 9 as amended by Laws 2024, LB94, modify the priorities established before July 19, 2024, the priorities of claims to article 12 property and electronic money established before July 19, 2024, cease to apply.

Source: Laws 2024, LB94, § 107.
Effective date July 19, 2024.

12A-306 Priority of claims when priority rules of article 9 do not apply.

(a) Subject to subsections (b) and (c), article 12 as amended by Laws 2024, LB94, determines the priority of conflicting claims to article 12 property when the priority rules of article 9 as amended by Laws 2024, LB94, do not apply.

(b) Subject to subsection (c), when the priority rules of article 9 as amended by Laws 2024, LB94, do not apply and the priorities of claims to article 12 property were established before July 19, 2024, law other than article 12 as amended by Laws 2024, LB94, determines priority.

(c) When the priority rules of article 9 as amended by Laws 2024, LB94, do not apply, to the extent the priorities determined by Laws 2024, LB94, modify the priorities established before July 19, 2024, the priorities of claims to article 12 property established before July 19, 2024, cease to apply on the adjustment date.

Source: Laws 2024, LB94, § 108.
Effective date July 19, 2024.

APPENDIX

SPECIAL ACTS AND RESOLUTIONS OF NEBRASKA LEGISLATURE

1-109. Civil Defense and Disaster Compact. Repealed.

1-109 CIVIL DEFENSE AND DISASTER COMPACT

Repealed. Laws 2024, LB847, § 5.

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

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

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

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

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

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

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

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

CLASS III FELONY

Maximum–four years' imprisonment and two years' post-release supervision or twenty-five thousand dollars' fine, or both
Minimum–none for imprisonment and nine months' post-release supervision if imprisonment is imposed

2-1220	Knowingly and willfully commit fraudulent acts regarding racehorses
8-138	Officer, agent, or employee accepting or receiving deposits on behalf of insolvent bank
8-139	Acting or attempting to act as active executive officer of a bank when license has been revoked or authority has been suspended
8-175	Banks, false entry or statements, offenses relating to records
8-224.01	Substitution or investment of estate or trust assets for or in securities of the trust company controlling the estate or trust; loans of trust company assets to trust company officials or employees
8-702	Bank continuing to do business after charter is forfeited
9-814	Altering lottery tickets to defraud under State Lottery Act
24-216	Clerk of the Supreme Court intentionally making a false report under oath, perjury
25-2310	Fraudulently invoking privilege of proceeding in forma pauperis
28-107	Felony defined outside of criminal code
28-111	Terroristic threats committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Stalking, certain situations or subsequent conviction within 7 years, committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	False imprisonment in the first degree committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Sexual assault of a child in the third degree, first offense, committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-115	Assault by legally confined person without a deadly weapon committed against a pregnant woman
28-115	Sexual assault of a child in the third degree, first offense, committed against a pregnant woman
28-115	Domestic assault in the second degree, first offense, committed against a pregnant woman
28-115	Assault on an officer, an emergency responder, a state correctional employee, a Department of Health and Human Services employee, or a health care professional in the third degree committed against a pregnant woman
28-115	Assault on an officer, an emergency responder, a state correctional employee, a Department of Health and Human Services employee, or a health care professional using a motor vehicle committed against a pregnant woman
28-115	Causing serious bodily injury to a pregnant woman while driving while intoxicated

CLASS III FELONY

28-115	Sexual abuse of an inmate or parolee in the second degree committed against a pregnant woman
28-115	Sexual abuse of a protected individual, second degree, committed against a pregnant woman
28-115	Domestic assault in the third degree involving bodily injury, second or subsequent offense against same intimate partner, committed against a pregnant woman
28-202	Criminal conspiracy to commit a Class III felony
28-310.01	Strangulation without dangerous instrument
28-328	Performance of partial-birth abortion
28-342	Sale, transfer, distribution, or giving away of live or viable aborted child or consenting to, aiding, or abetting the same
28-416	Manufacture, distribute, deliver, dispense, or possess controlled substances in Schedule IV or V of section 28-405, first offense involving minors or near youth facilities
28-416	Possessing a firearm while violating prohibition on the manufacture, distribution, delivery, dispensing, or possession of controlled substances in Schedule IV or V of section 28-405
28-503	Arson in the second degree
28-602	Forgery in the first degree
28-611.01	Issuing a no-account check in an amount of $5,000 or more, first offense
28-611.01	Issuing a no-account check in an amount of $1,500 or more, second or subsequent offense
28-625	Criminal sale of two or more blank financial transaction devices
28-638	Criminal impersonation by falsely representing business or engaging in profession, business, or occupation without license if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was $5,000 or more, first offense
28-638	Criminal impersonation by falsely representing business or engaging in profession, business, or occupation without license if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was $1,500 or more but less than $5,000, second or subsequent offense
28-638	Criminal impersonation by providing false identification information to court or law enforcement officer, second offense
28-639	Identity theft if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was $1,500 or more but less than $5,000, second or subsequent offense
28-644	Violation of Counterfeit Airbag Prevention Act resulting in bodily injury
28-703	Incest with a person under 18 years old
28-804	Keeping a place of prostitution used by a person under 18 years old practicing prostitution
28-912	Escape when detained or under arrest on a felony charge
28-912	Escape, public servant concerned in detention permits another to escape
28-915	Perjury and subornation of perjury
28-1102	Promoting gambling in the first degree, third or subsequent offense
28-1105.01	Gambling debt collection
28-1204.01	Unlawful transfer of a firearm to a juvenile
28-1205	Possession of deadly weapon other than a firearm during commission of a felony

CLASS III FELONY

28-1206	Possession of deadly weapon other than a firearm by a prohibited person
28-1207	Possession of a defaced firearm
28-1208	Defacing a firearm
28-1223	Using explosives to damage or destroy property unless personal injury or death occurs
28-1344	Unauthorized access to a computer which deprives another of property or services or obtains property or services of another with value of $5,000 or more
28-1345	Unauthorized access to a computer which causes damages of $5,000 or more
28-1356	Obtaining a real property interest or establishing or operating an enterprise by means of racketeering activity or unlawful debt collection
28-1423	Swearing falsely regarding sales of tobacco
28-1463.04	Child pornography by person under 19 years old
30-2219	Falsifying representation under Uniform Probate Code
30-24,125	False statement regarding personal property of decedent
30-24,129	False statement regarding real property of decedent
32-1514	Forging candidate filing form for election nomination
32-1516	Forging initials or signatures on official ballots or falsifying, destroying, or suppressing candidate filing forms
32-1517	Employer penalizing employee for serving as election official
38-140	Violation of cease and desist order prohibiting the unauthorized practice of a credentialed profession or unauthorized operation of a credentialed business under Uniform Credentialing Act
38-1,124	Violation of cease and desist order prohibiting the unauthorized practice of a credentialed profession or unauthorized operation of a credentialed business under Uniform Credentialing Act
44-10,108	Fraudulent statement in report or statement for benefits from a fraternal benefit society
54-1,123	Selling livestock without evidence of ownership
54-1,124	Branding another's livestock, defacing marks
54-1,124.01	Willfully and knowingly apply, remove, damage, or alter an approved nonvisual identifier or expunge, alter, render inaccessible, or otherwise corrupt its recorded or imbedded information with intent to deprive or falsely assert ownership
54-1,125	Forging or altering livestock ownership document when value is $1,000 or more
57-1211	Intentionally making false oath to uranium severance tax return or report
60-169	False statement on affidavit of affixture for mobile home or manufactured home
60-690	Aiding or abetting a violation of Nebraska Rules of the Road
60-698	Motor vehicle accident resulting in serious bodily injury or death, violation of duty to stop
66-727	Violation of motor fuel tax laws when the amount involved is $5,000 or more, provisions relating to evasion of tax, keeping books and records, making false statements
71-7462	Wholesale drug distribution in violation of Wholesale Drug Distributor Licensing Act
71-8929	Veterinary drug distribution in violation of Veterinary Drug Distribution Licensing Act

CLASS III FELONY

75-151	Violation by officer or agent of common carriers in consolidation or increase in stock, issuance of securities
77-5016.01	Falsifying a representation before the Tax Equalization and Review Commission
79-541	School district meeting or election, false oath
83-174.05	Failure to comply with community supervision, second or subsequent offense
83-184	Escape from custody (certain situations)

CLASS IIIA FELONY

Maximum–three years' imprisonment and eighteen months' post-release supervision or ten thousand dollars' fine, or both
Minimum–none for imprisonment and nine months' post-release supervision if imprisonment is imposed

28-111	Arson in the third degree, damages of $1,500 or more, committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Criminal mischief, pecuniary loss in excess of $5,000 or substantial disruption of public communication or utility, committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Unauthorized application of graffiti, second or subsequent offense, committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-115	Domestic assault in the third degree in a menacing manner, committed against a pregnant woman
28-115	Assault in the third degree (certain situations) committed against a pregnant woman
28-115	Sexual assault in the third degree committed against a pregnant woman
28-115	Domestic assault in the third degree, first offense involving bodily injury, committed against a pregnant woman
28-204	Harboring, concealing, or aiding a felon who committed a Class II or IIA felony
28-306	Motor vehicle homicide by person driving in a reckless manner
28-310.01	Assault by strangulation or suffocation
28-311	Criminal child enticement
28-311.01	Terroristic threats
28-311.04	Stalking (certain situations)
28-314	False imprisonment in the first degree
28-316.01	Sexual abuse by a school employee in the second degree
28-320.01	Sexual assault of a child in the third degree, first offense
28-322.03	Sexual abuse of an inmate or parolee in the second degree
28-322.04	Sexual abuse of a protected individual in the second degree
28-322.05	Sexual abuse of a detainee in the second degree
28-323	Domestic assault in the third degree, second or subsequent offense (certain situations)
28-386	Knowing and intentional abuse, neglect, or exploitation of a vulnerable or senior adult

CLASS IIIA FELONY

28-394	Motor vehicle homicide of an unborn child by person driving in a reckless manner
28-394	Motor vehicle homicide of an unborn child by person driving under the influence of alcohol or drugs with no prior conviction
28-398	Assault of an unborn child in the second degree
28-416	Manufacture, distribute, deliver, dispense, or possess controlled substances in Schedule IV or V of section 28-405
28-457	Permitting a child or vulnerable adult to ingest methamphetamine, second or subsequent offense
28-457	Permitting a child or vulnerable adult to inhale, have contact with, or ingest methamphetamine causing serious bodily injury
28-634	Unlawful use or possession of an electronic payment card scanning device or encoding machine, second or subsequent offense
28-644	Second or subsequent violation of Counterfeit Airbag Prevention Act
28-707	Child abuse committed knowingly and intentionally and not resulting in serious bodily injury or death
28-707	Child abuse committed negligently, resulting in serious bodily injury but not death
28-904	Resisting arrest, second or subsequent offense
28-904	Resisting arrest using deadly or dangerous weapon
28-931	Assault on an officer, an emergency responder, a state correctional employee, a Department of Health and Human Services employee, or a health care professional in the third degree
28-931.01	Assault on an officer, an emergency responder, a state correctional employee, a Department of Health and Human Services employee, or a health care professional using a motor vehicle
28-932	Assault by legally confined person without a deadly weapon
28-934	Assault with a bodily fluid against a public safety officer with knowledge that bodily fluid was infected with HIV, Hep B, or Hep C
28-1005	Dogfighting, cockfighting, bearbaiting, etc., promoter, owner, employee, property owner, or spectator
28-1009	Cruel mistreatment of animal not involving torture or mutilation, second or subsequent offense
28-1009	Cruel mistreatment of animal involving torture or mutilation
28-1009	Harassment of police animal resulting in death of animal
28-1204.05	Unlawful possession of a firearm by a prohibited juvenile offender, second or subsequent offense
28-1463.05	Possession of child pornography with intent to distribute by person under 19 years old
29-4011	Failure by felony sex offender to register under Sex Offender Registration Act, first offense
29-4011	Failure by misdemeanor sex offender to register under Sex Offender Registration Act, second or subsequent offense
53-180.05	Knowingly and intentionally dispensing alcohol in any manner to minors or incompetents resulting in serious bodily injury or death caused by the minors' consumption or impaired condition
60-690	Aiding or abetting a violation of Nebraska Rules of the Road
60-698	Motor vehicle accident resulting in injury other than serious bodily injury, violation of duty to stop

CLASS IIIA FELONY

60-6,197.03	Operation of a motor vehicle while under the influence of alcoholic liquor or of any drug or refusing chemical test, third offense committed with .15 gram alcohol concentration
60-6,197.03	Operation of a motor vehicle while under the influence of alcoholic liquor or of any drug or refusing chemical test, fourth offense committed with less than .15 gram alcohol concentration
60-6,198	Causing serious bodily injury to person or unborn child while driving while intoxicated
71-4839	Knowingly purchase or sell a body part for transplantation, therapy, research, or education if removal is to occur after death
71-4840	Intentionally falsifying, forging, concealing, defacing, or obliterating a document related to anatomical gifts for financial gain

CLASS IV FELONY

Maximum–two years' imprisonment and twelve months' post-release supervision or ten thousand dollars' fine, or both
Minimum–none for imprisonment and none for post-release supervision

2-1215	Conducting horseracing or betting on horseraces without license or violating horseracing provisions
2-1218	Drugging horses or permitting drugged horses to run in a horserace
2-1825	Forge, counterfeit, or use without authorization an inspection legend or certificate of Director of Agriculture on potatoes
8-103	Department of Banking and Finance personnel borrowing money from certain financial institutions or aiding or abetting such violation
8-133	Pledging bank assets for making or retaining a deposit in bank or accepting such pledge of assets
8-133	Overpayment of interest to bank officer or employee
8-133	Request or receipt of overpayment of interest by bank officer or employee
8-142	Bank officer, employee, director, or agent violating loan limits resulting in insolvency of bank
8-143.01	Illegal bank loans to executive officers, directors, or shareholders
8-147	Banks, illegal transfer of assets, limitation on amounts of loans and investments
8-1,139	Financial institutions, misappropriation of funds or assets
8-225	Trust companies, false statement or book entry, destruction or secretion of records
8-333	Building and loan association, false statement or book entry
8-1117	Violation of Securities Act of Nebraska or any rule or regulation under the act
8-1729	Willful violation of Commodity Code or rule, regulation, or order under the code
9-262	Second or subsequent violation of Nebraska Bingo Act when not otherwise specified
9-262	Specified violations of Nebraska Bingo Act
9-262	Intentionally employing or possessing device to facilitate cheating at bingo or using any fraud in connection with a bingo game, gain of $1,500 or more
9-352	Second or subsequent violation of Nebraska Pickle Card Lottery Act when not otherwise specified
9-352	Specified violations of Nebraska Pickle Card Lottery Act

CLASS IV FELONY

9-352	Intentionally employing or possessing device to facilitate cheating at lottery by sale of pickle cards or using any fraud in connection with such lottery, gain of $1,500 or more
9-434	Second or subsequent violation of Nebraska Lottery and Raffle Act when not otherwise specified
9-434	Specified violations of Nebraska Lottery and Raffle Act
9-434	Intentionally employing or possessing device to facilitate cheating at lottery or raffle, or using any fraud in connection with such lottery or raffle, gain of $1,500 or more
9-652	Second or subsequent violation of Nebraska County and City Lottery Act when not otherwise specified
9-652	Specified violations of Nebraska County and City Lottery Act
9-652	Intentionally employing or possessing device to facilitate cheating at keno, or using any fraud in connection with keno, gain of $1,500 or more
9-814	Providing false information pursuant to State Lottery Act
9-1114	Knowingly make a false or misleading statement or entry or fail to maintain or make any such entry in any report or record required to be maintained or submitted by the Nebraska Racetrack Gaming Act
9-1207	Willful failure, neglect, or refusal of an authorized gaming operator to make any required report
10-509	Funding bonds of counties, fraudulent issue or use
11-101.02	False statement in oath of office
23-135.01	False claim against county when value is $1,500 or more
23-3113	County purchasing agent or staff member violating County Purchasing Act
25-1673	Illegal disclosure of juror names
25-1676	Placing names on any jury list in a manner not authorized by the Jury Selection Act
28-111	Assault in the third degree (certain situations) committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Stalking, first offense or certain situations, committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	False imprisonment in the second degree committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Sexual assault in the third degree committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Arson in the third degree, damages $500 or more but less than $1,500, committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Criminal mischief, pecuniary loss of $1,500 or more but less than $5,000, committed against a person because of his or her race, color,

CLASS IV FELONY

	religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Criminal trespass in the first degree committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-201	Criminal attempt to commit certain Class III or IIIA felonies
28-202	Criminal conspiracy to commit a Class IV felony
28-204	Harboring, concealing, or aiding a felon who committed a Class III or IIIA felony
28-204	Obstructing the apprehension of a felon who committed a felony other than a Class IV felony
28-205	Aiding consummation of felony
28-307	Assisting suicide
28-311.08	Intrude upon another person without his or her consent in a place of solitude or seclusion, second or subsequent offense
28-311.08	Photograph, film, or otherwise record an image or video of the intimate area of any other person without his or her knowledge and consent when his or her intimate area would not be generally visible to the public regardless of whether in a public or private place, first offense
28-311.08	Distributing or otherwise making public an image or video of another's intimate area or of another engaged in sexually explicit conduct as prescribed, second or subsequent violation
28-311.11	Violating a sexual assault protection order after service or notice, subsequent violation
28-316	Violation of custody with intent to deprive custodian of custody of child
28-316.01	Sexual abuse by a school employee in the third degree
28-323	Domestic assault in the third degree by intentionally and knowingly causing bodily injury to his or her intimate partner or by threatening an intimate partner with imminent bodily injury, second or subsequent offense
28-332	Abortion violations
28-335	Abortion by other than licensed physician
28-335	Physician knowingly or recklessly performs, induces, or attempts to perform or induce abortion without being physically present
28-336	Abortion by other than accepted medical procedures
28-346	Use of premature infant aborted alive for experimentation
28-374.04	Intentional and knowing performance of an unlawful dismemberment abortion
28-3,108	Intentional or reckless performance of or attempt to perform abortion in violation of Pain-Capable Unborn Child Protection Act
28-412	Unlawful prescription of narcotic drugs for detoxification or maintenance treatment
28-416	Knowingly or intentionally unlawfully possessing controlled substance other than marijuana or synthetically produced cannabinoids
28-416	Knowingly or intentionally possessing more than one pound of marijuana
28-416	Possession of money used or intended to be used to violate provisions relating to controlled substances
28-418	Knowing or intentional violation of Uniform Controlled Substances Act

CLASS IV FELONY

28-451	Possession of anhydrous ammonia with intent to manufacture methamphetamine
28-452	Possession of ephedrine, pseudoephedrine, or phenylpropanolamine with intent to manufacture methamphetamine
28-457	Permitting a child or vulnerable adult to inhale or have contact with methamphetamine, second or subsequent offense
28-471	Offer, display, market, advertise for sale, or sell a lookalike substance
28-504	Arson in the third degree, damages of $1,500 or more
28-505	Burning to defraud insurer
28-508	Possession of burglar's tools
28-514	Theft of lost, mislaid, or misdelivered property when value is over $5,000
28-516	Unauthorized use of a propelled vehicle, third or subsequent offense
28-518	Theft when value is $1,500 or more but less than $5,000
28-518	Theft when value is more than $500 but less than $1,500, second or subsequent offense
28-518	Theft when value is $500 or less, third or subsequent offense
28-519	Criminal mischief, pecuniary loss of $5,000 or more or substantial disruption of public communication or utility service
28-524	Unauthorized application of graffiti, second or subsequent offense
28-603	Forgery in the second degree when face value is $1,500 or more but less than $5,000
28-604	Criminal possession of a forged instrument prohibited by section 28-602
28-604	Criminal possession of a forged instrument prohibited by section 28-603, amount or value is $5,000 or more
28-605	Criminal possession of written instrument forgery devices
28-611	Issuing a bad check or other order in an amount of $1,500 or more but less than $5,000
28-611	Issuing a bad check or other order in an amount under $500, second or subsequent offense
28-611	Issuing or passing a bad check or other instrument in amount of $500 or more but less than $1,500, second or subsequent offense
28-611.01	Issuing a no-account check in an amount of $1,500 or more but less than $5,000, first offense
28-611.01	Issuing a no-account check in an amount under $1,500, second or subsequent offense
28-612	False statement or book entry in or destruction or secretion of records of financial institution or organization
28-619	Issuing two or more false financial statements to obtain two or more financial transaction devices
28-620	Unauthorized use of a financial transaction device when total value is $1,500 or more but less than $5,000 within a six-month period
28-621	Criminal possession of two or three financial transaction devices
28-623	Unlawful circulation of a financial transaction device in the second degree
28-624	Criminal possession of two or more blank financial transaction devices
28-625	Criminal sale of one blank financial transaction device
28-626	Criminal possession of a financial transaction forgery device
28-628	Laundering of sales forms
28-629	Unlawful acquisition of sales form processing services
28-630	Unlawful factoring of a financial transaction device

CLASS IV FELONY

28-631	Committing a fraudulent insurance act when the amount involved is $1,500 or more but less than $5,000
28-631	Committing a fraudulent insurance act when the amount involved is $500 or more but less than $1,500, second or subsequent offense
28-631	Committing a fraudulent insurance act with intent to defraud or deceive
28-634	Unlawful use or possession of an electronic payment card scanning device or encoding machine, first offense
28-638	Criminal impersonation by falsely representing business or engaging in profession, business, or occupation without license if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was $1,500 or more but less than $5,000, first offense
28-638	Criminal impersonation by falsely representing business or engaging in profession, business, or occupation without license if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was $500 or more but less than $1,500, second or subsequent offense
28-638	Criminal impersonation by falsely representing business or engaging in profession, business, or occupation without license if no credit, money, goods, services, or other thing of value was gained or was attempted to be gained, or if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was less than $500, third or subsequent offense
28-638	Criminal impersonation by providing false identification information to court or law enforcement officer, first offense
28-639	Identity theft if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was $1,500 or more but less than $5,000, first offense
28-639	Identity theft if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was $500 or more but less than $1,500, second or subsequent offense
28-639	Identity theft if no credit, money, goods, services, or other thing of value was gained or was attempted to be gained, or if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was less than $500, third or subsequent offense
28-640	Identity fraud, second or subsequent offense
28-644	Violation of Counterfeit Airbag Prevention Act
28-706	Criminal nonsupport in violation of a court order
28-801.01	Solicitation of prostitution, second or subsequent offense
28-801.01	Solicitation of prostitution with person under 18 years old, first offense
28-804	Keeping a place of prostitution used by person 18 years old or older practicing prostitution
28-813.01	Possession by a minor of visual depiction of sexually explicit conduct containing a child other than the defendant as one of its participants or portrayed observers, second or subsequent conviction
28-833	Enticement by electronic communication device
28-905	Operating a motor vehicle to avoid arrest which is a second or subsequent offense, results in death or injury, or involves willful reckless driving
28-905	Operating a boat to avoid arrest for felony
28-912	Escape (certain situations excepted)
28-912	Knowingly causing or facilitating an escape

CLASS IV FELONY

28-912.01	Accessory to escape of juvenile from custody of Office of Juvenile Services
28-917	Bribery
28-918	Bribery of a witness
28-918	Witness accepting bribe or benefit
28-919	Tampering with a witness or informant except if involving a pending criminal proceeding alleging violation of another offense classified as a Class I misdemeanor or lower or a violation of a city or village ordinance, or classified as a Class II felony or higher
28-919	Tampering with a juror except if involving a pending criminal proceeding alleging violation of another offense classified as a Class II felony or higher
28-920	Bribery of a juror
28-920	Juror accepting bribe or benefit
28-922	Tampering with physical evidence except if involving a pending criminal proceeding alleging violation of another offense classified as a Class I misdemeanor or lower or a violation of a city or village ordinance, or classified as a Class II felony or higher
28-935	Fraudulently filing a financing statement, lien, or document
28-1009	Abandonment or cruel neglect of animal resulting in serious injury, illness, or death
28-1102	Promoting gambling in the first degree, second offense
28-1202	Minor or prohibited person carrying a concealed weapon, second or subsequent offense
28-1202.04	Failure to immediately inform peace officer or emergency services personnel of concealed handgun, third or subsequent offense
28-1203	Transporting or possessing a machine gun, short rifle, or short shotgun
28-1204.04	Unlawful possession of a firearm at a school
28-1204.05	Unlawful possession of a firearm by a prohibited juvenile offender, first offense
28-1205	Carrying firearm or destructive device during commission of a dangerous misdemeanor, third or subsequent offense
28-1215	Unlawful possession of explosive materials in the first degree
28-1217	Unlawful sale of explosives
28-1219	Explosives, obtaining a permit through false representations
28-1220	Possession of a destructive device
28-1221	Threatening the use of explosives or placing a false bomb
28-1301	Removing, abandoning, or concealing human skeletal remains or burial goods
28-1307	Sell or offer for sale diseased meat
28-1343.01	Unauthorized computer access creating grave risk of death
28-1344	Unauthorized access to a computer which deprives another of property or services or obtains property or services of another with value of $1,500 or more but less than $5,000
28-1345	Unauthorized access to a computer causing damages of $1,500 or more but less than $5,000
28-1351	Unlawful membership recruitment for an organization or association engaged in criminal acts
28-1469	Operation of aircraft while under the influence of alcohol or drugs, third or subsequent offense
28-1482	Unlawful paramilitary activities

CLASS IV FELONY

29-908	Failing to appear when on bail for felony offense
32-312	Election falsification on voter registration
32-330	Election falsification for unlawful use of list of registered voters
32-915	Election falsification on provisional ballot
32-939	Election falsification on registering or voting outside the country
32-939.02	Election falsification on ballot to vote early
32-947	Election falsification on ballot to vote early
32-949	Election falsification on ballot to vote early
32-1502	Election falsification
32-1503	Elections, unlawful registration acts
32-1504	Elections, neglect of duty, corruption, or fraud by deputy registrar
32-1508	Election registration, perjury by voter
32-1526	Fraudulent voting by election official
32-1529	Resident of another state voting in this state
32-1530	Voting by ineligible person
32-1531	Voting outside county of residence
32-1532	Aiding unlawful voting
32-1533	Procuring another to vote in county other than that of residence
32-1534	Voting more than once in same election
32-1537	Employer coercing political action of employees
32-1538	Deceiving illiterate elector
32-1539	Violations relating to ballots for early voting
32-1540	Fraudulent voting
32-1541	Making fraudulent entry in list of voters book
32-1542	Unlawful possession of list of voters book, official summary, or election returns
32-1543	Obtaining or attempting to obtain or destroy ballot boxes or ballots by improper means
32-1544	Destruction or falsification of election materials
32-1545	Disclosing election returns before polls have closed or without authorization from election officials
32-1546	Offering or receiving money for signing petitions or falsely swearing to circulator's affidavit on petition
32-1551	Special elections by mail, specified violations
37-554	Prohibited use of explosives or poisons in waters of state
37-1288	Forgery of motorboat title or certificate or use of false name in bill of sale or sworn statement of ownership
37-1298	Knowingly transfer motorboat without salvage certificate of title
38-1,117	False or forged document or fraud in procuring license, certificate, or registration to practice a health profession, aiding or abetting person practicing without a credential, or impersonating a credentialed person
38-2052	Person purporting to be a physician's assistant when not licensed
38-3130	Psychologist filing false diploma, license of another, or forged affidavit of identification
42-924	Knowingly violating a protection order issued pursuant to domestic abuse or harassment case with a prior conviction for violating a protection order
44-165	Financial conglomerate or its directors, officers, employees, or agents violating supervision requirements
44-3,121	Borrowing or rental of securities of insurance company by member, director, or attorney

CLASS IV FELONY

44-2146	Willful violation of Insurance Holding Company System Act
44-2147	Willful filing of false report under Insurance Holding Company System Act
45-191.03	Loan broker collecting advance fee in excess of $300 and other violations of loan broker provisions
45-926	Operating delayed deposit services business without license
46-155	Irrigation districts, officers interested in contracts, accepting bribes or gratuities
48-654.01	Engaging in business practices to avoid higher combined tax rates under the Employment Security Law
49-1476.01	Campaign contributions or expenditures by state lottery contractor
49-14,134	Filing false statement, report, or verification under Nebraska Political Accountability and Disclosure Act
49-14,135	Perjury before Nebraska Accountability and Disclosure Commission
53-1,100	Manufacturing spirits without a license, second or subsequent offense
54-1,125	Using false document of livestock ownership
54-1,125	Forging or altering livestock ownership document when value is over $300 but less than $1,000
54-622.01	Owner of dangerous dog which inflicts serious bodily injury, second or subsequent offense
54-753.05	Importation of livestock in violation of an embargo issued by State Veterinarian
54-903	Intentionally, knowingly, or recklessly abandon or cruelly neglect livestock animal resulting in serious injury or illness or death of the livestock animal
54-903	Cruelly mistreat a livestock animal, second or subsequent offense
54-1808	Violation of Nebraska Livestock Sellers Protective Act
54-1913	Violation of Nebraska Meat and Poultry Inspection Law with intent to defraud or by distributing adulterated article
54-2955	Violation of embargo or importation order by State Veterinarian
57-719	Preparation or presentation of false or fraudulent oil and gas severance tax document
59-801	Unlawful restraint of trade or commerce
59-802	Unlawful monopolizing of trade or commerce
59-805	Unlawful restraint of trade; underselling
59-815	Corporation or other association engaged in unlawful restraint of trade
59-825	Refusal to attend and testify in restraint of trade proceedings
59-1522	Unlawful sale and distribution of cigarettes
59-1757	Violations in sales or leases of seller-assisted marketing plans
60-176	Knowing transfer of wrecked, damaged, or destroyed motor vehicle, all-terrain vehicle, or minibike without appropriate certificate of title
60-179	Fraud or forgery in obtaining certificate of title to motor vehicle, all-terrain vehicle, or minibike
60-196	Violating laws relating to odometers
60-492	Impersonating an officer under Motor Vehicle Operator's License Act
60-4,111.01	Trade, sell, or share machine-readable information encoded on driver's license or state identification card
60-4,111.01	Compile, store, or preserve machine-readable information encoded on driver's license or state identification card without authorization
60-4,111.01	Intentional or grossly negligent programming by the programmer which allows for the storage of more than the age and identification number

CLASS IV FELONY

	from machine-readable information encoded on driver's license or state identification card or wrongfully certifying the software
60-4,111.01	Retailer or seller knowingly storing more information than authorized from the machine-readable information encoded on driver's license or state identification card
60-4,111.01	Unauthorized trading, selling, sharing, use for marketing or sales, or reporting of scanned, compiled, stored, or preserved machine-readable information encoded on driver's license or state identification card
60-690	Aiding or abetting a violation of Nebraska Rules of the Road
60-6,197.06	Operating a motor vehicle when operator's license has been revoked for driving under the influence, first offense
60-6,211.11	Operating a motor vehicle while under the influence after tampering with or circumventing an ignition interlock device installed under a court order or Department of Motor Vehicles order while the order is in effect or operating a motor vehicle while under the influence which is not equipped with an ignition interlock device in violation of a court order or Department of Motor Vehicles order
60-1416	Acting as auction, motor vehicle, motorcycle, trailer, or wrecker or salvage dealer, manufacturer, factory representative, or distributor without license
60-2912	Misrepresenting identity or making false statement on application submitted under Uniform Motor Vehicle Records Disclosure Act
66-727	Violations of motor fuel tax laws when the amount involved is less than $5,000, provisions relating to evasion of tax, keeping books and records, making false statements
66-727	Violations of motor fuel tax laws, including making returns and reports, assignment of licenses and permits, payment of tax
66-1226	Selling automotive spark ignition engine fuels not within specifications, second or subsequent offense
66-1822	False or fraudulent entries in books of a jurisdictional utility
68-1017	Obtaining through fraud assistance to aged, blind, or disabled persons, aid to dependent children, or supplemental nutrition assistance program benefits when value is $1,500 or more
68-1017.01	Unlawful use, alteration, or transfer of supplemental nutrition assistance program benefits when value is $1,500 or more
68-1017.01	Unlawful possession or redemption of supplemental nutrition assistance program benefits when value is $1,500 or more
68-1017.01	Unlawful possession of blank supplemental nutrition assistance program authorizations
69-109	Sale or transfer of personal property with security interest without consent
69-2408	Providing false information on an application for a certificate to purchase a handgun
69-2420	Unlawful acts relating to purchase of a handgun
69-2421	Unlawful sale or delivery of a handgun
69-2422	Knowingly and intentionally obtaining a handgun for purposes of unlawful transfer of the handgun
69-2430	Falsified concealed handgun permit application
69-2709	Knowingly submit false information regarding cigarette and tobacco sales
70-508	False statement on sale, lease, or transfer of public electric plant

CLASS IV FELONY

70-511	Excessive promotion expenses on sale of public electric plant
70-514	Failure to file statement of expenditures related to transfer of electric plant facilities or filing false statement
70-2104	Damage, injure, destroy, or attempt to damage, injure, or destroy equipment or structures owned and used by public power suppliers to generate, transmit, or distribute electricity or otherwise interrupt the generation, transmission, or distribution of electricity by a public power supplier
71-649	Vital statistics, unlawful acts
71-2228	Illegal receipt of food supplement benefits when value is $1,500 or more
71-2229	Unlawful use, alteration, or transfer of food instruments or food supplements when value is $1,500 or more
71-2229	Unlawful possession or redemption of food supplement benefits when value is $1,500 or more
71-2229	Unlawful possession of blank authorization to participate in the WIC program or CSF program
71-6312	Unlawfully engaging in an asbestos project without a valid license or using unlicensed employees subsequent to the levy of a civil penalty, second or subsequent offense
71-6329	Engaging in a lead abatement project or lead-based paint profession without a valid license or using unlicensed employees after assessment of a civil penalty, second or subsequent offense
71-6329	Conducting a lead abatement project or lead-based paint profession training program without departmental accreditation after assessment of a civil penalty, second or subsequent offense
71-6329	Issuing fraudulent licenses under Residential Lead-Based Paint Professions Practice Act after assessment of a civil penalty, second or subsequent offense
75-909	Violation of Grain Dealer Act
76-2325.01	Interference with utility poles and wires or transmission of light, heat, power, or telecommunications, loss of $1,500 or more or substantial disruption of service
76-2728	Violation of Nebraska Foreclosure Protection Act
77-2310	Unlawful removal of state funds or illegal profits by State Treasurer
77-2323	Violation of provisions on deposit of county funds
77-2325	Unlawful removal of county funds or illegal profits by county treasurers
77-2381	Violation of provisions on deposit of local hospital district funds
77-2383	Unlawful removal of funds or illegal profits by secretary-treasurer of local hospital district
77-2614	Altered, forged, or counterfeited stamp, license, permit, or cigarette tax meter impression for sale of cigarettes
77-2615	Violation of cigarette tax provisions when not otherwise specified
77-2615	Evasion of cigarette tax provisions, affixing unauthorized stamp, or sales or possession of cigarettes of manufacturer not in directory
77-2713	Failure to collect, account for, or pay, or prepare or present a false or fraudulent return on, sales and use tax
77-27,113	Evasion of income tax
77-27,114	Failure to collect or account for income taxes
77-27,116	False return on income tax

CLASS IV FELONY

77-27,119	Unauthorized disclosure of confidential tax information by current or former officers or employees of the Auditor of Public Accounts or the office of Legislative Audit
77-4024	Violation of Tobacco Products Tax Act or evasion of act
77-4309	Dealer distributing or possessing marijuana or a controlled substance without affixing the official stamp, label, or other indicium
77-5544	Unlawful disclosure of confidential information by qualified independent accounting firm under Invest Nebraska Act
81-161.05	Materiel division personnel having financial or beneficial personal interest or receiving gifts or rebates
81-8,127	Unlawful practice of land surveying or use of professional land surveyor title, second or subsequent offense
81-1108.56	State building division personnel having financial or beneficial personal interest or receiving gifts or rebates
81-1508.01	Specific violations of section 404 of federal Clean Water Act, Environmental Protection Act, Integrated Solid Waste Management Act, or Livestock Waste Management Act
81-15,111	Violation of Low-Level Radioactive Waste Disposal Act
81-3442	Violation of Engineers and Architects Regulation Act, second or subsequent offense
83-174.05	Failure to comply with community supervision, first offense
83-184	Escape from custody (certain situations)
83-198	Threatening or attempting to influence a member or an employee of the Board of Parole
83-1,127.02	Operation of vehicle while under the influence with disabled, bypassed, or altered ignition interlock device or without an ignition interlock device or permit in violation of board order
83-1,133	Threatening or attempting to influence a member of the Board of Pardons
83-417	Allowing a committed offender to escape or be visited without approval
83-443	Financial interest in convict labor
83-912	Director or employee of Department of Correctional Services receiving prohibited gift or gratuity
86-290	Intercepting or interfering with wire, electronic, or oral communication
86-295	Unlawful tampering with communications equipment or transmissions
86-296	Shipping or manufacturing devices capable of intercepting certain communications
86-2,102	Interference with satellite transmissions or operation
86-2,104	Unauthorized access to electronic communication services
87-303.09	Violation of court order or written assurance of voluntary compliance under Uniform Deceptive Trade Practices Act
88-543	Issuing a receipt for grain not received, improperly recording grain as received or loaded, or creating a post-direct delivery storage position without proper documentation or grain in storage
88-545	Violation of Grain Warehouse Act when not otherwise specified

UNCLASSIFIED FELONIES, see section 28-107

69-110	Removal from county of personal property subject to a security interest with intent to deprive of security interest –fine of not more than one thousand dollars –imprisonment of not more than ten years

UNCLASSIFIED FELONIES, see section 28-107

77-27,119	Unauthorized disclosure of confidential tax information by Tax Commissioner, officer, employee, or third-party auditor –fine of not less than one hundred dollars nor more than five hundred dollars –imprisonment of not more than five years –both
77-3210	Receipt of profit from rental, management, or disposition of Land Reutilization Authority lands –imprisonment of not less than two years nor more than five years
83-1,124	Parolee leaving state without permission –imprisonment of not more than five years

OTHER MANDATORY MINIMUMS:

29-2221	Habitual criminal

CLASS I MISDEMEANOR

Maximum–not more than one year imprisonment, or one thousand dollars' fine, or both
Minimum–none

2-1207	Knowingly aiding or abetting a person under 21 years of age to make a parimutuel wager
2-1221	Receipt or delivery of certain off-track wagers
2-2647	Violation of Pesticide Act, second or subsequent offense
8-119	Officers of corporation filing false statement for banking purposes
8-142	Bank officer, employee, director, or agent violating loan limits by $40,000 or more or resulting in monetary loss of over $20,000 to bank
8-145	Improper solicitation or receipt of benefits, unlawful inducement for bank loan
8-189	Attempting to prevent Department of Banking and Finance from taking possession of insolvent or unlawfully operated bank
8-1,138	Violation of a final order issued by Director of Banking and Finance
8-224.01	Division of fees for legal services by a trust company attorney
8-2745	Acting without license or intentionally falsifying records in violation of Nebraska Money Transmitters Act
9-230	Unlawfully conducting or awarding a prize at a bingo game, second or subsequent offense
9-262	Intentionally employing or possessing device to facilitate cheating at bingo or using any fraud in connection with a bingo game, gain of $500 or more but less than $1,500
9-266	Disclosure by Tax Commissioner or employee of reports or records of a licensed distributor or manufacturer under Nebraska Bingo Act
9-351	Unlawfully possessing pickle cards or conducting a pickle card lottery
9-352	Intentionally employing or possessing device to facilitate cheating at lottery by sale of pickle cards or using any fraud in connection with such lottery, gain of $500 or more but less than $1,500
9-356	Disclosure by Tax Commissioner or employee of returns or reports of licensed distributor or manufacturer under Nebraska Pickle Card Lottery Act
9-434	Intentionally employing or possessing device to facilitate cheating at lottery or raffle or using any fraud in connection with such lottery or raffle, gain of $500 or more but less than $1,500

CLASS I MISDEMEANOR

9-652	Intentionally employing or possessing device to facilitate cheating at keno or using any fraud in connection with keno, gain of $500 or more but less than $1,500
9-653	Disclosure by Tax Commissioner or employee of reports or records of a licensed manufacturer-distributor under Nebraska County and City Lottery Act
9-814	Sale of lottery tickets under State Lottery Act without authorization or at other than the established price
9-814	Release of information obtained from background investigation under State Lottery Act
9-1111	Knowingly cheat at any game of chance or manipulate any component of a gaming device with intent to cheat and knowledge of affecting the outcome of the game
9-1112	Knowingly use tokens or currency not approved by the Nebraska Gaming Commission
9-1112	Knowingly possess any device within a gaming facility intended to violate the Nebraska Racetrack Gaming Act
9-1112	Unauthorized and knowing possession of any key or device within a gaming facility used to open, enter, or affect the operation of any game, dropbox, or related electronic or mechanical device connected to such game or dropbox
9-1112	Knowingly and with intent to use any paraphernalia used for manufacturing slugs for cheating or possession of such paraphernalia
9-1113	Manufacture, sell, or distribute a device intended for use in violating the Nebraska Racetrack Gaming Act or knowingly possess any gaming device manufactured, sold, or distributed in violation of the act
9-1113	Mark, alter, or otherwise modify any gaming device to affect or alter a wager, game operation, or game outcome
9-1115	Participate in a game of chance when younger than 21 years of age or knowingly permit such person younger than 21 years of age to participate
9-1116	Willfully violate, attempt to violate, or conspire to violate any provision of the Nebraska Racetrack Gaming Act for which no other penalty is provided
9-1311	Knowingly or intentionally attempting to avoid application of a setoff under the Gambling Winnings Setoff for Outstanding Debt Act
10-807	Misrepresentations for aid from county aid bonds
18-2532	Initiative and referendum, making false affidavit or taking false oath
18-2533	Initiative and referendum, destruction, falsification, or suppression of a petition
18-2534	Initiative and referendum petition, signing by person not registered to vote or paying for or deceiving another to sign a petition
18-2535	Initiative and referendum, failure by city clerk to comply or unreasonable delay in complying with statutes
20-334	Willful failure to obey a subpoena or order or intentionally mislead another in proceedings under Nebraska Fair Housing Act
20-344	Coerce, intimidate, threaten, or interfere with the exercise or enjoyment of rights under Nebraska Fair Housing Act
20-411	Physician or health care provider failing to transfer care of patient under declaration or living will

CLASS I MISDEMEANOR

20-411	Physician failing to record a living will or a determination of a terminal condition or persistent vegetative state
20-411	Concealing, canceling, defacing, obliterating, falsifying, or forging a living will
20-411	Concealing, falsifying, or forging a revocation of a living will
20-411	Requiring or prohibiting a living will for health care services or insurance
20-411	Coercing or fraudulently inducing an individual to make a living will
21-212	Signing a false document under Nebraska Model Business Corporation Act with intent to file with the Secretary of State
21-1912	Signing a false document under Nebraska Nonprofit Corporation Act with intent to file with the Secretary of State
28-107	Misdemeanor defined outside of criminal code
28-111	Arson in the third degree, damages less than $500, committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Assault in the third degree (certain situations) committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Criminal mischief, pecuniary loss of $500 or more but less than $1,500, committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Criminal trespass in the second degree (certain situations) committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-115	Assault in the third degree (certain situations) committed against a pregnant woman
28-201	Criminal attempt to commit a Class IV felony
28-204	Harboring, concealing, or aiding a felon who committed a Class IV felony
28-204	Obstructing the apprehension of a felon who committed a Class IV felony
28-301	Compounding a felony
28-306	Motor vehicle homicide by person not under the influence of alcohol or drugs or not driving in a reckless manner
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

CLASS I MISDEMEANOR

28-315	False imprisonment in the second degree
28-320	Sexual assault in the third degree
28-323	Domestic assault in the third degree by intentionally and knowingly causing bodily injury to his or her intimate partner or by threatening an intimate partner with imminent bodily injury, first offense
28-323	Domestic assault in the third degree by threatening an intimate partner in a menacing manner
28-394	Motor vehicle homicide of an unborn child by person not under the influence of alcohol or drugs or not driving in a reckless manner
28-399	Assault of an unborn child in the third degree
28-443	Delivering drug paraphernalia to a minor
28-457	Permitting a child or vulnerable adult to inhale, have contact with, or ingest methamphetamine, first offense
28-504	Arson in the third degree, damages $500 or more but less than $1,500
28-514	Theft of lost, mislaid, or misdelivered property when value is $1,500 or more but not more than $5,000
28-514	Theft of lost, mislaid, or misdelivered property when value is more than $500 but less than $1,500, second or subsequent offense
28-514	Theft of lost, mislaid, or misdelivered property when value is $500 or less, third or subsequent offense
28-516	Unauthorized use of a propelled vehicle, second offense
28-518	Theft when value is more than $500 but less than $1,500
28-518	Theft when value is $500 or less, second offense
28-519	Criminal mischief, pecuniary loss of $1,500 or more but less than $5,000
28-520	Criminal trespass in the first degree
28-523	Littering, third or subsequent offense
28-603	Forgery in the second degree when face value is $500 or more but less than $1,500
28-604	Criminal possession of a forged instrument prohibited by section 28-603, value is $1,500 or more but less than $5,000
28-607	Making, using, or uttering of slugs of value of $100 or more
28-610	Impersonating a peace officer
28-611	Issuing a bad check or other order in an amount of $500 or more but less than $1,500, first offense
28-611.01	Issuing a no-account check in an amount of $500 or more but less than $1,500, first offense
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

CLASS I MISDEMEANOR

28-633	Printing more than the last 5 digits of a payment card account number upon a receipt provided to payment card holder, second or subsequent offense
28-638	Criminal impersonation by falsely representing business or engaging in profession, business, or occupation without license if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was $500 or more but less than $1,500, first offense
28-638	Criminal impersonation by falsely representing business or engaging in profession, business, or occupation without license if no credit, money, goods, services, or other thing of value was gained or was attempted to be gained, or if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was less than $500, second offense
28-638	Criminal impersonation by providing false identification information to employer to obtain employment, second or subsequent offense
28-639	Identity theft if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was $500 or more but less than $1,500, first offense
28-639	Identity theft if no credit, money, goods, services, or other thing of value was gained or was attempted to be gained, or if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was less than $500, second offense
28-640	Identity fraud, first offense
28-645	Criminal impersonation by stolen valor
28-701	Bigamy
28-705	Abandonment of spouse, child, or dependent stepchild
28-707	Child abuse committed negligently, not resulting in serious bodily injury or death
28-709	Contributing to the delinquency of a child
28-801	Prostitution by person 18 years old or older, third or subsequent offense
28-801.01	Solicitation of prostitution with person 18 years old or older, first offense
28-805	Debauching a minor
28-808	Obscene literature and material, sell or possess with intent to sell to minor
28-809	Obscene motion picture, show, or presentation, admission of minor
28-813	Prepare, distribute, order, produce, exhibit, or promote obscene literature or material
28-813.01	Possession by a minor of visual depiction of sexually explicit conduct containing a child other than the defendant as one of its participants or portrayed observers, first offense
28-901	Obstructing government operations
28-904	Resisting arrest, first offense
28-905	Operating a motor vehicle to avoid arrest which is a first offense, does not result in death or injury, or does not involve willful reckless driving
28-905	Operating a boat to avoid arrest for misdemeanor or ordinance violation
28-906	Obstructing a peace officer, judge, or police animal
28-907	False reporting (certain situations)
28-908	Interference with firefighter on official duty
28-909	Falsifying records of a public utility
28-913	Introducing escape implements

CLASS I MISDEMEANOR

28-915.01	False statement under oath or affirmation or in an unsworn declaration under Uniform Unsworn Foreign Declarations Act in an official proceeding or to mislead a public servant
28-919	Tampering with a witness or informant when involving a pending criminal proceeding alleging a violation of another offense classified as a Class II misdemeanor or lower or a violation of a city or village ordinance
28-922	Tampering with physical evidence when involving a pending criminal proceeding alleging a violation of another offense classified as a Class II misdemeanor or lower or a violation of a city or village ordinance
28-934	Assault with a bodily fluid against a public safety officer without knowledge regarding whether bodily fluid was infected with HIV, Hep B, or Hep C
28-936	Introduction within a Department of Correctional Services facility or if an inmate procures, makes, provides, or possesses any electronic communication device
28-1005.01	Knowing or intentional ownership or possession of animal fighting paraphernalia for dogfighting, cockfighting, bearbaiting, or pitting an animal against another
28-1009	Abandonment or cruel neglect of animal not resulting in serious injury, illness, or death
28-1009	Cruel mistreatment of animal not involving torture or mutilation, first offense
28-1019	Violation of court order related to felony animal abuse conviction
28-1102	Promoting gambling in the first degree, first offense
28-1202	Minor or prohibited person carrying a concealed weapon, first offense
28-1202.01	Person other than a minor or prohibited person carrying a concealed handgun into or onto any place or premises where prohibited, second or subsequent offense
28-1202.02	Carrying concealed handgun while consuming alcohol or having alcohol or any controlled substance in person's system, second or subsequent offense
28-1202.03	Failure to carry identification document while carrying concealed handgun, second or subsequent offense
28-1202.03	Failure to display identification document to peace officer or emergency services personnel when carrying concealed handgun, second or subsequent offense
28-1202.04	Failure to immediately inform peace officer or emergency services personnel of concealed handgun, second offense
28-1202.04	Failure to submit to an order to secure a handgun
28-1204	Unlawful possession of a handgun
28-1205	Carrying firearm or destructive device during the commission of a dangerous misdemeanor, first or second offense
28-1216	Unlawful possession of explosive materials in the second degree
28-1218	Use of explosives without a permit if not eligible for a permit
28-1254	Operation of a motor vehicle while under the influence of alcoholic liquor or of any drug with person under 16 years old as passenger
28-1302	Concealment of death to prevent determination of cause or circumstances of death
28-1312	Interfering with the police radio system
28-1343.01	Unauthorized computer access creating risk to public health and safety

CLASS I MISDEMEANOR

28-1344	Unauthorized access to a computer which deprives another of property or services or obtains property or services of another with value of $500 or more but less than $1,500
28-1345	Unauthorized access to a computer which causes damages of $500 or more but less than $1,500
28-1346	Unauthorized access to or use of a computer to obtain confidential information, second or subsequent offense
28-1429.05	Selling, giving, or furnishing by delivery sale any electronic nicotine delivery system to any consumer in this state
28-1429.05	Common carrier knowingly transporting any electronic nicotine delivery system for a person who is in violation of subsection (1) of section 28-1429.05
29-1926	Improper release or use of a video recording of a child victim or child witness
30-619	Willfully without authorization alter, forge, conceal, or destroy evidence of an advance health care directive, appointment of a guardian or agent, or evidence of disqualification of any person as a surrogate under the Health Care Surrogacy Act
30-619	Willfully prevent transfer of an individual for failure of a health care provider to honor or cooperate with a health care decision by a surrogate under the Health Care Surrogacy Act by a physician or other health care provider
30-3432	Altering, forging, concealing, or destroying a power of attorney for health care or a revocation of a power of attorney for health care
30-3432	Physician or health care provider willfully preventing transfer of care of principal under durable power of attorney for health care
32-1518	Election officials, violation of duties imposed by election laws
32-1518	Member of governing body of political subdivision, failure or refusal to order recall election
32-1522	Unlawful printing, possession, or use of ballots
32-1546	Signing petition without being registered to vote and qualified to sign or signing any name other than person's own name
32-1546	Falsifying letter submitted to remove name from petition or signing such letter with any name other than person's own name
32-1552	Knowingly and falsely swearing to a sponsor's affidavit on a petition filed under section 32-1407
37-504	Unlawfully hunt, trap, or possess mountain sheep
37-615	Taking wildlife or applying for permit with a suspended or revoked permit
37-618	Possession of suspended or revoked permit to hunt, fish, or harvest fur
37-809	Unlawful acts relating to endangered or threatened species of wildlife or wild plants
37-1254.10	Operating a motorboat or personal watercraft while during a period of court-ordered prohibition for operating under the influence of alcohol or drugs or for refusal to submit to a chemical test for operating a motorboat or personal watercraft while under the influence of alcohol or drugs, second or subsequent offense
37-1254.12	Operating a motorboat or personal watercraft while under the influence of alcohol or drugs or refusing to submit to a chemical test for operating a motorboat or personal watercraft while under the influence of alcohol or drugs, second or subsequent offense

CLASS I MISDEMEANOR

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
48-311	Violation of child labor laws
48-821	Interfere with or coerce others to strike or otherwise hinder governmental service
48-1908	Drug or alcohol tests, altering results
48-1909	Drug or alcohol tests, tampering with body fluids
48-2615	Athlete agent violating Nebraska Uniform Athlete Agents Act
48-2711	Violations relating to professional employer organizations
53-173	Unlicensed person selling a powdered alcohol product
53-180.05	Creation or alteration of identification for sale or delivery to a person under twenty-one years old
53-180.05	Dispensing alcohol in any manner to minors or incompetents not resulting in serious bodily injury or death
53-1,100	Manufacturing spirits without a license, first offense
54-1,125	Forging or altering livestock ownership document when value is $300 or less
54-622.01	Owner of dangerous dog which inflicts serious bodily injury, first offense
54-634	Violation of Commercial Dog and Cat Operator Inspection Act
54-903	Intentionally, knowingly, or recklessly abandon or cruelly neglect livestock animal not resulting in serious injury or illness or death of the livestock animal
54-903	Cruelly mistreat a livestock animal, first offense
54-909	Violating court order not to own or possess a livestock animal for at least five years after the date of conviction for second or subsequent offense of cruel mistreatment of an animal or for intentionally, knowingly, or recklessly abandoning or cruelly neglecting livestock animal resulting in serious injury or illness or death of the livestock animal

CLASS I MISDEMEANOR

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
69-2442	Failure of permitholder to report discharge of handgun that causes injury to a person or damage to property, second or subsequent offense
71-458	Violation of Health Care Facility Licensure Act
71-649	Vital statistics, unlawful acts
71-1950	Violation of Children's Residential Facilities and Placing Licensure Act
71-4608	Illegal manufacture or sale of manufactured homes or recreational vehicles
71-4608	Violation of manufactured home or recreational vehicle standards endangering the safety of a purchaser
71-6312	Unlawfully engaging in an asbestos project without a valid license or using unlicensed employees subsequent to the levy of a civil penalty, first offense
71-6329	Engaging in a lead abatement project or lead-based paint profession without a valid license or using unlicensed employees after assessment of a civil penalty, first offense

CLASS I MISDEMEANOR

71-6329	Conducting a lead abatement project or lead-based paint profession training program without departmental accreditation after assessment of a civil penalty, first offense
71-6329	Issuing fraudulent licenses under Residential Lead-Based Paint Professions Practice Act after assessment of a civil penalty, first offense
74-921	Operating a locomotive or acting as the conductor while intoxicated
75-127	Unjust discrimination or prohibited practice in rates by common carrier, shipper, or consignee
76-1315	Violation of laws on retirement communities and subdivisions
76-1722	Unlawful time-share interval disposition or violating time-share laws
76-2325.01	Interference with utility poles and wires or transmission of light, heat, power, or telecommunications, loss of $500 or more but less than $1,500 (certain situations)
77-1816	Fraudulent sales of real property for delinquent real estate taxes
77-2115	Disclosure of confidential information on estate or generation-skipping transfer tax records
77-2326	Failure to act regarding deposit of county funds by county treasurers
77-2384	Secretary-treasurer of local hospital district, failure to comply with provisions on deposit of public funds
77-2704.33	Failure of a contractor or taxpayer to pay certain sales taxes of $300 or more
77-2711	Wrongful disclosure of records and reports relating to sales and use tax
77-2711	Disclosure of taxpayer information by employees or former employees of the office of Legislative Audit or the Auditor of Public Accounts or certain municipalities
77-3522	Oath or affirmation regarding false or fraudulent application for homestead exemption
77-5016	False statement to Tax Equalization and Review Commission
81-829.73	Fraudulently or willfully making a misstatement of fact in connection with an application for financial assistance under Emergency Management Act
81-8,127	Unlawful practice of land surveying or use of professional land surveyor title, first offense
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

APPENDIX

CLASS I MISDEMEANOR

86-2,104	Unlawful access to electronic communication service
88-548	Illegal use of grain probes
89-1,101	Violation of Weights and Measures Act or order of Department of Agriculture, second or subsequent offense

CLASS II MISDEMEANOR

Maximum–six months' imprisonment, or one thousand dollars' fine, or both
Minimum–none

1-166	Accountants, persons using titles, initials, trade names when not qualified or authorized to do so
2-10,115	Specified violations of Plant Protection and Plant Pest Act, second or subsequent offense
2-1811	Violation of Nebraska Potato Development Act
2-4327	Violation of Agricultural Liming Materials Act, second or subsequent offense
3-152	Violation of State Aeronautics Act or any related rules, regulations, or orders
8-109	Financial institution examiner failing to report bank insolvency or unsafe condition
8-118	Promoting the organization of a corporation to conduct the business of banking or selling stock prior to issuance of charter
8-142	Bank officer, employee, director, or agent violating loan limits by $20,000 or more but less than $40,000 or resulting in monetary loss of $10,000 or more but less than $20,000
9-262	Intentionally employing or possessing device to facilitate cheating at bingo or using any fraud in connection with a bingo game, gain of less than $500
9-345.03	Unlawfully placing a pickle card dispensing device in operation
9-352	Intentionally employing or possessing device to facilitate cheating at lottery by sale of pickle cards or using any fraud in connection with such lottery, gain of less than $500
9-434	Intentionally employing or possessing device to facilitate cheating at lottery or raffle or using any fraud in connection with such lottery or raffle, gain of less than $500
9-513	Violation of Nebraska Small Lottery and Raffle Act, second or subsequent offense
9-652	Intentionally employing or possessing device to facilitate cheating at keno, or using any fraud in connection with keno, gain of less than $500
9-701	Violation of provisions relating to gift enterprises
9-814	Failure by lottery game retailer to maintain and make available records of separate accounts under State Lottery Act
9-814	Knowingly sell lottery tickets to person less than 19 years old
12-1118	False or fraudulent reporting or any violation under Burial Pre-Need Sale Act
14-227	Failure to remit fines, penalties, and forfeitures to city treasurer
14-415	Violation of building ordinance or regulations in city of the metropolitan class, third or subsequent offense within two years of prior offense
22-303	Relocation of county seats, refusal by officers to move offices and records

CLASS II MISDEMEANOR

23-135.01	False claim against county when value is $500 or more but less than $1,500
23-2325	False or fraudulent acts to defraud the Retirement System for Nebraska Counties
23-2544	Violation of county personnel provisions for counties with population under 150,000
23-3596	Board of trustees of hospital authority, pecuniary interest in contracts
24-711	False or fraudulent acts to defraud the Nebraska Judges Retirement System
28-111	Criminal mischief, pecuniary loss is less than $500, committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Criminal trespass in the second degree (certain situations) committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Unauthorized application of graffiti, first offense, committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-201	Criminal attempt to commit a Class I misdemeanor
28-310	Assault in the third degree (certain situations)
28-311.06	Hazing
28-311.09	Violation of harassment protection order
28-316	Violation of custody without intent to deprive custodian of custody of child
28-339	Discrimination against person refusing to participate in an abortion
28-344	Violation of provisions relating to abortion reporting forms
28-442	Unlawful possession or manufacture of drug paraphernalia
28-445	Manufacture or delivery of an imitation controlled substance, second or subsequent offense
28-504	Third degree arson, damages less than $500
28-511.03	Possession in store of security device countermeasure
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

CLASS II MISDEMEANOR

28-614	Tampering with a publicly exhibited contest
28-620	Unauthorized use of a financial transaction device when total value is less than $500 within a six-month period
28-631	Committing a fraudulent insurance act when the amount involved is less than $500
28-638	Criminal impersonation by falsely representing business or engaging in profession, business, or occupation without license if no credit, money, goods, services, or other thing of value was gained or was attempted to be gained, or if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was less than $500, first offense
28-638	Criminal impersonation by providing false identification information to employer to obtain employment, first offense
28-639	Identity theft if no credit, money, goods, services, or other thing of value was gained or was attempted to be gained, or if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was less than $500, first offense
28-706	Criminal nonsupport not in violation of court order
28-801	Prostitution by person 18 years old or older, first or second offense
28-806	Public indecency
28-811	Obscene literature, material, etc., false representation of age by minor, parent, or guardian, unlawful employment of minor
28-903	Refusing to aid a peace officer
28-910	Filing false reports with regulatory bodies
28-911	Abuse of public records
28-915.01	False statement under oath or affirmation or in an unsworn declaration under Uniform Unsworn Foreign Declarations Act if statement is required by law to be sworn or affirmed
28-924	Official misconduct
28-926	Oppression under color of office
28-927	Neglecting to serve warrant if offense for warrant is a felony
28-1103	Promoting gambling in the second degree
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

CLASS II MISDEMEANOR

28-1347	Unauthorized access to or use of a computer, second or subsequent offense
29-739	Extradition and detainer, unlawful delivery of accused persons
29-908	Failing to appear when on bail for misdemeanor or ordinance violation
30-2602.01	Violating an ex parte order regarding a ward's or protected person's safety, health, or financial welfare
32-1536	Bribery or threats used to procure vote of another
37-401	Violation of hunting, fishing, and fur-harvesting permits
37-410	Obtaining or aiding another to obtain a permit to hunt, fish, or harvest fur unlawfully or by false pretenses or misuse of permit
37-411	Hunting, fishing, or fur-harvesting without permit
37-447	Violation of rules, regulations, and commission orders under Game Law regarding hunting, transportation, and possession of deer
37-449	Violation of rules and regulations under Game Law regarding hunting antelope
37-479	Luring or enticing wildlife into a domesticated cervine animal facility
37-4,108	Violating commercial put-and-take fishery licensure requirements
37-504	Unlawfully hunt, trap, or possess elk
37-509	Violations relating to hunting or harassing birds, fish, or other animals from aircraft
37-524.01	Release, kill, wound, or attempt to kill or wound a pig for amusement or profit
37-554	Use of explosives in water to remove obstructions without permission
37-555	Polluting waters of state
37-556	Polluting waters of state with carcasses
37-573	Hunt or enable another to hunt through the Internet or host hunting through the Internet
37-809	Violation of restrictions on endangered or threatened species
37-1254.12	Operating a motorboat or personal watercraft while under the influence of alcohol or drugs or refusing to submit to a chemical test for operating a 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

CLASS II MISDEMEANOR

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
48-414	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

CLASS II MISDEMEANOR

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
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

CLASS II MISDEMEANOR

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
71-1805	Sale and distribution of pathogenic microorganisms
71-2416	Violation of Emergency Box Drug Act
71-2482	Violation involving adulterated or misbranded drugs, second or subsequent offense
71-2512	Violation of Poison Control Act when not otherwise specified, second offense
71-3213	Violation of laws pertaining to private detectives
71-3436	Intentionally or knowingly violating confidentiality requirements of Overdose Fatality Review Teams Act
72-245	Waste, trespass, or destruction of trees on school lands
72-313	Violation of mineral or water rights on state lands
72-802	Violation of plans, specifications, bids, or appropriations on public buildings
75-127	Unjust discrimination or prohibited practices in rates by officers, agents, or employees of a common carrier
75-428	Failure of railroad to provide transfer facilities at intersections upon order of Public Service Commission
75-723	Violation of laws on transmission lines

CLASS II MISDEMEANOR

76-1722	Acting as a sales agent for real property in a time-share interval arrangement without a license
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
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

CLASS III MISDEMEANOR

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
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

CLASS III MISDEMEANOR

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
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

CLASS III MISDEMEANOR

28-928	Mutilation of a flag of the United States or the State of Nebraska
28-1009.01	Violence on or interference with a service animal
28-1010	Indecency with an animal
28-1202.01	Person other than a minor or prohibited person carrying a concealed handgun into or onto any place or premises where prohibited, first offense
28-1202.02	Carrying concealed handgun while consuming alcohol or having alcohol or any controlled substance in person's system, first offense
28-1202.03	Failure to carry identification document while carrying concealed handgun, first offense
28-1202.03	Failure to display identification document to peace officer or emergency services personnel when carrying concealed handgun, first offense
28-1202.04	Failure to immediately inform peace officer or emergency services personnel of concealed handgun, first offense
28-1209	Failure to register tranquilizer guns
28-1210	Failure to notify sheriff of sale of tranquilizer gun
28-1225	Storing explosives in violation of safety regulations
28-1226	Failure to report theft of explosives
28-1227	Violations of provisions relating to explosives
28-1240	Unlawful use of tank or container which contained anhydrous ammonia
28-1242	Unlawful throwing of fireworks
28-1250	Violation of laws relating to fireworks
28-1251	Unlawful testing or inspection of fire alarms
28-1303	Raising or producing stagnant water on river or stream
28-1309	Refusing to yield a telephone party line
28-1310	Intimidation by telephone call or electronic communication
28-1313	Unlawful use of a white cane or guide dog
28-1314	Failure to observe a blind person
28-1316	Unlawful use of locks and keys
28-1317	Unlawful picketing
28-1318	Mass picketing
28-1319	Interfering with picketing
28-1320	Intimidation of pickets
28-1320.03	Unlawful picketing of a funeral
28-1321	Maintenance of nuisances
28-1322	Disturbing the peace
28-1331	Unauthorized use of receptacles
28-1332	Unauthorized possession of a receptacle
28-1335	Discharging firearm or weapon using compressed gas from public highway, road, or bridge
28-1419	Selling or furnishing tobacco or cigars, cigarettes, cigarette paper, electronic nicotine delivery systems, or alternative nicotine products to any person under 21 years of age
28-1420	Sale or purchase for resale of tobacco or electronic nicotine delivery systems without license
28-1425	Licensee selling or furnishing cigars, tobacco, cigarettes, cigarette material, electronic nicotine delivery systems, or alternative nicotine products to any person under 21 years of age
28-1429.02	Dispensing cigarettes or other tobacco products or electronic nicotine delivery systems or alternative nicotine products from vending machines or similar devices in certain locations

CLASS III MISDEMEANOR

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
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

CLASS III MISDEMEANOR

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
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

CLASS III MISDEMEANOR

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
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

CLASS III MISDEMEANOR

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
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

CLASS III MISDEMEANOR

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
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

CLASS III MISDEMEANOR

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 certain vehicles in certain public places where prohibited, where not permitted, without permission, or in a dangerous manner
60-690	Aiding or abetting a violation of Nebraska Rules of the Road
60-6,110	Failing to obey lawful order of law enforcement officer given under Nebraska Rules of the Road to apprehend violator
60-6,130	Willful damage or destruction of road signs, monuments, traffic control or surveillance devices by shooting upon highway
60-6,211.11	Operating a motor vehicle with an ignition interlock device in violation of court order or Department of Motor Vehicles order unless otherwise specified
60-6,211.11	Operating a motor vehicle with a 24/7 sobriety program permit and a concentration of .02 of one gram or more by weight of alcohol per 100 milliliters of blood or .02 of one gram or more by weight of alcohol per 210 liters of breath or refusing a chemical test
60-6,215	Reckless driving, first offense
60-6,216	Willful reckless driving, first offense
60-6,222	Violations in connection with headlights and taillights
60-6,228	Vehicle proceeding forward on highway with backup lights on

CLASS III MISDEMEANOR

60-6,234	Violations involving rotating or flashing lights on motor vehicles
60-6,235	Violation of vehicle clearance light requirements
60-6,245	Violation of motor vehicle brake requirements
60-6,259	Application of an illegal sunscreening or glazing material on a motor vehicle
60-6,263	Operating or owning vehicle in violation of safety glass requirements
60-6,291	Exceeding limitations on width, length, height, or weight of motor vehicles when not otherwise specified
60-6,303	Refusal to weigh vehicle or lighten load
60-6,336	Snowmobile contest on highway without permission, first offense within one year
60-6,343	Violation of provisions relating to snowmobiles, first offense within one year
60-6,352	Illegal operation of minibikes on state highway
60-6,353	Operating a minibike in a place, at a time, or in a manner not permitted by regulatory authority
60-6,362	Violation of all-terrain vehicle requirements, first offense within one year
60-1307	Failing to appear at hearing for violations discovered at weigh stations
60-1308	Failure to comply with weigh station requirements
60-1309	Resisting arrest or disobeying order of carrier enforcement officer at weigh station
60-1418	Violating conditions of a motor vehicle sale
62-304	Limitation upon negotiation of tuition notes or contracts of business colleges
64-105.03	Unauthorized practice of law by notary public
66-107	Illegal use of containers for gasoline or kerosene
68-314	Unlawful use and disclosure of books and records of Department of Health and Human Services
68-1017	Obtaining through fraud assistance to aged, blind, or disabled persons, aid to dependent children, or supplemental nutrition assistance program benefits when value is $500 or more but less than $1,500
68-1017.01	Unlawful use, alteration, or transfer of supplemental nutrition assistance program benefits when value is $500 or more but less than $1,500
68-1017.01	Unlawful possession or redemption of supplemental nutrition assistance program benefits when value is $500 or more but less than $1,500
69-2012	Violation of Degradable Products Act
69-2442	Failure of permitholder to report discharge of handgun that causes injury to a person or damage to property, first offense
69-2709	Selling, possessing, or distributing cigarettes in violation of stamping requirements
71-220	Violation of barbering provisions
71-506	Willful or malicious disclosure of confidential reports, notifications, and investigations relating to communicable diseases
71-542	Unauthorized disclosure of confidential immunization information
71-613	Violation of provisions on vital statistics
71-1371	Violation of Cremation of Human Remains Act
71-1631.01	Violating regulation for protecting public health and preventing communicable diseases
71-1905	Violations regarding children in foster care

CLASS III MISDEMEANOR

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
77-2619	Fail, neglect, or refuse to report or make false statement regarding cigarette taxation
77-3407	Unlawful signature on budget limitation petition
79-201	Violation of compulsory school attendance provision
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
81-834	Unauthorized disclosure of confidential information contained in Department of Administrative Services report of critical procurements

CLASS III MISDEMEANOR

81-835	Unauthorized disclosure of confidential information contained in Department of Administrative Services report of state-managed funds
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

14-229	City officer or employee exerting influence regarding political views
28-416	Knowingly or intentionally possessing one ounce or less of marijuana or any substance containing a quantifiable amount of a material, compound, mixture, or preparation containing any quantity of synthetically produced cannabinoids, third or subsequent offense
53-173	Knowingly or intentionally possessing powdered alcohol, third or subsequent offense
54-623	Owning a dangerous dog within 10 years after conviction of violating dangerous dog laws
54-623	Dangerous dog attacking or biting a person when owner of dog has a prior conviction for violating dangerous dog laws
60-690	Aiding or abetting a violation of Nebraska Rules of the Road
60-6,196.01	Driving under the influence with a prior felony DUI conviction
60-6,275	Operating or possessing radar transmission device while operating motor vehicle

CLASS IIIA MISDEMEANOR

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
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

CLASS IV MISDEMEANOR

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
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

CLASS IV MISDEMEANOR

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
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

CLASS IV MISDEMEANOR

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
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
71-1914.03	Providing unlicensed child care when a license is required
71-2096	Interfere with enforcement of provisions relating to health care facility receivership proceedings

CLASS IV MISDEMEANOR

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
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

CLASS IV MISDEMEANOR

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
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

CLASS V MISDEMEANOR

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
23-1612	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 or disseminating information or materials advertising or advocating for or against any ballot measure by election official
32-1524	Electioneering, disseminating information or materials advertising or advocating for or against any ballot measure, or circulating petitions at or near polling place
32-1524	Electioneering or disseminating information or materials advertising or advocating for or against any ballot measure within two hundred feet of secure ballot drop-box
32-1525	Conducting exit interviews with voters near polling place on election day
32-1525	Poll watcher interfering with any voter in preparation or casting of such voter's ballot or preventing any election worker from performing the worker's duties
32-1525	Poll watcher unlawfully providing assistance to voter
32-1525	Electioneering or disseminating information or materials advertising or advocating for or against any ballot measure by poll watcher

CLASS V MISDEMEANOR

32-1525	Poll watcher not maintaining the minimum distance from sign-in tables, sign-in registers, polling booths, ballot boxes, and any ballots which have not been cast
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

CLASS V MISDEMEANOR

39-313	Hunting on freeway or private land without permission
39-808	Unlawful signs or advertising on bridges or culverts
39-1012	Illegal location of rural mail boxes
39-1801	Removing or interfering with barricades on county and township roads
39-1816	Illegal parking of vehicles on county road right-of-way
42-918	Unlawful disclosure of confidential information under Protection from Domestic Abuse Act
43-2,108.05	Violation of provisions relating to handling and inspection of sealed juvenile records
44-361.02	Insurance agent obtaining license or renewal to circumvent rebates
46-266	Owner allowing irrigation ditches to overflow on roads
46-282	Wasting artesian water
46-1666	Violation of Safety of Dams and Reservoirs Act or any application approval, approval to operate, order, rule, regulation, or requirement of the department under the act
47-206	Neglect of duty by municipal jailer
48-222	Unlawful cost to applicant for medical examination as condition of employment
48-237	Prohibited uses of social security numbers by employers
48-442	Violation involving high voltage lines
48-1227	Discriminatory wage practices based on sex, failing to keep or falsifying records, interfering with enforcement
49-211	Failure of election officers to make returns on adoption of constitutional amendment
49-14,103.04	Negligent violation of conflict of interest prohibitions
51-109	Illegal removal of books from State Library
53-197	Neglect or refusal of sheriffs or police officers to make complaints against violators of liquor laws
54-302	Driving off livestock belonging to another
54-306	Driving cattle, horses, or sheep across private lands causing injury
54-7,104	Failure to take care of livestock during transport
59-1503	Unlawful acts by retailers or wholesalers in sales of cigarettes
60-196	Failure to retain a true copy of an odometer statement for five years
60-3,135.01	Unlawful ownership or operation of a motor vehicle with special interest motor vehicle license plates
60-3,166	Dealer, prospective buyer, or finance company operating motor vehicle or trailer without registration, transporter plate, or manufacturer plates and failing to keep records
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

CLASS V MISDEMEANOR

60-6,239	Failure to equip or display motor vehicles required to have clearance lights, flares, reflectors, or red flags
60-6,240	Willful removal of red flags or flares before driver of vehicle is ready to proceed
60-6,247	Operation of buses or trucks without power brakes, auxiliary brakes, or standard booster brake equipment
60-6,248	Selling hydraulic brake fluid that does not meet requirements
60-6,258	Owning or operating a motor vehicle with illegal sunscreening or glazing material on windshield or windows
60-6,266	Sale of motor vehicle which does not comply with occupant protection system (seat belt) requirements
60-6,287	Operating a motor vehicle which is equipped to enable the driver to watch television while driving
60-6,319	Commercial dealer selling bicycle which fails to comply with requirements
60-6,373	Operation of diesel-powered motor vehicle in violation of controls on smoke emission and noise
60-1411.04	Unlawful advertising of motor vehicles
60-1808	Violation of laws relating to motor vehicle camper units
60-1908	Destroying, defacing, or removing parts of abandoned motor vehicles
61-211	Managers or operators of interstate ditches failing to install measuring devices and furnish daily gauge height reports
69-208	Violation of laws relating to pawnbrokers and dealers in secondhand goods
69-1005	Violation of requirements for sale at auction of commercial chicks and poultry
69-1007	Failure to keep records on sale of poultry
69-1008	False representation in sale of poultry
69-1102	Failing to comply with labeling requirements on binder twine
70-409	Violation of rate regulations by electric companies
70-624	Failure of chief executive officer to publish salaries of public power district officers
71-503	Physician failing to report existence of contagious disease, illness, or poisoning
71-506	Violation of prevention and testing provisions for contagious and infectious diseases
71-1006	Violation of laws relating to disposal of dead bodies
71-1571	Installation of 4 or more showers or bathtubs without scald prevention device
71-4410	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

CLASS V MISDEMEANOR

76-247	Register of deeds giving certified copy of power of attorney which has been revoked without stating fact of revocation in certificate
76-2,122	Acting as real estate closing agent without license or without complying with law
77-2105	Failure to furnish information or reports for estate or generation-skipping transfer taxes
77-5016.08	Prohibited acts relating to subpoenas, testimony, and depositions in Tax Equalization and Review Commission proceedings
79-223	Violation of student immunization requirements
79-253	Violation regarding physical examinations of students
79-571	Disorderly conduct at school district meetings
79-581	Failure by secretary of Class III school district to publish claims and summary of proceedings
79-606	Failure to remove equipment from and repaint school transportation vehicles sold for other purposes
79-607	Violation of traffic regulations or failure to include obligation to comply with traffic regulation in school district employment contract
79-608	Violations by a school bus driver involving licensing or hours of service
79-949	Failure or refusal to furnish information to retirement board for school employees retirement
79-992.02	Willful failure or refusal to furnish information to administrator and board of trustees or retirement board under the Class V School Employees Retirement Act
79-1084	Secretary of Class III school board failing or neglecting to publish budget documents
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

CLASS V MISDEMEANOR

88-549	Failure of warehouse licensee to send written notice to person storing grain of amount, location, and fees
88-549	Charging storage rates and charges other than or in addition to the filed and posted schedule of storage rates and charges

CLASS W MISDEMEANOR

First Conviction:

Maximum–sixty days' imprisonment and five hundred dollars' fine

Mandatory minimum–seven days' imprisonment and five hundred dollars' fine

Second Conviction:

Maximum–six months' imprisonment and five hundred dollars' fine

Mandatory minimum–thirty days' imprisonment and five hundred dollars' fine

Third Conviction:

Maximum–one year imprisonment and one thousand dollars' fine

Mandatory minimum–ninety days' imprisonment and one thousand dollars' fine

60-690	Aiding or abetting a violation of Nebraska Rules of the Road which is a Class W misdemeanor
60-6,197.03	Operation of a motor vehicle while under the influence of alcoholic liquor or of any drug committed with less than .15 gram alcohol concentration
60-6,197.03	Operation of a motor vehicle while under the influence of alcoholic liquor or of any drug committed with .15 gram alcohol concentration, first offense only
60-6,197.03	Refusal to submit to chemical blood, breath, or urine test

UNCLASSIFIED MISDEMEANORS, see section 28-107

15-215	Using unsafe building for the assembly of more than 12 persons –fine of not more than two hundred dollars
16-233	Using unsafe building for the assembly of more than 12 persons –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

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

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

APPENDIX

ACTS, CODES, AND OTHER NAMED LAWS

APPENDIX

CROSS REFERENCE TABLE

2024 Session Laws of Nebraska, Second Session
Showing LB section number to statute section number

2024 Second Session			2024 Cumulative Supplement
LB 1	§	1	Omitted
LB 16	§	1	81-2103
		2	81-2120
		3	84-617
		4	84-933
		5	84-934
		6	84-941.01
		7	84-944.01
		8	84-945.01
		9	84-946.01
		10	84-949
		11	84-950
		12	84-940
		13	84-947
		14	71-6101
		15	71-6102
		16	71-6103
		17	71-6104
		18	71-6105
		19	71-6106
		20	71-6107
		21	71-6108
		22	Omitted
LB 16A			Omitted
LB 20	§	1	29-112
		2	29-113
		3	29-2264
		4	32-312
		5	32-313
		6	32-1530
		7	83-1,118
		8	Omitted
LB 20A			Omitted
LB 43	§	1	20-701
		2	20-702
		3	20-703
		4	20-704
		5	20-705
		6	79-2,160
		7	85-905
		8	84-712
		9	84-712.01
		10	84-712.03
		11	84-712.05
		12	84-712.07
		13	84-919.02
		14	84-919.03
		15	84-906.07
		16	84-920
		17	20-801
		18	20-802
		19	20-803
		20	20-804
		21	84-1412
		22	Omitted
		23	Omitted
		24	Omitted
		25	Omitted
		26	Omitted
LB 51	§	1	81-1120.27
		2	Omitted
LB 52	§	1	85-505
		2	Omitted
		3	Omitted
LB 52A			Omitted
LB 61	§	1	18-419
		2	70-625
		3	70-704
		4	70-1409
		5	86-416
		6	86-575
		7	86-577
		8	Omitted
LB 62	§	1	68-908
		2	68-911
		3	68-996
		4	81-3144
		5	Omitted
LB 62A			Omitted
LB 71	§	1	79-530
		2	79-531
		3	79-532
		4	79-533
		5	79-533.01
		6	79-533.02
		7	79-533.03
		8	79-1003
		9	79-1101
		10	79-1103
		11	79-2,161
		12	Omitted
LB 71A			Omitted
LB 78	§	1	38-1706
		2	Omitted
LB 83	§	1	30-4701
		2	30-4702
		3	30-4703
		4	30-4704
		5	30-4705
		6	30-4706
		7	30-4707
		8	30-4708
		9	30-4709
		10	30-4710
		11	30-4711
		12	30-4712
		13	30-4713
		14	30-4714
		15	30-4715
		16	24-517
		17	Omitted
		18	Omitted
LB 94	§	1	1-112 UCC
		2	1-201 UCC
		3	1-204 UCC
		4	1-301 UCC
		5	1-306 UCC
		6	2-102 UCC
		7	2-106 UCC
		8	2-201 UCC
		9	2-202 UCC
		10	2-203 UCC
		11	2-205 UCC
		12	2-209 UCC
		13	2A-102 UCC
		14	2A-103 UCC
		15	2A-107 UCC
		16	2A-201 UCC
		17	2A-202 UCC
		18	2A-203 UCC
		19	2A-205 UCC
		20	2A-208 UCC
		21	3-104 UCC
		22	3-105 UCC
		23	3-401 UCC
		24	3-604 UCC
		25	4A-103 UCC
		26	4A-201 UCC
		27	4A-202 UCC
		28	4A-203 UCC
		29	4A-207 UCC

2024 Second Session	2024 Cumulative Supplement
30	4A-208 UCC
31	4A-210 UCC
32	4A-211 UCC
33	4A-305 UCC
34	5-104 UCC
35	5-116 UCC
36	7-102 UCC
37	7-106 UCC
38	8-102 UCC
39	8-103 UCC
40	8-106 UCC
41	8-110 UCC
42	8-303 UCC
43	9-102 UCC
44	9-104 UCC
45	9-105 UCC
46	9-105A UCC
47	9-107A UCC
48	9-107B UCC
49	9-203 UCC
50	9-204 UCC
51	9-207 UCC
52	9-208 UCC
53	9-209 UCC
54	9-210 UCC
55	9-301 UCC
56	9-304 UCC
57	9-305 UCC
58	9-306A UCC
59	9-306B UCC
60	9-310 UCC
61	9-312 UCC
62	9-313 UCC
63	9-314 UCC
64	9-314A UCC
65	9-316 UCC
66	9-317 UCC
67	9-323 UCC
68	9-324 UCC
69	9-326A UCC
70	9-330 UCC
71	9-331 UCC
72	9-332 UCC
73	9-334 UCC
74	9-341 UCC
75	9-404 UCC
76	9-406 UCC
77	9-408 UCC
78	9-509 UCC
79	9-513 UCC
80	9-601 UCC
81	9-605 UCC
82	9-608 UCC
83	9-611 UCC
84	9-613 UCC
85	9-614 UCC
86	9-615 UCC
87	9-616 UCC
88	9-619 UCC
89	9-620 UCC
90	9-621 UCC
91	9-624 UCC
92	9-628 UCC
93	12-102 UCC
94	12-103 UCC
95	12-104 UCC
96	12-105 UCC
97	12-106 UCC
98	12-107 UCC
99	12A-101 UCC
100	12A-102 UCC
101	12A-201 UCC
102	12A-202 UCC
103	12A-301 UCC
104	12A-302 UCC
105	12A-303 UCC
106	12A-304 UCC
107	12A-305 UCC
108	12A-306 UCC
109	Omitted
110	Omitted
LB 102 § 1	15-106
2	23-1901
3	23-1901.01
4	23-1901.02
5	23-1908
6	23-1911
7	39-1311.02
8	39-1410
9	76-846
10	76-1902
11	76-2502
12	76-2503
13	76-2504
14	76-2505
15	76-2506
16	81-8,108
17	81-8,108.01
18	81-8,109
19	81-8,121.01
20	81-8,110
21	81-8,110.01
22	81-8,110.02
23	81-8,110.04
24	81-8,110.08
25	81-8,110.12
26	81-8,110.13
27	81-8,110.14
28	81-8,111
29	81-8,113
30	81-8,114
31	81-8,121.02
32	81-8,115
33	81-8,117
34	81-8,118
35	81-8,119.01
36	81-8,120
37	81-8,121
38	81-8,122
39	81-8,122.01
40	81-8,122.02
41	81-8,123
42	81-8,124
43	81-8,125
44	81-8,126
45	81-8,127
46	81-8,184
47	81-1704
48	81-1716
49	81-1717
50	81-1718
51	84-407
52	84-413
53	Omitted
54	Omitted
LB 102A	Omitted
LB 126 § 1	77-1613.02
2	77-3501
3	77-3505.06
4	77-3506.03
5	77-3511
6	77-3517
7	77-3521
8	77-3522
9	77-3523
10	77-3529
11	77-4212
12	Omitted
13	Omitted
LB 126A	Omitted
LB 130 § 1	68-949
2	68-1917
3	Omitted
LB 130A	Omitted
LB 139 § 1	25-2802
2	Omitted
3	Omitted
4	Omitted
LB 140 § 1	60-301
2	60-393
3	60-395
4	60-396
5	60-3,104
6	60-3,130.04
7	60-3,259
8	60-3,260
9	Omitted
10	Omitted
LB 140A	Omitted
LB 144 § 1	81-2102
2	81-2106
3	81-2107
4	81-2108
5	81-2112

CROSS REFERENCE TABLE

2024 Second Session			2024 Cumulative Supplement
		6	81-2113
		7	81-2114
		8	81-2117.01
		9	81-2117.02
		10	81-2118
		11	81-2119
		12	81-2126
		13	81-2132
		14	81-2141
		15	81-2144
		16	Omitted
		17	Omitted
LB 146	§	1	77-1376
		2	77-27,135
		3	Omitted
LB 147	§	1	77-1736.06
		2	Omitted
LB 151	§	1	81-885.07
		2	81-885.18
		3	81-885.25
		4	Omitted
LB 152	§	1	76-2102
		2	76-2104
		3	76-2106
		4	76-2110
		5	76-2117
		6	Omitted
		7	Omitted
LB 164	§	1	13-3301
		2	13-3302
		3	13-3303
		4	13-3304
		5	13-3305
		6	13-3306
		7	13-3306.01
		8	13-3310
		9	13-3311
		10	13-3315
		11	13-3314
		12	13-3316
		13	84-622
		14	61-305
		15	72-819
		16	72-1001
		17	81-1239
		18	81-1243
		19	81-12,195
		20	81-12,196
		21	81-12,200.01
		22	81-12,201
		23	81-12,203
		24	81-12,215
		25	81-12,241
		26	81-12,241.01
		27	81-12,243
		28	81-12,244
		29	84-602
		30	43-2626
		31	43-2627
		32	43-2628
		33	43-2629
		34	43-2630
		35	43-2631
		36	43-2632
		37	43-2633
		38	43-2634
		39	43-2635
		40	43-2636
		41	43-2637
		42	43-2638
		43	43-2639
		44	72-819.01
		45	Omitted
		46	Omitted
		47	Omitted
LB 164A			Omitted
LB 184	§	1	29-1816
		2	43-274
		3	Omitted
LB 190	§	1	23-399
LB 196	§	1	81-8,318
		2	81-2017
		3	Omitted
		4	Omitted
LB 196A			Omitted
LB 198	§	1	4-108
		2	4-111
		3	4-112
		4	23-2306
		5	24-703.01
		6	60-1304
		7	79-901
		8	79-902
		9	79-930
		10	79-915
		11	79-920
		12	79-955
		13	79-978
		14	79-992
		15	79-9,117
		16	79-9,118
		17	81-1316
		18	81-2016
		19	84-1307
		20	84-1501
		21	84-1503.03
		22	84-1504
		23	Omitted
		24	Omitted
LB 204	§	1	68-901
		2	68-9,111
		3	Omitted
		4	Omitted
LB 204A	§	1	Omitted
		2	90-562
		3	Omitted
		4	Omitted
LB 233	§	1	43-512
		2	43-512.07
		3	68-1201
		4	68-1713
		5	Omitted
LB 247	§	1	28-431
		2	Omitted
LB 252	§	1	80-315
		2	80-322.01
		3	80-401.03
		4	80-401.11
		5	80-404
		6	80-411
		7	80-412
		8	81-1316
		9	Omitted
		10	Omitted
LB 253	§	1	29-4801
		2	29-4802
		3	29-4803
		4	29-4804
		5	29-4805
		6	29-4806
		7	29-4807
		8	28-1206
		9	29-2202
		10	29-2246
		11	29-2293
		12	29-2294
		13	Omitted
		14	Omitted
LB 257	§	1	12-701
		2	12-702
		3	17-938
		4	Omitted
LB 262	§	1	2-501
		2	2-503
		3	2-505
		4	2-509
		5	2-515
		6	2-518
		7	2-958
		8	2-3611
		9	2-3615
		10	2-3619
		11	2-3620
		12	2-3622
		13	2-3623
		14	2-3629
		15	2-3631
		16	2-3632
		17	2-3634
		18	2-3635
		19	2-3804
		20	2-3966
		21	28-401
		22	28-476

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		23	75-156
		24	75-902
		25	75-903
		26	75-903.02
		27	81-2,162.27
		28	81-2,239
		29	81-2,240
		30	81-2,244.01
		31	81-2,245.01
		32	81-2,245.02
		33	81-2,248
		34	81-2,251.03
		35	81-2,250
		36	81-2,253.02
		37	81-2,263
		38	81-2,270
		39	81-2,271
		40	81-2,280
		41	81-2,281
		42	88-526
		43	88-527
		44	88-528.01
		45	88-530
		46	88-541
		47	88-549
		48	Omitted
		49	Omitted
		50	Omitted
		51	Omitted
		52	Omitted
LB 262A			Omitted
LB 279	§	1	8-143.01
		2	Omitted
LB 287	§	1	2-3213
		2	2-3214
		3	16-202
		4	18-2518
		5	25-1274
		6	31-727.02
		7	32-101
		8	32-103
		9	32-108.01
		10	32-123
		11	32-202.01
		12	32-233
		13	32-304
		14	32-308
		15	32-318.01
		16	32-320.01
		17	32-330
		18	32-404
		19	32-405
		20	32-552
		21	32-553
		22	32-564
		23	32-565
		24	32-569
		25	32-570
		26	32-606.01
		27	32-606
		28	32-607
		29	32-608
		30	32-622.01
		31	32-613
		32	32-615
		33	32-617
		34	32-630
		35	32-632
		36	32-713
		37	32-716
		38	32-802
		39	32-808.01
		40	32-903
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		68	60-483
		69	60-484.02
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		73	84-217
		74	84-1411
		75	85-1514
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		77	Omitted
		78	Omitted
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		80	Omitted
		81	Omitted
		82	Omitted
LB 287A			Omitted
LB 299	§	1	13-809
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LB 303	§	1	79-1031
		2	Omitted
LB 304	§	1	13-406
LB 308	§	1	87-901
		2	87-902
		3	87-903
		4	87-904
LB 317	§	1	77-1311.03
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LB 358	§	1	68-901
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		4	Omitted
LB 358A	§	1	Omitted
		2	90-562
		3	Omitted
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LB 399	§	1	70-1001.01
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		3	70-1014.02
		4	84-1411
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LB 461	§	1	73-801
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		31	73-301
		32	73-603
		33	81-145

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		35	81-155
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		37	81-158
		38	81-160
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		42	81-1102
		43	81-1108.10
		44	81-1108.16
		45	81-1109
		46	81-3721
		47	83-145
		48	85-2605
		49	85-3106
		50	85-3110
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		52	Omitted
		53	Omitted
LB 484	§	1	60-1401
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		3	60-1408.01
		4	60-1404
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LB 484A			Omitted
LB 569	§	1	23-118
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LB 600	§	1	19-5701
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		8	19-5708
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LB 600A			Omitted
LB 605	§	1	38-121
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		5	38-2104
		6	38-2104.01
		7	38-2104.02
		8	38-2105.01
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		11	38-2120
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		18	38-2142
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		20	38-2144
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		22	38-2146
		23	38-2139
		24	Omitted
		25	Omitted
LB 607	§	1	75-1101
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LB 624	§	1	81-3710
		2	Omitted
LB 628	§	1	21-102
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		25	29-2269
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		28	83-190
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		39	83-196.01
		40	83-196.02
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		43	83-182.02
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LB 644A			Omitted
LB 664	§	1	68-944
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		3	68-946
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LB 685	§	1	9-1,101
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		4	77-3001
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		16	77-3013
		17	77-3012
		18	77-3011
		19	81-3729
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LB 685A			Omitted
LB 686	§	1	16-1020
		2	16-1021
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		4	16-1024
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		9	16-1036
		10	16-1037

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		14	35-1001
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LB 731	§	1	81-108
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LB 771	§	1	80-401
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		3	85-2706
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		5	Omitted
LB 771A			Omitted
LB 829	§	1	44-7,102
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LB 829A			Omitted
LB 834	§	1	38-129.01
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LB 839	§	1	2-1201
		2	2-1202
		3	Omitted
		4	Omitted
LB 840	§	1	19-5801
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		12	71-15,170
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		19	Omitted
LB 844	§	1	48-1701
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		3	81-829.56
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LB 848	§	1	55-134
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LB 851	§	1	81-1210.02
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LB 852	§	1	44-3601
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		7	Omitted
LB 854	§	1	1-116
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		4	1-136.02
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LB 856	§	1	68-1206
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LB 857	§	1	68-901
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LB 857A			Omitted
LB 867	§	1	37-201
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		9	66-1525
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		14	Omitted
		15	Omitted
		16	Omitted
LB 867A			Omitted
LB 870	§	1	29-4313
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LB 870A			Omitted
LB 874	§	1	28-713
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		5	71-1912
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		7	71-1923.01
		8	71-1923.02
		9	71-1923.03
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LB 876	§	1	43-4901
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		3	43-4903
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LB 876A			Omitted
LB 877	§	1	77-1344
		2	77-1347
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		4	Omitted
LB 880	§	1	71-5318
		2	71-5322
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LB 894	§	1	23-1701
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LB 895	§	1	55-157.03
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LB 903	§	1	71-564
		2	71-567
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LB 904	§	1	43-536
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		3	68-996
		4	Omitted
LB 904A			Omitted
LB 905	§	1	68-911
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		3	71-428
		4	Omitted
LB 905A			Omitted
LB 906	§	1	48-311
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LB 908	§	1	Omitted
LB 909	§	1	84-910
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LB 910	§	1	38-1201
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		5	Omitted
LB 926	§	1	51-703
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LB 932	§	1	38-4501
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		11	Omitted
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		7	87-303.13
		8	87-306
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		10	Omitted
		11	Omitted
LB 936	§	1	Omitted
LB 937	§	1	77-3121
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LB 938	§	1	23-3104
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		3	23-104.01
		4	23-104.03
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LB 989	§	1	76-2233
		2	76-2233.01
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		6	76-3203.02
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		13	Omitted
LB 992	§	1	76-2201
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		8	76-2228.01
		9	76-2228.02
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LB 992A			Omitted
LB 998	§	1	81-1,109
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		4	81-1,112
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		10	81-1213.04
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LB 1004	§	1	60-6,279
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LB 1017	§	1	48-121

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		7	77-908
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		10	77-2716
		11	77-27,242
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		13	77-2733
		14	77-2734.03
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		16	77-6831
		17	81-523
		18	86-704
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		20	Omitted
		21	Omitted
		22	Omitted
LB 1023A			Omitted
LB 1027	§	1	79-1601
		2	79-1605
		3	Omitted
LB 1029	§	1	79-201
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LB 1030	§	1	39-2805
		2	66-4,100
		3	Omitted
		4	Omitted
LB 1031	§	1	75-109.01
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		3	86-314
		4	86-324.02
		5	86-515
		6	86-577
		7	86-1001
		8	86-1003
		9	86-1004
		10	86-1024.01
		11	86-1029.04
		12	86-1029
		13	86-1031
		14	86-1101
		15	86-1102
		16	86-1301
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		20	Omitted
		21	Omitted
LB 1031A			Omitted
LB 1035	§	1	71-2496
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		5	71-24,100
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		7	71-24,102
LB 1035A			Omitted
LB 1051	§	1	29-1816
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LB 1069	§	1	28-1250
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40	8-157.01
41	8-183.04
42	8-1,140
43	8-318
44	8-355
45	8-1101
46	8-1101.01
47	8-1116
48	8-1120
49	8-1704
50	8-1707
51	8-1726
52	8-2504
53	8-2724
54	8-2729
55	8-2730
56	8-2735
57	8-2903
58	8-3005
59	8-3007
60	13-609
61	21-1701
62	21-1702
63	21-1702.01
64	21-1705
65	21-1729
66	21-1736
67	21-1743
68	21-1749
69	21-1767
70	21-1768.01
71	21-17,102
72	21-17,109
73	21-17,115
74	30-3801
75	30-38,111
76	30-38,112
77	30-38,113
78	30-38,114
79	30-38,115
80	45-346
81	45-346.01
82	45-354
83	45-737
84	45-905.01
85	45-912
86	45-1005
87	45-1018
88	45-1033.01
89	59-1722
90	69-2103
91	69-2104
92	69-2112
93	71-605.02
94	71-612
95	71-616

2024 Second Session	2024 Cumulative Supplement
96	77-2341
97	81-118.01
98	84-712.05
99	4A-108 UCC
100	Omitted
101	Omitted
102	Omitted
103	Omitted
104	Omitted
105	Omitted
LB 1074A	Omitted
LB 1085 § 1	43-2,119
2	Omitted
LB 1087 § 1	68-2101
2	68-2102
3	68-2103
4	68-2104
5	68-2105
6	68-2106
7	68-2107
8	68-2108
9	68-2109
10	71-1798
11	Omitted
12	Omitted
LB 1087A	Omitted
LB 1088 § 1	77-5723
2	77-5727
3	77-5735
4	Omitted
LB 1092 § 1	87-1001
2	87-1002
3	87-1003
4	87-1004
5	87-1005
LB 1095 § 1	66-2210
2	66-2211
3	66-2215
4	77-7011
5	Omitted
LB 1102 § 1	82-902
2	82-903
LB 1104 § 1	49-1480.01
2	49-1482
3	Omitted
4	Omitted
5	Omitted
LB 1108 § 1	37-327.02
2	71-51,103
3	77-27,132
4	Omitted
5	Omitted
LB 1118 § 1	17-107
2	Omitted
LB 1120 § 1	76-2,141
2	76-214
3	Omitted
LB 1143 § 1	13-2202

2024 Second Session	2024 Cumulative Supplement
2	68-1405
3	84-304
4	Omitted
5	Omitted
LB 1162 § 1	23-1112.01
2	33-117
3	Omitted
LB 1167 § 1	29-404.02
2	Omitted
LB 1169 § 1	81-1108.26
2	82-101
3	82-101.01
4	82-101.02
5	82-102
6	82-105
7	82-106
8	82-107
9	82-108
10	82-101.03
11	82-101.04
12	82-108.03
13	Omitted
LB 1188	Omitted
LB 1195 § 1	25-3003
2	25-3004
3	30-2446
4	30-24,129
5	30-2603
6	30-3402
7	30-3816
8	30-3828
9	30-4002
10	40-101
11	40-103
12	43-2707
13	71-5905
14	84-168
15	Omitted
16	Omitted
LB 1197 § 1	13-3101
2	13-3102
3	13-3103
4	13-3104
5	13-3110
6	13-3108
7	82-335
8	Omitted
LB 1200 § 1	18-1737
2	30-24,125
3	39-2817
4	43-3314
5	43-3318
6	60-107
7	60-119.01
8	60-144
9	60-146
10	60-149
11	60-164.01

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13	60-172
14	60-302.01
15	60-336.01
16	60-386
17	60-3,113.04
18	60-3,162
19	60-3,193.01
20	60-3,198
21	60-3,202
22	60-3,205
23	60-462
24	60-462.01
25	60-479.01
26	60-480
27	60-490
28	60-497.01
29	60-4,111.01
30	60-4,115
31	60-4,131
32	60-4,131.01
33	60-4,132
34	60-4,134
35	60-4,139
36	60-4,142
37	60-4,143
38	60-4,144
39	60-4,144.03
40	60-4,144.05
41	60-4,146.01
42	60-4,147.02
43	60-4,148
44	60-4,148.01
45	60-4,149
46	60-4,150
47	60-4,151
48	60-4,168
49	60-501
50	60-628.01
51	60-6,123
52	60-6,254
53	60-6,265
54	60-6,290
55	60-1401.24
56	60-1438.01
57	60-2705
58	60-2909.01
59	66-4,144
60	75-363
61	75-364
62	75-366
63	75-369.03
64	75-392
65	75-393
66	86-472
67	86-473
68	86-1025
69	86-1029.02
70	Omitted
71	Omitted
72	Omitted
73	Omitted
LB 1200A	Omitted
LB 1204 § 1	9-402
2	9-422
3	9-426
4	9-427
5	9-429
6	9-502
7	9-511
8	9-823
9	28-1105.01
10	28-1418.01
11	28-1420
12	28-1422
13	28-1425
14	28-1429
15	28-1429.04
16	28-1429.05
17	28-1429.06
18	28-1429.07
19	53-101
20	53-103
21	53-103.52
22	53-123.01
23	53-123.16
24	59-1523
25	77-4001
26	77-4003
27	77-4005
28	77-4006
29	77-4011.01
30	77-4011.02
31	77-4012
32	77-4013
33	77-4017
34	77-4019
35	77-4020
36	77-4025
37	84-712.05
38	Omitted
39	Omitted
LB 1204A	Omitted
LB 1214 § 1	38-131
2	Omitted
LB 1215 § 1	38-4601
2	38-4701
3	28-410
4	28-414
5	38-131
6	38-142
7	38-1,146
8	38-1801
9	38-1823
10	38-1812
11	38-2001
12	38-2051
13	38-2801
14	38-28,117
15	38-2847
16	38-2854
17	38-2890
18	38-28,104
19	42-371.01
20	68-911
21	71-211
22	71-212
23	71-217
24	71-220
25	71-222.01
26	71-223
27	71-434
28	71-601.01
29	71-605
30	71-612
31	71-2454
32	71-2478
33	71-2479
34	71-3608
35	71-3610
36	71-3613
37	71-3614
38	71-8505
39	Omitted
40	Omitted
41	Omitted
42	Omitted
43	Omitted
LB 1270 § 1	85-3202
2	85-3204
3	85-3205
4	Omitted
LB 1284 § 1	79-226
2	79-11,158.01
3	38-3113
4	79-8,114
5	79-8,146
6	79-8,147
7	79-8,148
8	79-8,149
9	79-8,154
10	79-8,150
11	79-8,151
12	79-1021
13	79-2607
14	79-3301
15	79-3306
16	79-3307
17	85-3004
18	85-3103
19	85-3105
20	85-3112
21	Omitted
22	Omitted

2024 Second Session		2024 Cumulative Supplement
	23	Omitted
	24	Omitted
	25	Omitted
LB 1284A		Omitted
LB 1288 §	1	28-1202.03
	2	53-167.02
	3	53-180.06
	4	69-2404
	5	69-2430
	6	71-901
	7	71-902
	8	71-903
	9	71-904.02
	10	71-910
	11	71-912
	12	71-914.02
	13	71-914.01
	14	71-919
	15	71-964
	16	71-920
	17	71-926
	18	71-929
	19	71-936
	20	71-937
	21	71-939
	22	71-958
	23	71-961
	24	71-1201
	25	71-1203
	26	71-1226.01
	27	71-1204
	28	71-1206
	29	71-1210
	30	71-1213
	31	71-1220
	32	71-1221
	33	71-1223
	34	83-338
	35	Omitted
	36	Omitted
	37	Omitted
LB 1300 §	1	81-831
	2	81-832
	3	81-833
	4	81-834
	5	81-835
	6	81-836
	7	73-901
	8	73-902
	9	73-903
	10	73-904
	11	73-905
	12	73-906
	13	73-907
	14	81-829.06
	15	81-829.07
	16	81-829.08
	17	81-829.09
	18	81-829.10
	19	81-829.11
	20	81-828.01
	21	81-828.02
	22	81-828.03
	23	81-828.04
	24	81-828.05
	25	81-828.06
	26	81-828.07
	27	81-829.05
	28	81-3801
	29	81-3802
	30	81-3803
	31	81-3804
	32	81-3805
	33	81-3806
	34	81-3807
	35	14-137
	36	14-211
	37	14-217.02
	38	14-2104
	39	15-309
	40	19-412
	41	19-616
	42	23-1114
	43	23-1114.07
	44	70-624.02
	45	80-102
	46	80-104
	47	80-316
	48	81-503
	49	81-830
	50	Omitted
	51	Omitted
	52	Omitted
	53	Omitted
	54	Omitted
LB 1300A		Omitted
LB 1301 §	1	4-107
	2	25-1081
	3	30-2312
	4	76-3701
	5	76-3702
	6	76-3703
	7	76-3704
	8	76-3705
	9	76-3706
	10	76-3707
	11	76-3708
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	14	76-3711
	15	76-3712
	16	76-3713
	17	76-3714
	18	76-3715
	19	76-3716
	20	76-3717
	21	81-201
	22	84-205
	23	Omitted
	24	Omitted
	25	Omitted
	26	Omitted
LB 1301A		Omitted
LB 1306 §	1	79-810
	2	79-860
	3	79-866
	4	79-867
	5	79-868
	6	79-870
	7	Omitted
	8	Omitted
LB 1306A		Omitted
LB 1313 §	1	44-7,119
LB 1317 §	1	77-4408
	2	77-4409
	3	77-4410
	4	77-4411
	5	77-4412
	6	77-4413
	7	77-4414
	8	77-4415
	9	77-4416
	10	77-4417
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	16	77-4423
	17	77-4424
	18	77-4425
	19	77-4426
	20	77-4427
	21	77-4428
	22	77-4429
	23	77-4430
	24	77-3,120
	25	77-3,121
	26	77-3,122
	27	77-3,123
	28	77-3,124
	29	77-3,125
	30	77-3,126
	31	77-3,127
	32	81-12,248
	33	9-1301
	34	9-1302
	35	9-1303
	36	9-1304
	37	9-1305
	38	9-1306
	39	9-1307
	40	9-1308
	41	9-1309

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43	9-1311
44	9-1312
45	9-1313
46	2-1207
47	9-810
48	9-1104
49	9-1110
50	13-520
51	13-3102
52	13-3103
53	13-3104
54	13-3108
55	18-1208
56	18-2103
57	43-512.12
58	44-314
59	60-301
60	60-302
61	60-345.01
62	60-3,191
63	66-482
64	66-4,105
65	70-1001.01
66	70-1002.02
67	70-1028.01
68	70-1028.02
69	81-121
70	77-101
71	77-106
72	77-133
73	77-202
74	77-202.01
75	77-202.03
76	77-1333
77	77-1395
78	77-1359
79	77-2015
80	77-2701
81	77-2701.02
82	77-2701.04
83	77-2704.66
84	77-2704.72
85	77-2716
86	77-3002
87	77-3003
88	77-3011
89	77-3014
90	77-4405
91	77-4406
92	77-5005
93	77-5017
94	77-5018
95	77-5601
96	77-6831
97	85-2601
98	85-2602
99	85-2603
100	85-2603.01
101	85-2605
102	85-2607
103	85-2608
104	81-15,312
105	Omitted
106	Omitted
107	Omitted
108	Omitted
109	Omitted
110	Omitted
LB 1317A	Omitted
LB 1326 § 1	71-1590
2	Omitted
LB 1329 § 1	28-1201
2	28-1202.01
3	28-1204.04
4	32-405
5	32-543
6	32-618
7	32-811
8	79-101
9	79-102
10	79-104
11	79-201
12	79-205
13	79-206
14	79-207
15	79-209
16	79-210
17	79-234
18	79-237
19	79-238
20	79-239
21	79-262.01
22	79-2,141
23	79-2,145
24	79-2,146
25	79-407
26	79-413
27	79-451
28	79-458
29	79-470
30	79-473
31	79-474
32	79-475
33	79-499
34	79-4,108
35	79-4,129
36	79-501
37	79-520
38	79-524
39	79-525
40	79-526
41	79-534
42	79-547
43	79-549
44	79-550
45	79-554
46	79-555
47	79-559
48	79-564
49	79-569
50	79-570
51	79-572
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54	79-578
55	79-579
56	79-580
57	79-581
58	79-586
59	79-587
60	79-588
61	79-589
62	79-590
63	79-594
64	79-5,104
65	79-5,105
66	79-5,106
67	79-611
68	79-729
69	79-810
70	79-813
71	79-8,145.01
72	79-8,150
73	79-1045
74	79-1054
75	79-1084
76	79-1093
77	79-10,110.02
78	79-10,114
79	79-10,117
80	79-10,118
81	79-10,141
82	79-10,150
83	79-1107
84	79-1108.02
85	79-1108.03
86	79-11,159
87	79-3105
88	79-3110
89	79-3111
90	79-734.02
91	79-5,109
92	79-3501
93	79-3602
94	79-3603
95	79-3703
96	85-3002
97	85-3003
98	85-3004
99	85-3005
100	85-3006
101	Omitted
102	Omitted

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2024 Second Session	2024 Cumulative Supplement
LB 1329A § 1	Omitted
2	Omitted
3	Omitted
4	Omitted
5	90-563
6	Omitted
7	Omitted
LB 1335 § 1	37-201
2	37-801
3	37-802
4	37-806
5	37-807
6	37-812
7	37-813
8	37-814
9	Omitted
LB 1344 § 1	77-3113
	77-3114
2	77-3115
3	77-3116
4	77-3117
5	77-3118
6	77-3119
7	77-3120
8	77-908
9	77-2715.07
10	77-2734.03
11	77-3806
12	77-4403
13	77-4404
14	77-4405
15	81-1201.12
16	81-12,108
17	81-12,109
18	81-12,110
19	81-12,112
20	Omitted
21	Omitted
22	Omitted
LB 1344A	Omitted
LB 1355 § 1	38-1201
2	38-1225
3	38-1238
4	71-2485
5	71-2486
6	71-2487
7	71-2485.01
8	71-2488
9	71-2489
10	71-2490
11	71-2491
12	71-2492
13	71-2493
14	71-2494
15	71-2495
16	81-5,153
17	81-3119
18	Omitted
19	Omitted
20	Omitted
21	Omitted
LB 1355A § 1	Omitted
2	Omitted
3	Omitted
4	Omitted
5	Omitted
6	Omitted
7	Omitted
8	90-563
9	Omitted
10	Omitted
11	Omitted
LB 1368 § 1	2-411
2	2-412
3	2-413
4	2-414
5	2-415
6	2-416
7	2-417
8	46-296
9	61-218
10	Omitted
11	Omitted
LB 1368A	Omitted
LB 1370 § 1	70-1034
2	70-624.04
3	70-637
4	66-915
5	70-1001.01
6	70-1012
7	70-1014.02
8	84-1411
9	Omitted
10	Omitted
11	Omitted
12	Omitted
13	Omitted
LB 1393 § 1	48-649.03
2	48-3602
3	48-3603
4	48-3604
5	48-3606
6	Omitted
7	Omitted
8	Omitted
LB 1394 § 1	77-2716
2	Omitted
LB 1394A	Omitted
LB 1402 § 1	79-1608
2	77-2715.07
3	77-2717
4	77-2734.03
5	Omitted
6	Omitted
7	Omitted
LB 1402A	Omitted
LB 1412	Omitted
LB 1413 § 1	Omitted
2	Omitted
3	Omitted
4	Omitted
5	Omitted
6	Omitted
7	Omitted
8	Omitted
9	Omitted
10	Omitted
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19	Omitted
20	Omitted
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22	Omitted
23	Omitted
24	Omitted
25	Omitted
26	Omitted
27	Omitted
28	Omitted
29	Omitted
30	81-2608
31	72-819.01
32	81-407
33	2-1507
34	37-1804
35	45-930
36	48-621
37	48-622.01
38	48-622.02
39	55-901
40	58-703
41	59-1608.04
42	61-405
43	68-996
44	71-812
45	71-5328
46	71-7611
47	72-819
48	79-810
49	79-1054
50	81-1201.21
51	81-12,146
52	81-12,147
53	81-12,157
54	81-12,221
55	81-12,222
56	81-12,243
57	84-323

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58	84-612
59	86-324
60	Omitted
61	Omitted

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CROSS REFERENCE TABLE

2024 Session Laws of Nebraska, First Special Session
Showing LB section number to statute section number

2024 First Special Session		2024 Cumulative Supplement
LB 2		Omitted
LB 3	§ 1	Omitted
	2	8-604
	3	8-1120
	4	9-1107
	5	13-2704
	6	37-327.02
	7	37-327.03
	8	37-345
	9	37-1017
	10	37-1804
	11	38-157
	12	39-1390
	13	44-116
	14	48-1,103
	15	48-621
	16	55-901
	17	59-1608.04
	18	60-3,201.01
	19	60-1505
	20	60-1509
	21	60-1513
	22	61-218
	23	61-222
	24	61-405
	25	68-996
	26	72-232.02
	27	74-1317
	28	77-4025
	29	77-5601
	30	79-3109
	31	81-179
	32	81-829.33
	33	81-8,239.03
	34	81-1010
	35	81-1108.22
	36	81-1110.04
	37	81-1117
	38	81-1120.29
	39	81-12,218
	40	81-12,224
	41	81-1558
	42	81-15,174
	43	81-3142
	44	81-3714
	45	84-612
	46	84-1227
	47	85-2009
	48	86-324
	49	Omitted
	50	Omitted
LB 4		Omitted
LB 34	§ 1	13-3401
	2	13-3402
	3	13-3403
	4	13-3404
	5	13-3405
	6	13-3406
	7	13-3407
	8	13-3408
	9	77-7301
	10	77-7302
	11	77-7303
	12	77-7304
	13	77-7305
	14	13-508
	15	13-518
	16	13-2817
	17	29-3933
	18	72-2305
	19	72-2306
	20	77-1632
	21	77-1633
	22	77-1701
	23	77-1776
	24	77-27,142
	25	77-27,144
	26	77-4602
	27	77-6702
	28	77-6703
	29	81-12,193
	30	Omitted
	31	Omitted
	32	Omitted
LB 34A		Omitted

APPENDIX

CROSS REFERENCE TABLE

Legislative Bills, One Hundred Eighth Legislature
Second Session, 2024

Showing the date each act went into effect.
Convened January 3, 2024, and adjourned April 18, 2024.

LB No.	Effective Date
1	July 19, 2024
16	July 19, 2024
16A	July 19, 2024
20	July 19, 2024
20A	July 19, 2024
43	Sections 1, 2, 3, 4, 5, 8, 9, 10, 12, 13, 14, 15, 16, 21, and 24 of this act become operative on July 19, 2024. Sections 17, 18, 19, and 20 of this act become operative on January 1, 2025. Sections 6 and 7 of this act become operative on July 1, 2025. The other sections of this act become operative on March 28, 2024.
51	July 19, 2024
52	April 17, 2024
52A	April 17, 2024
61	July 19, 2024
62	July 19, 2024
62A	July 19, 2024
71	July 19, 2024
71A	July 19, 2024
78	July 19, 2024
83	July 19, 2024
94	July 19, 2024
102	September 1, 2024 (operative date)
102A	July 19, 2024
126	January 1, 2025 (operative date)
126A	July 19, 2024
130	July 19, 2024
130A	July 19, 2024
139	July 1, 2024 (operative date)
140	Section 8 of this act becomes operative on January 1, 2025. The other sections of this act become operative on July 19, 2024.
140A	July 19, 2024
144	July 19, 2024
146	July 19, 2024
147	July 19, 2024
151	July 19, 2024
152	July 19, 2024
164	Sections 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, and 43 of this act become operative on July 19, 2024. The other sections of this act become operative on April 17, 2024.
164A	April 17, 2024
184	July 19, 2024
190	July 19, 2024
196	April 17, 2024
196A	April 17, 2024
198	March 19, 2024
204	April 17, 2024
204A	April 17, 2024
233	July 19, 2024
247	July 19, 2024
252	July 19, 2024
253	July 1, 2025 (operative date)
257	July 19, 2024

APPENDIX

LB No.	Effective Date
262	Sections 1, 2, 3, 4, 5, 6, 7, 21, 22, 27, 49, and 52 of this act become operative on January 1, 2025. The other sections of this act become operative on July 19, 2024.
262A	July 19, 2024
279	July 19, 2024
287	Sections 1, 2, 3, 4, 15, 16, 18, 20, 21, 24, 25, 26, 27, 28, 29, 30, 32, 35, 37, 38, 39, 40, 42, 47, 48, 51, 52, 53, 54, 55, 56, 57, 58, 59, 63, 65, 71, 73, 75, 77, and 81 of this act become operative on July 19, 2024. Sections 34, 68, 70, and 78 of this act become operative on July 1, 2024. Sections 13, 14, 45, 69, and 79 of this act become operative on January 1, 2025. The other sections of this act become operative on April 17, 2024.
287A	April 17, 2024
299	February 14, 2024
303	July 19, 2024
304	July 19, 2024
308	July 19, 2024
317	July 19, 2024
358	April 17, 2024
358A	April 17, 2024
399	July 19, 2024
461	July 19, 2024
484	July 19, 2024
484A	July 19, 2024
569	March 12, 2024
600	April 17, 2024
600A	April 17, 2024
605	January 1, 2025 (operative date)
607	July 19, 2024
624	July 19, 2024
628	July 19, 2024
631	July 19, 2024
631A	July 19, 2024
644	April 3, 2024
644A	April 3, 2024
664	July 19, 2024
685	July 19, 2024
685A	July 19, 2024
686	July 19, 2024
716	July 19, 2024
731	July 19, 2024
771	March 19, 2024
771A	March 19, 2024
829	January 1, 2025 (operative date)
829A	July 19, 2024
834	July 19, 2024
839	April 3, 2024
840	Sections 13 and 18 of this act become operative on July 1, 2025. The other sections of this act become operative on July 19, 2024.
844	July 19, 2024
847	July 19, 2024
848	July 19, 2024
851	July 1, 2024 (operative date)
852	Section 5 of this act becomes operative on January 1, 2025. The other sections of this act become operative on July 19, 2024.
854	July 19, 2024
856	July 19, 2024
857	July 19, 2024
857A	July 19, 2024
867	Sections 1, 2, 3, 4, 5, 6, 11, 12, and 14 of this act become operative on July 19, 2024. The other sections of this act become operative on April 16, 2024.
867A	April 16, 2024
870	July 19, 2024
870A	July 19, 2024
874	July 19, 2024

CROSS REFERENCE TABLE

LB No.	Effective Date
876	July 19, 2024
876A	July 19, 2024
877	April 3, 2024
880	July 19, 2024
894	July 19, 2024
895	July 19, 2024
903	July 19, 2024
904	July 19, 2024
904A	July 19, 2024
905	July 19, 2024
905A	July 19, 2024
906	July 19, 2024
908	July 19, 2024
909	March 12, 2024
910	July 1, 2025 (operative date)
926	July 19, 2024
932	Sections 1, 2, 4, 5, 6, 7, 8, and 11 of this act become operative on January 1, 2025. The other sections of this act become operative on July 19, 2024.
934	April 16, 2024
936	July 19, 2024
937	Sections 64, 65, and 85 of this act become operative on August 1, 2024. Sections 67, 68, 69, 70, 71, 72, 73, 78, and 86 of this act become operative on October 1, 2024. Sections 24, 25, 26, 27, 28, 29, 30, 31, 32, and 33 of this act become operative for all taxable years beginning or deemed to begin on or after January 1, 2025, under the Internal Revenue Code of 1986, as amended. The other sections of this act become operative on July 19, 2024.
937A	July 19, 2024
938	January 1, 2025 (operative date)
940	July 19, 2024
989	July 19, 2024
992	March 13, 2024
992A	July 19, 2024
998	July 1, 2025 (operative date)
1004	April 3, 2024
1017	July 19, 2024
1023	Sections 13 and 21 of this act become operative for all taxable years beginning or deemed to begin on or after January 1, 2025, under the Internal Revenue Code of 1986, as amended. The other sections of this act become operative on July 19, 2024.
1023A	July 19, 2024
1027	July 19, 2024
1029	July 19, 2024
1030	April 16, 2024
1031	Sections 1, 2, 3, 7, 8, 9, 10, 11, 12, 13, 16, 17, and 19 of this act become operative on July 19, 2024. The other sections of this act become operative on April 16, 2024.
1031A	April 16, 2024
1035	July 19, 2024
1035A	July 19, 2024
1051	July 19, 2024
1069	April 16, 2024
1070	April 17, 2024
1073	Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, and 15 of this act become operative on January 1, 2025. Sections 16, 17, 18, 20, 21, 22, 23, 24, 25, 29, 31, 32, 34, and 39 of this act become operative on July 19, 2024. The other sections of this act become

LB No.	Effective Date
	operative on April 16, 2024.
1074	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, 93, 94, 95, 98, and 102 of this act become operative on January 1, 2025. Sections 31, 32, 33, 34, 35, 36, 52, 54, 55, 56, 60, 61, 62, 63, 64, 65, 67, 68, 69, 70, 71, 72, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 96, 97, and 103 of this act become operative on July 19, 2024. The other sections of this act become operative on April 18, 2024.
1074A	April 18, 2024
1085	July 19, 2024
1087	March 28, 2024
1087A	March 28, 2024
1088	July 19, 2024
1092	July 19, 2024
1095	July 19, 2024
1102	July 19, 2024
1104	July 1, 2024 (operative date)
1108	April 16, 2024
1118	July 19, 2024
1120	July 19, 2024
1143	July 19, 2024
1162	July 19, 2024
1167	July 19, 2024
1169	July 19, 2024
1188	April 3, 2024
1195	July 19, 2024
1197	July 19, 2024
1200	Sections 3, 51, 54, 55, 56, 59, 66, 67, 68, 69, and 72 of this act become operative on July 19, 2024. The other sections of this act become operative on April 16, 2024.
1200A	April 16, 2024
1204	July 19, 2024
1204A	July 19, 2024
1214	July 19, 2024
1215	Sections 1, 2, 5, 8, 9, 10, 11, 12, and 42 of this act become operative on January 1, 2025. Sections 3, 4, 6, 7, 13, 14, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, and 40 of this act become operative on July 19, 2024. The other sections of this act become operative on April 3, 2024.
1270	July 19, 2024
1284	Sections 18, 19, 20, and 22 of this act become operative on July 1, 2024. Sections 1, 2, 3, 12, 13, 14, 15, 16, 17, and 23 of this act become operative on July 19, 2024. The other sections of this act become operative on April 17, 2024.
1284A	April 17, 2024
1288	Sections 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, and 36 of this act become operative on October 1, 2024. The other sections of this act become operative on July 19, 2024.
1300	Sections 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 53 of this act become operative on July

LB No.	Effective Date
	19, 2024. The other sections of this act become operative on April 17, 2024.
1300A	April 17, 2024
1301	January 1, 2025 (operative date)
1301A	July 19, 2024
1306	July 19, 2024
1306A	April 17, 2024
1313	July 19, 2024
1317	Sections 59, 60, 61, 62, 63, 64, 70, 71, 72, 80, 82, 83, 84, and 107 of this act become operative on January 1, 2025. Sections 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 51, 52, 53, 54, 57, 58, 73, 74, 75, 76, 77, 78, 85, 86, 87, 88, 89, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, and 108 of this act become operative on July 19, 2024. The other sections of this act become operative on April 24, 2024.
1317A	April 24, 2024
1326	July 19, 2024
1329	July 19, 2024
1329A	July 19, 2024
1335	July 19, 2024
1344	Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 15, and 21 of this act become operative on January 1, 2025. The other sections of this act become operative on July 19, 2024.
1344A	July 19, 2024
1355	Sections 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, and 19 of this act become operative on July 1, 2024. The other sections of this act become operative on April 17, 2024.
1355A	July 1, 2024 (operative date)
1368	July 19, 2024
1368A	July 19, 2024
1370	Sections 1, 2, 3, 4, 8, and 10 of this act become operative on July 19, 2024. The other sections of this act become operative on April 16, 2024.
1393	April 17, 2024
1394	July 19, 2024
1394A	July 19, 2024
1402	Sections 2, 3, 4, 6, and 7 of this act become operative on October 31, 2024. The other sections of this act become operative on July 19, 2024.
1402A	April 25, 2024
1412	April 2, 2024
1413	April 2, 2024

APPENDIX

CROSS REFERENCE TABLE

Legislative Bills, One Hundred Eighth Legislature
First Special Session, 2024

Showing the date each act went into effect.
Convened July 25, 2024, and adjourned August 20, 2024.

LB No.	Effective Date
2	August 21, 2024
3	August 21, 2024
4	August 21, 2024
34	August 21, 2024
34A	August 21, 2024

SIMPLIFIED INDEX TO THE NEBRASKA JUVENILE CODE

* * *

INTRODUCTION AND ADDITIONAL RESOURCES

This appendix contains a simplified index to the Nebraska Juvenile Code. This appendix also contains a glossary of some commonly-used legal terms that are often used in the code (and in this index).

The Nebraska Juvenile Code is found in sections 43-245 to 43-2,129 of the Nebraska Revised Statutes. These statutes are available on the Nebraska Legislature's website at the following link.[1]

There is also a larger and more comprehensive index to all of Nebraska's statutes. It is contained in two print volumes and can also be found at the following links: Vol. 1 (A to H)[2] Vol. 2 (I to Z)[3].

If you have further questions about the Nebraska Juvenile Code and related issues, there are guides and resources

[1] https://bit.ly/nebjcode

[2] https://bit.ly/nebindex1

[3] https://bit.ly/nebindex2

available on the Nebraska Supreme Court's website. These include:

- The *Court Improvement Project* – A website with many resources (link)[4]
- *What Now? A Guide for Young People in Nebraska's Juvenile Court System* – While this publication is written for juveniles, it provides a very helpful overview of the law and procedures in this area. This publication comes in two different versions.
    - Child welfare version (link)[5]
    - Juvenile justice version (link)[6]

* * *

GLOSSARY OF SELECTED JUVENILE LAW TERMS

Adjudication – This word is used in two ways: (1) To refer to a court proceeding, like a trial, and (2) to refer to the overall process through which the judge decides the juvenile case.

- Through the adjudication of a juvenile case, the judge will decide whether the facts alleged in the petition are true. For example, in a delinquency case, the judge will determine if the juvenile has committed an act that would be a crime if committed by an adult.
- Juvenile cases are often referred to as proceeding in certain parts or phases: Preadjudication, adjudication, and disposition.

[4] https://bit.ly/4cHcAN2

[5] https://bit.ly/3Z6yfed

[6] https://bit.ly/3AHuIZH

Delinquency case – When a person under the age of 18 commits an act that is a crime, they can be brought before the juvenile court. This type of juvenile court case is sometimes referred to as a "delinquency" case.

- The term "delinquency" is not used formally in the statues. Instead, this phrase is used by people when talking about juvenile court cases.
- A person under the age of 18 can also sometimes be charged as an adult. When this happens, the person can request the court to transfer the case to juvenile court. (The opposite can also happen—a case can be initially filed in juvenile court and then transferred to adult court.)

Disposition – This is similar to sentencing in the adult criminal context or a judgment in a civil case. In the dispositional phase of a juvenile case, the court decides what services or rehabilitative efforts a juvenile will receive.

- There are many possible disposition options. Some of these include ordering participation in outpatient treatment or services, ordering payment of restitution, placement in a group or foster home, probation, or commitment to certain institutions, such as a youth rehabilitation and treatment center (often referred to as a "YRTC").

Guardian ad litem (GAL) – An attorney appointed by the judge to act on behalf of a person (here, typically a juvenile) and to protect that person's interests.

Juvenile – In Nebraska law, "juvenile" means a person who is under the age of 18.

- However, the age of majority in Nebraska (with some exceptions) is 19. In some cases, this means the court will retain jurisdiction over a juvenile until they are 19.

Jurisdiction – Generally this means the power or authority of a court to hear and decide a case.

- A juvenile can be within the jurisdiction of a juvenile court due to delinquency, a status offense, or an abuse or neglect (child welfare) case.
- Parents, guardians, and custodians of a juvenile can also be within the court's jurisdiction.
- In some delinquency cases, both adult court (county court or district court) and the juvenile court may have "concurrent" (shared) jurisdiction over a juvenile.
- The term "jurisdiction" can also refer to the geographical limits of a court's authority.

Petition – Like a complaint or indictment in a criminal case, this is the document filed by the county attorney (or city attorney) that alleges why the juvenile is being brought to court.

Status offense / status case – A juvenile may be brought to court for conduct that would not be a crime if the juvenile was an adult.

- For example, this includes not going to school, running away from home, or being uncontrollable by parents.

SIMPLIFIED INDEX TO THE NEBRASKA JUVENILE CODE

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EVALUATIONS

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JURISDICTION OF JUVENILE COURTS

JUVENILE JUSTICE SYSTEM

See JUVENILE JUSTICE SYSTEM (MAIN INDEX)

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