

# TABLE OF CHAPTERS

## REISSUE REVISED STATUTES

Chapter Number	No. of Articles	Chapter Number	No. of Articles
1. Accountants .....	1	45. Interest, Loans, and Debt .....	12
2. Agriculture .....	56	46. Irrigation and Regulation of Water .....	16
3. Aeronautics .....	8	47. Jails and Correctional Facilities .....	8
4. Aliens .....	1	48. Labor .....	31
5. Apportionment .....	Transferred or Repealed	49. Law .....	16
6. Assignment for Creditors .....	Repealed	50. Legislature .....	14
7. Attorneys at Law .....	2	51. Libraries and Museums .....	8
8. Banks and Banking .....	27	52. Liens .....	21
9. Bingo and Other Gambling .....	10	53. Liquors .....	4
10. Bonds .....	12	54. Livestock .....	28
11. Bonds and Oaths, Official .....	2	55. Militia .....	5
12. Cemeteries .....	14	56. Milldams .....	2
13. Cities, Counties, and Other Political Subdivisions .....	31	57. Minerals, Oil, and Gas .....	15
14. Cities of the Metropolitan Class .....	21	58. Money and Financing .....	8
15. Cities of the Primary Class .....	13	59. Monopolies and Unlawful Combinations .....	18
16. Cities of the First Class .....	11	60. Motor Vehicles .....	31
17. Cities of the Second Class and Villages .....	10	61. Natural Resources .....	2
18. Cities and Villages; Laws Applicable to All .....	30	62. Negotiable Instruments .....	3
19. Cities and Villages; Particular Classes .....	52	63. Newspapers and Periodicals .....	1
20. Civil Rights .....	5	64. Notaries Public .....	2
21. Corporations and Other Companies .....	29	65. Oaths and Affirmations .....	Transferred
22. Counties .....	4	66. Oils, Fuels, and Energy .....	21
23. County Government and Officers .....	38	67. Partnerships .....	4
24. Courts .....	13	68. Public Assistance .....	20
25. Courts; Civil Procedure .....	34	69. Personal Property .....	27
26. Courts, Municipal; Civil Procedure .....	Transferred or Repealed	70. Power Districts and Corporations .....	21
27. Courts; Rules of Evidence .....	13	71. Public Health and Welfare .....	91
28. Crimes and Punishments .....	15	72. Public Lands, Buildings, and Funds .....	25
29. Criminal Procedure .....	46	73. Public Lettings and Contracts .....	5
30. Decedents' Estates; Protection of Persons and Property .....	40	74. Railroads .....	16
31. Drainage .....	10	75. Public Service Commission .....	10
32. Elections .....	17	76. Real Property .....	34
33. Fees and Salaries .....	1	77. Revenue and Taxation .....	63
34. Fences, Boundaries, and Landmarks .....	3	78. Salvages .....	Repealed
35. Fire Companies and Firefighters .....	14	79. Schools .....	23
36. Fraud .....	7	80. Soldiers and Sailors .....	9
37. Game and Parks .....	15	81. State Administrative Departments .....	37
38. Health Occupations and Professions .....	34	82. State Culture and History .....	5
39. Highways and Bridges .....	27	83. State Institutions .....	12
40. Homesteads .....	1	84. State Officers .....	16
41. Hotels and Inns .....	2	85. State University, State Colleges, and Postsecondary Education .....	24
42. Husband and Wife .....	12	86. Telecommunications and Technology .....	9
43. Infants and Juveniles .....	45	87. Trade Practices .....	8
44. Insurance .....	88	88. Warehouses .....	6
		89. Weights and Measures .....	2
		90. Special Acts .....	5
		91. Uniform Commercial Code .....	10

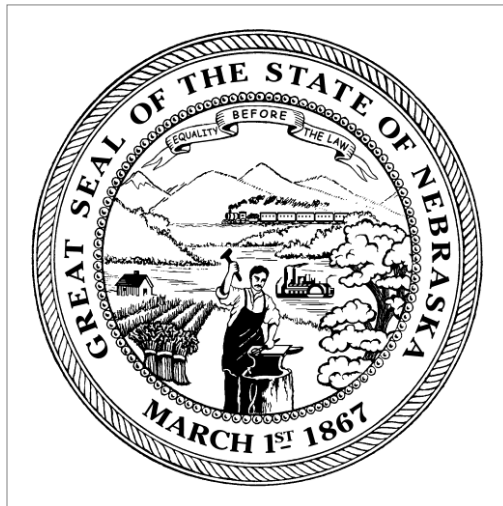


# REVISED STATUTES OF NEBRASKA

## 2013 SUPPLEMENT

EDITED, ANNOTATED, AND PUBLISHED  
BY THE  
REVISOR OF STATUTES

VOLUME 2  
CHAPTERS 58 TO UCC, INCLUSIVE



CITE AS FOLLOWS

R.S.SUPP.,2013

COPYRIGHT, 2013

by

Joanne M. Pepperl  
Revisor of Statutes

For the benefit of the  
State of Nebraska

## CHAPTER 58

### MONEY AND FINANCING

Article.

7. Nebraska Affordable Housing Act. 58-703 to 58-711.
8. Nebraska Educational, Health, and Social Services Finance Authority Act. 58-801 to 58-866.

#### ARTICLE 7

#### NEBRASKA AFFORDABLE HOUSING ACT

Section

- 58-703. Affordable Housing Trust Fund; created; use.  
58-706. Affordable Housing Trust Fund; eligible activities.  
58-711. Information on status of Affordable Housing Trust Fund; report.

#### **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, 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.

**Note:** The Revisor of Statutes has pursuant to section 49-769 correlated LB199, section 24, with LB214, section 9, to reflect all amendments.

**Note:** Changes made by LB199 became effective May 26, 2013. Changes made by LB214 became effective September 6, 2013.

#### **58-706 Affordable Housing Trust Fund; eligible activities.**

The following activities are eligible for assistance from the Affordable Housing Trust Fund:

- (1) New construction, rehabilitation, or acquisition of housing to assist low-income and very low-income families;
- (2) Matching funds for new construction, rehabilitation, or acquisition of housing units to assist low-income and very low-income families;
- (3) Technical assistance, design and finance services, and consultation for eligible nonprofit community or neighborhood-based organizations involved in the creation of affordable housing;

(4) Matching funds for operating costs for housing assistance groups or organizations when such grant or loan will substantially increase the recipient's ability to produce affordable housing;

(5) Mortgage insurance guarantees for eligible projects;

(6) Acquisition of housing units for the purpose of preservation of housing to assist low-income or very low-income families;

(7) Projects making affordable housing more accessible to families with elderly members or members who have disabilities;

(8) Projects providing housing in areas determined by the Department of Economic Development to be of critical importance for the continued economic development and economic well-being of the community and where, as determined by the department, a shortage of affordable housing exists;

(9) Infrastructure projects necessary for the development of affordable housing;

(10) Downpayment and closing cost assistance;

(11) Demolition of existing vacant, condemned, or obsolete housing or industrial buildings or infrastructure;

(12) Housing education programs developed in conjunction with affordable housing projects. The education programs must be directed toward:

(a) Preparing potential home buyers to purchase affordable housing and postpurchase education;

(b) Target audiences eligible to utilize the services of housing assistance groups or organizations; and

(c) Developers interested in the rehabilitation, acquisition, or construction of affordable housing;

(13) Support for efforts to improve programs benefiting homeless youth; and

(14) Vocational training in the housing and construction trades industries by nonprofit groups.

**Source:** Laws 1996, LB 1322, § 16; Laws 2004, LB 1083, § 101; Laws 2005, LB 40, § 2; Laws 2011, LB388, § 12; Laws 2011, LB413, § 1; Laws 2013, LB199, § 25.  
Effective date May 26, 2013.

#### **58-711 Information on status of Affordable Housing Trust Fund; report.**

The Department of Economic Development shall submit, as part of the department's annual status report under section 81-1201.11, information detailing the status of the Affordable Housing Trust Fund. The status report shall list (1) the applications funded during the previous calendar year, (2) the applications funded in previous years, (3) the identity of the organizations receiving funds, (4) the location of each project, (5) the amount of funding provided to the project, (6) the amount of funding leveraged as a result of the project, (7) the number of units of housing created by the project and the occupancy rate, (8) the expected cost of rent or monthly payment of those units, (9) the projected number of new employees and community investment as a result of the project, and (10) the amount of revenue deposited into the Affordable

Housing Trust Fund pursuant to section 76-903. The status report shall contain no information that is protected by state or federal confidentiality laws.

**Source:** Laws 1997, LB 864, § 7; Laws 2011, LB404, § 3; Laws 2013, LB214, § 10.

Effective date September 6, 2013.

## ARTICLE 8

### NEBRASKA EDUCATIONAL, HEALTH, AND SOCIAL SERVICES FINANCE AUTHORITY ACT

#### Section

- 58-801. Act, how cited.
- 58-802. Legislative findings.
- 58-803. Definitions, where found.
- 58-804. Authority, defined.
- 58-805. Bonds, defined.
- 58-806. Cost, defined.
- 58-807. Eligible institution, defined.
- 58-808. Private health care institution, defined.
- 58-809. Private institution of higher education, defined.
- 58-810. Private social services institution, defined.
- 58-811. Project, defined.
- 58-812. Property, defined.
- 58-813. Nebraska Educational, Health, and Social Services Finance Authority; created.
- 58-814. Authority; members; qualifications; appointment; terms; removal.
- 58-815. Authority; officers; executive director; compensation; receive contributions.
- 58-816. Authority; keep records and accounts; seal; certified copies.
- 58-817. Authority; quorum; actions; vacancy; effect; meetings.
- 58-818. Authority; officers, members, and employees; surety bond requirements.
- 58-819. Authority; members; expenses.
- 58-820. Authority member or employee; conflict of interest; abstention.
- 58-821. Authority; purpose.
- 58-822. Authority; perpetual succession; bylaws.
- 58-823. Authority; adopt seal.
- 58-824. Authority; office; location.
- 58-825. Authority; sue and be sued.
- 58-826. Authority; powers over project.
- 58-827. Authority; issuance of bonds authorized.
- 58-828. Authority; charge for services.
- 58-829. Authority; rules and regulations for use of project; designate agent.
- 58-830. Authority; personnel.
- 58-831. Authority; receive loans, grants, and contributions.
- 58-832. Authority; mortgage of certain property.
- 58-833. Authority; loans authorized; limitation.
- 58-834. Authority; issue bonds; make loans; conditions.
- 58-835. Authority; administrative costs; apportionment.
- 58-836. Authority; general powers; joint projects.
- 58-837. Authority; combine and substitute projects; bonds; additional series.
- 58-838. Expenses; how paid; liability; limitation.
- 58-839. Authority; acquisition of property.
- 58-840. Authority; financing obligations completed; convey title to eligible institution.
- 58-841. Authority; bonds; issuance; form; proceeds; how used; replacement; liability; liability insurance; indemnification.
- 58-842. Bond issuance; resolution; provisions enumerated.
- 58-843. Bonds; secured by trust indenture; contents; expenses; how treated.
- 58-844. Bonds issued to purchase securities of eligible institution; provisions applicable.
- 58-845. Bonds issued to acquire federally guaranteed securities; provisions applicable.
- 58-846. Refunding bonds; issuance authorized; provisions applicable.

## Section

- 58-847. Bond issuance; state or political subdivision; no obligation; statement; expenses.
- 58-848. Authority; rents or loan payments; use.
- 58-849. Money received by authority; deemed trust funds; investment.
- 58-850. Bondholders and trustee; enforcement of rights.
- 58-851. Act, how construed.
- 58-852. Authority; journal; public records.
- 58-853. Authority; public purpose; exemptions from taxation.
- 58-854. Bondholders; pledge; agreement of the state.
- 58-855. Act; supplemental to other laws.
- 58-856. Act; provisions controlling.
- 58-857. Nebraska Health Education Assistance Loan Program; established.
- 58-858. Nebraska Health Education Assistance Loan Program; authority; powers.
- 58-859. Nebraska Health Education Assistance Loan Program; loans; how funded.
- 58-860. Nebraska Health Education Assistance Loan Program; bonds or other obligations; how paid.
- 58-861. Nebraska Health Education Assistance Loan Program; bonds; security.
- 58-862. Nebraska Health Education Loan Repayment Fund; created; use.
- 58-863. Nebraska Student Loan Assistance Program; established.
- 58-864. Nebraska Student Loan Assistance Program; authority; powers.
- 58-865. Nebraska Student Loan Assistance Program; loans; how funded.
- 58-866. Change in name; effect.

**58-801 Act, how cited.**

Sections 58-801 to 58-866 shall be known and may be cited as the Nebraska Educational, Health, and Social Services Finance Authority Act.

**Source:** Laws 1981, LB 321, § 2; Laws 1993, LB 465, § 2; R.S.1943, (1994), § 79-2902; Laws 1995, LB 5, § 2; R.S.1943, (2008), § 85-1701; Laws 2013, LB170, § 1.  
Effective date September 6, 2013.

**58-802 Legislative findings.**

The Legislature finds and declares that:

(1) For the benefit of the people of the State of Nebraska, the increase of their commerce, welfare, and prosperity, and the fostering, protection, and improvement of their health and living conditions, it is essential that this and future generations of youth be given the greatest opportunity to learn and to fully develop their intellectual and mental capacities and skills and that there be encouraged, promoted, and supported adequate health, social, and emergency services for the care of and assistance to the people of the state;

(2) To achieve these ends it is of the utmost importance and in the public interest that private institutions of higher education within the state be provided with appropriate additional means of assisting such youth in achieving the required levels of learning and development of their intellectual and mental capacities and skills and that private health care institutions and private social services institutions within the state be provided with appropriate additional means of caring for and protecting the public health and welfare;

(3) It is the purpose of the Nebraska Educational, Health, and Social Services Finance Authority Act to provide a measure of assistance and an alternative method of enabling private institutions of higher education, private health care institutions, and private social services institutions in the state to finance the acquisition, construction, improvement, equipment, and renovation of needed educational, health care, and social services facilities and structures and to



refund, refinance, or reimburse outstanding indebtedness incurred by them or advances made by them, including advances from an endowment or any other similar fund, for the acquisition, construction, improvement, equipment, or renovation of needed educational, health care, and social services facilities and structures;

(4) The financing and refinancing of educational, health care, and social services facilities, through means other than the appropriation of public funds to private institutions of higher education, private health care institutions, and private social services institutions, as described in the act, is a valid public purpose;

(5) The availability of improved access to health profession schools will benefit the people of the State of Nebraska and improve their health, welfare, and living conditions;

(6) The establishment of a health education loan program, with the proceeds of bonds to be used for the purchase or making of loans to students or certain former students of health profession schools, will improve the access to such schools and assist such persons in meeting the expenses incurred in availing themselves of health education opportunities; and

(7) The establishment of a program to assist private institutions of higher education to provide loans to their full-time students pursuing an academic degree will improve access to higher education and contribute to the health, welfare, and living conditions in Nebraska.

**Source:** Laws 1981, LB 321, § 1; Laws 1983, LB 159, § 1; Laws 1993, LB 465, § 1; R.S.1943, (1994), § 79-2901; Laws 1995, LB 5, § 1; R.S.1943, (2008), § 85-1702; Laws 2013, LB170, § 2.  
Effective date September 6, 2013.

#### **58-803 Definitions, where found.**

For purposes of the Nebraska Educational, Health, and Social Services Finance Authority Act, unless the context otherwise requires, the definitions found in sections 58-804 to 58-812 shall apply.

**Source:** Laws 1981, LB 321, § 3; Laws 1983, LB 159, § 14; Laws 1993, LB 465, § 3; R.S.1943, (1994), § 79-2903; Laws 1995, LB 5, § 3; R.S.1943, (2008), § 85-1703; Laws 2013, LB170, § 3.  
Effective date September 6, 2013.

#### **58-804 Authority, defined.**

Authority means the Nebraska Educational, Health, and Social Services Finance Authority created by the Nebraska Educational, Health, and Social Services Finance Authority Act or any board, body, commission, department, or office succeeding to the principal functions thereof or to whom the powers conferred upon such authority by the act are given by law.

**Source:** Laws 1981, LB 321, § 4; Laws 1993, LB 465, § 4; R.S.1943, (1994), § 79-2904; Laws 1995, LB 5, § 4; R.S.1943, (2008), § 85-1704; Laws 2013, LB170, § 4.  
Effective date September 6, 2013.

#### **58-805 Bonds, defined.**

Bonds means bonds, notes, or other obligations of the authority issued under the Nebraska Educational, Health, and Social Services Finance Authority Act, including refunding bonds, notwithstanding that the same may be secured by the full faith and credit of an eligible institution or any other lawfully pledged security of an eligible institution.

**Source:** Laws 1981, LB 321, § 8; Laws 1993, LB 465, § 6; R.S.1943, (1994), § 79-2908; Laws 1995, LB 5, § 5; R.S.1943, (2008), § 85-1705; Laws 2013, LB170, § 5.  
Effective date September 6, 2013.

**58-806 Cost, defined.**

Cost as applied to a project or any portion thereof financed under the Nebraska Educational, Health, and Social Services Finance Authority Act means all or any part of the cost of acquisition, construction, improvement, equipment, and renovation of all land, buildings, or structures including the cost of machinery and equipment; finance charges; interest prior to, during, and after completion of such construction for a reasonable period as determined by the authority; reserves for principal and interest; extensions, enlargements, additions, replacements, renovations, and improvements; engineering, financial, and legal services; plans, specifications, studies, surveys, estimates of cost of revenue, administrative expenses, bond issuance costs, and expenses necessary or incidental to determining the feasibility or practicability of constructing the project; and such other expenses as the authority determines may be necessary or incidental to the acquisition, construction, improvement, equipment, and renovation of the project, the financing of such acquisition, construction, improvement, equipment, and renovation, and the placing of the project in operation.

**Source:** Laws 1981, LB 321, § 7; Laws 1993, LB 465, § 5; R.S.1943, (1994), § 79-2907; Laws 1995, LB 5, § 6; R.S.1943, (2008), § 85-1706; Laws 2013, LB170, § 6.  
Effective date September 6, 2013.

**58-807 Eligible institution, defined.**

Eligible institution means a private institution of higher education, a private health care institution, or a private social services institution.

**Source:** Laws 2013, LB170, § 7.  
Effective date September 6, 2013.

**58-808 Private health care institution, defined.**

Private health care institution means any private not-for-profit corporation or institution that (1) is licensed under the Health Care Facility Licensure Act, (2) is described in section 501(c)(3) of the Internal Revenue Code and is exempt from federal income taxation under section 501(a) of the Internal Revenue Code, (3) is located within this state and is not owned or controlled by the state or any political subdivision, agency, instrumentality, district, or municipality thereof, and (4) does not violate any Nebraska or federal law against discrimination on the basis of race, color, creed, national origin, ancestry, age, gender, or handicap.

**Source:** Laws 2013, LB170, § 8.  
Effective date September 6, 2013.

## Cross References

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

**58-809 Private institution of higher education, defined.**

Private institution of higher education means a not-for-profit educational institution located within this state which is not owned or controlled by the state or any political subdivision, agency, instrumentality, district, or municipality thereof, which is authorized by law to provide a program of education beyond the high school level, and which:

(1) Admits as regular students only individuals having a certificate of graduation from a high school or the recognized equivalent of such a certificate;

(2) Provides an educational program for which it awards a bachelor's degree; provides an educational program, admission into which is conditioned upon the prior attainment of a bachelor's degree or its equivalent, for which it awards a postgraduate degree; provides a program of not less than two years in length which is acceptable for full credit toward a bachelor's degree; or offers a two-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, research, medicine, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge;

(3) Is accredited by a regionally recognized accrediting agency or association or, if not so accredited, is an institution whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited; and

(4) Has a student admissions policy that does not violate any other Nebraska or federal law against discrimination on the basis of race, color, creed, national origin, ancestry, age, gender, or handicap.

**Source:** Laws 1981, LB 321, § 9; R.S.1943, (1994), § 79-2909; Laws 1995, LB 5, § 7; Laws 1998, LB 303, § 1; R.S.1943, (2008), § 85-1707; Laws 2013, LB170, § 9.  
Effective date September 6, 2013.

**58-810 Private social services institution, defined.**

Private social services institution means any private not-for-profit corporation or institution that (1) provides health, safety, and welfare assistance, including emergency, social, housing, and related support services, to members of the general public in the state, (2) is described in section 501(c)(3) of the Internal Revenue Code and is exempt from federal income taxation under section 501(a) of the Internal Revenue Code, (3) is located within this state and is not owned or controlled by the state or any political subdivision, agency, instrumentality, district, or municipality thereof, and (4) does not violate any Nebraska or federal law against discrimination on the basis of race, color, creed, national origin, ancestry, age, gender, or handicap.

**Source:** Laws 2013, LB170, § 10.  
Effective date September 6, 2013.

**58-811 Project, defined.**

(1) Project means any property located within the state that may be used or will be useful in connection with the instruction, feeding, recreation, or housing of students, the provision of health care services to members of the general public, the provision of social services to members of the general public, the conducting of research, administration, or other work of an eligible institution, or any combination of the foregoing. Project includes, but is not limited to, an academic facility, administrative facility, agricultural facility, assembly hall, assisted-living facility, athletic facility, auditorium, campus, communication facility, congregate care housing, emergency services facility, exhibition hall, health care facility, health service institution, hospital, housing for faculty and other staff, instructional facility, laboratory, library, maintenance facility, medical clinic, medical services facility, museum, nursing or skilled nursing services facility, offices, parking area, personal care services facility, physical educational facility, recreational facility, research facility, senior, retirement, or home care services facility, social services facility, stadium, storage facility, student facility, student health facility, student housing, student union, theatre, or utility facility.

(2) Project also means and includes the refunding or refinancing of outstanding obligations, mortgages, or advances, including advances from an endowment or similar fund, originally issued, made, or given by the eligible institution to finance the cost of a project or projects, and including the financing of eligible swap termination payments, whenever the authority finds that such refunding or refinancing is in the public interest and either:

(a) Alleviates a financial hardship upon the eligible institution;

(b) Results in a lesser cost of education, health care, housing, or social and related support services to the eligible institution's students, patients, residents, clients, and other general public consumers; or

(c) Enables the eligible institution to offer greater security for the financing of a new project or projects or to effect savings in interest costs or more favorable amortization terms.

**Source:** Laws 1981, LB 321, § 5; R.S.1943, (1994), § 79-2905; Laws 1995, LB 5, § 8; R.S.1943, (2008), § 85-1708; Laws 2013, LB170, § 11.

Effective date September 6, 2013.

#### **58-812 Property, defined.**

Property means the real estate upon which a project is or will be located, including equipment, machinery, and other similar items necessary or convenient for the operation of the project in the manner for which its use is intended, but not including such items as fuel, supplies, or other items that are customarily deemed to result in a current operation charge. Property does not include any property used or to be used primarily for sectarian instruction or study or as a place for devotional activities or religious worship nor any property which is used or to be used primarily in connection with any part of the program of a school or department of divinity for any religious denomination or the training of ministers, priests, rabbis, or other professional persons in the field of religion.

**Source:** Laws 1981, LB 321, § 6; R.S.1943, (1994), § 79-2906; Laws 1995, LB 5, § 9; R.S.1943, (2008), § 85-1709; Laws 2013, LB170, § 12.

Effective date September 6, 2013.

**58-813 Nebraska Educational, Health, and Social Services Finance Authority; created.**

There is hereby created a body politic and corporate to be known as the Nebraska Educational, Health, and Social Services Finance Authority. The authority is constituted a public instrumentality, and the exercise by the authority of the powers conferred by the Nebraska Educational, Health, and Social Services Finance Authority Act shall be deemed and held to be the performance of an essential public function of the state.

**Source:** Laws 1981, LB 321, § 10; Laws 1993, LB 465, § 7; R.S.1943, (1994), § 79-2910; Laws 1995, LB 5, § 10; R.S.1943, (2008), § 85-1710; Laws 2013, LB170, § 13.  
Effective date September 6, 2013.

**58-814 Authority; members; qualifications; appointment; terms; removal.**

(1) The authority shall consist of seven members, to be appointed by the Governor, who shall be residents of the state, not more than four of whom shall be members of the same political party.

(2) Of the seven members:

(a) At least one shall be a trustee, director, officer, or employee of one or more private institutions of higher education in the state;

(b) At least one shall be a person having a favorable reputation for skill, knowledge, and experience in the field of finance;

(c) At least one shall be a person experienced in and having a favorable reputation for skill, knowledge, and experience in the educational building construction field;

(d) At least one shall be a person experienced in and having a favorable reputation in the field of public accounting;

(e) After the initial appointment provided for in subdivision (3)(a) of this section is made, at least one shall be a trustee, director, officer, or employee of one or more private health care institutions in the state; and

(f) After the initial appointment provided for in subdivision (3)(b) of this section is made, at least one shall be a trustee, director, officer, or employee of one or more private social services institutions in the state.

(3) The initial appointments of the members described in subdivisions (2)(e) and (2)(f) of this section shall be made as follows:

(a) For the first member whose term expires after September 6, 2013, and who is not the sole member described in subdivision (2)(a), (2)(b), (2)(c), or (2)(d) of this section, the Governor shall appoint a successor who meets the qualifications described in subdivision (2)(e) of this section; and

(b) For the second member whose term expires after September 6, 2013, and who is not the sole member described in subdivision (2)(a), (2)(b), (2)(c), or (2)(d) of this section, the Governor shall appoint a successor who meets the qualifications described in subdivision (2)(f) of this section.

(4) The members of the authority first appointed shall serve for terms expiring as follows: One on December 31, 1982; two on December 31, 1983; two on December 31, 1984; and two on December 31, 1985, respectively, the term of each such member to be designated by the Governor. Upon the expiration of the term of any member, his or her successor shall be appointed

for a term of four years and until a successor has been appointed and qualified. The Governor shall fill any vacancy for the remainder of the unexpired term. Any member of the authority may be removed by the Governor for misfeasance, malfeasance, or willful neglect of duty or other cause after notice and a public hearing unless such notice and hearing shall be expressly waived in writing by the accused member. Each member shall be eligible for reappointment to a successive term but shall be declared ineligible for three consecutive full terms.

**Source:** Laws 1981, LB 321, § 11; Laws 1984, LB 644, § 1; R.S.1943, (1994), § 79-2911; Laws 1995, LB 5, § 11; R.S.1943, (2008), § 85-1711; Laws 2013, LB170, § 14.  
Effective date September 6, 2013.

**58-815 Authority; officers; executive director; compensation; receive contributions.**

Each year the authority shall elect one of its members as chairperson and another member as vice-chairperson. It may appoint an executive director and assistant executive director, who shall not be members of the authority but who shall serve at the pleasure of the authority. An assistant executive director shall perform the duties of the executive director in the event of the absence or inability to act of the executive director. They shall receive such compensation as shall be fixed by the authority. The authority may receive contributions to fund any of the expenses of the authority from private donors, including any one or more of the eligible institutions or any one or more associations representing the eligible institutions.

**Source:** Laws 1981, LB 321, § 12; Laws 1993, LB 465, § 8; R.S.1943, (1994), § 79-2912; Laws 1995, LB 5, § 12; R.S.1943, (2008), § 85-1712; Laws 2013, LB170, § 15.  
Effective date September 6, 2013.

**58-816 Authority; keep records and accounts; seal; certified copies.**

The executive director, assistant executive director, or any other person designated by resolution of the authority shall keep records and accounts of all proceedings and financial dealings of the authority, shall be custodian of all books, documents, and papers filed with the authority, the minute book or journal of the authority, and its official seal, and shall be custodian of all funds of the authority. The executive director, assistant executive director, or other designated person may cause copies to be made of all minutes and other records and documents of the authority and may give certificates under the official seal of the authority to the effect that such copies are true copies, and all persons dealing with the authority may rely upon such certificates.

**Source:** Laws 1981, LB 321, § 13; R.S.1943, (1994), § 79-2913; Laws 1995, LB 5, § 13; R.S.1943, (2008), § 85-1713; Laws 2013, LB170, § 16.  
Effective date September 6, 2013.

**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, 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 telephone conference call or videoconference 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 telephone conference call or videoconference otherwise conforms to the requirements of subdivisions (2)(a) through (e) 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. Effective date September 6, 2013.

**58-818 Authority; officers, members, and employees; surety bond requirements.**

Before the issuance of any bonds under the Nebraska Educational, Health, and Social Services Finance Authority Act, the chairperson, vice-chairperson, executive director, and assistant executive director, if any, and any other member of the authority authorized by resolution of the authority to handle funds or sign checks of the authority shall execute a surety bond in such amount as a majority of the members of the authority determine, or alternatively, the chairperson of the authority shall execute a blanket bond effecting such coverage. Each surety bond shall be conditioned upon the faithful performance of the duties of the office or offices covered and shall be executed by a surety company authorized to transact business in this state, and the cost of each such surety bond shall be paid by the authority.

**Source:** Laws 1981, LB 321, § 15; Laws 1993, LB 465, § 10; R.S.1943, (1994), § 79-2915; Laws 1995, LB 5, § 15; R.S.1943, (2008), § 85-1715; Laws 2013, LB170, § 18. Effective date September 6, 2013.

**58-819 Authority; members; expenses.**

The members of the authority shall receive no compensation for the performance of their duties as members, but each such member shall be paid his or her actual and necessary expenses while engaged in the performance of such duties as provided in sections 81-1174 to 81-1177 from any funds legally available therefor.

**Source:** Laws 1981, LB 321, § 16; R.S.1943, (1994), § 79-2916; Laws 1995, LB 5, § 16; R.S.1943, (2008), § 85-1716; Laws 2013, LB170, § 19. Effective date September 6, 2013.

**58-820 Authority member or employee; conflict of interest; abstention.**

Notwithstanding any other law to the contrary, it shall not be or constitute a conflict of interest for a trustee, director, officer, or employee of any educational institution, health care institution, social services institution, financial institution, commercial bank or trust company, architecture firm, insurance company, or any firm, person, or corporation to serve as a member of the authority,

but such trustee, director, officer, or employee shall abstain from any deliberation or action by the authority when the business affiliation of any such trustee, director, officer, or employee is involved. The executive director may serve less than full time. If the executive director serves less than full time, his or her other employment, if any, shall be reviewed by the members of the authority for potential conflicts of interest and whether such other employment would prevent the executive director from fully discharging his or her duties. No member of the authority may be a representative of a bank, investment banking firm, or other financial institution that underwrites the bonds of the authority.

**Source:** Laws 1981, LB 321, § 17; R.S.1943, (1994), § 79-2917; Laws 1995, LB 5, § 17; R.S.1943, (2008), § 85-1717; Laws 2013, LB170, § 20.

Effective date September 6, 2013.

**58-821 Authority; purpose.**

The purpose of the authority shall be to assist eligible institutions in the acquisition, construction, improvement, equipment, renovation, financing, and refinancing of projects and to administer and operate the Nebraska Health Education Assistance Loan Program as provided in sections 58-857 to 58-862 and the Nebraska Student Loan Assistance Program as provided in sections 58-863 to 58-865.

**Source:** Laws 1981, LB 321, § 18; Laws 1983, LB 159, § 3; Laws 1993, LB 465, § 11; R.S.1943, (1994), § 79-2918; Laws 1995, LB 5, § 18; R.S.1943, (2008), § 85-1718; Laws 2013, LB170, § 21.

Effective date September 6, 2013.

**58-822 Authority; perpetual succession; bylaws.**

The authority shall have perpetual succession as a body politic and corporate and may adopt bylaws for the regulation of its affairs and the conduct of its business.

**Source:** Laws 1981, LB 321, § 19; R.S.1943, (1994), § 79-2919; Laws 1995, LB 5, § 19; R.S.1943, (2008), § 85-1719; Laws 2013, LB170, § 22.

Effective date September 6, 2013.

**58-823 Authority; adopt seal.**

The authority may adopt an official seal and alter the same at its pleasure.

**Source:** Laws 1981, LB 321, § 20; R.S.1943, (1994), § 79-2920; Laws 1995, LB 5, § 20; R.S.1943, (2008), § 85-1720; Laws 2013, LB170, § 23.

Effective date September 6, 2013.

**58-824 Authority; office; location.**

The authority may maintain an office at such place or places within Nebraska as it may designate.

**Source:** Laws 1981, LB 321, § 21; R.S.1943, (1994), § 79-2921; Laws 1995, LB 5, § 21; R.S.1943, (2008), § 85-1721; Laws 2013, LB170, § 24.

Effective date September 6, 2013.



**58-825 Authority; sue and be sued.**

The authority may sue and be sued in its own name.

**Source:** Laws 1981, LB 321, § 22; R.S.1943, (1994), § 79-2922; Laws 1995, LB 5, § 22; R.S.1943, (2008), § 85-1722; Laws 2013, LB170, § 25.

Effective date September 6, 2013.

**58-826 Authority; powers over project.**

The authority may determine the location and character of any project to be financed or refinanced under the Nebraska Educational, Health, and Social Services Finance Authority Act and acquire, construct, reconstruct, improve, equip, remodel, renovate, replace, maintain, repair, operate, lease as lessee or lessor, and regulate the same. The authority may also enter into contracts for any or all of such purposes, enter into contracts for the management and operation of a project, and designate an eligible institution as its agent to determine the location and character of a project undertaken by such eligible institution under the act and, as the agent of the authority, to acquire, construct, reconstruct, improve, equip, remodel, renovate, replace, maintain, repair, operate, lease as lessee or lessor, and regulate the same and, as the agent of the authority, to enter into contracts for any or all of such purposes, including contracts for the management and operation of such project.

**Source:** Laws 1981, LB 321, § 23; Laws 1993, LB 465, § 12; R.S.1943, (1994), § 79-2923; Laws 1995, LB 5, § 23; R.S.1943, (2008), § 85-1723; Laws 2013, LB170, § 26.

Effective date September 6, 2013.

**58-827 Authority; issuance of bonds authorized.**

The authority may issue bonds of the authority for any of its corporate purposes and fund or refund the same pursuant to the Nebraska Educational, Health, and Social Services Finance Authority Act.

**Source:** Laws 1981, LB 321, § 24; Laws 1993, LB 465, § 13; R.S.1943, (1994), § 79-2924; Laws 1995, LB 5, § 24; R.S.1943, (2008), § 85-1724; Laws 2013, LB170, § 27.

Effective date September 6, 2013.

**58-828 Authority; charge for services.**

The authority may charge and collect rates, rents, fees, and other charges for the use of and for the services furnished or to be furnished by a project or any portion thereof and contract with any person, partnership, limited liability company, association, or corporation or other body public or private, except that the authority shall have no jurisdiction over rates, rents, fees, and charges established by an eligible institution for its students, patients, residents, clients, or other consumers other than to require that such rates, rents, fees, and charges by such eligible institution be sufficient to discharge such institution's obligation to the authority.

**Source:** Laws 1981, LB 321, § 25; Laws 1993, LB 121, § 520; R.S.1943, (1994), § 79-2925; Laws 1995, LB 5, § 25; R.S.1943, (2008), § 85-1725; Laws 2013, LB170, § 28.

Effective date September 6, 2013.

**58-829 Authority; rules and regulations for use of project; designate agent.**

The authority may establish rules and regulations for the use of a project or any portion thereof and designate an eligible institution as its agent to establish rules and regulations for the use of a project undertaken by such eligible institution.

**Source:** Laws 1981, LB 321, § 26; R.S.1943, (1994), § 79-2926; Laws 1995, LB 5, § 26; R.S.1943, (2008), § 85-1726; Laws 2013, LB170, § 29.

Effective date September 6, 2013.

**58-830 Authority; personnel.**

The authority may employ consulting engineers, architects, attorneys, accountants, trustees, construction and finance experts, superintendents, managers, and such other employees and agents as may be necessary in its judgment, and fix their compensation.

**Source:** Laws 1981, LB 321, § 27; R.S.1943, (1994), § 79-2927; Laws 1995, LB 5, § 27; R.S.1943, (2008), § 85-1727; Laws 2013, LB170, § 30.

Effective date September 6, 2013.

**58-831 Authority; receive loans, grants, and contributions.**

The authority may receive and accept from any source loans or grants for or in aid of the acquisition, construction, improvement, equipment, or renovation of a project or any portion thereof, and receive and accept from any source loans, grants, aid, or contributions of money, property, labor, or other things of value, to be held, used, and applied only for the purpose for which such loans, grants, aid, or contributions are made.

**Source:** Laws 1981, LB 321, § 28; R.S.1943, (1994), § 79-2928; Laws 1995, LB 5, § 28; R.S.1943, (2008), § 85-1728; Laws 2013, LB170, § 31.

Effective date September 6, 2013.

**58-832 Authority; mortgage of certain property.**

The authority may mortgage all or any portion of any project or any other facilities conveyed to the authority for such purpose and the site or sites thereof, whether presently owned or subsequently acquired, for the benefit of the holders of the bonds of the authority issued to finance such project or any portion thereof or issued to refund or refinance outstanding indebtedness or to reimburse an endowment or any similar fund of an eligible institution as permitted by the Nebraska Educational, Health, and Social Services Finance Authority Act.

**Source:** Laws 1981, LB 321, § 29; Laws 1993, LB 465, § 14; R.S.1943, (1994), § 79-2929; Laws 1995, LB 5, § 29; R.S.1943, (2008), § 85-1729; Laws 2013, LB170, § 32.

Effective date September 6, 2013.

**58-833 Authority; loans authorized; limitation.**

The authority may make loans to any eligible institution for the cost of any project or in anticipation of the receipt of tuition or other revenue by the

eligible institution in accordance with an agreement between the authority and such eligible institution, except that (1) no such loan shall exceed the total cost of such project as determined by such eligible institution and approved by the authority and (2) any loan made in anticipation of the receipt of tuition or other revenue shall not exceed the anticipated amount of tuition or other revenue to be received by the eligible institution in the one-year period following the date of such loan.

**Source:** Laws 1981, LB 321, § 30; R.S.1943, (1994), § 79-2930; Laws 1995, LB 5, § 30; Laws 2003, LB 107, § 1; R.S.1943, (2008), § 85-1730; Laws 2013, LB170, § 33.  
Effective date September 6, 2013.

**58-834 Authority; issue bonds; make loans; conditions.**

The authority may issue bonds and make loans to an eligible institution and refund or reimburse outstanding obligations, mortgages, or advances, including advances from an endowment or any similar fund, issued, made, or given by such eligible institution for the cost of a project, including the power to issue bonds and make loans to an eligible institution to refinance indebtedness incurred or to reimburse advances made for projects undertaken prior thereto whenever the authority has received a written letter of intent to underwrite, place, or purchase the bonds from a financial institution having the powers of an investment bank, commercial bank, or trust company and finds that such financing or refinancing is in the public interest, and either: (1) Alleviates a financial hardship upon the eligible institution; (2) results in a lesser cost of education, health care services, or social services; or (3) enables the eligible institution to offer greater security for a loan or loans to finance a new project or projects or to effect savings in interest costs or more favorable amortization terms.

**Source:** Laws 1981, LB 321, § 31; R.S.1943, (1994), § 79-2931; Laws 1995, LB 5, § 31; R.S.1943, (2008), § 85-1731; Laws 2013, LB170, § 34.  
Effective date September 6, 2013.

**58-835 Authority; administrative costs; apportionment.**

The authority may charge to and equitably apportion among participating eligible institutions its administrative costs and expenses incurred in the exercise of the powers and duties conferred by the Nebraska Educational, Health, and Social Services Finance Authority Act.

**Source:** Laws 1981, LB 321, § 32; Laws 1993, LB 465, § 15; R.S.1943, (1994), § 79-2932; Laws 1995, LB 5, § 32; R.S.1943, (2008), § 85-1732; Laws 2013, LB170, § 35.  
Effective date September 6, 2013.

**58-836 Authority; general powers; joint projects.**

The authority may do all things necessary or convenient to carry out the purposes of the Nebraska Educational, Health, and Social Services Finance Authority Act.

In carrying out the purposes of the act, the authority may undertake a project for two or more eligible institutions jointly, or for any combination thereof, and

thereupon all other provisions of the act shall apply to and be for the benefit of the authority and such joint participants.

**Source:** Laws 1981, LB 321, § 33; Laws 1993, LB 465, § 16; R.S.1943, (1994), § 79-2933; Laws 1995, LB 5, § 33; R.S.1943, (2008), § 85-1733; Laws 2013, LB170, § 36.  
Effective date September 6, 2013.

**58-837 Authority; combine and substitute projects; bonds; additional series.**

Notwithstanding any other provision contained in the Nebraska Educational, Health, and Social Services Finance Authority Act, the authority may combine for financing purposes, with the consent of all of the eligible institutions which are involved, the project or projects and some or all future projects of any eligible institutions, but the money set aside in any fund or funds pledged for any series or issue of bonds shall be held for the sole benefit of such series or issue separate and apart from any money pledged for any other series or issue of bonds of the authority. To facilitate the combining of projects, bonds may be issued in series under one or more resolutions or trust indentures and be fully open end, thus providing for the unlimited issuance of additional series, or partially open end, limited as to additional series, all in the discretion of the authority. Notwithstanding any other provision of the act to the contrary, the authority may, in its discretion, permit an eligible institution to substitute one or more projects of equal value, as determined by an independent appraiser satisfactory to the authority, for any project financed under the act on such terms and subject to such conditions as the authority may prescribe.

**Source:** Laws 1981, LB 321, § 34; Laws 1993, LB 465, § 17; R.S.1943, (1994), § 79-2934; Laws 1995, LB 5, § 34; R.S.1943, (2008), § 85-1734; Laws 2013, LB170, § 37.  
Effective date September 6, 2013.

**58-838 Expenses; how paid; liability; limitation.**

All expenses incurred in carrying out the Nebraska Educational, Health, and Social Services Finance Authority Act shall be payable solely from funds provided under the act, and no liability or obligation shall be incurred by the authority beyond the extent to which money has been provided under the act.

**Source:** Laws 1981, LB 321, § 35; Laws 1993, LB 465, § 18; R.S.1943, (1994), § 79-2935; Laws 1995, LB 5, § 35; R.S.1943, (2008), § 85-1735; Laws 2013, LB170, § 38.  
Effective date September 6, 2013.

**58-839 Authority; acquisition of property.**

The authority is authorized and empowered, directly or by and through an eligible institution, as its agent, to acquire by purchase, gift, or devise, such lands, structures, property, real or personal, rights, rights-of-way, franchises, easements, and other interests in lands, and including existing facilities of an eligible institution, as it may deem necessary or convenient for the acquisition, construction, improvement, equipment, renovation, or operation of a project, upon such terms and at such prices as may be considered by it to be reasonable and can be agreed upon between the authority and the owner thereof, and to

take title thereto in the name of the authority or in the name of an eligible institution as its agent.

**Source:** Laws 1981, LB 321, § 36; R.S.1943, (1994), § 79-2936; Laws 1995, LB 5, § 36; R.S.1943, (2008), § 85-1736; Laws 2013, LB170, § 39.  
Effective date September 6, 2013.

**58-840 Authority; financing obligations completed; convey title to eligible institution.**

When the principal of and interest on bonds of the authority issued to finance the cost of a particular project or projects for an eligible institution, including any refunding bonds issued to refund and refinance such bonds, have been fully paid and retired or when adequate provision has been made to fully pay and retire the same, and all other conditions of the resolution and any trust indenture authorizing the same have been satisfied and the lien created by such resolution or trust indenture has been released in accordance with the provisions thereof, the authority shall promptly do such things and execute such deeds, conveyances, and other instruments, if any, as are necessary and required to convey title to such project or projects to such eligible institution.

**Source:** Laws 1981, LB 321, § 37; R.S.1943, (1994), § 79-2937; Laws 1995, LB 5, § 37; R.S.1943, (2008), § 85-1737; Laws 2013, LB170, § 40.  
Effective date September 6, 2013.

**58-841 Authority; bonds; issuance; form; proceeds; how used; replacement; liability; liability insurance; indemnification.**

The authority is hereby authorized to provide by resolution, at one time or from time to time, for the issuance of bonds for the purpose of (1) paying, refinancing, or reimbursing all or any part of the cost of a project, (2) administering and operating the Nebraska Health Education Assistance Loan Program and the Nebraska Student Loan Assistance Program, or (3) making loans to any eligible institution in anticipation of the receipt of tuition or other revenue by the eligible institution. Except to the extent payable from payments to be made on securities or federally guaranteed securities as provided in sections 58-844 and 58-845, the principal of and the interest on such bonds shall be payable solely out of the revenue of the authority derived from the project or program to which they relate and from any other facilities or assets pledged or made available therefor by the eligible institution for whose benefit such bonds were issued. The bonds of each issue shall be dated, shall bear interest at such rate or rates, including variations of such rates, without regard to any limit contained in any other statute or law of the State of Nebraska, shall mature at such time or times not exceeding forty years from the date thereof, all as may be determined by the authority, and may be made redeemable before maturity, at the option of the authority, at such price or prices, which may be at a premium or discount, and under such terms and conditions as may be fixed by the authority in the authorizing resolution and any trust indenture. Except to the extent required by the Nebraska Educational, Health, and Social Services Finance Authority Act and for bonds issued to fund the Nebraska Student Loan Assistance Program, such bonds are to be paid out of the revenue of the project to which they relate and, in certain instances, the revenue of certain other

facilities, and subject to the provisions of sections 58-844 and 58-845 with respect to a pledge of securities or government securities, the bonds may be unsecured or secured in the manner and to the extent determined by the authority in its discretion.

The authority shall determine the form of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest which may be at any bank or trust company within or without the state. The bonds shall be signed in the name of the authority, by its chairperson or vice-chairperson or by a facsimile signature of such person, the official seal of the authority or a facsimile thereof shall be affixed thereto or printed or impressed thereon and attested by the manual or facsimile signature of the executive director or assistant executive director of the authority, except that facsimile signatures of members of the authority shall be sufficient only if the resolution or trust indenture requires that the trustee for such bond issue manually authenticate each bond and the resolution or trust indenture permits the use of facsimile signatures, and any coupons attached to the bonds shall bear the facsimile signature of the executive director or assistant executive director of the authority. The resolution or trust indenture authorizing the bonds may provide that the bonds contain a recital that they are issued under the Nebraska Educational, Health, and Social Services Finance Authority Act, and such recital shall be deemed conclusive evidence of the validity of the bonds and the regularity of the issuance. The provisions of section 10-126 shall not apply to bonds issued by the authority. The provisions of section 10-140 shall apply to bonds issued by the authority. In case any official of the authority whose signature or a facsimile of whose signature appears on any bonds or coupons ceases to be such an official before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he or she had remained an official of the authority until such delivery.

All bonds issued under the act shall have and are hereby declared to have all the qualities and incidents of negotiable instruments under the law of the State of Nebraska. The bonds may be issued in coupon or in registered form, or both, and one form may be exchangeable for the other in such manner as the authority may determine. Provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The bonds may be sold in such manner, either at public or private sale, as the authority may determine.

The proceeds of the bonds of each issue shall be used solely for the payment of the costs of the project or program for which such bonds have been issued and shall be disbursed in such manner and under such restrictions, if any, as the authority may provide in the resolution authorizing the issuance of such bonds or in the trust indenture provided for in section 58-843 securing the same. If the proceeds of the bonds of any issue, by error of estimates or otherwise, are less than such costs, additional bonds may in like manner be issued to provide the amount of such deficit and, unless otherwise provided in the resolution authorizing the issuance of such bonds or in the trust indenture securing the same, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued. If the proceeds of the bonds of any issue exceed the cost of the project

or program for which they were issued, the surplus shall be deposited to the credit of the sinking fund for such bonds or shall be applied as may otherwise be permitted by applicable federal income tax laws relating to the tax exemption of interest.

Prior to the preparation of definitive bonds, the authority may under like restrictions issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds have been executed and are available for delivery.

The authority may also provide for the replacement of any bonds which become mutilated or are destroyed or lost. Bonds may be issued under the act without obtaining the consent of any officer, department, division, commission, board, bureau, or agency of the state and without any other proceedings or conditions other than those proceedings and conditions which are specifically required by the act. The authority may out of any funds available therefor purchase its bonds. The authority may hold, pledge, cancel, or resell such bonds, subject to and in accordance with any agreement with the bondholders.

Members of the authority shall not be liable to the state, the authority, or any other person as a result of their activities, whether ministerial or discretionary, as authority members, except for willful dishonesty or intentional violations of law. Members of the authority and any person executing bonds or policies of insurance shall not be liable personally thereon or be subject to any personal liability or accountability by reason of the issuance thereof. The authority may purchase liability insurance for members, officers, and employees and may indemnify any authority member to the same extent that a school district may indemnify a school board member pursuant to section 79-516.

**Source:** Laws 1981, LB 321, § 38; Laws 1983, LB 159, § 4; Laws 1993, LB 465, § 19; R.S.1943, (1994), § 79-2938; Laws 1995, LB 5, § 38; Laws 2003, LB 107, § 2; Laws 2011, LB424, § 1; R.S.Supp.,2012, § 85-1738; Laws 2013, LB170, § 41.  
Effective date September 6, 2013.

**58-842 Bond issuance; resolution; provisions enumerated.**

Any resolution or resolutions authorizing any bonds or any issue of bonds and any trust indenture securing any bonds or any issue of bonds may contain provisions, which shall be a part of the contract with the holders of the bonds to be authorized, as to (1) pledging or assigning the revenue of the project or loan with respect to which such bonds are to be issued or the revenue of any other property, facilities, or loans, (2) the rentals, fees, loan payments, and other amounts to be charged, the amounts to be raised in each year thereby, and the use and disposition of such amounts, (3) the setting aside of reserves or sinking funds, and the regulation, investment, and disposition thereof, (4) limitations on the use of the project, (5) limitations on the purpose to which or the investments in which the proceeds of sale of any issue of bonds then or thereafter to be issued may be applied and pledging such proceeds to secure the payment of the bonds or any issue of the bonds, (6) limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured, and the refunding of outstanding bonds, (7) the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given, (8) limitations on the amount of

money derived from the project or loan to be expended for operating, administrative, or other expenses of the authority, (9) defining the acts or omissions to act which shall constitute a default in the duties of the authority to holders of its obligations and providing the rights and remedies of such holders in the event of a default, (10) the mortgaging of a project and the site thereof or any other property for the purpose of securing the bondholders, and (11) any other matters relating to the bonds which the authority deems desirable.

**Source:** Laws 1981, LB 321, § 39; Laws 1983, LB 159, § 5; R.S.1943, (1994), § 79-2939; Laws 1995, LB 5, § 39; R.S.1943, (2008), § 85-1739; Laws 2013, LB170, § 42.  
Effective date September 6, 2013.

**58-843 Bonds; secured by trust indenture; contents; expenses; how treated.**

In the discretion of the authority any bonds issued under the Nebraska Educational, Health, and Social Services Finance Authority Act may be secured by a trust indenture, which trust indenture may be in the form of a bond resolution or similar contract, by and between the authority and a corporate trustee or trustees which may be any financial institution having the power of a trust company or any trust company within or outside the state. Such trust indenture providing for the issuance of such bonds may pledge or assign the revenue to be received or proceeds of any contract or contracts pledged and may convey or mortgage the project or any portion thereof. The trust indenture by which a pledge is created or an assignment made shall be filed in the records of the authority.

Any pledge or assignment made by the authority pursuant to this section shall be valid and binding from the time that the pledge or assignment is made, and the revenue so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge or assignment without physical delivery thereof or any further act. The lien of such pledge or assignment shall be valid and binding against all parties having claims of any kind in tort, contract, or otherwise against the authority irrespective of whether such parties have notice thereof.

Such trust indenture may set forth the rights and remedies of the bondholders and of the trustee or trustees, may restrict the individual right of action by bondholders, and may contain such provisions for protecting and enforcing the rights and remedies of the bondholders and of the trustee or trustees as may be reasonable and proper, not in violation of law, or provided for in the Nebraska Educational, Health, and Social Services Finance Authority Act. Any such trust indenture may contain such other provisions as the authority may deem reasonable and proper for the security of the bondholders.

Any bank or trust company which acts as depository of the proceeds of the bonds, any revenue, or other money shall furnish such indemnifying bonds or pledge such securities as may be required by the authority.

All expenses incurred in carrying out the provisions of such trust indenture may be treated as a part of the cost of the operation of a project.

**Source:** Laws 1981, LB 321, § 40; Laws 1993, LB 465, § 20; R.S.1943, (1994), § 79-2940; Laws 1995, LB 5, § 40; R.S.1943, (2008), § 85-1740; Laws 2013, LB170, § 43.  
Effective date September 6, 2013.



**58-844 Bonds issued to purchase securities of eligible institution; provisions applicable.**

In addition to any other methods of financing authorized in the Nebraska Educational, Health, and Social Services Finance Authority Act, the authority may finance the cost of a project or program, refund outstanding indebtedness, or reimburse advances from an endowment or any similar fund of an eligible institution as authorized by section 58-834 by issuing its bonds for the purpose of purchasing the securities of the eligible institution. Any such securities shall have the same principal amounts, maturities, and interest rates as the bonds being issued, may be secured by a first mortgage lien on or security interest in any real or personal property, subject to such exceptions as the authority may approve and created by a mortgage or security instrument satisfactory to the authority, and may be insured or guaranteed by others. Any such bonds shall be secured by a pledge of such securities under the trust indenture securing such bonds, shall be payable solely out of the payments to be made on such securities, and shall not exceed in principal amount the cost of such project or program, the refunding of such indebtedness, or reimbursement of such advances as determined by the eligible institution and approved by the authority. In other respects any such bonds shall be subject to the act, including sections 58-841 and 58-842, and the trust indenture securing such bonds may contain any of the provisions set forth in section 58-843 as the authority may consider appropriate.

If a project is financed pursuant to this section, the title to such project shall remain in the eligible institution owning such project, subject to the lien of the mortgage or security interest, if any, securing the securities then being purchased, and there shall be no lease of such facility between the authority and such eligible institution.

Section 58-840 shall not apply to any project financed pursuant to this section, but the authority shall return the securities purchased through the issuance of bonds pursuant to this section to the eligible institution issuing such securities when such bonds have been fully paid and retired or when adequate provision has been made to pay and retire such bonds fully and all other conditions of the trust indenture securing such bonds have been satisfied and any lien established pursuant to this section has been released in accordance with the provisions of the trust indenture.

**Source:** Laws 1981, LB 321, § 41; Laws 1993, LB 465, § 21; R.S.1943, (1994), § 79-2941; Laws 1995, LB 5, § 41; R.S.1943, (2008), § 85-1741; Laws 2013, LB170, § 44.  
Effective date September 6, 2013.

**58-845 Bonds issued to acquire federally guaranteed securities; provisions applicable.**

Notwithstanding any other provision of the Nebraska Educational, Health, and Social Services Finance Authority Act to the contrary, the authority may finance the cost of a project or program, refund outstanding indebtedness, or reimburse advances from any endowment or any similar fund of an eligible institution as authorized by the act, by issuing its bonds pursuant to a plan of financing involving the acquisition of any federally guaranteed security or securities or the acquisition or entering into of commitments to acquire any federally guaranteed security or securities. For purposes of this section, federal-

ly guaranteed security means any direct obligation of or obligation the principal of and interest on which are fully guaranteed or insured by the United States of America or any obligation issued by or the principal of and interest on which are fully guaranteed or insured by any agency or instrumentality of the United States of America, including without limitation any such obligation that is issued pursuant to the National Housing Act, or any successor provision of law, each as amended from time to time.

In furtherance of the powers granted in this section, the authority may acquire or enter into commitments to acquire any federally guaranteed security and pledge or otherwise use any such federally guaranteed security in such manner as the authority deems in its best interest to secure or otherwise provide a source of repayment of any of its bonds issued to finance or refinance a project or program or may enter into any appropriate agreement with any eligible institution whereby the authority may make a loan to any such eligible institution for the purpose of acquiring or entering into commitments to acquire any federally guaranteed security.

Any agreement entered into pursuant to this section may contain such provisions as are deemed necessary or desirable by the authority for the security or protection of the authority or the holders of such bonds, except that the authority, prior to making any such acquisition, commitment, or loan, shall first determine and enter into an agreement with any such eligible institution or any other appropriate institution or corporation to require that the proceeds derived from the acquisition of any such federally guaranteed security will be used, directly or indirectly, for the purpose of financing or refinancing a project or program.

Any bonds issued pursuant to this section shall not exceed in principal amount the cost of financing or refinancing such project or program as determined by the participating eligible institution and approved by the authority, except that such costs may include, without limitation, all costs and expenses necessary or incidental to the acquisition of or commitment to acquire any federally guaranteed security and to the issuance and obtaining of any insurance or guarantee of any obligation issued or incurred in connection with any federally guaranteed security. In other respects any such bonds shall be subject to the Nebraska Educational, Health, and Social Services Finance Authority Act, including sections 58-841 and 58-842, and the trust indenture securing such bonds may contain such of the provisions set forth in section 58-843 as the authority may deem appropriate.

If a project is financed or refinanced pursuant to this section, the title to such project shall remain in the participating eligible institution owning the project, subject to the lien of any mortgage or security interest securing, directly or indirectly, the federally guaranteed securities then being purchased or to be purchased, and there shall be no lease of such facility between the authority and such eligible institution.

Section 58-840 shall not apply to any project financed pursuant to this section, but the authority shall return the securities purchased through the issuance of bonds pursuant to this section to the issuer of such securities when such securities have been fully paid, when such bonds have been fully paid and retired, or when adequate provision, not involving the application of such securities, has been made to pay and retire such bonds fully, all other condi-

tions of the trust indenture securing such bonds have been satisfied, and the lien on such bonds has been released in accordance with the Nebraska Educational, Health, and Social Services Finance Authority Act.

**Source:** Laws 1981, LB 321, § 42; Laws 1993, LB 465, § 22; R.S.1943, (1994), § 79-2942; Laws 1995, LB 5, § 42; R.S.1943, (2008), § 85-1742; Laws 2013, LB170, § 45.  
Effective date September 6, 2013.

**58-846 Refunding bonds; issuance authorized; provisions applicable.**

The authority is hereby authorized to provide by resolution for the issuance of refunding bonds for the purpose of refunding any bonds then outstanding which have been issued by it under the Nebraska Educational, Health, and Social Services Finance Authority Act, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of maturity or earlier redemption of such bonds, and, in the case of a project and if deemed advisable by the authority, for the additional purposes of acquiring, constructing, improving, equipping, and renovating improvements, extensions, or enlargements of the project in connection with which the bonds to be refunded were issued and of paying any expenses which the authority determines may be necessary or incidental to the issuance of such refunding bonds and the acquiring, constructing, improving, equipping, and renovating of such improvements, extensions, or enlargements. Such refunding bonds shall be payable solely out of the revenue of the project, including any such improvements, extensions, or enlargements thereto, or program to which the bonds being refunded relate or as otherwise described in sections 58-841, 58-844, 58-845, 58-860, and 58-861. The issuance of such bonds, the maturities and other details thereof, the rights of the holders thereof, the rights, duties, and obligations of the authority with respect to such bonds, and the manner of sale thereof shall be governed by the act insofar as applicable.

The proceeds of any such bonds issued for the purpose of refunding outstanding bonds may, in the discretion of the authority, be applied to the purchase or retirement at maturity or earlier redemption of such outstanding bonds either on their earliest or any subsequent redemption date, upon the purchase of such bonds, or at the maturity of such bonds and may, pending such application, be placed in escrow to be applied to such purchase, retirement at maturity, or earlier redemption.

Any such escrowed proceeds, pending such use, may be invested and reinvested in direct obligations of the United States of America or obligations the timely payment of principal and interest on which is fully guaranteed by the United States of America, maturing at such time or times as shall be appropriate to assure the prompt payment of the principal of and interest and redemption premium, if any, on the outstanding bonds to be so refunded. The interest, income, and profits, if any, earned or realized on any such investment may also be applied to the payment of the outstanding bonds to be so refunded. Only after the terms of the escrow have been fully satisfied and carried out may any balance of such proceeds, interest, income, or profits earned or realized on the investments thereof be returned to the eligible institution for whose benefit the refunded bonds were issued for use by it in any lawful manner.

All such bonds shall be subject to the act in the same manner and to the same extent as other revenue bonds issued pursuant to the act.

**Source:** Laws 1981, LB 321, § 43; Laws 1983, LB 159, § 6; Laws 1993, LB 465, § 23; R.S.1943, (1994), § 79-2943; Laws 1995, LB 5, § 43; R.S.1943, (2008), § 85-1743; Laws 2013, LB170, § 46. Effective date September 6, 2013.

**58-847 Bond issuance; state or political subdivision; no obligation; statement; expenses.**

Bonds issued pursuant to the Nebraska Educational, Health, and Social Services Finance Authority Act shall not be deemed to constitute a debt of the state or of any political subdivision thereof or a pledge of the faith and credit of the state or of any such political subdivision, but such bonds shall be a limited obligation of the authority payable solely from the funds, securities, or government securities pledged for their payment as authorized in the act unless such bonds are refunded by refunding bonds issued under the act, which refunding bonds shall be payable solely from funds, securities, or government securities pledged for their payment as authorized in the act. All such revenue bonds shall contain on the face thereof a statement to the effect that the bonds, as to both principal and interest, are not an obligation of the State of Nebraska or of any political subdivision thereof but are limited obligations of the authority payable solely from revenue, securities, or government securities, as the case may be, pledged for their payment. All expenses incurred in carrying out the act shall be payable solely from funds provided under the authority of the act, and nothing contained in the act shall be construed to authorize the authority to incur indebtedness or liability on behalf of or payable by the state or any political subdivision thereof.

**Source:** Laws 1981, LB 321, § 44; Laws 1993, LB 465, § 24; R.S.1943, (1994), § 79-2944; Laws 1995, LB 5, § 44; R.S.1943, (2008), § 85-1744; Laws 2013, LB170, § 47. Effective date September 6, 2013.

**58-848 Authority; rents or loan payments; use.**

Except for projects financed or refinanced pursuant to sections 58-844 and 58-845, the authority shall fix, revise, charge, and collect rents or loan payments for the use of or payment for each project and contract with any eligible institution in respect thereof. Each lease or loan agreement entered into by the authority with an eligible institution shall provide that the rents or loan payments payable by the eligible institution shall be sufficient at all times (1) to pay the eligible institution's share of the administrative costs and expenses of the authority, (2) to pay the authority's cost, if any, of maintaining, repairing, and operating the project and each and every portion thereof, (3) to pay the principal of, the premium, if any, and the interest on outstanding bonds of the authority issued with respect to such project as the same shall become due and payable, and (4) to create and maintain reserves which may be provided for in the resolution or trust indenture relating to such bonds of the authority.

With respect to projects financed pursuant to sections 58-844 and 58-845, the authority shall require the eligible institution involved to enter into loan or

other financing agreements obligating such eligible institution to make payments sufficient to accomplish the purposes described in this section.

**Source:** Laws 1981, LB 321, § 45; R.S.1943, (1994), § 79-2945; Laws 1995, LB 5, § 45; R.S.1943, (2008), § 85-1745; Laws 2013, LB170, § 48.  
Effective date September 6, 2013.

**58-849 Money received by authority; deemed trust funds; investment.**

All money received by the authority, whether as proceeds from the sale of bonds, from revenue, or otherwise, shall be deemed to be trust funds to be held and applied solely as provided in the Nebraska Educational, Health, and Social Services Finance Authority Act but, prior to the time when needed for use, may be invested in direct and general obligations of or obligations fully and unconditionally guaranteed by the United States of America, obligations issued by agencies of the United States of America, any obligations of the United States of America or agencies thereof, obligations of this state, or any obligations or securities which may from time to time be legally purchased by governmental subdivisions of this state pursuant to subsection (1) of section 77-2341, except that any funds pledged to secure a bond issue shall be invested in the manner permitted by the resolution or trust indenture securing such bonds. Such funds shall be deposited as soon as practical in a separate account or accounts in banks or trust companies organized under the laws of this state or in national banking associations. The money in such accounts shall be paid out on checks signed by the executive director or other officers or employees of the authority as the authority authorizes. All deposits of money shall, if required by the authority, be secured in such a manner as the authority determines to be prudent, and all banks or trust companies may give security for the deposits, except to the extent provided otherwise in the resolution authorizing the issuance of the related bonds or in the trust indenture securing such bonds. The resolution authorizing the issuance of such bonds or the trust indenture securing such bonds shall provide that any officer to whom or any bank or trust company to which such money is entrusted shall act as trustee of such money and shall hold and apply the same for the purposes of the Nebraska Educational, Health, and Social Services Finance Authority Act, subject to the act, and of the authorizing resolution or trust indenture.

**Source:** Laws 1981, LB 321, § 46; Laws 1993, LB 465, § 25; R.S.1943, (1994), § 79-2946; Laws 1995, LB 5, § 46; R.S.1943, (2008), § 85-1746; Laws 2013, LB170, § 49.  
Effective date September 6, 2013.

**58-850 Bondholders and trustee; enforcement of rights.**

Any holder of bonds or of any of the coupons appertaining thereto issued under the Nebraska Educational, Health, and Social Services Finance Authority Act and the trustee under any trust indenture, except to the extent the rights given in the act may be restricted by the resolution or trust indenture, may, either at law or in equity, by suit, action, mandamus, or other proceedings, protect and enforce any and all rights under the laws of the state, the act, or such trust indenture or resolution authorizing the issuance of such bonds and may enforce and compel the performance of all duties required by the act or by such trust indenture or resolution to be performed by the authority or by any

officer, employee, or agent thereof, including the fixing, charging, and collecting of rates, rents, loan payments, fees, and charges authorized in the act and required by the provisions of such resolution or trust indenture to be fixed, established, and collected.

Such rights shall include the right to compel the performance of all duties of the authority required by the act or the resolution or trust indenture to enjoin unlawful activities and, in the event of default with respect to the payment of any principal of and premium, if any, and interest on any bond or in the performance of any covenant or agreement on the part of the authority in the resolution or trust indenture, to apply to a court having jurisdiction of the cause to appoint a receiver to administer and operate a project, the revenue of which is pledged to the payment of the principal of and premium, if any, and interest on such bonds, with full power to pay and to provide for payment of the principal of and premium, if any, and interest on such bonds, and with such powers, subject to the direction of the court, as are permitted by law and are accorded receivers in general equity cases, excluding any power to pledge additional revenue of the authority to the payment of such principal, premium, and interest, and to foreclose the mortgage on the project in the same manner as the foreclosure of a mortgage on real estate of private corporations.

**Source:** Laws 1981, LB 321, § 47; Laws 1993, LB 465, § 26; R.S.1943, (1994), § 79-2947; Laws 1995, LB 5, § 47; R.S.1943, (2008), § 85-1747; Laws 2013, LB170, § 50.  
Effective date September 6, 2013.

**58-851 Act, how construed.**

The Nebraska Educational, Health, and Social Services Finance Authority Act, being necessary for the welfare of the state and its inhabitants, shall be liberally construed to effect the purposes thereof.

**Source:** Laws 1981, LB 321, § 48; Laws 1993, LB 465, § 27; R.S.1943, (1994), § 79-2948; Laws 1995, LB 5, § 48; R.S.1943, (2008), § 85-1748; Laws 2013, LB170, § 51.  
Effective date September 6, 2013.

**58-852 Authority; journal; public records.**

All final actions of the authority shall be recorded in a journal, and the journal and all instruments and documents relating thereto shall be kept on file at the office of the authority and shall be open to the inspection of the public at all reasonable times.

**Source:** Laws 1981, LB 321, § 49; R.S.1943, (1994), § 79-2949; Laws 1995, LB 5, § 49; R.S.1943, (2008), § 85-1749; Laws 2013, LB170, § 52.  
Effective date September 6, 2013.

**58-853 Authority; public purpose; exemptions from taxation.**

The exercise of the powers granted by the Nebraska Educational, Health, and Social Services Finance Authority Act shall be in all respects for the benefit of the people of the state, for the increase of their commerce, welfare, and prosperity, for the fostering, encouragement, protection, and improvement of their health and living conditions, and for the development of their intellectual and mental capacities and skills, and as the operation, maintenance, financing,

or refinancing of a project or program by the authority or its agent will constitute the performance of essential governmental functions and serve a public purpose, neither the authority nor its agent shall be required to pay any taxes or assessments, upon or with respect to a project or any property acquired or used by the authority or its agent under the act, upon the income therefrom, or upon any other amounts received by the authority in respect thereof, including payments of principal of or premium or interest on or in respect of any securities purchased pursuant to section 58-844 or any government securities involved in a plan of financing pursuant to section 58-845. The bonds issued under the act, the interest thereon, the proceeds received by a holder from the sale of such bonds to the extent of the holder's cost of acquisition, or proceeds received upon redemption prior to maturity, proceeds received at maturity, and the receipt of such interest and proceeds shall be exempt from taxation in the State of Nebraska for all purposes except the state inheritance tax.

**Source:** Laws 1981, LB 321, § 50; Laws 1993, LB 465, § 28; R.S.1943, (1994), § 79-2950; Laws 1995, LB 5, § 50; R.S.1943, (2008), § 85-1750; Laws 2013, LB170, § 53.  
Effective date September 6, 2013.

#### **58-854 Bondholders; pledge; agreement of the state.**

The State of Nebraska does hereby pledge to and agree with the holders of any obligations issued under the Nebraska Educational, Health, and Social Services Finance Authority Act and with those parties who may enter into contracts with the authority pursuant to the act that the state will not limit or alter the rights vested in the authority until such obligations, together with the interest thereon, are fully met and discharged and such contracts are fully performed on the part of the authority, except that nothing contained in this section shall preclude such limitation or alteration if and when adequate provision is made by law for the protection of the holders of such obligations of the authority or those entering into such contracts with the authority.

**Source:** Laws 1981, LB 321, § 51; Laws 1993, LB 465, § 29; R.S.1943, (1994), § 79-2951; Laws 1995, LB 5, § 51; R.S.1943, (2008), § 85-1751; Laws 2013, LB170, § 54.  
Effective date September 6, 2013.

#### **58-855 Act; supplemental to other laws.**

The Nebraska Educational, Health, and Social Services Finance Authority Act shall be deemed to provide a complete, additional, and alternative method for doing the things authorized in the act and shall be regarded as supplemental and additional to powers conferred by other laws. The issuance of bonds and refunding bonds under the act need not comply with the requirements of any other law applicable to the issuance of bonds, and the acquisition, construction, improvement, equipment, and renovation of a project pursuant to the act by the authority need not comply with the requirements of any competitive bidding law or other restriction imposed on the procedure for award of contracts for the acquisition, construction, improvement, equipment, and renovation of a project or the lease, sale, or disposition of property of the authority, except that if the prospective lessee so requests in writing, the authority shall call for construction bids in such manner as shall be determined by the

authority with the approval of such lessee. Except as otherwise expressly provided in the act, none of the powers granted to the authority under the act shall be subject to the supervision of or regulation by or require the approval or consent of any municipality, political subdivision, commission, board, body, bureau, official, or agency or the state.

**Source:** Laws 1981, LB 321, § 52; Laws 1993, LB 465, § 30; R.S.1943, (1994), § 79-2952; Laws 1995, LB 5, § 52; R.S.1943, (2008), § 85-1752; Laws 2013, LB170, § 55.  
Effective date September 6, 2013.

**58-856 Act; provisions controlling.**

To the extent that the Nebraska Educational, Health, and Social Services Finance Authority Act is inconsistent with the provisions of any general statute or special act or parts thereof, the Nebraska Educational, Health, and Social Services Finance Authority Act shall be deemed controlling.

**Source:** Laws 1981, LB 321, § 53; Laws 1993, LB 465, § 31; R.S.1943, (1994), § 79-2953; Laws 1995, LB 5, § 53; R.S.1943, (2008), § 85-1753; Laws 2013, LB170, § 56.  
Effective date September 6, 2013.

**58-857 Nebraska Health Education Assistance Loan Program; established.**

There is hereby established, in accordance with Public Law 94-484, the Nebraska Health Education Assistance Loan Program, to be financed by the authority in the manner provided in the Nebraska Educational, Health, and Social Services Finance Authority Act.

**Source:** Laws 1983, LB 159, § 7; Laws 1993, LB 465, § 32; R.S.1943, (1994), § 79-2954; Laws 1995, LB 5, § 54; R.S.1943, (2008), § 85-1754; Laws 2013, LB170, § 57.  
Effective date September 6, 2013.

**58-858 Nebraska Health Education Assistance Loan Program; authority; powers.**

The authority may:

- (1) Make loans;
- (2) Participate in the financing of loans;
- (3) Purchase or participate in the purchase of loans;
- (4) Sell or participate in the sale of loans;
- (5) Collect and pay reasonable fees and charges in connection with the exercise of the powers provided in subdivisions (1) through (4) of this section;
- (6) Do all things necessary and convenient to carry out the purposes of sections 58-857 to 58-862 in connection with the administering and servicing of loans, including contracting with any person, firm, or other body, public or private;
- (7) Enter into any agreements necessary to effect the guarantee, insuring, administering, or servicing of loans;
- (8) Adopt and promulgate rules and regulations governing and establish standards for participation in the program created by section 58-857, and



establish other administrative procedures consistent with Public Law 94-484; and

(9) Exercise all powers incidental to or necessary for the performance of the powers authorized by this section.

**Source:** Laws 1983, LB 159, § 8; R.S.1943, (1994), § 79-2955; Laws 1995, LB 5, § 55; R.S.1943, (2008), § 85-1755; Laws 2013, LB170, § 58.

Effective date September 6, 2013.

**58-859 Nebraska Health Education Assistance Loan Program; loans; how funded.**

Any loan made, purchased, or caused to be made or purchased pursuant to section 58-858 may be funded with the proceeds of bonds, notes, or other obligations of the authority issued pursuant to sections 58-857 to 58-862. The resolution or trust indenture creating such bonds, notes, or other obligations may contain any of the provisions specified in section 58-843 as the authority shall deem appropriate and any other provisions, not in violation of law, as the authority shall deem reasonable and proper for the security of the holders of such bonds, notes, or other obligations.

The proceeds of any such bonds, notes, or other obligations may be used and applied by the authority to make loans, to purchase loans, to cause loans to be made or purchased, to pay financing costs, including, but not limited to, legal, underwriting, investment banking, accounting, rating agency, printing, and other similar costs, to fund any reserve funds deemed necessary or advisable by the authority, to pay interest on such bonds, notes, or other obligations for any period deemed necessary or advisable by the authority, and to pay all other necessary and incidental costs and expenses.

**Source:** Laws 1983, LB 159, § 9; R.S.1943, (1994), § 79-2956; Laws 1995, LB 5, § 56; R.S.1943, (2008), § 85-1756; Laws 2013, LB170, § 59.

Effective date September 6, 2013.

**58-860 Nebraska Health Education Assistance Loan Program; bonds or other obligations; how paid.**

Notwithstanding section 58-841, all bonds, notes, or other obligations issued by the authority for the Nebraska Health Education Assistance Loan Program shall be payable out of the revenue generated in connection with loans funded under sections 58-857 to 58-862, or from reserves or other money available for such purpose as may be designated in the resolution of the authority under which the bonds, notes, or other obligations are issued or as may be designated in a trust indenture authorized by the authority.

**Source:** Laws 1983, LB 159, § 10; R.S.1943, (1994), § 79-2957; Laws 1995, LB 5, § 57; R.S.1943, (2008), § 85-1757; Laws 2013, LB170, § 60.

Effective date September 6, 2013.

**58-861 Nebraska Health Education Assistance Loan Program; bonds; security.**

Notwithstanding section 58-843, the principal of and interest on any bonds issued by the authority for the Nebraska Health Education Assistance Loan Program shall be secured by a pledge of the revenue and other money out of which such principal and interest shall be made payable and may be secured by a trust indenture, mortgage, or deed of trust, including an assignment of a loan or contract right of the authority pursuant to a loan, covering all or any part of a loan from which the revenue or receipts so pledged may be derived.

**Source:** Laws 1983, LB 159, § 11; R.S.1943, (1994), § 79-2958; Laws 1995, LB 5, § 58; R.S.1943, (2008), § 85-1758; Laws 2013, LB170, § 61.

Effective date September 6, 2013.

**58-862 Nebraska Health Education Loan Repayment Fund; created; use.**

There is hereby created a separate fund, to be known as the Nebraska Health Education Loan Repayment Fund, which shall consist of all revenue generated in connection with loans funded pursuant to the Nebraska Educational, Health, and Social Services Finance Authority Act. The authority may pledge revenue received or to be received by the fund to secure bonds, notes, or other obligations issued pursuant to the act. The authority may create such subfunds or accounts within the fund as it deems necessary or advisable.

**Source:** Laws 1983, LB 159, § 12; Laws 1993, LB 465, § 33; R.S.1943, (1994), § 79-2959; Laws 1995, LB 5, § 59; R.S.1943, (2008), § 85-1759; Laws 2013, LB170, § 62.

Effective date September 6, 2013.

**58-863 Nebraska Student Loan Assistance Program; established.**

There is hereby established the Nebraska Student Loan Assistance Program to be financed by the authority in the manner provided in the Nebraska Educational, Health, and Social Services Finance Authority Act.

**Source:** Laws 1993, LB 465, § 34; R.S.1943, (1994), § 79-2961; Laws 1995, LB 5, § 60; R.S.1943, (2008), § 85-1760; Laws 2013, LB170, § 63.

Effective date September 6, 2013.

**58-864 Nebraska Student Loan Assistance Program; authority; powers.**

The authority may:

(1) Make loans to private institutions of higher education to assist such institutions in providing loans to their full-time students to assist them in financing the cost of their education while taking courses leading to an academic degree;

(2) Participate in the financing of such loans;

(3) Sell or participate in the sale of such loans;

(4) Collect and pay reasonable fees and charges in connection with the exercise of the powers provided in subdivisions (1) through (3) of this section;

(5) Do all things necessary and convenient to carry out the purposes of this section and section 58-865 in connection with the administering of such loans, including contracting with any person, firm, or other body, public or private;

(6) Enter into any agreements necessary to effect the guarantee, insuring, or administering of such loans;

(7) Adopt and promulgate rules and regulations governing and establish standards for participation in the Nebraska Student Loan Assistance Program; and

(8) Exercise all powers incidental to or necessary for the performance of the powers authorized by this section.

**Source:** Laws 1993, LB 465, § 35; R.S.1943, (1994), § 79-2962; Laws 1995, LB 5, § 61; R.S.1943, (2008), § 85-1761; Laws 2013, LB170, § 64.

Effective date September 6, 2013.

#### **58-865 Nebraska Student Loan Assistance Program; loans; how funded.**

Any loan made or caused to be made or purchased pursuant to section 58-864 may be funded with the proceeds of bonds, notes, or other obligations of the authority issued pursuant to this section and sections 58-841, 58-846, 58-863, and 58-864. The resolution or trust indenture creating such bonds, notes, or other obligations may contain any of the provisions specified in section 58-843 as the authority deems appropriate and any other provisions, not in violation of law, as the authority deems reasonable and proper for the security of the holders of such bonds, notes, or other obligations.

The proceeds of any such bonds, notes, or other obligations may be used and applied by the authority to make loans to such institutions and cause loans to be made by the institutions to their qualified students, to pay financing costs, including legal, underwriting, investment banking, accounting, rating agency, printing, and other similar costs, to fund any reserve funds deemed necessary or advisable by the authority, to pay interest on such bonds, notes, or other obligations for any period deemed necessary or advisable by the authority, and to pay all other necessary and incidental costs and expenses.

**Source:** Laws 1993, LB 465, § 36; R.S.1943, (1994), § 79-2963; Laws 1995, LB 5, § 62; R.S.1943, (2008), § 85-1762; Laws 2013, LB170, § 65.

Effective date September 6, 2013.

#### **58-866 Change in name; effect.**

(1) It is the intent of the Legislature that the changes made by Laws 1993, LB 465, in the name of the Nebraska Educational Facilities Authority Act to the Nebraska Educational Finance Authority Act and in the name of the Nebraska Educational Facilities Authority to the Nebraska Educational Finance Authority shall not affect or alter any rights, privileges, or obligations existing immediately prior to September 9, 1993.

(2) It is the intent of the Legislature that the changes made by Laws 2013, LB170, in the name of the Nebraska Educational Finance Authority Act to the Nebraska Educational, Health, and Social Services Finance Authority Act and in the name of the Nebraska Educational Finance Authority to the Nebraska Educational, Health, and Social Services Finance Authority shall not affect or

alter any rights, privileges, or obligations existing immediately prior to September 6, 2013.

**Source:** Laws 1993, LB 465, § 37; R.S.1943, (1994), § 79-2964; Laws 1995, LB 5, § 63; R.S.1943, (2008), § 85-1763; Laws 2013, LB170, § 66.

Effective date September 6, 2013.

## CHAPTER 59

# MONOPOLIES AND UNLAWFUL COMBINATIONS

Article.

16. Consumer Protection Act. 59-1608.04.
17. Seller-Assisted Marketing Plan. 59-1722.

### ARTICLE 16

#### CONSUMER PROTECTION ACT

Section

59-1608.04. State Settlement Cash Fund; created; use; investment; transfer.

#### **59-1608.04 State Settlement Cash Fund; created; use; investment; transfer.**

(1) The State Settlement Cash Fund is created. The fund shall be maintained by the Department of Justice and administered by the Attorney General. Except as otherwise provided by law, the fund shall consist of all recoveries received pursuant to the Consumer Protection Act, including any money, funds, securities, or other things of value in the nature of civil damages or other payment, except criminal penalties, whether such recovery is by way of verdict, judgment, compromise, or settlement in or out of court, or other final disposition of any case or controversy, or any other payments received on behalf of the state by the Department of Justice and administered by the Attorney General for the benefit of the state or the general welfare of its citizens, but excluding all funds held in a trust capacity where specific benefits accrue to specific individuals, organizations, or governments. The fund may be expended for any allowable legal purposes as determined by the Attorney General. Transfers from the State Settlement Cash Fund may be made at the direction of the Legislature to the Nebraska Capital Construction Fund. To provide necessary financial accountability and management oversight, revenue from individual settlement agreements or other separate sources credited to the State Settlement Cash Fund may be tracked and accounted for within the state accounting system through the use of separate and distinct funds, subfunds, or any other available accounting mechanism specifically approved by the Accounting Administrator for use by the Department of Justice. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) The State Treasurer shall transfer two million five hundred thousand dollars from the State Settlement Cash Fund to the Nebraska Capital Construction Fund on July 1, 2013, or as soon thereafter as administratively possible.

**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.

Effective date May 26, 2013.

#### Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

## ARTICLE 17

## SELLER-ASSISTED MARKETING PLAN

## Section

59-1722. Transaction; seller complied with Federal Trade Commission trade regulation rule; exempt; exception; conditions; fee.

**59-1722 Transaction; seller complied with Federal Trade Commission trade regulation rule; exempt; exception; conditions; fee.**

(1) Any transaction in which the seller has complied with the Federal Trade Commission trade regulation rule titled Disclosure Requirements and Prohibitions Concerning Franchising, 16 C.F.R. 436, 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 seller uses a disclosure document prepared in accordance with either the Federal Trade Commission trade regulation rule titled Disclosure Requirements and Prohibitions Concerning Franchising, 16 C.F.R. 436, or the then current guidelines for the preparation of the Uniform Franchise Offering Circular adopted by the North American Securities Administrators Association;

(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.  
Effective date September 6, 2013.

## CHAPTER 60

### MOTOR VEHICLES

#### Article.

1. Motor Vehicle Certificate of Title Act. 60-135.01 to 60-156.
3. Motor Vehicle Registration. 60-310 to 60-3,198.
4. Motor Vehicle Operators' Licenses.
  - (e) General Provisions. 60-462, 60-462.01.
  - (f) Provisions Applicable to All Operators' Licenses. 60-479 to 60-498.02.
  - (g) Provisions Applicable to Operation of Motor Vehicles Other than Commercial. 60-4,117, 60-4,118.06.
  - (h) Provisions Applicable to Operation of Commercial Motor Vehicles. 60-4,147.02.
  - (l) Veteran Notation. 60-4,189.
6. Nebraska Rules of the Road.
  - (a) General Provisions. 60-658.
  - (l) Special Stops. 60-6,175.
  - (o) Alcohol and Drug Violations. 60-6,197.01 to 60-6,211.05.
  - (y) Size, Weight, and Load. 60-6,298, 60-6,300.
  - (ff) Special Rules for All-Terrain Vehicles. 60-6,355.
  - (ii) Emergency Vehicle or Road Assistance Vehicle. 60-6,378.
14. Motor Vehicle Industry Licensing. 60-1401 to 60-1439.01.
15. Department of Motor Vehicles. 60-1515.
31. State Fleet Card Program. 60-3101, 60-3102.

#### ARTICLE 1

#### MOTOR VEHICLE CERTIFICATE OF TITLE ACT

#### Section

- 60-135.01. Utility-type vehicle, defined.  
 60-155. Notation of lien; fees.  
 60-156. Duplicate certificate of title; fees.

#### **60-135.01 Utility-type vehicle, defined.**

(1) Utility-type vehicle means any motorized off-highway device which (a) is not less than forty-eight inches nor more than seventy-four inches in width, (b) is not more than one hundred eighty inches, including the bumper, in length, (c) has a dry weight of not less than nine hundred pounds nor more than two thousand pounds, (d) travels on four or more low-pressure tires, and (e) is equipped with a steering wheel and bench or bucket-type seating designed for at least two people to sit side-by-side.

(2) Utility-type vehicle does not include golf car vehicles or low-speed vehicles.

**Source:** Laws 2010, LB650, § 7; Laws 2012, LB1155, § 6; Laws 2013, LB223, § 1.

Effective date September 6, 2013.

#### **60-155 Notation of lien; fees.**

(1) For each notation of a lien by a county, the fee shall be seven dollars. Two dollars shall be retained by the county. Four dollars shall be remitted to the

State Treasurer for credit to the Department of Motor Vehicles Cash Fund. One dollar shall be remitted to the State Treasurer for credit to the General Fund.

(2) For each notation of a lien by the department, the fee shall be seven dollars. Four dollars shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund. Three dollars shall be remitted to the State Treasurer for credit to the Motor Carrier Division Cash Fund.

**Source:** Laws 2005, LB 276, § 55; Laws 2013, LB30, § 1.  
Effective date February 16, 2013.

**60-156 Duplicate certificate of title; fees.**

(1) For each duplicate certificate of title issued by a county for a vehicle, the fee shall be fourteen dollars. Ten dollars shall be retained by the county. Four dollars shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

(2) For each duplicate certificate of title issued by the department for a vehicle, the fee shall be fourteen dollars. Four dollars shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund. Ten dollars shall be remitted to the State Treasurer for credit to the Motor Carrier Division Cash Fund.

**Source:** Laws 2005, LB 276, § 56; Laws 2013, LB30, § 2.  
Effective date February 16, 2013.

**ARTICLE 3**

**MOTOR VEHICLE REGISTRATION**

Section

- 60-310. Automobile liability policy, defined.
- 60-358.01. Utility-type vehicle, defined.
- 60-386. Application; contents.
- 60-3,113.02. Handicapped or disabled person; parking permit; issuance; procedure; renewal; notice; identification card.
- 60-3,113.04. Handicapped or disabled person; parking permit; contents; issuance; duplicate permit.
- 60-3,113.05. Handicapped or disabled persons; parking permit; expiration date; permit for temporarily handicapped or disabled person; period valid; renewal.
- 60-3,130.04. Historical vehicle; model-year license plates; authorized.
- 60-3,141. Agents of department; fees; collection.
- 60-3,156. Additional fees.
- 60-3,186. Motor vehicle tax; notice; taxes and fees; payment; proceeds; disposition.
- 60-3,190. Motor vehicle fee; fee schedules; Motor Vehicle Fee Fund; created; use; investment.
- 60-3,193.01. International Registration Plan; adopted.
- 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.

**60-310 Automobile liability policy, defined.**

Automobile liability policy means liability insurance written by an insurance carrier duly authorized to do business in this state protecting other persons from damages for liability on account of accidents occurring subsequent to the effective date of the insurance arising out of the ownership of a motor vehicle



(1) in the amount of twenty-five thousand dollars because of bodily injury to or death of one person in any one accident, (2) subject to the 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 (3) in the amount of twenty-five thousand dollars because of injury to or destruction of property of other persons in any one accident. An automobile liability policy shall not exclude, limit, reduce, or otherwise alter liability coverage under the policy solely because the injured person making a claim is the named insured in the policy or residing in the household with the named insured.

**Source:** Laws 2005, LB 274, § 10; Laws 2013, LB316, § 1.  
Effective date September 6, 2013.

#### **60-358.01 Utility-type vehicle, defined.**

(1) Utility-type vehicle means any motorized off-highway vehicle which (a) is not less than forty-eight inches nor more than seventy-four inches in width, (b) is not more than one hundred eighty inches, including the bumper, in length, (c) has a dry weight of not less than nine hundred pounds nor more than two thousand pounds, (d) travels on four or more low-pressure tires, and (e) is equipped with a steering wheel and bench or bucket-type seating designed for at least two people to sit side-by-side.

(2) Utility-type vehicle does not include golf car vehicles or low-speed vehicles.

**Source:** Laws 2010, LB650, § 24; Laws 2012, LB1155, § 11; Laws 2013, LB223, § 2.  
Effective date September 6, 2013.

#### **60-386 Application; contents.**

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, and the weight of the motor vehicle or trailer required by the Motor Vehicle Registration Act. With the application the applicant shall pay the proper registration fee and shall state whether the motor vehicle is propelled by alternative fuel and, if alternative fuel, the type of fuel. The application shall also contain a notification that bulk fuel purchasers may be subject to federal excise tax liability. The department shall include such notification in the notices required by section 60-3,186.

**Source:** Laws 2005, LB 274, § 86; Laws 2011, LB289, § 17; Laws 2012, LB801, § 58; Laws 2013, LB207, § 1.  
Operative date October 1, 2013.

#### **60-3,113.02 Handicapped or disabled person; parking permit; issuance; procedure; renewal; notice; identification card.**

(1) This section applies beginning on the implementation date designated by the director under section 60-3,113.01.

(2) A handicapped or disabled person or temporarily handicapped or disabled person or his or her parent, legal guardian, foster parent, or certifying health care provider may apply for a handicapped or disabled parking permit to the department or through a health care provider using a secure online process

developed by the department which will entitle the holder of a permit or a person driving a motor vehicle for the purpose of transporting such holder to park in those spaces or access aisles provided for by sections 18-1736 and 18-1737 when the holder of the permit will enter or exit the motor vehicle while it is parked in such spaces or access aisles. For purposes of this section, (a) the handicapped or disabled person or temporarily handicapped or disabled person is considered the holder of the permit and (b) certifying health care provider means the physician, physician assistant, or advanced practice registered nurse who makes the certification required in subsection (3) of this section or his or her designee.

(3) The application process for a handicapped or disabled parking permit or for the renewal of a permit under this section shall include presentation of proof of identity by the handicapped or disabled person or temporarily handicapped or disabled person and certification by a physician, a physician assistant, or an advanced practice registered nurse practicing under and in accordance with his or her certification act that the person who will be the holder meets the statutory criteria for qualification. An application for the renewal of a permit under this section may be submitted within one hundred eighty days prior to the expiration of the permit. No applicant shall be required to provide his or her social security number. In the case of a temporarily handicapped or disabled person, the certifying physician, physician assistant, or advanced practice registered nurse shall recommend that the permit for the temporarily handicapped or disabled person be issued for either a three-month period or a six-month period, with such recommendation to be based on the estimated date of recovery.

(4) The department, upon receipt of a completed application for a handicapped or disabled parking permit under this section, shall verify that the applicant qualifies for such permit and, if so, shall deliver the permit to the applicant. In issuing renewed permits, the department shall deliver each individual renewed permit to the applicant. The renewed permit shall not be issued sooner than ten days prior to the date of expiration, and the existing permit shall be invalid upon receipt of the renewed permit. A person may hold up to two permits under this section. If a person holds a permit under this section, such person may not hold a permit under section 60-3,113.03.

(5) In issuing any handicapped or disabled parking permit under this section, the department shall include a notice and an identification card. The notice shall contain information listing the legal uses of the permit and that the permit is not transferable, is to be used by the party to whom issued, is not to be altered or reproduced, and is to be used only when a handicapped or disabled person or a temporarily handicapped or disabled person will enter or exit the motor vehicle while it is parked in a designated parking space or access aisle. The notice shall also indicate that those convicted of handicapped parking infractions shall be subject to suspension of the permit for six months. The identification card shall show the expiration date of the permit and such identifying information with regard to the handicapped or disabled person or temporarily handicapped or disabled person to whom the permit is issued as is necessary to the enforcement of sections 18-1736 to 18-1741.07 as determined by the department.

**Source:** Laws 2011, LB163, § 24; Laws 2013, LB31, § 1.  
Effective date September 6, 2013.

**60-3,113.04 Handicapped or disabled person; parking permit; contents; issuance; duplicate permit.**

(1) This section applies beginning on the implementation date designated by the director under section 60-3,113.01.

(2) 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, 2013.

(3) 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.

(4) 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.

Effective date February 16, 2013.

**60-3,113.05 Handicapped or disabled persons; parking permit; expiration date; permit for temporarily handicapped or disabled person; period valid; renewal.**

(1) This section applies beginning on the implementation date designated by the director under section 60-3,113.01.

(2) Permanently issued handicapped or disabled parking permits issued prior to October 1, 2011, shall be valid for a period ending on the last day of the month of the applicant's birthday in the third year after issuance and shall expire on that day. Permanently issued handicapped or disabled parking permits issued on or after October 1, 2011, shall be valid for a period ending on the last day of the month of the applicant's birthday in the sixth year after issuance and shall expire on that day.

(3) All handicapped or disabled parking permits for temporarily handicapped or disabled persons shall be issued for a period ending either three months after the date of issuance or six months after the date of issuance, with such period to be based on the estimated date of recovery, but such permit may be renewed one time for a similar three-month or six-month period. For the

renewal period, there shall be submitted an additional application with proof of a handicap or disability.

**Source:** Laws 2011, LB163, § 27; Laws 2013, LB31, § 2.  
Effective date September 6, 2013.

**60-3,130.04 Historical vehicle; model-year license plates; authorized.**

(1) An owner of a historical vehicle eligible for registration under section 60-3,130 may use a license plate or plates designed by this state in the year corresponding to the model year when the vehicle was manufactured in lieu of the plates designed pursuant to section 60-3,130.03 subject to the approval of the department. The department shall inspect the plate or plates and may approve the plate or plates if it is determined that the model-year license plate or plates are legible and serviceable and that the license plate numbers do not conflict with or duplicate other numbers assigned and in use. An original-issued license plate or plates that have been restored to original condition may be used when approved by the department.

(2) The department may consult with a recognized car club in determining whether the year of the license plate or plates to be used corresponds to the model year when the vehicle was manufactured.

(3) If only one license plate is used on the vehicle, the license plate shall be placed on the rear of the vehicle. The owner of a historical vehicle may use only one plate on the vehicle even for years in which two license plates were issued for vehicles in general.

(4) License plates used pursuant to this section corresponding to the year of manufacture of the vehicle shall not be personalized message license plates, Pearl Harbor license plates, prisoner-of-war license plates, disabled veteran license plates, Purple Heart license plates, amateur radio station license plates, Nebraska Cornhusker Spirit Plates, handicapped or disabled person license plates, specialty license plates, or special interest motor vehicle license plates.

**Source:** Laws 2006, LB 663, § 28; Laws 2007, LB286, § 46; Laws 2009, LB110, § 13; Laws 2013, LB32, § 1.  
Effective date September 6, 2013.

**60-3,141 Agents of department; fees; collection.**

(1) The various county treasurers shall act as agents for the department in the collection of all motor vehicle taxes, motor vehicle fees, and registration fees.

(2) While acting as agents pursuant to subsection (1) of this section, the county treasurers shall in addition to the taxes and registration fees collect one dollar and fifty cents for each registration of a motor vehicle or trailer of a resident of the State of Nebraska and four dollars and fifty cents for each registration of a motor vehicle or trailer of a nonresident. The county treasurer shall credit such additional fees collected for the county to the county general fund.

(3) The county treasurers shall transmit all motor vehicle fees and registration fees collected to the State Treasurer on or before the twenty-fifth day of each month and at such other times as the State Treasurer requires for credit to the Motor Vehicle Fee Fund and the Highway Trust Fund, respectively, except as provided in section 60-3,156. Any county treasurer who fails to transfer to the State Treasurer the amount due the state at the times required in this

section shall pay interest at the rate specified in section 45-104.02, as such rate may be adjusted from time to time, from the time the motor vehicle fees and registration fees become due until paid.

(4) If a registrant requests delivery of license plates, registration certificates, or validation decals by mail, the county treasurer may charge a postage and handling fee in an amount not more than necessary to recover the cost of postage and handling for the specific items mailed to the registrant.

**Source:** Laws 2005, LB 274, § 141; Laws 2007, LB286, § 47; Laws 2012, LB801, § 78; Laws 2013, LB207, § 2.  
Operative date October 1, 2013.

#### **60-3,156 Additional fees.**

In addition to the registration fees for motor vehicles and trailers, the county treasurer or his or her agent shall collect:

(1) Two dollars for each certificate issued and shall remit two dollars of each additional fee collected to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund;

(2) Fifty cents for each certificate issued and shall remit the fee to the State Treasurer for credit to the Nebraska Emergency Medical System Operations Fund; and

(3) One dollar and fifty cents for each certificate issued and shall remit the fee to the State Treasurer for credit to the State Recreation Road Fund.

**Source:** Laws 2005, LB 274, § 156; Laws 2012, LB801, § 83; Laws 2013, LB207, § 3.  
Operative date October 1, 2013.

#### **60-3,186 Motor vehicle tax; notice; taxes and fees; payment; proceeds; disposition.**

(1) The department shall annually determine the motor vehicle tax on each motor vehicle registered pursuant to section 60-3,187 and shall cause a notice of the amount to be delivered to the registrant. The notice may be delivered to the registrant at the address shown upon his or her registration certificate or the registrant's most recent address according to information received by the department from the National Change of Address program of the United States Postal Service or delivered electronically to the registrant if the registrant has provided electronic contact information to the department. The notice shall be provided on or before the first day of the last month of the registration period.

(2)(a) The motor vehicle tax, motor vehicle fee, registration fee, sales tax, and any other applicable taxes and fees shall be paid to the county treasurer prior to the registration of the motor vehicle for the following registration period. If the motor vehicle being registered has been transferred as a gift or for a nominal amount, any sales tax owed by the transferor on the purchase of the motor vehicle shall have been paid or be paid to the county treasurer prior to the registration of the motor vehicle for the following registration period.

(b) After retaining one percent of the motor vehicle tax proceeds collected for costs, the remaining motor vehicle tax proceeds shall be allocated to each county, local school system, school district, city, and village in the tax district in which the motor vehicle has situs.

(c)(i) Twenty-two percent of the remaining motor vehicle tax proceeds shall be allocated to the county, (ii) sixty percent shall be allocated to the local school system or school district, and (iii) eighteen percent shall be allocated to the city or village, except that (A) if the tax district is not in a city or village, forty percent shall be allocated to the county, and (B) in counties containing a city of the metropolitan class, eighteen percent shall be allocated to the county and twenty-two percent shall be allocated to the city or village.

(d) The amount allocated to a local school system shall be distributed to school districts in the same manner as property taxes.

(3) Proceeds from the motor vehicle tax shall be treated as property tax revenue for purposes of expenditure limitations, matching of state or federal funds, and other purposes.

**Source:** Laws 2005, LB 274, § 186; Laws 2006, LB 248, § 1; Laws 2007, LB286, § 53; Laws 2012, LB801, § 89; Laws 2013, LB207, § 4. Operative date October 1, 2013.

**60-3,190 Motor vehicle fee; fee schedules; Motor Vehicle Fee Fund; created; use; investment.**

(1) A motor vehicle fee is imposed on all motor vehicles registered for operation in this state. An owner of a motor vehicle which is exempt from the imposition of a motor vehicle tax pursuant to section 60-3,185 shall also be exempt from the imposition of the motor vehicle fee imposed pursuant to this section.

(2) The department shall annually determine the motor vehicle fee on each motor vehicle registered pursuant to this section and shall cause a notice of the amount to be delivered to the registrant. The notice shall be combined with the notice of the motor vehicle tax required by section 60-3,186.

(3) The motor vehicle fee schedules are set out in this subsection and subsection (4) of this section. Except for automobiles with a value when new of less than \$20,000, and for assembled automobiles, the fee shall be calculated by multiplying the base fee times the fraction which corresponds to the age category of the automobile as shown in the following table:

YEAR	FRACTION
First through fifth	1.00
Sixth through tenth	.70
Eleventh and over	.35

(4) The base fee shall be:

(a) Automobiles, with a value when new of less than \$20,000, and assembled automobiles — \$5

(b) Automobiles, with a value when new of \$20,000 through \$39,999 — \$20

(c) Automobiles, with a value when new of \$40,000 or more — \$30

(d) Motorcycles — \$10

(e) Recreational vehicles and cabin trailers — \$10

(f) Trucks over seven tons and buses — \$30

(g) Trailers other than semitrailers — \$10

(h) Semitrailers — \$30

- (i) Minitrucks — \$10
- (j) Low-speed vehicles — \$10.

(5) The motor vehicle tax, motor vehicle fee, and registration fee shall be paid to the county treasurer prior to the registration of the motor vehicle for the following registration period. After retaining one percent of the motor vehicle fee collected for costs, the remaining proceeds shall be remitted to the State Treasurer for credit to the Motor Vehicle Fee Fund. The State Treasurer shall return funds from the Motor Vehicle Fee Fund remitted by a county treasurer which are needed for refunds or credits authorized by law.

(6)(a) The Motor Vehicle Fee Fund is created. On or before the last day of each calendar quarter, the State Treasurer shall distribute all funds in the Motor Vehicle Fee Fund as follows: (i) Fifty percent to the county treasurer of each county, amounts in the same proportion as the most recent allocation received by each county from the Highway Allocation Fund; and (ii) fifty percent to the treasurer of each municipality, amounts in the same proportion as the most recent allocation received by each municipality from the Highway Allocation 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.

(b) Funds from the Motor Vehicle Fee Fund shall be considered local revenue available for matching state sources.

(c) All receipts by counties and municipalities from the Motor Vehicle Fee Fund shall be used for road, bridge, and street purposes.

(7) For purposes of subdivisions (4)(a), (b), (c), and (f) of this section, automobiles or trucks includes all trucks and combinations of trucks or truck-tractors, except those trucks, trailers, or semitrailers registered under section 60-3,198, and the fee is based on the gross vehicle weight rating as reported by the manufacturer.

(8) Current model year vehicles are designated as first-year motor vehicles for purposes of the schedules.

(9) When a motor vehicle is registered which is newer than the current model year by the manufacturer's designation, the motor vehicle is subject to the initial motor vehicle fee for six registration periods.

(10) Assembled vehicles other than assembled automobiles shall follow the schedules for the motor vehicle body type.

**Source:** Laws 2005, LB 274, § 190; Laws 2007, LB286, § 55; Laws 2010, LB650, § 29; Laws 2011, LB289, § 23; Laws 2012, LB801, § 91; Laws 2013, LB207, § 5.  
Operative date October 1, 2013.

#### Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

### **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, 2013.

**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.  
Effective date February 16, 2013.

**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) 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 year. 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-two 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 jurisdiction fleet distance.

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.

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. 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.

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 year except with regard to permanent license plates issued under section 60-3,203.

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.



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 year. 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 year 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, 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 year 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, 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 year 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) 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 because the apportionable vehicle is disabled and has been removed from service, the registered owner may, by returning the registration certificate or certificates and such other evidence of registration used by the division or, in the case of the unavailability of such certificate or certificates or such other evidence of registration, then by making an affidavit to the

division of such disablement and removal from service, receive a credit for that portion of the unused registration fee deposited in the Highway Trust Fund based upon the number of unexpired months remaining in the registration year. No credit shall be allowed for any fees paid under section 60-3,203. When such apportionable vehicle is removed from service within the same month in which it was registered, no credit shall be allowed for such month. Such credit may be applied against registration fees for new or replacement vehicles incurred within one year after cancellation of registration of the apportionable vehicle for which the credit was allowed. When any such apportionable vehicle is reregistered within the same registration year in which its registration has been canceled, the fee shall be that portion of the registration fee provided to be deposited in the Highway Trust Fund for the remainder of the registration year. The Nebraska-based fleet owner shall make a claim for a credit under this subsection within the registration period or shall be deemed to have forfeited his or her right to the credit.

(9) In case of addition to the registered fleet during the registration year, 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 year. 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 year.

(10) In lieu of registration under subsections (1) through (9) 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. 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.

(11)(a) This subdivision applies until the implementation date designated by the director pursuant to subdivision (b) of this subsection. Any person may, in lieu of registration under subsections (1) through (9) 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. Such permit shall be valid for a period of seventy-two hours. The fee for such permit shall be twenty-five dollars for each truck, truck-tractor, bus, or truck or truck-tractor combination. Such permit shall be available at weighing stations operated by the carrier enforcement division and at various vendor stations as determined appropriate by the carrier enforcement division. The carrier enforcement division shall act as an agent for the Division of Motor Carrier Services in collecting such fees and shall remit all such fees collected to the State Treasurer for credit to the Highway Cash Fund. Trip permits shall be obtained at the first available location whether that is a weighing station or a vendor station. The vendor stations shall be entitled to collect and retain an additional fee of ten percent of the fee collected pursuant to this subsection as reimbursement for the clerical work of issuing the permits.

(b) This subdivision applies beginning on an implementation date designated by the director. The director shall designate an implementation date which is

on or before January 1, 2015. Any person may, in lieu of registration under subsections (1) through (9) 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 web site. 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. Effective date September 6, 2013.

Cross References

Administrative Procedure Act, see section 84-920.

## ARTICLE 4

### MOTOR VEHICLE OPERATORS' LICENSES

#### (e) GENERAL PROVISIONS

Section

60-462. Act, how cited.

60-462.01. Federal regulations; adopted.

#### (f) PROVISIONS APPLICABLE TO ALL OPERATORS' LICENSES

60-479. Sections; applicability.

60-479.01. Fraudulent document recognition training; criminal history record information check; lawful status check; cost.

60-484. Operator's license required, when; state identification card; application.

60-498.02. Driving under influence of alcohol; revocation of operator's license; reinstatement; procedure; ignition interlock permit; restriction on operation of motor vehicle.

#### (g) PROVISIONS APPLICABLE TO OPERATION OF MOTOR VEHICLES OTHER THAN COMMERCIAL

60-4,117. Operator's license or state identification card; form; county treasurer; duties.

60-4,118.06. Ignition interlock permit; issued; when; operation restriction; revocation of permit by director; when.

#### (h) PROVISIONS APPLICABLE TO OPERATION OF COMMERCIAL MOTOR VEHICLES

60-4,147.02. Hazardous materials endorsement; USA PATRIOT Act requirements.

#### (i) VETERAN NOTATION

60-4,189. Operator's license; state identification card; notation of word "veteran"; Department of Motor Vehicles; duties; replacement license or card.

#### (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.

Operative date July 1, 2014.

**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, 2013:

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.

Effective date February 16, 2013.

(f) PROVISIONS APPLICABLE TO ALL OPERATORS' LICENSES

**60-479 Sections; applicability.**

Sections 60-479.01 to 60-4,111.01 and 60-4,182 to 60-4,189 shall apply to any operator's license subject to the Motor Vehicle Operator's License Act.

**Source:** Laws 1989, LB 285, § 29; Laws 1993, LB 370, § 72; Laws 1995, LB 467, § 7; Laws 1997, LB 210, § 3; Laws 1997, LB 256, § 5; Laws 2001, LB 38, § 10; Laws 2001, LB 574, § 2; Laws 2003, LB 209, § 2; Laws 2008, LB911, § 7; Laws 2011, LB215, § 3; Laws 2013, LB93, § 2.

Operative date July 1, 2014.

**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) This subsection applies beginning on an implementation date designated by the director on or before January 1, 2014. 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, 2013. 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, 2013, 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.  
Effective date February 16, 2013.

**60-484 Operator's license required, when; state identification card; application.**

(1)(a) This subsection applies until the implementation date designated by the director on or before January 1, 2014. Except as otherwise provided in the Motor Vehicle Operator's License Act, no resident of the State of Nebraska shall operate a motor vehicle upon the alleys or highways of this state until the person has obtained an operator's license for that purpose.

(b) Application for an operator's license or a state identification card shall be made in a manner prescribed by the department. Such application may be made to department personnel in any county. Department personnel shall conduct the examination of the applicant and deliver to each successful applicant an issuance certificate containing the statements made pursuant to subdivision (c) of this subsection.

(c) The applicant (i) shall provide his or her full legal name, date of birth, mailing address, gender, race or ethnicity, and social security number, two forms of proof of address of his or her principal residence unless the applicant is a program participant under the Address Confidentiality Act, evidence of identity as required by subdivision (1)(f) of this subsection, and a brief physical description of himself or herself, (ii) may complete the voter registration portion pursuant to section 32-308, (iii) shall be provided the advisement

language required by subsection (5) of section 60-6,197, (iv) shall answer the following:

(A) Have you within the last three months (e.g. due to diabetes, epilepsy, mental illness, head injury, stroke, heart condition, neurological disease, etc.):

(I) lost voluntary control or consciousness ... yes ... no

(II) experienced vertigo or multiple episodes of dizziness or fainting ... yes ... no

(III) experienced disorientation ... yes ... no

(IV) experienced seizures ... yes ... no

(V) experienced impairment of memory, memory loss ... yes ... no

Please explain: .....

(B) Do you experience any condition which affects your ability to operate a motor vehicle? (e.g. due to loss of, or impairment of, foot, leg, hand, arm; neurological or neuromuscular disease, etc.) ... yes ... no

Please explain: .....

(C) Since the issuance of your last driver's license/permit, has your health or medical condition changed or worsened? ... yes ... no

Please explain, including how the above affects your ability to drive: ....., and (v) may answer the following:

(A) Do you wish to register to vote as part of this application process?

(B) Do you wish to have the word "veteran" displayed on the front of your operator's license or state identification card to show that you served in the armed forces of the United States? (To be eligible you must register with the Nebraska Department of Veterans' Affairs registry.)

**OPTIONAL - YOU ARE NOT REQUIRED TO ANSWER ANY OF THE FOLLOWING QUESTIONS:**

(C) Do you wish to be an organ and tissue donor?

(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?

(d) Application for an operator's license or state identification card shall include a signed oath, affirmation, or declaration of the applicant that the information provided on the application for the license or card is true and correct.

(e) The social security number shall not be printed on the operator's license or state identification card 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 verification 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, or (v) to furnish information to the Department of Revenue under section 77-362.02.

(f)(i) Each individual applying for an operator's license or a state identification card shall furnish proof of date of birth and identity with documents containing a photograph or with nonphoto identity documents which include his or her full legal name and date of birth. Such documents shall include, but not be limited to, any valid Nebraska operator's license or Nebraska state identification card, a valid operator's license or identification card from another state or jurisdiction of the United States, a certified birth certificate, a valid United States passport, or any other United States-based identification as approved by the director.

(ii) Any individual under the age of eighteen years applying for an operator's license or a state identification card shall provide a certified copy of his or her birth certificate or, if such individual is unable to provide a certified copy of his or her birth certificate, other reliable proof of his or her identity and age, as required in subdivision (1)(f)(i) of this section, accompanied by a certification signed by a parent or guardian explaining the inability to produce a copy of such birth certificate. The applicant also may be required to furnish proof to department personnel that the parent or guardian signing the certification is in fact the parent or guardian of such applicant.

(iii) An applicant may present other documents as proof of identification and age designated by the director. Any documents accepted shall be recorded according to a written exceptions process established by the director.

(g) Any individual applying for an operator's license or a state identification card who indicated his or her wish to have the word "veteran" displayed on the front of such license or card shall comply with section 60-4,189.

(2)(a) This subsection applies beginning on an implementation date designated by the director on or before January 1, 2014. Except as otherwise provided in the Motor Vehicle Operator's License Act, no resident of the State of Nebraska shall operate a motor vehicle upon the alleys or highways of this state until the person has obtained an operator's license for that purpose.

(b) Application for an operator's license or a state identification card shall be made in a manner prescribed by the department. Such application may be made to department personnel in any county. Department personnel shall conduct the examination of the applicant and deliver to each successful applicant an issuance certificate containing the statements made pursuant to subdivision (c) of this subsection.

(c) The applicant shall provide his or her full legal name, date of birth, mailing address, gender, race or ethnicity, and social security number, two forms of proof of address of his or her principal residence unless the applicant is a program participant under the Address Confidentiality Act, evidence of identity as required by subdivision (2)(f) of this subsection, and a brief physical description of himself or herself. The applicant (i) may also complete the voter registration portion pursuant to section 32-308, (ii) shall be provided the advisement language required by subsection (5) of section 60-6,197, (iii) shall answer the following:

(A) Have you within the last three months (e.g. due to diabetes, epilepsy, mental illness, head injury, stroke, heart condition, neurological disease, etc.):

(I) lost voluntary control or consciousness . . . yes . . . no

(II) experienced vertigo or multiple episodes of dizziness or fainting . . . yes . . . no



(III) experienced disorientation ... yes ... no

(IV) experienced seizures ... yes ... no

(V) experienced impairment of memory, memory loss ... yes ... no

Please explain: .....

(B) Do you experience any condition which affects your ability to operate a motor vehicle? (e.g. due to loss of, or impairment of, foot, leg, hand, arm; neurological or neuromuscular disease, etc.) ... yes ... no

Please explain: .....

(C) Since the issuance of your last driver's license/permit, has your health or medical condition changed or worsened? ... yes ... no

Please explain, including how the above affects your ability to drive: ....., and (iv) may answer the following:

(A) Do you wish to register to vote as part of this application process?

(B) Do you wish to have the word "veteran" displayed on the front of your operator's license or state identification card to show that you served in the armed forces of the United States? (To be eligible you must register with the Nebraska Department of Veterans' Affairs registry.)

OPTIONAL - YOU ARE NOT REQUIRED TO ANSWER ANY OF THE FOLLOWING QUESTIONS:

(C) Do you wish to be an organ and tissue donor?

(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?

(d) Application for an operator's license or state identification card shall include a signed oath, affirmation, or declaration of the applicant that the information provided on the application for the license or card is true and correct.

(e) The social security number shall not be printed on the operator's license or state identification card 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 verification 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, or (v) to furnish information to the Department of Revenue under section 77-362.02.

(f)(i) Each individual applying for an operator's license or a state identification card shall furnish proof of date of birth and identity with documents containing a photograph or with nonphoto identity documents which include his or her full legal name and date of birth. Such documents shall be those provided in subsection (2) of section 60-484.04.

(ii) Any individual under the age of eighteen years applying for an operator's license or a state identification card shall provide a certified copy of his or her birth certificate or, if such individual is unable to provide a certified copy of his

or her birth certificate, other reliable proof of his or her identity and age, as required in subdivision (2)(f)(i) of this section, accompanied by a certification signed by a parent or guardian explaining the inability to produce a copy of such birth certificate. The applicant also may be required to furnish proof to department personnel that the parent or guardian signing the certification is in fact the parent or guardian of such applicant.

(iii) An applicant may present other documents as proof of identification and age designated by the director. Any documents accepted shall be recorded according to a written exceptions process established by the director.

(g) Any individual applying for an operator's license or a state identification card who indicated his or her wish to have the word "veteran" displayed on the front of such license or card shall comply with section 60-4,189.

(h) No person shall be a holder of an operator's license and a state identification card at the same time.

**Source:** Laws 1929, c. 148, § 1, p. 512; C.S.1929, § 60-401; Laws 1937, c. 141, § 11, p. 510; C.S.Supp.,1941, § 60-401; R.S.1943, § 60-403; Laws 1945, c. 141, § 1, p. 446; Laws 1947, c. 207, § 1, p. 675; Laws 1957, c. 366, § 35, p. 1269; Laws 1961, c. 315, § 2, p. 998; Laws 1961, c. 316, § 2, p. 1007; Laws 1984, LB 811, § 2; Laws 1986, LB 153, § 9; Laws 1986, LB 878, § 1; Laws 1987, LB 300, § 1; R.S.1943, (1988), § 60-403; Laws 1989, LB 285, § 35; Laws 1991, LB 457, § 44; Laws 1992, LB 1178, § 1; Laws 1994, LB 76, § 571; Laws 1994, LB 211, § 2; Laws 1995, LB 467, § 10; Laws 1996, LB 939, § 1; Laws 1996, LB 1073, § 1; Laws 1997, LB 635, § 20; Laws 1999, LB 147, § 1; Laws 1999, LB 704, § 5; Laws 2000, LB 1317, § 7; Laws 2001, LB 34, § 1; Laws 2001, LB 387, § 4; Laws 2001, LB 574, § 5; Laws 2003, LB 228, § 12; Laws 2004, LB 208, § 4; Laws 2004, LB 559, § 1; Laws 2005, LB 1, § 1; Laws 2005, LB 76, § 5; Laws 2008, LB911, § 9; Laws 2010, LB879, § 3; Laws 2011, LB215, § 5; Laws 2013, LB93, § 3.

Operative date July 1, 2014.

#### Cross References

Address Confidentiality Act, see section 42-1201.

### **60-498.02 Driving under influence of alcohol; revocation of operator's license; reinstatement; procedure; ignition interlock permit; restriction on operation of motor vehicle.**

(1) At the expiration of fifteen days after the date of arrest as described in subsection (2) of section 60-6,197 or if after a hearing pursuant to section 60-498.01 the director finds that the operator's license should be revoked, the director shall (a) revoke the operator's license of a person arrested for refusal to submit to a chemical test of blood, breath, or urine as required by section 60-6,197 for a period of one year and (b) revoke the operator's license of a person who submits to a chemical test pursuant to such section which discloses the presence of a concentration of alcohol specified in section 60-6,196 for a period of one hundred eighty days unless the person's driving record abstract maintained in the department's computerized records shows one or more prior administrative license revocations on which final orders have been issued during the immediately preceding fifteen-year period at the time the order of

revocation is issued, in which case the period of revocation shall be one year. Except as otherwise provided in section 60-6,211.05, a new operator's license shall not be issued to such person until the period of revocation has elapsed. If the person subject to the revocation is a nonresident of this state, the director shall revoke only the nonresident's operating privilege as defined in section 60-474 of such person and shall immediately forward the operator's license and a statement of the order of revocation to the person's state of residence.

(2) A person operating a motor vehicle under an ignition interlock permit issued pursuant to sections 60-498.01 to 60-498.04 shall only operate a motor vehicle equipped with an ignition interlock device. All permits issued pursuant to such sections shall indicate that the permit is not valid for the operation of any commercial motor vehicle.

(3) A person may have his or her eligibility for a license reinstated upon payment of a reinstatement fee as required by section 60-694.01.

(4)(a) A person whose operator's license is subject to revocation pursuant to subsection (3) of section 60-498.01 shall have all proceedings dismissed or his or her operator's license immediately reinstated without payment of the reinstatement fee upon receipt of suitable evidence by the director that:

(i) The prosecuting attorney responsible for the matter declined to file a complaint alleging a violation of section 60-6,196;

(ii) The defendant, after trial, was found not guilty of violating section 60-6,196 or such charge was dismissed on the merits by the court; or

(iii) In the criminal action on the charge of a violation of section 60-6,196 arising from the same incident, the court held one of the following:

(A) The peace officer did not have probable cause to believe the person was operating or in the actual physical control of a motor vehicle in violation of section 60-6,196 or a city or village ordinance enacted in conformance with such section; or

(B) The person was not operating or in the actual physical control of a motor vehicle while having an alcohol concentration in violation of section 60-6,196 or a city or village ordinance enacted in conformance with such section.

(b) The director shall adopt and promulgate rules and regulations establishing standards for the presentation of suitable evidence of compliance with subdivision (a) of this subsection.

(c) If a criminal charge is filed or refiled for a violation of section 60-6,196 pursuant to an arrest for which all administrative license revocation proceedings were dismissed under this subsection, the director, upon notification or discovery, may reinstate an administrative license revocation under this section as of the date that the director receives notification of the filing or refiled of the charge, except that a revocation shall not be reinstated if it was dismissed pursuant to section 60-498.01.

**Source:** Laws 1972, LB 1095, § 6; C.S.Supp.,1972, § 39-727.17; Laws 1974, LB 679, § 3; Laws 1982, LB 568, § 7; Laws 1986, LB 153, § 8; Laws 1988, LB 377, § 3; Laws 1992, LB 291, § 11; R.S.Supp.,1992, § 39-669.16; Laws 1993, LB 370, § 301; Laws 1993, LB 491, § 1; Laws 1993, LB 564, § 12; Laws 1998, LB 309, § 16; Laws 2001, LB 38, § 52; R.S.Supp.,2002, § 60-6,206; Laws 2003, LB 209, § 5; Laws 2004, LB 208, § 6; Laws 2008, LB736, § 3; Laws 2009, LB497, § 2; Laws 2010, LB924, § 1;

Laws 2011, LB667, § 25; Laws 2011, LB675, § 2; Laws 2012, LB751, § 21; Laws 2013, LB158, § 1.  
Operative date July 1, 2013.

(g) PROVISIONS APPLICABLE TO OPERATION OF MOTOR  
VEHICLES OTHER THAN COMMERCIAL

**60-4,117 Operator's license or state identification card; form; county treasurer; duties.**

(1) Upon presentation of an issuance certificate for an operator's license or state identification card issued by department personnel to the applicant, the county treasurer shall collect the applicable fee and surcharge as prescribed in section 60-4,115 and issue a receipt which is valid for up to thirty days. If there is cause for an operator's license to be issued, the receipt shall also authorize driving privileges for such thirty-day period. The license or card shall be delivered as provided in section 60-4,113.

(2) The operator's license and state identification card shall be in a form prescribed by the department. The license and card may include security features prescribed by the department. The license and card shall be conspicuously marked Nebraska Operator's License or Nebraska Identification Card, shall be, to the maximum extent practicable, tamper and forgery proof, and shall include the following information:

- (a) The full legal name and principal residence address of the holder;
- (b) The holder's full facial digital image;
- (c) A physical description of the holder, including gender, height, weight, and eye and hair colors;
- (d) The holder's date of birth;
- (e) The holder's signature;
- (f) The class of motor vehicle which the holder is authorized to operate and any applicable endorsements or restrictions;
- (g) The issuance and expiration date of the license or card;
- (h) The organ and tissue donation information specified in section 60-494;
- (i) A notation of the word "veteran" as provided in section 60-4,189; and
- (j) Such other marks and information as the director may determine.

(3) Each operator's license and state identification card shall contain the following encoded, machine-readable information: The holder's full legal name; date of birth; gender; race or ethnicity; document issue date; document expiration date; principal residence address; unique identification number; revision date; inventory control number; and state of issuance.

**Source:** Laws 1929, c. 148, § 4, p. 513; C.S.1929, § 60-404; Laws 1937, c. 141, § 14, p. 512; C.S.Supp.,1941, § 60-404; R.S.1943, § 60-406; Laws 1959, c. 286, § 2, p. 1082; Laws 1961, c. 315, § 4, p. 1000; Laws 1961, c. 316, § 4, p. 1008; Laws 1977, LB 90, § 4; R.S.1943, (1988), § 60-406; Laws 1989, LB 285, § 67; Laws 2001, LB 34, § 4; Laws 2001, LB 38, § 29; Laws 2001, LB 574, § 12; Laws 2008, LB911, § 13; Laws 2011, LB215, § 14; Laws 2013, LB93, § 5.

Operative date July 1, 2014.

**60-4,118.06 Ignition interlock permit; issued; when; operation restriction; revocation of permit by director; when.**

(1) Upon receipt by the director of (a) a certified copy of a court order issued pursuant to section 60-6,211.05, a certified copy of an order for installation of an ignition interlock device and issuance of an ignition interlock permit pursuant to section 60-6,197.03, or a copy of an order from the Board of Pardons pursuant to section 83-1,127.02, (b) sufficient evidence that the person has surrendered his or her operator's license to the department and installed an approved ignition interlock device in accordance with such order, and (c) payment of the fee provided in section 60-4,115, such person may apply for an ignition interlock permit. A person subject to administrative license revocation under sections 60-498.01 to 60-498.04 shall be eligible for an ignition interlock permit as provided in such sections. The director shall issue an ignition interlock permit only for the operation of a motor vehicle equipped with an ignition interlock device. All permits issued pursuant to this subsection shall indicate that the permit is not valid for the operation of any commercial motor vehicle.

(2) Upon expiration of the revocation period or upon expiration of an order issued by the Board of Pardons pursuant to section 83-1,127.02, a person may apply to the department in writing for issuance of an operator's license. Regardless of whether the license surrendered by such person under subsection (1) of this section has expired, the person shall apply for a new operator's license pursuant to the Motor Vehicle Operator's License Act.

(3)(a) An ignition interlock permit shall not be issued under this section or sections 60-498.01 to 60-498.04 to any person except in cases of a violation of 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, or 60-6,197.06.

(b) An ignition interlock permit shall only be available to a holder of a Class M or O operator's license.

(4) The director shall revoke a person's ignition interlock permit issued under this section or sections 60-498.01 to 60-498.04 upon receipt of an (a) abstract of conviction indicating that the person had his or her operating privileges revoked or canceled or (b) administrative order revoking or canceling the person's operating privileges, if such conviction or order resulted from an incident other than the incident which resulted in the application for the ignition interlock permit.

**Source:** Laws 2001, LB 38, § 32; Laws 2003, LB 209, § 9; Laws 2008, LB736, § 5; Laws 2009, LB497, § 4; Laws 2010, LB924, § 2; Laws 2011, LB667, § 29; Laws 2012, LB751, § 25; Laws 2013, LB158, § 2.

Operative date July 1, 2013.

**(h) PROVISIONS APPLICABLE TO OPERATION  
OF COMMERCIAL MOTOR VEHICLES****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, 2013, 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.  
Effective date February 16, 2013.

#### (I) VETERAN NOTATION

**60-4,189 Operator's license; state identification card; notation of word "veteran"; Department of Motor Vehicles; duties; replacement license or card.**

(1) An operator's license or a state identification card shall include a notation of the word "veteran" on the front of the license or card as directed by the department if the individual applying for such license or card is eligible for the license or card and (a) has served on active duty in the armed forces of the United States, other than active duty for training, and was discharged or otherwise separated with a characterization of honorable or general (under honorable conditions) from such service, (b) registers with the Department of Veterans' Affairs pursuant to section 80-414 as verification of such service, and (c) indicates on the application under section 60-484 his or her wish to include such notation on his or her license or card.

(2) The Department of Motor Vehicles shall consult the registry established pursuant to section 80-414 before placing the notation of the word "veteran" on the operator's license or state identification card issued to the applicant. Such notation shall not be authorized unless the registry verifies the applicant's eligibility. If the Director of Motor Vehicles discovers evidence of fraud in an application under this section, the director may summarily cancel the license or state identification card and send notice of the cancellation to the licensee or cardholder. If the Department of Motor Vehicles has information that an individual is no longer eligible for the notation, the department may summarily cancel the license and send notice of the cancellation to the licensee or cardholder. The notation shall not be restored until the Department of Motor Vehicles subsequently verifies the applicant's eligibility by consulting the registry of the Department of Veterans' Affairs.

(3) The notation authorized in subsection (1) of this section shall continue to be included on the license or card upon renewal of such license or card if the licensee or cardholder, at the time of renewal, indicates the desire to include the notation.

(4) An individual may obtain a replacement operator's license or state identification card to add or remove the notation authorized in subsection (1) of this section by applying to the Department of Motor Vehicles for such replacement license or card and, if adding the notation, by meeting the requirements

of subsection (1) of this section. The fee for such replacement license or card shall be the fee provided in section 60-4,115.

**Source:** Laws 2013, LB93, § 4.

Operative date July 1, 2014.

## ARTICLE 6

### NEBRASKA RULES OF THE ROAD

#### (a) GENERAL PROVISIONS

Section

60-658. School bus, defined.

#### (l) SPECIAL STOPS

60-6,175. School bus; safety requirements; use of stop signal arm; use of warning signal lights; violations; penalty.

#### (o) ALCOHOL AND DRUG PROVISIONS

60-6,197.01. Driving while license has been revoked; driving under influence of alcoholic liquor or drug; second and subsequent violations; restrictions on motor vehicles; additional restrictions authorized.

60-6,197.03. Driving under influence of alcoholic liquor or drugs; implied consent to submit to chemical test; penalties.

60-6,211.05. Ignition interlock device; continuous alcohol monitoring device and abstinence from alcohol use; orders authorized; prohibited acts; violation; penalty; costs; Department of Motor Vehicles Ignition Interlock Fund; created; use; investment; prohibited acts relating to tampering with device; hearing.

#### (y) SIZE, WEIGHT, AND LOAD

60-6,298. Vehicles; size; weight; load; overweight; special, continuing, or continuous permit; issuance discretionary; conditions; penalty; continuing permit; fees.

60-6,300. Vehicles; excess load prohibited; exception; violation; penalty.

#### (ff) SPECIAL RULES FOR ALL-TERRAIN VEHICLES

60-6,355. All-terrain vehicle, defined; utility-type vehicle, defined.

#### (ii) EMERGENCY VEHICLE OR ROAD ASSISTANCE VEHICLE

60-6,378. Stopped authorized emergency vehicle or road assistance vehicle; driver; duties; violation; penalty.

#### (a) GENERAL PROVISIONS

#### **60-658 School bus, defined.**

School bus shall mean any motor vehicle which complies with the general design, equipment, and color requirements adopted and promulgated pursuant to subdivision (12) of section 79-318 and which is used to transport students to or from school or in connection with school activities but shall not include buses operated by common carriers in urban transportation of school students.

**Source:** Laws 1993, LB 370, § 154; Laws 1993, LB 575, § 5; Laws 2009, LB549, § 3; Laws 2013, LB222, § 20.

Effective date May 8, 2013.

#### (l) SPECIAL STOPS

**60-6,175 School bus; safety requirements; use of stop signal arm; use of warning signal lights; violations; penalty.**

(1) Upon meeting or overtaking, from the front or rear, any school bus on which the yellow warning signal lights are flashing, the driver of a motor vehicle shall reduce the speed of such vehicle to not more than twenty-five miles per hour, shall bring such vehicle to a complete stop when the school bus is stopped, the stop signal arm is extended, and the flashing red signal lights are turned on, and shall remain stopped until the flashing red signal lights are turned off, the stop signal arm is retracted, and the school bus resumes motion. This section shall not apply to approaching traffic in the opposite direction on a divided highway or to approaching traffic when there is displayed a sign as provided in subsection (8) of this section directing traffic to proceed. Any person violating this subsection shall be guilty of a Class IV misdemeanor, shall be fined five hundred dollars, and shall be assessed points on his or her motor vehicle operator's license pursuant to section 60-4,182.

(2) Except as provided in subsection (8) of this section, the driver of any school bus, when stopping to receive or discharge pupils, shall turn on flashing yellow warning signal lights at a distance of not less than three hundred feet when inside the corporate limits of any city or village and not less than five hundred feet nor more than one thousand feet in any area outside the corporate limits of any city or village from the point where such pupils are to be received or discharged from the bus. At the point of receiving or discharging pupils, the bus driver shall bring the school bus to a stop, extend a stop signal arm, and turn on the flashing red signal lights. After receiving or discharging pupils, the bus driver shall turn off the flashing red signal lights, retract the stop signal arm, and then proceed on the route.

(3)(a) Except as provided in subdivision (b) of this subsection, no school bus shall stop to load or unload pupils outside of the corporate limits of any city or village or on any part of the state highway system within the corporate limits of a city or village, unless there is at least four hundred feet of clear vision in each direction of travel.

(b) If four hundred feet of clear vision in each direction of travel is not possible as determined by the school district, a school bus may stop to load or unload pupils if there is proper signage installed indicating that a school bus stop is ahead.

(4) All pupils shall be received and discharged from the right front entrance of every school bus. If such pupils must cross a roadway, the bus driver shall instruct such pupils to cross in front of the school bus and the bus driver shall keep such school bus halted with the flashing red signal lights turned on and the stop signal arm extended until such pupils have reached the opposite side of such roadway.

(5) The driver of a vehicle upon a divided highway need not stop upon meeting or passing a school bus which is on a different roadway or when upon a freeway and such school bus is stopped in a loading zone which is a part of or adjacent to such highway and where pedestrians are not permitted to cross the roadway.

(6) Every school bus shall bear upon the front and rear thereof plainly visible signs containing the words school bus in letters not less than eight inches high.

(7) When a school bus is being operated upon a highway for purposes other than the actual transportation of children either to or from school or school-sponsored activities, all markings thereon indicating school bus shall be covered or concealed. The stop signal arm and system of flashing yellow warning



signal lights and flashing red signal lights shall not be operable through the usual controls.

(8) When a school bus is (a) parked in a designated school bus loading area which is out of the flow of traffic and which is adjacent to a school site or (b) parked on a roadway which possesses more than one lane of traffic flowing in the same direction and which is adjacent to a school site, the bus driver shall engage only the hazard warning flasher lights when receiving or discharging pupils if a school bus loading area warning sign is displayed. Such signs shall not be directly attached to any school bus but shall be free standing and placed at the rear of a parked school bus or line of parked school buses. No school district shall utilize a school bus loading area warning sign unless such sign complies with the requirements of section 60-6,176.

**Source:** Laws 1973, LB 45, § 60; Laws 1974, LB 863, § 2; Laws 1977, LB 41, § 11; Laws 1987, LB 347, § 1; R.S.1943, (1988), § 39-660; Laws 1993, LB 370, § 271; Laws 1993, LB 575, § 10; Laws 2012, LB1039, § 2; Laws 2013, LB500, § 1.  
Effective date September 6, 2013.

#### (o) ALCOHOL AND DRUG PROVISIONS

**60-6,197.01 Driving while license has been revoked; driving under influence of alcoholic liquor or drug; second and subsequent violations; restrictions on motor vehicles; additional restrictions authorized.**

(1) Upon conviction for a violation described in section 60-6,197.06 or a second or subsequent violation of section 60-6,196 or 60-6,197, the court shall impose either of the following restrictions:

(a)(i) The court shall order all motor vehicles owned by the person so convicted immobilized at the owner's expense for a period of time not less than five days and not more than eight months and shall notify the Department of Motor Vehicles of the period of immobilization. Any immobilized motor vehicle shall be released to the holder of a bona fide lien on the motor vehicle executed prior to such immobilization when possession of the motor vehicle is requested as provided by law by such lienholder for purposes of foreclosing and satisfying such lien. If a person tows and stores a motor vehicle pursuant to this subdivision at the direction of a peace officer or the court and has a lien upon such motor vehicle while it is in his or her possession for reasonable towing and storage charges, the person towing the vehicle has the right to retain such motor vehicle until such lien is paid. For purposes of this subdivision, immobilized or immobilization means revocation or suspension, at the discretion of the court, of the registration of such motor vehicle or motor vehicles, including the license plates; and

(ii)(A) Any immobilized motor vehicle shall be released by the court without any legal or physical restraints to any registered owner who is not the registered owner convicted of a second or subsequent violation of section 60-6,196 or 60-6,197 if an affidavit is submitted to the court by such registered owner stating that the affiant is employed, that the motor vehicle subject to immobilization is necessary to continue that employment, that such employment is necessary for the well-being of the affiant's dependent children or parents, that the affiant will not authorize the use of the motor vehicle by any person known by the affiant to have been convicted of a second or subsequent

violation of section 60-6,196 or 60-6,197, that affiant will immediately report to a local law enforcement agency any unauthorized use of the motor vehicle by any person known by the affiant to have been convicted of a second or subsequent conviction of section 60-6,196 or 60-6,197, and that failure to release the motor vehicle would cause undue hardship to the affiant.

(B) A registered owner who executes an affidavit pursuant to subdivision (1)(a)(ii)(A) of this section which is acted upon by the court and who fails to immediately report an unauthorized use of the motor vehicle which is the subject of the affidavit is guilty of a Class IV misdemeanor and may not file any additional affidavits pursuant to subdivision (1)(a)(ii)(A) of this section.

(C) The department shall adopt and promulgate rules and regulations to implement the provisions of subdivision (1)(a) of this section; or

(b) As an alternative to subdivision (1)(a) of this section, the court shall order the convicted person, in order to operate a motor vehicle, to obtain an ignition interlock permit and install an ignition interlock device on each motor vehicle owned or operated by the convicted person if he or she was sentenced to an operator's license revocation of at least one year. If the person's operator's license has been revoked for at least a one-year period, after a minimum of a forty-five-day no driving period, the person may operate a motor vehicle with an ignition interlock permit and an ignition interlock device pursuant to this subdivision and shall retain the ignition interlock permit and ignition interlock device for not less than a one-year period or the period of revocation ordered by the court, whichever is longer. No ignition interlock permit may be issued until sufficient evidence is presented to the department that an ignition interlock device is installed on each vehicle and that the applicant is eligible for use of an ignition interlock device. If the person has an ignition interlock device installed as required under this subdivision, the person shall not be eligible for reinstatement of his or her operator's license until he or she has had the ignition interlock device installed for the period ordered by the court.

(2) In addition to the restrictions required by subdivision (1)(b) of this section, the court may require a person convicted of a second or subsequent violation of section 60-6,196 or 60-6,197 to use a continuous alcohol monitoring device and abstain from alcohol use for a period of time not to exceed the maximum term of license revocation ordered by the court. A continuous alcohol monitoring device shall not be ordered for a person convicted of a second or subsequent violation unless the installation of an ignition interlock device is also required.

**Source:** Laws 1999, LB 585, § 7; Laws 2001, LB 38, § 49; Laws 2006, LB 925, § 10; Laws 2008, LB736, § 7; Laws 2009, LB497, § 5; Laws 2010, LB924, § 3; Laws 2013, LB158, § 3.  
Operative date July 1, 2013.

**60-6,197.03 Driving under influence of alcoholic liquor or drugs; implied consent to submit to chemical test; penalties.**

Any person convicted of a violation of section 60-6,196 or 60-6,197 shall be punished as follows:

(1) Except as provided in subdivision (2) of this section, if such person has not had a prior conviction, such person shall be guilty of a Class W misdemeanor, and the court shall, as part of the judgment of conviction, order that the operator's license of such person be revoked for a period of six months from the

date ordered by the court. The revocation order shall require that the person apply for an ignition interlock permit pursuant to section 60-6,211.05 for the revocation period and have an ignition interlock device installed on any motor vehicle he or she operates during the revocation period. Such revocation shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked.

If the court places such person on probation or suspends the sentence for any reason, the court shall, as one of the conditions of probation or sentence suspension, order that the operator's license of such person be revoked for a period of sixty days from the date ordered by the court. The court shall order that during the period of revocation the person apply for an ignition interlock permit pursuant to section 60-6,211.05. Such order of probation or sentence suspension shall also include, as one of its conditions, the payment of a five-hundred-dollar fine;

(2) If such person has not had a prior conviction and, as part of the current violation, had a concentration of fifteen-hundredths of one gram or more by weight of alcohol per one hundred milliliters of his or her blood or fifteen-hundredths of one gram or more by weight of alcohol per two hundred ten liters of his or her breath, such person shall be guilty of a Class W misdemeanor, and the court shall, as part of the judgment of conviction, revoke the operator's license of such person for a period of one year from the date ordered by the court. The revocation order shall require that the person apply for an ignition interlock permit pursuant to subdivision (1)(b) of section 60-6,197.01 for the revocation period and have an ignition interlock device installed on any motor vehicle he or she operates during the revocation period. Such revocation shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked.

If the court places such person on probation or suspends the sentence for any reason, the court shall, as one of the conditions of probation or sentence suspension, order that the operator's license of such person be revoked for a period of one year from the date ordered by the court. The revocation order shall require that the person apply for an ignition interlock permit pursuant to subdivision (1)(b) of section 60-6,197.01 for the revocation period and have an ignition interlock device installed on any motor vehicle he or she operates during the revocation period. Such revocation shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked. Such order of probation or sentence suspension shall also include, as conditions, the payment of a five-hundred-dollar fine and either confinement in the city or county jail for two days or the imposition of not less than one hundred twenty hours of community service;

(3) Except as provided in subdivision (5) of this section, if such person has had one prior conviction, such person shall be guilty of a Class W misdemeanor, and the court shall, as part of the judgment of conviction, order that the operator's license of such person be revoked for a period of eighteen months from the date ordered by the court. The revocation order shall require that the person not drive for a period of forty-five days and that the person apply for an ignition interlock permit and have an ignition interlock device installed on any motor vehicle he or she owns or operates for at least one year. The court shall also issue an order pursuant to subdivision (1)(b) of section 60-6,197.01. If the person has an ignition interlock device installed as required under this subdivision, the person shall not be eligible for reinstatement of his or her operator's

license until he or she has had the ignition interlock device installed for the period ordered by the court. The revocation shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked.

If the court places such person on probation or suspends the sentence for any reason, the court shall, as one of the conditions of probation or sentence suspension, order that the operator's license of such person be revoked for a period of eighteen months from the date ordered by the court. The revocation order shall require that the person not drive for a period of forty-five days and that the person apply for an ignition interlock permit and installation of an ignition interlock device for not less than a one-year period pursuant to section 60-6,211.05. The court shall also issue an order pursuant to subdivision (1)(b) of section 60-6,197.01. If the person has an ignition interlock device installed as required under this subdivision, the person shall not be eligible for reinstatement of his or her operator's license until he or she has had the ignition interlock device installed for the period ordered by the court. The order of probation or sentence suspension shall also include, as conditions, the payment of a five-hundred-dollar fine and either confinement in the city or county jail for ten days or the imposition of not less than two hundred forty hours of community service;

(4) Except as provided in subdivision (6) of this section, if such person has had two prior convictions, such person shall be guilty of a Class W misdemeanor, and the court shall, as part of the judgment of conviction, order that the operator's license of such person be revoked for a period of fifteen years from the date ordered by the court and shall issue an order pursuant to section 60-6,197.01. Such orders shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked.

If the court places such person on probation or suspends the sentence for any reason, the court shall, as one of the conditions of probation or sentence suspension, order that the operator's license of such person be revoked for a period of at least two years but not more than fifteen years from the date ordered by the court. The revocation order shall require that the person not drive for a period of forty-five days, after which the court may order that during the period of revocation the person apply for an ignition interlock permit and installation of an ignition interlock device issued pursuant to section 60-6,211.05 and shall issue an order pursuant to subdivision (1)(b) of section 60-6,197.01. Such order of probation or sentence suspension shall also include, as conditions, the payment of a one-thousand-dollar fine and confinement in the city or county jail for thirty days;

(5) If such person has had one prior conviction and, as part of the current violation, had a concentration of fifteen-hundredths of one gram or more by weight of alcohol per one hundred milliliters of his or her blood or fifteen-hundredths of one gram or more by weight of alcohol per two hundred ten liters of his or her breath or refused to submit to a test as required under section 60-6,197, such person shall be guilty of a Class I misdemeanor, and the court shall, as part of the judgment of conviction, order payment of a one-thousand-dollar fine and revoke the operator's license of such person for a period of at least eighteen months but not more than fifteen years from the date ordered by the court and shall issue an order pursuant to section 60-6,197.01. Such revocation and order shall be administered upon sentencing, upon final

judgment of any appeal or review, or upon the date that any probation is revoked. The court shall also sentence such person to serve at least ninety days' imprisonment in the city or county jail or an adult correctional facility.

If the court places such person on probation or suspends the sentence for any reason, the court shall, as one of the conditions of probation or sentence suspension, order that the operator's license of such person be revoked for a period of at least eighteen months but not more than fifteen years from the date ordered by the court. The revocation order shall require that the person not drive for a period of forty-five days and that during the period of revocation the person apply for an ignition interlock permit and installation of an ignition interlock device for not less than a one-year period issued pursuant to section 60-6,211.05. The court shall also issue an order pursuant to subdivision (1)(b) of section 60-6,197.01. If the person has an ignition interlock device installed as required under this subdivision, the person shall not be eligible for reinstatement of his or her operator's license until he or she has had the ignition interlock device installed for the period ordered by the court. The order of probation or sentence suspension shall also include, as conditions, the payment of a one-thousand-dollar fine and confinement in the city or county jail for thirty days;

(6) If such person has had two prior convictions and, as part of the current violation, had a concentration of fifteen-hundredths of one gram or more by weight of alcohol per one hundred milliliters of his or her blood or fifteen-hundredths of one gram or more by weight of alcohol per two hundred ten liters of his or her breath or refused to submit to a test as required under section 60-6,197, such person shall be guilty of a Class IIIA felony, and the court shall, as part of the judgment of conviction, revoke the operator's license of such person for a period of fifteen years from the date ordered by the court and shall issue an order pursuant to section 60-6,197.01. Such revocation and order shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked. The court shall also sentence such person to serve at least one hundred eighty days' imprisonment in the city or county jail or an adult correctional facility.

If the court places such person on probation or suspends the sentence for any reason, the court shall, as one of the conditions of probation or sentence suspension, order that the operator's license of such person be revoked for a period of at least five years but not more than fifteen years from the date ordered by the court. The revocation order shall require that the person not drive for a period of forty-five days, after which the court may order that during the period of revocation the person apply for an ignition interlock permit and installation of an ignition interlock device issued pursuant to section 60-6,211.05 and shall issue an order pursuant to subdivision (1)(b) of section 60-6,197.01. Such order of probation or sentence suspension shall also include, as conditions, the payment of a one-thousand-dollar fine, confinement in the city or county jail for sixty days, and, upon release from such confinement, the use of a continuous alcohol monitoring device and abstention from alcohol use at all times for no less than sixty days;

(7) Except as provided in subdivision (8) of this section, if such person has had three prior convictions, such person shall be guilty of a Class IIIA felony, and the court shall, as part of the judgment of conviction, order that the operator's license of such person be revoked for a period of fifteen years from the date ordered by the court and shall issue an order pursuant to section

60-6,197.01. Such orders shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked. The court shall also sentence such person to serve at least one hundred eighty days' imprisonment in the city or county jail or an adult correctional facility.

If the court places such person on probation or suspends the sentence for any reason, the court shall, as one of the conditions of probation or sentence suspension, order that the operator's license of such person be revoked for a period of fifteen years from the date ordered by the court. The revocation order shall require that the person not drive for a period of forty-five days, after which the court may order that during the period of revocation the person apply for an ignition interlock permit and installation of an ignition interlock device issued pursuant to section 60-6,211.05 and shall issue an order pursuant to subdivision (1)(b) of section 60-6,197.01. Such order of probation or sentence suspension shall also include, as conditions, the payment of a two-thousand-dollar fine, confinement in the city or county jail for ninety days, and, upon release from such confinement, the use of a continuous alcohol monitoring device and abstention from alcohol use at all times for no less than ninety days;

(8) If such person has had three prior convictions and, as part of the current violation, had a concentration of fifteen-hundredths of one gram or more by weight of alcohol per one hundred milliliters of his or her blood or fifteen-hundredths of one gram or more by weight of alcohol per two hundred ten liters of his or her breath or refused to submit to a test as required under section 60-6,197, such person shall be guilty of a Class III felony, and the court shall, as part of the judgment of conviction, revoke the operator's license of such person for a period of fifteen years from the date ordered by the court and shall issue an order pursuant to section 60-6,197.01. Such revocation and order shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked.

If the court places such person on probation or suspends the sentence for any reason, the court shall, as one of the conditions of probation or sentence suspension, order that the operator's license of such person be revoked for a period of fifteen years from the date ordered by the court. The revocation order shall require that the person not drive for a period of forty-five days, after which the court may order that during the period of revocation the person apply for an ignition interlock permit and installation of an ignition interlock device issued pursuant to section 60-6,211.05 and shall issue an order pursuant to subdivision (1)(b) of section 60-6,197.01. Such order of probation or sentence suspension shall also include, as conditions, the payment of a two-thousand-dollar fine, confinement in the city or county jail for one hundred twenty days, and, upon release from such confinement, the use of a continuous alcohol monitoring device and abstention from alcohol use at all times for no less than one hundred twenty days;

(9) Except as provided in subdivision (10) of this section, if such person has had four or more prior convictions, such person shall be guilty of a Class III felony with a minimum sentence of two years' imprisonment, and the court shall, as part of the judgment of conviction, order that the operator's license of such person be revoked for a period of fifteen years from the date ordered by the court and shall issue an order pursuant to section 60-6,197.01. Such orders shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked.

If the court places such person on probation or suspends the sentence for any reason, the court shall, as one of the conditions of probation or sentence suspension, order that the operator's license of such person be revoked for a period of fifteen years from the date ordered by the court. The revocation order shall require that the person not drive for a period of forty-five days, after which the court may order that during the period of revocation the person apply for an ignition interlock permit and installation of an ignition interlock device issued pursuant to section 60-6,211.05 and shall issue an order pursuant to subdivision (1)(b) of section 60-6,197.01. Such order of probation or sentence suspension shall also include, as conditions, the payment of a two-thousand-dollar fine, confinement in the city or county jail for one hundred eighty days, and, upon release from such confinement, the use of a continuous alcohol monitoring device and abstention from alcohol use at all times for no less than one hundred eighty days; and

(10) If such person has had four or more prior convictions and, as part of the current violation, had a concentration of fifteen-hundredths of one gram or more by weight of alcohol per one hundred milliliters of his or her blood or fifteen-hundredths of one gram or more by weight of alcohol per two hundred ten liters of his or her breath or refused to submit to a test as required under section 60-6,197, such person shall be guilty of a Class II felony with a minimum sentence of two years' imprisonment and the court shall, as part of the judgment of conviction, revoke the operator's license of such person for a period of fifteen years from the date ordered by the court and shall issue an order pursuant to section 60-6,197.01. Such revocation and order shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked.

If the court places such person on probation or suspends the sentence for any reason, the court shall, as one of the conditions of probation or sentence suspension, order that the operator's license of such person be revoked for a period of fifteen years from the date ordered by the court. The revocation order shall require that the person not drive for a period of forty-five days, after which the court may order that during the period of revocation the person apply for an ignition interlock permit and installation of an ignition interlock device issued pursuant to section 60-6,211.05 and shall issue an order pursuant to subdivision (1)(b) of section 60-6,197.01. Such order of probation or sentence suspension shall also include, as conditions, the payment of a two-thousand-dollar fine, confinement in the city or county jail for one hundred eighty days, and, upon release from such confinement, the use of a continuous alcohol monitoring device and abstention from alcohol use at all times for no less than one hundred eighty days.

**Source:** Laws 2004, LB 208, § 13; Laws 2005, LB 594, § 3; Laws 2006, LB 925, § 11; Laws 2007, LB578, § 4; Laws 2008, LB736, § 8; Laws 2009, LB497, § 7; Laws 2010, LB924, § 4; Laws 2011, LB667, § 35; Laws 2011, LB675, § 9; Laws 2013, LB158, § 4.  
Operative date July 1, 2013.

**60-6,211.05 Ignition interlock device; continuous alcohol monitoring device and abstention from alcohol use; orders authorized; prohibited acts; violation; penalty; costs; Department of Motor Vehicles Ignition Interlock Fund; created; use; investment; prohibited acts relating to tampering with device; hearing.**

(1) If an order is granted under section 60-6,196 or 60-6,197 and sections 60-6,197.02 and 60-6,197.03, the court may order that the defendant install an ignition interlock device of a type approved by the Director of Motor Vehicles on each motor vehicle operated by the defendant during the period of revocation. Upon sufficient evidence of installation, the defendant may apply to the director for an ignition interlock permit pursuant to section 60-4,118.06. The device shall, without tampering or the intervention of another person, prevent the defendant from operating the motor vehicle when the defendant has an alcohol concentration greater than three-hundredths of one gram or more by weight of alcohol per one hundred milliliters of his or her blood or three-hundredths of one gram or more by weight of alcohol per two hundred ten liters of his or her breath. The Department of Motor Vehicles shall issue an ignition interlock permit to the defendant under section 60-4,118.06 only upon sufficient proof that a defendant has installed an ignition interlock device on any motor vehicle that the defendant will operate during his or her release.

(2) If the court orders installation of an ignition interlock device and issuance of an ignition interlock permit pursuant to subsection (1) of this section, the court may also order the use of a continuous alcohol monitoring device and abstention from alcohol use at all times. The device shall, without tampering or the intervention of another person, test and record the alcohol consumption level of the defendant on a periodic basis and transmit such information to probation authorities.

(3) Any order issued by the court pursuant to this section shall not take effect until the defendant is eligible to operate a motor vehicle pursuant to subsection (8) of section 60-498.01. A person shall be eligible to be issued an ignition interlock permit allowing operation of a motor vehicle equipped with an ignition interlock device if he or she is not subject to any other suspension, cancellation, required no-driving period, or period of revocation and has successfully completed the ignition interlock permit application process. The Department of Motor Vehicles shall review its records and the driving record abstract of any person who applies for an ignition interlock permit allowing operation of a motor vehicle equipped with an ignition interlock device to determine (a) the applicant's eligibility for an ignition interlock permit, (b) the applicant's previous convictions under section 60-6,196, 60-6,197, or 60-6,197.06 or any previous administrative license revocation, if any, and (c) if the applicant is subject to any required no-drive periods before the ignition interlock permit may be issued.

(4)(a) If the court orders an ignition interlock device or the Board of Pardons orders an ignition interlock device under section 83-1,127.02, the court or the Board of Pardons shall order the defendant to apply for an ignition interlock permit as provided in section 60-4,118.06 which indicates that the defendant is only allowed to operate a motor vehicle equipped with an ignition interlock device.

(b) Such court order shall remain in effect for a period of time as determined by the court not to exceed the maximum term of revocation which the court could have imposed according to the nature of the violation and shall allow operation by the defendant of only an ignition-interlock-equipped motor vehicle.



(c) Such Board of Pardons order shall remain in effect for a period of time not to exceed any period of revocation the applicant is subject to at the time the application for a reprieve is made.

(5) Any person restricted to operating a motor vehicle equipped with an ignition interlock device, pursuant to a Board of Pardons order, who operates upon the highways of this state a motor vehicle without such device or if the device has been disabled, bypassed, or altered in any way, shall be punished as provided in subsection (3) of section 83-1,127.02.

(6) If a person ordered to use a continuous alcohol monitoring device and abstain from alcohol use pursuant to a court order as provided in subsection (2) of this section violates the provisions of such court order by removing, tampering with, or otherwise bypassing the continuous alcohol monitoring device or by consuming alcohol while required to use such device, he or she shall have his or her ignition interlock permit revoked and be unable to apply for reinstatement for the duration of the revocation period imposed by the court.

(7) The director shall adopt and promulgate rules and regulations regarding the approval of ignition interlock devices, the means of installing ignition interlock devices, and the means of administering the ignition interlock permit program.

(8)(a) The costs incurred in order to comply with the ignition interlock requirements of this section shall be paid directly to the ignition interlock provider by the person complying with an order for an ignition interlock permit and installation of an ignition interlock device.

(b) If the Department of Motor Vehicles has determined the person to be indigent and incapable of paying for the cost of installation, removal, or maintenance of the ignition interlock device in accordance with this section, such costs shall be paid out of the Department of Motor Vehicles Ignition Interlock Fund if such funds are available, according to rules and regulations adopted and promulgated by the department. Such costs shall also be paid out of the Department of Motor Vehicles Ignition Interlock Fund if such funds are available and if the court or the Board of Pardons, whichever is applicable, has determined the person to be indigent and incapable of paying for the cost of installation, removal, or maintenance of the ignition interlock device in accordance with this section. The Department of Motor Vehicles Ignition Interlock Fund is created. Money in the Department of Motor Vehicles Ignition Interlock Fund may be used for transfers to the General Fund at the direction of the Legislature. Any money in the Department of Motor Vehicles Ignition Interlock Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(9)(a)(i) An ignition interlock service facility shall notify the appropriate district probation office or the appropriate court, as applicable, of any evidence of tampering with or circumvention of an ignition interlock device, or any attempts to do so, when the facility becomes aware of such evidence. Failure of the facility to provide notification as provided in this subdivision is a Class V misdemeanor.

(ii) An ignition interlock service facility shall notify the Department of Motor Vehicles, if the ignition interlock permit is issued pursuant to sections 60-498.01 to 60-498.04, of any evidence of tampering with or circumvention of an ignition interlock device, or any attempts to do so, when the facility becomes

aware of such evidence. Failure of the facility to provide notification as provided in this subdivision is a Class V misdemeanor.

(b) If a district probation office receives evidence of tampering with or circumvention of an ignition interlock device, or any attempts to do so, from an ignition interlock service facility, the district probation office shall notify the appropriate court of such violation. The court shall immediately schedule an evidentiary hearing to be held within fourteen days after receiving such evidence, either from the district probation office or an ignition interlock service facility, and the court shall cause notice of the hearing to be given to the person operating a motor vehicle pursuant to an order under subsection (1) of this section. If the person who is the subject of such evidence does not appear at the hearing and show cause why the order made pursuant to subsection (1) of this section should remain in effect, the court shall rescind the original order. Nothing in this subsection shall apply to an order made by the Board of Pardons pursuant to section 83-1,127.02.

(10) Notwithstanding any other provision of law, the issuance of an ignition interlock permit by the Department of Motor Vehicles under section 60-498.01 or an order for the installation of an ignition interlock device and ignition interlock permit made pursuant to subsection (1) of this section as part of a conviction, as well as the administration of such court order by the Office of Probation Administration for the installation, maintenance, and removal of such device, as applicable, shall not be construed to create an order of probation when an order of probation has not been issued.

**Source:** Laws 1993, LB 564, § 6; Laws 1998, LB 309, § 24; Laws 2001, LB 38, § 55; Laws 2003, LB 209, § 15; Laws 2004, LB 208, § 22; Laws 2006, LB 925, § 16; Laws 2008, LB736, § 10; Laws 2009, LB497, § 10; Laws 2010, LB924, § 5; Laws 2011, LB667, § 40; Laws 2012, LB751, § 46; Laws 2013, LB158, § 5; Laws 2013, LB199, § 27.

**Note:** The Revisor of Statutes has pursuant to section 49-769 correlated LB158, section 5, with LB199, section 27, to reflect all amendments.

**Note:** Changes made by LB199 became effective May 26, 2013. Changes made by LB158 became operative July 1, 2013.

#### Cross References

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

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

### (y) SIZE, WEIGHT, AND LOAD

**60-6,298 Vehicles; size; weight; load; overweight; special, continuing, or continuous permit; issuance discretionary; conditions; penalty; continuing permit; fees.**

(1)(a) The Department of Roads or the Nebraska State Patrol, with respect to highways under its jurisdiction including the National System of Interstate and Defense Highways, and local authorities, with respect to highways under their jurisdiction, may in their discretion upon application and good cause being shown therefor issue a special, continuing, or continuous permit in writing authorizing the applicant or his or her designee:

(i) To operate or move a vehicle, a combination of vehicles, or objects of a size or weight of vehicle or load exceeding the maximum specified by law when such permit is necessary:

(A) To further the national defense or the general welfare;

(B) To permit movement of cost-saving equipment to be used in highway or other public construction or in agricultural land treatment; or

(C) Because of an emergency, an unusual circumstance, or a very special situation;

(ii) To operate vehicles, for a distance up to one hundred twenty miles, loaded up to fifteen percent greater than the maximum weight specified by law, or up to ten percent greater than the maximum length specified by law, or both, except that any combination with two or more cargo-carrying units, not including the truck-tractor, also known as a longer combination vehicle, may only operate for a distance up to seventy miles loaded up to fifteen percent greater than the maximum weight specified by law, or up to ten percent greater than the maximum length specified by law, or both, when carrying grain or other seasonally harvested products from the field where such grain or products are harvested to storage, market, or stockpile in the field or from stockpile to market or factory when failure to move such grain or products in abundant quantities would cause an economic loss to the person or persons whose grain or products are being transported or when failure to move such grain or products in as large quantities as possible would not be in the best interests of the national defense or general welfare. The distance limitation may be waived for vehicles when carrying dry beans from the field where harvested to storage or market when dry beans are not normally stored, purchased, or used within the permittee's local area and must be transported more than one hundred twenty miles to an available marketing or storage destination. No permit shall authorize a weight greater than twenty thousand pounds on any single axle;

(iii) To transport an implement of husbandry which does not exceed twelve and one-half feet in width during daylight hours, except that the permit shall not allow transport on holidays;

(iv) To operate one or more recreational vehicles, as defined in section 71-4603, exceeding the maximum width specified by law if movement of the recreational vehicles is prior to retail sale and the recreational vehicles comply with subdivision (2)(k) of section 60-6,288; or

(v) To operate an emergency vehicle for purposes of sale, demonstration, exhibit, or delivery, if the applicant or his or her designee is a manufacturer or sales agent of the emergency vehicle. No permit shall be issued for an emergency vehicle which weighs over sixty thousand pounds on the tandem axle.

(b) No permit shall be issued under subdivision (a)(i) of this subsection for a vehicle carrying a load unless such vehicle is loaded with an object which exceeds the size or weight limitations, which cannot be dismantled or reduced in size or weight without great difficulty, and which of necessity must be moved over the highways to reach its intended destination. No permit shall be required for the temporary movement on highways other than dustless-surfaced state highways and for necessary access to points on such highways during daylight hours of cost-saving equipment to be used in highway or other public construction or in agricultural land treatment when such temporary movement is necessary and for a reasonable distance.

(2) The application for any such permit shall specifically describe the vehicle, the load to be operated or moved, whenever possible the particular highways for which permit to operate is requested, and whether such permit is requested for a single trip or for continuous or continuing operation. The permit shall include a signed affirmation under oath that, for any load sixteen feet high or

higher, the applicant has contacted any and all electric utilities that have high voltage conductors and infrastructure that cross over the roadway affected by the move and made arrangements with such electric utilities for the safe movement of the load under any high voltage conductors owned by such electric utilities.

(3) The department or local authority is authorized to issue or withhold such permit at its discretion or, if such permit is issued, to limit the number of days during which the permit is valid, to limit the number of trips, to establish seasonal or other time limitations within which the vehicles described may be operated on the highways indicated, or to issue a continuous or continuing permit for use on all highways, including the National System of Interstate and Defense Highways. The permits are subject to reasonable conditions as to periodic renewal of such permit and as to operation or movement of such vehicles. The department or local authority may otherwise limit or prescribe conditions of operation of such vehicle or vehicles, when necessary to assure against undue damage to the road foundations, surfaces, or structures or undue danger to the public safety. The department or local authority may require such undertaking or other security as may be deemed necessary to compensate for any injury to any roadway or road structure.

(4) Every such permit shall be carried in the vehicle to which it refers and shall be open to inspection by any peace officer, carrier enforcement officer, or authorized agent of any authority granting such permit. Each such permit shall state the maximum weight permissible on a single axle or combination of axles and the total gross weight allowed. No person shall violate any of the terms or conditions of such special permit. In case of any violation, the permit shall be deemed automatically revoked and the penalty of the original limitations shall be applied unless:

(a) The violation consists solely of exceeding the size or weight specified by the permit, in which case only the penalty of the original size or weight limitation exceeded shall be applied; or

(b) The total gross load is within the maximum authorized by the permit, no axle is more than ten percent in excess of the maximum load for such axle or group of axles authorized by the permit, and such load can be shifted to meet the weight limitations of wheel and axle loads authorized by such permit. Such shift may be made without penalty if it is made at the state or commercial scale designated in the permit. The vehicle may travel from its point of origin to such designated scale without penalty, and a scale ticket from such scale, showing the vehicle to be properly loaded and within the gross and axle weights authorized by the permit, shall be reasonable evidence of compliance with the terms of the permit.

(5) The department or local authority issuing a permit as provided in this section may adopt and promulgate rules and regulations with respect to the issuance of permits provided for in this section.

(6) The department shall make available applications for permits authorized pursuant to subdivisions (1)(a)(ii) and (1)(a)(iii) of this section in the office of each county treasurer. The department may make available applications for all other permits authorized by this section to the office of the county treasurer and may make available applications for all permits authorized by this section to any other location chosen by the department.

(7) The department or local authority issuing a permit may require a permit fee of not to exceed twenty-five dollars, except that:

(a) The fee for a continuous or continuing permit may not exceed twenty-five dollars for a ninety-day period, fifty dollars for a one-hundred-eighty-day period, or one hundred dollars for a one-year period; and

(b) The fee for permits issued pursuant to subdivision (1)(a)(ii) of this section shall be twenty-five dollars. Permits issued pursuant to such subdivision shall be valid for thirty days and shall be renewable four times for a total number of days not to exceed one hundred fifty days per calendar year.

A vehicle or combination of vehicles for which an application for a permit is requested pursuant to this section shall be registered under section 60-3,147 or 60-3,198 for the maximum gross vehicle weight that is permitted pursuant to section 60-6,294 before a permit shall be issued.

**Source:** Laws 1957, c. 156, § 4, p. 565; Laws 1961, c. 183, § 1, p. 546; Laws 1963, c. 220, § 3, p. 695; Laws 1963, c. 226, § 1, p. 708; Laws 1965, c. 214, § 1, p. 627; Laws 1967, c. 235, § 1, p. 627; Laws 1972, LB 1337, § 1; Laws 1973, LB 152, § 1; R.S.Supp.,1973, § 39-722.01; Laws 1975, LB 306, § 2; Laws 1979, LB 287, § 1; Laws 1980, LB 842, § 1; Laws 1981, LB 285, § 3; Laws 1986, LB 122, § 1; Laws 1986, LB 833, § 1; R.S. 1943, (1988), § 39-6,181; Laws 1993, LB 176, § 1; Laws 1993, LB 370, § 394; Laws 1994, LB 1061, § 4; Laws 1995, LB 467, § 15; Laws 1996, LB 1306, § 2; Laws 1997, LB 122, § 1; Laws 1997, LB 261, § 1; Laws 2000, LB 1361, § 9; Laws 2001, LB 376, § 5; Laws 2003, LB 563, § 33; Laws 2005, LB 82, § 5; Laws 2005, LB 274, § 246; Laws 2010, LB820, § 2; Laws 2011, LB35, § 2; Laws 2012, LB841, § 1; Laws 2012, LB997, § 4; Laws 2013, LB117, § 1.

Effective date September 6, 2013.

#### Cross References

Rules and regulations of Department of Roads, adoption, penalty, see sections 39-102 and 39-103.

### **60-6,300 Vehicles; excess load prohibited; exception; violation; penalty.**

(1) It shall be unlawful to operate upon the public highways of this state any truck, truck-tractor, or trailer that weighs in excess of the gross weight for which the registration fee on such vehicle has been paid plus one thousand pounds, but this section shall not apply to any truck, truck-tractor, or trailer being operated under a special permit issued pursuant to section 60-6,298 if the vehicle is properly registered pursuant to such section.

(2)(a) Any person operating any truck, truck-tractor, or trailer in violation of this section shall be guilty of a traffic infraction and shall, upon conviction, be fined twenty-five dollars for each one thousand pounds or fraction thereof in excess of the weight allowed to be carried under this section with tolerance.

(b) In lieu of issuing a citation to an operator under subdivision (2)(a) of this section, the Superintendent of Law Enforcement and Public Safety may assess the owner of the vehicle a civil penalty for each violation of this section in an amount equal to twenty-five dollars for each one thousand pounds or fraction thereof in excess of the gross weight for which the registration fee on such vehicle has been paid plus one thousand pounds. The superintendent shall issue

an order imposing a penalty under this subdivision in the same manner as an order issued under section 75-369.04 and any rules and regulations adopted and promulgated under section 75-368 and any applicable federal rules and regulations.

**Source:** Laws 1933, c. 105, § 5, p. 426; Laws 1939, c. 47, § 1, p. 208; Laws 1941, c. 125, § 2, p. 481; C.S.Supp.,1941, § 39-1193; R.S.1943, § 39-723; Laws 1947, c. 147, § 2(4), p. 406; Laws 1953, c. 134, § 2, p. 418; Laws 1969, c. 318, § 2, p. 1155; C.S.Supp.,1972, § 39-723.03; Laws 1979, LB 287, § 2; Laws 1984, LB 726, § 3; Laws 1986, LB 783, § 1; R.S.1943, (1988), § 39-6,182; Laws 1993, LB 370, § 396; Laws 2013, LB398, § 1. Effective date September 6, 2013.

(ff) SPECIAL RULES FOR ALL-TERRAIN VEHICLES

**60-6,355 All-terrain vehicle, defined; utility-type vehicle, defined.**

(1) For purposes of sections 60-6,355 to 60-6,362:

(a) All-terrain vehicle means any motorized off-highway vehicle which (i) is fifty inches or less in width, (ii) has a dry weight of nine hundred pounds or less, (iii) travels on three or more low-pressure tires, (iv) is designed for operator use only with no passengers or is specifically designed by the original manufacturer for the operator and one passenger, (v) has a seat or saddle designed to be straddled by the operator, and (vi) has handlebars or any other steering assembly for steering control; and

(b)(i) Utility-type vehicle means any motorized off-highway vehicle which (A) is not less than forty-eight inches nor more than seventy-four inches in width, (B) is not more than one hundred eighty inches, including the bumper, in length, (C) has a dry weight of not less than nine hundred pounds nor more than two thousand pounds, (D) travels on four or more low-pressure tires, and (E) is equipped with a steering wheel and bench or bucket-type seating designed for at least two people to sit side-by-side.

(ii) Utility-type vehicle does not include golf car vehicles or low-speed vehicles.

(2) All-terrain vehicles and utility-type vehicles which have been modified to include additional equipment not required by sections 60-6,357 and 60-6,358 shall not be required to be registered under the Motor Vehicle Registration Act.

**Source:** Laws 1987, LB 80, § 1; R.S.1943, (1988), § 60-2801; Laws 1993, LB 370, § 451; Laws 2003, LB 333, § 33; Laws 2005, LB 274, § 250; Laws 2010, LB650, § 39; Laws 2012, LB1155, § 24; Laws 2013, LB223, § 3. Effective date September 6, 2013.

Cross References

Motor Vehicle Registration Act, see section 60-301.

(ii) EMERGENCY VEHICLE OR ROAD ASSISTANCE VEHICLE

**60-6,378 Stopped authorized emergency vehicle or road assistance vehicle; driver; duties; violation; penalty.**

(1)(a) A driver in a vehicle on a controlled-access highway approaching or passing a stopped authorized emergency vehicle or road assistance vehicle

which makes use of proper audible or visual signals shall proceed with due care and caution as described in subdivision (b) of this subsection.

(b) On a controlled-access highway with at least two adjacent lanes of travel in the same direction on the same side of the highway where a stopped authorized emergency vehicle or road assistance vehicle is using proper audible or visual signals, the driver of the vehicle shall proceed with due care and caution and yield the right-of-way by moving into a lane at least one moving lane apart from the stopped authorized emergency vehicle or road assistance vehicle unless directed otherwise by a peace officer or other authorized emergency personnel. If moving into another lane is not possible because of weather conditions, road conditions, or the immediate presence of vehicular or pedestrian traffic or because the controlled-access highway does not have two available adjacent lanes of travel in the same direction on the same side of the highway where such a stopped authorized emergency vehicle or road assistance vehicle is located, the driver of the approaching or passing vehicle shall reduce his or her speed, maintain a safe speed with regard to the location of the stopped authorized emergency vehicle or road assistance vehicle, the weather conditions, the road conditions, and vehicular or pedestrian traffic, and proceed with due care and caution or proceed as directed by a peace officer or other authorized emergency personnel or road assistance personnel.

(c) Any person who violates this subsection is guilty of a traffic infraction for a first offense and Class IIIA misdemeanor for a second or subsequent offense.

(2) The Department of Roads shall erect and maintain or cause to be erected and maintained signs giving notice of subsection (1) of this section along controlled-access highways.

(3) Enforcement of subsection (1) of this section shall not be accomplished using simulated situations involving an authorized emergency vehicle or a road assistance vehicle.

(4) This section does not relieve the driver of an authorized emergency vehicle or a road assistance vehicle from the duty to drive with due regard for the safety of all persons using the highway.

(5) For purposes of this section, road assistance vehicle includes a vehicle operated by the Department of Roads, a Nebraska State Patrol motorist assistance vehicle, a United States Department of Transportation registered towing or roadside assistance vehicle, and a utility service vehicle operated by a utility company. A road assistance vehicle shall emit a warning signal utilizing properly displayed emergency indicators such as strobe, rotating, or oscillating lights when stopped along a highway.

**Source:** Laws 2009, LB92, § 2; Laws 2013, LB154, § 1.  
Effective date September 6, 2013.

## ARTICLE 14

### MOTOR VEHICLE INDUSTRY LICENSING

#### Section

- 60-1401. Act, how cited; applicability of amendments.  
60-1403.01. License required; restriction on issuance; exception.  
60-1417.02. Auction; registration of seller; exception.  
60-1438. Manufacturer or distributor; warranty obligation; prohibited acts.  
60-1439.01. Motor vehicle provided by motor vehicle dealer; motor vehicle insurance policies; primary coverage; secondary coverage.

**60-1401 Act, how cited; applicability of amendments.**

Sections 60-1401 to 60-1440 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.

Effective date September 6, 2013.

**60-1403.01 License required; restriction on issuance; exception.**

(1) No person shall engage in the business as, serve in the capacity of, or act as a motor vehicle, trailer, or motorcycle dealer, wrecker or salvage dealer, salesperson, auction dealer, dealer's agent, manufacturer, factory branch, factory representative, distributor, distributor branch, or distributor representative in this state without being licensed by the board under the Motor Vehicle Industry Regulation Act. No salesperson's license shall be issued to any person under the age of sixteen, and no dealer's license shall be issued to any minor. No wrecker or salvage dealer's license shall be issued or renewed unless the applicant has a permanent place of business at which the activity requiring licensing is performed and which conforms to all local laws.

(2) A license issued under the act shall authorize the holder thereof to engage in the business or activities permitted by the license subject to the act and the rules and regulations adopted and promulgated by the board under the act.

(3) This section shall not apply to a licensed real estate salesperson or broker who negotiates for sale or sells a trailer for any individual who is the owner of not more than two trailers.

(4) This section shall not restrict a licensed motor vehicle dealer from conducting an auction as provided in subsection (5) of section 60-1417.02.

**Source:** Laws 1971, LB 768, § 5; Laws 1972, LB 1335, § 2; Laws 1974, LB 754, § 3; Laws 1983, LB 234, § 20; Laws 2000, LB 1018, § 2; Laws 2003, LB 498, § 2; Laws 2010, LB816, § 56; Laws 2013, LB164, § 1.

Effective date September 6, 2013.

**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 main-



tained 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 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.  
Effective date September 6, 2013.

**60-1438 Manufacturer or distributor; warranty obligation; prohibited acts.**

(1) Each new motor vehicle manufacturer or distributor shall specify in writing to each of its new motor vehicle dealers licensed in this state the dealer's obligations for preparation, delivery, and warranty service on its products. The manufacturer or distributor shall compensate the new motor vehicle dealer for warranty service which such manufacturer or distributor requires the dealer to provide, including warranty and recall obligations related to repairing and servicing motor vehicles and all parts and components included in or manufactured for installation in the motor vehicles of the manufacturer or distributor. The manufacturer or distributor shall provide the new motor vehicle dealer with the schedule of compensation to be paid to the dealer for parts, work, and service and the time allowance for the performance of the work and service.

(2)(a) The schedule of compensation shall include reasonable compensation for diagnostic work, as well as repair service, parts, and labor. Time allowances for the diagnosis and performance of warranty work and service shall be reasonable and adequate for the work to be performed. In the determination of what constitutes reasonable compensation under this section, the principal factors to be given consideration shall be the prevailing wage rates being paid by dealers in the community in which the dealer is doing business, and in no event shall the compensation of the dealer for warranty parts and labor be less than the rates charged by the dealer for like parts and service to retail or fleet customers, as long as such rates are reasonable. In determining prevailing wage rates, the rate of compensation for labor for that portion of repair orders

for routine maintenance, such as tire repair or replacement and oil and fluid changes, shall not be used.

(b) For purposes of this section, compensation for parts may be determined by calculating the price paid by the dealer for parts, including all shipping and other charges, multiplied by the sum of one and the dealer's average percentage markup over the price paid by the dealer for parts purchased by the dealer from the manufacturer and sold at retail. The dealer may establish average percentage markup by submitting to the manufacturer one hundred sequential customer-paid service repair orders or ninety days of customer-paid service repair orders, whichever is less, covering repairs made no more than one hundred eighty days before the submission and declaring what the average percentage markup is. Within thirty days after receipt of the repair orders, the manufacturer may audit the submitted repair orders and approve or deny approval of the average percentage markup based on the audit. The average percentage markup shall go into effect forty-five days after the approval based on that audit. If the manufacturer denies approval of the average percentage markup declared by the dealer, the dealer may file a complaint with the board. The manufacturer shall have the burden to establish that the denial was reasonable. If the board determines that the denial was not reasonable, the denial shall be deemed a violation of the Motor Vehicle Industry Regulation Act subject to the enforcement procedures of the act. Only retail sales not involving warranty repairs or parts supplied for routine vehicle maintenance shall be considered in calculating average percentage markup. No manufacturer shall require a dealer to establish average percentage markup by a methodology, or by requiring information, that is unduly burdensome or time consuming to provide, including, but not limited to, part-by-part or transaction-by-transaction calculations. A dealer shall not request a change in the average percentage markup more than twice in one calendar year.

(3) A manufacturer or distributor shall not do any of the following:

(a) Fail to perform any warranty obligation;

(b) Fail to include in written notices of factory recalls to new motor vehicle owners and dealers the expected date by which necessary parts and equipment will be available to dealers for the correction of the defects; or

(c) Fail to compensate any of the new motor vehicle dealers licensed in this state for repairs effected by the recall.

(4) A dealer's claim for warranty compensation may be denied only if:

(a) The dealer's claim is based on a nonwarranty repair;

(b) The dealer lacks documentation for the claim;

(c) The dealer fails to comply with specific substantive terms and conditions of the franchisor's warranty compensation program; or

(d) The manufacturer has a bona fide belief based on competent evidence that the dealer's claim is intentionally false, fraudulent, or misrepresented.

(5) All claims made by a new motor vehicle dealer pursuant to this section for labor and parts shall be made within six months after completing the work and shall be paid within thirty days after their approval. All claims shall be either approved or disapproved by the manufacturer or distributor within thirty days after their receipt on a proper form generally used by the manufacturer or distributor and containing the usually required information therein. Any claim not specifically disapproved in writing within thirty days after the receipt of the

form shall be considered to be approved and payment shall be made within thirty days. The manufacturer has the right to audit the claims for one year after payment, except that if the manufacturer has reasonable cause to believe that a claim submitted by a dealer is intentionally false or fraudulent, the manufacturer has the right to audit the claims for four years after payment. For purposes of this subsection, reasonable cause means a bona fide belief based upon evidence that the issues of fact are such that a person of ordinary caution, prudence, and judgment could believe that a claim was intentionally false or fraudulent. As a result of an audit authorized under this subsection, the manufacturer has the right to charge back to the new motor vehicle dealer the amount of any previously paid claim after the new motor vehicle dealer has had notice and an opportunity to participate in all franchisor internal appeal processes as well as all available legal processes. The requirement to approve and pay the claim within thirty days after receipt of the claim does not preclude chargebacks for any fraudulent claim previously paid. A manufacturer may not deny a claim based solely on a dealer's incidental failure to comply with a specific claim processing requirement, such as a clerical error that does not put into question the legitimacy of the claim. If a claim is rejected for a clerical error, the dealer may resubmit a corrected claim in a timely manner.

(6) The warranty obligations set forth in this section shall also apply to any manufacturer of a new motor vehicle transmission, engine, or rear axle that separately warrants its components to customers.

(7) This section does not apply to recreational vehicles.

**Source:** Laws 1984, LB 825, § 21; Laws 1991, LB 393, § 1; Laws 2003, LB 371, § 1; Laws 2010, LB816, § 83; Laws 2011, LB477, § 9; Laws 2013, LB165, § 1.  
Effective date September 6, 2013.

**60-1439.01 Motor vehicle provided by motor vehicle dealer; motor vehicle insurance policies; primary coverage; secondary coverage.**

During the time when an insured person is operating a motor vehicle provided by a motor vehicle dealer for use while the insured person's motor vehicle is being serviced, repaired, or inspected by the motor vehicle dealer, when both the insured person's and motor vehicle dealer's motor vehicle insurance policies have a mutually repugnant clause regarding primary coverage, the insured person's motor vehicle insurance policy shall provide primary coverage for the motor vehicle and the motor vehicle insurance policy of the motor vehicle dealer shall provide secondary coverage until the motor vehicle is returned to the motor vehicle dealer. This section only applies to the loan of a motor vehicle by a motor vehicle dealer which occurs without financial remuneration in the form of a fee or lease charge paid directly by the insured person operating the motor vehicle. Payments made by any third party to a motor vehicle dealer, or similar reimbursements, shall not be considered payments directly from the insured person operating the motor vehicle.

**Source:** Laws 2013, LB133, § 2.  
Effective date September 6, 2013.

## ARTICLE 15

## DEPARTMENT OF MOTOR VEHICLES

## Section

60-1515. Department of Motor Vehicles Cash Fund; use; legislative intent.

**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 therefore 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 data base created under section 60-3,136.

**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.

Operative date October 1, 2013.

## ARTICLE 31

## STATE FLEET CARD PROGRAM

## Section

60-3101. State fleet card programs; Department of Roads; University of Nebraska; State Treasurer; duties; political subdivisions; utilization authorized; unauthorized use prohibited.

Section

60-3102. State Fleet Card Fund; created; rebates credited to fund; use.

**60-3101 State fleet card programs; Department of Roads; University of Nebraska; State Treasurer; duties; political subdivisions; utilization authorized; unauthorized use prohibited.**

(1) State fleet card programs shall be created and shall be administered separately by the Department of Roads and the University of Nebraska. The Department of Roads shall administer a fleet card program on behalf of state government and political subdivisions other than the University of Nebraska under a contract through the State Treasurer. The State Treasurer shall determine the type of fleet card or cards utilized in the state fleet card program. The State Treasurer shall contract with one or more financial institutions, card-issuing banks, credit card companies, charge card companies, debit card companies, or third-party merchant banks capable of operating a fleet card program on behalf of the state, including the University of Nebraska, and political subdivisions that participate in the state contract for such services. Rules and regulations may be adopted and promulgated as needed by the Department of Roads or the University of Nebraska for the operation of the state fleet card programs. The rules and regulations shall provide authorization instructions for all transactions. Expenses associated with the state fleet card programs shall be considered as an administrative or operational expense.

(2) For purposes of this section, fleet card means a payment card used for gasoline, diesel, and other fuels. Fleet cards may also be used to pay for vehicle and equipment maintenance and expenses at the discretion of the program administrator. The Department of Roads and the University of Nebraska shall each designate a program administrator.

(3) Any state official, agency, board, or commission may utilize a state fleet card for the purchase of goods and services described in subsection (2) of this section for and on behalf of the State of Nebraska. Any political subdivision may utilize a fleet card for the purchase of goods and services described in subsection (2) of this section for lawful government purposes of the political subdivision. No disbursements or cash back on fleet card transactions shall be allowed.

(4) Vendors accepting a state fleet card shall obtain authorization for all transactions in accordance with instructions from the program administrator. Transaction authorization shall be from the financial institution, card-issuing bank, credit card company, charge card company, debit card company, or third-party merchant bank contracted to provide such service to the State of Nebraska. Each transaction shall be authorized in accordance with the instructions provided by the program administrator for each state official, agency, board, or commission or each political subdivision.

(5) Detailed transaction information for the purposes of tracking expenditures shall include fleet card identification, merchant name and address, transaction number, date, time, product, quantity, cost, and equipment meter reading if applicable. A state fleet card program may require an itemized receipt for purposes of tracking expenditures of a state fleet card purchase from a commercial vendor as acceptable detailed transaction information. If detailed transaction information is not provided, the program administrator shall have the authority to temporarily or permanently suspend state fleet card purchases in accordance with rules and regulations.

(6) No officer or employee of the state or of a political subdivision shall use a state fleet card for any unauthorized use.

**Source:** Laws 2013, LB137, § 1.  
Effective date March 8, 2013.

**60-3102 State Fleet Card Fund; created; rebates credited to fund; use.**

The State Fleet Card Fund is hereby created. All rebates received by the state from the fleet card program entered into by the State of Nebraska pursuant to section 60-3101 shall be credited to the fund. The fund may consist of fleet card rebates received on behalf of state officers, agencies, boards, and commissions and political subdivisions and shall be administered by the State Treasurer. Fleet card rebates received on behalf of state officers, agencies, boards, and commissions shall be transferred by the State Treasurer from the fund to the General Fund. Fleet card rebates received on behalf of political subdivisions shall be disbursed to political subdivisions consistent with the volume spent and contract terms.

**Source:** Laws 2013, LB137, § 2.  
Effective date March 8, 2013.

## CHAPTER 66

### OILS, FUELS, AND ENERGY

Article.

13. Ethanol. 66-1336.
14. International Fuel Tax Agreement Act. 66-1418.

#### ARTICLE 13

##### ETHANOL

Section

66-1336. Administrator.

##### **66-1336 Administrator.**

The board shall retain the services of a full-time administrator to be appointed by the board. The administrator shall hold office at the pleasure of the board.

**Source:** Laws 1993, LB 364, § 7; Laws 2012, LB782, § 89; Laws 2013, LB222, § 21.  
Effective date May 8, 2013.

#### ARTICLE 14

##### INTERNATIONAL FUEL TAX AGREEMENT ACT

Section

66-1418. Trip permits; issuance; fees.

##### **66-1418 Trip permits; issuance; fees.**

(1) This subsection applies until the implementation date designated by the director pursuant to subsection (2) of this section. The department shall provide for a trip permit to be issued. Such trip permits shall be issued for a fee of twenty dollars and shall be valid for a period of seventy-two hours. The carrier enforcement division designated under section 60-1303 shall act as an agent for the department in collecting the fees prescribed in this section and shall remit all such fees collected to the State Treasurer for credit to the Highway Cash Fund. Such trip permits shall be available at weighing stations operated by the carrier enforcement division and at various vendor stations as determined appropriate by the carrier enforcement division. Trip permits shall be obtained at the first available location, whether that is a weighing station or a vendor station. The vendor stations shall be entitled to collect and retain an additional fee of ten percent of the fee collected pursuant to this section as reimbursement for the clerical work of issuing the permits.

(2) This subsection applies beginning on an implementation date designated by the director. The director shall designate an implementation date which is on or before January 1, 2015. A trip permit shall be issued before any person required to obtain a trip permit enters this state. The trip permit shall be issued by the director through Internet sales from the department's web site. The trip permit shall be issued for a fee of twenty dollars and shall be valid for a period

of seventy-two hours. The fee collected by the director shall be remitted to the State Treasurer for credit to the Highway Cash Fund.

**Source:** Laws 2004, LB 983, § 63; Laws 2013, LB250, § 2.  
Effective date September 6, 2013.



## CHAPTER 67

### PARTNERSHIPS

Article.

2. Nebraska Uniform Limited Partnership Act.  
Part II—Formation; Certificate of Limited Partnership. 67-248.02.  
Part XII—Conversion. 67-298.

#### ARTICLE 2

#### NEBRASKA UNIFORM LIMITED PARTNERSHIP ACT

##### PART II. FORMATION; CERTIFICATE OF LIMITED PARTNERSHIP

Section

67-248.02. Merger or consolidation; procedure; effect.

##### PART XII. CONVERSION

67-298. Conversion; articles of conversion.

#### PART II

##### FORMATION; CERTIFICATE OF LIMITED PARTNERSHIP

#### **67-248.02 Merger or consolidation; procedure; effect.**

(a)(1) A domestic limited partnership may merge or consolidate with one or more domestic or foreign limited partnerships or other business entities pursuant to an agreement or plan of merger or consolidation adopted in accordance with this section setting forth:

(A) The name of each limited partnership or business entity that is a party to the merger or consolidation;

(B) The name, type of business entity, and jurisdiction of formation of the surviving limited partnership or business entity into which the limited partnership and such other business entities will merge or the name, type of business entity, and jurisdiction of formation of the new business entity resulting from the consolidation of the limited partnership and the other business entities that are party to a plan of consolidation;

(C) The terms and conditions of the merger or consolidation, including the manner and basis of converting the interests of the partners, members, or shareholders, as the case may be, of each limited partnership or business entity that is a party to such merger or consolidation into interests or obligations of the surviving or new limited partnership or business entity resulting therefrom or into money or other property in whole or in part; and

(D) Such other provisions as the merging or consolidating limited partnerships or business entities may desire.

(2) Notwithstanding the provisions of section 67-450, an agreement or plan of merger or consolidation shall be approved (A) by each domestic limited partnership that is a party thereto in accordance with the voting provisions of its partnership agreement or, if not so provided, by each general partner and by limited partners who own in the aggregate more than a fifty percent interest in

the profits of such limited partnership owned by all of the limited partners or, if there is more than one class or group of limited partners, then by limited partners of each class or group of limited partners, in either case, who own in the aggregate more than fifty percent of the then current percentage of other interest in the profits of such limited partnership owned by all of the limited partners in each such class or group and (B) by each other business entity that is a party thereto in accordance with the laws under which such business entity was formed and in accordance with the applicable requirements of its organizational documents. Notwithstanding such approval, at any time before the articles of merger or consolidation are filed, an agreement or plan of merger or of consolidation may be terminated or amended pursuant to a provision for such termination or amendment contained in such agreement or plan of merger or of consolidation.

(b) As used in this section:

(1) Business entity means a domestic or foreign corporation; a domestic or foreign partnership; a domestic or foreign limited partnership; or a domestic or foreign limited liability company; and

(2) Organizational documents includes:

(A) For a domestic or foreign corporation, its articles of incorporation, bylaws, and other agreements among its shareholders which are authorized by its governing statute or comparable records as provided in its governing statute;

(B) For a domestic or foreign partnership, its partnership agreement;

(C) For a domestic or foreign limited partnership, its certificate of limited partnership and partnership agreement; and

(D) For a domestic or foreign limited liability company, its certificate or articles of organization and operating agreement or comparable records as provided in its governing statute.

(c) After a plan of merger or consolidation with respect to a domestic limited partnership is approved in accordance with this section, the surviving or resulting business entity shall deliver to the Secretary of State for filing articles of merger or consolidation setting forth:

(1) The plan of merger or consolidation;

(2) A statement to the effect that the requisite approval was obtained by the partners, members, or shareholders, as the case may be, of each business entity that is a party to such plan of merger or consolidation; and

(3) If the surviving or resulting business entity of a merger or consolidation is not a domestic business entity, an agreement by the surviving or resulting business entity that it may be served with process within or outside this state in any proceeding in the courts of this state for the enforcement of any obligation of such former domestic limited partnership.

(d) If the surviving or resulting business entity of a merger or consolidation under this section is a domestic corporation, then the merger or consolidation shall become effective and shall have the effects provided in sections 21-20,128 to 21-20,134. If the surviving or resulting business entity of a merger or consolidation under this section is a domestic limited liability company, then the merger or consolidation shall become effective and shall have the effects provided in sections 21-170 to 21-174. If the surviving or resulting business entity of a merger or consolidation under this section is a domestic partnership

other than a limited partnership, then the merger or consolidation shall become effective and shall have the effects provided in sections 67-450 to 67-452. If the surviving or resulting business entity of a merger or consolidation is a domestic limited partnership, then:

(1) The merger or consolidation shall take effect on the later of:

(A) The approval of the plan or agreement of merger or consolidation as provided in this section;

(B) The filing of all documents required by law to be filed as a condition to the effectiveness of the merger or consolidation; or

(C) Any effective date specified in the plan or agreement of merger or consolidation;

(2) The several limited partnerships and other business entities which are parties to the plan or agreement of merger or consolidation shall be a single limited partnership which, in the case of a merger, shall be that limited partnership designated in the merger plan or agreement as the surviving limited partnership and, in the case of a consolidation, shall be the new limited partnership provided for in the consolidation plan or agreement;

(3) The separate existence of all limited partnerships and other business entities which are parties to the plan or agreement of merger or consolidation, except the surviving or new limited partnership, shall cease;

(4) The surviving or new limited partnership shall have all the rights, privileges, immunities, and powers and shall be subject to all the duties and liabilities of a limited partnership organized under the Nebraska Uniform Limited Partnership Act;

(5) The surviving or new limited partnership shall possess all the rights, privileges, immunities, and powers, of a public as well as of a private nature, of each of the merging or consolidating limited partnerships and other business entities, subject to the Nebraska Uniform Limited Partnership Act. All property, real, personal, and mixed, all debts due on whatever account, all other things and causes of actions, and all and every other interest belonging to or due to any of the limited partnerships and other business entities, as merged or consolidated, shall be taken and deemed to be transferred to and vested in the surviving or new limited partnership without further act and deed and shall thereafter be the property of the surviving or new limited partnership as they were of any of such merging or consolidating business entities. The title to any real property or any interest in such property vested in any of such merging or consolidating business entities shall not revert or be in any way impaired by reason of such merger or consolidation;

(6) Such surviving or new limited partnership shall be responsible and liable for all the liabilities and obligations of each of the limited partnerships and other business entities so merged or consolidated. Any claim existing or action or proceeding pending by or against any of such limited partnerships or other business entities may be prosecuted as if such merger or consolidation had not taken place or such surviving or new limited partnership may be substituted in its place. Neither the rights of creditors nor any liens upon the property of any such limited partnerships or other business entities shall be impaired by such merger or consolidation; and

(7) The equity interests or securities of each limited partnership or other business entity which is a party to the plan or agreement of merger or

consolidation that are, under the terms of the merger or consolidation, to be converted or exchanged, shall cease to exist, and the holders of such equity interests or securities shall thereafter be entitled only to the cash, property interests, or securities into which they shall have been converted in accordance with the terms of the plan or agreement of merger or consolidation, subject to any rights under sections 21-20,137 to 21-20,150 or the Nebraska Uniform Limited Liability Company Act or other applicable law.

**Source:** Laws 1989, LB 482, § 23; Laws 1990, LB 1228, § 6; Laws 1994, LB 884, § 84; Laws 1995, LB 109, § 227; Laws 1997, LB 523, § 69; Laws 2010, LB888, § 101; Laws 2012, LB1018, § 9; Laws 2013, LB283, § 2.

Effective date September 6, 2013.

**Cross References**

Nebraska Uniform Limited Liability Company Act, see section 21-101.

PART XII

CONVERSION

**67-298 Conversion; articles of conversion.**

(a) After a plan of conversion is approved, a domestic limited partnership that is being converted shall deliver to the Secretary of State for filing articles of conversion which shall include all of the following:

(1) A statement that the domestic limited partnership has been converted into another entity;

(2) The name and form of the other entity and the jurisdiction of its governing statute;

(3) The date the conversion is effective under the governing statute of the converted entity;

(4) A statement that the conversion was approved as required by sections 67-446 to 67-453;

(5) A statement that the conversion was approved as required by the governing statute of the converted entity; and

(6) A domestic limited partnership converting into a foreign limited liability company shall deliver to the office of the Secretary of State for filing (A) a certificate which sets forth all of the information required to be in the certificate or other instrument of conversion filed pursuant to the laws under which the resulting foreign limited liability company is formed and (B) an agreement that the resulting foreign limited liability company may be served with process within or outside this state in any proceeding in the courts of this state for the enforcement of any obligation of the former domestic corporation.

(b) The conversion shall become effective as provided by the Nebraska Uniform Limited Liability Company Act, the Uniform Partnership Act of 1998, or the governing statute of the foreign limited liability company.

**Source:** Laws 2012, LB1018, § 11; Laws 2013, LB283, § 3.

Effective date September 6, 2013.

**Cross References**

Nebraska Uniform Limited Liability Company Act, see section 21-101.

Uniform Partnership Act of 1998, see section 67-401.

## CHAPTER 68

### PUBLIC ASSISTANCE

#### Article.

1. Miscellaneous Provisions. 68-153, 68-156.
9. Medical Assistance Act. 68-911 to 68-936.
10. Assistance, Generally.
  - (a) Assistance to the Aged, Blind, or Disabled. 68-1006.01.
12. Social Services. 68-1202 to 68-1207.01.
16. Homeless Shelter Assistance. 68-1604.
17. Welfare Reform.
  - (a) Welfare Reform Act. 68-1735.01, 68-1735.02.
18. ICF/DD Reimbursement Protection Act. 68-1801 to 68-1809.
20. Children's Health and Treatment Act. 68-2004.

#### ARTICLE 1

#### MISCELLANEOUS PROVISIONS

#### Section

- 68-153. Employable recipients; terms, defined.  
68-156. Repealed. Laws 2013, LB 156, § 3.

#### **68-153 Employable recipients; terms, defined.**

For purposes of sections 68-151 to 68-155:

(1) Community service shall mean labor performed for a governmental agency, nonprofit corporation, or health care corporation;

(2) Employable recipient shall mean any individual who is eighteen years of age or older, who is receiving county general assistance pursuant to sections 68-131 to 68-148, who is not engaged in full-time employment or satisfactorily participating in a county-approved vocational, rehabilitation, job training, or community service program, and who is not rendered unable to work by illness or significant and substantial mental or physical incapacitation to the degree and of the duration that the illness or incapacitation prevents the person from performing designated vocational, rehabilitation, job training, or community service activities;

(3) Full-time employment shall mean being employed at least twenty-five hours per week and receiving wages, tips, and other compensation which meet the applicable federal minimum wage requirements; and

(4) Job training program shall mean vocational training in technical job skills and equivalent knowledge.

**Source:** Laws 1990, LB 422, § 3; Laws 1991, LB 227, § 3; Laws 2013, LB156, § 1.

Effective date September 6, 2013.

**68-156 Repealed. Laws 2013, LB 156, § 3.****ARTICLE 9****MEDICAL ASSISTANCE ACT**

## Section

- 68-911. Medical assistance; mandated and optional coverage; department; submit state plan amendment or waiver.
- 68-919. Medical assistance recipient; liability; when; claim; procedure; department; powers.
- 68-921. Entitlement of spouse; terms, defined.
- 68-935. Terms, defined.
- 68-936. Presentation of false medicaid claim; civil liability; violation of act; civil penalty; damages; costs and attorney's fees.

**68-911 Medical assistance; mandated and optional coverage; department; submit state plan amendment or waiver.**

(1) Medical assistance shall include coverage for health care and related services as required under Title XIX of the federal Social Security Act, including, but not limited to:

- (a) Inpatient and outpatient hospital services;
- (b) Laboratory and X-ray services;
- (c) Nursing facility services;
- (d) Home health services;
- (e) Nursing services;
- (f) Clinic services;
- (g) Physician services;
- (h) Medical and surgical services of a dentist;
- (i) Nurse practitioner services;
- (j) Nurse midwife services;
- (k) Pregnancy-related services;
- (l) Medical supplies;
- (m) Mental health and substance abuse services; and

(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.

(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.

**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.  
Effective date September 6, 2013.

**Note:** The Revisor of Statutes has pursuant to section 49-769 correlated LB23, section 12, with LB556, section 5, to reflect all amendments.

#### Cross References

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

### **68-919 Medical assistance recipient; liability; when; claim; procedure; department; powers.**

(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 when 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.

(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) 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.

(5) 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.

**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.  
Effective date September 6, 2013.

#### **68-921 Entitlement of spouse; terms, defined.**

For purposes of sections 68-921 to 68-925:

(1) Assets means property which is not exempt from consideration in determining eligibility for medical assistance under rules and regulations adopted and promulgated under section 68-922;

(2) Community spouse monthly income allowance means the amount of income determined by the department in accordance with section 1924 of the federal Social Security Act, as amended, Public Law 100-360, 42 U.S.C. 1396r-5;

(3) Community spouse resource allowance means the amount of assets determined in accordance with section 1924 of the federal Social Security Act, as amended, Public Law 100-360, 42 U.S.C. 1396r-5. For purposes of 42 U.S.C. 1396r-5(f)(2)(A)(i), the amount specified by the state shall be twelve thousand dollars;

(4) Home and community-based services means services furnished under home and community-based waivers as defined in Title XIX of the federal Social Security Act, as amended, 42 U.S.C. 1396;

(5) Qualified applicant means a person (a) who applies for medical assistance on or after July 9, 1988, (b) who is under care in a state-licensed hospital, a nursing facility, an intermediate care facility for persons with developmental disabilities, an assisted-living facility, or a center for the developmentally disabled, as such terms are defined in the Health Care Facility Licensure Act, or an adult family home certified by the department or is receiving home and



community-based services, and (c) whose spouse is not under such care or receiving such services and is not applying for or receiving medical assistance;

(6) Qualified recipient means a person (a) who has applied for medical assistance before July 9, 1988, and is eligible for such assistance, (b) who is under care in a facility certified to receive medical assistance funds or is receiving home and community-based services, and (c) whose spouse is not under such care or receiving such services and is not applying for or receiving medical assistance; and

(7) Spouse means the spouse of a qualified applicant or qualified recipient.

**Source:** Laws 1988, LB 419, § 1; Laws 1989, LB 362, § 11; Laws 1991, LB 244, § 1; Laws 1996, LB 1044, § 336; Laws 1997, LB 608, § 4; Laws 2000, LB 819, § 81; R.S.1943, (2003), § 68-1038; Laws 2006, LB 1248, § 21; Laws 2007, LB185, § 3; Laws 2007, LB296, § 250; Laws 2013, LB23, § 14.  
Effective date September 6, 2013.

**Cross References**

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

**68-935 Terms, defined.**

For purposes of the False Medicaid Claims Act:

(1) Attorney General means the Attorney General, the office of the Attorney General, or a designee of the Attorney General;

(2) Claim means any request or demand, whether under a contract or otherwise, for money or property, and whether or not the state has title to the money or property, that:

(a) Is presented to an officer, employee, or agent of the state; or

(b) Is made to a contractor, grantee, or other recipient, if the money or property is to be spent or used on the state's behalf or to advance a state program or interest, and if the state:

(i) Provides or has provided any portion of the money or property requested or demanded; or

(ii) Will reimburse such contractor, grantee, or other recipient for any portion of the money or property which is requested or demanded;

(3) Good or service includes (a) any particular item, device, medical supply, or service claimed to have been provided to a recipient and listed in an itemized claim for payment and (b) any entry in the cost report, books of account, or other documents supporting such good or service;

(4)(a) Knowing and knowingly means that a person, with respect to information:

(i) Has actual knowledge of the information;

(ii) Acts in deliberate ignorance of the truth or falsity of the information; or

(iii) Acts in reckless disregard of the truth or falsity of the information.

(b) Acts committed in a knowing manner or committed knowingly shall not require proof of a specific intent to defraud;

(5) Material means having a natural tendency to influence or be capable of influencing the payment or receipt of money or property;

(6) Obligation means an established duty, whether or not fixed, arising from (a) an express or implied contractual, grantor-grantee, or licensor-licensee relationship, (b) a fee-based or similar relationship, (c) statute or rule or regulation, or (d) the retention of any overpayment;

(7) Person means any body politic or corporate, society, community, the public generally, individual, partnership, limited liability company, joint-stock company, or association; and

(8) Recipient means an individual who is eligible to receive goods or services for which payment may be made under the medical assistance program.

**Source:** Laws 1996, LB 1155, § 68; R.S.1943, (2003), § 68-1037.02; Laws 2004, LB 1084, § 2; R.S.Supp.,2004, § 68-1074; Laws 2006, LB 1248, § 35; Laws 2013, LB277, § 1.  
Effective date September 6, 2013.

**68-936 Presentation of false medicaid claim; civil liability; violation of act; civil penalty; damages; costs and attorney's fees.**

(1) A person presents a false medicaid claim and is subject to civil liability if such person:

(a) Knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval;

(b) Knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim;

(c) Conspires to commit a violation of the False Medicaid Claims Act;

(d) Has possession, custody, or control of property or money used, or to be used, by the state and knowingly delivers, or causes to be delivered, less than all of the money or property;

(e) Is authorized to make or deliver a document certifying receipt of property used, or to be used, by the state and, intending to defraud the state, makes or delivers the receipt knowing that the information on the receipt is not true;

(f) Knowingly buys, or receives as a pledge of an obligation or debt, public property from any officer or employee of the state who may not lawfully sell or pledge such property; or

(g) Knowingly makes, uses, or causes to be made or used, a false record or statement material to an obligation to pay or transmit money or property to the state or knowingly conceals, avoids, or decreases an obligation to pay or transmit money or property to the state.

(2) A person who commits a violation of the False Medicaid Claims Act is subject to, in addition to any other remedies that may be prescribed by law, a civil penalty of not more than ten thousand dollars. In addition to any civil penalty, any such person may be subject to damages in the amount of three times the amount of the false claim because of the act of that person.

(3) If the state is the prevailing party in an action under the False Medicaid Claims Act, the defendant, in addition to penalties and damages, shall pay the state's costs and attorney's fees for the civil action brought to recover penalties or damages under the act.

(4) Liability under this section is joint and several for any act committed by two or more persons.

**Source:** Laws 1996, LB 1155, § 69; Laws 1997, LB 307, § 110; R.S.1943, (2003), § 68-1037.03; Laws 2004, LB 1084, § 3; R.S.Supp.,2004, § 68-1075; Laws 2006, LB 1248, § 36; Laws 2013, LB277, § 2. Effective date September 6, 2013.

**ARTICLE 10  
ASSISTANCE, GENERALLY**

(a) ASSISTANCE TO THE AGED, BLIND, OR DISABLED

Section

68-1006.01. Personal needs allowance; amount authorized.

(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 at least fifty 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. Effective date May 26, 2013.

**ARTICLE 12  
SOCIAL SERVICES**

Section

68-1202. Social services; services included.

68-1206. Social services; administration; contracts; payments; duties.

68-1207. Department of Health and Human Services; public child welfare services; supervise; department; pilot project; caseload requirements; case plan developed.

68-1207.01. Department of Health and Human Services; caseloads report; contents.

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

Social services may be provided on behalf of recipients with payments for such social services made directly to vendors. Social services shall include those mandatory and optional services to former, present, or potential social services recipients provided for under the federal Social Security Act, as amended, and described by the State of Nebraska in the approved State Plan for Services. Such services may include, but shall not be limited to, foster care for children, child care, family planning, treatment for alcoholism and drug addiction, treatment for persons with an intellectual disability, health-related services, protective services for children, homemaker services, employment

services, foster care for adults, protective services for adults, transportation services, home management and other functional education services, housing improvement services, legal services, adult day services, home delivered or congregate meals, educational services, and secondary prevention services, including, but not limited to, home visitation, child screening and early intervention, and parenting education programs.

**Source:** Laws 1973, LB 511, § 2; Laws 1986, LB 1177, § 28; Laws 2000, LB 819, § 82; Laws 2005, LB 264, § 1; Laws 2011, LB177, § 10; Laws 2013, LB23, § 15.  
Effective date September 6, 2013.

**68-1206 Social services; administration; contracts; payments; duties.**

(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. 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. 618, as such section existed on January 1, 2013, and provide child care assistance to families with incomes up to one hundred twenty-five percent of the federal poverty level for FY2013-14 and one hundred thirty percent of the federal poverty level for FY2014-15 and each fiscal year thereafter.

(2) 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.  
Operative date June 5, 2013.

**Cross References**

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; pilot project; 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 and the pilot project described in section 68-1212 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 and the pilot project 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 and by the pilot project 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, either by the department or by a lead agency participating in the pilot project, as a result of a child safety assessment, the department or lead agency shall develop a case plan that specifies the services to be provided and the actions to be taken by the department or lead agency 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.

**Note:** The Revisor of Statutes has pursuant to section 49-769 correlated LB265, section 38, with LB269, section 8, to reflect all amendments.

**Note:** Changes made by LB265 became effective May 26, 2013. Changes made by LB269 became effective June 5, 2013.

**68-1207.01 Department of Health and Human Services; caseloads report; contents.**

The Department of Health and Human Services shall annually provide a report to the Legislature and Governor outlining the caseloads of child protective services, the factors considered in their establishment, and the fiscal resources necessary for their maintenance. The report submitted to the Legislature shall be submitted electronically. For 2012, 2013, and 2014, the department shall also provide electronically the report to the Health and Human Services Committee of the Legislature on or before September 15. Such report shall include:

(1) A comparison of caseloads established by the department with the workload standards recommended by national child welfare organizations along with the amount of fiscal resources necessary to maintain such caseloads in Nebraska;

(2)(a) The number of child welfare case managers employed by the State of Nebraska and child welfare services workers, providing services directly to children and families, who are under contract with the State of Nebraska or employed by a private entity under contract with the State of Nebraska and (b) statistics on the average length of employment in such positions, statewide and by service area designated pursuant to section 81-3116;

(3)(a) The average caseload of child welfare case managers employed by the State of Nebraska and child welfare services workers, providing services directly to children and families, who are under contract with the State of Nebraska or employed by a private entity under contract with the State of Nebraska and (b) the outcomes of such cases, including the number of children reunited with their families, children adopted, children in guardianships, placement of children with relatives, and other permanent resolutions established, statewide and by service area designated pursuant to section 81-3116; and

(4) The average cost of training child welfare case managers employed by the State of Nebraska and child welfare services workers, providing child welfare services directly to children and families, who are under contract with the State of Nebraska or employed by a private entity under contract with the State of Nebraska, statewide and by service area as designated pursuant to section 81-3116.

**Source:** Laws 1990, LB 720, § 2; Laws 1996, LB 1044, § 349; Laws 2005, LB 264, § 3; Laws 2007, LB296, § 281; Laws 2012, LB782, § 96; Laws 2012, LB1160, § 14; Laws 2013, LB222, § 22.

Effective date May 8, 2013.

**ARTICLE 16**

**HOMELESS SHELTER ASSISTANCE**

Section

68-1604. Homeless Shelter Assistance Trust Fund; created; use; investment.

**68-1604 Homeless Shelter Assistance Trust Fund; created; use; investment.**

The Homeless Shelter Assistance Trust Fund is hereby created. The fund shall include the proceeds raised from the documentary stamp tax and remitted for such fund pursuant to section 76-903 and transfers authorized by the Legislature. Money remitted to such fund shall be used by the department (1) for grants to eligible shelter providers as set out in section 68-1605 for the purpose of assisting in the alleviation of homelessness, to provide temporary and permanent shelters for homeless persons, to encourage the development of projects which link housing assistance to programs promoting the concept of self-sufficiency, and to address the needs of the migrant farmworker and (2) to aid in defraying the expenses of administering the Homeless Shelter Assistance Trust Fund Act, which shall not exceed seventy-five thousand dollars in any fiscal year.

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

**Source:** Laws 1992, LB 1192, § 4; Laws 1994, LB 1066, § 62; Laws 2001, LB 516, § 2; Laws 2005, LB 301, § 8; Laws 2013, LB199, § 28.

Effective date May 26, 2013.

**Cross References**

Nebraska Capital Expansion Act, see section 72-1269.

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

**ARTICLE 17**

**WELFARE REFORM**

(a) WELFARE REFORM ACT

Section

68-1735.01. Creating self-sufficiency contract and meeting work activity requirement; applicant; activities authorized.

68-1735.02. Department of Health and Human Services; report; contents.

(a) WELFARE REFORM ACT

**68-1735.01 Creating self-sufficiency contract and meeting work activity requirement; applicant; activities authorized.**

(1) For purposes of this section, target work rate means fifty percent less the caseload reduction credit submitted by the Nebraska Department of Health and Human Services to the United States Department of Health and Human Services for the fiscal year.

(2) For purposes of creating the self-sufficiency contract and meeting the applicant's work activity requirement, an applicant shall be deemed to have met the work activity requirement in a month if he or she is engaged in education directly related to employment for an average of at least twenty hours per week during such month. Education directly related to employment includes, but is not limited to, Adult Basic Education, English as a Second Language, and a general education development program.

(3) No state funds shall be used to carry out this section unless such state funds meet the definition of qualified state expenditures under the federal Temporary Assistance for Needy Families program, 42 U.S.C. 609(a)(7)(B)(i).

(4) If Nebraska's work participation rate under the federal Temporary Assistance for Needy Families program, 42 U.S.C. 601 et seq., does not exceed the target work rate by ten percentage points in any month, the Department of Health and Human Services may suspend the requirements of subsection (2) of this section until the work participation rate exceeds the target work rate by ten percentage points for three consecutive months.

**Source:** Laws 2012, LB507, § 3; Laws 2013, LB240, § 1.  
Effective date September 6, 2013.  
Termination date December 31, 2016.

#### **68-1735.02 Department of Health and Human Services; report; contents.**

The Department of Health and Human Services shall submit electronically an annual report to the Legislature on October 1 on the following:

(1) The number of persons on a quarterly basis participating in a self-sufficiency contract who are engaged in one of the following activities:

- (a) An associate degree program;
- (b) A vocational education program not leading to an associate degree;
- (c) Postsecondary education other than a program described in subdivision (1)(a) or (b) of this section;
- (d) Adult Basic Education;
- (e) English as a Second Language; or
- (f) A general education development program; and

(2) The number of persons participating in a self-sufficiency contract who obtain or maintain employment for six months, twelve months, eighteen months, and twenty-four months after such persons are no longer eligible for cash assistance due to obtaining employment.

**Source:** Laws 2012, LB507, § 4; Laws 2013, LB222, § 23.  
Effective date May 8, 2013.  
Termination date December 31, 2016.

### **ARTICLE 18**

#### **ICF/DD REIMBURSEMENT PROTECTION ACT**

Section	
68-1801.	Act, how cited.
68-1802.	Terms, defined.
68-1803.	Tax; rate; collection; report.
68-1804.	ICF/DD Reimbursement Protection Fund; created; use; allocation; investment; report.
68-1805.	State medicaid plan; application for amendment; tax; when due.
68-1806.	Collection of tax; discontinued; when; effect.
68-1806.01.	Tax; use.
68-1807.	Failure to pay tax; penalty.
68-1808.	Refund; procedure.
68-1809.	Rules and regulations.

#### **68-1801 Act, how cited.**

Sections 68-1801 to 68-1809 shall be known and may be cited as the ICF/DD Reimbursement Protection Act.

**Source:** Laws 2004, LB 841, § 2; Laws 2013, LB23, § 16.  
Effective date September 6, 2013.



**68-1802 Terms, defined.**

For purposes of the ICF/DD Reimbursement Protection Act:

- (1) Department means the Department of Health and Human Services;
- (2) Intermediate care facility for persons with developmental disabilities has the definition found in section 71-421;
- (3) Medical assistance program means the program established pursuant to the Medical Assistance Act; and
- (4) Net revenue means the revenue paid to an intermediate care facility for persons with developmental disabilities for resident care, room, board, and services less contractual adjustments and does not include revenue from sources other than operations, including, but not limited to, interest and guest meals.

**Source:** Laws 2004, LB 841, § 3; Laws 2006, LB 1248, § 72; Laws 2007, LB296, § 292; Laws 2013, LB23, § 17.  
Effective date September 6, 2013.

**Cross References**

Medical Assistance Act, see section 68-901.

**68-1803 Tax; rate; collection; report.**

(1) Each intermediate care facility for persons with developmental disabilities shall pay a tax equal to a percentage of its net revenue for the most recent State of Nebraska fiscal year. The percentage shall be (a) six percent prior to January 1, 2008, (b) five and one-half percent beginning January 1, 2008, through September 30, 2011, and (c) six percent beginning October 1, 2011.

(2) Taxes collected under this section shall be remitted to the State Treasurer for credit to the ICF/DD Reimbursement Protection Fund.

(3) Taxes collected pursuant to this section shall be reported on a separate line on the cost report of the intermediate care facility for persons with developmental disabilities, regardless of how such costs are reported on any other cost report or income statement. The department shall recognize such tax as an allowable cost within the state plan for reimbursement of intermediate care facilities for persons with developmental disabilities which participate in the medical assistance program. The tax shall be a direct pass-through and shall not be subject to cost limitations.

**Source:** Laws 2004, LB 841, § 4; Laws 2006, LB 1248, § 73; Laws 2007, LB292, § 2; Laws 2013, LB23, § 18.  
Effective date September 6, 2013.

**68-1804 ICF/DD Reimbursement Protection Fund; created; use; allocation; investment; report.**

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

(2) Beginning July 1, 2014, the department shall use the ICF/DD Reimbursement Protection Fund, including the matching federal financial participation under Title XIX of the Social Security Act, as amended, for purposes of

enhancing rates paid under the medical assistance program to intermediate care facilities for persons with developmental disabilities and for an annual contribution to community-based programs for persons with developmental disabilities as specified in subsection (4) of this section, exclusive of the reimbursement paid under the medical assistance program and any other state appropriations to intermediate care facilities for persons with developmental disabilities.

(3) For FY2011-12 through FY2013-14, proceeds from the tax imposed pursuant to section 68-1803 shall be remitted to the State Treasurer for credit to the ICF/DD Reimbursement Protection Fund for allocation as follows:

(a) First, fifty-five thousand dollars for administration of the fund;

(b) Second, the amount needed to reimburse intermediate care facilities for persons with developmental disabilities for the cost of the tax;

(c) Third, three hundred twelve thousand dollars for community-based services for persons with developmental disabilities;

(d) Fourth, six hundred thousand dollars or such lesser amount as may be available in the fund for non-state-operated intermediate care facilities for persons with developmental disabilities, in addition to any continuation appropriations percentage increase provided by the Legislature to nongovernmental intermediate care facilities for persons with developmental disabilities under the medical assistance program, subject to approval by the federal Centers for Medicare and Medicaid Services of the department's annual application amending the medicaid state plan reimbursement methodology for intermediate care facilities for persons with developmental disabilities; and

(e) Fifth, the remainder of the proceeds to the General Fund.

(4) For FY2014-15 and each fiscal year thereafter, the ICF/DD Reimbursement Protection Fund shall be used as follows:

(a) First, fifty-five thousand dollars to the department for administration of the fund;

(b) Second, payment to the intermediate care facilities for persons with developmental disabilities for the cost of the tax;

(c) Third, three hundred twelve thousand dollars, in addition to any federal medicaid matching funds, for payment to providers of community-based services for persons with developmental disabilities;

(d) Fourth, one million dollars to the General Fund; and

(e) Fifth, rebase rates under the medical assistance program in accordance with the medicaid state plan as defined in section 68-907. In calculating rates, the proceeds of the tax provided for in section 68-1803 and not utilized under subdivisions (a), (b), (c), and (d) of this subsection shall be used to enhance rates in non-state-operated intermediate care facilities for persons with developmental disabilities by increasing the annual inflation factor to the extent allowed by such proceeds and any funds appropriated by the Legislature.

(5) The Division of Medicaid and Long-Term Care of the Department of Health and Human Services shall report electronically, no later than December 1 of each year, to the Health and Human Services Committee of the Legislature and the Revenue Committee of the Legislature the amounts collected from each

payer of the tax pursuant to section 68-1803 and the amount of each disbursement from the ICF/DD Reimbursement Protection Fund.

**Source:** Laws 2004, LB 841, § 5; Laws 2010, LB701, § 1; Laws 2013, LB23, § 19.

Effective date September 6, 2013.

**Cross References**

Nebraska Capital Expansion Act, see section 72-1269.

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

**68-1805 State medicaid plan; application for amendment; tax; when due.**

(1) On or before July 1, 2004, the department shall submit an application to the Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services amending the state medicaid plan to provide for utilization of money in the ICF/DD Reimbursement Protection Fund to increase medicaid payments to intermediate care facilities for persons with developmental disabilities.

(2) The tax imposed under section 68-1803 is not due and payable until such amendment to the state medicaid plan is approved by the Centers for Medicare and Medicaid Services.

**Source:** Laws 2004, LB 841, § 6; Laws 2013, LB23, § 20.

Effective date September 6, 2013.

**68-1806 Collection of tax; discontinued; when; effect.**

(1) Until July 1, 2014:

(a) Collection of the tax imposed by section 68-1803 shall be discontinued if:

(i) The amendment to the state medicaid plan described in section 68-1805 is disapproved by the Centers for Medicare and Medicaid Services;

(ii) The department reduces rates paid to intermediate care facilities for persons with developmental disabilities to an amount less than the rates effective September 1, 2003; or

(iii) The department or any other state agency attempts to utilize the money in the ICF/DD Reimbursement Protection Fund for any use other than uses permitted pursuant to the ICF/DD Reimbursement Protection Act; and

(b) If collection of the tax is discontinued as provided in subdivision (a) of this subsection, all money in the fund shall be returned to the intermediate care facilities for persons with developmental disabilities from which the tax was collected on the same basis as the tax was assessed.

(2) Beginning on July 1, 2014:

(a) The department shall discontinue collection of the tax provided for in section 68-1803:

(i) If federal financial participation to match the payments by intermediate care facilities for persons with developmental disabilities pursuant to section 68-1803 becomes unavailable under federal law or the rules and regulations of the Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services; or

(ii) If money in the ICF/DD Reimbursement Protection Fund is appropriated, transferred, or otherwise expended for any use other than uses permitted pursuant to the ICF/DD Reimbursement Protection Act; and

(b) If collection of the tax provided for in section 68-1803 is discontinued as provided in subdivision (a) of this subsection, the money in the ICF/DD Reimbursement Protection Fund shall be returned to the intermediate care facilities for persons with developmental disabilities from which the tax was collected on the same basis as collected.

**Source:** Laws 2004, LB 841, § 7; Laws 2013, LB23, § 21.  
Effective date September 6, 2013.

**68-1806.01 Tax; use.**

The department shall collect the tax provided for in section 68-1803 and remit the tax to the State Treasurer for credit to the ICF/DD Reimbursement Protection Fund. Beginning July 1, 2014, no proceeds from the tax provided for in section 68-1803, including the federal match, shall be placed in the General Fund unless otherwise provided in the ICF/DD Reimbursement Protection Act.

**Source:** Laws 2013, LB23, § 22.  
Effective date September 6, 2013.

**68-1807 Failure to pay tax; penalty.**

(1) An intermediate care facility for persons with developmental disabilities that fails to pay the tax required by section 68-1803 shall be subject to a penalty of five hundred dollars per day of delinquency. The total amount of the penalty assessed under this section shall not exceed five percent of the tax due from the intermediate care facility for persons with developmental disabilities for the year for which the tax is assessed.

(2) The department shall collect the penalties and remit them to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

**Source:** Laws 2004, LB 841, § 8; Laws 2007, LB296, § 293; Laws 2013, LB23, § 23.  
Effective date September 6, 2013.

**68-1808 Refund; procedure.**

An intermediate care facility for persons with developmental disabilities that has paid a tax that is not required by section 68-1803 may file a claim for refund with the department. The department may by rule and regulation establish procedures for filing and consideration of such claims.

**Source:** Laws 2004, LB 841, § 9; Laws 2013, LB23, § 24.  
Effective date September 6, 2013.

**68-1809 Rules and regulations.**

The department may adopt and promulgate rules and regulations to carry out the ICF/DD Reimbursement Protection Act.

**Source:** Laws 2004, LB 841, § 10; Laws 2013, LB23, § 25.  
Effective date September 6, 2013.

## ARTICLE 20

## CHILDREN'S HEALTH AND TREATMENT ACT

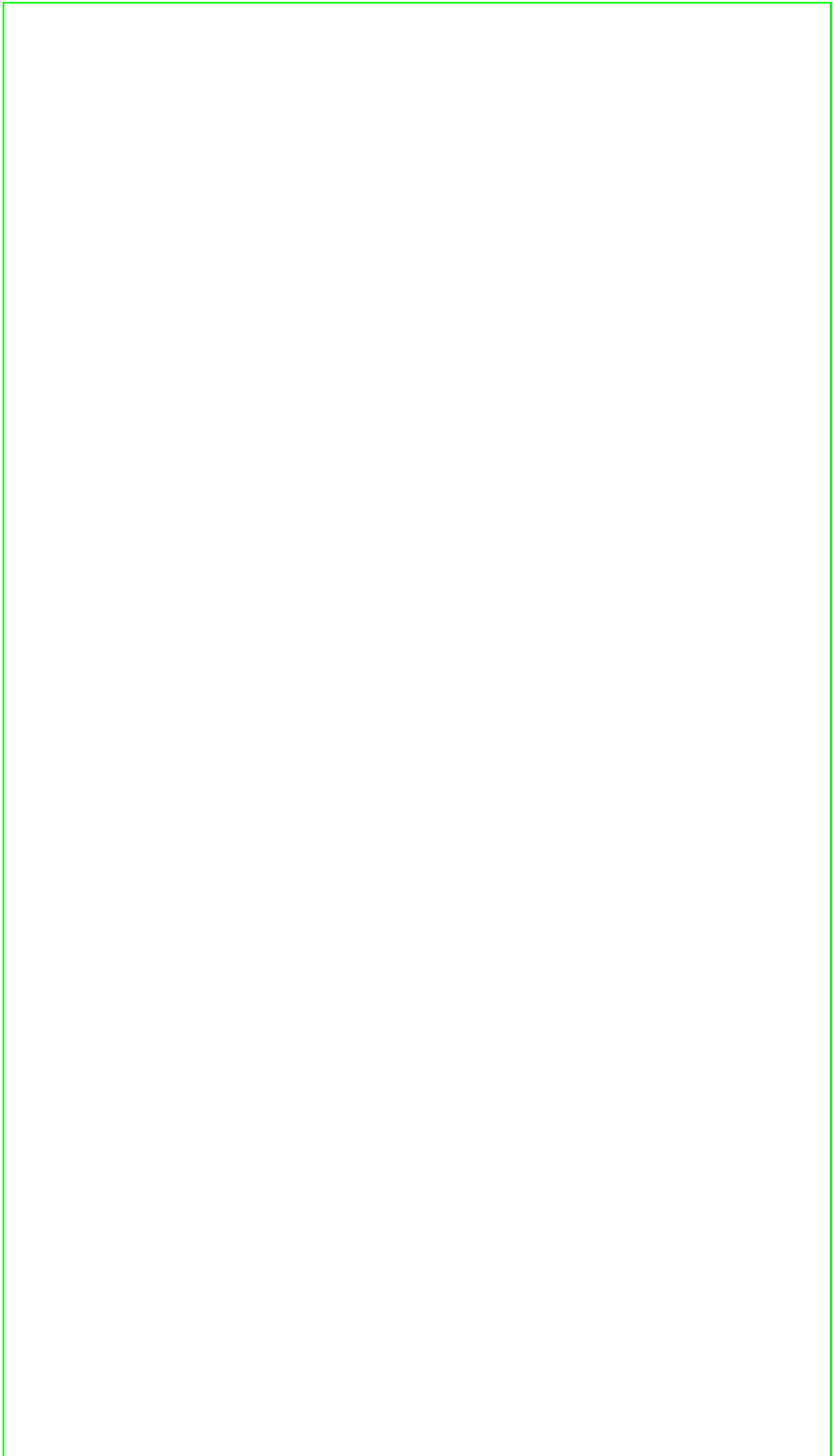
Section

68-2004. Department; report; contents.

**68-2004 Department; report; contents.**

The department shall report to the Health and Human Services Committee of the Legislature on utilization controls, including, but not limited to, the rates of initial service authorizations, reauthorizations subsequent to initial service authorizations, and denials for behavioral health services for children under nineteen years of age. The first report shall be due on October 1, 2012, and shall contain such rates of initial service authorizations, reauthorizations subsequent to initial service authorizations, and denials for behavioral health services for children under nineteen years of age for the first three quarters of 2012. Thereafter, on January 1, April 1, and July 1 of each year, the department shall report electronically such rates of initial service authorizations, reauthorizations subsequent to initial service authorizations, and denials for behavioral health services for children under nineteen years of age for the previous calendar quarter.

**Source:** Laws 2012, LB1063, § 4; Laws 2013, LB222, § 24.  
Effective date May 8, 2013.



## CHAPTER 70

### POWER DISTRICTS AND CORPORATIONS

Article.

6. Public Power and Irrigation Districts. 70-612 to 70-619.
10. Nebraska Power Review Board. 70-1013, 70-1028.
19. Rural Community-Based Energy Development Act. 70-1903.

#### ARTICLE 6

#### PUBLIC POWER AND IRRIGATION DISTRICTS

Section

- 70-612. Board of directors; election; subdivisions; procedure.  
70-615. Board of directors; vacancy; how filled.  
70-619. Board of directors; qualifications.

#### **70-612 Board of directors; election; subdivisions; procedure.**

(1)(a) Subject to the provisions of Chapter 70, article 6, and subject to the approval of the Nebraska Power Review Board, the board of directors of a district, other than a district with a service area containing a city of the metropolitan class, may amend the petition for its creation to provide for the division of the territory of such district into two or more subdivisions for the nomination and election of some or all of the directors. Each subdivision shall be composed of one or more voting precincts, or divided voting precincts, and the total population of each such subdivision shall be approximately the same. Except in districts which contain a city of the metropolitan class, two or more subdivisions may be combined for election purposes, and members of the board of directors to be elected from such combined subdivisions may be nominated and elected at large when not less than seventy-five percent of the population of the combined subdivisions is within the corporate limits of any city.

(b) In the event a district formed includes all or part of two or more counties and is (i) engaged in furnishing electric light and power and more than fifty percent of its customers are rural customers or (ii) engaged in furnishing electric light and power and in the business of owning and operating irrigation works, then and in that event such subdivisions may be formed by following precinct or county boundary lines without regard to population if in the judgment of the Nebraska Power Review Board the interests of the rural users of electricity or of users of irrigation water service in such district will not be prejudiced thereby.

(2)(a) The board of directors of a district with a service area containing a city of the metropolitan class may amend its charter to provide for the division of the territory of the district into election subdivisions composed of substantially equal population and compact and contiguous territory and number the subdivisions consecutively and submit the maps to the Nebraska Power Review Board.

(b) If the board of directors provides for eight election subdivisions prior to January 1, 2014, the board of directors shall assign each position on the board of directors to represent a numbered election subdivision for the remainder of

the term of office for which the member is elected, regardless of whether the member resides in the subdivision, and shall make such assignments so that the terms of members representing election subdivisions numbered one, two, and three expire in January 2015, the terms of members representing election subdivisions numbered four and five expire in January 2017, and the terms of members representing election subdivisions six, seven, and eight expire in January 2019. If possible, each member shall be assigned to represent an election subdivision that corresponds to the end of the term he or she is serving.

(c) A successor who resides in the numbered election subdivision shall be nominated and elected at the statewide primary and general elections held in the calendar year prior to the expiration of the term of the member who represents such numbered election subdivision.

(3) After each federal decennial census, the board of directors of a district with a service area containing a city of the metropolitan class shall create new boundaries for the election subdivisions. In establishing the boundaries of the election subdivisions, the board of directors shall follow county lines wherever practicable, shall provide for the subdivisions to be composed of substantially equal population and compact and contiguous territory, and shall, as nearly as possible, follow the precinct lines created by the election commissioner or county clerk after each federal decennial census.

(4) Any public power district or public power and irrigation district owning and operating irrigation works may, with approval of the Nebraska Power Review Board, add representation on its board of directors from any county which is outside its chartered territory but in which is located some or all of such irrigation works.

**Source:** 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(3), p. 511; Laws 1943, c. 146, § 1, p. 516; R.S.1943, § 70-612; Laws 1967, c. 418, § 3, p. 1287; Laws 1981, LB 181, § 14; Laws 1982, LB 198, § 3; Laws 1986, LB 949, § 12; Laws 1992, LB 424, § 18; Laws 1992, LB 573, § 9; Laws 2013, LB646, § 2.  
Effective date September 6, 2013.

#### **70-615 Board of directors; vacancy; how filled.**

(1) In addition to the events listed in section 32-560, a vacancy on the board of directors shall exist in the event of the (a) removal from the chartered area of any director, (b) removal from the subdivision from which such director was elected except as otherwise provided in subsection (2) or (3) of section 70-612, (c) elimination or detachment from the chartered area of the territory in which a director or directors reside, or (d) expiration of the term of office of a director and failure to elect a director to fill such office at the preceding general election. After notice and hearing, a vacancy shall also exist in the event of the absence of any director from more than two consecutive regular meetings of the board, unless such absences are excused by a majority of the remaining board members.

(2) In the event of a vacancy from any of such causes, or otherwise, such vacancy or vacancies shall, except in districts having within their chartered area twenty-five or more cities and villages, be filled by the board of directors.



In districts having within their chartered area twenty-five or more cities and villages, vacancies shall be filled by the Governor.

(3) If a vacancy occurs during the term of any director prior to the deadline for filing and the unexpired term extends beyond the first Thursday after the first Tuesday in January following the next general election, an appointment shall be until the first Thursday after the first Tuesday in January following the next general election, and candidates may file nomination papers as provided by law for the placing of their names upon the ballot for election to the unexpired term. If a vacancy occurs during the term of any director after the deadline for filing for election, an appointment shall be until the first Thursday after the first Tuesday in January following the next general election for which candidates may file nomination papers as provided by law.

(4) At any time a vacancy is to be filled by election, the secretary of the district shall give notice to the public by publishing the notice of vacancy, length of term, and the deadline for filing, once in a newspaper or newspapers of general circulation within the district.

(5) Any appointment shall be filed with the Secretary of State by certified mail.

**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(7), p. 514; Laws 1943, c. 146, § 1, p. 516; R.S.1943, § 70-615; Laws 1945, c. 157, § 3, p. 518; Laws 1953, c. 106, § 31, p. 338; Laws 1957, c. 124, § 23, p. 436; Laws 1967, c. 418, § 5, p. 1268; Laws 1973, LB 364, § 3; Laws 1975, LB 453, § 59; Laws 1985, LB 569, § 2; Laws 1994, LB 76, § 584; Laws 2013, LB646, § 3.  
Effective date September 6, 2013.

#### **70-619 Board of directors; qualifications.**

(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 unless such person resigns or assumes an unpaid leave of absence for the term as a member. The district shall grant such leave of absence when requested by any employee for the purpose of the employee serving as a member of the board of directors. No person shall be qualified to be a member of more than one such district board, except that a director of a rural public power district may serve as a director of another public power district formed or organized for the purpose of generating electric energy or transmitting electric energy exclusively for resale to some other public power districts, rural electric cooperatives, and membership associations or municipalities. No member of a governing body of any one of

the municipalities within the areas of the district shall be qualified to 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.

Effective date September 6, 2013.

#### Cross References

Eligibility, additional requirements, see section 70-610.

## ARTICLE 10

### NEBRASKA POWER REVIEW BOARD

#### Section

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

70-1028. Electric transmission line approved for construction in regional transmission organization transmission plan; notice to Nebraska Power Review Board; failure to provide notice; effect.

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

Upon application being filed under section 70-1012, the board shall fix a time and place for hearing and shall give ten days' notice by mail to such power suppliers as it deems to be affected by the application. The hearing shall be held within sixty days unless for good cause shown the applicant requests in writing that such hearing not be scheduled until a later time, but in any event such hearing shall be held not more than one hundred twenty days after the filing of the application and the board shall give its decision within sixty days after the conclusion of the hearing. Any parties interested may appear, file objections, and offer evidence. The board may grant the application without notice or hearing, upon the filing of such waivers as it may require, if in its judgment the finding required by section 70-1014 or 70-1014.01 or subdivision (2)(a) of section 70-1014.02 can be made without a hearing. Such hearing shall be conducted as provided in section 70-1006. The board may allow amendments to the application, in the interests of justice.

**Source:** Laws 1963, c. 397, § 13, p. 1265; Laws 1967, c. 425, § 1, p. 1301; Laws 2010, LB1048, § 4; Laws 2011, LB208, § 2; Laws 2013, LB340, § 1.

Effective date September 6, 2013.

#### **70-1028 Electric transmission line approved for construction in regional transmission organization transmission plan; notice to Nebraska Power Review Board; failure to provide notice; effect.**

(1) If an electric transmission line has been approved for construction in a regional transmission organization transmission plan, the incumbent electric

transmission owner of the existing electric transmission facilities to which the electric transmission line will connect shall give notice to the Nebraska Power Review Board, in writing, within ninety days after such approval, if it intends to construct, own, and maintain the electric transmission line. If no notice is provided, the incumbent electric transmission owner shall surrender its first right to construct, own, and maintain the electric transmission line and any other incumbent electric transmission owner may file an application for the electric transmission line under section 70-1012. Within twenty-four months after such notice, the incumbent electric transmission owner shall file an application with the board pursuant to section 70-1012.

(2) For purposes of this section: (a) Electric transmission line means any line and related facilities connecting to existing electric transmission facilities for transmitting electric energy at a voltage of one hundred kilovolts or greater, other than a line solely for connecting an electric generation facility to facilities owned by an electric supplier; (b) incumbent electric transmission owner means an entity that: (i) Is an electric supplier; (ii) is a member of a regional transmission organization; and (iii) owns and operates electric transmission lines at a voltage of one hundred kilovolts or greater; and (c) regional transmission organization has the meaning provided in section 70-1001.01.

**Source:** Laws 2013, LB388, § 1.

Effective date September 6, 2013.

## ARTICLE 19

### RURAL COMMUNITY-BASED ENERGY DEVELOPMENT ACT

Section

70-1903. Terms, defined.

#### **70-1903 Terms, defined.**

For purposes of the Rural Community-Based Energy Development Act:

(1) C-BED project or community-based energy development project means a new wind energy project that:

(a) Has an ownership structure as follows:

(i) For a C-BED project that consists of more than two turbines, has one or more qualified owners with no single individual qualified owner owning directly or indirectly more than fifteen percent of the project and with at least thirty-three percent of the gross power purchase agreement payments flowing to the qualified owner or owners or local community; or

(ii) For a C-BED project that consists of one or two turbines, has one or more qualified owners with at least thirty-three percent of the gross power purchase agreement payments flowing to a qualified owner or owners or local community; and

(b) Has a resolution of support adopted:

(i) By the county board of each county in which the C-BED project is to be located; or

(ii) By the tribal council for a C-BED project located within the boundaries of an Indian reservation;

(2) Debt financing payments means principal, interest, and other typical financing costs paid by the C-BED project company to one or more third-party

financial institutions for the financing or refinancing of the construction of the C-BED project. Debt financing payments does not include the repayment of principal at the time of a refinancing;

(3) Electric utility means an electric supplier that:

(a) Owns more than one hundred miles of one-hundred-fifteen-kilovolt or larger transmission lines in the State of Nebraska;

(b) Owns more than two hundred megawatts of electric generating facilities; and

(c) Has the obligation to directly serve more than two hundred megawatts of wholesale or retail electric load in the State of Nebraska;

(4) Gross power purchase agreement payments means the total amount of payments during the life of the agreement. For power purchase agreements entered into on or before December 31, 2011, if the qualified owners have a combined total of at least thirty-three percent of the equity ownership in the C-BED project, gross power purchase agreement payments shall be reduced by the debt financing payments; and

(5) Qualified owner means:

(a) A Nebraska resident;

(b) A limited liability company that is organized under the Nebraska Uniform Limited Liability Company Act and that is made up of members who are Nebraska residents;

(c) A Nebraska nonprofit corporation organized under the Nebraska Nonprofit Corporation Act;

(d) An electric supplier as defined in section 70-1001.01, except that ownership in a single C-BED project is limited to no more than:

(i) Fifteen percent either directly or indirectly by a single electric supplier; and

(ii) A combined total of twenty-five percent ownership either directly or indirectly by multiple electric suppliers; or

(e) A tribal council.

**Source:** Laws 2007, LB629, § 3; Laws 2008, LB916, § 1; Laws 2009, LB561, § 3; Laws 2010, LB888, § 102; Laws 2013, LB283, § 4. Effective date September 6, 2013.

#### Cross References

Nebraska Nonprofit Corporation Act, see section 21-1901.

Nebraska Uniform Limited Liability Company Act, see section 21-101.

## CHAPTER 71

### PUBLIC HEALTH AND WELFARE

Article.

4. Health Care Facilities. 71-401 to 71-469.
5. Diseases.
  - (a) Contagious, Infectious, and Malignant Diseases. 71-503.01 to 71-503.03.
  - (l) Newborn Critical Congenital Heart Disease Screening Act. 71-553 to 71-557.
8. Behavioral Health Services. 71-802 to 71-825.
11. Developmental Disabilities Court-Ordered Custody Act. 71-1101 to 71-1110.
15. Housing.
  - (c) Modular Housing Units. 71-1567.
19. Care of Children.
  - (a) Foster Care Licensure. 71-1901 to 71-1907.
  - (b) Child Care Licensure. 71-1908 to 71-1919.
  - (c) Children's Residential Facilities and Placing Licensure Act. 71-1924 to 71-1951.
  - (d) Step Up to Quality Child Care Act. 71-1952 to 71-1964.
21. Infants. 71-2102.
24. Drugs.
  - (c) Emergency Box Drug Act. 71-2411.
  - (j) Automated Medication Systems Act. 71-2444 to 71-2452.
25. Poisons.
  - (c) Lead Poisoning Prevention Program. 71-2518.
34. Reduction in Morbidity and Mortality.
  - (b) Child and Maternal Deaths. 71-3404 to 71-3411.
46. Manufactured Homes, Recreational Vehicles, and Mobile Home Parks.
  - (a) Manufactured Homes and Recreational Vehicles. 71-4609.
51. Emergency Medical Services.
  - (e) Nebraska Emergency Medical System Operations Fund. 71-51,103.
52. Resident Physician Education and Dental Education Programs.
  - (a) Family Practice Residency. 71-5206.01.
58. Health Care; Certificate of Need. 71-5803.09 to 71-5829.04.
60. Nursing Homes.
  - (b) Nebraska Nursing Home Act. 71-6018.01.
  - (c) Training Requirements. 71-6039.
67. Medication Regulation.
  - (b) Medication Aide Act. 71-6721 to 71-6727.
76. Health Care.
  - (b) Nebraska Health Care Funding Act. 71-7611.
85. Telehealth Services.
  - (a) Nebraska Telehealth Act. 71-8506.
  - (b) Children's Behavioral Health. 71-8509 to 71-8512.

#### ARTICLE 4

#### HEALTH CARE FACILITIES

Section

- 71-401. Act, how cited.
- 71-413. Health care facility, defined.
- 71-421. Intermediate care facility for persons with developmental disabilities, defined.
- 71-428. Respite care service, defined.
- 71-434. License fees.
- 71-467. General acute hospital; employees; influenza vaccinations; tetanus-diphtheria-pertussis vaccine; duties; record.
- 71-469. Onsite vaccinations for diphtheria, tetanus, and pertussis.

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

Sections 71-401 to 71-469 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.  
Effective date September 6, 2013.

**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 center, a nursing facility, a pharmacy, a psychiatric or mental hospital, a public health clinic, a rehabilitation hospital, a skilled nursing facility, or a substance abuse treatment center.

**Source:** Laws 2000, LB 819, § 13; Laws 2013, LB23, § 26.  
Effective date September 6, 2013.

**71-421 Intermediate care facility for persons with developmental disabilities, defined.**

Intermediate care facility for persons with developmental disabilities means a facility where shelter, food, and training or habilitation services, advice, counseling, diagnosis, treatment, care, nursing care, or related services are provided for a period of more than twenty-four consecutive hours to four or more persons residing at such facility who have a developmental disability.

**Source:** Laws 2000, LB 819, § 21; Laws 2013, LB23, § 27.  
Effective date September 6, 2013.

**71-428 Respite care service, defined.**

(1) Respite care service means 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.

(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.

Effective date May 26, 2013.

#### Cross References

**Child Care Licensing Act**, see section 71-1908.

**Children's Residential Facilities and Placing Licensure Act**, see section 71-1924.

### 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 collect a fee from any applicant or licensee requesting an informal conference with a representative peer review organization

under section 71-452 to cover all costs and expenses associated with such conference.

(6) The department shall adopt and promulgate rules and regulations for the establishment of license fees under this section.

(7) 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.  
Effective date September 6, 2013.

**71-467 General acute hospital; employees; influenza vaccinations; tetanus-diphtheria-pertussis vaccine; duties; record.**

(1) Each general acute hospital shall take all of the following actions in accordance with the guidelines of the Centers for Disease Control and Prevention of the United States Public Health Service of the United States Department of Health and Human Services as the guidelines existed on January 1, 2013:

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

(b) Offer to all hospital employees a single dose of tetanus-diphtheria-pertussis vaccine if they have not previously received such vaccine and regardless of the time since their most recent vaccination with such vaccine; and

(c) Require all hospital employees to be vaccinated against influenza, tetanus, diphtheria, and pertussis, except that an employee may elect not to be vaccinated.

(2) The hospital shall keep a record of which hospital employees receive the annual vaccination against influenza and a single dose of tetanus-diphtheria-pertussis vaccine and which hospital employees do not receive such vaccinations.

**Source:** Laws 2011, LB542, § 2; Laws 2013, LB458, § 1.  
Effective date September 6, 2013.

**71-469 Onsite vaccinations for diphtheria, tetanus, and pertussis.**

In order to prevent, detect, and control diphtheria, tetanus, and pertussis in Nebraska, each general acute hospital, intermediate care facility, nursing facility, and skilled nursing facility shall offer onsite vaccinations for diphtheria, tetanus, and pertussis to all residents and to all inpatients prior to discharge, pursuant to procedures of the facility and in accordance with the recommendations of the advisory committee on immunization practices of the Centers for Disease Control and Prevention of the United States Public Health Service of the United States Department of Health and Human Services as the recommendations existed on January 1, 2013. Nothing in this section shall be construed to require any facility listed in this section to bear the cost of a vaccination provided pursuant to this section.

**Source:** Laws 2013, LB459, § 2.  
Effective date September 6, 2013.



## ARTICLE 5

## DISEASES

## (a) CONTAGIOUS, INFECTIOUS, AND MALIGNANT DISEASES

## Section

- 71-503.01. Reports required; confidentiality; limitations on use; immunity.  
 71-503.02. Chlamydia or gonorrhea; prescription oral antibiotic drugs; powers of medical professionals; restrictions.  
 71-503.03. Chlamydia or gonorrhea; prescription oral antibiotic drugs; rules and regulations.

## (l) NEWBORN CRITICAL CONGENITAL HEART DISEASE SCREENING ACT

- 71-553. Act, how cited.  
 71-554. Legislative findings.  
 71-555. Terms, defined.  
 71-556. Newborn; critical congenital heart disease screening; responsibilities.  
 71-557. Department; duties; rules and regulations.

## (a) CONTAGIOUS, INFECTIOUS, AND MALIGNANT DISEASES

**71-503.01 Reports required; confidentiality; limitations on use; immunity.**

(1) Whenever any statute of the state, any ordinance or resolution of a municipal corporation or political subdivision enacted pursuant to statute, or any rule or regulation of an administrative agency adopted and promulgated pursuant to statute allows medical practitioners or other persons to prescribe, provide, or dispense prescription drugs pursuant to sections 71-503.02 and 71-503.03 or requires medical practitioners or other persons to report cases of communicable diseases, including sexually transmitted diseases and other reportable diseases, illnesses, or poisonings or to give notification of positive laboratory findings to the Department of Health and Human Services or any county or city board of health, local public health department established pursuant to sections 71-1626 to 71-1636, city health department, local health agency, or state or local public official exercising the duties and responsibilities of any board of health or health department, such reports or notifications and the resulting investigations and such prescription, provision, or dispensing of prescription drugs and records pertaining thereto shall be confidential except as provided in this section, shall not be subject to subpoena, and 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.

(2) In order to further the protection of public health, such reports, notifications, and prescription, provision, or dispensing of prescription drugs may be disclosed by the Department of Health and Human Services, the official local health department, and the person making such reports or notifications to the Centers for Disease Control and Prevention of the Public Health Service of the United States Department of Health and Human Services or its successor in such a manner as to ensure that the identity of any individual cannot be ascertained except as required for delivery of such prescription drugs pursuant to sections 71-503.02 and 71-503.03. To further protect the public health, the Department of Health and Human Services, the official local health department, and the person making the report or notification may disclose to the official state and local health departments of other states, territories, and the District of Columbia such reports and notifications, including sufficient identifi-

cation and information so as to ensure that such investigations as deemed necessary are made.

(3) The appropriate board, health department, agency, or official may: (a) Publish analyses of reports, information, and the notifications described in subsection (1) of this section for scientific and public health purposes in such a manner as to ensure that the identity of any individual concerned cannot be ascertained; (b) discuss the report or notification with the attending physician; and (c) make such investigation as deemed necessary.

(4) Any medical practitioner, any official health department, the Department of Health and Human Services, or any other person making such reports or notifications or prescribing, providing, or dispensing such prescription drugs pursuant to sections 71-503.02 and 71-503.03 shall be immune from suit for slander or libel or breach of privileged communication based on any statements contained in such reports and notifications or pursuant to prescription, provision, or dispensing of such prescription drugs.

**Source:** Laws 1967, c. 441, § 2, p. 1381; Laws 1986, LB 763, § 3; Laws 1988, LB 1012, § 8; Laws 1991, LB 703, § 25; Laws 1994, LB 819, § 3; Laws 1996, LB 1044, § 494; Laws 1997, LB 197, § 4; Laws 2005, LB 301, § 13; Laws 2007, LB296, § 382; Laws 2013, LB528, § 3.

Effective date September 6, 2013.

**71-503.02 Chlamydia or gonorrhea; 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 or gonorrhea, the physician may prescribe, provide, 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 and gonorrhea 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.

Effective date September 6, 2013.

## Cross References

Uniform Credentialing Act, see section 38-101.

**71-503.03 Chlamydia or gonorrhea; prescription oral antibiotic drugs; rules and regulations.**

The Department of Health and Human Services may adopt and promulgate rules and regulations to carry out section 71-503.02.

**Source:** Laws 2013, LB528, § 2.  
Effective date September 6, 2013.

(I) NEWBORN CRITICAL CONGENITAL HEART  
DISEASE SCREENING ACT

**71-553 Act, how cited.**

Sections 71-553 to 71-557 shall be known and may be cited as the Newborn Critical Congenital Heart Disease Screening Act.

**Source:** Laws 2013, LB225, § 1.  
Effective date September 6, 2013.

**71-554 Legislative findings.**

The Legislature finds that:

- (1) Critical congenital heart disease is among the most common birth defects;
- (2) Critical congenital heart disease is the leading cause of death for infants born with a birth defect;
- (3) A major cause of infant mortality as a result of critical congenital heart disease is that a significant number of newborns affected are not diagnosed in the newborn nursery as having critical congenital heart disease; and
- (4) An effective mechanism for critical congenital heart disease screening of newborns can reduce infant mortality.

**Source:** Laws 2013, LB225, § 2.  
Effective date September 6, 2013.

**71-555 Terms, defined.**

For purposes of the Newborn Critical Congenital Heart Disease Screening Act:

- (1) Birthing facility means a hospital or other health care facility in this state which provides birthing and newborn care services;
- (2) Critical congenital heart disease screening means a testing procedure or procedures intended to detect hypoplastic left heart syndrome, pulmonary atresia, tetralogy of Fallot, total anomalous pulmonary venous return, transposition of the great arteries, tricuspid atresia, and truncus arteriosus;
- (3) Department means the Department of Health and Human Services;
- (4) Newborn means a child from birth through twenty-nine days old; and
- (5) Parent means a natural parent, a stepparent, an adoptive parent, a legal guardian, or any other legal custodian of a child.

**Source:** Laws 2013, LB225, § 3.  
Effective date September 6, 2013.

**71-556 Newborn; critical congenital heart disease screening; responsibilities.**

(1) All newborns in this state shall undergo critical congenital heart disease screening in accordance with standards determined in rules and regulations adopted and promulgated by the department.

(2) For deliveries in a birthing facility, the birthing facility shall develop and implement policies to cause the screening of the newborn and the reporting of the results to the newborn's health care provider in accordance with standards adopted pursuant to subsection (1) of this section.

(3) For deliveries that are planned outside of a birthing facility, the prenatal care provider shall inform the parent of the importance of critical congenital heart disease screening and the requirement for all newborns to be screened. The parent shall be responsible for causing the screening to be performed within the period and in the manner prescribed by the department.

(4) For a birth that does not take place in a birthing facility, whether or not there is a prenatal care provider, and the newborn is not admitted to a birthing facility, the person registering such birth shall be responsible for obtaining critical congenital heart disease screening for the newborn within the period and in the manner prescribed by the department.

**Source:** Laws 2013, LB225, § 4.

Effective date September 6, 2013.

**71-557 Department; duties; rules and regulations.**

The department shall:

(1) In consultation with a panel of persons having expertise in the field of critical congenital heart disease screening, develop approved methods of critical congenital heart disease screening;

(2) Apply for all available federal funding to carry out the Newborn Critical Congenital Heart Disease Screening Act; and

(3) Adopt and promulgate rules and regulations necessary to implement the act.

**Source:** Laws 2013, LB225, § 5.

Effective date September 6, 2013.

**ARTICLE 8****BEHAVIORAL HEALTH SERVICES**

## Section

71-802. Purposes of act.

71-804. Terms, defined.

71-816. Repealed. Laws 2013, LB 6, § 16.

71-817. Transferred to section 9-1006.

71-825. Annual report; contents.

**71-802 Purposes of act.**

The purposes of the Nebraska Behavioral Health Services Act are to: (1) Reorganize statutes relating to the provision of publicly funded behavioral health services; (2) provide for the organization and administration of the public behavioral health system within the department; (3) rename mental health regions as behavioral health regions; (4) provide for the naming of

regional behavioral health authorities and ongoing activities of regional governing boards; (5) reorganize and rename the State Mental Health Planning and Evaluation Council and the State Alcoholism and Drug Abuse Advisory Committee; (6) change and add provisions relating to development of community-based behavioral health services and funding for behavioral health services; and (7) authorize the closure of regional centers.

**Source:** Laws 2004, LB 1083, § 2; Laws 2006, LB 994, § 92; Laws 2013, LB6, § 12.

Operative date July 1, 2013.

**71-804 Terms, defined.**

For purposes of the Nebraska Behavioral Health Services Act:

(1) Behavioral health disorder means mental illness or alcoholism, drug abuse, or other addictive disorder;

(2) Behavioral health region means a behavioral health region established in section 71-807;

(3) Behavioral health services means services, including, but not limited to, consumer-provided services, support services, inpatient and outpatient services, and residential and nonresidential services, provided for the prevention, diagnosis, and treatment of behavioral health disorders and the rehabilitation and recovery of persons with such disorders;

(4) Community-based behavioral health services or community-based services means behavioral health services that are not provided at a regional center;

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

(6) Director means the Director of Behavioral Health;

(7) Division means the Division of Behavioral Health of the department;

(8) Medical assistance program means the program established pursuant to the Medical Assistance Act;

(9) Public behavioral health system means the statewide array of behavioral health services for children and adults provided by the public sector or private sector and supported in whole or in part with funding received and administered by the department, including behavioral health services provided under the medical assistance program;

(10) Regional center means one of the state hospitals for the mentally ill designated in section 83-305; and

(11) Regional center behavioral health services or regional center services means behavioral health services provided at a regional center.

**Source:** Laws 2004, LB 1083, § 4; Laws 2006, LB 1248, § 74; Laws 2007, LB296, § 454; Laws 2013, LB6, § 13.

Operative date July 1, 2013.

**Cross References**

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

**71-816 Repealed. Laws 2013, LB 6, § 16.**

Operative date July 1, 2013.

**71-817 Transferred to section 9-1006.****71-825 Annual report; contents.**

The department shall provide an annual report, no later than December 1, to the Governor and the Legislature on the operation of the Children and Family Support Hotline established under section 71-822, the Family Navigator Program established under section 71-823, and the provision of voluntary post-adoption and post-guardianship case management services under section 71-824, except that for 2012, 2013, and 2014, the department shall also provide the report to the Health and Human Services Committee of the Legislature on or before September 15. The reports submitted to the Legislature and the committee shall be submitted electronically.

**Source:** Laws 2009, LB603, § 9; Laws 2012, LB782, § 107; Laws 2012, LB1160, § 15; Laws 2013, LB222, § 25.  
Effective date May 8, 2013.

**ARTICLE 11****DEVELOPMENTAL DISABILITIES COURT-ORDERED CUSTODY ACT**

## Section

- 71-1101. Act, how cited.  
71-1104. Definitions, where found.  
71-1107. Developmental disability, defined.  
71-1108.01. Intellectual disability, defined.  
71-1110. Transferred to section 71-1108.01.

**71-1101 Act, how cited.**

Sections 71-1101 to 71-1134 shall be known and may be cited as the Developmental Disabilities Court-Ordered Custody Act.

**Source:** Laws 2005, LB 206, § 1; Laws 2013, LB23, § 29.  
Effective date September 6, 2013.

**71-1104 Definitions, where found.**

For purposes of the Developmental Disabilities Court-Ordered Custody Act, the definitions in sections 71-1105 to 71-1116 apply.

**Source:** Laws 2005, LB 206, § 4; Laws 2013, LB23, § 30.  
Effective date September 6, 2013.

**71-1107 Developmental disability, defined.**

Developmental disability means an intellectual disability or a severe chronic cognitive impairment, other than mental illness, that is manifested before the age of twenty-two years and is likely to continue indefinitely.

**Source:** Laws 2005, LB 206, § 7; Laws 2013, LB23, § 31.  
Effective date September 6, 2013.

**71-1108.01 Intellectual disability, defined.**

Intellectual disability means a state of significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior which originates in the developmental period.

**Source:** Laws 2005, LB 206, § 10; R.S.1943, (2009), § 71-1110; Laws 2013, LB23, § 32.

Effective date September 6, 2013.

**71-1110 Transferred to section 71-1108.01.**

## ARTICLE 15

### HOUSING

#### (c) MODULAR HOUSING UNITS

Section

71-1567. Seal; denied or suspended; hearing; appeal.

#### (c) MODULAR HOUSING UNITS

**71-1567 Seal; denied or suspended; hearing; appeal.**

(1) The commission shall refuse to issue a seal to a manufacturer for any modular housing unit not found to be in compliance with its standards governing the construction of or the structural, plumbing, heating, or electrical systems for modular housing units or for which fees have not been paid. Except in case of failure to pay the required fees, any such manufacturer may request a hearing before the commission on the issue of such refusal. Procedures for notice and opportunity for a hearing before the commission shall be pursuant to the Administrative Procedure Act. The refusal may be appealed, and the appeal shall be in accordance with section 75-136.

(2) The issuance of seals may be suspended as to any manufacturer who is convicted of violating section 71-1563 or as to any manufacturer who violates any other provision of the Nebraska Uniform Standards for Modular Housing Units Act or any rule, regulation, commission order, or standard adopted pursuant thereto, and issuance of the seals shall not be resumed until such manufacturer submits sufficient proof that the conditions which caused the violation have been remedied. Any such manufacturer may request a hearing before the commission on the issue of such suspension. Procedures for notice and opportunity for a hearing before the commission shall be pursuant to the Administrative Procedure Act. The suspension may be appealed, and the appeal shall be in accordance with section 75-136.

**Source:** Laws 1976, LB 248, § 13; Laws 1984, LB 822, § 13; Laws 1988, LB 352, § 121; Laws 1998, LB 1073, § 101; Laws 2008, LB797, § 11; Laws 2013, LB545, § 2.

Effective date September 6, 2013.

#### Cross References

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

**PUBLIC HEALTH AND WELFARE**

**ARTICLE 19**

**CARE OF CHILDREN**

(a) FOSTER CARE LICENSURE

Section

- 71-1901. Terms, defined.  
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.  
71-1903. Foster care; investigation by department; State Fire Marshal; fee; criminal history record information check.  
71-1904. Rules and regulations; waiver of licensing standard; when; department; report.  
71-1907. Child passenger restraint; requirements; violation; penalty.

(b) CHILD CARE LICENSURE

- 71-1908. Act, how cited; legislative findings.  
71-1911.03. Applicant; liability insurance.  
71-1919. License denial; disciplinary action; grounds.

(c) CHILDREN'S RESIDENTIAL FACILITIES AND PLACING LICENSURE ACT

- 71-1924. Act, how cited.  
71-1925. Purpose of act.  
71-1926. Terms, defined.  
71-1927. Residential child-caring agency or child-placing agency; license required; current license holders; how treated.  
71-1928. Applicant for license or renewal; application; requirements; contents.  
71-1929. Fees.  
71-1930. Licenses; expiration date; not transferable or assignable; public inspection and display.  
71-1931. Separate license required; duties of licensee.  
71-1932. Provisional license; period valid; conversion to regular license.  
71-1933. Inspection by department; inspection report.  
71-1934. State Fire Marshal; inspection; fee; delegation of authority; department; investigations authorized; delegation of authority.  
71-1935. Inspection report; findings of noncompliance; department; proceedings; letter requesting statement of compliance; contents; failure to correct; additional proceedings.  
71-1936. Alleged violation of act; complaint; investigation; department; duties; confidentiality; immunity.  
71-1937. Licensee; discrimination or retaliation prohibited; cause of action for relief.  
71-1938. Emergency; department; powers; order; contents; hearing; order; petition for injunction; other enforcement measures.  
71-1939. Department; deny or refuse renewal of license; grounds.  
71-1940. Deny, refuse renewal, or take disciplinary action against license; grounds.  
71-1941. License; department; impose disciplinary actions; fine; how treated; recovery.  
71-1942. Disciplinary action; department; considerations.  
71-1943. Deny, refuse renewal of, or take disciplinary action against license; department; notice; contents; hearing.  
71-1944. Applicant or licensee; notification to department; failure to notify department; effect.  
71-1945. Applicant or licensee; hearing; procedure; director; decision; contents.  
71-1946. Decision of department; appeal; procedure.  
71-1947. Lapsed license; reinstatement; suspension; probation; reinstatement; procedure; hearing; revoked license; revocation period.  
71-1948. Voluntary surrender of license.  
71-1949. Rules and regulations; contested cases; procedure.  
71-1950. Violations; penalty.



## Section

- 71-1951. Existing rules and regulations, licenses, and proceedings; how treated.  
(d) STEP UP TO QUALITY CHILD CARE ACT
- 71-1952. Act, how cited.
- 71-1953. Purposes of act.
- 71-1954. Terms, defined.
- 71-1955. Quality rating and improvement system; State Department of Education; Department of Health and Human Services; duties.
- 71-1956. Child care and early childhood education program; rating; quality rating criteria.
- 71-1957. Participation in quality rating and improvement system.
- 71-1958. Quality scale rating; application; assignment of rating.
- 71-1959. Quality scale rating review; reevaluation.
- 71-1960. License under Child Care Licensing Act; denial of license or disciplinary act authorized.
- 71-1961. Quality rating and improvement system incentives and support.
- 71-1962. Nebraska Early Childhood Professional Record System; creation and operation; State Department of Education; duties.
- 71-1963. Quality scale ratings available on web site; when.
- 71-1964. Rules and regulations.

## (a) FOSTER CARE LICENSURE

**71-1901 Terms, defined.**

For purposes of sections 71-1901 to 71-1906.01:

(1) Person includes a partnership, limited liability company, firm, agency, association, or corporation;

(2) Child means an unemancipated minor;

(3) Child-placing agency has the definition found in section 71-1926;

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

(5) Foster care means engaged in the service of exercising twenty-four-hour daily care, supervision, custody, or control over children, for compensation or hire, in lieu of the care or supervision normally exercised by parents in their own home. Foster care does not include casual care at irregular intervals or programs as defined in section 71-1910;

(6) Foster family home means a home which provides foster care to a child or children pursuant to a foster care placement as defined in section 43-1301. Foster family homes include licensed homes where the primary caretaker has no significant prior relationship with the child or children in his or her care and both licensed and unlicensed relative and kinship homes;

(7) Kinship home means a home where a child or children receive foster care and at least one of the primary caretakers has previously lived with or is a trusted adult that has a preexisting, significant relationship with the child or children or a sibling of such child or children pursuant to section 43-1311.02;

(8) Native American means a person who is a member of an Indian tribe or eligible for membership in an Indian tribe;

(9) Relative home means a home where a child or children receive foster care and at least one of the primary caretakers is related to the child or children, or to a sibling of such child or children pursuant to section 43-1311.02, in his or her care by blood, marriage, or adoption or, in the case of an Indian child, at least one of the primary caretakers is an extended family member as defined in section 43-1503; and

(10) Residential child-caring agency has the definition found in section 71-1926.

**Source:** Laws 1943, c. 154, § 1, p. 563; R.S.1943, § 71-1901; Laws 1945, c. 171, § 1, p. 548; Laws 1961, c. 415, § 25, p. 1258; Laws 1984, LB 130, § 13; Laws 1987, LB 386, § 1; Laws 1993, LB 121, § 425; Laws 1995, LB 401, § 24; Laws 1995, LB 451, § 1; Laws 1996, LB 1044, § 583; Laws 1997, LB 307, § 171; Laws 2001, LB 209, § 19; Laws 2002, LB 93, § 7; Laws 2008, LB797, § 12; Laws 2013, LB265, § 40.  
Effective date May 26, 2013.

**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 (2) 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.

**Note:** The Revisor of Statutes has pursuant to section 49-769 correlated LB216, section 18, with LB265, section 41, to reflect all amendments.

**Note:** Changes made by LB265 became effective May 26, 2013. Changes made by LB216 became effective June 5, 2013.

**71-1903 Foster care; investigation by department; State Fire Marshal; fee; criminal history record information check.**

(1) Before issuance of a license under sections 71-1901 to 71-1906.01, the department shall cause such investigation to be made as it deems necessary to determine if the character of the applicant, any member of the applicant's household, or the person in charge of the service and the place where the foster care is to be furnished are such as to ensure the proper care and treatment of children. The department may request the State Fire Marshal to inspect such places for fire safety pursuant to section 81-502. The State Fire Marshal shall assess a fee for such inspection pursuant to section 81-505.01, payable by the licensee or applicant for a license, except that the department may pay the fee for inspection for fire safety of homes where foster care is provided. The

department may conduct sanitation and health standards investigations pursuant to subsection (2) of this section. The department may also, at any time it sees fit, cause an inspection to be made of the place where any licensee is furnishing foster care to see that such service is being properly conducted.

(2) The department shall make an investigation and report of all licensed foster care providers subject to this section or applicants for licenses to provide such care to determine if standards of health and sanitation set by the department for the care and protection of the child or children who may be placed in foster family homes are being met. The department may delegate the investigation authority to qualified local environmental health personnel.

(3) Before the foster care placement of any child in Nebraska by the department, the department shall require a national criminal history record information check of the prospective foster parent of such child and each member of such prospective foster parent's household who is eighteen years of age or older. The department shall provide two sets of legible fingerprints for such persons to the Nebraska State Patrol for submission to the Federal Bureau of Investigation. The Nebraska State Patrol shall conduct a criminal history record information check of such persons and shall submit such fingerprints to the Federal Bureau of Investigation for a national criminal history record information check. The criminal history record information check shall include information 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 of the results of such criminal history record information check to the department. The department shall pay a fee to the Nebraska State Patrol for conducting such check. Information received from the criminal history record information check required under this subsection shall be used solely for the purpose of evaluating and confirming information provided by such persons for providing foster care or for the finalization of an adoption. A child may be placed in foster care by the department prior to the completion of a criminal history record information check under this subsection in emergency situations as determined by the department.

**Source:** Laws 1943, c. 154, § 3, p. 564; R.S.1943, § 71-1903; Laws 1945, c. 171, § 3, p. 549; Laws 1961, c. 415, § 27, p. 1259; Laws 1967, c. 446, § 2, p. 1388; Laws 1983, LB 498, § 2; Laws 1985, LB 447, § 37; Laws 1987, LB 386, § 3; Laws 1988, LB 930, § 2; Laws 1991, LB 836, § 28; Laws 1995, LB 401, § 26; Laws 1995, LB 451, § 3; Laws 1996, LB 1044, § 584; Laws 1997, LB 307, § 172; Laws 1997, LB 622, § 101; Laws 2001, LB 209, § 21; Laws 2002, LB 93, § 9; Laws 2004, LB 1005, § 66; Laws 2007, LB296, § 497; Laws 2013, LB265, § 42.  
Effective date May 26, 2013.

**71-1904 Rules and regulations; waiver of licensing standard; when; department; report.**

(1) The department shall adopt and promulgate rules and regulations pursuant to sections 71-1901 to 71-1906.01 for (a) the proper care and protection of children by licensees under such sections, (b) the issuance, suspension, and revocation of licenses to provide foster care, (c) the issuance, suspension, and revocation of probationary licenses to provide foster care, (d) the issuance, suspension, and revocation of provisional licenses to provide foster care, (e) the

provision of training in foster care, which training shall be directly related to the skills necessary to care for children in need of out-of-home care, including, but not limited to, abused, neglected, dependent, and delinquent children, and (f) the proper administration of sections 71-1901 to 71-1906.01.

(2) The department may issue a waiver for any licensing standard not related to children's safety for a relative home that is pursuing licensure. Such waivers shall be granted on a case-by-case basis upon assessment by the department based upon the best interests of the child. A relative home that receives a waiver pursuant to this subsection shall be considered fully licensed for purposes of federal reimbursement under the federal Fostering Connections to Success and Increasing Adoptions Act of 2008, Public Law 110-351. The department shall submit electronically an annual report to the Health and Human Services Committee of the Legislature on the number of waivers granted under this subsection and the total number of children placed in relative homes. For 2013 and 2014, the department shall provide the report electronically to the Health and Human Services Committee of the Legislature on or before September 15.

(3) The department shall adopt and promulgate rules and regulations establishing new foster home licensing requirements that ensure children's safety, health, and well-being but minimize the use of licensing mandates for nonsafety issues. Such rules and regulations shall provide alternatives to address nonsafety issues regarding housing and provide assistance to families in overcoming licensing barriers, especially in child-specific relative and kinship placements, to maximize appropriate reimbursement under Title IV-E of the federal Social Security Act, as amended, including expanding the use of kinship guardianship assistance payments under 42 U.S.C. 673(d), as such act and section existed on January 1, 2013.

**Source:** Laws 1943, c. 154, § 4, p. 564; R.S.1943, § 71-1904; Laws 1945, c. 171, § 4, p. 550; Laws 1961, c. 415, § 28, p. 1259; Laws 1990, LB 1222, § 13; Laws 1995, LB 401, § 27; Laws 1995, LB 402, § 2; Laws 1995, LB 451, § 4; Laws 2001, LB 209, § 22; Laws 2002, LB 93, § 10; Laws 2003, LB 54, § 1; Laws 2012, LB782, § 114; Laws 2012, LB1160, § 17; Laws 2013, LB222, § 26; Laws 2013, LB265, § 43; Laws 2013, LB269, § 9.

**Note:** The Revisor of Statutes has pursuant to section 49-769 correlated LB222, section 26, with LB265, section 43, and LB269, section 9, to reflect all amendments.

**Note:** Changes made by LB222 became effective May 8, 2013. Changes made by LB265 became effective May 26, 2013. Changes made by LB269 became effective June 5, 2013.

### **71-1907 Child passenger restraint; requirements; violation; penalty.**

Any person furnishing foster care who is subject to licensure under section 71-1902 or the Children's Residential Facilities and Placing Licensure Act, when transporting in a motor vehicle any children for whom care is being furnished, shall use an approved child passenger restraint system for each child, except that an occupant protection system as defined in section 60-6,265 may be used for any child six years of age or older.

Any person violating this section shall be guilty of an infraction as defined in section 29-431 and shall have his or her license to furnish foster care revoked or suspended by the Department of Health and Human Services.

For purposes of this section, approved child passenger restraint system shall mean a restraint system which meets Federal Motor Vehicle Safety Standard

213 as developed by the National Highway Traffic Safety Administration, as such standard existed on July 20, 2002.

**Source:** Laws 1982, LB 69, § 1; Laws 1987, LB 386, § 4; Laws 1992, LB 958, § 10; Laws 1993, LB 370, § 475; Laws 1995, LB 401, § 28; Laws 1996, LB 1044, § 586; Laws 1997, LB 307, § 174; Laws 2000, LB 410, § 3; Laws 2002, LB 1073, § 3; Laws 2013, LB265, § 44.

Effective date May 26, 2013.

**Cross References**

Children's Residential Facilities and Placing Licensure Act, see section 71-1924.

(b) CHILD CARE LICENSURE

**71-1908 Act, how cited; legislative findings.**

(1) Sections 71-1908 to 71-1923 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.

Operative date July 1, 2014.

**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 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.

Operative date July 1, 2014.

**71-1919 License denial; disciplinary action; grounds.**

The department may deny the issuance of or take disciplinary action against a license issued under the Child Care Licensing Act on any of the following grounds:

(1) Failure to meet or violation of any of the requirements of the Child Care Licensing Act or the rules and regulations adopted and promulgated under the act;

(2) Violation of an order of the department under the act;

(3) Conviction of, or substantial evidence of committing or permitting, aiding, or abetting another to commit, any unlawful act, including, but not limited to, unlawful acts committed by an applicant or licensee under the act, household members who reside at the place where the program is provided, or employees of the applicant or licensee that involve:

(a) Physical abuse of children or vulnerable adults as defined in section 28-371;

(b) Endangerment or neglect of children or vulnerable adults;

(c) Sexual abuse, sexual assault, or sexual misconduct;

(d) Homicide;

(e) Use, possession, manufacturing, or distribution of a controlled substance listed in section 28-405;

(f) Property crimes, including, but not limited to, fraud, embezzlement, and theft by deception; and

(g) Use of a weapon in the commission of an unlawful act;

(4) Conduct or practices detrimental to the health or safety of a person served by or employed at the program;

(5) Failure to allow an agent or employee of the department access to the program for the purposes of inspection, investigation, or other information collection activities necessary to carry out the duties of the department;

(6) Failure to allow state or local inspectors, investigators, or law enforcement officers access to the program for the purposes of investigation necessary to carry out their duties;

(7) Failure to meet requirements relating to sanitation, fire safety, and building codes;

(8) Failure to comply with or violation of the Medication Aide Act;

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

(10) Violation of any city, village, or county rules, regulations, or ordinances regulating licensees;

(11) Failure to pay fees required under the Child Care Licensing Act; or

(12) Failure to comply with the Step Up to Quality Child Care Act.

**Source:** Laws 2004, LB 1005, § 82; Laws 2007, LB296, § 505; Laws 2013, LB507, § 16.

Operative date September 6, 2013.

#### Cross References

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

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

### (c) CHILDREN'S RESIDENTIAL FACILITIES AND PLACING LICENSURE ACT

**71-1924 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.  
Effective date May 26, 2013.

**71-1925 Purpose of act.**

The purpose of the Children's Residential Facilities and Placing Licensure Act is to protect the public health and the health, safety, and welfare of children who reside in or who are placed in settings other than the home of their parent or legal guardian by providing for the licensing of residential child-caring agencies and child-placing agencies in the State of Nebraska. The act provides for the development, establishment, and enforcement of basic standards for residential child-caring agencies and child-placing agencies.

**Source:** Laws 2013, LB265, § 2.  
Effective date May 26, 2013.

**71-1926 Terms, defined.**

For purposes of the Children's Residential Facilities and Placing Licensure Act:

(1) Care means the provision of room and board and the exercise of concern and responsibility for the safety and welfare of children on a twenty-four-hour-per-day basis in settings that serve as the out-of-home placement for children;

(2) Child means a minor less than nineteen years of age;

(3) Child-placing agency means any person other than the parent or legal guardian of a child that receives the child for placement and places or arranges for the placement of a child in a foster family home, adoptive home, residential child-caring agency, or independent living;

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

(5) Director means the Director of Public Health of the Division of Public Health;

(6) Person includes bodies politic and corporate, societies, communities, the public generally, individuals, partnerships, limited liability companies, joint-stock companies, and associations; and

(7) Residential child-caring agency means a person that provides care for four or more children and that is not a foster family home as defined in section 71-1901.

**Source:** Laws 2013, LB265, § 3.  
Effective date May 26, 2013.

**71-1927 Residential child-caring agency or child-placing agency; license required; current license holders; how treated.**

(1) Except as provided in subsection (2) of this section, a residential child-caring agency or child-placing agency shall not be established, operated, or maintained in this state without first obtaining a license issued by the department under the Children's Residential Facilities and Placing Licensure Act. No person shall hold itself out as a residential child-caring agency or child-placing agency or as providing such services unless licensed under the act. The



department shall issue a license to a residential child-caring agency or a child-placing agency that satisfies the requirements for licensing under the act.

(2) A group home, child-caring agency, or child-placing agency licensed under sections 71-1901 to 71-1906.01 on May 26, 2013, shall be deemed licensed under the Children's Residential Facilities and Placing Licensure Act until the license under such sections expires, and renewal shall be under the act.

(3) For purposes of requiring licensure, a residential child-caring agency or child-placing agency does not include an individual licensed as a foster family home under sections 71-1901 to 71-1906.01, a person licensed under the Health Care Facility Licensure Act, a person operating a juvenile detention facility as defined in section 83-4,125, a staff secure youth confinement facility operated by a county, or a person providing only casual care for children at irregular intervals. Such persons may voluntarily apply for a license.

**Source:** Laws 2013, LB265, § 4.

Effective date May 26, 2013.

**Cross References**

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

**71-1928 Applicant for license or renewal; application; requirements; contents.**

(1) An applicant for an initial or renewal license to operate a residential child-caring agency or a child-placing agency shall file a written application with the department. To be licensed as a child-placing agency, an applicant must be a corporation, nonprofit corporation, or limited liability company. The application shall be accompanied by the applicable fees under section 71-1929 and shall set forth the full name and address of the agency to be licensed, the full name and address of the owner of the agency, the names of all persons in control of the agency, and additional information as required by the department, including sufficient affirmative evidence of the applicant's ability to comply with rules and regulations adopted and promulgated under the Children's Residential Facilities and Placing Licensure Act and evidence of adequate liability insurance or, if self-insured, of sufficient funds to pay liability claims. The application shall include the applicant's social security number if the applicant is an individual. The social security number shall not be public record and may only be used for administrative purposes.

(2) The application shall be signed by:

(a) The owner, if the applicant for licensure as a residential child-caring agency is an individual or partnership;

(b) Two of its members, if the applicant for licensure as a residential child-caring agency or as a child-placing agency is a limited liability company;

(c) Two of its officers who have the authority to bind the corporation to the terms of the application, if the applicant for licensure as a residential child-caring agency or as a child-placing agency is a corporation or a nonprofit corporation; or

(d) The head of the governmental unit having jurisdiction over the residential child-caring agency or child-placing agency to be licensed, if the applicant is a governmental unit.

**Source:** Laws 2013, LB265, § 5.  
Effective date May 26, 2013.

#### **71-1929 Fees.**

Fees applicable to an applicant for an initial or renewal license under the Children's Residential Facilities and Placing Licensure Act include:

- (1) A nonrefundable license fee of twenty-five dollars;
- (2) A nonrefundable renewal license fee of twenty-five dollars;
- (3) A reinstatement fee of twenty-five dollars if the license has lapsed or has been suspended or revoked; and
- (4) A duplicate original license fee of ten dollars when a duplicate is requested.

**Source:** Laws 2013, LB265, § 6.  
Effective date May 26, 2013.

#### **71-1930 Licenses; expiration date; not transferable or assignable; public inspection and display.**

(1) Except as otherwise provided in the Children's Residential Facilities and Placing Licensure Act:

(a) Licenses issued under the act shall expire on uniform annual dates established by the department specified in rules and regulations; and

(b) Licenses shall be issued only for the premises and individuals named in the application and shall not be transferable or assignable.

(2) Licenses, license record information, and inspection reports shall be made available by the licensee for public inspection upon request and may be displayed in a conspicuous place on the licensed premises.

**Source:** Laws 2013, LB265, § 7.  
Effective date May 26, 2013.

#### **71-1931 Separate license required; duties of licensee.**

(1) An applicant for licensure under the Children's Residential Facilities and Placing Licensure Act shall obtain a separate license for each type of residential child-caring agency or child-placing agency that the applicant seeks to operate. A single license may be issued for a residential child-caring agency operating in separate buildings or structures on the same premises under one management.

(2) An applicant for licensure shall obtain a separate license for each type of placement service the applicant seeks to provide. When a child-placing agency has more than one office location, the child-placing agency shall inform the department of each office location and the services provided at each location. A single license may be issued for multiple offices, or the applicant may apply for individual licenses for each office location.

**Source:** Laws 2013, LB265, § 8.  
Effective date May 26, 2013.

#### **71-1932 Provisional license; period valid; conversion to regular license.**

A provisional license may be issued to an applicant for an initial residential child-caring agency or child-placing agency that substantially complies with requirements for licensure under the Children's Residential Facilities and Placing Licensure Act and the rules and regulations adopted and promulgated under the act if the failure to fully comply with such requirements does not pose a danger to the children residing in or served by the residential child-caring agency or child-placing agency. Such provisional license shall be valid for a period of up to one year, shall not be renewed, and may be converted to a regular license upon a showing that the agency fully complies with the requirements for licensure under the act and rules and regulations.

**Source:** Laws 2013, LB265, § 9.  
Effective date May 26, 2013.

**71-1933 Inspection by department; inspection report.**

The department may inspect or provide for the inspection of residential child-caring agencies or child-placing agencies licensed under the Children's Residential Facilities and Placing Licensure Act in such manner and at such times as provided in rules and regulations adopted and promulgated by the department. The department shall issue an inspection report and provide a copy of the report to the agency within ten working days after the completion of an inspection.

**Source:** Laws 2013, LB265, § 10.  
Effective date May 26, 2013.

**71-1934 State Fire Marshal; inspection; fee; delegation of authority; department; investigations authorized; delegation of authority.**

(1) The department may request the State Fire Marshal to inspect any residential child-caring agency 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 applicant or licensee. The State Fire Marshal may delegate the authority to make such inspections to qualified local fire prevention personnel under section 81-502.

(2) The department may investigate any residential child-caring agency to determine if the place or places to be covered by the license meet standards of sanitation and physical well-being set by the department for the care and protection of the children who may be placed with the residential child-caring agency. The department may delegate this authority to qualified local environmental health personnel.

**Source:** Laws 2013, LB265, § 11.  
Effective date May 26, 2013.

**71-1935 Inspection report; findings of noncompliance; department; proceedings; letter requesting statement of compliance; contents; failure to correct; additional proceedings.**

If the inspection report issued under section 71-1933 contains findings of noncompliance by a licensed residential child-caring agency or child-placing agency with any applicable provisions of the Children's Residential Facilities and Placing Licensure Act or rules and regulations adopted and promulgated under the act, the department shall review such findings within twenty working days after such inspection. If the findings are supported by the evidence, the

department shall proceed under sections 71-1939 to 71-1946, except that if the findings indicate one or more violations that create no imminent danger of death or serious physical harm and no direct or immediate adverse relationship to the health, safety, or welfare of the children residing in or served by the residential child-caring agency or child-placing agency, the department may send a letter to the agency requesting a statement of compliance. The letter shall include a description of each violation, a request that the residential child-caring agency or child-placing agency submit a statement of compliance within ten working days, and a notice that the department may take further steps if the statement of compliance is not submitted. The statement of compliance shall indicate any steps which have been or will be taken to correct each violation and the period of time estimated to be necessary to correct each violation. If the residential child-caring agency or child-placing agency fails to submit and implement a statement of compliance which indicates a good faith effort to correct the violations, the department may proceed under sections 71-1939 to 71-1946.

**Source:** Laws 2013, LB265, § 12.  
Effective date May 26, 2013.

**71-1936 Alleged violation of act; complaint; investigation; department; duties; confidentiality; immunity.**

(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 and determine whether to conduct an investigation. 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.

**Source:** Laws 2013, LB265, § 13.  
Effective date May 26, 2013.

**71-1937 Licensee; discrimination or retaliation prohibited; cause of action for relief.**

Licensees shall not discriminate or retaliate against an individual or the family of an individual residing in, served by, or employed at the residential child-caring agency or child-placing agency who has initiated or participated in any proceeding authorized by the Children's Residential Facilities and Placing Licensure Act or who has presented a complaint or provided information to the administrator of the residential child-caring agency or child-placing agency or the department. Such individual may maintain an action for any type of relief, including injunctive and declaratory relief, permitted by law.

**Source:** Laws 2013, LB265, § 14.

Effective date May 26, 2013.

**71-1938 Emergency; department; powers; order; contents; hearing; order; petition for injunction; other enforcement measures.**

(1) Whenever the department finds that an emergency exists requiring immediate action to protect the health, safety, or welfare of a child in a residential child-caring agency or child-placing agency, the department may, without notice or hearing, issue an order declaring the existence of such an emergency and requiring that such action be taken as the department deems necessary to meet the emergency. The order may include an immediate prohibition on the care or placement of children by the licensee. An order under this subsection shall be effective immediately. Any person to whom the order is directed shall comply immediately, and upon application to the department, the person shall be afforded a hearing as soon as possible and not later than ten days after his or her application for the hearing. On the basis of such hearing, the department shall continue to enforce such order or rescind or modify it.

(2) A copy of the order shall also be mailed to the holder of the license if the holder is not actually involved in the daily operation of the residential child-caring agency or child-placing agency. If the holder of the license is a corporation, a copy of the order shall be sent to the corporation's registered agent.

(3) The department may petition the appropriate district court for an injunction whenever there is the belief that any person is violating the Children's Residential Facilities and Placing Licensure Act, an order issued under the act, or any rule or regulation adopted and promulgated under the act. It shall be the duty of each county attorney or the Attorney General to whom the department reports a violation to cause appropriate proceedings to be instituted without delay to ensure compliance with the act, rules, regulations, and orders. In charging any defendant in a complaint in such action, it shall be sufficient to charge that such defendant did, upon a certain day and in a certain county, establish, operate, or maintain a residential child-caring agency or a child-placing agency without obtaining a license to do so, without alleging any further or more particular facts concerning the charge.

**Source:** Laws 2013, LB265, § 15.

Effective date May 26, 2013.

**71-1939 Department; deny or refuse renewal of license; grounds.**

The department may deny or refuse to renew a license under the Children's Residential Facilities and Placing Licensure Act to any residential child-caring agency or child-placing agency that fails to meet the requirements for licensure provided in the act or in rules and regulations adopted and promulgated under the act, including:

- (1) Failing an inspection under section 71-1933;
- (2) Having had a license revoked within the two-year period preceding application; or
- (3) Any of the grounds listed in section 71-1940.

**Source:** Laws 2013, LB265, § 16.

Effective date May 26, 2013.

**71-1940 Deny, refuse renewal, or take disciplinary action against license; grounds.**

The department may deny, refuse to renew, or take disciplinary action against a license issued under the Children's Residential Facilities and Placing Licensure Act on any of the following grounds:

(1) Failure to meet or violation of any of the requirements of the act or the rules and regulations adopted and promulgated under the act;

(2) Violation of an order of the department under the act;

(3) Conviction, admission, or substantial evidence of committing or permitting, aiding, or abetting another to commit any unlawful act, including, but not limited to, unlawful acts committed by an applicant or licensee under the act, household members who reside at the place where children's residential care or child-placing services are provided, or employees of the applicant or licensee that involve:

(a) Physical abuse of children or vulnerable adults as defined in section 28-371;

(b) Endangerment or neglect of children or vulnerable adults;

(c) Sexual abuse, sexual assault, or sexual misconduct;

(d) Homicide;

(e) Use, possession, manufacturing, or distribution of a controlled substance listed in section 28-405;

(f) Property crimes, including, but not limited to, fraud, embezzlement, and theft by deception; or

(g) Use of a weapon in the commission of an unlawful act;

(4) Conduct or practices detrimental to the health, safety, or welfare of any individual residing in, served by, or employed at the residential child-caring agency or child-placing agency;

(5) Failure to allow an agent or employee of the department access to the residential child-caring agency or child-placing agency for the purposes of inspection, investigation, or other information collection activities necessary to carry out the duties of the department;

(6) Failure to allow local or state inspectors, investigators, or law enforcement officers access to the residential child-caring agency or child-placing agency for the purposes of investigation necessary to carry out their duties;

(7) Failure to meet requirements relating to sanitation, fire safety, and building codes;

(8) Failure to comply with or violation of the Medication Aide Act;

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

(10) Violation of any city, village, or county rules, regulations, resolutions, or ordinances regulating licensees;

(11) A history of misconduct or violations by an applicant or licensee involving children or vulnerable adults; or

(12) Violation of any federal, state, or local law involving care of children.

**Source:** Laws 2013, LB265, § 17.

Effective date May 26, 2013.

**Cross References**

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

**71-1941 License; department; impose disciplinary actions; fine; how treated; recovery.**

(1) The department may impose any one or a combination of the following types of disciplinary actions against the license of a residential child-caring agency or child-placing agency:

(a) A fine not to exceed ten thousand dollars per violation;

(b) A period of probation not to exceed two years, during which time the residential child-caring agency or child-placing agency may continue to operate under terms and conditions fixed by the order of probation;

(c) Restrictions on new admissions to a residential child-caring agency or acceptance of new referrals by a child-placing agency;

(d) Restrictions or other limitations on the number, gender, or age of children served by the residential child-caring agency or child-placing agency;

(e) Other restrictions or limitations on the type of service provided by the residential child-caring agency or child-placing agency;

(f) Suspension of the license for a period not to exceed three years, during which time the licensee shall not operate a residential child-caring agency or child-placing agency; or

(g) Revocation of the license. A former licensee whose license has been revoked shall not apply for a license for a minimum of two years after the date of revocation.

(2) Any fine imposed and unpaid under the Children's Residential Facilities and Placing Licensure Act shall constitute a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in any proper form of action in the name of the State of Nebraska in the district court of the county in which the residential child-caring agency or child-placing agency is located. The department shall, within thirty days after receipt, remit fines to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

**Source:** Laws 2013, LB265, § 18.

Effective date May 26, 2013.

**71-1942 Disciplinary action; department; considerations.**

In determining what type of disciplinary action to impose, the department may consider:

(1) The gravity of the violation, including the probability that death or serious physical or mental harm will result, the severity of the actual or potential harm, and the extent to which the provisions of applicable statutes, rules, and regulations were violated;

(2) The reasonableness of the diligence exercised by the licensee in identifying or correcting the violation;

(3) The degree of cooperation exhibited by the licensee in the identification, disclosure, and correction of the violation;

(4) Any previous violations committed by the licensee; and

(5) The financial benefit to the licensee of committing or continuing the violation.

**Source:** Laws 2013, LB265, § 19.

Effective date May 26, 2013.

**71-1943 Deny, refuse renewal of, or take disciplinary action against license; department; notice; contents; hearing.**

(1) Except as provided in section 71-1938, if the department determines to deny, refuse renewal of, or take disciplinary action against a license, the department shall send to the applicant or licensee, by certified mail to the last-known address shown on the records of the department, a notice setting forth the determination, the particular reasons for the determination, including a specific description of the nature of the violation and the statute, rule, or regulation violated, and the type of disciplinary action which is pending. The denial, refusal to renew, or disciplinary action shall become final fifteen days after the mailing of the notice unless the applicant or licensee, within such fifteen-day period, makes a written request for a hearing under section 71-1944.

(2) A copy of the notice in subsection (1) of this section shall also be mailed to the holder of the license if the holder is not actually involved in the daily operation of the residential child-caring agency or child-placing agency. If the holder of the license is a corporation, a copy of the notice shall be sent to the corporation's registered agent.

**Source:** Laws 2013, LB265, § 20.

Effective date May 26, 2013.

**71-1944 Applicant or licensee; notification to department; failure to notify department; effect.**

(1) Within fifteen days after the mailing of a notice under section 71-1943, an applicant or licensee shall notify the department in writing that the applicant or licensee:

(a) Desires to contest the notice and requests a hearing; or

(b) Does not contest the notice.

(2) If the department does not receive notification within the fifteen-day period, the action of the department shall be final.

**Source:** Laws 2013, LB265, § 21.

Effective date May 26, 2013.

**71-1945 Applicant or licensee; hearing; procedure; director; decision; contents.**

(1) If the applicant or licensee requests a hearing under section 71-1944, the department shall hold a hearing and give the applicant or licensee the right to present such evidence as may be proper. On the basis of such evidence, the director shall affirm, modify, or set aside the determination. A copy of such



decision setting forth the findings of facts and the particular reasons upon which the decision is based shall be sent by either registered or certified mail to the applicant or licensee.

(2) The procedure governing hearings authorized by this section shall be in accordance with rules and regulations adopted and promulgated by the department. A full and complete record shall be kept of all proceedings. Witnesses may be subpoenaed by either party and shall be allowed fees at a rate prescribed by rule and regulation.

**Source:** Laws 2013, LB265, § 22.  
Effective date May 26, 2013.

**71-1946 Decision of department; appeal; procedure.**

Any party to a decision of the department under the Children's Residential Facilities and Placing Licensure Act may appeal such decision. The appeal shall be in accordance with the Administrative Procedure Act.

**Source:** Laws 2013, LB265, § 23.  
Effective date May 26, 2013.

**Cross References**

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

**71-1947 Lapsed license; reinstatement; suspension; probation; reinstatement; procedure; hearing; revoked license; revocation period.**

(1) A license issued under the Children's Residential Facilities and Placing Licensure Act that has lapsed for nonpayment of fees is eligible for reinstatement at any time by applying to the department and paying the fees as provided in section 71-1929.

(2) A license that has been disciplined by being placed on suspension is eligible for reinstatement at the end of the period of suspension upon successful completion of an inspection and payment of the fees as provided in section 71-1929.

(3) A license that has been disciplined by being placed on probation is eligible for reinstatement at the end of the period of probation upon successful completion of an inspection if the department determines an inspection is warranted.

(4) A license that has been disciplined by being placed on probation or suspension may be reinstated prior to the completion of the term of such probation or suspension as provided in this subsection. Upon petition from a licensee and after consideration of materials submitted with such petition, the director may order an inspection or other investigation of the licensee. On the basis of material submitted by the licensee and the results of any inspection or investigation by the department, the director shall determine whether to grant full reinstatement of the license, to modify the probation or suspension, or to deny the petition for reinstatement. The director's decision shall become final fifteen days after mailing the decision to the licensee unless the licensee requests a hearing within such fifteen-day period. Any requested hearing shall be held according to rules and regulations of the department for administrative hearings in contested cases. Any party to the decision shall have a right to judicial review under the Administrative Procedure Act.

(5) A license that has been disciplined by being revoked is not eligible for relicensure until two years after the date of such revocation. An application for an initial license may be made at the end of such two-year period.

**Source:** Laws 2013, LB265, § 24.  
Effective date May 26, 2013.

**Cross References**

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

**71-1948 Voluntary surrender of license.**

A licensee may voluntarily surrender a license issued under the Children's Residential Facilities and Placing Licensure Act at any time, except that the department may refuse to accept a voluntary surrender of a license if the licensee is under investigation or if the department has initiated disciplinary action against the licensee.

**Source:** Laws 2013, LB265, § 25.  
Effective date May 26, 2013.

**71-1949 Rules and regulations; contested cases; procedure.**

(1) To protect the health, safety, and welfare of the public and to insure to the greatest extent possible the efficient, adequate, and safe care of children, the department may adopt and promulgate rules and regulations consistent with the Children's Residential Facilities and Placing Licensure Act as necessary for:

- (a) The proper care and protection of children in residential child-caring agencies and child-placing agencies regulated under the act;
- (b) The issuance, discipline, and reinstatement of licenses; and
- (c) The proper administration of the act.

(2) Such rules and regulations shall establish standards for levels of care and services which may include, but are not limited to, supervision and structured activities designed to address the social, emotional, educational, rehabilitative, medical, and physical needs of children residing in or being placed by a residential child-caring agency or child-placing agency and may include the use of community resources to meet the needs of children and qualifications of staff.

(3) Contested cases of the department under the act shall be in accordance with the Administrative Procedure Act.

**Source:** Laws 2013, LB265, § 26.  
Effective date May 26, 2013.

**Cross References**

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

**71-1950 Violations; penalty.**

Any person who establishes, operates, or maintains a residential child-caring agency or child-placing agency subject to the Children's Residential Facilities and Placing Licensure Act without first obtaining a license as required under the act or who violates any of the provisions of the act shall be guilty of a Class

I misdemeanor. Each day such person operates after a first conviction shall be considered a subsequent offense.

**Source:** Laws 2013, LB265, § 27.  
Effective date May 26, 2013.

**71-1951 Existing rules and regulations, licenses, and proceedings; how treated.**

(1) All rules and regulations adopted and promulgated prior to May 26, 2013, under sections 71-1901 to 71-1906.01 or other statutes amended by Laws 2013, LB265, may continue to be effective under the Children's Residential Facilities and Placing Licensure Act to the extent not in conflict with the act.

(2) All licenses issued prior to May 26, 2013, in accordance with sections 71-1901 to 71-1906.01 or other statutes amended by Laws 2013, LB265, shall remain valid as issued for purposes of the Children's Residential Facilities and Placing Licensure Act unless revoked or otherwise terminated by law.

(3) Any suit, action, or other proceeding, judicial or administrative, which was lawfully commenced prior to May 26, 2013, under sections 71-1901 to 71-1906.01 or other statutes amended by Laws 2013, LB265, shall be subject to the provisions of sections 71-1901 to 71-1906.01 or such other statutes as they existed prior to May 26, 2013.

**Source:** Laws 2013, LB265, § 28.  
Effective date May 26, 2013.

(d) STEP UP TO QUALITY CHILD CARE ACT

**71-1952 Act, how cited.**

Sections 71-1952 to 71-1964 shall be known and may be cited as the Step Up to Quality Child Care Act.

**Source:** Laws 2013, LB507, § 1.  
Operative date September 6, 2013.

**71-1953 Purposes of act.**

The purposes of the Step Up to Quality Child Care Act are to (1) provide accountability for public funds invested in child care and early childhood education programs, (2) provide a path to higher quality for child care and early childhood education programs, (3) provide parents a tool by which to evaluate the quality of child care and early childhood education programs, and (4) improve child development and school readiness outcomes.

**Source:** Laws 2013, LB507, § 2.  
Operative date September 6, 2013.

**71-1954 Terms, defined.**

For purposes of the Step Up to Quality Child Care Act:

(1) Applicable child care and early childhood education programs include:

(a) Child care programs licensed under the Child Care Licensing Act which serve children from birth to kindergarten-entrance age;

(b) Prekindergarten services and prekindergarten programs established pursuant to section 79-1104; and

(c) The federal Head Start programs, 42 U.S.C. 9831 et seq., and Early Head Start programs, 42 U.S.C. 9840a; and

(2) Fiscal year means the fiscal year of the State of Nebraska.

**Source:** Laws 2013, LB507, § 3.

Operative date September 6, 2013.

Cross References

Child Care Licensing Act, see section 71-1908.

**71-1955 Quality rating and improvement system; State Department of Education; Department of Health and Human Services; duties.**

The State Department of Education and the Department of Health and Human Services shall collaborate (1) to develop, implement, and provide oversight for a quality rating and improvement system for participating applicable child care and early childhood education programs, (2) to establish quality rating criteria for the system as provided in sections 71-1956 and 71-1958, (3) to use the quality rating criteria to assign quality scale ratings to participating applicable child care and early childhood education programs as provided in sections 71-1956 and 71-1958, and (4) to provide incentives and support, including professional development, training, and postsecondary education opportunities, to participating applicable child care and early childhood education programs as provided in section 71-1961.

**Source:** Laws 2013, LB507, § 4.

Operative date September 6, 2013.

**71-1956 Child care and early childhood education program; rating; quality rating criteria.**

(1) Each applicable child care and early childhood education program which applies under section 71-1957 to participate in the quality rating and improvement system developed pursuant to section 71-1955 shall be rated on a quality scale using ratings labeled steps one through five and based on quality rating criteria.

(2) Quality rating criteria shall be used to assign a quality scale rating as appropriate for the specific step. The criteria shall include, but not be limited to:

- (a) Licensing requirements as specified in the Child Care Licensing Act;
- (b) Facility safety and management;
- (c) Child development and school readiness outcomes;
- (d) Program curriculum, learning environment, and adult-child interactions;
- (e) Professional development and training;
- (f) Family engagement;
- (g) Program administration;
- (h) Standards used by nationally recognized accrediting bodies approved by the State Department of Education; and
- (i) Other standards as required by the State Department of Education for prekindergarten services and prekindergarten programs established pursuant to section 79-1104 and federal performance standards for Head Start and Early Head Start programs.

**Source:** Laws 2013, LB507, § 5.

Operative date September 6, 2013.

## Cross References

Child Care Licensing Act, see section 71-1908.

**71-1957 Participation in quality rating and improvement system.**

Application to participate in the quality rating and improvement system shall be voluntary for applicable child care and early childhood education programs with the following exceptions:

(1) Beginning July 1, 2014, and not later than December 31, 2014, each applicable child care or early childhood education program that received over five hundred thousand dollars in child care assistance pursuant to section 68-1202 for FY2011-12 shall apply to participate in the quality rating and improvement system and shall be assigned a quality scale rating as provided in sections 71-1956 and 71-1958;

(2) Beginning July 1, 2015, and not later than December 31, 2015, each applicable child care or early childhood education program that received over two hundred fifty thousand dollars in child care assistance pursuant to section 68-1202 for FY2011-12 shall apply to participate in the quality rating and improvement system and shall be assigned a quality scale rating as provided in sections 71-1956 and 71-1958; and

(3) Beginning July 1, 2016, each applicable child care or early childhood education program that received over two hundred fifty thousand dollars in child care assistance pursuant to section 68-1202 in the preceding fiscal year shall, not later than December 31 of the applicable year or six months after actual receipt of such assistance, whichever is later, apply to participate in the quality rating and improvement system and shall be assigned a quality scale rating as provided in sections 71-1956 and 71-1958.

**Source:** Laws 2013, LB507, § 6.

Operative date September 6, 2013.

**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. 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 corrective action status, 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.  
Operative date September 6, 2013.

**Cross References**

Child Care Licensing Act, see section 71-1908.

**71-1959 Quality scale rating review; reevaluation.**

(1) An applicable child care or early childhood education program participating in the quality rating and improvement system developed pursuant to section 71-1955 may apply no more than once each fiscal year to have its quality scale rating reviewed.

(2) A participant shall meet all of the quality rating criteria for a step-two rating prior to applying for a step-three, step-four, or step-five rating. To meet quality rating criteria for a step-three, step-four, or step-five rating, a participant shall be independently evaluated based upon the quality rating criteria.

(3) A participant with a quality scale rating at step two through step four shall be reevaluated at least once every two fiscal years but no more than once in any fiscal year, including any review pursuant to subsection (1) of this section. A participant with a quality scale rating at step five shall be reevaluated at least once every five years but no more than once in any fiscal year. If a participant has achieved accreditation and is being reevaluated by a nationally recognized accrediting body approved by the State Department of Education, the state shall make reasonable efforts to conduct its reevaluation in the same fiscal year that the accrediting body is reevaluating the program.

**Source:** Laws 2013, LB507, § 8.  
Operative date September 6, 2013.

**71-1960 License under Child Care Licensing Act; denial of license or disciplinary act authorized.**

The Department of Health and Human Services may deny the issuance of or take disciplinary action against a license issued under the Child Care Licensing Act to a participating applicable child care or early childhood education program for failure to comply with the Step Up to Quality Child Care Act.

**Source:** Laws 2013, LB507, § 9.  
Operative date September 6, 2013.

## Cross References

Child Care Licensing Act, see section 71-1908.

**71-1961 Quality rating and improvement system incentives and support.**

Quality rating and improvement system incentives and support under the Step Up to Quality Child Care Act shall include, but not be limited to:

(1) Tiered child care subsidy reimbursements as provided in section 68-1206 based upon quality scale ratings of step three or higher that reflect the cost of higher quality programs and promote affordability of high-quality child care and early childhood education programs for all families;

(2) Incentive bonuses given to providers of child care and early childhood education programs upon completion of specific requirements of step two ratings or higher to improve quality based upon the quality rating criteria established pursuant to sections 71-1956 and 71-1958;

(3) Professional development, training, and scholarships developed in collaboration with community-based organizations, postsecondary education representatives, and other stakeholders;

(4) Support that expands family engagement in and understanding of high-quality early childhood education in ways that are inclusive and respectful of diversity of families and children with special needs; and

(5) Other incentives as necessary to carry out the Step Up to Quality Child Care Act.

**Source:** Laws 2013, LB507, § 10.

Operative date September 6, 2013.

**71-1962 Nebraska Early Childhood Professional Record System; creation and operation; State Department of Education; duties.**

(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 data base 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.

**Source:** Laws 2013, LB507, § 11.

Operative date September 6, 2013.

**71-1963 Quality scale ratings available on web site; when.**

By July 1, 2017, the Department of Health and Human Services in collaboration with the State Department of Education shall make the quality scale ratings of participating applicable child care and early childhood education programs under the quality rating and improvement system developed pursuant to section 71-1955 available on a publicly accessible web site to provide parents a tool by which to evaluate the quality of child care and early childhood education programs and to promote accountability for public funding of such programs.

**Source:** Laws 2013, LB507, § 12.  
Operative date September 6, 2013.

**71-1964 Rules and regulations.**

The State Department of Education and the Department of Health and Human Services may adopt and promulgate rules and regulations to carry out the Step Up to Quality Child Care Act.

**Source:** Laws 2013, LB507, § 13.  
Operative date September 6, 2013.

**ARTICLE 21  
INFANTS**

Section  
71-2102. Shaken baby syndrome; legislative findings.

**71-2102 Shaken baby syndrome; legislative findings.**

The Legislature finds that shaken baby syndrome is the medical term used to describe the violent shaking of an infant or child and the injuries or other results sustained by the infant or child. The Legislature further finds that shaken baby syndrome 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 these injuries 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 shaken baby syndrome in Nebraska.

**Source:** Laws 2006, LB 994, § 148; Laws 2013, LB23, § 33.  
Effective date September 6, 2013.

**ARTICLE 24  
DRUGS**

(c) EMERGENCY BOX DRUG ACT

Section  
71-2411. Terms, defined.

(j) AUTOMATED MEDICATION SYSTEMS ACT

71-2444. Act, how cited.  
71-2445. Terms, defined.  
71-2446. Automated machine prohibited.  
71-2447. Hospital, long-term care facility, or pharmacy; use of automated medication system; policies and procedures required.  
71-2448. Prescription medication distribution machine; requirements; location.



## Section

- 71-2449. Automated medication distribution machine; requirements; drugs; limitations; inventory; how treated.
- 71-2451. Long-term care facility; annual license; application; contents; inspection; pharmacist; duties; dispensing of drugs; labeling requirements.
- 71-2451.01. Management of long-term care facility; prohibited acts.
- 71-2452. Violations; disciplinary action.

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

(3) 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;

(4) 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;

(5) Long-term care facility means an intermediate care facility, an intermediate care facility for persons with developmental disabilities, a long-term care hospital, a mental health center, a nursing facility, or a skilled nursing facility, as such terms are defined in the Health Care Facility Licensure Act;

(6) Multiple dose vial means any bottle in which more than one dose of a liquid drug is stored or contained;

(7) 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

(8) 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.  
Effective date September 6, 2013.

## Cross References

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

## (j) AUTOMATED MEDICATION SYSTEMS ACT

**71-2444 Act, how cited.**

Sections 71-2444 to 71-2452 shall be known and may be cited as the Automated Medication Systems Act.

**Source:** Laws 2008, LB308, § 1; Laws 2013, LB326, § 3.  
Effective date September 6, 2013.

**71-2445 Terms, defined.**

For purposes of the Automated Medication Systems Act:

(1) Automated medication distribution machine means a type of automated medication system that stores medication to be administered to a patient by a person credentialed under the Uniform Credentialing Act;

(2) Automated medication system means a mechanical system that performs operations or activities, other than compounding, administration, or other technologies, relative to storage and packaging for dispensing or distribution of medications and that collects, controls, and maintains all transaction information and includes, but is not limited to, a prescription medication distribution machine or an automated medication distribution machine. An automated medication system may only be used in conjunction with the provision of pharmacist care;

(3) Chart order means an order for a drug or device issued by a practitioner for a patient who is in the hospital where the chart is stored, for a patient receiving detoxification treatment or maintenance treatment pursuant to section 28-412, or for a resident in a long-term care facility in which a long-term care automated pharmacy is located from which drugs will be dispensed. Chart order does not include a prescription;

(4) Hospital has the definition found in section 71-419;

(5) Long-term care automated pharmacy means a designated area in a long-term care facility where an automated medication system is located, that stores medications for dispensing pursuant to a medical order to residents in such long-term care facility, that is installed and operated by a pharmacy licensed under the Health Care Facility Licensure Act, and that is licensed under section 71-2451;

(6) Long-term care facility means an intermediate care facility, an intermediate care facility for persons with developmental disabilities, a long-term care hospital, a mental health center, a nursing facility, or a skilled nursing facility, as such terms are defined in the Health Care Facility Licensure Act;

(7) Medical order means a prescription, a chart order, or an order for pharmaceutical care issued by a practitioner;

(8) Pharmacist means any person who is licensed by the State of Nebraska to practice pharmacy;

(9) Pharmacist care means the provision by a pharmacist of medication therapy management, with or without the dispensing of drugs or devices, intended to achieve outcomes related to the cure or prevention of a disease, elimination or reduction of a patient's symptoms, or arresting or slowing of a disease process;

(10) Pharmacist remote order entry means entering an order into a computer system or drug utilization review by a pharmacist licensed to practice pharmacy in the State of Nebraska and located within the United States, pursuant to medical orders in a hospital, long-term care facility, or pharmacy licensed under the Health Care Facility Licensure Act;

(11) Practice of pharmacy means (a) the interpretation, evaluation, and implementation of a medical order, (b) the dispensing of drugs and devices, (c) drug product selection, (d) the administration of drugs or devices, (e) drug utilization review, (f) patient counseling, (g) the provision of pharmaceutical

care, and (h) the responsibility for compounding and labeling of dispensed or repackaged drugs and devices, proper and safe storage of drugs and devices, and maintenance of proper records. The active practice of pharmacy means the performance of the functions set out in this subdivision by a pharmacist as his or her principal or ordinary occupation;

(12) Practitioner means a certified registered nurse anesthetist, a certified nurse midwife, a dentist, an optometrist, a nurse practitioner, a physician assistant, a physician, a podiatrist, or a veterinarian;

(13) Prescription means an order for a drug or device issued by a practitioner for a specific patient, for emergency use, or for use in immunizations. Prescription does not include a chart order;

(14) Prescription medication distribution machine means a type of automated medication system that packages, labels, or counts medication in preparation for dispensing of medications by a pharmacist pursuant to a prescription; and

(15) Telepharmacy means the provision of pharmacist care, by a pharmacist located within the United States, using telecommunications, remote order entry, or other automations and technologies to deliver care to patients or their agents who are located at sites other than where the pharmacist is located.

**Source:** Laws 2008, LB308, § 2; Laws 2009, LB195, § 75; Laws 2013, LB23, § 35; Laws 2013, LB326, § 4.  
Effective date September 6, 2013.

**Note:** The Revisor of Statutes has pursuant to section 49-769 correlated LB23, section 35, with LB326, section 4, to reflect all amendments.

#### Cross References

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

**Uniform Credentialing Act**, see section 38-101.

### **71-2446 Automated machine prohibited.**

Any automated machine that dispenses, delivers, or makes available, other than by administration, prescription medication directly to a patient or caregiver without the provision of pharmacist care is prohibited.

**Source:** Laws 2008, LB308, § 3; Laws 2013, LB326, § 5.  
Effective date September 6, 2013.

### **71-2447 Hospital, long-term care facility, or pharmacy; use of automated medication system; policies and procedures required.**

Any hospital, long-term care facility, or pharmacy that uses an automated medication system shall develop, maintain, and comply with policies and procedures developed in consultation with the pharmacist responsible for pharmacist care for that hospital, long-term care facility, or pharmacy. At a minimum, the policies and procedures shall address the following:

(1) The description and location within the hospital, long-term care facility, or pharmacy of the automated medication system or equipment being used;

(2) The name of the pharmacist responsible for implementation of and compliance with the policies and procedures;

(3) Medication access and information access procedures;

(4) Security of inventory and confidentiality of records in compliance with state and federal laws, rules, and regulations;

(5) A description of the process used by a pharmacist or pharmacy technician for filling an automated medication system;

(6) A description of how and by whom the automated medication system is being utilized, including processes for verifying, dispensing, and distributing medications;

(7) Staff education and training;

(8) Quality assurance and quality improvement programs and processes;

(9) Inoperability or emergency downtime procedures;

(10) Periodic system maintenance; and

(11) Medication security and controls.

**Source:** Laws 2008, LB308, § 4; Laws 2009, LB195, § 76; Laws 2013, LB326, § 6.

Effective date September 6, 2013.

**71-2448 Prescription medication distribution machine; requirements; location.**

A prescription medication distribution machine:

(1) 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

(2) May be operated only (a) in a licensed pharmacy where a pharmacist dispenses medications to patients for self-administration pursuant to a prescription or (b) in a long-term care automated pharmacy subject to section 71-2451.

**Source:** Laws 2008, LB308, § 5; Laws 2013, LB326, § 7.

Effective date September 6, 2013.

**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) May be operated in a hospital or long-term care 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.

Effective date September 6, 2013.

**71-2451 Long-term care facility; annual license; application; contents; inspection; pharmacist; duties; dispensing of drugs; labeling requirements.**

(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.

(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.

(10) 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.

Effective date September 6, 2013.

#### Cross References

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

Pharmacy Practice Act, see section 38-2801.

### **71-2451.01 Management of long-term care facility; prohibited acts.**

Unless otherwise allowed by state or federal law or regulation, the management of a long-term care facility at which an automated medication system is located shall not require a resident of the facility to obtain medication through the automated medication system and shall not restrict or impair the ability of a resident of the facility to obtain medications from the pharmacy of the resident's choice.

**Source:** Laws 2013, LB326, § 10.

Effective date September 6, 2013.

### **71-2452 Violations; disciplinary action.**

Any person who violates the Automated Medication Systems Act may be subject to disciplinary action by the Division of Public Health of the Department of Health and Human Services under the Health Care Facility Licensure Act or the Uniform Credentialing Act.

**Source:** Laws 2008, LB308, § 8; Laws 2013, LB326, § 11.

Effective date September 6, 2013.

## Cross References

Health Care Facility Licensure Act, see section 71-401.  
Uniform Credentialing Act, see section 38-101.

## ARTICLE 25

## POISONS

## (c) LEAD POISONING PREVENTION PROGRAM

## Section

71-2518. Lead poisoning prevention program; established; components; results of tests; reports required; department; reports; payment of costs.

## (c) LEAD POISONING PREVENTION PROGRAM

**71-2518 Lead poisoning prevention program; established; components; results of tests; reports required; department; reports; payment of costs.**

(1) The Division of Public Health of the Department of Health and Human Services shall establish a lead poisoning prevention program that has the following components:

(a) A coordinated plan to prevent childhood lead poisoning and to minimize exposure of the general public to lead-based paint hazards. Such plan shall:

(i) Provide a standard, stated in terms of micrograms of lead per deciliter of whole blood, to be used in identifying elevated blood-lead levels;

(ii) Require that a child be tested for an elevated blood-lead level in accordance with the medicaid state plan as defined in section 68-907 if the child is a participant in the medical assistance program established pursuant to the Medical Assistance Act; and

(iii) Recommend that a child be tested for elevated blood-lead levels if the child resides in a zip code with a high prevalence of children with elevated blood-lead levels as demonstrated by previous testing data or if the child meets one of the criteria included in a lead poisoning prevention screening questionnaire developed by the department; and

(b) An educational and community outreach plan regarding lead poisoning prevention that shall, at a minimum, include the development of appropriate educational materials targeted to health care providers, child care providers, public school personnel, owners and tenants of residential dwellings, and parents of young children. Such educational materials shall be made available to the general public via the department's web site.

(2) The results of all blood-lead level tests conducted in Nebraska shall be reported to the department. When the department receives notice of a child with an elevated blood-lead level as stated in the plan required pursuant to subdivision (1)(a) of this section, it shall initiate contact with the local public health department or the physician, or both, of such child and offer technical assistance, if necessary.

(3) The department shall report electronically to the Legislature by January 1, 2013, and each January 1 thereafter, the number of children from birth through age six who were screened for elevated blood-lead levels during the preceding fiscal year and who were confirmed to have elevated blood-lead levels as stated in the plan required pursuant to subdivision (1)(a) of this section. The report

shall compare such results with those of previous fiscal years and shall identify any revisions to the plan required by subdivision (1)(a) of this section.

(4) This section does not require the department to pay the cost of elevated-blood-lead-level testing in accordance with this section except in cases described in subdivision (1)(a)(ii) of this section.

**Source:** Laws 2012, LB1038, § 1; Laws 2013, LB222, § 27.  
Effective date May 8, 2013.

Cross References

Medical Assistance Act, see section 68-901.

## ARTICLE 34

### REDUCTION IN MORBIDITY AND MORTALITY

#### (b) CHILD AND MATERNAL DEATHS

Section

- 71-3404. Act, how cited; child deaths; maternal deaths; legislative findings and intent.
- 71-3405. Terms, defined.
- 71-3406. State Child and Maternal Death Review Team; core members; terms; chairperson; not considered public body; meetings; expenses.
- 71-3407. Team; purposes; duties.
- 71-3408. Chairperson; team coordinator; duties.
- 71-3409. Review of child deaths; review of maternal deaths; manner.
- 71-3410. Provision of information and records; subpoenas.
- 71-3411. Information and records; confidentiality; release; conditions; disclosure; limitations.

#### (b) CHILD AND MATERNAL DEATHS

**71-3404 Act, how cited; child deaths; maternal deaths; 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 in this state be examined. There is a need for a comprehensive integrated review of all child deaths in Nebraska and a system for statewide retrospective review of existing records relating to each child death.

(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 in this state be examined. There is a need for a comprehensive integrated review of all maternal deaths in Nebraska and a system for statewide retrospective review of existing records relating to each maternal death.

(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 and maternal deaths from similar causes when applicable;

(b) Recommend systematic changes for the creation of a cohesive method for responding to certain child and maternal deaths; 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.  
Effective date September 6, 2013.

**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 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;

(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 or maternal death means the death of any child or pregnant or postpartum woman which reasonable medical, social, legal, psychological, or educational intervention may have prevented. Preventable child or maternal death includes, but is not limited to, the death of a child or pregnant or postpartum woman 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) Reasonable means taking into consideration the condition, circumstances, and resources available; and

(8) Team means the State Child and Maternal Death Review Team.

**Source:** Laws 1993, LB 431, § 2; Laws 2013, LB361, § 2.  
Effective date September 6, 2013.

**71-3406 State Child and Maternal Death Review Team; core members; terms; chairperson; 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 and a maximum of fifteen members to the State Child and Maternal Death Review Team. The core members shall be (a) a physician employed by the department, who shall be a permanent member and shall serve as the chairperson of the team, (b) a senior staff member with child protective services of the department, (c) a forensic patholo-

gist, (d) a law enforcement representative, (e) the Inspector General of Nebraska Child Welfare, and (f) an attorney. The remaining members appointed may be, but shall not be limited to, the following: A county attorney; a Federal Bureau of Investigation agent responsible for investigations on Native American reservations; a social worker; and members of organizations which represent hospitals or physicians. The department 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.

(2) Members shall serve four-year terms with the exception of the chairperson. In the absence of the chairperson, the chief executive officer may appoint another member of the core team to serve as chairperson.

(3) The team shall not be considered a public body for purposes of the Open Meetings Act. The team shall meet a minimum of four times a year. Members of the team shall be reimbursed for their actual and necessary 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.

**Note:** The Revisor of Statutes has pursuant to section 49-769 correlated LB269, section 12, with LB361, section 3, to reflect all amendments.

**Note:** Changes made by LB269 became effective June 5, 2013. Changes made by LB361 became effective September 6, 2013.

#### Cross References

**Open Meetings Act**, see section 84-1407.

### **71-3407 Team; purposes; duties.**

(1) The purposes of the team shall be to (a) develop an understanding of the causes and incidence of child or maternal deaths in this state, (b) develop recommendations for changes within relevant agencies and organizations which may serve to prevent child or maternal deaths, and (c) advise the Governor, the Legislature, and the public on changes to law, policy, and practice which will prevent child or maternal deaths.

(2) The team shall:

(a) Undertake annual statistical studies of the causes and incidence of child or maternal deaths in this state. The studies shall include, but not be limited to, an analysis of the records of community, public, and private agency involvement with the children, the pregnant or postpartum women, and their families prior to and subsequent to the child or maternal deaths;

(b) Develop a protocol for retrospective investigation of child or maternal deaths by the team;

(c) Develop a protocol for collection of data regarding child or maternal deaths by the team;

(d) Consider training needs, including cross-agency training, and service gaps;

(e) Include in its annual report recommended changes to any law, rule, regulation, or policy needed to decrease the incidence of preventable child or maternal deaths;

(f) Educate the public regarding the incidence and causes of child or maternal deaths, the public role in preventing child or maternal deaths, and

specific steps the public can undertake to prevent child or maternal deaths. The team may enlist the support of civic, philanthropic, and public service organizations in the performance of its educational duties;

(g) Provide the Governor, the Legislature, and the public with annual reports which shall include the team's findings and recommendations for each of its duties. For 2013 and 2014, the team shall also provide the report to the Health and Human Services Committee of the Legislature on or before September 15. The reports submitted to the Legislature shall be submitted electronically; and

(h) When appropriate, make referrals to those agencies as required in section 28-711 or as otherwise required by state law.

(3) The team may enter into consultation agreements with relevant experts to evaluate the information and records collected by the team. All of the confidentiality provisions of section 71-3411 shall apply to the activities of a consulting expert.

(4) The team may enter into agreements with a local public health department as defined in section 71-1626 to act as the agent of the team in conducting all information gathering and investigation necessary for the purposes of the Child and Maternal Death Review Act. All of the confidentiality provisions of section 71-3411 shall apply to the activities of the agent.

**Source:** Laws 1993, LB 431, § 4; Laws 2012, LB782, § 116; Laws 2012, LB1160, § 18; Laws 2013, LB361, § 4.  
Effective date September 6, 2013.

**71-3408 Chairperson; team coordinator; duties.**

(1) The chairperson of the team shall:

(a) Chair meetings of the team; and

(b) Ensure identification of strategies to prevent child or maternal deaths.

(2) The team coordinator provided under subsection (1) 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.

**Source:** Laws 1993, LB 431, § 5; Laws 2013, LB361, § 5.  
Effective date September 6, 2013.

**71-3409 Review of child deaths; review of maternal deaths; manner.**

(1)(a) The team shall review all child deaths occurring on or after January 1, 1993, and before January 1, 2014, in three phases as provided in this subsection.

(b) Phase one shall be conducted by the core members. The core 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 Depart-

ment of Health and Human Services. The core 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. The core members may select cases from phase one for review in phase two.

(c) Phase two shall be completed by the core members and shall not be conducted on any child death under active investigation by a law enforcement agency or under criminal prosecution. The core members may seek additional records described in section 71-3410. The core 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. The core members may select cases from phase two for review by the team in phase three.

(d) Phase three shall be a review by the team of those cases selected by the core members for further discussion, review, and analysis.

(2)(a) The team shall review all child deaths occurring on or after January 1, 2014, 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.

(3)(a) The team shall review all maternal deaths occurring on or after January 1, 2014, in the manner provided in this subsection.

(b) The members shall review the death certificate, coroner's report or autopsy report if done, and indicators of the woman's 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 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.

**Source:** Laws 1993, LB 431, § 6; Laws 1996, LB 1044, § 649; Laws 2013, LB361, § 6.

Effective date September 6, 2013.

**71-3410 Provision of information and records; subpoenas.**

(1) Upon request, the team 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 or maternal death 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 team.

**Source:** Laws 1993, LB 431, § 7; Laws 1996, LB 1044, § 650; Laws 1998, LB 1073, § 126; Laws 2007, LB296, § 564; Laws 2013, LB361, § 7.

Effective date September 6, 2013.

**71-3411 Information and records; confidentiality; release; conditions; disclosure; limitations.**

(1)(a) All information and records acquired by the team in the exercise of its 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 team 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 team 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 team 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, destruc-

tion 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 a team's purposes and duties, members of a team and persons attending a team meeting may not disclose what transpired at a meeting and shall not disclose any information the disclosure of which is prohibited by this section.

(3) Members of a team and persons attending a team meeting shall not testify in any civil, administrative, licensure, or criminal proceeding, including depositions, regarding information reviewed in or opinions 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 which is public information.

(4) 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 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 1993, LB 431, § 8; Laws 2013, LB361, § 8.  
Effective date September 6, 2013.

#### ARTICLE 46

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

#### (a) MANUFACTURED HOMES AND RECREATIONAL VEHICLES

Section

71-4609. Commission; duties; rules and regulations; refusal to issue seal; grounds; hearing; appeal; commission; powers; disciplinary actions; fee.

#### (a) MANUFACTURED HOMES AND RECREATIONAL VEHICLES

**71-4609 Commission; duties; rules and regulations; refusal to issue seal; grounds; hearing; appeal; commission; powers; disciplinary actions; fee.**

(1) The commission shall administer the Uniform Standard Code for Manufactured Homes and Recreational Vehicles. The commission may adopt and promulgate, amend, alter, or repeal general rules and regulations of procedure for (a) administering the provisions of the code, (b) issuing seals, (c) obtaining statistical data respecting the manufacture and sale of manufactured homes and recreational vehicles, and (d) prescribing means, methods, and practices to make effective such provisions.

(2) The commission shall refuse to issue a seal to any manufacturer or other person for any manufactured home or recreational vehicle found to be not in compliance with its standards governing body and frame design and construction or plumbing, heating, or electrical systems for manufactured homes or recreational vehicles or for which fees have not been paid. Except in case of failure to pay the required fees, any such manufacturer or other person may request a hearing before the commission on the issue of such refusal. Procedures for notice and opportunity for a hearing before the commission shall be

pursuant to the Administrative Procedure Act. The refusal by the commission may be appealed, and the appeal shall be in accordance with section 75-136.

(3) The issuance of seals may be suspended or revoked as to any manufacturer or other person who has not complied with any provision of the code or with any rule, regulation, or standard adopted and promulgated under the code or who is convicted of violating section 71-4608, and issuance of the seals shall not be resumed until such manufacturer or other person submits sufficient proof that the conditions which caused the lack of compliance or the violation have been remedied. Any manufacturer or other person may request a hearing before the commission on the issue of such suspension or revocation. Procedures for notice and opportunity for a hearing before the commission shall be pursuant to the Administrative Procedure Act. The suspension or revocation by the commission may be appealed, and the appeal shall be in accordance with section 75-136.

(4) The commission may conduct hearings and presentations of views consistent with the regulations adopted by the United States Department of Housing and Urban Development and adopt and promulgate such rules and regulations as are necessary to carry out this function.

(5) The commission shall establish a monitoring inspection fee in an amount approved by the United States Secretary of Housing and Urban Development, which fee shall be an amount paid to the commission by the manufacturer for each manufactured-home seal issued in the state. An additional monitoring inspection fee established by the United States Secretary of Housing and Urban Development shall be paid by the manufacturer to the secretary who shall distribute the fees collected from all manufactured-home manufacturers based on provisions developed and approved by the secretary.

**Source:** Laws 1969, c. 557, § 9, p. 2274; Laws 1975, LB 300, § 21; Laws 1981, LB 545, § 25; Laws 1985, LB 313, § 13; Laws 1988, LB 352, § 134; Laws 1993, LB 536, § 91; Laws 1998, LB 1073, § 133; Laws 2002, LB 93, § 16; Laws 2013, LB545, § 3.  
Effective date September 6, 2013.

#### Cross References

Administrative Procedure Act, see section 84-920.

## ARTICLE 51

### EMERGENCY MEDICAL SERVICES

#### (e) NEBRASKA EMERGENCY MEDICAL SYSTEM OPERATIONS FUND

##### Section

71-51,103. Nebraska Emergency Medical System Operations Fund; created; use; investment.

#### (e) NEBRASKA EMERGENCY MEDICAL SYSTEM OPERATIONS FUND

**71-51,103 Nebraska Emergency Medical System Operations Fund; created; use; investment.**

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. The fund shall be used to carry out the purposes of the Statewide Trauma System Act and the Emergency Medical

Services Practice Act, including activities related to the design, maintenance, or enhancement of the statewide trauma system, support of emergency medical services programs, and support for the emergency medical services programs for children. 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.  
Effective date May 8, 2013.

#### 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 52

### RESIDENT PHYSICIAN EDUCATION AND DENTAL EDUCATION PROGRAMS

#### (a) FAMILY PRACTICE RESIDENCY

#### Section

71-5206.01. Family practice residents; funding of stipends and benefits.

#### (a) FAMILY PRACTICE RESIDENCY

#### **71-5206.01 Family practice residents; funding of stipends and benefits.**

(1) The Legislature may provide funding to the Office of Rural Health for the purpose of funding the cost of resident stipends and benefits, which funding may include health insurance, professional liability insurance, disability insurance, medical education expenses, continuing competency expenses, pension benefits, moving expenses, and meal expenses in family practice residency programs based in Nebraska but which are not under a contract pursuant to section 71-5206. The resident stipends and benefits funded in this section shall apply only to residents who begin family practice residency training at a qualifying institution in years beginning on or after January 1, 1993. The total funding provided in the form of stipend and benefit support per resident to a family practice residency program under this section shall not exceed the total funding provided in the form of stipend and benefit support per resident to a family practice residency program under section 71-5203.

(2) Upon receiving an itemized statement of the cost of stipends and benefits of a family practice residency program from a sponsoring institution and upon determining that the sponsoring institution is not receiving funds under a contract pursuant to section 71-5206, the office may reimburse such institution fifty percent of such cost for each family practice resident in the program. The office may reimburse such institution twenty-five percent of the remaining cost per family practice resident for each year that one of the program's graduates practices family medicine in Nebraska, up to a maximum of three years for each graduate, and an additional twenty-five percent of the remaining cost per resident for each of the program's graduates who practices family medicine in an area of Nebraska classified as of January 1, 1991, by the United States



Secretary of Health and Human Services as Medicare Locale 16. The total number of residents receiving annual financial payments made under this section shall not exceed nine students during any school year.

**Source:** Laws 1993, LB 152, § 4; Laws 1999, LB 241, § 2; Laws 2002, LB 1021, § 89; Laws 2012, LB782, § 120; Laws 2013, LB222, § 29.

Effective date May 8, 2013.

## ARTICLE 58

### HEALTH CARE; CERTIFICATE OF NEED

#### Section

71-5803.09. Intermediate care facility, intermediate care facility for persons with developmental disabilities, defined.

71-5829.03. Certificate of need; activities requiring.

71-5829.04. Long-term care beds; moratorium; exceptions; department; duties.

#### **71-5803.09 Intermediate care facility, intermediate care facility for persons with developmental disabilities, defined.**

Intermediate care facility has the same meaning as in section 71-420 and includes an intermediate care facility for persons with developmental disabilities that has sixteen or more beds. Intermediate care facility for persons with developmental disabilities has the same meaning as in section 71-421.

**Source:** Laws 1979, LB 172, § 19; Laws 1988, LB 1100, § 174; R.S.1943, (1996), § 71-5819; Laws 1997, LB 798, § 13; Laws 2000, LB 819, § 116; Laws 2009, LB511, § 1; Laws 2013, LB23, § 36.  
Effective date September 6, 2013.

#### **71-5829.03 Certificate of need; activities requiring.**

Except as provided in section 71-5830.01, no person, including persons acting for or on behalf of a health care facility, shall engage in any of the following activities without having first applied for and received the necessary certificate of need:

(1) The initial establishment of long-term care beds or rehabilitation beds except as permitted under subdivisions (4) and (5) of this section;

(2) An increase in the long-term care beds of a health care facility by more than ten long-term care beds or more than ten percent of the total long-term care bed capacity of such facility, whichever is less, over a two-year period;

(3) An increase in the rehabilitation beds of a health care facility by more than ten rehabilitation beds or more than ten percent of the total rehabilitation bed capacity of such facility, whichever is less, over a two-year period;

(4) Any initial establishment of long-term care beds through conversion by a hospital of any type of hospital beds to long-term care beds if the total beds converted by the hospital are more than ten beds or more than ten percent of the total bed capacity of such hospital, whichever is less, over a two-year period;

(5) Any initial establishment of rehabilitation beds through conversion by a hospital of any type of hospital beds to rehabilitation beds if the total beds converted by the hospital are more than ten beds or more than ten percent of

the total bed capacity of such hospital, whichever is less, over a two-year period; or

(6) Any relocation of rehabilitation beds in Nebraska from one health care facility to another health care facility, except that no certificate of need is required for relocation or transfer of rehabilitation beds from a health care facility to another health care facility owned and operated by the same entity.

**Source:** Laws 1997, LB 798, § 22; Laws 2008, LB765, § 1; Laws 2009, LB195, § 84; Laws 2013, LB487, § 1.  
Effective date September 6, 2013.

**71-5829.04 Long-term care beds; moratorium; exceptions; department; duties.**

(1) All long-term care beds which require a certificate of need under section 71-5829.03 are subject to a moratorium unless one of the following exceptions applies:

(a) An exception to the moratorium may be granted if the department establishes that the needs of individuals whose medical and nursing needs are complex or intensive and are above the level of capabilities of staff and above the services ordinarily provided in a long-term care bed are not currently being met by the long-term care beds licensed in the health planning region; or

(b) If the average occupancy for all licensed long-term care beds located in a twenty-five-mile radius of the proposed site has exceeded ninety percent occupancy during the most recent three consecutive calendar quarters as reported at the time of the application filing and there is a long-term care bed need as determined under this section, the department may grant an exception to the moratorium and issue a certificate of need. If the department determines average occupancy for all licensed long-term care beds located in a twenty-five-mile radius of the proposed site has not exceeded ninety percent occupancy during the most recent three consecutive calendar quarters as reported at the time of the application filing, the department shall deny the application unless the department determines that all long-term care beds in a licensed facility located in a city of the second class or village have been sold or transferred to another facility or facilities located outside of the twenty-five-mile radius of the city or village resulting in no licensed long-term care beds within the corporate limits of the city of the second class or village. In such case, the department shall waive the certificate of need limitations of this subdivision for development and licensure of a long-term care facility by a political subdivision or a nonprofit organization in such a city of the second class or village if the political subdivision or nonprofit organization agrees not to sell long-term care beds licensed under such waiver or increase the number of long-term care beds as allowed under subdivision (2) of section 71-5829.03 until five years have passed after such beds are first occupied. The number of licensed long-term care beds in the facility shall be limited to the number of long-term care beds sold or transferred as described in this subdivision.

(2) The department shall review applications which require a certificate of need under section 71-5829.03 and determine if there is a need for additional long-term care beds as provided in this section. No such application shall be approved if the current supply of licensed long-term care beds in the health planning region of the proposed site exceeds the long-term care bed need for that health planning region. For purposes of this section:

(a) Long-term care bed need is equal to the population of the health planning region, multiplied by the utilization rate of long-term care beds within the health planning region, and the result divided by the minimum occupancy rate of long-term care beds within the health planning region;

(b) Population is the most recent projection of population for the health planning region for the year which is closest to the fifth year immediately following the date of the application. The applicant shall provide such projection as part of the application using data from the University of Nebraska-Lincoln Bureau of Business Research or other source approved by the department;

(c) The utilization rate is the number of people using long-term care beds living in the health planning region in which the proposed project is located divided by the population of the health planning region; and

(d) The minimum occupancy rate is ninety-five percent for health planning regions which are part of or contain a Metropolitan Statistical Area as defined by the United States Bureau of the Census. For all other health planning regions in the state, the minimum occupancy rate is ninety percent.

(3) To facilitate the review and determination required by this section, each health care facility with long-term care beds shall report on a quarterly basis to the department the number of residents at such facility on the last day of the immediately preceding quarter on a form provided by the department. Such report shall be provided to the department no later than ninety days after the last day of the immediately preceding quarter. The department shall provide the occupancy data collected from such reports upon request. Any facility failing to timely report such information shall be ineligible for any exception to the requirement for a certificate of need under section 71-5830.01 and any exception to the moratorium imposed under this section and may not receive, transfer, or relocate long-term care beds.

**Source:** Laws 1997, LB 798, § 23; Laws 2009, LB195, § 85; Laws 2013, LB344, § 1.  
Effective date May 8, 2013.

## ARTICLE 60 NURSING HOMES

### (b) NEBRASKA NURSING HOME ACT

Section

71-6018.01. Nursing facility; nursing requirements; waiver; procedure.

### (c) TRAINING REQUIREMENTS

71-6039. Nursing assistant; qualifications; training requirements; department; duties; licensure as nurse; effect.

### (b) NEBRASKA NURSING HOME ACT

#### **71-6018.01 Nursing facility; nursing requirements; waiver; procedure.**

(1) Unless a waiver is granted pursuant to subsection (2) of this section, a nursing facility shall use the services of (a) a licensed registered nurse for at least eight consecutive hours per day, seven days per week and (b) a licensed registered nurse or licensed practical nurse on a twenty-four-hour basis seven days per week. Except when waived under subsection (2) of this section, a

nursing facility shall designate a licensed registered nurse or licensed practical nurse to serve as a charge nurse on each tour of duty. The Director of Nursing Services shall be a licensed registered nurse, and this requirement shall not be waived. The Director of Nursing Services may serve as a charge nurse only when the nursing facility has an average daily occupancy of sixty or fewer residents.

(2) The department may waive either the requirement that a nursing facility or long-term care hospital certified under Title XIX of the federal Social Security Act, as amended, use the services of a licensed registered nurse for at least eight consecutive hours per day, seven days per week, or the requirement that a nursing facility or long-term care hospital certified under Title XIX of the federal Social Security Act, as amended, use the services of a licensed registered nurse or licensed practical nurse on a twenty-four-hour basis seven days per week, including the requirement for a charge nurse on each tour of duty, if:

(a)(i) The facility or hospital demonstrates to the satisfaction of the department that it has been unable, despite diligent efforts, including offering wages at the community prevailing rate for the facilities or hospitals, to recruit appropriate personnel;

(ii) The department determines that a waiver of the requirement will not endanger the health or safety of individuals staying in the facility or hospital; and

(iii) The department finds that, for any periods in which licensed nursing services are not available, a licensed registered nurse or physician is obligated to respond immediately to telephone calls from the facility or hospital; or

(b) The department has been granted any waiver by the federal government of staffing standards for certification under Title XIX of the federal Social Security Act, as amended, and the requirements of subdivisions (a)(ii) and (iii) of this subsection have been met.

(3) The department shall apply for such a waiver from the federal government to carry out subdivision (1)(b) of this section.

(4) A waiver granted under this section shall be subject to annual review by the department. As a condition of granting or renewing a waiver, a facility or hospital may be required to employ other qualified licensed personnel. The department may grant a waiver under this section if it determines that the waiver will not cause the State of Nebraska to fail to comply with any of the applicable requirements of medicaid so as to make the state ineligible for the receipt of all funds to which it might otherwise be entitled.

(5) The department shall provide notice of the granting of a waiver to the office of the state long-term care ombudsman and to the Nebraska Advocacy Services or any successor designated for the protection of and advocacy for persons with mental illness or an intellectual disability. A nursing facility granted a waiver shall provide written notification to each resident of the facility or, if appropriate, to the guardian, legal representative, or immediate family of the resident.

**Source:** Laws 2000, LB 819, § 126; Laws 2007, LB296, § 639; Laws 2013, LB23, § 37.

Effective date September 6, 2013.

## (c) TRAINING REQUIREMENTS

**71-6039 Nursing assistant; qualifications; training requirements; department; duties; licensure as nurse; effect.**

(1) No person shall act as a nursing assistant in a nursing home unless such person:

(a) Is at least sixteen years of age and has not been convicted of a crime involving moral turpitude;

(b) Is able to speak and understand the English language or a language understood by a substantial portion of the nursing home residents; and

(c) Has successfully completed a basic course of training approved by the department for nursing assistants within one hundred twenty days of initial employment in the capacity of a nursing assistant at any nursing home.

(2)(a) A registered nurse or licensed practical nurse whose license has been revoked, suspended, or voluntarily surrendered in lieu of discipline may not act as a nursing assistant in a nursing home.

(b) If a person registered as a nursing assistant becomes licensed as a registered nurse or licensed practical nurse, his or her registration as a nursing assistant becomes null and void as of the date of licensure.

(c) A person listed on the Nurse Aide Registry with respect to whom a finding of conviction has been placed on the registry may petition the department to have such finding removed at any time after one year has elapsed since the date such finding was placed on the registry.

(3) The department may prescribe a curriculum for training nursing assistants and may adopt and promulgate rules and regulations for such courses of training. The content of the courses of training and competency evaluation programs shall be consistent with federal requirements unless exempted. The department may approve courses of training if such courses of training meet the requirements of this section. Such courses of training shall include instruction on the responsibility of each nursing assistant to report suspected abuse or neglect pursuant to sections 28-372 and 28-711. Nursing homes may carry out approved courses of training within the nursing home, except that nursing homes may not conduct the competency evaluation part of the program. The prescribed training shall be administered by a licensed registered nurse.

(4) For nursing assistants at intermediate care facilities for persons with developmental disabilities, such courses of training shall be no less than twenty hours in duration and shall include at least fifteen hours of basic personal care training and five hours of basic therapeutic and emergency procedure training, and for nursing assistants at all nursing homes other than intermediate care facilities for persons with developmental disabilities, such courses shall be no less than seventy-five hours in duration.

(5) This section shall not prohibit any facility from exceeding the minimum hourly or training requirements.

**Source:** Laws 1983, LB 273, § 2; Laws 1984, LB 416, § 11; Laws 1986, LB 921, § 11; Laws 1988, LB 463, § 49; Laws 1990, LB 1080, § 7; Laws 1994, LB 1210, § 149; Laws 2004, LB 1005, § 111; Laws 2007, LB185, § 43; Laws 2007, LB463, § 1236; Laws 2013, LB23, § 38.

Effective date September 6, 2013.

ARTICLE 67

MEDICATION REGULATION

(b) MEDICATION AIDE ACT

Section

71-6721. Terms, defined.

71-6725. Minimum standards for competencies.

71-6727. Medication Aide Registry; contents.

(b) MEDICATION AIDE ACT

**71-6721 Terms, defined.**

For purposes of the Medication Aide Act:

(1) Ability to take medications independently means the individual is physically capable of (a) the act of taking or applying a dose of a medication, (b) taking or applying the medication according to a specific prescription or recommended protocol, and (c) observing and monitoring himself or herself for desired effect, side effects, interactions, and contraindications of the medication and taking appropriate actions based upon those observations;

(2) Administration of medication includes, but is not limited to (a) providing medications for another person according to the five rights, (b) recording medication provision, and (c) observing, monitoring, reporting, and otherwise taking appropriate actions regarding desired effects, side effects, interactions, and contraindications associated with the medication;

(3) Caretaker means a parent, foster parent, family member, friend, or legal guardian who provides care for an individual;

(4) Child care facility means an entity or a person licensed under the Child Care Licensing Act;

(5) Competent individual means an adult who is the ultimate recipient of medication and who has the capability and capacity to make an informed decision about taking medications;

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

(7) Direction and monitoring means the acceptance of responsibility for observing and taking appropriate action regarding any desired effects, side effects, interactions, and contraindications associated with the medication by a (a) competent individual for himself or herself, (b) caretaker, or (c) licensed health care professional;

(8) Facility means a health care facility or health care service as defined in section 71-413 or 71-415 or an entity or person certified by the department to provide home and community-based services;

(9) Five rights means getting the right drug to the right recipient in the right dosage by the right route at the right time;

(10) Health care professional means an individual for whom administration of medication is included in the scope of practice;

(11) Home means the residence of an individual but does not include any facility or school;

(12) Intermediate care facility for persons with developmental disabilities has the definition found in section 71-421;

(13) Informed decision means a decision made knowingly, based upon capacity to process information about choices and consequences, and made voluntarily;

(14) Medication means any prescription or nonprescription drug intended for treatment or prevention of disease or to affect body function in humans;

(15) Medication aide means an individual who is listed on the medication aide registry operated by the department;

(16) Nonprescription drug has the definition found in section 38-2829;

(17) Nursing home means any facility or a distinct part of any facility that provides care as defined in sections 71-420, 71-422, 71-424, and 71-429;

(18) Prescription drug has the definition of prescription drug or device as found in section 38-2841;

(19) Provision of medication means the component of the administration of medication that includes giving or applying a dose of a medication to an individual and includes helping an individual in giving or applying such medication to himself or herself;

(20) PRN means an administration scheme in which a medication is not routine, is taken as needed, and requires assessment for need and effectiveness;

(21) Recipient means a person who is receiving medication;

(22) Routine, with reference to medication, means the frequency of administration, amount, strength, and method are specifically fixed; and

(23) School means an entity or person meeting the requirements for a school set by Chapter 79.

**Source:** Laws 1998, LB 1354, § 11; Laws 2000, LB 819, § 138; Laws 2001, LB 398, § 81; Laws 2004, LB 1005, § 132; Laws 2007, LB296, § 663; Laws 2007, LB463, § 1286; Laws 2013, LB23, § 39.

Effective date September 6, 2013.

**Cross References**

Child Care Licensing Act, see section 71-1908.

**71-6725 Minimum standards for competencies.**

(1) The minimum competencies for a medication aide, a person licensed to operate a child care facility or a staff member of a child care facility, or a staff member of a school shall include (a) maintaining confidentiality, (b) complying with a recipient's right to refuse to take medication, (c) maintaining hygiene and current accepted standards for infection control, (d) documenting accurately and completely, (e) providing medications according to the five rights, (f) having the ability to understand and follow instructions, (g) practicing safety in application of medication procedures, (h) complying with limitations and conditions under which a medication aide may provide medications, and (i) having an awareness of abuse and neglect reporting requirements and any other areas as shall be determined by rules or regulations.

(2) The Department of Health and Human Services shall adopt and promulgate rules and regulations setting minimum standards for competencies listed in subsection (1) of this section and methods for competency assessment of medication aides. The Department of Health and Human Services shall adopt and promulgate rules and regulations setting methods for competency assess-

ment of the person licensed to operate a child care facility or staff of child care facilities. The State Department of Education shall adopt and promulgate rules and regulations setting methods for competency assessment of the school staff member.

(3) A medication aide, except one who is employed by a nursing home, an intermediate care facility for persons with developmental disabilities, or an assisted-living facility, a person licensed to operate a child care facility or a staff member of a child care facility, or a staff member of a school shall not be required to take a course. The medication aide shall be assessed to determine that the medication aide has the competencies listed in subsection (1) of this section.

(4) A medication aide providing services in an assisted-living facility as defined in section 71-406, a nursing home, or an intermediate care facility for persons with developmental disabilities shall be required to have completed a forty-hour course on the competencies listed in subsection (1) of this section and competency standards established through rules and regulations as provided for in subsection (2) of this section, except that a medication aide who has, prior to January 1, 2003, completed a twenty-hour course and passed an examination developed and administered by the Department of Health and Human Services may complete a second twenty-hour course supplemental to the first twenty-hour course in lieu of completing the forty-hour course. The department shall adopt and promulgate rules and regulations regarding the procedures and criteria for curriculum. Competency assessment shall include passing an examination developed and administered by the department. Criteria for establishing a passing standard for the examination shall be established in rules and regulations.

(5) Medication aides providing services in nursing homes or intermediate care facilities for persons with developmental disabilities shall also meet the requirements set forth in section 71-6039.

**Source:** Laws 1998, LB 1354, § 15; Laws 2000, LB 819, § 139; Laws 2002, LB 1021, § 103; Laws 2007, LB296, § 665; Laws 2013, LB23, § 40.

Effective date September 6, 2013.

#### **71-6727 Medication Aide Registry; contents.**

(1) The department shall list each medication aide registration in the Medication Aide Registry as a Medication Aide-40-Hour, Medication Aide-20-Hour, or Medication Aide. 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 section 71-6730.

(2) The registry shall contain the following information on each individual who meets the conditions in section 71-6726: (a) The individual's full name; (b) information necessary to identify individuals, including those qualified to provide medications in nursing homes, intermediate care facilities for persons with developmental disabilities, or assisted-living facilities; (c) any conviction of a felony or misdemeanor reported to the department; and (d) other information as the department may require by rule and regulation.

**Source:** Laws 1998, LB 1354, § 17; Laws 2007, LB463, § 1288; Laws 2013, LB23, § 41.

Effective date September 6, 2013.



**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) fifty-six million one hundred thousand dollars no later than July 15, 2009, and (b) fifty-nine million one hundred thousand dollars on or before July 15, 2010, July 15, 2011, and July 15, 2012, and 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 upon consultation with the Nebraska Investment Council shall advise the State Treasurer on the amounts to be transferred from the Nebraska Medicaid Intergovernmental Trust Fund and from the Nebraska Tobacco Settlement Trust Fund under this section 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. Except as otherwise provided by law, no more than the amount specified in this subsection may be appropriated or transferred from the Nebraska Health Care Cash Fund in any fiscal year.

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.

**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.  
Effective date May 26, 2013.

## Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

## ARTICLE 85

## TELEHEALTH SERVICES

## (a) NEBRASKA TELEHEALTH ACT

## Section

71-8506. Medical assistance program; reimbursement; requirements.

## (b) CHILDREN'S BEHAVIORAL HEALTH

71-8509. Telehealth services for children's behavioral health; rules and regulations; terms, defined.

71-8510. Behavioral health screenings; legislative intent; optional screening.

71-8511. Behavioral Health Education Center; duties.

71-8512. Behavioral Health Screening and Referral Pilot Program; created by University of Nebraska Medical Center; clinics; selection; collection of data; evaluation; termination of section.

## (a) NEBRASKA TELEHEALTH ACT

**71-8506 Medical assistance program; reimbursement; requirements.**

(1) In-person contact between a health care practitioner and a patient shall not be required under the medical assistance program established pursuant to the Medical Assistance Act and Title XXI of the federal Social Security Act, as amended, for health care services delivered through telehealth that are otherwise eligible for reimbursement under such program and federal act. Such services shall be subject to reimbursement policies developed pursuant to such program and federal act. This section also applies to managed care plans which contract with the department pursuant to the Medical Assistance Act only to the extent that:

(a) Health care services delivered through telehealth are covered by and reimbursed under the medicaid fee-for-service program; and

(b) Managed care contracts with managed care plans are amended to add coverage of health care services delivered through telehealth and any appropriate capitation rate adjustments are incorporated.

(2) The reimbursement rate for a telehealth consultation shall, as a minimum, be set at the same rate as the medical assistance program rate for a comparable in-person consultation.

(3) The department shall establish rates for transmission cost reimbursement for telehealth consultations, considering, to the extent applicable, reductions in travel costs by health care practitioners and patients to deliver or to access health care services and such other factors as the department deems relevant. Such rates shall include reimbursement for all two-way, real-time, interactive communications, unless provided by an Internet service provider, between the patient and the physician or health care practitioner at the distant site which comply with the federal Health Insurance Portability and Accountability Act of 1996 and rules and regulations adopted thereunder and with regulations relating to encryption adopted by the federal Centers for Medicare and Medicaid Services and which satisfy federal requirements relating to efficiency, economy, and quality of care.

**Source:** Laws 1999, LB 559, § 6; Laws 2006, LB 1248, § 82; Laws 2013, LB556, § 6.

Effective date September 6, 2013.

## Cross References

Medical Assistance Act, see section 68-901.

## (b) CHILDREN'S BEHAVIORAL HEALTH

**71-8509 Telehealth services for children's behavioral health; rules and regulations; terms, defined.**

(1) The Department of Health and Human Services shall adopt and promulgate rules and regulations providing for telehealth services for children's behavioral health. Such rules and regulations relate specifically to children's behavioral health and are in addition to the Nebraska Telehealth Act.

For purposes of sections 71-8509 to 71-8512, child means a person under nineteen years of age.

(2) The rules and regulations required pursuant to subsection (1) of this section shall include, but not be limited to:

(a) An appropriately trained staff member or employee familiar with the child's treatment plan or familiar with the child shall be immediately available in person to the child receiving a telehealth behavioral health service in order to attend to any urgent situation or emergency that may occur during provision of such service. This requirement may be waived by the child's parent or legal guardian;

(b) In cases in which there is a threat that the child may harm himself or herself or others, before an initial telehealth service the health care practitioner shall work with the child and his or her parent or guardian to develop a safety plan. Such plan shall document actions the child, the health care practitioner, and the parent or guardian will take in the event of an emergency or urgent situation occurring during or after the telehealth session. Such plan may include having a staff member or employee familiar with the child's treatment plan immediately available in person to the child, if such measures are deemed necessary by the team developing the safety plan; and

(c) Services provided by means of telecommunications technology, other than telehealth behavioral health services received by a child, are not covered if the child has access to a comparable service within thirty miles of his or her place of residence.

**Source:** Laws 2013, LB556, § 1.  
Effective date September 6, 2013.

## Cross References

Nebraska Telehealth Act, see section 71-8501.

**71-8510 Behavioral health screenings; legislative intent; optional screening.**

It is the intent of the Legislature that behavioral health screenings be offered by physicians at the time of childhood physicals. The physician shall explain that such screening is optional. The results of behavioral health screenings and any related documents shall not be included in the child's school record and shall not be provided to the child's school or to any other person or entity without the express consent of the child's parent or legal guardian.

**Source:** Laws 2013, LB556, § 2.  
Effective date September 6, 2013.

**71-8511 Behavioral Health Education Center; duties.**

The Behavioral Health Education Center created pursuant to section 71-830 shall provide education and training for educators on children's behavioral health in the areas of the state served by the Behavioral Health Screening and Referral Pilot Program created pursuant to section 71-8512.

**Source:** Laws 2013, LB556, § 3.

Effective date September 6, 2013.

**71-8512 Behavioral Health Screening and Referral Pilot Program; created by University of Nebraska Medical Center; clinics; selection; collection of data; evaluation; termination of section.**

(1) The University of Nebraska Medical Center shall create the Behavioral Health Screening and Referral Pilot Program. The pilot program shall utilize a strategy of screening and behavioral health intervention in coordination with the regional behavioral health authorities established pursuant to section 71-808 in which the clinics identified under subsection (2) of this section are located. It is the intent of the Legislature that the pilot program demonstrate a method of addressing the unmet emotional or behavioral health needs of children that can be replicated statewide. Under the pilot program, behavioral health screening will be offered: (a) In primary care providers' offices during examinations under the early and periodic screening, diagnosis, and treatment services program pursuant to 42 U.S.C. 1396d(r), as such section existed on January 1, 2013; or (b) upon request from parents or legal guardians who have concerns about a child's behavioral health.

(2) Three clinics shall be selected to serve as sites for the pilot program, including at least one rural and one urban clinic. Selected clinics shall have child psychologists integrated in the pediatric practice of the clinics. Parents or legal guardians of children participating in the pilot program shall be offered routine mental and behavioral health screening for their child during required physical examinations or at the request of a parent or legal guardian. Behavioral health screening shall be administered by clinic staff and interpreted by the psychiatrist, psychiatric nurse practitioner, psychologist, or licensed mental health practitioner and the child's primary care physician.

(3) Children identified through such screenings as being at risk may be referred for further evaluation and diagnosis as indicated. If intervention is required, the primary care medical team, including the psychologist and the primary care physician, shall develop a treatment plan collaboratively with the parent or legal guardian and any other individuals identified by the parent or legal guardian. If appropriate, the child shall receive behavioral therapy, medication, or combination therapy within the primary care practice setting.

(4) Consultation via telephone or telehealth with faculty and staff of the departments of Child and Adolescent Psychiatry, Psychiatric Nursing, and Developmental Pediatrics, and the Munroe-Meyer Institute Psychology Department, of the University of Nebraska Medical Center shall be available to the primary care practice and the children as needed to manage the care of children with mental or behavioral health issues that require more specialized care than can be provided by the primary care practice.

(5) Data on the pilot program shall be collected and evaluated by the Interdisciplinary Center for Program Evaluation at the Munroe-Meyer Institute

of the University of Nebraska Medical Center. Evaluation of the pilot program shall include, but not be limited to:

(a) The number of referrals for behavioral health screening under the pilot program;

(b) Whether each referral is initiated by a parent, a school, or a physician;

(c) The number of children and adolescents recommended for further psychological assessment after screening for a possible behavioral health disorder;

(d) The number and type of further psychological assessments of children and adolescents recommended and conducted;

(e) The number and type of behavioral health disorders in children and adolescents diagnosed as a result of a further psychological assessment following a behavioral health screening under the pilot program;

(f) The number and types of referrals of children and adolescents for behavioral health treatment from primary care medical practitioners;

(g) The number of children and adolescents successfully treated for a behavioral health disorder based upon patient reports, parent ratings, and academic records;

(h) The number and type of referrals of children and adolescents to psychiatric backup services at the University of Nebraska Medical Center;

(i) The number of children and adolescents diagnosed with a behavioral health disorder who are successfully managed or treated through psychiatric backup services from the University of Nebraska Medical Center;

(j) The number and types of medications, consultations, or prescriptions ordered by psychiatric nurse practitioners for children and adolescents;

(k) The number of referrals of children and adolescents for severe behavioral health disorders and consultations to child psychiatrists, developmental pediatricians, or psychologists specializing in treatment of adolescents;

(l) The number of children and adolescents referred to psychiatric hospitals or emergency departments of acute care hospitals for treatment for dangerous or suicidal behavior;

(m) The number of children and adolescents prescribed psychotropic medications and the types of such psychotropic medications; and

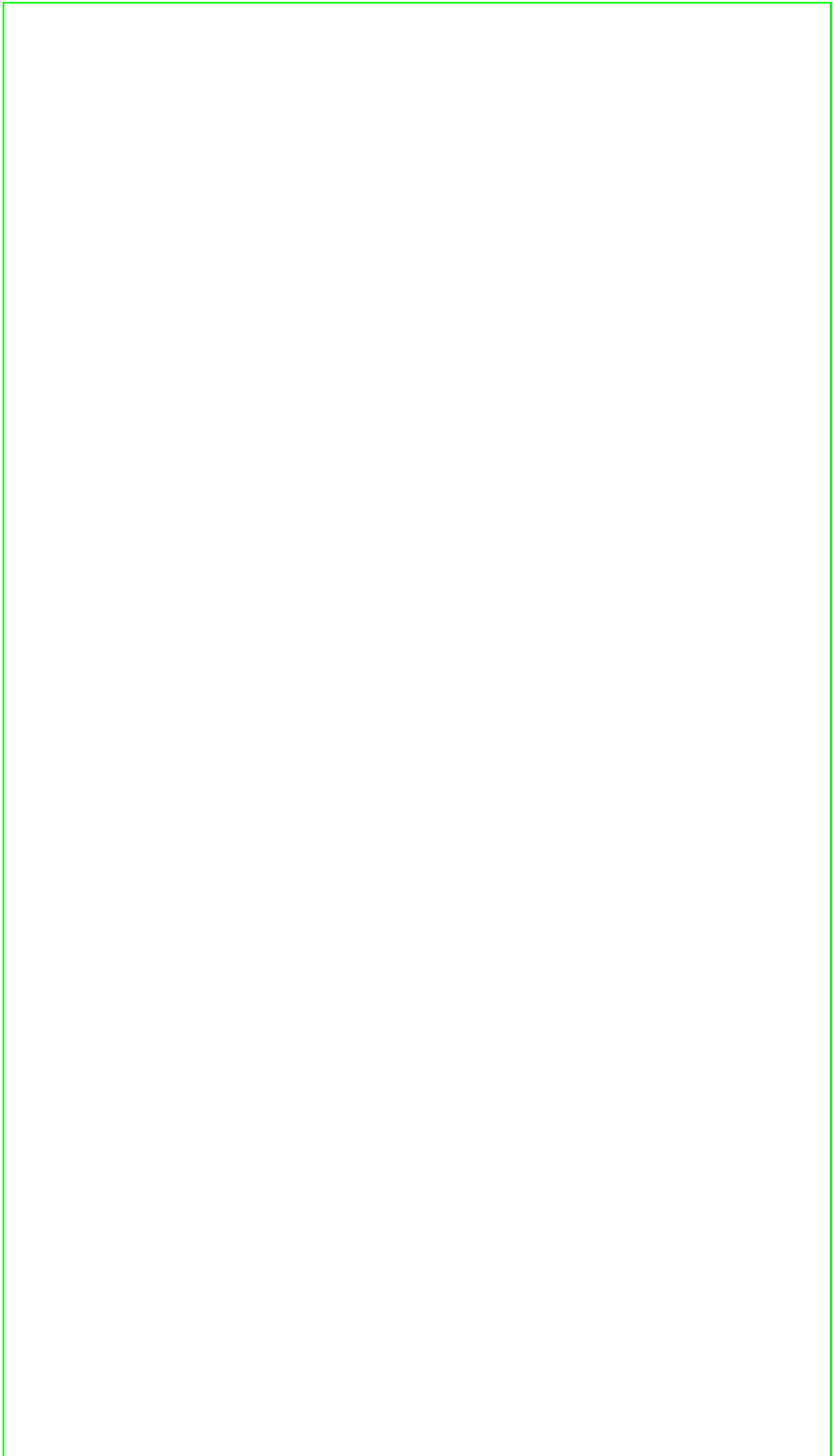
(n) Data collection on program costs and financial impact as related to capacity for replication in other primary care practices. Primary program costs include physician and psychologist time for conducting screenings, family interviews, further testing, and specialist consulting costs relating to consulting services by psychiatric nurses, developmental pediatricians, and psychologists. Treatment or medications paid by private insurance, the medical assistance program, or the State Children's Health Insurance Program shall not be included in program costs pursuant to this subdivision.

(6) This section terminates two years after September 6, 2013.

**Source:** Laws 2013, LB556, § 4.

Effective date September 6, 2013.

Termination date September 6, 2015.



## CHAPTER 72

### PUBLIC LANDS, BUILDINGS, AND FUNDS

Article.

8. Public Buildings. 72-815.

#### ARTICLE 8

#### PUBLIC BUILDINGS

Section

72-815. Vacant buildings and excess land; state building division; powers and duties; demolition; sale; lease; proceeds; disposition; maintenance; excess land at Hastings Regional Center; sale; distribution of proceeds.

**72-815 Vacant buildings and excess land; state building division; powers and duties; demolition; sale; lease; proceeds; disposition; maintenance; excess land at Hastings Regional Center; sale; distribution of proceeds.**

(1) The state building division of the Department of Administrative Services shall be responsible for the sale, lease, or other disposal of a building or land, whichever action is ordered by the committee.

(2) If a building is to be demolished, section 72-810 shall not apply, but the state building division shall notify the State Historic Preservation Officer of such demolition at least thirty days prior to the beginning of the demolition or disassembly so that the officer may collect any photographic or other evidence he or she may find of historic value.

(3)(a) If a building or land is to be sold or leased, the state building division shall cause an appraisal to be made of the building or land. The sale, lease, or other disposal of the building or land shall comply with all relevant statutes pertaining to the sale or lease of surplus state property, except that if the state building division fails to receive an offer from a state agency in which the agency certifies that it (i) intends to use the building for the purposes for which it was designed, intended, or remodeled or to remodel the building for uses which will serve the agency's purposes or (ii) intends to use the land for the purposes for which it was acquired or received, the state building division shall then notify the Department of Economic Development that the building or land is available for sale or lease so that the department may refer to the state building division any potential buyers or lessees of which the department may be aware. The state building division may then sell or lease the building or land by such method as is to the best advantage of the State of Nebraska, including auction, sealed bid, or public sale and, if necessary, by private sale, but in all situations only after notice of the property sale is publicly advertised on at least two separate occasions in the newspaper with the largest circulation in the county where the surplus property is located and not less than thirty days prior to the sale of the property. The state building division may use the services of a real estate broker licensed under the Nebraska Real Estate License Act. Priority shall be given to other political subdivisions of state government, then to persons contracting with the state or political subdivisions of the state who will use the building or land for middle-income or low-income rental housing for at

least fifteen years, and finally to referrals from the Department of Economic Development.

(b) When a building or land designated for sale is listed in the National Register of Historic Places, the state building division, in its discretion and based on the best interests of the state, may follow the procedure outlined in subdivision (3)(a) of this section or may sell the building or land by any method deemed in the best interests of the state to a not-for-profit community organization that intends to maintain the historic and cultural integrity of the building or land.

(c) All sales and leases shall be in the name of the State of Nebraska. The state building division may provide that a deed of sale include restrictions on the building or land to ensure that the use and appearance of the building or land remain compatible with any adjacent state-owned property.

(d) Except as otherwise provided in subsection (4) of this section, the proceeds of the sale or lease shall be remitted to the State Treasurer for credit to the Vacant Building and Excess Land Cash Fund unless the state agency formerly responsible for the building or land certifies to the state building division that the building or land was purchased in part or in total from cash, federal, or revolving funds, in which event, after the costs of selling or leasing the building or land are deducted from the proceeds of the sale or lease and such amount is credited to the fund, the remaining proceeds of the sale or lease shall be credited to the cash, federal, or revolving fund in the percentage used in originally purchasing the building or land.

(4) Any state-owned military property, including any armories considered surplus property, shall be sold by such method as is to the best advantage of the State of Nebraska, including auction, sealed bid, or public sale, and if necessary, by private sale, but in all situations only after notice of the property sale is publicly advertised on at least two separate occasions in the newspaper with the largest circulation in the county where the surplus property is located and not less than thirty days prior to the sale of the property, and pursuant to section 72-816, all proceeds from the sale of the property, less maintenance expenses pending the sale and selling expenses, but including investment income on the sale proceeds of the property, shall be promptly transferred from the Vacant Building and Excess Land Cash Fund to the General Fund by the State Building Administrator.

(5) The state building division shall be responsible for the maintenance of the building or land if maintenance is ordered by the committee and shall be responsible for maintenance of the building or land pending sale or lease of the building or land.

(6) Land at the Hastings Regional Center determined by the committee to be excess shall be sold by such method as is to the best advantage of the State of Nebraska, including auction, sealed bid, or public sale and, if necessary, by private sale. The sale of land shall only occur after notice of the sale is publicly advertised on at least two separate occasions in the newspaper with the largest circulation in the county where the land is located and not less than thirty days prior to the sale of the land. The proceeds from the sale of the land, less maintenance expenses pending the sale and selling expenses, but including investment income on the sale proceeds, shall be promptly transferred from the Vacant Building and Excess Land Cash Fund by the State Treasurer as follows:



(a) First, not exceeding five million three hundred seven thousand dollars to the General Fund; and

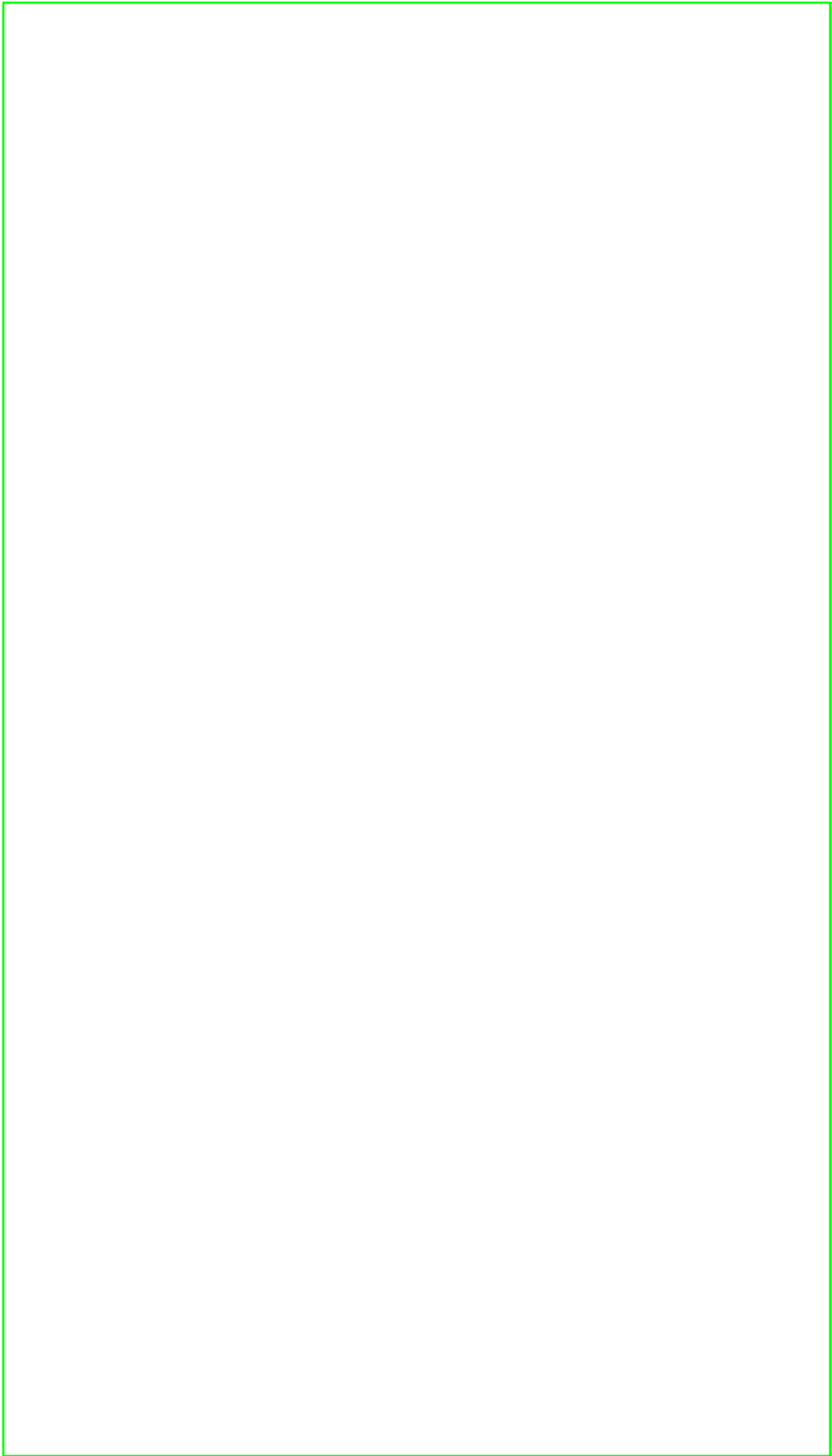
(b) Second, not exceeding three million dollars of available proceeds remaining to the Nebraska Capital Construction Fund.

**Source:** Laws 1988, LB 1143, § 5; Laws 1989, LB 18, § 6; Laws 1990, LB 830, § 5; Laws 1992, LB 1241, § 10; Laws 2000, LB 1216, § 21; Laws 2003, LB 403, § 6; Laws 2010, LB722, § 2; Laws 2013, LB199, § 30.

Effective date May 26, 2013.

**Cross References**

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



## CHAPTER 73

# PUBLIC LETTINGS AND CONTRACTS

Article.

1. Public Lettings. 73-107.
5. State Contracts for Services. 73-510.

### ARTICLE 1

#### PUBLIC LETTINGS

Section

73-107. Resident disabled veteran or business located in designated enterprise zone; preference; contract not in compliance with section; null and void.

**73-107 Resident disabled veteran or business located in designated enterprise zone; preference; contract not in compliance with section; null and void.**

(1) When a state contract is to be awarded to the lowest responsible bidder, a resident disabled veteran or a business located in a designated enterprise zone under the Enterprise Zone Act shall be allowed a preference over any other resident or nonresident bidder if all other factors are equal.

(2) For purposes of this section, resident disabled veteran means any person (a) who resides in the State of Nebraska, who served in the United States Armed Forces, including any reserve component or the National Guard, who was discharged or otherwise separated with a characterization of honorable or general (under honorable conditions), and who possesses a disability rating letter issued by the United States Department of Veterans Affairs establishing a service-connected disability or a disability determination from the United States Department of Defense and (b)(i) who owns and controls a business or, in the case of a publicly owned business, more than fifty percent of the stock is owned by one or more persons described in subdivision (a) of this subsection and (ii) the management and daily business operations of the business are controlled by one or more persons described in subdivision (a) of this subsection.

(3) Any contract entered into without compliance with this section shall be null and void.

**Source:** Laws 2013, LB224, § 1.  
Effective date September 6, 2013.

#### Cross References

**Enterprise Zone Act**, see section 13-2101.01.

### ARTICLE 5

#### STATE CONTRACTS FOR SERVICES

Section

73-510. New proposed contract in excess of fifteen million dollars; submission of contract and proof-of-need analysis; information required; division; duties; state agency; filing required.

**73-510 New proposed contract in excess of fifteen million dollars; submission of contract and proof-of-need analysis; information required; division; duties; state agency; filing required.**

(1) A state agency shall not enter into a new proposed contract for services in excess of fifteen million dollars until the state agency has submitted to the division a copy of the proposed contract and proof-of-need analysis described in this section and has subsequently received certification from the division to enter into the contract.

(2) The proof-of-need analysis shall require state agencies to provide the following information:

(a) A description of the service that is the subject of the proposed contract;

(b) The reason for purchase of the service rather than the use or hiring of state employees, including, but not limited to, whether there is an administrative restriction on hiring additional state employees;

(c) A review of any long-term actual cost savings of the contract and an explanation of the analysis used to determine such savings;

(d) An explanation of the process by which the state agency will include adequate control mechanisms to ensure that the services are provided pursuant to the terms of the contract, including a description of the method by which the control mechanisms will ensure the quality of services provided by the contract;

(e) Identification of the specific state agency employee who will monitor the contract for services for performance;

(f) Identification and description of whether the service requested is temporary or occasional;

(g) An assessment of the feasibility of alternatives within the state agency to contract for performance of the services;

(h) A justification for entering into the contract for services if:

(i) The proposed contract will not result in cost savings to the state; and

(ii) The public's interest in having the particular service performed directly by the state agency exceeds the public's interest in the proposed contract;

(i) Any federal requirements that the service be provided by a person other than the state agency;

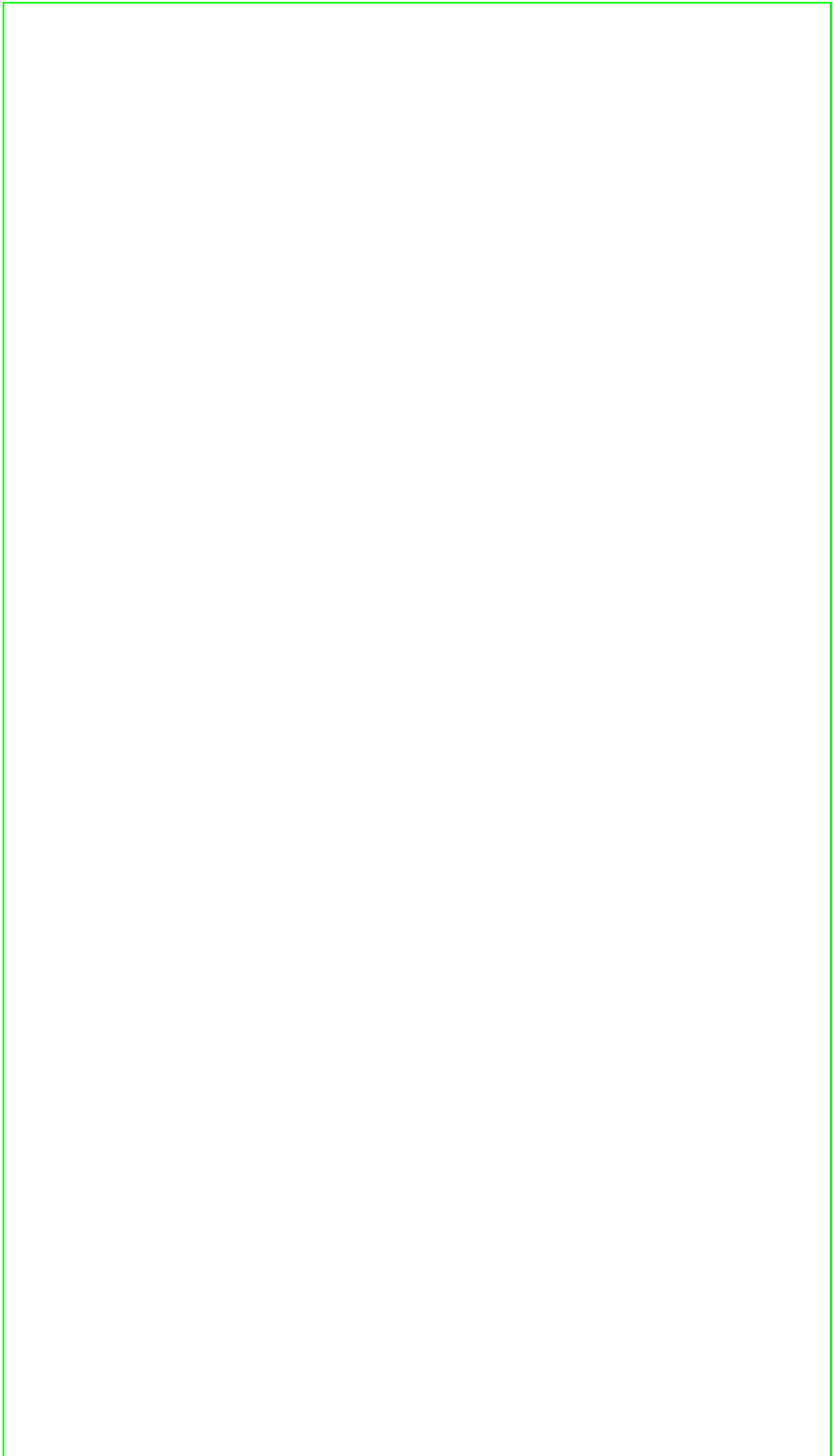
(j) Demonstration by the state agency that it has taken formal and positive steps to consider alternatives to such contract, including reorganization, reevaluation of services, and reevaluation of performance; and

(k) A description of any relevant legal issues, including barriers to contracting for the service or requirements that the state agency contract for the service.

(3) The division shall certify receipt of a proof-of-need analysis and shall report its receipt of the proof-of-need analysis to the state agency no more than thirty days after receiving the analysis. Certification of the proof-of-need analysis means that all information required by this section has been provided to the division by the state agency. If the division certifies the analysis, the state agency may enter into the proposed contract. If the division does not certify the analysis, it shall inform the state agency of the additional information required.

(4) If the division certifies a proof-of-need analysis pursuant to this section, the state agency shall file the proposed contract, proof-of-need analysis, and proof of certification with the Legislative Fiscal Analyst.

**Source:** Laws 2012, LB858, § 13; Laws 2013, LB563, § 1.  
Effective date May 30, 2013.



## CHAPTER 75

### PUBLIC SERVICE COMMISSION

Article.

1. Organization and Composition, Regulatory Scope, and Procedure. 75-134 to 75-156.
3. Motor Carriers.
  - (a) Intrastate Motor Carriers. 75-302.
  - (e) Safety Regulations. 75-363 to 75-366.
  - (l) Unified Carrier Registration Plan and Agreement. 75-393.
7. Transmission Lines. 75-722.

#### ARTICLE 1

#### ORGANIZATION AND COMPOSITION, REGULATORY SCOPE, AND PROCEDURE

Section

- 75-134. Commission order; requirements; when effective; rate order under State Natural Gas Regulation Act; appeal; stay enforcement.
- 75-134.02. Motion for reconsideration.
- 75-136. Orders; right to appeal; manner and time; advancement of appeal of rate order under State Natural Gas Regulation Act.
- 75-139. Rate order; appeal; when effective; supersedeas bond; effect; applicability of section.
- 75-156. Civil penalty; procedure; order; appeal.

#### **75-134 Commission order; requirements; when effective; rate order under State Natural Gas Regulation Act; appeal; stay enforcement.**

(1) A commission order entered after a hearing shall be written and shall recite (a) a discussion of the facts of a basic or underlying nature, (b) the ultimate facts, and (c) the commission's reasoning or other authority relied upon by the commission.

(2) Every order of the commission shall become effective ten days after the date of the mailing of a copy of the order to the parties of record except (a) when the commission prescribes an alternate effective date, (b) as otherwise provided in section 75-121 or 75-139, (c) for cease and desist orders issued pursuant to section 75-133 which shall become effective on the date of entry, or (d) for orders entered pursuant to section 75-319 which shall become effective on the date of entry.

(3) Except as otherwise provided in this section or for rate orders provided for in section 75-139, any appeal of a commission order shall not stay enforcement of such order unless otherwise ordered by the commission or the Court of Appeals.

(4) Notwithstanding subsection (3) of this section, any appeal of a rate order under the State Natural Gas Regulation Act entered pursuant to section 66-1838 shall stay enforcement of such order pending resolution of the appeal.

**Source:** Laws 1963, c. 425, art. I, § 34, p. 1367; Laws 1967, c. 479, § 9, p. 1479; Laws 1976, LB 426, § 1; Laws 1991, LB 732, § 130; Laws 1994, LB 414, § 47; Laws 1995, LB 424, § 15; Laws 2000, LB

1285, § 3; Laws 2002, LB 1105, § 490; Laws 2002, LB 1211, § 9; Laws 2003, LB 187, § 19; Laws 2005, LB 247, § 2; Laws 2013, LB545, § 4.

Effective date September 6, 2013.

**Cross References**

State Natural Gas Regulation Act, see section 66-1801.

**75-134.02 Motion for reconsideration.**

(1) Except with respect to rate orders under the State Natural Gas Regulation Act entered pursuant to section 66-1838, any party may file a motion for reconsideration with the commission within ten days after the effective date of the order as determined under section 75-134. The filing of a motion for reconsideration shall suspend the time for filing a notice of intention to appeal pending resolution of the motion, except that if the commission does not dispose of a motion for reconsideration within sixty days after the filing of the motion, the motion shall be deemed denied and the procedures for appeal in section 75-136 apply.

(2) Any party to a general rate proceeding under the State Natural Gas Regulation Act may file a motion for reconsideration within thirty days after the day an order setting natural gas rates is entered by the commission. The filing of a motion for reconsideration shall stay the order until the earlier of the date the commission enters an order resolving the motion or one hundred twenty days from the date of the order setting rates. Either party shall have thirty days after the date the commission enters an order resolving the motion or the expiration of the one-hundred-twenty-day period for considering the motion, whichever is earlier, in which to file an appeal.

**Source:** Laws 2013, LB545, § 7.

Effective date September 6, 2013.

**Cross References**

State Natural Gas Regulation Act, see section 66-1801.

**75-136 Orders; right to appeal; manner and time; advancement of appeal of rate order under State Natural Gas Regulation Act.**

(1) Except as otherwise provided by law, if a party to any proceeding is not satisfied with the order entered by the commission, such party may appeal.

(2) Any appeal filed on or after October 1, 2013, shall be taken in the same manner and time as appeals from the district court, except that the appellate court shall conduct a review of the matter de novo on the record. Appeals shall be heard and disposed of in the appellate court in the manner provided by law. Appeal of a commission order shall be perfected by filing a notice of intention to appeal with the executive director of the commission within thirty days after the effective date of the order as determined under section 75-134.

(3) Any appeal filed prior to October 1, 2013, shall be in accordance with sections 75-134, 75-136, and 75-156 as such sections existed prior to the changes made by Laws 2013, LB545.

(4) Any appeal of a rate order under the State Natural Gas Regulation Act entered pursuant to section 66-1838 shall be advanced by the Court of Appeals



as other causes which involve the public welfare and convenience are advanced.

**Source:** Laws 1963, c. 425, art. I, § 36, p. 1368; Laws 1967, c. 479, § 11, p. 1480; Laws 1989, LB 78, § 10; Laws 1991, LB 732, § 131; Laws 1992, LB 360, § 32; Laws 1995, LB 424, § 16; Laws 2000, LB 1285, § 4; Laws 2003, LB 187, § 21; Laws 2013, LB545, § 5.  
Effective date September 6, 2013.

Cross References

State Natural Gas Regulation Act, see section 66-1801.

**75-139 Rate order; appeal; when effective; supersedeas bond; effect; applicability of section.**

(1) Except as otherwise provided in this section, the effective date of a rate order that is appealed shall be the first Monday following the date of the appellate court's mandate if the order is affirmed, except that (a) a shipper may make effective a rate order reducing a fixed rate by filing a supersedeas bond with the commission sufficient in amount to insure refund of the difference between the rate appealed and the original rate to the carrier entitled thereto if the order appealed is reversed and (b) a common carrier may make effective a rate order increasing a fixed rate by filing a supersedeas bond with the commission sufficient in amount to insure refund of the difference between the rate finally approved and the rate appealed to shippers or subscribers entitled thereto if the order appealed is reversed.

(2) A supersedeas bond may be filed by any affected shipper or common carrier, including shippers or common carriers that were not parties to the rate proceeding, at any time prior to the issuance of the appellate court's mandate. Only the shipper or common carrier filing a supersedeas bond shall benefit from such filing.

(3) The commission shall approve a supersedeas bond which meets the requirements of this section within seven days after a written request therefor has been made, and failure to disapprove the bond within the time specified shall be deemed to be an approval.

(4) A carrier may put into effect rate increases granted by a commission order while appealing that portion of the commission's order denying a part of an application of the carrier.

(5) This section does not apply to rate orders under the State Natural Gas Regulation Act entered pursuant to section 66-1838.

**Source:** Laws 1963, c. 425, art. I, § 39, p. 1369; Laws 1967, c. 479, § 14, p. 1481; Laws 1976, LB 426, § 2; Laws 1991, LB 732, § 135; Laws 2013, LB545, § 6.  
Effective date September 6, 2013.

Cross References

State Natural Gas Regulation Act, see section 66-1801.

**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, grain dealer, or grain warehouseman 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, 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.  
Effective date September 6, 2013.

#### 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.

## ARTICLE 3

### MOTOR CARRIERS

#### (a) INTRASTATE MOTOR CARRIERS

Section

75-302. Terms, defined.

#### (e) SAFETY REGULATIONS

75-363. Federal motor carrier safety regulations; provisions adopted; exceptions.

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

75-366. Enforcement powers.

#### (l) UNIFIED CARRIER REGISTRATION PLAN AND AGREEMENT

75-393. Unified carrier registration plan and agreement; director; powers.

#### (a) INTRASTATE MOTOR CARRIERS

**75-302 Terms, defined.**

For purposes of sections 75-301 to 75-322 and in all rules and regulations adopted and promulgated by the commission pursuant to such sections, unless the context otherwise requires:

(1) Attended services means an attendant or caregiver accompanying a minor or 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 household goods for the general public in intrastate commerce by motor vehicle for hire, whether over regular or irregular routes, upon the highways of this state;

(7) Contract carrier means any motor carrier which transports passengers or household goods for hire other than as a common carrier designed to meet the distinct needs of each individual customer or a specifically designated class of customers without any limitation as to the number of customers it can serve within the class;

(8) Division of Motor Carrier Services means the Division of Motor Carrier Services of the Department of Motor Vehicles;

(9) Highway means the roads, highways, streets, and ways in this state;

(10) Household goods means personal effects and property used or to be used in a dwelling, when a part of the equipment or supply of such dwelling, and similar property as the commission may provide by regulation if the transportation of such effects or property, is:

(a) Arranged and paid for by the householder, including transportation of property from a factory or store when the property is purchased by the householder with the intent to use in his or her dwelling; or

(b) Arranged and paid for by another party;

(11) Intrastate commerce means commerce between any place in this state and any other place in this state and not in part through any other state;

(12) Licensed care transportation services means transportation provided by an entity licensed by the Department of Health and Human Services as a 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;

(13) Motor carrier means any person other than a regulated motor carrier who or which owns, controls, manages, operates, or causes to be operated any motor vehicle used to transport passengers or property over any public highway in this state;

(14) Motor vehicle means any vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used upon the highways in the transportation of passengers or property but does not include any vehicle, locomotive, or car operated exclusively on a rail or rails;

(15) Permit means a permit issued under Chapter 75, article 3, to contract carriers by motor vehicle;

(16) Person means any individual, firm, partnership, limited liability company, corporation, company, association, or joint-stock association and includes any trustee, receiver, assignee, or personal representative thereof;

(17) Private carrier means any motor carrier which owns, controls, manages, operates, or causes to be operated a motor vehicle to transport passengers or property to or from its facility, plant, or place of business or to deliver to purchasers its products, supplies, or raw materials (a) when such transportation is within the scope of and furthers a primary business of the carrier other than transportation and (b) when not for hire. Nothing in sections 75-301 to 75-322 shall apply to private carriers;

(18) Regulated motor carrier means any person who or which owns, controls, manages, operates, or causes to be operated any motor vehicle used to transport passengers, other than those excepted under section 75-303, or household goods over any public highway in this state;

(19) Residential care means care for a minor or a person who is physically, mentally, or developmentally disabled who resides in a residential home or facility regulated by the Department of Health and Human Services, including, but not limited to, a foster home, treatment facility, residential child-caring agency, or shelter;

(20) Residential care transportation services means transportation services to persons in residential care when such residential care transportation services and residential care are provided as part of a services contract with the Department of Health and Human Services or pursuant to a subcontract entered into incident to a services contract with the department; and

(21) Supported transportation services means transportation services to a minor or for a person who is physically, mentally, or developmentally disabled when the person providing transportation services also assists and supervises the passenger or transportation services to a family member of a minor when it is necessary for provider staff to accompany or facilitate the transportation in order to provide necessary services and support to the minor. Supported transportation services must be provided as part of a services contract with the Department of Health and Human Services or pursuant to a subcontract entered into incident to a services contract with the department, and the driver must meet department requirements for (a) training or experience working with minors or persons who are physically, mentally, or developmentally disabled, (b) training with regard to the specific needs of the client served, (c)

reporting to the department, and (d) age. Assisting and supervising the passenger shall not necessarily require the person providing transportation services to stay with the passenger after the transportation services have been provided.

**Source:** Laws 1963, c. 425, art. III, § 2, p. 1375; Laws 1969, c. 606, § 1, p. 2467; Laws 1972, LB 1370, § 1; Laws 1989, LB 78, § 18; Laws 1990, LB 980, § 25; Laws 1993, LB 121, § 464; Laws 1993, LB 412, § 2; Laws 1995, LB 424, § 22; Laws 1996, LB 1218, § 43; Laws 1999, LB 594, § 66; Laws 2006, LB 1069, § 3; Laws 2007, LB358, § 12; Laws 2011, LB112, § 1; Laws 2013, LB265, § 45.

Effective date May 26, 2013.

Cross References

Child Care Licensing Act, see section 71-1908.

(e) SAFETY REGULATIONS

**75-363 Federal motor carrier safety regulations; provisions adopted; exceptions.**

(1) The parts, subparts, and sections of Title 49 of the Code of Federal Regulations listed below, as modified in this section, or any other parts, subparts, and sections referred to by such parts, subparts, and sections, in existence and effective as of January 1, 2013, are adopted as Nebraska law.

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

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

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

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

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

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

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

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

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

(b) Part 385 - SAFETY FITNESS PROCEDURES;

(c) Part 386 - RULES OF PRACTICE FOR MOTOR CARRIER, INTERMODAL EQUIPMENT PROVIDER, BROKER, FREIGHT FORWARDER, AND HAZARDOUS MATERIALS PROCEEDINGS;

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

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

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

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

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

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

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

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

(l) Part 398 - TRANSPORTATION OF MIGRANT WORKERS.

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

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

(a) All of part 391;

(b) Section 395.8 of part 395; and

(c) Section 396.11 of part 396.

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

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

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

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

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

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

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

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

(9) Part 395 - HOURS OF SERVICE OF DRIVERS, as adopted in subsections (3) and (8) of this section, shall not apply to drivers transporting agricultural commodities or farm supplies for agricultural purposes when the transportation of such commodities or supplies occurs within a one-hundred-air-mile radius of the source of the commodities or the distribution point for the supplies when such transportation occurs during the period beginning on February 15 up to and including December 15 of each calendar year.

(10) 49 C.F.R. 390.21 - MARKING OF SELF-PROPELLED CMVS AND INTERMODAL EQUIPMENT shall not apply to farm trucks and farm trucktractors registered pursuant to section 60-3,146 and operated solely in intrastate commerce.

(11) 49 C.F.R. 392.9a - Operating Authority shall not apply to Nebraska motor carriers operating commercial motor vehicles solely in intrastate commerce.

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

**Source:** Laws 1986, LB 301, § 1; Laws 1987, LB 224, § 23; Laws 1988, LB 884, § 1; Laws 1989, LB 285, § 140; Laws 1990, LB 980, § 29; Laws 1991, LB 854, § 3; Laws 1993, LB 410, § 1; Laws 1994, LB 1061, § 5; Laws 1995, LB 461, § 1; Laws 1996, LB 938, § 4; Laws 1997, LB 722, § 1; Laws 1998, LB 1056, § 8; Laws 1999, LB 161, § 1; Laws 1999, LB 704, § 49; Laws 2000, LB 1361, § 11; Laws 2001, LB 375, § 1; Laws 2002, LB 499, § 5; Laws 2003, LB 480, § 2; Laws 2004, LB 878, § 1; Laws 2005, LB 83, § 1; Laws 2005, LB 274, § 271; Laws 2006, LB 1007, § 13; Laws 2007, LB239, § 8; Laws 2008, LB756, § 28; Laws 2008, LB845, § 1; Laws 2009, LB48, § 1; Laws 2009, LB331, § 15; Laws 2010, LB725, § 3; Laws 2010, LB805, § 13; Laws 2011, LB178, § 21; Laws 2011, LB212, § 7; Laws 2012, LB751, § 49; Laws 2013, LB35, § 6.  
Effective date February 16, 2013.

#### 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, 2013, 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 Manufactur-



ers, 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.

Effective date February 16, 2013.

### **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, 2013, and federal hazardous materials regulations, as such regulations existed on January 1, 2013, 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.  
Effective date February 16, 2013.

(l) UNIFIED CARRIER REGISTRATION PLAN AND AGREEMENT

**75-393 Unified carrier registration plan and agreement; director; powers.**

The director may participate in the unified carrier registration plan and agreement pursuant to the Unified Carrier Registration Act of 2005, 49 U.S.C. 13908, as the act existed on January 1, 2013, 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.  
Effective date February 16, 2013.

**ARTICLE 7**

**TRANSMISSION LINES**

Section

75-722. Procedure; appeal; provisions applicable.

**75-722 Procedure; appeal; provisions applicable.**

Commission hearings concerning the provisions of sections 75-709 to 75-724 shall be in accordance with the Administrative Procedure Act. Any appeals therefrom shall be in accordance with section 75-136.

**Source:** Laws 1963, c. 425, art. VII, § 22, p. 1428; Laws 1994, LB 414, § 132; Laws 2000, LB 1285, § 14; Laws 2013, LB545, § 9.  
Effective date September 6, 2013.

**Cross References**

Administrative Procedure Act, see section 84-920.

## CHAPTER 76

### REAL PROPERTY

Article.

- 2. Conveyances.
  - (t) Filing of Death Certificate. 76-2,126.
- 8. Condominium Law.
  - (c) Nebraska Condominium Act.
    - General Provisions. 76-825.
    - Creation, Alteration, and Termination of Condominiums. 76-842, 76-856.
    - Management of Condominium. 76-874, 76-874.01.
- 9. Documentary Stamp Tax. 76-902.
- 23. One-Call Notification System. 76-2301 to 76-2329.
- 34. Nebraska Uniform Real Property Transfer on Death Act. 76-3402 to 76-3420.

#### ARTICLE 2

#### CONVEYANCES

##### (t) FILING OF DEATH CERTIFICATE

Section

- 76-2,126. Certain conveyances; filing of death certificate and attached cover sheet with register of deeds.

##### (t) FILING OF DEATH CERTIFICATE

**76-2,126 Certain conveyances; filing of death certificate and attached cover sheet with register of deeds.**

If a conveyance of real estate was pursuant to (1) a transfer on death deed due to the death of the transferor or the death of a surviving joint tenant of the transferor, (2) a joint tenancy deed due to the death of a joint tenant, or (3) the expiration of a life estate, then a death certificate shall be filed with the register of deeds to document the transfer of title to the beneficiary of the transfer on death deed, to the surviving joint tenant or joint tenants, or to the holder of an interest in real estate which receives that interest as a result of the death of a life tenant. A cover sheet indicating the title of the document, the previously recorded document data, and the grantor, surviving grantee, and legal description of the property being transferred shall be attached to the death certificate and recorded.

**Source:** Laws 2012, LB536, § 31; Laws 2013, LB345, § 1.  
Operative date September 6, 2013.

#### ARTICLE 8

#### CONDOMINIUM LAW

##### (c) NEBRASKA CONDOMINIUM ACT

##### GENERAL PROVISIONS

Section

- 76-825. Act, how cited.  
CREATION, ALTERATION, AND TERMINATION OF CONDOMINIUMS
- 76-842. Declaration; contents.

## Section

76-856. Rights of secured lenders; restrictions on lien.

## MANAGEMENT OF CONDOMINIUM

76-874. Lien for assessments.

76-874.01. Payments to escrow account; use.

## (c) NEBRASKA CONDOMINIUM ACT

## GENERAL PROVISIONS

**76-825 Act, how cited.**

Sections 76-825 to 76-894 shall be known and may be cited as the Nebraska Condominium Act.

**Source:** Laws 1983, LB 433, § 1; Laws 1984, LB 1105, § 2; Laws 1993, LB 478, § 12; Laws 2013, LB442, § 2.  
Effective date September 6, 2013.

## 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 subsection (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; and

(10) 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.  
Effective date September 6, 2013.

**76-856 Rights of secured lenders; restrictions on lien.**

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 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.

**Source:** Laws 1983, LB 433, § 32; Laws 2013, LB442, § 4.  
Effective date September 6, 2013.

## MANAGEMENT OF CONDOMINIUM

### **76-874 Lien for assessments.**

(a) The association has a lien on a unit for any assessment levied against that unit from the time the assessment becomes due and a notice containing the dollar amount of such lien is recorded in the office where mortgages are recorded. The association's lien may be foreclosed in like manner as a mortgage on real estate but the association shall give reasonable notice of its action to all lienholders of the unit whose interest would be affected. Unless the declaration otherwise provides, fees, charges, late charges, and interest charged pursuant to subdivisions (a)(10), (a)(11), and (a)(12) of section 76-860 are enforceable as assessments under this section. If an assessment is payable in installments, the full amount of the assessment may be a lien from the time the first installment thereof becomes due.

(b) A lien under this section is prior to all other liens and encumbrances on a unit except (i) liens and encumbrances recorded before the recordation of the declaration, (ii) a first mortgage or deed of trust on the unit recorded before the notice required under subsection (a) of this section has been recorded for a delinquent assessment for which enforcement is sought, and (iii) liens for real estate taxes and other governmental assessments or charges against the unit. The lien under this section is not subject to the homestead exemption pursuant to section 40-101.

(c) Unless the declaration otherwise provides, if two or more associations have liens for assessments created at any time on the same real estate, those liens have equal priority.

(d) A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within three years after the full amount of the assessments becomes due.

(e) This section does not prohibit actions to recover sums for which subsection (a) of this section creates a lien or prohibit an association from taking a deed in lieu of foreclosure.

(f) A judgment or decree in any action brought under this section must include costs and reasonable attorney's fees for the prevailing party.

(g) The association upon written request shall furnish to a unit owner a recordable statement setting forth the amount of unpaid assessments against his or her unit. The statement must be furnished within ten business days after receipt of the request and is binding on the association, the executive board, and every unit owner.

**Source:** Laws 1983, LB 433, § 50; Laws 1984, LB 1105, § 12; Laws 2013, LB442, § 5.  
Effective date September 6, 2013.

**76-874.01 Payments to escrow account; use.**

(a) The association may require a person who purchases a unit on or after September 6, 2013, to make payments into an escrow account established by the association until the balance in the escrow account for that unit is in an amount not to exceed six months of assessments.

(b) All payments made under this section and received on or after September 6, 2013, shall be held in an interest-bearing checking account in a bank, savings bank, building and loan association, or savings and loan association in this state under terms that place these payments beyond the claim of creditors of the association. Upon request by a unit owner, an association shall disclose the name of the financial institution and the account number where the payments made under this section are being held. An association may maintain a single escrow account to hold payments made under this section from all of the unit owners. If a single escrow account is maintained, the association shall maintain separate accounting records for each unit owner.

(c) The payments made under this section may be used by the association to satisfy any assessments attributable to a unit owner for which assessment payments are delinquent. To the extent that the escrow deposit or any part thereof is applied to offset any unpaid assessments of a unit owner, the association may require such owner to replenish the escrow deposit.

(d) The association shall return the payments made under this section, together with any interest earned on such payments, to the unit owner when the owner sells the unit and has fully paid all assessments.

(e) Nothing in this section shall prohibit the association from establishing escrow deposit requirements in excess of the amounts authorized in this section pursuant to provisions in the association's declaration.

**Source:** Laws 2013, LB442, § 6.  
Effective date September 6, 2013.

**ARTICLE 9**

**DOCUMENTARY STAMP TAX**

Section  
76-902. Tax; exemptions.

**76-902 Tax; exemptions.**

The tax imposed by section 76-901 shall not apply to:

(1) Deeds recorded prior to November 18, 1965;

(2) Deeds to property transferred by or to the United States of America, the State of Nebraska, or any of their agencies or political subdivisions;

(3) Deeds which secure or release a debt or other obligation;

(4) Deeds which, without additional consideration, confirm, correct, modify, or supplement a deed previously recorded but which do not extend or limit existing title or interest;

(5)(a) Deeds between spouses, between ex-spouses for the purpose of conveying any rights to property acquired or held during the marriage, or between parent and child, without actual consideration therefor, and (b) deeds to or from a family corporation, partnership, or limited liability company when all the shares of stock of the corporation or interest in the partnership or limited liability company are owned by members of a family, or a trust created for the benefit of a member of that family, related to one another within the fourth degree of kindred according to the rules of civil law, and their spouses, for no consideration other than the issuance of stock of the corporation or interest in the partnership or limited liability company to such family members or the return of the stock to the corporation in partial or complete liquidation of the corporation or deeds in dissolution of the interest in the partnership or limited liability company. In order to qualify for the exemption for family corporations, partnerships, or limited liability companies, the property shall be transferred in the name of the corporation or partnership and not in the name of the individual shareholders, partners, or members;

(6) Tax deeds;

(7) Deeds of partition;

(8) Deeds made pursuant to mergers, consolidations, sales, or transfers of the assets of corporations pursuant to plans of merger or consolidation filed with the office of Secretary of State. A copy of such plan filed with the Secretary of State shall be presented to the register of deeds before such exemption is granted;

(9) Deeds made by a subsidiary corporation to its parent corporation for no consideration other than the cancellation or surrender of the subsidiary's stock;

(10) Cemetery deeds;

(11) Mineral deeds;

(12) Deeds executed pursuant to court decrees;

(13) Land contracts;

(14) Deeds which release a reversionary interest, a condition subsequent or precedent, a restriction, or any other contingent interest;

(15) Deeds of distribution executed by a personal representative conveying to devisees or heirs property passing by testate or intestate succession;

(16) Transfer on death deeds or revocations of transfer on death deeds;

(17) Certified or authenticated death certificates;

(18) Deeds transferring property located within the boundaries of an Indian reservation if the grantor or grantee is a reservation Indian;

(19) Deeds transferring property into a trust if the transfer of the same property would be exempt if the transfer was made directly from the grantor to the beneficiary or beneficiaries under the trust. No such exemption shall be granted unless the register of deeds is presented with a signed statement certifying that the transfer of the property is made under such circumstances as to come within one of the exemptions specified in this section and that evidence

supporting the exemption is maintained by the person signing the statement and is available for inspection by the Department of Revenue;

(20) Deeds transferring property from a trustee to a beneficiary of a trust;

(21) Deeds which convey property held in the name of any partnership or limited liability company not subject to subdivision (5) of this section to any partner in the partnership or member of the limited liability company or to his or her spouse;

(22) Leases;

(23) Easements; or

(24) Deeds which transfer title from a trustee to a beneficiary pursuant to a power of sale exercised by a trustee under a trust deed.

**Source:** Laws 1965, c. 463, § 2, p. 1473; Laws 1969, c. 619, § 1, p. 2506; Laws 1969, c. 620, § 1, p. 2507; Laws 1971, LB 825, § 1; Laws 1974, LB 610, § 1; Laws 1978, LB 815, § 1; Laws 1980, LB 650, § 1; Laws 1983, LB 194, § 2; Laws 1984, LB 795, § 1; Laws 1984, LB 1105, § 23; Laws 1991, LB 193, § 1; Laws 1993, LB 121, § 481; Laws 2001, LB 516, § 5; Laws 2012, LB536, § 35; Laws 2013, LB36, § 1.

Effective date March 8, 2013.

## ARTICLE 23

### ONE-CALL NOTIFICATION SYSTEM

Section

76-2301. Act, how cited.

76-2303. Definitions, where found.

76-2303.01. Bar test survey, defined.

76-2329. Emergency conditions; bar test survey; notification requirements; liability.

#### **76-2301 Act, how cited.**

Sections 76-2301 to 76-2330 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.

Effective date May 9, 2013.

#### **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.

Effective date May 9, 2013.

#### **76-2303.01 Bar test survey, defined.**

Bar test survey means a leakage survey completed with a nonconductive piece of equipment made by manually driving small holes in the ground at regular intervals along the route of an underground gas pipe for the purpose of extracting a sample of the ground atmosphere and testing the atmosphere in the holes with a combustible gas detector or other suitable device.

**Source:** Laws 2013, LB589, § 3.

Effective date May 9, 2013.



**76-2329 Emergency conditions; bar test survey; notification requirements; liability.**

(1) Sections 76-2321 and 76-2323 shall not apply to an excavation made under an emergency condition if all reasonable precautions are taken to protect the underground facilities. If an emergency condition exists, the excavator shall give notification in substantial compliance with section 76-2321 as soon as practical. Upon being notified that an emergency condition exists, each operator shall provide all reasonably available location information to the excavator as soon as possible. If the emergency condition has arisen through no fault of the excavator, sections 76-2324 and 76-2325 shall not apply and the excavator shall be liable for damage to any underground facility located in the area if the damage occurs because of the negligent acts or omissions of the excavator.

(2) Sections 76-2321 and 76-2323 shall not apply to a bar test survey deemed necessary to address an emergency condition performed by the operator of the gas or hazardous liquid underground pipeline facility or a qualified excavator who has been engaged to work on behalf of the operator in response to a reported or suspected leak of natural gas, propane, or other combustible liquid or gas. If the emergency condition has arisen through no fault of the excavating operator, section 76-2325 shall not apply.

(3) Sections 76-2321 and 76-2323 shall not apply to an excavation deemed necessary to address an emergency condition performed by the operator of the gas or hazardous liquid underground pipeline facility or a qualified excavator who has been engaged to work on behalf of the operator to address a leak of natural gas, propane, or other combustible liquid or gas. In such event, the operator shall give notification in substantial compliance with section 76-2321 prior to the excavation undertaken by the operator to address the emergency condition. Upon being notified that an emergency condition exists, each operator shall provide all reasonably available location information to the excavating operator as soon as possible, but the excavating operator need not wait for such location information prior to excavation or continuing excavation. If the emergency condition has arisen through no fault of the excavating operator, section 76-2325 shall not apply.

**Source:** Laws 1994, LB 421, § 29; Laws 2013, LB589, § 4.  
Effective date May 9, 2013.

**ARTICLE 34****NEBRASKA UNIFORM REAL PROPERTY TRANSFER ON DEATH ACT**

## Section

76-3402. Definitions.

76-3410. Transfer on death deed; essential elements and formalities; warning; limitation on action to set aside transfer.

76-3420. Transfer on death deed property; acquisition by purchaser or lender; protections; lien for inheritance tax.

**76-3402 Definitions.**

For purposes of the Nebraska Uniform Real Property Transfer on Death Act:

(1) Beneficiary means a person that receives property under a transfer on death deed;

(2) Designated beneficiary means a person designated to receive property in a transfer on death deed;

(3) Disinterested witness to a transfer on death deed means any individual who acts as a witness to a transfer on death deed at the date of its execution and who is not a designated beneficiary or an heir, a child, or a spouse of a designated beneficiary;

(4) Joint owner means an individual who owns property concurrently with one or more other individuals with a right of survivorship. The term includes a joint tenant. The term does not include a tenant in common without a right of survivorship;

(5) Person means an individual, a corporation, an estate, a trustee of a trust, a partnership, a limited liability company, an association, a joint venture, a public corporation, a government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity;

(6) Property means an interest in real property located in this state which is transferable on the death of the owner;

(7) Transfer on death deed means a deed authorized under the Nebraska Uniform Real Property Transfer on Death Act; and

(8) Transferor means an individual who makes a transfer on death deed.

**Source:** Laws 2012, LB536, § 2; Laws 2013, LB345, § 2.

Operative date January 1, 2013.

**76-3410 Transfer on death deed; essential elements and formalities; warning; limitation on action to set aside transfer.**

(a) A transfer on death deed:

(1) Except as otherwise provided in subdivision (2) of this subsection, must contain the essential elements and formalities of a properly recordable inter vivos deed;

(2) Must state that the transfer to the designated beneficiary is to occur at the transferor's death;

(3) Must contain the warnings provided in subsection (b) of this section; and

(4) Must be recorded (i) within thirty days after being executed as required in section 76-3409, (ii) before the transferor's death, and (iii) in the public records in the office of the register of deeds of the county where the property is located.

(b)(1) A transfer on death deed shall contain the following warnings:

**WARNING:** The property transferred remains subject to inheritance taxation in Nebraska to the same extent as if owned by the transferor at death. Failure to timely pay inheritance taxes is subject to interest and penalties as provided by law.

**WARNING:** The designated beneficiary is personally liable, to the extent of the value of the property transferred, to account for medicaid reimbursement to the extent necessary to discharge any such claim remaining after application of the assets of the transferor's estate. The designated beneficiary may also be personally liable, to the extent of the value of the property transferred, for claims against the estate, statutory allowances to the transferor's surviving spouse and children, and the expenses of administration to the extent needed to pay such amounts by the personal representative.

**WARNING:** The Department of Health and Human Services may require revocation of this deed by a transferor, a transferor's spouse, or both a

transferor and the transferor's spouse in order to qualify or remain qualified for medicaid assistance.

(2) No recorded transfer on death deed shall be invalidated because of any defects in the wording of the warnings required by this subsection.

(c) No action may be commenced to set aside a transfer on death deed, based on failure to comply with the requirement of disinterested witnesses pursuant to section 76-3409, more than ninety days after the date of death of the transferor or, if there is more than one transferor, more than ninety days after the date of death of the last surviving transferor.

(d) Notwithstanding subsection (c) of this section, an action to set aside a transfer on death deed, based on failure to comply with the requirement of disinterested witnesses pursuant to section 76-3409, in which the transferor or, if there is more than one transferor, the last surviving transferor, has died prior to May 8, 2013, shall be commenced by the later of (1) ninety days after the date of death of the transferor or, if there is more than one transferor, ninety days after the date of death of the last surviving transferor, or (2) ninety days after May 8, 2013.

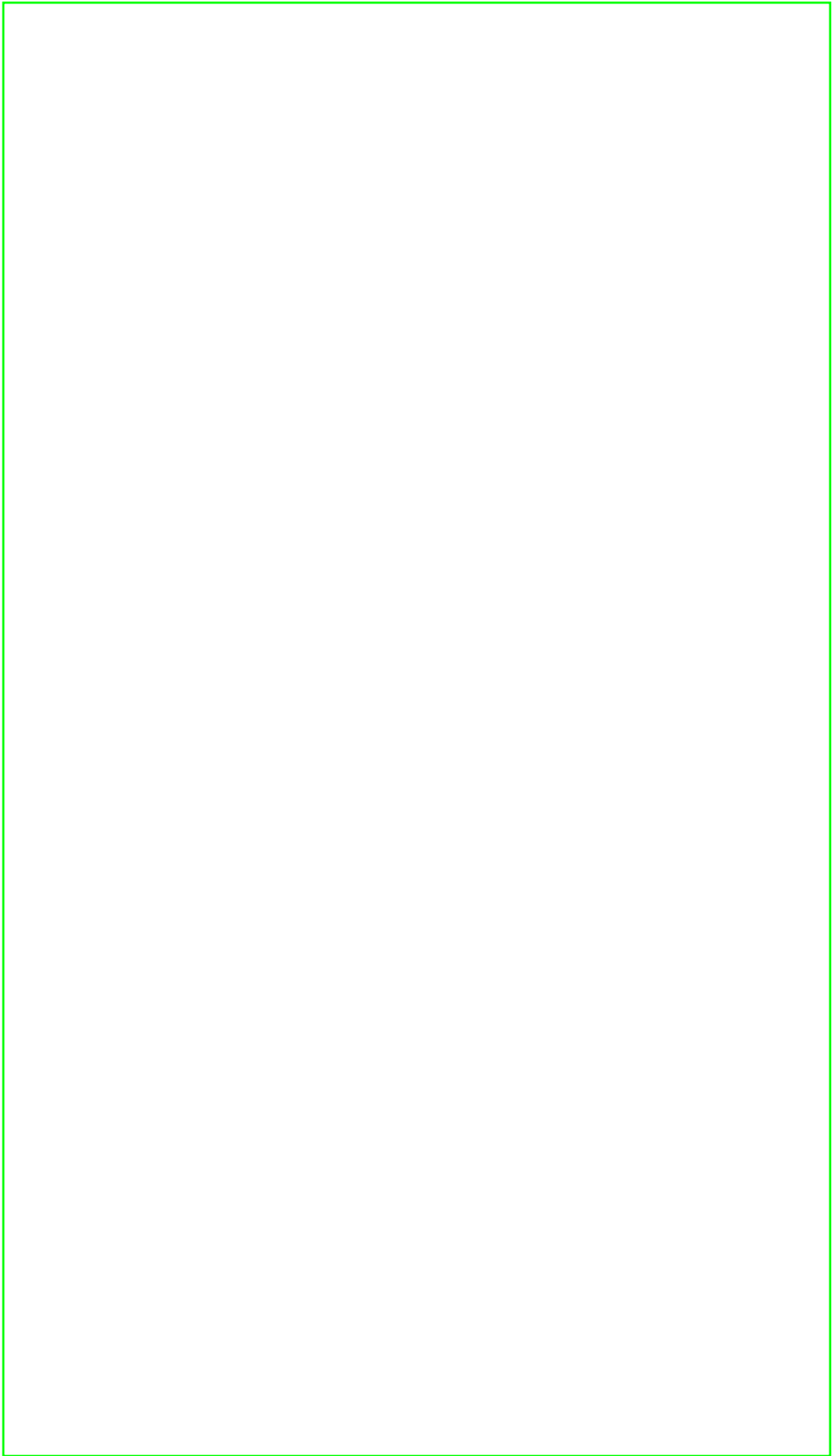
**Source:** Laws 2012, LB536, § 10; Laws 2013, LB345, § 3.  
Operative date May 8, 2013.

**76-3420 Transfer on death deed property; acquisition by purchaser or lender; protections; lien for inheritance tax.**

(a) Except as otherwise provided in subsection (b) of this section and subject to a determination of the rights of any parties to an action commenced pursuant to subsection (c) or (d) of section 76-3410, if property or any interest therein transferred to a beneficiary by a transfer on death deed is acquired by a purchaser or lender for value from a beneficiary of a transfer on death deed, the purchaser or lender takes title free of any claims of the estate, personal representative, surviving spouse, creditors, and any other person claiming by or through the transferor of the transfer on death deed, including any heir or beneficiary of the estate of the transferor, and the purchaser or lender shall not incur any personal liability to the estate, personal representative, surviving spouse, creditors, or any other person claiming by or through the transferor of the transfer on death deed, including any heir or beneficiary of the estate of the transferor, whether or not the conveyance by the transfer on death deed was proper. Except as otherwise provided in subsection (b) of this section, to be protected under this section, a purchaser or lender need not inquire whether a transferor or beneficiary of the transfer on death deed acted properly in making the conveyance to the beneficiary by the transfer on death deed.

(b) A purchaser or lender for value from a beneficiary of a transfer on death deed does not take title free of any lien for inheritance tax under section 77-2003.

**Source:** Laws 2012, LB536, § 20; Laws 2013, LB345, § 4.  
Operative date May 8, 2013.



## CHAPTER 77

### REVENUE AND TAXATION

#### Article.

3. Department of Revenue. 77-382 to 77-3,116.
7. Department of Property Assessment and Taxation. 77-709.
12. Personal Property, Where and How Listed. 77-1233.04.
13. Assessment of Property. 77-1340.04.
16. Levy and Tax List. 77-1615, 77-1616.
17. Collection of Taxes. 77-1710 to 77-1759.
18. Collection of Delinquent Real Property Taxes by Sale of Real Property. 77-1807 to 77-1849.
19. Collection of Delinquent Real Estate Taxes through Court Proceedings. 77-1902 to 77-1937.
23. Deposit and Investment of Public Funds.
  - (b) Public Funds Deposit Security Act. 77-2387, 77-2398.
27. Sales and Income Tax.
  - (a) Act, Rates, and Definitions. 77-2701.16.
  - (b) Sales and Use Tax. 77-2704.12 to 77-2711.
  - (c) Income Tax. 77-2715 to 77-27,119.04.
  - (g) Local Option Revenue Act. 77-27,142, 77-27,142.01.
  - (m) Nebraska Advantage Rural Development Act. 77-27,195.
32. Land Reutilization Authority. 77-3206.02 to 77-3213.
34. Political Subdivisions, Budget Limitations.
  - (d) Limitation on Property Taxes. 77-3442.
  - (e) Base Limitation. 77-3446.
41. Employment and Investment Growth Act. 77-4110.
46. Revenue Forecasting. 77-4601.
49. Quality Jobs Act. 77-4933.
55. Invest Nebraska Act. 77-5542.
57. Nebraska Advantage Act. 77-5707.01 to 77-5735.
58. Nebraska Advantage Research and Development Act. 77-5807.
59. Nebraska Advantage Microenterprise Tax Credit Act. 77-5907.

#### ARTICLE 3

#### DEPARTMENT OF REVENUE

#### Section

- 77-382. Department; tax expenditure report; prepare; contents.
- 77-385. Tax expenditure report; summary; submission required; joint hearing.
- 77-3,116. Study; cooperation with Department of Labor and other state agencies; contracts authorized; reports; department; duty.

#### **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, and (c) 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 fundraisers; 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 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; and

(l) 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.

Effective date September 6, 2013.

**77-385 Tax expenditure report; summary; submission required; joint hearing.**

The report required under section 77-382 and a summary of the report shall be submitted to the Governor, the Executive Board of the Legislative Council, and the chairpersons of the Legislature's Revenue and Appropriations Committees on or before October 15, 1991, and October 15 of every even-numbered year thereafter. The report submitted to the executive board and the committees shall be submitted electronically. The department shall, on or before December 1 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. The summary shall be included with or appended to the Governor's budget presented to the Legislature in odd-numbered years.

**Source:** Laws 1979, LB 17, § 7; R.S.Supp.,1979, § 77-359; Laws 1980, LB 834, § 26; Laws 1991, LB 82, § 3; Laws 2012, LB782, § 136; Laws 2013, LB612, § 1.

Effective date April 25, 2013.

**77-3,116 Study; cooperation with Department of Labor and other state agencies; contracts authorized; reports; department; duty.**

(1) The Department of Revenue and the Department of Labor shall cooperate and participate in the collection of data for the study described in section 77-3,115. Other state agencies, including the University of Nebraska, shall assist in the study or the update as requested by the Department of Revenue and as any necessary funds are available. Any agency may contract with the Department of Revenue to provide such assistance. The Department of Revenue may also contract with an independent entity for the entity to conduct or assist in conducting such study or update. The department, other state agency, or independent entity preparing the material or study shall utilize and consider,

along with other information, the results of any available study relating to the items listed in section 77-3,115 and conducted or contracted for by the Legislature in the year prior to April 16, 1992.

(2) A preliminary report of the initial study's models and initial findings shall be reported by the Department of Revenue to the chairpersons of the Appropriations Committee and Revenue Committee of the Legislature, the Clerk of the Legislature, and the Governor by December 1, 1992. The initial study shall be completed and the department shall report its findings to the same entities by December 1, 1993. The study shall be updated and the update shall be reported to the same entities on November 1, 2013, and every two years thereafter. The study submitted to the Appropriations Committee and Revenue Committee of the Legislature and the Clerk of the Legislature pursuant to this subsection shall be submitted electronically.

(3) Any models developed for the initial study or update shall be electronically shared with the Legislative Fiscal Analyst. The Department of Revenue shall include in its budget request for every other biennium following the 1991-93 biennium sufficient appropriation authority to conduct or contract for the required update.

**Source:** Laws 1992, LB 719A, § 218; Laws 2012, LB727, § 29; Laws 2012, LB782, § 137; Laws 2013, LB612, § 2.  
Effective date April 25, 2013.

## ARTICLE 7

### DEPARTMENT OF PROPERTY ASSESSMENT AND TAXATION

Section

77-709. Property assessment division; annual report; powers and duties.

#### **77-709 Property assessment division; annual report; powers and duties.**

The property assessment division of the Department of Revenue shall publish an annual report detailing property tax valuations, taxes levied, and property tax rates throughout the state. The annual report shall display information by political subdivision and by property type within each county and also include statewide summarizations. The department shall submit the report electronically to the Clerk of the Legislature. The department may charge a fee for copies of the annual report. The Tax Commissioner shall set the fee, based on the reasonable cost of production.

**Source:** Laws 2001, LB 170, § 4; Laws 2007, LB334, § 47; Laws 2013, LB222, § 30.  
Effective date May 8, 2013.

## ARTICLE 12

### PERSONAL PROPERTY, WHERE AND HOW LISTED

Section

77-1233.04. Taxable tangible personal property tax returns; change in value; omitted property; procedure; penalty; county assessor; duties.

#### **77-1233.04 Taxable tangible personal property tax returns; change in value; omitted property; procedure; penalty; county assessor; duties.**

(1) The county assessor shall list and value at net book value any item of taxable tangible personal property omitted from a personal property return of



any taxpayer. The county assessor shall change the reported valuation of any item of taxable tangible personal property listed on the return to conform the valuation to net book value. If a taxpayer fails or refuses to file a personal property return, the assessor shall, on behalf of the taxpayer, file a personal property return which shall list and value all of the taxpayer's taxable tangible personal property at net book value. The county assessor shall list or change the valuation of any item of taxable tangible personal property for the current taxing period and the three previous taxing periods or any taxing period included therein.

(2) The taxable tangible personal property so listed and valued shall be taxed at the same rate as would have been imposed upon the property in the tax district in which the property should have been returned for taxation.

(3) Any valuation added to a personal property return or added through the filing of a personal property return, after May 1 and on or before June 30 of the year the property is required to be reported, shall be subject to a penalty of ten percent of the tax due on the value added.

(4) Any valuation added to a personal property return or added through the filing of a personal property return, on or after July 1 of the year the property is required to be reported, shall be subject to a penalty of twenty-five percent of the tax due on the value added.

(5) Interest shall be assessed upon both the tax and the penalty 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.

(6) Whenever valuation changes are made to a personal property return or a personal property return is filed pursuant to this section, the county assessor shall correct the assessment roll and tax list, if necessary, to reflect such changes. Such corrections shall be made for the current taxing period and the three previous taxing periods or any taxing period included therein. If the change results in a decreased taxable valuation on the personal property return and the personal property tax has been paid prior to a correction pursuant to this section, the taxpayer may request a refund of the tax in the same manner prescribed in section 77-1734.01, except that such request shall be made within three years after the date the tax was due.

**Source:** Laws 1947, c. 250, § 42, p. 805; Laws 1965, c. 474, § 1, p. 1526; Laws 1965, c. 475, § 2, p. 1530; Laws 1967, c. 499, § 1, p. 1692; Laws 1980, LB 834, § 59; Laws 1981, LB 167, § 39; Laws 1984, LB 835, § 4; Laws 1987, LB 508, § 11; R.S.Supp., 1988, § 77-412; Laws 1990, LB 821, § 47; Laws 1992, LB 1063, § 102; Laws 1992, Second Spec. Sess., LB 1, § 75; Laws 1995, LB 490, § 93; Laws 1997, LB 270, § 53; Laws 1999, LB 194, § 12; Laws 2000, LB 968, § 44; Laws 2007, LB166, § 5; Laws 2008, LB965, § 11; Laws 2013, LB28, § 1.

Operative date January 1, 2014.

## ARTICLE 13

### ASSESSMENT OF PROPERTY

#### Section

77-1340.04. Property Tax Administrator; relinquish property tax function; employees; transfer of property; appointment of county assessor; allocation of costs; contracts.

**77-1340.04 Property Tax Administrator; relinquish property tax function; employees; transfer of property; appointment of county assessor; allocation of costs; contracts.**

(1) On July 1, 2013, the Property Tax Administrator shall relinquish the property assessment function in all counties that transferred the assessment function to the Property Tax Administrator and have not reassumed the assessment function prior to such date.

(2) On July 1, 2013, the employees of the Department of Revenue involved in the performance of the county assessment function shall become county employees by operation of law.

(3) At the close of business on June 30, 2013, the Property Tax Administrator shall cease his or her performance of the county assessment function and the county assessor appointed pursuant to subsection (4) of this section shall assume the county assessment function. The Property Tax Administrator shall at that time transfer all books, files, and similar records with regard to the county assessment function of the county and all furniture, computers, and other equipment and property used by the state to perform the county assessment function, other than motor vehicles, to the county assessor.

(4) In such counties, the county board shall appoint an individual with a valid assessor's certificate to the position of county assessor. The appointment shall be effective July 1, 2013. On July 1, 2013, the appointed county assessor shall assume the title and perform the assessment functions and any other duties mandated of the office of county assessor. The appointed assessor shall continue to perform the county assessor's duties until an assessor is elected at the next election.

(5) The Property Tax Administrator shall provide to each county board of a county that transferred the assessment function to the Property Tax Administrator on or before October 1, 2009, a line-item allocation of its total cost of the assessment function for the fiscal year ending June 30, 2009. This allocation of costs shall also identify the costs attributable to those employees that perform duties in more than one county.

(6) Contracts of the Department of Revenue pertaining to the operation of the county assessment function may be assumed by the county.

(7) Counties in which there are employees of the department who provide services to more than one county shall enter into an agreement pursuant to section 77-1339 for the continued performance of the services provided by the employee. No agreement pursuant to section 77-1339 is necessary if one of the counties in which the employee is providing services agrees to retain the employee as a permanent full-time employee.

**Source:** Laws 2009, LB121, § 8; Laws 2013, LB55, § 1.  
Effective date April 25, 2013.

**ARTICLE 16**  
**LEVY AND TAX LIST**

Section

77-1615. Repealed. Laws 2013, LB 29, § 4.

77-1616. Tax list; delivery to county treasurer; when; warrant for collection.

**77-1615 Repealed. Laws 2013, LB 29, § 4.****77-1616 Tax list; delivery to county treasurer; when; warrant for collection.**

The tax list shall be completed by the county assessor and delivered to the county treasurer on or before November 22. At the same time the county assessor or county clerk shall transmit a warrant, which warrant shall be signed by the county assessor or county clerk and shall in general terms command the treasurer to collect taxes therein mentioned according to law. No informality therein, and no delay in the transmitting of the same after the time above specified, shall affect the validity of any taxes or sales, or other proceedings for the collection of taxes as provided for in this chapter. Whenever it shall be discovered that the warrant provided for in this section was not at the proper time attached to any tax list, or was not transmitted as herein provided for any preceding year or years, in the hands of the county treasurer, the county assessor shall forthwith attach or transmit such warrant, which shall be in the same form and have the same force and effect as if it had been attached to such tax list, or transmitted as herein provided, before the delivery thereof to the county treasurer.

**Source:** Laws 1903, c. 73, § 141, p. 438; R.S.1913, § 6461; C.S.1922, § 5984; C.S.1929, § 77-1806; Laws 1943, c. 175, § 4, p. 612; R.S.1943, § 77-1616; Laws 1945, c. 189, § 4, p. 586; Laws 1951, c. 265, § 1, p. 893; Laws 1969, c. 677, § 1, p. 2602; Laws 1997, LB 269, § 52; Laws 1997, LB 270, § 96; Laws 1998, LB 306, § 29; Laws 2013, LB29, § 1.

Effective date September 6, 2013.

**ARTICLE 17****COLLECTION OF TAXES**

## Section

- 77-1710. Collection of taxes; payments; how indicated on tax lists; county treasurer; duties.
- 77-1736.06. Property tax refund; procedure.
- 77-1759. Collection of taxes; report to and payment of taxes and special assessments; when required.

**77-1710 Collection of taxes; payments; how indicated on tax lists; county treasurer; duties.**

Whenever any taxes are paid, the county treasurer shall enter on the tax lists, opposite the description of real estate or personal property whereon the same was levied, the word "paid", together with the date of such payment, and the name of the person paying the same, which entry shall be prima facie evidence of such payment. The county treasurer shall maintain a record of the total tax assessed and monthly total tax collections.

**Source:** Laws 1903, c. 73, § 152, p. 443; R.S.1913, § 6481; C.S.1922, § 6004; C.S.1929, § 77-1909; R.S.1943, § 77-1710; Laws 2002, LB 994, § 22; Laws 2013, LB29, § 2.

Effective date September 6, 2013.

**77-1736.06 Property tax refund; procedure.**

The following procedure shall apply when making a property tax refund:

(1) Within thirty days of the entry of a final nonappealable order, an unprotested determination of a county assessor, an unappealed decision of a county board of equalization, or other final action requiring a refund of real or personal property taxes paid or, for property valued by the state, within thirty days of a recertification of value by the Property Tax Administrator pursuant to section 77-1775 or 77-1775.01, the county assessor shall determine the amount of refund due the person entitled to the refund, certify that amount to the county treasurer, and send a copy of such certification to the person entitled to the refund. Within thirty days from the date the county assessor certifies the amount of the refund, the county treasurer shall notify each political subdivision, including any school district receiving a distribution pursuant to section 79-1073 or 79-1073.01 and any land bank receiving real property taxes pursuant to subdivision (3)(a) of section 19-5211, of its respective share of the refund, except that for any political subdivision whose share of the refund is two hundred dollars or less, the county board may waive this notice requirement. Notification shall be by first-class mail, postage prepaid, to the last-known address of record of the political subdivision. The county treasurer shall pay the refund from funds in his or her possession belonging to any political subdivision, including any school district receiving a distribution pursuant to section 79-1073 or 79-1073.01 and any land bank receiving real property taxes pursuant to subdivision (3)(a) of section 19-5211, which received any part of the tax or penalty being refunded. If sufficient funds are not available or the political subdivision, within thirty days of the mailing of the notice by the county treasurer if applicable, certifies to the county treasurer that a hardship would result and create a serious interference with its governmental functions if the refund of the tax or penalty is paid, 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. The certification by a political subdivision declaring a hardship shall be binding upon the county treasurer;

(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 and in no event later than five years from the date the final order or other action approving a refund is entered. The governing body of the political subdivision shall make provisions in its budget for the amount of any refund or claim to be satisfied pursuant to this section. If a receipt for the registration of a claim is given:

(a) Such receipt shall be applied to satisfy any tax levied or assessed by that political subdivision next falling due from the person holding the receipt after the sixth next succeeding levy is made on behalf of the political subdivision following the final order or other action approving the refund; and

(b) To the extent the amount of such receipt exceeds the amount of such tax liability, the unsatisfied balance of the receipt shall be paid and satisfied within the five-year period prescribed in this subdivision from a combination of a credit against taxes anticipated to be due to the political subdivision during such period and cash payment from any funds expected to accrue to the political subdivision pursuant to a written plan to be filed by the political subdivision with the county treasurer no later than thirty days after the claim against the political subdivision is first reduced by operation of a credit against taxes due to such political subdivision.

If a political subdivision fails to fully satisfy the refund or claim prior to the sixth next succeeding levy following the entry of a final nonappealable order or other action approving a refund, interest shall accrue on the unpaid balance commencing on the sixth next succeeding levy following such entry or action at the rate set forth in section 45-103;

(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 or credit. 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; and

(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.

**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.

Operative date October 1, 2013.

**77-1759 Collection of taxes; report to and payment of taxes and special assessments; when required.**

The county treasurer shall report and pay over the amount of tax and special assessments due to towns, districts, cities, villages, all other taxing units, corporations, persons, and land banks, collected by him or her, when demanded by the proper authorities or persons. Upon a demand, one payment shall be for the funds collected or received during the previous calendar month and shall be paid not later than the fifteenth of the following month. A second demand may be made prior to the fifteenth of the month on taxes and special assessments collected or received, during the first fifteen days of the month. The second demand shall be paid not later than the last day of the month.

**Source:** Laws 1903, c. 73, § 183, p. 456; R.S.1913, § 6511; C.S.1922, § 6039; C.S.1929, § 77-1944; R.S.1943, § 77-1759; Laws 1998, LB 1104, § 11; Laws 1999, LB 287, § 2; Laws 2013, LB97, § 20.  
Operative date October 1, 2013.

## ARTICLE 18

COLLECTION OF DELINQUENT REAL PROPERTY  
TAXES BY SALE OF REAL PROPERTY

## Section

- 77-1807. Real property taxes; delinquent tax sale; how conducted; sale of part; bid by land bank; effect.
- 77-1808. Real property taxes; delinquent tax sale; payment by purchaser; resale.
- 77-1809. Real property taxes; delinquent tax sales; purchase by county; assignment of certificate of purchase; interest; notice to land bank.
- 77-1810. Real property taxes; delinquent tax sales; purchase by political subdivisions authorized.
- 77-1812. Real property taxes; county treasurer; record.
- 77-1813. Real property taxes; annual tax sale; return of county treasurer; when made; certified copy as evidence.
- 77-1818. Real property taxes; certificate of purchase; lien of purchaser; subsequent taxes.
- 77-1820. Repealed. Laws 2013, LB341, § 22.
- 77-1822. Real property taxes; certificate of purchase; assignable; fee.
- 77-1823. Real property taxes; tax certificates and deeds; fees of county treasurer; entry on record of issuance of deed.
- 77-1824. Real property taxes; redemption from sale; when and how made.
- 77-1824.01. Real property taxes; owner-occupied real property, defined; determination by purchaser; affidavit.
- 77-1825. Real property taxes; redemption from sale; entry on record; fee; notice to and payment of redemption money to certificate holder.
- 77-1827. Real property taxes; redemption; persons with intellectual disability or mental disorder; time permitted.
- 77-1830. Real property taxes; redemption from sale; part interest in land; how made.
- 77-1831. Real property taxes; issuance of treasurer's tax deed; notice given by purchaser; contents.
- 77-1832. Real property taxes; issuance of treasurer's tax deed; service of notice; upon whom made.
- 77-1833. Real property taxes; issuance of treasurer's tax deed; proof of service; fees.
- 77-1836. Real property taxes; issuance of treasurer's tax deed; fee.
- 77-1837. Real property taxes; issuance of treasurer's tax deed; when.
- 77-1849. Real property taxes; erroneous sale; refund of purchase money.

**77-1807 Real property taxes; delinquent tax sale; how conducted; sale of part; bid by land bank; effect.**

(1)(a) Except as otherwise provided in subdivision (b) 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.

(b) If a land bank gives an automatically accepted bid for the real property pursuant to section 19-5217, the land bank shall be the purchaser, regardless of the bid of any other person.

(2) If no person bids for a less quantity than the whole and no land bank has given an automatically accepted bid pursuant to section 19-5217, the treasurer may sell any real property to any one who will take the whole and pay the taxes and charges thereon.

(3) If the homestead is listed separately as a homestead, it shall be sold only for the taxes delinquent thereon.

**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.  
Operative date October 1, 2013.

**Note:** This section was amended by LB97, section 21, and LB341, section 1. The section was not correlated as a part of the normal legislative process and the amendments are not entirely reconcilable and are in conflict with each other. The Revisor of Statutes has pursuant to section 49-770 printed this section as amended by LB97 as this was the latest version to pass the Legislature.

**77-1808 Real property taxes; delinquent tax sale; payment by purchaser; resale.**

The person purchasing any real property shall pay to the county treasurer the amount of taxes, interest, and cost thereon, which payment may be made in the same funds receivable by law in the payment of taxes. If any purchaser fails to so pay, then the real property shall at once again be offered as if no such sale had been made.

**Source:** Laws 1903, c. 73, § 200, p. 461; R.S.1913, § 6528; C.S.1922, § 6056; C.S.1929, § 77-2008; Laws 1937, c. 167, § 12, p. 643; Laws 1939, c. 98, § 12, p. 429; Laws 1941, c. 157, § 12, p. 614; C.S.Supp.,1941, § 77-2008; R.S.1943, § 77-1808; Laws 1992, LB 1063, § 144; Laws 1992, Second Spec. Sess., LB 1, § 117; Laws 2013, LB341, § 2.  
Operative date January 1, 2015.

**77-1809 Real property taxes; delinquent tax sales; purchase by county; assignment of certificate of purchase; interest; notice to land bank.**

(1) At all sales provided by law, the county board may purchase for the use and benefit, and in the name of the county, any real estate advertised and offered for sale when the same remains unsold for want of bidders. The county treasurer shall issue certificates of purchase of the real estate so sold in the name of the county. Such certificates shall remain in the custody of the county treasurer, who shall at any time assign the same to any person wishing to buy for the amount expressed on the face of the certificate and 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 thereof. Such assignment shall be attested by the endorsement of the county clerk of his or her name on the back of such certificate, and such endorsement shall be made when requested by the county treasurer.

(2) If real estate is purchased by a county under this section and such real estate lies within a municipality that has created a land bank pursuant to the Nebraska Municipal Land Bank Act, the county treasurer of such county shall notify the land bank of such purchase as soon as practical and shall give the land bank the first opportunity to acquire the certificate of purchase for such real estate from the county.

**Source:** Laws 1903, c. 73, § 201, p. 462; R.S.1913, § 6529; C.S.1922, § 6057; C.S.1929, § 77-2009; Laws 1937, c. 167, § 34, p. 662;

Laws 1939, c. 98, § 34, p. 449; Laws 1941, c. 157, § 34, p. 633; C.S.Supp.,1941, § 77-2009; R.S.1943, § 77-1809; Laws 1971, LB 26, § 1; Laws 1979, LB 84, § 2; Laws 1981, LB 167, § 44; Laws 2013, LB97, § 22.

Operative date October 1, 2013.

Cross References

Nebraska Municipal Land Bank Act, see section 19-5201.

**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 19-5217.

**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.

Operative date October 1, 2013.

**77-1812 Real property taxes; county treasurer; record.**

The county treasurer shall keep a record showing in separate columns the number and date of each certificate of sale, the name of the owners or owner if known, the description of the real property, the name of the purchaser, the total amount of taxes and costs for which sold, the amount of subsequent taxes paid by the purchaser and date of payment, to whom assigned, and the amount paid therefor, name of person redeeming, date of redemption, total amount paid for redemption, name of person to whom conveyed, and date of deed.

**Source:** Laws 1903, c. 73, § 204, p. 463; R.S.1913, § 6532; C.S.1922, § 6060; C.S.1929, § 77-2012; R.S.1943, § 77-1812; Laws 1992, LB 1063, § 146; Laws 1992, Second Spec. Sess., LB 1, § 119; Laws 2013, LB341, § 3.

Operative date January 1, 2015.

**77-1813 Real property taxes; annual tax sale; return of county treasurer; when made; certified copy as evidence.**



On or before the first Monday of April following the sale of the real property, the county treasurer shall file in the office of the county clerk a return thereon as the same shall appear upon the county treasurer's record, and such return, duly certified, shall be evidence of the regularity of the proceedings.

**Source:** Laws 1903, c. 73, § 205, p. 463; R.S.1913, § 6533; C.S.1922, § 6061; Laws 1933, c. 136, § 7, p. 520; R.S.1943, § 77-1813; Laws 1987, LB 215, § 1; Laws 2013, LB341, § 4.  
Operative date January 1, 2015.

**77-1818 Real property taxes; certificate of purchase; lien of purchaser; subsequent taxes.**

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.

**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.  
Operative date January 1, 2015.

**77-1820 Repealed. Laws 2013, LB341, § 22.**

Operative date January 1, 2015.

**77-1822 Real property taxes; certificate of purchase; assignable; fee.**

The certificate of purchase shall be assignable by endorsement, and an assignment thereof shall vest in the assignee, or his or her legal representatives, all the right and title of the original purchaser. The statement in the treasurer's deed of the fact of the assignment shall be presumptive evidence thereof. An assignment shall be recorded by the county treasurer who shall collect a reassignment fee of twenty dollars and issue a new certificate to the assignee. The fee is not refundable upon redemption.

**Source:** Laws 1903, c. 73, § 210, p. 465; R.S.1913, § 6538; C.S.1922, § 6066; C.S.1929, § 77-2018; Laws 1937, c. 167, § 37, p. 663; Laws 1939, c. 98, § 37, p. 451; Laws 1941, c. 157, § 37, p. 634; C.S.Supp.,1941, § 77-2018; R.S.1943, § 77-1822; Laws 2002, LB 994, § 24; Laws 2013, LB341, § 6.  
Operative date January 1, 2015.

**77-1823 Real property taxes; tax certificates and deeds; fees of county treasurer; entry on record of issuance of deed.**

The county treasurer shall charge a twenty-dollar issuance fee for each deed or certificate made by him or her for a sale of real property for taxes together with the fee of the notary public or other officer acknowledging the deed. The issuance fee shall not be required if the tax sale certificate is issued in the name of the county, but the issuance fee is due from the purchaser when the county assigns the certificate to another person. The fee is not refundable upon redemption. Whenever the county treasurer makes a deed to any real property sold for taxes, he or she shall enter an account thereof in the record opposite the description of the real property conveyed.

**Source:** Laws 1903, c. 73, § 211, p. 466; R.S.1913, § 6539; C.S.1922, § 6067; C.S.1929, § 77-2019; R.S.1943, § 77-1823; Laws 1989, LB 324, § 2; Laws 1992, LB 1063, § 151; Laws 1992, Second Spec. Sess., LB 1, § 124; Laws 1995, LB 202, § 3; Laws 2013, LB341, § 7.

Operative date January 1, 2015.

#### **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.

**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.

Operative date January 1, 2015.

#### **77-1824.01 Real property taxes; owner-occupied real property, defined; determination by purchaser; affidavit.**

(1) For purposes of sections 77-1801 to 77-1863, owner-occupied real property means real property that is actually occupied by the record owner of the real property, the surviving spouse of the record owner, or a minor child of the record owner on the date of the notice of the application for the tax deed.

(2) The determination of owner-occupied real property shall be made solely by the purchaser. The purchaser's determination shall be proved by affidavit at the time of the application and shall be accepted as true and correct by the county treasurer for his or her determination of statutory compliance with sections 77-1801 to 77-1863. Any person swearing falsely in the affidavit shall be guilty of perjury and upon conviction thereof shall be punished as provided by section 28-915.

**Source:** Laws 2012, LB370, § 2; Laws 2013, LB341, § 9.  
Operative date January 1, 2015.

**77-1825 Real property taxes; redemption from sale; entry on record; fee; notice to and payment of redemption money to certificate holder.**

The county treasurer shall enter a memorandum of redemption of real property in the record and shall give a receipt therefor to the person redeeming the same, for which the county treasurer may charge a fee of two dollars. The county treasurer shall send written notice of redemption to the holder of the county treasurer's certificate of tax sale by first-class mail if the post office address of the holder of the certificate is filed in the office of the county treasurer or by electronic means if previously agreed to by the parties. The redemption money shall be paid to or upon the order of the holder on return of the certificate.

**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, § 77-1825; Laws 1967, c. 503, § 2, p. 1700; Laws 1989, LB 324, § 3; Laws 2012, LB370, § 3; Laws 2013, LB341, § 10.  
Operative date January 1, 2015.

**77-1827 Real property taxes; redemption; persons with intellectual disability or mental disorder; time permitted.**

The real property of persons with an intellectual disability or a mental disorder so sold, or any interest they may have in real property sold for taxes, may be redeemed at any time within five years after such sale.

**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, § 77-1827; Laws 1986, LB 1177, § 34; Laws 1992, LB 1063, § 154; Laws 1992, Second Spec. Sess., LB 1, § 127; Laws 2013, LB23, § 42.  
Effective date September 6, 2013.

**77-1830 Real property taxes; redemption from sale; part interest in land; how made.**

Any person claiming an undivided part of any real property sold for taxes may redeem the property on paying such proportion of the purchase money,

interest, costs, and subsequent taxes as he or she claims of the real property sold. The owner or occupant of a divided part of any real property sold for taxes or any person having a lien thereon or interest therein may redeem the property by paying the taxes separately assessed against such divided part, together with interest, costs, and subsequent taxes. If no taxes have been separately assessed against such divided part, then it shall be the duty of the county assessor, upon demand of the owner or lienholder or upon the demand of the county treasurer, to assess the divided part and to certify the assessment to the county treasurer. The owner or lienholder of the divided part may thereupon redeem the divided part upon the payment to the county treasurer of such sum so assessed, together with interest thereon, costs, and subsequent taxes. The county treasurer shall make a proper entry of such partial redemption in his or her record, and no deed thereafter given shall convey a greater interest than that remaining unredeemed.

**Source:** Laws 1903, c. 73, § 213, p. 466; R.S.1913, § 6541; C.S.1922, § 6069; Laws 1925, c. 168, § 2, p. 442; C.S.1929, § 77-2021; Laws 1937, c. 167, § 29, p. 659; Laws 1939, c. 98, § 29, p. 446; Laws 1941, c. 157, § 29, p. 629; C.S.Supp.,1941, § 77-2021; R.S.1943, § 77-1830; Laws 1992, LB 1063, § 156; Laws 1992, Second Spec. Sess., LB 1, § 129; Laws 2013, LB341, § 11. Operative date January 1, 2015.

**77-1831 Real property taxes; issuance of treasurer's tax deed; notice given by purchaser; contents.**

Except as otherwise provided in this section, 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. In the case of owner-occupied property, 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 and forty-five days before applying for the tax deed, serves or causes to be served a notice that states, after the expiration of at least three months and forty-five days 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) Except as provided for real property that is actually occupied by the record owner of the real property, the surviving spouse of the record owner, or a minor child of the record owner, 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. For real property that is actually occupied by the record owner of the real property, the surviving spouse of the record owner, or a minor child of the record owner, a deed may be applied for after the expiration of three months and forty-five days after the 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.  
Operative date January 1, 2015.

**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 every person in actual possession or occupancy of the real property who qualifies as an owner-occupant under section 77-1824.01; or

(b) Certified mail, return receipt requested, upon the person in whose name the title to the real property appears of record to the address where the property tax statement was mailed and upon every encumbrancer of record in the office of the register of deeds of the county. Whenever the record of a lien shows the post office address of the lienholder, notice shall be sent by certified mail, return receipt requested, to the holder of such lien at the address appearing of record.

(2) Personal or residence service shall be made by the county sheriff of the county where service is made or by a person authorized by section 25-507. The sheriff or other person serving the notice shall be entitled to the statutory fee prescribed in section 33-117. Within twenty days after the date of request for service of the notice, the person serving the notice of service shall (a) make proof of service to the person requesting the service and state the time and place of service including the address if applicable, the name of the person with whom the notice was left, and the method of service or (b) return the proof of service with a statement of the reason for the failure to serve. Failure to make proof of service or delay in doing so does not affect the validity of the service.

**Source:** Laws 1903, c. 73, § 214, p. 467; Laws 1905, c. 115, § 1, p. 520; R.S.1913, § 6542; Laws 1921, c. 143, § 1, p. 610; C.S.1922, § 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.

Operative date January 1, 2015.

**77-1833 Real property taxes; issuance of treasurer's tax deed; proof of service; fees.**

The service of notice provided by section 77-1832 shall be proved by affidavit, and the notice and affidavit shall be filed and preserved in the office of the county treasurer. The purchaser or assignee shall also affirm in the affidavit that a title search was conducted to determine those persons entitled to notice pursuant to such section. The certified mail return receipt shall be filed with and accompany the return of service. The affidavit shall be filed with the application for the tax deed pursuant to section 77-1837. For each service of such notice, a fee of one dollar shall be allowed. The amount of such fees shall be noted by the county treasurer in the record opposite the real property described in the notice and shall be collected by the county treasurer in case of redemption for the benefit of the holder of the certificate.

**Source:** Laws 1903, c. 73, § 214, p. 467; Laws 1905, c. 115, § 1, p. 520; R.S.1913, § 6542; Laws 1921, c. 143, § 1, p. 610; C.S.1922, § 6070; C.S.1929, § 77-2022; R.S.1943, § 77-1833; Laws 1969, c. 645, § 9, p. 2561; Laws 1992, LB 1063, § 159; Laws 1992, Second Spec. Sess., LB 1, § 132; Laws 2003, LB 319, § 2; Laws 2012, LB370, § 6; Laws 2013, LB341, § 14.

Operative date January 1, 2015.

**77-1836 Real property taxes; issuance of treasurer's tax deed; fee.**

If any person is compelled to publish notice in a newspaper as provided in sections 77-1834 and 77-1835, then before any person who may have a right to redeem such real property from such sale is permitted to redeem, he or she shall pay the officer or person who by law is authorized to receive such redemption money the amount paid for publishing such notice, for the use of the person compelled to publish the notice. The fee for such publication shall not exceed five dollars for each item of real property contained in such notice. The cost of making such publication shall be noted by the county treasurer in the record opposite the real property described in the notice.

**Source:** Laws 1903, c. 73, § 216, p. 468; R.S.1913, § 6544; C.S.1922, § 6072; C.S.1929, § 77-2024; R.S.1943, § 77-1836; Laws 1992, LB 1063, § 161; Laws 1992, Second Spec. Sess., LB 1, § 134; Laws 2002, LB 994, § 25; Laws 2013, LB341, § 15.

Operative date January 1, 2015.

**77-1837 Real property taxes; issuance of treasurer's tax deed; when.**

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, the county treasurer, on application, on production of the certificate of purchase, and upon compliance with sections 77-1801 to 77-1863, shall execute and deliver a deed of conveyance for the real estate described in such certificate as provided in this section. The failure of the county treasurer to issue the deed of conveyance if requested within the

timeframe provided in 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.  
Operative date January 1, 2015.

**77-1849 Real property taxes; erroneous sale; refund of purchase money.**

Whenever it shall be made to appear to the satisfaction of the county treasurer, either before the execution of a deed for real property sold for taxes, or, if a deed is returned by the purchaser, that any tract or lot has been sold which was not subject to taxation, or upon which the taxes had been paid previous to the sale, he or she shall make an entry opposite such tract or lot on the record that the same was erroneously sold, and such entry shall be evidence of the fact therein stated. In such cases the purchase money shall be refunded to the purchaser.

**Source:** Laws 1903, c. 73, § 224, p. 473; R.S.1913, § 6552; C.S.1922, § 6080; C.S.1929, § 77-2032; R.S.1943, § 77-1849; Laws 2013, LB341, § 17.  
Operative date January 1, 2015.

**ARTICLE 19**

**COLLECTION OF DELINQUENT REAL ESTATE  
TAXES THROUGH COURT PROCEEDINGS**

Section

- 77-1902. Tax sale certificate; tax deed; right of holder to foreclosure; action in district court; limitation period.
- 77-1915. Foreclosure proceedings; proceeds of sale; disposition.
- 77-1916. Foreclosure proceedings; surplus proceeds; disposition; prorating.
- 77-1926. Repealed. Laws 2013, LB341, § 22.
- 77-1936. Tax certificate foreclosure proceedings; authority of governmental subdivisions to convey real property obtained thereunder.
- 77-1937. Repealed. Laws 2013, LB341, § 22.

**77-1902 Tax sale certificate; tax deed; right of holder to foreclosure; action in district court; limitation period.**

When land has been sold for delinquent taxes and a tax sale certificate or tax deed has been issued, the holder of such tax sale certificate or tax deed may, instead of demanding a deed or, if a deed has been issued, by surrendering the same in court, proceed in the district court of the county in which the land is situated to foreclose the lien for taxes represented by the tax sale certificate or tax deed and all subsequent tax liens thereon, excluding any lien on real estate for special assessments levied by any sanitary and improvement district which special assessments have not been previously offered for sale by the county treasurer, in the same manner and with like effect as in the foreclosure of a real estate mortgage, except as otherwise specifically provided by sections 77-1903 to 77-1917. Such action shall only be brought within nine months after the

expiration of three years from the date of sale of any real estate for taxes or special assessments.

**Source:** Laws 1943, c. 176, § 2, p. 615; R.S.1943, § 77-1902; Laws 1975, LB 78, § 2; Laws 1987, LB 215, § 3; Laws 1996, LB 1321, § 4; Laws 2011, LB423, § 2; Laws 2013, LB341, § 18.  
Operative date January 1, 2015.

**77-1915 Foreclosure proceedings; proceeds of sale; disposition.**

From the proceeds of the sale of any real property, the costs charged thereto shall first be paid. When the plaintiff is a private person, firm, or corporation, the balance thereof, or so much thereof as is necessary, shall be paid to the plaintiff. When the plaintiff is a governmental subdivision other than a land bank, or is a municipal corporation or drainage or irrigation district, the balance thereof, or so much thereof as is necessary, shall be paid to the county treasurer for distribution to the various governmental subdivisions, municipal corporations, or drainage or irrigation districts entitled thereto in discharge of all claims, excluding any lien on real estate for special assessments levied by any sanitary and improvement district which special assessments have not been previously offered for sale by the county treasurer. When the plaintiff is a land bank, the balance thereof, or so much thereof as is necessary, shall be paid to the land bank.

**Source:** Laws 1943, c. 176, § 15, p. 618; R.S.1943, § 77-1915; Laws 1992, LB 1063, § 176; Laws 1992, Second Spec. Sess., LB 1, § 149; Laws 2011, LB423, § 5; Laws 2013, LB97, § 24.  
Operative date October 1, 2013.

**77-1916 Foreclosure proceedings; surplus proceeds; disposition; prorating.**

If a surplus remains after satisfying all costs and taxes against any particular item of real property, the excess shall be applied in the manner provided by law for the disposition of the surplus in the foreclosure of mortgages on real property. If the proceeds are insufficient to pay the costs and all the taxes, when the plaintiff is a governmental subdivision other than a land bank or is a municipal corporation or a drainage or irrigation district, the amount remaining shall be prorated among the governmental subdivisions, municipal corporations, and drainage or irrigation districts in the proportion of their interest in the decree of foreclosure. The proceeds of the sale of one item of real property shall not be applied to the discharge of a lien for taxes against another item of real property except when so directed by the decree for foreclosure under the circumstances set forth in section 77-1910. The lien on real estate for special assessments levied by any sanitary and improvement district shall not be entitled to any surplus unless such special assessments have been previously offered for sale by the county treasurer.

**Source:** Laws 1943, c. 176, § 16, p. 618; R.S.1943, § 77-1916; Laws 1992, LB 1063, § 177; Laws 1992, Second Spec. Sess., LB 1, § 150; Laws 2011, LB423, § 6; Laws 2013, LB97, § 25.  
Operative date October 1, 2013.

**77-1926 Repealed. Laws 2013, LB341, § 22.**

Operative date January 1, 2015.



**77-1936 Tax certificate foreclosure proceedings; authority of governmental subdivisions to convey real property obtained thereunder.**

When any county, city, village, school district, drainage district, or irrigation district shall have acquired real estate under such tax foreclosure proceedings, the governing body of such governmental subdivision or municipal corporation shall have power to convey any such real estate by a deed signed by the chairperson or other presiding officer of such body, subject to the right, if any, of any person, persons, firm, corporation, or governmental body to attack the same by action or proceeding within the one-year limitation provided in sections 77-1934 to 77-1936, for such price as the governing body of any such governmental subdivision or municipal corporation, in the exercise of good faith, shall determine to be a fair and reasonable price for the property.

**Source:** Laws 1947, c. 264, § 4, p. 856; Laws 2013, LB341, § 19.  
Operative date January 1, 2015.

**77-1937 Repealed. Laws 2013, LB341, § 22.**

Operative date January 1, 2015.

**ARTICLE 23****DEPOSIT AND INVESTMENT OF PUBLIC FUNDS****(b) PUBLIC FUNDS DEPOSIT SECURITY ACT**

Section

77-2387. Terms, defined.

77-2398. Deposits in excess of insured or guaranteed amount; requirements.

**(b) PUBLIC FUNDS DEPOSIT SECURITY ACT****77-2387 Terms, defined.**

For purposes of the Public Funds Deposit Security Act, unless the context otherwise requires:

(1) Affiliate means any entity that controls, is controlled by, or is under common control with another entity;

(2) Bank means any state-chartered or federally chartered bank which has a main chartered office in this state, any branch thereof in this state, or any branch in this state of a state-chartered or federally chartered bank which maintained a main chartered office in this state prior to becoming a branch of such state-chartered or federally chartered bank;

(3) Capital stock financial institution means a capital stock state building and loan association, a capital stock federal savings and loan association, a capital stock federal savings bank, and a capital stock state savings bank, which has a main chartered office in this state, any branch thereof in this state, or any branch in this state of a capital stock financial institution which maintained a main chartered office in this state prior to becoming a branch of such capital stock financial institution;

(4) Control means to own directly or indirectly or to control in any manner twenty-five percent of the voting shares of any bank, capital stock financial institution, or holding company or to control in any manner the election of the

majority of directors of any bank, capital stock financial institution, or holding company;

(5) Custodial official means an officer or an employee of the State of Nebraska or any political subdivision who, by law, is made custodian of or has control over public money or public funds subject to the act or the security for the deposit of public money or public funds subject to the act;

(6) Deposit guaranty bond means a bond underwritten by an insurance company authorized to do business in this state which provides coverage for deposits of a governing authority which are in excess of the amounts insured or guaranteed by the Federal Deposit Insurance Corporation;

(7) Event of default means the issuance of an order by a supervisory authority or a receiver which restrains a bank, capital stock financial institution, or qualifying mutual financial institution from paying its deposit liabilities;

(8) Governing authority means the official, or the governing board, council, or other body or group of officials, authorized to designate a bank, capital stock financial institution, or qualifying mutual financial institution as a depository of public money or public funds subject to the act;

(9) Governmental unit means the State of Nebraska or any political subdivision thereof;

(10) Political subdivision means any county, city, village, township, district, authority, or other public corporation or entity, whether organized and existing under direct provisions of the Constitution of Nebraska or laws of the State of Nebraska or by virtue of a charter, corporate articles, or other legal instruments executed under authority of the constitution or laws, including any entity created pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act;

(11) Qualifying mutual financial institution shall have the same meaning as in section 77-2365.01;

(12) Repurchase agreement means an agreement to purchase securities by the governing authority by which the counterparty bank, capital stock financial institution, or qualifying mutual financial institution will repurchase the securities on or before a specified date and for a specified amount and the counterparty bank, capital stock financial institution, or qualifying mutual financial institution will deliver the underlying securities to the governing authority by book entry, physical delivery, or third-party custodial agreement. The transfer of underlying securities to the counterparty bank's, capital stock financial institution's, or qualifying mutual financial institution's customer book entry account may be used for book entry delivery if the governing authority so chooses; and

(13) Securities means:

(a) Bonds or obligations fully and unconditionally guaranteed both as to principal and interest by the United States Government;

(b) United States Government notes, certificates of indebtedness, or treasury bills of any issue;

(c) United States Government bonds;

(d) United States Government guaranteed bonds or notes;

(e) Bonds or notes of United States Government agencies;

(f) Bonds of any state or political subdivision which are fully defeased as to principal and interest by any combination of bonds or notes authorized in subdivision (c), (d), or (e) of this subdivision;

(g) Bonds or obligations, including mortgage-backed 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) Repurchase agreements the subject securities of which are any of the securities described in subdivisions (a) through (g) of this subdivision;

(i) Securities issued under the authority of the Federal Farm Loan Act;

(j) Loan participations which carry the guarantee of the Commodity Credit Corporation, an instrumentality of the United States Department of Agriculture;

(k) Guaranty agreements of the Small Business Administration of the United States Government;

(l) Bonds or obligations of any county, city, village, metropolitan utilities district, public power and irrigation district, sewer district, fire protection district, rural water district, or school district in this state which have been issued as required by law;

(m) Bonds of the State of Nebraska or of any other state which are purchased by the Board of Educational Lands and Funds of this state for investment in the permanent school fund or which are purchased by the state investment officer of this state for investment in the permanent school fund;

(n) Bonds or obligations of another state, or a political subdivision of another state, which are rated within the two highest classifications by at least one of the standard rating services;

(o) Warrants of the State of Nebraska;

(p) Warrants of any county, city, village, local hospital district, or school district in this state;

(q) Irrevocable, nontransferable, unconditional standby letters of credit issued by a Federal Home Loan Bank; and

(r) Certificates of deposit fully insured or guaranteed by the Federal Deposit Insurance Corporation that are issued to a bank, capital stock financial institution, or qualifying mutual financial institution furnishing securities pursuant to the Public Funds Deposit Security Act.

**Source:** Laws 1996, LB 1274, § 2; Laws 1997, LB 275, § 2; Laws 2000, LB 932, § 39; Laws 2001, LB 362, § 82; Laws 2001, LB 420, § 35; Laws 2003, LB 131, § 37; Laws 2003, LB 175, § 14; Laws 2004, LB 999, § 50; Laws 2009, LB259, § 27; Laws 2011, LB78, § 1; Laws 2013, LB155, § 1.

Effective date September 6, 2013.

#### Cross References

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

**Joint Public Agency Act**, see section 13-2501.

### **77-2398 Deposits in excess of insured or guaranteed amount; requirements.**

(1) As an alternative to the requirements to secure the deposit of public money or public funds in excess of the amount insured or guaranteed by the

Federal Deposit Insurance Corporation pursuant to sections 77-2389 and 77-2394, a bank, capital stock financial institution, or qualifying mutual financial institution designated as a public depository may secure the deposits of one or more governmental units by providing a deposit guaranty bond or by depositing, pledging, or granting a security interest in a single pool of securities to secure the repayment of all public money or public funds deposited in the bank, capital stock financial institution, or qualifying mutual financial institution by such governmental units and not otherwise secured pursuant to law, if at all times the total value of the deposit guaranty bond is at least equal to the amount on deposit which is in excess of the amount so insured or guaranteed or the aggregate market value of the pool of securities so deposited, pledged, or in which a security interest is granted is at least equal to one hundred five percent of the amount on deposit which is in excess of the amount so insured or guaranteed. Each such bank, capital stock financial institution, or qualifying mutual financial institution shall carry on its accounting records at all times a general ledger or other appropriate account of the total amount of all public money or public funds to be secured by a deposit guaranty bond or by the pool of securities, as determined at the opening of business each day, and the total value of the deposit guaranty bond or the aggregate market value of the pool of securities deposited, pledged, or in which a security interest is granted to secure such public money or public funds. 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) Only the securities listed in subdivision (13) of section 77-2387 may be provided and accepted as security for the deposit of public money or public funds and shall be eligible as collateral. The qualified trustee shall accept no security which is not listed in subdivision (13) of section 77-2387.

**Source:** Laws 2000, LB 932, § 43; Laws 2001, LB 362, § 92; Laws 2009, LB259, § 31; Laws 2011, LB78, § 2; Laws 2013, LB155, § 2. Effective date September 6, 2013.

## ARTICLE 27

### SALES AND INCOME TAX

#### (a) ACT, RATES, AND DEFINITIONS

Section

77-2701.16. Gross receipts, defined.

#### (b) SALES AND USE TAX

77-2704.12. Nonprofit religious, service, educational, or medical organization; exemption; purchasing agents.

77-2704.15. Purchases by state, schools, or governmental units; exemption; purchasing agents.

77-2704.57. Personal property used in C-BED project or community-based energy development project; exemption; Tax Commissioner; powers and duties; Department of Revenue; recover tax not paid.

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.

## Section

## (c) INCOME TAX

- 77-2715. Income tax; rate; credits; refund.  
 77-2715.08. Capital gains; terms, defined.  
 77-2716. Income tax; adjustments.  
 77-2717. Income tax; estates; trusts; rate; fiduciary return; contents; filing; state income tax; contents; credits.  
 77-2734.01. Small business corporation shareholders; limited liability company members; determination of income; credit; Tax Commissioner; powers; return; when required.  
 77-2734.07. Income tax; adjustments to federal taxable income; rules and regulations.  
 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 Legislative Auditor; wrongful disclosure; exception; penalty.  
 77-27,119.04. Repealed. Laws 2013, LB 79, § 41.

## (g) LOCAL OPTION REVENUE ACT

- 77-27,142. Incorporated municipalities; sales and use tax; authorized; election.  
 77-27,142.01. Incorporated municipalities; sales and use tax; modification; election required, when.

## (m) NEBRASKA ADVANTAGE RURAL DEVELOPMENT ACT

- 77-27,195. Report; contents; joint hearing.

## (a) ACT, RATES, AND DEFINITIONS

**77-2701.16 Gross receipts, defined.**

(1) Gross receipts means the total amount of the sale or lease or rental price, as the case may be, of the retail sales of retailers.

(2) Gross receipts of every person engaged as a public utility specified in this subsection, as a community antenna television service operator, or as a satellite service operator or any person involved in connecting and installing services defined in subdivision (2)(a), (b), or (d) of this section means:

(a)(i) In the furnishing of telephone communication service, other than mobile telecommunications service as described in section 77-2703.04, the gross income received from furnishing ancillary services, except for conference bridging services, and intrastate telecommunications services, except for value-added, nonvoice data service.

(ii) In the furnishing of mobile telecommunications service as described in section 77-2703.04, the gross income received from furnishing mobile telecommunications service that originates and terminates in the same state to a customer with a place of primary use in Nebraska;

(b) In the furnishing of telegraph service, the gross income received from the furnishing of intrastate telegraph services;

(c)(i) In the furnishing of gas, sewer, water, and electricity service, other than electricity service to a customer-generator as defined in section 70-2002, the gross income received from the furnishing of such services upon billings or statements rendered to consumers for such utility services.

(ii) In the furnishing of electricity service to a customer-generator as defined in section 70-2002, the net energy use upon billings or statements rendered to customer-generators for such electricity service;

(d) In the furnishing of community antenna television service or satellite service, the gross income received from the furnishing of such community antenna television service as regulated under sections 18-2201 to 18-2205 or 23-383 to 23-388 or satellite service; and

(e) The gross income received from the provision, installation, construction, servicing, or removal of property used in conjunction with the furnishing, installing, or connecting of any public utility services specified in subdivision (2)(a) or (b) of this section or community antenna television service or satellite service specified in subdivision (2)(d) of this section, except when acting as a subcontractor for a public utility, this subdivision does not apply to the gross income received by a contractor electing to be treated as a consumer of building materials under subdivision (2) or (3) of section 77-2701.10 for any such services performed on the customer's side of the utility demarcation point.

(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 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. Operative date October 1, 2013.

#### (b) SALES AND USE TAX

**77-2704.12 Nonprofit religious, service, educational, or medical organization; exemption; purchasing agents.**

(1) Sales and use taxes shall not be imposed on the gross receipts from the sale, lease, or rental of and the storage, use, or other consumption in this state of purchases by (a) any nonprofit organization created exclusively for religious purposes, (b) any nonprofit organization providing services exclusively to the blind, (c) any nonprofit private educational institution established under sections 79-1601 to 79-1607, (d) any regionally or nationally accredited, nonprofit, privately controlled college or university with its primary campus physically

located in Nebraska, (e) any nonprofit (i) hospital, (ii) health clinic when 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, or (xi) mental health center licensed under the Health Care Facility Licensure Act, (f) any nonprofit licensed residential child-caring agency, (g) any nonprofit licensed child-placing agency, or (h) any nonprofit organization certified by the Department of Health and Human Services to provide community-based services for persons with developmental disabilities.

(2) Any organization listed in subsection (1) of this section shall apply for an exemption on forms provided by the Tax Commissioner. The application shall be approved and a numbered certificate of exemption received by the applicant organization in order to be exempt from the sales and use tax.

(3) The appointment of purchasing agents shall be recognized for the purpose of altering the status of the construction contractor as the ultimate consumer of building materials which are physically annexed to the structure and which subsequently belong to the owner of the organization or institution. The appointment of purchasing agents shall be in writing and occur prior to having any building materials annexed to real estate in the construction, improvement, or repair. The contractor who has been appointed as a purchasing agent may apply for a refund of or use as a credit against a future use tax liability the tax paid on inventory items annexed to real estate in the construction, improvement, or repair of a project for a licensed not-for-profit institution.

(4) Any organization listed in subsection (1) of this section which enters into a contract of construction, improvement, or repair upon property annexed to real estate without first issuing a purchasing agent authorization to a contractor or repairperson prior to the building materials being annexed to real estate in the project may apply to the Tax Commissioner for a refund of any sales and use tax paid by the contractor or repairperson on the building materials physically annexed to real estate in the construction, improvement, or repair.

(5) Any person purchasing, storing, using, or otherwise consuming building materials in the performance of any construction, improvement, or repair by or for any institution enumerated in subsection (1) of this section which is licensed upon completion although not licensed at the time of construction or improvement, which building materials are annexed to real estate and which subsequently belong to the owner of the institution, shall pay any applicable sales or use tax thereon. Upon becoming licensed and receiving a numbered certificate of exemption, the institution organized not for profit shall be entitled to a refund of the amount of taxes so paid in the performance of such construction, improvement, or repair and shall submit whatever evidence is required by the Tax Commissioner sufficient to establish the total sales and use tax paid upon the building materials physically annexed to real estate in the construction, improvement, or repair.

**Source:** Laws 1992, LB 871, § 36; Laws 1993, LB 345, § 42; Laws 1994, LB 977, § 3; Laws 1996, LB 900, § 1063; Laws 2000, LB 819,



§ 151; Laws 2002, LB 989, § 18; Laws 2004, LB 841, § 1; Laws 2004, LB 1017, § 13; Laws 2005, LB 216, § 6; Laws 2006, LB 1189, § 5; Laws 2008, LB575, § 1; Laws 2011, LB637, § 24; Laws 2012, LB40, § 1; Laws 2012, LB1097, § 1; Laws 2013, LB23, § 43; Laws 2013, LB265, § 46.

**Note:** The Revisor of Statutes has pursuant to section 49-769 correlated LB23, section 43, with LB265, section 46, to reflect all amendments.

**Note:** Changes made by LB265 became effective May 26, 2013. Changes made by LB23 became effective September 6, 2013.

#### 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, land bank created under the Nebraska Municipal Land Bank Act, natural resources district, elected county fair board, housing agency as defined in section 71-1575 except for purchases for any commercial operation that does not exclusively benefit the residents of an affordable housing project, cemetery created under section 12-101, or joint entity or agency formed 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 a 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 a 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. 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.  
Operative date October 1, 2013.

#### 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 19-5201.

### **77-2704.57 Personal property used in C-BED project or community-based energy development project; exemption; Tax Commissioner; powers and duties; Department of Revenue; recover tax not paid.**

(1) Sales and use tax shall not be imposed on the gross receipts from the sale, lease, or rental of personal property for use in a C-BED project or community-based energy development project. This exemption shall be conditioned upon filing requirements for the exemption as imposed by the Tax Commissioner. The requirements imposed by the Tax Commissioner shall be related to ensuring that the property purchased qualifies for the exemption. The Tax Commissioner may require the filing of the documents showing compliance with section 70-1907, the organization of the project, the distribution of the payments, the power purchase agreements, the project pro forma, articles of incorporation, operating agreements, and any amendments or changes to these documents during the life of the power purchase agreement.

(2) The Tax Commissioner shall notify an electric utility that has a power purchase agreement with a C-BED project if there is a change in project ownership which makes the project no longer eligible as a C-BED project. Purchase of a C-BED project by an electric utility prior to the end of the power purchase agreement disqualifies the C-BED project for the exemption, but the

Department of Revenue may not recover the amount of the sales and use tax that was not paid by the project prior to the purchase.

(3) For purposes of this section:

(a) C-BED project or community-based energy development project means a new wind energy project that:

(i) Has an ownership structure as follows:

(A) For a C-BED project that consists of more than two turbines, has one or more qualified owners with no single individual qualified owner owning directly or indirectly more than fifteen percent of the project and with at least thirty-three percent of the gross power purchase agreement payments flowing to the qualified owner or owners or local community; or

(B) For a C-BED project that consists of one or two turbines, has one or more qualified owners with at least thirty-three percent of the gross power purchase agreement payments flowing to a qualified owner or owners or local community; and

(ii) Has a resolution of support adopted:

(A) By the county board of each county in which the C-BED project is to be located; or

(B) By the tribal council for a C-BED project located within the boundaries of an Indian reservation;

(b) Debt financing payments means principal, interest, and other typical financing costs paid by the C-BED project company to one or more third-party financial institutions for the financing or refinancing of the construction of the C-BED project. Debt financing payments does not include the repayment of principal at the time of a refinancing;

(c) New wind energy project means any tangible personal property incorporated into the manufacture, installation, construction, repair, or replacement of a device, such as a wind charger, windmill, or wind turbine, which is used to convert wind energy to electrical energy or for the transmission of electricity to the purchaser; and

(d) Qualified owner means:

(i) A Nebraska resident;

(ii) A limited liability company that is organized under the Nebraska Uniform Limited Liability Company Act and that is entirely made up of members who are Nebraska residents;

(iii) A Nebraska nonprofit corporation organized under the Nebraska Nonprofit Corporation Act;

(iv) An electric supplier as defined in section 70-1001.01, except that ownership in a single C-BED project is limited to no more than:

(A) Fifteen percent either directly or indirectly by a single electric supplier; and

(B) A combined total of twenty-five percent ownership either directly or indirectly by multiple electric suppliers; or

(v) A tribal council.

(4) Gross power purchase agreement payments are the total amount of payments during the life of the agreement. For power purchase agreements entered into on or before December 31, 2011, if the qualified owners have a

combined total of at least thirty-three percent of the equity ownership in the C-BED project, gross power purchase agreement payments shall be reduced by the debt financing payments. For the purpose of determining eligibility of the project, an estimate of the payments and their recipients shall be used.

(5) Payments to the local community include, but are not limited to, lease payments to property owners on whose property a turbine is located, wind agreement payments, and real and personal property tax receipts from the C-BED project.

(6) The Department of Revenue may examine the actual payments and the distribution of the payments to determine if the projected distributions were met. If the payment distributions to qualified owners do not meet the requirements of this section, the department may recover the amount of the sales or use tax that was not paid by the project at any time up until the end of three years after the end of the power purchase agreement.

(7) At any time prior to the end of the power purchase agreements, the project may voluntarily surrender the exemption granted by the Tax Commissioner and pay the amount of sales and use tax that would otherwise have been due.

(8) The amount of the tax due under either subsection (6) or (7) of this section shall be increased by interest at the rate specified in section 45-104.02, as such rate may from time to time be adjusted, from the date the tax would have been due if no exemption was granted until the date paid.

**Source:** Laws 2007, LB367, § 11; Laws 2008, LB916, § 21; Laws 2009, LB561, § 5; Laws 2010, LB888, § 103; Laws 2012, LB828, § 18; Laws 2013, LB283, § 5.  
Effective date September 6, 2013.

#### Cross References

Nebraska Nonprofit Corporation Act, see section 21-1901.

Nebraska Uniform Limited Liability Company Act, see section 21-101.

**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 sales and use taxes for which the person is liable under the Local Option Revenue Act or sections 13-319, 13-324, and 13-2813 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 informa-

tion 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 or 77-5731, 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 Legislative Performance Audit Committee, make tax returns and tax return information open to inspection by or disclosure to the Auditor of Public Accounts or employees of the office of Legislative Audit for the purpose of and to the extent necessary in making an audit of the Department of Revenue pursuant to section 50-1205 or 84-304. Confidential tax returns and tax return information shall be audited only upon the premises of the Department of Revenue. All audit workpapers pertaining to the audit of the Department of Revenue shall be stored in a secure place in the Department of Revenue.

(b) No employee of the Auditor of Public Accounts or the office of Legislative Audit shall disclose to any person, other than another Auditor of Public

Accounts or office employee whose official duties require such disclosure or as provided in subsections (2) and (3) of section 50-1213, any return or return information described in the Nebraska Revenue Act of 1967 in a form which can be associated with or otherwise identify, directly or indirectly, a particular taxpayer.

(c) Any person who violates the provisions of this subsection shall be guilty of a Class I misdemeanor. For purposes of this subsection, employee includes a former Auditor of Public Accounts or office of Legislative Audit employee.

(12) For purposes of this subsection and subsections (11) and (14) of this section:

(a) Disclosure means the making known to any person in any manner a tax return or return information;

(b) Return information means:

(i) A taxpayer's identification number and (A) the nature, source, or amount of his or her income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax withheld, deficiencies, overassessments, or tax payments, whether the taxpayer's return was, is being, or will be examined or subject to other investigation or processing or (B) any other data received by, recorded by, prepared by, furnished to, or collected by the Tax Commissioner with respect to a return or the determination of the existence or possible existence of liability or the amount of liability of any person for any tax, penalty, interest, fine, forfeiture, or other imposition or offense; and

(ii) Any part of any written determination or any background file document relating to such written determination; and

(c) Tax return or return means any tax or information return or claim for refund required by, provided for, or permitted under sections 77-2701 to 77-2713 which is filed with the Tax Commissioner by, on behalf of, or with respect to any person and any amendment or supplement thereto, including supporting schedules, attachments, or lists which are supplemental to or part of the filed return.

(13) Notwithstanding the provisions of subsection (7) of this section, the Tax Commissioner shall, upon request, provide any municipality which has adopted the local option sales tax under the Local Option Revenue Act with a list of the names and addresses of the retailers which have collected the local option sales tax for the municipality. The request may be made annually and shall be submitted to the Tax Commissioner on or before June 30 of each year. The information provided by the Tax Commissioner shall indicate only the names and addresses of the retailers. The Tax Commissioner may provide additional information to a municipality so long as the information does not include any data detailing the specific revenue, expenses, or operations of any particular business.

(14)(a) Notwithstanding the provisions of subsection (7) of this section, the Tax Commissioner shall, upon written request, provide a municipal employee certified under subdivision (b) of this subsection representing a municipality which has adopted the local option sales tax under the Local Option Revenue Act with confidential sales tax returns and sales tax return information regarding taxpayers that possess a sales tax permit and the amounts remitted by such permit holders at locations within the boundaries of the requesting municipality. Any written request pursuant to this subsection shall provide the Department of

Revenue with no less than ten business days to prepare the sales tax returns and sales tax return information requested. Such returns and return information shall be viewed only upon the premises of the department.

(b) Each municipality that seeks to request information under subdivision (a) of this subsection shall certify to the Department of Revenue one municipal employee who is authorized by such municipality to make such request and review the documents described in subdivision (a) of this subsection.

(c) No municipal employee certified by a municipality pursuant to subdivision (b) of this subsection shall disclose to any person any information obtained pursuant to a review by that municipal employee pursuant to this subsection. A municipal employee 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 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 informa-



tion, 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 web site of the certified service provider;

(iv) Its collection, use, and retention of personally identifiable information is limited to that required by the member states to ensure the validity of exemptions from taxation that are claimed by reason of a consumer's status or the intended use of the goods or services purchased; and

(v) It provides adequate technical, physical, and administrative safeguards so as to protect personally identifiable information from unauthorized access and disclosure.

(e) The state shall provide public notification to consumers, including exempt purchasers, of the state's practices relating to the collection, use, and retention of personally identifiable information.

(f) When any personally identifiable information that has been collected and retained is no longer required for the purposes set forth in subdivision (16)(d)(iv) of this section, such information shall no longer be retained by the member states.

(g) When personally identifiable information regarding an individual is retained by or on behalf of the state, it shall provide reasonable access by such individual to his or her own information in the state's possession and a right to correct any inaccurately recorded information.

(h) If anyone other than a member state, or a person authorized by that state's law or the agreement, seeks to discover personally identifiable information, the state from whom the information is sought should make a reasonable and timely effort to notify the individual of such request.

(i) This privacy policy is subject to enforcement by the Attorney General.

(j) All other laws and regulations regarding the collection, use, and maintenance of confidential taxpayer information remain fully applicable and binding. Without limitation, this subsection does not enlarge or limit the state's authority to:

(i) Conduct audits or other reviews as provided under the agreement and state law;

(ii) Provide records pursuant to the federal Freedom of Information Act, disclosure laws with governmental agencies, or other regulations;

(iii) Prevent, consistent with state law, disclosure of confidential taxpayer information;

(iv) Prevent, consistent with federal law, disclosure or misuse of federal return information obtained under a disclosure agreement with the Internal Revenue Service; and

(v) Collect, disclose, disseminate, or otherwise use anonymous data for governmental purposes.

**Source:** Laws 1967, c. 487, § 11, p. 1566; Laws 1969, c. 683, § 7, p. 2641; Laws 1977, LB 39, § 239; Laws 1981, LB 170, § 6; Laws 1982, LB 705, § 2; Laws 1984, LB 962, § 12; Laws 1985, LB 344, § 4; Laws 1987, LB 523, § 17; Laws 1991, LB 773, § 10; Laws 1992, LB 871, § 61; Laws 1992, Fourth Spec. Sess., LB 1, § 31; Laws 1993, LB 345, § 60; Laws 1994, LB 1175, § 1; Laws 1995, LB

134, § 3; Laws 1996, LB 1177, § 18; Laws 2001, LB 142, § 56; Laws 2003, LB 282, § 73; Laws 2005, LB 216, § 9; Laws 2005, LB 312, § 11; Laws 2006, LB 588, § 8; Laws 2007, LB94, § 1; Laws 2007, LB223, § 9; Laws 2008, LB914, § 8; Laws 2009, LB165, § 10; Laws 2010, LB563, § 14; Laws 2010, LB879, § 9; Laws 2012, LB209, § 1; Laws 2012, LB1053, § 25; Laws 2013, LB39, § 12.

Effective date September 6, 2013.

#### 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 Visitors Development Act**, see section 81-3701.

### (c) INCOME TAX

#### **77-2715 Income tax; rate; credits; refund.**

(1) A tax is hereby imposed for each taxable year on the entire income of every resident individual and on the income of every nonresident individual and partial-year resident individual which is derived from sources within this state, except that any individual who has additions to adjusted gross income pursuant to section 77-2716 of less than five thousand dollars shall not have an individual income tax liability after nonrefundable credits under the Nebraska Revenue Act of 1967 that exceeds his or her individual income tax liability before credits under the Internal Revenue Code of 1986.

(2)(a) For taxable years beginning or deemed to begin before January 1, 2014, the tax for each resident individual shall be a percentage of such individual's federal adjusted gross income as modified in sections 77-2716 and 77-2716.01, plus a percentage of the federal alternative minimum tax and the federal tax on premature or lump-sum distributions from qualified retirement plans. The additional taxes shall be recomputed by (i) substituting Nebraska taxable income for federal taxable income, (ii) calculating what the federal alternative minimum tax would be on Nebraska taxable income and adjusting such calculations for any items which are reflected differently in the determination of federal taxable income, and (iii) applying Nebraska rates to the result. The federal credit for prior year minimum tax, after the recomputations required by the act, shall be allowed as a reduction in the income tax due.

(b) For taxable years beginning or deemed to begin on or after January 1, 2014, the tax for each resident individual shall be a percentage of such individual's federal adjusted gross income as modified in sections 77-2716 and 77-2716.01, 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.

(3) The tax for each nonresident individual and partial-year resident individual shall be the portion of the tax imposed on resident individuals 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 subtracting from the liability to this state for a resident individual with the same total income the credit for personal exemptions and multiply-

ing the result by a fraction, the numerator of which is the nonresident individual's or partial-year resident individual's Nebraska adjusted gross income as determined by section 77-2733 or 77-2733.01 and the denominator of which is his or her total federal adjusted gross income, after first adjusting each by the amounts provided in section 77-2716. If this determination attributes more or less tax than is reasonably attributable to income derived from sources within this state, the taxpayer may petition for or the Tax Commissioner may require the employment of any other method to attribute an amount of tax which is reasonable and equitable in the circumstances.

(4) The tax for each estate and trust, other than trusts taxed as corporations under the Internal Revenue Code of 1986, shall be as determined under section 77-2717.

(5) A refund shall be allowed to the extent that the income tax paid by the individual, estate, or trust for the taxable year exceeds the income tax payable, except that no refund shall be made in any amount less than two dollars.

**Source:** Laws 1967, c. 487, § 15, p. 1576; Laws 1969, c. 684, § 2, p. 2652; Laws 1972, LB 1367, § 2; Laws 1973, LB 526, § 1; Laws 1974, LB 632, § 1; Laws 1975, LB 430, § 1; Laws 1977, LB 30, § 1; Laws 1977, LB 219, § 1; Laws 1980, LB 44, § 1; Laws 1981, LB 197, § 1; Laws 1982, LB 799, § 5; Laws 1983, LB 124, § 8; Laws 1983, LB 363, § 2; Laws 1984, LB 372, § 15; Laws 1985, LB 273, § 49; Laws 1986, LB 1027, § 207; Laws 1987, LB 773, § 5; Laws 1987, LB 523, § 19; Laws 1989, LB 458, § 1; Laws 1989, LB 459, § 2; Laws 1993, LB 240, § 2; Laws 1994, LB 977, § 10; Laws 2013, LB308, § 1.  
Effective date September 6, 2013.

#### **77-2715.08 Capital gains; terms, defined.**

For purposes of this section and section 77-2715.09, unless the context otherwise requires:

(1) Capital stock means common or preferred stock, either voting or nonvoting. Capital stock does not include stock rights, stock warrants, stock options, or debt securities;

(2)(a) Corporation means any corporation which, at the time of the first sale or exchange for which the election is made, has been in existence and actively doing business in this state for at least three years.

(b) Corporation also includes:

(i) Any corporation which is a member of a unitary group of corporations, as defined in section 77-2734.04, which includes a corporation defined in subdivision (2)(a) of this section; and

(ii) Any predecessor or successor corporation of a corporation defined in subdivision (2)(a) of this section.

(c) All corporations issuing capital stock for which an election under section 77-2715.09 is made shall, at the time of the first sale or exchange for which the election is made, have (i) at least five shareholders and (ii) at least two shareholders or groups of shareholders who are not related to each other and each of which owns at least ten percent of the capital stock.

(d) For purposes of subdivision (2)(c) of this section:

(i) Each participant in an employee stock ownership trust qualified under section 401(a) of the Internal Revenue Code of 1986, as amended, is a shareholder; and

(ii) Two persons shall be considered to be related when, under section 318 of the Internal Revenue Code of 1986, as amended, one is a person who owns, directly or indirectly, capital stock that if directly owned would be attributed to the other person or is the brother, sister, aunt, uncle, cousin, niece, or nephew of the other person who owns capital stock either directly or indirectly;

(3) Extraordinary dividend means any dividend exceeding twenty percent of the fair market value of the stock on which it is paid as of the date the dividend is declared; and

(4) Predecessor or successor corporation means a corporation that was a party to a reorganization that was entirely or substantially tax free and that occurred during or after the employment of the individual making an election under section 77-2715.09.

**Source:** Laws 1987, LB 775, § 11; Laws 1991, LB 773, § 11; Laws 2007, LB343, § 4; Laws 2013, LB573, § 1.  
Operative date January 1, 2014.

**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) 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;

(b) There shall be subtracted that portion of the total dividends and other income received from a regulated investment company which is attributable to obligations described in subdivision (a) of this subsection as reported to the recipient by the regulated investment company;

(c) There shall be added interest or dividends received by the owner of obligations of the District of Columbia, other states of the United States, or their political subdivisions, authorities, commissions, or instrumentalities to the extent excluded in the computation of gross income for federal income tax purposes except that such interest or dividends shall not be added if received by a corporation which is a regulated investment company;

(d) There shall be added that portion of the total dividends and other income received from a regulated investment company which is attributable to obligations described in subdivision (c) of this subsection and excluded for federal income tax purposes as reported to the recipient by the regulated investment company; and

(e)(i) Any amount subtracted under this subsection shall be reduced by any interest on indebtedness incurred to carry the obligations or securities described in this subsection or the investment in the regulated investment company and by any expenses incurred in the production of interest or dividend income described in this subsection to the extent that such expenses, including

amortizable bond premiums, are deductible in determining federal taxable income.

(ii) Any amount added under this subsection shall be reduced by any expenses incurred in the production of such income to the extent disallowed in the computation of federal taxable income.

(2) There shall be allowed a net operating loss derived from or connected with Nebraska sources computed under rules and regulations adopted and promulgated by the Tax Commissioner consistent, to the extent possible under the Nebraska Revenue Act of 1967, with the laws of the United States. For a resident individual, estate, or trust, the net operating loss computed on the federal income tax return shall be adjusted by the modifications contained in this section. For a nonresident individual, estate, or trust or for a partial-year resident individual, the net operating loss computed on the federal return shall be adjusted by the modifications contained in this section and any carryovers or carrybacks shall be limited to the portion of the loss derived from or connected with Nebraska sources.

(3) There shall be subtracted from federal adjusted gross income for all taxable years beginning on or after January 1, 1987, the amount of any state income tax refund to the extent such refund was deducted under the Internal Revenue Code, was not allowed in the computation of the tax due under the Nebraska Revenue Act of 1967, and is included in federal adjusted gross income.

(4) Federal adjusted gross income, or, for a fiduciary, federal taxable income shall be modified to exclude the portion of the income or loss received from a small business corporation with an election in effect under subchapter S of the Internal Revenue Code or from a limited liability company organized pursuant to the Nebraska Uniform Limited Liability Company Act that is not derived from or connected with Nebraska sources as determined in section 77-2734.01.

(5) There shall be subtracted from federal adjusted gross income or, for corporations and fiduciaries, federal taxable income dividends received or deemed to be received from corporations which are not subject to the Internal Revenue Code.

(6) There shall be subtracted from federal taxable income a portion of the income earned by a corporation subject to the Internal Revenue Code of 1986 that is actually taxed by a foreign country or one of its political subdivisions at a rate in excess of the maximum federal tax rate for corporations. The taxpayer may make the computation for each foreign country or for groups of foreign countries. The portion of the taxes that may be deducted shall be computed in the following manner:

(a) The amount of federal taxable income from operations within a foreign taxing jurisdiction shall be reduced by the amount of taxes actually paid to the foreign jurisdiction that are not deductible solely because the foreign tax credit was elected on the federal income tax return;

(b) The amount of after-tax income shall be divided by one minus the maximum tax rate for corporations in the Internal Revenue Code; and

(c) The result of the calculation in subdivision (b) of this subsection shall be subtracted from the amount of federal taxable income used in subdivision (a) of this subsection. The result of such calculation, if greater than zero, shall be subtracted from federal taxable income.

(7) Federal adjusted gross income shall be modified to exclude any amount repaid by the taxpayer for which a reduction in federal tax is allowed under section 1341(a)(5) of the Internal Revenue Code.

(8)(a) Federal adjusted gross income or, for corporations and fiduciaries, federal taxable income shall be reduced, to the extent included, by income from interest, earnings, and state contributions received from the Nebraska educational savings plan trust created in sections 85-1801 to 85-1814.

(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, 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) Federal adjusted gross income or, for corporations and fiduciaries, federal taxable income shall be increased by 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 as a contribution to the trust.

(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) 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) 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 or termination of the plan, 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.

**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.

**Note:** The Revisor of Statutes has pursuant to section 49-769 correlated LB283, section 6, with LB296, section 1, to reflect all amendments.

**Note:** Changes made by LB283 became effective September 6, 2013. Changes made by LB296 became operative January 1, 2014.

## Cross References

Long-Term Care Savings Plan Act, see section 77-6101.

Nebraska Uniform Limited Liability Company Act, see section 21-101.

**77-2717 Income tax; estates; trusts; rate; fiduciary return; contents; filing; state income tax; contents; credits.**

(1)(a)(i) For taxable years beginning or deemed to begin before January 1, 2014, the tax imposed on all resident estates and trusts shall be a percentage of the federal taxable income of such estates and trusts as modified in section 77-2716, plus a percentage of the federal alternative minimum tax and the federal tax on premature or lump-sum distributions from qualified retirement plans. The additional taxes shall be recomputed by (A) substituting Nebraska taxable income for federal taxable income, (B) calculating what the federal alternative minimum tax would be on Nebraska taxable income and adjusting such calculations for any items which are reflected differently in the determination of federal taxable income, and (C) applying Nebraska rates to the result. The federal credit for prior year minimum tax, after the recomputations required by the Nebraska Revenue Act of 1967, and the credits provided in the Nebraska Advantage Microenterprise Tax Credit Act and the Nebraska Advantage Research and Development Act shall be allowed as a reduction in the income tax due. A refundable income tax credit shall be allowed for all resident estates and trusts under the Angel Investment Tax Credit Act, the Nebraska Advantage Microenterprise Tax Credit Act, and the Nebraska Advantage Research and Development Act. A nonrefundable income tax credit shall be allowed for all resident estates and trusts as provided in the New Markets Job Growth Investment Act.

(ii) For taxable years beginning or deemed to begin on or after January 1, 2014, the tax imposed on all resident estates and trusts shall be a percentage of the federal taxable income of such estates and trusts as modified in section 77-2716, plus a percentage of the federal tax on premature or lump-sum distributions from qualified retirement plans. The additional taxes shall be recomputed by substituting Nebraska taxable income for federal taxable income and applying Nebraska rates to the result. The credits provided in the Nebraska Advantage Microenterprise Tax Credit Act and the Nebraska Advantage Research and Development Act shall be allowed as a reduction in the income tax due. A refundable income tax credit shall be allowed for all resident estates and trusts under the Angel Investment Tax Credit Act, the Nebraska Advantage Microenterprise Tax Credit Act, 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.

(b) The tax imposed on all nonresident estates and trusts shall be the portion of the tax imposed on resident estates and trusts which is attributable to the income derived from sources within this state. The tax which is attributable to income derived from sources within this state shall be determined by multiplying the liability to this state for a resident estate or trust with the same total income by a fraction, the numerator of which is the nonresident estate's or trust's Nebraska income as determined by sections 77-2724 and 77-2725 and the denominator of which is its total federal income after first adjusting each by the amounts provided in section 77-2716. The federal credit for prior year minimum tax, after the recomputations required by the Nebraska Revenue Act



of 1967, reduced by the percentage of the total income which is attributable to income from sources outside this state, and the credits provided in the Nebraska Advantage Microenterprise Tax Credit Act and the Nebraska Advantage Research and Development Act shall be allowed as a reduction in the income tax due. A refundable income tax credit shall be allowed for all nonresident estates and trusts under the Angel Investment Tax Credit Act, the Nebraska Advantage Microenterprise Tax Credit Act, and the Nebraska Advantage Research and Development Act. A nonrefundable income tax credit shall be allowed for all nonresident estates and trusts as provided in the New Markets Job Growth Investment Act.

(2) In all instances wherein a fiduciary income tax return is required under the provisions of the Internal Revenue Code, a Nebraska fiduciary return shall be filed, except that a fiduciary return shall not be required to be filed regarding a simple trust if all of the trust's beneficiaries are residents of the State of Nebraska, all of the trust's income is derived from sources in this state, and the trust has no federal tax liability. The fiduciary shall be responsible for making the return for the estate or trust for which he or she acts, whether the income be taxable to the estate or trust or to the beneficiaries thereof. The fiduciary shall include in the return a statement of each beneficiary's distributive share of net income when such income is taxable to such beneficiaries.

(3) The beneficiaries of such estate or trust who are residents of this state shall include in their income their proportionate share of such estate's or trust's federal income and shall reduce their Nebraska tax liability by their proportionate share of the credits as provided in the Angel Investment Tax Credit Act, the Nebraska Advantage Microenterprise Tax Credit Act, the Nebraska Advantage Research and Development Act, and the New Markets Job Growth Investment Act. There shall be allowed to a beneficiary a refundable income tax credit under the Beginning Farmer Tax Credit Act for all taxable years beginning or deemed to begin on or after January 1, 2001, under the Internal Revenue Code of 1986, as amended.

(4) If any beneficiary of such estate or trust is a nonresident during any part of the estate's or trust's taxable year, he or she shall file a Nebraska income tax return which shall include (a) in Nebraska adjusted gross income that portion of the estate's or trust's Nebraska income, as determined under sections 77-2724 and 77-2725, allocable to his or her interest in the estate or trust and (b) a reduction of the Nebraska tax liability by his or her proportionate share of the credits as provided in the Angel Investment Tax Credit Act, the Nebraska Advantage Microenterprise Tax Credit Act, the Nebraska Advantage Research and Development Act, and the New Markets Job Growth Investment Act and shall execute and forward to the fiduciary, on or before the original due date of the Nebraska fiduciary return, an agreement which states that he or she will file a Nebraska income tax return and pay income tax on all income derived from or connected with sources in this state, and such agreement shall be attached to the Nebraska fiduciary return for such taxable year.

(5) In the absence of the nonresident beneficiary's executed agreement being attached to the Nebraska fiduciary return, the estate or trust shall remit a portion of such beneficiary's income which was derived from or attributable to Nebraska sources with its Nebraska return for the taxable year. 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 beneficia-

ry'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.

Effective date September 6, 2013.

#### Cross References

**Angel Investment Tax Credit Act**, see section 77-6301.

**Beginning Farmer Tax Credit Act**, see section 77-5201.

**Nebraska Advantage Microenterprise Tax Credit Act**, see section 77-5901.

**Nebraska Advantage Research and Development Act**, see section 77-5801.

**New Markets Job Growth Investment Act**, see section 77-1101.

### **77-2734.01 Small business corporation shareholders; limited liability company members; determination of income; credit; Tax Commissioner; powers; return; when required.**

(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 only if one or more of the shareholders of the corporation or members of the limited liability company are not residents of the State of Nebraska or if such corporation or limited liability company has income derived from sources outside this state.

(8) 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.  
Effective date September 6, 2013.

**Cross References**

Nebraska Uniform Limited Liability Company Act, see section 21-101.

**77-2734.07 Income tax; adjustments to federal taxable income; rules and regulations.**

(1) There shall be added to federal taxable income the amount of any federal deduction because of a carryforward of a net operating loss or any capital loss.

(2) There shall be allowed a deduction for a carryforward of a net operating loss or capital loss that is connected with operations in Nebraska. For a net operating loss or capital loss incurred in taxable years beginning or deemed to begin on or after January 1, 1987, and before January 1, 2014, the deduction shall be allowed only for each of the five taxable years succeeding the year of the loss. For a net operating loss incurred in taxable years beginning or deemed to begin on or after January 1, 2014, the deduction shall be allowed only for each of the twenty taxable years succeeding the year of the loss. For a capital loss incurred in taxable years beginning or deemed to begin on or after January

1, 2014, the deduction shall be allowed only for each of the five taxable years succeeding the year of the loss.

(3) Except as otherwise provided in this section, there shall be allowed a carryback of a net operating loss or a capital loss that is connected with operations in Nebraska. For a net operating loss or capital loss incurred in taxable years beginning or deemed to begin on or after January 1, 1987, no such carryback shall be allowed.

(4) The amounts in subsections (2) and (3) of this section shall be computed pursuant to rules and regulations adopted and promulgated by the Tax Commissioner. Such regulations shall be in accord with the laws of the United States regarding carryforwards and carrybacks.

**Source:** Laws 1984, LB 1124, § 10; Laws 1987, LB 772, § 4; Laws 2013, LB308, § 3.

Effective date September 6, 2013.

**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 Legislative Auditor; 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 high school district in which he or she lives and the county in which the high 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, or 77-5731, (g) to prohibit the disclosure to the Public Employees Retirement Board of the addresses of individuals who are members of the retirement systems administered by the board, and such information shall be furnished to the board solely for purposes of its administration of the retirement systems upon written request, which request shall include the name and social security number of each individual for whom an address is requested, (h) to prohibit the disclosure of information to the Department of Labor necessary for the administration of the Employment Security Law, the Contractor Registration Act, or the Employee Classification Act, (i) to prohibit the disclosure to the Department of Motor Vehicles of tax return information pertaining to individuals, corporations, and businesses determined by the Department of Motor Vehicles to be delinquent in the payment of amounts due under agreements pursuant to the International Fuel Tax Agreement Act, and such disclosure shall be strictly limited to information necessary for the administration of the act, or (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. 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 Legislative Performance Audit Committee, 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) 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 or as provided in subsections (2) and (3) of section 50-1213, 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 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 or the Legislative Auditor 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.

(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.  
Effective date September 6, 2013.

## 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.

**77-27,119.04 Repealed. Laws 2013, LB 79, § 41.**

Operative date January 1, 2014.

## (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) 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.

Effective date June 5, 2013.

#### 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.

### **77-27,142.01 Incorporated municipalities; sales and use tax; modification; election required, when.**

(1) The governing body of any incorporated municipality may submit the question of changing any terms and conditions of a sales and use tax previously authorized under section 77-27,142. Except as otherwise provided by section 77-27,142, the question of modification shall be submitted to the voters at any primary or general election or at a special election if the governing body submits a certified copy of the resolution proposing modification to the election commissioner or county clerk within the time prior to the primary, general, or special election prescribed in section 77-27,142.02.

(2) If the change imposes a sales and use tax at a rate greater than one and one-half percent or increases the sales and use tax to a rate greater than one and one-half percent, the question shall include, but not be limited to:

(a) The percentage increase of one-quarter percent or one-half percent in the sales and use tax rate;

(b) A list of reductions or elimination of other taxes or fees, if any;

(c) A description of the projects to be funded, in whole or in part, from the revenue collected, along with any savings or efficiencies resulting from the projects;

(d) The year or years within which the revenue will be collected and, if bonds will be issued with some or all of the revenue pledged for payment of such bonds, a statement that the revenue will be collected until the payment in full of such bonds and any refunding bonds; and

(e)(i) The percentage of revenue collected to be used for the purposes of the interlocal agreement or joint public agency agreement as provided in subdivision (2)(b)(i) or subsection (3) of section 77-27,142; (ii) a statement of the overall purpose of the agreement which is the long-term development of unified governance of public infrastructure projects, if applicable; and (iii) the name of any other political subdivision which is a party to the agreement.

This subsection does not apply to the first one and one-half percent of a sales and use tax imposed by a municipality.

**Source:** Laws 1978, LB 394, § 2; Laws 1997, LB 182A, § 7; Laws 2009, LB501, § 4; Laws 2012, LB357, § 2; Laws 2013, LB104, § 2. Effective date June 5, 2013.

(m) NEBRASKA ADVANTAGE RURAL DEVELOPMENT ACT

**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 July 15 of each year for all credits allowed during the previous calendar year. The Department of Revenue shall, on or before September 1 of each year, appear at a joint hearing of the Appropriations Committee of the Legislature and the Revenue Committee of the Legislature and present the report. Any supplemental information requested by three or more committee members shall be presented within thirty days after the request.

(2) Beginning with applications filed on or after 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 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 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 calendar 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 calendar 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.  
Effective date April 25, 2013.

## ARTICLE 32

### LAND REUTILIZATION AUTHORITY

#### Section

77-3206.02. Authority; transfer to land bank authorized.

77-3211. Sheriff; no bids; authority deemed purchaser; payment; applicability of section.

77-3213. Act, how cited.

#### **77-3206.02 Authority; transfer to land bank authorized.**

Notwithstanding any provision of the Land Reutilization Act to the contrary, a land reutilization authority may transfer property held by such authority to a land bank created under the Nebraska Municipal Land Bank Act upon such terms and conditions as may be agreed upon between the authority and the land bank.

**Source:** Laws 2013, LB97, § 29.  
Operative date October 1, 2013.

#### Cross References

Nebraska Municipal Land Bank Act, see section 19-5201.

#### **77-3211 Sheriff; no bids; authority deemed purchaser; payment; applicability of section.**

(1)(a) Except as provided in subsection (2) of this section, if, when the sheriff offers the parcels of real estate for sale under the tax foreclosure laws of this state, there is no bid equal to the full amount of all tax bills included in the judgment, interest, penalties, fees, and costs then due thereon made or received at such sale, the authority shall be deemed to have bid the full amount of all tax bills included in the judgment, interest, penalties, fees, and costs then due, and if no other earlier or later bid be then received by the sheriff as allowed by law in excess of the bid of the authority, then the bid of the authority shall be announced as accepted. The sheriff shall report any such bid or bids so made by the authority in the same way as his or her report of other bids is made.

(b) The authority shall pay, if possible, any penalties, fees, or costs included in the judgment of foreclosure of such parcel of real estate when such parcel is sold or otherwise disposed of by such authority. Upon confirmation by the court of such bid at such sale by such authority, and upon notification by the sheriff, the county treasurer, or the city treasurer in the case of an authority created pursuant to subsection (3) of section 77-3201, shall mark the tax bills to the date of such confirmation as canceled by sale to the authority, and shall take credit for the full amount of such tax bills, including principal amount, interest, penalties, fees, and costs, on his or her books and his or her statements with any other taxing authorities.

(2) Subsection (1) of this section shall not apply if the real estate offered for sale under the tax foreclosure laws of this state lies within a municipality that has created a land bank pursuant to the Nebraska Municipal Land Bank Act.

**Source:** Laws 1973, LB 73, § 11; Laws 1982, LB 630, § 2; Laws 2009, LB360, § 6; Laws 2013, LB97, § 27.  
Operative date October 1, 2013.

Cross References

Nebraska Municipal Land Bank Act, see section 19-5201.

**77-3213 Act, how cited.**

Sections 77-3201 to 77-3213 shall be known and may be cited as the Land Reutilization Act.

**Source:** Laws 1973, LB 73, § 13; Laws 2008, LB710, § 6; Laws 2013, LB97, § 28.  
Operative date October 1, 2013.

**ARTICLE 34**

**POLITICAL SUBDIVISIONS, BUDGET LIMITATIONS**

(d) LIMITATION ON PROPERTY TAXES

Section

77-3442. Property tax levies; maximum levy; exceptions.

(e) BASE LIMITATION

77-3446. Base limitation, defined.

(d) LIMITATION ON PROPERTY TAXES

**77-3442 Property tax levies; maximum levy; exceptions.**

(1) Property tax levies for the support of local governments for fiscal years beginning on or after July 1, 1998, shall be limited to the amounts set forth in this section except as provided in section 77-3444.

(2)(a) Except as provided in subdivision (2)(e) of this section, school districts and multiple-district school systems, except learning communities and school districts that are members of learning communities, may levy a maximum levy of one dollar and five cents per one hundred dollars of taxable valuation of property subject to the levy.

(b) For each fiscal year, learning communities may levy a maximum levy for the general fund budgets of member school districts of ninety-five cents per one hundred dollars of taxable valuation of property subject to the levy. The proceeds from the levy pursuant to this subdivision shall be distributed pursuant to section 79-1073.

(c) Except as provided in subdivision (2)(e) of this section, for each fiscal year, school districts that are members of learning communities may levy for purposes of such districts' general fund budget and special building funds a maximum combined levy of the difference of one dollar and five cents on each one hundred dollars of taxable property subject to the levy minus the learning community levies pursuant to subdivisions (2)(b) and (2)(g) of this section for such learning community.

(d) Excluded from the limitations in subdivisions (2)(a) and (2)(c) of this section are amounts levied to pay for sums agreed to be paid by a school

district to certificated employees in exchange for a voluntary termination of employment and amounts levied to pay for special building funds and sinking funds established for projects commenced prior to April 1, 1996, for construction, expansion, or alteration of school district buildings. For purposes of this subsection, commenced means any action taken by the school board on the record which commits the board to expend district funds in planning, constructing, or carrying out the project.

(e) Federal aid school districts may exceed the maximum levy prescribed by subdivision (2)(a) or (2)(c) of this section only to the extent necessary to qualify to receive federal aid pursuant to Title VIII of Public Law 103-382, as such title existed on September 1, 2001. For purposes of this subdivision, federal aid school district means any school district which receives ten percent or more of the revenue for its general fund budget from federal government sources pursuant to Title VIII of Public Law 103-382, as such title existed on September 1, 2001.

(f) For school fiscal year 2002-03 through school fiscal year 2007-08, school districts and multiple-district school systems may, upon a three-fourths majority vote of the school board of the school district, the board of the unified system, or the school board of the high school district of the multiple-district school system that is not a unified system, exceed the maximum levy prescribed by subdivision (2)(a) of this section in an amount equal to the net difference between the amount of state aid that would have been provided under the Tax Equity and Educational Opportunities Support Act without the temporary aid adjustment factor as defined in section 79-1003 for the ensuing school fiscal year for the school district or multiple-district school system and the amount provided with the temporary aid adjustment factor. The State Department of Education shall certify to the school districts and multiple-district school systems the amount by which the maximum levy may be exceeded for the next school fiscal year pursuant to this subdivision (f) of this subsection on or before February 15 for school fiscal years 2004-05 through 2007-08.

(g) For each fiscal year, learning communities may levy a maximum levy of two cents on each one hundred dollars of taxable property subject to the levy for special building funds for member school districts. The proceeds from the levy pursuant to this subdivision shall be distributed pursuant to section 79-1073.01.

(h) For each fiscal year, learning communities may levy a maximum levy of 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.

(i) 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)(a) For fiscal years 2011-12 and 2012-13, community college areas may levy a maximum of ten and one-quarter cents per one hundred dollars of taxable valuation of property subject to the levy for operating expenditures and may also levy the additional levies provided in subdivisions (1)(b) and (c) of section 85-1517.

(b) For fiscal year 2013-14 and each fiscal year thereafter, community college areas may levy the levies provided in subdivisions (2)(a) through (c) of section 85-1517, in accordance with the provisions of such subdivisions. A community college area may exceed the levy provided in subdivision (2)(b) of section 85-1517 by the amount necessary to retire general obligation bonds assumed by the community college area or issued pursuant to section 85-1515 according to the terms of such bonds or for any obligation pursuant to section 85-1535 entered into prior to January 1, 1997.

(4)(a) Natural resources districts may levy a maximum levy of four and one-half cents per one hundred dollars of taxable valuation of property subject to the levy.

(b) Natural resources districts shall also have the power and authority to levy a tax equal to the dollar amount by which their restricted funds budgeted to administer and implement ground water management activities and integrated management activities under the Nebraska Ground Water Management and Protection Act exceed their restricted funds budgeted to administer and implement ground water management activities and integrated management activities for FY2003-04, not to exceed one cent on each one hundred dollars of taxable valuation annually on all of the taxable property within the district.

(c) In addition, natural resources districts located in a river basin, subbasin, or reach that has been determined to be fully appropriated pursuant to section 46-714 or designated as overappropriated pursuant to section 46-713 by the Department of Natural Resources shall also have the power and authority to levy a tax equal to the dollar amount by which their restricted funds budgeted to administer and implement ground water management activities and integrated management activities under the Nebraska Ground Water Management and Protection Act exceed their restricted funds budgeted to administer and implement ground water management activities and integrated management activities for FY2005-06, not to exceed three cents on each one hundred dollars of taxable valuation on all of the taxable property within the district for fiscal year 2006-07 and each fiscal year thereafter through fiscal year 2017-18.

(5) Any educational service unit authorized to levy a property tax pursuant to section 79-1225 may levy a maximum levy of one and one-half cents per one hundred dollars of taxable valuation of property subject to the levy.

(6)(a) Incorporated cities and villages which are not within the boundaries of a municipal county may levy a maximum levy of forty-five cents per one hundred dollars of taxable valuation of property subject to the levy plus an additional five cents per one hundred dollars of taxable valuation to provide financing for the municipality's share of revenue required under an agreement or agreements executed pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act. The maximum levy shall include amounts levied to pay for sums to support a library pursuant to section 51-201, museum pursuant to section 51-501, visiting community nurse, home health nurse, or home health agency pursuant to section 71-1637, or statue, memorial, or monument pursuant to section 80-202.

(b) Incorporated cities and villages which are within the boundaries of a municipal county may levy a maximum levy of ninety cents per one hundred dollars of taxable valuation of property subject to the levy. The maximum levy shall include amounts paid to a municipal county for county services, amounts levied to pay for sums to support a library pursuant to section 51-201, a museum pursuant to section 51-501, a visiting community nurse, home health nurse, or home health agency pursuant to section 71-1637, or a statue, memorial, or monument pursuant to section 80-202.

(7) Sanitary and improvement districts which have been in existence for more than five years may levy a maximum levy of forty cents per one hundred dollars of taxable valuation of property subject to the levy, and sanitary and improvement districts which have been in existence for five years or less shall not have a maximum levy. Unconsolidated sanitary and improvement districts which have been in existence for more than five years and are located in a municipal county may levy a maximum of eighty-five cents per hundred dollars of taxable valuation of property subject to the levy.

(8) Counties may levy or authorize a maximum levy of fifty cents per one hundred dollars of taxable valuation of property subject to the levy, except that five cents per one hundred dollars of taxable valuation of property subject to the levy may only be levied to provide financing for the county's share of revenue required under an agreement or agreements executed pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act. The maximum levy shall include amounts levied to pay for sums to support a library pursuant to section 51-201 or museum pursuant to section 51-501. The county may allocate up to fifteen cents of its authority to other political subdivisions subject to allocation of property tax authority under subsection (1) of section 77-3443 and not specifically covered in this section to levy taxes as authorized by law which do not collectively exceed fifteen cents per one hundred dollars of taxable valuation on any parcel or item of taxable property. The county may allocate to one or more other political subdivisions subject to allocation of property tax authority by the county under subsection (1) of section 77-3443 some or all of the county's five cents per one hundred dollars of valuation authorized for support of an agreement or agreements to be levied by the political subdivision for the purpose of supporting that political subdivision's share of revenue required under an agreement or agreements executed pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act. If an allocation by a county would cause another county to exceed its levy authority under this section, the second county may exceed the levy authority in order to levy the amount allocated. Property tax levies for costs of reassumption of the assessment function pursuant to section 77-1340 or 77-1340.04 are not included in the levy limits established in this subsection for fiscal years 2010-11 through 2013-14.

(9) Municipal counties may levy or authorize a maximum levy of one dollar per one hundred dollars of taxable valuation of property subject to the levy. The municipal county may allocate levy authority to any political subdivision or entity subject to allocation under section 77-3443.

(10) Property tax levies (a) for judgments, except judgments or orders from the Commission of Industrial Relations, obtained against a political subdivision which require or obligate a political subdivision to pay such judgment, to the extent such judgment is not paid by liability insurance coverage of a political subdivision, (b) for preexisting lease-purchase contracts approved prior to July 1, 1998, (c) for bonds as defined in section 10-134 approved according to law

and secured by a levy on property except as provided in section 44-4317 for bonded indebtedness issued by educational service units and school districts, and (d) for payments by a public airport to retire interest-free loans from the Department of Aeronautics in lieu of bonded indebtedness at a lower cost to the public airport are not included in the levy limits established by this section.

(11) The limitations on tax levies provided in this section are to include all other general or special levies provided by law. Notwithstanding other provisions of law, the only exceptions to the limits in this section are those provided by or authorized by sections 77-3442 to 77-3444.

(12) Tax levies in excess of the limitations in this section shall be considered unauthorized levies under section 77-1606 unless approved under section 77-3444.

(13) For purposes of sections 77-3442 to 77-3444, political subdivision means a political subdivision of this state and a county agricultural society.

(14) For school districts that file a binding resolution on or before May 9, 2008, with the county assessors, county clerks, and county treasurers for all counties in which the school district has territory pursuant to subsection (7) of section 79-458, if the combined levies, except levies for bonded indebtedness approved by the voters of the school district and levies for the refinancing of such bonded indebtedness, are in excess of the greater of (a) one dollar and twenty cents per one hundred dollars of taxable valuation of property subject to the levy or (b) the maximum levy authorized by a vote pursuant to section 77-3444, all school district levies, except levies for bonded indebtedness approved by the voters of the school district and levies for the refinancing of such bonded indebtedness, shall be considered unauthorized levies under section 77-1606.

**Source:** Laws 1996, LB 1114, § 1; Laws 1997, LB 269, § 56; Laws 1998, LB 306, § 36; Laws 1998, LB 1104, § 17; Laws 1999, LB 87, § 87; Laws 1999, LB 141, § 11; Laws 1999, LB 437, § 26; Laws 2001, LB 142, § 57; Laws 2002, LB 568, § 9; Laws 2002, LB 898, § 1; Laws 2002, LB 1085, § 19; Laws 2003, LB 540, § 2; Laws 2004, LB 962, § 110; Laws 2004, LB 1093, § 1; Laws 2005, LB 38, § 2; Laws 2006, LB 968, § 12; Laws 2006, LB 1024, § 14; Laws 2006, LB 1226, § 30; Laws 2007, LB342, § 31; Laws 2007, LB641, § 4; Laws 2007, LB701, § 33; Laws 2008, LB988, § 2; Laws 2008, LB1154, § 5; Laws 2009, LB121, § 11; Laws 2010, LB1070, § 4; Laws 2010, LB1072, § 3; Laws 2011, LB59, § 2; Laws 2011, LB400, § 2; Laws 2012, LB946, § 10; Laws 2012, LB1104, § 1; Laws 2013, LB585, § 1.

Effective date September 6, 2013.

#### Cross References

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

**Joint Public Agency Act**, see section 13-2501.

**Nebraska Ground Water Management and Protection Act**, see section 46-701.

**Tax Equity and Educational Opportunities Support Act**, see section 79-1001.

#### (e) BASE LIMITATION

##### **77-3446 Base limitation, defined.**

Base limitation means the budget limitation rate applicable to school districts and the limitation on growth of restricted funds applicable to other political

subdivisions prior to any increases in the rate as a result of special actions taken by a supermajority of any governing board or of any exception allowed by law. The base limitation is two and one-half percent until adjusted, except that the base limitation for school districts for school fiscal year 2012-13 is one-half of one percent and the base limitation for school districts for school fiscal year 2013-14 is one and one-half percent. The base limitation may be adjusted annually by the Legislature to reflect changes in the prices of services and products used by school districts and political subdivisions.

**Source:** Laws 1998, LB 989, § 15; Laws 2001, LB 365, § 1; Laws 2003, LB 540, § 3; Laws 2009, LB545, § 2; Laws 2009, First Spec. Sess., LB5, § 1; Laws 2011, LB235, § 1; Laws 2013, LB407, § 1. Effective date May 22, 2013.

#### ARTICLE 41

### EMPLOYMENT AND INVESTMENT GROWTH ACT

Section

77-4110. Annual report; contents; joint hearing.

#### **77-4110 Annual report; contents; joint hearing.**

(1) The Tax Commissioner shall submit electronically an annual report to the Legislature no later than July 15 of each year. The Department of Revenue shall, on or before September 1 of each year, appear at a joint hearing of the Appropriations Committee of the Legislature and the Revenue Committee of the Legislature and present the report. Any supplemental information requested by three or more committee members shall be presented within thirty days after the request.

(2) The report shall list (a) the agreements which have been signed during the previous calendar 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. Effective date April 25, 2013.

**ARTICLE 46**  
**REVENUE FORECASTING**

## Section

77-4601. Estimate of General Fund net receipts; certification by Tax Commissioner and Legislative Fiscal Analyst.

**77-4601 Estimate of General Fund net receipts; certification by Tax Commissioner and Legislative Fiscal Analyst.**

On or before July 15 of each year, the Tax Commissioner and the Legislative Fiscal Analyst shall certify the monthly estimate of General Fund net receipts for each month of the current fiscal year. Such certification shall be filed electronically with the Clerk of the Legislature. The certification shall include estimates of gross receipts to the General Fund and refunds for sales, corporate income, individual income, and other miscellaneous receipts and refunds by month. The total of the monthly estimates for the fiscal year shall take into consideration the most recent net receipts forecast provided during a regular legislative session by the Nebraska Economic Forecasting Advisory Board pursuant to section 77-27,158 plus any revisions due to legislation enacted which has an impact on receipts that were not included in the forecast. If the total of monthly estimates so certified is at variance with the estimates of the Nebraska Economic Forecasting Advisory Board, the certification shall include a statement of the specific statistical or economic reasons for the variance.

**Source:** Laws 1993, LB 38, § 1; Laws 2013, LB222, § 31.  
Effective date May 8, 2013.

**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 July 15 each year. The report shall list (a) the agreements which have been signed during the previous calendar 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 September 1 of each year, appear at a joint hearing of the Appropriations Committee of the Legislature and the Revenue Committee of the Legislature and present the report. Any supplemental information requested by three or more committee members shall be presented within thirty days after the request.

(2) 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.

Effective date April 25, 2013.

### ARTICLE 55

#### INVEST NEBRASKA ACT

##### Section

77-5542. Report; contents; joint hearing.

##### **77-5542 Report; contents; joint hearing.**

(1) The Department of Revenue shall submit electronically an annual report to the Legislature no later than July 15 each year. The report shall list (a) the agreements which have been signed during the previous calendar 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 September 1 of each year, appear at a joint hearing of the Appropriations Committee of the Legislature and the Revenue Committee of the Legislature and present the report. Any supplemental information requested by three or more committee members shall be presented within thirty days after the request.

(2) The report shall also state by industry group (a) the amount of wage benefit credits and investment tax credits allowed under the Invest Nebraska Act, (b) the number of direct jobs created at the projects, (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 projects.

(3) No information shall be provided in the report that is protected by state or federal confidentiality laws.

**Source:** Laws 2001, LB 620, § 42; Laws 2007, LB223, § 28; Laws 2012, LB782, § 144; Laws 2013, LB612, § 6.

Effective date April 25, 2013.

### ARTICLE 57

#### NEBRASKA ADVANTAGE ACT

##### Section

77-5707.01. County average weekly wage, defined.

77-5709. Equivalent employees, defined.

77-5712. Nebraska average weekly wage, defined.

77-5715. Qualified business, defined.

77-5719. Taxpayer, defined.

77-5720. Year, defined.

77-5723. Incentives; application; contents; fee; approval; when; agreements; contents; modification.

77-5725. Tiers; requirements; incentives; enumerated.

77-5726. Credits; use; refund claims; procedures; interest; appointment of purchasing agent; protest; appeal.

77-5728. Incentives; transfer; when; effect; disclosure of information.

77-5731. Reports; joint hearing.

## Section

77-5734. Department of Revenue; estimate of sales and use tax refunds; duties.

77-5735. Changes to sections; when effective; applicability.

**77-5707.01 County average weekly wage, defined.**

County average weekly wage for any year means the most recent average weekly wage paid by all employers in the county as reported by the Department of Labor by October 1 of the year prior to application.

**Source:** Laws 2008, LB895, § 8; Laws 2013, LB34, § 1.  
Effective date September 6, 2013.

**77-5709 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 2005, LB 312, § 31; Laws 2013, LB34, § 2.  
Effective date September 6, 2013.

**77-5712 Nebraska average weekly wage, defined.**

Nebraska average weekly wage for any year 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 the year prior to application.

**Source:** Laws 2005, LB 312, § 34; Laws 2008, LB895, § 10; Laws 2013, LB34, § 3.  
Effective date September 6, 2013.

**77-5715 Qualified business, defined.**

(1) For a tier 2, tier 3, tier 4, or tier 5 project, qualified business means any business engaged in:

(a) The conducting of research, development, or testing for scientific, agricultural, animal husbandry, food product, or industrial purposes;

(b) The performance of data processing, telecommunication, insurance, or 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 and telecommunication services includes community antenna television service, Internet access, satellite ground station, call center, or telemarketing;

(c) The assembly, fabrication, manufacture, or processing of tangible personal property;

(d) 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 shareholders holds any direct or indirect ownership interest of at least ten percent, including headquarter facilities relating to such activities;

(e) The storage, warehousing, distribution, transportation, or sale of tangible personal property;

(f) The sale of tangible personal property if the taxpayer derives at least seventy-five percent or more of the sales or revenue attributable to such activities relating to the project from sales to consumers who are not related persons and are located outside the state;

(g) The sale of software development services, computer systems design, product testing services, or guidance or surveillance systems design services or the licensing of technology if the taxpayer derives at least seventy-five percent of the sales or revenue attributable to such activities relating to the project from sales or licensing either to customers who are not related persons and located outside the state or to the United States Government, including sales of such services, systems, or products delivered by providing the customer with software or access to software over the Internet or by other electronic means, regardless of whether the software or data accessed by customers is stored on a computer owned by the applicant, the customer, or a third party and regardless of whether the computer storing the software or data is located at the project;

(h) The research, development, and maintenance of an Internet web portal. For purposes of this subdivision, Internet web portal means an Internet site that allows users to access, search, and navigate the Internet;

(i) The research, development, and maintenance of a data center;

(j) 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, geothermal, hydroelectric, biomass, and transmutation of elements; or

(k) Any combination of the activities listed in this subsection.

(2) For a tier 1 project, qualified business means any business engaged in:

(a) The conducting of research, development, or testing for scientific, agricultural, animal husbandry, food product, or industrial purposes;

(b) The assembly, fabrication, manufacture, or processing of tangible personal property;

(c) The sale of software development services, computer systems design, product testing services, or guidance or surveillance systems design services or the licensing of technology if the taxpayer derives at least seventy-five percent of the sales or revenue attributable to such activities relating to the project from sales or licensing either to customers who are not related persons and are located outside the state or to the United States Government, including sales of such services, systems, or products delivered by providing the customer with software or access to software over the Internet or by other electronic means, regardless of whether the software or data accessed by customers is stored on a computer owned by the applicant, the customer, or a third party and regardless of whether the computer storing the software or data is located at the project; or

(d) Any combination of activities listed in this subsection.

(3) For a tier 6 project, qualified business means any business except a business excluded by subsection (4) of this section.

(4) Except for business activity described in subdivision (1)(f) of this section, qualified business does not include any business activity in which eighty



percent or more of the total sales are sales to the ultimate consumer of (a) food prepared for immediate consumption or (b) tangible personal property which is not assembled, fabricated, manufactured, or processed by the taxpayer or used by the purchaser in any of the activities listed in subsection (1) or (2) of this section.

**Source:** Laws 2005, LB 312, § 37; Laws 2007, LB223, § 29; Laws 2008, LB895, § 12; Laws 2009, LB164, § 4; Laws 2010, LB918, § 2; Laws 2012, LB1118, § 5; Laws 2013, LB104, § 3.  
Effective date June 5, 2013.

#### **77-5719 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 2005, LB 312, § 41; Laws 2006, LB 1003, § 12; Laws 2007, LB368, § 139; Laws 2010, LB918, § 3; Laws 2013, LB34, § 4.  
Effective date September 6, 2013.

#### **Cross References**

Nebraska Revenue Act of 1967, see section 77-2701.

#### **77-5720 Year, defined.**

Year means calendar year.

**Source:** Laws 2005, LB 312, § 42; Laws 2013, LB34, § 5.  
Effective date September 6, 2013.

#### **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 prior to the end of the fourth year after the year in which the application was submitted for a tier 1, tier 3, or tier 6 project or the end of the sixth year after the year in which the application was submitted for a tier 2, tier 4, or tier 5 project, the Tax Commissioner shall approve the application. 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 direct sales tax refunds.

(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. Effective date September 6, 2013.

## 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.**

(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, 2015. All complete project applications filed on or before December 31, 2015, 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, 2015. 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;

(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, 2015. All complete project applications filed on or before December 31, 2015, 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, 2015. 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;

(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; 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. Agreements may be executed with regard to completed project applications filed before January 1, 2016. All project agreements pending, approved, or entered into before such date shall continue in full force and effect.

(2) When the taxpayer has met the required levels of employment and investment contained in the agreement for a tier 1, tier 2, tier 4, tier 5, or tier 6 project, the taxpayer shall be entitled to the following incentives:

(a) A refund of all sales and use taxes for a tier 2, tier 4, tier 5, or tier 6 project or a refund of one-half of all sales and use taxes for a tier 1 project paid under the Local Option Revenue Act, the Nebraska Revenue Act of 1967, and sections 13-319, 13-324, and 13-2813 from the date of the application through the meeting of the required levels of employment and investment for all purchases, including rentals, of:

(i) Qualified property used as a part of the project;

(ii) Property, excluding motor vehicles, based in this state and used in both this state and another state in connection with the project except when any such property is to be used for fundraising for or for the transportation of an elected official;

(iii) Tangible personal property by a contractor or repairperson after appointment as a purchasing agent of the owner of the improvement to real estate when such property is incorporated into real estate as a part of a project. The refund shall be based on fifty percent of the contract price, excluding any land, as the cost of materials subject to the sales and use tax;

(iv) Tangible personal property by a contractor or repairperson after appointment as a purchasing agent of the taxpayer when such property is annexed to, but not incorporated into, real estate as a part of a project. The refund shall be based on the cost of materials subject to the sales and use tax that were annexed to real estate; and

(v) Tangible personal property by a contractor or repairperson after appointment as a purchasing agent of the taxpayer when such property is both (A) incorporated into real estate as a part of a project and (B) annexed to, but not incorporated into, real estate as a part of a project. The refund shall be based on fifty percent of the contract price, excluding any land, as the cost of materials subject to the sales and use tax; and

(b) A refund of all sales and use taxes for a tier 2, tier 4, tier 5, or tier 6 project or a refund of one-half of all sales and use taxes for a tier 1 project paid under the Local Option Revenue Act, the Nebraska Revenue Act of 1967, and sections 13-319, 13-324, and 13-2813 on the types of purchases, including rentals, listed in subdivision (a) of this subsection for such taxes paid during each year of the entitlement period in which the taxpayer is at or above the required levels of employment and investment.

(3) Any taxpayer who qualifies for a tier 1, tier 2, tier 3, or tier 4 project shall be entitled to a credit equal to three percent times the average wage of new employees times the number of new employees if the average wage of the new employees equals at least sixty percent of the Nebraska average annual wage for the year of application. The credit shall equal four percent times the average wage of new employees times the number of new employees if the average wage of the new employees equals at least seventy-five percent of the Nebraska average annual wage for the year of application. The credit shall equal five percent times the average wage of new employees times the number of new employees if the average wage of the new employees equals at least one hundred percent of the Nebraska average annual wage for the year of application. The credit shall equal six percent times the average wage of new employees times the number of new employees if the average wage of the new employees equals at least one hundred twenty-five percent of the Nebraska average annual wage for the year of application. For computation of such credit:

(a) Average annual wage means the total compensation paid to employees during the year at the project who are not base-year employees and who are paid wages equal to at least sixty percent of the Nebraska average weekly wage for the year of application, excluding any compensation in excess of one million dollars paid to any one employee during the year, divided by the number of equivalent employees making up such total compensation;

(b) Average wage of new employees means the average annual wage paid to employees during the year at the project who are not base-year employees and who are paid wages equal to at least sixty percent of the Nebraska average weekly wage for the year of application, excluding any compensation in excess of one million dollars paid to any one employee during the year; and

(c) Nebraska average annual wage means the Nebraska average weekly wage times fifty-two.

(4) Any taxpayer who qualifies for a tier 6 project shall be entitled to a credit equal to ten percent times the total compensation paid to all employees, other than base-year employees, excluding any compensation in excess of one million dollars paid to any one employee during the year, employed at the project.

(5) Any taxpayer who has met the required levels of employment and investment for a tier 2 or tier 4 project shall receive a credit equal to ten percent of the investment made in qualified property at the project. Any taxpayer who has met the required levels of investment and employment for a tier 1 project shall receive a credit equal to three percent of the investment made in qualified property at the project. Any taxpayer who has met the required levels of investment and employment for a tier 6 project shall receive a credit equal to fifteen percent of the investment made in qualified property at the project.

(6) The credits prescribed in subsections (3), (4), and (5) of this section shall be allowable for compensation paid and investments made during each year of the entitlement period that the taxpayer is at or above the required levels of employment and investment.

(7) The credit prescribed in subsection (5) of this section shall also be allowable during the first year of the entitlement period for investment in qualified property at the project after the date of the application and before the required levels of employment and investment were met.

(8)(a) Property described in subdivisions (8)(c)(i) through (v) of this section used in connection with a project or projects and acquired by the taxpayer, whether by lease or purchase, after the date the application was filed, shall constitute separate classes of property and are eligible for exemption under the conditions and for the time periods provided in subdivision (8)(b) of this section.

(b)(i) A taxpayer who has met the required levels of employment and investment for a tier 4 project shall receive the exemption of property in subdivisions (8)(c)(ii), (iii), and (iv) of this section. A taxpayer who has met the required levels of employment and investment for a tier 6 project shall receive the exemption of property in subdivisions (8)(c)(ii), (iii), (iv), and (v) of this section. Such property shall be eligible for the exemption from the first January 1 following the end of the year during which the required levels were exceeded through the ninth December 31 after the first year property included in subdivisions (8)(c)(ii), (iii), (iv), and (v) of this section qualifies for the exemption.

(ii) A taxpayer who has filed an application that describes a tier 2 large data center project or a project under tier 4 or tier 6 shall receive the exemption of property in subdivision (8)(c)(i) of this section beginning with the first January 1 following the acquisition of the property. The exemption shall continue through the end of the period property included in subdivisions (8)(c)(ii), (iii), (iv), and (v) of this section qualifies for the exemption.

(iii) A taxpayer who has filed an application that describes a tier 2 large data center project or a tier 5 project that is sequential to a tier 2 large data center project for which the entitlement period has expired shall receive the exemption of all property in subdivision (8)(c) of this section beginning any January 1 after the acquisition of the property. Such property shall be eligible for exemption from the tax on personal property from the January 1 preceding the first claim for exemption approved under this subdivision through the ninth December 31 after the year the first claim for exemption is approved.

(iv) A taxpayer who has a project for an Internet web portal or a data center and who has met the required levels of employment and investment for a tier 2 project or the required level of investment for a tier 5 project, taking into account only the employment and investment at the web portal or data center project, shall receive the exemption of property in subdivision (8)(c)(ii) of this section. Such property shall be eligible for the exemption from the first January 1 following the end of the year during which the required levels were exceeded through the ninth December 31 after the first year any property included in subdivisions (8)(c)(ii), (iii), (iv), and (v) of this section qualifies for the exemption.

(v) Such investment and hiring of new employees shall be considered a required level of investment and employment for this subsection and for the recapture of benefits under this subsection only.

(c) The following property used in connection with such project or projects and acquired by the taxpayer, whether by lease or purchase, after the date the application was filed shall constitute separate classes of personal property:

(i) Turbine-powered aircraft, including turboprop, turbojet, and turboprop aircraft, except when any such aircraft is used for fundraising for or for the transportation of an elected official;

(ii) Computer systems, made up of equipment that is interconnected in order to enable the acquisition, storage, manipulation, management, movement, control, display, transmission, or reception of data involving computer software and hardware, used for business information processing which require environmental controls of temperature and power and which are capable of simultaneously supporting more than one transaction and more than one user. A computer system includes peripheral components which require environmental controls of temperature and power connected to such computer systems. Peripheral components shall be limited to additional memory units, tape drives, disk drives, power supplies, cooling units, data switches, and communication controllers;

(iii) Depreciable personal property used for a distribution facility, including, but not limited to, storage racks, conveyor mechanisms, forklifts, and other property used to store or move products;

(iv) Personal property which is business equipment located in a single project if the business equipment is involved directly in the manufacture or processing of agricultural products; and

(v) For a tier 2 large data center project or tier 6 project, any other personal property located at the project.

(d) In order to receive the property tax exemptions allowed by subdivision (8)(c) of this section, the taxpayer shall annually file a claim for exemption with the Tax Commissioner on or before May 1. The form and supporting schedules shall be prescribed by the Tax Commissioner and shall list all property for which exemption is being sought under this section. A separate claim for exemption must be filed for each project and each county in which property is claimed to be exempt. A copy of this form must also be filed with the county assessor in each county in which the applicant is requesting exemption. The Tax Commissioner shall determine whether a taxpayer is eligible to obtain exemption for personal property based on the criteria for exemption and the eligibility of each item listed for exemption and, on or before August 1, certify such to the taxpayer and to the affected county assessor.

(9)(a) The investment thresholds in this section for a particular year of application shall be adjusted by the method provided in this subsection, except that the investment threshold for a tier 5 project described in subdivision (1)(e)(ii) of this section shall not be adjusted.

(b) For tier 1, tier 2, tier 4, and tier 5 projects other than tier 5 projects described in subdivision (1)(e)(ii) of this section, beginning October 1, 2006, and each October 1 thereafter, the average Producer Price Index for all commodities, published by the United States Department of Labor, Bureau of Labor Statistics, for the most recent twelve available periods shall be divided by the Producer Price Index for the first quarter of 2006 and the result multiplied by the applicable investment threshold. The investment thresholds shall be adjusted for cumulative inflation since 2006.

(c) For tier 6, beginning October 1, 2008, and each October 1 thereafter, the average Producer Price Index for all commodities, published by the United States Department of Labor, Bureau of Labor Statistics, for the most recent twelve available periods shall be divided by the Producer Price Index for the first quarter of 2008 and the result multiplied by the applicable investment threshold. The investment thresholds shall be adjusted for cumulative inflation since 2008.

(d) For a tier 2 large data center project, beginning October 1, 2012, and each October 1 thereafter, the average Producer Price Index for all commodities, published by the United States Department of Labor, Bureau of Labor Statistics, for the most recent twelve available periods shall be divided by the Producer Price Index for the first quarter of 2012 and the result multiplied by the applicable investment threshold. The investment thresholds shall be adjusted for cumulative inflation since 2012.

(e) If the resulting amount is not a multiple of one million dollars, the amount shall be rounded to the next lowest one million dollars.

(f) The investment thresholds established by this subsection apply for purposes of project qualifications for all applications filed on or after January 1 of the following year for all years of the project. Adjustments do not apply to projects after the year of application.

**Source:** Laws 2005, LB 312, § 47; Laws 2006, LB 1003, § 14; Laws 2007, LB223, § 30; Laws 2007, LB334, § 98; Laws 2008, LB895, § 16; Laws 2008, LB965, § 22; Laws 2009, LB164, § 6;



Laws 2010, LB879, § 18; Laws 2010, LB918, § 4; Laws 2012, LB1118, § 7; Laws 2013, LB104, § 4.

Effective date June 5, 2013.

Cross References

Local Option Revenue Act, see section 77-27,148.

Nebraska Revenue Act of 1967, see section 77-2701.

**77-5726 Credits; use; refund claims; procedures; interest; appointment of purchasing agent; protest; appeal.**

(1)(a) The credits prescribed in section 77-5725 for a year shall be established by filing the forms required by the Tax Commissioner with the income tax return for the taxable year which includes the end of the year the credits were earned. The credits may be used and shall be applied in the order in which they were first allowed. The credits may be used after any other nonrefundable credits to reduce the taxpayer's income tax liability imposed by sections 77-2714 to 77-27,135. Credits may be used beginning with the taxable year which includes December 31 of the year the required minimum levels were reached. The last year for which credits may be used is the taxable year which includes December 31 of the last year of the carryover period. Any decision on how part of the credit is applied shall not limit how the remaining credit could be applied under this section.

(b) The taxpayer may use the credit provided in subsection (3) of section 77-5725 to reduce the taxpayer's income tax withholding employer or payor tax liability under section 77-2756 or 77-2757 to the extent such liability is attributable to the number of new employees at the project, excluding any compensation in excess of one million dollars paid to any one employee during the year. The taxpayer may use the credit provided in subsection (4) of section 77-5725 to reduce the taxpayer's income tax withholding employer or payor tax liability under section 77-2756 or 77-2757 to the extent such liability is attributable to all employees employed at the project, other than base-year employees and excluding any compensation in excess of one million dollars paid to any one employee during the year. To the extent of the credit used, such withholding shall not constitute public funds or state tax revenue and shall not constitute a trust fund or be owned by the state. The use by the taxpayer of the credit shall not change the amount that otherwise would be reported by the taxpayer to the employee under section 77-2754 as income tax withheld and shall not reduce the amount that otherwise would be allowed by the state as a refundable credit on an employee's income tax return as income tax withheld under section 77-2755.

For a tier 1, tier 2, tier 3, or tier 4 project, the amount of credits used against income tax withholding shall not exceed the withholding attributable to new employees employed at the project, excluding any compensation in excess of one million dollars paid to any one employee during the year.

For a tier 6 project, the amount of credits used against income tax withholding shall not exceed the withholding attributable to all employees employed at the project, other than base-year employees and excluding any compensation in excess of one million dollars paid to any one employee during the year.

If the amount of credit used by the taxpayer against income tax withholding exceeds this amount, the excess withholding shall be returned to the Department of Revenue in the manner provided in section 77-2756, such excess

amount returned shall be considered unused, and the amount of unused credits may be used as otherwise permitted in this section or shall carry over to the extent authorized in subdivision (1)(e) of this section.

(c) Credits may be used to obtain a refund of sales and use taxes under the Local Option Revenue Act, the Nebraska Revenue Act of 1967, and sections 13-319, 13-324, and 13-2813 which are not otherwise refundable that are paid on purchases, including rentals, for use at the project for a tier 1, tier 2, tier 3, or tier 4 project or for use within this state for a tier 2 large data center project or a tier 6 project.

(d) The credits earned for a tier 6 project may be used to obtain a payment from the state equal to the real property taxes due after the year the required levels of employment and investment were met and before the end of the carryover period, for real property that is included in such project and acquired by the taxpayer, whether by lease or purchase, after the date the application was filed. Once the required levels of employment and investment for a tier 2 large data center project have been met, the credits earned for a tier 2 large data center project may be used to obtain a payment from the state equal to the real property taxes due after the year of application and before the end of the carryover period, for real property that is included in such project and acquired by the taxpayer, whether by lease or purchase, after the date the application was filed. The payment from the state shall be made only after payment of the real property taxes have been made to the county as required by law. Payments shall not be allowed for any taxes paid on real property for which the taxes are divided under section 18-2147 or 58-507.

(e) Credits may be carried over until fully utilized, except that such credits may not be carried over more than nine years after the year of application for a tier 1 or tier 3 project, fourteen years after the year of application for a tier 2 or tier 4 project, or more than one year past the end of the entitlement period for a tier 6 project.

(2)(a) No refund claims shall be filed until after the required levels of employment and investment have been met.

(b) Refund claims shall be filed no more than once each quarter for refunds under the Nebraska Advantage Act, except that any claim for a refund in excess of twenty-five thousand dollars may be filed at any time.

(c) Refund claims for materials purchased by a purchasing agent shall include:

(i) A copy of the purchasing agent appointment;

(ii) The contract price; and

(iii)(A) For refunds under subdivision (2)(a)(iii) or (2)(a)(v) of section 77-5725, a certification by the contractor or repairperson of the percentage of the materials incorporated into or annexed to the project on which sales and use taxes were paid to Nebraska after appointment as purchasing agent; or

(B) For refunds under subdivision (2)(a)(iv) of section 77-5725, a certification by the contractor or repairperson of the percentage of the contract price that represents the cost of materials annexed to the project and the percentage of the materials annexed to the project on which sales and use taxes were paid to Nebraska after appointment as purchasing agent.

(d) All refund claims shall be filed, processed, and allowed as any other claim under section 77-2708, except that the amounts allowed to be refunded under

the Nebraska Advantage Act shall be deemed to be overpayments and shall be refunded notwithstanding any limitation in subdivision (2)(a) of section 77-2708. The refund may be allowed if the claim is filed within three years from the end of the year the required levels of employment and investment are met or within the period set forth in section 77-2708.

(e) If a claim for a refund of sales and use taxes under the Local Option Revenue Act or sections 13-319, 13-324, and 13-2813 of more than twenty-five thousand dollars is filed by June 15 of a given year, the refund shall be made on or after November 15 of the same year. If such a claim is filed on or after June 16 of a given year, the refund shall not be made until on or after November 15 of the following year. The Tax Commissioner shall notify the affected city, village, county, or municipal county of the amount of refund claims of sales and use taxes under the Local Option Revenue Act or sections 13-319, 13-324, and 13-2813 that are in excess of twenty-five thousand dollars on or before July 1 of the year before the claims will be paid under this section.

(f) Interest shall not be allowed on any taxes refunded under the Nebraska Advantage Act.

(3) The appointment of purchasing agents shall be recognized for the purpose of changing the status of a contractor or repairperson as the ultimate consumer of tangible personal property purchased after the date of the appointment which is physically incorporated into or annexed to the project and becomes the property of the owner of the improvement to real estate or the taxpayer. The purchasing agent shall be jointly liable for the payment of the sales and use tax on the purchases with the owner of the property.

(4) A determination that a taxpayer is not engaged in a qualified business or has failed to meet or maintain the required levels of employment or investment for incentives, exemptions, or recapture may be protested within sixty days after the mailing of the written notice of the proposed determination. If the notice of proposed determination is not protested within the sixty-day period, the proposed determination is a final determination. If the notice is protested, the Tax Commissioner shall issue a written order resolving such protests. The written order of the Tax Commissioner resolving a protest may be appealed to the district court of Lancaster County within thirty days after the issuance of the order.

**Source:** Laws 2005, LB 312, § 48; Laws 2008, LB895, § 17; Laws 2008, LB914, § 23; Laws 2009, LB164, § 7; Laws 2010, LB879, § 19; Laws 2012, LB1118, § 8; Laws 2013, LB34, § 7.  
Effective date September 6, 2013.

#### Cross References

Local Option Revenue Act, see section 77-27,148.

Nebraska Revenue Act of 1967, see section 77-2701.

#### **77-5728 Incentives; transfer; when; effect; disclosure of information.**

(1) The incentives allowed under the Nebraska Advantage 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 in-

come 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 77-5727. 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, a limited cooperative association, estate, or trust shall be liable for any repayment required by section 77-5727; and

(b) The incentives previously allowed and the future allowance of incentives may be transferred when a project covered by 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 of the Tax Commissioner of the completed transfer, shall be entitled to any unused credits and to any future incentives allowable under the 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 operating a project and allowed a credit under the act 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 Department of Revenue may disclose information to the acquiring taxpayer about the project and prior benefits that is reasonably necessary to determine the future incentives and liabilities of the project.

**Source:** Laws 2005, LB 312, § 50; Laws 2006, LB 1003, § 16; Laws 2007, LB368, § 140; Laws 2013, LB34, § 8.  
Effective date September 6, 2013.

#### **77-5731 Reports; joint hearing.**

(1) The Tax Commissioner shall submit electronically an annual report to the Legislature no later than July 15 of each year. The Department of Revenue shall, on or before September 1 of each year, appear at a joint hearing of the Appropriations Committee of the Legislature and the Revenue Committee of the Legislature and present the report. Any supplemental information requested by three or more committee members shall be presented within thirty days after the request.

(2) 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 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 December 31 of the prior 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 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 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 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.

**Note:** The Revisor of Statutes has pursuant to section 49-769 correlated LB34, section 9, with LB612, section 7, to reflect all amendments.

**Note:** Changes made by LB612 became effective April 25, 2013. Changes made by LB34 became effective September 6, 2013.

**77-5734 Department of Revenue; estimate of sales and use tax refunds; duties.**

The Department of Revenue shall, 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 under the Nebraska Advantage 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 subdivisions (2)(e) and (6)(e) of section 77-5723. 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.

**Source:** Laws 2005, LB 312, § 56; Laws 2013, LB34, § 10.  
Effective date September 6, 2013.

**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, 77-5726, and 77-5731 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.

**Source:** Laws 2008, LB895, § 20; Laws 2010, LB879, § 20; Laws 2010, LB918, § 5; Laws 2012, LB1118, § 10; Laws 2013, LB34, § 11.  
Effective date September 6, 2013.

**ARTICLE 58****NEBRASKA ADVANTAGE RESEARCH AND DEVELOPMENT ACT**

Section

77-5807. Report; joint hearing.

**77-5807 Report; joint hearing.**

Beginning July 15, 2007, and each July 15 thereafter 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 calendar year. The Department of Revenue shall, on or before September 1 of each year, appear at a joint hearing of the Appropriations Committee of the Legislature and the Revenue Committee of the Legislature and present the report. Any supplemental information requested by three or more committee members shall be presented within thirty days after the request. 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.  
Effective date April 25, 2013.

**ARTICLE 59****NEBRASKA ADVANTAGE MICROENTERPRISE TAX CREDIT ACT**

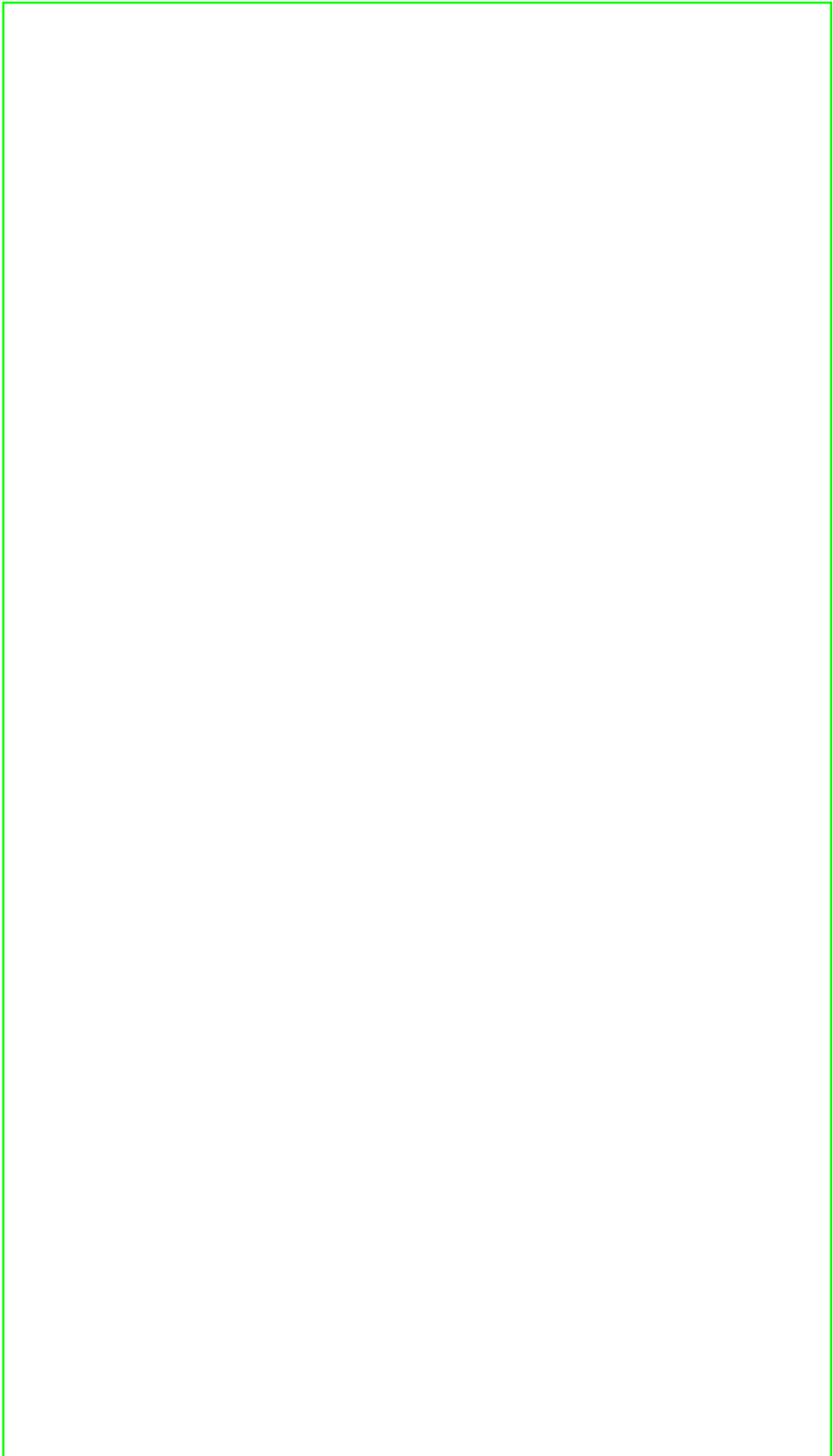
Section

77-5907. Report; joint hearing.

**77-5907 Report; joint hearing.**

The Tax Commissioner shall prepare a report identifying the following aggregate amounts for the previous calendar year: (1) The amount of projected employment and investment anticipated by taxpayers receiving tentative tax credits and the tentative tax credits granted; (2) the actual amount of employment and investment made by taxpayers that were granted tentative tax credits in the previous calendar year; (3) the tax credits used; and (4) the tentative tax credits that expired. The report shall be issued on or before July 15, 2007, and each July 15 thereafter. The Department of Revenue shall, on or before September 1 of each year, appear at a joint hearing of the Appropriations Committee of the Legislature and the Revenue Committee of the Legislature and present the report. Any supplemental information requested by three or more committee members shall be presented within thirty days after the request. 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.  
Effective date April 25, 2013.





## SCHOOLS

# CHAPTER 79

## SCHOOLS

### Article.

2. Provisions Relating to Students.
  - (c) Admission Requirements. 79-214.
  - (e) Enrollment Option Program. 79-234 to 79-241.
  - (h) Student Organizations. 79-297 to 79-2,100.
  - (i) Student Files. 79-2,104.
3. State Department of Education.
  - (c) State Board of Education. 79-318.
4. School Organization and Reorganization.
  - (n) Learning Community Reorganization Act. 79-4,129.
5. School Boards.
  - (b) School Board Duties. 79-527 to 79-529.
  - (c) School Board Elections and Membership. 79-552.
  - (d) School Board Meetings and Procedures. 79-559.
6. School Transportation. 79-602, 79-611.
7. Accreditation, Curriculum, and Instruction.
  - (c) Curriculum and Instruction Requirements. 79-712.
  - (h) Nebraska Schools Accountability Commission. 79-756. Repealed.
8. Teachers and Administrators.
  - (p) Excellence in Teaching Act. 79-8,137, 79-8,137.04.
9. School Employees Retirement Systems.
  - (a) Employees of Other than Class V District. 79-901 to 79-966.01.
  - (b) Employees Retirement System in Class V Districts. 79-984 to 79-9,117.
10. School Taxation, Finance, and Facilities.
  - (a) Tax Equity and Educational Opportunities Support Act. 79-1003 to 79-1031.01.
  - (g) Summer Food Service Program. 79-10,142.
11. Special Populations and Services.
  - (a) Early Childhood Education. 79-1102.01 to 79-1104.02.
  - (c) Special Education.
    - Subpart (i)—Special Education Act. 79-1118.01 to 79-1128.
12. Educational Service Units Act. 79-1204.
13. Educational Technology and Telecommunications.
  - (c) Distance Education. 79-1336.
19. Nebraska Read, Educate, and Develop Youth Act. 79-1901, 79-1905.
21. Learning Community. 79-2104 to 79-2118.
23. Diploma of High School Equivalency Assistance Act. 79-2301 to 79-2307.

## ARTICLE 2

### PROVISIONS RELATING TO STUDENTS

#### (c) ADMISSION REQUIREMENTS

#### Section

79-214. Admission of children; kindergarten; age; evidence of physical examination; visual evaluation; when; exception.

#### (e) ENROLLMENT OPTION PROGRAM

79-234. Enrollment option program; established; limitations.

79-237. Attendance; application; cancellation; forms.

79-241. Transportation; fee authorized; reimbursement; when.

#### (h) STUDENT ORGANIZATIONS

79-297. Repealed. Laws 2013, LB 410, § 24.

## Section

- 79-298. Repealed. Laws 2013, LB 410, § 24.  
 79-299. Repealed. Laws 2013, LB 410, § 24.  
 79-2,100. Repealed. Laws 2013, LB 410, § 24.

## (i) STUDENT FILES

- 79-2,104. Access to school files or records; limitation; fees; disciplinary material; removed and destroyed; when; sharing of student data, records, and information.

## (c) ADMISSION REQUIREMENTS

**79-214 Admission of children; kindergarten; age; evidence of physical examination; visual evaluation; when; exception.**

(1)(a) Except as provided in subdivision (1)(b) of this section, the school board of any school district shall not admit any child into the kindergarten of any school of such school district unless such child has reached the age of five years on or before July 31 of the calendar year in which the school year for which the child is seeking admission begins.

(b) The board shall admit a child who will reach the age of five years on or after August 1 and on or before October 15 of such school year if the parent or guardian requests such entrance and provides an affidavit stating that (i) the child attended kindergarten in another jurisdiction in the current school year, (ii) the family anticipates relocation to another jurisdiction that would allow admission within the current year, or (iii) the child is capable of carrying the work of kindergarten which can be demonstrated through a recognized assessment procedure approved by the board. Each school board shall, for purposes of this subdivision, approve and make available a recognized assessment procedure for determining if a child is capable of carrying the work of kindergarten. The school board shall update approved procedures as the board deems appropriate.

(2) The board shall comply with the requirements of subsection (2) of section 43-2007 and shall require evidence of: (a) A physical examination by a physician, a physician assistant, or an advanced practice registered nurse, practicing under and in accordance with his or her respective certification act, within six months prior to the entrance of a child into the beginner grade and the seventh grade or, in the case of a transfer from out of state, to any other grade of the local school; and (b) a visual evaluation by a physician, a physician assistant, an advanced practice registered nurse, or an optometrist within six months prior to the entrance of a child into the beginner grade or, in the case of a transfer from out of state, to any other grade of the local school, which consists of testing for amblyopia, strabismus, and internal and external eye health, with testing sufficient to determine visual acuity, except that no such physical examination or visual evaluation shall be required of any child whose parent or guardian objects in writing. The cost of such physical examination and visual evaluation shall be borne by the parent or guardian of each child who is examined.

**Source:** Laws 1931, c. 139, § 1, p. 385; C.S.Supp., 1941, § 79-412; R.S. 1943, § 79-414; Laws 1949, c. 258, § 1, p. 869; Laws 1949, c. 256, § 83, p. 720; Laws 1965, c. 519, § 1, p. 1644; Laws 1967, c. 532, § 1, p. 1766; Laws 1973, LB 403, § 20; Laws 1979, LB 59, § 1; Laws 1986, LB 68, § 2; Laws 1987, LB 367, § 66; Laws 1988, LB 1013, § 4; Laws 1991, LB 836, § 33; Laws 1993, LB

348, § 18; Laws 1995, LB 214, § 1; Laws 1995, LB 401, § 42; R.S.Supp.,1995, § 79-444; Laws 1996, LB 900, § 18; Laws 1998, LB 1229, § 2; Laws 2000, LB 1115, § 87; Laws 2001, LB 797, § 4; Laws 2005, LB 114, § 1; Laws 2005, LB 256, § 96; Laws 2010, LB1006, § 2; Laws 2013, LB410, § 2.  
Effective date May 30, 2013.

(e) ENROLLMENT OPTION PROGRAM

**79-234 Enrollment option program; established; limitations.**

(1) An enrollment option program is hereby established to enable any kindergarten through twelfth grade Nebraska student to attend a school in a Nebraska public school district in which the student does not reside subject to the limitations prescribed in section 79-238. The option shall be available only once to each student prior to graduation, except that the option does not count toward such limitation if such option meets, or met at the time of the option, one of the following criteria: (a) The student relocates to a different resident school district, (b) the option school district merges with another district, (c) the option school district is a Class I district, (d) the student will have completed either the grades offered in the school building originally attended in the option school district or the grades immediately preceding the lowest grade offered in the school building for which a new option is sought, (e) the option would allow the student to continue current enrollment in a school district, or (f) the option would allow the student to enroll in a school district in which the student was previously enrolled as a resident student. Sections 79-232 to 79-246 do not relieve a parent or guardian from the compulsory attendance requirements in section 79-201.

(2) The program shall not apply to any student who resides in a district which has entered into an annexation agreement pursuant to section 79-473, except that such student may transfer to another district which accepts option students.

**Source:** Laws 1989, LB 183, § 3; Laws 1990, LB 843, § 4; Laws 1991, LB 207, § 3; Laws 1993, LB 348, § 64; R.S.1943, (1994), § 79-3403; Laws 1996, LB 900, § 38; Laws 2008, LB1154, § 7; Laws 2009, LB549, § 5; Laws 2013, LB410, § 3.  
Effective date May 30, 2013.

**79-237 Attendance; application; cancellation; forms.**

(1) For a student to begin attendance as an option student in an option school district which is not in a learning community in which the student resides, the student's parent or legal guardian shall submit an application to the school board of the option school district between September 1 and March 15 for attendance during the following and subsequent school years. Except as provided in subsection (2) of this section, applications submitted after March 15 shall contain a release approval from the resident school district on the application form prescribed and furnished by the State Department of Education pursuant to subsection (8) of this section. A district may not accept or approve any applications submitted after such date without such a release approval. The option school district shall provide the resident school district with the name of the applicant on or before April 1 or, in the case of an application submitted

after March 15, within sixty days after submission. The option school district shall notify, in writing, the parent or legal guardian of the student and the resident school district whether the application is accepted or rejected on or before April 1 or, in the case of an application submitted after March 15, within sixty days after submission.

(2) A student who relocates to a different resident school district after February 1, whose option school district merges with another district effective after February 1, or whose qualification for the option for school year 2013-14 is changed pursuant to the changes made to subsection (1) of section 79-234 by Laws 2013, LB410, may submit an application to the school board of an option school district for attendance during the immediately following and subsequent school years. Such application does not require the release approval of the resident school district. The option school district shall accept or reject such application within forty-five days.

(3) For a student who resides in a learning community to begin attendance in an option school district which is a member of such learning community, the student's parent or legal guardian shall submit an application to the school board of the option school district (a) for any learning community established prior to February 13, 2009, between February 13, 2009, and April 1, 2009, or (b) for any learning community established thereafter, between September 1 and March 15. Applications submitted after such deadlines shall be accompanied by a written release from the resident school district. Students who reside in a learning community shall only begin attendance in an option school district which is a member of such learning community prior to the end of the first full school year for which the option school district is a member of such learning community. The option school district shall provide the resident school district with the name of the applicant within five days after the applicable deadline. The option school district shall notify, in writing, the parent or legal guardian of the student and the resident school district whether the application is accepted or rejected on or before April 1. A parent or guardian may provide information on the application regarding the applicant's potential qualification for free or reduced-price lunches. Any such information provided shall be subject to verification and shall only be used for the purposes of subsection (4) of section 79-238. Nothing in this subsection requires a parent or guardian to provide such information. Determinations about an applicant's qualification for free or reduced-price lunches for purposes of subsection (4) of section 79-238 shall be based on any verified information provided on the application. If no such information is provided, the student shall be presumed not to qualify for free or reduced-price lunches for the purposes of subsection (4) of section 79-238.

(4) Applications for students who do not actually attend the option school district may be withdrawn in good standing upon mutual agreement by both the resident and option school districts.

(5) No option student shall attend an option school district for less than one school year unless the student relocates to a different resident school district, completes requirements for graduation prior to the end of his or her senior year, transfers to a private or parochial school, or upon mutual agreement of the resident and option school districts cancels the enrollment option and returns to the resident school district.

(6) Except as provided in subsection (5) of this section, the option student shall attend the option school district until graduation unless the student relocates in a different resident school district, transfers to a private or parochial school, or chooses to return to the resident school district.

(7) In each case of cancellation pursuant to subsections (5) and (6) of this section, the student's parent or legal guardian shall provide written notification to the school board of the option school district and the resident school district on forms prescribed and furnished by the department under subsection (8) of this section in advance of such cancellation.

(8) The application and cancellation forms shall be prescribed and furnished by the State Department of Education.

(9) An option student who subsequently chooses to attend a private or parochial school shall be automatically accepted to return to either the resident school district or option school district upon the completion of the grade levels offered at the private or parochial school. If such student chooses to return to the option school district, the student's parent or legal guardian shall submit another application to the school board of the option school district which shall be automatically accepted, and the deadlines prescribed in this section shall be waived.

**Source:** Laws 1989, LB 183, § 6; Laws 1990, LB 843, § 7; Laws 1993, LB 348, § 66; Laws 1993, LB 838, § 1; R.S.1943, (1994), § 79-3406; Laws 1996, LB 900, § 41; Laws 2001, LB 797, § 6; Laws 2006, LB 1024, § 19; Laws 2009, LB62, § 2; Laws 2009, LB549, § 6; Laws 2013, LB410, § 4.  
Effective date May 30, 2013.

**79-241 Transportation; fee authorized; reimbursement; when.**

(1) Except as provided in subsection (2) of this section, section 79-611 does not apply to the transportation of an option student. The parent or legal guardian of the option student shall be responsible for required transportation. A school district may, upon mutual agreement with the parent or legal guardian of an option student, provide transportation to the option student on the same basis as provided for resident students. The school district may charge the parents of each option student transported a fee sufficient to recover the additional costs of such transportation.

(2) Parents or guardians of option students who qualify for free lunches shall be eligible for transportation reimbursement as described in section 79-611, except that they shall be reimbursed at the rate of one hundred forty-two and one-half percent of the mandatorily established mileage rate provided in section 81-1176 for each mile actually and necessarily traveled on each day of attendance by which the distance traveled one way from the residence of such student to the schoolhouse exceeds three miles.

(3) For option students verified as having a disability as defined in section 79-1118.01, the transportation services set forth in section 79-1129 shall be provided by the resident school district. The State Department of Education shall reimburse the resident school district for the cost of transportation in accordance with section 79-1144.

**Source:** Laws 1989, LB 183, § 10; Laws 1990, LB 843, § 10; Laws 1991, LB 207, § 7; Laws 1992, LB 1001, § 40; Laws 1993, LB 838,

§ 2; Laws 1993, LB 348, § 69; R.S.1943, (1994), § 79-3410; Laws 1996, LB 900, § 45; Laws 1997, LB 346, § 3; Laws 1998, Spec. Sess., LB 1, § 8; Laws 2013, LB410, § 5.  
Effective date May 30, 2013.

(h) STUDENT ORGANIZATIONS

**79-297 Repealed. Laws 2013, LB 410, § 24.**

**79-298 Repealed. Laws 2013, LB 410, § 24.**

**79-299 Repealed. Laws 2013, LB 410, § 24.**

**79-2,100 Repealed. Laws 2013, LB 410, § 24.**

(i) STUDENT FILES

**79-2,104 Access to school files or records; limitation; fees; disciplinary material; removed and destroyed; when; sharing of student data, records, and information.**

(1) Any student in any public school or his or her parents, guardians, teachers, counselors, or school administrators shall have access to the school's files or records maintained concerning such student, including the right to inspect, review, and obtain copies of such files or records. No other person shall have access to such files or records except (a) when a parent, guardian, or student of majority age provides written consent or (b) as provided in subsection (3) of this section. The contents of such files or records shall not be divulged in any manner to any unauthorized person. All such files or records shall be maintained so as to separate academic and disciplinary matters, and all disciplinary material shall be removed and destroyed after a student's continuous absence from the school for a period of three years.

(2) Each public school may establish a schedule of fees representing a reasonable cost of reproduction for copies of a student's files or records for the parents or guardians of such student, except that the imposition of a fee shall not prevent parents of students from exercising their right to inspect and review the students' files or records and no fee shall be charged to search for or retrieve any student's files or records.

(3)(a) This section does not preclude authorized representatives of (i) auditing officials of the United States, (ii) auditing officials of this state, or (iii) state educational authorities from having access to student or other records which are necessary in connection with the audit and evaluation of federally supported or state-supported education programs or in connection with the enforcement of legal requirements which relate to such programs, except that, when collection of personally identifiable data is specifically authorized by law, any data collected by such officials with respect to individual students shall be protected in a manner which shall not permit the personal identification of students and their parents by other than the officials listed in this subsection. Personally identifiable data shall be destroyed when no longer needed for such audit, evaluation, or enforcement of legal requirements.

(b) This section does not preclude or prohibit the disclosure of student records to any other person or entity which may be allowed to have access pursuant to the federal Family Educational Rights and Privacy Act of 1974, 20

U.S.C. 1232g, as such act existed on February 1, 2013, and regulations adopted thereunder.

(4) The Legislature finds and declares that the sharing of student data, records, and information among school districts, educational service units, learning communities, and the State Department of Education, to the fullest extent practicable and permitted by law, is vital to advancing education in this state. Whenever applicable law permits the sharing of such student data, records, and information, each school district, educational service unit, and learning community shall comply unless otherwise prohibited by law. The State Board of Education shall adopt and promulgate rules and regulations providing for and requiring the uniform sharing of student data, records, and information among school districts, educational service units, learning communities, and the department.

**Source:** Laws 1973, LB 370, § 2; Laws 1979, LB 133, § 1; Laws 1986, LB 642, § 1; R.S.1943, (1994), § 79-4,157; Laws 1996, LB 900, § 108; Laws 2009, LB549, § 10; Laws 2013, LB262, § 1.  
Effective date September 6, 2013.

### ARTICLE 3

#### STATE DEPARTMENT OF EDUCATION

##### (c) STATE BOARD OF EDUCATION

Section

79-318. State Board of Education; powers; duties.

##### (c) STATE BOARD OF EDUCATION

#### **79-318 State Board of Education; powers; duties.**

The State Board of Education shall:

- (1) Appoint and fix the compensation of the Commissioner of Education;
- (2) Remove the commissioner from office at any time for conviction of any crime involving moral turpitude or felonious act, for inefficiency, or for willful and continuous disregard of his or her duties as commissioner or of the directives of the board;
- (3) Upon recommendation of the commissioner, appoint and fix the compensation of a deputy commissioner and all professional employees of the board;
- (4) Organize the State Department of Education into such divisions, branches, or sections as may be necessary or desirable to perform all its proper functions and to render maximum service to the board and to the state school system;
- (5) Provide, through the commissioner and his or her professional staff, enlightened professional leadership, guidance, and supervision of the state school system, including educational service units. In order that the commissioner and his or her staff may carry out their duties, the board shall, through the commissioner: (a) Provide supervisory and consultation services to the schools of the state; (b) issue materials helpful in the development, maintenance, and improvement of educational facilities and programs; (c) establish rules and regulations which govern standards and procedures for the approval and legal operation of all schools in the state and for the accreditation of all schools requesting state accreditation. All public, private, denominational, or

parochial schools shall either comply with the accreditation or approval requirements prescribed in this section and section 79-703 or, for those schools which elect not to meet accreditation or approval requirements, the requirements prescribed in subsections (2) through (6) of section 79-1601. Standards and procedures for approval and accreditation shall be based upon the program of studies, guidance services, the number and preparation of teachers in relation to the curriculum and enrollment, instructional materials and equipment, science facilities and equipment, library facilities and materials, and health and safety factors in buildings and grounds. Rules and regulations which govern standards and procedures for private, denominational, and parochial schools which elect, pursuant to the procedures prescribed in subsections (2) through (6) of section 79-1601, not to meet state accreditation or approval requirements shall be as described in such section; (d) institute a statewide system of testing to determine the degree of achievement and accomplishment of all the students within the state's school systems if it determines such testing would be advisable; (e) prescribe a uniform system of records and accounting for keeping adequate educational and financial records, for gathering and reporting necessary educational data, and for evaluating educational progress; (f) cause to be published laws, rules, and regulations governing the schools and the school lands and funds with explanatory notes for the guidance of those charged with the administration of the schools of the state; (g) approve teacher education programs conducted in Nebraska postsecondary educational institutions designed for the purpose of certificating teachers and administrators; (h) approve certificated-employee evaluation policies and procedures developed by school districts and educational service units; and (i) approve general plans and adopt educational policies, standards, rules, and regulations for carrying out the board's responsibilities and those assigned to the State Department of Education by the Legislature;

(6) Adopt and promulgate rules and regulations for the guidance, supervision, accreditation, and coordination of educational service units. Such rules and regulations for accreditation shall include, but not be limited to, (a) a requirement that programs and services offered to school districts by each educational service unit shall be evaluated on a regular basis, but not less than every seven years, to assure that educational service units remain responsive to school district needs and (b) guidelines for the use and management of funds generated from the property tax levy and from other sources of revenue as may be available to the educational service units, to assure that public funds are used to accomplish the purposes and goals assigned to the educational service units by section 79-1204. The State Board of Education shall establish procedures to encourage the coordination of activities among educational service units and to encourage effective and efficient educational service delivery on a statewide basis;

(7) Prepare and distribute reports designed to acquaint school district officers, teachers, and patrons of the schools with the conditions and needs of the schools;

(8) Provide for consultation with professional educators and lay leaders for the purpose of securing advice deemed necessary in the formulation of policies and in the effectual discharge of its duties;

(9) Make studies, investigations, and reports and assemble information as necessary for the formulation of policies, for making plans, for evaluating the state school program, and for making essential and adequate reports;



(10) Submit to the Governor and the Legislature a budget necessary to finance the state school program under its jurisdiction, including the internal operation and maintenance of the State Department of Education;

(11) Interpret its own policies, standards, rules, and regulations and, upon reasonable request, hear complaints and disputes arising therefrom;

(12) With the advice of the Department of Motor Vehicles, adopt and promulgate rules and regulations containing reasonable standards, not inconsistent with existing statutes, governing: (a) The general design, equipment, color, operation, and maintenance of any vehicle with a manufacturer's rated seating capacity of eleven or more passengers used for the transportation of public, private, denominational, or parochial school students; and (b) the equipment, operation, and maintenance of any vehicle with a capacity of ten or less passengers used for the transportation of public, private, denominational, or parochial school students, when such vehicles are owned, operated, or owned and operated by any public, private, denominational, or parochial school or privately owned or operated under contract with any such school in this state, except for vehicles owned by individuals operating a school which elects pursuant to section 79-1601 not to meet accreditation or approval requirements. Similar rules and regulations shall be adopted and promulgated for operators of such vehicles as provided in section 79-607;

(13) Accept, on behalf of the Nebraska Center for the Education of Children who are Blind or Visually Impaired, devise of real property or donations or bequests of other property, or both, if in its judgment any such devise, donation, or bequest is for the best interest of the center or the students receiving services from the center, or both, and irrigate or otherwise improve any such real estate when in the board's judgment it would be advisable to do so;

(14) Accept, in order to administer the Interstate Compact on Educational Opportunity for Military Children, any devise, donation, or bequest received by the State Department of Education pursuant to section 79-2206; and

(15) Upon acceptance of any devise, donation, or bequest as provided in this section, administer and carry out such devise, donation, or bequest in accordance with the terms and conditions thereof. If not prohibited by the terms and conditions of any such devise, donation, or bequest, the board may sell, convey, exchange, or lease property so devised, donated, or bequeathed upon such terms and conditions as it deems best and remit all money derived from any such sale or lease to the State Treasurer for credit to the State Department of Education Trust Fund.

None of the duties prescribed in this section shall prevent the board from exercising such other duties as in its judgment may be necessary for the proper and legal exercise of its obligations.

**Source:** Laws 1953, c. 320, § 8, p. 1056; Laws 1955, c. 306, § 1, p. 947; Laws 1959, c. 383, § 1, p. 1328; Laws 1967, c. 528, § 2, p. 1753; Laws 1969, c. 707, § 2, p. 2712; Laws 1969, c. 708, § 1, p. 2716; Laws 1971, LB 292, § 5; Laws 1974, LB 863, § 8; Laws 1977, LB 205, § 1; Laws 1979, LB 322, § 37; Laws 1981, LB 316, § 1; Laws 1981, LB 545, § 27; Laws 1984, LB 928, § 2; Laws 1984, LB 994, § 6; Laws 1986, LB 1177, § 36; Laws 1987, LB 688, § 11; Laws 1989, LB 15, § 1; Laws 1989, LB 285, § 141; Laws 1990, LB 980, § 34; Laws 1994, LB 858, § 3; R.S.1943, (1994), § 79-328; Laws 1996, LB 900, § 146; Laws 1999, LB 813, § 6;

Laws 2009, LB549, § 18; Laws 2010, LB1071, § 5; Laws 2011, LB575, § 8; Laws 2012, LB782, § 148; Laws 2013, LB222, § 32.  
Effective date May 8, 2013.

**Cross References**

Gifts, devises, and bequests, loans to needy students, see section 79-2,106.

Interstate Compact on Educational Opportunity for Military Children, see section 79-2201.

Private, denominational, or parochial schools, election not to meet approval or accreditation requirements, see section 79-1601.

**ARTICLE 4**

**SCHOOL ORGANIZATION AND REORGANIZATION**

(n) LEARNING COMMUNITY REORGANIZATION ACT

Section

79-4,129. State committee; duties; school board; appointments; terms; duties.

(n) LEARNING COMMUNITY REORGANIZATION ACT

**79-4,129 State committee; duties; school board; appointments; terms; duties.**

(1) Within thirty days after the classification of the reorganized school districts by the county clerk under section 79-4,128, the state committee shall appoint from among the legal voters of each new school district created the number of members necessary to constitute a school board of the class in which the new school district has been classified. A reorganized school district shall be formed and organized and shall have a school board not later than April 1 following the last legal action, as prescribed in section 79-4,128, necessary to effect the changes in boundaries as set forth in the plan of reorganization, although the physical reorganization of such reorganized school district shall take effect July 1 following the classification of the reorganized school districts under section 79-4,128. The first board shall be appointed on an at-large basis, and all boards shall be elected at large until such time as election districts are established as provided in section 32-554.

(2) In appointing the first school board of a Class II school district, the members shall be appointed so that the terms of three members expire on the date of the first regular meeting of the board in January after the first even-numbered year following their appointment and the terms of the three remaining members expire on the date of the first regular meeting of the board in January after the second even-numbered year following their appointment. At the statewide general election in the first even-numbered year after the reorganization, three board members in each Class II school district shall be elected to terms of four years. Thereafter all candidates shall be elected to terms of four years. Each member's term shall begin on the date of the first regular meeting of the board in January following his or her election.

(3) In appointing the first school board of a Class III school district with a six-member board serving terms of four years, the terms of three members shall expire on the first Thursday after the first Tuesday in January after the first even-numbered year following their appointment and the terms of the three remaining members shall expire on the first Thursday after the first Tuesday in January after the second even-numbered year following their appointment. Thereafter all Class III district school boards with six-member boards shall be elected to terms of four years.

(4) In appointing the first school board of a Class III school district with a nine-member board serving terms of four years, the terms of four members shall expire on the first Thursday after the first Tuesday in January after the first even-numbered year following their appointment and the terms of five members shall expire on the first Thursday after the first Tuesday in January after the second even-numbered year following their appointment. Thereafter all Class III district school boards with nine-member boards shall be elected to terms of four years.

(5) In appointing the first school board of a Class IV school district, the members shall be appointed so that the terms of three members shall expire on the third Monday in May of the first odd-numbered year following their appointment and the terms of four members shall expire on the third Monday in May of the second odd-numbered year following their appointment. Thereafter all Class IV district school boards shall be elected to terms of four years.

(6) In appointing the first school board of a Class V school district after a reorganization under this section with a nine-member board serving terms of four years, the terms of the members shall expire as provided in section 32-545. All Class V district school boards shall be elected to terms of four years.

(7) The school boards appointed under this section shall proceed at once to organize in the manner prescribed by law.

**Source:** Laws 2006, LB 1024, § 40; Laws 2013, LB125, § 5.  
Effective date February 12, 2013.

## ARTICLE 5 SCHOOL BOARDS

### (b) SCHOOL BOARD DUTIES

#### Section

79-527. Dropouts; report to Commissioner of Education; attendance reports.  
79-527.01. Truancy Intervention Task Force; created; members; duties; report.  
79-529. Failure to file annual financial report; use of other reports.

#### (c) SCHOOL BOARD ELECTIONS AND MEMBERSHIP

79-552. Class V school district; board of education; members; election by district; procedure; qualifications.

#### (d) SCHOOL BOARD MEETINGS AND PROCEDURES

79-559. Class II, III, IV, or VI school district; school board or board of education; student member; term; qualifications.

### (b) SCHOOL BOARD DUTIES

#### **79-527 Dropouts; report to Commissioner of Education; attendance reports.**

(1) The superintendent or head administrator of a public school district or a nonpublic school system shall annually report to the Commissioner of Education in such detail and on such date as required by the commissioner the number of students who have dropped out of school. School districts that are members of learning communities shall also provide the learning community coordinating council with a copy of such report on or before the date the report is due to the commissioner.

(2) The superintendent of a public school district shall report on a quarterly basis to the Commissioner of Education as directed by the commissioner regarding individual student information on attendance.

**Source:** Laws 1965, c. 520, § 2, p. 1646; Laws 1989, LB 487, § 2; Laws 1991, LB 511, § 34; Laws 1992, LB 245, § 39; R.S.1943, (1994),

§ 79-449.01; Laws 1996, LB 900, § 280; Laws 2003, LB 67, § 5; Laws 2006, LB 1024, § 51; Laws 2010, LB800, § 36; Laws 2010, LB1070, § 5; Laws 2013, LB410, § 6.

Effective date May 30, 2013.

**79-527.01 Truancy Intervention Task Force; created; members; duties; report.**

(1) The Truancy Intervention Task Force is created. The task force shall consist of:

(a) The probation administrator or his or her designee;

(b) The Commissioner of Education or his or her designee; and

(c) The chief executive officer of the Department of Health and Human Services or his or her designee.

(2) The task force shall study and evaluate the data contained in the reports required by subsection (2) of section 79-527 and shall develop recommendations to reduce incidents of excessive absenteeism. The task force may contact a school district or a county attorney for additional information. The task force shall report electronically to the Legislature on or before October 1 of each year.

**Source:** Laws 2010, LB800, § 37; Laws 2012, LB782, § 149; Laws 2013, LB410, § 7.

Effective date May 30, 2013.

**79-529 Failure to file annual financial report; use of other reports.**

(1) When the superintendent of a school district fails to file the annual financial report on or before the date required by subdivision (3)(a) of section 79-528, the State Department of Education shall use the annual financial report from the immediately preceding fiscal year for purposes of the Tax Equity and Educational Opportunities Support Act.

(2) For purposes of the final calculation of state aid pursuant to section 79-1065, the annual financial report for the most recently available complete data year shall be used.

**Source:** Laws 2013, LB410, § 22.

Effective date May 30, 2013.

**Cross References**

Tax Equity and Educational Opportunities Support Act, see section 79-1001.

(c) SCHOOL BOARD ELECTIONS AND MEMBERSHIP

**79-552 Class V school district; board of education; members; election by district; procedure; qualifications.**

The board of education of a Class V school district shall consist of twelve members until the fourth Monday after the date in 2013 of the election held pursuant to section 14-201 and shall consist of nine members thereafter. One member shall be elected from each district pursuant to section 32-545. Each elected member shall be a resident of the district for at least six months prior to the election. Each candidate for election to and each member of the board of

education shall be a taxpayer in and a resident of the district of such school district as designated pursuant to section 32-552.

**Source:** Laws 1891, c. 45, § 5, p. 318; Laws 1909, c. 131, § 1, p. 476; R.S.1913, § 7011; Laws 1915, c. 125, § 1, p. 285; C.S.1922, § 6642; C.S.1929, § 79-2705; Laws 1939, c. 106, § 1, p. 470; C.S.Supp.,1941, § 79-2705; R.S.1943, § 79-2705; Laws 1949, c. 256, § 251, p. 775; Laws 1969, c. 259, § 68, p. 1000; Laws 1975, LB 423, § 1; Laws 1981, LB 446, § 31; Laws 1982, LB 440, § 5; Laws 1994, LB 76, § 604; R.S.1943, (1994), § 79-1003; Laws 1996, LB 900, § 305; Laws 2002, LB 935, § 17; Laws 2013, LB125, § 6.

Effective date February 12, 2013.

#### Cross References

For qualifications of members of board of education, see section 79-543.

Vacancies, see section 79-545.

### (d) SCHOOL BOARD MEETINGS AND PROCEDURES

**79-559 Class II, III, IV, or VI school district; school board or board of education; student member; term; qualifications.**

(1) The school board or board of education of any Class II, III, IV, or VI school district may include at least one nonvoting member who is a public high school student from the district. If the board elects to include such a nonvoting student member, the student member shall serve for a term of one year, beginning on September 1, and shall be the student body or student council president, the senior class representative, or a representative elected from and by the entire student body, as designated by the voting members of the board.

(2) Any nonvoting student member of the board has the privilege of attending all open meetings of the board but shall be excluded from executive sessions.

**Source:** Laws 1982, LB 440, § 1; R.S.1943, (1994), § 79-547.02; Laws 1996, LB 900, § 312; Laws 2013, LB125, § 7.

Effective date February 12, 2013.

## ARTICLE 6

### SCHOOL TRANSPORTATION

#### Section

79-602. Pupil transportation vehicles; inspections; correction of defects.

79-611. Students; transportation; transportation allowance; when authorized; limitations; board; authorize service.

#### **79-602 Pupil transportation vehicles; inspections; correction of defects.**

All school boards, the governing authorities of any nonpublic schools in this state, and all independent contractors who or which provide student transportation services for such boards and governing authorities and for military installations shall cause all pupil transportation vehicles used for the transportation of students to be inspected before school opens in the fall and each eighty days during that part of the year when school is in session by a motor vehicle mechanic appointed by the board or governing authority having jurisdiction over such students, except that any pupil transportation vehicle that has been inspected under rules and regulations of the Public Service Commission shall

be exempted from the provisions of this section. The mechanic shall thoroughly inspect every vehicle used for the transportation of students as to brakes, lights, windshield wipers, window glass, tires, doors, heaters, defrosting equipment, steering gear, exhaust system, and the mechanical condition of every part of such pupil transportation vehicle to ensure compliance with the minimum allowable safety criteria established pursuant to section 79-607 and subdivision (12) of section 79-318. Within five days after such inspection, the mechanic shall make a report of his or her inspection in writing on regular forms provided by the State Department of Education which shall show if the vehicle met the minimum allowable safety criteria for use. Any item not meeting such criteria shall be brought into compliance prior to the vehicle being used to transport students. One copy of the mechanic's report shall be filed with the board or governing authority and, if the school contracts with an independent contractor to provide transportation services, one copy with the independent contractor. The chief administrative officer of each school district shall annually certify, by a written verification statement, to the State Department of Education that the inspections required pursuant to this section have been performed. Such verification statement shall be sent to the department no later than June 30.

In addition to the inspection requirements prescribed in this section, the driver of each pupil transportation vehicle shall make daily inspections of such vehicle to ensure that all lights and equipment are fully operational or repaired before his or her daily route. Reports of such daily inspections shall be kept by the driver in the vehicle and filed weekly with the head mechanic or administrator in charge of the transportation system. If the inspection reveals any significant defect in the lights or equipment, the driver shall immediately report the defect to the head mechanic or administrator in charge of the transportation system.

**Source:** Laws 1947, c. 304, § 1, p. 922; R.S.Supp.,1947, § 79-2113.03; Laws 1949, c. 256, § 126, p. 734; Laws 1959, c. 394, § 1, p. 1352; Laws 1965, c. 523, § 1, p. 1651; Laws 1971, LB 292, § 11; Laws 1973, LB 358, § 1; Laws 1977, LB 39, § 250; Laws 1980, LB 743, § 2; Laws 1982, LB 933, § 1; Laws 1987, LB 538, § 3; Laws 1994, LB 1310, § 4; R.S.1943, (1994), § 79-488; Laws 1996, LB 900, § 363; Laws 1999, LB 813, § 16; Laws 2001, LB 36, § 1; Laws 2003, LB 67, § 10; Laws 2013, LB222, § 33. Effective date May 8, 2013.

#### Cross References

**Motor carrier regulations**, scope of, see section 75-303.

**Penalty for violation of section**, see section 79-603.

**Registration fees**, see section 60-3,144.

**Safety glass required**, see section 60-6,263.

**79-611 Students; transportation; transportation allowance; when authorized; limitations; board; authorize service.**

(1) The school board of any school district shall provide free transportation, partially provide free transportation, or pay an allowance for transportation in lieu of free transportation as follows:

(a) When a student attends an elementary school in his or her own district and lives more than four miles from the public schoolhouse in such district as

measured by the shortest route that must actually and necessarily be traveled by motor vehicle to reach the student's residence;

(b) When a student is required to attend an elementary school outside of his or her own district and lives more than four miles from such elementary school as measured by the shortest route that must actually and necessarily be traveled by motor vehicle to reach the student's residence;

(c) When a student attends a secondary school in his or her own Class II or Class III school district and lives more than four miles from the public schoolhouse as measured by the shortest route that must actually and necessarily be traveled by motor vehicle to reach the student's residence. This subdivision does not apply when one or more Class I school districts merge with a Class VI school district to form a new Class II or III school district on or after January 1, 1997; and

(d) When a student, other than a student in grades ten through twelve in a Class V district, attends an elementary or junior high school in his or her own Class V district and lives more than four miles from the public schoolhouse in such district as measured by the shortest route that must actually and necessarily be traveled by motor vehicle to reach the student's residence.

(2)(a) The school board of any school district that is a member of a learning community shall provide free transportation for a student who resides in such learning community and attends school in such school district if (i) the student is transferring pursuant to the open enrollment provisions of section 79-2110, qualifies for free or reduced-price lunches, lives more than one mile from the school to which he or she transfers, and is not otherwise disqualified under subdivision (2)(c) of this section, (ii) the student is transferring pursuant to the open enrollment provisions of section 79-2110, is a student who contributes to the socioeconomic diversity of enrollment at the school building he or she attends, lives more than one mile from the school to which he or she transfers, and is not otherwise disqualified under subdivision (2)(c) of this section, (iii) the student is attending a focus school or program and lives more than one mile from the school building housing the focus school or program, or (iv) the student is attending a magnet school or program and lives more than one mile from the magnet school or the school housing the magnet program.

(b) For purposes of this subsection, student who contributes to the socioeconomic diversity of enrollment at the school building he or she attends has the definition found in section 79-2110. This subsection does not prohibit a school district that is a member of a learning community from providing transportation to any intradistrict student.

(c) For any student who resides within a learning community and transfers to another school building pursuant to the open enrollment provisions of section 79-2110 and who had not been accepted for open enrollment into any school building within such district prior to September 6, 2013, the school board is exempt from the requirement of subdivision (2)(a) of this section if (i) the student is transferring to another school building within his or her home school district or (ii) the student is transferring to a school building in a school district that does not share a common border with his or her home school district.

(3) The transportation allowance which may be paid to the parent, custodial parent, or guardian of students qualifying for free transportation pursuant to subsection (1) or (2) of this section shall equal two hundred eighty-five percent of the mileage rate provided in section 81-1176, multiplied by each mile

actually and necessarily traveled, on each day of attendance, beyond which the one-way distance from the residence of the student to the schoolhouse exceeds three miles. Such transportation allowance does not apply to students residing in a learning community who qualify for free or reduced-price lunches.

(4) Whenever students from more than one family travel to school in the same vehicle, the transportation allowance prescribed in subsection (3) of this section shall be payable as follows:

(a) To the parent, custodial parent, or guardian providing transportation for students from other families, one hundred percent of the amount prescribed in subsection (3) of this section for the transportation of students of such parent's, custodial parent's, or guardian's own family and an additional five percent for students of each other family not to exceed a maximum of one hundred twenty-five percent of the amount determined pursuant to subsection (3) of this section; and

(b) To the parent, custodial parent, or guardian not providing transportation for students of other families, two hundred eighty-five percent of the mileage rate provided in section 81-1176 multiplied by each mile actually and necessarily traveled, on each day of attendance, from the residence of the student to the pick-up point at which students transfer to the vehicle of a parent, custodial parent, or guardian described in subdivision (a) of this subsection.

(5) When a student who qualifies under the mileage requirements of subsection (1) of this section lives more than three miles from the location where the student must be picked up and dropped off in order to access school-provided free transportation, as measured by the shortest route that must actually and necessarily be traveled by motor vehicle between his or her residence and such location, such school-provided transportation shall be deemed partially provided free transportation. School districts partially providing free transportation shall pay an allowance to the student's parent or guardian equal to two hundred eighty-five percent of the mileage rate provided in section 81-1176 multiplied by each mile actually and necessarily traveled, on each day of attendance, beyond which the one-way distance from the residence of the student to the location where the student must be picked up and dropped off exceeds three miles.

(6) The board may authorize school-provided transportation to any student who does not qualify under the mileage requirements of subsection (1) of this section and may charge a fee to the parent or guardian of the student for such service. An affiliated high school district may provide free transportation or pay the allowance described in this section for high school students residing in an affiliated Class I district. No transportation payments shall be made to a family for mileage not actually traveled by such family. The number of days the student has attended school shall be reported monthly by the teacher to the board of such public school district.

(7) No more than one allowance shall be made to a family irrespective of the number of students in a family being transported to school. If a family resides in a Class I district which is part of a Class VI district and has students enrolled in any of the grades offered by the Class I district and in any of the non-high-school grades offered by the Class VI district, such family shall receive not more than one allowance for the distance actually traveled when both districts are on the same direct travel route with one district being located a greater



distance from the residence than the other. In such cases, the travel allowance shall be prorated among the school districts involved.

(8) No student shall be exempt from school attendance on account of distance from the public schoolhouse.

**Source:** Laws 1927, c. 84, § 1, p. 251; Laws 1929, c. 92, § 1, p. 348; C.S.1929, § 79-1902; Laws 1931, c. 149, § 1, p. 405; Laws 1941, c. 163, § 1, p. 650; C.S.Supp.,1941, § 79-1902; R.S.1943, § 79-1907; Laws 1949, c. 256, § 128, p. 735; Laws 1951, c. 276, § 6, p. 930; Laws 1955, c. 315, § 9, p. 979; Laws 1963, c. 483, § 1, p. 1553; Laws 1969, c. 717, § 1, p. 2743; Laws 1969, c. 718, § 1, p. 2744; Laws 1969, c. 719, § 1, p. 2746; Laws 1976, LB 852, § 1; Laws 1977, LB 117, § 1; Laws 1977, LB 33, § 10; Laws 1979, LB 425, § 1; Laws 1980, LB 867, § 2; Laws 1981, LB 204, § 156; Laws 1981, LB 316, § 3; Laws 1986, LB 419, § 1; Laws 1987, LB 200, § 1; Laws 1990, LB 259, § 22; Laws 1990, LB 1059, § 38; Laws 1993, LB 348, § 21; Laws 1994, LB 1311, § 1; R.S.1943, (1994), § 79-490; Laws 1996, LB 900, § 372; Laws 1997, LB 710, § 4; Laws 1997, LB 806, § 28; Laws 1999, LB 272, § 84; Laws 2003, LB 394, § 7; Laws 2005, LB 126, § 42; Laws 2006, LB 1024, § 56; Referendum 2006, No. 422; Laws 2007, LB641, § 10; Laws 2008, LB1154, § 8; Laws 2009, LB549, § 25; Laws 2013, LB410, § 8; Laws 2013, LB585, § 2.

**Note:** The Revisor of Statutes has pursuant to section 49-769 correlated LB410, section 8, with LB585, section 2, to reflect all amendments.

**Note:** Changes made by LB410 became effective May 30, 2013. Changes made by LB585 became effective September 6, 2013.

#### Cross References

For definitions relating to affiliation of school districts, see section 79-4,101.

## ARTICLE 7

### ACCREDITATION, CURRICULUM, AND INSTRUCTION

#### (c) CURRICULUM AND INSTRUCTION REQUIREMENTS

Section

79-712. Public school; health education; requirements.

#### (h) NEBRASKA SCHOOLS ACCOUNTABILITY COMMISSION

79-756. Repealed. Laws 2013, LB 410, § 24.

#### (c) CURRICULUM AND INSTRUCTION REQUIREMENTS

#### **79-712 Public school; health education; requirements.**

Provisions shall be made by the proper local school authorities for instructing the pupils in all public schools in a comprehensive health education program which shall include instruction (1) as to the physiological, psychological, and sociological aspects of drug use, misuse, and abuse and (2) on intellectual disability and other developmental disabilities, such as cerebral palsy, autism, and epilepsy, their causes, and the prevention thereof through proper nutrition and the avoidance of the consumption of drugs as defined in this section. For purposes of this section, drugs means any and all biologically active substances used in the treatment of illnesses or for recreation or pleasure. Special empha-

sis shall be placed upon the commonly abused drugs of tobacco, alcohol, marijuana, hallucinogenics, amphetamines, barbiturates, and narcotics.

**Source:** Laws 1885, c. 83, § 1, p. 332; R.S.1913, § 6878; C.S.1922, § 6446; C.S.1929, § 79-1409; R.S.1943, § 79-1408; Laws 1949, c. 256, § 370, p. 815; Laws 1971, LB 51, § 1; Laws 1982, LB 423, § 1; R.S.1943, (1987), § 79-1270; Laws 1989, LB 15, § 4; R.S.1943, (1994), § 79-4,140.17; Laws 1996, LB 900, § 386; Laws 2013, LB23, § 44.  
Effective date September 6, 2013.

Cross References

School-based health clinics, funding restrictions, see section 71-7606.

(h) NEBRASKA SCHOOLS ACCOUNTABILITY COMMISSION

**79-756 Repealed. Laws 2013, LB 410, § 24.**

ARTICLE 8

TEACHERS AND ADMINISTRATORS

(p) EXCELLENCE IN TEACHING ACT

Section

- |              |  |
|--------------|--|
| 79-8,137.    | Attracting Excellence to Teaching Program; eligible student; contract requirements; loan payments; suspension; loan forgiveness; amount. |
| 79-8,137.04. | Enhancing Excellence in Teaching Program; contract requirements; loan payments; suspension; loan forgiveness; amount.                    |

(p) EXCELLENCE IN TEACHING ACT

**79-8,137 Attracting Excellence to Teaching Program; eligible student; contract requirements; loan payments; suspension; loan forgiveness; amount.**

(1)(a) Prior to receiving any money from a loan pursuant to the Attracting Excellence to Teaching Program, an eligible student shall enter into a contract with the department. Such contract shall provide notice to the eligible student that funding for loans pursuant to the Attracting Excellence to Teaching Program terminates on June 30, 2016. Such contract shall be exempt from the requirements of sections 73-501 to 73-510.

(b) For eligible students who applied for the first time prior to April 23, 2009, the contract shall require that if (i) the borrower is not employed as a teacher in Nebraska for a time period equal to the number of years required for loan forgiveness pursuant to subsection (2) of this section and is not enrolled as a full-time student in a graduate program within six months after obtaining an undergraduate degree for which a loan from the program was obtained or (ii) the borrower does not complete the requirements for graduation within five consecutive years after receiving the initial loan under the program, then the loan must be repaid, with interest at the rate fixed pursuant to section 45-103 accruing as of the date the borrower signed the contract, and an appropriate penalty as determined by the department may be assessed. If a borrower fails to remain enrolled at an eligible institution or otherwise fails to meet the requirements of an eligible student, repayment of the loan shall commence within six months after such change in eligibility. The State Board of Education may by

rules and regulations provide for exceptions to the conditions of repayment pursuant to this subdivision based upon mitigating circumstances.

(c) For eligible students who apply for the first time on or after April 23, 2009, the contract shall require that if (i) the borrower is not employed as a full-time teacher teaching in an approved or accredited school in Nebraska and teaching at least a portion of the time in the shortage area for which the loan was received for a time period equal to the number of years required for loan forgiveness pursuant to subsection (3) of this section and is not enrolled as a full-time student in a graduate program within six months after obtaining an undergraduate degree for which a loan from the program was obtained or (ii) the borrower does not complete the requirements for graduation within five consecutive years after receiving the initial loan under the program, then the loan shall be repaid with interest at the rate fixed pursuant to section 45-103 accruing as of the date the borrower signed the contract and actual collection costs as determined by the department. If a borrower fails to remain enrolled at an eligible institution or otherwise fails to continue to be an eligible student, repayment of the loan shall commence within six months after such change in eligibility. The State Board of Education may by rule and regulation provide for exceptions to the conditions of repayment pursuant to this subdivision based upon mitigating circumstances.

(2) If the borrower applied for the first time prior to April 23, 2009, and (a) successfully completes the teacher education program and becomes certified pursuant to sections 79-806 to 79-815, (b) becomes employed as a teacher in this state within six months of becoming certified, and (c) otherwise meets the requirements of the contract, payments shall be suspended for the number of years that the borrower is required to remain employed as a teacher in this state under the contract. For each year that the borrower teaches in Nebraska pursuant to the contract, payments shall be forgiven in an amount equal to the amount borrowed for one year, except that if the borrower teaches in a school district that is in a local system classified as very sparse as defined in section 79-1003 or teaches in a school district in which at least forty percent of the students are poverty students as defined in section 79-1003, payments shall be forgiven each year in an amount equal to the amount borrowed for two years.

(3) If the borrower applies for the first time on or after April 23, 2009, and (a) successfully completes the teacher education program and major for which the borrower is receiving a forgivable loan pursuant to the program and becomes certified pursuant to sections 79-806 to 79-815 with an endorsement in the shortage area for which the loan was received, (b) becomes employed as a full-time teacher teaching at least a portion of the time in the shortage area for which the loan was received in an approved or accredited school in this state within six months of becoming certified, and (c) otherwise meets the requirements of the contract, payments shall be suspended for the number of years that the borrower is required to remain employed as a teacher in this state under the contract. Beginning after the first two years of teaching full-time in Nebraska following graduation for the degree for which the loan was received, for each year that the borrower teaches full-time in Nebraska pursuant to the contract, the loan shall be forgiven in an amount equal to three thousand dollars, except that if the borrower teaches full-time in a school district that is in a local system classified as very sparse as defined in section 79-1003, teaches in a school building in which at least forty percent of the formula students are poverty students as defined in section 79-1003, or teaches in an accredited or

approved private school in Nebraska in which at least forty percent of the enrolled students qualified for free lunches as determined by the most recent data available from the department, payments shall be forgiven each year in an amount equal to six thousand dollars.

**Source:** Laws 2000, LB 1399, § 20; Laws 2003, LB 685, § 22; Laws 2008, LB988, § 7; Laws 2009, LB547, § 7; Laws 2012, LB858, § 14; Laws 2013, LB497, § 4.  
Effective date May 30, 2013.

**79-8,137.04 Enhancing Excellence in Teaching Program; contract requirements; loan payments; suspension; loan forgiveness; amount.**

(1) Prior to receiving any money from a loan pursuant to the Enhancing Excellence in Teaching Program, an eligible student shall enter into a contract with the department. Such contract shall provide notice to the eligible student that funding for loans pursuant to the Enhancing Excellence in Teaching Program terminates on June 30, 2016. Such contract shall be exempt from the requirements of sections 73-501 to 73-510. The contract shall require that if (a) the borrower is not employed as a full-time teacher teaching in an approved or accredited school in Nebraska for a time period equal to the number of years required for loan forgiveness pursuant to subsection (2) of this section or (b) the borrower does not complete the requirements for graduation within five consecutive years after receiving the initial loan under the program, then the loan shall be repaid, with interest at the rate fixed pursuant to section 45-103 accruing as of the date the borrower signed the contract and actual collection costs as determined by the department. If a borrower fails to remain enrolled at an eligible institution or otherwise fails to meet the requirements of an eligible student, repayment of the loan shall commence within six months after such change in eligibility. The State Board of Education may by rules and regulations provide for exceptions to the conditions of repayment pursuant to this subsection based upon mitigating circumstances.

(2) If the borrower (a) successfully completes the eligible graduate program and major for which the borrower is receiving a forgivable loan pursuant to the Enhancing Excellence in Teaching Program and maintains certification pursuant to sections 79-806 to 79-815, (b) maintains employment as a teacher in an approved or accredited school in this state, and (c) otherwise meets the requirements of the contract, payments shall be suspended for the number of years that the borrower is required to remain employed as a teacher in this state under the contract. Beginning after the first two years of teaching full-time in Nebraska following graduation for the degree for which the loan was received, for each year that the borrower teaches full-time in Nebraska pursuant to the contract, the loan shall be forgiven in an amount equal to three thousand dollars, except that if the borrower teaches full-time in a school district that is in a local system classified as very sparse as defined in section 79-1003, teaches in a school building in which at least forty percent of the students are poverty students as defined in section 79-1003, or teaches in an accredited or approved private school in Nebraska in which at least forty percent of the enrolled students qualified for free lunches as determined by the most recent data available from the department, payments shall be forgiven each year in an amount equal to six thousand dollars.

**Source:** Laws 2009, LB547, § 11; Laws 2010, LB1071, § 11; Laws 2012, LB858, § 15; Laws 2013, LB497, § 5.  
Effective date May 30, 2013.

## ARTICLE 9

## SCHOOL EMPLOYEES RETIREMENT SYSTEMS

## (a) EMPLOYEES OF OTHER THAN CLASS V DISTRICT

## Section

- 79-901. Act, how cited.  
 79-902. Terms, defined.  
 79-904.01. Board; power to adjust contributions and benefits; repayment of benefit.  
 79-916. Retirement system; membership; member of any other system; transfer of funds; when; Service Annuity Fund; created; use; investment.  
 79-917. New employee; participation in another governmental plan; how treated.  
 79-921. Retirement system; membership; termination; employer; duty; reinstatement; repayment of accumulated contributions; exception.  
 79-947.06. Members prior to July 1, 2013; annual benefit adjustment; cost-of-living adjustment calculation method.  
 79-947.07. Employee who becomes a member on or after July 1, 2013; annual benefit adjustment; cost-of-living adjustment calculation method.  
 79-954. Retirement; disability beneficiary; restoration to active service; effect; retention of allowance; when.  
 79-956. Death of member before retirement; contributions; how treated; direct transfer to retirement plan; death while performing qualified military service; additional death benefit.  
 79-958. Employee; employer; required deposits and contributions.  
 79-962. Contract of employment; contents.  
 79-966. School Retirement Fund; state deposits; amount; determination.  
 79-966.01. School Retirement Fund; annual actuarial valuations.

## (b) EMPLOYEES RETIREMENT SYSTEM IN CLASS V DISTRICTS

- 79-984. Employees retirement system; actuary; employment; duties.  
 79-987. Employees retirement system; audit; cost; report.  
 79-990. Employees retirement system; time served in armed forces or on leave of absence; resignation for maternity purposes; effect.  
 79-991. Employees retirement system; member; prior service credit; how obtained.  
 79-992. Employees retirement system; discontinuance of employment; refunds; reemployment.  
 79-996. Contributions; how paid; interest.  
 79-9,100. Employees retirement system; formula retirement annuity; computation.  
 79-9,102. Employees retirement system; annuity or other benefit; limitations.  
 79-9,103. Annuity payment; cost-of-living adjustment; additional adjustments.  
 79-9,105. Employees retirement system; member; disability; benefits.  
 79-9,113. Employees retirement system; federal Social Security Act; state retirement plan; how affected; required contributions; payment; membership service annuity; computations.  
 79-9,117. Board; establish preretirement planning program; for whom; required information; funding; attendance; fee.

## (a) EMPLOYEES OF OTHER THAN CLASS V DISTRICT

**79-901 Act, how cited.**

Sections 79-901 to 79-977.03 shall be known and may be cited as the School Employees Retirement Act.

**Source:** Laws 1991, LB 549, § 23; Laws 1993, LB 292, § 1; Laws 1994, LB 833, § 29; Laws 1995, LB 501, § 4; Laws 1996, LB 700, § 6; Laws 1996, LB 847, § 28; R.S.Supp., 1995, § 79-1501.01; Laws 1996, LB 900, § 536; Laws 1996, LB 1076, § 14; Laws 1997, LB 724, § 2; Laws 1998, LB 532, § 5; Laws 1998, LB 1191, § 44; Laws 2002, LB 407, § 21; Laws 2011, LB509, § 16; Laws 2013, LB553, § 2.

Operative date July 1, 2013.

**79-902 Terms, defined.**

For purposes of the School Employees Retirement Act, unless the context otherwise requires:

(1) Accumulated contributions means the sum of all amounts deducted from the compensation of a member and credited to his or her individual account in the School Retirement Fund together with regular interest thereon, compounded monthly, quarterly, semiannually, or annually;

(2) Beneficiary means any person in receipt of a school retirement allowance or other benefit provided by the act;

(3) Member means any person who has an account in the School Retirement Fund;

(4) County school official means (a) until July 1, 2000, the county superintendent or district superintendent and any person serving in his or her office who is required by law to have a teacher's certificate and (b) on or after July 1, 2000, the county superintendent, county school administrator, or district superintendent and any person serving in his or her office who is required by law to have a teacher's certificate;

(5) Creditable service means prior service for which credit is granted under sections 79-926 to 79-929, service credit purchased under sections 79-933.03 to 79-933.06 and 79-933.08, and all service rendered while a contributing member of the retirement system. Creditable service includes working days, sick days, vacation days, holidays, and any other leave days for which the employee is paid regular wages as part of the employee's agreement with the employer. Creditable service does not include lump-sum payments to the employee upon termination or retirement in lieu of accrued benefits for such days, eligibility and vesting credit, nor service years for which member contributions are withdrawn and not repaid. Creditable service also does not include service rendered by a member for which the retirement board determines that the member was paid less in compensation than the minimum wage as provided in the Wage and Hour Act or service which the board determines was rendered with the intent to defraud the retirement system;

(6) Disability retirement allowance means the annuity paid to a person upon retirement for disability under section 79-952;

(7) Employer means the State of Nebraska or any subdivision thereof or agency of the state or subdivision authorized by law to hire school employees or to pay their compensation;

(8) Fiscal year means any year beginning July 1 and ending June 30 next following;

(9) Regular interest means interest fixed at a rate equal to the daily treasury yield curve for one-year treasury securities, as published by the Secretary of the Treasury of the United States, that applies on July 1 of each year, which may be credited monthly, quarterly, semiannually, or annually as the board may direct;

(10) School employee means a contributing member who earns service credit pursuant to section 79-927. For purposes of this section, contributing member means the following persons who receive compensation from a public school: (a) Regular employees; (b) regular employees having retired pursuant to the School Employees Retirement Act who subsequently provide compensated service on a regular basis in any capacity; and (c) regular employees hired by a public school on an ongoing basis to assume the duties of other regular

employees who are temporarily absent. Substitute employees, temporary employees, and employees who have not attained the age of eighteen years shall not be considered school employees;

(11) Prior service means service rendered as a school employee in the public schools of the State of Nebraska prior to July 1, 1945;

(12) Public school means any and all schools offering instruction in elementary or high school grades, as defined in section 79-101, which schools are supported by public funds and are wholly under the control and management of the State of Nebraska or any subdivision thereof, including (a) schools or other entities established, maintained, and controlled by the school boards of local school districts, except Class V school districts, (b) any educational service unit, and (c) any other educational institution wholly supported by public funds, except schools under the control and management of the Board of Trustees of the Nebraska State Colleges, the Board of Regents of the University of Nebraska, or the community college boards of governors for any community college areas;

(13) Retirement means qualifying for and accepting a school or disability retirement allowance granted under the School Employees Retirement Act;

(14) Retirement board or board means the Public Employees Retirement Board;

(15) Retirement system means the School Employees Retirement System of the State of Nebraska;

(16) Required deposit means the deduction from a member's compensation as provided for in section 79-958 which shall be deposited in the School Retirement Fund;

(17) School year means one fiscal year which includes not less than one thousand instructional hours or, in the case of service in the State of Nebraska prior to July 1, 1945, not less than seventy-five percent of the then legal school year;

(18) Service means employment as a school employee and shall not be deemed interrupted by (a) termination at the end of the school year of the contract of employment of an employee in a public school if the employee enters into a contract of employment in any public school, except a school in a Class V school district, for the following school year, (b) temporary or seasonal suspension of service that does not terminate the employee's employment, (c) leave of absence authorized by the employer for a period not exceeding twelve months, (d) leave of absence because of disability, or (e) military service when properly authorized by the retirement board. Service does not include any period of disability for which disability retirement benefits are received under sections 79-951 to 79-953;

(19) School retirement allowance means the total of the savings annuity and the service annuity or formula annuity paid a person who has retired under sections 79-931 to 79-935. The monthly payments shall be payable at the end of each calendar month during the life of a retired member. The first payment shall include all amounts accrued since the effective date of the award of annuity. The last payment shall be at the end of the calendar month in which such member dies or in accordance with the payment option chosen by the member;

(20) Service annuity means payments for life, made in equal monthly installments, derived from appropriations made by the State of Nebraska to the retirement system;

(21) State deposit means the deposit by the state in the retirement system on behalf of any member;

(22) State school official means the Commissioner of Education and his or her professional staff who are required by law or by the State Department of Education to hold a certificate as such term is defined in section 79-807;

(23) Savings annuity means payments for life, made in equal monthly payments, derived from the accumulated contributions of a member;

(24) Emeritus member means a person (a) who has entered retirement under the provisions of the act, including those persons who have retired since July 1, 1945, under any other regularly established retirement or pension system as contemplated by section 79-916, (b) who has thereafter been reemployed in any capacity by a public school, a Class V school district, or a school under the control and management of the Board of Trustees of the Nebraska State Colleges, the Board of Regents of the University of Nebraska, or a community college board of governors or has become a state school official or county school official subsequent to such retirement, and (c) who has applied to the board for emeritus membership in the retirement system. The school district or agency shall certify to the retirement board on forms prescribed by the retirement board that the annuitant was reemployed, rendered a service, and was paid by the district or agency for such services;

(25) Actuarial equivalent means the equality in value of the aggregate amounts expected to be received under different forms of payment. The determinations shall be based on the 1994 Group Annuity Mortality Table reflecting sex-distinct factors blended using twenty-five percent of the male table and seventy-five percent of the female table. An interest rate of eight percent per annum shall be reflected in making these determinations except when a lump-sum settlement is made to an estate. If the lump-sum settlement is made to an estate, the interest rate will be determined by the Moody's Triple A Bond Index as of the prior June 30, rounded to the next lower quarter percent;

(26) Retirement date means (a) if the member has terminated employment, the first day of the month following the date upon which a member's request for retirement is received on a retirement application provided by the retirement system or (b) if the member has filed a retirement application but has not yet terminated employment, the first day of the month following the date on which the member terminates employment. An application may be filed no more than one hundred twenty days prior to the effective date of the member's initial benefit;

(27) Disability retirement date means the first day of the month following the date upon which a member's request for disability retirement is received on a retirement application provided by the retirement system if the member has terminated employment in the school system and has complied with sections 79-951 to 79-954 as such sections refer to disability retirement;

(28) Retirement application means the form approved and provided by the retirement system for acceptance of a member's request for either regular or disability retirement;



(29) Eligibility and vesting credit means credit for years, or a fraction of a year, of participation in a Nebraska government plan for purposes of determining eligibility for benefits under the School Employees Retirement Act. Such credit shall not be included as years of creditable service in the benefit calculation;

(30)(a) Final average compensation means:

(i) Except as provided in subdivision (ii) of this subdivision:

(A) The sum of the member's total compensation during the three twelve-month periods of service as a school employee in which such compensation was the greatest divided by thirty-six; or

(B) If a member has such compensation for less than thirty-six months, the sum of the member's total compensation in all months divided by the total number of months of his or her creditable service therefor; and

(ii) For an employee who became a member on or after July 1, 2013:

(A) The sum of the member's total compensation during the five twelve-month periods of service as a school employee in which such compensation was the greatest divided by sixty; or

(B) If a member has such compensation for less than sixty months, the sum of the member's total compensation in all months divided by the total number of months of his or her creditable service therefor.

(b) Payments under the Retirement Incentive Plan pursuant to section 79-855 and Staff Development Assistance pursuant to section 79-856 shall not be included in the determination of final average compensation;

(31) Plan year means the twelve-month period beginning on July 1 and ending on June 30 of the following year;

(32) Current benefit means the initial benefit increased by all adjustments made pursuant to the School Employees Retirement Act;

(33) Initial benefit means the retirement benefit calculated at the time of retirement;

(34) Surviving spouse means (a) the spouse married to the member on the date of the member's death or (b) the spouse or former spouse of the member if survivorship rights are provided under a qualified domestic relations order filed with the board pursuant to the Spousal Pension Rights Act. The spouse or former spouse shall supersede the spouse married to the member on the date of the member's death as provided under a qualified domestic relations order. If the benefits payable to the spouse or former spouse under a qualified domestic relations order are less than the value of benefits entitled to the surviving spouse, the spouse married to the member on the date of the member's death shall be the surviving spouse for the balance of the benefits;

(35)(a) Compensation means gross wages or salaries payable to the member for personal services performed during the plan year and includes (i) overtime pay, (ii) member retirement contributions, (iii) retroactive salary payments paid pursuant to court order, arbitration, or litigation and grievance settlements, and (iv) amounts contributed by the member to plans under sections 125, 403(b), and 457 of the Internal Revenue Code as defined in section 49-801.01 or any other section of the code which defers or excludes such amounts from income.

(b) Compensation does not include (i) fraudulently obtained amounts as determined by the retirement board, (ii) amounts for unused sick leave or unused vacation leave converted to cash payments, (iii) insurance premiums converted into cash payments, (iv) reimbursement for expenses incurred, (v) fringe benefits, (vi) per diems paid as expenses, (vii) bonuses for services not actually rendered, including, but not limited to, early retirement inducements, cash awards, and severance pay, or (viii) beginning on September 4, 2005, employer contributions made for the purposes of separation payments made at retirement and early retirement inducements as provided for in section 79-514.

(c) Compensation in excess of the limitations set forth in section 401(a)(17) of the Internal Revenue Code as defined in section 49-801.01 shall be disregarded. For an employee who was a member of the retirement system before the first plan year beginning after December 31, 1995, the limitation on compensation shall not be less than the amount which was allowed to be taken into account under the retirement system as in effect on July 1, 1993.

(d)(i) For purposes of section 79-934, in the determination of compensation for members on or after July 1, 2005, that part of a member's compensation for the plan year which exceeds the member's compensation with the same employer for the preceding plan year by more than seven percent of the compensation base during the sixty months preceding the member's retirement shall be excluded unless (A) the member experienced a substantial change in employment position, (B) as verified by the school board, the excess compensation above seven percent occurred as the result of a collective-bargaining agreement between the employer and a recognized collective-bargaining unit or category of school employee, and the percentage increase in compensation above seven percent shall not be excluded for employees outside of a collective-bargaining unit or within the same category of school employee, or (C) the excess compensation occurred as the result of a districtwide permanent benefit change made by the employer for a category of school employee in accordance with subdivision (35)(a)(iv) of this section.

(ii) For purposes of subdivision (35)(d) of this section:

(A) Category of school employee means either all employees of the employer who are administrators or certificated teachers, or all employees of the employer who are not administrators or certificated teachers, or both;

(B) Compensation base means (I) for current members, employed with the same employer, the member's compensation for the plan year ending June 30, 2005, or (II) for members newly hired or hired by a separate employer on or after July 1, 2005, the member's compensation for the first full plan year following the member's date of hiring. Thereafter, the member's compensation base shall be increased each plan year by the lesser of seven percent of the member's preceding plan year's compensation base or the member's actual annual compensation increase during the preceding plan year; and

(C) Recognized collective-bargaining unit means a group of employees similarly situated with a similar community of interest appropriate for bargaining recognized as such by a school board.

(e)(i) For purposes of section 79-934, in the determination of compensation for members whose retirement date is on or after July 1, 2012, until July 1, 2013, that part of a member's compensation for the plan year which exceeds the member's compensation with the same employer for the preceding plan year by more than nine percent of the compensation base shall be excluded.

(ii) For purposes of subdivision (35)(e) of this section, compensation base means (A) for current members employed with the same employer, the member's compensation for the plan year ending June 30, 2012, or (B) for members newly hired or hired by a separate employer on or after July 1, 2012, the member's compensation for the first full plan year following the member's date of hiring.

(f)(i) Notwithstanding any other provision of this section, for purposes of section 79-934, in the determination of compensation for members whose retirement date is on or after July 1, 2013, that part of a member's compensation for the plan year which exceeds the member's compensation for the preceding plan year by more than eight percent during the capping period shall be excluded. Such member's compensation for the first plan year of the capping period shall be compared to the member's compensation received for the plan year immediately preceding the capping period.

(ii) For purposes of subdivision (35)(f) of this section:

(A) Capping period means the five plan years preceding the later of (I) such member's retirement date or (II) such member's final compensation date; and

(B) Final compensation date means the later of (I) the date on which a retiring member's final compensation is actually paid or (II) if a retiring member's final compensation is paid in advance as a lump sum, the date on which such final compensation would have been paid to the member in the absence of such advance payment;

(36) Termination of employment occurs on the date on which the member experiences a bona fide separation from service of employment with the member's employer, the date of which separation is determined by the end of the member's contractual agreement or, if there is no contract or only partial fulfillment of a contract, by the employer. A member shall not be deemed to have terminated employment if the member subsequently provides service to any employer participating in the retirement system provided for in the School Employees Retirement Act within one hundred eighty days after ceasing employment unless such service:

(a) Is bona fide unpaid voluntary service or substitute service, provided on an intermittent basis; or

(b) Is as provided in subsection (2) of section 79-920.

Nothing in this subdivision precludes an employer from adopting a policy which limits or denies employees who have terminated employment from providing voluntary or substitute service within one hundred eighty days after termination.

A member shall not be deemed to have terminated employment if the board determines that a claimed termination was not a bona fide separation from service with the employer or that a member was compensated for a full contractual period when the member terminated prior to the end date of the contract;

(37) Disability means an inability to engage in a substantially gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or be of a long and indefinite duration;

(38) Substitute employee means a person hired by a public school as a temporary employee to assume the duties of regular employees due to a temporary absence of any regular employees. Substitute employee does not

mean a person hired as a regular employee on an ongoing basis to assume the duties of other regular employees who are temporarily absent;

(39) Participation means qualifying for and making required deposits to the retirement system during the course of a plan year;

(40) Regular employee means an employee hired by a public school or under contract in a regular full-time or part-time position who works a full-time or part-time schedule on an ongoing basis for twenty or more hours per week. An employee hired as described in this subdivision to provide service for less than twenty hours per week but who provides service for an average of twenty hours or more per week in each calendar month of any three calendar months of a plan year shall, beginning with the next full payroll period, commence contributions and shall be deemed a regular employee for all future employment with the same employer; and

(41) Temporary employee means an employee hired by a public school who is not a regular employee and who is hired to provide service for a limited period of time to accomplish a specific purpose or task. When such specific purpose or task is complete, the employment of such temporary employee shall terminate and in no case shall the temporary employment period exceed one year in duration.

**Source:** Laws 1945, c. 219, § 1, p. 638; R.S.Supp., 1947, § 79-2901; Laws 1949, c. 256, § 435, p. 840; Laws 1953, c. 315, § 1, p. 1042; Laws 1961, c. 410, § 1, p. 1229; Laws 1963, c. 469, § 7, p. 1506; Laws 1963, c. 495, § 1, p. 1580; Laws 1965, c. 530, § 1, p. 1663; Laws 1965, c. 531, § 1, p. 1671; Laws 1967, c. 546, § 2, p. 1798; Laws 1969, c. 584, § 84, p. 2396; Laws 1969, c. 735, § 1, p. 2773; Laws 1971, LB 987, § 16; Laws 1975, LB 50, § 1; Laws 1984, LB 971, § 1; Laws 1985, LB 350, § 1; Laws 1986, LB 325, § 1; Laws 1986, LB 311, § 14; Laws 1987, LB 549, § 1; Laws 1988, LB 551, § 10; Laws 1988, LB 1170, § 1; Laws 1989, LB 506, § 9; Laws 1991, LB 549, § 24; Laws 1992, LB 1001, § 32; Laws 1994, LB 833, § 28; Laws 1996, LB 700, § 5; Laws 1996, LB 847, § 27; R.S.1943, (1994), § 79-1501; Laws 1996, LB 900, § 537; Laws 1996, LB 1076, § 13; Laws 1996, LB 1273, § 23; Laws 1997, LB 347, § 26; Laws 1997, LB 623, § 12; Laws 1997, LB 624, § 16; Laws 1997, LB 724, § 3; Laws 1998, LB 1191, § 45; Laws 1999, LB 272, § 91; Laws 1999, LB 538, § 1; Laws 1999, LB 674, § 3; Laws 2000, LB 1192, § 9; Laws 2001, LB 408, § 13; Laws 2002, LB 407, § 22; Laws 2003, LB 451, § 18; Laws 2005, LB 329, § 2; Laws 2005, LB 364, § 8; Laws 2005, LB 503, § 8; Laws 2006, LB 1019, § 8; Laws 2010, LB950, § 11; Laws 2011, LB509, § 17; Laws 2012, LB916, § 19; Laws 2013, LB263, § 13; Laws 2013, LB553, § 3.

**Note:** The Revisor of Statutes has pursuant to section 49-769 correlated LB263, section 13, with LB553, section 3, to reflect all amendments.

**Note:** Changes made by LB263 became effective April 25, 2013. Changes made by LB553 became operative July 1, 2013.

#### Cross References

**Public Employees Retirement Board**, see sections 84-1501 to 84-1513.

**Spousal Pension Rights Act**, see section 42-1101.

**Wage and Hour Act**, see section 48-1209.

**79-904.01 Board; power to adjust contributions and benefits; repayment of benefit.**

(1) If the board determines that the retirement system has previously received contributions or distributed benefits which for any reason are not in accordance with the statutory provisions of the School Employees Retirement Act, the board may refund contributions, require additional contributions, adjust benefits, or require repayment of benefits paid. In the event of an overpayment of a benefit, the board may, in addition to other remedies, offset future benefit payments by the amount of the prior overpayment, together with regular interest thereon. In the event of a material underpayment of a benefit, the board shall immediately make payment equal to the deficit amount plus regular interest.

(2) If the board determines that termination of employment has not occurred and a retirement benefit has been paid to a member of the retirement system pursuant to section 79-933, such member shall repay the benefit to the retirement system.

(3) The board shall adopt and promulgate rules and regulations implementing this section, which shall include, but not be limited to, the following: (a) The procedures for refunding contributions, adjusting future contributions or benefit payments, and requiring additional contributions or repayment of benefits; (b) the process for a member, member's beneficiary, employee, or employer to dispute an adjustment of contributions or benefits; and (c) notice provided to all affected persons. All notices shall be sent at the time of or prior to an adjustment and shall describe the process for disputing an adjustment of contributions or benefits.

(4) The board shall not refund contributions made on compensation in excess of the limitations imposed by subdivision (35) of section 79-902.

**Source:** Laws 1996, LB 1076, § 30; Laws 2011, LB509, § 20; Laws 2013, LB263, § 14.

Effective date April 25, 2013.

**79-916 Retirement system; membership; member of any other system; transfer of funds; when; Service Annuity Fund; created; use; investment.**

(1)(a) On July 1, 2004, the board shall transfer from the School Retirement Fund to the Service Annuity Fund an amount equal to the funded ratio of the retirement system which is equal to the market value of the retirement system assets divided by the actuarial accrued liability of the retirement system, times the actuarial accrued liability of the service annuity, as determined pursuant to section 79-966.01, of the employees who are members of the retirement system established pursuant to the Class V School Employees Retirement Act. Beginning July 1, 2013, such actuarial accrued liability shall be determined for each employee on a level percentage of salary basis. On or before July 1 of each fiscal year, the state shall deposit into the Service Annuity Fund such amounts as may be necessary to pay the normal cost and amortize the unfunded actuarial accrued liability of the service annuity, as determined pursuant to section 79-966.01, as of the end of the previous fiscal year of the employees who are members of the retirement system established pursuant to the Class V School Employees Retirement Act. Based on the fiscal year of the retirement system established pursuant to the Class V School Employees Retirement Act, the administrator of such system shall provide all membership information needed for the actuary engaged by the retirement board to determine the normal cost and the amortization payment of the unfunded actuarial accrued

liability, as determined pursuant to section 79-966.01, to be paid by the state to the Service Annuity Fund each fiscal year as required by this subdivision.

(b) At the time of retirement of any employee who is a member of the retirement system established pursuant to the Class V School Employees Retirement Act, the retirement board shall, upon receipt of a certification of the administrator of such retirement system of the name, identification number, date of birth, retirement date, last date of employment, type of retirement, and number of years of service credited to such eligible employee at the date of retirement, transfer to such retirement system from the Service Annuity Fund the actuarial accrued liability of the service annuity to be paid by the state to the eligible employee for the years of service thus certified as provided for members of the School Employees Retirement System of the State of Nebraska under sections 79-933 and 79-952. Such transfer of the actuarial accrued liability to the retirement system established pursuant to the Class V School Employees Retirement Act shall be in lieu of the payment of the service annuity to which the employee would be entitled.

(c) The Service Annuity Fund is created. The fund shall consist of the amounts paid by the state and transferred from the School Retirement Fund pursuant to this section to pay the service annuity to be paid by the state to employees who are members of the retirement system established pursuant to the Class V School Employees Retirement Act. Any money in the Service Annuity Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) In addition to the transfer of the actuarial accrued liability of the service annuity to be paid by the state, the state shall also transfer to the funds of the Class V school district's retirement system an amount determined by multiplying the compensation of all members of such retirement system by the percent specified in subsection (2) of section 79-966 for determining the amount of the state's payment to the School Retirement Fund. The transfer shall be made annually on or before July 1 of each fiscal year.

**Source:** Laws 1945, c. 219, § 12, p. 642; R.S.Supp.,1947, § 79-2912; Laws 1949, c. 256, § 446, p. 845; Laws 1951, c. 292, § 1, p. 970; Laws 1965, c. 530, § 2, p. 1667; Laws 1967, c. 547, § 2, p. 1810; Laws 1967, c. 546, § 5, p. 1802; Laws 1969, c. 735, § 3, p. 2777; Laws 1971, LB 987, § 21; Laws 1984, LB 457, § 1; Laws 1987, LB 549, § 3; Laws 1988, LB 1170, § 2; Laws 1991, LB 549, § 30; R.S.1943, (1994), § 79-1512; Laws 1996, LB 900, § 551; Laws 1997, LB 623, § 14; Laws 1998, LB 1191, § 48; Laws 2002, LB 407, § 24; Laws 2004, LB 1097, § 23; Laws 2011, LB509, § 21; Laws 2013, LB553, § 4.  
Operative date July 1, 2013.

#### Cross References

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

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

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

**79-917 New employee; participation in another governmental plan; how treated.**

Within the first one hundred eighty days of employment, a school employee may apply to the board for eligibility and vesting credit for years of participation in another Nebraska governmental plan, as defined by section 414(d) of the Internal Revenue Code. During the years of participation in the other Nebraska governmental plan, the employee must have been a full-time or a part-time employee as defined in the Nebraska governmental plan in which the credit was earned. Such credit shall not be included as years of service in the benefit calculation. The board may adopt and promulgate rules and regulations governing the assessment and granting of eligibility and vesting credit.

**Source:** Laws 1995, LB 501, § 5; R.S.Supp.,1995, § 79-1514.10; Laws 1996, LB 900, § 552; Laws 2000, LB 1192, § 14; Laws 2002, LB 407, § 25; Laws 2013, LB263, § 15.  
Effective date April 25, 2013.

**79-921 Retirement system; membership; termination; employer; duty; reinstatement; repayment of accumulated contributions; exception.**

(1) The membership of any person in the retirement system shall cease only if he or she (a) withdraws his or her accumulated contributions under section 79-955, (b) retires on a school or formula or disability retirement allowance, or (c) dies.

(2) The employer shall notify the board of the date upon which a termination has occurred. It is the responsibility of the employer that is involved in the termination of employment to notify the board of such change in employment and provide the board with such information as the board deems necessary.

(3) The retirement board shall reinstate to membership, with the same status as when such membership ceased, a school employee who has withdrawn his or her accumulated contributions under the following conditions:

(a) If he or she again becomes an employee and if such employee chooses within three years after rejoining the system to repay, within five years after the date on which he or she rejoins the retirement system or prior to termination of employment, whichever is first, to the retirement board part or all of the amount he or she has withdrawn plus interest which would have accrued on that amount under the retirement system; or

(b) If, more than three years after again becoming an employee and rejoining the system but prior to termination of employment, he or she chooses to repay part or all of the amount he or she has withdrawn, plus an amount equal to the actuarial assumed rate of return for the period repaid. Payment must be completed within five years after electing to repay or prior to termination, whichever is earlier.

(4) Prior creditable service shall be restored in proportion to the amounts repaid. A member's prior creditable service shall be fully restored only if the member has repaid all accumulated withdrawals in accordance with either subdivision (3)(a) or (3)(b) of this section, as applicable. Repayment may be made through direct payment, installment payments, or an irrevocable payroll deduction authorization. If the school employee chooses not to repay such withdrawals with interest, the school employee shall enter the system as a new member with no prior rights.

**Source:** Laws 1945, c. 219, § 14, p. 643; R.S.Supp.,1947, § 79-2914; Laws 1949, c. 256, § 448, p. 845; Laws 1969, c. 735, § 4, p.

2778; Laws 1986, LB 311, § 16; Laws 1986, LB 325, § 2; R.S.1943, (1994), § 79-1514; Laws 1996, LB 900, § 556; Laws 1996, LB 1076, § 16; Laws 1997, LB 623, § 16; Laws 1997, LB 624, § 18; Laws 1999, LB 703, § 9; Laws 2001, LB 408, § 14; Laws 2004, LB 1097, § 24; Laws 2013, LB263, § 16.  
Effective date April 25, 2013.

**79-947.06 Members prior to July 1, 2013; annual benefit adjustment; cost-of-living adjustment calculation method.**

On July 1 of each year, for school employees who became members prior to July 1, 2013:

(1) The board shall determine the number of retired members or beneficiaries described in subdivision (4)(b) of this section in the retirement system and an annual benefit adjustment shall be made by the board for each retired member or beneficiary under one of the cost-of-living adjustment calculation methods found in subdivision (2), (3), or (4) of this section. Each retired member or beneficiary, if eligible, shall receive an annual benefit adjustment under the cost-of-living adjustment calculation method that provides the retired member or beneficiary the greatest annual benefit adjustment increase. No retired member or beneficiary shall receive an annual benefit adjustment under more than one of the cost-of-living adjustment calculation methods provided in this section;

(2) The current benefit paid to a retired member or beneficiary under this subdivision shall be adjusted so that the purchasing power of the benefit being paid is not less than seventy-five percent of the purchasing power of the initial benefit. The purchasing power of the initial benefit in any year following the year in which the initial benefit commenced shall be calculated by dividing the United States Department of Labor, Bureau of Labor Statistics, Consumer Price Index for Urban Wage Earners and Clerical Workers factor on June 30 of the current year by the Consumer Price Index for Urban Wage Earners and Clerical Workers factor on June 30 of the year in which the benefit commenced. The result shall be multiplied by the product that results when the amount of the initial benefit is multiplied by seventy-five percent. In any year in which applying the adjustment provided in subdivision (3) of this section results in a benefit which would be less than seventy-five percent of the purchasing power of the initial benefit as calculated in this subdivision, the adjustment shall instead be equal to the percentage change in the Consumer Price Index for Urban Wage Earners and Clerical Workers factor from the prior year to the current year;

(3) The current benefit paid to a retired member or beneficiary under this subdivision shall be increased annually by the lesser of (a) the percentage change in the Consumer Price Index for Urban Wage Earners and Clerical Workers for the period between June 30 of the prior year to June 30 of the present year or (b) two and one-half percent;

(4)(a) The current benefit paid to a retired member or beneficiary under subdivision (4) of this section shall be calculated by multiplying the retired member's or beneficiary's total monthly benefit by the lesser of (i) the cumulative change in the Consumer Price Index for Urban Wage Earners and Clerical Workers from the last adjustment of the total monthly benefit of each retired member or beneficiary through June 30 of the year for which the annual benefit



adjustment is being calculated or (ii) an amount equal to three percent per annum compounded for the period from the last adjustment of the total monthly benefit of each retired member or beneficiary through June 30 of the year for which the annual benefit adjustment is being calculated.

(b) In order for a retired member or beneficiary to receive the cost-of-living adjustment calculation method provided in subdivision (4) of this section, the retired member or beneficiary shall be (i) a retired member or beneficiary who has been receiving a retirement benefit for at least five years if the member had at least twenty-five years of creditable service, (ii) a member who has been receiving a disability retirement benefit for at least five years pursuant to section 79-952, or (iii) a beneficiary who has been receiving a death benefit pursuant to section 79-956 for at least five years, if the member's or beneficiary's monthly accrual rate is less than or equal to the minimum accrual rate as determined by subdivision (4) of this section.

(c) The monthly accrual rate under subdivision (4) of this section is the retired member's or beneficiary's total monthly benefit divided by the number of years of creditable service earned by the retired or deceased member.

(d) The total monthly benefit under subdivision (4) of this section is the total benefit received by a retired member or beneficiary pursuant to the School Employees Retirement Act and previous adjustments made pursuant to this section or any other provision of the act that grants a benefit or cost-of-living increase, but the total monthly benefit shall not include sums received by an eligible retired member or eligible beneficiary from federal sources.

(e) Beginning July 1, 2010, the minimum accrual rate under this subsection was twenty-four dollars and eleven cents. Beginning July 1, 2011, the minimum accrual rate under this subsection was twenty-five dollars and nine cents. Beginning July 1, 2012, the minimum accrual rate under this subsection was twenty-five dollars and forty-nine cents. Beginning July 1, 2013, the board shall annually adjust the minimum accrual rate to reflect the cumulative percentage change in the Consumer Price Index for Urban Wage Earners and Clerical Workers from the last adjustment of the minimum accrual rate;

(5) Each retired member or beneficiary shall receive the sum of the annual benefit adjustment and such retiree's total monthly benefit less withholding, which sum shall be the retired member's or beneficiary's adjusted total monthly benefit. Each retired member or beneficiary shall receive the adjusted total monthly benefit until the expiration of the annuity option selected by the member or until the retired member or beneficiary again qualifies for the annual benefit adjustment, whichever occurs first;

(6) The annual benefit adjustment pursuant to this section shall not cause a current benefit to be reduced, and a retired member or beneficiary shall never receive less than the adjusted total monthly benefit until the annuity option selected by the member expires; and

(7) The board shall adjust the annual benefit adjustment provided in this section so that the cost-of-living adjustment provided to the retired member or beneficiary at the time of the annual benefit adjustment does not exceed the change in the Consumer Price Index for Urban Wage Earners and Clerical Workers for the period between June 30 of the prior year to June 30 of the present year. If the consumer price index used in this section is discontinued or replaced, a substitute index published by the United States Department of

Labor shall be selected by the board which shall be a reasonable representative measurement of the cost-of-living for retired employees.

**Source:** Laws 2011, LB509, § 32; Laws 2013, LB263, § 17; Laws 2013, LB553, § 5.

**Note:** The Revisor of Statutes has pursuant to section 49-769 correlated LB263, section 17, with LB553, section 5, to reflect all amendments.

**Note:** Changes made by LB263 became effective April 25, 2013. Changes made by LB553 became operative July 1, 2013.

**79-947.07 Employee who becomes a member on or after July 1, 2013; annual benefit adjustment; cost-of-living adjustment calculation method.**

On July 1 of each year, for school employees who became members on or after July 1, 2013:

(1) The board shall determine the number of retired members or beneficiaries in the retirement system and an annual benefit adjustment shall be made by the board for each retired member or beneficiary. The benefit paid to a retired member or beneficiary under this section shall be increased annually by the lesser of (a) the percentage change in the Consumer Price Index for Urban Wage Earners and Clerical Workers for the period between June 30 of the prior year to June 30 of the present year or (b) one percent;

(2) Each retired member or beneficiary shall receive the sum of the annual benefit adjustment and such retiree's total monthly benefit less withholding, which sum shall be the retired member's or beneficiary's adjusted total monthly benefit. Each retired member or beneficiary shall receive the adjusted total monthly benefit until the expiration of the annuity option selected by the member or until the retired member or beneficiary again qualifies for the annual benefit adjustment, whichever occurs first;

(3) The annual benefit adjustment pursuant to this section shall not cause a current benefit to be reduced, and a retired member or beneficiary shall never receive less than the adjusted total monthly benefit until the annuity option selected by the member expires; and

(4) The board shall adjust the annual benefit adjustment provided in this section so that the cost-of-living adjustment provided to the retired member or beneficiary at the time of the annual benefit adjustment does not exceed the change in the Consumer Price Index for Urban Wage Earners and Clerical Workers for the period between June 30 of the prior year to June 30 of the present year. If the consumer price index used in this section is discontinued or replaced, a substitute index published by the United States Department of Labor shall be selected by the board which shall be a reasonable representative measurement of the cost-of-living for retired employees.

**Source:** Laws 2013, LB553, § 6.

Operative date July 1, 2013.

**79-954 Retirement; disability beneficiary; restoration to active service; effect; retention of allowance; when.**

(1) Except as provided in subsection (2) of this section, if a disability beneficiary under the age of sixty-five years is restored to active service as a school employee or if the examining physician certifies that the person is no longer disabled for service as a school employee, the school or disability retirement allowance shall cease. If the beneficiary again becomes a school employee, he or she shall become a member of the retirement system. Any prior

service certificate, on the basis of which his or her creditable service was computed at the time of his or her retirement for disability, shall be restored to full force and effect upon his or her again becoming a member of such retirement system.

(2) If a disability beneficiary under the age of sixty-five years obtains employment as a school employee and the examining physician certifies that the beneficiary has a permanent disability, the beneficiary shall retain his or her disability retirement allowance if the beneficiary works fewer than twenty hours per week.

**Source:** Laws 1945, c. 219, § 27, p. 647; R.S.Supp.,1947, § 79-2927; Laws 1949, c. 256, § 460, p. 849; R.S.1943, (1994), § 79-1526; Laws 1996, LB 900, § 589; Laws 2009, LB449, § 1; Laws 2013, LB553, § 7.

Operative date July 1, 2013.

**79-956 Death of member before retirement; contributions; how treated; direct transfer to retirement plan; death while performing qualified military service; additional death benefit.**

(1) If a member dies before his or her retirement date, his or her accumulated contributions shall be paid to his or her estate, to an alternate payee pursuant to a qualified domestic relations order as provided in section 42-1107, or to the person he or she has nominated by designation duly executed and filed with the retirement board. Except for payment to an alternative payee pursuant to a qualified domestic relations order, if no legal representative or beneficiary applies for such accumulated contributions within five years following the date of the deceased member's death, the contributions shall be distributed in accordance with the Uniform Disposition of Unclaimed Property Act.

(2) When the deceased member has twenty years or more of creditable service regardless of age or dies on or after his or her sixty-fifth birthday and leaves a surviving spouse who has been designated as beneficiary and who, as of the date of the member's death, is the sole surviving primary beneficiary, such beneficiary may elect, within twelve months after the death of the member, to receive (a) a refund of the member's contribution account balance, including interest, plus an additional one hundred one percent of the member's contribution account balance, including interest, or (b) an annuity which shall be equal to the amount that would have accrued to the member had he or she elected to have the retirement annuity paid as a one-hundred-percent joint and survivor annuity payable as long as either the member or the member's spouse should survive and had the member retired (i) on the date of death if his or her age at death is sixty-five years or more or (ii) at age sixty-five years if his or her age at death is less than sixty-five years.

(3) When the deceased member who was a school employee on or after May 1, 2001, has not less than five years of creditable service and less than twenty years of creditable service and dies before his or her sixty-fifth birthday and leaves a surviving spouse who has been designated in writing as beneficiary and who, as of the date of the member's death, is the sole surviving primary beneficiary, such beneficiary may elect, within twelve months after the death of the member, to receive (a) a refund of the member's contribution account balance with interest plus an additional one hundred one percent of the member's contribution account balance with interest or (b) an annuity payable

monthly for the surviving spouse's lifetime which shall be equal to the benefit amount that had accrued to the member at the date of the member's death, commencing when the member would have reached age sixty, or the member's age at death if greater, reduced by three percent for each year payments commence before the member would have reached age sixty-five, and adjusted for payment in the form of a one-hundred-percent joint and survivor annuity.

(4) If the requirements of subsection (2) or (3) of this section are not met, then the beneficiary or the estate, if the member has not filed a statement with the board naming a beneficiary, shall be paid a lump sum equal to all contributions to the fund made by such member plus regular interest, except that commencing on January 1, 2006, an application for benefits under subsection (2) or (3) of this section shall be deemed to have been timely filed if the application is received by the retirement system within twelve months after the date of the death of the member.

(5) Benefits to which a surviving spouse, beneficiary, or estate of a member shall be entitled pursuant to this section shall commence immediately upon the death of such member.

(6) A lump-sum death benefit paid to the member's beneficiary, other than the member's estate, that is an eligible distribution may be distributed in the form of a direct transfer to a retirement plan eligible to receive such transfer under the provisions of the Internal Revenue Code.

(7) For any member whose death occurs on or after January 1, 2007, while performing qualified military service as defined in section 414(u) of the Internal Revenue Code, the member's beneficiary shall be entitled to any additional death benefit that would have been provided, other than the accrual of any benefit relating to the period of qualified military service. The additional death benefit shall be determined as if the member had returned to employment with the employer and such employment had terminated on the date of the member's death.

**Source:** Laws 1945, c. 219, § 29, p. 648; R.S.Supp.,1947, § 79-2929; Laws 1949, c. 256, § 462, p. 850; Laws 1951, c. 293, § 3, p. 972; Laws 1969, c. 735, § 8, p. 2781; Laws 1975, LB 50, § 5; Laws 1976, LB 645, § 1; Laws 1981, LB 128, § 1; Laws 1986, LB 325, § 9; Laws 1987, LB 549, § 10; Laws 1988, LB 1170, § 5; Laws 1990, LB 903, § 1; Laws 1994, LB 833, § 32; R.S.1943, (1994), § 79-1528; Laws 1996, LB 900, § 591; Laws 1996, LB 1273, § 25; Laws 2000, LB 1192, § 16; Laws 2001, LB 711, § 4; Laws 2003, LB 451, § 20; Laws 2007, LB508, § 2; Laws 2012, LB916, § 23; Laws 2013, LB263, § 18.

Effective date April 25, 2013.

#### Cross References

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

### **79-958 Employee; employer; required deposits and contributions.**

(1) Beginning on September 1, 2012, for the purpose of providing the funds to pay for formula annuities, every employee shall be required to deposit in the School Retirement Fund nine and seventy-eight hundredths percent of compensation. Such deposits shall be transmitted at the same time and in the same manner as required employer contributions.

(2) For the purpose of providing the funds to pay for formula annuities, every employer shall be required to deposit in the School Retirement Fund one hundred one percent of the required contributions of the school employees of each employer. Such deposits shall be transmitted to the retirement board at the same time and in the same manner as such required employee contributions.

(3) The employer shall pick up the member contributions required by this section for all compensation paid on or after January 1, 1986, and the contributions so picked up shall be treated as employer contributions pursuant to section 414(h)(2) of the Internal Revenue Code in determining federal tax treatment under the code and shall not be included as gross income of the member until such time as they are distributed or made available. The contributions, although designated as member contributions, shall be paid by the employer in lieu of member contributions. The employer shall pay these member contributions from the same source of funds which is used in paying earnings to the member. The employer shall pick up these contributions by a compensation deduction through a reduction in the cash compensation of the member. Member contributions picked up shall be treated for all purposes of the School Employees Retirement Act in the same manner and to the same extent as member contributions made prior to the date picked up.

(4) The employer shall pick up the member contributions made through irrevocable payroll deduction authorizations pursuant to sections 79-921, 79-933.03 to 79-933.06, and 79-933.08, and the contributions so picked up shall be treated as employer contributions in the same manner as contributions picked up under subsection (3) of this section.

**Source:** Laws 1945, c. 219, § 32, p. 649; R.S.Supp.,1947, § 79-2932; Laws 1949, c. 256, § 465, p. 851; Laws 1951, c. 291, § 6, p. 968; Laws 1959, c. 414, § 2, p. 1388; Laws 1967, c. 546, § 9, p. 1806; Laws 1971, LB 987, § 24; Laws 1984, LB 457, § 3; Laws 1985, LB 353, § 3; Laws 1986, LB 325, § 11; Laws 1988, LB 160, § 4; Laws 1988, LB 1170, § 6; Laws 1991, LB 549, § 39; Laws 1994, LB 833, § 33; Laws 1995, LB 574, § 80; Laws 1996, LB 700, § 10; R.S.Supp.,1995, § 79-1531; Laws 1996, LB 900, § 593; Laws 1997, LB 623, § 27; Laws 1998, LB 1191, § 57; Laws 2001, LB 408, § 17; Laws 2002, LB 407, § 35; Laws 2005, LB 503, § 10; Laws 2007, LB596, § 2; Laws 2009, LB187, § 1; Laws 2011, LB382, § 1; Laws 2013, LB263, § 19; Laws 2013, LB553, § 8.

**Note:** The Revisor of Statutes has pursuant to section 49-769 correlated LB263, section 19, with LB553, section 8, to reflect all amendments.

**Note:** Changes made by LB263 became effective April 25, 2013. Changes made by LB553 became operative July 1, 2013.

### **79-962 Contract of employment; contents.**

Every contract of employment with a school employee shall specify (1) the contractual period of employment, including the starting and ending dates of the contract, and (2) that it is subject to the provisions of the School Employees Retirement Act.

**Source:** Laws 1945, c. 219, § 36, p. 650; R.S.Supp.,1947, § 79-2936; Laws 1949, c. 256, § 469, p. 852; R.S.1943, (1994), § 79-1535;

Laws 1996, LB 900, § 597; Laws 1997, LB 347, § 27; Laws 2013, LB263, § 20.

Effective date April 25, 2013.

**79-966 School Retirement Fund; state deposits; amount; determination.**

(1) On the basis of all data in the possession of the retirement board, including such mortality and other tables as are recommended by the actuary engaged by the retirement board and adopted by the retirement board, the retirement board shall annually, on or before July 1, determine the state deposit to be made by the state in the School Retirement Fund for that fiscal year. The amount of such state deposit shall be determined pursuant to section 79-966.01. The retirement board shall thereupon certify the amount of such state deposit, and on the warrant of the Director of Administrative Services, the State Treasurer shall, as of July 1 of such year, transfer from funds appropriated by the state for that purpose to the School Retirement Fund the amount of such state deposit.

(2) For each fiscal year beginning July 1, 2009, until July 1, 2014, in addition to the state deposits required by subsections (1) and (3) of this section, the state shall deposit in the School Retirement Fund an amount equal to one percent of the compensation of all members of the retirement system. For each fiscal year beginning July 1, 2014, in addition to the state deposits required by subsections (1) and (3) of this section, the state shall deposit in the School Retirement Fund an amount equal to two percent of the compensation of all members of the retirement system.

(3) In addition to the state deposits required by subsections (1) and (2) of this section, beginning on July 1, 2005, and each fiscal year thereafter, the state shall deposit in the Service Annuity Fund such amounts as may be necessary to pay the normal cost and amortize the unfunded actuarial accrued liability of the service annuity benefit established pursuant to sections 79-933 and 79-952 as accrued through the end of the previous fiscal year of the school employees who are members of the retirement system established pursuant to the Class V School Employees Retirement Act.

**Source:** Laws 1945, c. 219, § 41, p. 651; R.S.Supp.,1947, § 79-2941; Laws 1949, c. 256, § 474, p. 853; Laws 1965, c. 530, § 4, p. 1668; Laws 1969, c. 735, § 12, p. 2782; Laws 1971, LB 987, § 25; Laws 1981, LB 248, § 3; Laws 1984, LB 457, § 5; Laws 1988, LB 1170, § 10; R.S.1943, (1994), § 79-1540; Laws 1996, LB 900, § 601; Laws 2002, LB 407, § 39; Laws 2004, LB 1097, § 29; Laws 2009, LB187, § 2; Laws 2011, LB382, § 2; Laws 2013, LB553, § 9.

Operative date July 1, 2013.

**Cross References**

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

**79-966.01 School Retirement Fund; annual actuarial valuations.**

Beginning July 1, 2013, and each year thereafter, this section shall govern annual actuarial valuations of the School Retirement Fund. In order to determine the additional required deposits by the State of Nebraska, as required by section 79-966, the board shall cause an annual actuarial valuation to be performed that will value the plan assets for the year and ascertain the

contributions required for such fiscal year. The actuary for the board shall perform the annual valuation using the entry age actuarial cost method. Under this method, the actuarially required funding rate is equal to the normal cost rate, plus the contribution rate necessary to amortize the unfunded actuarial accrued liability on a level percentage of salary basis. The normal cost under this method shall be determined for each individual member on a level percentage of salary basis. The normal cost amount is then summed for all members. Beginning July 1, 2006, any existing unfunded liabilities shall be reinitialized and amortized over a thirty-year period, and during each subsequent actuarial valuation, changes in the funded actuarial accrued liability due to changes in benefits, actuarial assumptions, the asset valuation method, or actuarial gains or losses shall be measured and amortized over a thirty-year period beginning on the valuation date of such change. If the unfunded actuarial accrued liability under the entry age actuarial cost method is zero or less than zero on an actuarial valuation date, then all prior unfunded actuarial accrued liabilities shall be considered fully funded and the unfunded actuarial accrued liability shall be reinitialized and amortized over a thirty-year period as of the actuarial valuation date. If the actuarially required contribution rate exceeds the rate of all contributions required pursuant to the School Employees Retirement Act, the actuary shall determine the added contributions required to be paid by the State of Nebraska that constitute the difference between the actuarially required contribution rate and the rate of all other required contributions.

**Source:** Laws 2002, LB 407, § 38; Laws 2006, LB 1019, § 9; Laws 2013, LB553, § 10.

Operative date July 1, 2013.

#### (b) EMPLOYEES RETIREMENT SYSTEM IN CLASS V DISTRICTS

##### **79-984 Employees retirement system; actuary; employment; duties.**

The board of education or Class V Retirement System Board shall contract for the services of an actuary who shall be the technical advisor of the board and the trustees on matters regarding the operation of the retirement system. The actuary shall (1) make a general investigation of the operation of the retirement system annually, which investigation shall cover mortality, retirement, disability, employment, turnover, interest, and earnable compensation, and (2) recommend tables to be used for all required actuarial calculations. The actuary shall perform such other duties as may be assigned by the board.

**Source:** Laws 1951, c. 274, § 7, p. 915; R.S.1943, (1994), § 79-1038; Laws 1996, LB 900, § 619; Laws 1998, LB 497, § 11; Laws 2001, LB 711, § 8; Laws 2006, LB 1024, § 64; Laws 2013, LB263, § 21.

Effective date April 25, 2013.

##### **79-987 Employees retirement system; audit; cost; report.**

(1) An annual audit of the affairs of the retirement system shall be conducted. At the option of the board, such audit may be conducted by a certified public accountant or the Auditor of Public Accounts. The costs of such audit shall be paid from funds of the retirement system. A copy of such audit shall be filed with the Auditor of Public Accounts.

(2) Beginning March 31, 2012, and each March 31 thereafter, if such retirement plan is a defined benefit plan, the trustees of a retirement system established pursuant to section 79-979 shall cause to be prepared an annual report and the administrator shall file the same with the Public Employees Retirement Board and submit to the members of the Nebraska Retirement Systems Committee of the Legislature a copy of such report. The report submitted to the committee shall be submitted electronically. The report shall consist of a full actuarial analysis of each such retirement plan established pursuant to section 79-979. The analysis shall be prepared by an independent private organization or public entity employing actuaries who are members of the American Academy of Actuaries and meet the academy's qualification standards to render a statement of actuarial opinion, and which organization or entity has demonstrated expertise to perform this type of analysis and is unrelated to any organization offering investment advice or which provides investment management services to the retirement plan.

**Source:** Laws 1951, c. 274, § 19, p. 921; Laws 1973, LB 215, § 1; R.S.1943, (1994), § 79-1050; Laws 1996, LB 900, § 622; Laws 1998, LB 1191, § 61; Laws 1999, LB 795, § 13; Laws 2001, LB 711, § 9; Laws 2006, LB 1019, § 10; Laws 2011, LB509, § 34; Laws 2012, LB782, § 157; Laws 2013, LB263, § 22.  
Effective date April 25, 2013.

**79-990 Employees retirement system; time served in armed forces or on leave of absence; resignation for maternity purposes; effect.**

(1) Any member who is eligible for reemployment on or after December 12, 1994, pursuant to 38 U.S.C. 4301 et seq., as adopted under section 55-161, or who is eligible for reemployment under section 55-160 may pay to the retirement system after the date of his or her return from active military service, and within the period required by law, not to exceed five years, an amount equal to the sum of all deductions which would have been made from the salary which he or she would have received during the period of military service for which creditable service is desired. If such payment is made, the member shall be entitled to credit for membership service in determining his or her annuity for the period for which contributions have been made and the board shall be responsible for any funding necessary to provide for the benefit which is attributable to this increase in the member's creditable service. The member's payments shall be paid as the trustees may direct, through direct payments to the retirement system or on an installment basis pursuant to a binding irrevocable payroll deduction authorization between the member and the school district. Creditable service may be purchased only in one-tenth-year increments, starting with the most recent years' salary.

(2) Under such rules and regulations as the board may prescribe, any member who was away from his or her position while on a leave of absence from such position authorized by the board of education of the school district by which he or she was employed at the time of such leave of absence or pursuant to any contractual agreement entered into by such school district may receive credit for any or all time he or she was on leave of absence. Such time shall be included in creditable service when determining eligibility for death, disability, termination, and retirement benefits. The member who receives the credit shall earn benefits during the leave based on salary at the level received immediately prior to the leave of absence. Such credit shall be received if such



member pays into the retirement system (a) an amount equal to the sum of the deductions from his or her salary for the portion of the leave for which creditable service is desired, (b) any contribution which the school district would have been required to make for the portion of the leave for which creditable service is desired had he or she continued to receive salary at the level received immediately prior to the leave of absence, and (c) interest on these combined payments from the date such deductions would have been made to the date of repayment determined by using the rate of interest established by the board for interest on such purchases of service credit. Such amounts shall be paid as the trustees may direct, through direct payments to the retirement system or on an installment basis pursuant to a binding irrevocable payroll deduction authorization between the member and the school district over a period not to exceed five years from the date of the termination of his or her leave of absence. Interest on any delayed payment shall be at the rate of interest established by the board for determining interest on delayed payments by members to the retirement system. Creditable service may be purchased only in one-tenth-year increments, starting with the most recent years' salary, and if payments are made on an installment basis, creditable service will be credited only as payment has been made to the retirement system to purchase each additional one-tenth-year increment. Leave of absence shall be construed to include, but not be limited to, sabbaticals, maternity leave, exchange teaching programs, full-time leave as an elected official of a professional association or collective-bargaining unit, or leave of absence to pursue further education or study. A leave of absence granted pursuant to this section shall not exceed four years in length, and in order to receive credit for the leave of absence, the member must have returned to employment with the school district within one year after termination of the leave of absence.

(3) Until one year after May 2, 2001, any member currently employed by the school district who resigned from full-time employment with the school district for maternity purposes prior to September 1, 1979, and was reemployed as a full-time employee by the school district before the end of the school year following the school year of such member's resignation may have such absence treated as though the absence was a leave of absence described in subsection (2) of this section. The period of such absence for maternity purposes shall be included in creditable service when determining the member's eligibility for death, disability, termination, and retirement benefits if the member submits satisfactory proof to the board that the prior resignation was for maternity purposes and the member complies with the payment provisions of subsection (2) of this section before the one-year anniversary of May 2, 2001.

**Source:** Laws 1951, c. 274, § 12, p. 917; Laws 1981, LB 369, § 1; Laws 1982, LB 131, § 3; Laws 1988, LB 551, § 3; Laws 1991, LB 350, § 4; Laws 1992, LB 1001, § 21; Laws 1993, LB 107, § 4; Laws 1995, LB 505, § 4; Laws 1996, LB 847, § 26; R.S.Supp., 1995, § 79-1043; Laws 1996, LB 900, § 625; Laws 1996, LB 1076, § 12; Laws 2001, LB 711, § 10; Laws 2002, LB 722, § 7; Laws 2005, LB 364, § 12; Laws 2010, LB950, § 18; Laws 2013, LB263, § 23.

Effective date April 25, 2013.

**79-991 Employees retirement system; member; prior service credit; how obtained.**

(1) An employee who becomes a member without prior service credit may purchase prior service credit, not to exceed the lesser of ten years or the member's years of membership service, for the period of service the member was employed by a school district or by an educational service unit and which is not used in the calculation of any retirement or disability benefit having been paid, being paid, or payable in the future to such member under any defined benefit retirement system or program maintained by such other school district or educational service unit. The purchase of prior service credit shall be made in accordance with and subject to the following requirements:

(a) A member who desires to purchase prior service credit shall make written application to the administrator of the retirement system that includes all information and documentation determined by the administrator as necessary to verify the member's prior service and qualification to purchase the prior service credit. Such application shall include the member's written authorization for the administrator to request and receive from any of the member's former employers verification of the member's prior service, salary, and other information for determining the member's eligibility to purchase prior service credit. Before prior service credit may be purchased, the administrator shall have received verification of the member's salary in each year with the other school district or educational service unit and confirmation that the prior service to be purchased by the member is not also credited in the calculation of a retirement or disability benefit for such member under another defined benefit retirement system or program. The member's application to purchase prior service credit may be made at any time before the fifth anniversary of the member's membership in the retirement system or, if earlier, the member's termination of employment with the school district;

(b) The member shall pay to the retirement system the total amount he or she would have contributed to the retirement system had he or she been a member of the retirement system during the period for which prior service is being purchased, together with interest thereon as determined using the rate of interest established by the board for interest on such purchases of prior service credit. Such payment shall be based on the most recent years' salary the member earned in another school district or educational service unit if the salary is verified by the other school district or educational service unit or, if not, the payment shall be based on the member's annual salary at the time he or she became a member;

(c) Payments by the member for the purchase of the prior service credit shall be paid as the trustees may direct through direct payments to the retirement system or on an installment basis pursuant to a binding irrevocable payroll deduction authorization between the member and the school district over a period not to exceed five years from the date of membership. Interest on delayed payments shall be at the rate of interest established by the board for determining interest on delayed payments by members to the retirement system. In the event the member terminates employment with the school district for any reason before full payment for the prior service has been made, the remaining installments shall be immediately due and payable to the retirement system. Prior service credit may be purchased only in one-tenth-year increments, and if payments are made on an installment basis, the prior service will be credited only as payment has been made to the retirement system. If the prior service to be purchased by the member exceeds the member's membership service at the time of application or any subsequent date, such excess prior

service shall be credited to the member only as the member completes and is credited additional membership service, in one-tenth-year increments, notwithstanding the member's payment for such prior service credit. If the member retires or terminates employment before completing sufficient membership service to permit all of the excess prior service that has been purchased by the member to be credited to such member, the retirement system shall refund to the member, or to the member's beneficiary if the member's termination is due to his or her death, the payments that have been made to the retirement system for such uncredited prior service, together with regular interest on such refund; and

(d) The school district shall contribute to the retirement system an amount equal to the amount paid by each member for the purchase of prior service credit at the time such payments are made by such member.

(2) Any member having five or more years of creditable service, excluding years of prior service acquired pursuant to section 79-990, 79-994, 79-995, or 79-997, or subsection (1) of this section, may elect to purchase up to a total of five years of additional creditable service under the retirement system, and upon such purchase the member shall be given the same status as though he or she had been a member of the retirement system for such additional number of years, except as otherwise specifically provided in the Class V School Employees Retirement Act. Creditable service may be purchased only in one-tenth-year increments. The amount to be paid to the retirement system for such creditable service shall be equal to the actuarial cost to the retirement system of the increased benefits attributable to such additional creditable service as determined by the retirement system's actuary at the time of the purchase pursuant to actuarial assumptions and methods adopted by the trustees for this purpose. The election to purchase additional creditable service may be made at any time before the member's termination of employment, and all payments for the purchase of such creditable service must be completed within five years after the election or before the member's termination or retirement, whichever event occurs first. Payment shall be made as the trustees may direct through a single payment to the retirement system, on an installment basis, including payments pursuant to a binding irrevocable payroll deduction authorization between the member and the school district, or by such other method approved by the trustees and permitted by law. If payments are made on an installment basis, creditable service will be credited only as payment has been made to the retirement system to purchase each additional one-tenth-year increment. Interest shall be charged on installment payments at the rate of interest established by the board for determining interest on delayed payments by members to the retirement system.

**Source:** Laws 1951, c. 274, § 14, p. 918; Laws 1953, c. 308, § 3, p. 1029; Laws 1982, LB 131, § 5; Laws 1987, LB 298, § 8; Laws 1988, LB 551, § 4; Laws 1992, LB 1001, § 23; Laws 1993, LB 107, § 5; Laws 1995, LB 505, § 6; R.S.Supp., 1995, § 79-1045; Laws 1996, LB 900, § 626; Laws 1997, LB 624, § 24; Laws 1998, LB 497, § 15; Laws 2005, LB 364, § 13; Laws 2013, LB263, § 24. Effective date April 25, 2013.

**79-992 Employees retirement system; discontinuance of employment; refunds; reemployment.**

(1) A member who has five years or more of creditable service, excluding years of prior service acquired pursuant to section 79-990, 79-991, 79-994, 79-995, or 79-997, and who severs his or her employment may elect to leave his or her contributions in the retirement system, in which event he or she shall receive a retirement allowance at normal retirement age based on the annuity earned to the date of such severance. Such member may elect to receive a retirement allowance at early retirement age if such member retires at an early retirement date. Such annuity shall be adjusted in accordance with section 79-9,100. Upon the severance of employment, except on account of retirement, a member shall be entitled to receive refunds as follows: (a) An amount equal to the accumulated contributions to the retirement system by the member; and (b) any contributions made to a previously existing system which were refundable under the terms of that system. Any member receiving a refund of contributions shall thereby forfeit and relinquish all accrued rights in the retirement system including all accumulated creditable service, except that if any member who has withdrawn his or her contributions as provided in this section reenters the service of the district and again becomes a member of the retirement system, he or she may restore any or all money previously received by him or her as a refund, including the interest on the amount of the restored refund for the period of his or her absence from the district's service as determined using the interest rate established by the board for interest on such restored refunds, and he or she shall then again receive credit for that portion of service which the restored money represents. Such restoration may be made as the trustees may direct through direct payments to the system or on an installment basis pursuant to a binding irrevocable payroll deduction authorized between the member and the school district over a period of not to exceed five years from the date of reemployment. Interest on delayed payments shall be at the rate of interest established by the board for determining interest on delayed payments by members to the retirement system. Creditable service may be purchased only in one-tenth-year increments, starting with the most recent years' salary.

(2) A retired member who returns to employment as an employee of the school district shall again participate in the retirement system as a new member and shall make contributions to the retirement system commencing upon reemployment. The retirement annuity of a retired member who returns to employment with the school district shall continue to be paid by the retirement system. A retired member who returns to employment as an employee of the school district shall receive creditable service only for service performed after his or her return to employment and in no event shall creditable service which accrues or the compensation paid to the member after such return to employment after retirement increase the amount of the member's original retirement annuity.

(3) Upon termination of the reemployed member, the member shall receive in addition to the retirement annuity which commenced at the time of the previous retirement (a) if the member has accrued five years or more of creditable service after his or her return to employment, excluding years of prior service acquired pursuant to section 79-990, 79-991, 79-994, 79-995, or 79-997, a retirement annuity as provided in section 79-999 or 79-9,100, as applicable, calculated solely on the basis of creditable service and final average compensation accrued and earned after the member's return to employment after his or her original retirement, and as adjusted to reflect any payment in other than the normal form or (b) if the member has not accrued five years or

more of creditable service after his or her return to employment, a refund equal to the member's accumulated contributions which were credited to the member after the member's return to employment. In no event shall the member's creditable service which accrued prior to a previous retirement be considered as part of the member's creditable service after his or her return to employment for any purpose of the Class V School Employees Retirement Act.

(4) In the event a member is entitled to receive a refund of contributions pursuant to subsection (1) or subdivision (3)(b) of this section in an amount greater than one thousand dollars, if the member does not elect to have the refund paid directly to himself or herself or transferred to an eligible retirement plan designated by the member as a direct rollover pursuant to section 79-998, then the refund of contributions shall be paid in a direct rollover to an individual retirement plan designated by the trustees.

**Source:** Laws 1951, c. 274, § 18, p. 920; Laws 1955, c. 321, § 2, p. 992; Laws 1963, c. 490, § 3, p. 1565; Laws 1967, c. 544, § 3, p. 1789; Laws 1972, LB 1116, § 2; Laws 1982, LB 131, § 8; Laws 1985, LB 215, § 7; Laws 1987, LB 298, § 10; Laws 1988, LB 551, § 6; Laws 1992, LB 1001, § 25; Laws 1993, LB 107, § 9; R.S.1943, (1994), § 79-1049; Laws 1996, LB 900, § 627; Laws 1997, LB 624, § 25; Laws 1998, LB 497, § 16; Laws 2001, LB 711, § 11; Laws 2005, LB 364, § 14; Laws 2006, LB 1019, § 11; Laws 2013, LB263, § 25.

Effective date April 25, 2013.

#### **79-996 Contributions; how paid; interest.**

(1) The payments provided for by sections 79-993, 79-994, and 79-997 may be made in equal installments over a period of not to exceed two years from the date of the election to make such payments. The payments provided for by section 79-995 may be made in equal installments over a period of not to exceed three years from the date of election to make such payments. Any person who elects to make payments on an installment basis shall be credited with prior service only in six-month increments and only after payment has been made to the retirement system to purchase each additional six-month increment.

(2) The rate of interest for the purchase of additional service credit pursuant to sections 79-990 and 79-991 and for determining the interest on a restored refund pursuant to section 79-992 or on delayed payments by members to the retirement system shall be determined by the board from time to time, and such rate of interest shall be used to determine applicable interest for a member's purchase of additional service credit, restored refund, or delayed payments that are made while such rate of interest is in effect.

**Source:** Laws 1987, LB 298, § 4; Laws 1988, LB 551, § 7; R.S.1943, (1994), § 79-1049.04; Laws 1996, LB 900, § 631; Laws 2013, LB263, § 26.

Effective date April 25, 2013.

#### **79-9,100 Employees retirement system; formula retirement annuity; computation.**

(1) In lieu of the retirement annuity provided by section 79-999 or 79-9,113, any member who becomes eligible to receive a retirement annuity after Febru-

ary 20, 1982, under the Class V School Employees Retirement Act shall receive a formula retirement annuity based on final average compensation, except that if the monthly formula retirement annuity based on final average compensation is less than the monthly retirement annuity specified in section 79-999 or 79-9,113, accrued to the date of retirement or August 31, 1983, whichever first occurs, the member shall receive the monthly retirement annuity specified in section 79-999 or 79-9,113 accrued to the date of retirement or August 31, 1983, whichever first occurs.

(2) The monthly formula retirement annuity based on final average compensation shall be determined by multiplying the number of years of creditable service for which such member would otherwise receive the retirement annuity provided by section 79-999 or 79-9,113 by one and one-half percent of his or her final average compensation. For retirements after June 15, 1989, and before April 18, 1992, the applicable percentage shall be one and sixty-five hundredths percent of his or her final average compensation. For retirements on or after April 18, 1992, and before June 7, 1995, the applicable percentage shall be one and seventy-hundredths percent of his or her final average compensation. For retirements on or after June 7, 1995, and before March 4, 1998, the applicable percentage shall be one and eighty-hundredths percent of his or her final average compensation. For retirements on or after March 4, 1998, and before March 22, 2000, the applicable percentage shall be one and eighty-five hundredths percent of his or her final average compensation. For retirements on or after March 22, 2000, the applicable percentage shall be two percent of his or her final average compensation.

(3) Final average compensation shall be determined:

(a) Except as provided in subdivision (3)(b) of this section, by dividing the member's total compensation for the three fiscal years in which such compensation was the highest by thirty-six; and

(b) For an employee who became a member on or after July 1, 2013, by dividing the member's total compensation for the five fiscal years in which such compensation was the highest by sixty.

(4) For retirements before June 7, 1995, if the annuity begins prior to the sixty-second birthday of the member and the member has not completed thirty-five or more years of creditable service, the annuity at the date it begins shall be the actuarial equivalent of the annuity deferred to the sixty-second birthday of the member. If the annuity begins prior to the sixty-second birthday of the member and the member has completed thirty-five or more years of creditable service, the annuity shall not be reduced. For retirements on or after June 7, 1995, any retirement annuity which begins prior to the sixty-second birthday of the member shall be reduced by twenty-five hundredths percent for each month or partial month between the date the annuity begins and the member's sixty-second birthday. If the annuity begins at a time when:

(a) The sum of the member's attained age and creditable service is eighty-five or more, the annuity shall not be reduced;

(b) The sum of the member's attained age and creditable service totals eighty-four, the annuity shall not be reduced by an amount greater than three percent of the unreduced annuity;

(c) The sum of the member's attained age and creditable service totals eighty-three, the annuity shall not be reduced by an amount greater than six percent of the unreduced annuity; and

(d) The sum of the member's attained age and creditable service totals eighty-two, the annuity shall not be reduced by an amount greater than nine percent of the unreduced annuity.

(5) For purposes of this section, a member's creditable service and attained age shall be measured in one-half-year increments.

(6) The normal form of the formula retirement annuity based on final average compensation shall be an annuity payable monthly during the remainder of the member's life with the provision that in the event of his or her death before sixty monthly payments have been made the monthly payments will be continued to his or her estate or to the beneficiary he or she has designated until a total of sixty monthly payments have been made. A member may elect to receive, in lieu of the normal form of annuity, an actuarially equivalent annuity in any optional form provided by section 79-9,101.

(7) Any member receiving a formula retirement annuity based on final average compensation shall also receive the service annuity to be paid by the State of Nebraska as provided in sections 79-933 to 79-935 and 79-951.

**Source:** Laws 1982, LB 131, § 4; Laws 1985, LB 215, § 3; Laws 1989, LB 237, § 2; Laws 1992, LB 1001, § 22; Laws 1995, LB 505, § 5; R.S.Supp.,1995, § 79-1044.01; Laws 1996, LB 900, § 635; Laws 1998, LB 497, § 21; Laws 1998, LB 1191, § 62; Laws 2000, LB 155, § 2; Laws 2013, LB553, § 11.  
Operative date July 1, 2013.

**Cross References**

For supplemental retirement benefits, see sections 79-940 to 79-947.

**79-9,102 Employees retirement system; annuity or other benefit; limitations.**

(1) Notwithstanding any other provision of the Class V School Employees Retirement Act, no member or beneficiary of the retirement system shall receive in any calendar year an annuity or other benefit which would exceed the maximum benefit permitted under section 415 of the Internal Revenue Code, or any successor provision and the regulations issued thereunder, as they may be amended from time to time, and as adjusted as of January 1 of each calendar year to the dollar limitation as determined for such year by the Commissioner of Internal Revenue pursuant to section 415(d) of the Internal Revenue Code to reflect cost-of-living adjustments, and the amount of benefit to be paid to any member or beneficiary by the retirement system shall be adjusted each calendar year, if necessary, to conform with the maximum benefit permitted under section 415 of the Internal Revenue Code. The cost-of-living adjustment to the maximum benefit permitted under section 415 of the Internal Revenue Code shall apply to determining the maximum benefit of a member who severed employment or commenced receiving benefits prior to the effective date of the adjustment.

(2) Any payments provided for by sections 79-990, 79-991, and 79-992 for the purchase or restoration of creditable service shall be subject to the limitations of section 415 of the Internal Revenue Code on annual additions to the system, and the trustees may suspend payments, alter installment periods, or, if such suspension or alteration is not possible, deny the purchase of all or a portion of the creditable service desired to be purchased, as necessary to comply with the requirements of section 415 of the Internal Revenue Code.

(3) This section is intended to meet and incorporate the requirements of section 415 of the Internal Revenue Code and regulations under that section that are applicable to governmental plans and shall be construed in accordance with section 415 of the Internal Revenue Code and the regulations issued thereunder and shall, by this reference, incorporate any subsequent changes made to such section as the same may apply to the retirement system.

**Source:** Laws 1985, LB 215, § 8; Laws 1995, LB 574, § 75; R.S.Supp.,1995, § 79-1046.01; Laws 1996, LB 900, § 637; Laws 1997, LB 623, § 31; Laws 1998, LB 497, § 22; Laws 2013, LB263, § 27.

Effective date April 25, 2013.

**79-9,103 Annuity payment; cost-of-living adjustment; additional adjustments.**

(1) Any annuity paid on or after September 1, 1983, to a member who retired prior to February 21, 1982, pursuant to the Class V School Employees Retirement Act, or to such member's beneficiary, or to a person who retired under the provisions of the retirement system established by statute for employees of Class V school districts in effect prior to September 1, 1951, or to such person's beneficiary, shall be adjusted by the increase in the cost of living or wage levels between the effective date of retirement and June 30, 1983, except that such increase shall not exceed the sum of one dollar and fifty cents per month for each year of creditable service and one dollar per month for each completed year of retirement as measured from the effective date of retirement to June 30, 1983. No separate adjustment in such annuity shall be made as a result of the changes made in section 79-9,113 pursuant to Laws 1983, LB 488. If a joint and survivor annuity was elected, the increase shall be actuarially adjusted so that the joint and survivor annuity remains the actuarial equivalent of the life annuity otherwise payable.

(2) In addition to the cost-of-living adjustment provided in subsection (1) of this section, any annuity paid on or after September 1, 1986, pursuant to the act or pursuant to the provisions of the retirement system established by statute for employees of Class V school districts in effect prior to September 1, 1951, and on which the first payment was dated on or before September 1, 1985, shall be adjusted by the increase in the cost of living or wage levels between the effective date of retirement and June 30, 1986, except that such increase shall not exceed (a) three and one-half percent for annuities first paid on or after September 1, 1984, (b) seven percent for annuities first paid on or after September 1, 1983, but before September 1, 1984, or (c) ten and one-half percent for all other annuities.

(3) In addition to the cost-of-living adjustment provided in subsections (1) and (2) of this section, any annuity paid on or after September 1, 1989, pursuant to the act or pursuant to the provisions of the retirement system established by statute for employees of Class V school districts in effect prior to September 1, 1951, and on which the first payment was dated on or before September 1, 1988, shall be adjusted by the increase in the cost of living or wage levels between the effective date of retirement and June 30, 1989, except that such increase shall not exceed (a) three percent for annuities first paid on or after September 1, 1987, (b) six percent for annuities first paid on or after



September 1, 1986, but before September 1, 1987, or (c) nine percent for all other annuities.

(4) In addition to the cost-of-living adjustment provided in subsections (1), (2), and (3) of this section, any annuity paid on or after September 1, 1992, pursuant to the act or pursuant to the provisions of the retirement system established by statute for employees of Class V school districts in effect prior to September 1, 1951, and on which the first payment was dated on or before October 1, 1991, shall be adjusted by the increase in the cost of living or wage levels between the effective date of retirement and June 30, 1992, except that such increase shall not exceed (a) three percent for annuities first paid after October 1, 1990, (b) six percent for annuities first paid after October 1, 1989, but on or before October 1, 1990, or (c) nine percent for all other annuities.

(5) In addition to the cost-of-living adjustment provided in subsections (1), (2), (3), and (4) of this section, any annuity paid on or after September 1, 1995, pursuant to the act or pursuant to the provisions of the retirement system established by statute for employees of Class V school districts in effect prior to September 1, 1951, and on which the first payment was dated on or before October 1, 1994, shall be adjusted by the increase in the cost of living or wage levels between the effective date of retirement and June 30, 1995, except that such increase shall not exceed (a) three percent for annuities first paid after October 1, 1993, (b) six percent for annuities first paid after October 1, 1992, but on or before October 1, 1993, or (c) nine percent for all other annuities.

(6) In addition to the cost-of-living adjustment provided in subsections (1), (2), (3), (4), and (5) of this section, any annuity paid pursuant to the act or pursuant to the provisions of the retirement system established by statute for employees of Class V school districts in effect prior to September 1, 1951, and on which the first payment was dated on or before October 1, 1994, shall be subject to adjustment to equal the greater of (a) the annuity payable to the member or beneficiary as adjusted, if applicable, under the provisions of subsection (1), (2), (3), (4), or (5) of this section or (b) ninety percent of the annuity which results when the original annuity that was paid to the member or beneficiary (before any cost-of-living adjustments under this section), is adjusted by the increase in the cost of living or wage levels between the commencement date of the annuity and June 30, 1995.

(7) In addition to the cost-of-living adjustment provided in subsections (1), (2), (3), (4), (5), and (6) of this section, any annuity paid on or after September 1, 1998, pursuant to the act or pursuant to the provisions of the retirement system established by statute for employees of Class V school districts in effect prior to September 1, 1951, and on which the first payment was dated on or before October 3, 1997, shall be adjusted by the increase in the cost of living or wage levels between the effective date of retirement and June 30, 1998, except that such increase shall not exceed (a) three percent for annuities first paid after October 1, 1996, (b) six percent for annuities first paid after October 1, 1995, but on or before October 1, 1996, or (c) nine percent for all other annuities.

(8) Beginning January 1, 2000, and on January 1 of every year thereafter, for employees of Class V school districts who were members prior to July 1, 2013, a cost-of-living adjustment shall be made for any annuity being paid pursuant to the act, or pursuant to the provisions of the retirement system established by statute for employees of Class V school districts in effect prior to September 1,

1951, and on which the first payment was dated on or before October 3 preceding such January 1 adjustment date. The cost-of-living adjustment for any such annuity shall be the lesser of (a) one and one-half percent or (b) the increase in the consumer price index from the date such annuity first became payable through the August 31 preceding the January 1 adjustment date as reduced by the aggregate cost-of-living adjustments previously made to the annuity pursuant to this section.

(9) Beginning January 1, 2014, and on January 1 of every year thereafter, for employees of Class V school districts who became members on or after July 1, 2013, a cost-of-living adjustment shall be made for any annuity being paid pursuant to the act and on which the first payment was dated on or before October 3 preceding such January 1 adjustment date. The cost-of-living adjustment for any such annuity shall be the lesser of (a) one percent or (b) the increase in the consumer price index from the date such annuity first became payable through the August 31 preceding the January 1 adjustment date as reduced by the aggregate cost-of-living adjustments previously made to the annuity pursuant to this section.

(10) Beginning September 1, 1999, the actuary shall make an annual valuation of the assets and liabilities of the system. If the annual valuation made by the actuary, as approved by the trustees, indicates that the system has sufficient actuarial surplus to provide for a cost-of-living adjustment in addition to the adjustment made pursuant to subsection (8) or (9) of this section, the board may, in its discretion, declare by resolution that each annuity being paid pursuant to the act, or pursuant to the provisions of the retirement system established by statute for employees of Class V school districts in effect prior to September 1, 1951, and on which the first payment was dated on or before October 3 of the year such resolution is adopted, shall be increased beginning as of the January 1 following the date of the board's resolution by such percentage as may be declared by the board, except that such increase for any such annuity shall not exceed the increase in the consumer price index from the date such annuity first became payable through the applicable valuation date as reduced by the aggregate cost-of-living adjustments previously made to the annuity pursuant to this section.

(11) Except for the adjustments pursuant to subsection (13) of this section, the consumer price index to be used for determining any cost-of-living adjustment under this section shall be the Consumer Price Index - All Urban Consumers, as published by the Bureau of Labor Statistics of the United States Department of Labor. If this consumer price index is discontinued or replaced, a substitute index published by the United States Department of Labor shall be selected by the board, upon recommendation of the trustees, which shall be a reasonable representative measurement of the cost of living for retired employees. An annuity as increased by any cost-of-living adjustment made under this section shall be considered the base annuity amount for the purpose of future adjustments pursuant to this section. In no event shall any cost-of-living adjustment be deemed to affect or increase the amount of the base retirement annuity of a member as determined under section 79-999 or 79-9,100.

(12) Any decision or determination by the board (a) to declare or not declare a cost-of-living adjustment, (b) as to whether the annual valuation indicates a sufficient actuarial surplus to provide for a cost-of-living adjustment, or (c) pursuant to the selection of a substitute index shall be made in the sole, absolute, and final discretion of the board and shall not be subject to challenge

by any member or beneficiary. In no event shall the Legislature be constrained or limited in amending the system or increasing the benefits of members under the system, nor shall the board or trustees be constrained from supporting any such change to the system, notwithstanding the effect of any such change upon the actuarial surplus of the system and the ability of the board to declare future cost-of-living adjustments.

(13) The Legislature finds and declares that there exists in this state a pressing need to attract and retain qualified and dedicated public school employees and that one of the factors prospective public school employees consider when seeking or continuing public school employment is the retirement system and benefits the employment provides. The Legislature further finds that over the past decades, as reflected by the Medical Price Index published by the United States Department of Labor, the cost of medical care, including the cost of medications and insurance coverages, has increased at a rate in excess of that by which the Consumer Price Index - All Urban Consumers has increased. The Legislature further finds and declares that there accordingly exists a need to adjust the amount of retirement benefits paid to retired public school employees in order to assist them in meeting the increased cost of medical care. Therefor, in addition to the cost-of-living adjustments provided in subsections (1) through (12) of this section, commencing on October 3, 2001, and on October 3 of every year thereafter, a medical cost-of-living adjustment shall be paid to any annuitant who has been paid an annuity from the retirement system for at least ten years through the October 3 adjustment date. The cost-of-living adjustment shall be paid in the form of a supplemental annuity providing monthly payments equal to the amount which results when (a) the fraction, not to exceed one, that results when the annuitant's years of creditable service at his or her retirement date is divided by twenty, is multiplied by (b) the product of ten dollars times the number of years, including attained one-half years, that such annuitant has received annuity payments from the retirement system through the October 3 adjustment date. The supplemental annuity being paid to an annuitant shall increase by ten dollars on October 3 of each subsequent year to reflect the additional year of annuity payments to the annuitant until the total amount of the supplemental annuity is two hundred fifty dollars. In no event shall the medical cost-of-living adjustment for any annuitant pursuant to this subsection result in the payment of a supplemental annuity exceeding two hundred fifty dollars per month. The supplemental annuity paid to an annuitant pursuant to this subsection shall cease at the death of the annuitant regardless of the form of retirement annuity being paid to the annuitant at the time of his or her death.

**Source:** Laws 1983, LB 488, § 2; Laws 1986, LB 1048, § 5; Laws 1989, LB 237, § 8; Laws 1992, LB 1001, § 26; Laws 1993, LB 107, § 11; Laws 1995, LB 505, § 9; R.S.Supp., 1995, § 79-1056.06; Laws 1996, LB 900, § 638; Laws 1998, LB 497, § 23; Laws 2001, LB 711, § 14; Laws 2013, LB553, § 12.  
Operative date July 1, 2013.

**79-9,105 Employees retirement system; member; disability; benefits.**

(1) Any member with five or more years of creditable service, excluding years of prior service acquired pursuant to section 79-990, 79-991, 79-994, 79-995, or 79-997, who becomes totally disabled for further performance of duty on or after March 22, 2000, may be approved for deferred disability retirement by the

board. In the case of such deferred disability retirement, the member, during the period specified in subsection (3) of this section, shall be credited with creditable service for each year or portion thereof, to be determined in accordance with board policies governing creditable service, that the member defers retirement, up to a maximum of thirty-five years of total creditable service, including creditable service accrued before the member became totally disabled. The member approved for deferred disability retirement may at any time of the member's choosing request the deferral to end and retirement annuity payments to begin. The retirement annuity of such member shall be based on the total number of years of the member's creditable service, including the years credited to the member during his or her total disability under this section, and the member's final average salary as of the date that the member became totally disabled and as adjusted from such date by a percentage equal to the cumulative percentage cost-of-living adjustments that were made or declared for annuities in pay status pursuant to section 79-9,103 after the date of the board's approval for deferred disability retirement and before the cessation of the accrual of additional creditable service pursuant to subsection (3) of this section. Except as provided in subsection (4) of this section, the retirement annuity so determined for the member shall be payable to the member without reduction due to any early commencement of benefits, except that the retirement annuity shall be reduced by the amount of any periodic payments to such employee as workers' compensation benefits. Additional creditable service acquired through deferred disability retirement shall apply to the service requirements specified in section 79-9,106. The board shall consider a member to be totally disabled when it has received an application by the member and a statement by at least two licensed and practicing physicians designated by the board certifying that the member is totally and presumably permanently disabled and unable to perform his or her duties as a consequence thereof.

(2) Notwithstanding the provisions of subsection (1) of this section, the payment of the retirement annuity of a member may not be deferred later than the member's required beginning date as defined in section 401(a)(9) of the Internal Revenue Code, as defined in section 49-801.01. If the payment of a disabled member's retirement annuity is required to commence before the member has elected to end his or her deferred disability retirement, the amount of benefit that would have accrued pursuant to subsection (1) of this section in the fiscal year of the member's required beginning date, and in each subsequent fiscal year through the year of the member's election to end the deferred disability retirement period, shall be reduced, but not below zero, by the actuarial equivalent of the payments which were paid to the member during each such fiscal year and after the member's required beginning date. The retirement annuity of any member that commences before the end of the member's deferred disability retirement shall be adjusted as of each September 1 pursuant to the requirements of this subsection.

(3) The accrual of creditable service and any adjustment of final average salary provided in subsection (1) of this section shall begin from the first day of the month following the date of the first of the two examinations by which the member is determined by the board to be totally disabled, shall continue only so long as the member does not receive any wages or compensation for services, and shall end at the earlier of (a) the time total disability ceases as determined by the board or (b) the date the member elects to end the deferred

disability retirement and begin to receive his or her retirement annuity. The board may require periodic proof of disability but not more frequently than semiannually.

(4) The payment of any retirement annuity to a disabled member, which begins to be paid under this section (a) before the member's sixty-second birthday or (b) at a time before the sum of the member's attained age and creditable service is eighty-five or more, shall be suspended if the board determines at any time before the member's sixty-second birthday that the member's total disability has ceased. Payment of the retirement annuity of such member as determined under this section shall recommence at the member's early retirement date or normal retirement date but shall be subject to reduction at such time as specified in section 79-9,100.

**Source:** Laws 1951, c. 274, § 17, p. 919; Laws 1957, c. 354, § 2, p. 1202; Laws 1963, c. 490, § 2, p. 1565; Laws 1982, LB 131, § 7; Laws 1985, LB 215, § 6; Laws 1987, LB 298, § 9; Laws 1988, LB 551, § 5; Laws 1991, LB 350, § 6; Laws 1993, LB 107, § 8; R.S. 1943, (1994), § 79-1048; Laws 1996, LB 900, § 640; Laws 2000, LB 155, § 4; Laws 2001, LB 711, § 15; Laws 2013, LB553, § 13. Operative date July 1, 2013.

**79-9,113 Employees retirement system; federal Social Security Act; state retirement plan; how affected; required contributions; payment; membership service annuity; computations.**

(1)(a) If, at any future time, a majority of the eligible members of the retirement system votes to be included under an agreement providing old age and survivors insurance under the Social Security Act of the United States, the contributions to be made by the member and the school district for membership service, from and after the effective date of the agreement with respect to services performed subsequent to December 31, 1954, shall each be reduced from five to three percent but not less than three percent of the member's salary per annum, and the credits for membership service under this system, as provided in section 79-999, shall thereafter be reduced from one and one-half percent to nine-tenths of one percent and not less than nine-tenths of one percent of salary or wage earned by the member during each fiscal year, and from one and sixty-five hundredths percent to one percent and not less than one percent of salary or wage earned by the member during each fiscal year and from two percent to one and two-tenths percent of salary or wage earned by the member during each fiscal year, and from two and four-tenths percent to one and forty-four hundredths percent of salary or wage earned by the member during each fiscal year, except that after September 1, 1963, and prior to September 1, 1969, all employees of the school district shall contribute an amount equal to the membership contribution which shall be two and three-fourths percent of salary covered by old age and survivors insurance, and five percent above that amount. Commencing September 1, 1969, all employees of the school district shall contribute an amount equal to the membership contribution which shall be two and three-fourths percent of the first seven thousand eight hundred dollars of salary or wages earned each fiscal year and five percent of salary or wages earned above that amount in the same fiscal year. Commencing September 1, 1976, all employees of the school district shall contribute an amount equal to the membership contribution which shall be two and nine-tenths percent of the first seven thousand eight hundred dollars of

salary or wages earned each fiscal year and five and twenty-five hundredths percent of salary or wages earned above that amount in the same fiscal year. Commencing on September 1, 1982, all employees of the school district shall contribute an amount equal to the membership contribution which shall be four and nine-tenths percent of the compensation earned in each fiscal year. Commencing September 1, 1989, all employees of the school district shall contribute an amount equal to the membership contribution which shall be five and eight-tenths percent of the compensation earned in each fiscal year. Commencing September 1, 1995, all employees of the school district shall contribute an amount equal to the membership contribution which shall be six and three-tenths percent of the compensation earned in each fiscal year. Commencing September 1, 2007, all employees of the school district shall contribute an amount equal to the membership contribution which shall be seven and three-tenths percent of the compensation paid in each fiscal year. Commencing September 1, 2009, all employees of the school district shall contribute an amount equal to the membership contribution which shall be eight and three-tenths percent of the compensation paid in each fiscal year. Commencing September 1, 2011, all employees of the school district shall contribute an amount equal to the membership contribution which shall be nine and three-tenths percent of the compensation paid in each fiscal year. Commencing September 1, 2013, all employees of the school district shall contribute an amount equal to the membership contribution which shall be nine and seventy-eight hundredths percent of the compensation paid in each fiscal year.

(b) The contributions by the school district in any fiscal year beginning on or after September 1, 1999, shall be the greater of (i) one hundred percent of the contributions by the employees for such fiscal year or (ii) such amount as may be necessary to maintain the solvency of the system, as determined annually by the board upon recommendation of the actuary and the trustees.

(c) The contributions by the school district in any fiscal year beginning on or after September 1, 2007, shall be the greater of (i) one hundred one percent of the contributions by the employees for such fiscal year or (ii) such amount as may be necessary to maintain the solvency of the system, as determined annually by the board upon recommendation of the actuary and the trustees.

(d) The employee's contribution shall be made in the form of a monthly deduction from compensation as provided in subsection (2) of this section. Every employee who is a member of the system shall be deemed to consent and agree to such deductions and shall receipt in full for compensation, and payment to such employee of compensation less such deduction shall constitute a full and complete discharge of all claims and demands whatsoever for services rendered by such employee during the period covered by such payment except as to benefits provided under the Class V School Employees Retirement Act.

(e) After September 1, 1963, and prior to September 1, 1969, all employees shall be credited with a membership service annuity which shall be nine-tenths of one percent of salary or wage covered by old age and survivors insurance and one and one-half percent of salary or wages above that amount, except that those employees who retire on or after August 31, 1969, shall be credited with a membership service annuity which shall be one percent of salary or wages covered by old age and survivors insurance and one and sixty-five hundredths percent of salary or wages above that amount for service performed after

September 1, 1963, and prior to September 1, 1969. Commencing September 1, 1969, all employees shall be credited with a membership service annuity which shall be one percent of the first seven thousand eight hundred dollars of salary or wages earned by the employee during each fiscal year and one and sixty-five hundredths percent of salary or wages earned above that amount in the same fiscal year, except that all employees retiring on or after August 31, 1976, shall be credited with a membership service annuity which shall be one and forty-four hundredths percent of the first seven thousand eight hundred dollars of salary or wages earned by the employee during such fiscal year and two and four-tenths percent of salary or wages earned above that amount in the same fiscal year, and the retirement annuities of employees who have not retired prior to September 1, 1963, and who elected under the provisions of section 79-988 as such section existed immediately prior to February 20, 1982, not to become members of the system shall not be less than they would have been had they remained under any preexisting system to date of retirement.

(f) Members of this system having the service qualifications of members of the School Employees Retirement System of the State of Nebraska, as provided by section 79-926, shall receive the state service annuity provided by sections 79-933 to 79-935 and 79-951.

(2) The school district shall pick up the employee contributions required by this section for all compensation paid on or after January 1, 1985, and the contributions so picked up shall be treated as employer contributions in determining federal tax treatment under the Internal Revenue Code, except that the school district shall continue to withhold federal income taxes based upon these contributions until the Internal Revenue Service or the federal courts rule that, pursuant to section 414(h) of the Internal Revenue Code, these contributions shall not be included as gross income of the employee until such time as they are distributed or made available. The school district shall pay these employee contributions from the same source of funds which is used in paying earnings to the employee. The school district shall pick up these contributions by a salary deduction either through a reduction in the cash salary of the employee or a combination of a reduction in salary and offset against a future salary increase. Beginning September 1, 1995, the school district shall also pick up any contributions required by sections 79-990, 79-991, and 79-992 which are made under an irrevocable payroll deduction authorization between the member and the school district, and the contributions so picked up shall be treated as employer contributions in determining federal tax treatment under the Internal Revenue Code, except that the school district shall continue to withhold federal and state income taxes based upon these contributions until the Internal Revenue Service rules that, pursuant to section 414(h) of the Internal Revenue Code, these contributions shall not be included as gross income of the employee until such time as they are distributed from the system. Employee contributions picked up shall be treated for all purposes of the Class V School Employees Retirement Act in the same manner and to the extent as employee contributions made prior to the date picked up.

**Source:** Laws 1951, c. 274, § 25, p. 923; Laws 1953, c. 308, § 4, p. 1029; Laws 1955, c. 321, § 3, p. 993; Laws 1963, c. 490, § 5, p. 1567; Laws 1969, c. 724, § 2, p. 2755; Laws 1972, LB 1116, § 3; Laws 1976, LB 994, § 3; Laws 1982, LB 131, § 12; Laws 1983, LB 488, § 1; Laws 1984, LB 218, § 3; Laws 1989, LB 237, § 7; Laws 1995, LB 505, § 8; Laws 1995, LB 574, § 77;

R.S.Supp.,1995, § 79-1056; Laws 1996, LB 900, § 648; Laws 1997, LB 623, § 33; Laws 1998, LB 497, § 26; Laws 1998, LB 1191, § 63; Laws 2000, LB 155, § 5; Laws 2007, LB596, § 3; Laws 2009, LB187, § 3; Laws 2011, LB382, § 4; Laws 2011, LB509, § 35; Laws 2013, LB553, § 14.

Operative date July 1, 2013.

**Cross References**

For provisions of federal Social Security Act, see Chapter 68, article 6.

**79-9,117 Board; establish preretirement planning program; for whom; required information; funding; attendance; fee.**

(1) The board shall establish a comprehensive preretirement planning program for school employees who are members of the retirement system. The program shall provide information and advice regarding the many changes employees face upon retirement, including, but not limited to, changes in physical and mental health, housing, family life, leisure activity, and retirement income.

(2) The preretirement planning program shall be available to all employees who have attained the age of fifty years or are within five years of qualifying for retirement or early retirement under their retirement systems.

(3) The preretirement planning program shall include information on the federal and state income tax consequences of the various annuity or retirement benefit options available to the employee, information on social security benefits, information on various local, state, and federal government programs and programs in the private sector designed to assist elderly persons, and information and advice the board deems valuable in assisting employees in the transition from public employment to retirement.

(4) The board shall work with any governmental agency, including political subdivisions or bodies whose services or expertise may enhance the development or implementation of the preretirement planning program.

(5) The costs of the preretirement planning program shall be charged back to the retirement system.

(6) The employer shall provide each eligible employee leave with pay to attend up to two preretirement planning programs. For purposes of this subsection, leave with pay means a day off paid by the employer and does not mean vacation, sick, personal, or compensatory time. An employee may choose to attend a program more than twice, but such leave shall be at the expense of the employee and shall be at the discretion of the employer. An eligible employee shall not be entitled to attend more than one preretirement planning program per fiscal year prior to actual election of retirement.

(7) A nominal registration fee may be charged each person attending a preretirement planning program to cover the costs for meals, meeting rooms, or other expenses incurred under such program.

**Source:** Laws 2011, LB509, § 36; Laws 2013, LB263, § 28.

Effective date April 25, 2013.



## ARTICLE 10

## SCHOOL TAXATION, FINANCE, AND FACILITIES

## (a) TAX EQUITY AND EDUCATIONAL OPPORTUNITIES SUPPORT ACT

## Section

- 79-1003. Terms, defined.
- 79-1003.01. Summer school allowance; summer school student units; calculations.
- 79-1007.07. Financial reports relating to poverty allowance; department; duties; report; appeal of department decisions.
- 79-1007.09. Financial reports relating to limited English proficiency; department; duties; report; appeal of department decisions.
- 79-1007.11. School district formula need; calculation.
- 79-1007.17. Local choice adjustment; calculation.
- 79-1007.18. Averaging adjustment; calculation.
- 79-1007.20. Student growth adjustment; school district; application; department; powers.
- 79-1007.23. Instructional time allowance; calculation.
- 79-1007.25. Teacher education allowance; calculation.
- 79-1015.01. Local system formula resources; local effort rate yield; determination.
- 79-1017.01. Local system formula resources; amounts included.
- 79-1022. Distribution of income tax receipts and state aid; effect on budget.
- 79-1023. School district; general fund budget of expenditures; limitation; department; certification.
- 79-1027. Budget; restrictions.
- 79-1028.01. School fiscal years; district may exceed certain limits; situations enumerated; state board; duties.
- 79-1031.01. Appropriations Committee; duties.

## (g) SUMMER FOOD SERVICE PROGRAM

- 79-10,142. Summer food service program; department; collect data; report.

## (a) TAX EQUITY AND EDUCATIONAL OPPORTUNITIES SUPPORT ACT

**79-1003 Terms, defined.**

For purposes of the Tax Equity and Educational Opportunities Support Act:

(1) Adjusted general fund operating expenditures means (a) for school fiscal years 2010-11 through 2012-13, the difference of the general fund operating expenditures as calculated pursuant to subdivision (22) of this section increased by, or for aid calculated for school fiscal year 2010-11 multiplied by, the cost growth factor calculated pursuant to section 79-1007.10, minus the transportation allowance, special receipts allowance, poverty allowance, limited English proficiency allowance, distance education and telecommunications allowance, elementary site allowance, elementary class size allowance, summer school allowance, instructional time allowance, teacher education allowance, and focus school and program allowance, and (b) for school fiscal year 2013-14 and each school fiscal year thereafter, the difference of the general fund operating expenditures as calculated pursuant to subdivision (22) of this section increased by the cost growth factor calculated pursuant to section 79-1007.10, minus the transportation allowance, special receipts allowance, poverty allowance, limited English proficiency allowance, distance education and telecommunications allowance, elementary site allowance, summer school allowance, instructional time allowance, teacher education allowance, and focus school and program allowance;

(2) Adjusted valuation means the assessed valuation of taxable property of each local system in the state, adjusted pursuant to the adjustment factors

described in section 79-1016. Adjusted valuation means the adjusted valuation for the property tax year ending during the school fiscal year immediately preceding the school fiscal year in which the aid based upon that value is to be paid. For purposes of determining the local effort rate yield pursuant to section 79-1015.01, adjusted valuation does not include the value of any property which a court, by a final judgment from which no appeal is taken, has declared to be nontaxable or exempt from taxation;

(3) Allocated income tax funds means the amount of assistance paid to a local system pursuant to section 79-1005.01 as adjusted by the minimum levy adjustment pursuant to section 79-1008.02;

(4) Average daily membership means the average daily membership for grades kindergarten through twelve attributable to the local system, as provided in each district's annual statistical summary, and includes the proportionate share of students enrolled in a public school instructional program on less than a full-time basis;

(5) Base fiscal year means the first school fiscal year following the school fiscal year in which the reorganization or unification occurred;

(6) Board means the school board of each school district;

(7) Categorical funds means funds limited to a specific purpose by federal or state law, including, but not limited to, Title I funds, Title VI funds, federal vocational education funds, federal school lunch funds, Indian education funds, Head Start funds, and funds from the Education Innovation Fund. Categorical funds does not include funds received pursuant to section 79-1028.02 or 79-1028.04;

(8) Consolidate means to voluntarily reduce the number of school districts providing education to a grade group and does not include dissolution pursuant to section 79-498;

(9) Converted contract means an expired contract that was in effect for at least fifteen school years beginning prior to school year 2012-13 for the education of students in a nonresident district in exchange for tuition from the resident district when the expiration of such contract results in the nonresident district educating students, who would have been covered by the contract if the contract were still in effect, as option students pursuant to the enrollment option program established in section 79-234;

(10) Converted contract option student means a student who will be an option student pursuant to the enrollment option program established in section 79-234 for the school fiscal year for which aid is being calculated and who would have been covered by a converted contract if the contract were still in effect and such school fiscal year is the first school fiscal year for which such contract is not in effect;

(11) Department means the State Department of Education;

(12) District means any Class I, II, III, IV, V, or VI school district and, beginning with the calculation of state aid for school fiscal year 2011-12 and each school fiscal year thereafter, a unified system as defined in section 79-4,108;

(13) Ensuing school fiscal year means the school fiscal year following the current school fiscal year;

(14) Equalization aid means the amount of assistance calculated to be paid to a local system pursuant to sections 79-1007.11 to 79-1007.23, 79-1007.25, 79-1008.01 to 79-1022, 79-1022.02, 79-1028.02, and 79-1028.04;

(15) Fall membership means the total membership in kindergarten through grade twelve attributable to the local system as reported on the fall school district membership reports for each district pursuant to section 79-528;

(16) Fiscal year means the state fiscal year which is the period from July 1 to the following June 30;

(17) Formula students means:

(a) For state aid certified pursuant to section 79-1022, the sum of the product of fall membership from the school fiscal year immediately preceding the school fiscal year in which the aid is to be paid multiplied by the average ratio of average daily membership to fall membership for the second school fiscal year immediately preceding the school fiscal year in which the aid is to be paid and the prior two school fiscal years plus sixty percent of the qualified early childhood education fall membership plus tuitioned students from the school fiscal year immediately preceding the school fiscal year in which aid is to be paid minus the product of the number of students enrolled in kindergarten that is not full-day kindergarten from the fall membership multiplied by 0.5; and

(b) For the final calculation of state aid pursuant to section 79-1065, the sum of average daily membership plus sixty percent of the qualified early childhood education average daily membership plus tuitioned students minus the product of the number of students enrolled in kindergarten that is not full-day kindergarten from the average daily membership multiplied by 0.5 from the school fiscal year immediately preceding the school fiscal year in which aid was paid;

(18) Free lunch and free milk student means a student who qualified for free lunches or free milk from the most recent data available on November 1 of the school fiscal year immediately preceding the school fiscal year in which aid is to be paid;

(19) Full-day kindergarten means kindergarten offered by a district for at least one thousand thirty-two instructional hours;

(20) General fund budget of expenditures means the total budget of disbursements and transfers for general fund purposes as certified in the budget statement adopted pursuant to the Nebraska Budget Act, except that for purposes of the limitation imposed in section 79-1023 and the calculation pursuant to subdivision (2) of section 79-1027.01, the general fund budget of expenditures does not include any special grant funds, exclusive of local matching funds, received by a district;

(21) General fund expenditures means all expenditures from the general fund;

(22) General fund operating expenditures means for state aid calculated for school fiscal years 2012-13 and each school fiscal year thereafter, as reported on the annual financial report for the second school fiscal year immediately preceding the school fiscal year in which aid is to be paid, the total general fund expenditures minus (a) the amount of all receipts to the general fund, to the extent that such receipts are not included in local system formula resources, from early childhood education tuition, summer school tuition, educational entities as defined in section 79-1201.01 for providing distance education courses through the Educational Service Unit Coordinating Council to such

educational entities, private foundations, individuals, associations, charitable organizations, the textbook loan program authorized by section 79-734, federal impact aid, and levy override elections pursuant to section 77-3444, (b) the amount of expenditures for categorical funds, tuition paid, transportation fees paid to other districts, adult education, community services, redemption of the principal portion of general fund debt service, retirement incentive plans authorized by section 79-855, and staff development assistance authorized by section 79-856, (c) the amount of any transfers from the general fund to any bond fund and transfers from other funds into the general fund, (d) any legal expenses in excess of fifteen-hundredths of one percent of the formula need for the school fiscal year in which the expenses occurred, (e) expenditures to pay for sums agreed to be paid by a school district to certificated employees in exchange for a voluntary termination occurring prior to July 1, 2009, occurring on or after the last day of the 2010-11 school year and prior to the first day of the 2013-14 school year, or, to the extent that a district has demonstrated to the State Board of Education pursuant to section 79-1028.01 that the agreement will result in a net savings in salary and benefit costs to the school district over a five-year period, occurring on or after the first day of the 2013-14 school year, (f)(i) expenditures to pay for employer contributions pursuant to subsection (2) of section 79-958 to the School Employees Retirement System of the State of Nebraska to the extent that such expenditures exceed the employer contributions under such subsection that would have been made at a contribution rate of seven and thirty-five hundredths percent or (ii) expenditures to pay for school district contributions pursuant to subdivision (1)(c)(i) of section 79-9,113 to the retirement system established pursuant to the Class V School Employees Retirement Act to the extent that such expenditures exceed the school district contributions under such subdivision that would have been made at a contribution rate of seven and thirty-seven hundredths percent, and (g) any amounts paid by the district for lobbyist fees and expenses reported to the Clerk of the Legislature pursuant to section 49-1483.

For purposes of this subdivision (22) of this section, receipts from levy override elections shall equal ninety-nine percent of the difference of the total general fund levy minus a levy of one dollar and five cents per one hundred dollars of taxable valuation multiplied by the assessed valuation for school districts that have voted pursuant to section 77-3444 to override the maximum levy provided pursuant to section 77-3442;

(23) High school district means a school district providing instruction in at least grades nine through twelve;

(24) Income tax liability means the amount of the reported income tax liability for resident individuals pursuant to the Nebraska Revenue Act of 1967 less all nonrefundable credits earned and refunds made;

(25) Income tax receipts means the amount of income tax collected pursuant to the Nebraska Revenue Act of 1967 less all nonrefundable credits earned and refunds made;

(26) Limited English proficiency students means the number of students with limited English proficiency in a district from the most recent data available on November 1 of the school fiscal year preceding the school fiscal year in which aid is to be paid plus the difference of such students with limited English proficiency minus the average number of limited English proficiency students

for such district, prior to such addition, for the three immediately preceding school fiscal years if such difference is greater than zero;

(27) Local system means a learning community for purposes of calculation of state aid for the second full school fiscal year after becoming a learning community and each school fiscal year thereafter, a unified system, a Class VI district and the associated Class I districts, or a Class II, III, IV, or V district and any affiliated Class I districts or portions of Class I districts. The membership, expenditures, and resources of Class I districts that are affiliated with multiple high school districts will be attributed to local systems based on the percent of the Class I valuation that is affiliated with each high school district;

(28) Low-income child means a child under nineteen years of age living in a household having an annual adjusted gross income for the second calendar year preceding the beginning of the school fiscal year for which aid is being calculated equal to or less than the maximum household income that would allow a student from a family of four people to be a free lunch and free milk student during the school fiscal year immediately preceding the school fiscal year for which aid is being calculated;

(29) Low-income students means the number of low-income children within the district multiplied by the ratio of the formula students in the district divided by the total children under nineteen years of age residing in the district as derived from income tax information;

(30) Most recently available complete data year means the most recent single school fiscal year for which the annual financial report, fall school district membership report, annual statistical summary, Nebraska income tax liability by school district for the calendar year in which the majority of the school fiscal year falls, and adjusted valuation data are available;

(31) Poverty students means the number of low-income students or the number of students who are free lunch and free milk students in a district plus the difference of the number of low-income students or the number of students who are free lunch and free milk students in a district, whichever is greater, minus the average number of poverty students for such district, prior to such addition, for the three immediately preceding school fiscal years if such difference is greater than zero;

(32) Qualified early childhood education average daily membership means the product of the average daily membership for school fiscal year 2006-07 and each school fiscal year thereafter of students who will be eligible to attend kindergarten the following school year and are enrolled in an early childhood education program approved by the department pursuant to section 79-1103 for such school district for such school year multiplied by the ratio of the actual instructional hours of the program divided by one thousand thirty-two if: (a) The program is receiving a grant pursuant to such section for the third year; (b) the program has already received grants pursuant to such section for three years; or (c) the program has been approved pursuant to subsection (5) of section 79-1103 for such school year and the two preceding school years, including any such students in portions of any of such programs receiving an expansion grant;

(33) Qualified early childhood education fall membership means the product of membership on the last Friday in September 2006 and each year thereafter of students who will be eligible to attend kindergarten the following school year and are enrolled in an early childhood education program approved by the

department pursuant to section 79-1103 for such school district for such school year multiplied by the ratio of the planned instructional hours of the program divided by one thousand thirty-two if: (a) The program is receiving a grant pursuant to such section for the third year; (b) the program has already received grants pursuant to such section for three years; or (c) the program has been approved pursuant to subsection (5) of section 79-1103 for such school year and the two preceding school years, including any such students in portions of any of such programs receiving an expansion grant;

(34) Regular route transportation means the transportation of students on regularly scheduled daily routes to and from the attendance center;

(35) Reorganized district means any district involved in a consolidation and currently educating students following consolidation;

(36) School year or school fiscal year means the fiscal year of a school district as defined in section 79-1091;

(37) Sparse local system means a local system that is not a very sparse local system but which meets the following criteria:

(a)(i) Less than two students per square mile in the county in which each high school is located, based on the school district census, (ii) less than one formula student per square mile in the local system, and (iii) more than ten miles between each high school attendance center and the next closest high school attendance center on paved roads;

(b)(i) Less than one and one-half formula students per square mile in the local system and (ii) more than fifteen miles between each high school attendance center and the next closest high school attendance center on paved roads;

(c)(i) Less than one and one-half formula students per square mile in the local system and (ii) more than two hundred seventy-five square miles in the local system; or

(d)(i) Less than two formula students per square mile in the local system and (ii) the local system includes an area equal to ninety-five percent or more of the square miles in the largest county in which a high school attendance center is located in the local system;

(38) Special education means specially designed kindergarten through grade twelve instruction pursuant to section 79-1125, and includes special education transportation;

(39) Special grant funds means the budgeted receipts for grants, including, but not limited to, categorical funds, reimbursements for wards of the court, short-term borrowings including, but not limited to, registered warrants and tax anticipation notes, interfund loans, insurance settlements, and reimbursements to county government for previous overpayment. The state board shall approve a listing of grants that qualify as special grant funds;

(40) State aid means the amount of assistance paid to a district pursuant to the Tax Equity and Educational Opportunities Support Act;

(41) State board means the State Board of Education;

(42) State support means all funds provided to districts by the State of Nebraska for the general fund support of elementary and secondary education;

(43) Statewide average basic funding per formula student means the statewide total basic funding for all districts divided by the statewide total formula students for all districts;

(44) Statewide average general fund operating expenditures per formula student means the statewide total general fund operating expenditures for all districts divided by the statewide total formula students for all districts;

(45) Teacher has the definition found in section 79-101;

(46) Temporary aid adjustment factor means (a) for school fiscal years before school fiscal year 2007-08, one and one-fourth percent of the sum of the local system's transportation allowance, the local system's special receipts allowance, and the product of the local system's adjusted formula students multiplied by the average formula cost per student in the local system's cost grouping and (b) for school fiscal year 2007-08, one and one-fourth percent of the sum of the local system's transportation allowance, special receipts allowance, and distance education and telecommunications allowance and the product of the local system's adjusted formula students multiplied by the average formula cost per student in the local system's cost grouping;

(47) Tuition receipts from converted contracts means tuition receipts received by a district from another district in the most recently available complete data year pursuant to a converted contract prior to the expiration of the contract;

(48) Tuitioned students means students in kindergarten through grade twelve of the district whose tuition is paid by the district to some other district or education agency; and

(49) Very sparse local system means a local system that has:

(a)(i) Less than one-half student per square mile in each county in which each high school attendance center is located based on the school district census, (ii) less than one formula student per square mile in the local system, and (iii) more than fifteen miles between the high school attendance center and the next closest high school attendance center on paved roads; or

(b)(i) More than four hundred fifty square miles in the local system, (ii) less than one-half student per square mile in the local system, and (iii) more than fifteen miles between each high school attendance center and the next closest high school attendance center on paved roads.

**Source:** Laws 1990, LB 1059, § 3; Laws 1991, LB 511, § 71; Laws 1992, LB 245, § 76; Laws 1994, LB 1290, § 3; Laws 1995, LB 840, § 4; R.S.Supp., 1995, § 79-3803; Laws 1996, LB 900, § 654; Laws 1996, LB 1050, § 12; Laws 1997, LB 347, § 29; Laws 1997, LB 710, § 5; Laws 1997, LB 713, § 1; Laws 1997, LB 806, § 31; Laws 1998, LB 306, § 42; Laws 1998, LB 1134, § 2; Laws 1998, LB 1219, § 15; Laws 1998, LB 1229, § 3; Laws 1998, Spec. Sess., LB 1, § 15; Laws 1999, LB 149, § 3; Laws 1999, LB 813, § 19; Laws 2001, LB 313, § 1; Laws 2001, LB 797, § 18; Laws 2001, LB 833, § 4; Laws 2002, LB 898, § 3; Laws 2005, LB 126, § 45; Laws 2005, LB 577, § 1; Laws 2006, LB 1024, § 73; Laws 2006, LB 1208, § 4; Referendum 2006, No. 422; Laws 2007, LB641, § 13; Laws 2008, LB988, § 9; Laws 2009, LB545, § 4; Laws 2009, LB549, § 26; Laws 2009, First Spec. Sess., LB5, § 3; Laws 2010, LB1071, § 12; Laws 2011, LB18, § 2; Laws 2011, LB235, § 5; Laws 2011, LB382, § 5; Laws 2011, LB509, § 38; Laws 2013, LB407, § 2; Laws 2013, LB553, § 15.

**Note:** The Revisor of Statutes has pursuant to section 49-769 correlated LB407, section 2, with LB553, section 15, to reflect all amendments.

Note: Changes made by LB407 became effective May 22, 2013. Changes made by LB553 became operative July 1, 2013.

**Cross References**

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

Nebraska Budget Act, see section 13-501.

Nebraska Revenue Act of 1967, see section 77-2701.

**79-1003.01 Summer school allowance; summer school student units; calculations.**

(1) The department shall calculate a summer school allowance for each district which submits the information required for the calculation on a form prescribed by the department on or before October 15 of the school fiscal year preceding the school fiscal year for which aid is being calculated. For aid calculated for school fiscal years through school fiscal year 2013-14, the summer school allowance shall be equal to two and one-half percent of the summer school student units for such district multiplied by eighty-five percent of the statewide average general fund operating expenditures per formula student. For aid calculated for school fiscal year 2014-15 and each school fiscal year thereafter, the summer school allowance shall be equal to the lesser of two and one-half percent of the product of the summer school student units for such district multiplied by eighty-five percent of the statewide average general fund operating expenditures per formula student or the summer school and early childhood summer school expenditures that are paid for with noncategorical funds generated by state or local taxes as reported on the annual financial report for the most recently available data year and that are not included in other allowances.

(2) Summer school student units shall be calculated for each student enrolled in summer school as defined in section 79-536 in a school district who attends such summer school for at least twelve days in the most recently available complete data year, whether or not the student is in the membership of the school district. The initial number of units for each such student shall equal the sum of the ratios, each rounded down to the nearest whole number, of the number of days for which the student attended summer school classes in such district for at least three hours and less than six hours per day divided by twelve days and of two times the number of days for which the student attended summer school classes in such district for six or more hours per day divided by twelve days.

(3) Each school district shall receive an additional summer school student unit for each summer school student unit attributed to remedial math or reading programs. Each school district shall also receive an additional summer school student unit for each summer school student unit attributed to a free lunch and free milk student.

(4) Beginning with state aid calculated for school fiscal year 2012-13, summer school student units shall be calculated for each student who was both enrolled in the most recently available complete data year in a summer session of an early childhood education program for which a qualified early childhood education fall membership greater than zero has been calculated for the school fiscal year for which aid is being calculated and eligible to attend kindergarten in the fall immediately following such summer session. The initial number of units for each such early childhood education student shall equal the sum of the ratios, each rounded down to the nearest whole number, of the number of days for which the student attended the summer session in such district for at least three hours and less than six hours per day divided by twelve days and of two



times the number of days for which the student attended the summer session in such district for six or more hours per day divided by twelve days. The initial summer school student units for early childhood education students shall be multiplied by six-tenths. Instructional hours included in the calculation of the qualified early childhood education fall membership or the qualified early childhood education average daily membership shall not be included in the calculation of the summer school allowance.

(5) Each school district shall receive an additional six-tenths of a summer school student unit for each early childhood education student unit attributed to a free lunch and free milk early childhood education student.

(6) This section does not prevent school districts from requiring and collecting fees for summer school or summer sessions of early childhood education programs, except that summer school student units shall not be calculated for school districts which collect fees for summer school from students who qualify for free or reduced-price lunches under United States Department of Agriculture child nutrition programs.

**Source:** Laws 2007, LB641, § 14; Laws 2008, LB988, § 10; Laws 2010, LB1071, § 13; Laws 2011, LB235, § 6; Laws 2013, LB407, § 3. Effective date May 22, 2013.

**79-1007.07 Financial reports relating to poverty allowance; department; duties; report; appeal of department decisions.**

(1)(a) The annual financial report required pursuant to section 79-528 shall include:

(i) The amount of the poverty allowance used in the certification of state aid pursuant to section 79-1022 for such school fiscal year;

(ii) The amount of federal funds received based on poverty as defined by the federal program providing the funds;

(iii) The expenditures and sources of funding for each program related to poverty with a narrative description of the program, the method used to allocate money to the program and within the program, and the program's relationship to the poverty plan submitted pursuant to section 79-1013 for such school fiscal year;

(iv) The expenditures and sources of funding for support costs directly attributable to implementing the district's poverty plan; and

(v) An explanation of how any required elements of the poverty plan for such school fiscal year were met.

(b) The department shall set up accounting codes for the receipts and expenditures required to be reported on the annual financial report pursuant to this subsection.

(2) The department shall determine the poverty allowance expenditures using the reported expenditures on the annual financial report for the most recently available complete data year that would include in the poverty allowance expenditures only those expenditures that are not included in other allowances, that were used to specifically address issues related to the education of students living in poverty or to the implementation of the poverty plan, that do not replace expenditures that would have occurred if the students involved in the program did not live in poverty, and that are paid for with noncategorical funds generated by state or local taxes or funds distributed through the Tax Equity

and Educational Opportunities Support Act pursuant to the federal American Recovery and Reinvestment Act of 2009 or the federal Education Jobs Fund created pursuant to Public Law 111-226. The department shall establish a procedure to allow school districts to receive preapproval for categories of expenditures that could be included in poverty allowance expenditures.

(3) If the poverty allowance expenditures do not equal 117.65 percent or more of the poverty allowance for the most recently available complete data year, the department shall calculate a poverty allowance correction. The poverty allowance correction shall equal the poverty allowance minus eighty-five percent of the poverty allowance expenditures. If the poverty allowance expenditures do not equal fifty percent or more of the allowance for such school fiscal year, the school district shall also be disqualified from receiving a poverty allowance for the school fiscal year for which aid is being calculated.

(4) If the department determines that the school district did not meet the required elements of the poverty plan for the most recently available complete data year, the department shall calculate a poverty allowance correction equal to fifty percent of the poverty allowance for such school fiscal year and the school district shall also be disqualified from receiving a poverty allowance for the school fiscal year for which aid is being calculated. Any poverty allowance correction calculated pursuant to this subsection shall be added to any poverty allowance correction calculated pursuant to subsection (3) of this section to arrive at the total poverty allowance correction.

(5) The department may request additional information from any school district to assist with calculations and determinations pursuant to this section. If the school district does not provide information upon the request of the department pursuant to this section, the school district shall be disqualified from receiving a poverty allowance for the school fiscal year for which aid is being calculated.

(6) The department shall provide electronically an annual report to the Legislature containing a general description of the expenditures and funding sources for programs related to poverty statewide and specific descriptions of the expenditures and funding sources for programs related to poverty for each school district.

(7) The state board shall establish a procedure for appeal of decisions of the department to the state board for a final determination.

**Source:** Laws 2006, LB 1024, § 80; Laws 2007, LB641, § 20; Laws 2008, LB988, § 29; Laws 2009, LB545, § 5; Laws 2011, LB18, § 3; Laws 2012, LB782, § 158; Laws 2013, LB407, § 4.  
Effective date May 22, 2013.

**79-1007.09 Financial reports relating to limited English proficiency; department; duties; report; appeal of department decisions.**

(1)(a) The annual financial report required pursuant to section 79-528 shall include:

(i) The amount of the limited English proficiency allowance used in the certification of state aid pursuant to section 79-1022 for such school fiscal year;

(ii) The amount of federal funds received based on students who are limited English proficient as defined by the federal program providing the funds;

(iii) The expenditures and sources of funding for each program related to limited English proficiency with a narrative description of the program, the method used to allocate money to the program and within the program, and the program's relationship to the limited English proficiency plan submitted pursuant to section 79-1014 for such school fiscal year;

(iv) The expenditures and sources of funding for support costs directly attributable to implementing the district's limited English proficiency plan; and

(v) An explanation of how any required elements of the limited English proficiency plan for such school fiscal year were met.

(b) The department shall set up accounting codes for the receipts and expenditures required to be reported on the annual financial report pursuant to this subsection.

(2) The department shall determine the limited English proficiency allowance expenditures using the reported expenditures on the annual financial report for the most recently available complete data year that would only include in the limited English proficiency allowance expenditures those expenditures that are not included in other allowances, that were used to specifically address issues related to the education of students with limited English proficiency or to the implementation of the limited English proficiency plan, that do not replace expenditures that would have occurred if the students involved in the program did not have limited English proficiency, and that are paid for with noncategorical funds generated by state or local taxes or funds distributed through the Tax Equity and Educational Opportunities Support Act pursuant to the federal American Recovery and Reinvestment Act of 2009 or the federal Education Jobs Fund created pursuant to Public Law 111-226. The department shall establish a procedure to allow school districts to receive preapproval for categories of expenditures that could be included in limited English proficiency allowance expenditures.

(3) If the limited English proficiency allowance expenditures do not equal 117.65 percent or more of the limited English proficiency allowance for the most recently available complete data year, the department shall calculate a limited English proficiency allowance correction. The limited English proficiency allowance correction shall equal the limited English proficiency allowance minus eighty-five percent of the limited English proficiency allowance expenditures. If the limited English proficiency allowance expenditures do not equal fifty percent or more of the allowance for such school fiscal year, the school district shall also be disqualified from receiving a limited English proficiency allowance for the school fiscal year for which aid is being calculated.

(4) If the department determines that the school district did not meet the required elements of the limited English proficiency plan for the most recently available complete data year, the department shall calculate a limited English proficiency allowance correction equal to fifty percent of the limited English proficiency allowance for such school fiscal year and the school district shall also be disqualified from receiving a limited English proficiency allowance for the school fiscal year for which aid is being calculated. Any limited English proficiency allowance correction calculated pursuant to this subsection shall be added to any limited English proficiency allowance correction calculated pursuant to subsection (3) of this section to arrive at the total limited English proficiency allowance correction.

(5) The department may request additional information from any school district to assist with calculations and determinations pursuant to this section. If the school district does not provide information upon the request of the department pursuant to this section, the school district shall be disqualified from receiving a limited English proficiency allowance for the school fiscal year for which aid is being calculated.

(6) The department shall annually provide the Legislature with a report containing a general description of the expenditures and funding sources for programs related to limited English proficiency statewide and specific descriptions of the expenditures and funding sources for programs related to limited English proficiency for each school district.

(7) The state board shall establish a procedure for appeal of decisions of the department to the state board for a final determination.

**Source:** Laws 2006, LB 1024, § 82; Laws 2007, LB641, § 22; Laws 2008, LB988, § 31; Laws 2009, LB545, § 6; Laws 2011, LB18, § 4; Laws 2013, LB407, § 5.  
Effective date May 22, 2013.

#### **79-1007.11 School district formula need; calculation.**

(1) Except as otherwise provided in this section, for school fiscal years 2011-12 and 2012-13, each school district's formula need shall equal the difference of the sum of the school district's basic funding, poverty allowance, limited English proficiency allowance, elementary class size allowance, focus school and program allowance, summer school allowance, special receipts allowance, transportation allowance, elementary site allowance, instructional time allowance, teacher education allowance, distance education and telecommunications allowance, averaging adjustment, new learning community transportation adjustment, student growth adjustment, any positive student growth adjustment correction, and new school adjustment, minus the sum of the limited English proficiency allowance correction, poverty allowance correction, any negative student growth adjustment correction, and local choice adjustment.

(2) Except as otherwise provided in this section, for school fiscal year 2013-14 and each school fiscal year thereafter, each school district's formula need shall equal the difference of the sum of the school district's basic funding, poverty allowance, limited English proficiency allowance, focus school and program allowance, summer school allowance, special receipts allowance, transportation allowance, elementary site allowance, instructional time allowance, teacher education allowance, distance education and telecommunications allowance, averaging adjustment, new learning community transportation adjustment, student growth adjustment, any positive student growth adjustment correction, and new school adjustment, minus the sum of the limited English proficiency allowance correction, poverty allowance correction, and any negative student growth adjustment correction.

(3) If the formula need calculated for a school district pursuant to subsections (1) and (2) of this section is less than one hundred percent of the formula need for such district for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated, the formula need for such district shall equal one hundred percent of the formula need for such district for the

school fiscal year immediately preceding the school fiscal year for which aid is being calculated.

(4) Except as provided in subsection (6) of this section, if the formula need calculated for a school district pursuant to subsections (1) and (2) of this section is more than one hundred twelve percent of the formula need for such district for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated, the formula need for such district shall equal one hundred twelve percent of the formula need for such district for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated, except that the formula need shall not be reduced pursuant to this subsection for any district receiving a student growth adjustment for the school fiscal year for which aid is being calculated.

(5) For purposes of subsections (3) and (4) of this section, the formula need for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated shall be the formula need used in the final calculation of aid pursuant to section 79-1065 and for districts that were affected by a reorganization with an effective date in the calendar year preceding the calendar year in which aid is certified for the school fiscal year for which aid is being calculated, the formula need for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated shall be attributed to the affected school districts based on information provided to the department by the school districts or proportionally based on the adjusted valuation transferred if sufficient information has not been provided to the department.

(6) For state aid calculated for the first full school fiscal year of a new learning community, if the formula need calculated for a member school district pursuant to subsections (1) through (3) of this section is less than the sum of the school district's state aid certified for the school fiscal year immediately preceding the first full school fiscal year of the learning community plus the school district's other actual receipts included in local system formula resources pursuant to section 79-1018.01 for such school fiscal year plus the product of the school district's general fund levy for such school fiscal year up to one dollar and five cents multiplied by the school district's assessed valuation for such school fiscal year, the formula need for such school district for the school fiscal year for which aid is being calculated shall equal such sum.

**Source:** Laws 2008, LB988, § 13; Laws 2008, LB1153, § 7; Laws 2009, LB545, § 8; Laws 2009, First Spec. Sess., LB5, § 5; Laws 2011, LB235, § 9; Laws 2013, LB407, § 6.  
Effective date May 22, 2013.

#### **79-1007.17 Local choice adjustment; calculation.**

For school fiscal years through school fiscal year 2012-13, the department shall calculate a local choice adjustment for each district that:

- (1) Has fewer than three hundred ninety formula students;
- (2) Is not in a sparse local system or a very sparse local system; and
- (3) Did not receive federal funds in excess of twenty-five percent of its general fund budget of expenditures in the most recently available complete data year or in either of the two school fiscal years preceding the most recently available complete data year.

The local choice adjustment for each such district shall equal fifty percent of the difference between the basic funding per formula student for the district for which the local choice adjustment is being calculated and the basic funding per formula student for the district that has the closest to three hundred ninety formula students multiplied by the formula students for the district for which the local choice adjustment is being calculated, except that the local choice adjustment shall equal zero if the basic funding per formula student for the district for which the local choice adjustment is being calculated is less than the basic funding per formula student for the district that has the closest to three hundred ninety formula students. If more than one district has the closest to three hundred ninety formula students, the basic funding representing the district that has the closest to three hundred ninety formula students shall equal the average of the basic funding per formula student for each such district. The closest to three hundred ninety formula students shall be measured using the absolute value of the difference of three hundred ninety students minus the district formula students with the difference rounded to the nearest whole number.

**Source:** Laws 2008, LB988, § 19; Laws 2013, LB407, § 7.  
Effective date May 22, 2013.

**79-1007.18 Averaging adjustment; calculation.**

(1) The department shall calculate an averaging adjustment for districts if the basic funding per formula student is less than the averaging adjustment threshold and the general fund levy for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated was at least one dollar per one hundred dollars of taxable valuation. For school districts that are members of a learning community, the general fund levy for purposes of this section includes both the common general fund levy and the school district general fund levy authorized pursuant to subdivisions (2)(b) and (2)(c) of section 77-3442. The averaging adjustment shall equal the district's formula students multiplied by the percentage specified in this section for such district of the difference between the averaging adjustment threshold minus such district's basic funding per formula student.

(2)(a) For school fiscal years 2012-13 and 2013-14, the averaging adjustment threshold shall equal the lesser of (i) the averaging adjustment threshold for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated increased by the basic allowable growth rate or (ii) the statewide average basic funding per formula student for the school fiscal year for which aid is being calculated.

(b) For school fiscal year 2014-15 and each school fiscal year thereafter, the averaging adjustment threshold shall equal the aggregate basic funding for all districts with nine hundred or more formula students divided by the aggregate formula students for all districts with nine hundred or more formula students for the school fiscal year for which aid is being calculated.

(3) The percentage to be used in the calculation of an averaging adjustment shall be based on the general fund levy for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated.

(4) The percentages to be used in the calculation of averaging adjustments shall be as follows:

(a) If such levy was at least one dollar per one hundred dollars of taxable valuation but less than one dollar and one cent per one hundred dollars of taxable valuation, the percentage shall be fifty percent;

(b) If such levy was at least one dollar and one cent per one hundred dollars of taxable valuation but less than one dollar and two cents per one hundred dollars of taxable valuation, the percentage shall be sixty percent;

(c) If such levy was at least one dollar and two cents per one hundred dollars of taxable valuation but less than one dollar and three cents per one hundred dollars of taxable valuation, the percentage shall be seventy percent;

(d) If such levy was at least one dollar and three cents per one hundred dollars of taxable valuation but less than one dollar and four cents per one hundred dollars of taxable valuation, the percentage shall be eighty percent; and

(e) If such levy was at least one dollar and four cents per one hundred dollars of taxable valuation, the percentage shall be ninety percent.

**Source:** Laws 2008, LB988, § 20; Laws 2009, LB545, § 9; Laws 2011, LB235, § 11; Laws 2013, LB407, § 8.  
Effective date May 22, 2013.

**79-1007.20 Student growth adjustment; school district; application; department; powers.**

(1) School districts may apply to the department for a student growth adjustment, on a form prescribed by the department, on or before October 15 of the school fiscal year immediately preceding the school fiscal year for which aid is being calculated. Such form shall require an estimate of the average daily membership for the school fiscal year for which aid is being calculated, the estimated student growth calculated by subtracting the fall membership of the current school fiscal year from the estimated average daily membership for the school fiscal year for which aid is being calculated, and evidence supporting the estimates. On or before the immediately following December 1, the department shall approve the estimated student growth, approve a modified student growth, or deny the application based on the requirements of this section, the evidence submitted on the application, and any other information provided by the department. The state board shall establish procedures for appeal of decisions of the department to the state board for final determination.

(2) The student growth adjustment for each approved district shall equal the sum of the product of the school district's basic funding per formula student multiplied by the difference of the approved student growth minus the greater of twenty-five students or one percent of the fall membership for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated plus the product of fifty percent of the school district's basic funding per formula student multiplied by the greater of twenty-five students or one percent of the fall membership for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated.

(3) For school fiscal year 2011-12 and each school fiscal year thereafter, the department shall calculate a student growth adjustment correction for each district that received a student growth adjustment for aid distributed in the most recently available complete data year. Such student growth correction shall equal the product of the difference of the average daily membership for

such school fiscal year minus the estimated average daily membership for such school fiscal year used to calculate the student growth adjustment for such school fiscal year multiplied by the school district's basic funding per formula student used in the final calculation of aid pursuant to section 79-1065 for such school fiscal year, except that the absolute value of a negative correction shall not exceed the original adjustment.

**Source:** Laws 2008, LB988, § 22; Laws 2009, LB549, § 30; Laws 2013, LB410, § 9.

Effective date May 30, 2013.

**79-1007.23 Instructional time allowance; calculation.**

(1)(a) For state aid calculated for school fiscal years through school fiscal year 2012-13, the department shall calculate an instructional time allowance for each district which submits the information required for the calculation on a form prescribed by the department on or before October 15 of the school fiscal year preceding the school fiscal year for which aid is being calculated. The instructional time allowance shall be equal to the product of the formula students of such district multiplied by the instructional time factor for such district multiplied by eighty-five percent of the statewide average general fund operating expenditures per formula student.

(b) The instructional time factor shall equal the difference of the ratio of the district's average hours of instruction for each full-time student during the regular school year for the most recently available complete data year divided by the statewide average hours of instruction for each full-time student during the regular school year for the most recently available complete data year minus one, except that if the result is less than zero, the instructional time factor shall equal zero.

(c) The average hours of instruction shall be defined by the department and shall be based on scheduled time for courses and the number of students participating in such courses as reported to the department for the most recently available complete data year. Hours of instruction shall not include extracurricular activities outside of the regular school day or time designated for students to eat lunch. The statewide average hours of instruction for each student shall be an average of the averages for all school districts.

(2)(a) For state aid calculated for school fiscal year 2013-14 and each school fiscal year thereafter, the department shall calculate an instructional time allowance for a school district if the average days in session for such school district exceeds one hundred seventy-five days for the most recently available complete data year.

(b) For purposes of this subsection:

(i) The allowance student days for each qualifying school district shall equal the formula students for such district multiplied by the difference of the average days in session for such school district minus one hundred seventy-five days;

(ii) The average days in session for each school district shall equal a weighted average of the days in session for all schools in the school district as defined by the department; and

(iii) The statewide allowance student days shall equal the sum of the allowance student days for all qualifying school districts.



(c) The instructional time allowance for each qualifying school district shall equal the product of twenty million dollars multiplied by the ratio of the allowance student days for such school district divided by the statewide allowance student days.

(d) Fifty percent of the instructional time allowance calculated pursuant to this subsection for each qualifying school district shall be paid to such school district as instructional time aid for the school fiscal year for which aid is being calculated.

**Source:** Laws 2008, LB988, § 25; Laws 2009, LB545, § 10; Laws 2009, First Spec. Sess., LB5, § 9; Laws 2010, LB1071, § 16; Laws 2013, LB407, § 9.  
Effective date May 22, 2013.

### **79-1007.25 Teacher education allowance; calculation.**

The department shall calculate a teacher education allowance for each district as follows:

(1) Teacher education points shall be calculated for each district by the department based upon data from the fall personnel report required pursuant to section 79-804 for the school fiscal year immediately preceding the school fiscal year in which aid is to be paid. Each full-time equivalent teacher shall (a) be under contract with a school district as required pursuant to section 79-818 and (b) only be counted one time in awarding any points pursuant to this section. Each district shall receive one point for each full-time equivalent teacher who has earned and been awarded a master's degree or an education specialist's degree and two points for each full-time equivalent teacher who has earned and been awarded a doctoral degree;

(2) For school fiscal years prior to school fiscal year 2013-14, a teacher education index shall be calculated for each district by dividing the ratio of teacher education points for the district divided by the number of full-time equivalent teachers in the district by the ratio of teacher education points for all districts divided by the number of full-time equivalent teachers in all districts;

(3) For school fiscal years prior to school fiscal year 2013-14, the teacher education allowance for each district shall equal eight and one-half percent of the statewide average general fund operating expenditures per formula student multiplied by the district's formula students and multiplied by the difference of the product of the district's teacher education index minus one, except that if the result is less than zero, the teacher education allowance shall equal zero; and

(4) For school fiscal year 2013-14 and each school fiscal year thereafter, the teacher education allowance for each district shall equal the product of thirty million dollars multiplied by the ratio of teacher education points calculated for the district divided by the aggregate teacher education points calculated for all districts. Fifty percent of the teacher education allowance calculated pursuant to this subdivision for each school district shall be paid to such school district as teacher education aid for the school fiscal year for which aid is being calculated.

**Source:** Laws 2009, First Spec. Sess., LB5, § 8; Laws 2013, LB407, § 10.  
Effective date May 22, 2013.

**79-1015.01 Local system formula resources; local effort rate yield; determination.**

(1) Local system formula resources shall include local effort rate yield which shall be computed as prescribed in this section.

(2) For each school fiscal year except school fiscal years 2011-12 through 2014-15: (a) For state aid certified pursuant to section 79-1022, the local effort rate shall be the maximum levy, for the school fiscal year for which aid is being certified, authorized pursuant to subdivision (2)(a) of section 77-3442 less five cents; (b) for the final calculation of state aid pursuant to section 79-1065, the local effort rate shall be the rate which, when multiplied by the total adjusted valuation of all taxable property in local systems receiving equalization aid pursuant to the Tax Equity and Educational Opportunities Support Act, will produce the amount needed to support the total formula need of such local systems when added to state aid appropriated by the Legislature and other actual receipts of local systems described in section 79-1018.01; and (c) the local effort rate yield for such school fiscal years shall be determined by multiplying each local system's total adjusted valuation by the local effort rate.

(3) For school fiscal years 2011-12 and 2012-13: (a) For state aid certified pursuant to section 79-1022, the local effort rate shall be the maximum levy, for the school fiscal year for which aid is being certified, authorized pursuant to subdivision (2)(a) of section 77-3442 less one and five-hundredths of one cent; (b) for the final calculation of state aid pursuant to section 79-1065, the local effort rate shall be the rate which, when multiplied by the total adjusted valuation of all taxable property in local systems receiving equalization aid pursuant to the Tax Equity and Educational Opportunities Support Act, will produce the amount needed to support the total formula need of such local systems when added to state aid appropriated by the Legislature and other actual receipts of local systems described in section 79-1018.01; and (c) the local effort rate yield for such school fiscal years shall be determined by multiplying each local system's total adjusted valuation by the local effort rate.

(4) For school fiscal years 2013-14 and 2014-15: (a) For state aid certified pursuant to section 79-1022, the local effort rate shall be the maximum levy, for the school fiscal year for which aid is being certified, authorized pursuant to subdivision (2)(a) of section 77-3442 less two cents; (b) for the final calculation of state aid pursuant to section 79-1065, the local effort rate shall be the rate which, when multiplied by the total adjusted valuation of all taxable property in local systems receiving equalization aid pursuant to the Tax Equity and Educational Opportunities Support Act, will produce the amount needed to support the total formula need of such local systems when added to state aid appropriated by the Legislature and other actual receipts of local systems described in section 79-1018.01; and (c) the local effort rate yield for such school fiscal years shall be determined by multiplying each local system's total adjusted valuation by the local effort rate.

**Source:** Laws 1997, LB 806, § 45; Laws 1998, Spec. Sess., LB 1, § 23; Laws 1999, LB 149, § 8; Laws 2001, LB 797, § 24; Laws 2007, LB641, § 27; Laws 2008, LB988, § 38; Laws 2011, LB235, § 16; Laws 2013, LB407, § 11.  
Effective date May 22, 2013.

**79-1017.01 Local system formula resources; amounts included.**

(1) For state aid calculated for school fiscal years prior to school fiscal year 2012-13, local system formula resources includes retirement aid determined under section 79-1028.03, allocated income tax funds determined for each such district pursuant to the provisions of section 79-1005.01, and adjustments pursuant to section 79-1008.02.

(2) For state aid calculated for school fiscal year 2012-13, local system formula resources includes retirement aid determined under section 79-1028.03, allocated income tax funds determined for each district pursuant to section 79-1005.01, and adjustments pursuant to section 79-1008.02, and is reduced by amounts paid by the district in the most recently available complete data year as property tax refunds pursuant to or in the manner prescribed by section 77-1736.06.

(3) For state aid calculated for school fiscal year 2013-14, local system formula resources includes retirement aid determined under section 79-1028.03, teacher education aid determined for each district pursuant to subdivision (4) of section 79-1007.25, instructional time aid determined pursuant to subsection (2) of section 79-1007.23, allocated income tax funds determined for each district pursuant to section 79-1005.01, and adjustments pursuant to section 79-1008.02 and is reduced by amounts paid by the district in the most recently available complete data year as property tax refunds pursuant to or in the manner prescribed by section 77-1736.06.

(4) For state aid calculated for school fiscal year 2014-15 and each school fiscal year thereafter, local system formula resources includes teacher education aid determined for each district pursuant to subdivision (4) of section 79-1007.25, instructional time aid determined pursuant to subsection (2) of section 79-1007.23, allocated income tax funds determined for each district pursuant to section 79-1005.01, and adjustments pursuant to section 79-1008.02 and is reduced by amounts paid by the district in the most recently available complete data year as property tax refunds pursuant to or in the manner prescribed by section 77-1736.06.

**Source:** Laws 1997, LB 806, § 48; Laws 2002, LB 898, § 11; Laws 2009, LB545, § 14; Laws 2011, LB235, § 17; Laws 2013, LB407, § 12. Effective date May 22, 2013.

**79-1022 Distribution of income tax receipts and state aid; effect on budget.**

(1) On or before June 1, 2013, and on or before March 1 of each year thereafter for each ensuing fiscal year, the department shall determine the amounts to be distributed to each local system and each district for the ensuing school fiscal year pursuant to the Tax Equity and Educational Opportunities Support Act and shall certify the amounts to the Director of Administrative Services, the Auditor of Public Accounts, each learning community, and each district. The amount to be distributed to each district that is not a member of a learning community from the amount certified for a local system shall be proportional based on the formula students attributed to each district in the local system. The amount to be distributed to each district that is a member of a learning community from the amount certified for the local system shall be proportional based on the formula needs calculated for each district in the local system. On or before June 1, 2013, and on or before March 1 of each year thereafter for each ensuing fiscal year, the department shall report the necessary funding level for the ensuing school fiscal year to the Governor, the

Appropriations Committee of the Legislature, and the Education Committee of the Legislature. The report submitted to the committees of the Legislature shall be submitted electronically. Except as otherwise provided in this subsection, certified state aid amounts, including adjustments pursuant to section 79-1065.02, shall be shown as budgeted non-property-tax receipts and deducted prior to calculating the property tax request in the district's general fund budget statement as provided to the Auditor of Public Accounts pursuant to section 79-1024.

(2) Except as provided in this subsection, subsection (8) of section 79-1016, and sections 79-1033 and 79-1065.02, the amounts certified pursuant to subsection (1) of this section shall be distributed in ten as nearly as possible equal payments on the last business day of each month beginning in September of each ensuing school fiscal year and ending in June of the following year, except that when a school district is to receive a monthly payment of less than one thousand dollars, such payment shall be one lump-sum payment on the last business day of December during the ensuing school fiscal year.

**Source:** Laws 1990, LB 1059, § 13; Laws 1991, LB 511, § 79; Laws 1992, LB 245, § 84; Laws 1994, LB 1290, § 8; Laws 1994, LB 1310, § 16; Laws 1995, LB 840, § 9; R.S.Supp., 1995, § 79-3813; Laws 1996, LB 900, § 668; Laws 1996, LB 1050, § 30; Laws 1997, LB 710, § 13; Laws 1997, LB 713, § 5; Laws 1997, LB 806, § 51; Laws 1998, Spec. Sess., LB 1, § 28; Laws 1999, LB 149, § 10; Laws 1999, LB 194, § 35; Laws 1999, LB 813, § 23; Laws 2002, LB 898, § 12; Laws 2002, Second Spec. Sess., LB 4, § 1; Laws 2003, LB 67, § 12; Laws 2003, LB 540, § 5; Laws 2004, LB 973, § 67; Laws 2005, LB 126, § 47; Laws 2005, LB 198, § 3; Laws 2006, LB 1024, § 86; Referendum 2006, No. 422; Laws 2007, LB21, § 3; Laws 2007, LB641, § 28; Laws 2008, LB988, § 41; Laws 2009, LB61, § 1; Laws 2009, LB545, § 15; Laws 2009, LB548, § 1; Laws 2010, LB711, § 2; Laws 2010, LB1071, § 19; Laws 2011, LB18, § 6; Laws 2012, LB633, § 1; Laws 2012, LB782, § 159; Laws 2013, LB408, § 1. Effective date March 1, 2013.

**79-1023 School district; general fund budget of expenditures; limitation; department; certification.**

(1) On or before June 1, 2013, and on or before March 1 of each year thereafter, the department shall determine and certify to each school district budget authority for the general fund budget of expenditures for the ensuing school fiscal year.

(2) Except as provided in sections 79-1028.01, 79-1029, and 79-1030, each school district shall have budget authority for the general fund budget of expenditures equal to the greater of (a) the general fund budget of expenditures for the immediately preceding school fiscal year minus exclusions pursuant to subsection (1) of section 79-1028.01 for such school fiscal year with the difference increased by the basic allowable growth rate for the school fiscal year for which budget authority is being calculated, (b) the general fund budget of expenditures for the immediately preceding school fiscal year minus exclusions pursuant to subsection (1) of section 79-1028.01 for such school fiscal year with the difference increased by an amount equal to any student growth

adjustment calculated for the school fiscal year for which budget authority is being calculated, or (c) one hundred ten percent of formula need for the school fiscal year for which budget authority is being calculated minus the special education budget of expenditures as filed on the school district budget statement on or before September 20 for the immediately preceding school fiscal year, which special education budget of expenditures is increased by the basic allowable growth rate for the school fiscal year for which budget authority is being calculated.

(3) For any school fiscal year for which the budget authority for the general fund budget of expenditures for a school district is based on a student growth adjustment, the budget authority for the general fund budget of expenditures for such school district shall be adjusted in future years to reflect any student growth adjustment corrections related to such student growth adjustment.

**Source:** Laws 1990, LB 1059, § 14; Laws 1991, LB 829, § 33; Laws 1992, LB 1063, § 202; Laws 1992, Second Spec. Sess., LB 1, § 173; Laws 1995, LB 613, § 3; Laws 1996, LB 299, § 27; R.S.Supp.,1995, § 79-3814; Laws 1996, LB 900, § 669; Laws 1998, LB 989, § 8; Laws 2003, LB 67, § 13; Laws 2008, LB988, § 43; Laws 2009, LB61, § 2; Laws 2009, LB545, § 16; Laws 2009, LB548, § 2; Laws 2009, First Spec. Sess., LB5, § 11; Laws 2010, LB711, § 3; Laws 2010, LB1071, § 20; Laws 2011, LB18, § 8; Laws 2011, LB235, § 19; Laws 2012, LB633, § 3; Laws 2013, LB408, § 2.

Effective date March 1, 2013.

**Cross References**

Retirement expenditures, not exempt from limitations, see section 79-977.

**79-1027 Budget; restrictions.**

No district shall adopt a budget, which includes total requirements of depreciation funds, necessary employee benefit fund cash reserves, and necessary general fund cash reserves, exceeding the applicable allowable reserve percentages of total general fund budget of expenditures as specified in the schedule set forth in this section.

Average daily membership of district	Allowable reserve percentage
0 - 471	45
471.01 - 3,044	35
3,044.01 - 10,000	25
10,000.01 and over	20

On or before June 1, 2013, and on or before March 1 each year thereafter, the department shall determine and certify each district's applicable allowable reserve percentage for the ensuing school fiscal year.

Each district with combined necessary general fund cash reserves, total requirements of depreciation funds, and necessary employee benefit fund cash reserves less than the applicable allowable reserve percentage specified in this section may, notwithstanding the district's applicable allowable growth rate, increase its necessary general fund cash reserves such that the total necessary general fund cash reserves, total requirements of depreciation funds, and

necessary employee benefit fund cash reserves do not exceed such applicable allowable reserve percentage.

**Source:** Laws 1990, LB 1059, § 18; Laws 1991, LB 511, § 83; Laws 1992, LB 245, § 88; Laws 1992, LB 1063, § 204; Laws 1992, Second Spec. Sess., LB 1, § 175; R.S.1943, (1994), § 79-3818; Laws 1996, LB 900, § 673; Laws 1998, Spec. Sess., LB 1, § 31; Laws 1999, LB 149, § 12; Laws 1999, LB 813, § 26; Laws 2001, LB 797, § 28; Laws 2002, LB 460, § 2; Laws 2003, LB 67, § 16; Laws 2005, LB 126, § 49; Referendum 2006, No. 422; Laws 2007, LB21, § 5; Laws 2009, LB61, § 4; Laws 2009, LB545, § 18; Laws 2009, LB548, § 4; Laws 2010, LB711, § 5; Laws 2010, LB1071, § 22; Laws 2011, LB18, § 10; Laws 2012, LB633, § 4; Laws 2013, LB408, § 3.  
Effective date March 1, 2013.

**79-1028.01 School fiscal years; district may exceed certain limits; situations enumerated; state board; duties.**

(1) For each school fiscal year, a school district may exceed its budget authority for the general fund budget of expenditures as calculated pursuant to section 79-1023 for such school fiscal year by a specific dollar amount for the following exclusions:

(a) Expenditures for repairs to infrastructure damaged by a natural disaster which is declared a disaster emergency pursuant to the Emergency Management Act;

(b) Expenditures for judgments, except judgments or orders from the Commission of Industrial Relations, obtained against a school district which require or obligate a school district to pay such judgment, to the extent such judgment is not paid by liability insurance coverage of a school district;

(c) Expenditures pursuant to the Retirement Incentive Plan authorized in section 79-855 or the Staff Development Assistance authorized in section 79-856;

(d) Expenditures of amounts received from educational entities as defined in section 79-1201.01 for providing distance education courses through the Educational Service Unit Coordinating Council to such educational entities;

(e) Expenditures to pay for employer contributions pursuant to subsection (2) of section 79-958 to the School Employees Retirement System of the State of Nebraska to the extent that such expenditures exceed the employer contributions under such subsection that would have been made at a contribution rate of seven and thirty-five hundredths percent;

(f) Expenditures to pay for school district contributions pursuant to subdivision (1)(c)(i) of section 79-9,113 to the retirement system established pursuant to the Class V School Employees Retirement Act to the extent that such expenditures exceed the school district contributions under such subdivision that would have been made at a contribution rate of seven and thirty-seven hundredths percent;

(g) Expenditures for sums agreed to be paid by a school district to certificated employees in exchange for a voluntary termination occurring prior to July 1, 2009, occurring on or after the last day of the 2010-11 school year and prior to the first day of the 2013-14 school year, or, to the extent that a district

demonstrates to the State Board of Education pursuant to subsection (3) of this section that the agreement will result in a net savings in salary and benefit costs to the school district over a five-year period, occurring on or after the first day of the 2013-14 school year;

(h) Any expenditures in school fiscal years 2016-17 and 2017-18 of amounts specified in the notice provided by the Commissioner of Education pursuant to section 79-309.01 for teacher performance pay;

(i) The special education budget of expenditures; and

(j) Expenditures of special grant funds.

(2) For each school fiscal year, a school district may exceed its budget authority for the general fund budget of expenditures as calculated pursuant to section 79-1023 for such school fiscal year by a specific dollar amount and include such dollar amount in the budget of expenditures used to calculate budget authority for the general fund budget of expenditures pursuant to section 79-1023 for future years for the following exclusions:

(a) Expenditures of incentive payments or base fiscal year incentive payments to be received in such school fiscal year pursuant to section 79-1011;

(b) The first school fiscal year the district will be participating in Network Nebraska for the full school fiscal year, for the difference of the estimated expenditures for such school fiscal year for telecommunications services, access to data transmission networks that transmit data to and from the school district, and the transmission of data on such networks as such expenditures are defined by the department for purposes of the distance education and telecommunications allowance minus the dollar amount of such expenditures for the second school fiscal year preceding the first full school fiscal year the district participates in Network Nebraska;

(c) Expenditures for new elementary attendance sites in the first year of operation or the first year of operation after being closed for at least one school year if such elementary attendance site will most likely qualify for the elementary site allowance in the immediately following school fiscal year as determined by the state board;

(d) For the first school fiscal year for which early childhood education membership is included in formula students for the calculation of state aid, expenditures for early childhood education equal to the amount the school district received in early childhood education grants pursuant to section 79-1103 for the prior school fiscal year, increased by the basic allowable growth rate; and

(e) For school fiscal year 2013-14, an amount not to exceed two percent over the previous school year if such increase is approved by a seventy-five percent majority vote of the school board of such district.

(3) The state board shall approve, deny, or modify the amount allowed for any exclusions to the budget authority for the general fund budget of expenditures pursuant to this section.

**Source:** Laws 2008, LB988, § 46; Laws 2008, LB1154, § 10; Laws 2009, LB545, § 19; Laws 2010, LB1014, § 3; Laws 2011, LB235, § 21; Laws 2011, LB382, § 6; Laws 2011, LB509, § 39; Laws 2013, LB407, § 13; Laws 2013, LB410, § 10; Laws 2013, LB553, § 16.

**Note:** The Revisor of Statutes has pursuant to section 49-769 correlated LB407, section 13, with LB410, section 10, and LB553, section 16, to reflect all amendments.

**Note:** Changes made by LB407 became effective May 22, 2013. Changes made by LB410 became effective May 30, 2013. Changes made by LB553 became operative July 1, 2013.

**Cross References**

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

**Emergency Management Act**, see section 81-829.36.

**79-1031.01 Appropriations Committee; duties.**

The Appropriations Committee of the Legislature shall annually include the amount necessary to fund the state aid that will be certified to school districts on or before June 1, 2013, and on or before March 1 of each year thereafter for each ensuing school fiscal year in its recommendations to the Legislature to carry out the requirements of the Tax Equity and Educational Opportunities Support Act.

**Source:** Laws 1997, LB 710, § 17; Laws 1997, LB 806, § 54; Laws 1998, Spec. Sess., LB 1, § 34; Laws 1999, LB 149, § 15; Laws 2002, LB 898, § 14; Laws 2005, LB 126, § 51; Referendum 2006, No. 422; Laws 2007, LB21, § 6; Laws 2008, LB988, § 48; Laws 2009, LB61, § 5; Laws 2009, LB545, § 22; Laws 2009, LB548, § 5; Laws 2010, LB711, § 6; Laws 2010, LB1071, § 24; Laws 2011, LB18, § 13; Laws 2012, LB633, § 5; Laws 2013, LB408, § 4.

Effective date March 1, 2013.

(g) SUMMER FOOD SERVICE PROGRAM

**79-10,142 Summer food service program; department; collect data; report.**

The department shall collect data regarding the number of sponsors, the number of sites utilized by sponsors, and the number of children served as a result of the grants awarded under section 79-10,141. The department shall submit a report electronically to the Education Committee of the Legislature on this data not later than December 1 each year.

**Source:** Laws 2012, LB1090, § 3; Laws 2013, LB222, § 34.

Effective date May 8, 2013.

**ARTICLE 11**

**SPECIAL POPULATIONS AND SERVICES**

(a) EARLY CHILDHOOD EDUCATION

Section

79-1102.01. Repealed. Laws 2013, LB 495, § 5.

79-1103. Early Childhood Education Grant Program; established; administration; priorities; programs; requirements; report; hearing; endowment agreement; effect.

79-1104.02. Early Childhood Education Endowment Cash Fund; use; grants; program requirements.

(c) SPECIAL EDUCATION

SUBPART (i)—SPECIAL EDUCATION ACT

79-1118.01. Disability, defined; diagnosis.

79-1124. Service agency, defined.

79-1128. Special education programs; school district; provide; manner; use of funds; failure to offer acceptable program; effect.



## (a) EARLY CHILDHOOD EDUCATION

**79-1102.01 Repealed. Laws 2013, LB 495, § 5.**

**79-1103 Early Childhood Education Grant Program; established; administration; priorities; programs; requirements; report; hearing; endowment agreement; effect.**

(1)(a) The State Department of Education shall establish and administer the Early Childhood Education Grant Program. Upon the effective date of an endowment agreement, administration of the Early Childhood Education Grant Program with respect to programs for children from birth to age three shall transfer to the board of trustees. If there is no endowment agreement in effect, the department shall request proposals in accordance with this section for all early childhood education programs from school districts, individually or in cooperation with other school districts or educational service units, working in cooperation with existing nonpublic programs which meet the requirements of subsection (2) of section 79-1104. If there is an endowment agreement in effect, the board of trustees shall administer the Early Childhood Education Grant Program with respect to programs for children from birth to age three pursuant to section 79-1104.02 and the department shall continue to administer the Early Childhood Education Grant Program with respect to other prekindergarten programs pursuant to sections 79-1101 to 79-1104.05. All administrative procedures of the board of trustees, including, but not limited to, rules, grant applications, and funding mechanisms, shall harmonize with those established by the department for other prekindergarten programs.

(b) The first priority shall be for (i) continuation grants for programs that received grants in the prior school fiscal year and for which the state aid calculation pursuant to the Tax Equity and Educational Opportunities Support Act does not include early childhood education students, in an amount equal to the amount of such grant, except that if the grant was a first-year grant the amount shall be reduced by thirty-three percent, (ii) continuation grants for programs for which the state aid calculation pursuant to the act includes early childhood education students, in an amount equal to the amount of the grant for the school fiscal year prior to the first school fiscal year for which early childhood education students were included in the state aid calculation for the school district's local system minus the calculated state aid amount, and (iii) for school fiscal year 2007-08, continuation grants for programs for which the state aid calculation pursuant to the act includes early childhood education students, but such state aid calculation does not result in the school district receiving any equalization aid, in an amount equal to the amount of the grant received in school fiscal year 2006-07. The calculated state aid amount shall be calculated by multiplying the basic funding per formula student for the school district by the formula students attributed to the early childhood education programs pursuant to the Tax Equity and Educational Opportunities Support Act.

(c) The second priority shall be for new grants and expansion grants for programs that will serve at-risk children who will be eligible to attend kindergarten the following school year. New grants may be given for up to three years in an amount up to one-half of the total budget of the program per year. Expansion grants may be given for one year in an amount up to one-half of the budget for expanding the capacity of the program to serve additional children.

(d) The third priority shall be for new grants, expansion grants, and continuation grants for programs serving children younger than those who will be eligible to attend kindergarten the following school year. New grants may be given for up to three years in an amount up to one-half the total budget of the program per year. Expansion grants may be given for one year in an amount up to one-half the budget for expanding the capacity of the program to serve additional children. Continuation grants under this priority may be given annually in an amount up to one-half the total budget of the program per year minus any continuation grants received under the first priority.

(e) Programs serving children who will be eligible to attend kindergarten the following school year shall be accounted for separately for grant purposes from programs serving younger children, but the two types of programs may be combined within the same classroom to serve multi-age children. Programs that receive grants for school fiscal years prior to school fiscal year 2005-06 to serve both children who will be eligible to attend kindergarten the following school year and younger children shall account for the two types of programs separately for grant purposes beginning with school year 2005-06 and shall be deemed to have received grants prior to school fiscal year 2005-06 for each year that grants were received for the types of programs representing the age groups of the children served.

(2) Each program proposal which is approved by the department shall include (a) a planning period, (b) an agreement to participate in periodic evaluations of the program to be specified by the department, (c) evidence that the program will be coordinated or contracted with existing programs, including those listed in subdivision (d) of this subsection and nonpublic programs which meet the requirements of subsection (2) of section 79-1104, (d) a plan to coordinate and use a combination of local, state, and federal funding sources, including, but not limited to, programs for children with disabilities below five years of age funded through the Special Education Act, the Early Intervention Act, funds available through the flexible funding provisions under the Special Education Act, the federal Head Start program, 42 U.S.C. 9831 et seq., the federal Even Start Family Literacy Program, 20 U.S.C. 6361 et seq., Title I of the federal Improving America's Schools Act of 1994, 20 U.S.C. 6301 et seq., and child care assistance through the Department of Health and Human Services, (e) a plan to use sliding fee scales and the funding sources included in subdivision (d) of this subsection to maximize the participation of economically and categorically diverse groups and to ensure that participating children and families have access to comprehensive services, (f) the establishment of an advisory body which includes families and community members, (g) the utilization of appropriately qualified staff, (h) an appropriate child-to-staff ratio, (i) appropriate group size, (j) compliance with minimum health and safety standards, (k) appropriate facility size and equipment, (l) a strong family development and support component recognizing the central role of parents in their children's development, (m) developmentally and culturally appropriate curriculum, practices, and assessment, (n) sensitivity to the economic and logistical needs and circumstances of families in the provision of services, (o) integration of children of diverse social and economic characteristics, (p) a sound evaluation component, including at least one objective measure of child performance and progress, (q) continuity with programs in kindergarten and elementary grades, (r) instructional hours that are similar to or less than the instructional hours for kindergarten except that a summer session may be offered, (s) well-

defined language development and early literacy emphasis, including the involvement of parents in family literacy activities, (t) a plan for ongoing professional development of staff, and (u) inclusion of children with disabilities as defined in the Special Education Act, all as specified by rules and regulations of the department in accordance with sound early childhood educational practice.

(3) The department shall make an effort to fund programs widely distributed across the state in both rural and urban areas.

(4) The department, in collaboration with the board of trustees if an endowment agreement is in effect, shall provide a report evaluating the programs to the State Board of Education and the Legislature by January 1 of each odd-numbered year. The report submitted to the Legislature shall be submitted electronically. The Education Committee of the Legislature shall hold a public hearing regarding the report. Up to five percent of the total appropriation for the Early Childhood Education Grant Program for grants administered by the department may be reserved by the department for evaluation and technical assistance for the programs.

(5) Early childhood education programs, whether established pursuant to this section or section 79-1104, may be approved for purposes of the Tax Equity and Educational Opportunities Support Act, expansion grants, and continuation grants on the submission of a continuation plan demonstrating that the program will meet the requirements of subsection (2) of this section and a proposed operating budget demonstrating that the program will receive resources from other sources equal to or greater than the sum of any grant received pursuant to this section for the prior school year plus any calculated state aid as calculated pursuant to subsection (1) of this section for the prior school year.

(6) The State Board of Education may adopt and promulgate rules and regulations to implement the Early Childhood Education Grant Program, except that if there is an endowment agreement in effect, the board of trustees shall recommend any rules and regulations relating specifically to the Early Childhood Education Grant Program with respect to programs for children from birth to age three. It is the intent of the Legislature that the rules and regulations for programs for children from birth to age three be consistent to the greatest extent possible with those established for other prekindergarten programs.

**Source:** Laws 1990, LB 567, § 3; Laws 1991, LB 511, § 70; Laws 1992, LB 245, § 75; Laws 1993, LB 348, § 70; R.S.1943, (1994), § 79-3703; Laws 1996, LB 900, § 785; Laws 1997, LB 346, § 8; Laws 2001, LB 759, § 2; Laws 2005, LB 577, § 5; Laws 2006, LB 1256, § 2; Laws 2007, LB603, § 7; Laws 2008, LB1153, § 3; Laws 2010, LB1071, § 26; Laws 2011, LB235, § 24; Laws 2012, LB782, § 160; Laws 2013, LB495, § 2.  
Effective date April 25, 2013.

#### Cross References

Early Intervention Act, see section 43-2501.

Special Education Act, see section 79-1110.

Tax Equity and Educational Opportunities Support Act, see section 79-1001.

**79-1104.02 Early Childhood Education Endowment Cash Fund; use; grants; program requirements.**

(1) The Early Childhood Education Endowment Cash Fund, consisting of the interest, earnings, and proceeds from the Early Childhood Education Endowment Fund and the earnings from the private endowment created by the endowment provider, funds transferred from the Education Innovation Fund pursuant to section 9-812, and any additional private donations made directly thereto, shall be used exclusively to provide funds for the Early Childhood Education Grant Program for at-risk children from birth to age three as set forth in this section.

(2) Grants provided by this section shall be to school districts and cooperatives of school districts for early childhood education programs for at-risk children from birth to age three, as determined by the board of trustees pursuant to criteria set forth by the board of trustees. School districts and cooperatives of school districts may establish agreements with other public and private entities to provide services or operate programs.

(3) Each program selected for a grant pursuant to this section may be provided a grant for up to one-half of the total budget of such program per year. Programs selected for grant awards may receive continuation grants subject to the availability of funding and the submission of a continuation plan which meets the requirements of the board of trustees.

(4) Programs shall be funded across the state and in urban and rural areas to the fullest extent possible.

(5) Each program selected for a grant pursuant to this section shall meet the requirements described in subsection (2) of section 79-1103, except that the periodic evaluations of the program are to be specified by the board of trustees and the programs need not include continuity with programs in kindergarten and elementary grades and need not include instructional hours that are similar to or less than the instructional hours for kindergarten. The programs may continue to serve at-risk children who turn three years of age during the program year until the end of the program year, as specified by the board of trustees.

(6) Up to ten percent of the total amount deposited in the Early Childhood Education Endowment Cash Fund each fiscal year may be reserved by the board of trustees for evaluation and technical assistance for the Early Childhood Education Grant Program with respect to programs for at-risk children from birth to age three.

**Source:** Laws 2006, LB 1256, § 5; Laws 2008, LB1153, § 5; Laws 2013, LB410, § 11; Laws 2013, LB495, § 3.

**Note:** The Revisor of Statutes has pursuant to section 49-769 correlated LB410, section 11, with LB495, section 3, to reflect all amendments.

**Note:** Changes made by LB495 became effective April 25, 2013. Changes made by LB410 became effective May 30, 2013.

### (c) SPECIAL EDUCATION

#### SUBPART (i)—SPECIAL EDUCATION ACT

##### **79-1118.01 Disability, defined; diagnosis.**

Disability means an impairment which causes a child to be diagnosed with an intellectual disability; a hearing, speech, language, or visual impairment; a behavioral disorder; an orthopedic impairment; another health impairment; deafness or blindness; or a developmental delay or as having multiple disabili-

ties or specific learning disabilities, traumatic brain injury, or autism and causes such child to need special education and related services. For purposes of this section:

(1) Autism means a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age three, that adversely affects a child's educational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences. Autism does not apply if a child's educational performance is adversely affected primarily because the child has a serious emotional disturbance;

(2) Behavior disorder means a condition in which a child exhibits one or more of the following characteristics over a long period of time and to a marked degree which adversely affects educational performance:

(a) An inability to learn which cannot be explained by intellectual, sensory, or health factors;

(b) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers;

(c) Inappropriate types of behavior or feelings under normal circumstances;

(d) A general pervasive mood of unhappiness or depression; or

(e) A tendency to develop physical symptoms or fears associated with personal or school problems.

Behavior disorder includes schizophrenia but does not include social maladjustment unless the characteristics defined in subdivision (a) or (b) of this subdivision are also present;

(3) Blind and visually impaired means partially seeing or blind, which visual impairment, even with correction, adversely affects a child's educational performance;

(4) Deaf means a hearing impairment which is so severe that processing linguistic information through hearing, with or without amplification, is impaired to the extent that educational performance is adversely affected;

(5) Deaf-blind means concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational problems that such impairments cannot be accommodated in special education programs solely for children who are deaf or blind;

(6) Developmental delay means either a significant delay in function in one or more of the following areas: (a) Cognitive development; (b) physical development; (c) communication development; (d) social or emotional development; or (e) adaptive behavior or skills development, or a diagnosed physical or mental condition that has a high probability of resulting in a substantial delay in function in one or more of such areas;

(7) Hard of hearing means a hearing impairment, whether permanent or fluctuating, which adversely affects educational performance but is not included under the term deaf in subdivision (4) of this section;

(8) Intellectual disability means a condition in which a child exhibits significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period which adversely affects educational performance;

(9) Multiple disabilities means concomitant impairments, such as intellectual disability-blind or intellectual disability-orthopedic impairment, the combination of which causes such severe educational problems that a child with such impairments cannot be accommodated in special education programs for one of the impairments. Multiple disabilities does not include deaf-blind;

(10) Orthopedic impairment means a severe orthopedic impairment which adversely affects a child's educational performance. Severe orthopedic impairments include impairments caused by (a) congenital anomaly, including, but not limited to, clubfoot or absence of a member, (b) disease, including, but not limited to, poliomyelitis or bone tuberculosis, or (c) other causes, including, but not limited to, cerebral palsy, amputations, and fractures and burns which cause contractures;

(11) Other health impaired means having limited strength, vitality, or alertness due to chronic or acute health problems, including, but not limited to, a heart condition, tuberculosis, rheumatic fever, nephritis, asthma, sickle cell anemia, hemophilia, epilepsy, lead poisoning, leukemia, or diabetes, which adversely affects a child's educational performance;

(12) Specific learning disability means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations. Specific learning disability includes, but is not limited to, perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia;

(13) Speech-and-language-impaired means having a communication disorder such as stuttering, impaired articulation, language impairments, or voice impairment which adversely affects a child's educational performance; and

(14) Traumatic brain injury means an acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a child's educational performance. Traumatic brain injury applies to open or closed head injuries resulting in impairments in one or more areas, including cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech. Traumatic brain injury does not include brain injuries that are congenital or degenerative or brain injuries induced by birth trauma.

The State Department of Education may group or subdivide the classifications of children with disabilities for the purpose of program description and reporting. The department shall establish eligibility criteria and age ranges for the disability classification of developmental delay.

**Source:** Laws 1987, LB 367, § 9; Laws 1993, LB 348, § 62; R.S.1943, (1994), § 79-3309; Laws 1996, LB 900, § 802; R.S.1943, (1996), § 79-1120; Laws 1997, LB 346, § 12; Laws 1999, LB 813, § 38; Laws 2013, LB23, § 45; Laws 2013, LB410, § 12.  
Effective date September 6, 2013.

**Note:** This section was amended by LB23, section 45, and LB410, section 12. The section was not correlated as a part of the normal legislative process and the amendments are not entirely reconcilable and are in conflict with each other. The Revisor of Statutes has pursuant to section 49-770 printed this section as amended by LB23 as this was the latest version to pass the Legislature.

**79-1124 Service agency, defined.**

Service agency means the school district, educational service unit, local or regional office of intellectual disability, interim-program school, or some combination thereof or such other agency as may provide a special education program approved by the State Department of Education, including an institution not wholly owned or controlled by the state or any political subdivision to the extent that it provides educational or other services for the benefit of children from the age of five to the age of twenty-one years with disabilities if such services are nonsectarian in nature.

**Source:** Laws 1987, LB 367, § 14; R.S.1943, (1994), § 79-3313; Laws 1996, LB 900, § 806; Laws 1997, LB 346, § 14; Laws 2010, LB1087, § 5; Laws 2013, LB23, § 46.  
Effective date September 6, 2013.

**79-1128 Special education programs; school district; provide; manner; use of funds; failure to offer acceptable program; effect.**

The special education programs required by section 79-1127 may be provided by any school district, by contracting with another school district or service agency, or by some combination of school districts, an educational service unit, combination of educational service units, the local or regional office of intellectual disability, any program approved by the State of Nebraska, or any combination thereof, except that only nonsectarian services shall be considered for approval by the State of Nebraska. Any program receiving funds under the Special Education Act shall not use such funds to match state funds under the provisions of other programs. The members of the school board of any school district not offering continuous special education programs acceptable to the State Board of Education shall be in violation of the law. No state funds shall be paid to any school district as long as such violation exists, but no deduction shall be made from any funds required by the Constitution of Nebraska to be paid to such district.

**Source:** Laws 1973, LB 403, § 2; Laws 1974, LB 863, § 5; Laws 1976, LB 761, § 5; Laws 1977, LB 443, § 1; R.S.1943, (1984), § 43-642; Laws 1987, LB 367, § 21; R.S.1943, (1994), § 79-3321; Laws 1996, LB 900, § 810; Laws 1997, LB 346, § 18; Laws 1999, LB 813, § 39; Laws 2013, LB23, § 47.  
Effective date September 6, 2013.

## ARTICLE 12

### EDUCATIONAL SERVICE UNITS ACT

Section  
79-1204. Role and mission.

#### **79-1204 Role and mission.**

(1) The role and mission of the educational service units is to serve as educational service providers in the state's system of elementary and secondary education.

(2) Educational service units shall:

(a) Act primarily as service agencies in providing core services and services identified and requested by member school districts;

(b) Provide for economy, efficiency, and cost-effectiveness in the cooperative delivery of educational services;

(c) Provide educational services through leadership, research, and development in elementary and secondary education;

(d) Act in a cooperative and supportive role with the State Department of Education and school districts in development and implementation of long-range plans, strategies, and goals for the enhancement of educational opportunities in elementary and secondary education; and

(e) Serve, when appropriate and as funds become available, as a repository, clearinghouse, and administrator of federal, state, and private funds on behalf of school districts which choose to participate in special programs, projects, or grants in order to enhance the quality of education in Nebraska schools.

(3) Core services shall be provided by educational service units to all member school districts. Core services shall be defined by each educational service unit as follows:

(a) Core services shall be within the following service areas in order of priority: (i) Staff development which shall include access to staff development related to improving the achievement of students in poverty and students with diverse backgrounds; (ii) technology, including distance education services; and (iii) instructional materials services;

(b) Core services shall improve teaching and student learning by focusing on enhancing school improvement efforts, meeting statewide requirements, and achieving statewide goals in the state's system of elementary and secondary education;

(c) Core services shall provide schools with access to services that:

(i) The educational service unit and its member school districts have identified as necessary services;

(ii) Are difficult, if not impossible, for most individual school districts to effectively and efficiently provide with their own personnel and financial resources;

(iii) Can be efficiently provided by each educational service unit to its member school districts; and

(iv) Can be adequately funded to ensure that the service is provided equitably to the state's public school districts;

(d) Core services shall be designed so that the effectiveness and efficiency of the service can be evaluated on a statewide basis; and

(e) Core services shall be provided by the educational service unit in a manner that minimizes the costs of administration or service delivery to member school districts.

(4) Educational service units shall meet minimum accreditation standards set by the State Board of Education that will:

(a) Provide for accountability to taxpayers;

(b) Assure that educational service units are assisting and cooperating with school districts to provide for equitable and adequate educational opportunities statewide; and

(c) Assure a level of quality in educational programs and services provided to school districts by the educational service units.

(5) Educational service units may contract to provide services to:

(a) Nonmember public school districts;



- (b) Nonpublic school systems;
- (c) Other educational service units; and
- (d) Other public agencies, under the Interlocal Cooperation Act and the Joint Public Agency Act.
- (6) Educational service units shall not regulate school districts unless specifically provided pursuant to another section of law.

**Source:** Laws 1987, LB 688, § 1; R.S.1943, (1994), § 79-2201.02; Laws 1996, LB 900, § 921; Laws 1997, LB 806, § 57; Laws 1999, LB 87, § 89; Laws 2006, LB 1208, § 8; Laws 2007, LB641, § 34; Laws 2009, LB549, § 45; Laws 2013, LB410, § 13.  
 Effective date May 30, 2013.

Cross References

Interlocal Cooperation Act, see section 13-801.  
 Joint Public Agency Act, see section 13-2501.

**ARTICLE 13**  
**EDUCATIONAL TECHNOLOGY AND TELECOMMUNICATIONS**

(c) DISTANCE EDUCATION

Section

79-1336. Distance education equipment reimbursement; application; contents; repayment; when; department decisions; appeal.

(c) DISTANCE EDUCATION

**79-1336 Distance education equipment reimbursement; application; contents; repayment; when; department decisions; appeal.**

(1) For fiscal years 2007-08 through 2013-14, the State Department of Education shall provide distance education equipment reimbursement to school districts and educational service units from the Education Innovation Fund as provided in this section. Such reimbursements shall be for hardware or software purchased either by, or on behalf of, the school district or educational service unit seeking reimbursement after July 14, 2006, for use in distance education and shall be limited to a total through fiscal year 2013-14 of twenty thousand dollars multiplied by the number of high school buildings for each school district and twenty thousand dollars for each educational service unit office with a distance education classroom, except that no educational service unit shall count more than one office with a distance education classroom for each four thousand square miles within the boundaries of the educational service unit. If a school district has one or more former high school buildings that are no longer being used as high school buildings due to a school district merger and such buildings have distance education classrooms at the time of application, such buildings shall be deemed high school buildings for the purposes of this subsection. The reimbursements may include installation costs for such hardware or software. To qualify for distance education equipment reimbursement, the school district or the educational service unit shall access Network Nebraska prior to the application for reimbursement. Applications for distance education equipment reimbursement shall be submitted on or before July 1, 2013, for reimbursements to be made in fiscal year 2013-14 on a form specified by the department and shall include:

(a) A description of the hardware or software purchased and how the hardware or software will be used for distance education;

(b) Copies of receipts for the purchases to be reimbursed;

(c) For purchases made on behalf of a school district or educational service unit, evidence that such purchase was made on behalf of such school district or educational service unit and that such school district or educational service unit paid directly or indirectly for such purchase; and

(d) For school districts, a commitment to either send or receive two-way interactive video distance education courses through the Educational Service Unit Coordinating Council each semester, or the equivalent of two semester courses each year, for four consecutive years and to apply for distance education incentives pursuant to section 79-1337 or to provide any other evidence required by the department to show that the commitment was met.

(2) On or before August 1 of each year, the department shall certify the reimbursements to be paid to each school district or educational service unit on or before September 1 of each year.

(3) The department shall use the applications for distance education incentives submitted pursuant to section 79-1337 and any other information requested by the department pursuant to rules and regulations of the department to verify that each school district that received a reimbursement completes the commitment to either send or receive two-way interactive video distance education courses through the council for four years. Any school district failing to complete such commitment shall repay the Education Innovation Fund for the amount of any reimbursements received pursuant to this section. On or before September 1 of each year, the department shall notify any school district failing to complete the commitment for the prior school year that repayment of the reimbursement is required and the amount of such repayment. Repayments shall be due on or before the immediately following December 31. Late repayments shall accrue interest at the rate prescribed in section 45-104.02 from the date of the initial reimbursement.

(4) On or before October 1 of each year, a school district or educational service unit may appeal the denial of reimbursements or a school district may appeal the requirement to repay reimbursements to the State Board of Education. The board shall allow a representative of the school district or educational service unit an opportunity to present information concerning the appeal to the board at the November board meeting. If the board finds that the department denied the reimbursement in error, the department shall pay the district or educational service unit from the Education Innovation Fund as soon as practical the amount which was denied in error. If the board finds that the department erred in notifying a school district that a reimbursement is required to be repaid, such notification shall be void.

(5) The State Board of Education shall adopt and promulgate rules and regulations to carry out this section.

**Source:** Laws 2006, LB 1208, § 22; Laws 2007, LB603, § 29; Laws 2008, LB988, § 52; Laws 2013, LB410, § 14.  
Effective date May 30, 2013.

## ARTICLE 19

## NEBRASKA READ, EDUCATE, AND DEVELOP YOUTH ACT

## Section

79-1901. Act, how cited.

79-1905. Repealed. Laws 2013, LB 222, § 48.

**79-1901 Act, how cited.**

Sections 79-1901 to 79-1904 shall be known and may be cited as the Nebraska Read, Educate, and Develop Youth Act.

**Source:** Laws 2002, LB 326, § 1; Laws 2013, LB222, § 35.  
Effective date May 8, 2013.

**79-1905 Repealed. Laws 2013, LB 222, § 48.**

## ARTICLE 21

## LEARNING COMMUNITY

## Section

79-2104. Learning community coordinating council; powers.

79-2104.01. Learning community coordinating council; advisory committee; members; duties.

79-2104.02. Learning community coordinating council; use of funds; report.

79-2104.03. Advisory committee; submit plan for early childhood education programs for children in poverty; powers and duties.

79-2118. Diversity plan; contents; approval; report.

**79-2104 Learning community coordinating council; powers.**

A learning community coordinating council shall have the authority to:

(1) Levy a common levy for the general funds of member school districts pursuant to sections 77-3442 and 79-1073;

(2) Levy a common levy for the special building funds of member school districts pursuant to sections 77-3442 and 79-1073.01;

(3) Levy for elementary learning center facility leases, for remodeling of leased elementary learning center facilities, and for up to fifty percent of the estimated cost for focus school or program capital projects approved by the learning community coordinating council pursuant to subdivision (2)(h) of section 77-3442 and section 79-2111;

(4) Levy for 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 pursuant to subdivision (2)(i) of section 77-3442, except that not more than ten percent of such levy may be used for elementary learning center employees;

(5) Collect, analyze, and report data and information, including, but not limited to, information provided by a school district pursuant to subsection (5) of section 79-201;

(6) Approve focus schools and focus programs to be operated by member school districts;

(7) Adopt, approve, and implement a diversity plan which shall include open enrollment and may include focus schools, focus programs, magnet schools, and pathways pursuant to section 79-2110;

(8) Administer the open enrollment provisions in section 79-2110 for the learning community as part of a diversity plan developed by the council to provide educational opportunities which will result in increased diversity in schools across the learning community;

(9) Annually conduct school fairs to provide students and parents the opportunity to explore the educational opportunities available at each school in the learning community and develop other methods for encouraging access to such information and promotional materials;

(10) Develop and approve reorganization plans for submission pursuant to the Learning Community Reorganization Act;

(11) Establish and administer elementary learning centers through achievement subcouncils pursuant to sections 79-2112 to 79-2114;

(12) Administer the learning community funds distributed to the learning community pursuant to section 79-2111;

(13) Approve or disapprove poverty plans and limited English proficiency plans for member school districts through achievement subcouncils established under section 79-2117;

(14) Establish a procedure for receiving community input and complaints regarding the learning community;

(15) Establish a procedure to assist parents, citizens, and member school districts in accessing an approved center pursuant to the Dispute Resolution Act to resolve disputes involving member school districts or the learning community. Such procedure may include payment by the learning community for some mediation services;

(16) Establish and administer pilot projects related to enhancing the academic achievement of elementary students, particularly students who face challenges in the educational environment due to factors such as poverty, limited English skills, and mobility;

(17) Provide funding to public or private entities engaged in the juvenile justice system providing prefilming and diversion programming designed to reduce excessive absenteeism and unnecessary involvement with the juvenile justice system; and

(18) Hold public hearings at its discretion in response to issues raised by residents regarding the learning community, a member school district, and academic achievement.

**Source:** Laws 2006, LB 1024, § 106; Laws 2007, LB641, § 40; Laws 2008, LB1154, § 18; Laws 2009, LB392, § 16; Laws 2010, LB1070, § 13; Laws 2011, LB463, § 20; Laws 2013, LB585, § 3.

Effective date September 6, 2013.

#### Cross References

**Dispute Resolution Act**, see section 25-2901.

**Learning Community Reorganization Act**, see section 79-4,117.

**79-2104.01 Learning community coordinating council; advisory committee; members; duties.**

Each learning community coordinating council shall have an advisory committee composed of the superintendent from each member school district or his or her representative. The advisory committee shall:

- (1) Review issues related to open enrollment;
- (2) Review proposals for focus programs, focus schools, magnet schools, and pathways;
- (3) Provide recommendations for improving academic achievement across the learning community;
- (4) Provide recommendations for improving the learning community's diversity plan;
- (5) Submit a plan to the learning community coordinating council providing for the implementation and administration of early childhood education programs for children in poverty; and
- (6) Provide input to the learning community coordinating council on other issues as requested.

**Source:** Laws 2008, LB1154, § 19; Laws 2013, LB585, § 4.  
Effective date September 6, 2013.

**79-2104.02 Learning community coordinating council; use of funds; report.**

Each learning community coordinating council shall use any funds received after January 15, 2011, pursuant to section 79-1241.03 for evaluation and research pursuant to plans developed by the learning community coordinating council with assistance from the Educational Service Unit Coordinating Council and adjusted on an ongoing basis. The evaluation shall be conducted by one or more other entities or individuals who are not employees of the learning community and shall measure progress toward the goals and objectives of the learning community, which goals and objectives shall include reduction of excessive absenteeism of students in the member school districts of the learning community and closing academic achievement gaps based on socioeconomic status, and the effectiveness of the approaches used by the learning community or pilot project to reach such goals and objectives. Any research conducted pursuant to this section shall also be related to such goals and objectives. After the first full year of operation, each learning community shall report evaluation and research results electronically to the Education Committee of the Legislature on or before January 1 of each year.

**Source:** Laws 2010, LB1070, § 17; Laws 2011, LB333, § 16; Laws 2011, LB463, § 21; Laws 2012, LB782, § 162; Laws 2013, LB410, § 15.  
Effective date May 30, 2013.

**79-2104.03 Advisory committee; submit plan for early childhood education programs for children in poverty; powers and duties.**

The advisory committee described in section 79-2104.01 shall submit a plan as provided in subdivision (5) of section 79-2104.01 to the learning community coordinating council for any early childhood education programs for children in poverty and the services to be provided by such programs. In developing the plan, the advisory committee shall seek input from member school districts and

community resources and collaborate with such resources in order to maximize the available opportunities and resources for such programs. The advisory committee may, as part of such plan, recommend services to be provided through contract with, or grants to, school districts to provide or contract for some or all of the services. The advisory committee shall take special efforts to establish early childhood education programs for children in poverty so that such programs are readily available and accessible to children and families located in areas with a high concentration of poverty.

**Source:** Laws 2013, LB585, § 5.  
Effective date September 6, 2013.

**79-2118 Diversity plan; contents; approval; report.**

(1) Each learning community, together with its member school districts, shall develop a diversity plan to provide educational opportunities pursuant to sections 79-769 and 79-2110 in each subcouncil district designed to attract students from diverse backgrounds, which plan may be revised from time to time. The initial diversity plan shall be completed by December 31 of the year the initial learning community coordinating council for the learning community takes office. The goal of the diversity plan shall be to annually increase the socioeconomic diversity of enrollment at each grade level in each school building within the learning community until such enrollment reflects the average socioeconomic diversity of the entire enrollment of the learning community.

(2) Each diversity plan for a learning community shall include specific provisions relating to each subcouncil district within such learning community. The specific provisions relating to each subcouncil district shall be approved by both the achievement subcouncil for such district and by the learning community coordinating council.

(3) The learning community coordinating council shall report electronically to the Education Committee of the Legislature on or before January 1 of each odd-numbered year on the diversity and changes in diversity at each grade level in each school building within the learning community and on the academic achievement for different demographic groups in each school building within the learning community.

**Source:** Laws 2007, LB641, § 51; Laws 2008, LB1154, § 26; Laws 2009, LB392, § 19; Laws 2012, LB782, § 163; Laws 2013, LB410, § 16.  
Effective date May 30, 2013.

**ARTICLE 23**

**DIPLOMA OF HIGH SCHOOL EQUIVALENCY ASSISTANCE ACT**

Section

- 79-2301. Act, how cited.
- 79-2302. Purpose of act.
- 79-2303. Terms, defined.
- 79-2304. Appropriations; legislative intent; use; assistance to institutions; payments.
- 79-2305. Institutions receiving assistance; report; contents.
- 79-2306. Payments for equipment and software to administer examinations.
- 79-2307. Rules and regulations.

**79-2301 Act, how cited.**

Sections 79-2301 to 79-2307 shall be known and may be cited as the Diploma of High School Equivalency Assistance Act.

**Source:** Laws 2013, LB366, § 1.  
Effective date June 5, 2013.

**79-2302 Purpose of act.**

The purpose of the Diploma of High School Equivalency Assistance Act is to provide assistance to institutions which offer high school equivalency programs in order to defray the costs associated with participation in such programs.

**Source:** Laws 2013, LB366, § 2.  
Effective date June 5, 2013.

**79-2303 Terms, defined.**

For purposes of the Diploma of High School Equivalency Assistance Act:

- (1) Fiscal year means a time period commencing on July 1 and ending on June 30 of the following year;
- (2) High school equivalency program means a program which is offered by an institution and provides participants with training and examinations for a diploma of high school equivalency; and
- (3) Institution means a state agency, a school district as defined in section 79-101, or a community college area as defined in section 85-1503.

**Source:** Laws 2013, LB366, § 3.  
Effective date June 5, 2013.

**79-2304 Appropriations; legislative intent; use; assistance to institutions; payments.**

(1) It is the intent of the Legislature to appropriate seven hundred fifty thousand dollars from the General Fund for fiscal years 2013-14 and 2014-15, and any amount determined by the Legislature for any fiscal year thereafter, to the State Department of Education. Such funds shall be used by the department to provide assistance to institutions that offer high school equivalency programs. Assistance shall be provided based on participation in an institution's high school equivalency program as follows:

- (a) Each such institution shall receive one assistance payment for each participant who enrolled in its high school equivalency program in the most recently completed fiscal year;
- (b) Each such institution shall receive one assistance payment for each enrolled participant who took an initial examination for a diploma of high school equivalency in the most recently completed fiscal year; and
- (c) Each such institution shall receive one assistance payment for each participant not enrolled in the institution's high school equivalency program who took the examination for a diploma of high school equivalency in the most recently completed fiscal year.

(2) An institution shall receive no additional assistance for any participant who failed his or her initial examination for a diploma of high school equivalency and requires additional training and testing.

**Source:** Laws 2013, LB366, § 4.  
Effective date June 5, 2013.

**79-2305 Institutions receiving assistance; report; contents.**

Each institution receiving assistance pursuant to section 79-2304 shall report annually to the State Department of Education. The report shall give a description of the operation of the high school equivalency program for which assistance was provided and shall include information on the following for the most recently completed fiscal year:

- (1) The number of diplomas of high school equivalency awarded pursuant to such high school equivalency program;
- (2) The number of participants in the high school equivalency program who moved successfully through the continuum of literacy skill levels offered by the program;
- (3) The number of participants completing the high school equivalency program who secured entry-level career path employment;
- (4) The number of participants completing the high school equivalency program who went on to postsecondary education or additional career training; and
- (5) The number of participants in the high school equivalency program who were Nebraska residents or enrolled in a postsecondary educational institution located in Nebraska.

**Source:** Laws 2013, LB366, § 5.  
Effective date June 5, 2013.

**79-2306 Payments for equipment and software to administer examinations.**

Using the funds allocated from the Education Innovation Fund pursuant to subdivision (4)(c)(ix) of section 9-812, the State Department of Education shall provide each institution offering a high school equivalency program a one-time payment for the acquisition and upgrade of equipment and software necessary to administer examinations for diplomas of high school equivalency.

**Source:** Laws 2013, LB366, § 6.  
Effective date June 5, 2013.

**79-2307 Rules and regulations.**

The State Department of Education may adopt and promulgate rules and regulations to carry out the Diploma of High School Equivalency Assistance Act. Such rules and regulations shall include, but not be limited to, provisions related to the collection of information necessary to provide the assistance provided for in section 79-2304.

**Source:** Laws 2013, LB366, § 7.  
Effective date June 5, 2013.



## CHAPTER 80

### SOLDIERS AND SAILORS

Article.

4. Veterans Aid. 80-401 to 80-414.

#### ARTICLE 4

#### VETERANS AID

Section

- 80-401. Nebraska Veterans' Aid Fund; Veterans' Aid Income Fund; created; purpose; investment; management.
- 80-411. Waiver of tuition and fees at institutions of higher education; qualifications; application; Director of Veterans' Affairs; approval; effect.
- 80-414. Department of Veterans' Affairs; create and maintain registry; contents; notation of "veteran" on operator's license or state identification card; eligibility.

**80-401 Nebraska Veterans' Aid Fund; Veterans' Aid Income Fund; created; purpose; investment; management.**

(1) There is hereby established a fund to be known as the Nebraska Veterans' Aid Fund. The Nebraska Investment Council is directed to purchase bonds or notes issued by the government of the United States or the State of Nebraska, or any county, school district, or municipality therein, with a face value of twelve million dollars, as of August 1, 1984, to carry out sections 80-401 to 80-405 and to place them in the custody and control of the State Treasurer of the State of Nebraska under the same conditions as other state money.

(2) Such fund shall be managed as follows: (a) When necessary to pay a premium for bonds for such fund, the amount of the premium shall be amortized over the term of the bonds from the interest received on such bonds; and (b) when bonds for such fund are purchased at a discount, the amount of the discount shall be used to purchase additional bonds, it being contemplated that the face amount of the bonds in such fund may in this manner aggregate in excess of twelve million dollars at some future time.

(3) The interest on the Nebraska Veterans' Aid Fund, except so much as may be required for amortization of premium bond purchases as authorized in this section and so much as may be required to pay a pro rata share of the budget appropriated for the Nebraska Investment Council pursuant to section 72-1249.02, shall be paid to the Veterans' Aid Income Fund, which fund is hereby created. The Veterans' Aid Income Fund, when appropriated by the Legislature, shall be available to the Director of Veterans' Affairs for aid to needy veterans as authorized by law.

(4) The Nebraska Investment Council shall manage the Nebraska Veterans' Aid Fund, with investment and reinvestment to be made in the same type securities authorized for investment of funds by the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(5) The director shall advise the Nebraska Investment Council when amounts in the Veterans' Aid Income Fund are not immediately required for aid to needy

veterans. The state investment officer shall invest such amounts available from the Veterans' Aid Income Fund in the same manner as investments of the Nebraska Veterans' Aid Fund, and the interest thereon shall also become a part of the Veterans' Aid Income Fund.

**Source:** Laws 1921, c. 40, § 1, p. 181; C.S.1922, § 6206; Laws 1923, c. 126, § 1, p. 311; Laws 1927, c. 194, § 1, p. 552; C.S.1929, § 80-401; R.S.1943, § 80-401; Laws 1945, c. 221, § 1, p. 659; Laws 1947, c. 306, § 1, p. 926; Laws 1951, c. 301, § 1, p. 990; Laws 1959, c. 422, § 1, p. 1419; Laws 1967, c. 486, § 44, p. 1531; Laws 1969, c. 584, § 94, p. 2404; Laws 1975, LB 234, § 1; Laws 1976, LB 867, § 1; Laws 1978, LB 733, § 1; Laws 1981, LB 157, § 1; Laws 1982, LB 255, § 1; Laws 1984, LB 38, § 1; Laws 1987, LB 786, § 2; Laws 1995, LB 7, § 95; Laws 2013, LB263, § 29.  
Effective date April 25, 2013.

**Cross References**

**Board of Educational Lands and Funds**, authorized investments, see sections 8-712, 46-567.04, and 72-202.  
**Nebraska Capital Expansion Act**, see section 72-1269.  
**Nebraska State Funds Investment Act**, see section 72-1260.

**80-411 Waiver of tuition and fees at institutions of higher education; qualifications; application; Director of Veterans' Affairs; approval; effect.**

(1) If the requirements of subsection (2) of this section are met, the University of Nebraska, the state colleges, and the community colleges shall waive the following for a dependent of a veteran:

(a) All tuition; and

(b) All fees remaining due after subtracting awarded federal financial aid grants and state scholarships and grants.

(2) A person shall be eligible for the waiver of tuition and such fees if he or she meets the following requirements:

(a) He or she is a resident of this state and meets the appropriate institution's requirements for establishing residency for the purpose of paying in-state tuition;

(b) He or she has a parent, stepparent, or spouse who was a member of the armed forces of the United States and who:

(i) Died of a service-connected disability;

(ii) Died subsequent to discharge as a result of injury or illness sustained while a member of the armed forces which may or may not have resulted in total disability;

(iii) Is permanently and totally disabled as a result of military service. Permanent and total disability does not include total ratings or other temporary ratings except total ratings based on individual unemployability if permanent; or

(iv) While a member of the armed forces of the United States, is classified as missing in action or as a prisoner of war during armed hostilities; and

(c) If he or she is a child or stepchild of a person described in subdivision (2)(b) of this section, he or she is under the age of twenty-six years unless he or she serves on active duty with the armed forces after his or her eighteenth birthday but before his or her twenty-sixth birthday, in which case such period

shall end five years after his or her first discharge or release from such duty with the armed forces, but in no event shall such period be extended beyond the thirty-first birthday.

(3) An application for a waiver shall be submitted through one of the recognized veterans organizations or any county service officer on a form to be prescribed by the Director of Veterans' Affairs. The organization or county service officer shall thoroughly investigate to determine if the applicant is eligible for the waiver and transmit a recommendation for action on the application to the director.

(4) If the director determines that the applicant is eligible for the waiver, the director shall so certify to the institution in which the applicant desires to enroll. The decision of the director shall, in the absence of fraud or misrepresentation on the part of the applicant, be final and shall be binding upon the applicant and upon the institutions specified in this section. The director shall adopt and promulgate reasonable rules and regulations for the administration of this section.

(5) The waiver shall be valid for one degree, diploma, or certificate from a community college and one baccalaureate degree. Receipt of such degree, diploma, or certificate from a community college shall precede receipt of such baccalaureate degree.

**Source:** Laws 1965, c. 576, § 1, p. 1867; Laws 1967, c. 564, § 1, p. 1858; Laws 1973, LB 307, § 1; Laws 1975, LB 90, § 4; Laws 1979, LB 80, § 114; Laws 1993, LB 74, § 1; Laws 1999, LB 227, § 2; Laws 2001, LB 368, § 3; Laws 2013, LB180, § 1.  
Effective date September 6, 2013.

#### Cross References

Educational assistance for military personnel, see Chapter 80, article 9, and sections 85-505 to 85-508.

**80-414 Department of Veterans' Affairs; create and maintain registry; contents; notation of "veteran" on operator's license or state identification card; eligibility.**

(1) The Department of Veterans' Affairs shall create and maintain a registry of residents of Nebraska who meet the requirements of subsection (1) of section 60-4,189. The Department of Veterans' Affairs may adopt and promulgate rules and regulations governing the establishment and maintenance of the registry. The registry may be used to assist the department in carrying out the duties of the department and shall provide for the collection of sufficient information to identify an individual who qualifies for a notation of "veteran" on his or her operator's license or state identification card issued by the Department of Motor Vehicles. The registry may include information such as identifying information on an individual, an individual's records on active duty in the armed forces of the United States, or an individual's status of active duty, retired, discharged, or other.

(2) Any resident of Nebraska who meets the requirements of subsection (1) of section 60-4,189 shall register with the Department of Veterans' Affairs using the registry created by this section before being eligible for a notation of "veteran" on his or her operator's license or state identification card issued by the Department of Motor Vehicles. No person shall be deemed eligible until his or her status has been verified on the registry.

(3) The Department of Motor Vehicles may adopt and promulgate rules and regulations governing use of the registry of the Department of Veterans' Affairs for determination of eligibility for the notation of "veteran" on operators' licenses and state identification cards.

**Source:** Laws 2013, LB93, § 6.

Operative date September 6, 2013.

**STATE ADMINISTRATIVE DEPARTMENTS**

**CHAPTER 81**  
**STATE ADMINISTRATIVE DEPARTMENTS**

Article.

1. The Governor and Administrative Departments.
  - (b) State Budget. 81-125.
2. Department of Agriculture.
  - (m) Seeds. 81-2,147.02.
3. Department of Banking and Finance.
  - (b) Department of Banking and Finance Settlement Cash Fund. 81-302.
5. State Fire Marshal.
  - (b) General Provisions. 81-502, 81-505.01.
6. Health and Human Services.
  - (a) Powers and Duties. 81-603.
8. Independent Boards and Commissions.
  - (c) Emergency Management. 81-825 to 81-829.41.
  - (g) Real Estate Commission. 81-885.21.
  - (i) Land Surveying. 81-8,114 to 81-8,120.
  - (j) State Athletic Commissioner. 81-8,139.01.
  - (q) Public Counsel. 81-8,245.
12. Department of Economic Development.
  - (a) General Provisions. 81-1201.01 to 81-1210.03.
  - (r) Small Business Innovation Act. 81-12,138 to 81-12,143.
  - (s) Site and Building Development Act. 81-12,149, 81-12,150.
  - (t) Business Innovation Act. 81-12,155, 81-12,164.
13. Personnel.
  - (b) Affirmative Action Program. 81-1360 to 81-1368.
14. Law Enforcement.
  - (a) Law Enforcement Training. 81-1401, 81-1403.
  - (b) Commission on Law Enforcement and Criminal Justice. 81-1417, 81-1427.
  - (c) Human Trafficking. 81-1430.
15. Environmental Protection.
  - (a) Environmental Protection Act. 81-1502.
  - (l) Waste Reduction and Recycling. 81-15,160, 81-15,162.
18. Crime Victims and Witnesses.
  - (a) Crime Victim's Reparations. 81-1822 to 81-1834.
  - (b) Crime Victims and Witnesses Assistance. 81-1845.
20. Nebraska State Patrol.
  - (a) General Provisions. 81-2004.02 to 81-2004.08.
  - (b) Retirement System. 81-2014 to 81-2041.
22. Aging Services.
  - (a) Nebraska Community Aging Services Act. 81-2213.
25. Commission on Indian Affairs. 81-2509 to 81-2516.
31. Department of Health and Human Services. 81-3119 to 81-3136.
34. Engineers and Architects Regulation Act. 81-3436 to 81-3454.
35. Geologists Regulation Act. 81-3520 to 81-3540.
36. Nebraska Development Network Program. 81-3601 to 81-3609.

**ARTICLE 1**

**THE GOVERNOR AND ADMINISTRATIVE DEPARTMENTS**

(b) STATE BUDGET

Section

- 81-125. State budget; submission to Legislature by Governor; when; contents.

## (b) STATE BUDGET

**81-125 State budget; submission to Legislature by Governor; when; contents.**

The Governor shall on or before January 15 of each odd-numbered year present to the Legislature a complete budget for all the activities of the state receiving appropriations or requesting appropriations, except that the Governor during his or her first year in office shall present such budget to the Legislature on or before February 1. Such budget shall be a tentative work program for the coming biennium, shall contain a full and itemized report of the expenditures from appropriations made by the previous Legislature and the items which the Governor deems worthy of consideration for the coming biennium, for the respective departments, offices, and institutions, and for all other purposes, and shall contain the estimated revenue from taxation, the estimated revenue from sources other than taxation, an estimate of the amount required to be raised by taxation and the sales and income tax rates necessary to raise such amount, the revenue foregone by operation of laws in effect at the time of such report granting tax expenditures and reduced tax liabilities as identified in the report required by section 77-5731, and recommendations as to deficiency funding requirements pursuant to section 81-126. The summary of the tax expenditure report prepared pursuant to the Tax Expenditure Reporting Act and a summary of the report required by section 77-5731 shall be included with or appended to the budget presented to the Legislature. The Governor may make recommendations whether to continue or eliminate, in whole or in part, each tax expenditure and incentive program or to limit the duration of particular tax expenditures and incentives to a fixed number of years and shall include his or her reasoning for each recommendation, if any. The recommendations shall be transmitted to the Revenue Committee of the Legislature at the same time the Governor submits a budget as required in this section. The budget as transmitted to the Legislature shall show the estimated requirements for each activity of the state as prepared by the Department of Administrative Services and the final recommendation of the Governor. The budget shall comprise the complete report to the Legislature of all appropriations made for the current biennium and expenditures therefrom by all agencies receiving appropriations, and the report of expenditures contained in the budget shall be in lieu of all other biennial or other financial reports required by statute to the Legislature by expending agencies of appropriations and expenditures for their own activities except the biennial report of the State Treasurer and Director of Administrative Services.

**Source:** Laws 1921, c. 210, § 1, p. 745; C.S.1922, § 7268; C.S.1929, § 81-301; R.S.1943, § 81-125; Laws 1967, c. 577, § 1, p. 1907; Laws 1978, LB 526, § 2; Laws 1983, LB 169, § 3; Laws 1986, LB 258, § 24; Laws 1991, LB 82, § 4; Laws 2013, LB629, § 2. Effective date September 6, 2013.

**Cross References****Constitutional provisions:**

Budget bill, see Article IV, section 7, Constitution of Nebraska.

**Tax Expenditure Reporting Act**, see section 77-379.

**ARTICLE 2**  
**DEPARTMENT OF AGRICULTURE**

(m) SEEDS

Section

81-2,147.02. Container; labeling requirements.

(m) SEEDS

**81-2,147.02 Container; labeling requirements.**

Each container of agricultural, vegetable, or flower seeds which is sold within this state for sowing purposes shall bear thereon or have attached thereto in a conspicuous place a plainly written or printed label or tag in the English language giving the following information, which statement shall not be modified or denied in the labeling or on another label attached to the container:

(1) For any agricultural seeds or any mixture thereof, any vegetable seeds or any mixture thereof, or any flower seeds or any mixture thereof for sowing purposes that have been treated, unless each seed container bears a label giving the following information and statements as established in the rules and regulations:

(a) A word or statement indicating that the seeds have been treated;

(b) The commonly accepted coined, chemical (generic), or abbreviated chemical name of any substance used in such treatment;

(c) If the substance used in such treatment in the amount remaining with the seeds is harmful to humans or other vertebrate animals, an appropriate caution statement approved by the director as adequate for the protection of the public such as, "Do Not Use For Food Or Feed Or Oil Purposes", except that the caution statement for mercurials and similarly toxic substances, as established in the rules and regulations, shall be a representation of a skull and crossbones and a statement such as, "This Seed Has Been Treated With POISON", in red letters on a background of distinctly contrasting color;

(d) A description approved by the director for the protection of the public of any process used in such treatment; and

(e) If the seed is treated with an inoculant, the year and month beyond which the inoculant, if shown in the labeling, is no longer claimed to be effective (Date of expiration);

(2) For agricultural seeds except for grass seed mixtures as provided in subdivision (5) of this section:

(a) The commonly accepted name of the kind and variety of each agricultural seed component, in excess of five percent of the whole, and the percentage by weight of each in the order of its predominance, except that if the variety of the kinds which are generally labeled as to their variety as established in the rules and regulations is not stated, the label shall show the name of the kind and the words, "Variety Not Stated". When more than one component is required to be named, the word mixture, mix, mixed, or blend shall be shown conspicuously on the label. Hybrids shall be labeled as hybrids except when the pure seed contains less than seventy-five percent hybrid seed. If the percentage of the hybrid seed is equal to or greater than seventy-five percent but less than ninety-

five percent, the percentage of hybrid shall be labeled parenthetically following the variety;

(b) The lot number or other lot identification;

(c) Origin, if known. If the origin is unknown, the fact shall be stated;

(d) The percentage by weight of all weed seed;

(e) The name and rate of occurrence per pound of each kind of restricted noxious weed seed:

(i) For *Agrostis* spp., bluegrass, timothy, orchardgrass, fescue, alsike clover, white clover, reed canarygrass, ryegrass, foxtail millet, alfalfa, red clover, sweetclover, lespedeza, smooth brome, crimson clover, *Brassica* spp., flax, wheatgrass, and other agricultural seed of similar size and weight, or mixtures within such group, when present singly or collectively in excess of eighteen seeds per pound; and

(ii) For all other agricultural seed or agricultural seed mixtures not included in subdivision (i) of this subdivision, when present, label as found;

(f) Percentage by weight of agricultural seeds which may be designated as other crop seed other than those required to be named on the label;

(g) The percentage by weight of inert matter;

(h) For each named agricultural seed, the percentage of germination exclusive of hard seed and the percentage of hard seed if present. Following the percentage of germination exclusive of hard seed and the percentage of hard seed, if present, the total germination and hard seed percentage may be stated if desired. The calendar month and year the test was completed to determine such percentages or an expiration date for those seeds labeled for lawn and turf purposes shall also be stated;

(i) For each of the following named grasses the percentage of germination exclusive of dormant seed, the percentage of dormant seed if present, or the percentage of viability as indicated by a tetrazolium (TZ) test and the calendar month and year the test was completed to determine such percentages. Following the percentage of germination, exclusive of dormant seed and the percentage of dormant seed, if present, the total germination and dormant seed may be stated if desired. Also, for each of the following named grasses when extreme dormancy is encountered, the result of a tetrazolium (TZ) test may be shown in lieu of the percentage of germination to indicate the potential viability of the seed:

Bluestem:

Big

Little

Sand

Yellow

Dropseed, sand

Buffalograss

Gramma:

Sideoats

Blue

Indiangrass

Lovegrass, sand

Needlegrass, green

Prairie sandreed

Ricegrass, Indian

Wheatgrass, western

*Andropogon gerardii*

*Schizachyrium scoparium*

*Andropogon hallii*

*Bothriochloa ischaemum*

*Sporobolus cryptandrus*

*Buchloe dactyloides*

*Bouteloua curtipendula*

*Bouteloua gracilis*

*Sorghastrum nutans*

*Eragrostis trichodes*

*Stipa viridula*

*Calamovilfa longifolia*

*Oryzopsis hymenoides*

*Elymus smithii*



Switchgrass

*Panicum virgatum*; and

(j) The name and address of the person who labeled such seed or who sells such seed within this state;

(3) For agricultural, vegetable, and flower seeds that are coated:

(a) The percentage of pure seeds with coating material removed;

(b) The percentage of coating material should be shown as a separate item in close association with the percentage of inert matter; and

(c) The percentage of germination should be determined on four hundred pellets with or without seeds;

(4) For products which claim to be a combination of mulch, seed, and fertilizer the word combination shall be followed by the words "Mulch - Seed - Fertilizer". The word combination must appear on the upper thirty percent of the principal display panel and must be the largest and most conspicuous type on the container, equal to or larger than the product name. The words "Mulch - Seed - Fertilizer" shall be no smaller than one-half the size of, and in close proximity to, the word combination. Such product shall contain a minimum of seventy percent mulch;

(5) For seed mixtures for lawns and turf purposes in containers of fifty pounds or less:

(a) The word mixed, mixture, mix, or blend;

(b) Commonly accepted name, in order of its predominance of the kind and variety, or kind of each agricultural seed present in excess of five percent of the whole;

(c) Percentage by weight of pure seed of each agricultural seed named;

(d) For each agricultural seed named under subdivision (b) of this subdivision:

(i) Percentage of germination exclusive of hard seed;

(ii) Percentage of hard seed if present; and

(iii) Calendar month and year the test was completed to determine such percentages or an expiration date;

(e) Percentage by weight of all weed seed;

(f) Percentage by weight of all agricultural seeds, which may be designated as crop seed, other than those stated under subdivision (b) of this subdivision;

(g) Percentage by weight of inert matter;

(h) Lot number or other lot identification;

(i) The name and rate of occurrence of each kind of restricted noxious weed seed per pound when present singly or collectively in excess of the numbers shown in subdivision (2)(e)(i) of this section;

(j) Name and address of the person who labeled such seed or who sells such seed within this state;

(k) Origin, if known. If the origin is unknown, the fact shall be stated; and

(l) For cool season lawn and turf grass seed and mixtures, including kentucky bluegrass, red fescue, chewings fescue, hard fescue, tall fescue, perennial rye grass, intermediate rye grass, annual rye grass, colonial bentgrass, and creeping bentgrass:

(i) The calendar month and year the germination test was completed to determine the percentage required under subdivision (5)(d)(i) of this section and the germination test date for each component or, if each component does not show a germination test date, the oldest germination test date shall be used for the mixture; or

(ii) In place of the test date, the statement “sell by (date)”, which date shall not be more than fifteen months after the date of the germination test exclusive of the month of the germination test;

(6) For grass seed for which claims are made regarding the beneficial presence of *Acremonium* species:

(a) The seed shall have on the analysis label or on a separate label which is in close proximity to the analysis label the actual percentage of viable endophyte present in each component and the month and year that a viable endophyte test was performed to establish the percentage of endophyte present. For mixtures, the oldest test date shall be used. The test date shall be stated as “Endophyte Test Date”. Freshly harvested seed may be labeled and shipped based on a seed endophyte test until October 1 of the harvest year; and

(b) The viable endophyte test must have been conducted within the last nine months, not including the month of the test. If the test date exceeds nine months the seed lot must be retested and relabeled or all references to endophyte must be removed from the label;

(7) For vegetable seeds in containers prepared for use in home gardens or household plantings or vegetable seeds in preplanted containers, mats, tapes, or other planting devices:

(a) The name of the kind and variety of seed;

(b) Lot number or other lot identification;

(c) The calendar month and year the seeds were tested or the year for which the seed was packaged for sale as “Packed for (year)”;

(d) For seeds which germinate less than the standard last established in the rules and regulations:

(i) Percentage of germination exclusive of hard seed;

(ii) Percentage of hard seed if present;

(iii) The calendar month and year the test was completed to determine such percentages; and

(iv) The words “Below Standard” in not less than eight-point type;

(e) For seeds placed in a germination medium, mat, tape, or other device in such a way as to make it difficult to determine the quantity of seed without removing the seeds from the medium, mat, tape, or other device, a statement to indicate the minimum number of seeds in the container;

(f) The name and rate of occurrence per pound of each kind of restricted noxious weed seed present; and

(g) The name and address of the person who labeled such seed or who sells such seed within this state;

(8) For vegetable seeds in containers other than containers prepared for use in home gardens or household plantings and other than preplanted containers, mats, tapes, or other planting devices:

(a) The name of each kind and variety present in excess of five percent and the percentage by weight of each in order of its predominance;

(b) Lot number or other lot identification;

(c) For each named vegetable seed:

(i) The percentage of germination exclusive of hard seed;

(ii) The percentage of hard seed if present; and

(iii) The calendar month and year the test was completed to determine such percentages. Following the information prescribed in subdivisions (i) and (ii) of this subdivision, the total germination and hard seed percentage may be stated as such, if desired;

(d) The name and rate of occurrence per pound of each kind of restricted noxious weed seed present; and

(e) Name and address of the person who labeled the seed or who sells such seed within this state;

(9) For flower seeds in containers prepared for use in home gardens or household plantings or flower seeds in preplanted containers, mats, tapes, or other planting devices:

(a) For all kinds of flower seeds:

(i) The name of the kind and variety or a statement of type and performance characteristics as established in rules and regulations. Mixtures shall be listed on the label as mixture, mix, or mixed. Seeds described as native wildflower seeds shall only be seeds from flowers that are indigenous to North America. Seeds described as introduced wildflower seeds shall only be seeds from flowers that are not indigenous to North America;

(ii) The calendar month and year the seed was tested or the year for which the seed was packaged for sale as "Packed for (year)"; and

(iii) The name and address of the person who labeled the seed for sale within this state;

(b) For seeds of those kinds for which standard testing procedures are prescribed, such as methods published by the Association of Official Seed Analysts or other generally recognized methods, and which germinate less than the germination standard last established in the rules and regulations:

(i) Percentage of germination exclusive of hard seeds; and

(ii) The words "Below Standard" in not less than eight-point type; and

(c) For seeds placed in a germination medium, mat, tape, or other device in such a way as to make it difficult to determine the quantity of seed without removing the seeds from the medium, mat, tape, or device, a statement to indicate the minimum number of seeds in the container;

(10) For flower seeds in containers other than packets prepared for use in home flower gardens or household plantings and other than preplanted containers, mats, tapes, or other planting devices:

(a) The name of the kind and variety or a statement of type and performance characteristics as established in rules and regulations. Mixtures shall be listed on the label as mixture, mixed, or mix. Seeds described as native wildflower seeds shall only be seeds from flowers that are indigenous to North America. Seeds described as introduced wildflower seeds shall only be seeds from flowers that are not indigenous to North America;

- (b) The percentage by weight of pure seed for each flower seed named;
- (c) Lot number or other lot identification;
- (d) Percentage by weight of all weed seed when present in flower seed;
- (e) Name and rate of occurrence per pound of each kind of restricted noxious weed seed, if present, listed under the heading noxious weed seeds;
- (f) The calendar month and year that the seed was tested;
- (g) The name and address of the person who labeled the seed or who sells the seed within this state; and
- (h) For those kinds of seed for which standard testing procedures are prescribed in generally recognized official methods:
  - (i) Percentage of germination exclusive of hard seed; and
  - (ii) Percentage of hard seed if present; and
- (11) For agricultural seeds sold on a pure live seed basis, as established in the rules and regulations, the information required by subdivision (2)(a) of this section, except as modified in this subdivision:
  - (a) The label need not show:
    - (i) The percentage by weight of each agricultural seed component as required by subdivision (2)(a) of this section; or
    - (ii) The percentage by weight of inert matter as required by subdivision (2)(g) of this section; and
  - (b) The label shall, instead of the information required by subdivision (2)(h) of this section or subdivision (2)(i) of this section when appropriate, show for each named agricultural seed:
    - (i) The percentage of pure live seed as established in the rules and regulations; and
    - (ii) The calendar month and year in which the test determining the percentage of pure live seed was completed.

**Source:** Laws 1969, c. 759, § 3, p. 2863; Laws 1972, LB 1290, § 1; Laws 1980, LB 633, § 4; Laws 1985, LB 460, § 14; Laws 1990, LB 37, § 2; Laws 1997, LB 263, § 3; Laws 2013, LB166, § 1.  
Effective date May 8, 2013.

Cross References

Commercial feed, adulterated, when, see section 54-854.

**ARTICLE 3  
DEPARTMENT OF BANKING AND FINANCE**

(b) DEPARTMENT OF BANKING AND FINANCE SETTLEMENT CASH FUND  
Section  
81-302. Department of Banking and Finance Settlement Cash Fund; created; use; investment.

(b) DEPARTMENT OF BANKING AND FINANCE  
SETTLEMENT CASH FUND

**81-302 Department of Banking and Finance Settlement Cash Fund; created; use; investment.**

The Department of Banking and Finance Settlement Cash Fund is created. The fund shall be administered by the Department of Banking and Finance. The fund shall consist of money received by the state in settlements resulting from regulatory or judicial resolution of financial, securities, or consumer issues in which the department is designated as a recipient and any investment income earned on the fund. The Department of Administrative Services may for accounting purposes create subfunds of the fund to segregate awards or allocations received pursuant to different orders or settlements. The fund may be used by the Department of Banking and Finance for any allowable legal purposes as determined by the Director of Banking and Finance. 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 2013, LB199, § 14.  
Effective date May 26, 2013.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

## ARTICLE 5

### STATE FIRE MARSHAL

#### (b) GENERAL PROVISIONS

Section

- 81-502. State Fire Marshal; fire prevention and safety; duties; delegation of authority to local fire prevention personnel; rules and regulations; compliance; late penalty.
- 81-505.01. State Fire Marshal; establish and assess fees; procedures.

#### (b) GENERAL PROVISIONS

**81-502 State Fire Marshal; fire prevention and safety; duties; delegation of authority to local fire prevention personnel; rules and regulations; compliance; late penalty.**

(1) It shall be the duty of the State Fire Marshal, under authority of the Governor:

(a) To enforce all laws of the state relating to the suppression of arson and investigation of the cause, origin, and circumstances of fires;

(b) To promote safety and reduce loss by fire;

(c) To make an investigation for fire safety of the premises and facilities of:

(i) Liquor establishments for which a license or renewal of a license is sought, upon request of the Nebraska Liquor Control Commission, pursuant to section 53-119.01;

(ii) Licensed foster care facilities or applicants for licenses for foster care facilities, upon request by the Department of Health and Human Services, pursuant to section 71-1903;

(iii) Upon request of the Department of Health and Human Services, licensed providers of programs or applicants for licenses to provide such programs pursuant to section 71-1913 and licensed residential child-caring agencies or applicants for such licensure pursuant to section 71-1934. The State Fire

Marshal shall report the results of the investigation to the department within thirty days after receipt of the request from the department;

(iv) Licensed hospitals, skilled nursing facilities, intermediate care facilities, or other health care facilities which are licensed under the Health Care Facility Licensure Act or applicants for licenses for such facilities or institutions, upon request by the Department of Health and Human Services, pursuant to section 71-441; and

(v) Mobile home parks for which a license or renewal of a license is sought, upon request of the Department of Health and Human Services, pursuant to section 71-4635; and

(d) After a careful study and investigation of relevant data, to adopt, promulgate, alter, and enforce, through inspections and code compliance, orders, rules, and regulations covering:

(i) The prevention of fires;

(ii) The storage, sale, and use of flammable liquids, combustibles, and fireworks;

(iii) Electric wiring and heating, protection equipment devices, materials, furnishings, and other safeguards within the structure necessary to promote safety and reduce loss by fire, and the means and adequacy of exits, in case of fire, in assembly, educational, institutional, residential, mercantile, office, storage, and industrial-type occupancies as such structures are defined in the National Fire Protection Association, Pamphlet Number 101, and associated pamphlets, and all other buildings, structures, and enclosures in which numbers of persons congregate from time to time for any purpose whether privately or publicly owned;

(iv) Design, construction, location, installation, and operation of equipment for storing, handling, and utilization of liquefied petroleum gases, specifying the odorization of such gases and the degree thereof;

(v) Chemicals, prozylin plastics, X-ray nitrocellulose films, or any other hazardous material that may now or hereafter exist;

(vi) Tanks used for the storage of regulated substances pursuant to the Petroleum Products and Hazardous Substances Storage and Handling Act; and

(vii) Accessibility standards and specifications adopted pursuant to section 81-5,147.

(2) The State Fire Marshal may enter into contracts with private individuals or other agencies, boards, commissions, or governmental bodies for the purpose of carrying out his or her duties and responsibilities pursuant to the Arson Reporting Immunity Act, the Nebraska Natural Gas Pipeline Safety Act of 1969, and sections 81-502 to 81-541.01, 81-5,132 to 81-5,146, and 81-5,151 to 81-5,157.

(3) The State Fire Marshal may delegate the authority set forth in this section to qualified local fire prevention personnel. The State Fire Marshal may overrule a decision, act, or policy of the local fire prevention personnel. When the State Fire Marshal overrules the local personnel, such local personnel may follow the appeals procedure established by sections 81-502.01 to 81-502.03. Such delegation of authority may be revoked by the State Fire Marshal for cause upon thirty days' notice after a hearing.

(4) The State Fire Marshal, first assistant fire marshal, and deputies shall have such other powers and perform such other duties as are set forth in sections 81-501.01 to 81-531 and 81-5,151 to 81-5,157 and as may be conferred and imposed by law.

(5) The rules and regulations adopted and promulgated pursuant to subdivision (1)(d) of this section may conform generally to the standards recommended by the National Fire Protection Association, Pamphlet Number 101, known as the Life Safety Code, and associated pamphlets, but not when doing so would impose an unduly severe or costly burden without substantially contributing to the safety of persons or property. This section and the rules and regulations adopted and promulgated pursuant to subdivision (1)(d) of this section shall apply to existing as well as new buildings, structures, and enclosures. Such rules and regulations shall also apply to sites or structures in public ownership listed on the National Register of Historic Places but without destroying the historic quality thereof.

(6) Plans for compliance with the rules and regulations adopted and promulgated pursuant to subdivision (1)(d) of this section shall be reviewed by the State Fire Marshal. Plans submitted after remodeling or construction has begun shall be accompanied by a penalty of fifty dollars in addition to the plan review fee set out in subdivision (4)(a) of section 81-505.01.

**Source:** Laws 1925, c. 183, § 2, p. 479; C.S.1929, § 81-5502; R.S.1943, § 81-502; Laws 1947, c. 313, § 1, p. 949; Laws 1967, c. 446, § 3, p. 1389; Laws 1969, c. 794, § 1, p. 3000; Laws 1972, LB 782, § 1; Laws 1973, LB 180, § 1; Laws 1976, LB 986, § 3; Laws 1981, LB 266, § 2; Laws 1982, LB 792, § 1; Laws 1983, LB 498, § 5; Laws 1984, LB 130, § 15; Laws 1985, LB 253, § 9; Laws 1986, LB 217, § 12; Laws 1987, LB 459, § 6; Laws 1989, LB 215, § 18; Laws 1993, LB 251, § 4; Laws 1993, LB 348, § 79; Laws 1993, LB 377, § 7; Laws 1995, LB 401, § 44; Laws 1996, LB 1044, § 837; Laws 1997, LB 307, § 215; Laws 1999, LB 594, § 70; Laws 2000, LB 819, § 153; Laws 2007, LB296, § 728; Laws 2013, LB265, § 47.  
Effective date May 26, 2013.

#### Cross References

**Arson Reporting Immunity Act**, see section 81-5,115.

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

**Inspection of businesses credentialed under the Uniform Credentialing Act**, see section 38-139.

**Nebraska Natural Gas Pipeline Safety Act of 1969**, see section 81-552.

**Petroleum Products and Hazardous Substances Storage and Handling Act**, see section 81-15,117.

**Storage tank registration**, see sections 81-1575 to 81-1577.01.

### **81-505.01 State Fire Marshal; establish and assess fees; procedures.**

(1) The State Fire Marshal shall establish and assess fees not to exceed the actual costs for the performance of services by the State Fire Marshal or by qualified local fire prevention personnel to whom the State Fire Marshal has delegated authority to perform such services. Prior to establishing or altering such fees, the State Fire Marshal shall hold a public hearing on the question of the adoption of or change in fees. Notice of such hearing shall be given at least thirty days prior thereto (a) by publication in a newspaper having general circulation in the state and (b) by notifying in writing the head of any agency or department having jurisdiction over facilities that would be subject to the fees. Fees for services performed by the State Fire Marshal shall be paid to the State

Fire Marshal and shall be remitted to the State Treasurer for credit to the State Fire Marshal Cash Fund. Fees for services performed by local fire prevention personnel shall be paid directly to the office of the local fire prevention personnel.

(2) The fee for inspection for fire safety of any premises or facility pursuant to section 81-502 shall be not less than twenty-five nor more than one hundred fifty dollars and shall be paid by the licensee or applicant for a license. The fee for inspection for fire safety of the same premises or facility made within twelve months after the last prior inspection shall be not less than twenty-five nor more than one hundred fifty dollars and shall be paid by the licensee or applicant for a license. The fees for inspection for fire safety of foster family homes as defined in section 71-1901 may be paid by the Department of Health and Human Services.

(3) The fee for providing investigation reports to insurance companies shall not exceed three dollars for each report provided. The State Fire Marshal may charge an amount not to exceed the actual cost of preparation for any other approved information release.

(4)(a) Except as provided in subdivision (b) of this subsection, the fee for reviewing plans, blueprints, and shop drawings to determine compliance with rules and regulations adopted and promulgated pursuant to section 81-502 shall be assessed according to the following schedule:

TOTAL VALUE OF PROPOSED STRUCTURE OR IMPROVEMENT	FEE
\$1 - \$5,000	\$5.00
\$5,001 - \$25,000	\$5.00 for the first \$5,000.00 plus \$2.00 for each additional \$5,000.00 or fraction thereof.
\$25,001 - \$50,000	\$15.00 for the first \$25,000.00 plus \$2.00 for each additional \$5,000.00 or fraction thereof.
\$50,001 - \$100,000	\$25.00 for the first \$50,000.00 plus \$1.00 for each additional \$5,000.00 or fraction thereof.
\$100,001 - \$200,000	\$35.00 for the first \$100,000.00 plus \$1.00 for each additional \$10,000.00 or fraction thereof.
\$200,001 or more	\$50.00 for the first \$200,000.00 plus \$1.00 for each additional \$10,000.00 or fraction thereof, except that the total fee shall not exceed \$500.00.

(b) The fees set out in subdivision (a) of this subsection shall not be assessed or collected by any political subdivision to which the State Fire Marshal has delegated the authority to conduct such review and which reviews plans, blueprints, or shop drawings to determine compliance with such political subdivision’s own fire safety regulations. Nothing in this subdivision shall be construed to prohibit such political subdivision from assessing or collecting a fee set by its governing board for such review.

(c) An additional fee equal to fifty percent of the fee charged pursuant to subdivision (a) of this subsection shall be assessed for reviewing plans, blueprints, and shop drawings to determine compliance with the accessibility standards and specifications adopted pursuant to section 81-5,147, except that



the additional fee assessed pursuant to this subdivision shall not exceed two hundred fifty dollars.

**Source:** Laws 1983, LB 498, § 7; Laws 1986, LB 471, § 1; Laws 1988, LB 893, § 10; Laws 1988, LB 930, § 3; Laws 1993, LB 251, § 6; Laws 1993, LB 377, § 8; Laws 1996, LB 1044, § 839; Laws 1997, LB 307, § 216; Laws 2013, LB265, § 48.  
Effective date May 26, 2013.

## ARTICLE 6

### HEALTH AND HUMAN SERVICES

#### (a) POWERS AND DUTIES

Section

81-603. Formal grievance process for families involved in child welfare system or juvenile justice system; duties; report.

#### (a) POWERS AND DUTIES

**81-603 Formal grievance process for families involved in child welfare system or juvenile justice system; duties; report.**

The Department of Health and Human Services shall implement a formal grievance process for families involved in the child welfare system or juvenile justice system. Such grievance process shall ensure that families are not dissuaded from utilizing the grievance process for fear of reprisal from the department, providers, or foster parents. A report of each grievance allegation and the determination of and any action to be taken by the department shall be provided to the Inspector General for Nebraska Child Welfare within ten days after such determination is made.

**Source:** Laws 2013, LB269, § 11.  
Effective date June 5, 2013.

## ARTICLE 8

### INDEPENDENT BOARDS AND COMMISSIONS

#### (c) EMERGENCY MANAGEMENT

Section

81-825. Wildfire Control Act of 2013; act, how cited.

81-826. Wildfire Control Act of 2013; legislative findings.

81-827. Wildfire control; Nebraska Emergency Management Agency; duties; legislative intent; report; contents.

81-828. Wildfire control; Nebraska Forest Service; duties.

81-829.41. Agency; Adjutant General; powers and duties.

#### (g) REAL ESTATE COMMISSION

81-885.21. Broker; separate trust account; notify commission where maintained; examination by representative of commission; broker entitled to money; when.

#### (i) LAND SURVEYING

81-8,114. Land surveying; application for registration.

81-8,115. Land surveying; examination of applicants.

81-8,117. Land surveying; eligibility for registration; requirements.

81-8,120. Land surveying; nonresident; registration; fee; service of process.

#### (j) STATE ATHLETIC COMMISSIONER

81-8,139.01. Repealed. Laws 2013, LB 78, § 23.

Section

(g) PUBLIC COUNSEL

81-8,245. Public Counsel; powers; enumerated.

## (c) EMERGENCY MANAGEMENT

**81-825 Wildfire Control Act of 2013; act, how cited.**

Sections 81-825 to 81-828 shall be known and may be cited as the Wildfire Control Act of 2013.

**Source:** Laws 2013, LB634, § 1.  
Effective date June 4, 2013.

**81-826 Wildfire Control Act of 2013; legislative findings.**

The Legislature finds that the State of Nebraska's forests, pasture lands, and rangelands have been destroyed by catastrophic wildfires, primarily due to higher temperatures, intense and prolonged drought, increased forest fuel-loads, and the extensive spread of Eastern Red Cedar trees into forests, pasture lands, and rangelands. Because of these conditions, wildfires occur more frequently, spread and grow very rapidly upon ignition, and consume large tracts of productive land. These severe, fast-moving wildfires put the lives of citizens, emergency responders, and visitors at great risk, are difficult to control, quickly overwhelm local suppression capacity, and cost enormous amounts of money to suppress and control.

**Source:** Laws 2013, LB634, § 2.  
Effective date June 4, 2013.

**81-827 Wildfire control; Nebraska Emergency Management Agency; duties; legislative intent; report; contents.**

(1) Pursuant to the Wildfire Control Act of 2013, the Nebraska Emergency Management Agency shall contract for all costs to place one single-engine air tanker in Nebraska for use in fighting wildfires.

(2) It is the intent of the Legislature that the Nebraska Emergency Management Agency deploy the single-engine air tanker quickly and without delay so as to prevent the rapid spread of wildfires upon ignition.

(3) The Nebraska Emergency Management Agency shall prepare a report on or before December 1 of each year describing (a) the date and time each request to deploy a single-engine air tanker is made to the agency, (b) the date and time a single-engine air tanker was deployed in response to a request for such a tanker, (c) an explanation of the reason for any delay of more than one hour from the time of a request for deployment of a single-engine air tanker and the time of the actual deployment of such a tanker, and (d) an explanation of the reason for the denial of a request to deploy a single-engine air tanker. The report shall be submitted electronically to the Governor and to the Clerk of the Legislature.

**Source:** Laws 2013, LB634, § 3.  
Effective date June 4, 2013.

**81-828 Wildfire control; Nebraska Forest Service; duties.**

Pursuant to the Wildfire Control Act of 2013, the Nebraska Forest Service shall (1) administer programs to thin forests to reduce forest fuel-loads in order

to substantially reduce wildfire risk, intensity, and rate of spread and develop markets for woody biomass generated from forest thinnings, (2) provide expanded training programs for volunteer firefighters, private landowners, and communities in Nebraska in fire suppression tactics of wildfires in order to increase suppression effectiveness and safety, (3) expand the federal excess property programs sponsored by the United States Department of Agriculture and the United States Department of Defense and managed by the Nebraska Forest Service in Nebraska, (4) oversee the rehabilitation of forest lands that have been destroyed by wildfires, (5) manage single-engine air tanker bases and operations in Nebraska, and (6) contract to construct at least two single-engine air tanker bases and develop one or more mobile single-engine air tanker bases in Nebraska.

**Source:** Laws 2013, LB634, § 4.  
Effective date June 4, 2013.

**81-829.41 Agency; Adjutant General; powers and duties.**

(1) The Nebraska Emergency Management Agency shall be maintained in the office of the Adjutant General. The Adjutant General shall be the director of the agency, shall administer the Emergency Management Act subject to the direction and control of the Governor, and shall receive such compensation for these services as shall be determined by the Governor. The agency shall have an assistant director and such other professional, technical, secretarial, and clerical employees as are necessary for the performance of its functions.

(2) The agency shall maintain an emergency operations plan and keep it current. The plan may include, but need not be limited to:

(a) A history of Nebraska disasters, emergencies, and civil defense emergencies;

(b) An analysis of past and potential disasters, emergencies, and civil defense emergencies, including an identification of the functions and resources required to cope with such occurrences. The expected frequency of occurrence, along with the severity of effect, shall indicate the priority of preparedness efforts of the emergency management organizations of the state;

(c) Measures to be undertaken to accomplish damage assessment and situation analysis, warning, direction and control, coordination of operating forces, emergency resource management, emergency information and official instructions, communications and other necessary support to emergency response operations, and coordination and cooperation of federal, state, local, and nongovernmental agencies so as to provide a prompt and effective response to disasters, emergencies, and civil defense emergencies to prevent and minimize the injury and damage;

(d) The provision of relief and recovery assistance to individuals, political subdivisions of the state, and state agencies;

(e) Identification of areas of the state particularly vulnerable to disaster, emergency, or civil defense emergency;

(f) Recommendations for preventive and preparedness measures designed to eliminate or reduce disasters, emergencies, or civil defense emergencies or their impact, including, but not limited to, zoning, building, and other land-use control, and safety measures for securing mobile homes or other nonpermanent or semipermanent structures;

(g) Authorization and procedures for the erection or other construction of temporary works designed to protect against or mitigate danger, damage, or loss from flood, conflagration, or other disaster, emergency, or civil defense emergency;

(h) Assistance in designing city, village, county, and interjurisdictional emergency operations plans;

(i) Preparation and distribution to the appropriate state and political subdivision officials of catalogs of federal, state, and private disaster assistance programs; and

(j) Other necessary matters.

(3) The Nebraska Emergency Management Agency shall take an integral part in the development and revision of city, village, county, and interjurisdictional emergency operations plans prepared under section 81-829.46. It shall employ or otherwise secure the services of professional and technical personnel capable of providing expert assistance to political subdivisions and to city, village, county, and interjurisdictional emergency management organizations. Such personnel shall consult with such political subdivisions and organizations on a regularly scheduled basis and shall make field examinations of the areas, circumstances, and conditions to which particular city, village, county, and interjurisdictional emergency operations plans are intended to apply and may suggest or require revisions.

(4) In preparing and revising the Nebraska emergency operations plans, the agency shall seek the advice and assistance of other agencies of government and the private sector. In advising city, village, county, and interjurisdictional emergency management organizations, the Nebraska Emergency Management Agency shall encourage them to also seek advice from these sources.

(5) The Nebraska emergency operations plans or any part thereof may be incorporated in rules or regulations of the agency.

(6) The agency shall:

(a) Determine the requirements of the state and its political subdivisions for basic necessities such as food, clothing, and shelter in various disaster, emergency, or civil defense emergency situations;

(b) Procure and pre-position emergency supplies, materials, and equipment;

(c) Adopt and promulgate rules and regulations setting out standards and requirements for city, village, county, and interjurisdictional emergency operations plans;

(d) Periodically review city, village, county, and interjurisdictional emergency operations plans;

(e) Provide for state emergency response teams;

(f) Establish and operate or assist local governments, their emergency management organizations, and interjurisdictional emergency management organizations in establishing and operating training programs and programs of public information;

(g) Make surveys of such industries, resources, and facilities, both public and private, within the state as are necessary to carry out the purposes of the Emergency Management Act;

(h) Plan and make arrangements for the availability and use of any private facilities, services, and property and, if necessary and if in fact used, provide for payment for use under terms and conditions agreed upon;

(i) Establish a register of persons with training and skills important in disaster prevention, mitigation, preparedness, response, and recovery and emergency management;

(j) Establish a register of mobile and construction equipment and temporary housing available for use in a disaster or emergency;

(k) Prepare for issuance by the Governor proclamations, orders, rules, and regulations as are necessary or appropriate in coping with disasters, emergencies, and civil defense emergencies;

(l) Cooperate with the federal government and any public or private agency or entity in achieving any purpose of the act and in implementing programs for disaster prevention, mitigation, preparedness, response, and recovery and emergency management;

(m) Coordinate state emergency response as directed by the Governor;

(n) Cooperate with other emergency management agencies and public agencies in the development of emergency management registries which include persons with functional needs and the families and guardians of such persons for purposes of planning for assistance for such persons and their families and guardians before, during, and after a disaster or other emergency. Participation in an emergency management registry by persons with functional needs and their families shall be voluntary. Information obtained by emergency management agencies or other public agencies for such purposes shall not be considered a public record under section 84-712.01. All information acquired pursuant to this subdivision is confidential and shall not be disclosed or released except to other agencies which have a legitimate and official interest in the information for carrying out the purposes of this subdivision. Any person acquiring information pursuant to this subdivision who intentionally discloses or releases such information in violation of this subdivision is guilty of a Class III misdemeanor; and

(o) Do other things necessary, incidental, or appropriate for the implementation of the act.

**Source:** Laws 1973, LB 494, § 6; Laws 1996, LB 43, § 22; Laws 2013, LB434, § 1.

Effective date September 6, 2013.

(g) REAL ESTATE COMMISSION

**81-885.21 Broker; separate trust account; notify commission where maintained; examination by representative of commission; broker entitled to money; when.**

(1) Each broker other than an inactive broker shall maintain in a bank, savings bank, building and loan association, or savings and loan association a separate, insured checking account in this state in his or her name or the name under which he or she does business which shall be designated a trust account in which all downpayments, earnest money deposits, or other trust funds received by him or her, his or her associate brokers, or his or her salespersons on behalf of his or her principal or any other person shall be deposited and

remain until the transaction is closed or otherwise terminated unless all parties having an interest in the funds have agreed otherwise in writing. Until July 1, 2017, such trust account may be either an interest-bearing or a non-interest-bearing account. Any broker using an interest-bearing account shall comply with subsection (7) of this section. On and after July 1, 2017, such trust account shall be a non-interest-bearing account.

(2) Each broker shall notify the commission of the name of the bank, savings bank, building and loan association, or savings and loan association in which the trust account is maintained and also the name of the account on forms provided therefor.

(3) Each broker shall authorize the commission to examine such trust account by a duly authorized representative of the commission. Such examination shall be made annually or at such time as the commission may direct.

(4) A broker may maintain more than one trust account in his or her name or the name under which he or she does business if the commission is advised of such account as required in subsection (2) of this section.

(5) In the event a branch office maintains a separate trust account, a separate bookkeeping system shall be maintained in the branch office.

(6) A broker shall not be entitled to any part of the earnest money or other money paid to him or her or the entity under which he or she does business in connection with any real estate transaction as part or all of his or her compensation or consideration until the transaction has been consummated or terminated.

(7) If the trust account is an interest-bearing account, as authorized under subsection (1) of this section, the interest from the interest-bearing account may be distributed or otherwise accrue only to nonprofit organizations that promote housing in Nebraska and that are exempt from the payment of federal income taxes. A broker may use an interest-bearing account for a transaction only if the use of such account for purposes of promoting housing in Nebraska has been approved by all parties whose money will be deposited into such account. The commission may further define policies and procedures for the processing of and distributions from interest-bearing trust accounts by rule and regulation.

**Source:** Laws 1973, LB 68, § 21; Laws 1975, LB 354, § 2; Laws 1978, LB 361, § 8; Laws 1981, LB 238, § 1; Laws 1991, LB 118, § 4; Laws 2000, LB 932, § 52; Laws 2002, LB 863, § 18; Laws 2011, LB347, § 1; Laws 2013, LB72, § 1.  
Effective date September 6, 2013.

#### (i) LAND SURVEYING

##### **81-8,114 Land surveying; application for registration.**

Applications for registration shall be on forms prescribed and furnished by the examining board and shall be filed with the secretary of the examining board. Such applications shall contain a statement, made under oath, showing the applicant's education and detailed summary of his or her technical work, the applicant's social security number, and such other information as the examining board shall require.

**Source:** Laws 1957, c. 383, § 7, p. 1334; Laws 1971, LB 442, § 18; Laws 1994, LB 874, § 13; Laws 1997, LB 752, § 221; Laws 2013, LB303, § 1.  
Effective date September 6, 2013.

**81-8,115 Land surveying; examination of applicants.**

The applicant for registration must pass an examination administered by the examining board which covers generally the matters confronting land surveyors as provided in the rules and bylaws.

**Source:** Laws 1957, c. 383, § 8, p. 1334; Laws 1971, LB 442, § 19; Laws 1984, LB 478, § 3; Laws 1994, LB 874, § 14; Laws 2013, LB303, § 2.

Effective date September 6, 2013.

**81-8,117 Land surveying; eligibility for registration; requirements.**

(1) No person shall be eligible for registration unless:

(a) He or she has successfully passed an examination, designed to determine his or her proficiency and qualification to engage in the practice of land surveying. No applicant shall be entitled to take such examination until he or she shows the necessary practical experience in land surveying work; and

(b) He or she (i) has not less than six years of surveying experience of which five years must be as defined in subdivision (4) of section 81-8,109, and three of such five years must have been in a responsible position as a subordinate to a licensed land surveyor, or (ii) has graduated, after a course of not less than four years in surveying, engineering, or other approved curriculum, with proportionate credit for lesser time, from a school or college approved by the examining board as of satisfactory standing and has an additional two years of practice in a responsible position.

(2) For purposes of this section, responsible position means a position that requires initiative, skill, and independent judgment and does not include the position of chainman, rodman, instrument person, ordinary drafter, or other position performing routine work.

**Source:** Laws 1957, c. 383, § 10, p. 1334; Laws 1969, c. 764, § 3, p. 2894; Laws 1971, LB 442, § 21; Laws 1974, LB 811, § 19; Laws 1984, LB 478, § 4; Laws 1994, LB 874, § 15; Laws 2013, LB303, § 3.  
Effective date September 6, 2013.

**81-8,120 Land surveying; nonresident; registration; fee; service of process.**

A nonresident of this state who is registered as a land surveyor in another state may be registered under sections 81-8,108 to 81-8,127 by filing an application with the secretary of the examining board and making payment to the examining board of a fee in the sum of not less than twenty-five dollars and not more than one hundred fifty dollars as set forth in the rules or bylaws. The applicant shall be required to take such examinations as the examining board deems necessary to determine his or her qualifications, but in any event he or she shall be required to pass an examination of not less than four hours' duration which shall include questions on laws, procedures, and practices pertaining to the practice of land surveying in this state. Before a nonresident of this state is registered under sections 81-8,108 to 81-8,127, he or she shall first file a written consent that actions and suits at law may be commenced against him or her in any county of this state in which any cause of action may

arise because of any survey commenced or conducted by such nonresident surveyor or his or her agent or employees in such county.

**Source:** Laws 1957, c. 383, § 13, p. 1336; Laws 1971, LB 442, § 23; Laws 1983, LB 447, § 97; Laws 1985, LB 564, § 3; Laws 1994, LB 874, § 19; Laws 2013, LB303, § 4.  
Effective date September 6, 2013.

(j) STATE ATHLETIC COMMISSIONER

**81-8,139.01 Repealed. Laws 2013, LB 78, § 23.**

(g) PUBLIC COUNSEL

**81-8,245 Public Counsel; powers; enumerated.**

The Public Counsel shall have the power to:

(1) Investigate, on complaint or on his or her own motion, any administrative act of any administrative agency;

(2) Prescribe the methods by which complaints are to be made, received, and acted upon; determine the scope and manner of investigations to be made; and, subject to the requirements of sections 81-8,240 to 81-8,254, determine the form, frequency, and distribution of his or her conclusions, recommendations, and proposals;

(3) Conduct inspections of the premises, or any parts thereof, of any administrative agency or any property owned, leased, or operated by any administrative agency as frequently as is necessary, in his or her opinion, to carry out duties prescribed under sections 81-8,240 to 81-8,254;

(4) Request and receive from each administrative agency, and such agency shall provide, the assistance and information the counsel deems necessary for the discharge of his or her responsibilities; inspect and examine the records and documents of all administrative agencies notwithstanding any other provision of law; and enter and inspect premises within any administrative agency's control;

(5) Issue a subpoena, enforceable by action in an appropriate court, to compel any person to appear, give sworn testimony, or produce documentary or other evidence deemed relevant to a matter under his or her inquiry. A person thus required to provide information shall be paid the same fees and travel allowances and shall be accorded the same privileges and immunities as are extended to witnesses in the district courts of this state and shall also be entitled to have counsel present while being questioned;

(6) Undertake, participate in, or cooperate with general studies or inquiries, whether or not related to any particular administrative agency or any particular administrative act, if he or she believes that they may enhance knowledge about or lead to improvements in the functioning of administrative agencies;

(7) Make investigations, reports, and recommendations necessary to carry out his or her duties under the State Government Effectiveness Act;

(8) Carry out his or her duties under the Office of Inspector General of Nebraska Child Welfare Act. If any of the provisions of sections 81-8,240 to 81-8,254 conflict with provisions of the Office of Inspector General of Nebraska Child Welfare Act, the provisions of such act shall control;



(9) Investigate allegations of violation of subsection (2) of section 84-908 by an administrative agency pursuant to a complaint made to his or her office and make a determination as to whether such administrative agency has violated such subsection. The Public Counsel shall report his or her determination in writing to the Governor, the Secretary of State, the Attorney General, the Executive Board of the Legislative Council, and the director or chief executive officer of the agency. The report to the executive board shall be submitted electronically; and

(10) Investigate and address the complaint and case of:

(a) Any juvenile committed to the custody of a youth rehabilitation and treatment center; and

(b) Any juvenile released from a youth rehabilitation and treatment center for reentry into the community, while that juvenile is subject to the Community and Family Reentry Process and a service or treatment program in which the juvenile may be involved after his or her release from a youth rehabilitation and treatment center, whether that service or program is administrated by the Office of Juvenile Services or a private provider in the community. The Office of Juvenile Services and private providers in the community shall cooperate with any investigation conducted by the Public Counsel pursuant to this subdivision and provide all documentation and information requested by the Public Counsel in connection with such an investigation.

**Source:** Laws 1969, c. 762, § 6, p. 2880; Laws 1976, LB 687, § 2; Laws 1993, LB 44, § 11; Laws 2012, LB821, § 44; Laws 2013, LB242, § 1; Laws 2013, LB561, § 62.

**Note:** The Revisor of Statutes has pursuant to section 49-769 correlated LB242, section 1, with LB561, section 62, to reflect all amendments.

**Note:** Changes made by LB561 became effective May 30, 2013. Changes made by LB242 became effective September 6, 2013.

#### Cross References

Office of Inspector General of Nebraska Child Welfare Act, see section 43-4301.

State Government Effectiveness Act, see section 81-2701.

## ARTICLE 12

### DEPARTMENT OF ECONOMIC DEVELOPMENT

#### (a) GENERAL PROVISIONS

##### Section

- 81-1201.01. Terms, defined.
- 81-1201.02. Department of Economic Development; created; purpose; duties.
- 81-1201.03. Director of Economic Development; appointment; duties; personnel.
- 81-1201.04. Repealed. Laws 2013, LB 78, § 23.
- 81-1201.05. Repealed. Laws 2013, LB 78, § 23.
- 81-1201.06. Repealed. Laws 2013, LB 78, § 23.
- 81-1201.18. Department; administer Community Development Block Grant Program.
- 81-1201.21. Job Training Cash Fund; created; use; investment.
- 81-1210.01. Interns; grants; terms, defined.
- 81-1210.02. Interns; grants; internships; application; certification; department; powers and duties.
- 81-1210.03. Interns; grants; rules and regulations.

#### (r) SMALL BUSINESS INNOVATION ACT

- 81-12,138. Terms, defined.
- 81-12,142. Report; contents.
- 81-12,143. Act; termination.

Section

(s) SITE AND BUILDING DEVELOPMENT ACT

81-12,149. Department; allocate funds; qualified action plan; contents; powers of department.

81-12,150. Rules and regulations.

(t) BUSINESS INNOVATION ACT

81-12,155. Qualified action plan; department; duties; contents.

81-12,164. Rules and regulations.

(a) GENERAL PROVISIONS

**81-1201.01 Terms, defined.**

As used in sections 81-1201.01 to 81-1201.22, unless the context otherwise requires:

(1) Community Development Block Grant means the grants distributed pursuant to the Housing and Community Development Act of 1974 as amended by the Housing and Urban-Rural Recovery Act of 1983;

(2) Department means the Department of Economic Development;

(3) Director means the Director of Economic Development;

(4) Economic articulation means the creation of economic activities which will provide inputs to and markets for other businesses in the state;

(5) Educational institutions means nonprofit public and private colleges, community colleges, state colleges, and universities in the state; and

(6) Value-adding industry means an economic enterprise that adds value through processing, fabrication, or other means to goods or services.

**Source:** Laws 1986, LB 965, § 1; Laws 1994, LB 1194, § 18; Laws 2013, LB78, § 10.

Effective date September 6, 2013.

**81-1201.02 Department of Economic Development; created; purpose; duties.**

There is hereby created an executive department of state government to be known as the Department of Economic Development. The purpose of the department is to maintain and develop the economy of the state to provide opportunities for the people which will enhance and expand the quality of their lives. The department shall promote the:

(1) Expansion of personal income through the development of business and employment opportunities which afford sufficient compensation to ensure an adequate standard of living for the people of the state;

(2) Development of an economy that contributes to and enhances the environmental quality of the state;

(3) Development of a stable economy within the state;

(4) Development of economic health and opportunities throughout the communities and counties of the state;

(5) Development of an economy which is capable of providing the necessary revenue for state government, local governments, and other political subdivisions of the state and in this way minimize the tax burden faced by all taxpayers of the state; and

(6) Structuring of the department and its staff as a nonpolitical, professionally managed division of state government.

**Source:** Laws 1986, LB 965, § 2; Laws 2013, LB78, § 11.  
Effective date September 6, 2013.

**81-1201.03 Director of Economic Development; appointment; duties; personnel.**

The chief executive officer of the department shall be the Director of Economic Development who shall be appointed by the Governor with the consent of a majority of the Legislature. The director shall administer the affairs of the department and shall serve at the pleasure of the Governor. The director shall have equal rank with the heads of other state departments, and his or her salary shall be fixed by the Governor. The director shall employ a deputy director with significant and extensive professional experience in the field of economic development. The director shall employ division directors and such other assistants, professional staff, and other employees as he or she deems necessary to effectively carry out sections 81-1201.01 to 81-1201.20 within the appropriations the Legislature provides.

**Source:** Laws 1986, LB 965, § 3; Laws 2013, LB78, § 12.  
Effective date September 6, 2013.

**81-1201.04 Repealed. Laws 2013, LB 78, § 23.**

**81-1201.05 Repealed. Laws 2013, LB 78, § 23.**

**81-1201.06 Repealed. Laws 2013, LB 78, § 23.**

**81-1201.18 Department; administer Community Development Block Grant Program.**

(1) The department shall administer the Community Development Block Grant Program. In addition to the performance review requirements in section 81-1201.10, the department shall develop an ongoing program of monitoring the impact of grants on the communities receiving the grants. The monitoring program shall include, but not be limited to, the following information: (a) The status of the project for which such grant was awarded; (b) the grant amount; (c) the local government contribution; (d) the private financial contribution; (e) the goals and objectives of the grant; and (f) the impact of the grant relative to the goals and objectives of the grant.

(2) The department shall determine community development objectives, state priorities, and guidelines for the distribution of funds for community development projects within the Community Development Block Grant Program, which shall conform to the objectives as set forth in the Housing and Community Development Act of 1974, as amended, and which shall:

(a) Include statistical community need factors; and

(b) Require that grant applicants submit evidence of a community assessment process for the project, which assessment process the department shall design.

(3) To the extent possible, the Community Development Block Grant funds shall be allocated on a need and competitive basis.

**Source:** Laws 1986, LB 965, § 18; Laws 1989, LB 639, § 7; Laws 2010, LB947, § 2; Laws 2013, LB78, § 13.  
Effective date September 6, 2013.

**81-1201.21 Job Training Cash Fund; created; use; investment.**

(1) There is hereby created the Job Training Cash Fund. The fund shall be under the direction of the Department of Economic Development. Money may be transferred to the fund pursuant to subdivision (1)(b)(iii) of section 48-621 and from the Cash Reserve Fund at the direction of the Legislature. The department shall establish a subaccount for all money transferred from the Cash Reserve Fund to the Job Training Cash Fund on or after July 1, 2005.

(2) The department shall use the Job Training Cash Fund or the subaccount established in subsection (1) of this section (a) to provide reimbursements for job training activities, including employee assessment, preemployment training, on-the-job training, training equipment costs, and other reasonable costs related to helping industry and business locate or expand in Nebraska, (b) to provide upgrade skills training of the existing labor force necessary to adapt to new technology or the introduction of new product lines, or (c) to provide grants pursuant to section 81-1210.02.

(3) The department shall establish a subaccount within the fund to provide training grants for training employees and potential employees of businesses that (a) employ twenty-five or fewer employees on the application date, (b) employ, or train for potential employment, residents of rural areas of Nebraska, or (c) are located in or employ, or train for potential employment, residents of high-poverty areas as defined in section 81-1203. The department shall calculate the amount of prior year investment income earnings accruing to the fund and allocate such amount to the subaccount for training grants under this subsection. The subaccount shall also be used as provided in the Teleworker Job Creation Act and as provided in section 81-1210.02.

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

**Source:** Laws 1989, LB 305, § 3; Laws 1994, LB 1066, § 107; Laws 1995, LB 1, § 15; Laws 2000, LB 953, § 11; Laws 2005, LB 427, § 1; Laws 2007, LB322, § 27; Laws 2008, LB956, § 1; Laws 2009, LB316, § 22; Laws 2009, First Spec. Sess., LB3, § 72; Laws 2010, LB961, § 1; Laws 2010, LB1081, § 12; Laws 2011, LB386, § 4; Laws 2012, LB946, § 11; Laws 2013, LB476, § 1. Operative date October 1, 2013.

**Cross References**

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

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

**Teleworker Job Creation Act**, see section 48-3001.

**81-1210.01 Interns; grants; terms, defined.**

For purposes of sections 81-1210.01 to 81-1210.03:

(1) Department means the Department of Economic Development;

(2) Internship means employment of a student in a professional or technical position for a limited period of time, by a business in Nebraska, in which the student (a) gains valuable work experience, (b) increases knowledge that assists with career decisionmaking, and (c) assists the business in accelerating short-term business objectives; and

(3) Student means any person who:

(a) Is enrolled full-time in a college, university, or other institution of higher education in Nebraska;

(b) Has residency in Nebraska and is enrolled full-time in a college, university, or other institution of higher education in a state other than Nebraska; or

(c) Applies for an internship within six months following graduation from (i) a college, university, or other institution of higher education in Nebraska or (ii) a college, university, or other institution of higher education in a state other than Nebraska if such person had residency in Nebraska during his or her enrollment in such college, university, or institution.

**Source:** Laws 2011, LB386, § 1; Laws 2013, LB476, § 2.  
Operative date October 1, 2013.

**81-1210.02 Interns; grants; internships; application; certification; department; powers and duties.**

(1) The intent of sections 81-1210.01 to 81-1210.03 is to provide students with valuable internship opportunities in order to retain such students and attract workers to Nebraska by assisting Nebraska businesses willing to provide paid internships.

(2) A business may apply to the department for a grant to assist in providing a student an internship if:

(a) The business certifies that the internship meets the definition of internship in section 81-1210.01;

(b) The business will pay the student at least the federal minimum hourly wage for the internship;

(c) The internship will be completed within the State of Nebraska;

(d) The internship will be completed within a period of no more than twelve months; and

(e) The internship will be for a duration sufficient to allow the student to gain significant valuable work experience and knowledge.

(3) The department may provide grants for internships in the following amounts:

(a) If the student receiving the internship is a Federal Pell Grant recipient at the time of grant application, the grant may be up to the lesser of seventy-five percent of the cost of the internship or seven thousand five hundred dollars. The business applying for the grant shall provide the department with documentation to prove that the student is a Federal Pell Grant recipient; and

(b) For all other students, the grant may be up to the lesser of seventy-five percent of the cost of the internship or five thousand dollars.

(4) A business may apply for no more than two grants for the same student, shall not be awarded more than five grants at any one location in any twelve-month period, and shall not be awarded more than ten grants total in any twelve-month period.

(5) A business may allow a student to telecommute if the business is located more than thirty miles from the college, university, or other institution of higher education in which the student is enrolled and if the college, university, or other institution of higher education is in Nebraska.

(6) The department shall, to the extent possible, assure that the distribution of grants under sections 81-1210.01 to 81-1210.03 provides equitable access to the grants by all geographic areas of the state.

(7) The department shall, to the extent possible, assure that the grants awarded pursuant to sections 81-1210.01 to 81-1210.03 are for internships which provide valuable learning opportunities for students who will be seeking employment in a professional or technical field.

(8) The department shall not allocate more than one million five hundred thousand dollars in any one fiscal year from the Job Training Cash Fund or its subaccounts for purposes of this section. The department may receive funds from public, private, or other sources for purposes of this section.

(9) The department shall develop a qualified action plan by January 1 of each even-numbered year. The plan shall, at a minimum, set forth the department's priorities and selection criteria for awarding grants for internships. In order to encourage students from across Nebraska to pursue internships, the plan shall also include strategies for affirmatively marketing internships to Nebraska students in high schools, colleges, universities, and other institutions of higher education in Nebraska. Such strategies shall place an emphasis on marketing to underserved student populations as defined by the department in the plan. The department shall submit the plan to the Governor for approval.

**Source:** Laws 2011, LB386, § 2; Laws 2013, LB476, § 3.  
Operative date October 1, 2013.

#### **81-1210.03 Interns; grants; rules and regulations.**

The department may adopt and promulgate rules and regulations to govern the award and disbursement of grants pursuant to sections 81-1210.01 to 81-1210.03.

**Source:** Laws 2011, LB386, § 3; Laws 2013, LB476, § 4.  
Operative date October 1, 2013.

#### (r) SMALL BUSINESS INNOVATION ACT

#### **81-12,138 Terms, defined.**

For purposes of the Small Business Innovation Act:

(1) Department means the Department of Economic Development;

(2) Nebraska-based growth business means a corporation, partnership, limited liability company, limited partnership, or limited liability partnership registered with the Secretary of State that has two to fifty employees and annual sales revenue of no less than five hundred thousand dollars and no more than two million five hundred thousand dollars; and

(3) Small business innovation means the provision of technical resources to locally owned and operated Nebraska-based growth businesses to foster development, growth, and high-wage job creation.

**Source:** Laws 2011, LB345, § 3; Laws 2013, LB628, § 1.  
Effective date September 6, 2013.  
Termination date December 31, 2014.

#### **81-12,142 Report; contents.**

The department shall prepare and present electronically a report to the Legislature by December 1, 2014, on the Small Business Innovation Act that includes, but is not limited to, businesses assisted, aggregate change in sales revenue, number of jobs created, and range of newly created jobs that includes an average wage.

**Source:** Laws 2011, LB345, § 7; Laws 2012, LB782, § 194; Laws 2013, LB628, § 2.

Effective date September 6, 2013.

Termination date December 31, 2014.

**81-12,143 Act; termination.**

The Small Business Innovation Act terminates on December 31, 2014.

**Source:** Laws 2011, LB345, § 8; Laws 2013, LB628, § 3.

Effective date September 6, 2013.

Termination date December 31, 2014.

(s) SITE AND BUILDING DEVELOPMENT ACT

**81-12,149 Department; allocate funds; qualified action plan; contents; powers of department.**

(1) During each calendar year in which funds are available from the Site and Building Development Fund for use by the Department of Economic Development, the department shall allocate a specific amount of funds, not less than forty percent, to nonmetropolitan areas. For purposes of this section, nonmetropolitan areas means counties with fewer than one hundred thousand inhabitants according to the most recent federal decennial census. In selecting projects to receive fund assistance, the department shall develop a qualified action plan by January 1 of each even-numbered year. The plan shall give first priority to financially viable projects that have an agreement with a business that will locate a site within ninety days of the signed agreement. The plan shall set forth selection criteria to be used to determine priorities of the fund which are appropriate to local conditions, including the community's immediate need for site and building development, proposed increases in jobs and investment, private dollars leveraged, level of local government support and participation, and repayment, in part or in whole, of financial assistance awarded by the fund. The Director of Economic Development shall submit the plan to the Governor for approval.

(2) The department shall fund in order of priority as many applications as will utilize available funds less actual administrative costs of the department in administering the program. In administering the program the department may contract for services or directly provide funds to other governmental entities or instrumentalities.

**Source:** Laws 2011, LB388, § 6; Laws 2013, LB78, § 14.

Effective date September 6, 2013.

**81-12,150 Rules and regulations.**

The Department of Economic Development shall adopt and promulgate rules and regulations to carry out the Site and Building Development Act.

**Source:** Laws 2011, LB388, § 7; Laws 2013, LB78, § 15.

Effective date September 6, 2013.

## (t) BUSINESS INNOVATION ACT

**81-12,155 Qualified action plan; department; duties; contents.**

In selecting projects to receive financial assistance under the Business Innovation Act, the department shall develop a qualified action plan by January 1 of each even-numbered year. The plan shall set forth selection criteria to be used to determine priorities which are appropriate to local conditions and the state's economy, including the state's immediate need for innovation development, proposed increases in jobs and investment, private dollars leveraged, industry support and participation, and repayment, in part or in whole, of financial assistance awarded under the act. The department shall submit the plan to the Governor for approval.

**Source:** Laws 2011, LB387, § 4; Laws 2013, LB78, § 16.  
Effective date September 6, 2013.  
Termination date October 1, 2016.

**81-12,164 Rules and regulations.**

The department may adopt and promulgate rules and regulations to carry out the Business Innovation Act, including application procedures.

**Source:** Laws 2011, LB387, § 13; Laws 2013, LB78, § 17.  
Effective date September 6, 2013.  
Termination date October 1, 2016.

**ARTICLE 13****PERSONNEL**

## (b) AFFIRMATIVE ACTION PROGRAM

## Section

- 81-1360. Affirmative Action Administrator; duties; enumerated.
- 81-1361. Agency; plan; submit; update.
- 81-1363. Repealed. Laws 2013, LB 78, § 23.
- 81-1364. Repealed. Laws 2013, LB 78, § 23.
- 81-1365. Repealed. Laws 2013, LB 78, § 23.
- 81-1366. Repealed. Laws 2013, LB 78, § 23.
- 81-1368. Agency plan; reviewed; noncompliance; effect; report.

## (b) AFFIRMATIVE ACTION PROGRAM

**81-1360 Affirmative Action Administrator; duties; enumerated.**

The administrator shall be the head of the office. The administrator shall be given all necessary top management support to insure that there is compliance with Nebraska's program and shall be provided with sufficient staff and budget support to carry out the duties of the office. The administrator shall:

- (1) Have the authority and responsibility for coordinating, directing, and implementing the program;
- (2) Adopt and promulgate rules and regulations for the implementation of the agencies' plans;
- (3) Provide counseling and technical assistance to the agencies in the development of their plans;
- (4) Review agency plans and direct modification to insure the effectiveness of the plans and their compliance with the program;



- (5) Monitor the progress of agency plans by establishing reporting forms as required by the program;
- (6) Review the quarterly reports of the agencies;
- (7) Monitor the progress of the program and report quarterly to the Governor;
- (8) Make formal recommendations for legislation, when necessary, in order to make changes in the program;
- (9) Serve as liaison between the state and federal compliance agencies;
- (10) Plan, coordinate, and conduct training in equal employment opportunity, racial awareness, and concerns of women, the disabled, and aging for all segments of the state government work force;
- (11) Coordinate the activities of the agency affirmative action individual in each agency;
- (12) Investigate any complaints involving unfair treatment, terms and conditions of employment, or perceived acts or policies involving discrimination;
- (13) Conduct contract compliance reviews on all vendors, grantees, and contractors who have programs or projects which are funded in whole or in part by state funds; and
- (14) Coordinate the Disadvantage Business Enterprise and Women Business Enterprise programs which are funded in whole or in part by state or federal funds.

**Source:** Laws 1979, LB 500, § 6; Laws 1987, LB 491, § 20; Laws 2012, LB782, § 198; Laws 2013, LB222, § 36.  
Effective date May 8, 2013.

**81-1361 Agency; plan; submit; update.**

Each agency shall submit a plan for that agency to the office for review and shall work with the administrator to insure effectiveness of the plan. Each agency shall annually update its plan based on guidelines developed by the administrator.

**Source:** Laws 1979, LB 500, § 7; Laws 1987, LB 491, § 21; Laws 2013, LB78, § 18.  
Effective date September 6, 2013.

**81-1363 Repealed. Laws 2013, LB 78, § 23.**

**81-1364 Repealed. Laws 2013, LB 78, § 23.**

**81-1365 Repealed. Laws 2013, LB 78, § 23.**

**81-1366 Repealed. Laws 2013, LB 78, § 23.**

**81-1368 Agency plan; reviewed; noncompliance; effect; report.**

Each agency plan shall be reviewed by the office and approved or disapproved after submission. In every case when noncompliance is indicated, efforts shall be made to secure compliance through a corrective action plan. A specific commitment shall be put forth in writing. The commitment shall indicate the precise action to be taken and dates for completion. The time period allowed shall be no longer than thirty calendar days to effect the desired

change. If an agency's plan does not comply with the rules and regulations adopted and promulgated by the office or if the agency's goals and timetables are not being met, the office shall meet with the director of the agency to discuss the deficiencies. Agency directors shall take responsibility for all non-compliance within their particular agency. In all cases when such corrective action plan does not resolve the noncompliance, the office shall report such noncompliance to the Governor. Such report shall be in writing and shall be made available to the news media at the same time that it is submitted to the Governor. The Governor shall take appropriate action to resolve the noncompliance elements and issues which were cited by the office.

**Source:** Laws 1979, LB 500, § 14; Laws 1987, LB 491, § 23; Laws 2013, LB78, § 19.

Effective date September 6, 2013.

## ARTICLE 14 LAW ENFORCEMENT

### (a) LAW ENFORCEMENT TRAINING

Section

81-1401. Terms, defined.

81-1403. Council; duties; law enforcement agency; duties; administrative fine.

### (b) COMMISSION ON LAW ENFORCEMENT AND CRIMINAL JUSTICE

81-1417. Commission; members; qualifications; appointment; terms; special committee.

81-1427. Director of Juvenile Diversion Programs; appointment; duties.

### (c) HUMAN TRAFFICKING

81-1430. Task force; established; members; terms; duties; quorum; report; Department of Labor; posters.

### (a) LAW ENFORCEMENT TRAINING

#### **81-1401 Terms, defined.**

For purposes of sections 81-1401 to 81-1414.10, unless the context otherwise requires:

(1) Commission means the Nebraska Commission on Law Enforcement and Criminal Justice;

(2) Council means the Nebraska Police Standards Advisory Council;

(3) Director means the director of the Nebraska Law Enforcement Training Center;

(4) Felony means a crime punishable by imprisonment for a term of more than one year or a crime committed outside of Nebraska which would be punishable by imprisonment for a term of more than one year if committed in Nebraska;

(5) Handgun means any firearm with a barrel less than sixteen inches in length or any firearm designed to be held and fired by the use of a single hand;

(6) Incapacity means incapable of or lacking the ability to perform or carry out the usual duties of a law enforcement officer in accordance with the standards established by the commission due to physical, mental, or emotional factors. Incapacity does not exist if a law enforcement officer remains employed

as a law enforcement officer, including employment as a law enforcement officer in a restricted or limited-duty status;

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

(8)(a) Law enforcement officer means any person who is responsible for the prevention or detection of crime or the enforcement of the penal, traffic, or highway laws of the state or any political subdivision of the state for more than one hundred hours per year and is authorized by law to make arrests and includes, but is not limited to:

(i) A full-time or part-time member of the Nebraska State Patrol;

(ii) A county sheriff;

(iii) A full-time, part-time, or reserve employee of a county sheriff's office;

(iv) A full-time, part-time, or reserve employee of a municipal or village police agency;

(v) A full-time or part-time Game and Parks Commission conservation officer;

(vi) A full-time or part-time deputy state sheriff; or

(vii) A full-time employee of an organized and paid fire department of any city of the metropolitan class who is an authorized arson investigator and whose duties consist of determining the cause, origin, and circumstances of fires or explosions while on duty in the course of an investigation;

(b) Law enforcement officer does not include employees of the Department of Correctional Services, probation officers under the Nebraska Probation System, parole officers appointed by the Parole Administrator, or employees of the Department of Revenue under section 77-366; and

(c) A law enforcement officer shall possess a valid law enforcement officer certificate or diploma, as established by the council, in order to be vested with the authority of this section, but this subdivision does not prohibit an individual from receiving a conditional appointment as an officer pursuant to subsection (2) of section 81-1414;

(9) Training academy means the training center or such other council-approved law enforcement training facility operated and maintained by a law enforcement agency which offers certification training that meets or exceeds the certification training curriculum of the training center;

(10) Training center means the Nebraska Law Enforcement Training Center; and

(11) Training school means a public or private institution of higher education, including the University of Nebraska, the Nebraska state colleges, and the community colleges of this state, that offers training in a council-approved pre-certification course.

**Source:** Laws 1969, c. 773, § 1, p. 2925; Laws 1971, LB 929, § 1; Laws 1979, LB 565, § 1; Laws 1980, LB 834, § 63; Laws 1981, LB 205, § 3; Laws 1986, LB 529, § 53; Laws 1996, LB 1055, § 11; Laws 1999, LB 36, § 38; Laws 1999, LB 205, § 1; Laws 2000, LB 994, § 2; Laws 2007, LB334, § 105; Laws 2012, LB817, § 5; Laws 2013, LB538, § 1.

Operative date January 1, 2014.

**81-1403 Council; duties; law enforcement agency; duties; administrative fine.**

Subject to review and approval by the commission, the council shall:

(1) Adopt and promulgate rules and regulations for law enforcement pre-certification, certification, continuing education, and training requirements. Such rules and regulations may include the authority to impose a fine on any individual, political subdivision, or agency who or which violates sections 81-1401 to 81-1414.10 or any of such rules and regulations. The fine for each separate violation of sections 81-1401 to 81-1414.10 or of any rule or regulation adopted and promulgated by the council pursuant to such sections shall not exceed either (a) a one-time maximum fine of five hundred dollars or (b) a maximum fine of one hundred dollars per day until the individual, political subdivision, or agency complies with such rules or regulations. All fines collected pursuant to this subdivision shall be remitted to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska;

(2) Adopt and promulgate rules and regulations for the operation of the training center;

(3) Recommend to the executive director of the commission the names of persons to be appointed to the position of director of the training center;

(4) Establish requirements for satisfactory completion of pre-certification programs, certification programs, and advanced training programs;

(5) Issue certificates or diplomas attesting satisfactory completion of pre-certification programs, certification programs, and advanced training programs;

(6) Revoke or suspend such certificates or diplomas according to rules and regulations adopted and promulgated by the council pursuant to sections 81-1401 to 81-1414.10 for reasons which shall include, but not be limited to, (a) incompetence, (b) neglect of duty, (c) physical, mental, or emotional incapacity, and (d) final conviction of or pleading guilty or nolo contendere to a felony. The rules and regulations shall provide for the revocation of a certificate or diploma without a hearing upon the certificate or diploma holder's final conviction of or pleading guilty or nolo contendere to a felony. When a law enforcement officer is separated from his or her agency due to physical, mental, or emotional incapacity, the law enforcement agency shall report the separation to the council, and the officer's law enforcement certificate shall be suspended pursuant to rules and regulations adopted and promulgated by the council until such time as the officer demonstrates to the council that the incapacity no longer prevents the officer from performing the essential duties of a law enforcement officer. The council shall adopt and promulgate rules and regulations to include a procedure for hearing appeals of any person who feels that the revocation or suspension of his or her certificate or diploma was in error;

(7) Set the tuition and fees for the training center and all officers of other training academies not employed by that training academy's agency. The tuition and fees set for the training center pursuant to this subdivision shall be adjusted annually pursuant to the training center budget approved by the Legislature. All other tuition and fees shall be set in order to cover the costs of administering sections 81-1401 to 81-1414.10. All tuition and fees shall be

remitted to the State Treasurer for credit to the Nebraska Law Enforcement Training Center Cash Fund;

(8) Annually certify any training academies providing a basic course of law enforcement training which complies with the qualifications and standards promulgated by the council and offering training that meets or exceeds training that is offered by the training center. The council shall set the maximum and minimum applicant enrollment figures for training academies training non-agency officers;

(9) Extend the programs of the training center throughout the state on a regional basis;

(10) Establish the qualifications, standards, and continuing education requirements and provide the training required by section 81-1439; and

(11) Do all things necessary to carry out the purpose of the training center, except that functional authority for budget and personnel matters shall remain with the commission.

Any administrative fine imposed under this section shall constitute a debt to the State of Nebraska which may be collected by lien foreclosure or sued for and recovered in any proper form of action by the office of the Attorney General in the name of the State of Nebraska in the district court of the county where the final agency action was taken. All fines imposed by the council shall be remitted to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

**Source:** Laws 1969, c. 773, § 3, p. 2926; Laws 1971, LB 929, § 3; Laws 1984, LB 673, § 1; Laws 1988, LB 666, § 1; Laws 1994, LB 971, § 3; Laws 2000, LB 994, § 4; Laws 2005, LB 115, § 1; Laws 2011, LB390, § 16; Laws 2012, LB817, § 6; Laws 2013, LB538, § 2.

Operative date January 1, 2014.

#### (b) COMMISSION ON LAW ENFORCEMENT AND CRIMINAL JUSTICE

**81-1417 Commission; members; qualifications; appointment; terms; special committee.**

(1) The Nebraska Commission on Law Enforcement and Criminal Justice shall consist of nineteen members. The membership shall include the Governor, the Attorney General, the Superintendent of Law Enforcement and Public Safety, the Director of Correctional Services, the chief of police or director of public safety of a city of more than two hundred thousand population, the chief of police or director of public safety of a city of two hundred thousand population or less, a county sheriff, a county attorney, a county commissioner, a mayor or city manager, a person involved with the control or prevention of juvenile delinquency, the chairperson of the Nebraska Police Standards Advisory Council, the chairperson of the Nebraska Coalition for Juvenile Justice, and six members, at least one of whom shall be a woman, from the public at large. The seven members of the council shall also be considered members of the commission acting as a special committee of the commission with limited powers and duties. A member of the commission may serve concurrently as a member of the council.

(2) The Governor may increase the membership of the commission at any time if such increase is necessary to comply with the provisions of any federal

act providing funds for law enforcement or delinquency prevention purposes. Such members of the commission appointed by the Governor shall serve for terms of six years from January 1 next succeeding their appointments.

(3) Except for the Governor, the Attorney General, the Superintendent of Law Enforcement and Public Safety, the Director of Correctional Services, the chairperson of the Nebraska Police Standards Advisory Council, and the chairperson of the Nebraska Coalition for Juvenile Justice, the members of the commission shall be appointed by the Governor. The membership of the commission shall represent varying geographic areas and large and small governmental subdivisions.

**Source:** Laws 1969, c. 774, § 3, p. 2932; Laws 1994, LB 971, § 11; Laws 2002, LB 93, § 24; Laws 2013, LB561, § 63.  
Effective date May 30, 2013.

**81-1427 Director of Juvenile Diversion Programs; appointment; duties.**

(1) There is established within the Nebraska Commission on Law Enforcement and Criminal Justice the position of Director of Juvenile Diversion Programs to be appointed by the executive director of the commission.

(2) The Director of Juvenile Diversion Programs shall be supervised by the executive director of the Nebraska Commission on Law Enforcement and Criminal Justice. The director shall be responsible for fostering, promoting, researching, and assessing juvenile pretrial diversion programs and developing new programs in collaboration with cities and counties pursuant to sections 43-260.02 to 43-260.07. The director shall:

(a) Provide technical assistance and guidance to juvenile pretrial diversion programs for implementing evidence-based strategies or standardized, replicable practices that have been researched and have demonstrated positive outcomes;

(b) Develop a core juvenile pretrial diversion program packet for utilization by counties without a juvenile pretrial diversion program or counties without a district probation officer acting under section 29-2258;

(c) Establish baseline program guidelines for juvenile pretrial diversion programs grounded in best-practice research, develop data collection and evaluation protocols, oversee statewide data collection, and generate an annual report on juvenile pretrial diversion programs;

(d) Develop relationships and collaborate with juvenile justice stakeholders involved in juvenile pretrial diversion programs, provide education and training as necessary, and serve on boards and committees when approved by the commission;

(e) Facilitate consistent communication and information-sharing among juvenile pretrial diversion program directors;

(f) Assist juvenile pretrial diversion program directors, county attorneys, district probation officers acting under section 29-2258, and county boards in developing policies and practices that achieve the goals of quality juvenile pretrial diversion programs;

(g) Assist in comprehensive community planning efforts as they relate to development of juvenile pretrial diversion programs;

(h) Develop and coordinate a statewide working group as a subcommittee of the Nebraska Coalition for Juvenile Justice to assist in regular strategic planning related to supporting, funding, monitoring, and evaluating the effectiveness of plans and programs receiving funds from the Community-based Juvenile Services Aid Program; and

(i) Assist the Director of the Community-based Juvenile Services Aid Program created under section 43-2404.01 in the review of Community-based Juvenile Services Aid Program applications as provided in section 43-2404.02.

**Source:** Laws 2013, LB561, § 53.  
Effective date May 30, 2013.

### (c) HUMAN TRAFFICKING

**81-1430 Task force; established; members; terms; duties; quorum; report; Department of Labor; posters.**

(1) A task force is hereby established within the Nebraska Commission on Law Enforcement and Criminal Justice for the purposes of investigating and studying human trafficking, the methods for advertising human trafficking services, and the victimization of individuals coerced to participate in human trafficking.

(2) The task force shall examine the extent to which human trafficking is prevalent in this state, the scope of efforts being taken to prevent human trafficking from occurring, and the services available to victims of human trafficking in this state. The task force shall utilize information and research available from the Innocence Lost National Initiative. The task force shall research and recommend a model of rehabilitative services for victims of human trafficking that includes input from the areas of law enforcement, social services, the legal profession, the judiciary, mental health, and immigration. The task force shall also investigate the limitations upon victims who wish to come forward and seek medical attention; investigate the potential to stop human trafficking; and investigate the potential to promote recovery, to protect families and children who may be profoundly impacted by such abuse, and to save lives.

(3)(a) The Department of Labor shall work with the task force to develop or select informational posters for placement around the state. The posters shall be in English, Spanish, and any other language deemed appropriate by the task force. The posters shall include a toll-free telephone number a person may call for assistance, preferably the National Human Trafficking Resource Center Hotline (888)373-7888.

(b) Posters shall be placed in rest stops and strip clubs. The task force shall work with local businesses and nonprofit entities associated with the prevention of human trafficking to voluntarily place additional signs in high schools, postsecondary educational institutions, gas stations, hotels, hospitals, health care clinics, urgent care centers, airports, train stations, bus stations, and other locations around the state deemed appropriate by the task force.

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

(a) The Attorney General or his or her designee;

(b) The executive director of the Nebraska Commission on Law Enforcement and Criminal Justice;

(c) The Superintendent of Law Enforcement and Public Safety or his or her designee;

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

(e) The chief of police or director of public safety of a city of two hundred thousand inhabitants or more;

(f) The chief of police or director of public safety of a city of less than two hundred thousand inhabitants;

(g) A county sheriff;

(h) A county attorney;

(i) A county commissioner;

(j) A mayor or city manager;

(k) A person involved with the control or prevention of juvenile delinquency;

(l) A person involved with the control or prevention of child abuse;

(m) The Commissioner of Education or his or her designee;

(n) The director of the Commission on Latino-Americans or his or her designee; and

(o) Six members, at least three of whom shall be women, from the public at large.

(5) The Governor shall appoint the members of the task force listed in subdivisions (4)(e) through (l) and (o) of this section for terms as provided in subsection (6) of this section. The membership of the task force shall represent varying geographic areas and large and small political subdivisions. One member from the public at large shall be a professional representing child welfare, and one member of the public at large shall represent juvenile pretrial diversion programs.

(6) The members of the task force appointed by the Governor shall serve six-year terms, except that of the members first appointed, four shall serve initial two-year terms, four shall serve initial four-year terms, and six shall serve initial six-year terms from January 1 next succeeding their appointments. Thereafter, all members shall serve six-year terms. A member may be reappointed at the expiration of his or her term. Any vacancy occurring otherwise than by expiration of a term shall be filled for the balance of the unexpired term in the same manner as the original appointment.

(7) No member shall serve beyond the time when he or she holds the office, employment, or status by reason of which he or she was initially eligible for appointment. Any member of the task force appointed by the Governor may be removed from the task force for cause upon notice and an opportunity to be heard at a public hearing. One of the causes for removal shall be absence from three regularly scheduled meetings of the task force during any six-month period when the member has failed to advise the task force in advance of such meeting that he or she will be absent and stating a reason therefor.

(8) The chairperson of the task force shall be designated by the Governor to serve at the pleasure of the Governor. The chairperson shall be the chief executive officer of the task force but may delegate such of his or her duties to other members of the task force as may be authorized by the task force.

(9) Notwithstanding any provision of law, ordinance, or charter provision to the contrary, membership on the task force shall not disqualify any member



from holding any other public office or employment or cause the forfeiture thereof.

(10) The members of the task force shall serve on the task force without compensation, but they shall be entitled to receive reimbursement for any actual expenses incurred as necessary incident to such service as provided in sections 81-1174 to 81-1177.

(11) Eleven members of the task force shall constitute a quorum for the transaction of any business or the exercise of any power of the task force. The task force shall have the power to act by a majority of the members present at any meeting at which a quorum is in attendance.

(12) All appointments shall be made not later than thirty days after July 19, 2012. The chairperson shall meet with the task force not later than sixty days after July 19, 2012.

(13) Not later than one year after July 19, 2012, and every July 1 and December 1 thereafter, the task force shall report electronically to the Clerk of the Legislature the results of its investigation and study and its recommendations, if any, together with drafts of legislation necessary to carry its recommendations into effect by filing the report with the clerk.

**Source:** Laws 2012, LB1145, § 2; Laws 2013, LB222, § 37; Laws 2013, LB255, § 12.

**Note:** The Revisor of Statutes has pursuant to section 49-769 correlated LB222, section 37, with LB255, section 12, to reflect all amendments.

**Note:** Changes made by LB222 became effective May 8, 2013. Changes made by LB255 became operative October 1, 2013.

## ARTICLE 15

### ENVIRONMENTAL PROTECTION

#### (a) ENVIRONMENTAL PROTECTION ACT

Section

81-1502. Terms, defined.

#### (l) WASTE REDUCTION AND RECYCLING

81-15,160. Waste Reduction and Recycling Incentive Fund; created; use; investment; grants; restrictions.

81-15,162. Fees on tires; collection; disbursement.

#### (a) ENVIRONMENTAL PROTECTION ACT

#### **81-1502 Terms, defined.**

For purposes of the Environmental Protection Act, unless the context otherwise requires:

(1) Air contaminant or air contamination shall mean the presence in the outdoor atmosphere of any dust, fume, mist, smoke, vapor, gas, other gaseous fluid, or particulate substance differing in composition from or exceeding in concentration the natural components of the atmosphere;

(2) Air pollution shall mean the presence in the outdoor atmosphere of one or more air contaminants or combinations thereof in such quantities and of such duration as are or may tend to be injurious to human, plant, or animal life, property, or the conduct of business;

(3) Chairperson shall mean the chairperson of the Environmental Quality Council and council shall mean the Environmental Quality Council;

(4) Complaint shall mean any charge, however informal, to or by the council, that any person or agency, private or public, is polluting the air, land, or water or is violating the Environmental Protection Act or any rule or regulation of the department in respect thereof;

(5) Control and controlling shall include prohibition and prohibiting as related to air, land, or water pollution;

(6) Department shall mean the Department of Environmental Quality, which department is hereby created;

(7) Director shall mean the Director of Environmental Quality, which position is hereby established;

(8) Disposal system shall mean a system for disposing of wastes, including hazardous wastes, either by surface or underground methods, and includes sewerage systems and treatment works, disposal wells and fields, and other systems;

(9) Emissions shall mean releases or discharges into the outdoor atmosphere of any air contaminant or combination thereof;

(10) Person shall mean any: Individual; partnership; limited liability company; association; public or private corporation; trustee; receiver; assignee; agent; municipality or other governmental subdivision; public agency; other legal entity; or any officer or governing or managing body of any public or private corporation, municipality, governmental subdivision, public agency, or other legal entity;

(11) Rule or regulation shall mean any rule or regulation of the department;

(12) Sewerage system shall mean pipelines, conduits, pumping stations, force mains, and all other constructions, devices, appurtenances, and facilities used for collecting or conducting wastes to an ultimate point for treatment or disposal;

(13) Treatment works shall mean any plant or other works used for the purpose of treating, stabilizing, or holding wastes;

(14) Wastes shall mean sewage, industrial waste, and all other liquid, gaseous, solid, radioactive, or other substances which may pollute or tend to pollute any air, land, or waters of the state;

(15) Refuse shall mean putrescible and nonputrescible solid wastes, except body wastes, and includes garbage, rubbish, ashes, incinerator ash, incinerator residue, street cleanings, and solid market and industrial wastes;

(16) Garbage shall mean rejected food wastes, including waste accumulation of animal, fruit, or vegetable matter used or intended for food or that attend the preparation, use, cooking, dealing in, or storing of meat, fish, fowl, fruit, or vegetables, and dead animals rejected by rendering plants;

(17) Rubbish shall mean nonputrescible solid wastes, excluding ashes, consisting of both combustible and noncombustible wastes, such as paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery, or litter of any kind that will be a detriment to the public health and safety;

(18) Junk shall mean old scrap, copper, brass, iron, steel, rope, rags, batteries, paper, trash, rubber debris, waste, dismantled or wrecked automobiles, or parts thereof, and other old or scrap ferrous or nonferrous material;

(19) Land pollution shall mean the presence upon or within the land resources of the state of one or more contaminants or combinations of contami-

nants, including, but not limited to, refuse, garbage, rubbish, or junk, in such quantities and of such quality as will or are likely to (a) create a nuisance, (b) be harmful, detrimental, or injurious to public health, safety, or welfare, (c) be injurious to plant and animal life and property, or (d) be detrimental to the economic and social development, the scenic beauty, or the enjoyment of the natural attractions of the state;

(20) Water pollution shall mean the manmade or man-induced alteration of the chemical, physical, biological, or radiological integrity of water;

(21) Waters of the state shall mean all waters within the jurisdiction of this state, including all streams, lakes, ponds, impounding reservoirs, marshes, wetlands, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, situated wholly or partly within or bordering upon the state;

(22) Point source shall mean any discernible confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, or vessel or other floating craft from which pollutants are or may be discharged;

(23) Effluent limitation shall mean any restriction, including a schedule of compliance, established by the council on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged from point sources into waters of the state;

(24) Schedule of compliance shall mean a schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with an effluent limitation, other limitation, prohibition, or standard;

(25) Hazardous waste shall mean a solid waste, or combination of solid wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may (a) cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness or (b) pose a substantial present or potential hazard to human or animal health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed;

(26) Solid waste shall mean any garbage, refuse, or sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, and mining operations and from community activities. Solid waste shall not include slag, a product that is a result of the steel manufacturing process and is managed as an item of value in a controlled manner and not as a discarded material; solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under section 402 of the Clean Water Act, as amended, 33 U.S.C. 1251 et seq.; or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011 et seq.;

(27) Storage, when used in connection with hazardous waste, shall mean the containment of hazardous waste, either on a temporary basis or for a period of years, in such manner as not to constitute disposal of such hazardous waste;

(28) Manifest shall mean the form used for identifying the quantity, composition, origin, routing, and destination of hazardous waste during its transportation from the point of generation to the point of disposal, treatment, or storage;

(29) Processing shall mean to treat, detoxify, neutralize, incinerate, biodegrade, or otherwise process a hazardous waste to remove such waste's harmful properties or characteristics for disposal in accordance with regulations established by the council;

(30) Well shall mean a bored, drilled, or driven shaft or a dug hole, the depth of which is greater than the largest surface dimension of such shaft or hole;

(31) Injection well shall mean a well into which fluids are injected;

(32) Fluid shall mean a material or substance which flows or moves whether in a semisolid, liquid, sludge, gas, or other form or state;

(33) Mineral production well shall mean a well drilled to promote extraction of mineral resources or energy, including, but not limited to, a well designed for (a) mining of sulfur by the Frasch process, (b) solution mining of sodium chloride, potash, phosphate, copper, uranium, or any other mineral which can be mined by this process, (c) in situ combustion of coal, tar sands, oil shale, or any other fossil fuel, or (d) recovery of geothermal energy for the production of electric power. Mineral production well shall not include any well designed for conventional oil or gas production, for use of fluids to promote enhanced recovery of oil or natural gas, or for injection of hydrocarbons for storage purposes;

(34) Mineral exploration hole shall mean a hole bored, drilled, driven, or dug in the act of exploring for a mineral other than oil and gas;

(35) Solution mining shall mean the use of an injection well and fluids to promote the extraction of mineral resources;

(36) Uranium shall mean tri-uranium oct-oxide;

(37) Solid waste management facility shall mean a facility as defined in section 13-2010; and

(38) Livestock waste control facility shall have the same meaning as in section 54-2417.

**Source:** Laws 1971, LB 939, § 2; Laws 1972, LB 1435, § 1; Laws 1973, LB 538, § 1; Laws 1980, LB 853, § 1; Laws 1981, LB 216, § 2; Laws 1983, LB 356, § 2; Laws 1984, LB 742, § 1; Laws 1984, LB 1078, § 1; Laws 1986, LB 1008, § 1; Laws 1992, LB 1257, § 76; Laws 1993, LB 121, § 538; Laws 1994, LB 570, § 5; Laws 1998, LB 1209, § 18; Laws 2004, LB 916, § 25; Laws 2013, LB203, § 1.

Effective date September 6, 2013.

#### (I) WASTE REDUCTION AND RECYCLING

**81-15,160 Waste Reduction and Recycling Incentive Fund; created; use; investment; grants; restrictions.**

(1) The Waste Reduction and Recycling Incentive Fund is created. The department shall deduct from the fund amounts sufficient to reimburse itself for its costs of administration of the fund. The fund shall be administered by the Department of Environmental Quality. The fund shall consist of proceeds from the fees imposed pursuant to the Waste Reduction and Recycling Incentive Act.

(2) The fund may be used for purposes which include, but are not limited to:

(a) Technical and financial assistance to political subdivisions for creation of recycling systems and for modification of present recycling systems;

(b) Recycling and waste reduction projects, including public education, planning, and technical assistance;

(c) Market development for recyclable materials separated by generators, including public education, planning, and technical assistance;

(d) Capital assistance for establishing private and public intermediate processing facilities for recyclable materials and facilities using recyclable materials in new products;

(e) Programs which develop and implement composting of yard waste and composting with sewage sludge;

(f) Technical assistance for waste reduction and waste exchange for waste generators;

(g) Programs to assist communities and counties to develop and implement household hazardous waste management programs;

(h) Capital assistance for establishing private and public facilities to manufacture combustible waste products and to incinerate combustible waste to generate and recover energy resources, except that no disbursements shall be made under this section for scrap tire processing related to tire-derived fuel; and

(i) Grants for reimbursement of costs to cities of the second class, villages, and counties of five thousand or fewer population for the deconstruction of abandoned buildings. Eligible deconstruction costs will be related to the recovery and processing of recyclable or reusable material from the abandoned buildings.

(3) Grants up to one million five hundred thousand dollars annually shall be available until June 30, 2019, for new scrap tire projects only, if acceptable scrap tire project applications are received. Eligible categories of disbursement under section 81-15,161 may include, but are not limited to:

(a) Reimbursement for the purchase of crumb rubber generated and used in Nebraska, with disbursements not to exceed fifty percent of the cost of the crumb rubber;

(b) Reimbursement for the purchase of tire-derived product which utilizes a minimum of twenty-five percent recycled tire content, with disbursements not to exceed twenty-five percent of the product's retail cost, except that persons who applied for a grant between June 1, 1999, and May 31, 2001, for the purchase of tire-derived product which utilizes a minimum of twenty-five percent recycled tire content may apply for reimbursement on or before July 1, 2002. Reimbursement shall not exceed twenty-five percent of the product's retail cost and may be funded in fiscal years 2001-02 and 2002-03;

(c) Participation in the capital costs of building, equipment, and other capital improvement needs or startup costs for scrap tire processing or manufacturing of tire-derived product, with disbursements not to exceed fifty percent of such costs or five hundred thousand dollars, whichever is less;

(d) Participation in the capital costs of building, equipment, or other startup costs needed to establish collection sites or to collect and transport scrap tires, with disbursements not to exceed fifty percent of such costs;

(e) Cost-sharing for the manufacturing of tire-derived product, with disbursements not to exceed twenty dollars per ton or two hundred fifty thousand dollars, whichever is less, to any person annually;

(f) Cost-sharing for the processing of scrap tires, with disbursements not to exceed twenty dollars per ton or two hundred fifty thousand dollars, whichever is less, to any person annually;

(g) Cost-sharing for the use of scrap tires for civil engineering applications for specified projects, with disbursements not to exceed twenty dollars per ton or two hundred fifty thousand dollars, whichever is less, to any person annually; and

(h) Disbursement to a political subdivision up to one hundred percent of costs incurred in cleaning up scrap tire collection and disposal sites.

The director shall give preference to projects which utilize scrap tires generated and used in Nebraska.

(4) Priority for grants made under section 81-15,161 shall be given to grant proposals demonstrating a formal public/private partnership except for grants awarded from fees collected under subsection (6) of section 13-2042.

(5) Grants awarded from fees collected under subsection (6) of section 13-2042 may be renewed for up to a five-year grant period. Such applications shall include an updated integrated solid waste management plan pursuant to section 13-2032. Annual disbursements are subject to available funds and the grantee meeting established grant conditions. Priority for such grants shall be given to grant proposals showing regional participation and programs which address the first integrated solid waste management hierarchy as stated in section 13-2018 which shall include toxicity reduction. Disbursements for any one year shall not exceed fifty percent of the total fees collected after rebates under subsection (6) of section 13-2042 during that year.

(6) Any person who stores waste tires in violation of section 13-2033, which storage is the subject of abatement or cleanup, shall be liable to the State of Nebraska for the reimbursement of expenses of such abatement or cleanup paid by the Department of Environmental Quality.

(7) The Department of Environmental Quality may receive gifts, bequests, and any other contributions for deposit in the Waste Reduction and Recycling Incentive Fund. Transfers may be made from the fund to the General Fund at the direction of the Legislature. Any money in the Waste Reduction and Recycling Incentive Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

**Source:** Laws 1990, LB 163, § 2; Laws 1992, LB 1257, § 95; Laws 1993, LB 203, § 20; Laws 1993, LB 444, § 1; Laws 1994, LB 1034, § 7; Laws 1994, LB 1066, § 122; Laws 1997, LB 495, § 9; Laws 1999, LB 592, § 3; Laws 2001, LB 461, § 16; Laws 2002, Second Spec. Sess., LB 1, § 7; Laws 2003, LB 143, § 11; Laws 2007, LB568, § 3; Laws 2009, LB180, § 2; Laws 2009, LB379, § 1; Laws 2009, First Spec. Sess., LB3, § 78; Laws 2013, LB549, § 1. Effective date September 6, 2013.

**Cross References**

Nebraska Capital Expansion Act, see section 72-1269.

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

**81-15,162 Fees on tires; collection; disbursement.**

(1) There is hereby imposed a fee of one dollar on each tire of every new motor vehicle, trailer, or semitrailer sold at retail in this state. Such fee shall be collected by the county treasurer at the time of registration of the motor vehicle, trailer, or semitrailer and remitted to the Department of Revenue.

(2) There is hereby imposed a fee of one dollar on every tire sold at retail in this state, including every farm tractor tire, which tires are not on a motor vehicle, trailer, or semitrailer pursuant to subsection (1) of this section. Such fee shall be collected from the purchaser by the tire retailer at the time of purchase and shall be remitted to the Department of Revenue.

(3) For purposes of this section, tire shall have the definition found in section 81-15,159.02 and shall include a pneumatic and solid tire but shall not include a recapped or regrooved tire.

(4) Subject to section 81-15,165, the fees remitted to the Department of Revenue under this section shall be remitted to the State Treasurer for credit to the Waste Reduction and Recycling Incentive Fund. Fees collected in excess of one million five hundred thousand dollars shall be available for grants to political subdivisions under rules and regulations adopted pursuant to subdivision (6)(b)(i) of section 13-2042.

**Source:** Laws 1990, LB 163, § 4; Laws 1994, LB 1034, § 10; Laws 1999, LB 592, § 4; Laws 2003, LB 143, § 13; Laws 2011, LB29, § 3; Laws 2013, LB549, § 2.  
Effective date September 6, 2013.

**ARTICLE 18****CRIME VICTIMS AND WITNESSES**

## (a) CRIME VICTIM'S REPARATIONS

Section

- 81-1822. Compensation; situations when not awarded.  
81-1833. Committee; report; powers and duties.  
81-1834. Repealed. Laws 2013, LB 99, § 9.

## (b) CRIME VICTIMS AND WITNESSES ASSISTANCE

- 81-1845. Victim and witness assistance center; selection and establishment; Nebraska Commission on Law Enforcement and Criminal Justice; duties; funding.

## (a) CRIME VICTIM'S REPARATIONS

**81-1822 Compensation; situations when not awarded.**

No compensation shall be awarded from the Victim's Compensation Fund:

(1) If the victim aided or abetted the offender in the commission of the unlawful act;

(2) If the offender will receive economic benefit or unjust enrichment from the compensation;

(3) If the victim violated a criminal law of the state, which violation caused or contributed to his or her injuries or death; or

(4) If the victim is injured as a result of the operation of a motor vehicle, boat, or airplane (a) unless the vehicle was used in a deliberate attempt to injure or kill the victim, (b) unless the operator is charged with a violation of section 60-6,196 or 60-6,197 or a city or village ordinance enacted in conform-

ance with either of such sections, or (c) unless any chemical test of the operator's breath or blood indicates an alcohol concentration equal to or in excess of the limits prescribed in section 60-6,196.

Nothing in this section shall limit payments to a victim by an offender which are made as full or partial restitution of the victim's actual pecuniary loss.

**Source:** Laws 1978, LB 910, § 22; Laws 1982, LB 942, § 7; Laws 1986, LB 540, § 23; Laws 1990, LB 87, § 7; Laws 1993, LB 370, § 489; Laws 2001, LB 773, § 18; Laws 2009, LB598, § 9; Laws 2011, LB390, § 24; Laws 2013, LB99, § 6.  
Effective date September 6, 2013.

**81-1833 Committee; report; powers and duties.**

(1) The committee shall prepare and submit to the commission a biennial report of its activities under the Nebraska Crime Victim's Reparations Act. Such report shall be submitted to the Governor and Clerk of the Legislature. The report submitted to the Clerk of the Legislature shall be submitted electronically.

(2) The committee shall act as the oversight committee for the Community Trust and shall annually report its activities and findings as the oversight committee to the commission, the Governor, and the Clerk of the Legislature. The report submitted to the Clerk of the Legislature shall be submitted electronically. If any questionable or improper actions or inactions on the part of the Community Trust are observed, the committee shall immediately notify the Attorney General who shall investigate the matter.

**Source:** Laws 1978, LB 910, § 33; Laws 1979, LB 322, § 60; Laws 1980, LB 319, § 6; Laws 1981, LB 545, § 37; Laws 1981, LB 328, § 8; Laws 1986, LB 540, § 31; Laws 2009, LB598, § 12; Laws 2012, LB782, § 208; Laws 2013, LB99, § 7.  
Effective date September 6, 2013.

**81-1834 Repealed. Laws 2013, LB 99, § 9.**

(b) CRIME VICTIMS AND WITNESSES ASSISTANCE

**81-1845 Victim and witness assistance center; selection and establishment; Nebraska Commission on Law Enforcement and Criminal Justice; duties; funding.**

(1) Any public or private nonprofit agency may apply to the Nebraska Commission on Law Enforcement and Criminal Justice for selection and funding as a victim and witness assistance center pursuant to sections 81-1843 to 81-1851.

(2) The commission shall consider the following factors, together with any other factors it deems appropriate, in selecting applicants to receive funds and be designated as a victim and witness assistance center:

- (a) The number of volunteers that the proposed center will utilize;
- (b) The stated goals of the applicant;

(c) The potential number of people that may be served by the proposed center and the needs of the community for such a center;



(d) Evidence of community support for the establishment of the proposed center; and

(e) The organizational structure of the agency which will operate the proposed center and provide services to victims and witnesses of crimes.

(3) Upon evaluation of all applicants, the Nebraska Commission on Law Enforcement and Criminal Justice shall select a number of public or private nonprofit agencies which the commission deems qualified for designation to receive funding for the establishment and operation of such centers.

(4) The commission shall, upon the establishment of such centers, conduct appraisals of their performance to determine which of the centers shall receive continuation grants.

**Source:** Laws 1981, LB 477, § 3; Laws 2004, LB 270, § 10; Laws 2012, LB782, § 209; Laws 2013, LB222, § 38.  
Effective date May 8, 2013.

## ARTICLE 20

### NEBRASKA STATE PATROL

#### (a) GENERAL PROVISIONS

##### Section

81-2004.02. Nebraska State Patrol Cash Fund; created; use; investment.

81-2004.05. Public Safety Cash Fund; created; use; investment.

81-2004.08. Nebraska Public Safety Communication System Cash Fund; created; use; investment.

#### (b) RETIREMENT SYSTEM

81-2014. Terms, defined.

81-2016. Retirement system; membership; requirements; new employee; participation in another governmental plan; how treated; separate employment; effect.

81-2017. Retirement system; contributions; payment; funding of system.

81-2027.08. Annual benefit adjustment; cost-of-living adjustment calculation method.

81-2041. DROP participation authorized; requirements; fees.

#### (a) GENERAL PROVISIONS

##### **81-2004.02 Nebraska State Patrol Cash Fund; created; use; investment.**

There is hereby created the Nebraska State Patrol Cash Fund. Money from this fund shall be used to defray expenses incident to the administration of the Nebraska State Patrol. All funds received by the Nebraska State Patrol for services rendered shall be remitted to the State Treasurer for credit to the Nebraska State Patrol Cash Fund. Such fund shall be administered by the Superintendent of Law Enforcement and Public Safety.

Allowable uses of the fund shall include, but not be limited to, defraying the cost of:

(1) The vehicle identification inspection program established in sections 60-181 to 60-189;

(2) Investigations of odometer and motor vehicle fraud, motor vehicle licensing violations, and motor vehicle theft; and

(3) Other investigative expenses when money is specifically appropriated by the Legislature for such purposes.

For fiscal year 2013-14, transfers may be made from the fund to the Nebraska Capital Construction Fund at the direction of the Legislature. Any money in the Nebraska State Patrol Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

**Source:** Laws 1986, LB 851, § 1; Laws 1995, LB 7, § 134; Laws 2002, Second Spec. Sess., LB 1, § 9; Laws 2005, LB 276, § 112; Laws 2013, LB199, § 31.  
Effective date May 26, 2013.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

**81-2004.05 Public Safety Cash Fund; created; use; investment.**

There is hereby created the Public Safety Cash Fund. All forfeitures and proceeds received by the Nebraska State Patrol under the federal Equitable Sharing Provisions or any other federal agreement from any agency of the federal government on or after July 10, 1990, shall be deposited in the fund. This section shall not apply to funds otherwise subject to sections 28-431 and 28-1439.02. The fund shall be used only in accordance with the applicable requirements of the federal government. The fund shall be administered by the Superintendent of Law Enforcement and Public Safety. For fiscal year 2013-14, transfers may be made from the fund to the Nebraska Capital Construction Fund at the direction of the Legislature to support capital projects related to Nebraska State Patrol law enforcement efforts. Any money in the Public Safety 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 1990, LB 920, § 1; Laws 1994, LB 1066, § 127; Laws 1995, LB 15, § 4; Laws 2013, LB199, § 32.  
Effective date May 26, 2013.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

**81-2004.08 Nebraska Public Safety Communication System Cash Fund; created; use; investment.**

The Nebraska Public Safety Communication System Cash Fund is created. The fund shall be established within the Nebraska State Patrol and administered by the Superintendent of Law Enforcement and Public Safety. The fund shall consist of all revenue credited pursuant to law, including any fund transfers authorized by the Legislature. The fund shall only be used to pay the patrol's direct costs related to administering, operating, and maintaining the Nebraska Public Safety Communication System, except that any unobligated money in the fund may first be used to reduce the patrol's General Fund costs to operate the Nebraska Public Safety Communication System, and if additional unobligated money in the fund exists, the Legislature may transfer money from the fund to the State Fire Marshal and the Game and Parks Commission to reduce the General Fund costs to operate the Nebraska Public Safety Communication System. For fiscal year 2013-14, transfers may be made from the fund

to the Nebraska Capital Construction Fund at the direction of the Legislature to support capital projects related to Nebraska State Patrol law enforcement efforts. Any money in the Nebraska Public Safety Communication System 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 2007, LB322, § 4; Laws 2013, LB199, § 33.  
Effective date May 26, 2013.

**Cross References**

Nebraska Capital Expansion Act, see section 72-1269.

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

(b) RETIREMENT SYSTEM

**81-2014 Terms, defined.**

For purposes of the Nebraska State Patrol Retirement Act:

(1) Actuarial equivalent means the equality in value of the aggregate amounts expected to be received under different forms of payment or to be received at an earlier retirement age than the normal retirement age. The determinations shall be based on the 1994 Group Annuity Mortality Table reflecting sex-distinct factors blended using seventy-five percent of the male table and twenty-five percent of the female table. An interest rate of eight percent per annum shall be reflected in making the determinations until such percent is amended by the Legislature;

(2) Board means the Public Employees Retirement Board;

(3)(a) Compensation means gross wages or salaries payable to the member for personal services performed during the plan year. Compensation does not include insurance premiums converted into cash payments, reimbursement for expenses incurred, fringe benefits, per diems, or bonuses for services not actually rendered, including, but not limited to, early retirement inducements, cash awards, and severance pay, except for retroactive salary payments paid pursuant to court order, arbitration, or litigation and grievance settlements. For any officer employed after January 4, 1979, compensation does not include compensation for unused sick leave or unused vacation leave converted to cash payments. Compensation includes overtime pay, member retirement contributions, and amounts contributed by the member to plans under sections 125 and 457 of the Internal Revenue Code as defined in section 49-801.01 or any other section of the code which defers or excludes such amounts from income.

(b) Compensation in excess of the limitations set forth in section 401(a)(17) of the Internal Revenue Code as defined in section 49-801.01 shall be disregarded. For an employee who was a member of the retirement system before the first plan year beginning after December 31, 1995, the limitation on compensation shall not be less than the amount which was allowed to be taken into account under the retirement system as in effect on July 1, 1993;

(4) Creditable service means service granted pursuant to section 81-2034 and all service rendered while a contributing member of the retirement system. Creditable service includes working days, sick days, vacation days, holidays, and any other leave days for which the officer is paid regular wages. Creditable service does not include eligibility and vesting credit nor service years for which member contributions are withdrawn and not repaid;

(5) Current benefit means the initial benefit increased by all adjustments made pursuant to the Nebraska State Patrol Retirement Act;

(6) DROP means the deferred retirement option plan as provided in section 81-2041;

(7) DROP account means an individual DROP participant's defined contribution account under section 414(k) of the Internal Revenue Code;

(8) DROP period means the amount of time the member elects to participate in DROP which shall be for a period not to exceed five years from and after the date of the member's DROP election;

(9) Eligibility and vesting credit means credit for years, or a fraction of a year, of participation in a Nebraska government plan for purposes of determining eligibility for benefits under the Nebraska State Patrol Retirement Act. Such credit shall be used toward the vesting percentage pursuant to subsection (2) of section 81-2031 but shall not be included as years of service in the benefit calculation;

(10) Initial benefit means the retirement benefit calculated at the time of retirement;

(11) Officer means an officer provided for in sections 81-2001 to 81-2009;

(12) Plan year means the twelve-month period beginning on July 1 and ending on June 30 of the following year;

(13) Regular interest means interest fixed at a rate equal to the daily treasury yield curve for one-year treasury securities, as published by the Secretary of the Treasury of the United States, that applies on July 1 of each year, which may be credited monthly, quarterly, semiannually, or annually as the board may direct;

(14) Retirement application means the form approved and provided by the retirement system for acceptance of a member's request for either regular or disability retirement;

(15) Retirement date means (a) the first day of the month following the date upon which a member's request for retirement is received on a retirement application if the member is eligible for retirement and has terminated employment or (b) the first day of the month following termination of employment if the member is eligible for retirement and has filed an application but has not yet terminated employment;

(16) Retirement system or system means the Nebraska State Patrol Retirement System as provided in the act;

(17) Service means employment as a member of the Nebraska State Patrol and shall not be deemed to be interrupted by (a) temporary or seasonal suspension of service that does not terminate the employee's employment, (b) leave of absence authorized by the employer for a period not exceeding twelve months, (c) leave of absence because of disability, or (d) military service, when properly authorized by the board. Service does not include any period of disability for which disability retirement benefits are received under subsection (1) of section 81-2025;

(18) Surviving spouse means (a) the spouse married to the member on the date of the member's death if married for at least one year prior to death or if married on the date of the member's retirement or (b) the spouse or former spouse of the member if survivorship rights are provided under a qualified domestic relations order filed with the board pursuant to the Spousal Pension

Rights Act. The spouse or former spouse shall supersede the spouse married to the member on the date of the member's death as provided under a qualified domestic relations order. If the benefits payable to the spouse or former spouse under a qualified domestic relations order are less than the value of benefits entitled to the surviving spouse, the spouse married to the member on the date of the member's death shall be the surviving spouse for the balance of the benefits; and

(19) Termination of employment occurs on the date on which the Nebraska State Patrol determines that the officer's employer-employee relationship with the patrol is dissolved. The Nebraska State Patrol shall notify the board of the date on which such a termination has occurred. Termination of employment does not include ceasing employment with the Nebraska State Patrol if the officer returns to regular employment with the Nebraska State Patrol or another agency of the State of Nebraska and there are less than one hundred twenty days between the date when the employee's employer-employee relationship ceased and the date when the employer-employee relationship commenced with the Nebraska State Patrol or another state agency. Termination of employment does not occur upon an officer's participation in DROP pursuant to section 81-2041. It is the responsibility of the employer that is involved in the termination of employment to notify the board of such change in employment and provide the board with such information as the board deems necessary. If the board determines that termination of employment has not occurred and a retirement benefit has been paid to a member of the retirement system pursuant to section 81-2026, the board shall require the member who has received such benefit to repay the benefit to the retirement system.

**Source:** Laws 1947, c. 211, § 1, p. 687; Laws 1969, c. 511, § 1, p. 2092; R.S.1943, (1978), § 60-441; Laws 1989, LB 506, § 13; Laws 1991, LB 549, § 47; Laws 1994, LB 833, § 34; Laws 1995, LB 501, § 7; Laws 1996, LB 700, § 13; Laws 1996, LB 847, § 34; Laws 1996, LB 1076, § 32; Laws 1996, LB 1273, § 27; Laws 1997, LB 624, § 27; Laws 1999, LB 674, § 7; Laws 2000, LB 1192, § 19; Laws 2001, LB 408, § 19; Laws 2002, LB 470, § 7; Laws 2003, LB 451, § 21; Laws 2007, LB324, § 1; Laws 2012, LB916, § 28; Laws 2013, LB263, § 30.  
Effective date April 25, 2013.

#### Cross References

Spousal Pension Rights Act, see section 42-1101.

**81-2016 Retirement system; membership; requirements; new employee; participation in another governmental plan; how treated; separate employment; effect.**

(1) Every member of the Nebraska State Patrol who was employed by the State of Nebraska as such, on September 7, 1947, and every person employed as a member of such patrol thereafter, shall be a member of the system, except for those members of the Nebraska State Patrol who elected pursuant to section 60-1304 to remain members of the State Employees Retirement System of the State of Nebraska. On and after July 1, 2010, no employee shall be authorized to participate in the retirement system provided for in the Nebraska State Patrol Retirement Act unless the employee (a) is a United States citizen or (b) is a qualified alien under the federal Immigration and Nationality Act, 8 U.S.C.

1101 et seq., as such act existed on January 1, 2009, and is lawfully present in the United States.

(2) Within the first one hundred eighty days of employment, a member may apply to the board for eligibility and vesting credit for years of participation in another Nebraska governmental plan, as defined by section 414(d) of the Internal Revenue Code. During the years of participation in the other Nebraska governmental plan, the employee must have been a full-time employee, as defined in the Nebraska governmental plan in which the credit was earned.

(3) Any officer who qualifies for membership pursuant to subsection (1) of this section may not be disqualified from membership in the retirement system solely because such officer also maintains separate employment which qualifies the officer for membership in another public retirement system, nor may membership in this retirement system disqualify such an officer from membership in another public retirement system solely by reason of separate employment which qualifies such officer for membership in this retirement system.

(4) Information necessary to determine membership shall be provided by the Nebraska State Patrol.

(5) The board may adopt and promulgate rules and regulations governing the assessment and granting of eligibility and vesting credit.

**Source:** Laws 1947, c. 211, § 3, p. 687; R.S.1943, (1978), § 60-443; Laws 1995, LB 501, § 8; Laws 1996, LB 1076, § 33; Laws 1997, LB 624, § 29; Laws 1998, LB 1191, § 65; Laws 2000, LB 1192, § 20; Laws 2002, LB 407, § 49; Laws 2002, LB 470, § 8; Laws 2010, LB950, § 19; Laws 2013, LB263, § 31.  
Effective date April 25, 2013.

**81-2017 Retirement system; contributions; payment; funding of system.**

(1) Commencing July 1, 2010, and until July 1, 2011, each officer while in the service of the Nebraska State Patrol shall pay or have paid on his or her behalf a sum equal to sixteen percent of his or her monthly compensation. Commencing July 1, 2011, and until July 1, 2013, each officer while in the service of the Nebraska State Patrol shall pay or have paid on his or her behalf a sum equal to nineteen percent of his or her monthly compensation. Commencing July 1, 2013, each officer while in the service of the Nebraska State Patrol shall pay or have paid on his or her behalf a sum equal to sixteen percent of his or her monthly compensation. Such amounts shall be deducted monthly by the Director of Administrative Services who shall draw a warrant monthly in the amount of the total deductions from the compensation of members of the Nebraska State Patrol in accordance with subsection (4) of this section, and the State Treasurer shall credit the amount of such warrant to the State Patrol Retirement Fund. The director shall cause a detailed report of all monthly deductions to be made each month to the board.

(2) In addition, commencing July 1, 2010, and until July 1, 2011, there shall be assessed against the appropriation of the Nebraska State Patrol a sum equal to the amount of sixteen percent of each officer's monthly compensation which shall be credited to the State Patrol Retirement Fund. Commencing July 1, 2011, and until July 1, 2013, there shall be assessed against the appropriation of the Nebraska State Patrol a sum equal to the amount of nineteen percent of each officer's monthly compensation which shall be credited to the State Patrol Retirement Fund. Commencing July 1, 2013, there shall be assessed against the

appropriation of the Nebraska State Patrol a sum equal to the amount of sixteen percent of each officer's monthly compensation which shall be credited to the State Patrol Retirement Fund.

(3) For the fiscal year beginning on July 1, 2002, and each fiscal year thereafter, the actuary for the board shall perform an actuarial valuation of the system using the entry age actuarial cost method. Under this method, the actuarially required funding rate is equal to the normal cost rate, plus the contribution rate necessary to amortize the unfunded actuarial accrued liability on a level percentage of salary basis. The normal cost under this method shall be determined for each individual member on a level percentage of salary basis. The normal cost amount is then summed for all members. Beginning July 1, 2006, any existing unfunded liabilities shall be reinitialized and amortized over a thirty-year period, and during each subsequent actuarial valuation, changes in the funded actuarial accrued liability due to changes in benefits, actuarial assumptions, the asset valuation method, or actuarial gains or losses shall be measured and amortized over a thirty-year period beginning on the valuation date of such change. If the unfunded actuarial accrued liability under the entry age actuarial cost method is zero or less than zero on an actuarial valuation date, then all prior unfunded actuarial accrued liabilities shall be considered fully funded and the unfunded actuarial accrued liability shall be reinitialized and amortized over a thirty-year period as of the actuarial valuation date. If the actuarially required contribution rate exceeds the rate of all contributions required pursuant to the Nebraska State Patrol Retirement Act, there shall be a supplemental appropriation sufficient to pay for the differences between the actuarially required contribution rate and the rate of all contributions required pursuant to the Nebraska State Patrol Retirement Act. Such valuation shall be on the basis of actuarial assumptions recommended by the actuary, approved by the board, and kept on file with the board.

(4) The state shall pick up the member contributions required by this section for all compensation paid on or after January 1, 1985, and the contributions so picked up shall be treated as employer contributions pursuant to section 414(h)(2) of the Internal Revenue Code in determining federal tax treatment under the code and shall not be included as gross income of the member until such time as they are distributed or made available. The contributions, although designated as member contributions, shall be paid by the state in lieu of member contributions. The state shall pay these member contributions from the same source of funds which is used in paying earnings to the member. The state shall pick up these contributions by a compensation deduction through a reduction in the cash compensation of the member. Member contributions picked up shall be treated for all purposes of the Nebraska State Patrol Retirement Act in the same manner and to the extent as member contributions made prior to the date picked up.

**Source:** Laws 1947, c. 211, § 4, p. 688; Laws 1959, c. 286, § 6, p. 1085; Laws 1965, c. 387, § 1, p. 1243; Laws 1971, LB 987, § 10; Laws 1975, LB 235, § 1; R.S.1943, (1978), § 60-444; Laws 1981, LB 462, § 5; Laws 1984, LB 218, § 4; Laws 1989, LB 506, § 14; Laws 1991, LB 549, § 49; Laws 1994, LB 833, § 36; Laws 1994, LB 1287, § 1; Laws 1995, LB 369, § 6; Laws 1995, LB 574, § 81; Laws 2001, LB 408, § 21; Laws 2002, LB 407, § 50; Laws 2004, LB 514, § 1; Laws 2005, LB 503, § 12; Laws 2006, LB

1019, § 12; Laws 2007, LB324, § 4; Laws 2009, LB188, § 7; Laws 2011, LB382, § 7; Laws 2013, LB263, § 32; Laws 2013, LB553, § 17.

**Note:** The Revisor of Statutes has pursuant to section 49-769 correlated LB263, section 32, with LB553, section 17, to reflect all amendments.

**Note:** Changes made by LB263 became effective April 25, 2013. Changes made by LB553 became operative July 1, 2013.

**81-2027.08 Annual benefit adjustment; cost-of-living adjustment calculation method.**

(1) Beginning July 1, 2011, and each July 1 thereafter, the board shall determine the number of retired members or beneficiaries described in subdivision (4)(b) of this section in the retirement system and an annual benefit adjustment shall be made by the board for each retired member or beneficiary under one of the cost-of-living adjustment calculation methods found in subsection (2), (3), or (4) of this section. Each retired member or beneficiary, if eligible, shall receive an annual benefit adjustment under the cost-of-living adjustment calculation method that provides the retired member or beneficiary the greatest annual benefit adjustment increase. No retired member or beneficiary shall receive an annual benefit adjustment under more than one of the cost-of-living adjustment calculation methods provided in this section.

(2) The current benefit paid to a retired member or beneficiary under this subsection shall be adjusted so that the purchasing power of the benefit being paid is not less than sixty percent of the purchasing power of the initial benefit. The purchasing power of the initial benefit in any year following the year in which the initial benefit commenced shall be calculated by dividing the United States Department of Labor, Bureau of Labor Statistics, Consumer Price Index for Urban Wage Earners and Clerical Workers factor on June 30 of the current year by the Consumer Price Index for Urban Wage Earners and Clerical Workers factor on June 30 of the year in which the benefit commenced. The result shall be multiplied by the product that results when the amount of the initial benefit is multiplied by sixty percent. In any year in which applying the adjustment provided in subsection (3) of this section results in a benefit which would be less than sixty percent of the purchasing power of the initial benefit as calculated in this subsection, the adjustment shall instead be equal to the percentage change in the Consumer Price Index for Urban Wage Earners and Clerical Workers factor from the prior year to the current year.

(3) The current benefit paid to a retired member or beneficiary under this subsection shall be increased annually by the lesser of (a) the percentage change in the Consumer Price Index for Urban Wage Earners and Clerical Workers for the period between June 30 of the prior year to June 30 of the present year or (b) two and one-half percent.

(4)(a) The current benefit paid to a retired member or beneficiary under this subsection shall be calculated by multiplying the retired member's or beneficiary's total monthly benefit by the lesser of (i) the cumulative change in the Consumer Price Index for Urban Wage Earners and Clerical Workers from the last adjustment of the total monthly benefit of each retired member or beneficiary through June 30 of the year for which the annual benefit adjustment is being calculated or (ii) an amount equal to three percent per annum compounded for the period from the last adjustment of the total monthly benefit of each retired member or beneficiary through June 30 of the year for which the annual benefit adjustment is being calculated.



(b) In order for a retired member or beneficiary to receive the cost-of-living adjustment calculation method in this subsection, the retired member or beneficiary shall be (i) a retired member or beneficiary who has been receiving a retirement benefit for at least five years if the member had at least twenty-five years of creditable service, (ii) a member who has been receiving a disability retirement benefit for at least five years pursuant to section 81-2025, or (iii) a beneficiary who has been receiving a death benefit pursuant to section 81-2026 for at least five years, if the member's or beneficiary's monthly accrual rate is less than or equal to the minimum accrual rate as determined by this subsection.

(c) The monthly accrual rate under this subsection is the retired member's or beneficiary's total monthly benefit divided by the number of years of creditable service earned by the retired or deceased member.

(d) The total monthly benefit under this subsection is the total benefit received by a retired member or beneficiary pursuant to the Nebraska State Patrol Retirement Act and previous adjustments made pursuant to this section or any other provision of the act that grants a benefit or cost-of-living increase, but the total monthly benefit shall not include sums received by an eligible retired member or eligible beneficiary from federal sources.

(e) Beginning July 1, 2010, the minimum accrual rate under this subsection was forty dollars and sixteen cents. Beginning July 1, 2011, the minimum accrual rate under this subsection was forty-one dollars and seventy-nine cents. Beginning July 1, 2012, the minimum accrual rate under this subsection was forty-two dollars and forty-five cents. Beginning July 1, 2013, the board shall annually adjust the minimum accrual rate to reflect the cumulative percentage change in the Consumer Price Index for Urban Wage Earners and Clerical Workers from the last adjustment of the minimum accrual rate.

(5) Beginning July 1, 2011, and each July 1 thereafter, each retired member or beneficiary shall receive the sum of the annual benefit adjustment and such retiree's total monthly benefit less withholding, which sum shall be the retired member's or beneficiary's adjusted total monthly benefit. Each retired member or beneficiary shall receive the adjusted total monthly benefit until the expiration of the annuity option selected by the member or until the retired member or beneficiary again qualifies for the annual benefit adjustment, whichever occurs first.

(6) The annual benefit adjustment pursuant to this section shall not cause a current benefit to be reduced, and a retired member or beneficiary shall never receive less than the adjusted total monthly benefit until the annuity option selected by the member expires.

(7) The board shall adjust the annual benefit adjustment provided in this section so that the cost-of-living adjustment provided to the retired member or beneficiary at the time of the annual benefit adjustment does not exceed the change in the Consumer Price Index for Urban Wage Earners and Clerical Workers for the period between June 30 of the prior year to June 30 of the present year. If the consumer price index used in this section is discontinued or replaced, a substitute index published by the United States Department of Labor shall be selected by the board which shall be a reasonable representative measurement of the cost-of-living for retired employees.

(8) The state shall contribute to the State Patrol Retirement Fund an annual level dollar payment certified by the board. For the 2011-12 fiscal year through

the 2012-13 fiscal year, the annual level dollar payment certified by the board shall equal 3.04888 percent of six million eight hundred ninety-five thousand dollars.

**Source:** Laws 2011, LB509, § 41; Laws 2013, LB263, § 33.  
Effective date April 25, 2013.

**81-2041 DROP participation authorized; requirements; fees.**

(1) Any member who meets the participation requirements of subsection (2) of this section may participate in DROP. DROP provides that subsequent to attaining normal age and service retirement eligibility, a member may voluntarily choose to participate in DROP upon its adoption which, for purposes of this section, shall be the earlier of September 1, 2008, or the first of the month following a favorable letter determination by the Internal Revenue Service. If the member chooses to participate in DROP, the member shall be deemed to have retired but shall not be deemed to be terminated, and the member may continue in active employment for up to a five-year period. During the DROP period, the member's retirement benefit payments shall be deposited into the DROP account for the benefit of the member until the member actually retires from active employment at or before the expiration of the DROP period. Thereafter, future retirement benefit payments shall be made directly to the member, and the member shall have access to all funds in the DROP account designated for the benefit of the member. DROP funds shall be held and invested in a defined contribution account under section 414(k) of the Internal Revenue Code and shall meet the limitations in section 415 of the code.

(2) To participate in the DROP program, a member shall meet the following requirements:

(a) A member shall be eligible to enter DROP at any time subsequent to the date when the member has (i) attained normal retirement age and (ii) completed twenty-five years of service. Members having attained normal retirement age and completed twenty-five years of service on or before the date of adoption of DROP shall be eligible to enter DROP at any future date;

(b) A member who elects to enter DROP shall be entitled to receive regular age and service retirement benefits in accordance with section 81-2026. A member is entitled to remain in DROP for a maximum of five years subsequent to the date of the member's DROP election. A member may separate from service and thereby exit DROP at any time during the DROP period. On or before the completion of the DROP period, the member must separate from active employment and exit DROP. During the DROP period, a member's retirement benefit shall be payable to the DROP account vendor designated in the member's name. Amounts transferred or paid to a participating member's DROP account shall not constitute annual additions under section 415 of the Internal Revenue Code;

(c) A member electing to enter DROP shall choose an annuity payment option. After the option is chosen, the member shall not be entitled to any retirement benefit changes, for reasons including, but not limited to, wage increases, promotions, and demotions, except that the restriction on retirement benefit changes shall not apply in the event of duty-related death or duty-related disability. The benefit amount shall be fixed as of the date of election and shall be payable as if the employee retired on that date and separated from active employment. Upon the death of a member during the DROP period, monthly

benefits shall be provided as a percentage of the amount of the member's annuity as set forth in subsection (3) of section 81-2026 based upon the annuity benefit calculation made at commencement of the DROP period. In addition, the balance of the DROP account, if any, shall be provided to the beneficiary or beneficiaries of the member in accordance with subsection (6) of section 81-2026 or, if no beneficiary is provided, to the estate of the member. Upon the disability of a member during the DROP period, the member shall be deemed to have completed the DROP period, shall begin receiving the annuity benefit as calculated at the commencement of the DROP period, and shall be paid the balance of the DROP account, if any;

(d) No member shall be allowed to continue making the required contributions while the member is enrolled in DROP;

(e) During the DROP period, the Nebraska State Patrol shall not be assessed the amount required under subsection (2) of section 81-2017 nor shall such amount be credited to the State Patrol Retirement Fund;

(f) The member shall be paid the balance of the DROP account upon the member's separation from active employment or at the expiration of the DROP period thereby ending the member's participation in DROP. If a member has not voluntarily separated from active employment on or before the completion of the DROP period, the member's retirement benefit shall be paid directly to the member thereby ending the member's active employment. The member's DROP account shall consist of accrued retirement benefits and interest on such benefits;

(g) Any member that is enrolled in DROP shall be responsible for directing the DROP account designated for the benefit of the member by investing the account in any DROP investment options. There shall be no guaranteed rate of investment return on DROP account assets. Any losses, charges, or expenses incurred by the participating DROP member in such member's DROP account by virtue of the investment options selected by the participating DROP member shall not be made up by the retirement system but all of the same shall be borne by the participating DROP member. The retirement system, the state, the board, and the state investment officer shall not be responsible for any investment results under the DROP agreement. Transfers between investment options shall be in accordance with the rules and regulations of DROP. A DROP account shall be established for each participating DROP member. Such DROP account shall be adjusted no less frequently than annually for the member's retirement benefit distributions and net investment earnings and losses;

(h) If the DROP account is subject to administrative or other fees or charges, such fees or charges shall be charged to the participating DROP member's DROP account; and

(i) Cost-of-living adjustments as provided for in section 81-2027.08 shall not be applied to retirement benefits during the DROP period.

**Source:** Laws 2007, LB324, § 3; Laws 2011, LB509, § 43; Laws 2012, LB916, § 32; Laws 2013, LB263, § 34.  
Effective date April 25, 2013.

**ARTICLE 22**  
**AGING SERVICES**

(a) NEBRASKA COMMUNITY AGING SERVICES ACT

Section

81-2213. Department; powers and duties relating to aging.

(a) NEBRASKA COMMUNITY AGING SERVICES ACT

**81-2213 Department; powers and duties relating to aging.**

The department shall have the following powers and duties:

(1) To develop, approve, and submit to the Governor a two-year, three-year, or four-year state plan on aging, as determined by the department, for purposes of administering grant funds allocated to the state under the federal Older Americans Act, as now or hereafter amended, or administering state funds allocated to the Nebraska Community Aging Services Act;

(2) To cooperate with similar departments, commissions, or councils in the federal government and in other states;

(3) To adopt and promulgate rules, regulations, and bylaws governing its procedure and activities and as necessary to carry out the policies of the department and the policies prescribed by the Administration on Aging pursuant to the federal Older Americans Act, as now or hereafter amended;

(4) To create committees to aid in the discharge of its powers and duties;

(5) To cooperate with and assist other state and local governmental agencies and officials on matters relating to services for older individuals;

(6) To divide the state into planning-and-service areas as provided in section 71-807 for behavioral health regions, except that Regions 3 and 5 may each be divided into two planning-and-service areas with boundaries as established by the department for planning-and-service areas in existence in those regions on July 1, 1982;

(7) To establish minimum standards for program operations and to adopt and promulgate rules and regulations for the performance of area agencies on aging and for any services provided by such area agencies on aging which are funded in whole or in part under the Nebraska Community Aging Services Act or the federal Older Americans Act, as now or hereafter amended;

(8) To require the submission of a one-year and a five-year area plan and budget by each area agency on aging or agency seeking designation as an area agency on aging. Such plans and budgets shall be submitted sixty days prior to the start of each fiscal year in accordance with the uniform area plan format and other instructions issued by the department;

(9) To review and approve a one-year and a five-year area plan and budget for the support of each area agency on aging and the provision of eligible activities and services as defined in section 81-2222;

(10) To adopt and submit electronically to the Legislature a community aging services budget;

(11) To review the performance of each area agency on aging and, based on the department-approved area plan and budget, to determine the continued designation or the withdrawal of the designation of an area agency on aging receiving or requesting resources through the state or under the Nebraska

Community Aging Services Act or the federal Older Americans Act, as now or hereafter amended. After consultation with the director of the area agency on aging and the governing unit of the area agency on aging, the department may withdraw a designation when it can be shown that federal or state laws, rules, or regulations have not been complied with, state or federal funds are not being expended for the purposes for which they were intended, or older individuals are not receiving appropriate services within available resources. Withdrawal of a designation may be appealed to the department. Upon withdrawal of a designation, the department may temporarily perform all or part of the functions and responsibilities of the area agency on aging, may designate another agency to perform such functions and responsibilities identified by the department until the designation of a new area agency on aging, and, when deemed necessary, may temporarily deliver services to assure continuity;

(12) To conduct continuing studies and analyses of the problems faced by older individuals within the state and develop such recommendations for administrative or legislative action as appear necessary;

(13) To develop grants and plans, enter into contracts, accept gifts, grants, and federal funds, and do all things necessary and proper to discharge these powers and duties;

(14) To accept and administer any other programs or resources delegated, designated, assigned, or awarded to the department from public or private sources; and

(15) Such other powers and duties necessary to effectively implement the Nebraska Community Aging Services Act.

**Source:** Laws 1982, LB 404, § 13; Laws 1991, LB 58, § 15; Laws 1993, LB 818, § 1; Laws 1996, LB 1044, § 873; Laws 2004, LB 1083, § 128; Laws 2007, LB296, § 764; Laws 2012, LB782, § 213; Laws 2013, LB222, § 39.  
Effective date May 8, 2013.

**ARTICLE 25**

**COMMISSION ON INDIAN AFFAIRS**

Section

- 81-2509. State assistance to political subdivisions and nonprofit corporations; terms, defined.
- 81-2510. State assistance to political subdivision or nonprofit corporation; application; use.
- 81-2511. State assistance to political subdivision or nonprofit corporation; application; contents; commission; duties.
- 81-2512. Repealed. Laws 2013, LB 199, § 43.
- 81-2513. State assistance to political subdivision or nonprofit corporation; commission; approval of application; failure to approve applications; effect; quorum.
- 81-2516. Commission on Indian Affairs Cash Fund; created; use; investment.

**81-2509 State assistance to political subdivisions and nonprofit corporations; terms, defined.**

For purposes of sections 81-2509 to 81-2515:

(1) Commission means the Commission on Indian Affairs;

(2) Indian reservation means a tract of land set apart by the federal government for the use of the Native American people; and

(3) Political subdivision means a city, village, or county within a sixty-mile radius of an Indian reservation or a tribal government that owns land within such sixty-mile radius.

**Source:** Laws 2010, LB1002, § 1; Laws 2013, LB199, § 34.  
Effective date May 26, 2013.  
Termination date June 30, 2018.

**81-2510 State assistance to political subdivision or nonprofit corporation; application; use.**

Any political subdivision or nonprofit corporation may annually apply to the commission for state assistance under sections 81-2509 to 81-2515. The state assistance shall be used by the applicant for economic development, education, health care, and law enforcement needs in such political subdivision when the applicant is a political subdivision and in the political subdivision where the nonprofit corporation is located when the applicant is a nonprofit corporation.

**Source:** Laws 2010, LB1002, § 2; Laws 2013, LB199, § 35.  
Effective date May 26, 2013.  
Termination date June 30, 2018.

**81-2511 State assistance to political subdivision or nonprofit corporation; application; contents; commission; duties.**

(1) All applications for state assistance under sections 81-2509 to 81-2515 shall be in writing, describe the proposed use for the state assistance, and be of such form and contain the content as the commission shall prescribe. An application from a political subdivision shall include a certified copy of the action by the governing body of the political subdivision approving the application. The commission shall publish application forms for distribution to a political subdivision or nonprofit corporation upon request.

(2) Upon receiving an application for state assistance, the commission shall review the application and notify the applicant of any additional information needed for a proper evaluation of the application.

(3) Any state assistance received pursuant to sections 81-2509 to 81-2515 shall be used only for public purposes.

**Source:** Laws 2010, LB1002, § 3; Laws 2013, LB199, § 36.  
Effective date May 26, 2013.  
Termination date June 30, 2018.

**81-2512 Repealed. Laws 2013, LB 199, § 43.**

**81-2513 State assistance to political subdivision or nonprofit corporation; commission; approval of application; failure to approve applications; effect; quorum.**

(1) After consideration of the application, the commission shall issue a finding of whether the use described in the application is eligible for state assistance.

(2) If the commission finds that the use described in the application is a legitimate use and that state assistance is in the best interest of the state, the application shall be approved.

(3) If no applications are approved, the commission may use the funds in the Designated Collection Fund directly for the needs listed in section 81-2510.

(4) A majority of the commission members constitutes a quorum for the purpose of conducting business. All actions of the commission shall be made by a majority vote of the voting members.

**Source:** Laws 2010, LB1002, § 5; Laws 2013, LB199, § 37.

Effective date May 26, 2013.

Termination date June 30, 2018.

**81-2516 Commission on Indian Affairs Cash Fund; created; use; investment.**

The Commission on Indian Affairs Cash Fund is created. The fund shall be administered by the Commission on Indian Affairs. The fund shall consist of money received by the state in the form of grants or gifts from nonfederal sources and any investment income earned on the fund. The fund may be used to support the commission's operations pursuant to sections 81-2501 to 81-2508. The Department of Administrative Services may for accounting purposes create subfunds of the fund to segregate awards or allocations received. 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 2013, LB199, § 15.

Effective date May 26, 2013.

**Cross References**

Nebraska Capital Expansion Act, see section 72-1269.

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

**ARTICLE 31**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

Section

81-3119. Health and Human Services Cash Fund; created; transfer; investment.

81-3133. Division of Children and Family Services; reports; strategic plan; key goals; benchmarks; progress reports.

81-3136. Department of Health and Human Services; develop model for alternative response to reports of child abuse or neglect; contents; report.

**81-3119 Health and Human Services Cash Fund; created; transfer; investment.**

The Health and Human Services Cash Fund is created and shall consist of funds from contracts, grants, gifts, or fees. Transfers may be made from the fund to the General Fund at the direction of the Legislature. The State Treasurer shall transfer one million five hundred thousand dollars on or before July 15, 2013, from the Health and Human Services Cash Fund to the Rural Health Professional Incentive Fund. Any money in the Health and Human Services 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 2007, LB296, § 10; Laws 2008, LB961, § 6; Laws 2009, LB288, § 39; Laws 2009, First Spec. Sess., LB3, § 85; Laws 2013, LB199, § 38.

Effective date May 26, 2013.

## Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

**81-3133 Division of Children and Family Services; reports; strategic plan; key goals; benchmarks; progress reports.**

(1)(a) On or before July 30, 2012, the Division of Children and Family Services of the Department of Health and Human Services shall report in writing its expenditures between January 1, 2012, and June 30, 2012, and the outcomes relating to such expenditures to the Appropriations Committee of the Legislature and the Health and Human Services Committee of the Legislature. Such report shall identify any changes or movement of funds in excess of two hundred fifty thousand dollars relating to child welfare between subprograms within Budget Program 347 and Budget Program 354.

(b) Beginning with the third calendar quarter of 2012, the division shall report electronically its expenditures for each quarter and the outcomes relating to such expenditures within thirty days after the end of the quarter to the Appropriations Committee of the Legislature and the Health and Human Services Committee of the Legislature. Such report shall identify any changes or movement of funds in excess of two hundred fifty thousand dollars relating to child welfare between subprograms within Budget Program 347 and Budget Program 354.

(2)(a) For the biennium ending June 30, 2015, and the biennium ending June 30, 2017, the Division of Children and Family Services of the Department of Health and Human Services shall, as part of the appropriations request process pursuant to section 81-132, include a strategic plan that identifies the main purpose or purposes of each program, verifiable and auditable key goals that the division believes are fair measures of its progress in meeting each program's main purpose or purposes, and benchmarks for improving performance on the key goals for the state as a whole and for each Department of Health and Human Services service area designated pursuant to section 81-3116. The division shall also report whether the benchmarks are being met and, if not, the expected timeframes for meeting them. Such key goals and benchmarks shall be developed by the Division of Children and Family Services with the assistance of the budget division of the Department of Administrative Services pursuant to subdivision (2) of section 81-1113.

(b) Not later than September 15, 2013, and not later than September 15, 2015, the Division of Children and Family Services of the Department of Health and Human Services shall report electronically to the Health and Human Services Committee of the Legislature and the Appropriations Committee of the Legislature on the progress towards the key goals identified pursuant to this subsection that occurred in the previous twelve months.

**Source:** Laws 2012, LB949, § 1; Laws 2013, LB222, § 40; Laws 2013, LB269, § 13.

**Note:** The Revisor of Statutes has pursuant to section 49-769 correlated LB222, section 40, with LB269, section 13, to reflect all amendments.

**Note:** Changes made by LB222 became effective May 8, 2013. Changes made by LB269 became effective June 5, 2013.

**81-3136 Department of Health and Human Services; develop model for alternative response to reports of child abuse or neglect; contents; report.**



(1) It is the intent of the Legislature that the alternative response to reports of child abuse or neglect model developed pursuant to subsection (2) of this section be implemented in designated sites under the Child Protection Act no earlier than July 2014.

(2) The Department of Health and Human Services shall convene interested stakeholders and families to develop a model for alternative response to reports of child abuse or neglect under the Child Protection Act. The model shall include:

(a) Methodology for determining the location of sites for initial implementation of alternative response;

(b) An estimate of the percentage of reports of child abuse or neglect eligible for alternative response;

(c) Eligibility criteria for alternative response;

(d) The process to determine eligibility for alternative response;

(e) The assessment protocol and tools to be used for alternative response;

(f) The role of child abuse and neglect investigative teams and child abuse and neglect treatment teams in implementation sites;

(g) How, with whom, and what alternative response data will be shared;

(h) The criteria and process for transition of families from an alternative response to a traditional investigation;

(i) The criteria and process for families who refuse an alternative response;

(j) The plan to address the continuum of services needed for families receiving an alternative response;

(k) An overview of critical training elements for both staff who implement and stakeholders involved with alternative response implementation;

(l) A description of the evaluation component;

(m) The relationship of alternative response to Title IV-E waiver applications of the Department of Health and Human Services under the federal Social Security Act;

(n) A plan to communicate and update interested stakeholders and families with regard to the alternative response planning process;

(o) The identification of statutory and policy changes necessary to implement the alternative response model, including a procedure that provides that reports of child abuse and neglect which receive an alternative response shall not receive a formal determination and the subject of the report shall not be entered into the central register of child protection cases maintained pursuant to section 28-718;

(p) A budget for implementing and sustaining an alternative response model;

(q) The mechanisms of oversight and accountability in the alternative response model; and

(r) A determination of how alternative response service providers will be selected.

(3) The Department of Health and Human Services shall provide the model developed under subsection (2) of this section in a report to the Nebraska Children's Commission by November 1, 2013, for the commission's review. The

Nebraska Children's Commission shall electronically submit the report and review to the Legislature by December 15, 2013.

**Source:** Laws 2013, LB561, § 71.  
Effective date May 30, 2013.

Cross References

Child Protection Act, see section 28-710.

ARTICLE 34

ENGINEERS AND ARCHITECTS REGULATION ACT

Section

- 81-3436. Organizational practice; certificate; authorization; immunity; Secretary of State; registration of trade name or service mark; limitation.  
81-3437. Certificate of licensure; issuance; seal; use; enrollment card; issuance.  
81-3450. Technical submissions by architect; signature or seal.  
81-3454. Technical submissions by professional engineer; seal or signature.

**81-3436 Organizational practice; certificate; authorization; immunity; Secretary of State; registration of trade name or service mark; limitation.**

(1) The practice or offer to practice for others the professions of architecture or engineering by individuals licensed under the Engineers and Architects Regulation Act through an organization is permitted if the criteria for organizational practice established by the board are met and the organization had been issued a certificate of authorization by the board. All technical submissions by an organization involving the practice of architecture and engineering, when issued or filed for public record, shall be dated and bear the seal of the licensee qualified in the profession who prepared the submission or under whose immediate direction they were prepared. Public service providers are not included in this section.

(2) An organization desiring a certificate of authorization shall file with the board an application, using the form provided by the board, listing the names and addresses of all officers of the organization, the members of the organization's governing body, and the individual or individuals duly licensed to practice their respective professions in this state who shall be in responsible charge of the practice of those professions in the state through the organization. Any change in status of any of these persons during the certificate period shall be designated on the same form and filed with the board within thirty days after the effective date of the change. If the requirements of this section are met, the board shall issue a certificate of authorization to the organization and the organization may contract for and collect fees for furnishing professional services.

(3) The act shall not prevent an organization from performing professional services for itself.

(4) An organization is not relieved of responsibility for the conduct or acts of its agents, employees, officers, or partners by reason of its compliance with this section. An individual practicing architecture or engineering is not relieved of responsibility for services performed by reason of employment or any other relationship with an organization holding a certificate of authorization.

(5) Commencing one year after January 1, 1998, the Secretary of State shall not issue a certificate of authority to do business in the state to an applicant or

issue a registration of name to an organization which includes among the objectives for which it is established the practice of architecture or engineering, or any modification or derivation of those design professions, unless the board has issued the applicant a certificate of authorization or a letter indicating the eligibility of the applicant to receive a certificate. The organization shall supply the certificate or letter with its application for incorporation or licensure.

(6) Commencing one year after January 1, 1998, the Secretary of State shall not register any trade name or service mark which includes the words architect or engineer, or any modification or derivative of such words, in its firm name or logotype except to those organizations holding authorization certificates issued by the board except as authorized in the act or in the Professional Landscape Architects Act.

(7) The certificate of authorization shall be renewed periodically as required by the board.

(8) A design professional who renders occasional, part-time, or consulting services to or for an organization may not for the purposes of this section be designated as being responsible for the professional activities of the organization.

**Source:** Laws 1997, LB 622, § 36; Laws 2013, LB7, § 1.  
Effective date September 6, 2013.

**Cross References**

Professional Landscape Architects Act, see section 81-8,208.

**81-3437 Certificate of licensure; issuance; seal; use; enrollment card; issuance.**

(1) The board shall issue to any applicant who, on the basis of education, experience, and examination, has met the requirements of the Engineers and Architects Regulation Act a certificate of licensure giving the licensee proper authority to carry out the prerogatives of the act. The certificate of licensure shall carry the designation Licensed Architect or Licensed Professional (discipline) Engineer. The certificate shall give the full name of the licensee and license number and shall be signed by the chairperson of the board, the secretary of the board, and a board member representing the respective profession under the seal of the board.

(2) The certificate shall be prima facie evidence that the person is entitled to all rights, privileges, and responsibilities of an architect or a professional engineer while the certificate of licensure remains unrevoked and unexpired.

(3)(a) Each licensee authorized to practice architecture or engineering must obtain a seal. The design of the seal shall be determined by the board. The following information shall be on the seal: State of Nebraska; licensee's name; licensee's license number; and the words Architect or Professional (discipline) Engineer.

(b) Whenever the seal is applied, the licensee's signature shall be across the seal. The board may adopt and promulgate rules and regulations for application of the seal.

(c) The seal and the 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 licensee to affix his or her seal or to permit his or her seal to be affixed to any document after the expiration of the

certificate or for the purpose of aiding or abetting any other person to evade or attempt to evade the act.

(d) The seal and date shall be placed on all originals, copies, tracings, or other reproducible drawings 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 rules and regulations of the board. The application of the licensee's seal shall constitute certification that the work was done by the licensee or under the licensee's control. In the case of multiple sealings, the first or title page shall be sealed and dated by all involved. In addition, each sheet shall be sealed and dated by the licensee responsible for each sheet. In the case of an organization, each sheet shall be sealed and dated by the licensee involved. The architect or professional engineer in responsible charge shall seal and date the title or first sheet.

(e) In the case of a temporary permit issued to a licensee of another state, the licensee shall use his or her state of licensure seal and shall affix his or her signature and temporary permit to all his or her work.

(f) Projects involving more than one licensed architect or professional engineer shall have one designated as the coordinating professional. The coordinating professional shall apply his or her seal and the date to the cover sheet of all documents and denote the seal as that of the coordinating professional.

(4) The board shall issue to any applicant who, in the opinion of the board, has met the requirements of the act an enrollment card as engineer-intern which indicates that his or her name has been recorded as such in the board office. The engineer-intern enrollment card does not authorize the holder to practice as a professional engineer.

**Source:** Laws 1997, LB 622, § 37; Laws 2013, LB7, § 2.  
Effective date September 6, 2013.

#### **81-3450 Technical submissions by architect; signature or seal.**

An architect shall not affix his or her signature or seal to technical submissions unless they were prepared by the architect or under his or her direct supervision, except that in the case of the portions of such technical submissions prepared under the direct supervision of another architect employed by the first architect or by his or her firm, he or she may affix his or her signature or seal to those portions of the technical submissions if the architect has reviewed such portions and has coordinated their preparation or integrated them into his or her work. He or she may affix his or her signature or seal to those portions of the technical submissions that are not required by the Engineers and Architects Regulation Act to be prepared by or under the direct supervision of an architect if the architect has reviewed or adapted in whole or in part such submissions and integrated them into his or her work.

**Source:** Laws 1997, LB 622, § 50; Laws 2013, LB7, § 3.  
Effective date September 6, 2013.

#### **81-3454 Technical submissions by professional engineer; seal or signature.**

(1) A professional engineer shall not affix his or her seal or signature to sketches, working drawings, specifications, or other documents developed by others not under his or her direct supervision, except that in the case of the portions of such technical submissions prepared under the direct supervision of

another professional engineer employed by the first professional engineer or by his or her firm, he or she may affix his or her signature or seal to those portions of the technical submissions if the professional engineer has reviewed such portions and has coordinated their preparation or integrated them into his or her work. He or she may affix his or her signature or seal to those portions of the technical submissions that are not required by the Engineers and Architects Regulation Act to be prepared by or under the direct supervision of a professional engineer if the professional engineer has reviewed or adapted in whole or in part such submission and integrated them into his or her work.

(2) In the case of a temporary permit issued to a professional engineer of another state, the licensee shall use his or her state of licensure seal and shall affix his or her signature and a copy of the temporary permit to all his or her work.

**Source:** Laws 1997, LB 622, § 54; Laws 2013, LB7, § 4.  
Effective date September 6, 2013.

### ARTICLE 35

### GEOLOGISTS REGULATION ACT

#### Section

- 81-3520. Board of Geologists; created; membership; terms.
- 81-3527. Licensure; enrollment; application; fees.
- 81-3528. Practice through organization; certificate of authorization; requirements.
- 81-3529. Certificate of licensure; seal; use; prohibited acts; enrollment card.
- 81-3530. Seal and signature; affixation; restrictions.
- 81-3531. Certificate of licensure; certificate of authorization; renewal; form; contents; notice; fee; continuing education; authorized.
- 81-3537. Violation of act; disciplinary action; penalties.
- 81-3539. Licensure; enrollment; applicant; qualifications; waiver.
- 81-3540. Geology examinations.

#### **81-3520 Board of Geologists; created; membership; terms.**

(1) The Board of Geologists is created to administer the Geologists Regulation Act. The board may use any funds available to obtain suitable office space within Lincoln, Nebraska, for the board. The board shall consist of seven members appointed by the Governor for terms of five years each, ending on the last day of February. The members shall include one education member appointed pursuant to subsection (2) of this section and one public member. All members of the board shall be professional geologists with the exception of the one public member. Each member shall hold office after the expiration of his or her term until his or her successor is duly appointed and qualified. The length of the initial terms shall be staggered, as determined by the board. The Governor may remove any member of the board for misconduct, incompetency, or neglect of duty. Vacancies on the board, however created, shall be filled for the unexpired term by appointment by the Governor.

(2) The membership of the board shall include one education member who is licensed in geology and who is a member of the professional faculty of a geology or related geosciences department of a college or university located in Nebraska, recommended by the president of the respective college or university, and appointed by the Governor.

(3) The membership of the board shall include one public member appointed by the Governor. The appointment is for five years.

(4) The board may designate a former member of the board as an emeritus member. Emeritus member status, when conferred, must be renewed annually. The emeritus member shall be a nonvoting member.

**Source:** Laws 1998, LB 1161, § 68; Laws 2013, LB91, § 1.  
Effective date September 6, 2013.

**81-3527 Licensure; enrollment; application; fees.**

(1) Application for licensure as a geologist or enrollment as a geologist-intern shall be made on a form prescribed and furnished by the board. If required pursuant to section 81-3539, the application shall contain statements made under oath showing the applicant's education and a detailed summary of technical experience and shall include the names and complete mailing addresses of the references, none of whom shall be members of the board. The board may accept the verified information contained in the National Association of State Boards of Geology for applicants in lieu of the same information that is required on the form prescribed and furnished by the board.

(2) Application, licensure, and enrollment fees shall be established by the board and shall accompany the application. Original and reciprocal fees shall not exceed three hundred dollars for licensure as a geologist and one hundred dollars for enrollment as a geologist-intern and shall be in addition to the examination fee which shall be set to recover the costs of the examination and its administration.

(3) The certificate of authorization fee for organizations shall be established by the board and shall accompany the application. The fee shall not exceed three hundred dollars per year.

(4) The fee for emeritus status shall be established by the board and shall accompany the application. The fee shall not exceed one hundred dollars per year.

(5) If the board denies the issuance of a certificate to any applicant, including the application of an organization for a certificate of authorization, the board shall retain the fee.

**Source:** Laws 1998, LB 1161, § 75; Laws 2004, LB 890, § 4; Laws 2013, LB91, § 2.  
Effective date September 6, 2013.

**81-3528 Practice through organization; certificate of authorization; requirements.**

(1) The practice or offer to practice for others of geology by individuals licensed under the Geologists Regulation Act through an organization is permitted if the criteria for organizational practice established by the board are met and the organization has been issued a certificate of authorization by the board. All technical submissions by an organization involving the practice of geology when issued or filed for public record shall be dated and bear the seal of the licensed geologist who prepared the submission or under whose immediate direction it was prepared.

(2) An organization desiring a certificate of authorization shall file with the board an application, using the form provided by the board, which also contains a list of the names and addresses of all officers of the organization, duly licensed to practice geology in the state through the organization. Any

change in the list of officers during the certificate period shall be designated on the same form and filed with the board within thirty days after the effective date of the change. If the requirements of this section are met, the board shall issue a certificate of authorization to the organization and the organization may contract for and collect fees for furnishing professional services.

(3) The Geologists Regulation Act shall not prevent an organization from performing professional services for itself.

(4) An organization is not relieved of its responsibility for the conduct or acts of its agents, employees, officers, or partners by reason of its compliance with this section. An individual practicing geology is not relieved of his or her responsibility for services performed by reason of employment or any other relationship with an organization holding a certificate of authorization.

(5) Commencing one year after January 1, 1999, the Secretary of State shall not issue a certificate of authority to an applicant or a registration of name to a foreign firm to an organization which includes among the objectives for which it is established geology or any modification or derivation of geology, unless the board has issued the applicant a certificate of authorization or a letter indicating the eligibility of the applicant to receive a certificate of authorization. The organization shall supply the certificate or letter with its application for incorporation or licensure.

(6) Commencing one year after January 1, 1999, the Secretary of State shall not register any trade name or service mark which includes the words professional geologist, or any modification or derivative of such word, in its firm name or logotype except to those organizations holding a certificate of authorization issued by the board.

(7) The certificate of authorization shall be renewed periodically as required by the board.

(8) A geologist who renders occasional, part-time, or consulting services to or for an organization may not for purposes of this section be designated as being responsible for the professional activities of the organization.

**Source:** Laws 1998, LB 1161, § 76; Laws 2013, LB91, § 3.  
Effective date September 6, 2013.

**81-3529 Certificate of licensure; seal; use; prohibited acts; enrollment card.**

(1) The board shall issue to any applicant who, on the basis of education, experience, and examination, if required pursuant to section 81-3539, has met the requirements of the Geologists Regulation Act a certificate of licensure giving the licensed geologist proper authority to carry out the prerogatives of the act. The certificate of licensure shall carry the designation Licensed Professional Geologist. The certificate of licensure shall give the full name of the licensee and the license number and shall be signed by the chairperson of the board and the secretary of the board.

(2) The certificate shall be prima facie evidence that the person is entitled to all rights, privileges, and responsibilities of a professional geologist while the certificate of licensure remains unrevoked and unexpired.

(3)(a) Each licensee authorized to practice geology must obtain a seal. The design of the seal shall be determined by the board. The following information

shall be on the seal: State of Nebraska; licensee's name; licensee's license number; and the words Licensed Professional Geologist.

(b) Whenever the seal is applied, the licensee's signature shall be across the seal. The board may adopt and promulgate rules and regulations for application of the seal.

(c) The seal and the 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 licensee to affix his or her seal or to permit his or her seal to be affixed to any document after the expiration of the certificate or for the purpose of aiding or abetting any other person to evade or attempt to evade the act.

(d) The seal and date shall be placed on all originals, copies, tracings, or other reproducible documents in such a manner that the seal, signature, and date will be reproduced. The application of the licensee's seal shall constitute certification that the work was done by the licensee or under the licensee's control. In the case of multiple sealings, the first or title page shall be sealed and dated by all involved. In addition, each sheet shall be sealed and dated by the licensee responsible for each sheet. In the case of an organization, each sheet shall be sealed and dated by the licensee involved. The geologist in responsible charge shall seal and date the title or first sheet.

(e) In the case of a temporary permit issued to a licensee of another state, the licensee shall use his or her state of licensure seal and shall affix his or her signature and temporary permit to all his or her work.

(4) The board shall issue to any applicant who, in the opinion of the board, has met the requirements of the act, an enrollment card as geologist-intern which indicates that his or her name has been recorded as such in the board office. The geologist-intern enrollment card does not authorize the holder to practice as a professional geologist.

**Source:** Laws 1998, LB 1161, § 77; Laws 2004, LB 890, § 5; Laws 2013, LB91, § 4.  
Effective date September 6, 2013.

**81-3530 Seal and signature; affixation; restrictions.**

(1) A professional geologist shall only affix his or her seal and signature when he or she was in responsible charge of the work.

(2) A professional geologist shall affix his or her seal and signature on geologic reports, documents, maps, plans, logs, and sections, or other public records offered to the public and prepared or issued by or under the direct supervision of the professional geologist.

**Source:** Laws 1998, LB 1161, § 89; Laws 2013, LB91, § 5.  
Effective date September 6, 2013.

**81-3531 Certificate of licensure; certificate of authorization; renewal; form; contents; notice; fee; continuing education; authorized.**

(1) Certificates of licensure and certificates of authorization shall expire on a date established by the board and shall become invalid after that date unless renewed. The secretary of the board shall notify every person licensed under the Geologists Regulation Act and every organization holding a certificate of authorization under the act of the date of the expiration of the certificate of



licensure or certificate of authorization and the amount of the fee required for renewal. The notice shall be mailed to the licensee or organization at the last-known address on file with the board at least one month in advance of the date of the expiration. Renewal may be effected at any time prior to or during the period established by the board upon application pursuant to this section and payment of a renewal fee. The fee shall not exceed two hundred dollars per year. Renewal of an expired certificate may be effected under rules and regulations of the board regarding requirements for reexamination and for penalty fees. The board may adopt a program of continuing education as a requirement for renewal for individual licensees.

(2) An applicant for renewal of a certificate of licensure shall apply on a form prescribed and furnished by the board. The application shall contain statements made under oath showing the applicant's fitness to maintain licensure, including felony convictions in any jurisdiction, convictions involving moral turpitude in any jurisdiction, and suspension or revocation of a professional license in any other jurisdiction. The board shall review the application for renewal. If the board takes no action, the license shall be renewed. The board may deny renewal if it determines the applicant does not meet the requirements for licensure or renewal.

**Source:** Laws 1998, LB 1161, § 78; Laws 2013, LB91, § 6.  
Effective date September 6, 2013.

**81-3537 Violation of act; disciplinary action; penalties.**

(1) The board may after hearing, by majority vote, take any or all of the following actions, upon proof satisfactory to the board that any person or organization has violated the Geologists Regulation Act or any rules or regulations adopted and promulgated pursuant to the act:

- (a) Issuance of censure or reprimand;
- (b) Suspension of judgment;
- (c) Placement of the offender on probation with the board;
- (d) Placement of a limitation or limitations on the holder of a license and upon the right of the holder of a license to practice the profession to such extent, scope, or type of practice for such time and under such conditions as are found necessary and proper;
- (e) Imposition of a civil penalty not to exceed ten thousand dollars. The amount of the penalty shall be based on the severity of the violation;
- (f) Entrance of an order of revocation, suspension, or cancellation of the certificate of licensure;
- (g) Issuance of a cease and desist order;
- (h) Imposition of costs as in an ordinary civil action in the district court, which may include attorney's fees and hearing officer fees incurred by the board and the expenses of any investigation undertaken by the board; or
- (i) Dismissal of the action.

In hearings under this section, the board may take into account suitable evidence of reform.

(2) Civil penalties collected under subdivision (1)(e) of this section shall be remitted to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska. All costs collected under subdivision

(1)(h) of this section shall be remitted to the State Treasurer for credit to the Geologists Regulation Fund.

**Source:** Laws 1998, LB 1161, § 84; Laws 2013, LB91, § 7.  
Effective date September 6, 2013.

**81-3539 Licensure; enrollment; applicant; qualifications; waiver.**

(1) Applications for licensure as a professional geologist, for temporary or reciprocal licensure, or for enrollment as a geologist-intern shall be on forms prescribed and furnished by the board and shall be accompanied by the fee established by the board.

(2) The following shall be considered as minimum evidence satisfactory to the board that the applicant is qualified for licensure as a professional geologist or enrollment as a geologist-intern:

(a) The applicant is of good character and reputation and submits four references with his or her application for licensure as a professional geologist. Two of the references shall be professional geologists having personal knowledge of his or her geological experience or, in the case of the application for enrollment as a geologist-intern, acting only as character references;

(b) The applicant has successfully completed a minimum of thirty semester hours or forty-five quarter hours of course work in geology and has received a baccalaureate or advanced degree in geology or a geologic specialty from a program recognized by the board;

(c) The applicant has a documented record of a minimum of five years of progressive experience, obtained subsequent to completion of the education requirements, in geologic work of a grade and character which indicates to the board that the applicant is qualified to assume responsible charge of such work upon licensure as a geologist, including geologic teaching of advanced subjects and the design of geologic research and projects in a college or university offering a geologic curriculum, except that no work experience is required for enrollment as a geologist-intern; and

(d) The applicant has completed an examination covering the fundamentals and practice of geology prescribed by the board. Upon passing the fundamentals of geology examination, the applicant may be enrolled as a geologist-intern. Upon passing the practice of geology examination, the applicant may be granted a certificate of licensure to practice geology in this state if otherwise qualified.

(3) A person who holds a valid certificate of licensure to engage in the practice of geology, issued pursuant to the authority of any state or possession of the United States or the District of Columbia based on requirements that do not conflict with the act and were of a standard not lower than that specified in the applicable licensing law in effect in this state at the time the certificate was issued, may, upon application, be considered by the board to have fulfilled the requirements of subdivisions (2)(b) and (c) of this section and be licensed without further examination as required under subdivision (2)(d) of this section.

(4) The requirements of subdivisions (2)(b) through (d) of this section may be waived by the board if the applicant is licensed to practice geology at the time of application and has maintained a current certificate of licensure to practice geology for at least fifteen years issued pursuant to the authority of a state or possession of the United States or the District of Columbia based on require-

ments that do not conflict with the Geologists Regulation Act and if the applicant has lawfully practiced geology for at least fifteen years in such jurisdiction. Lawful practice includes any practice that is in compliance with the licensure law in effect in the jurisdiction where the practice occurs.

**Source:** Laws 1998, LB 1161, § 86; Laws 2004, LB 890, § 6; Laws 2013, LB91, § 8.

Effective date September 6, 2013.

#### **81-3540 Geology examinations.**

(1) The board or its agent shall direct the time and place of geology examinations. The board shall determine the acceptable grade on examinations.

(2) The examination shall be given in two sections as follows:

(a) A fundamentals of geology examination designed to test the academic preparation of the applicant in geology. At the board's discretion, the examination may be taken at any time following substantial completion of the applicant's educational requirements. Passing this examination qualifies the examinee for a geologist-intern enrollment card, if all other requirements for enrollment as a geologist-intern are met; and

(b) A principles and practice of geology examination designed to test the applicant's ability to apply geologic knowledge and to assume responsible charge of geologic work. The geologic practice examination may be taken only after the applicant has acquired the education and experience required for licensure as a geologist.

(3) A candidate failing one examination may apply for reexamination, which may be granted upon payment of a fee established by the board. In the event of a second failure, the examinee may, at the discretion of the board, be required to appear before the board with evidence of having acquired the necessary additional knowledge to qualify before admission to the examination.

(4) The board may prepare and adopt specifications for the examinations. The specifications shall be published and be available to any person interested in being licensed.

**Source:** Laws 1998, LB 1161, § 87; Laws 2004, LB 890, § 7; Laws 2013, LB91, § 9.

Effective date September 6, 2013.

### **ARTICLE 36**

#### **NEBRASKA DEVELOPMENT NETWORK PROGRAM**

##### Section

81-3601. Repealed. Laws 2013, LB 78, § 23.

81-3602. Repealed. Laws 2013, LB 78, § 23.

81-3603. Repealed. Laws 2013, LB 78, § 23.

81-3604. Repealed. Laws 2013, LB 78, § 23.

81-3605. Repealed. Laws 2013, LB 78, § 23.

81-3607. Nebraska Development Network Program; created; Department of Economic Development; powers and duties.

81-3609. Legislative findings.

**81-3601 Repealed. Laws 2013, LB 78, § 23.**

**81-3602 Repealed. Laws 2013, LB 78, § 23.**

**81-3603 Repealed. Laws 2013, LB 78, § 23.**

**81-3604 Repealed. Laws 2013, LB 78, § 23.**

**81-3605 Repealed. Laws 2013, LB 78, § 23.**

**81-3607 Nebraska Development Network Program; created; Department of Economic Development; powers and duties.**

The Nebraska Development Network Program is created in the Department of Economic Development. The department shall administer the program and may contract for services to carry out the purposes of the Nebraska Development Network Program.

**Source:** Laws 1998, LB 1053, § 7; Laws 2003, LB 48, § 3; Laws 2013, LB78, § 20.

Effective date September 6, 2013.

**81-3609 Legislative findings.**

The Legislature finds and declares:

(1) That it is a benefit to the state and in the best interest of the citizens of Nebraska to deliver economic and community development services in an integrated and coordinated system through increased community, state, and federal cooperation and collaboration;

(2) That the Partnership for Rural Nebraska is recognized as a strategic partnership between the State of Nebraska, the University of Nebraska, and the United States Department of Agriculture, the purpose of which is to provide a formal structure of organizational collaboration and delivery of rural economic and community development resources and programs to Nebraska's rural communities;

(3) That the Partnership for Rural Nebraska has earned national recognition as a model for cooperative and collaborative delivery of services; and

(4) That it encourages the continued participation of the State of Nebraska, through the Department of Economic Development and the University of Nebraska, in the Partnership for Rural Nebraska.

**Source:** Laws 1998, LB 1053, § 9; Laws 2003, LB 48, § 3; Laws 2013, LB78, § 21.

Effective date September 6, 2013.

## CHAPTER 82

### STATE CULTURE AND HISTORY

Article.

3. Nebraska Arts Council. 82-331, 82-332.

#### ARTICLE 3

#### NEBRASKA ARTS COUNCIL

Section

- 82-331. Nebraska Cultural Preservation Endowment Fund; created; use; investment.  
82-332. Nebraska Arts and Humanities Cash Fund; created; use; investment.

#### **82-331 Nebraska Cultural Preservation Endowment Fund; created; use; investment.**

(1) There is hereby established in the state treasury a trust fund to be known as the Nebraska Cultural Preservation Endowment Fund. The fund shall consist of funds appropriated or transferred by the Legislature, and only the earnings of the fund may be used as provided in this section.

(2) On August 1, 1998, the State Treasurer shall transfer five million dollars from the General Fund to the Nebraska Cultural Preservation Endowment Fund.

(3) Except as provided in subsection (4) of this section, it is the intent of the Legislature that the State Treasurer shall transfer (a) an amount not to exceed one million dollars from the General Fund to the Nebraska Cultural Preservation Endowment Fund on December 31, 2013, (b) an amount not to exceed five hundred thousand dollars from the General Fund to the Nebraska Cultural Preservation Endowment Fund on December 31, 2014, and (c) an amount not to exceed seven hundred fifty thousand dollars from the General Fund to the Nebraska Cultural Preservation Endowment Fund on December 31 of 2015 and 2016.

(4) Prior to the transfer of funds from any state account into the Nebraska Cultural Preservation Endowment Fund, the Nebraska Arts Council shall provide documentation to the budget division of the Department of Administrative Services that qualified endowments have generated a dollar-for-dollar match of new money, up to the amount of state funds authorized by the Legislature to be transferred to the Nebraska Cultural Preservation Endowment Fund. For purposes of this section, new money means a contribution to a qualified endowment generated after July 1, 2011. Contributions not fully matched by state funds shall be carried forward to succeeding years and remain available to provide a dollar-for-dollar match for state funds. For an endowment to be a qualified endowment (a) the endowment must meet the standards set by the Nebraska Arts Council or Nebraska Humanities Council, (b) the endowment must be intended for long-term stabilization of the organization, and (c) the funds of the endowment must be endowed and only the earnings thereon expended. The budget division of the Department of Administrative Services shall notify the State Treasurer to execute a transfer of state funds up to the

amount specified by the Legislature, but only to the extent that the Nebraska Arts Council has provided documentation of a dollar-for-dollar match. State funds not transferred shall be carried forward to the succeeding year and be added to the funds authorized for a dollar-for-dollar match during that year.

(5) The Legislature shall not appropriate or transfer money from the Nebraska Cultural Preservation Endowment Fund for any purpose other than the purposes stated in sections 82-330 to 82-333, except that the Legislature may appropriate or transfer money from the fund upon a finding that the purposes of such sections are not being accomplished by the fund.

(6) Any money in the Nebraska Cultural Preservation Endowment Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(7) All investment earnings from the Nebraska Cultural Preservation Endowment Fund shall be credited to the Nebraska Arts and Humanities Cash Fund.

**Source:** Laws 1998, LB 799, § 2; Laws 2008, LB1165, § 1; Laws 2009, LB316, § 23; Laws 2010, LB1063, § 3; Laws 2011, LB378, § 30; Laws 2012, LB969, § 11; Laws 2013, LB199, § 39.  
Effective date May 26, 2013.

#### Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

### **82-332 Nebraska Arts and Humanities Cash Fund; created; use; investment.**

(1) The Nebraska Arts and Humanities Cash Fund is created. The fund shall consist of all funds credited from the Nebraska Cultural Preservation Endowment Fund pursuant to section 82-331. The Nebraska Arts Council shall administer and distribute the Nebraska Arts and Humanities Cash Fund and may use up to thirty thousand dollars annually to defray costs directly related to the administration of sections 82-330 to 82-333. Expenditures designated as administrative costs shall not be subject to the private matching fund requirements set forth in subsection (2) of this section.

(2) All disbursements from the Nebraska Arts and Humanities Cash Fund that are to support arts and humanities projects, endowments, or programs shall be matched dollar-for-dollar by sources other than state funds. The match funds shall be new money generated for endowments established by the Nebraska Arts Council or Nebraska Humanities Council or qualified endowments of their constituent organizations, new money generated as a result of seed grants to recipients, or new money generated by the Nebraska Arts Council or Nebraska Humanities Council for arts or humanities education. Matching funds shall also include earnings generated by qualified private endowments formed in accordance with this section. For purposes of this section, new money means a contribution to a qualified endowment generated after July 1, 2011. Contributions not fully matched by state funds shall be carried forward to succeeding years and remain available to provide a dollar-for-dollar match for state funds. For an endowment to be a qualified endowment (a) the endowment must meet the standards set by the Nebraska Arts Council or Nebraska Humanities Council, (b) the endowment must be intended for long-term stabilization of the organization, and (c) the funds of the endowment must be endowed and only

the earnings thereon expended. An organization is a constituent organization if it receives funding from the Nebraska Arts Council or Nebraska Humanities Council and is tax exempt under section 501 of the Internal Revenue Code. The match funds required by this section shall not include in-kind contributions. The budget division of the Department of Administrative Services shall approve allotment and disbursement of funds from the Nebraska Arts and Humanities Cash Fund that are governed by this subsection only to the extent the Nebraska Arts Council has provided documentation of the dollar-for-dollar match required by this section. Funds from the Nebraska Arts and Humanities Cash Fund may be used for the purpose of obtaining challenge grants from the National Endowment for the Humanities or the National Endowment for the Arts.

(3) Rules and regulations of the Nebraska Arts Council shall provide that the ultimate use of disbursements from the Nebraska Arts and Humanities Cash Fund authorized under subsection (2) of this section shall be in a ratio of seventy percent to projects, endowments, or programs designated by the Nebraska Arts Council and thirty percent to projects, endowments, or programs designated by the Nebraska Humanities Council.

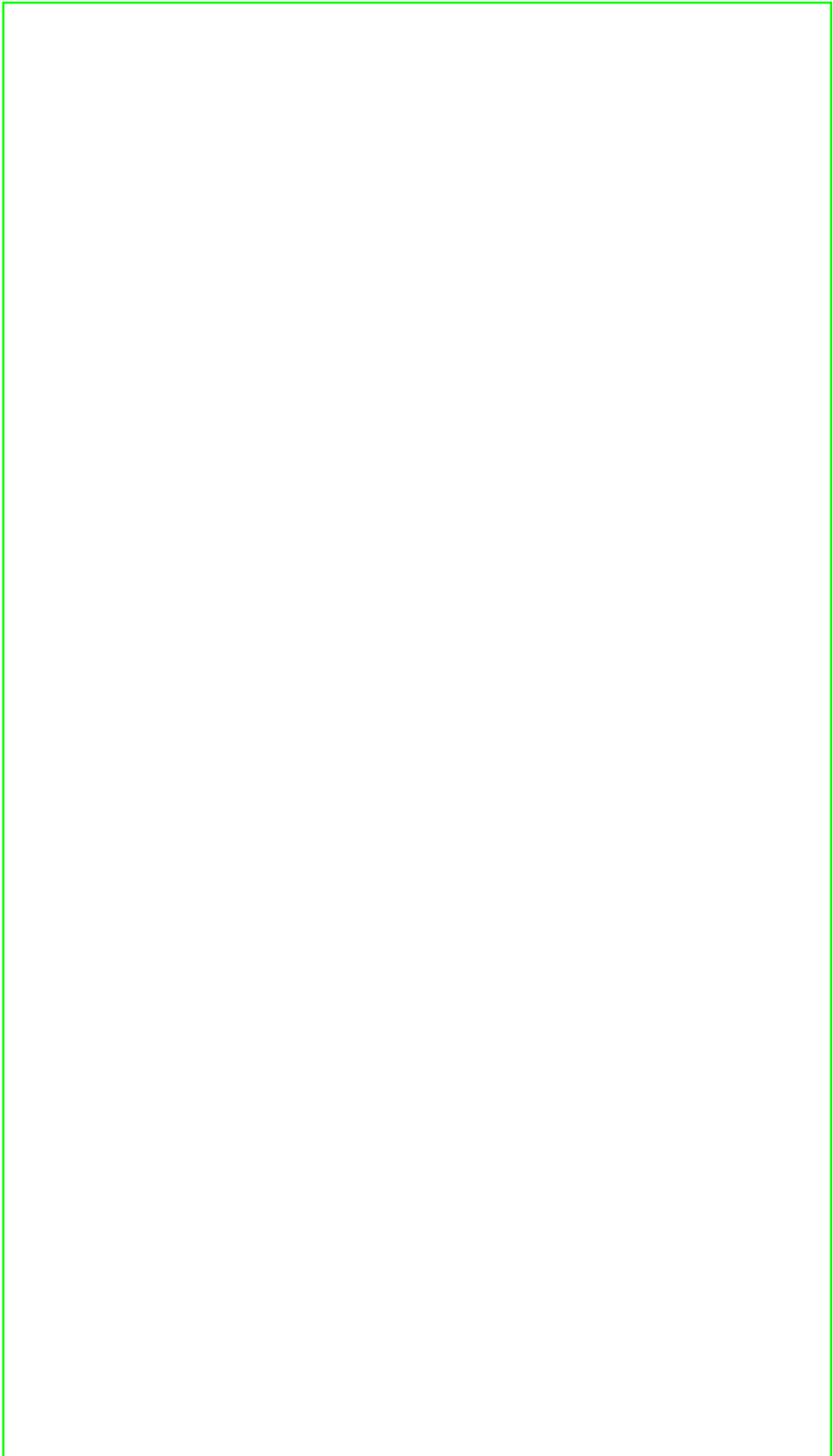
(4) Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

**Source:** Laws 1998, LB 799, § 3; Laws 2009, LB316, § 24; Laws 2012, LB969, § 12; Laws 2013, LB199, § 40.  
Effective date May 26, 2013.

#### Cross References

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

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





## CHAPTER 83

### STATE INSTITUTIONS

#### Article.

1. Management.
  - (a) General Provisions. 83-101.06 to 83-112.
  - (c) Property and Supplies. 83-150.
  - (f) Correctional Services, Parole, and Pardons. 83-186.01 to 83-1,135.
2. Schools.
  - (b) Beatrice State Developmental Center. 83-217, 83-218.
3. Hospitals.
  - (d) Cost of Patient Care. 83-363.
  - (e) Residential Facilities. 83-381 to 83-389.
4. Penal and Correctional Institutions.
  - (i) Jail Standards Board. 83-4,124 to 83-4,134.
9. Department of Correctional Services.
  - (a) General Provisions. 83-924.
12. Developmental Disabilities Services. 83-1205.

#### ARTICLE 1

#### MANAGEMENT

##### (a) GENERAL PROVISIONS

#### Section

- 83-101.06. Department of Health and Human Services; duties.
- 83-108.04. Department of Health and Human Services; additional facilities for care of children.
- 83-112. Department of Health and Human Services; collection of information; encouragement of scientific study; investigations.
- (c) PROPERTY AND SUPPLIES
- 83-150. Correctional Industries Revolving Fund; created; use; investment.
- (f) CORRECTIONAL SERVICES, PAROLE, AND PARDONS
- 83-186.01. Adult correctional facilities; reentry planning pilot program; legislative findings; Department of Correctional Services; duties.
- 83-1,110.04. Offender under eighteen years of age when offense committed; denied parole; considered for release every year; Board of Parole; duties.
- 83-1,135. Act, how cited.

##### (a) GENERAL PROVISIONS

#### **83-101.06 Department of Health and Human Services; duties.**

The Department of Health and Human Services shall:

(1) Administer the clinical programs and services of the Beatrice State Developmental Center, the Lincoln Regional Center, the Norfolk Regional Center, the Hastings Regional Center, and such other medical facilities, including skilled nursing care and intermediate care facilities, as may be provided by the department;

(2) Plan, develop, administer, and operate mental health and intellectual disability clinics, programs, and services;

(3) Plan, develop, and execute the clinical programs and services carried on by the department; and

(4) Represent the department in its work with the University of Nebraska Medical Center concerning psychiatric services.

**Source:** Laws 1969, c. 818, § 1, p. 3114; Laws 1973, LB 536, § 3; Laws 1987, LB 112, § 1; Laws 1996, LB 1044, § 925; R.S.1943, (1994), § 83-1,147; Laws 1996, LB 1155, § 80; Laws 2013, LB23, § 48.

Effective date September 6, 2013.

**83-108.04 Department of Health and Human Services; additional facilities for care of children.**

(1) In addition to the institutions established by law, the Department of Health and Human Services may maintain or use the following facilities for the care of children in its legal custody who have been adjudged to be as described in subdivision (1), (2), (3)(b), or (4) of section 43-247: (a) Receiving homes to be used for the temporary care of children; (b) foster homes; (c) residential child-caring agencies as defined in section 71-1926; and (d) other facilities and services, including forestry or conservation camps for the training and treatment of children.

(2) The Department of Health and Human Services also may use other public facilities or contract for the use of private facilities for the care and treatment of children in its legal custody. Placement of children in private or public facilities not under its jurisdiction shall not terminate the legal custody of the department. No state funds may be paid for care of a child in the home of a parent.

**Source:** Laws 1967, c. 249, § 1, p. 659; Laws 1973, LB 563, § 21; Laws 1988, LB 790, § 33; Laws 1996, LB 1044, § 898; Laws 2013, LB265, § 49.

Effective date May 26, 2013.

**83-112 Department of Health and Human Services; collection of information; encouragement of scientific study; investigations.**

(1) The Department of Health and Human Services shall gather information as to the expenditures of charitable institutions in this and other countries and regarding the best and most successful methods of caring for persons with an intellectual disability and persons with a mental disorder.

(2) The Department of Health and Human Services shall encourage scientific investigation of the treatment of mental problems, epilepsy, and all other diseases and causes that contribute to mental disabilities by the medical staffs of the state medical institutions. The department shall provide forms for statistical returns to be made by the institutions. The department shall make an investigation of the conditions, causes, prevention, and cure of epilepsy, intellectual disability, and mental disorders. The department shall give special attention to the methods of care, treatment, education, and improvement of the persons served by the institutions under its control and shall exercise a careful supervision of the methods to the end that, so far as practicable, the best treatment and care known to modern science shall be given to such persons and that the best methods of teaching, improving, and educating such persons shall be used.

**Source:** Laws 1913, c. 179, § 28, p. 547; R.S.1913, § 7206; C.S.1922, § 6857; C.S.1929, § 83-128; R.S.1943, § 83-112; Laws 1955, c.

231, § 22, p. 728; Laws 1973, LB 563, § 22; Laws 1979, LB 322, § 62; Laws 1981, LB 545, § 40; Laws 1986, LB 1177, § 39; Laws 1996, LB 1044, § 901; Laws 2013, LB23, § 49.  
Effective date September 6, 2013.

(c) PROPERTY AND SUPPLIES

**83-150 Correctional Industries Revolving Fund; created; use; investment.**

All funds received by the Department of Correctional Services under sections 83-144 to 83-152 shall be remitted to the State Treasurer for credit to the Correctional Industries Revolving Fund, which fund is hereby created. The fund shall be administered by the Director of Correctional Services. The fund (1) shall be used to pay all proper expenses incident to the administration of sections 83-144 to 83-152 and (2) may be used to carry out section 83-186.01, except that transfers from the fund to the General Fund may be made at the direction of the Legislature. Any money in the Correctional Industries Revolving Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

**Source:** Laws 1935, c. 183, § 9, p. 681; Laws 1939, c. 135, § 1, p. 580; C.S.Supp.,1941, § 83-964; R.S.1943, § 83-150; Laws 1959, c. 442, § 5, p. 1487; Laws 1969, c. 820, § 2, p. 3126; Laws 1969, c. 584, § 111, p. 2417; Laws 1973, LB 563, § 33; Laws 1992, Third Spec. Sess., LB 2, § 2; Laws 1994, LB 1066, § 129; Laws 2013, LB483, § 2.

Effective date September 6, 2013.

**Cross References**

Nebraska Capital Expansion Act, see section 72-1269.

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

(f) CORRECTIONAL SERVICES, PAROLE, AND PARDONS

**83-186.01 Adult correctional facilities; reentry planning pilot program; legislative findings; Department of Correctional Services; duties.**

(1) The Legislature finds that:

(a) Research reveals that children who have parents involved in their lives perform better academically and socially in school, experience fewer mental health and substance abuse issues, and are less likely to commit serious crime;

(b) Strategies to address family stability and intergenerational poverty are specifically needed for children with incarcerated parents; and

(c) Research reveals that family-based reentry planning, including relationship development and housing and employment strategies, results in lower recidivism and greater family economic stability.

(2) The Department of Correctional Services shall establish a two-year pilot program for the purpose of providing in Nebraska adult correctional facilities an evidence-based program of parent education, early literacy, relationship skills development, and reentry planning involving family members of incarcerated parents prior to their release. Incarcerated parents of children between birth and five years of age shall have priority for participation in the program. The department may award a contract to operate the pilot program. Such

contract shall be based on competitive bids as provided in sections 73-101 to 73-105. The department shall track data related to program participation and recidivism.

(3) It is the intent of the Legislature to appropriate two hundred fifty thousand dollars from the General Fund to the department in each of fiscal years 2013-14 and 2014-15 for purposes of funding the pilot program required by this section.

**Source:** Laws 2013, LB483, § 1.  
Effective date September 6, 2013.

**83-1,110.04 Offender under eighteen years of age when offense committed; denied parole; considered for release every year; Board of Parole; duties.**

(1) Any offender who was under the age of eighteen years when he or she committed the offense for which he or she was convicted and incarcerated shall, if the offender is denied parole, be considered for release on parole by the Board of Parole every year after the denial.

(2) During each hearing before the Board of Parole for the offender, the board shall consider and review, at a minimum:

- (a) The offender's educational and court documents;
- (b) The offender's participation in available rehabilitative and educational programs while incarcerated;
- (c) The offender's age at the time of the offense;
- (d) The offender's level of maturity;
- (e) The offender's ability to appreciate the risks and consequences of his or her conduct;
- (f) The offender's intellectual capacity;
- (g) The offender's level of participation in the offense;
- (h) The offender's efforts toward rehabilitation; and
- (i) Any other mitigating factor or circumstance submitted by the offender.

**Source:** Laws 2013, LB44, § 3.  
Effective date September 6, 2013.

**83-1,135 Act, how cited.**

Sections 83-170 to 83-1,135 shall be known and may be cited as the Nebraska Treatment and Corrections Act.

**Source:** Laws 1969, c. 817, § 85, p. 3112; Laws 1992, Third Spec. Sess., LB 13, § 9; Laws 1995, LB 371, § 25; Laws 1997, LB 274, § 2; Laws 1997, LB 364, § 21; Laws 1998, LB 309, § 28; Laws 2003, LB 46, § 28; Laws 2005, LB 538, § 24; Laws 2006, LB 1199, § 99; Laws 2011, LB675, § 11; Laws 2013, LB44, § 4.  
Effective date September 6, 2013.

**ARTICLE 2  
SCHOOLS**

(b) BEATRICE STATE DEVELOPMENTAL CENTER

Section  
83-217. Beatrice State Developmental Center; designation.

## Section

83-218. Beatrice State Developmental Center; purpose.

(b) BEATRICE STATE DEVELOPMENTAL CENTER

**83-217 Beatrice State Developmental Center; designation.**

The Nebraska institution for persons with intellectual disabilities who require residential care shall be known and designated as the Beatrice State Developmental Center.

**Source:** Laws 1885, c. 52, § 1, p. 255; R.S.1913, § 7220; Laws 1921, c. 241, § 1, p. 843; C.S.1922, § 6878; C.S.1929, § 83-401; R.S. 1943, § 83-217; Laws 1967, c. 251, § 4, p. 663; Laws 1969, c. 816, § 13, p. 3068; Laws 1976, LB 974, § 2; Laws 1986, LB 1177, § 44; Laws 2013, LB23, § 50.  
Effective date September 6, 2013.

**Cross References**

**Administration of Beatrice State Developmental Center**, see section 83-1209.

**Rights of persons admitted**, see sections 83-381 to 83-390.

**83-218 Beatrice State Developmental Center; purpose.**

The Beatrice State Developmental Center shall provide residential care and humane treatment for those persons with intellectual disabilities who require residential care, shall study to improve their condition, shall classify them, and shall furnish such training in industrial, mechanical, agricultural, and academic subjects as they may be capable of learning. Whenever the Department of Health and Human Services determines that continued residence in the Beatrice State Developmental Center is no longer necessary for the welfare, care, treatment, or training of such person, it shall have authority to discharge or transfer such person as provided in section 83-387. The Department of Health and Human Services shall discharge any person from the Beatrice State Developmental Center without requiring sterilization of such person, if the discharge satisfies the requirements of this section, notwithstanding any court order, judgment, or decree rendered prior to December 25, 1969, requiring sterilization as a condition of discharge.

**Source:** Laws 1885, c. 52, § 2, p. 255; R.S.1913, § 7221; Laws 1921, c. 241, § 1, p. 843; C.S.1922, § 6879; C.S.1929, § 83-402; R.S. 1943, § 83-218; Laws 1967, c. 251, § 5, p. 663; Laws 1969, c. 816, § 14, p. 3068; Laws 1986, LB 1177, § 45; Laws 1996, LB 1044, § 937; Laws 2013, LB23, § 51.  
Effective date September 6, 2013.

**Cross References**

**Rights of persons admitted**, see sections 83-381 to 83-390.

**ARTICLE 3  
HOSPITALS**

(d) COST OF PATIENT CARE

## Section

83-363. Terms, defined.

(e) RESIDENTIAL FACILITIES

83-381. Terms, defined.

## Section

- 83-382. Residential facilities; admission; department; jurisdiction.  
 83-383. Residential facilities; admission; application; by whom; appointment of guardian.  
 83-386. Residential facilities; admission; selection by department; priority.  
 83-387. Residential facilities; patient; discharge or transfer; notice; responsibility of department.  
 83-389. Residential facility; person with an intellectual disability; removal; notice; procedure.

## (d) COST OF PATIENT CARE

**83-363 Terms, defined.**

As used in sections 83-227.01, 83-227.02, 83-350, and 83-363 to 83-380, unless the context otherwise requires:

- (1) Department means the Department of Health and Human Services;
- (2) State institution means the state hospitals at Lincoln, Norfolk, and Hastings, the Beatrice State Developmental Center, and such other institutions as may hereafter be established by the Legislature for the care and treatment of persons with a mental disorder or persons with an intellectual disability;
- (3) Relative means the spouse of a patient or, if the patient has no spouse and is under the age of majority at the time he or she is admitted, the parents of a patient in a state institution; and
- (4) Parents means either or both of a patient's natural parents unless such patient has been legally adopted by other parents, in which case parents means either or both of the adoptive parents.

**Source:** Laws 1969, c. 812, § 1, p. 3051; Laws 1975, LB 466, § 6; Laws 1986, LB 1177, § 46; Laws 1996, LB 1044, § 947; Laws 2007, LB296, § 790; Laws 2013, LB23, § 52.  
 Effective date September 6, 2013.

## (e) RESIDENTIAL FACILITIES

**83-381 Terms, defined.**

As used in sections 83-217, 83-218, and 83-381 to 83-390, unless the context otherwise requires:

- (1) Person with an intellectual disability means any person of subaverage general intellectual functioning which is associated with a significant impairment in adaptive behavior;
- (2) Department means the Department of Health and Human Services or such person or agency within the Department of Health and Human Services as the chief executive officer of the department may designate; and
- (3) Residential facility means an institution specified under section 83-217 to provide residential care by the State of Nebraska for persons with an intellectual disability.

**Source:** Laws 1969, c. 816, § 1, p. 3064; Laws 1986, LB 1177, § 47; Laws 1996, LB 1044, § 952; Laws 2007, LB296, § 798; Laws 2013, LB23, § 53.  
 Effective date September 6, 2013.

**83-382 Residential facilities; admission; department; jurisdiction.**

Except as provided in sections 79-1148 and 79-1149, the department shall have jurisdiction of the admission of persons with an intellectual disability to a residential facility. Applications for admission to a residential facility shall be filed with the department.

**Source:** Laws 1969, c. 816, § 2, p. 3064; Laws 1981, LB 499, § 42; Laws 1986, LB 1177, § 48; Laws 1987, LB 367, § 74; Laws 1996, LB 900, § 1067; Laws 1996, LB 1044, § 953; Laws 2007, LB296, § 799; Laws 2013, LB23, § 54.  
Effective date September 6, 2013.

**83-383 Residential facilities; admission; application; by whom; appointment of guardian.**

(1) An application for admission shall be made in writing by one of the following persons:

(a) If the person applying for admission has a court-appointed guardian, the application shall be made by the guardian; and

(b) If the person applying for admission does not have a court-appointed guardian and has not reached the age of majority, as established by section 43-2101, as such section may from time to time be amended, the application shall be made by both parents if they are living together or by the parent having custody of such person if both parents are not then living or are not then living together.

(2) The county court of the county of residence of any person with an intellectual disability or the county court of the county in which a state residential facility is located shall have authority to appoint a guardian for any person with an intellectual disability upon the petition of the husband, wife, parent, person standing in loco parentis to such person, a county attorney, or any authorized official of the department. If the guardianship proceedings are initiated by an official of the department, the costs thereof may be taxed to and paid by the department if the person with an intellectual disability is without means to pay the costs. The department shall pay such costs upon presentation of a proper claim by the judge of the county court in which the proceedings were initiated. The costs of such proceedings shall include court costs, attorneys' fees, sheriffs' fees, psychiatric fees, and other necessary expenses of the guardianship.

**Source:** Laws 1969, c. 816, § 3, p. 3064; Laws 1982, LB 264, § 1; Laws 1986, LB 1177, § 49; Laws 1988, LB 790, § 36; Laws 1996, LB 1044, § 954; Laws 2007, LB296, § 800; Laws 2013, LB23, § 55.  
Effective date September 6, 2013.

**83-386 Residential facilities; admission; selection by department; priority.**

The department shall examine all information concerning the person for whom admission is requested and shall determine therefrom whether the person is a person with an intellectual disability and whether residence in the residential facility is necessary for the welfare, care, treatment, or training of such person. Such determination shall be made in writing and shall set forth the reasons for the determination. If at any time it shall become necessary, for want of room or other cause, to discriminate in the admission of persons with an intellectual disability to residential facilities, the selection shall be made as follows: (1) Persons whose care is necessary in order to protect themselves or

the public health and safety; (2) persons who are most likely to be benefited thereby; (3) persons shall next be admitted in the order in which their applications for admission have been filed with the department; and (4) when cases are equally meritorious in all other respects, an indigent person or a person from an indigent family shall be given preference.

**Source:** Laws 1969, c. 816, § 6, p. 3065; Laws 1986, LB 1177, § 50; Laws 2007, LB296, § 803; Laws 2013, LB23, § 56.  
Effective date September 6, 2013.

**83-387 Residential facilities; patient; discharge or transfer; notice; responsibility of department.**

At such time as the department determines that continued residence in a residential facility will no longer benefit a person with an intellectual disability, the department shall arrange for the discharge or transfer of such person from the residential facility. The department shall give reasonable notice to the person authorized to make an application for admission for such person under subsection (1) of section 83-383 that the department intends to discharge or transfer such person. The department shall also be responsible for the placement of such person in any other available program or facility and in the development of other methods for the care, treatment, and training of such person.

**Source:** Laws 1969, c. 816, § 7, p. 3066; Laws 1986, LB 1177, § 51; Laws 2007, LB296, § 804; Laws 2013, LB23, § 57.  
Effective date September 6, 2013.

**83-389 Residential facility; person with an intellectual disability; removal; notice; procedure.**

A person admitted to a residential facility under the provisions of sections 83-217, 83-218, and 83-381 to 83-390 shall be immediately discharged from the residential facility after notice of intention to remove the person with an intellectual disability has been given by the person authorized to make an application for admission under subsection (1) of section 83-383 and the normal discharge procedures are completed.

**Source:** Laws 1969, c. 816, § 9, p. 3066; Laws 1986, LB 1177, § 52; Laws 2013, LB23, § 58.  
Effective date September 6, 2013.

## ARTICLE 4

### PENAL AND CORRECTIONAL INSTITUTIONS

#### (i) JAIL STANDARDS BOARD

- Section  
83-4,124. Legislative intent; Jail Standards Board; created; administration by Nebraska Commission on Law Enforcement and Criminal Justice; members; qualifications; terms; expenses.  
83-4,125. Detention and staff secure juvenile facilities, defined.  
83-4,126. Jail Standards Board; powers and duties; enumerated.  
83-4,131. Detention and staff secure juvenile facility; inspection; report.  
83-4,132. Detention and staff secure juvenile facility; inspection; failure to meet minimum standards; corrective action.  
83-4,133. Detention and staff secure juvenile facility; governing body; failure to take corrective action; petition by Jail Standards Board; hearing; order; appeal.



## Section

83-4,134. Detention and staff secure juvenile facility; standards applicable; when; violation of standards; effect.

## (i) JAIL STANDARDS BOARD

**83-4,124 Legislative intent; Jail Standards Board; created; administration by Nebraska Commission on Law Enforcement and Criminal Justice; members; qualifications; terms; expenses.**

(1) It is hereby declared to be the policy of the State of Nebraska that all criminal detention facilities in this state shall conform to certain minimum standards of construction, maintenance, and operation and that all juvenile detention facilities and staff secure juvenile facilities in this state shall conform to certain minimum standards relating to the operation and physical structure of such facilities and the care of, programs for, and discipline of juveniles at such facilities.

(2) To further such policy, the Jail Standards Board is hereby created. For administrative and budgetary purposes such board shall be within the Nebraska Commission on Law Enforcement and Criminal Justice. The board shall consist of the Director of Correctional Services or, if the Director of Correctional Services chooses not to serve on the board, a person appointed by the director to serve in lieu of the director, the State Fire Marshal or his or her designee, and ten appointive members, three of whom shall be from each of the three congressional districts, to be appointed by the Governor. The appointive members of the board shall be appointed from recommendation lists containing at least three names submitted by the Nebraska Association of County Officials, the Nebraska County Sheriffs Association, the Nebraska State Bar Association, and the Police Officers Association of Nebraska. The appointive members of the board shall consist of: (a) Two county commissioners or supervisors; (b) one county sheriff; (c) one municipal police chief; (d) one member of the Nebraska State Bar Association; (e) two lay people; (f) one person who at the time of his or her appointment is serving as an administrator responsible for the operation and maintenance of a juvenile detention facility; (g) one person who at the time of his or her appointment is serving as an administrator responsible for the operation and maintenance of a staff secure juvenile facility; and (h) one person who at the time of his or her appointment is serving as an administrator or jailer responsible for the operation and maintenance of a criminal detention facility having an average daily population of greater than fifty persons.

(3) The terms of office for all members initially appointed shall be three years. Upon completion of the initial term of the board, the Governor shall appoint one member from each congressional district for a term of one year, one member from each congressional district for a term of two years, and one member from each congressional district for a term of three years. Succeeding appointees shall be representative of the same congressional district and shall be appointed for terms of three years. An appointee to a vacancy occurring from an unexpired term shall serve out the term of his or her predecessor. Members whose terms have expired shall continue to serve until their successors have been appointed. The member authorized by Laws 2013, LB561, shall be appointed by the Governor within ninety days after May 30, 2013.

(4) The members of the board shall serve without compensation, but they shall be reimbursed for their actual expenses while engaged in the performance of their official duties as provided in sections 81-1174 to 81-1177.

**Source:** Laws 1975, LB 417, § 25; Laws 1978, LB 212, § 1; Laws 1980, LB 700, § 1; R.S.Supp.,1980, § 83-945; Laws 1981, LB 204, § 208; Laws 1981, LB 328, § 9; Laws 1992, LB 1184, § 17; Laws 1994, LB 461, § 1; Laws 1994, LB 925, § 1; Laws 2002, LB 93, § 25; Laws 2013, LB561, § 64.  
Effective date May 30, 2013.

**83-4,125 Detention and staff secure juvenile facilities, defined.**

For purposes of sections 83-4,124 to 83-4,134:

(1) Criminal detention facility means any institution operated by a political subdivision or a combination of political subdivisions for the careful keeping or rehabilitative needs of adult or juvenile criminal offenders or those persons being detained while awaiting disposition of charges against them. Criminal detention facility does not include any institution operated by the Department of Correctional Services. Criminal detention facilities shall be classified as follows:

(a) Type I Facilities means criminal detention facilities used for the detention of persons for not more than twenty-four hours, excluding nonjudicial days;

(b) Type II Facilities means criminal detention facilities used for the detention of persons for not more than ninety-six hours, excluding nonjudicial days; and

(c) Type III Facilities means criminal detention facilities used for the detention of persons beyond ninety-six hours;

(2) Juvenile detention facility means an institution operated by a political subdivision or political subdivisions for the secure detention and treatment of persons younger than eighteen years of age, including persons under the jurisdiction of a juvenile court, who are serving a sentence pursuant to a conviction in a county or district court or who are detained while waiting disposition of charges against them. Juvenile detention facility does not include any institution operated by the department; and

(3) Staff secure juvenile facility means a juvenile residential facility operated by a political subdivision (a) which does not include construction designed to physically restrict the movements and activities of juveniles who are in custody in the facility, (b) in which physical restriction of movement or activity of juveniles is provided solely through staff, (c) which may establish reasonable rules restricting ingress to and egress from the facility, and (d) in which the movements and activities of individual juvenile residents may, for treatment purposes, be restricted or subject to control through the use of intensive staff supervision. Staff secure juvenile facility does not include any institution operated by the department.

**Source:** Laws 1975, LB 417, § 26; Laws 1978, LB 212, § 2; R.S.Supp.,1980, § 83-946; Laws 1992, LB 1184, § 18; Laws 1994, LB 461, § 2; Laws 2000, LB 1167, § 51; Laws 2003, LB 760, § 19; Laws 2013, LB561, § 65.  
Effective date May 30, 2013.

**83-4,126 Jail Standards Board; powers and duties; enumerated.**

(1) Except as provided in subsection (2) of this section, the Jail Standards Board shall have the authority and responsibility:

(a) To develop minimum standards for the construction, maintenance, and operation of criminal detention facilities;

(b) To perform other duties as may be necessary to carry out the policy of the state regarding criminal detention facilities, juvenile detention facilities, and staff secure juvenile facilities as stated in sections 83-4,124 to 83-4,134; and

(c) Consistent with the purposes and objectives of the Juvenile Services Act, to develop standards for juvenile detention facilities and staff secure juvenile facilities, including, but not limited to, standards for physical facilities, care, programs, and disciplinary procedures, and to develop guidelines pertaining to the operation of such facilities.

(2) The Jail Standards Board shall not have authority over or responsibility for correctional facilities that are accredited by a nationally recognized correctional association. A correctional facility that is accredited by a nationally recognized correctional association shall show proof of accreditation annually to the Jail Standards Board. For purposes of this subsection, nationally recognized correctional association includes, but is not limited to, the American Correctional Association or its successor.

**Source:** Laws 1975, LB 417, § 28; Laws 1978, LB 212, § 3; R.S.Supp.,1980, § 83-948; Laws 1990, LB 663, § 17; Laws 1992, LB 1184, § 19; Laws 2011, LB390, § 27; Laws 2013, LB561, § 66.

Effective date May 30, 2013.

**Cross References**

Juvenile Services Act, see section 43-2401.

**83-4,131 Detention and staff secure juvenile facility; inspection; report.**

Personnel of the Nebraska Commission on Law Enforcement and Criminal Justice shall visit and inspect each criminal detention facility, juvenile detention facility, and staff secure juvenile facility in the state, except correctional facilities accredited by a nationally recognized correctional association pursuant to subsection (2) of section 83-4,126, for the purpose of determining the conditions of confinement, the treatment of persons confined in the facilities, and whether such facilities comply with the minimum standards established by the Jail Standards Board. A written report of each inspection shall be made within thirty days following such inspection to the appropriate governing body responsible for the criminal detention facility, juvenile detention facility, or staff secure juvenile facility involved. The report shall specify those areas in which the facility does not comply with the required minimum standards.

**Source:** Laws 1975, LB 417, § 30; Laws 1978, LB 212, § 8; R.S.Supp.,1980, § 83-950; Laws 1981, LB 328, § 10; Laws 1992, LB 1184, § 20; Laws 1996, LB 233, § 18; Laws 2011, LB390, § 28; Laws 2013, LB561, § 67.

Effective date May 30, 2013.

**83-4,132 Detention and staff secure juvenile facility; inspection; failure to meet minimum standards; corrective action.**

If an inspection under sections 83-4,124 to 83-4,134 discloses that the criminal detention facility, juvenile detention facility, or staff secure juvenile facility does not meet the minimum standards established by the Jail Standards Board, the board shall send notice, together with the inspection report, to the governing body responsible for the facility. The appropriate governing body shall promptly meet to consider the inspection report, and the inspection personnel shall appear before the governing body to advise and consult concerning appropriate corrective action. The governing body shall then initiate appropriate corrective action within six months after the receipt of such inspection report or may voluntarily close the facility or the objectionable portion thereof.

**Source:** Laws 1975, LB 417, § 31; Laws 1978, LB 212, § 9; R.S.Supp.,1980, § 83-951; Laws 1992, LB 1184, § 21; Laws 1996, LB 233, § 19; Laws 2013, LB561, § 68.  
Effective date May 30, 2013.

**83-4,133 Detention and staff secure juvenile facility; governing body; failure to take corrective action; petition by Jail Standards Board; hearing; order; appeal.**

If the governing body of the juvenile detention facility, criminal detention facility, or staff secure juvenile facility fails to initiate corrective action within six months after the receipt of such inspection report, fails to correct the disclosed conditions, or fails to close the criminal detention facility, juvenile detention facility, or staff secure juvenile facility or the objectionable portion thereof, the Jail Standards Board may petition the district court within the judicial district in which such facility is located to close the facility. Such petition shall include the inspection report regarding such facility. The local governing body shall then have thirty days to respond to such petition and shall serve a copy of the response on the Jail Standards Board by certified mail, return receipt requested. Thereafter, a hearing shall be held on the petition before the district court, and an order shall be rendered by such court which either:

- (1) Dismisses the petition of the Jail Standards Board;
- (2) Directs that corrective action be initiated in some form by the local governing body of the facility in question; or
- (3) Directs that the facility be closed. An appeal from the decision of the district court may be taken to the Court of Appeals.

**Source:** Laws 1975, LB 417, § 32; Laws 1978, LB 212, § 10; R.S.Supp.,1980, § 83-952; Laws 1991, LB 732, § 154; Laws 1992, LB 1184, § 22; Laws 1998, LB 695, § 6; Laws 2009, LB218, § 11; Laws 2013, LB561, § 69.  
Effective date May 30, 2013.

**83-4,134 Detention and staff secure juvenile facility; standards applicable; when; violation of standards; effect.**

Sections 83-4,124 to 83-4,134 shall be implemented upon completion of the development of minimum standards by the Jail Standards Board. Thereafter, inspections shall begin, but no criminal detention facility, juvenile detention facility, or staff secure juvenile facility shall be closed within one year of the date of first filing of the minimum standards in the office of the Secretary of

State. After one year from the date of first filing of the minimum standards, a facility may be closed for any violation of the minimum standards. Those standards relating to the construction of the facility itself and its plumbing, heating, and wiring systems shall not be enforced so as to require the closing of any facility for a period of two years from the date of the first filing of the minimum standards unless such violations are of immediate danger to the safety of the persons confined in the facility or facility personnel, in which case such period shall be one year.

**Source:** Laws 1975, LB 417, § 33; Laws 1978, LB 212, § 11; R.S.Supp.,1980, § 83-953; Laws 1992, LB 1184, § 23; Laws 2013, LB561, § 70.  
Effective date May 30, 2013.

## ARTICLE 9

### DEPARTMENT OF CORRECTIONAL SERVICES

#### (a) GENERAL PROVISIONS

Section

83-924. Assistant director; duties, powers, and responsibilities.

#### (a) GENERAL PROVISIONS

#### **83-924 Assistant director; duties, powers, and responsibilities.**

Subject to the supervision and approval of the Director of Correctional Services, each assistant director shall have the following duties, powers, and responsibilities:

(1) To coordinate and direct all programs and facilities under his or her jurisdiction;

(2) To select and manage such staff and supervise the operation of such equipment as he or she may require;

(3) To make such revisions to internal systems in each division as may be necessary to promote economy and facilitate maximum utilization of existing correctional services and facilities;

(4) To cause any existing program and facilities to be utilized by or merged with those of any other division in order to provide for greater efficiency or achieve any economic advantage;

(5) To provide the Legislature and the Governor technical assistance, advice, and information concerning administrative operations within his or her division; and

(6) To exercise all powers and perform all duties necessary and proper in carrying out his or her responsibilities.

**Source:** Laws 1975, LB 417, § 3; Laws 1993, LB 31, § 71; Laws 2012, LB782, § 218; Laws 2013, LB222, § 41.  
Effective date May 8, 2013.

## ARTICLE 12

### DEVELOPMENTAL DISABILITIES SERVICES

Section

83-1205. Developmental disability, defined.

**83-1205 Developmental disability, defined.**

Developmental disability shall mean:

- (1) Intellectual disability; or
- (2) A severe, chronic disability other than an intellectual disability or mental illness which:
  - (a) Is attributable to a mental or physical impairment other than a mental or physical impairment caused solely by mental illness;
  - (b) Is manifested before the age of twenty-two years;
  - (c) Is likely to continue indefinitely; and
  - (d) Results in:
    - (i) In the case of a person under three years of age, at least one developmental delay; or
    - (ii) In the case of a person three years of age or older, a substantial limitation in three or more of the following areas of major life activity, as appropriate for the person's age:
      - (A) Self-care;
      - (B) Receptive and expressive language development and use;
      - (C) Learning;
      - (D) Mobility;
      - (E) Self-direction;
      - (F) Capacity for independent living; and
      - (G) Economic self-sufficiency.

**Source:** Laws 1991, LB 830, § 5; Laws 2013, LB23, § 59.  
Effective date September 6, 2013.

## CHAPTER 84

### STATE OFFICERS

#### Article.

3. Auditor of Public Accounts. 84-304.
5. Secretary of State. 84-510, 84-511.
6. State Treasurer. 84-602 to 84-612.
7. General Provisions as to State Officers. 84-712 to 84-712.05.
9. Rules of Administrative Agencies.
  - (a) Administrative Procedure Act. 84-901.01 to 84-910.
12. Public Records.
  - (a) Records Management Act. 84-1219.
13. State Employees Retirement Act. 84-1301 to 84-1321.01.
14. Public Meetings. 84-1411.
15. Public Employees Retirement Board. 84-1503 to 84-1511.01.

#### ARTICLE 3

#### AUDITOR OF PUBLIC ACCOUNTS

#### Section

84-304. Auditor; powers and duties; assistant deputies; qualifications; duties.

**84-304 Auditor; powers and duties; assistant deputies; qualifications; duties.**

It shall be the duty of the Auditor of Public Accounts:

(1) To give information electronically to the Legislature, whenever required, upon any subject relating to the fiscal affairs of the state or with regard to any duty of his or her office;

(2) To furnish offices for himself or herself and all fuel, lights, books, blanks, forms, paper, and stationery required for the proper discharge of the duties of his or her office;

(3) To examine or cause to be examined, at such time as he or she shall determine, books, accounts, vouchers, records, and expenditures of all state officers, state bureaus, state boards, state commissioners, the state library, societies and associations supported by the state, state institutions, state colleges, and the University of Nebraska, except when required to be performed by other officers or persons. Such examinations shall be done in accordance with generally accepted government auditing standards for financial audits and attestation engagements set forth in Government Auditing Standards (2011 Revision), published by the Comptroller General of the United States, Government Accountability Office, and except as provided in subdivision (11) of this section, subdivision (16) of section 50-1205, and section 84-322, shall not include performance audits, whether conducted pursuant to attestation engagements or performance audit standards as set forth in Government Auditing Standards (2011 Revision), published by the Comptroller General of the United States, Government Accountability Office;

(4)(a) To examine or cause to be examined, at the expense of the political subdivision, when the Auditor of Public Accounts determines such examination

necessary or when requested by the political subdivision, the books, accounts, vouchers, records, and expenditures of any agricultural association formed under Chapter 2, article 20, any county agricultural society, any joint airport authority formed under the Joint Airport Authorities Act, any city or county airport authority, any bridge commission created pursuant to section 39-868, any cemetery district, any development district, any drainage district, any health district, any local public health department as defined in section 71-1626, any historical society, any hospital authority or district, any county hospital, any housing agency as defined in section 71-1575, any irrigation district, any county or municipal library, any community mental health center, any railroad transportation safety district, any rural water district, any township, Wyuka Cemetery, the Educational Service Unit Coordinating Council, any entity created pursuant to the Interlocal Cooperation Act which includes either the participation of the Educational Service Unit Coordinating Council or any educational service unit, any village, any political subdivision with the authority to levy a property tax or a toll, or any entity created pursuant to the Joint Public Agency Act which has separately levied a property tax based on legal authority for a joint public agency to levy such a tax independent of the public agencies forming such joint public agency.

(b) The Auditor of Public Accounts may waive the audit requirement of subdivision (4)(a) of this section upon the submission by the political subdivision of a written request in a form prescribed by the auditor. The auditor shall notify the political subdivision in writing of the approval or denial of the request for a waiver;

(5) To report promptly to the Governor and the appropriate standing committee of the Legislature the fiscal condition shown by such examinations conducted by the auditor, including any irregularities or misconduct of officers or employees, any misappropriation or misuse of public funds or property, and any improper system or method of bookkeeping or condition of accounts. The report submitted to the committee shall be submitted electronically. In addition, if, in the normal course of conducting an audit in accordance with subdivision (3) of this section, the auditor discovers any potential problems related to the effectiveness, efficiency, or performance of state programs, he or she shall immediately report them electronically to the Legislative Performance Audit Committee which may investigate the issue further, report it electronically to the appropriate standing committee of the Legislature, or both;

(6)(a) To examine or cause to be examined the books, accounts, vouchers, records, and expenditures of a fire protection district. The expense of the examination shall be paid by the political subdivision.

(b) Whenever the expenditures of a fire protection district are one hundred fifty thousand dollars or less per fiscal year, the fire protection district shall be audited no more than once every five years except as directed by the board of directors of the fire protection district or unless the auditor receives a verifiable report from a third party indicating any irregularities or misconduct of officers or employees of the fire protection district, any misappropriation or misuse of public funds or property, or any improper system or method of bookkeeping or condition of accounts of the fire protection district. In the absence of such a report, the auditor may waive the five-year audit requirement upon the submission of a written request by the fire protection district in a form prescribed by the auditor. The auditor shall notify the fire protection district in writing of the approval or denial of a request for waiver of the five-year audit requirement.



Upon approval of the request for waiver of the five-year audit requirement, a new five-year audit period shall begin.

(c) Whenever the expenditures of a fire protection district exceed one hundred fifty thousand dollars in a fiscal year, the auditor may waive the audit requirement upon the submission of a written request by the fire protection district in a form prescribed by the auditor. The auditor shall notify the fire protection district in writing of the approval or denial of a request for waiver. Upon approval of the request for waiver, a new five-year audit period shall begin for the fire protection district if its expenditures are one hundred fifty thousand dollars or less per fiscal year in subsequent years;

(7) To appoint two assistant deputies (a) whose entire time shall be devoted to the service of the state as directed by the auditor, (b) who shall be certified public accountants with at least five years' experience, (c) who shall be selected without regard to party affiliation or to place of residence at the time of appointment, (d) who shall promptly report in duplicate to the auditor the fiscal condition shown by each examination, including any irregularities or misconduct of officers or employees, any misappropriation or misuse of public funds or property, and any improper system or method of bookkeeping or condition of accounts, and it shall be the duty of the auditor to file promptly with the Governor a duplicate of such report, and (e) who shall qualify by taking an oath which shall be filed in the office of the Secretary of State;

(8) To conduct audits and related activities for state agencies, political subdivisions of this state, or grantees of federal funds disbursed by a receiving agency on a contractual or other basis for reimbursement to assure proper accounting by all such agencies, political subdivisions, and grantees for funds appropriated by the Legislature and federal funds disbursed by any receiving agency. The auditor may contract with any political subdivision to perform the audit of such political subdivision required by or provided for in section 23-1608 or 79-1229 or this section and charge the political subdivision for conducting the audit. The fees charged by the auditor for conducting audits on a contractual basis shall be in an amount sufficient to pay the cost of the audit. The fees remitted to the auditor for such audits and services shall be deposited in the Auditor of Public Accounts Cash Fund;

(9) To conduct all audits and examinations in a timely manner and in accordance with the standards for audits of governmental organizations, programs, activities, and functions published by the Comptroller General of the United States;

(10) To develop and maintain an annual budget and actual financial information reporting system for political subdivisions that is accessible online by the public; and

(11) When authorized, to conduct joint audits with the Legislative Performance Audit Committee as described in section 50-1205.

**Source:** R.S.1866, c. 4, § 4, p. 20; Laws 1907, c. 140, § 1, p. 447; R.S.1913, § 5546; C.S.1922, § 4848; C.S.1929, § 84-304; Laws 1939, c. 28, § 4, p. 142; C.S.Supp.,1941, § 84-304; R.S.1943, § 84-304; Laws 1951, c. 339, § 1, p. 1121; Laws 1953, c. 322, § 2, p. 1065; Laws 1965, c. 538, § 30, p. 1715; Laws 1965, c. 459, § 26, p. 1465; Laws 1967, c. 36, § 8, p. 164; Laws 1974, LB 280, § 3; Laws 1976, LB 759, § 2; Laws 1977, LB 193, § 4; Laws 1979, LB 414, § 5; Laws 1984, LB 473, § 25; Laws 1985,

Second Spec. Sess., LB 29, § 5; Laws 1987, LB 183, § 6; Laws 1992, LB 573, § 14; Laws 1993, LB 579, § 4; Laws 1993, LB 516, § 4; Laws 1995, LB 205, § 1; Laws 1995, LB 509, § 1; Laws 1995, LB 572, § 1; Laws 1996, LB 900, § 1069; Laws 1997, LB 250, § 24; Laws 2000, LB 968, § 84; Laws 2000, LB 1304, § 1; Laws 2002, LB 568, § 11; Laws 2003, LB 607, § 20; Laws 2004, LB 1005, § 136; Laws 2004, LB 1118, § 3; Laws 2006, LB 588, § 10; Laws 2007, LB603, § 31; Laws 2008, LB822, § 4; Laws 2012, LB782, § 222; Laws 2013, LB40, § 3. Effective date March 8, 2013.

Cross References

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

**Joint Airport Authorities Act**, see section 3-716.

**Joint Public Agency Act**, see section 13-2501.

**Successors**, duties relating to, see section 84-604.

**Tax returns**, audited when, see section 77-27,119.

## ARTICLE 5

### SECRETARY OF STATE

Section

84-510. Corporation Cash Fund; created; use; investment; transfers.

84-511. Electronic transmission and filing of documents.

#### **84-510 Corporation Cash Fund; created; use; investment; transfers.**

(1) The Corporation Cash Fund is created. Transfers from the fund to the Election Administration Fund, the Records Management Micrographics Services Revolving Fund, the Secretary of State Administration Cash Fund, or the General Fund may be made at the direction of the Legislature. Any money in the Corporation 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.

(2) On or before July 5, 2013, the State Treasurer shall transfer one hundred seventy thousand four hundred dollars from the Corporation Cash Fund to the Secretary of State Administration Cash Fund.

(3) On or before July 5, 2014, the State Treasurer shall transfer sixty-five thousand eight hundred dollars from the Corporation Cash Fund to the Secretary of State Administration Cash Fund.

(4) On or before July 5, 2013, the State Treasurer shall transfer thirty-nine thousand four hundred dollars from the Corporation Cash Fund to the Records Management Micrographics Services Revolving Fund.

(5) On or before July 5, 2014, the State Treasurer shall transfer twenty-one thousand nine hundred dollars from the Corporation Cash Fund to the Records Management Micrographics Services Revolving Fund.

**Source:** Laws 2003, LB 357, § 9; Laws 2008, LB961, § 7; Laws 2009, LB316, § 25; Laws 2009, First Spec. Sess., LB3, § 92; Laws 2013, LB199, § 41.

Effective date May 26, 2013.

Cross References

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

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

**84-511 Electronic transmission and filing of documents.**

The Secretary of State may provide for the electronic transmission and filing of documents delivered for filing under (1) the Business Corporation Act, the Nebraska Limited Cooperative Association Act, the Nebraska Nonprofit Corporation Act, the Nebraska Professional Corporation Act, the Nebraska Uniform Limited Liability Company Act, the Nebraska Uniform Limited Partnership Act, the Nonstock Cooperative Marketing Act, the Uniform Partnership Act of 1998, and the Trademark Registration Act and (2) any filing provisions of sections 21-1301 to 21-1306, 21-1333 to 21-1339, and 87-208 to 87-219.01. The Secretary of State shall adopt and promulgate rules and regulations to implement this section.

**Source:** Laws 2010, LB791, § 1; Laws 2011, LB462, § 7; Laws 2012, LB733, § 1; Laws 2013, LB283, § 8.  
Effective date September 6, 2013.

**Cross References**

**Business Corporation Act**, see section 21-2001.  
**Nebraska Limited Cooperative Association Act**, see section 21-2901.  
**Nebraska Nonprofit Corporation Act**, see section 21-1901.  
**Nebraska Professional Corporation Act**, see section 21-2201.  
**Nebraska Uniform Limited Liability Company Act**, see section 21-101.  
**Nebraska Uniform Limited Partnership Act**, see section 67-296.  
**Nonstock Cooperative Marketing Act**, see section 21-1401.  
**Trademark Registration Act**, see section 87-126.  
**Uniform Partnership Act of 1998**, see section 67-401.

**ARTICLE 6****STATE TREASURER**

## Section

- 84-602. State Treasurer; duties.  
84-602.02. Web site; contents; link to Department of Administrative Services web site; contents; actions by agency, board, commission, or department prohibited; Department of Administrative Services; duties.  
84-612. Cash Reserve Fund; created; transfers; receipt of federal funds.

**84-602 State Treasurer; duties.**

It shall be the duty of the State Treasurer:

- (1) To receive and keep all money of the state not expressly required to be received and kept by some other person;
- (2) To disburse the public money upon warrants drawn upon the state treasury according to law and not otherwise;
- (3) To keep a just, true, and comprehensive account of all money received and disbursed;
- (4) To keep a just account with each fund, and each head of appropriation made by law, and the warrants drawn against them;
- (5) To render a full statement to the Department of Administrative Services of all money received by him or her from whatever source, and if on account of revenue, for what year; of all penalties and interest on delinquent taxes reported or accounted for to him or her, and of all disbursements of public funds; with a list, in numerical order, of all warrants redeemed, the name of the payee, amount, interest, and total amount allowed thereon, and with the amount of the balance of the several funds unexpended; which statement shall

be made on the first day of December, March, June, and September, and more often if required;

(6) To report electronically to the Legislature as soon as practicable, but within ten days after the commencement of each regular session, a detailed statement of the condition of the treasury and its operations for the preceding fiscal year;

(7) To give information electronically to the Legislature, whenever required, upon any subject connected with the treasury or touching any duty of his or her office;

(8) To account for, and pay over, all money received by him or her as such treasurer, to his or her successor in office, and deliver all books, vouchers, and effects of office to him or her; and such successor shall receipt therefor. In accounting for and paying over such money the treasurer shall not be held liable on account of any loss occasioned by any investment, when such investment shall have been made pursuant to the direction of the state investment officer; and

(9) To develop and maintain a single, searchable web site with information on state tax receipts, expenditures, and contracts which is accessible by the public at no cost to access as provided in section 84-602.02. The web site shall be hosted on a server owned and operated by the State of Nebraska or approved by the Chief Information Officer. The naming convention for the web site shall identify the web site as a state government web site. The web site shall not include the treasurer's name, the treasurer's image, the treasurer's seal, or a welcome message.

**Source:** R.S.1866, c. 4, § 18, p. 24; R.S.1913, § 5577; C.S.1922, § 4881; C.S.1929, § 84-602; R.S.1943, § 84-602; Laws 1967, c. 617, § 1, p. 2069; Laws 1970, Spec. Sess., c. 3, § 1, p. 67; Laws 2009, LB16, § 2; Laws 2012, LB782, § 224; Laws 2013, LB429, § 1. Effective date September 6, 2013.

**84-602.02 Web site; contents; link to Department of Administrative Services web site; contents; actions by agency, board, commission, or department prohibited; Department of Administrative Services; duties.**

(1)(a) Not later than January 1, 2010, the web site established, developed, and maintained by the State Treasurer pursuant to subdivision (9) of section 84-602 shall provide such information as will document the sources of all tax receipts and the expenditure of state funds by all agencies, boards, commissions, and departments of the state.

(b) The State Treasurer shall, in appropriate detail, cause to be published on the web site:

(i) The identity, principal location, and amount of funds received or expended by the State of Nebraska and all of its agencies, boards, commissions, and departments;

(ii) The funding or expending agency, board, commission, or department;

(iii) The budget program source;

(iv) The amount, date, purpose, and recipient of all disbursed funds; and

(v) Such other relevant information as will further the intent of enhancing the transparency of state government financial operations to its citizens and tax-

payers. The web site shall include data for fiscal year 2008-09 and each fiscal year thereafter.

(2) Beginning July 1, 2010, the data shall be available on the web site no later than thirty days after the end of the preceding fiscal year.

(3)(a) Beginning July 1, 2014, the web site described in this section shall include a link to the web site of the Department of Administrative Services. The department's web site shall contain:

(i) A data base that includes a copy of each active contract that is a basis for an expenditure of state funds, including any amendment to such contract and any document incorporated by reference in such contract. For purposes of this subdivision, amendment means an agreement to modify a contract which has been reduced to writing and signed by each party to the contract, an agreement to extend the duration of a contract, or an agreement to renew a contract. The data base shall be accessible by the public and searchable by vendor, by agency, board, commission, or department, and by dollar amount. All agencies, boards, commissions, and departments of the state shall provide to the Department of Administrative Services, in electronic form, copies of such contracts for inclusion in the data base beginning with contracts that are active on and after January 1, 2014; and

(ii) A data base that includes copies of all expired contracts which were previously included in the data base described in subdivision (3)(a)(i) of this section. The data base required under this subdivision shall be accessible by the public and searchable by vendor, by agency, board, commission, or department, and by dollar amount.

(b) The following shall be redacted or withheld from any contract before such contract is included in a data base pursuant to subdivision (3)(a) of this section:

(i) The social security number or federal tax identification number of any individual or business;

(ii) Protected health information as such term is defined under the federal Health Insurance Portability and Accountability Act of 1996, as such act existed on January 1, 2013;

(iii) Any information which may be withheld from the public under section 84-712.05; or

(iv) Any information that is confidential under state or federal law, rule, or regulation.

(c) The following contracts shall be exempt from the requirements of subdivision (3)(a) of this section:

(i) Contracts entered into by the Department of Health and Human Services that are letters of agreement for the purpose of providing specific services to a specifically named individual and his or her family;

(ii) Contracts entered into by the University of Nebraska or any of the Nebraska state colleges for the purpose of providing specific services or financial assistance to a specifically named individual and his or her family;

(iii) Contracts entered into by the Department of Veterans' Affairs under section 80-401 or 80-403 for the purpose of providing aid to a specifically named veteran and his or her family;

(iv) Contracts entered into by the State Energy Office for the purpose of providing financing from the Dollar and Energy Saving Loan program; and

(v) Contracts of employment for employees of any agency, board, commission, or department of the state. The exemption provided in this subdivision shall not apply to contracts entered into by any agency, board, commission, or department of the state to obtain the services of an independent contractor.

(d) No agency, board, commission, or department of the state shall structure a contract to avoid any of the requirements of subdivision (3)(a) of this section.

(e) The Department of Administrative Services shall adopt policies and procedures regarding the creation and maintenance of the data bases required under this section and the process by which agencies, boards, commissions, and departments of the state provide copies of the contracts required under this section.

(4) All agencies, boards, commissions, and departments of the state shall provide to the State Treasurer, at such times and in such form as designated by the State Treasurer, such information as is necessary to accomplish the purposes of the Taxpayer Transparency Act.

(5) Nothing in this section requires the disclosure of information which is considered confidential under state or federal law or is not a public record under section 84-712.05.

(6)(a) For purposes of this section, expenditure of state funds means all expenditures of appropriated or nonappropriated funds by an agency, board, commission, or department of the state from the state treasury in forms including, but not limited to:

- (i) Grants;
- (ii) Contracts;
- (iii) Subcontracts;
- (iv) State aid to political subdivisions; and

(v) Tax refunds or credits that may be disclosed pursuant to the Nebraska Advantage Act, the Nebraska Advantage Microenterprise Tax Credit Act, the Nebraska Advantage Research and Development Act, or the Nebraska Advantage Rural Development Act.

(b) Expenditure of state funds does not include the transfer of funds between two agencies, boards, commissions, or departments of the state or payments of state or federal assistance to an individual.

**Source:** Laws 2009, LB16, § 3; Laws 2013, LB429, § 2.  
Effective date September 6, 2013.

#### Cross References

Nebraska Advantage Act, see section 77-5701.

Nebraska Advantage Microenterprise Tax Credit Act, see section 77-5901.

Nebraska Advantage Research and Development Act, see section 77-5801.

Nebraska Advantage Rural Development Act, see section 77-27,187.

#### **84-612 Cash Reserve Fund; created; transfers; receipt of federal funds.**

(1) There is hereby created within the state treasury a fund known as the Cash Reserve Fund which shall be under the direction of the State Treasurer. The fund shall only be used pursuant to this section.

(2) The State Treasurer shall transfer funds from the Cash Reserve Fund to the General Fund upon certification by the Director of Administrative Services that the current cash balance in the General Fund is inadequate to meet current obligations. Such certification shall include the dollar amount to be

transferred. Any transfers made pursuant to this subsection shall be reversed upon notification by the Director of Administrative Services that sufficient funds are available.

(3) In addition to receiving transfers from other funds, the Cash Reserve Fund shall receive federal funds received by the State of Nebraska for undesignated general government purposes, federal revenue sharing, or general fiscal relief of the state.

(4) On July 7, 2009, the State Treasurer shall transfer five million dollars from the Cash Reserve Fund to the Roads Operations Cash Fund. The Department of Roads shall use such funds to provide the required state match for federal funding made available to the state through congressional earmarks.

(5) The State Treasurer shall transfer a total of thirty-seven million dollars from the Cash Reserve Fund to the General Fund on or before June 30, 2012, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

(6) The State Treasurer shall transfer a total of sixty-eight million dollars from the Cash Reserve Fund to the General Fund on or before June 30, 2013, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

(7) The State Treasurer, at the direction of the budget administrator of the budget division of the Department of Administrative Services, shall transfer not to exceed twelve million dollars in total between July 1, 2011, and November 30, 2012, from the Cash Reserve Fund to the Ethanol Production Incentive Cash Fund, for ethanol production incentive credits, on such dates and in such amounts as certified by the Tax Commissioner.

(8) The State Treasurer, at the direction of the budget administrator of the budget division of the Department of Administrative Services, shall transfer an amount equal to the total amount transferred pursuant to subsection (7) of this section from the Ethanol Production Incentive Cash Fund to the Cash Reserve Fund in such amounts as certified by the Tax Commissioner on or before November 30, 2012.

(9) The State Treasurer, at the direction of the budget administrator of the budget division of the Department of Administrative Services, shall transfer eighty million dollars from the Cash Reserve Fund to the Nebraska Capital Construction Fund on or before August 15, 2012.

(10) The State Treasurer, at the direction of the budget administrator of the budget division of the Department of Administrative Services, shall transfer one million dollars from the Cash Reserve Fund to the Affordable Housing Trust Fund on or before August 15, 2012.

(11) The State Treasurer shall transfer ten million dollars from the Cash Reserve Fund to the General Fund on or before June 30, 2013, on such date as directed by the budget administrator of the budget division of the Department of Administrative Services.

(12) The State Treasurer, at the direction of the budget administrator of the budget division of the Department of Administrative Services, shall transfer not to exceed forty-three million fifteen thousand four hundred fifty-nine dollars in

total from the Cash Reserve Fund to the Nebraska Capital Construction Fund between July 1, 2013, and June 30, 2017.

**Source:** Laws 1983, LB 59, § 5; Laws 1985, LB 713, § 2; Laws 1985, LB 501, § 2; Laws 1986, LB 739, § 1; Laws 1986, LB 870, § 1; Laws 1987, LB 131, § 1; Laws 1988, LB 1091, § 4; Laws 1989, LB 310, § 1; Laws 1991, LB 857, § 1; Laws 1991, LB 783, § 33; Laws 1992, LB 1268, § 1; Laws 1993, LB 38, § 4; Laws 1994, LB 1045, § 1; Laws 1996, LB 1290, § 6; Laws 1997, LB 401, § 5; Laws 1998, LB 63, § 1; Laws 1998, LB 988, § 1; Laws 1998, LB 1104, § 30; Laws 1998, LB 1134, § 5; Laws 1998, LB 1219, § 23; Laws 1999, LB 881, § 9; Laws 2000, LB 1214, § 2; Laws 2001, LB 541, § 6; Laws 2002, LB 1310, § 20; Laws 2003, LB 790, § 74; Laws 2003, LB 798, § 1; Laws 2004, LB 1090, § 2; Laws 2005, LB 427, § 2; Laws 2006, LB 1131, § 1; Laws 2006, LB 1256, § 9; Laws 2007, LB323, § 3; Laws 2008, LB846, § 21; Laws 2008, LB1094, § 8; Laws 2008, LB1116, § 9; Laws 2008, LB1165, § 2; Laws 2009, LB456, § 3; Laws 2009, First Spec. Sess., LB2, § 7; Laws 2010, LB317, § 1; Laws 2011, LB379, § 2; Laws 2012, LB131, § 1; Laws 2013, LB200, § 1. Effective date May 26, 2013.

## ARTICLE 7

### GENERAL PROVISIONS AS TO STATE OFFICERS

#### Section

- 84-712. Public records; free examination; memorandum and abstracts; copies; fees.
- 84-712.03. Public records; denial of rights; remedies.
- 84-712.05. Records which may be withheld from the public; enumerated.

#### **84-712 Public records; free examination; memorandum and abstracts; copies; fees.**

(1) Except as otherwise expressly provided by statute, all citizens of this state and all other persons interested in the examination of the public records as defined in section 84-712.01 are hereby fully empowered and authorized to (a) examine such records, and make memoranda, copies using their own copying or photocopying equipment in accordance with subsection (2) of this section, and abstracts therefrom, all free of charge, during the hours the respective offices may be kept open for the ordinary transaction of business and (b) except if federal copyright law otherwise provides, obtain copies of public records in accordance with subsection (3) of this section during the hours the respective offices may be kept open for the ordinary transaction of business.

(2) Copies made by citizens or other persons using their own copying or photocopying equipment pursuant to subdivision (1)(a) of this section shall be made on the premises of the custodian of the public record or at a location mutually agreed to by the requester and the custodian.

(3)(a) Copies may be obtained pursuant to subdivision (1)(b) of this section only if the custodian has copying equipment reasonably available. Such copies may be obtained in any form designated by the requester in which the public record is maintained or produced, including, but not limited to, printouts, electronic data, discs, tapes, and photocopies. This section shall not be construed to require a custodian to copy any public record that is available to the



requester on the custodian's web site on the Internet. The custodian of the public record is required to provide the location of the public record on the Internet to the requester. If the requester does not have reasonable access to the Internet due to lack of computer, lack of Internet availability, or inability to use a computer or the Internet, the custodian shall produce copies for the requester.

(b) Except as otherwise provided by statute, the public body, public entity, or public official which is the custodian of a public record may charge a fee for providing copies of such public record pursuant to subdivision (1)(b) of this section, which fee shall not exceed the actual added cost of making the copies available. For purposes of this subdivision, (i) for photocopies, the actual added cost of making the copies available shall not exceed the amount of the reasonably calculated actual added cost of the photocopies, which may include a reasonably apportioned cost of the supplies, such as paper, toner, and equipment, used in preparing the copies, as well as any additional payment obligation of the custodian for time of contractors necessarily incurred to comply with the request for copies, (ii) for printouts of computerized data on paper, the actual added cost of making the copies available shall include the reasonably calculated actual added cost of computer run time and the cost of materials for making the copy, and (iii) for electronic data, the actual added cost of making the copies available shall include the reasonably calculated actual added cost of the computer run time, any necessary analysis and programming by the public body, public entity, public official, or third-party information technology services company contracted to provide computer services to the public body, public entity, or public official, and the production of the report in the form furnished to the requester.

(c) The actual added cost used as the basis for the calculation of a fee for records shall not include any charge for the existing salary or pay obligation to the public officers or employees with respect to the first four cumulative hours of searching, identifying, physically redacting, or copying. A special service charge reflecting the calculated labor cost may be included in the fee for time required in excess of four cumulative hours, since that large a request may cause some delay or disruption of the other responsibilities of the custodian's office, except that the fee for records shall not include any charge for the services of an attorney to review the requested public records seeking a legal basis to withhold the public records from the public.

(d) State agencies which provide electronic access to public records through a portal established under section 84-1204 shall obtain approval of their proposed reasonable fees for such records pursuant to sections 84-1205.02 and 84-1205.03, if applicable, and the actual added cost of making the copies available may include the approved fee for the portal.

(e) This section shall not be construed to require a public body or custodian of a public record to produce or generate any public record in a new or different form or format modified from that of the original public record.

(f) If copies requested in accordance with subdivision (1)(b) of this section are estimated by the custodian of such public records to cost more than fifty dollars, the custodian may require the requester to furnish a deposit prior to fulfilling such request.

(4) Upon receipt of a written request for access to or copies of a public record, the custodian of such record shall provide to the requester as soon as is

practicable and without delay, but not more than four business days after actual receipt of the request, an estimate of the expected cost of the copies and either (a) access to or, if copying equipment is reasonably available, copies of the public record, (b) if there is a legal basis for denial of access or copies, a written denial of the request together with the information specified in section 84-712.04, or (c) if the entire request cannot with reasonable good faith efforts be fulfilled within four business days after actual receipt of the request due to the significant difficulty or the extensiveness of the request, a written explanation, including the earliest practicable date for fulfilling the request, an estimate of the expected cost of any copies, and an opportunity for the requester to modify or prioritize the items within the request. The requester shall have ten business days to review the estimated costs, including any special service charge, and request the custodian to fulfill the original request, negotiate with the custodian to narrow or simplify the request, or withdraw the request. If the requester does not respond to the custodian within ten business days, the custodian shall not proceed to fulfill the request. The four business days shall be computed by excluding the day the request is received, after which the designated period of time begins to run. Business day does not include a Saturday, a Sunday, or a day during which the offices of the custodian of the public records are closed.

**Source:** R.S.1866, c. 44, § 1, p. 297; R.S.1913, § 5595; C.S.1922, § 4902; Laws 1925, c. 146, § 1, p. 381; Laws 1927, c. 193, § 1, p. 551; C.S.1929, § 84-712; R.S.1943, § 84-712; Laws 1961, c. 454, § 3, p. 1383; Laws 1979, LB 86, § 1; Laws 2000, LB 628, § 1; Laws 2012, LB719, § 6; Laws 2013, LB363, § 1.  
Effective date September 6, 2013.

#### **84-712.03 Public records; denial of rights; remedies.**

(1) Any person denied any rights granted by sections 84-712 to 84-712.03 may elect to:

(a) File for speedy relief by a writ of mandamus in the district court within whose jurisdiction the state, county, or political subdivision officer who has custody of the public record can be served; or

(b) Petition the Attorney General to review the matter to determine whether a record may be withheld from public inspection or whether the public body that is custodian of such record has otherwise failed to comply with such sections, including whether the fees estimated or charged by the custodian are actual added costs or special service charges as provided under section 84-712. This determination shall be made within fifteen calendar days after the submission of the petition. If the Attorney General determines that the record may not be withheld or that the public body is otherwise not in compliance, the public body shall be ordered to disclose the record immediately or otherwise comply. If the public body continues to withhold the record or remain in noncompliance, the person seeking disclosure or compliance may (i) bring suit in the trial court of general jurisdiction or (ii) demand in writing that the Attorney General bring suit in the name of the state in the trial court of general jurisdiction for the same purpose. If such demand is made, the Attorney General shall bring suit within fifteen calendar days after its receipt. The requester shall have an absolute right to intervene as a full party in the suit at any time.

(2) In any suit filed under this section, the court has jurisdiction to enjoin the public body from withholding records, to order the disclosure, and to grant such other equitable relief as may be proper. The court shall determine the matter de novo and the burden is on the public body to sustain its action. The court may view the records in controversy in camera before reaching a decision, and in the discretion of the court other persons, including the requester, counsel, and necessary expert witnesses, may be permitted to view the records, subject to necessary protective orders.

(3) Proceedings arising under this section, except as to the cases the court considers of greater importance, shall take precedence on the docket over all other cases and shall be assigned for hearing, trial, or argument at the earliest practicable date and expedited in every way.

**Source:** Laws 1961, c. 454, § 5, p. 1384; Laws 1977, LB 39, § 316; Laws 1979, LB 86, § 3; Laws 2000, LB 628, § 3; Laws 2013, LB363, § 2.

Effective date September 6, 2013.

**84-712.05 Records which may be withheld from the public; enumerated.**

The following records, unless publicly disclosed in an open court, open administrative proceeding, or open meeting or disclosed by a public entity pursuant to its duties, may be withheld from the public by the lawful custodian of the records:

(1) Personal information in records regarding a student, prospective student, or former student of any educational institution or exempt school that has effectuated an election not to meet state approval or accreditation requirements pursuant to section 79-1601 when such records are maintained by and in the possession of a public entity, other than routine directory information specified and made public consistent with 20 U.S.C. 1232g, as such section existed on February 1, 2013, and regulations adopted thereunder;

(2) Medical records, other than records of births and deaths and except as provided in subdivision (5) of this section, in any form concerning any person; records of elections filed under section 44-2821; and patient safety work product under the Patient Safety Improvement Act;

(3) Trade secrets, academic and scientific research work which is in progress and unpublished, and other proprietary or commercial information which if released would give advantage to business competitors and serve no public purpose;

(4) Records which represent the work product of an attorney and the public body involved which are related to preparation for litigation, labor negotiations, or claims made by or against the public body or which are confidential communications as defined in section 27-503;

(5) Records developed or received by law enforcement agencies and other public bodies charged with duties of investigation or examination of persons, institutions, or businesses, when the records constitute a part of the examination, investigation, intelligence information, citizen complaints or inquiries, informant identification, or strategic or tactical information used in law enforcement training, except that this subdivision shall not apply to records so developed or received relating to the presence of and amount or concentration of alcohol or drugs in any body fluid of any person;

(6) Appraisals or appraisal information and negotiation records concerning the purchase or sale, by a public body, of any interest in real or personal property, prior to completion of the purchase or sale;

(7) Personal information in records regarding personnel of public bodies other than salaries and routine directory information;

(8) Information solely pertaining to protection of the security of public property and persons on or within public property, such as specific, unique vulnerability assessments or specific, unique response plans, either of which is intended to prevent or mitigate criminal acts the public disclosure of which would create a substantial likelihood of endangering public safety or property; computer or communications network schema, passwords, and user identification names; guard schedules; lock combinations; or public utility infrastructure specifications or design drawings the public disclosure of which would create a substantial likelihood of endangering public safety or property, unless otherwise provided by state or federal law;

(9) The security standards, procedures, policies, plans, specifications, diagrams, access lists, and other security-related records of the Lottery Division of the Department of Revenue and those persons or entities with which the division has entered into contractual relationships. Nothing in this subdivision shall allow the division to withhold from the public any information relating to amounts paid persons or entities with which the division has entered into contractual relationships, amounts of prizes paid, the name of the prize winner, and the city, village, or county where the prize winner resides;

(10) With respect to public utilities and except as provided in sections 43-512.06 and 70-101, personally identified private citizen account payment and customer use information, credit information on others supplied in confidence, and customer lists;

(11) Records or portions of records kept by a publicly funded library which, when examined with or without other records, reveal the identity of any library patron using the library's materials or services;

(12) Correspondence, memoranda, and records of telephone calls related to the performance of duties by a member of the Legislature in whatever form. The lawful custodian of the correspondence, memoranda, and records of telephone calls, upon approval of the Executive Board of the Legislative Council, shall release the correspondence, memoranda, and records of telephone calls which are not designated as sensitive or confidential in nature to any person performing an audit of the Legislature. A member's correspondence, memoranda, and records of confidential telephone calls related to the performance of his or her legislative duties shall only be released to any other person with the explicit approval of the member;

(13) Records or portions of records kept by public bodies which would reveal the location, character, or ownership of any known archaeological, historical, or paleontological site in Nebraska when necessary to protect the site from a reasonably held fear of theft, vandalism, or trespass. This section shall not apply to the release of information for the purpose of scholarly research, examination by other public bodies for the protection of the resource or by recognized tribes, the Unmarked Human Burial Sites and Skeletal Remains Protection Act, or the federal Native American Graves Protection and Repatriation Act;

(14) Records or portions of records kept by public bodies which maintain collections of archaeological, historical, or paleontological significance which reveal the names and addresses of donors of such articles of archaeological, historical, or paleontological significance unless the donor approves disclosure, except as the records or portions thereof may be needed to carry out the purposes of the Unmarked Human Burial Sites and Skeletal Remains Protection Act or the federal Native American Graves Protection and Repatriation Act;

(15) Job application materials submitted by applicants, other than finalists, who have applied for employment by any public body as defined in section 84-1409. For purposes of this subdivision, (a) job application materials means employment applications, resumes, reference letters, and school transcripts and (b) finalist means any applicant (i) who reaches the final pool of applicants, numbering four or more, from which the successful applicant is to be selected, (ii) who is an original applicant when the final pool of applicants numbers less than four, or (iii) who is an original applicant and there are four or fewer original applicants;

(16) Records obtained by the Public Employees Retirement Board pursuant to section 84-1512;

(17) Social security numbers; credit card, charge card, or debit card numbers and expiration dates; and financial account numbers supplied to state and local governments by citizens; and

(18) Information exchanged between a jurisdictional utility and city pursuant to section 66-1867.

**Source:** Laws 1979, LB 86, § 5; Laws 1983, LB 108, § 1; Laws 1983, LB 565, § 1; Laws 1993, LB 579, § 6; Laws 1993, LB 590, § 6; Laws 1993, LB 719, § 2; Laws 1994, LB 1061, § 7; Laws 1994, LB 1224, § 88; Laws 1995, LB 343, § 7; Laws 1995, LB 509, § 6; Laws 1999, LB 137, § 1; Laws 2002, LB 276, § 7; Laws 2004, LB 236, § 1; Laws 2004, LB 868, § 3; Laws 2005, LB 361, § 37; Laws 2007, LB389, § 1; Laws 2009, LB188, § 8; Laws 2009, LB658, § 7; Laws 2011, LB230, § 1; Laws 2013, LB410, § 17.

Effective date May 30, 2013.

#### Cross References

Patient Safety Improvement Act, see section 71-8701.

Unmarked Human Burial Sites and Skeletal Remains Protection Act, see section 12-1201.

## ARTICLE 9

### RULES OF ADMINISTRATIVE AGENCIES

#### (a) ADMINISTRATIVE PROCEDURE ACT

##### Section

- 84-901.01. Adoption and promulgation of rules and regulations; time; failure to adopt and promulgate; explanation; contents; hearing by standing committee of the Legislature; effect of legislative changes.
- 84-907.06. Adoption, amendment, or repeal of rule or regulation; notice to Executive Board of the Legislative Council.
- 84-908. Rule or regulation; adoption; amendment; repeal; considerations; when effective; approval by Governor; filing.
- 84-910. Agency; notification to Legislative Performance Audit Committee; contents; format.

## (a) ADMINISTRATIVE PROCEDURE ACT

**84-901.01 Adoption and promulgation of rules and regulations; time; failure to adopt and promulgate; explanation; contents; hearing by standing committee of the Legislature; effect of legislative changes.**

(1) When legislation is enacted requiring the adoption and promulgation of rules and regulations by an agency, such agency shall adopt and promulgate such rules and regulations within one year after the public hearing required under subsection (2) of section 84-907. Such time shall not include the time necessary for submission of the rules and regulations to the Attorney General pursuant to section 84-905.01 or submission of the rules and regulations to the Governor pursuant to section 84-908. Any agency which does not adopt and promulgate such rules and regulations as required by this section shall submit an explanation to the Executive Board of the Legislative Council and the standing committee of the Legislature which has subject matter jurisdiction over the issue involved in the legislation, stating the reasons why it has not adopted such rules and regulations as required by this section, the date by which the agency expects to adopt such rules and regulations, and any suggested statutory changes that may enable the agency to adopt such rules and regulations.

(2) If such agency has not adopted and promulgated such rules and regulations within three years after the operative or effective date of such enacting legislation, the standing committee of the Legislature which has subject matter jurisdiction over the matters included in the legislation shall hold a public hearing to determine the reason that such rules and regulations have not been enacted.

(3) The changes made to the Administrative Procedure Act by Laws 2011, LB617, shall not affect the validity or effectiveness of a rule or regulation adopted prior to May 25, 2011.

(4) The changes made to this section by Laws 2013, LB242, shall apply to legislation enacted before, on, or after September 6, 2013.

**Source:** Laws 2011, LB617, § 1; Laws 2012, LB782, § 227; Laws 2013, LB222, § 42; Laws 2013, LB242, § 2.

**Note:** The Revisor of Statutes has pursuant to section 49-769 correlated LB222, section 42, with LB242, section 2, to reflect all amendments.

**Note:** Changes made by LB222 became effective May 8, 2013. Changes made by LB242 became effective September 6, 2013.

**84-907.06 Adoption, amendment, or repeal of rule or regulation; notice to Executive Board of the Legislative Council.**

Whenever an agency proposes to adopt, amend, or repeal a rule or regulation, (1) at least thirty days before the public hearing, when notice of a proposed rule or regulation is sent out, or (2) at the same time the agency applies to the Governor for a waiver of the notice of public hearing, the agency shall send to the Executive Board of the Legislative Council (a) a copy of the hearing notice required by section 84-907, (b) if applicable, a draft copy of the rule or regulation, and (c) the information provided to the Governor pursuant to section 84-907.09.

**Source:** Laws 1994, LB 446, § 24; Laws 2005, LB 373, § 5; Laws 2012, LB782, § 228; Laws 2013, LB222, § 43.  
Effective date May 8, 2013.

**84-908 Rule or regulation; adoption; amendment; repeal; considerations; when effective; approval by Governor; filing.**

(1) No adoption, amendment, or repeal of any rule or regulation shall become effective until the same has been approved by the Governor and filed with the Secretary of State after a hearing has been set on such rule or regulation pursuant to section 84-907. When determining whether to approve the adoption, amendment, or repeal of any rule or regulation relating to an issue of unique interest to a specific geographic area, the Governor's considerations shall include, but not be limited to: (a) Whether adequate notice of hearing was provided in the geographic area affected by the rule or regulation. Adequate notice shall include, but not be limited to, the availability of copies of the rule or regulation at the time notice was given pursuant to section 84-907; and (b) whether reasonable and convenient opportunity for public comment was provided for the geographic area affected by the rule or regulation. If a public hearing was not held in the affected geographic area, reasons shall be provided by the agency to the Governor. Any rule or regulation properly adopted by any agency shall be filed with the Secretary of State.

(2) No agency shall utilize, enforce, or attempt to enforce any rule or regulation or proposed rule or regulation unless the rule, regulation, or proposed rule or regulation has been approved by the Governor and filed with the Secretary of State after a hearing pursuant to section 84-907.

**Source:** Laws 1953, c. 359, § 2, p. 1138; Laws 1972, LB 373, § 1; Laws 1974, LB 604, § 4; Laws 1975, LB 316, § 1; Laws 1978, LB 44, § 10; Laws 1986, LB 992, § 10; Laws 1987, LB 253, § 10; Laws 1987, LB 189, § 1; Laws 2013, LB242, § 3.  
Effective date September 6, 2013.

**84-910 Agency; notification to Legislative Performance Audit Committee; contents; format.**

On or before July 1 of each year, each agency shall notify the Legislative Performance Audit Committee of the status of all rules and regulations pending before the agency which have not been adopted and promulgated. If an additional appropriation was made with respect to legislation enacted to provide funding for or additional staff to implement a program for which rules and regulations are required to be adopted, the notification shall include what the funding has been used for and what functions the staff have been performing while such rules and regulations are pending. The format of the notification shall be established by the committee no later than June 1, 2011, and shall be updated thereafter.

**Source:** Laws 2011, LB617, § 4; Laws 2012, LB782, § 229; Laws 2013, LB222, § 44.  
Effective date May 8, 2013.

**ARTICLE 12****PUBLIC RECORDS****(a) RECORDS MANAGEMENT ACT**

Section  
84-1219. Administrator; biennial report; copies; furnish.

## (a) RECORDS MANAGEMENT ACT

**84-1219 Administrator; biennial report; copies; furnish.**

The administrator shall prepare a biennial report on the status of programs established by the administrator as provided in the Records Management Act and on the progress made during the preceding biennium in implementing and effectuating such programs and in reducing costs. Copies of this report shall be furnished to the Governor, the Clerk of the Legislature, and such other officials and state and local agencies as the Governor or the board shall direct. The report submitted to the Clerk of the Legislature shall be submitted electronically.

**Source:** Laws 1961, c. 455, § 19, p. 1394; Laws 1979, LB 559, § 11; Laws 2012, LB719, § 26; Laws 2012, LB782, § 231; Laws 2012, LB880, § 8; Laws 2013, LB222, § 45.  
Effective date May 8, 2013.

**ARTICLE 13****STATE EMPLOYEES RETIREMENT ACT**

## Section

- 84-1301. Terms, defined.
- 84-1307. Retirement system; membership; requirements; composition; exercise of option to join; effect; new employee; participation in another governmental plan; how treated; separate employment; effect.
- 84-1308. Retirement system; contribution of employees; method of payment; amount; employer pick up contributions.
- 84-1314. State Employees Defined Contribution Retirement Expense Fund; State Employees Cash Balance Retirement Expense Fund; created; use; investment.
- 84-1317. Employees; retirement date; application for benefits; deferment of benefits; board; duties; certain required minimum distributions; election authorized.
- 84-1319. Future service retirement benefits; when payable; how computed; selection of annuity; board; provide tax information; deferment of benefits; certain required minimum distributions; election authorized.
- 84-1321. Employees; termination of employment; benefits; when; how computed; vesting; deferment of benefits; certain required minimum distributions; election authorized.
- 84-1321.01. Termination of employment; account forfeited; when; State Employer Retirement Expense Fund; created; use; investment.

**84-1301 Terms, defined.**

For purposes of the State Employees Retirement Act, unless the context otherwise requires:

(1) Actuarial equivalent means the equality in value of the aggregate amounts expected to be received under different forms of an annuity payment. The mortality assumption used for purposes of converting the member cash balance account shall be the 1994 Group Annuity Mortality Table using a unisex rate that is fifty percent male and fifty percent female. For purposes of converting the member cash balance account attributable to contributions made prior to January 1, 1984, that were transferred pursuant to the act, the 1994 Group Annuity Mortality Table for males shall be used;

(2) Annuity means equal monthly payments provided by the retirement system to a member or beneficiary under forms determined by the board



beginning the first day of the month after an annuity election is received in the office of the Nebraska Public Employees Retirement Systems or the first day of the month after the employee's termination of employment, whichever is later. The last payment shall be at the end of the calendar month in which the member dies or in accordance with the payment option chosen by the member;

(3) Annuity start date means the date upon which a member's annuity is first effective and shall be the first day of the month following the member's termination or following the date the application is received by the board, whichever is later;

(4) Cash balance benefit means a member's retirement benefit that is equal to an amount based on annual employee contribution credits plus interest credits and, if vested, employer contribution credits plus interest credits and dividend amounts credited in accordance with subdivision (4)(c) of section 84-1319;

(5)(a) Compensation means gross wages or salaries payable to the member for personal services performed during the plan year. Compensation does not include insurance premiums converted into cash payments, reimbursement for expenses incurred, fringe benefits, per diems, or bonuses for services not actually rendered, including, but not limited to, early retirement inducements, cash awards, and severance pay, except for retroactive salary payments paid pursuant to court order, arbitration, or litigation and grievance settlements. Compensation includes overtime pay, member retirement contributions, and amounts contributed by the member to plans under sections 125, 403(b), and 457 of the Internal Revenue Code or any other section of the code which defers or excludes such amounts from income.

(b) Compensation in excess of the limitations set forth in section 401(a)(17) of the Internal Revenue Code shall be disregarded. For an employee who was a member of the retirement system before the first plan year beginning after December 31, 1995, the limitation on compensation shall not be less than the amount which was allowed to be taken into account under the retirement system as in effect on July 1, 1993;

(6) Date of disability means the date on which a member is determined to be disabled by the board;

(7) Defined contribution benefit means a member's retirement benefit from a money purchase plan in which member benefits equal annual contributions and earnings pursuant to section 84-1310 and, if vested, employer contributions and earnings pursuant to section 84-1311;

(8) Disability means an inability to engage in a substantially gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or to be of long-continued and indefinite duration;

(9) Employee means any employee of the State Board of Agriculture who is a member of the state retirement system on July 1, 1982, and any person or officer employed by the State of Nebraska whose compensation is paid out of state funds or funds controlled or administered by a state department through any of its executive or administrative officers when acting exclusively in their respective official, executive, or administrative capacities. Employee does not include (a) judges as defined in section 24-701, (b) members of the Nebraska State Patrol, except for those members of the Nebraska State Patrol who elected pursuant to section 60-1304 to remain members of the State Employees Retirement System of the State of Nebraska, (c) employees of the University of

Nebraska, (d) employees of the state colleges, (e) employees of community colleges, (f) employees of the Department of Labor employed prior to July 1, 1984, and paid from funds provided pursuant to Title III of the federal Social Security Act or funds from other federal sources, except that if the contributory retirement plan or contract let pursuant to section 48-609 is terminated, such employees shall become employees for purposes of the State Employees Retirement Act on the first day of the first pay period following the termination of such contributory retirement plan or contract, (g) employees of the State Board of Agriculture who are not members of the state retirement system on July 1, 1982, (h) the Nebraska National Guard air and army technicians, (i) persons eligible for membership under the School Employees Retirement System of the State of Nebraska who have not elected to become members of the retirement system pursuant to section 79-920 or been made members of the system pursuant to such section, except that those persons so eligible and who as of September 2, 1973, are contributing to the State Employees Retirement System of the State of Nebraska shall continue as members of such system, or (j) employees of the Coordinating Commission for Postsecondary Education who are eligible for and have elected to become members of a qualified retirement program approved by the commission which is commensurate with retirement programs at the University of Nebraska. Any individual appointed by the Governor may elect not to become a member of the State Employees Retirement System of the State of Nebraska;

(10) Employee contribution credit means an amount equal to the member contribution amount required by section 84-1308;

(11) Employer contribution credit means an amount equal to the employer contribution amount required by section 84-1309;

(12) Final account value means the value of a member's account on the date the account is either distributed to the member or used to purchase an annuity from the plan, which date shall occur as soon as administratively practicable after receipt of a valid application for benefits, but no sooner than forty-five days after the member's termination;

(13) Five-year break in service means five consecutive one-year breaks in service;

(14) Full-time employee means an employee who is employed to work one-half or more of the regularly scheduled hours during each pay period;

(15) Fund means the State Employees Retirement Fund created by section 84-1309;

(16) Guaranteed investment contract means an investment contract or account offering a return of principal invested plus interest at a specified rate. For investments made after July 19, 1996, guaranteed investment contract does not include direct obligations of the United States or its instrumentalities, bonds, participation certificates or other obligations of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the Government National Mortgage Association, or collateralized mortgage obligations and other derivative securities. This subdivision shall not be construed to require the liquidation of investment contracts or accounts entered into prior to July 19, 1996;

(17) Interest credit rate means the greater of (a) five percent or (b) the applicable federal mid-term rate, as published by the Internal Revenue Service

as of the first day of the calendar quarter for which interest credits are credited, plus one and one-half percent, such rate to be compounded annually;

(18) Interest credits means the amounts credited to the employee cash balance account and the employer cash balance account at the end of each day. Such interest credit for each account shall be determined by applying the daily portion of the interest credit rate to the account balance at the end of the previous day. Such interest credits shall continue to be credited to the employee cash balance account and the employer cash balance account after a member ceases to be an employee, except that no such credit shall be made with respect to the employee cash balance account and the employer cash balance account for any day beginning on or after the member's date of final account value. If benefits payable to the member's surviving spouse or beneficiary are delayed after the member's death, interest credits shall continue to be credited to the employee cash balance account and the employer cash balance account until such surviving spouse or beneficiary commences receipt of a distribution from the plan;

(19) Member cash balance account means an account equal to the sum of the employee cash balance account and, if vested, the employer cash balance account and dividend amounts credited in accordance with subdivision (4)(c) of section 84-1319;

(20) One-year break in service means a plan year during which the member has not completed more than five hundred hours of service;

(21) Participation means qualifying for and making the required deposits to the retirement system during the course of a plan year;

(22) Part-time employee means an employee who is employed to work less than one-half of the regularly scheduled hours during each pay period;

(23) Plan year means the twelve-month period beginning on January 1 and ending on December 31;

(24) Prior service means service before January 1, 1964;

(25) Regular interest means the rate of interest earned each calendar year commencing January 1, 1975, as determined by the retirement board in conformity with actual and expected earnings on the investments through December 31, 1984;

(26) Required contribution means the deduction to be made from the compensation of employees as provided in section 84-1308;

(27) Retirement means qualifying for and accepting the retirement benefit granted under the State Employees Retirement Act after terminating employment;

(28) Retirement application means the form approved and provided by the retirement system for acceptance of a member's request for either regular or disability retirement;

(29) Retirement board or board means the Public Employees Retirement Board;

(30) Retirement date means (a) the first day of the month following the date upon which a member's request for retirement is received on a retirement application if the member is eligible for retirement and has terminated employment or (b) the first day of the month following termination of employment if

the member is eligible for retirement and has filed an application but has not yet terminated employment;

(31) Retirement system means the State Employees Retirement System of the State of Nebraska;

(32) Service means the actual total length of employment as an employee and shall not be deemed to be interrupted by (a) temporary or seasonal suspension of service that does not terminate the employee's employment, (b) leave of absence authorized by the employer for a period not exceeding twelve months, (c) leave of absence because of disability, or (d) military service, when properly authorized by the retirement board. Service does not include any period of disability for which disability retirement benefits are received under section 84-1317;

(33) State department means any department, bureau, commission, or other division of state government not otherwise specifically defined or exempted in the act, the employees and officers of which are not already covered by a retirement plan;

(34) Surviving spouse means (a) the spouse married to the member on the date of the member's death or (b) the spouse or former spouse of the member if survivorship rights are provided under a qualified domestic relations order filed with the board pursuant to the Spousal Pension Rights Act. The spouse or former spouse shall supersede the spouse married to the member on the date of the member's death as provided under a qualified domestic relations order. If the benefits payable to the spouse or former spouse under a qualified domestic relations order are less than the value of benefits entitled to the surviving spouse, the spouse married to the member on the date of the member's death shall be the surviving spouse for the balance of the benefits;

(35) Termination of employment occurs on the date on which the agency which employs the member determines that the member's employer-employee relationship with the State of Nebraska is dissolved. The agency which employs the member shall notify the board of the date on which such a termination has occurred. Termination of employment does not occur if an employee whose employer-employee relationship with the State of Nebraska is dissolved enters into an employer-employee relationship with the same or another agency of the State of Nebraska and there are less than one hundred twenty days between the date when the employee's employer-employee relationship ceased with the state and the date when the employer-employee relationship commenced with the same or another agency. It is the responsibility of the employer that is involved in the termination of employment to notify the board of such change in employment and provide the board with such information as the board deems necessary. If the board determines that termination of employment has not occurred and a retirement benefit has been paid to a member of the retirement system pursuant to section 84-1321, the board shall require the member who has received such benefit to repay the benefit to the retirement system; and

(36) Vesting credit means credit for years, or a fraction of a year, of participation in another Nebraska governmental plan for purposes of determining vesting of the employer account.

**Source:** Laws 1963, c. 532, § 1, p. 1667; Laws 1965, c. 574, § 1, p. 1864; Laws 1965, c. 573, § 1, p. 1861; Laws 1969, c. 584, § 116, p. 2420; Laws 1971, LB 987, § 33; Laws 1973, LB 498, § 1; Laws 1974, LB 905, § 8; Laws 1980, LB 818, § 3; Laws 1982, LB 942,

§ 8; Laws 1983, LB 223, § 4; Laws 1984, LB 747, § 6; Laws 1984, LB 751, § 1; Laws 1986, LB 325, § 15; Laws 1986, LB 529, § 54; Laws 1986, LB 311, § 29; Laws 1989, LB 506, § 19; Laws 1991, LB 549, § 60; Laws 1993, LB 417, § 6; Laws 1994, LB 1068, § 4; Laws 1996, LB 847, § 41; Laws 1996, LB 900, § 1070; Laws 1996, LB 1076, § 37; Laws 1996, LB 1273, § 30; Laws 1997, LB 624, § 35; Laws 1998, LB 1191, § 69; Laws 1999, LB 703, § 20; Laws 2000, LB 1192, § 22; Laws 2002, LB 407, § 54; Laws 2002, LB 470, § 10; Laws 2002, LB 687, § 18; Laws 2003, LB 451, § 23; Laws 2004, LB 1097, § 32; Laws 2006, LB 366, § 7; Laws 2006, LB 1019, § 14; Laws 2011, LB509, § 44; Laws 2012, LB916, § 33; Laws 2013, LB263, § 35. Effective date April 25, 2013.

#### Cross References

For provisions on Public Employees Retirement Board, see sections 84-1501 to 84-1513.  
Spousal Pension Rights Act, see section 42-1101.

**84-1307 Retirement system; membership; requirements; composition; exercise of option to join; effect; new employee; participation in another governmental plan; how treated; separate employment; effect.**

(1) The membership of the retirement system shall be composed of all persons who are or were employed by the State of Nebraska and who maintain an account balance with the retirement system.

(2) The following employees of the State of Nebraska are authorized to participate in the retirement system: (a) All permanent full-time employees shall begin participation in the retirement system upon employment; and (b) all permanent part-time employees who have attained the age of eighteen years may exercise the option to begin participation in the retirement system within the first thirty days of employment. An employee who exercises the option to begin participation in the retirement system pursuant to this section shall remain in the retirement system until his or her termination of employment or retirement, regardless of any change of status as a permanent or temporary employee.

(3) On and after July 1, 2010, no employee shall be authorized to participate in the retirement system provided for in the State Employees Retirement Act unless the employee (a) is a United States citizen or (b) is a qualified alien under the federal Immigration and Nationality Act, 8 U.S.C. 1101 et seq., as such act existed on January 1, 2009, and is lawfully present in the United States.

(4) For purposes of this section, (a) permanent full-time employees includes employees of the Legislature or Legislative Council who work one-half or more of the regularly scheduled hours during each pay period of the legislative session and (b) permanent part-time employees includes employees of the Legislature or Legislative Council who work less than one-half of the regularly scheduled hours during each pay period of the legislative session.

(5)(a) Within the first one hundred eighty days of employment, a full-time employee may apply to the board for vesting credit for years of participation in another Nebraska governmental plan, as defined by section 414(d) of the Internal Revenue Code. During the years of participation in the other Nebraska governmental plan, the employee must have been a full-time employee, as

defined in the Nebraska governmental plan in which the credit was earned. The board may adopt and promulgate rules and regulations governing the assessment and granting of vesting credit.

(b) If the contributory retirement plan or contract let pursuant to section 48-609 is terminated, employees of the Department of Labor who are active participants in such contributory retirement plan or contract on the date of termination of such plan or contract shall be granted vesting credit for their years of participation in such plan or contract.

(6) Any employee who qualifies for membership in the retirement system pursuant to this section may not be disqualified for membership in the retirement system solely because such employee also maintains separate employment which qualifies the employee for membership in another public retirement system, nor may membership in this retirement system disqualify such an employee from membership in another public employment system solely by reason of separate employment which qualifies such employee for membership in this retirement system.

(7) State agencies shall ensure that employees authorized to participate in the retirement system pursuant to this section shall enroll and make required contributions to the retirement system immediately upon becoming an employee. Information necessary to determine membership in the retirement system shall be provided by the employer.

**Source:** Laws 1963, c. 532, § 7, p. 1670; Laws 1969, c. 842, § 1, p. 3177; Laws 1973, LB 492, § 1; Laws 1983, LB 219, § 1; Laws 1986, LB 325, § 16; Laws 1986, LB 311, § 30; Laws 1990, LB 834, § 1; Laws 1995, LB 501, § 11; Laws 1996, LB 1076, § 38; Laws 1997, LB 624, § 36; Laws 1998, LB 1191, § 71; Laws 1999, LB 703, § 21; Laws 2000, LB 1192, § 24; Laws 2002, LB 407, § 55; Laws 2002, LB 687, § 20; Laws 2004, LB 1097, § 33; Laws 2006, LB 366, § 8; Laws 2008, LB1147, § 13; Laws 2009, LB188, § 10; Laws 2010, LB950, § 21; Laws 2011, LB509, § 45; Laws 2013, LB263, § 36.  
Effective date April 25, 2013.

**84-1308 Retirement system; contribution of employees; method of payment; amount; employer pick up contributions.**

(1) Each employee who is a member of the retirement system shall pay or have paid on his or her behalf a sum equal to four and eight-tenths percent of his or her monthly compensation. The contributions, although designated as employee contributions, shall be paid by the employer in lieu of employee contributions. Such amounts shall be deducted monthly pursuant to subsection (2) of this section by the Director of Administrative Services. All money received shall be set aside by the State Treasurer and credited to the State Employees Retirement Fund.

(2) The employer shall pick up the employee contributions required by this section for all compensation paid on or after January 1, 1985, and the contributions so picked up shall be treated as employer contributions pursuant to section 414(h)(2) of the Internal Revenue Code in determining federal tax treatment under the code and shall not be included as gross income of the employee until such time as they are distributed or made available. The employer shall pay these employee contributions from the same source of funds

which is used in paying earnings to the employee. The employer shall pick up these contributions by a deduction through a reduction in the cash compensation of the employee. Employee contributions picked up shall be treated for all purposes of the State Employees Retirement Act in the same manner and to the extent as employee contributions made prior to the date picked up.

**Source:** Laws 1963, c. 532, § 8, p. 1670; Laws 1967, c. 617, § 3, p. 2070; Laws 1969, c. 584, § 118, p. 2421; Laws 1981, LB 459, § 6; Laws 1984, LB 218, § 5; Laws 1984, LB 751, § 3; Laws 1991, LB 549, § 63; Laws 1995, LB 574, § 85; Laws 1998, LB 1191, § 72; Laws 2001, LB 408, § 25; Laws 2006, LB 366, § 9; Laws 2013, LB263, § 37.  
Effective date April 25, 2013.

**84-1314 State Employees Defined Contribution Retirement Expense Fund; State Employees Cash Balance Retirement Expense Fund; created; use; investment.**

(1) The State Employees Defined Contribution Retirement Expense Fund is created. The fund shall be credited with money from the retirement system assets and income sufficient to pay the pro rata share of administrative expenses incurred as directed by the board for the proper administration of the State Employees Retirement Act and necessary in connection with the administration and operation of the retirement system, except as provided in sections 84-1309.02, 84-1310.01, and 84-1311.03. 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 Employees Cash Balance Retirement Expense Fund is created. The fund shall be credited with money forfeited pursuant to section 84-1321.01 and with money from the retirement system assets and income sufficient to pay the pro rata share of administrative expenses incurred as directed by the board for the proper administration of the State Employees Retirement Act and necessary in connection with the administration and operation of the retirement system, except as provided in sections 84-1309.02, 84-1310.01, and 84-1311.03. 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) Forfeiture funds collected from members participating in the defined contribution benefit shall be used to either pay expenses or reduce employer contributions related to the defined contribution benefit. Any unused funds shall be allocated as earnings of and transferred to the accounts of the remaining members within twelve months after receipt of the funds by the board.

**Source:** Laws 1997, LB 623, § 40; Laws 2000, LB 1200, § 7; Laws 2001, LB 408, § 28; Laws 2003, LB 451, § 26; Laws 2005, LB 364, § 18; Laws 2007, LB328, § 8; Laws 2010, LB950, § 25; Laws 2013, LB263, § 38.  
Effective date April 25, 2013.

**Cross References**

Nebraska Capital Expansion Act, see section 72-1269.

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

**84-1317 Employees; retirement date; application for benefits; deferment of benefits; board; duties; certain required minimum distributions; election authorized.**

(1) Upon filing an application for benefits with the board, an employee may elect to retire after the attainment of age fifty-five or an employee may retire as a result of disability at any age.

(2) The member shall specify in the application for benefits the manner in which he or she wishes to receive the retirement benefit under the options provided by the State Employees Retirement Act. Payment under the application for benefits shall be made (a) for annuities, no sooner than the annuity start date, and (b) for other distributions, no sooner than the date of final account value.

(3) Payment of any benefit provided under the retirement system may not be deferred later than April 1 of the year following the year in which the employee has both attained at least age seventy and one-half years and terminated his or her employment with the state.

(4) The board shall make reasonable efforts to locate the member or the member's beneficiary and distribute benefits by the required beginning date as specified by section 401(a)(9) of the Internal Revenue Code and the regulations issued thereunder. If the board is unable to make such a distribution, the benefit shall be distributed pursuant to the Uniform Disposition of Unclaimed Property Act and no amounts may be applied to increase the benefits any member would otherwise receive under the State Employees Retirement Act.

(5) A participant or beneficiary who would have been required to receive required minimum distributions for 2009 but for the enactment of section 401(a)(9)(H) of the Internal Revenue Code, and who would have satisfied that requirement by receiving distributions that are either equal to the 2009 required minimum distributions or one or more payments in a series of substantially equal distributions, including the 2009 required minimum distribution, made at least annually and expected to last for the life or life expectancy of the participant, the joint lives or joint life expectancy of the participant and the participant's designated beneficiary, or for a period of at least ten years, shall receive those distributions for 2009 unless the participant or beneficiary chooses not to receive such distributions. Participants and beneficiaries shall be given the opportunity to elect to stop receiving the distributions described in this subsection.

**Source:** Laws 1963, c. 532, § 17, p. 1673; Laws 1967, c. 619, § 2, p. 2075; Laws 1971, LB 360, § 1; Laws 1973, LB 498, § 4; Laws 1973, LB 55, § 1; Laws 1974, LB 740, § 2; Laws 1979, LB 391, § 7; Laws 1979, LB 161, § 3; Laws 1981, LB 288, § 1; Laws 1982, LB 287, § 5; Laws 1983, LB 604, § 25; Laws 1983, LB 219, § 2; Laws 1986, LB 325, § 17; Laws 1986, LB 311, § 32; Laws 1987, LB 296, § 4; Laws 1996, LB 1076, § 39; Laws 1997, LB 624, § 38; Laws 2003, LB 451, § 27; Laws 2009, LB188, § 13; Laws 2013, LB263, § 39.

Effective date April 25, 2013.

**Cross References**

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



**84-1319 Future service retirement benefits; when payable; how computed; selection of annuity; board; provide tax information; deferment of benefits; certain required minimum distributions; election authorized.**

(1) The future service retirement benefit shall be an annuity, payable monthly with the first payment made no earlier than the annuity start date, which shall be the actuarial equivalent of the retirement value as specified in section 84-1318 based on factors determined by the board, except that gender shall not be a factor when determining the amount of such payments except as provided in this section.

Except as provided in section 42-1107, at any time before the annuity start date, the retiring employee may choose to receive his or her annuity either in the form of an annuity as provided under subsection (4) of this section or any optional form that is determined acceptable by the board.

Except as provided in section 42-1107, in lieu of the future service retirement annuity, a retiring employee may receive a benefit not to exceed the amount in his or her employer and employee accounts as of the date of final account value payable in a lump sum and, if the employee chooses not to receive the entire amount in such accounts, an annuity equal to the actuarial equivalent of the remainder of the retirement value, and the employee may choose any form of such annuity as provided for by the board.

In any case, the amount of the monthly payment shall be such that the annuity chosen shall be the actuarial equivalent of the retirement value as specified in section 84-1318 except as provided in this section.

The board shall provide to any state employee who is eligible for retirement, prior to his or her selecting any of the retirement options provided by this section, information on the federal and state income tax consequences of the various annuity or retirement benefit options.

(2) Except as provided in subsection (4) of this section, the monthly annuity income payable to a member retiring on or after January 1, 1984, shall be as follows:

He or she shall receive at retirement the amount which may be purchased by the accumulated contributions based on annuity rates in effect on the annuity start date which do not utilize gender as a factor, except that such amounts shall not be less than the retirement income which can be provided by the sum of the amounts derived pursuant to subdivisions (a) and (b) of this subsection as follows:

(a) The income provided by the accumulated contributions made prior to January 1, 1984, based on male annuity purchase rates in effect on the date of purchase; and

(b) The income provided by the accumulated contributions made on and after January 1, 1984, based on the annuity purchase rates in effect on the date of purchase which do not use gender as a factor.

(3) Any amounts, in excess of contributions, which may be required in order to purchase the retirement income specified in subsection (2) of this section shall be withdrawn from the State Equal Retirement Benefit Fund.

(4)(a) The normal form of payment shall be a single life annuity with five-year certain, which is an annuity payable monthly during the remainder of the member's life with the provision that, in the event of his or her death before sixty monthly payments have been made, the monthly payments will be contin-

ued to his or her estate or to the beneficiary he or she has designated until sixty monthly payments have been made in total. Such annuity shall be equal to the actuarial equivalent of the member cash balance account or the sum of the employee and employer accounts, whichever is applicable, as of the date of final account value. As a part of the annuity, the normal form of payment may include a two and one-half percent cost-of-living adjustment purchased by the member, if the member elects such a payment option.

Except as provided in section 42-1107, a member may elect a lump-sum distribution of his or her member cash balance account as of the date of final account value upon termination of service or retirement.

For a member employed and participating in the retirement system prior to January 1, 2003, who has elected to participate in the cash balance benefit pursuant to section 84-1309.02, or for a member employed and participating in the retirement system beginning on and after January 1, 2003, the balance of his or her member cash balance account as of the date of final account value shall be converted to an annuity using an interest rate used in the actuarial valuation as recommended by the actuary and approved by the board.

For an employee who is a member prior to January 1, 2003, who has elected not to participate in the cash balance benefit pursuant to section 84-1309.02, and who, at the time of retirement, chooses the annuity option rather than the lump-sum option, his or her employee and employer accounts as of the date of final account value shall be converted to an annuity using an interest rate that is equal to the lesser of (i) the Pension Benefit Guaranty Corporation initial interest rate for valuing annuities for terminating plans as of the beginning of the year during which payment begins plus three-fourths of one percent or (ii) the interest rate used in the actuarial valuation as recommended by the actuary and approved by the board.

(b) For the calendar year beginning January 1, 2003, and each calendar year thereafter, the actuary for the board shall perform an actuarial valuation of the system using the entry age actuarial cost method. Under this method, the actuarially required funding rate is equal to the normal cost rate plus the contribution rate necessary to amortize the unfunded actuarial accrued liability on a level-payment basis. The normal cost under this method shall be determined for each individual member on a level percentage of salary basis. The normal cost amount is then summed for all members. The initial unfunded actual accrued liability as of January 1, 2003, if any, shall be amortized over a twenty-five-year period. During each subsequent actuarial valuation, changes in the unfunded actuarial accrued liability due to changes in benefits, actuarial assumptions, the asset valuation method, or actuarial gains or losses shall be measured and amortized over a twenty-five-year period beginning on the valuation date of such change. If the unfunded actuarial accrued liability under the entry age actuarial cost method is zero or less than zero on an actuarial valuation date, then all prior unfunded actuarial accrued liabilities shall be considered fully funded and the unfunded actuarial accrued liability shall be reinitialized and amortized over a twenty-five-year period as of the actuarial valuation date. If the actuarially required contribution rate exceeds the rate of all contributions required pursuant to the State Employees Retirement Act, there shall be a supplemental appropriation sufficient to pay for the difference between the actuarially required contribution rate and the rate of all contributions required pursuant to the act.

(c) If the unfunded accrued actuarial liability under the entry age actuarial cost method is less than zero on an actuarial valuation date, and on the basis of all data in the possession of the retirement board, including such mortality and other tables as are recommended by the actuary engaged by the retirement board and adopted by the retirement board, the retirement board may elect to pay a dividend to all members participating in the cash balance option in an amount that would not increase the actuarial contribution rate above ninety percent of the actual contribution rate. Dividends shall be credited to the employee cash balance account and the employer cash balance account based on the account balances on the actuarial valuation date. In the event a dividend is granted and paid after the actuarial valuation date, interest for the period from the actuarial valuation date until the dividend is actually paid shall be paid on the dividend amount. The interest rate shall be the interest credit rate earned on regular contributions.

(5) At the option of the retiring member, any lump sum or annuity provided under this section or section 84-1320 may be deferred to commence at any time, except that no benefit shall be deferred later than April 1 of the year following the year in which the employee has both attained at least seventy and one-half years of age and has terminated his or her employment with the state. Such election by the retiring member may be made at any time prior to the commencement of the lump-sum or annuity payments.

(6) A participant or beneficiary who would have been required to receive required minimum distributions for 2009 but for the enactment of section 401(a)(9)(H) of the Internal Revenue Code, and who would have satisfied that requirement by receiving distributions that are either equal to the 2009 required minimum distributions or one or more payments in a series of substantially equal distributions, including the 2009 required minimum distribution, made at least annually and expected to last for the life or life expectancy of the participant, the joint lives or joint life expectancy of the participant and the participant's designated beneficiary, or for a period of at least ten years, shall receive those distributions for 2009 unless the participant or beneficiary chooses not to receive such distributions. Participants and beneficiaries shall be given the opportunity to elect to stop receiving the distributions described in this subsection.

**Source:** Laws 1963, c. 532, § 19, p. 1674; Laws 1973, LB 498, § 5; Laws 1983, LB 210, § 2; Laws 1984, LB 751, § 7; Laws 1986, LB 325, § 18; Laws 1986, LB 311, § 33; Laws 1987, LB 308, § 1; Laws 1987, LB 60, § 4; Laws 1991, LB 549, § 70; Laws 1992, LB 543, § 2; Laws 1994, LB 1306, § 8; Laws 1996, LB 1273, § 31; Laws 2002, LB 687, § 27; Laws 2003, LB 451, § 29; Laws 2006, LB 1019, § 17; Laws 2007, LB328, § 9; Laws 2009, LB188, § 14; Laws 2012, LB916, § 39; Laws 2013, LB263, § 40.  
Effective date April 25, 2013.

**84-1321 Employees; termination of employment; benefits; when; how computed; vesting; deferment of benefits; certain required minimum distributions; election authorized.**

(1) Except as provided in section 42-1107, upon termination of employment before becoming eligible for retirement under section 84-1317, a member may, upon application to the board, receive:

(a) If not vested, a termination benefit equal to the amount in his or her employee account or member cash balance account as of the date of final account value payable in a lump sum or an annuity with the lump-sum or first annuity payment made at any time after termination but no later than April 1 of the year following the year in which the member attains the age of seventy and one-half years; or

(b) If vested, a termination benefit equal to (i) the amount of his or her member cash balance account as of the date of final account value payable in a lump sum or an annuity with the lump-sum or first annuity payment made at any time after termination but no later than April 1 of the year following the year in which the member attains the age of seventy and one-half years or (ii)(A) the amount in his or her employee account as of the date of final account value payable in a lump sum or an annuity with the lump-sum or first annuity payment made at any time after termination but no later than April 1 of the year following the year in which the member attains the age of seventy and one-half years plus (B) the amount of his or her employer account as of the date of final account value payable in a lump sum or an annuity with the lump-sum or first annuity payment made at any time after termination but no later than April 1 of the year following the year in which the member attains the age of seventy and one-half years.

The member cash balance account or employer and employee accounts of a terminating member shall be retained by the board, and the termination benefit shall be deferred until a valid application for benefits has been received.

(2) At the option of the terminating member, any lump sum of the vested portion of the employer account or member cash balance account or any annuity provided under subsection (1) of this section shall commence as of the first of the month at any time after such member has terminated his or her employment with the state or may be deferred, except that no benefit shall be deferred later than April 1 of the year following the year in which the employee has both attained at least seventy and one-half years of age and has terminated his or her employment with the state. Such election by the terminating member shall be made at any time prior to the commencement of the lump-sum or annuity payments.

(3) Members of the retirement system shall be vested after a total of three years of participation in the system as a member pursuant to section 84-1307, including vesting credit. If an employee retires pursuant to section 84-1317, such an employee shall be fully vested in the retirement system.

(4) A participant or beneficiary who would have been required to receive required minimum distributions for 2009 but for the enactment of section 401(a)(9)(H) of the Internal Revenue Code, and who would have satisfied that requirement by receiving distributions that are either equal to the 2009 required minimum distributions or one or more payments in a series of substantially equal distributions, including the 2009 required minimum distribution, made at least annually and expected to last for the life or life expectancy of the participant, the joint lives or joint life expectancy of the participant and the participant's designated beneficiary, or for a period of at least ten years, shall receive those distributions for 2009 unless the participant or beneficiary chooses not to receive such distributions. Participants and beneficiaries shall be given the opportunity to elect to stop receiving the distributions.

**Source:** Laws 1963, c. 532, § 21, p. 1675; Laws 1973, LB 498, § 6; Laws 1975, LB 56, § 3; Laws 1983, LB 604, § 26; Laws 1983, LB 219,

§ 3; Laws 1984, LB 751, § 9; Laws 1986, LB 325, § 20; Laws 1986, LB 311, § 35; Laws 1987, LB 308, § 3; Laws 1987, LB 60, § 5; Laws 1991, LB 549, § 71; Laws 1993, LB 417, § 7; Laws 1994, LB 1306, § 9; Laws 1996, LB 1076, § 40; Laws 1996, LB 1273, § 32; Laws 1997, LB 624, § 39; Laws 2002, LB 687, § 28; Laws 2003, LB 451, § 31; Laws 2006, LB 366, § 11; Laws 2009, LB188, § 15; Laws 2013, LB263, § 41.

Effective date April 25, 2013.

**84-1321.01 Termination of employment; account forfeited; when; State Employer Retirement Expense Fund; created; use; investment.**

(1) For a member who has terminated employment and is not vested, the balance of the member's employer account or employer cash balance account shall be forfeited. The forfeited account shall be credited to the State Employees Retirement Fund and shall first be used to meet the expense charges incurred by the retirement board in connection with administering the retirement system, which charges shall be credited to the State Employees Defined Contribution Retirement Expense Fund, if the member participated in the defined contribution option, or to the State Employees Cash Balance Retirement Expense Fund, if the member participated in the cash balance option, and the remainder, if any, shall then be used to restore employer accounts or employer cash balance accounts. Except as provided in subsection (3) of section 84-1314 and subdivision (4)(c) of section 84-1319, no forfeited amounts shall be applied to increase the benefits any member would otherwise receive under the State Employees Retirement Act.

(2)(a) If a member ceases to be an employee due to the termination of his or her employment by the state and a grievance or other appeal of the termination is filed, transactions involving forfeiture of his or her employer account or employer cash balance account and, except as provided in subdivision (b) of this subsection, transactions for payment of benefits under sections 84-1317 and 84-1321 shall be suspended pending the final outcome of the grievance or other appeal.

(b) If a member elects to receive benefits payable under sections 84-1317 and 84-1321 after a grievance or appeal is filed, the member may receive an amount up to the balance of his or her employee account or member cash balance account or twenty-five thousand dollars payable from the employee account or member cash balance account, whichever is less.

(3) The State Employer Retirement Expense Fund is created. The fund shall be administered by the Public Employees Retirement Board. Prior to July 1, 2012, the fund shall be used to meet expenses of the State Employees Retirement System of the State of Nebraska whether such expenses are incurred in administering the member's employer account or in administering the member's employer cash balance account when the funds available in the State Employees Defined Contribution Retirement Expense Fund or State Employees Cash Balance Retirement Expense Fund make such use reasonably necessary. On July 1, 2012, or as soon as practicable thereafter, any money in the State Employer Retirement Expense Fund shall be transferred by the State Treasurer to the State Employees Retirement Fund and credited to the cash balance benefit established in section 84-1309.02.

(4) Prior to July 1, 2012, the director of the Nebraska Public Employees Retirement Systems shall certify to the Accounting Administrator of the Department of Administrative Services when accumulated employer account forfeiture funds are available to reduce the state contribution which would otherwise be required to fund future service retirement benefits or to restore employer accounts or employer cash balance accounts referred to in subsection (1) of this section. Following such certification, the Accounting Administrator shall transfer the amount reduced from the state contribution from the Imprest Payroll Distributive Fund to the State Employer Retirement Expense Fund. Expenses incurred as a result of the state depositing amounts into the State Employer Retirement Expense Fund shall be deducted prior to any additional expenses being allocated. Any remaining amount shall be allocated in accordance with subsection (3) of this section. Any money in the State Employer Retirement Expense Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

**Source:** Laws 1997, LB 624, § 40; Laws 2000, LB 1200, § 8; Laws 2002, LB 687, § 29; Laws 2003, LB 451, § 32; Laws 2005, LB 364, § 19; Laws 2007, LB328, § 10; Laws 2010, LB950, § 26; Laws 2011, LB509, § 48; Laws 2012, LB916, § 40; Laws 2013, LB263, § 42.

Effective date April 25, 2013.

#### Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

## ARTICLE 14 PUBLIC MEETINGS

### Section

84-1411. Meetings of public body; notice; contents; when available; right to modify; duties concerning notice; videoconferencing or telephone conferencing authorized; emergency meeting without notice; appearance before public body.

**84-1411 Meetings of public body; notice; contents; when available; right to modify; duties concerning notice; videoconferencing or telephone conferencing authorized; emergency meeting without notice; appearance before public body.**

(1) Each public body shall give reasonable advance publicized notice of the time and place of each meeting by a method designated by each public body and recorded in its minutes. Such notice shall be transmitted to all members of the public body and to the public. Such notice shall contain an agenda of subjects known at the time of the publicized notice or a statement that the agenda, which shall be kept continually current, shall be readily available for public inspection at the principal office of the public body during normal business hours. Agenda items shall be sufficiently descriptive to give the public reasonable notice of the matters to be considered at the meeting. Except for items of an emergency nature, the agenda shall not be altered later than (a) twenty-four hours before the scheduled commencement of the meeting or (b) forty-eight hours before the scheduled commencement of a meeting of a city

council or village board scheduled outside the corporate limits of the municipality. The public body shall have the right to modify the agenda to include items of an emergency nature only at such public meeting.

(2) A meeting of a state agency, state board, state commission, state council, or state committee, of an advisory committee of any such state entity, of an organization created under the Interlocal Cooperation Act, the Joint Public Agency Act, or the Municipal Cooperative Financing Act, of the governing body of a public power district having a chartered territory of more than one county in this state, of the governing body of a public power and irrigation district having a chartered territory of more than one county in this state, of a board of an educational service unit, of the Educational Service Unit Coordinating Council, of the governing body of a risk management pool or its advisory committees organized in accordance with the Intergovernmental Risk Management Act, or of a community college board of governors may be held by means of videoconferencing or, in the case of the Judicial Resources Commission in those cases specified in section 24-1204, by telephone conference, if:

(a) Reasonable advance publicized notice is given;

(b) Reasonable arrangements are made to accommodate the public's right to attend, hear, and speak at the meeting, including seating, recordation by audio or visual recording devices, and a reasonable opportunity for input such as public comment or questions to at least the same extent as would be provided if videoconferencing or telephone conferencing was not used;

(c) At least one copy of all documents being considered is available to the public at each site of the videoconference or telephone conference;

(d) At least one member of the state entity, advisory committee, board, council, or governing body is present at each site of the videoconference or telephone conference; and

(e) No more than one-half of the state entity's, advisory committee's, board's, council's, or governing body's meetings in a calendar year are held by videoconference or telephone conference.

Videoconferencing, telephone conferencing, or conferencing by other electronic communication shall not be used to circumvent any of the public government purposes established in the Open Meetings Act.

(3) A meeting of a board of an educational service unit, of the Educational Service Unit Coordinating Council, of the governing body of an entity formed under the Interlocal Cooperation Act, the Joint Public Agency Act, or the Municipal Cooperative Financing Act, of the governing body of a risk management pool or its advisory committees organized in accordance with the Intergovernmental Risk Management Act, of a community college board of governors, of the governing body of a public power district, or of the governing body of a public power and irrigation district may be held by telephone conference call if:

(a) The territory represented by the educational service unit, member educational service units, community college board of governors, public power district, public power and irrigation district, or member public agencies of the entity or pool covers more than one county;

(b) Reasonable advance publicized notice is given which identifies each telephone conference location at which an educational service unit board member, a council member, a member of a community college board of

governors, a member of the governing body of a public power district, a member of the governing body of a public power and irrigation district, or a member of the entity's or pool's governing body will be present;

(c) All telephone conference meeting sites identified in the notice are located within public buildings used by members of the educational service unit board, council, community college board of governors, governing body of the public power district, governing body of the public power and irrigation district, or entity or pool or at a place which will accommodate the anticipated audience;

(d) Reasonable arrangements are made to accommodate the public's right to attend, hear, and speak at the meeting, including seating, recordation by audio recording devices, and a reasonable opportunity for input such as public comment or questions to at least the same extent as would be provided if a telephone conference call was not used;

(e) At least one copy of all documents being considered is available to the public at each site of the telephone conference call;

(f) At least one member of the educational service unit board, council, community college board of governors, governing body of the public power district, governing body of the public power and irrigation district, or governing body of the entity or pool is present at each site of the telephone conference call identified in the public notice;

(g) The telephone conference call lasts no more than two hours; and

(h) No more than one-half of the board's, council's, governing body's, entity's, or pool's meetings in a calendar year are held by telephone conference call, except that a governing body of a risk management pool that meets at least quarterly and the advisory committees of the governing body may each hold more than one-half of its meetings by telephone conference call if the governing body's quarterly meetings are not held by telephone conference call or videoconferencing.

Nothing in this subsection shall prevent the participation of consultants, members of the press, and other nonmembers of the governing body at sites not identified in the public notice. Telephone conference calls, emails, faxes, or other electronic communication shall not be used to circumvent any of the public government purposes established in the Open Meetings Act.

(4) The secretary or other designee of each public body shall maintain a list of the news media requesting notification of meetings and shall make reasonable efforts to provide advance notification to them of the time and place of each meeting and the subjects to be discussed at that meeting.

(5) When it is necessary to hold an emergency meeting without reasonable advance public notice, the nature of the emergency shall be stated in the minutes and any formal action taken in such meeting shall pertain only to the emergency. Such emergency meetings may be held by means of electronic or telecommunication equipment. The provisions of subsection (4) of this section shall be complied with in conducting emergency meetings. Complete minutes of such emergency meetings specifying the nature of the emergency and any formal action taken at the meeting shall be made available to the public by no later than the end of the next regular business day.



(6) A public body may allow a member of the public or any other witness other than a member of the public body to appear before the public body by means of video or telecommunications equipment.

**Source:** Laws 1975, LB 325, § 4; Laws 1983, LB 43, § 3; Laws 1987, LB 663, § 25; Laws 1993, LB 635, § 2; Laws 1996, LB 469, § 6; Laws 1996, LB 1161, § 1; Laws 1999, LB 47, § 2; Laws 1999, LB 87, § 100; Laws 1999, LB 461, § 1; Laws 2000, LB 968, § 85; Laws 2004, LB 821, § 38; Laws 2004, LB 1179, § 2; Laws 2006, LB 898, § 2; Laws 2007, LB199, § 9; Laws 2009, LB361, § 2; Laws 2012, LB735, § 1; Laws 2013, LB510, § 1.  
Effective date September 6, 2013.

#### Cross References

**Intergovernmental Risk Management Act**, see section 44-4301.

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

**Joint Public Agency Act**, see section 13-2501.

**Municipal Cooperative Financing Act**, see section 18-2401.

## ARTICLE 15

### PUBLIC EMPLOYEES RETIREMENT BOARD

#### Section

84-1503. Board; duties.

84-1511. Board; establish preretirement planning program; for whom; required information; funding; attendance; fee.

84-1511.01. Board; retirement education and financial planning program; for whom; required information; funding; attendance; fee.

#### **84-1503 Board; duties.**

(1) It shall be the duty of the Public Employees Retirement Board:

(a) To administer the retirement systems provided for in the County Employees Retirement Act, the Judges Retirement Act, the Nebraska State Patrol Retirement Act, the School Employees Retirement Act, and the State Employees Retirement Act. The agency for the administration of the retirement systems and under the direction of the board shall be known and may be cited as the Nebraska Public Employees Retirement Systems;

(b) To appoint a director to administer the systems under the direction of the board. The appointment shall be subject to the approval of the Governor and a majority of the Legislature. The director shall be qualified by training and have at least five years of experience in the administration of a qualified public or private employee retirement plan. The director shall not be a member of the board. The salary of the director shall be set by the board. The director shall serve without term and may be removed by the board;

(c) To provide for an equitable allocation of expenses among the retirement systems administered by the board, and all expenses shall be provided from the investment income earned by the various retirement funds unless alternative sources of funds to pay expenses are specified by law;

(d) To administer the deferred compensation program authorized in section 84-1504;

(e) To hire an attorney, admitted to the Nebraska State Bar Association, to advise the board in the administration of the retirement systems listed in subdivision (a) of this subsection;

(f) To hire an internal auditor to perform the duties described in section 84-1503.04 who meets the minimum standards as described in section 84-304.03;

(g) To adopt and implement procedures for reporting information by employers, as well as testing and monitoring procedures in order to verify the accuracy of such information. The information necessary to determine membership shall be provided by the employer. The board shall adopt and promulgate rules and regulations and prescribe such forms necessary to carry out this subdivision. Nothing in this subdivision shall be construed to require the board to conduct onsite audits of political subdivisions for compliance with statutes, rules, and regulations governing the retirement systems listed in subdivision (1)(a) of this section regarding membership and contributions; and

(h) To prescribe and furnish forms for the public retirement system plan reports required to be filed pursuant to sections 2-3228, 12-101, 14-567, 14-1805.01, 14-2111, 15-1017, 16-1017, 16-1037, 19-3501, 23-1118, 23-3526, 71-1631.02, and 79-987.

(2) In administering the retirement systems listed in subdivision (1)(a) of this section, it shall be the duty of the board:

(a) To determine, based on information provided by the employer, the prior service annuity, if any, for each person who is an employee of the county on the date of adoption of the retirement system;

(b) To determine the eligibility of an individual to be a member of the retirement system and other questions of fact in the event of a dispute between an individual and the individual's employer;

(c) To adopt and promulgate rules and regulations for the management of the board;

(d) To keep a complete record of all proceedings taken at any meeting of the board;

(e) To obtain, by a competitive, formal, and sealed bidding process through the materiel division of the Department of Administrative Services, actuarial services on behalf of the State of Nebraska as may be necessary in the administration and development of the retirement systems. Any contract for actuarial services shall contain a provision allowing the actuary, without prior approval of the board, to perform actuarial studies of the systems as requested by entities other than the board, if notice, which does not identify the entity or substance of the request, is given to the board, all costs are paid by the requesting entity, results are provided to the board, the Nebraska Retirement Systems Committee of the Legislature, and the Legislative Fiscal Analyst upon being made public, and such actuarial studies do not interfere with the actuary's ongoing responsibility to the board. The term of the contract shall be for up to three years. A competitive, formal, and sealed bidding process shall be completed at least once every three years, unless the board determines that such a process would not be cost effective under the circumstances and that the actuarial services performed have been satisfactory, in which case the contract may also contain an option for renewal without a competitive, formal, and sealed bidding process for up to three additional years. An actuary under contract for the State of Nebraska shall be a member of the American Academy of Actuaries and meet the academy's qualification standards to render a statement of actuarial opinion;

(f) To direct the State Treasurer to transfer funds, as an expense of the retirement systems, to the Legislative Council Retirement Study Fund. Such transfer shall occur beginning on or after July 1, 2005, and at intervals of not less than five years and not more than fifteen years and shall be in such amounts as the Legislature shall direct;

(g) To adopt and promulgate rules and regulations to carry out the provisions of each retirement system described in subdivision (1)(a) of this section, which includes, but is not limited to, the crediting of military service, direct rollover distributions, and the acceptance of rollovers;

(h) To obtain, by a competitive, formal, and sealed bidding process through the materiel division of the Department of Administrative Services, auditing services for a separate compliance audit of the retirement systems to be completed by December 31, 2020, and from time to time thereafter at the request of the Nebraska Retirement Systems Committee of the Legislature, to be completed not more than every four years but not less than every ten years. The compliance audit shall be in addition to the annual audit conducted by the Auditor of Public Accounts. The compliance audit shall include, but not be limited to, an examination of records, files, and other documents and an evaluation of all policies and procedures to determine compliance with all state and federal laws. A copy of the compliance audit shall be given to the Governor, the board, and the Nebraska Retirement Systems Committee of the Legislature and shall be presented to the committee at a public hearing;

(i) To adopt and promulgate rules and regulations for the adjustment of contributions or benefits, which includes, but is not limited to: (i) The procedures for refunding contributions, adjusting future contributions or benefit payments, and requiring additional contributions or repayment of benefits; (ii) the process for a member, member's beneficiary, employee, or employer to dispute an adjustment to contributions or benefits; (iii) establishing materiality and de minimus amounts for agency transactions, adjustments, and inactive account closures; and (iv) notice provided to all affected persons. Following an adjustment, a timely notice shall be sent that describes the adjustment and the process for disputing an adjustment to contributions or benefits; and

(j) To administer all retirement system plans in a manner which will maintain each plan's status as a qualified plan pursuant to the Internal Revenue Code, as defined in section 49-801.01, including: Section 401(a)(9) of the Internal Revenue Code relating to the time and manner in which benefits are required to be distributed, including the incidental death benefit distribution requirement of section 401(a)(9)(G) of the Internal Revenue Code; section 401(a)(16) of the Internal Revenue Code relating to the specification of actuarial assumptions; section 401(a)(31) of the Internal Revenue Code relating to direct rollover distributions from eligible retirement plans; section 401(a)(37) of the Internal Revenue Code relating to the death benefit of a member whose death occurs while performing qualified military service; and section 414(d) of the Internal Revenue Code relating to the establishment of retirement plans for employees of a state or political subdivision thereof. The board shall adopt and promulgate rules and regulations necessary or appropriate to maintain such status including, but not limited to, rules or regulations which restrict discretionary or optional contributions to a plan or which limit distributions from a plan.

(3) By March 31 of each year, the board shall prepare a written plan of action and shall present such plan to the Nebraska Retirement Systems Committee of the Legislature at a public hearing. The plan shall include, but not be limited to, the board's funding policy, the administrative costs and other fees associated with each fund and plan overseen by the board, member education and informational programs, the director's duties and limitations, an organizational structure of the office of the Nebraska Public Employees Retirement Systems, and the internal control structure of such office to ensure compliance with state and federal laws.

**Source:** Laws 1971, LB 987, § 3; Laws 1973, LB 216, § 3; Laws 1973, LB 498, § 10; Laws 1979, LB 416, § 3; Laws 1983, LB 70, § 1; Laws 1984, LB 751, § 13; Laws 1986, LB 311, § 40; Laws 1987, LB 549, § 14; Laws 1988, LB 1170, § 22; Laws 1991, LB 549, § 74; Laws 1992, LB 672, § 33; Laws 1994, LB 833, § 54; Laws 1994, LB 1306, § 11; Laws 1995, LB 502, § 3; Laws 1996, LB 847, § 52; Laws 1996, LB 1076, § 44; Laws 1998, LB 1191, § 78; Laws 1999, LB 849, § 33; Laws 2000, LB 1192, § 25; Laws 2001, LB 808, § 21; Laws 2002, LB 407, § 63; Laws 2003, LB 451, § 35; Laws 2005, LB 503, § 19; Laws 2011, LB474, § 14; Laws 2011, LB509, § 51; Laws 2012, LB916, § 43; Laws 2013, LB263, § 43.  
Effective date April 25, 2013.

#### Cross References

County Employees Retirement Act, see section 23-2331.

Judges Retirement Act, see section 24-701.01.

Nebraska State Patrol Retirement Act, see section 81-2014.01.

School Employees Retirement Act, see section 79-901.

State Employees Retirement Act, see section 84-1331.

### **84-1511 Board; establish preretirement planning program; for whom; required information; funding; attendance; fee.**

(1) The Public Employees Retirement Board shall establish a comprehensive preretirement planning program for state patrol officers, state employees, judges, county employees, and school employees who are members of the retirement systems established pursuant to the County Employees Retirement Act, the Judges Retirement Act, the School Employees Retirement Act, the Nebraska State Patrol Retirement Act, and the State Employees Retirement Act. The program shall provide information and advice regarding the many changes employees face upon retirement, including, but not limited to, changes in physical and mental health, housing, family life, leisure activity, and retirement income.

(2) The preretirement planning program shall be available to all employees who have attained the age of fifty years or are within five years of qualifying for retirement or early retirement under their retirement systems.

(3) The preretirement planning program shall include information on the federal and state income tax consequences of the various annuity or retirement benefit options available to the employee, information on social security benefits, information on various local, state, and federal government programs and programs in the private sector designed to assist elderly persons, and information and advice the board deems valuable in assisting public employees in the transition from public employment to retirement.

(4) The board shall work with the Department of Health and Human Services, the personnel division of the Department of Administrative Services, employee groups, and any other governmental agency, including political subdivisions or bodies whose services or expertise may enhance the development or implementation of the preretirement planning program.

(5) Funding to cover the expense of the preretirement planning program shall be charged back to each retirement fund on a pro rata share based on the number of employees in each plan.

(6) The employer shall provide each eligible employee leave with pay to attend up to two preretirement planning programs. For purposes of this subsection, leave with pay shall mean a day off paid by the employer and shall not mean vacation, sick, personal, or compensatory time. An employee may choose to attend a program more than twice, but such leave shall be at the expense of the employee and shall be at the discretion of the employer. An eligible employee shall not be entitled to attend more than one preretirement planning program per fiscal year prior to actual election of retirement.

(7) A nominal registration fee may be charged each person attending a preretirement planning program to cover the costs for meals, meeting rooms, or other expenses incurred under such program.

**Source:** Laws 1986, LB 311, § 1; Laws 1992, Third Spec. Sess., LB 14, § 31; Laws 1995, LB 369, § 9; Laws 1996, LB 900, § 1076; Laws 1996, LB 1044, § 979; Laws 1997, LB 624, § 44; Laws 1998, LB 497, § 29; Laws 2011, LB509, § 52; Laws 2013, LB263, § 44.

Effective date April 25, 2013.

#### Cross References

County Employees Retirement Act, see section 23-2331.

Judges Retirement Act, see section 24-701.01.

Nebraska State Patrol Retirement Act, see section 81-2014.01.

School Employees Retirement Act, see section 79-901.

State Employees Retirement Act, see section 84-1331.

#### **84-1511.01 Board; retirement education and financial planning program; for whom; required information; funding; attendance; fee.**

(1) The Public Employees Retirement Board shall establish a comprehensive retirement education and financial planning program for all members of the State Employees Retirement System of the State of Nebraska and for all members of the Retirement System for Nebraska Counties, who are under age fifty and not eligible to attend the preretirement planning program established in section 84-1511. The program may be provided to members in a single-day format, or may be provided in equivalent partial-day segments.

(2) The retirement education and financial planning program shall include discussion on the retirement system, financial planning, and budgeting as well as any other planning information valuable to employees before they reach age fifty.

(3) The employer shall provide each eligible employee leave with pay to attend a retirement education and financial planning program twice prior to age fifty. For purposes of this subsection, leave with pay means time off paid by the employer and shall not mean vacation, sick, personal, or compensatory time. Leave with pay shall be provided to each eligible employee in order that the employee may attend the full retirement education and financial planning

program, whether it is provided in a single-day program or in the equivalent partial-day segments. An employee may choose to attend a full program more than twice, but leave to attend any additional single-day programs or equivalent segments shall be at the expense of the employee and shall be at the discretion of the employer. An employee may not attend a full program more than once per fiscal year.

(4) Funding to cover the expense of the retirement education and financial planning program shall be charged proportionately to the State Employees Retirement Fund and the County Employees Retirement Fund.

(5) A nominal registration fee may be charged each person attending a retirement education and financial planning program to cover the costs for meals or meeting rooms or other expenses incurred for the program.

**Source:** Laws 1991, LB 254, § 1; Laws 1995, LB 369, § 10; Laws 2004, LB 1097, § 39; Laws 2013, LB263, § 45.  
Effective date April 25, 2013.

## CHAPTER 85

### STATE UNIVERSITY, STATE COLLEGES, AND POSTSECONDARY EDUCATION

Article.

14. Coordinating Commission for Postsecondary Education.
  - (a) Coordinating Commission for Postsecondary Education Act. 85-1412, 85-1418.
15. Community Colleges. 85-1502 to 85-1540.
16. Private Postsecondary Career Schools. 85-1603 to 85-1656.
17. Nebraska Educational Finance Authority. Transferred.
18. Educational Savings Plan Trust. 85-1802, 85-1809.
19. Nebraska Opportunity Grant Act. 85-1903 to 85-1920.
21. Access College Early Scholarship Program Act. 85-2105.
22. Community College Aid Act. 85-2233, 85-2234.
24. Postsecondary Institution Act. 85-2403, 85-2405.

#### ARTICLE 14

#### COORDINATING COMMISSION FOR POSTSECONDARY EDUCATION

##### (a) COORDINATING COMMISSION FOR POSTSECONDARY EDUCATION ACT

Section

- 85-1412. Commission; additional powers and duties.
- 85-1418. Program or capital construction project; state funds; restrictions on use; district court of Lancaster County; jurisdiction; appeals; procedure.

##### (a) COORDINATING COMMISSION FOR POSTSECONDARY EDUCATION ACT

#### **85-1412 Commission; additional powers and duties.**

The commission shall have the following additional powers and duties:

(1) Conduct surveys and studies as may be necessary to undertake the coordination function of the commission pursuant to section 85-1403 and request information from governing boards and appropriate administrators of public institutions and other governmental agencies for research projects. All public institutions and governmental agencies receiving state funds shall comply with reasonable requests for information under this subdivision. Public institutions may comply with such requests pursuant to section 85-1417;

(2) Recommend to the Legislature and the Governor legislation it deems necessary or appropriate to improve postsecondary education in Nebraska and any other legislation it deems appropriate to change the role and mission provisions in sections 85-917 to 85-966.01. The recommendations submitted to the Legislature shall be submitted electronically;

(3) Establish any advisory committees as may be necessary to undertake the coordination function of the commission pursuant to section 85-1403 or to solicit input from affected parties such as students, faculty, governing boards, administrators of the public institutions, administrators of the private nonprofit institutions of postsecondary education and proprietary institutions in the state, and community and business leaders regarding the coordination function of the commission;

(4) Participate in or designate an employee or employees to participate in any committee which may be created to prepare a coordinated plan for the delivery of educational programs and services in Nebraska through the telecommunications system;

(5) Seek a close liaison with the State Board of Education and the State Department of Education in recognition of the need for close coordination of activities between elementary and secondary education and postsecondary education;

(6) Administer the Integrated Postsecondary Education Data System or other information system or systems to provide the commission with timely, comprehensive, and meaningful information pertinent to the exercise of its duties. The information system shall be designed to provide comparable data on each public institution. The commission shall also administer the uniform information system prescribed in sections 85-1421 to 85-1427 known as the Nebraska Educational Data System. Public institutions shall supply the appropriate data for the information system or systems required by the commission;

(7) Administer (a) the Access College Early Scholarship Program Act, (b) the Community College Aid Act, (c) the Nebraska Community College Student Performance and Occupational Education Grant Fund under the direction of the Nebraska Community College Student Performance and Occupational Education Grant Committee, (d) the Nebraska Opportunity Grant Act, and (e) the Postsecondary Institution Act;

(8) Accept and administer loans, grants, and programs from the federal or state government and from other sources, public and private, for carrying out any of its functions, including the administration of privately endowed scholarship programs. Such loans and grants shall not be expended for any other purposes than those for which the loans and grants were provided. The commission shall determine eligibility for such loans, grants, and programs, and such loans and grants shall not be expended unless approved by the Governor;

(9) On or before December 1 of each even-numbered year, submit to the Legislature and the Governor a report of its objectives and activities and any new private colleges in Nebraska and the implementation of any recommendations of the commission for the preceding two calendar years. The report submitted to the Legislature shall be submitted electronically;

(10) Provide staff support for interstate compacts on postsecondary education; and

(11) Request inclusion of the commission in any existing grant review process and information system.

**Source:** Laws 1991, LB 663, § 15; Laws 1993, LB 93, § 7; Laws 1994, LB 683, § 18; Laws 1999, LB 816, § 14; Laws 2003, LB 7, § 5; Laws 2003, LB 574, § 26; Laws 2003, LB 685, § 29; Laws 2007, LB192, § 1; Laws 2009, LB340, § 1; Laws 2010, LB956, § 3; Laws 2011, LB637, § 29; Laws 2012, LB782, § 234; Laws 2012, LB946, § 13; Laws 2013, LB211, § 1.

Operative date July 1, 2013.

#### Cross References

Access College Early Scholarship Program Act, see section 85-2101.

Community College Aid Act, see section 85-2231.



**COORDINATING COMMISSION FOR POSTSECONDARY EDUCATION § 85-1418**

Integrated Postsecondary Education Data System, see section 85-1424.

Nebraska Opportunity Grant Act, see section 85-1901.

Postsecondary Institution Act, see section 85-2401.

**85-1418 Program or capital construction project; state funds; restrictions on use; district court of Lancaster County; jurisdiction; appeals; procedure.**

(1) No state warrant shall be issued by the Department of Administrative Services or used by any public institution for the purpose of funding any program or capital construction project which has not been approved or which has been disapproved by the commission pursuant to the Coordinating Commission for Postsecondary Education Act. If state funding for any such program or project cannot be or is not divided into warrants separate from other programs or projects, the department shall reduce a warrant to the public institution which includes funding for the program or project by the amount of tax funds designated by the Legislature which are budgeted in that fiscal year by the public institution for use for the program or project.

(2) Until July 1, 2013, the department may reduce the amount of state aid distributed to a community college area pursuant to the Community College Aid Act, or for fiscal years 2010-11, 2011-12, and 2012-13 pursuant to section 90-517, by the amount of funds used by the area to provide a program or capital construction project which has not been approved or which has been disapproved by the commission.

(3) The district court of Lancaster County shall have jurisdiction to enforce an order or decision of the commission entered pursuant to the Coordinating Commission for Postsecondary Education Act and to enforce this section.

(4) Any person or public institution aggrieved by a final order of the commission entered pursuant to section 85-1413, 85-1414, 85-1415, or 85-1416 shall be entitled to judicial review of the order. Proceedings for review shall be instituted by filing a petition in the district court of Lancaster County within thirty days after public notice of the final decision by the commission is given. The filing of the petition or the service of summons upon the commission shall not stay enforcement of such order. The review shall be conducted by the court without a jury on the record of the commission. The court shall have jurisdiction to enjoin enforcement of any order of the commission which is (a) in violation of constitutional provisions, (b) in excess of the constitutional or statutory authority of the commission, (c) made upon unlawful procedure, or (d) affected by other error of law.

(5) A party may secure a review of any final judgment of the district court by appeal to the Court of Appeals. Such appeal shall be taken in the manner provided by law for appeals in civil cases and shall be heard de novo on the record.

**Source:** Laws 1991, LB 663, § 21; Laws 1992, LB 360, § 40; Laws 1993, LB 239, § 22; Laws 2007, LB342, § 39; Laws 2010, LB1072, § 5; Laws 2011, LB59, § 4; Laws 2012, LB946, § 14; Laws 2013, LB211, § 2.

Operative date July 1, 2013.

**Cross References**

Community College Aid Act, see section 85-2231.

**ARTICLE 15**  
**COMMUNITY COLLEGES**

## Section

- 85-1502. Area governance and statewide coordination; legislative intent; voluntary membership in boards or associations of community colleges; section, how construed.
- 85-1512. Boards; establish election districts; nomination and election of members; qualifications.
- 85-1539. Nebraska Community College Student Performance and Occupational Education Grant Committee; created; duties; applications for aid or grants.
- 85-1540. Nebraska Community College Student Performance and Occupational Education Grant Fund; created; administration; use; investment.

**85-1502 Area governance and statewide coordination; legislative intent; voluntary membership in boards or associations of community colleges; section, how construed.**

(1) It is the intent of the Legislature that a clear distinction between area governance and statewide coordination for the community college areas be recognized and that such coordination is appropriate in order to provide the most cost-effective programs for residents of each community college area. It is further the intent of the Legislature that coordination of the community colleges by the Coordinating Commission for Postsecondary Education be conducted as provided in Article VII, section 14, of the Constitution of Nebraska and the Coordinating Commission for Postsecondary Education Act. It is further the intent of the Legislature that such coordination not be conducted through a board or association representing all the community colleges and that membership in any boards or associations of community colleges be voluntary.

(2) The board of governors of any community college area may pay from college funds an amount to be determined by the board of governors for membership in boards or associations of community colleges.

(3) Nothing in this section shall be construed to require or provide for state control of the operations of any community college area or to abridge the governance ability, rights, or responsibilities of any board. Nothing in this section shall be construed to limit the ability or authority of the commission to fulfill its responsibilities and duties regarding the individual community college areas and the individual community college area campuses.

**Source:** Laws 1991, LB 625, § 1; Laws 1991, LB 663, § 46; R.S.Supp.,1992, § 79-2636.01; Laws 1993, LB 239, § 24; Laws 2004, LB 821, § 43; Laws 2010, LB1072, § 6; Laws 2013, LB211, § 3.

Operative date July 1, 2013.

**Cross References**

Coordinating Commission for Postsecondary Education Act, see section 85-1401.

**85-1512 Boards; establish election districts; nomination and election of members; qualifications.**

Each board shall divide the community college area into five election districts as nearly equal in population as may be practicable and shall transmit the appropriate information pertaining to such election districts to the Secretary of

State and to the appropriate election officials within the area. Board members shall be nominated and elected as provided in section 32-514. To be eligible for membership on the board, a person shall be a registered voter and shall have been a resident of the area for six months and, for members representing a district, a resident of the district for six months. No person shall be eligible for membership on a community college board of governors who is an elected or appointed member of any other board relating to education. No member of a community college board of governors shall be employed by the community college area for which he or she serves as a board member. Each member elected to represent a district shall be a resident of the district.

**Source:** Laws 1975, LB 344, § 11; Laws 1981, LB 446, § 35; R.S.1943, (1987), § 79-2646; Laws 1993, LB 239, § 34; Laws 1994, LB 76, § 612; Laws 2013, LB135, § 1.  
Effective date September 6, 2013.

**85-1539 Nebraska Community College Student Performance and Occupational Education Grant Committee; created; duties; applications for aid or grants.**

(1) There is hereby created the Nebraska Community College Student Performance and Occupational Education Grant Committee. The committee shall consist of (a) a representative of the Coordinating Commission for Postsecondary Education who shall serve as chairperson of the committee, (b) a representative of the Department of Economic Development, (c) a representative of the Department of Labor, (d) a representative of the State Department of Education, (e) a representative affiliated with one of the two community college areas with the two smallest full-time equivalent student enrollment totals for the most recent fiscal year, (f) a representative affiliated with one of the two community college areas with the two largest full-time equivalent student enrollment totals for the most recent fiscal year, and (g) a representative affiliated with one of the two community college areas not included in the categories provided in subdivisions (1)(e) and (f) of this section. Each member shall be appointed by the agency or community college areas being represented. The representatives appointed pursuant to subdivisions (1)(e) through (g) of this section shall serve terms of two years and shall be succeeded by a representative affiliated with the community college areas not represented for the preceding term.

(2) The committee shall develop guidelines for and annually determine the allocation of aid or grants to the community colleges for (a) applied technology and occupational faculty training, instructional equipment upgrades, employee assessment, preemployment training, employment training, and dislocated worker programs benefiting the State of Nebraska or (b) programs or activities to enhance (i) student performance in the areas of degree, certificate, or diploma completion, retention, or foundations education as defined in section 85-932.01 or (ii) the collection, reporting, analysis, and utilization of student data. The total amount allocated for a fiscal year shall not exceed the amounts appropriated from the Nebraska Community College Student Performance and Occupational Education Grant Fund and such other funds as may be appropriated by the Legislature for purposes of this section for such fiscal year. The commission shall certify the allocation determined by the committee on or before September 10 of the fiscal year for which such allocation is being certified and shall report such allocation to the Department of Administrative

Services. The commission shall distribute the allocated funds to the selected community college board or boards in a single payment between the fifth and twentieth day of October of each year.

(3) Applications for aid or grants pursuant to this section may be submitted by a community college area independently or in collaboration with other community college areas.

**Source:** Laws 1989, LB 305, § 2; R.S.Supp.,1992, § 79-2663; Laws 1993, LB 239, § 61; Laws 2012, LB946, § 22; Laws 2013, LB211, § 4. Operative date July 1, 2013.

**85-1540 Nebraska Community College Student Performance and Occupational Education Grant Fund; created; administration; use; investment.**

There is hereby created the Nebraska Community College Student Performance and Occupational Education Grant Fund. The fund shall be under the direction of the Nebraska Community College Student Performance and Occupational Education Grant Committee and shall be administered by the Coordinating Commission for Postsecondary Education. The fund shall consist of money received by the state in the form of grants or gifts from nonfederal sources, such other amounts as may be transferred or otherwise accrue to the fund, and any investment income earned on the fund. The fund shall be used to provide aid or grants to the community colleges pursuant to section 85-1539. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

**Source:** Laws 1989, LB 305, § 1; Laws 1991, LB 663, § 52; R.S.Supp.,1992, § 79-2664; Laws 1993, LB 239, § 62; Laws 1994, LB 1066, § 140; Laws 1995, LB 1, § 16; Laws 2000, LB 953, § 12; Laws 2012, LB946, § 23; Laws 2013, LB211, § 5. Operative date July 1, 2013.

**Cross References**

Nebraska Capital Expansion Act, see section 72-1269.

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

**ARTICLE 16**

**PRIVATE POSTSECONDARY CAREER SCHOOLS**

Section

85-1603. Terms, defined.

85-1604. Education and schools; exempt from act.

85-1644. Private postsecondary career school; discontinue operation; transcripts and records; preserved; permanent file maintained by department; fee.

85-1656. Tuition Recovery Cash Fund; assessment; board; powers and duties.

**85-1603 Terms, defined.**

For purposes of the Private Postsecondary Career School Act:

(1) Agent means any person who owns any interest in, is employed by, or regularly represents for remuneration a private postsecondary career school located within or outside this state who (a) by solicitation made in this state enrolls or seeks to enroll a resident of this state for education offered by such school, (b) offers to award educational credentials for remuneration on behalf

of any such school, or (c) holds himself or herself out to residents of this state as representing such a school;

(2) Agent's permit means a nontransferable, written authorization issued to a natural person by the department which allows that person to solicit or enroll any resident of this state for education in a private postsecondary career school;

(3) Authorization to operate means approval by the department to operate a private postsecondary career school in this state;

(4) Board means the State Board of Education;

(5) Branch facility means a facility (a) which is separate from a principal facility, (b) which offers a full program and full student services, (c) which is under the supervision of an onsite director or administrator, and (d)(i) the ownership, management, and control of which are the same as the principal facility, which principal facility is responsible for the delivery of all services, or (ii) at which education is offered by a franchisee of a franchisor authorized to operate as a private postsecondary career school pursuant to the act if the franchisor establishes the course curriculum and guidelines for teaching at the franchisee's facility;

(6) Commission means the Coordinating Commission for Postsecondary Education;

(7) Commissioner means the Commissioner of Education;

(8) Course of study or instruction means a program of study, training, or instruction consisting of a series of lessons or classes which are coordinated as a curriculum or program of instruction to prepare or qualify individuals or improve or upgrade the skills needed for employment, career opportunities, or any specific occupation;

(9) Department means the State Department of Education;

(10) Education or educational services means any class, course, or program of occupational training, instruction, or study;

(11) Entity means any individual, company, firm, society, group, association, partnership, limited liability company, corporation, trust, or other person;

(12) Grant, with respect to educational credentials, means award, sell, confer, bestow, or give;

(13) Home study school means a school which provides correspondence lesson materials prepared in a sequential and logical order for study and completion by a student on his or her own, with completed lessons returned by the student to the school for evaluation and subsequent return to the student, including those schools which offer instruction by home study in combination with in-residence training;

(14) Offer includes, in addition to its usual meaning, advertising, publicizing, soliciting, or encouraging any person, directly or indirectly, in any form, to perform a described act;

(15) Out-of-state school means any private postsecondary career school which has its place of instruction or its principal location outside the boundaries of this state and which offers or conducts courses of instruction or subjects on the premises of the school, or provides correspondence or home study lesson materials, or offers or provides Nebraska students with courses of instruction or subjects through activities engaged in or conducted outside the boundaries of Nebraska;

(16) Principal facility or main school means a private postsecondary career school located in the State of Nebraska;

(17) Private postsecondary career school means any organization or business enterprise which is not specifically exempt under section 85-1604 and which offers a course of study or instruction for which tuition is charged, even though the organization's or business enterprise's principal efforts may not be exclusively educational in nature;

(18) Resident school means any school offering courses of instruction to its students on the school's premises;

(19) Separate classroom means a supplemental training space (a) which is located near the main school for the purpose of expanding the educational offerings or for training an overflow of students who cannot be accommodated at the main school, (b) which is close enough to the main school to assure immediate supervision and administration of all essential student services by the main school and ready access by students to the student services available, and (c) in which the only required onsite service is teaching; and

(20) Short-term training means classes, courses, or programs of instruction or study that are offered for the purpose of training, preparing, or improving a person for an occupation when (a) the total hours of instruction required for completion is sixteen clock hours or less and (b) no final course grade is given to persons enrolled.

**Source:** Laws 1977, LB 486, § 3; Laws 1982, LB 370, § 1; Laws 1990, LB 488, § 3; Laws 1993, LB 121, § 519; R.S.1943, (1994), § 79-2803; Laws 1995, LB 4, § 3; Laws 2003, LB 685, § 30; Laws 2013, LB410, § 18.  
Effective date May 30, 2013.

#### **85-1604 Education and schools; exempt from act.**

The following education and schools are exempted from the Private Postsecondary Career School Act:

(1) Schools exclusively offering instruction at any or all levels from preschool through the twelfth grade;

(2) Education sponsored by a bona fide trade, business, professional, or fraternal organization which is offered solely for that organization's membership or offered without charge;

(3) Education provided by or funded by an employer and offered solely to its employees for the purpose of improving such persons in such employment;

(4) Education solely avocational or recreational in nature as determined by the department;

(5) Educational programs offered by a charitable institution, organization, or agency as long as such education or training is not advertised or promoted as leading toward occupational objectives;

(6) Public postsecondary schools established, operated, and governed by this state or its political subdivisions or similar entities in other states as determined by the department;

(7) Schools or organizations offering education or instruction that is not part of a degree program leading to an associate, a baccalaureate, a graduate, or a professional degree which are licensed and regulated by agencies of this state

other than the department, except that such schools or organizations shall not be exempt from the act with respect to agents' permits and the Tuition Recovery Cash Fund;

(8) Schools or organizations which offer education or instruction and which are licensed and regulated solely by an agency of the federal government with respect to curriculum and qualifications of instructional staff;

(9) Any postsecondary institution offering or proposing to offer courses or programs leading to a baccalaureate, graduate, or professional degree, but whose offerings may include associate degree programs, diplomas, and other certificates based on the award of college credit, including any such institutions that were regulated prior to May 5, 2011, as private postsecondary career schools pursuant to the Private Postsecondary Career School Act; and

(10) Entities exclusively offering short-term training.

**Source:** Laws 1977, LB 486, § 4; Laws 1980, LB 774, § 1; Laws 1982, LB 370, § 2; Laws 1990, LB 488, § 4; Laws 1993, LB 348, § 57; R.S.1943, (1994), § 79-2804; Laws 1995, LB 4, § 4; Laws 2003, LB 685, § 31; Laws 2011, LB637, § 30; Laws 2013, LB410, § 19.

Effective date May 30, 2013.

**85-1644 Private postsecondary career school; discontinue operation; transcripts and records; preserved; permanent file maintained by department; fee.**

If any private postsecondary career school now or hereafter operating in this state proposes to discontinue its operation, the chief administrative officer of such school shall cause to be filed with the department the original or legible true copies of all academic and financial aid transcripts and such other records of the school as may be specified by the department. If there is a change of ownership, the records shall be transferred intact and in good condition to the new owner and the transfer shall be verified by the department. The department shall maintain or cause to be maintained a permanent file of such records coming into its possession. A student requesting a copy of his or her transcripts may be charged a fee of ten dollars for each copy requested.

**Source:** Laws 1977, LB 486, § 48; Laws 1990, LB 488, § 43; R.S.1943, (1994), § 79-2848; Laws 1995, LB 4, § 44; Laws 1999, LB 489, § 7; Laws 2013, LB410, § 20.

Effective date May 30, 2013.

**85-1656 Tuition Recovery Cash Fund; assessment; board; powers and duties.**

(1) The board shall annually assess each private postsecondary career school one-tenth of one percent of the prior school year's gross tuition revenue until the Tuition Recovery Cash Fund reaches the minimum fund level. The fund shall be maintained at a minimum of two hundred fifty thousand dollars and a maximum of five hundred thousand dollars. At any time when the fund drops below the minimum level, the board may resume the assessment. Funds in excess of the maximum level shall be used as directed by the board to provide grants or scholarships for students attending private postsecondary career schools.

(2) The board shall require documentation from each private postsecondary career school to verify the tuition revenue collected by the school and to determine the amount of the assessment under this section.

(3) Any private postsecondary career school applying for authorization to operate from the commissioner or any other agency after September 9, 1993, shall not be assessed under this section for the first year of operation but shall be assessed each year thereafter for four years or until the fund reaches the minimum level required by this section, whichever occurs last, and shall maintain the surety bond or other security required by section 85-1639 until such time.

(4) The authorization to operate of any private postsecondary career school which fails to comply with this section shall be subject to revocation.

**Source:** Laws 1993, LB 348, § 54; R.S.1943, (1994), § 79-2861; Laws 1995, LB 4, § 56; Laws 2013, LB410, § 21.  
Effective date May 30, 2013.

## ARTICLE 17

### NEBRASKA EDUCATIONAL FINANCE AUTHORITY

#### Section

- 85-1701. Transferred to section 58-801.
- 85-1702. Transferred to section 58-802.
- 85-1703. Transferred to section 58-803.
- 85-1704. Transferred to section 58-804.
- 85-1705. Transferred to section 58-805.
- 85-1706. Transferred to section 58-806.
- 85-1707. Transferred to section 58-809.
- 85-1708. Transferred to section 58-811.
- 85-1709. Transferred to section 58-812.
- 85-1710. Transferred to section 58-813.
- 85-1711. Transferred to section 58-814.
- 85-1712. Transferred to section 58-815.
- 85-1713. Transferred to section 58-816.
- 85-1714. Transferred to section 58-817.
- 85-1715. Transferred to section 58-818.
- 85-1716. Transferred to section 58-819.
- 85-1717. Transferred to section 58-820.
- 85-1718. Transferred to section 58-821.
- 85-1719. Transferred to section 58-822.
- 85-1720. Transferred to section 58-823.
- 85-1721. Transferred to section 58-824.
- 85-1722. Transferred to section 58-825.
- 85-1723. Transferred to section 58-826.
- 85-1724. Transferred to section 58-827.
- 85-1725. Transferred to section 58-828.
- 85-1726. Transferred to section 58-829.
- 85-1727. Transferred to section 58-830.
- 85-1728. Transferred to section 58-831.
- 85-1729. Transferred to section 58-832.
- 85-1730. Transferred to section 58-833.
- 85-1731. Transferred to section 58-834.
- 85-1732. Transferred to section 58-835.
- 85-1733. Transferred to section 58-836.
- 85-1734. Transferred to section 58-837.
- 85-1735. Transferred to section 58-838.
- 85-1736. Transferred to section 58-839.
- 85-1737. Transferred to section 58-840.



## Section

85-1738. Transferred to section 58-841.  
85-1739. Transferred to section 58-842.  
85-1740. Transferred to section 58-843.  
85-1741. Transferred to section 58-844.  
85-1742. Transferred to section 58-845.  
85-1743. Transferred to section 58-846.  
85-1744. Transferred to section 58-847.  
85-1745. Transferred to section 58-848.  
85-1746. Transferred to section 58-849.  
85-1747. Transferred to section 58-850.  
85-1748. Transferred to section 58-851.  
85-1749. Transferred to section 58-852.  
85-1750. Transferred to section 58-853.  
85-1751. Transferred to section 58-854.  
85-1752. Transferred to section 58-855.  
85-1753. Transferred to section 58-856.  
85-1754. Transferred to section 58-857.  
85-1755. Transferred to section 58-858.  
85-1756. Transferred to section 58-859.  
85-1757. Transferred to section 58-860.  
85-1758. Transferred to section 58-861.  
85-1759. Transferred to section 58-862.  
85-1760. Transferred to section 58-863.  
85-1761. Transferred to section 58-864.  
85-1762. Transferred to section 58-865.  
85-1763. Transferred to section 58-866.

**85-1701 Transferred to section 58-801.**

**85-1702 Transferred to section 58-802.**

**85-1703 Transferred to section 58-803.**

**85-1704 Transferred to section 58-804.**

**85-1705 Transferred to section 58-805.**

**85-1706 Transferred to section 58-806.**

**85-1707 Transferred to section 58-809.**

**85-1708 Transferred to section 58-811.**

**85-1709 Transferred to section 58-812.**

**85-1710 Transferred to section 58-813.**

**85-1711 Transferred to section 58-814.**

**85-1712 Transferred to section 58-815.**

**85-1713 Transferred to section 58-816.**

**85-1714 Transferred to section 58-817.**

**85-1715 Transferred to section 58-818.**

**85-1716 Transferred to section 58-819.**

**85-1717 Transferred to section 58-820.**

- 85-1718 Transferred to section 58-821.
- 85-1719 Transferred to section 58-822.
- 85-1720 Transferred to section 58-823.
- 85-1721 Transferred to section 58-824.
- 85-1722 Transferred to section 58-825.
- 85-1723 Transferred to section 58-826.
- 85-1724 Transferred to section 58-827.
- 85-1725 Transferred to section 58-828.
- 85-1726 Transferred to section 58-829.
- 85-1727 Transferred to section 58-830.
- 85-1728 Transferred to section 58-831.
- 85-1729 Transferred to section 58-832.
- 85-1730 Transferred to section 58-833.
- 85-1731 Transferred to section 58-834.
- 85-1732 Transferred to section 58-835.
- 85-1733 Transferred to section 58-836.
- 85-1734 Transferred to section 58-837.
- 85-1735 Transferred to section 58-838.
- 85-1736 Transferred to section 58-839.
- 85-1737 Transferred to section 58-840.
- 85-1738 Transferred to section 58-841.
- 85-1739 Transferred to section 58-842.
- 85-1740 Transferred to section 58-843.
- 85-1741 Transferred to section 58-844.
- 85-1742 Transferred to section 58-845.
- 85-1743 Transferred to section 58-846.
- 85-1744 Transferred to section 58-847.
- 85-1745 Transferred to section 58-848.
- 85-1746 Transferred to section 58-849.
- 85-1747 Transferred to section 58-850.
- 85-1748 Transferred to section 58-851.

**85-1749 Transferred to section 58-852.**

**85-1750 Transferred to section 58-853.**

**85-1751 Transferred to section 58-854.**

**85-1752 Transferred to section 58-855.**

**85-1753 Transferred to section 58-856.**

**85-1754 Transferred to section 58-857.**

**85-1755 Transferred to section 58-858.**

**85-1756 Transferred to section 58-859.**

**85-1757 Transferred to section 58-860.**

**85-1758 Transferred to section 58-861.**

**85-1759 Transferred to section 58-862.**

**85-1760 Transferred to section 58-863.**

**85-1761 Transferred to section 58-864.**

**85-1762 Transferred to section 58-865.**

**85-1763 Transferred to section 58-866.**

## **ARTICLE 18**

### **EDUCATIONAL SAVINGS PLAN TRUST**

Section

85-1802. Terms, defined.

85-1809. Ownership rights under participation agreement.

#### **85-1802 Terms, defined.**

For purposes of sections 85-1801 to 85-1814:

(1) Administrative fund means the College Savings Plan Administrative Fund created in section 85-1807;

(2) Beneficiary means the individual designated by a participation agreement to benefit from advance payments of qualified higher education expenses on behalf of the beneficiary;

(3) Benefits means the payment of qualified higher education expenses on behalf of a beneficiary by the Nebraska educational savings plan trust during the beneficiary's attendance at an eligible educational institution;

(4) Eligible educational institution means an institution described in 20 U.S.C. 1088 which is eligible to participate in a program under Title IV of the federal Higher Education Act of 1965;

(5) Expense fund means the College Savings Plan Expense Fund created in section 85-1807;

(6) Nebraska educational savings plan trust means the trust created in section 85-1804;

(7) Nonqualified withdrawal refers to (a) a distribution from an account to the extent it is not used to pay the qualified higher education expenses of the beneficiary or (b) a qualified rollover permitted by section 529 of the Internal Revenue Code where the funds are transferred to a qualified tuition program sponsored by another state or entity;

(8) Participant or account owner means an individual, an individual's legal representative, or any other legal entity authorized to establish a savings account under section 529 of the Internal Revenue Code who has entered into a participation agreement for the advance payment of qualified higher education expenses on behalf of a beneficiary. For purposes of section 77-2716, as to contributions by a custodian to a custodial account established pursuant to the Nebraska Uniform Transfers to Minors Act or similar law in another state, which account has been established under a participation agreement, participant includes the parent or guardian of a minor, which parent or guardian is also the custodian of the account;

(9) Participation agreement means an agreement between a participant and the Nebraska educational savings plan trust entered into under sections 85-1801 to 85-1814;

(10) Program fund means the College Savings Plan Program Fund created in section 85-1807;

(11) Qualified higher education expenses means the certified costs of tuition and fees, books, supplies, and equipment required for enrollment or attendance at an eligible educational institution. Reasonable room and board expenses, based on the minimum amount applicable for the eligible educational institution during the period of enrollment, shall be included as qualified higher education expenses for those students enrolled on at least a half-time basis. In the case of a special needs beneficiary, expenses for special needs services incurred in connection with enrollment or attendance at an eligible educational institution shall be included as qualified higher education expenses. Expenses paid or incurred in 2009 or 2010 for the purchase of computer technology or equipment or Internet access and related services, subject to the limitations set forth in section 529 of the Internal Revenue Code, shall be included as qualified higher education expenses. Qualified higher education expenses does not include any amounts in excess of those allowed by section 529 of the Internal Revenue Code;

(12) Section 529 of the Internal Revenue Code means such section of the code and the regulations interpreting such section; and

(13) Tuition and fees means the quarter or semester charges imposed to attend an eligible educational institution.

**Source:** Laws 2000, LB 1003, § 2; Laws 2001, LB 750, § 1; Laws 2010, LB197, § 3; Laws 2012, LB1104, § 4; Laws 2013, LB296, § 2. Operative date January 1, 2014.

**Cross References**

Nebraska Uniform Transfers to Minors Act, see section 43-2701.

**85-1809 Ownership rights under participation agreement.**

(1) A participant retains ownership of all contributions made under a participation agreement up to the date of utilization for payment of qualified higher education expenses for the beneficiary. Notwithstanding any other provision of

law, any amount credited to any account is not susceptible to any levy, execution, judgment, or other operation of law, garnishment, or other judicial enforcement, and the amount is not an asset or property of either the participant or the beneficiary for the purposes of any state insolvency or inheritance tax laws. All income derived from the investment of the contributions made by the participant shall be considered to be held in trust for the benefit of the beneficiary.

(2) If the program created by sections 85-1801 to 85-1814 is terminated prior to payment of qualified higher education expenses for the beneficiary, the participant is entitled to receive the fair market value of the account established in the program.

(3) If the beneficiary graduates from an eligible educational institution and a balance remains in the participant's account, any remaining funds may be transferred as allowed by rule or regulation, subject to the provisions of section 529 of the Internal Revenue Code, as well as any other applicable state or federal laws or regulations.

(4) The eligible educational institution shall obtain ownership of the payments made for the qualified higher education expenses paid to the institution at the time each payment is made to the institution.

(5) Any amounts which may be paid to any person or persons pursuant to the Nebraska educational savings plan trust but which are not listed in this section are owned by the trust.

(6) A participant may transfer ownership rights to another eligible participant, including a gift of the ownership rights to a minor beneficiary. The transfer shall be made and the property distributed in accordance with the rules and regulations or with the terms of the participation agreement.

(7) A participant shall not be entitled to utilize any interest in the Nebraska educational savings plan trust as security for a loan.

(8) The Nebraska educational savings plan trust may accept transfers of cash investments from a custodian under the Nebraska Uniform Transfers to Minors Act or any other similar laws under the terms and conditions established by the trustee.

(9) A participant may designate a successor account owner to succeed to all of the participant's rights, title, and interest in an account, including the right to change the account beneficiary, upon the death or legal incapacity of the participant. If a participant dies or becomes legally incapacitated and has failed to name a successor account owner, the account beneficiary shall become the account owner.

(10) Upon the death of a beneficiary, the participant may change the beneficiary on the account, transfer assets to another beneficiary who is a member of the family of the former beneficiary, or request a nonqualified withdrawal.

**Source:** Laws 2000, LB 1003, § 9; Laws 2001, LB 750, § 5; Laws 2003, LB 574, § 31; Laws 2012, LB1104, § 9; Laws 2013, LB296, § 3. Operative date January 1, 2014.

**Cross References**

Nebraska Uniform Transfers to Minors Act, see section 43-2701.

## ARTICLE 19

## NEBRASKA OPPORTUNITY GRANT ACT

## Section

85-1903. Award, defined.

85-1907. Eligible student, defined.

85-1920. Nebraska Opportunity Grant Fund; created; use; investment.

**85-1903 Award, defined.**

Award means a grant of money by the commission to an eligible student for educational expenses. An award shall not exceed fifty percent of the tuition and mandatory fees for a full-time, resident, undergraduate student for the last completed award year at the University of Nebraska-Lincoln.

**Source:** Laws 2003, LB 574, § 3; Laws 2004, LB 1107, § 1; Laws 2006, LB 962, § 6; Laws 2007, LB342, § 43; Laws 2010, LB956, § 6; Laws 2013, LB331, § 1.  
Effective date June 5, 2013.

**85-1907 Eligible student, defined.**

Eligible student means an undergraduate student who:

(1) Is enrolled in an eligible postsecondary educational institution;

(2) Has applied for federal financial aid through the Free Application for Federal Student Aid for the applicable award year and has an expected family contribution which is equal to or less than one hundred ten percent of the maximum expected family contribution to qualify for a Federal Pell Grant in that award year;

(3) Is a resident student who is domiciled in Nebraska as provided by section 85-502; and

(4) Complies with all other provisions of the Nebraska Opportunity Grant Act and its rules and regulations.

**Source:** Laws 2003, LB 574, § 7; Laws 2010, LB956, § 7; Laws 2013, LB331, § 2.  
Effective date June 5, 2013.

**85-1920 Nebraska Opportunity Grant Fund; created; use; investment.**

The Nebraska Opportunity Grant Fund is created. Money in the fund shall include amounts transferred from the State Lottery Operation Trust Fund pursuant to section 9-812 until June 30, 2016. All amounts accruing to the Nebraska Opportunity Grant Fund shall be used to carry out the Nebraska Opportunity Grant Act. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

The Nebraska Opportunity Grant Fund terminates on June 30, 2016. Any money in the fund on such date shall be transferred to the Nebraska Education Improvement Fund on such date.

**Source:** Laws 2003, LB 574, § 20; Laws 2010, LB956, § 18; Laws 2013, LB497, § 6.  
Effective date May 30, 2013.

## Cross References

Nebraska Capital Expansion Act, see section 72-1269.

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

## ARTICLE 21

## ACCESS COLLEGE EARLY SCHOLARSHIP PROGRAM ACT

## Section

85-2105. Applicant; application; contents; commission; powers and duties; educational institution receiving payment; report required.

**85-2105 Applicant; application; contents; commission; powers and duties; educational institution receiving payment; report required.**

(1) An applicant for the Access College Early Scholarship Program shall complete an application form developed and provided by the commission and shall submit the form to his or her guidance counselor or other official designated by the school. Such application shall include, but not be limited to, the applicant's high school, social security number, date of birth, grade point average, grade level, qualified postsecondary educational institution, and information necessary to determine the student's eligibility. The guidance counselor or other official designated by the school shall verify the student's eligibility under the Access College Early Scholarship Program Act and shall forward the application to the commission for review within fifteen days following receipt of the form from the student. Notification of tuition and mandatory fees to be accrued by the student shall be provided to the commission by the student, high school, or qualified postsecondary educational institution as determined by the commission.

(2) The commission shall review the application and verify the student's eligibility under the act. The commission shall notify the student and the student's guidance counselor or other official designated by the school of the verification of eligibility and the estimated award amount in writing within thirty days following receipt of the form from the student's guidance counselor or other official designated by the school. The scholarship award shall equal the lesser of tuition and mandatory fees accrued by the student after any discounts applicable to such student from the qualified postsecondary educational institution or the tuition and mandatory fees that would have been accrued by the student for the same number of credit hours if the student were taking the course as a full-time, resident, undergraduate student from the University of Nebraska-Lincoln. The commission shall forward such amount directly to the qualified postsecondary educational institution as payment of such student's tuition and mandatory fees.

(3) The commission shall make such payments in the order the applications are received, except that the commission may limit the number of scholarships awarded in each term.

(4) The commission may limit the number of scholarships a student may receive.

(5) For any student receiving a scholarship pursuant to the act for tuition and mandatory fees, the qualified postsecondary educational institution receiving the payment shall report either the student's grade for the course or the student's failure to complete the course to the commission within thirty days after the end of the course or within one hundred eighty days after receipt of a

payment pursuant to the act if the course for which the scholarship was awarded does not have a specified ending date. The commission shall keep the identity of students receiving scholarships confidential, except as necessary to comply with the requirements of the act.

**Source:** Laws 2007, LB192, § 6; Laws 2009, LB20, § 1; Laws 2011, LB637, § 33; Laws 2013, LB332, § 1.  
Effective date September 6, 2013.

## ARTICLE 22

### COMMUNITY COLLEGE AID ACT

#### Section

- 85-2233. Legislative intent; Coordinating Commission for Postsecondary Education; duties; reduction of distribution; when.  
85-2234. Allocation of aid.

#### **85-2233 Legislative intent; Coordinating Commission for Postsecondary Education; duties; reduction of distribution; when.**

(1)(a) The Legislature recognizes that education, as an investment in human resources, is fundamental to the quality of life and the economic prosperity of Nebraskans and that aid to the community colleges furthers these goals.

(b) It is the intent of the Legislature that such appropriations reflect the commitment of the Legislature to join with local governing bodies in a strong and continuing partnership to further advance the quality, responsiveness, access, and equity of Nebraska's community colleges and to foster high standards of performance and service so that every citizen, community, and business will have the opportunity to receive quality educational programs and services regardless of the size, wealth, or geographic location of the community college area or tribally controlled community college by which that citizen, community, or business is served.

(c) In order to promote quality postsecondary education and to avoid excessive and disproportionate taxation upon the taxable property of each community college area, the Legislature may appropriate each biennium from such funds as may be available an amount for aid and assistance to the community colleges. Such funds so appropriated by the Legislature shall be allocated, adjusted, and distributed to the community college boards of governors as provided in the Community College Aid Act.

(2) The Coordinating Commission for Postsecondary Education shall certify aid amounts attributable to the allocations pursuant to subdivisions (1) and (3) of section 85-2234 and report such amounts to the Department of Administrative Services. The commission shall certify such aid amounts on or before September 1 of the fiscal year for which aid is being certified and shall distribute the total of such appropriated and allocated funds to the boards in ten as nearly as possible equal monthly payments between the fifth and twentieth day of each month beginning in September of each year.

(3) Beginning July 1, 2013, the commission shall reduce the amount of the distribution to a board by the amount of funds used by the community college area to provide a program or capital construction project as defined in section 85-1402 which has not been approved or has been disapproved by the Coordi-



nating Commission for Postsecondary Education pursuant to the Coordinating Commission for Postsecondary Education Act.

**Source:** Laws 2012, LB946, § 3; Laws 2013, LB211, § 6.  
Operative date July 1, 2013.

**Cross References**

**Coordinating Commission for Postsecondary Education Act**, see section 85-1401.

**85-2234 Allocation of aid.**

Aid appropriated pursuant to the Community College Aid Act for fiscal year 2013-14 and each fiscal year thereafter shall be allocated among community college areas and tribally controlled community colleges as follows:

(1) The initial \$87,870,147 appropriated pursuant to the act shall be allocated to community college areas based on the proportionate share of aid received by each community college area for fiscal year 2012-13. If the amount appropriated for such fiscal year exceeds \$87,870,147, the excess amount shall be allocated as provided in subdivisions (2) and (3) of this section. If the amount appropriated for such fiscal year is less than or equal to \$87,870,147, the amount appropriated shall be allocated to community college areas based on the proportionate share of aid received by each community college area for fiscal year 2012-13;

(2) Of any amount remaining after the allocation of aid pursuant to subdivision (1) of this section, the next amount, up to but not to exceed \$500,000, shall be allocated as state aid pursuant to section 85-1539; and

(3) Any amount remaining after the allocations provided for in subdivisions (1) and (2) of this section shall be allocated among the community college areas on the following basis:

(a) Twenty-five percent of such amount shall be divided equally based on the number of community college areas designated pursuant to section 85-1504;

(b) Forty-five percent of such amount shall be divided based on each community college area's proportionate share of three-year average full-time equivalent student enrollment. A community college area's proportionate share of three-year average full-time equivalent student enrollment shall equal the sum of a community college area's full-time equivalent student enrollment total for the three fiscal years immediately preceding the fiscal year for which aid is being calculated divided by three, with such quotient divided by the quotient resulting from the sum of the full-time equivalent student enrollment total of all community college areas for the three fiscal years immediately preceding the fiscal year for which aid is being calculated divided by three; and

(c) Thirty percent of such amount shall be divided based on each community college area's proportionate share of three-year average reimbursable educational units. A community college area's proportionate share of three-year average reimbursable educational units shall equal the sum of a community college area's reimbursable educational unit total for the three fiscal years immediately preceding the fiscal year for which aid is being calculated divided by three, with such quotient divided by the quotient resulting from the sum of the reimbursable educational unit total of all community college areas for the

three fiscal years immediately preceding the fiscal year for which aid is being calculated divided by three.

**Source:** Laws 2012, LB946, § 4; Laws 2013, LB211, § 7.  
Operative date July 1, 2013.

## ARTICLE 24 POSTSECONDARY INSTITUTION ACT

### Section

85-2403. Terms, defined.

85-2405. Commission; powers and duties.

### **85-2403 Terms, defined.**

For purposes of the Postsecondary Institution Act:

(1) Authorization to operate means either an authorization to operate on a continuing basis or a recurrent authorization to operate;

(2) Authorization to operate on a continuing basis means approval by the commission to operate a postsecondary institution in this state without a renewal requirement and once such authorization has been issued it continues indefinitely unless otherwise suspended, revoked, or terminated, including such authorizations previously deemed to be effective as of May 5, 2011, pursuant to the Postsecondary Institution Act for private and out-of-state public postsecondary institutions that had been continuously offering four-year undergraduate programs with a physical presence in the state for at least twenty academic years and for Nebraska public postsecondary institutions;

(3) Commission means the Coordinating Commission for Postsecondary Education;

(4)(a) Establishing a physical presence means:

(i) Offering a course for college credit or a degree program in this state that leads to an associate, baccalaureate, graduate, or professional degree, including:

(A) Establishing a physical location in this state where a student may receive synchronous or asynchronous instruction; or

(B) Offering a course or program that requires students to physically meet in one location for instructional purposes more than once during the course term; or

(ii) Establishing an administrative office in this state, including:

(A) Maintaining an administrative office in this state for purposes of enrolling students, providing information to students about the institution, or providing student support services;

(B) Providing office space to staff, whether instructional or noninstructional staff; or

(C) Establishing a mailing address in this state.

(b) Physical presence does not include:

(i) Course offerings in the nature of a short course or seminar if instruction for the short course or seminar takes no more than twenty classroom hours and the institution offers no more than two courses as defined by the commission in a calendar year;

(ii) Course offerings on a military installation solely for military personnel or civilians employed on such installation;

(iii) An educational experience arranged for an individual student, such as a clinical, practicum, residency, or internship; or

(iv) Courses offered online or through the United States mail or similar delivery service which do not require the physical meeting of a student with instructional staff;

(5) Executive director means the executive director of the commission or his or her designee;

(6) Nebraska public postsecondary institution means any public institution established, operated, and governed by this state or any of its political subdivisions that provides postsecondary education;

(7) Out-of-state public postsecondary institution means any public institution with a physical presence in Nebraska that is established, operated, and governed by another state or any of its political subdivisions and that provides postsecondary education;

(8) Postsecondary institution means any private postsecondary institution, out-of-state public postsecondary institution, or Nebraska public postsecondary institution exempt from the Private Postsecondary Career School Act;

(9) Private postsecondary institution means any Nebraska or out-of-state nonpublic postsecondary institution with a physical presence in Nebraska, including any for-profit or nonprofit institution, that provides postsecondary education; and

(10) Recurrent authorization to operate means approval by the commission to operate a postsecondary institution in this state until a renewal of such authorization is required.

**Source:** Laws 2011, LB637, § 3; Laws 2012, LB1104, § 13; Laws 2013, LB331, § 3.

Effective date June 5, 2013.

#### Cross References

Private Postsecondary Career School Act, see section 85-1601.

### **85-2405 Commission; powers and duties.**

The commission has the following powers and duties:

(1) To establish levels for recurrent authorizations to operate based on institutional offerings;

(2) To receive, investigate as it may deem necessary, and act upon applications for a recurrent authorization to operate and applications to renew a recurrent authorization to operate;

(3) To establish reporting requirements by campus location either through the federal Integrated Postsecondary Education Data System, 20 U.S.C. 1094(a)(17), as such section existed on January 1, 2011, and 34 C.F.R. 668.14(b)(19), as such regulation existed on January 1, 2011, or directly to the commission for any postsecondary institution which has an authorization to operate;

(4) To maintain a list of postsecondary institutions which have authorization to operate, which list shall be made available to the public;

(5) To enter into interstate reciprocity agreements regarding the provision of postsecondary distance education, to administer such agreements, and to approve or disapprove, consistent with such agreements, participation in such agreements by postsecondary institutions that have their principal place of business in Nebraska and that choose to participate in such agreements;

(6) To establish a notification process when a postsecondary institution which has an authorization to operate changes its address or adds instructional sites within this state;

(7) To conduct site visits of postsecondary institutions to carry out the Postsecondary Institution Act;

(8) To establish fees for applications for a recurrent authorization to operate, applications to renew or modify a recurrent authorization to operate, and applications to participate or continue participation in an interstate postsecondary distance education reciprocity agreement, which fees shall be not more than the cost of reviewing and evaluating the applications;

(9) To investigate any violations of the act by a postsecondary institution; and

(10) To adopt and promulgate rules, regulations, and procedures to administer the act.

**Source:** Laws 2011, LB637, § 5; Laws 2012, LB1104, § 14; Laws 2013, LB331, § 4.

Effective date June 5, 2013.

## CHAPTER 86

### TELECOMMUNICATIONS AND TECHNOLOGY

#### Article.

1. Telecommunications Regulation.
  - (b) Regulatory Authority. 86-123.
  - (f) Procedural Requirements. 86-158.
2. Telecommunications Consumer Protection.
  - (a) Telephone Consumer Slamming Prevention Act. 86-209.
  - (c) Automatic Dialing-Announcing Devices. 86-255.
  - (d) Intrastate Pay-Per-Call Regulation. 86-269.
4. Public Safety Systems.
  - (c) Enhanced Wireless 911 Services. 86-442 to 86-471.
5. Public Technology Infrastructure.
  - (e) Publicly Owned Dark Fiber. 86-578.

#### ARTICLE 1

#### TELECOMMUNICATIONS REGULATION

##### (b) REGULATORY AUTHORITY

#### Section

86-123. Quality and rate regulation; appeal.

##### (f) PROCEDURAL REQUIREMENTS

86-158. Appeals.

##### (b) REGULATORY AUTHORITY

#### **86-123 Quality and rate regulation; appeal.**

(1) The commission shall regulate the quality of telecommunications service provided by telecommunications companies and shall investigate and resolve subscriber complaints concerning quality of telecommunications service, subscriber deposits, and disconnection of telecommunications service. If such a complaint cannot be resolved informally, then, upon petition by the subscriber, the commission shall set the matter for hearing in accordance with the commission's rules and regulations for notice and hearing. The commission may by order grant or deny, in whole or in part, the subscriber's petition or provide such other relief as is reasonable based on the evidence presented at the hearing. Any such order of the commission may be enforced against any telecommunications company as provided in sections 75-140 to 75-144, and such order may be appealed by an interested party. The appeal shall be in accordance with section 75-136.

(2) The commission may regulate telecommunications company rates pursuant to sections 86-139 to 86-157.

(3) The Nebraska Telecommunications Regulation Act shall preempt and prohibit any regulation of a telecommunications company by counties, cities, villages, townships, or any other local governmental entity.

**Source:** Laws 1986, LB 835, § 9; Laws 1997, LB 660, § 10; R.S.1943, (1999), § 86-809; Laws 2002, LB 1105, § 24; Laws 2003, LB 187, § 26; Laws 2013, LB545, § 10.  
Effective date September 6, 2013.

## (f) PROCEDURAL REQUIREMENTS

**86-158 Appeals.**

(1) Except as otherwise provided in section 86-123, any order of the commission entered pursuant to authority granted in the Nebraska Telecommunications Regulation Act may be appealed by any interested party to the proceeding. The appeal shall be in accordance with section 75-136.

(2) In an original action concerning a violation of the Nebraska Telecommunications Regulation Act by a telecommunications company, the commission shall have jurisdiction as set forth in section 75-132.01. After all administrative remedies before the commission have been exhausted, an appeal may be brought by an interested party to an action. Such appeal shall be in accordance with section 75-136.

**Source:** Laws 1986, LB 835, § 11; Laws 1991, LB 732, § 159; Laws 1997, LB 660, § 11; Laws 2000, LB 1285, § 16; R.S.Supp.,2000, § 86-811; Laws 2002, LB 1105, § 57; Laws 2003, LB 187, § 27; Laws 2013, LB545, § 11.  
Effective date September 6, 2013.

**ARTICLE 2****TELECOMMUNICATIONS CONSUMER PROTECTION**

## (a) TELEPHONE CONSUMER SLAMMING PREVENTION ACT

Section

86-209. Violations; penalties; appeal.

## (c) AUTOMATIC DIALING-ANNOUNCING DEVICES

86-255. Commission decision; appeal.

## (d) INTRASTATE PAY-PER-CALL REGULATION

86-269. Enforcement; appeal.

## (a) TELEPHONE CONSUMER SLAMMING PREVENTION ACT

**86-209 Violations; penalties; appeal.**

(1) Notwithstanding section 75-156, the commission may, after hearing, impose an administrative penalty for a violation of the Telephone Consumer Slamming Prevention Act. The penalty for a violation shall not exceed two thousand dollars. Every violation associated with a specific access line within the state shall be considered a separate and distinct violation.

(2) The amount of an administrative penalty shall be based on:

(a) The nature, circumstances, extent, and gravity of a prohibited act;

(b) The history of previous violations;

(c) The amount necessary to deter future violations; and

(d) Any efforts to correct the violation.

(3) The commission shall remit any administrative penalty collected under this section to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

(4) Any administrative penalty may be appealed. The appeal shall be in accordance with section 75-136.

**Source:** Laws 1999, LB 150, § 9; Laws 2000, LB 1285, § 24; Laws 2001, LB 389, § 8; R.S.Supp.,2001, § 86-1909; Laws 2002, LB 1105, § 71; Laws 2008, LB755, § 7; Laws 2013, LB545, § 12.  
Effective date September 6, 2013.

## Cross References

Administrative Procedure Act, see section 84-920.

## (c) AUTOMATIC DIALING-ANNOUNCING DEVICES

**86-255 Commission decision; appeal.**

Any decision of the commission made pursuant to the Automatic Dialing-Announcing Devices Act or the rules and regulations may be appealed. The appeal shall be in accordance with section 75-136.

**Source:** Laws 1993, LB 305, § 19; Laws 2000, LB 1285, § 20; R.S.Supp.,2000, § 86-1219; Laws 2002, LB 1105, § 117; Laws 2013, LB545, § 13.

Effective date September 6, 2013.

## Cross References

Administrative Procedure Act, see section 84-920.

## (d) INTRASTATE PAY-PER-CALL REGULATION

**86-269 Enforcement; appeal.**

(1) The commission shall adopt and promulgate rules and regulations necessary to carry out the Intrastate Pay-Per-Call Regulation Act.

(2) The commission may conduct investigations and shall enforce the act.

(3) Upon written complaint and supporting affidavit that an applicable rule or regulation or any provision of the act has been or is being violated, the commission may enter a cease and desist order on an ex parte basis against a party named in a complaint alleging violation of the act. The order shall have duration of no more than twenty days, and a hearing upon the complaint shall be held no later than twenty days after the order is entered by the commission.

(4) A decision of the commission made pursuant to the act and rules and regulations of the commission may be appealed. The appeal shall be in accordance with section 75-136.

**Source:** Laws 1993, LB 42, § 10; Laws 2000, LB 1285, § 18; R.S.Supp.,2000, § 86-1110; Laws 2002, LB 1105, § 131; Laws 2013, LB545, § 14.

Effective date September 6, 2013.

**ARTICLE 4****PUBLIC SAFETY SYSTEMS**

## (c) ENHANCED WIRELESS 911 SERVICES

## Section

86-442. Act, how cited.

86-443. Definitions, where found.

86-443.01. Legislative findings and intent.

86-450.01. Next-generation 911, defined.

86-465. Commission; advisory board; duties.

86-471. Statewide implementation of next-generation 911; commission; study; reports; contents.

## (c) ENHANCED WIRELESS 911 SERVICES

**86-442 Act, how cited.**

Sections 86-442 to 86-471 shall be known and may be cited as the Enhanced Wireless 911 Services Act.

**Source:** Laws 2002, LB 1105, § 243; Laws 2003, LB 187, § 29; Laws 2006, LB 1222, § 3; Laws 2007, LB661, § 16; Laws 2013, LB595, § 1.  
Effective date May 9, 2013.

#### **86-443 Definitions, where found.**

For purposes of the Enhanced Wireless 911 Services Act, the definitions found in sections 86-444 to 86-456.01 apply.

**Source:** Laws 2001, LB 585, § 1; R.S.Supp.,2001, § 86-2201; Laws 2002, LB 1105, § 244; Laws 2006, LB 1222, § 4; Laws 2007, LB661, § 17; Laws 2013, LB595, § 2.  
Effective date May 9, 2013.

#### **86-443.01 Legislative findings and intent.**

The Legislature finds that consideration of upgrades to emergency telephone communications is warranted. It is the intent of the Legislature to authorize the use of the Enhanced Wireless 911 Fund to fund a study of the implications, costs, and consideration of next-generation emergency telephone communications.

**Source:** Laws 2013, LB595, § 3.  
Effective date May 9, 2013.

#### **86-450.01 Next-generation 911, defined.**

Next-generation 911 means an Internet-protocol-based system comprised of managed emergency services Internet protocol networks, functional elements, and data bases that replicate traditional E-911 service or enhanced 911 wireless service features and functions and that provide additional capabilities.

**Source:** Laws 2013, LB595, § 4.  
Effective date May 9, 2013.

#### **86-465 Commission; advisory board; duties.**

(1) The commission shall, in consultation with the advisory board:

(a) Determine the costs to implement wireless automatic location identification;

(b) Determine the level of funding needed to trigger disbursements pursuant to the Enhanced Wireless 911 Services Act;

(c) Determine the percentage of the fund to be allocated to each funding purpose, including the percentage that shall be designated for funding 911 service under subdivision (2)(c) of this section;

(d) Determine how the funds distributed under subdivisions (2)(a) and (2)(c) of this section are to be allocated among the wireless carriers and the public safety answering points; and

(e) Establish a mechanism for determining the level of funding available to each public safety answering point and wireless carrier for costs determined to be eligible by the commission under subsection (2) of this section.



(2) The commission shall, in consultation with the advisory board, establish eligibility standards and criteria for fund disbursement applications and standards and criteria concerning the level of fund disbursement for each application. In establishing such criteria and standards, the following purposes may be eligible for funding:

(a) Costs incurred or to be incurred by wireless carriers to implement enhanced wireless 911 service pursuant to a service agreement with a public safety answering point or pursuant to a request for service from a public safety answering point. Such costs may include, but not be limited to, the portion of the costs for new equipment used for providing enhanced wireless 911 service, costs to lease another vendor's equipment or services to provide enhanced wireless 911 service, costs to create or maintain any data base or data base elements used solely for enhanced wireless 911 service, and other costs of establishing enhanced wireless 911 service. The portion of the costs of equipment or services used in the wireless carrier's main infrastructure resulting in revenue to the wireless carrier is not eligible for funding;

(b) Costs incurred or to be incurred by public safety answering points to implement enhanced wireless 911 service may include, but not be limited to, purchases of new equipment, costs of upgrades, modification and personnel training used solely to process the data elements of enhanced wireless 911 service, and maintenance costs and license fees for new equipment;

(c) Costs incurred or to be incurred by public safety answering points for the purchase, installation, maintenance, and operation of telecommunications equipment and telecommunications services required for the provision of enhanced wireless 911 service;

(d) Costs associated with the conduct of a study regarding next-generation 911 as required by section 86-471, including, but not limited to, costs related to contracting with an independent third party for purposes of conducting the study; and

(e) Expenses incurred by members of the advisory board while performing duties required by the act.

(3) A wireless carrier receiving funds from the Enhanced Wireless 911 Fund shall not directly assess any of the costs associated with the implementation or provision of enhanced wireless 911 service to any public safety answering point, county, or municipality without the express consent of the commission.

(4) The commission shall have any powers necessary to carry out the intent and purposes of the act.

**Source:** Laws 2001, LB 585, § 10; R.S.Supp.,2001, § 86-2210; Laws 2002, LB 1105, § 266; Laws 2006, LB 1222, § 11; Laws 2008, LB755, § 10; Laws 2013, LB595, § 6.  
Effective date May 9, 2013.

**86-471 Statewide implementation of next-generation 911; commission; study; reports; contents.**

(1) The commission shall use the Enhanced Wireless 911 Fund to conduct a study to examine issues surrounding the statewide implementation of next-generation 911 and to contract with an independent third party to assist with the study. Next-generation 911 shall be designed to provide access to emergency services from all connected communications sources and to provide mul-

timedia data capabilities for public safety answering points and other emergency service organizations. The study shall include, but not be limited to, an examination of the following issues:

(a) Examination of the current statutory and regulatory framework for the management and funding of E-911 service in Nebraska;

(b) Examination and assessment of the current system of E-911 service within Nebraska;

(c) Examination of the Federal Communications Commission's open rule-making regarding the deployment of next-generation 911;

(d) Identification of the federal, state, and local authorities, agencies, and governing bodies whose participation and cooperation will be necessary for the implementation of next-generation 911 in Nebraska;

(e) Examination of any efforts, projects, or initiatives currently in progress or planned related to any portion of the implementation of next-generation 911 in Nebraska;

(f) Examination of the plans and efforts of other states regarding the implementation of next-generation 911; and

(g) Any other issues related to the planning and implementation of next-generation 911.

(2) The independent third party shall submit an initial report to the commission not later than January 31, 2014. The independent third party shall complete the study and submit a final report to the commission not later than April 1, 2014. The commission shall submit the final report electronically to the Transportation and Telecommunications Committee of the Legislature.

(3) The initial report of the independent third party shall include:

(a) An assessment of the statewide 911 network existing on May 9, 2013, including, but not limited to, the statutory and regulatory framework, the management and sources of funding available to support 911 services, the broadband and telephone infrastructure, and the equipment and software used by the state, public safety answering points, and geographic information systems;

(b) Examination of any efforts, projects, or initiatives in progress or planned related to implementation of next-generation 911 in Nebraska and other states;

(c) Identification of the federal, state, and local authorities, agencies, and governing bodies whose participation and cooperation will be necessary for the implementation of next-generation 911 in Nebraska; and

(d) Any other issues deemed necessary by the commission.

(4) The final report of the independent third party shall include:

(a) The initial report of the independent third party as outlined in subsection (3) of this section;

(b) Recommendations providing a variety of options for the planning, development, phased-in implementation, and management of next-generation 911 and the deployment, interconnection, and management of emergency services Internet protocol networks, including, but not limited to, necessary technological upgrades, the timeline and cost of such phases of implementation, and organizational structures with authority to oversee the recommended options;

(c) Identification of any changes to the master street address guide required for next-generation 911 and how geocoding would integrate in the routing of next-generation 911;

(d) Identification of any equipment changes that would be needed by public service answering points, including customer-premise equipment, recording capabilities, and computer-aided dispatching;

(e) An estimated cost of the necessary components for planning, implementation, and management of next-generation 911 and recommended sources of funding; and

(f) Any other necessary issues related to the planning, implementation, and management of next-generation 911.

**Source:** Laws 2013, LB595, § 5.  
Effective date May 9, 2013.

## ARTICLE 5

### PUBLIC TECHNOLOGY INFRASTRUCTURE

#### (e) PUBLICLY OWNED DARK FIBER

Section

86-578. Dark fiber; violation; procedure; appeal.

#### (e) PUBLICLY OWNED DARK FIBER

#### **86-578 Dark fiber; violation; procedure; appeal.**

In an original action concerning a violation of any provision of sections 86-574 to 86-578 by an agency or political subdivision of the state, the Public Service Commission shall have the jurisdiction set forth in section 75-132.01. After all administrative remedies before the Public Service Commission have been exhausted, an appeal may be brought by an interested party. Such appeal shall be in accordance with section 75-136.

**Source:** Laws 2001, LB 827, § 5; R.S.Supp.,2001, § 86-2305; Laws 2002, LB 1105, § 348; Laws 2003, LB 187, § 32; Laws 2013, LB545, § 15.  
Effective date September 6, 2013.



## CHAPTER 87

### TRADE PRACTICES

Article.

2. Trade Names. 87-214, 87-219.

#### ARTICLE 2

#### TRADE NAMES

Section

87-214. Registration; Secretary of State; cancel; when.

87-219. Trade name; publication; file; failure; effect.

#### **87-214 Registration; Secretary of State; cancel; when.**

The Secretary of State shall cancel from the register:

(1) Any registration concerning which the Secretary of State shall receive a voluntary request for cancellation from the registrant or the assignee of record;

(2) Any registration granted under sections 87-208 to 87-219.01 and not renewed in accordance with such sections;

(3) Any registration concerning which a court of competent jurisdiction shall find:

(a) That the registered trade name has been abandoned;

(b) That the registrant is not the owner of the trade name;

(c) That the registration was granted improperly; or

(d) That the registration was obtained fraudulently;

(4) Any registration that a court of competent jurisdiction shall order canceled on any ground; and

(5) Any registration where the registrant has failed to publish such trade name within forty-five days from the filing in the office of the Secretary of State and filing proof of publication with the Secretary of State within the forty-five days.

**Source:** Laws 1967, c. 628, § 7, p. 2102; Laws 1997, LB 453, § 12; Laws 2010, LB690, § 1; Laws 2011, LB462, § 14; Laws 2013, LB209, § 1.

Effective date September 6, 2013.

#### **87-219 Trade name; publication; file; failure; effect.**

Every duplicate of the registration of a trade name shall be published by the applicant once in a newspaper of general circulation published in the city or village where the business is to be located, or, if there is no newspaper in the city or village, in some newspaper of general circulation in the county. Proof of such publication shall be filed in the office of the Secretary of State within forty-five days from the date of registration in the office of the Secretary of

State. If proof of publication is not filed with the Secretary of State within the forty-five days, the registration shall be canceled by the Secretary of State.

**Source:** Laws 1967, c. 628, § 13, p. 2104; Laws 2010, LB690, § 2; Laws 2013, LB209, § 2.

Effective date September 6, 2013.

## CHAPTER 89

# WEIGHTS AND MEASURES

Article.

1. General Provisions.
  - (b) Weights and Measures Act. 89-186.

### ARTICLE 1

#### GENERAL PROVISIONS

##### (b) WEIGHTS AND MEASURES ACT

Section

89-186. Handbooks; adoption by reference.

##### (b) WEIGHTS AND MEASURES ACT

#### **89-186 Handbooks; adoption by reference.**

(1) The Legislature hereby adopts by reference the following:

(a) The standards of the National Conference on Weights and Measures published in National Institute of Standards and Technology Handbook 44 entitled Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices as it existed on January 1, 2003, except Section 3.31. Vehicle - Tank meters. UR.2.2. Ticket Printers; Customer Ticket, Section 2.20. Scales, N.3. Minimum Test Weights and Test Loads; and Table 4, are not adopted. In addition to the language found in Section 3.30. Liquid-Measuring Devices, S.1.6.4., S.1.6.5., UR.3.2., and UR.3.3. of such handbook, any computing device in which a product or grade is offered for sale at more than one unit price may also compute at the lowest possible unit price for such transaction. All prices shall still be displayed or posted on the face of the dispenser. Such handbook shall govern all commercial and law enforcement weighing and measuring devices in the state;

(b) The Uniform Regulation for the Method of Sale of Commodities of the National Conference on Weights and Measures published in National Institute of Standards and Technology Handbook 130 entitled Uniform Laws and Regulations as it existed on January 1, 2003. Such handbook shall be used to determine the proper units of measurement to be used in the keeping for sale or sale of commodities;

(c) The Uniform Packaging and Labeling Regulation of the National Conference on Weights and Measures published in National Institute of Standards and Technology Handbook 130 entitled Uniform Laws and Regulations as it existed on January 1, 2003. Such handbook shall govern the packaging and labeling by weight, measure, or count of commodities kept for sale or sold in this state; and

(d) The procedures designated in National Institute of Standards and Technology Handbook 133 entitled Checking the Net Contents of Packaged Goods as it existed on January 1, 2003.

(2) Copies of the handbooks adopted by reference in this section shall be filed with the Secretary of State, Clerk of the Legislature, and Department of Agriculture. Copies filed with the Clerk of the Legislature shall be filed electronically.

(3) Whenever there exists an inconsistency between the provisions of the Weights and Measures Act other than this section and any of the handbooks adopted by reference, the requirements of such provisions of the act shall control.

**Source:** Laws 1972, LB 1413, § 4; Laws 1980, LB 633, § 6; Laws 1991, LB 356, § 9; Laws 1992, LB 366, § 67; Laws 1993, LB 267, § 28; Laws 1999, LB 473, § 2; Laws 2003, LB 161, § 3; Laws 2013, LB222, § 46.

Effective date May 8, 2013.



## CHAPTER 90

### SPECIAL ACTS

Article.

2. Specific Conveyances. 90-278.
5. Appropriations. 90-501 to 90-539.

#### ARTICLE 2

#### SPECIFIC CONVEYANCES

Section

90-278. Game and Parks Commission; convey property to county of Chase.

#### **90-278 Game and Parks Commission; convey property to county of Chase.**

(1) The Game and Parks Commission is authorized to convey to the county of Chase for public purposes the following described real estate, now known as Champion Mill State Historical Park, situated in the county of Chase, in the State of Nebraska, to-wit: All of block 4, original town of Champion, Nebraska, and lots 1, 2, and 3, lot 4 except beginning at the southwest corner of lot 4 in block 5 of the original town of Champion, Nebraska, said point of beginning being at the point of intersection of the north property line of Second Street and the east line of the alley in said block 5; thence running north along the west line of said lot 4 a distance of 70 feet; thence running east 75 feet parallel with the south line of said lot 4; thence south parallel with the west line of lot 4 a distance of 70 feet to intersect the south line of said lot 4; thence west along the south line of said lot 4 a distance of 75 feet to the place of beginning, the north half of lot 9, and all of lots 10, 11, 12, and 13, all in block 5, original town of Champion, Nebraska.

(2) The Game and Parks Commission is authorized to convey to the county of Chase for public purposes the following described real estate, now known as Champion Lake State Recreation Area, situated in the county of Chase, in the State of Nebraska, to-wit:

(a) The following described portion of the southwest quarter of section 21, township 6 north, range 39 west of the 6th principal meridian in Chase County, Nebraska, to-wit: Beginning at the northeast corner of said quarter section; thence west on the north line of said quarter section 1,017 feet to a stone; thence southeasterly 992 feet in a straight line to a point on the west line of the west side of block 23, West Champion, which is 102.5 feet south of the northwest corner of said block 23; thence north 102.5 feet to the northwest corner of said block 23, in West Champion; thence east along the north side of said block 23 and along a line which is the north side of said block 23 produced eastward to the east line of said quarter section; thence north along the east line of said quarter section 644 feet to the northeast corner of said quarter section; and

(b) The following described property, same being a part of the northwest quarter of the southeast quarter of section 21, township 6 north, range 39 west of the 6th principal meridian in Chase County, Nebraska, to-wit: Beginning at

the northwest corner of the southeast quarter of section 21, township 6 north, range 39 west of the 6th principal meridian in Chase County, Nebraska, and running thence east 1,080 feet; thence south 100 feet to the north line of Fourth Street of the original town of Champion, Nebraska; thence west along the said north line of Fourth Street aforesaid 1,080 feet; thence north 100 feet to the place of beginning, said land being also described as Lots 3, 4, 5, 6, 7, 8, 9, 10, and 11, Champion subdivision of the northwest quarter of the southeast quarter of section 21, township 6 north, range 39 west of the 6th principal meridian in Chase County, Nebraska.

(3) Title to the property described in subsections (1) and (2) of this section shall remain with Chase County unless (a) Chase County ceases to operate the property as a public park and recreation area or (b) a financial need arises pertaining to the park that is detrimental to the county. In either case title to such property shall revert to the Game and Parks Commission.

**Source:** Laws 2012, LB739, § 1; Laws 2013, LB16, § 1.  
Effective date September 6, 2013.

## ARTICLE 5 APPROPRIATIONS

### Section

- 90-501. Repealed. Laws 2013, LB 2, § 1.
- 90-502. Repealed. Laws 2013, LB 2, § 1.
- 90-503. Repealed. Laws 2013, LB 2, § 1.
- 90-504. Repealed. Laws 2013, LB 2, § 1.
- 90-506. Repealed. Laws 2013, LB 2, § 1.
- 90-507. Repealed. Laws 2013, LB 2, § 1.
- 90-508. Repealed. Laws 2013, LB 2, § 1.
- 90-509. Repealed. Laws 2013, LB 2, § 1.
- 90-510. Repealed. Laws 2013, LB 2, § 1.
- 90-511. Repealed. Laws 2013, LB 2, § 1.
- 90-512. Repealed. Laws 2013, LB 2, § 1.
- 90-513. Repealed. Laws 2013, LB 2, § 1.
- 90-514. Repealed. Laws 2013, LB 2, § 1.
- 90-515. Repealed. Laws 2013, LB 2, § 1.
- 90-516. Repealed. Laws 2013, LB 2, § 1.
- 90-518. Repealed. Laws 2013, LB 2, § 1.
- 90-519. Repealed. Laws 2013, LB 2, § 1.
- 90-520. Repealed. Laws 2013, LB 2, § 1.
- 90-526. Repealed. Laws 2013, LB 2, § 1.
- 90-531. Repealed. Laws 2013, LB 2, § 1.
- 90-532. Repealed. Laws 2013, LB 2, § 1.
- 90-533. Repealed. Laws 2013, LB 2, § 1.
- 90-534. Repealed. Laws 2013, LB 2, § 1.
- 90-536. Department of Correctional Services; Operations.
- 90-539. Department of Health and Human Services; Child Welfare Aid.

**90-501 Repealed. Laws 2013, LB 2, § 1.**

**90-502 Repealed. Laws 2013, LB 2, § 1.**

**90-503 Repealed. Laws 2013, LB 2, § 1.**

**90-504 Repealed. Laws 2013, LB 2, § 1.**

**90-506 Repealed. Laws 2013, LB 2, § 1.**

- 90-507 Repealed. Laws 2013, LB 2, § 1.
- 90-508 Repealed. Laws 2013, LB 2, § 1.
- 90-509 Repealed. Laws 2013, LB 2, § 1.
- 90-510 Repealed. Laws 2013, LB 2, § 1.
- 90-511 Repealed. Laws 2013, LB 2, § 1.
- 90-512 Repealed. Laws 2013, LB 2, § 1.
- 90-513 Repealed. Laws 2013, LB 2, § 1.
- 90-514 Repealed. Laws 2013, LB 2, § 1.
- 90-515 Repealed. Laws 2013, LB 2, § 1.
- 90-516 Repealed. Laws 2013, LB 2, § 1.
- 90-518 Repealed. Laws 2013, LB 2, § 1.
- 90-519 Repealed. Laws 2013, LB 2, § 1.
- 90-520 Repealed. Laws 2013, LB 2, § 1.
- 90-526 Repealed. Laws 2013, LB 2, § 1.
- 90-531 Repealed. Laws 2013, LB 2, § 1.
- 90-532 Repealed. Laws 2013, LB 2, § 1.
- 90-533 Repealed. Laws 2013, LB 2, § 1.
- 90-534 Repealed. Laws 2013, LB 2, § 1.

**90-536 Department of Correctional Services; Operations.**

AGENCY NO. 46 — DEPARTMENT OF CORRECTIONAL SERVICES

Program No. 200 - Operations

	FY2011-12	FY2012-13
GENERAL FUND	156,031,016	159,445,668
CASH FUND	1,741,500	1,741,500
FEDERAL FUND est.	1,732,408	1,719,187
REVOLVING FUND est.	18,229,738	18,192,892
PROGRAM TOTAL	177,734,662	181,099,247
SALARY LIMIT	89,564,114	91,383,014

The unexpended General Fund and Cash Fund appropriation balances existing on June 30, 2011, are hereby reappropriated.

Included in the salary limitations provided by this section is \$3,441,193 for FY2011-12 and \$3,441,193 for FY2012-13 for Revolving Fund salaries for program classifications 390 and 563, that shall not be limited to the amounts shown.

The Department of Administrative Services shall monitor the appropriations and expenditures for this program according to the following program classifications:

- No. 260 - Nebraska Correctional Youth Facility
- No. 300 - Tecumseh Correctional Center
- No. 368 - Lincoln Community Corrections Center
- No. 369 - Omaha Community Corrections Center
- No. 370 - Central Office
- No. 372 - Nebraska State Penitentiary
- No. 373 - Nebraska Center for Women - York
- No. 375 - Diagnostic and Evaluation Center
- No. 376 - Lincoln Correctional Center
- No. 377 - Omaha Correctional Center
- No. 386 - McCook Incarceration Work Camp
- No. 389 - Adult Parole Administration
- No. 390 - Federal Surplus Property
- No. 495 - Department Central Warehouse
- No. 563 - Correctional Industries

Revolving Fund expenditures shall not be limited to the amounts shown.

It is intended that the Department of Correctional Services shall maintain a Department Contingency Fund and a Department Equipment Fund.

**Source:** Laws 2012, LB599A, § 3; Laws 2012, LB793A, § 1; Laws 2013, LB194, § 187.  
Effective date May 22, 2013.

**90-539 Department of Health and Human Services; Child Welfare Aid.**

AGENCY NO. 25 — DEPARTMENT OF HEALTH AND HUMAN SERVICES  
Program No. 354 - Child Welfare Aid

	FY2013-14	FY2014-15
GENERAL FUND	156,756,327	136,950,518
CASH FUND	2,734,444	2,734,444
FEDERAL FUND est.	30,763,503	30,391,976
PROGRAM TOTAL	190,254,274	170,076,938

There is included in the appropriation to this program for FY2013-14 \$156,756,327 General Funds, \$2,734,444 Cash Funds, and \$30,763,503 Federal Funds estimate for state aid, which shall only be used for such purpose. There is included in the appropriation to this program for FY2014-15 \$136,950,518 General Funds, \$2,734,444 Cash Funds, and \$30,391,976 Federal Funds estimate for state aid, which shall only be used for such purpose.

There is included in the appropriation to this program for FY2013-14 \$2,734,444 Cash Funds from the Nebraska Health Care Cash Fund for state aid for the continuation of the behavioral health provider rate increase. There is included in the appropriation to this program for FY2014-15 \$2,734,444 Cash Funds from the Nebraska Health Care Cash Fund for state aid for the continuation of the behavioral health provider rate increase.

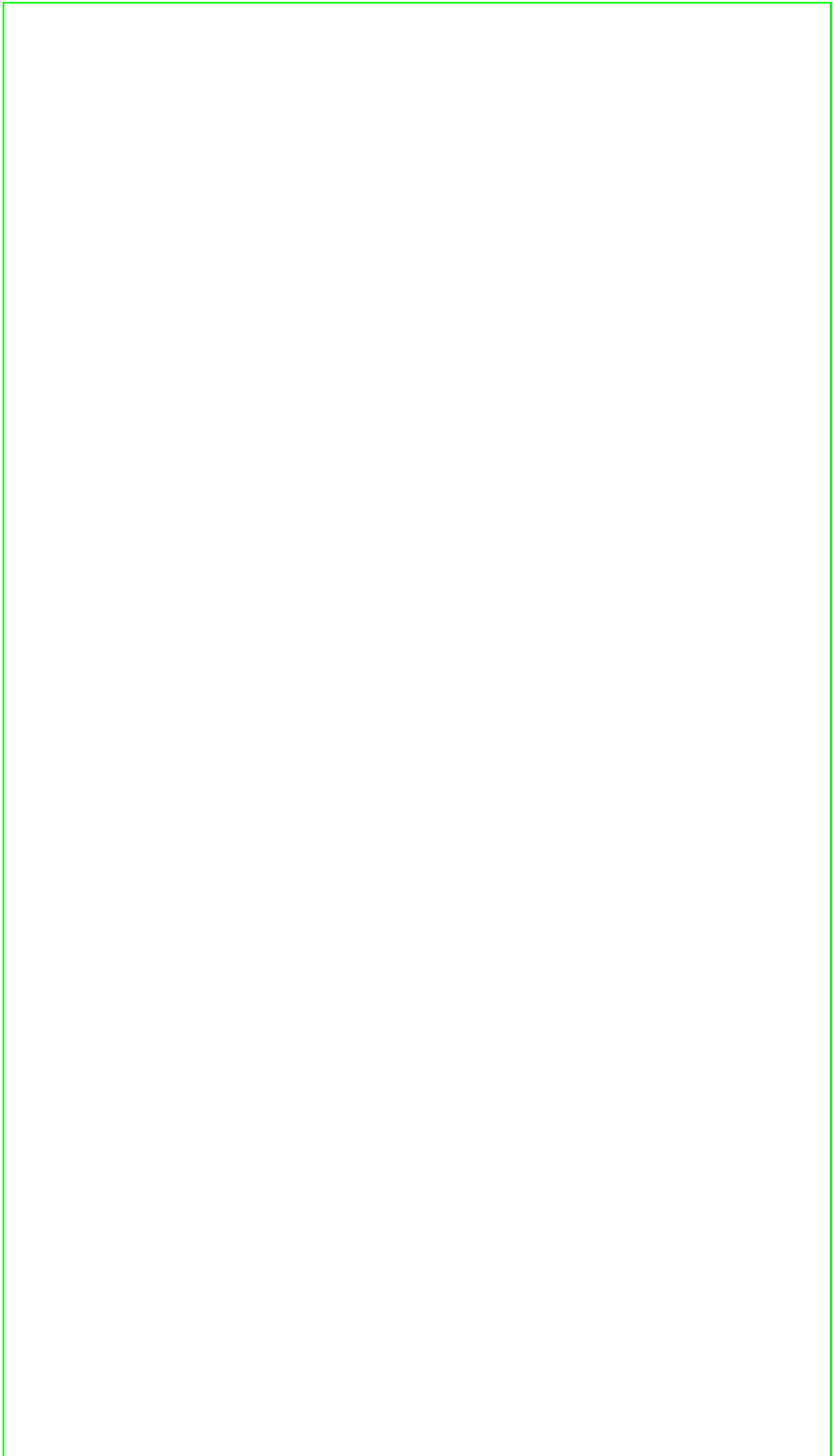
**Source:** Laws 2013, LB195, § 106; Laws 2013, LB216A, § 1; Laws 2013, LB561A, § 8.

## APPROPRIATIONS

§ 90-539

**Note:** The Revisor of Statutes has pursuant to section 49-769 correlated LB195, section 106, LB216A, section 1, with LB561A, section 8, to reflect all amendments.

**Note:** Laws 2013, LB195, became operative July 1, 2013. Changes made by LB561A became effective May 30, 2013. Changes made by LB216A became effective September 6, 2013.



# UNIFORM COMMERCIAL CODE

Article.

1. General Provisions.
  - Part 1. General Provisions. 1-101.
- 4A. Funds Transfers.
  - Part 1. Subject Matter and Definitions. 4A-108.
9. Secured Transactions.
  - Part 1. General Provisions.
    - Subpart 1. Short Title, Definitions, and General Concepts. 9-101.
  - Part 5. Filing.
    - Subpart 1. Filing Office; Contents and Effectiveness of Financing Statement. 9-510, 9-513A.

## ARTICLE 1

### GENERAL PROVISIONS

#### Part 1. GENERAL PROVISIONS

Section

1-101. Short titles.

#### Part 1

### GENERAL PROVISIONS

#### **1-101 Short titles.**

- (a) Sections 1-101 to 10-103 may be cited as the Uniform Commercial Code.
- (b) This article may be cited as Uniform Commercial Code-General Provisions.

**Source:** Laws 2005, LB 570, § 6; Laws 2013, LB210, § 1.  
Effective date September 6, 2013.

## ARTICLE 4A

### FUNDS TRANSFERS

#### Part 1. SUBJECT MATTER AND DEFINITIONS

Section

4A-108. Relationship to Electronic Fund Transfer Act.

#### Part 1

### SUBJECT MATTER AND DEFINITIONS

#### **4A-108 Relationship to 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 Electronic Fund Transfer Act, 15 U.S.C. 1693 et seq., as such act existed on January 1, 2013.

(b) This article applies to a funds transfer that is a remittance transfer as defined in the Electronic Fund Transfer Act, 15 U.S.C. 1693o-1, as such section existed on January 1, 2013, unless the remittance transfer is an electronic fund

transfer as defined in the Electronic Fund Transfer Act, 15 U.S.C. 1693a, as such section existed on January 1, 2013.

(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 Electronic Fund Transfer Act, the provision of the Electronic Fund Transfer Act governs to the extent of the inconsistency.

**Source:** Laws 1963, c. 544, Art. IV, § 4-108, p. 1815; Laws 1991, LB 161, § 79; Laws 2013, LB146, § 1.  
Effective date February 16, 2013.

## ARTICLE 9

### SECURED TRANSACTIONS

#### Part 1. GENERAL PROVISIONS

##### Subpart 1. SHORT TITLE, DEFINITIONS, AND GENERAL CONCEPTS

Section

9-101. Short title.

#### Part 5. FILING

##### Subpart 1. FILING OFFICE; CONTENTS AND EFFECTIVENESS OF FINANCING STATEMENT

9-510. Effectiveness of filed record.

9-513A. Unauthorized financing statement filings; procedures; remedies.

#### Part 1

### GENERAL PROVISIONS

#### Subpart 1

##### SHORT TITLE, DEFINITIONS, AND GENERAL CONCEPTS

#### **9-101 Short title.**

This article may be cited as Uniform Commercial Code - Secured Transactions.

**Source:** Laws 1999, LB 550, § 74; Laws 2013, LB210, § 2.  
Effective date September 6, 2013.

#### Part 5

### FILING

#### Subpart 1

##### FILING OFFICE; CONTENTS AND EFFECTIVENESS OF FINANCING STATEMENT

#### **9-510 Effectiveness of filed record.**

(a) A filed record is effective only to the extent that it was filed by a person that may file it under section 9-509 or by the filing office under section 9-513A.

(b) A record authorized by one secured party of record does not affect the financing statement with respect to another secured party of record.



(c) A continuation statement that is not filed within the six-month period prescribed by section 9-515(d) is ineffective.

**Source:** Laws 1999, LB 550, § 154; Laws 2013, LB210, § 3.  
Effective date September 6, 2013.

**9-513A Unauthorized financing statement filings; procedures; remedies.**

(a) An individual personally, or as a representative of an organization, may file in the filing office a notarized affidavit, signed under penalty of perjury, that identifies a filed financing statement and states that:

(1) the individual or organization is identified as a debtor in the financing statement;

(2) the financing statement was not filed by a financial institution or a representative of a financial institution or by an agricultural input supplier or a representative of an agricultural input supplier; and

(3) the financing statement was filed by a person not entitled to do so under section 9-509, 9-708, or 9-808.

(b) An affidavit filed under subsection (a) shall include any pertinent information that the office of the Secretary of State may reasonably require.

(c) An affidavit may not be filed under subsection (a) with respect to a financing statement filed by a financial institution or a representative of a financial institution or by an agricultural input supplier or a representative of an agricultural input supplier.

(d) If an affidavit is filed under subsection (a), the filing office may file a termination statement with respect to the financing statement identified in the affidavit. The termination statement must indicate that it was filed pursuant to this section. Except as provided in subsections (g) and (h), a termination statement filed under this subsection shall take effect thirty days after it is filed.

(e) On the same day that the filing office files a termination statement under subsection (d), it shall send to each secured party of record identified in the financing statement a notice advising the secured party of record that the termination statement has been filed. The notice shall be sent by certified mail, return receipt requested, to the mailing address provided for the secured party of record.

(f) A secured party of record identified in a financing statement as to which a termination statement has been filed under subsection (d) may bring an action within twenty business days after the termination statement is filed against the individual who filed the affidavit under subsection (a) seeking a determination as to whether the financing statement was filed by a person entitled to do so under section 9-509, 9-708, or 9-808. An action under this subsection shall have priority on the court's calendar and shall proceed by expedited hearing. The action shall be brought in the district court of the county where the filing office in which the financing statement was filed is located.

(g) In an action brought pursuant to subsection (f), a court may, in appropriate circumstances, order preliminary relief, including, but not limited to, an order precluding the termination statement from taking effect or directing a party to take action to prevent the termination statement from taking effect. If the court issues such an order and the filing office receives a certified copy of the order before the termination statement takes effect, the termination statement shall not take effect and the filing office shall promptly file an amendment

to the financing statement that indicates that an order has prevented the termination statement from taking effect. If such an order ceases to be effective by reason of a subsequent order or a final judgment of the court or by an order issued by another court and the filing office receives a certified copy of the subsequent judgment or order, the termination statement shall become immediately effective upon receipt of the certified copy and the filing office shall promptly file an amendment to the financing statement indicating that the termination statement is effective.

(h) If a court determines in an action brought pursuant to subsection (f) that the financing statement was filed by a person entitled to do so under section 9-509, 9-708, or 9-808 and the filing office receives a certified copy of the court's final judgment or order before the termination statement takes effect, the termination statement shall not take effect and the filing office shall remove the termination statement and any amendments filed under subsection (g) from the files. If the filing office receives the certified copy after the termination statement takes effect and within thirty days after the final judgment or order was entered, the filing office shall promptly file an amendment to the financing statement that indicates that the financing statement has been reinstated.

(i) Except as provided in subsection (j), upon the filing of an amendment reinstating a financing statement under subsection (h) the effectiveness of the financing statement is retroactively reinstated and the financing statement shall be considered never to have been ineffective against all persons and for all purposes.

(j) A financing statement whose effectiveness was terminated under subsection (d) and has been reinstated under subsection (h) shall not be effective as against a person that purchased the collateral in good faith between the time the termination statement was filed and the time of the filing of the amendment reinstating the financing statement, to the extent that the person gave new value in reliance on the termination statement.

(k) The filing office shall not charge a fee for the filing of an affidavit or a termination statement under this section. The filing office shall not return any fee paid for filing the financing statement identified in the affidavit, whether or not the financing statement is subsequently reinstated.

(l) Neither the filing office nor any of its employees shall be subject to liability for the termination or amendment of a financing statement in the lawful performance of the duties of the filing office under this section.

(m) The Secretary of State shall adopt and make available a form of affidavit for use under this section.

(n) For purposes of this section:

(1) Agricultural input supplier means a person regularly in the business of extending credit to agricultural producers; and

(2) Financial institution means a person that is in the business of extending credit or servicing loans, including acquiring, purchasing, selling, brokering, or other extensions of credit and where applicable, holds whatever license, charter, or registration that is required to engage in such business. The term includes banks, savings associations, building and loan associations, consumer and commercial finance companies, industrial banks, industrial loan compa-

nies, insurance companies, investment companies, installment sellers, mortgage servicers, sales finance companies, and leasing companies.

**Source:** Laws 1999, LB 550, § 157; Laws 2000, LB 929, § 40; Laws 2013, LB210, § 4.  
Effective date September 6, 2013.



# APPENDIX

## CLASSIFICATION OF PENALTIES

<b>CLASS I FELONY</b>	<b>Death</b>
28-303	Murder in the first degree
<b>CLASS IA FELONY</b>	<b>Life imprisonment (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</b>
28-202	Criminal conspiracy to commit a Class IA felony
28-303	Murder in the first degree
28-313	Kidnapping
28-391	Murder of an unborn child in the first degree
28-1223	Using explosives to damage or destroy property resulting in death
28-1224	Using explosives to kill or injure any person resulting in death
<b>CLASS IB FELONY</b>	<b>Maximum—life imprisonment Minimum—twenty years imprisonment</b>
28-111	Sexual assault of a child in the first degree committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Sexual assault of a child in the second or third degree, with prior sexual assault convictions, committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-115	Sexual assault of a child in the second or third degree with prior sexual assault conviction committed against a pregnant woman
28-115	Sexual assault of a child in the first degree committed against a pregnant woman
28-202	Criminal conspiracy to commit a Class IB felony
28-304	Murder in the second degree
*28-319.01	Sexual assault of a child in the first degree
*28-319.01	Sexual assault of a child in the first degree with prior sexual assault conviction
28-392	Murder of an unborn child in the second degree
*28-416	Knowingly or intentionally manufacturing, distributing, delivering, dispensing, or possessing with intent to manufacture, distribute, deliver, or dispense amphetamine or methamphetamine in a quantity of 140 grams or more
*28-416	Offenses relating to amphetamine or methamphetamine in a quantity of at least 10 grams but less than 28 grams, second or subsequent offense involving minors or near youth facilities
*28-416	Offenses relating to amphetamine or methamphetamine in a quantity of 28 grams or more involving minors or near youth facilities

APPENDIX

- \*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
- 28-1206 Possession of a firearm by a prohibited person, second or subsequent offense
- \*28-1356 Obtaining a real property interest or establishing or operating an enterprise by means of racketeering activity punishable as a Class I, IA, or IB felony

**CLASS IC FELONY      Maximum—fifty years imprisonment  
Mandatory minimum—five years imprisonment**

- 28-202 Criminal conspiracy to commit a Class IC felony
- \*28-320.01 Sexual assault of a child in the second degree with prior sexual assault conviction
- 28-320.01 Sexual assault of a child in the third degree with prior sexual assault conviction
- 28-320.02 Sexual assault of minor or person believed to be a minor lured by electronic communication device, second offense or with previous conviction of sexual assault
- \*28-416 Knowingly or intentionally manufacturing, distributing, delivering, dispensing, or possessing with intent to manufacture, distribute, deliver,

## APPENDIX

	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	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
--------	---

## APPENDIX

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	Sexual assault in the first degree committed against a pregnant woman
28-115	Sexual assault of a child in the second degree, first offense, committed against a pregnant woman
28-115	Domestic assault in the first degree, second or subsequent offense against same intimate partner, committed against a pregnant woman
28-115	Assault on an officer in the first degree committed against a pregnant woman
28-115	Certain acts of assault, terroristic threats, kidnapping, or false imprisonment committed by legally confined person against a pregnant woman
28-202	Criminal conspiracy to commit a Class ID felony
28-320.02	Sexual assault of minor or person believed to be a minor lured by electronic communication device, first offense
*28-416	Knowingly or intentionally manufacturing, distributing, delivering, dispensing, or possessing with intent to manufacture, distribute, deliver, or dispense cocaine or any mixture containing cocaine, or base cocaine (crack) or any mixture containing base cocaine, in a quantity of at least 10 grams but less than 28 grams
*28-416	Knowingly or intentionally manufacturing, distributing, delivering, dispensing, or possessing with intent to manufacture, distribute, deliver, or dispense heroin or any mixture containing heroin in a quantity of at least 10 grams but less than 28 grams
*28-416	Knowingly or intentionally manufacturing, distributing, delivering, dispensing, or possessing with intent to manufacture, distribute, deliver, or dispense amphetamine or methamphetamine in a quantity of at least 10 grams but less than 28 grams
*28-416	Manufacture, distribute, deliver, dispense, or possess exceptionally hazardous drug in Schedule I, II, or III of section 28-405, first offense involving minors or near youth facilities
*28-416	Possessing a firearm while violating prohibition on the manufacture, distribution, delivery, dispensing, or possession of an exceptionally hazardous drug in Schedule I, II, or III of section 28-405
*28-416	Manufacture, distribute, deliver, dispense, or possess certain controlled substances in Schedule I, II, or III of section 28-405, second or subsequent offense involving minors or near youth facilities
28-929	Assault on an officer 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



APPENDIX

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      Manslaughter committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
- 28-111      Assault in the first degree committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
- 28-111      Sexual assault in the second degree committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
- 28-111      Arson in the second degree committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
- 28-115      Assault in the first degree committed against a pregnant woman
- 28-115      Sexual assault in the second degree committed against a pregnant woman
- 28-115      Sexual abuse of an inmate or parolee in the first degree committed against a pregnant woman
- 28-115      Sexual abuse of a protected individual, first degree, committed against a pregnant woman
- 28-115      Domestic assault in the first degree, first offense, committed against a pregnant woman
- 28-115      Domestic assault in the second degree, second or subsequent offense against same intimate partner, committed against a pregnant woman
- 28-115      Assault on an officer in the second degree committed against a pregnant woman
- 28-201      Criminal attempt to commit a Class I, IA, IB, IC, or ID felony
- 28-202      Criminal conspiracy to commit a Class I or II felony
- \*28-306      Motor vehicle homicide by person driving under the influence of alcohol or drugs with prior conviction of driving under the influence of alcohol or drugs
- 28-308      Assault in the first degree
- 28-313      Kidnapping (certain situations)
- \*28-319      Sexual assault in the first degree
- 28-320.01      Sexual assault of a child in the second degree, first offense
- 28-323      Domestic assault in the first degree, second or subsequent offense
- 28-324      Robbery
- \*28-416      Manufacture, distribute, deliver, dispense, or possess exceptionally hazardous drug in Schedule I, II, or III of section 28-405
- \*28-416      Manufacture, distribute, deliver, dispense, or possess certain controlled substances in Schedule I, II, or III of section 28-405, first offense involving minors or near youth facilities
- \*28-416      Manufacture, distribute, deliver, dispense, or possess controlled substances in Schedule IV or V of section 28-405, second or subsequent offense involving minors or near youth facilities

APPENDIX

- \*28-416 Possessing a firearm while violating prohibition on the manufacture, distribution, delivery, dispensing, or possession of certain controlled substances in Schedule I, II, or III of section 28-405
- 28-502 Arson in the first degree
- 28-638 Criminal impersonation by falsely representing business or engaging in profession, business, or occupation without license if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was \$1,500 or more, second or subsequent offense
- 28-638 Criminal impersonation by providing false identification information to court or law enforcement officer, third or subsequent offense
- 28-639 Identity theft if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was \$1,500 or more, second or subsequent offense
- 28-707 Child abuse committed knowingly and intentionally and resulting in serious bodily injury
- 28-831 Labor trafficking or sex trafficking of a minor by use of force or threat of force or when minor is under 15 years old
- 28-930 Assault on an officer or a health care professional in the second degree
- 28-932 Assault with a deadly or dangerous weapon by a legally confined person committed against a pregnant woman
- 28-933 Certain acts of assault, terroristic threats, kidnapping, or false imprisonment committed by legally confined person
- 28-1205 Possession of firearm during commission of a felony
- 28-1205 Use of deadly weapon other than a firearm to commit a felony
- 28-1222 Using explosives to commit a felony, second or subsequent offense
- 28-1223 Using explosives to damage or destroy property resulting in personal injury
- 28-1224 Using explosives to kill or injure any person resulting in personal injury
- 30-3432 Sign or alter without authority or alter, forge, conceal, or destroy a power of attorney for health care or conceal or destroy a revocation with the intent and effect of withholding or withdrawing life-sustaining procedures or nutrition or hydration
- 60-690 Aiding or abetting a violation of the Nebraska Rules of the Road
- \*60-6,197.03 Operation of a motor vehicle while under the influence of alcoholic liquor or of any drug or refusing chemical test, fifth or subsequent offense committed with .15 gram alcohol concentration
- 70-2105 Destroy, damage, or cause loss to nuclear electrical generating facility or steal or render nuclear fuel unusable or unsafe

**CLASS III FELONY      Maximum—twenty years imprisonment, or  
 twenty-five thousand dollars fine, or both  
 Minimum—one year imprisonment**

- 8-138 Officer, agent, or employee receiving deposits on behalf of insolvent bank
- 8-139 Acting or assisting another to act as active executive officer of a bank when not licensed
- 8-175 Banks, false entry or statements, offenses relating to records

APPENDIX

8-224.01	Substitution or investment of estate or trust assets for or in securities of the trust company controlling the estate or trust; loans of trust company assets to trust company officials or employees
9-814	Altering lottery tickets to defraud under the State Lottery Act
24-216	Clerk of the Supreme Court intentionally making a false report under oath, perjury
25-2310	Fraudulently invoking privilege of proceeding in forma pauperis
28-107	Felony defined outside of criminal code
28-111	Assault in the second degree committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	False imprisonment in the first degree committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Sexual assault of a child in the third degree, first offense, committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-115	Assault in the second degree committed against a pregnant woman
28-115	Sexual assault of a child in the third degree, first offense, committed against a pregnant woman
28-115	Domestic assault in the second degree, first offense, committed against a pregnant woman
28-115	Assault on an officer in the third degree committed against a pregnant woman
28-115	Assault on an officer using a motor vehicle committed against a pregnant woman
*28-115	Causing serious bodily injury to pregnant woman while driving while intoxicated
28-201	Criminal attempt to commit a Class II felony
28-202	Criminal conspiracy to commit a Class III felony
28-204	Harboring, concealing, or aiding a felon who committed a Class I, IA, IB, IC, or ID felony
28-305	Manslaughter
*28-306	Motor vehicle homicide by person driving under the influence of alcohol or drugs with no prior conviction
28-309	Assault in the second degree
28-310.01	Strangulation using dangerous instrument, resulting in serious bodily injury, or after previous conviction for strangulation
28-311	Criminal child enticement with previous conviction of certain crimes
*28-311.08	Knowingly distributing or making public a recording of another person in a state of undress without his or her consent or knowledge in a place of solitude or seclusion
28-320	Sexual assault in the second degree
28-322.02	Sexual abuse of an inmate or parolee in the first degree
28-322.04	Sexual abuse of a protected individual in the first degree
28-323	Domestic assault in the first degree, first offense
28-323	Domestic assault in the second degree, second or subsequent offense
28-328	Performance of partial-birth abortion

APPENDIX

28-342	Sale, transfer, distribution, or giving away of live or viable aborted child or consenting to, aiding, or abetting the same
28-393	Manslaughter of an unborn child
*28-394	Motor vehicle homicide of an unborn child by person driving under the influence of alcohol or drugs with prior conviction of driving under the influence of alcohol or drugs
28-397	Assault of an unborn child in the first degree
*28-416	Manufacture, distribute, deliver, dispense, or possess certain controlled substances in Schedule I, II, or III of section 28-405
*28-416	Manufacture, distribute, deliver, dispense, or possess controlled substances in Schedule IV or V of section 28-405, first offense involving minors or near youth facilities
*28-416	Possessing a firearm while violating prohibition on the manufacture, distribution, delivery, dispensing, or possession of controlled substances in Schedule IV or V of section 28-405
28-503	Arson in the second degree
28-507	Burglary
28-518	Theft when value is over \$1,500
28-602	Forgery in the first degree
28-603	Forgery in the second degree when face value is \$1,000 or more
28-611	Issuing a bad check or other order in an amount of \$1,500 or more
28-611.01	Issuing a no-account check in an amount of \$1,500 or more, first offense
28-611.01	Issuing a no-account check in an amount of \$500 or more, second or subsequent offense
28-620	Unauthorized use of a financial transaction device when total value is \$1,500 or more within a six-month period
28-621	Criminal possession of four or more financial transaction devices
28-622	Unlawful circulation of a financial transaction device in the first degree
28-625	Criminal sale of two or more blank financial transaction devices
28-627	Unlawful manufacture of a financial transaction device
28-631	Committing a fraudulent insurance act when the amount involved is \$1,500 or more
28-638	Criminal impersonation by falsely representing business or engaging in profession, business, or occupation without license if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was \$1,500 or more, first offense
28-638	Criminal impersonation by falsely representing business or engaging in profession, business, or occupation without license if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was \$500 or more but less than \$1,500, second or subsequent offense
28-638	Criminal impersonation by providing false identification information to court or law enforcement officer, second offense
28-639	Identity theft if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was \$1,500 or more, first offense
28-639	Identity theft if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was \$500 or more but less than \$1,500, second or subsequent offense
28-703	Incest

## APPENDIX

28-707	Child abuse committed negligently resulting in death
28-802	Pandering involving victim at least 18 years old, first offense
28-802	Pandering involving victim of any age, second or subsequent offense
28-813.01	Possession by a person 19 years old or older of visual depiction of sexually explicit conduct containing a child
28-831	Labor trafficking or sex trafficking resulting from inflicting or threatening serious personal injury or restraining or threatening restraint of another
28-831	Labor trafficking or sex trafficking of a minor without use of force or threat of force when minor is between 15 and 18 years old
28-912	Escape when detained or under arrest on a felony charge
28-912	Escape using force, threat, deadly weapon, or dangerous instrument
28-912	Escape, public servant concerned in detention permits another to escape
28-915	Perjury and subornation of perjury
28-932	Assault with a deadly or dangerous weapon by a legally confined person
28-932	Assault by legally confined person without a deadly weapon committed against a pregnant woman
28-1102	Promoting gambling in the first degree, third or subsequent offense
28-1105.01	Gambling debt collection
28-1204.01	Unlawful transfer of a firearm to a juvenile
28-1205	Possession of deadly weapon other than a firearm during commission of a felony
28-1206	Possession of deadly weapon other than a firearm by a prohibited person
28-1207	Possession of a defaced firearm
28-1208	Defacing a firearm
28-1212.03	Possession, receipt, retention, or disposal of a stolen firearm knowing or believing it to be stolen
28-1222	Using explosives to commit a felony, first offense
28-1223	Using explosives to damage or destroy property unless personal injury or death occurs
28-1224	Using explosives to kill or injure any person unless personal injury or death occurs
28-1344	Unauthorized access to a computer which deprives another of property or services or obtains property or services of another with value of \$1,000 or more
28-1345	Unauthorized access to a computer which causes damages of \$1,000 or more
*28-1356	Obtaining a real property interest or establishing or operating an enterprise by means of racketeering activity or unlawful debt collection
28-1423	Swearing falsely regarding sales of tobacco
28-1463.04	Child pornography by person under 19 years old
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 the Sex Offender Registration Act, second or subsequent offense
30-2219	Falsifying representation under the Uniform Probate Code
30-24,125	False statement regarding personal property of decedent
30-24,129	False statement regarding real property of decedent
32-1514	Forging candidate filing form for election nomination

## APPENDIX

32-1516	Forging initials or signatures on official ballots or falsifying, destroying, or suppressing candidate filing forms
32-1517	Employer penalizing employee for serving as election official
32-1522	Unlawful distribution of ballots or other election supplies by election official, printer, or custodian of supplies
38-140	Violation of cease and desist order prohibiting the unauthorized practice of a credentialed profession or unauthorized operation of a credentialed business under the Uniform Credentialing Act
38-1,124	Violation of cease and desist order prohibiting the unauthorized practice of a credentialed profession or unauthorized operation of a credentialed business under the Uniform Credentialing Act
44-10,108	Fraudulent statement in report or statement for benefits from a fraternal benefit society
54-1,123	Selling livestock without evidence of ownership
54-1,124	Branding another's livestock, defacing marks
54-1,125	Forging or altering livestock ownership document when value is \$1,000 or more
57-1211	Intentionally making false oath to uranium severance tax return or report
60-169	False statement on affidavit of affixture for mobile home or manufactured home
60-690	Aiding or abetting a violation of the Nebraska Rules of the Road
*60-698	Motor vehicle accident resulting in serious bodily injury or death, violation of duty to stop
*60-6,197.03	Operation of a motor vehicle while under the influence of alcoholic liquor or of any drug or refusing chemical test, fourth offense committed with .15 gram alcohol concentration
*60-6,197.03	Operation of a motor vehicle while under the influence of alcoholic liquor or of any drug or refusing chemical test, fifth or subsequent offense committed with less than .15 gram alcohol concentration
*60-6,197.06	Operating a motor vehicle when operator's license has been revoked for driving under the influence, second or subsequent offense
66-727	Violation of motor fuel tax laws when the amount involved is \$5,000 or more, provisions relating to evasion of tax, keeping books and records, making false statements
71-7462	Wholesale drug distribution in violation of the Wholesale Drug Distributor Licensing Act
71-8929	Veterinary drug distribution in violation of the Veterinary Drug Distribution Licensing Act
75-151	Violation by officer or agent of common carriers in consolidation or increase in stock, issuance of securities
77-5016.01	Falsifying a representation before the Tax Equalization and Review Commission
79-541	School district meeting or election, false oath
83-174.05	Failure to comply with community supervision, second or subsequent offense
83-184	Escape from custody (certain situations)

APPENDIX

**CLASS IIIA FELONY Maximum—five years imprisonment, or ten thousand dollars fine, or both  
Minimum—none**

28-111	Terroristic threats committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Stalking, certain situations or subsequent conviction within 7 years, committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Arson in the third degree, damages of \$100 or more, committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Criminal mischief, pecuniary loss in excess of \$300 or substantial disruption of public communication or utility, committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Unauthorized application of graffiti, second or subsequent offense, committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-115	Sexual abuse of an inmate or parolee in the second degree committed against a pregnant woman
28-115	Sexual abuse of a protected individual, second degree, committed against a pregnant woman
28-115	Domestic assault in the third degree, second or subsequent offense against same intimate partner, committed against a pregnant woman
28-201	Criminal attempt to commit sexual assault in the second degree, possession or distribution of certain controlled substances, incest, or assault by a confined person with a deadly or dangerous weapon
28-202	Criminal conspiracy to commit a Class IIIA felony
28-204	Harboring, concealing, or aiding a felon who committed a Class II felony
28-306	Motor vehicle homicide by person driving in a reckless manner
28-311	Criminal child enticement
28-314	False imprisonment in the first degree
28-320.01	Sexual assault of a child in the third degree, first offense
28-322.05	Unlawful use of Internet by prohibited sex offender, second or subsequent conviction
28-323	Domestic assault in the second degree, first offense
28-386	Knowing and intentional abuse, neglect, or exploitation of a vulnerable adult
28-398	Assault of an unborn child in the second degree
*28-416	Manufacture, distribute, deliver, dispense, or possess controlled substances in Schedule IV or V of section 28-405
28-457	Permitting a child or vulnerable adult to ingest methamphetamine, second or subsequent offense
28-457	Permitting a child or vulnerable adult to inhale, have contact with, or ingest methamphetamine causing serious bodily injury

APPENDIX

28-634	Unlawful use of an electronic payment card scanning device or reencoder, second or subsequent offense
28-707	Child abuse committed knowingly and intentionally and not resulting in serious bodily injury or death
28-707	Child abuse committed negligently, resulting in serious bodily injury but not death
28-904	Resisting arrest, second or subsequent offense
28-904	Resisting arrest using deadly or dangerous weapon
28-931	Assault on an officer or a health care professional in the third degree
28-931.01	Assault on an officer using a motor vehicle
28-932	Assault by legally confined person without a deadly weapon
28-934	Assault with a bodily fluid against a public safety officer with knowledge that bodily fluid was infected with HIV, Hep B, or Hep C
28-1463.05	Possession of child pornography with intent to distribute by person under 19 years old
*53-180.05	Knowingly and intentionally dispensing alcohol in any manner to minors or incompetents resulting in serious bodily injury or death caused by the minors' consumption or impaired condition
60-690	Aiding or abetting a violation of the Nebraska Rules of the Road
*60-698	Motor vehicle accident resulting in injury other than serious bodily injury, violation of duty to stop
*60-6,197.03	Operation of a motor vehicle while under the influence of alcoholic liquor or of any drug or refusing chemical test, third offense committed with .15 gram alcohol concentration
*60-6,197.03	Operation of a motor vehicle while under the influence of alcoholic liquor or of any drug or refusing chemical test, fourth offense committed with less than .15 gram alcohol concentration
*60-6,198	Causing serious bodily injury to person or unborn child while driving while intoxicated
71-4839	Knowingly purchase or sell a body part for transplantation, therapy, research, or education if removal is to occur after death
71-4840	Intentionally falsifying, forging, concealing, defacing, or obliterating a document related to anatomical gifts for financial gain

**CLASS IV FELONY      Maximum—five years imprisonment, or  
ten thousand dollars fine, or both  
Minimum—none**

2-1825	Forge, counterfeit, or use without authorization an inspection legend or certificate of Director of Agriculture on potatoes
8-103	Department of Banking and Finance personnel borrowing money from certain financial institutions or aiding or abetting such violation
8-133	Inducing person to make or retain deposit in bank or accepting such inducement
8-142	Bank officer, employee, director, or agent violating loan limits resulting in insolvency of bank
8-143.01	Illegal bank loans to executive officers, directors, or shareholders
8-147	Banks, illegal transfer of assets, limitation on amounts of loans and investments
8-1,139	Financial institutions, misappropriation of funds or assets
8-225	Trust companies, false statement or book entry, destruction or secretion of records



APPENDIX

8-333	Building and loan association, false statement or book entry
8-1117	Violation of Securities Act of Nebraska
*8-1729	Willful violation of Commodity Code or rule, regulation, or order under the code
*9-262	Second or subsequent violation of Nebraska Bingo Act when not otherwise specified
9-262	Specified violations of Nebraska Bingo Act
*9-352	Second or subsequent violation of Nebraska Pickle Card Lottery Act when not otherwise specified
9-352	Specified violations of Nebraska Pickle Card Lottery Act
*9-434	Second or subsequent violation of Nebraska Lottery and Raffle Act when not otherwise specified
9-434	Specified violations of Nebraska Lottery and Raffle Act
*9-652	Second or subsequent violation of Nebraska County and City Lottery Act when not otherwise specified
9-652	Specified violations of Nebraska County and City Lottery Act
9-814	Providing false information pursuant to the State Lottery Act
10-509	Funding bonds of counties, fraudulent issue or use
11-101.02	False statement in oath of office
23-135.01	False claim against county when value is \$1,000 or more
23-3113	County purchasing agent or staff member violating County Purchasing Act
25-1630	Tampering with jury list
25-1635	Illegal disclosure of juror names
28-111	Assault in the third degree (certain situations) committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Stalking, first offense or certain situations, committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	False imprisonment in the second degree committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Sexual assault in the third degree committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Arson in the third degree, damages less than \$100, committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Criminal mischief, pecuniary loss of \$500 or more but less than \$1,500, committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Criminal trespass in the first degree committed against a person because of his or her race, color, religion, ancestry, national origin,

## APPENDIX

	gender, sexual orientation, age, or disability or because of his or her association with such a person
28-115	Assault in the third degree (certain situations) committed against a pregnant woman
28-115	Sexual assault in the third degree committed against a pregnant woman
28-115	Domestic assault in the third degree, first offense, committed against a pregnant woman
28-201	Criminal attempt to commit certain Class III felonies
28-202	Criminal conspiracy to commit a Class IV felony
28-204	Harboring, concealing, or aiding a felon who committed a Class III or IIIA felony
28-204	Obstructing the apprehension of a felon who committed a felony other than a Class IV felony
28-205	Aiding consummation of felony
28-307	Assisting suicide
28-310.01	Strangulation generally
28-311.01	Terroristic threats
28-311.04	Stalking (certain situations)
*28-311.08	Knowingly recording, by video, photographic, digital, or other electronic means, another person in a state of undress without his or her consent or knowledge in a place of solitude or seclusion
28-316	Violation of custody with intent to deprive custodian of custody of child
28-322.03	Sexual abuse of an inmate or parolee in the second degree
28-322.04	Sexual abuse of a protected individual in the second degree
28-323	Domestic assault in the third degree by intentionally and knowingly causing bodily injury to his or her intimate partner or by threatening an intimate partner with imminent bodily injury, second or subsequent offense
28-332	Abortion violations
28-335	Abortion by other than licensed physician
28-335	Physician knowingly or recklessly performs, induces, or attempts to perform or induce abortion without being physically present
28-336	Abortion by other than accepted medical procedures
28-346	Use of premature infant aborted alive for experimentation
*28-394	Motor vehicle homicide of an unborn child by person driving under the influence of alcohol or drugs with no prior conviction
28-394	Motor vehicle homicide of an unborn child by person driving in a reckless manner
28-3,108	Intentional or reckless performance of or attempt to perform abortion in violation of the Pain-Capable Unborn Child Protection Act
28-412	Unlawful prescription of narcotic drugs for detoxification or maintenance treatment
*28-416	Knowingly or intentionally unlawfully possessing controlled substance other than marijuana or synthetically produced cannabinoids
*28-416	Knowingly or intentionally possessing more than one pound of marijuana
*28-416	Possession of money used or intended to be used to violate provisions relating to controlled substances
28-418	Knowing or intentional violation of Uniform Controlled Substances Act

## APPENDIX

28-451	Possession of anhydrous ammonia with intent to manufacture methamphetamine
28-452	Possession of ephedrine, pseudoephedrine, or phenylpropanolamine with intent to manufacture methamphetamine
28-457	Permitting a child or vulnerable adult to inhale or have contact with methamphetamine, second or subsequent offense
28-504	Arson in the third degree, damages of \$100 or more
28-505	Burning to defraud insurer
28-508	Possession of burglar's tools
28-514	Theft of lost, mislaid, or misdelivered property when value is over \$1,500
28-516	Unauthorized use of a propelled vehicle, third or subsequent offense
28-518	Theft when value is \$500 or more but not more than \$1,500
28-518	Theft when value is more than \$200 but less than \$500, second or subsequent offense
28-518	Theft when value is \$200 or less, third or subsequent offense
28-519	Criminal mischief, pecuniary loss of \$1,500 or more or substantial disruption of public communication or utility service
*28-524	Unauthorized application of graffiti, second or subsequent offense
28-603	Forgery in the second degree when face value is over \$300 but less than \$1,000
28-604	Criminal possession of a forged instrument prohibited by section 28-602
28-604	Criminal possession of a forged instrument prohibited by section 28-603, amount or value is \$1,000 or more
28-605	Criminal possession of forgery devices
28-611	Issuing a bad check or other order in an amount of \$500 or more but less than \$1,500
28-611	Issuing a bad check or other order in an amount under \$500, second or subsequent offense
28-611.01	Issuing a no-account check in an amount of \$500 or more but less than \$1,500, first offense
28-611.01	Issuing a no-account check in an amount under \$500, second or subsequent offense
28-612	False statement or book entry in or destruction or secretion of records of financial institution or organization
28-619	Issuing two or more false financial statements to obtain two or more financial transaction devices
28-620	Unauthorized use of a financial transaction device when total value is \$500 or more but less than \$1,500 within a six-month period
28-621	Criminal possession of two or three financial transaction devices
28-623	Unlawful circulation of a financial transaction device in the second degree
28-624	Criminal possession of two or more blank financial transaction devices
28-625	Criminal sale of one blank financial transaction device
28-626	Criminal possession of a forgery device
28-628	Laundering of sales forms
28-629	Unlawful acquisition of sales form processing services
28-630	Unlawful factoring of a financial transaction device
28-631	Committing a fraudulent insurance act when the amount involved is \$500 or more but less than \$1,500

APPENDIX

28-631	Committing a fraudulent insurance act when the amount involved is \$200 or more but less than \$500, second or subsequent offense
28-631	Committing a fraudulent insurance act with intent to defraud or deceive
28-634	Unlawful use of an electronic payment card scanning device or reencoder, first offense
28-638	Criminal impersonation by falsely representing business or engaging in profession, business, or occupation without license if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was \$500 or more but less than \$1,500, first offense
28-638	Criminal impersonation by falsely representing business or engaging in profession, business, or occupation without license if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was \$200 or more but less than \$500, second or subsequent offense
28-638	Criminal impersonation by falsely representing business or engaging in profession, business, or occupation without license if no credit, money, goods, services, or other thing of value was gained or was attempted to be gained, or if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was less than \$200, third or subsequent offense
28-638	Criminal impersonation by providing false identification information to court or law enforcement officer, first offense
28-639	Identity theft if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was \$500 or more but less than \$1,500, first offense
28-639	Identity theft if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was \$200 or more but less than \$500, second or subsequent offense
28-639	Identity theft if no credit, money, goods, services, or other thing of value was gained or was attempted to be gained, or if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was less than \$200, third or subsequent offense
28-640	Identity fraud, second or subsequent offense
28-706	Criminal nonsupport in violation of a court order
*28-801.01	Solicitation of prostitution, second or subsequent offense
*28-801.01	Solicitation of prostitution with person under 18 years old, first offense
28-802	Pandering involving victim at least 18 years old, first offense
28-804	Keeping a place of prostitution used by person under 18 years old practicing prostitution
28-813.01	Possession by a minor of visual depiction of sexually explicit conduct containing a child
28-831	Labor trafficking or sex trafficking resulting from destroying or holding another's identification or immigration documents
28-831	Benefiting from labor trafficking or sex trafficking
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)

## APPENDIX

28-912	Knowingly causing or facilitating an escape
28-912.01	Accessory to escape of juvenile from custody of Office of Juvenile Services
28-917	Bribery
28-918	Bribery of a witness
28-918	Witness accepting bribe or benefit
28-919	Tampering with witness, informant, or juror
28-920	Bribery of a juror
28-920	Juror accepting bribe or benefit
28-922	Tampering with physical evidence
28-935	Fraudulently filing a financing statement, lien, or document
*28-1005	Dogfighting, cockfighting, bearbaiting, etc., promoter, owner, employee, property owner, or spectator
*28-1009	Abandonment or cruel neglect of animal resulting in serious injury, illness, or death
*28-1009	Harassment of police animal resulting in death of animal
*28-1009	Cruel mistreatment of animal involving torture or mutilation
*28-1009	Cruel mistreatment of animal not involving torture or mutilation, second or subsequent offense
28-1102	Promoting gambling in the first degree, second offense
28-1202	Carrying a concealed weapon, second or subsequent offense
28-1203	Transporting or possessing a machine gun, short rifle, or short shotgun
*28-1204.04	Unlawful possession of a firearm at a school
28-1215	Unlawful possession of explosive materials in the first degree
28-1217	Unlawful sale of explosives
28-1219	Explosives, obtaining a permit through false representations
28-1220	Possession of a destructive device
28-1221	Threatening the use of explosives or placing a false bomb
28-1301	Removing, abandoning, or concealing human skeletal remains or burial goods
28-1307	Sell or offer for sale diseased meat
28-1343.01	Unauthorized computer access creating grave risk of death
28-1344	Unauthorized access to a computer which deprives another of property or services or obtains property or services of another with value under \$1,000
28-1345	Unauthorized access to a computer causing damages under \$1,000
28-1351	Unlawful membership recruitment for an organization or association engaged in criminal acts
*28-1469	Operation of aircraft while under the influence of alcohol or drugs, third or subsequent offense
28-1482	Unlawful paramilitary activities
29-908	Failing to appear when on bail for felony offense
29-4011	Failure by felony sex offender to register under the Sex Offender Registration Act, first offense
29-4011	Failure by misdemeanor sex offender to register under the Sex Offender Registration Act, second or subsequent offense
32-312	Election falsification on voter registration
32-330	Election falsification for unlawful use of list of registered voters
32-915	Election falsification on provisional ballot
32-939	Election falsification on registering or voting outside the country
32-947	Election falsification on ballot to vote early

## APPENDIX

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
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

APPENDIX

*46-155	Irrigation districts, officers interested in contracts, accepting bribes or gratuities
48-654.01	Engaging in business practices to avoid higher combined tax rates under the Employment Security Law
49-1476.01	Campaign contributions or expenditures by state lottery contractor
49-14,134	Filing false statement, report, or verification under Nebraska Political Accountability and Disclosure Act
49-14,135	Perjury before Nebraska Accountability and Disclosure Commission
53-122	Bribery involving signatures on petitions for elections regarding sale of liquor
54-1,125	Using false document of livestock ownership
54-1,125	Forging or altering livestock ownership document when value is over \$300 but less than \$1,000
54-622.01	Owner of dangerous dog which inflicts serious bodily injury, second or subsequent offense
54-753.05	Importation of livestock in violation of an embargo issued by State Veterinarian
*54-903	Intentionally, knowingly, or recklessly abandon or cruelly neglect livestock animal resulting in serious injury or illness or death of the livestock animal
*54-903	Cruelly mistreat a livestock animal, second or subsequent offense
54-1509	Importation of swine with hog cholera, interference with destruction
54-1521	Violation of laws pertaining to hog cholera control and eradication
54-1808	Violation of Nebraska Livestock Sellers Protective Act
54-1913	Violation of Nebraska Meat and Poultry Inspection Law with intent to defraud or by distributing adulterated article
57-719	Preparation or presentation of false or fraudulent oil and gas severance tax document
59-801	Unlawful restraint of trade or commerce
59-802	Unlawful monopolizing of trade or commerce
59-805	Unlawful restraint of trade; underselling
59-815	Corporation or other association engaged in unlawful restraint of trade
59-825	Refusal to attend and testify in restraint of trade proceedings
59-1522	Unlawful sale and distribution of cigarettes
59-1757	Violations in sales or leases of seller-assisted marketing plans
60-176	Knowing transfer of wrecked, damaged, or destroyed motor vehicle, all-terrain vehicle, or minibike without appropriate certificate of title
60-179	Fraud or forgery in obtaining certificate of title to motor vehicle, all-terrain vehicle, or minibike
60-196	Violating laws relating to odometers
60-492	Impersonating an officer under Motor Vehicle Operator's License Act
60-4,111.01	Trade, sell, or share machine-readable information encoded on driver's license or state identification card
60-4,111.01	Compile, store, or preserve machine-readable information encoded on driver's license or state identification card without authorization
60-4,111.01	Intentional or grossly negligent programming by the programmer which allows for the storage of more than the age and identification number from machine-readable information encoded on driver's license or state identification card or wrongfully certifying the software

APPENDIX

60-4,111.01	Retailer or seller knowingly storing more information than authorized from the machine-readable information encoded on driver's license or state identification card
60-4,111.01	Unauthorized trading, selling, sharing, use for marketing or sales, or reporting of scanned, compiled, stored, or preserved machine-readable information encoded on driver's license or state identification card
60-690	Aiding or abetting a violation of the Nebraska Rules of the Road
*60-6,197.06	Operating a motor vehicle when operator's license has been revoked for driving under the influence, first offense
60-6,211.11	Tampering with or circumventing an ignition interlock device installed under a court order or Department of Motor Vehicles order while the order is in effect or operating a motor vehicle which is not equipped with an ignition interlock device in violation of a court order or Department of Motor Vehicles order
60-1416	Acting as motor vehicle, motorcycle, or trailer dealer, salesperson, or manufacturer, etc., without license
60-2912	Misrepresenting identity or making false statement on application submitted under the Uniform Motor Vehicle Records Disclosure Act
66-727	Violations of motor fuel tax laws when the amount involved is less than \$5,000, provisions relating to evasion of tax, keeping books and records, making false statements
66-727	Violations of motor fuel tax laws, including making returns and reports, assignment of licenses and permits, payment of tax
66-1226	Selling automotive spark ignition engine fuels not within specifications, second or subsequent offense
66-1822	False or fraudulent entries in books of a jurisdictional utility
68-1017	Obtaining through fraud assistance to aged, blind, or disabled persons, aid to dependent children, or supplemental nutrition assistance program benefits when value is \$500 or more
68-1017.01	Unlawful use, alteration, or transfer of supplemental nutrition assistance program benefits when value is \$500 or more
68-1017.01	Unlawful possession or redemption of supplemental nutrition assistance program benefits when value is \$500 or more
68-1017.01	Unlawful possession of blank supplemental nutrition assistance program authorizations
69-109	Sale or transfer of personal property with security interest without consent
69-2408	Providing false information on an application for a certificate to purchase a handgun
69-2420	Unlawful acts relating to purchase of a handgun
69-2421	Unlawful sale or delivery of a handgun
69-2422	Knowingly and intentionally obtaining a handgun for purposes of unlawful transfer of the handgun
69-2430	Falsified concealed handgun permit application
*69-2709	Knowingly submit false information regarding cigarette and tobacco sales
70-508	False statement on sale, lease, or transfer of public electric plant
70-511	Excessive promotion expenses on sale of public electric plant
70-514	Failure to file statement of expenditures related to transfer of electric plant facilities or filing false statement



## APPENDIX

70-2104	Damage, injure, destroy, or attempt to damage, injure, or destroy equipment or structures owned and used by public power suppliers to generate, transmit, or distribute electricity or otherwise interrupt the generation, transmission, or distribution of electricity by a public power supplier
71-649	Vital statistics, unlawful acts
71-2228	Illegal receipt of food supplement benefits when value is \$500 or more
71-2229	Unlawful use, alteration, or transfer of food instruments or food supplements when value is \$500 or more
71-2229	Unlawful possession or redemption of food supplement benefits when value is \$500 or more
71-2229	Unlawful possession of blank authorization to participate in the WIC program or CSF program
71-6312	Unlawfully engaging in an asbestos project without a valid license or using unlicensed employees subsequent to the levy of a civil penalty, second or subsequent offense
71-6329	Engaging in a lead abatement project or lead-based paint profession without a valid license or using unlicensed employees after assessment of a civil penalty, second or subsequent offense
71-6329	Conducting a lead abatement project or lead-based paint profession training program without departmental accreditation after assessment of a civil penalty, second or subsequent offense
71-6329	Issuing fraudulent licenses under the Residential Lead-Based Paint Professions Practice Act after assessment of a civil penalty, second or subsequent offense
75-909	Violation of Grain Dealer Act
76-2325.01	Interference with utility poles and wires or transmission of light, heat, power, or telecommunications, loss of \$1,500 or more or substantial disruption of service
76-2728	Violation of Nebraska Foreclosure Protection Act
77-1726	Failure of a corporation, company, or officer or agent to pay taxes
77-2310	Unlawful removal of state funds or illegal profits by State Treasurer
77-2323	Violation of provisions on deposit of county funds
77-2325	Unlawful removal of county funds or illegal profits by county treasurers
77-2381	Violation of provisions on deposit of local hospital district funds
77-2383	Unlawful removal of funds or illegal profits by secretary-treasurer of local hospital district
77-2614	Altered, forged, or counterfeited stamp, license, permit, or cigarette tax meter impression for sale of cigarettes
77-2615	Violation of cigarette tax provisions when not otherwise specified
77-2615	Evasion of cigarette tax provisions, affixing unauthorized stamp, or sales or possession of cigarettes of manufacturer not in directory
77-2713	Failure to collect or false returns on sales and use tax
77-27,113	Evasion of income tax
77-27,114	Failure to collect or account for income taxes
77-27,116	False return on income tax
*77-27,119	Unauthorized disclosure of confidential tax information by current or former officers or employees of the Auditor of Public Accounts or the office of Legislative Audit
77-4024	Violation of Tobacco Products Tax Act or evasion of act

APPENDIX

77-4309	Dealer distributing or possessing marijuana or a controlled substance without affixing the official stamp, label, or other indicium
77-5544	Unlawful disclosure of confidential information by qualified independent accounting firm under Invest Nebraska Act
*81-161.05	Material division personnel having financial or beneficial personal interest or receiving gifts or rebates
*81-1108.56	State building division personnel having financial or beneficial personal interest or receiving gifts or rebates
81-1508.01	Specific violations of Environmental Protection Act, Integrated Solid Waste Management Act, or Livestock Waste Management Act
81-15,111	Violation of Low-Level Radioactive Waste Disposal Act
81-3442	Violation of Engineers and Architects Regulation Act, second or subsequent offense
83-174.05	Failure to comply with community supervision, first offense
83-184	Escape from custody (certain situations)
83-198	Threatening or attempting to influence a member of the Board of Parole
83-1,127.02	Operation of vehicle with disabled, bypassed, or altered ignition interlock device or without an ignition interlock device or permit in violation of board order
83-1,133	Threatening or attempting to influence a member of the Board of Pardons
83-417	Allowing a committed offender to escape or be visited without approval
83-443	Financial interest in convict labor
*83-912	Director or employee of Department of Correctional Services receiving prohibited gift or gratuity
86-290	Intercepting or interfering with wire, electronic, or oral communication
86-295	Unlawful tampering with communications equipment or transmissions
86-296	Shipping or manufacturing devices capable of intercepting certain communications
86-2,102	Interference with satellite transmissions or operation
86-2,104	Unauthorized access to electronic communication services
87-303.09	Violation of court order or written assurance of voluntary compliance under Uniform Deceptive Trade Practices Act
88-543	Issuing a receipt for grain not received, improperly recording grain as received or loaded, or creating a post-direct delivery storage position without proper documentation or grain in storage
88-545	Violation of Grain Warehouse Act when not otherwise specified

**UNCLASSIFIED FELONIES, see section 28-107**

69-110	Removal from county of personal property subject to a security interest with intent to deprive of security interest –fine of not more than one thousand dollars –imprisonment of not more than ten years
77-27,119	Unauthorized disclosure of confidential tax information by Tax Commissioner, officer, employee, or third-party auditor –fine of not less than one hundred dollars nor more than five hundred dollars –imprisonment of not more than five years –both

APPENDIX

- 77-3210 Receipt of profit from rental, management, or disposition of Land Reutilization Authority lands  
 –imprisonment of not less than two years nor more than five years
- 83-1,124 Parolee leaving state without permission  
 –imprisonment of not more than five years

**OTHER MANDATORY MINIMUMS:**

- 29-2221 Habitual criminal

**CLASS I MISDEMEANOR      Maximum—not more than one year imprisonment, or one thousand dollars fine, or both**  
**Minimum—none**

- 2-1215 Conducting horseracing or betting on horseraces without license or violating horseracing provisions
- 2-1218 Drugging horses or permitting drugged horses to run in a horserace
- 2-2647 Violation of Pesticide Act, second or subsequent offense
- 8-119 Officers of corporation filing false statement for banking purposes
- 8-142 Bank officer, employee, director, or agent violating loan limits by \$40,000 or more or resulting in monetary loss of over \$20,000 to bank
- 8-145 Improper solicitation or receipt of benefits, unlawful inducement for bank loan
- 8-189 Attempting to prevent Department of Banking and Finance from taking possession of insolvent or unlawfully operated bank
- 8-1,138 Violation of a final order issued by Director of Banking and Finance
- 8-224.01 Division of fees for legal services by a trust company attorney
- 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 Violation of Nebraska Bingo Act when not otherwise specified, first offense
- 9-266 Disclosure by Tax Commissioner or employee of reports or records of a licensed distributor or manufacturer under Nebraska Bingo Act
- 9-351 Unlawfully possessing pickle cards or conducting a pickle card lottery
- 9-352 Violation of Nebraska Pickle Card Lottery Act when not otherwise specified, first offense
- 9-356 Disclosure by Tax Commissioner or employee of returns or reports of licensed distributor or manufacturer under Nebraska Pickle Card Lottery Act
- 9-434 Violation of Nebraska Lottery and Raffle Act when not otherwise specified, first offense
- 9-652 Violation of Nebraska County and City Lottery Act when not otherwise specified, first offense
- 9-653 Disclosure by Tax Commissioner or employee of reports or records of a licensed manufacturer-distributor under Nebraska County and City Lottery Act
- 9-814 Sale of lottery tickets under the State Lottery Act without authorization or at other than the established price
- 9-814 Release of information obtained from background investigation under the State Lottery Act
- 10-807 Misrepresentations for aid from county aid bonds

APPENDIX

*18-2532	Initiative and referendum, making false affidavit or taking false oath
*18-2533	Initiative and referendum, destruction, falsification, or suppression of a petition
*18-2534	Initiative and referendum petition, signing by person not registered to vote or paying for or deceiving another to sign a petition
*18-2535	Initiative and referendum, failure by city clerk to comply or unreasonable delay in complying with statutes
20-334	Willful failure to obey a subpoena or order or intentionally mislead another in proceedings under the Nebraska Fair Housing Act
20-344	Coerce, intimidate, threaten, or interfere with the exercise or enjoyment of rights under the Nebraska Fair Housing Act
20-411	Physician or health care provider failing to transfer care of patient under declaration or living will
20-411	Physician failing to record a living will or a determination of a terminal condition or persistent vegetative state
20-411	Concealing, canceling, defacing, obliterating, falsifying, or forging a living will
20-411	Concealing, falsifying, or forging a revocation of a living will
20-411	Requiring or prohibiting a living will for health care services or insurance
20-411	Coercing or fraudulently inducing an individual to make a living will
21-1912	Signing a false document under the Nebraska Nonprofit Corporation Act with intent to file with the Secretary of State
21-2012	Signing a false document under the Business Corporation Act with intent to file with the Secretary of State
28-107	Misdemeanor defined outside of criminal code
28-111	Assault in the third degree (certain situations) committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Criminal mischief, pecuniary loss of \$200 or more but less than \$500, committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-111	Criminal trespass in the second degree (certain situations) committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
28-115	Assault in the third degree (certain situations) committed against a pregnant woman
28-201	Criminal attempt to commit a Class IIIA or IV felony
28-204	Harboring, concealing, or aiding a felon who committed a Class IV felony
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)

## APPENDIX

*28-311.08	Knowingly viewing another person in a state of undress as it is occurring without his or her consent or knowledge in a place of solitude or seclusion
28-315	False imprisonment in the second degree
28-320	Sexual assault in the third degree
28-322.05	Unlawful use of Internet by prohibited sex offender, first offense
28-323	Domestic assault in the third degree by intentionally and knowingly causing bodily injury to his or her intimate partner or by threatening an intimate partner with imminent bodily injury, first offense
28-323	Domestic assault in the third degree by threatening an intimate partner in a menacing manner
28-394	Motor vehicle homicide of an unborn child by person not under the influence of alcohol or drugs or not driving in a reckless manner
28-399	Assault of an unborn child in the third degree
28-443	Delivering drug paraphernalia to a minor
28-457	Permitting a child or vulnerable adult to inhale, have contact with, or ingest methamphetamine, first offense
28-504	Arson in the third degree, damages less than \$100
28-514	Theft of lost, mislaid, or misdelivered property when value is \$500 or more but not more than \$1,500
28-514	Theft of lost, mislaid, or misdelivered property when value is more than \$200 but less than \$500, second or subsequent offense
28-514	Theft of lost, mislaid, or misdelivered property when value is \$200 or less, third or subsequent offense
28-516	Unauthorized use of a propelled vehicle, second offense
28-518	Theft when value is more than \$200 but less than \$500
28-518	Theft when value is \$200 or less, second offense
28-519	Criminal mischief, pecuniary loss of \$500 or more but less than \$1,500
28-520	Criminal trespass in the first degree
28-523	Littering, third or subsequent offense
28-603	Forgery in the second degree when face value is \$300 or less
28-604	Criminal possession of a forged instrument prohibited by section 28-603, value is more than \$300 but less than \$1,000
28-607	Making, using, or uttering of slugs of value of \$100 or more
28-610	Impersonating a peace officer
28-611	Issuing a bad check or other order in an amount of \$200 or more but less than \$500, first offense
28-611.01	Issuing a no-account check in an amount of \$200 or more but less than \$500, first offense
28-613	Commercial bribery or breach of duty to act disinterestedly
28-616	Altering an identification number
28-617	Receiving an altered article
28-619	Issuing a false financial statement to obtain a financial transaction device
28-620	Unauthorized use of a financial transaction device when total value is \$200 or more but less than \$500 within a six-month period
28-624	Criminal possession of a blank financial transaction device
28-631	Possessing fake or counterfeit insurance policies, certificates, identification cards, or binders with intent to defraud or deceive
28-631	Committing a fraudulent insurance act when the amount involved is \$200 or more but less than \$500, first offense

## APPENDIX

28-633	Printing more than the last 5 digits of a payment card account number upon a receipt provided to payment card holder, second or subsequent offense
28-635	Install object or material not designed for motor vehicle air bag system
28-638	Criminal impersonation by falsely representing business or engaging in profession, business, or occupation without license if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was \$200 or more but less than \$500, first offense
28-638	Criminal impersonation by falsely representing business or engaging in profession, business, or occupation without license if no credit, money, goods, services, or other thing of value was gained or was attempted to be gained, or if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was less than \$200, second offense
28-638	Criminal impersonation by providing false identification information to employer to obtain employment, second or subsequent offense
28-639	Identity theft if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was \$200 or more but less than \$500, first offense
28-639	Identity theft if no credit, money, goods, services, or other thing of value was gained or was attempted to be gained, or if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was less than \$200, second offense
28-640	Identity fraud, first offense
28-701	Bigamy
28-705	Abandonment of spouse, child, or dependent stepchild
28-707	Child abuse committed negligently, 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
28-804	Keeping a place of prostitution not used by person under 18 years old practicing prostitution
28-805	Debauching a minor
28-808	Obscene literature and material, sell or possess with intent to sell to minor
28-809	Obscene motion picture, show, or presentation, admission of minor
28-813	Prepare, distribute, order, produce, exhibit, or promote obscene literature or material
28-831	Labor trafficking or sex trafficking resulting from causing or threatening financial harm
28-901	Obstructing government operations
28-904	Resisting arrest, first offense
*28-905	Operating a motor vehicle to avoid arrest which is a first offense, does not result in death or injury, or does not involve willful reckless driving
*28-905	Operating a boat to avoid arrest for misdemeanor or ordinance violation
28-906	Obstructing a peace officer, judge, or police animal
28-907	False reporting (certain situations)
28-908	Interference with firefighter on official duty

## APPENDIX

28-909	Falsifying records of a public utility
28-913	Introducing escape implements
28-915.01	False statement under oath or affirmation in an official proceeding or to mislead a public servant
28-934	Assault with a bodily fluid against a public safety officer without knowledge regarding whether bodily fluid was infected with HIV, Hep B, or Hep C
*28-1005.01	Knowing or intentional ownership or possession of animal fighting paraphernalia for dogfighting, cockfighting, bearbaiting, or pitting an animal against another
28-1009	Abandonment or cruel neglect of animal not resulting in serious injury, illness, or death
*28-1009	Cruel mistreatment of animal not involving torture or mutilation, first offense
28-1019	Violation of court order related to felony animal abuse conviction
28-1102	Promoting gambling in the first degree, first offense
28-1202	Carrying a concealed weapon, first offense
28-1204	Unlawful possession of a handgun
28-1216	Unlawful possession of explosive materials in the second degree
28-1218	Use of explosives without a permit if not eligible for a permit
28-1254	Operation of a motor vehicle while under the influence of alcoholic liquor or of any drug with person under 16 years old as passenger
28-1302	Concealment of death to prevent determination of cause or circumstances of death
28-1312	Interfering with the police radio system
28-1343.01	Unauthorized computer access creating risk to public health and safety
28-1346	Unauthorized access to or use of a computer to obtain confidential information, second or subsequent offense
29-1926	Improper release or use of a videotape of a child victim or child witness
30-3432	Altering, forging, concealing, or destroying a power of attorney for health care or a revocation of a power of attorney for health care
30-3432	Physician or health care provider willfully preventing transfer of care of principal under durable power of attorney for health care
*32-1518	Election officials, violation of duties imposed by election laws
32-1522	Unlawful printing, possession, or use of ballots
32-1546	Signing petition without being registered to vote
37-618	Possession of suspended or revoked permit to hunt, fish, or harvest fur
37-809	Unlawful acts relating to endangered or threatened species of wildlife or wild plants
37-1254.10	Operating a motorboat or personal watercraft while during a period of court-ordered prohibition for operating under the influence of alcohol or drugs or for refusal to submit to a chemical test for operating a motorboat or personal watercraft while under the influence of alcohol or drugs, second or subsequent offense
*37-1254.12	Operating a motorboat or personal watercraft while under the influence of alcohol or drugs or refusing to submit to a chemical test for operating a motorboat or personal watercraft while under the influence of alcohol or drugs, second or subsequent offense
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

## APPENDIX

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 the Nebraska Insurers Supervision, Rehabilitation, and Liquidation Act
45-191.03	Loan broker collecting advance fee of \$300 or less or failing to make required filings
45-747	Engaging in mortgage banking or mortgage loan originating if convicted of certain misdemeanors or a felony
45-1015	Acting without license under the Nebraska Installment Loan Act
46-1141	Unlawful tampering with or damaging chemigation equipment
48-125.01	Attempted avoidance of payment of workers' compensation benefits
48-145.01	Failure to comply with workers' compensation insurance required of employers
48-211	Failure or refusal to supply laborer's service letter
48-821	Interfere with or coerce others to strike or otherwise hinder governmental service
48-1908	Drug or alcohol tests, altering results
48-1909	Drug or alcohol tests, tampering with body fluids
48-2615	Athlete agent violating Nebraska Uniform Athlete Agents Act
48-2711	Violations relating to professional employer organizations
53-122	Violations involving signatures on petitions for elections regarding sale of liquor
53-180.05	Creation or alteration of identification for sale or delivery to a person under twenty-one years old
53-180.05	Dispensing alcohol in any manner to minors or incompetents not resulting in serious bodily injury or death
54-1,125	Forging or altering livestock ownership document when value is \$300 or less
54-622.01	Owner of dangerous dog which inflicts serious bodily injury, first offense
54-634	Violation of Commercial Dog and Cat Operator Inspection Act
54-750	Harboring or prohibited sale of diseased animals, second or subsequent offense
54-751	Violation of rules and regulations relating to diseased animals and disposal of carcasses, second or subsequent offense
54-752	Violation of laws relating to diseased animals and disposal of carcasses, second or subsequent offense
54-771	Failure by herd owner or custodian to develop or follow a herd plan relating to livestock anthrax
*54-778	Failure to comply with the Anthrax Control Act
54-781	Violation of the Anthrax Control Act when not otherwise specified
*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



## APPENDIX

*54-903	Cruelly mistreat a livestock animal, first offense
54-909	Violating court order not to own or possess a livestock animal for at least five years after the date of conviction for second or subsequent offense of cruel mistreatment of an animal or for intentionally, knowingly, or recklessly abandoning or cruelly neglecting livestock animal resulting in serious injury or illness or death of the livestock animal
54-911	Intentionally trip or cause to fall, or lasso or rope the legs of, any equine by any means for the purpose of entertainment, sport, practice, or contest
54-912	Intentionally trip, cause to fall, or drag any bovine by its tail by any means for the purpose of entertainment, sport, practice, or contest
59-505	Unlawful discrimination in sales or purchases of products, commodities, or property
60-484.02	Disclosure of digital image or signature by Department of Motor Vehicles or law enforcement
*60-4,108	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 the Nebraska Rules of the Road
60-696	Second or subsequent conviction in 12 years for failure of driver to stop and report a motor vehicle accident
*60-6,197.03	Operation of a motor vehicle while under the influence of alcoholic liquor or of any drug or refusing chemical test, second offense committed with .15 gram alcohol concentration
*60-6,218	Reckless driving or willful reckless driving, third or subsequent offense
*60-2912	Disclosure of sensitive personal information by Department of Motor Vehicles
66-1226	Selling automotive spark ignition engine fuels not within specifications, first offense
*69-2408	Intentional violation of provisions on acquisition of handguns
69-2419	Unlawful request for criminal history record check or dissemination of such information
*69-2443	Refusal to allow peace officer or emergency services personnel to secure concealed handgun
*69-2443	Carrying concealed handgun at prohibited site or while under the influence, second or subsequent offense
*69-2443	Failure to report discharge of concealed handgun, second or subsequent offense
*69-2443	Failure to carry or display concealed handgun permit, second or subsequent offense
*69-2443	Failure to inform peace officer of concealed handgun, second or subsequent offense
71-458	Violation of Health Care Facility Licensure Act
71-649	Vital statistics, unlawful acts
71-1950	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

APPENDIX

71-6312	Unlawfully engaging in an asbestos project without a valid license or using unlicensed employees subsequent to the levy of a civil penalty, first offense
71-6329	Engaging in a lead abatement project or lead-based paint profession without a valid license or using unlicensed employees after assessment of a civil penalty, first offense
71-6329	Conducting a lead abatement project or lead-based paint profession training program without departmental accreditation after assessment of a civil penalty, first offense
71-6329	Issuing fraudulent licenses under the Residential Lead-Based Paint Professions Practice Act after assessment of a civil penalty, first offense
74-921	Operating a locomotive or acting as the conductor while intoxicated
75-127	Unjust discrimination or prohibited practice in rates by common carrier, shipper, or consignee
76-1315	Violation of laws on retirement communities and subdivisions
76-1722	Unlawful time-share interval disposition or violating time-share laws
76-2325.01	Interference with utility poles and wires or transmission of light, heat, power, or telecommunications, loss of \$500 or more but less than \$1,500 (certain situations)
77-1816	Fraudulent sales of real property for delinquent real estate taxes
77-2115	Disclosure of confidential information on estate or generation-skipping transfer tax records
77-2326	Failure to act regarding deposit of county funds by county treasurers
77-2384	Secretary-treasurer of local hospital district, failure to comply with provisions on deposit of public funds
77-2704.33	Failure of a contractor or taxpayer to pay certain sales taxes of \$300 or more
77-2711	Wrongful disclosure of records and reports relating to sales and use tax
77-2711	Disclosure of taxpayer information by employees 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 the Emergency Management Act
81-1508.01	Violations of solid waste and livestock waste laws and regulations
81-1717	Unlawful soliciting of professional services under Nebraska Consultants' Competitive Negotiation Act
81-1718	Professional making unlawful solicitation under Nebraska Consultants' Competitive Negotiation Act
81-1719	Agency official making unlawful solicitation under Nebraska Consultants' Competitive Negotiation Act
81-1830	False claim under Nebraska Crime Victim's Reparations Act
81-2143	Violation of State Electrical Act
81-3442	Violation of Engineers and Architects Regulation Act, first offense
81-3535	Unauthorized practice of geology, second or subsequent offense
86-234	Violation of Telemarketing and Prize Promotions Act
86-290	Intercepting or interfering with certain wire, electronic, or oral communication

APPENDIX

- 86-298 Unlawful use of pen register or trap-and-trace device
- \*86-2,104 Unlawful access to electronic communication service
- 88-548 Illegal use of grain probes
- 89-1,101 Violation of Weights and Measures Act or order of Department of Agriculture, second or subsequent offense

**CLASS II MISDEMEANOR    Maximum—six months imprisonment, or one thousand dollars fine, or both  
Minimum—none**

- 1-166 Accountants, persons using titles, initials, trade names when not qualified or authorized to do so
- 2-10,115 Specified violations of Plant Protection and Plant Pest Act, second or subsequent offense
- 2-1221 Receipt or delivery of certain off-track wagers
- 2-1240 Improper placement or acceptance of wagers by telephone deposit center
- 2-1811 Violation of Nebraska Potato Development Act
- 3-152 Violation of State Aeronautics Department Act
- \*8-109 Bank examiner failing to report bank insolvency or unsafe condition
- 8-118 Promoting the organization of a corporation to conduct the business of banking or selling stock prior to issuance of charter
- 8-142 Bank officer, employee, director, or agent violating loan limits by \$20,000 or more but less than \$40,000 or resulting in monetary loss of \$10,000 or more but less than \$20,000
- 8-702 Banking institution failing to give notice if deposits are not insured
- 9-345.03 Unlawfully placing a pickle card dispensing device in operation
- 9-513 Violation of Nebraska Small Lottery and Raffle Act, second or subsequent offense
- 9-701 Violation of provisions relating to gift enterprises
- 9-814 Failure by lottery game retailer to maintain and make available records of separate accounts under State Lottery Act
- 9-814 Knowingly sell lottery tickets to person less than 19 years old
- 12-1118 False or fraudulent reporting or any violation under Burial Pre-Need Sale Act
- \*22-303 Relocation of county seats, refusal by officers to move offices and records
- 23-135.01 False claim against county when value is more than \$100 but less than \$1,000
- 23-2325 False or fraudulent acts to defraud the Retirement System for Nebraska Counties
- 23-2544 Violation of county personnel provisions for counties with population under 150,000
- \*23-3596 Board of trustees of hospital authority, pecuniary interest in contracts
- 24-711 False or fraudulent acts to defraud the Nebraska Judges Retirement System
- 28-111 Criminal mischief, pecuniary loss is less than \$200, committed against a person because of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of his or her association with such a person
- 28-111 Criminal trespass in the second degree (certain situations) committed against a person because of his or her race, color, religion, ancestry,

APPENDIX

	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
28-511.03	Possession in store of security device countermeasure
28-514	Theft of lost, mislaid, or misdelivered property when value is more than \$200 but less than \$500
28-514	Theft of lost, mislaid, or misdelivered property when value is \$200 or less, second offense
28-515.01	Fraudulently obtaining telecommunications service
28-518	Theft when value is \$200 or less
28-519	Criminal mischief, pecuniary loss of \$200 or more but less than \$500
28-521	Criminal trespass in the second degree (certain situations)
28-523	Littering, second offense
28-604	Criminal possession of a forged instrument prohibited by section 28-603, value is \$300 or less
28-607	Making, using, or uttering of slugs of value less than \$100
28-611	Issuing a bad check or other order in an amount of less than \$200, first offense
28-611	Issuing bad check or other order with insufficient funds
28-611.01	Issuing a no-account check in an amount of less than \$200, first offense
28-614	Tampering with a publicly exhibited contest
28-620	Unauthorized use of a financial transaction device when total value is less than \$200 within a six-month period
28-631	Committing a fraudulent insurance act when the amount involved is less than \$200
28-638	Criminal impersonation by falsely representing business or engaging in profession, business, or occupation without license if no credit, money, goods, services, or other thing of value was gained or was attempted to be gained, or if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was less than \$200, first offense
28-638	Criminal impersonation by providing false identification information to employer to obtain employment, first offense
28-639	Identity theft if no credit, money, goods, services, or other thing of value was gained or was attempted to be gained, or if the credit, money, goods, services, or other thing of value that was gained or was attempted to be gained was less than \$200, first offense

## APPENDIX

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 if statement is required by law to be sworn or affirmed
28-924	Official misconduct
28-926	Oppression under color of office
*28-927	Neglecting to serve warrant if offense for warrant is a felony
28-1103	Promoting gambling in the second degree
28-1105	Possession of gambling records in the first degree
28-1107	Possession of a gambling device
28-1218	Use of explosives without a permit if eligible for a permit
28-1233	Failure to notify fire protection district of use or storage of explosive material over one pound
28-1240	Unlawful transportation of anhydrous ammonia
28-1304.01	Unlawful use of liquified remains of dead animals
28-1311	Interference with public service companies
28-1326	Unlawful transfer of recorded sound
28-1326	Sell, distribute, circulate, offer for sale, or possess for sale recorded sounds without proper label
28-1343.01	Unauthorized computer access compromising security of data
28-1346	Unauthorized access to or use of a computer to obtain confidential information, first offense
28-1347	Unauthorized access to or use of a computer, second or subsequent offense
29-739	Extradition and detainer, unlawful delivery of accused persons
29-908	Failing to appear when on bail for misdemeanor or ordinance violation
30-2602.01	Violating an ex parte order regarding a ward's or protected person's safety, health, or financial welfare
32-1536	Bribery or threats used to procure vote of another
*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 the Game Law regarding hunting, transportation, and possession of deer
*37-449	Violation of rules and regulations under the Game Law regarding hunting antelope
*37-479	Luring or enticing wildlife into a domesticated cervine animal facility
*37-4,108	Violating commercial put-and-take fishery licensure requirements
*37-504	Unlawfully hunt, trap, or possess mountain sheep
37-509	Violations relating to hunting or harassing birds, fish, or other animals from aircraft
37-524.01	Release, kill, wound, or attempt to kill or wound a pig for amusement or profit
37-554	Use of explosives in water to remove obstructions without permission

## APPENDIX

37-555	Polluting waters of state
37-556	Polluting waters of state with carcasses
*37-573	Hunt or enable another to hunt through the Internet or host hunting through the Internet
37-809	Violation of restrictions on endangered or threatened species
*37-1254.12	Operating a motorboat or personal watercraft while under the influence of alcohol or drugs or refusing to submit to a chemical test for operating a motorboat or personal watercraft while under the influence of alcohol or drugs, first offense
37-1272	Reckless or negligent operation of motorboat, water skis, surfboard, etc.
37-12,110	Violation of provisions relating to abandonment of motorboats
38-1,118	Violation of Uniform Credentialing Act when not otherwise specified, second or subsequent offense
38-1,133	Failure of insurer to report violations of Uniform Credentialing Act, second or subsequent offense
38-1424	Willful malpractice, solicitation of business, and other unprofessional conduct in the practice of funeral directing and embalming
38-28,103	Violations of Pharmacy Practice Act except as otherwise specifically provided
38-3130	Representing oneself as a psychologist or practicing psychology without a license
39-310	Depositing materials on roads or ditches, second offense
39-311	Placing burning materials or items likely to cause injury on highways, second offense
39-2612	Illegal location of junkyard
42-357	Knowingly violating a restraining order relating to dissolution of marriage
42-1204	False or incorrect information on application to restrict disclosure of applicant's address
43-2,107	Violation of restraining or other court order under Nebraska Juvenile Code
44-3,156	Violations of provisions permitting purchase of workers' compensation insurance by associations
44-1209	Reciprocal insurance, violations by attorney in fact
45-208	Violation of maximum rate of time-price differential, revolving charge agreements
45-343	Installment sales, failure to obtain license
45-343	Violation of Nebraska Installment Sales Act
45-747	Engaging in mortgage banking or mortgage loan originating without a license or registration
45-814	Violation of Credit Services Organization Act
45-1037	Violations regarding installment loans
46-254	Interfering with closed waterworks, taking water without authority
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

## APPENDIX

46-1239	Violating the licensure requirements of the Water Well Standards and Contractors' Practice Act
48-144.04	Failing, neglecting, or refusing to file reports required by Nebraska Workers' Compensation Court
48-146.03	Unlawfully requiring employee to pay deductible amount under workers' compensation policy or requiring or attempting to require employee to give up right of selection of physician
48-147	Deducting from employee's pay for workers' compensation benefits
48-311	Violation of child labor laws
48-414	Using a machine or device or working at a location which Commissioner of Labor has labeled unsafe
48-424	Violations involving health and safety regulations
48-434	Violations of safety requirements in construction of buildings
48-645	Unlawful waiver of or deductions for unemployment compensation or discrimination in hire or tenure
48-910	Violation of laws relating to secondary boycotts
48-1714	Violation by farm labor contractor or applicant for farm labor contractor license
48-1714	Violations related to farm labor contractor licenses
48-1816	Violation of Nebraska Amusement Ride Act
48-2533	Install a conveyance in violation of the Conveyance Safety Act
50-1215	Obstruct, hinder, or mislead a legislative performance audit or preaudit inquiry
52-124	Failure to discharge construction liens, failure to apply payments for lawful claims
53-111	Nebraska Liquor Control Commission, gifts or gratuities forbidden
53-164.02	Evasion of liquor tax
53-186.01	Permitting consumption of liquor in unlicensed public places, second or subsequent offense
53-187	Nonbeverage liquor licensee giving or selling liquor fit for beverage purposes, second or subsequent offense
53-1,100	Violation of Nebraska Liquor Control Act, second or subsequent offense
54-1,125	Using false evidence of ownership of livestock
54-1,126	Violation of Livestock Brand Act when not otherwise specified
54-415	Estrays, illegal sale, disposition of proceeds
54-706.05	Interfere with or obstruct inspections or tests under the Bovine Tuberculosis Act
54-706.08	Prevent testing of or remove animal quarantined under the Bovine Tuberculosis Act
54-706.10	Interfere with or obstruct confining of affected herds or examinations or tests under the Bovine Tuberculosis Act
54-706.17	Other violations of the Bovine Tuberculosis Act or rules and regulations
54-750	Harboring or prohibited sale of diseased animals, first offense
54-751	Violation of rules and regulations relating to diseased animals and disposal of carcasses, first offense
54-752	Violation of laws relating to diseased animals and disposal of carcasses, first offense
54-796	Violation of Animal Importation Act, second or subsequent offense
54-861	Violation of Commercial Feed Act, second or subsequent offense

APPENDIX

54-1171	Violation of Livestock Auction Market Act
54-1181.01	Person engaging in livestock commerce violating veterinarian inspection provisions
54-1811	Illegal purchase of slaughter livestock
54-1913	Interference with inspection of meat and poultry, attempting to bribe inspector or employee of Department of Agriculture
54-1913	Violation of Nebraska Meat and Poultry Inspection Law when not otherwise specified unless intent was to defraud
54-2288	Violation of quarantine requirements under Pseudorabies Control and Eradication Act, second or subsequent offense
54-22,100	Violation of Pseudorabies Control and Eradication Act, second or subsequent offense
54-2323	Violation of Domesticated Cervine Animal Act, second or subsequent offense
54-2761	Violation of Scrapie Control and Eradication Act, second or subsequent offense
55-142	Trespassing on place of military duty, obstructing person in military duty, disrupting orderly discharge of military duty, disturbing or preventing passage of military troops
55-175	Refusal by restaurant, hotel, or public facility to serve person wearing prescribed National Guard uniform
55-428	Code of military justice, witness failure to appear
57-915	Violation of oil and gas conservation laws
*60-3,167	Operating or allowing the operation of motor vehicle or trailer without proof of financial responsibility
*60-4,108	Operating motor vehicle in violation of court order or while operator's license is revoked or impounded, first, second, or third offense
*60-4,109	Operating motor vehicle in violation of court order or while operator's license is revoked or impounded for violation of city or village ordinance
*60-4,141.01	Operating commercial motor vehicle while operator's license is suspended, revoked, or canceled or while subject to disqualification or an out-of-service order
60-690	Aiding or abetting a violation of the Nebraska Rules of the Road
60-696	Failure of driver to stop and report a motor vehicle accident, first offense in 12 years
*60-6,130	Unlawful removal or possession of sign or traffic control or surveillance device
*60-6,130	Willfully or maliciously injuring, defacing, altering, or knocking down any sign, traffic control device, or traffic surveillance device
60-6,195	Speed competition or drag racing on highways
*60-6,217	Reckless driving or willful reckless driving, second offense
60-6,336	Snowmobile contest on highway without permission, second or subsequent offense within one year
60-6,343	Violation of provisions relating to snowmobiles, second or subsequent offense within one year
60-6,362	Violation of all-terrain vehicle requirements, second or subsequent offense within one year
60-1911	Violating laws relating to abandoned vehicles
69-408	Violation of secondary metals recycling requirements



## APPENDIX

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 the Sex Offender Commitment Act
71-962	Willful violation involving records under Nebraska Mental Health Commitment Act or the Sex Offender Commitment Act
71-15,141	Approve, sign, or file a local housing agency annual report which is materially false or misleading
71-1805	Sale and distribution of pathogenic microorganisms
71-2416	Violation of Emergency Box Drug Act
71-2512	Violation of provisions on poisons and adulterated or misbranded drugs when not otherwise specified, second offense
71-3213	Violation of laws pertaining to private detectives
72-245	Waste, trespass, or destruction of trees on school lands
*72-313	Violation of mineral or water rights on state lands
72-802	Violation of plans, specifications, bids, or appropriations on public buildings
75-127	Unjust discrimination or prohibited practices in rates by officers, agents, or employees of a common carrier
75-428	Failure of railroad to provide transfer facilities at intersections upon order of the Public Service Commission
75-723	Violation of laws on transmission lines
76-1722	Acting as a sales agent for real property in a time-share interval arrangement without a license
76-2114	Acting as membership camping contract salesperson without registration
76-2325.01	Interference with utility poles and wires or transmission of light, heat, power, or telecommunications, loss of at least \$200 but less than \$500 (certain situations)
77-1232	Failure to list or filing false list of personal property for tax purposes for 1993 and thereafter
77-2311	Failure or refusal to perform duties regarding deposit of state funds by State Treasurer
77-2790	Claiming excessive exemptions or overstating withholding to evade income taxes
77-27,115	Taxpayer, failure to pay, account, or keep records on income tax
77-3009	Violation of Mechanical Amusement Device Tax Act
77-3522	False or fraudulent claim for homestead exemption
79-949	False or fraudulent acts to defraud the school retirement system

APPENDIX

79-9,107	Illegal interest in investment of school employees retirement system funds
80-405	Obtaining veterans relief by fraud
81-2,162.17	Violation of Nebraska Commercial Fertilizer and Soil Conditioner Act
81-885.45	Acting as real estate broker, salesperson, or subdivider without license or certificate or under suspended license or certificate
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
84-1327	False or fraudulent acts to defraud the State Employees Retirement System
85-1650	Violating private postsecondary career school provisions
86-607	Discrimination in rates by telegraph companies
86-608	Failure by telegraph companies to provide newspapers equal facilities
87-303.08	Violation of Uniform Deceptive Trade Practices Act when not otherwise specified

**CLASS III MISDEMEANOR   Maximum—three months imprisonment, or  
five hundred dollars fine, or both  
Minimum—none**

2-1825	Violation of Nebraska Potato Inspection Act
2-2319	Violation of Nebraska Wheat Resources Act
2-2647	Violation of Pesticide Act, first offense
2-3008	Violation of Nebraska Poultry Disease Control Act
2-3416	Violation of Nebraska Poultry and Egg Resources Act
2-3635	Violation of Nebraska Corn Resources Act
2-3765	Violation of Dry Bean Resources Act
2-3963	Violation of Dairy Industry Development Act
2-4020	Violation of Grain Sorghum Resources Act
2-5605	Violations relating to excise taxes on grapes
3-408	Violation of provisions regulating aircraft obstructions or structures
3-504	Violation of city airport authority regulations
3-613	Violation of county airport authority regulations
4-106	Alien elected to office in labor or educational organization
7-101	Unauthorized practice of law
8-127	Violation of inspection provisions for list of bank stockholders
8-142	Bank officer, employee, director, or agent violating loan limits by \$10,000 or more but less than \$20,000 or resulting in monetary loss of less than \$10,000 to bank or no monetary loss
8-1,119	Violation of the Nebraska Banking Act when not otherwise specified
8-2745	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

APPENDIX

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 city or village officer or such officer accepting special rates
18-306	Electric company providing special rates to city or village officer
18-307	City or village officer accepting electric service at special rates
18-308	Water company providing special rates to city or village officer or such officer accepting special rates
18-1741.05	Failure to appear or comply with handicapped parking citation
18-2715	Unauthorized disclosure of confidential business information under city ordinance pursuant to Local Option Municipal Economic Development Act
19-2906	Disclosures by accountant of results of examination of municipal accounts
20-129	Interfering with rights of blind, deaf, or physically disabled persons and with admittance to or enjoyment of public facilities
20-129	Interfering with rights of a service animal trainer and with admittance to or enjoyment of public facilities
21-622	Illegal use of society emblems
23-114.05	Violation of county zoning regulations
23-135.01	False claim against county when value is less than \$100
*23-350	Failing to file or filing false or incorrect inventory statement by county officers or members of county board
28-201	Criminal attempt to commit a Class II misdemeanor
28-384	Failure to make report under Adult Protective Services Act
28-385	Wrongful release of information gathered under Adult Protective Services Act
28-403	Administering secret medicine
*28-416	Knowingly or intentionally possessing more than 1 ounce but not more than 1 pound of marijuana
28-417	Unlawful acts relating to packaging, possessing, or using narcotic drugs and other controlled substances
28-424	Inhaling or drinking certain intoxicating compounds
28-424	Selling or offering for sale certain intoxicating compounds
28-424	Selling or offering for sale certain intoxicating compounds without maintaining register for one year
28-424	Inducing or enticing another to sell, inhale, or drink certain intoxicating compounds or to fail to maintain register for one year
28-425	Use of arsenic or strychnine in embalming fluids, violations of labeling requirements
28-444	Drug paraphernalia advertisement prohibited
28-445	Manufacture or delivery of an imitation controlled substance, first offense
28-450	Unlawful sale, distribution, or transfer of ephedrine, pseudoephedrine, or phenylpropanolamine for use as a precursor to a controlled substance or with reckless disregard as to its use

APPENDIX

28-456.01	Purchase, receive, or otherwise acquire pseudoephedrine base or phenylpropanolamine base over authorized limits, second or subsequent offense
28-514	Theft of lost, mislaid, or misdelivered property when value is \$200 or less, first offense
28-515.02	Theft of utility service and interference with utility meter
28-516	Unauthorized use of a propelled vehicle, first offense
28-519	Criminal mischief, pecuniary loss of less than \$200
28-521	Criminal trespass in the second degree (certain situations)
28-523	Littering, first offense
*28-524	Unauthorized application of graffiti, first offense
28-606	Criminal simulation of antiquity, rarity, source, or composition
28-609	Impersonating a public servant
28-621	Criminal possession of one financial transaction device
28-633	Printing more than the last 5 digits of a payment card account number upon a receipt provided to payment card holder, first offense
28-717	Willful failure to report abused or neglected children
28-730	Unlawful disclosures by a child abuse and neglect team member
28-902	Failure to report injury of violence
28-914	Loitering about a penal institution
28-923	Simulating legal process
28-925	Misuse of official information
*28-927	Neglecting to serve warrant if offense for warrant is a misdemeanor
28-928	Mutilation of a flag of the United States or the State of Nebraska
28-1009.01	Violence on or interference with a service animal
*28-1010	Indecency with an animal
28-1209	Failure to register tranquilizer guns
28-1210	Failure to notify sheriff of sale of tranquilizer gun
28-1225	Storing explosives in violation of safety regulations
28-1226	Failure to report theft of explosives
28-1227	Violations of provisions relating to explosives
28-1240	Unlawful use of tank or container which contained anhydrous ammonia
28-1242	Unlawful throwing of fireworks
*28-1250	Violation of laws relating to fireworks
28-1251	Unlawful testing or inspection of fire alarms
*28-1303	Raising or producing stagnant water on river or stream
28-1309	Refusing to yield a telephone party line
28-1310	Intimidation by telephone call
28-1313	Unlawful use of a white cane or guide dog
28-1314	Failure to observe a blind person
28-1316	Unlawful use of locks and keys
28-1317	Unlawful picketing
28-1318	Mass picketing
28-1319	Interfering with picketing
28-1320	Intimidation of pickets
28-1320.03	Unlawful picketing of a funeral
*28-1321	Maintenance of nuisances
28-1322	Disturbing the peace
28-1331	Unauthorized use of receptacles
28-1332	Unauthorized possession of a receptacle

## APPENDIX

*28-1335	Discharging firearm or weapon using compressed gas from public highway, road, or bridge
28-1419	Selling or furnishing tobacco to minors
28-1420	Sale or purchase for resale of tobacco without license
*28-1425	Licensee selling or furnishing tobacco to minors
*28-1429.02	Dispensing cigarettes or other tobacco products from vending machines or similar devices in certain locations
28-1438	Unlawful possession of legend drug substances
*28-1467	Operation of aircraft while under the influence of alcohol or drugs, first offense
*28-1468	Operation of aircraft while under the influence of alcohol or drugs, second offense
28-1478	Deceptive or misleading advertising
28-1479	Sale of certain beverage cans with removable tabs
*29-817	Disclosing of search warrant prior to its execution
29-835	Refusing to permit, interfering with, or preventing inspection pursuant to inspection warrant
29-4110	Unlawful possession of DNA samples or records
29-4111	Unlawful disclosure of DNA samples or records
32-1501	Interfering or refusing to comply with election requirements of Secretary of State
32-1505	Deputy registrar drinking liquor at or bringing liquor to place of voter registration
*32-1506	Theft, destruction, removal, or falsification of voter registration and election records
32-1510	Hindering voter registration
32-1511	Obstructing deputy registrars at voter registration
32-1513	Bribery involving candidate filing forms and nominating petitions
32-1515	Wrongfully or willfully suppressing election nomination papers
*32-1517	Service as election official, threat of discharge or coercion by employer
32-1519	Misconduct or neglect of duty by election official
32-1521	Printing or distribution of election ballots by other than election officials
32-1528	Voting outside of resident precinct, school district, or village
32-1549	Failing to appear or comply with citation issued under Election Act
35-520	False alarm or report of fire in rural fire protection district or area
35-801	Knowingly accepting, transferring, selling, or offering to sell or purchase firefighting clothing or equipment which does not meet standards
*37-248	Violation of Game Law when not otherwise specified
*37-314	Violation of rules, regulations, and commission orders under the Game Law regarding seasons and other restrictions on taking wildlife
37-336	Violation of provisions for state wildlife management areas
37-348	Violation of provisions for state park system
*37-406	Duplication of electronically issued license, permit, or stamp under the Game Law
*37-410	Obtaining permit to hunt, fish, or harvest fur by false pretenses or misuse of permit
*37-410	Receipt of fur-harvesting permit by nonresident less than 16 years old without written parental permission

## APPENDIX

- \*37-450 Violation of rules and regulations under the Game Law regarding hunting elk
- \*37-451 Violation of rules and regulations under the Game Law regarding hunting mountain sheep
- \*37-461 Violating permit to take or destroy muskrats or beavers or selling or using muskrats, beavers, or parts thereof without permit
- 37-462 Performing taxidermy services without permit and failure to keep complete records
- \*37-501 Taking or possessing a greater number of game than allowed under the Game Law
- \*37-504 Hunting, trapping, or possessing animals or birds out of season
- \*37-504 Unlawfully taking or possessing game
- \*37-505 Unlawful purchase, sale, or barter of animals, birds, or fish or parts thereof
- 37-507 Abandonment, waste, or failure to dispose of fish, birds, or animals
- 37-508 Storing game or fish in cold storage after prescribed storage season or without proper tags
- 37-510 Violating game shipment requirements
- \*37-511 Violating importation restrictions on game shipments
- 37-512 Violating regulations relating to the shipment of raw fur
- \*37-513 Shooting at wildlife from highway
- \*37-514 Hunting wildlife with artificial light
- \*37-515 Hunting, driving, or stirring up game birds or animals with aircraft or boat
- 37-521 Use of aircraft, vessel, vehicle, or other equipment to harass certain game animals
- \*37-522 Carrying loaded shotgun in or on vehicle on highway
- \*37-523 Unlawful hunting with a rifle within 200 yards of inhabited dwelling or livestock feedlot
- \*37-523 Unlawful hunting without a rifle or trapping within 100 yards of inhabited dwelling or livestock feedlot
- \*37-523 Unlawful trapping within 200 yards of livestock passage
- \*37-524.02 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

## APPENDIX

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 the Game Law
*37-615	Taking wildlife or applying for permit with a suspended or revoked permit
37-703	Defacing a sign at a game reserve, bird refuge, or wild fowl sanctuary
37-705	Disturbing or otherwise violating provisions relating to reserves, sanctuaries, and closed waters
37-709	Hunting, carrying firearms, or operating a motorboat in state game refuges
*37-727	Violation of provisions for hunting, fishing, or trapping on privately owned land
37-1254.09	Refusing to submit to a preliminary breath test for operating a motorboat or personal watercraft while under the influence of alcohol or drugs
37-1289	Operation or sale of motorboat without certificate of title, failure to surrender certificate upon cancellation, deface a certificate of title
38-1,118	Violation of Uniform Credentialing Act when not otherwise specified, first offense
38-1,133	Failure of insurer to report violations of Uniform Credentialing Act, first offense
38-10,165	Performing body art on minor without written consent of parent or guardian and keeping record 5 years
38-2867	Unlicensed person practicing pharmacy
39-103	Operation of motor vehicle in violation of published rules and regulations of the Department of Roads
39-310	Depositing materials on roads or ditches, first offense
39-311	Placing burning materials or items likely to cause injury on highways, first offense
39-806	Destroying bridge or landmark
39-1335	Illegal use of adjoining property for access to state highway
39-1362	Digging up or crossing state highway
39-1412	Loads exceeding posted capacity on county bridges
39-1806	Refusal of access to lands for placement of snow fences, willful or malicious damage thereto
39-1810	Livestock lanes, driving livestock on adjacent highways
39-1815	Leaving gates open on road over private property
43-257	Detaining or placing a juvenile in violation of certain Nebraska Juvenile Code provisions
43-709	Illegal placement of children
43-1310	Unauthorized disclosure of confidential information regarding foster children and their parents or relatives
43-1414	Violation of genetic paternity testing provisions, second or subsequent offense
43-3001	Public disclosure of confidential information received concerning a child who is or may be in state custody

APPENDIX

43-3327	Unauthorized disclosure or release of confidential information regarding a child support order
43-3714	Violation of confidentiality provisions of Court Appointed Special Advocate Act
44-394	Violation of Chapter 44 when not otherwise specified
44-530	Violation of Standardized Health Claim Form Act
*44-1113	Violation of Viatical Settlements Act
44-3721	Violation of Motor Club Services Act
44-5508	Surplus lines licensee placing coverage with a nonadmitted insurer or placing nonadmitted insurance with or procuring nonadmitted insurance from a nonadmitted insurer
45-601	Operating a collection agency business without a license or violation of Collection Agency Act
45-740	Residential mortgage loan violations by licensee
45-1023	Making a false statement to secure a loan
46-263	Neglecting or preventing delivery of irrigation water
46-1142	Failure to provide notice of a chemigation accident
46-1240	Engaging in business or employing another without complying with standards under Water Well Standards and Contractors' Practice Act
48-213	Employment regulations, violation of lunch hour requirements
48-216	Discrimination in employment by manufacturer or distributor of military supplies
*48-511	Employment agencies splitting fees with employers
*48-513	Violation of private employment agency provisions when not otherwise specified
48-612	Commissioner of Labor employees violating provisions relating to administration of Employment Security Law
48-612.01	Unauthorized disclosure of information received for administration of Employment Security Law
48-614	Contumacy or disobedience to subpoenas in unemployment compensation proceedings
48-663	False statements or failure to disclose information by employees to obtain unemployment compensation benefits
48-664	False statements by employers to obtain unemployment compensation benefits
48-666	Violation of Employment Security Law when not otherwise specified
48-736	Violation of Boiler Inspection Act
*48-1005	Age discrimination in employment or interfering with enforcement of statutes relating to age discrimination in employment
48-1118	Unlawful disclosure of information under Nebraska Fair Employment Practice Act
48-1123	Interference with Equal Opportunity Commission in performance of duty under Nebraska Fair Employment Practice Act
48-1227	Discrimination on the basis of sex
49-231	Failure of state, county, or political subdivision officer to furnish information required by constitutional convention
49-1447	Campaign practices, violation by committee treasurer or candidate in statements or reports
49-1461.01	Ballot question committee violating surety bond requirements
49-1469.08	Violation of campaign practices by businesses and organizations in contributions, expenditures, and volunteer services



## APPENDIX

49-1471	Campaign contribution or expenditure in excess of \$50 made in cash
49-1472	Campaign practices, acceptance of anonymous contribution
49-1473	Campaign practices, legal name of contributor required
49-1474	Campaign practices, political newsletter or mass mailing sent at public expense
49-1475	Campaign practices, failing to disclose name and address of contributor
49-1476.02	Accepting or receiving a campaign contribution from a state lottery contractor
49-1477	Campaign practices, required information on contributions from persons other than committees
49-1478	Campaign practices, violation of required reports on expenditures
49-1479	Campaign practices, unlawful contributions or expenditures made for transfer to candidate committee
49-1479.01	Violations related to earmarked campaign contributions
49-1490	Prohibited acts relating to gifts by principals or lobbyists
49-1492	Prohibited practices of a lobbyist
49-1492.01	Violation of gift reporting requirements by certain entities
49-14,101	Conflicts of interest, prohibited acts of public official, employee, candidate, and other individuals
49-14,101.01	Public official or employee using office, confidential information, personnel, property, or funds for financial gain or improperly using public communication system or public official or immediate family member accepting gift of travel or lodging if made for immediate family member to accompany the public official
49-14,103.04	Knowing violation of conflict of interest prohibitions
49-14,104	Official or full-time employee of executive branch representing a person or acting as an expert witness
49-14,115	Unlawful disclosure of confidential information by member or employee of Nebraska Accountability and Disclosure Commission
49-14,135	Violation of confidentiality of proceedings of Nebraska Accountability and Disclosure Commission
50-1213	Divulging confidential information or records relating to a legislative performance audit or preaudit inquiry
53-167.02	Violations relating to beer keg identification numbers
53-167.03	Tamper with, alter, or remove beer keg identification number or possess beer container with altered or removed keg identification number
53-180.05	Misrepresentation of age by minor to obtain or attempt to obtain alcoholic liquor
53-180.05	Minor over 18 years old and under 21 years old in possession of alcoholic liquor
53-180.05	Parent or guardian knowingly permitting minor to violate alcoholic liquor laws
*53-181	Minor 18 years old or younger in possession of alcoholic liquor
53-186.01	Consumption of liquor in unlicensed public places
54-796	Violation of Animal Importation Act, first offense
*54-904	Indecency with a livestock animal
54-1408	Violations when sheep are infected with scabies
54-1711	Livestock dealer violating provisions of Nebraska Livestock Dealer Licensing Act
*54-1913	Meat and poultry inspector, officer, or employee accepting bribes

## APPENDIX

54-2288	Violation of quarantine requirements under Pseudorabies Control and Eradication Act, first offense
57-507	Unlawful use of liquefied petroleum gas cylinders
57-1106	Willfully and maliciously breaking, injuring, damaging, or interfering with oil or gas pipeline, plant, or equipment
60-142	Using a bill of sale for a parts vehicle to transfer ownership of any vehicle other than a parts vehicle
60-180	Prohibited acts relating to certificates of title for motor vehicles, all-terrain vehicles, or minibikes
60-3,113.07	Knowingly provide false information on an application for a handicapped or disabled parking permit
60-3,170	Violation of Motor Vehicle Registration Act when not otherwise specified
60-3,171	Fraud in registration of motor vehicle or trailer
60-3,176	Disclosure of information regarding undercover license plates to unauthorized individual
60-3,206	Violation of International Registration Plan Act
60-480.01	Disclosure of information regarding undercover drivers' licenses to unauthorized individual
*60-4,108	Operating motor vehicle while operator's license is suspended or after revocation or impoundment but before licensure
*60-4,109	Operating motor vehicle while operator's license is suspended or after revocation or impoundment but before licensure for violation of city or village ordinance
60-4,111	Violation of Motor Vehicle Operator's License Act when not otherwise specified
60-4,118	Failure to surrender operator's license or appear before examiner regarding determination of physical or mental competence
60-4,140	Commercial driver, multiple operators' licenses
60-4,141	Operation of commercial motor vehicle outside operator's license classification
*60-4,146.01	Violation of privileges conferred by commercial drivers' licenses
60-4,159	Commercial driver, failure to provide notifications relating to conviction or disqualification
60-4,161	Commercial driver, failure to provide information to prospective employer
60-4,162	Employer failing to require information or allowing commercial driver to violate highway-rail grade crossing or licensing provisions
60-4,170	Failure to surrender commercial driver's license
60-4,179	Violation of driver training instructor or school provisions
60-4,184	Failure to surrender operator's license for loss of license under point system
*60-4,186	Illegal operation of motor vehicle under period of license revocation for loss of license under point system
60-558	Failure to return motor vehicle license or registration to Department of Motor Vehicles for violation of financial responsibility provisions
60-560	Violation of Motor Vehicle Safety Responsibility Act when not otherwise specified
60-678	Operation of vehicles in certain public places where prohibited, where not permitted, without permission, or in a dangerous manner
60-690	Aiding or abetting a violation of the Nebraska Rules of the Road

## APPENDIX

60-6,110	Failing to obey lawful order of law enforcement officer given under Nebraska Rules of the Road to apprehend violator
60-6,130	Willful damage or destruction of road signs, monuments, traffic control or surveillance devices by shooting upon highway
60-6,211.11	Operating a motor vehicle with an ignition interlock device in violation of court order or Department of Motor Vehicles order
60-6,215	Reckless driving, first offense
*60-6,216	Willful reckless driving, first offense
*60-6,222	Violations in connection with headlights and taillights
60-6,228	Vehicle proceeding forward on highway with backup lights on
*60-6,234	Violations involving rotating or flashing lights on motor vehicles
*60-6,235	Violation of vehicle clearance light requirements
*60-6,245	Violation of motor vehicle brake requirements
60-6,259	Application of an illegal sunscreening or glazing material on a motor vehicle
60-6,263	Operating or owning vehicle in violation of safety glass requirements
60-6,291	Exceeding limitations on width, length, height, or weight of motor vehicles when not otherwise specified
60-6,299	Violation of or failure to obtain permit to move building or other object on highway
60-6,303	Refusal to weigh vehicle or lighten load
60-6,336	Snowmobile contest on highway without permission, first offense within one year
60-6,343	Violation of provisions relating to snowmobiles, first offense within one year
60-6,352	Illegal operation of minibikes on state highway
60-6,353	Operating a minibike in a place, at a time, or in a manner not permitted by regulatory authority
60-6,362	Violation of all-terrain vehicle requirements, first offense within one year
60-1307	Failing to appear at hearing for violations discovered at weigh stations
60-1308	Failure to comply with weigh station requirements
60-1309	Resisting arrest or disobeying order of carrier enforcement officer at weigh station
60-1418	Violating conditions of a motor vehicle sale
62-304	Limitation upon negotiation of tuition notes or contracts of business colleges
64-105.03	Unauthorized practice of law by notary public
66-107	Illegal use of containers for gasoline or kerosene
66-1345.03	Failure to administer and keep records of excise tax on corn and grain sorghum under Ethanol Development Act
68-314	Unlawful use and disclosure of books and records of Department of Health and Human Services
68-1017	Obtaining through fraud assistance to aged, blind, or disabled persons, aid to dependent children, or supplemental nutrition assistance program benefits when value is less than \$500
68-1017.01	Unlawful use, alteration, or transfer of supplemental nutrition assistance program benefits when value is less than \$500
68-1017.01	Unlawful possession or redemption of supplemental nutrition assistance program benefits when value is less than \$500
69-2012	Violation of Degradable Products Act

## APPENDIX

*69-2443	Carrying concealed handgun at prohibited site or while under the influence, first offense
*69-2443	Failure to report discharge of concealed handgun, first offense
*69-2443	Failure to carry or display concealed handgun permit, first offense
*69-2443	Failure to inform peace officer of concealed handgun, first offense
69-2709	Selling, possessing, or distributing cigarettes in violation of stamping requirements
71-220	Violation of barbering provisions
71-506	Willful or malicious disclosure of confidential reports, notifications, and investigations relating to communicable diseases
71-542	Unauthorized disclosure of confidential immunization information
71-613	Violation of provisions on vital statistics
71-1371	Violation of the Cremation of Human Remains Act
71-1631.01	Violating regulation for protecting public health and preventing communicable diseases
71-1905	Violations regarding children in foster care
71-2228	Illegal receipt of food supplement benefits when value is less than \$500
71-2229	Using, altering, or transferring food instruments or food supplements when value is less than \$500
71-2229	Illegal possession or redemption of food supplement benefits when value is less than \$500
71-2512	Violation involving poisons and adulterated or misbranded drugs when not otherwise specified, first offense
71-4632	Mobile home parks established, conducted, operated, or maintained without license, nuisance
71-6741	Violation of the Medication Aide Act
71-6907	Performing an abortion in violation of parental consent provisions, knowingly and intentionally or with reckless disregard
71-6907	Unauthorized person providing consent for an abortion
71-6907	Coercing a pregnant woman to have an abortion
74-609.01	Hunting on railroad right-of-way without permission
74-1331	Failure to construct, maintain, and repair railroad bridges in compliance with law
75-114	Refusal to allow access to the Public Service Commission to records of a motor or common carrier
75-367	Violation of motor carrier safety regulations or hazardous materials regulations
76-505	Judges and other county officers engaging in business of abstracting
76-558	Unlawful practice in business of abstracting
76-2246	Unlawful practice as a real property appraiser
76-2325.01	Interference with utility poles and wires or transmission of light, heat, power, or telecommunications, loss of less than \$200 (certain situations)
77-1719.02	Violations by county board members regarding collection of personal taxes and false returns
77-2619	Fail, neglect, or refuse to report or make false statement regarding cigarette taxation
77-3407	Unlawful signature on budget limitation petition
79-210	Violation of compulsory school attendance provisions
79-603	School vehicles, violation of safety requirements and operating school vehicles which violate safety requirements when not otherwise specified

APPENDIX

79-727	Violation of character education requirements
79-897	Illegal inquiries concerning religious affiliation of teacher applicants
79-8,101	Illegal solicitation of business from classroom teachers
79-1607	Violation of laws on private, denominational, and parochial schools
81-2,157	Unlawful sale or marking of hybrid seed corn
81-2,179	Violation of Nebraska Apiary Act
81-513	Violation of order of State Fire Marshal directing the closing of a building pending repair
81-829.41	Unauthorized release of information from emergency management registry
81-8,127	Unlawful practice of land surveying or use of title
81-8,142	Violation of provisions relating to the State Athletic Commissioner
81-8,205	Unlawful practice as a professional landscape architect
81-1508.01	Knowing and willful violation of Environmental Protection Act, Integrated Solid Waste Management Act, or Livestock Waste Management Act when not otherwise specified
81-2008	Failure to obey rules or orders of or resisting arrest by Nebraska State Patrol
82-111	Destroy, deface, remove, or injure monuments marking Oregon Trail
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
84-712.09	Violation of provisions for access to public records
84-1213	Mutilation, transfer, removal, damage, or destruction of or refusal to return government records
84-1414	Unlawful action by members of public bodies in public meetings, second or subsequent offense
86-290	Intercepting or interfering with certain wire, electronic, or oral communication
86-606	Unlawful delay or disclosure of telegraph dispatches
89-1,101	Violation of Weights and Measures Act or order of Department of Agriculture, first offense
90-104	Use of state banner as advertisement or trademark

**CLASS IIIA MISDEMEANOR      Maximum—seven days imprisonment,  
five hundred dollars fine, or both  
Minimum—none**

*28-416	Knowingly or intentionally possessing one ounce or less of marijuana or any substance containing a quantifiable amount of a material, compound, mixture, or preparation containing any quantity of synthetically produced cannabinoids, third or subsequent offense
*54-623	Owning a dangerous dog within 10 years after conviction of violating dangerous dog laws
*54-623	Dangerous dog attacking or biting a person when owner of dog has a prior conviction for violating dangerous dog laws
60-690	Aiding or abetting a violation of the Nebraska Rules of the Road

APPENDIX

60-6,196.01	Driving under the influence with a prior felony DUI conviction
60-6,275	Operating or possessing radar transmission device while operating motor vehicle
60-6,378	Failure to move over, proceed with due care and caution, or follow officer's directions when passing a stopped emergency or road assistance vehicle, second or subsequent offense
77-2704.33	Failure of a contractor or taxpayer to pay certain sales taxes of less than \$300
79-1602	Transmitting or providing for transmission of false school information when electing not to meet school accreditation or approval requirements
89-1,107	Use of a grain moisture measuring device which has not been tested
89-1,108	Violation of laws on grain moisture measuring devices

**CLASS IV MISDEMEANOR      Maximum—no imprisonment,  
five hundred dollars fine  
Minimum—one hundred dollars fine**

2-220.03	Failure to file specified security or certificates by carnival companies, booking agencies, or shows for state and county fairs
2-957	Unlawful movement of article through which noxious weeds may be disseminated
2-963	Violation of provisions relating to weed control
2-10,115	Specified violations of Plant Protection and Plant Pest Act, first offense
2-1207	Knowingly aiding or abetting a minor to make a parimutuel wager
2-1806	Engaging in business as a potato shipper without a license
2-1807	Failure by potato shipper to file statement or pay tax
2-3109	Violation of Nebraska Soil and Plant Analysis Laboratory Act when not otherwise specified
2-3223.01	Failure to file audit of natural resources district
2-3524	Violation of Nebraska Graded Egg Act
2-4327	Violation of Agricultural Liming Materials Act, second or subsequent offense
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 the Burial Pre-Need Sale Act
19-1847	Violation of Civil Service Act
20-149	Failure of consumer reporting agency to provide reports to consumers
23-387	Violation of provisions relating to community antenna television service
*23-919	Violation of County Budget Act of 1937
23-1507	Failure of register of deeds to perform duties
23-1821	Failure to notify coroner of a death during apprehension or while in custody
25-1563	Attachment or garnishment procedure used to avoid exemption laws
25-1640	Penalizing employee due to jury service
28-410	Failure to comply with inventory requirements by manufacturer, distributor, or dispenser of controlled substances

APPENDIX

*28-416	Knowingly or intentionally possessing one ounce or less of marijuana or any substance containing a quantifiable amount of a material, compound, mixture, or preparation containing any quantity of synthetically produced cannabinoids, second offense
28-456.01	Purchase, receive, or otherwise acquire pseudoephedrine base or phenylpropanolamine base over authorized limits, first offense
28-462	Knowingly fail to submit methamphetamine precursor information to the National Precursor Log Exchange administered by the National Association of Drug Diversion Investigators or knowingly submit incorrect information to the exchange
28-1009	Harassment of police animal not resulting in death of animal
28-1019	Violation of court order related to misdemeanor animal abuse conviction
28-1104	Promoting gambling in the third degree
28-1253	Distribution, sale, or use of refrigerants containing liquefied petroleum gas
28-1304	Putting carcass or filthy substance in well or running water
28-1405	Failure to acquire locksmith registration certificate
29-3527	Unlawful access to or dissemination of criminal history record information
32-1507	Elections, false representation of political party affiliation
32-1517	Refusing to serve as election official
32-1520	Printing or distribution of illegal ballots
32-1547	Elections, filing for more than one elective office
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
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

APPENDIX

46-613.02	Violations of registration and spacing requirements for water wells; illegal transfer of ground water
46-687	Withdrawing or transferring ground water in violation of Industrial Ground Water Regulatory Act
46-1127	Placing chemical in irrigation distribution system without complying with law
46-1143	Violation of Nebraska Chemigation Act when not otherwise specified
46-1666	Willfully obstruct, hinder, or prevent Department of Natural Resources from performing duties under Safety of Dams and Reservoirs Act
48-219	Contracting to deny employment due to relationship with labor organization
48-230	Violation of provisions allowing preference to veterans seeking employment
48-433	Failure of architect to comply with law in preparing building plans
48-1206	Minimum wage rate violations
48-1505	Violations relating to sheltered workshops
48-2211	Violating recruiting restrictions related to non-English-speaking persons
49-1445	Violation of requirement to form candidate committee upon raising, receiving, or expending five thousand dollars or more in a calendar year
49-1446	Violations relating to campaign committee funds
49-1467	Failure to report campaign expenditure of \$250 or more
49-1474.01	Violation of distribution requirements for political material
53-149	Providing false information regarding alcohol retailer's accounts with alcoholic liquor wholesale licensee in connection with sale of retailer's business
53-186.01	Permitting consumption of liquor in unlicensed public places, first offense
53-187	Nonbeverage liquor licensee giving or selling liquor fit for beverage purposes, first offense
53-194.03	Importation of alcohol for personal use in certain quantities
53-1,100	Violation of Nebraska Liquor Control Act, first offense
54-315	Leaving well or pitfall uncovered, failure to decommission inactive well
54-613	Allowing dogs to run at large, damage property, injure persons, or kill animals
54-622	Violation of restrictions on dangerous dogs
*54-726.04	Importing diseased swine without permit
54-753.04	Unlawful feeding of garbage to animals
54-861	Violation of Commercial Feed Act, first offense
54-861	Improper use of trade secrets in violation of Commercial Feed Act
54-909	Violating court order not to own or possess a livestock animal after the date of conviction for indecency with a livestock animal, first offense
	cruel mistreatment of an animal, or intentionally, knowingly, or recklessly abandoning or cruelly neglecting livestock animal not resulting in serious injury or illness or death of the livestock animal
54-1371	Failure by owner to carry out brucellosis testing responsibilities
54-1377	Diversion of livestock from particular destination without permission or removing or altering livestock identification for such purposes



## APPENDIX

54-1384	Violation of Nebraska Bovine Brucellosis Act when not otherwise specified
54-1411	Violation of provisions relating to animals with scabies when not otherwise specified
54-1605	Violation of accreditation provisions for specific pathogen-free swine
54-22,100	Violation of Pseudorabies Control and Eradication Act, first offense
54-2323	Violation of Domesticated Cervine Animal Act, first offense
*54-2612	Unlawful sale of swine by packer
54-2615	False reporting of swine by packer
*54-2622	Unlawful sale of cattle by packer
54-2625	False reporting of cattle by packer
54-2761	Violation of Scrapie Control and Eradication Act, first offense
*55-165	Discriminating against an employee who is a member of the reserve military forces
*55-166	Discharging employee who is a member of the National Guard or armed forces of the United States for military service
57-516	Violation of provisions relating to sale of liquefied petroleum gas
57-719	Violating or aiding and abetting violations of oil and gas severance tax laws
57-1213	Failure or refusal to make uranium severance tax return or report
60-3,168	Failure to have and keep liability insurance or other proof of financial responsibility on motor vehicle
*60-3,169	Unauthorized use of vehicle registered as farm truck
60-3,172	Registration of motor vehicle or trailer in location other than that authorized by law
60-3,173	Improper increase of gross weight or failure to pay registration fee on commercial trucks and truck-tractors
*60-3,174	Improper use of a vehicle with a special equipment license plate
60-4,129	Violation involving use of an employment driving permit
60-4,130	Failure to surrender an employment driving permit
60-4,130.01	Violation involving use of a medical hardship driving permit
60-690	Aiding or abetting a violation of the Nebraska Rules of the Road
60-6,175	Improperly passing a school bus with warning signals flashing or stop signal arm extended
60-6,197.01	Failure to report unauthorized use of immobilized vehicle
60-6,292	Violation of requirements for extra-long vehicle combinations
60-6,302	Unlawful repositioning fifth-wheel connection device of truck-tractor and semitrailer combination
60-6,304	Operation of vehicle improperly constructed or loaded or with cargo or contents not properly secured
60-1407.02	Unauthorized use of sales tax permit relating to sale of vehicle or trailer
*63-103	Printing copies of a publication in excess of the authorized quantity
66-495.01	Unlawfully using or selling diesel fuel or refusing an inspection
66-6,115	Fueling a motor vehicle with untaxed compressed fuel
66-727	Failure to obtain license as required under motor fuel tax laws
66-727	Failure to produce motor fuel license or permit for inspection
66-1521	Sell, distribute, deliver, or use petroleum as a producer, refiner, importer, distributor, wholesaler, or supplier without a license
69-1808	Violation of American Indian Arts and Crafts Sales Act

APPENDIX

*69-2709	Knowing or intentional cigarette sales report, tax, or stamp violations or sales of unstamped cigarettes or cigarettes from manufacturer not in directory, first offense
*69-2709	Knowing or intentional cigarette sales or purchases from unlicensed stamping agent or without appropriate stamp or reporting requirements, first offense
71-1563	Modular housing unit sold or leased without official seal
71-1613	Violation of provisions relating to district health boards
71-1914.03	Providing unlicensed child care when a license is required
71-2096	Interfere with enforcement of provisions relating to health care facility receivership proceedings
71-3517	Violation of Radiation Control Act
71-4632	Mobile home parks established, conducted, operated, or maintained without license
71-5312	Violation of Nebraska Safe Drinking Water Act
71-5407	Violation of Nebraska Drug Product Selection Act or rules and regulations under the act
*71-5733	Smoking in place of employment or public place, second or subsequent offense
71-5733	Proprietor violating Nebraska Clean Indoor Air Act, second or subsequent offense
*71-5870	Engaging in activity prohibited by the Nebraska Health Care Certificate of Need Act
71-8711	Disclose actions, decisions, proceedings, discussions, or deliberations of patient safety organization meeting
73-105	Violation of laws on public lettings
*74-1323	Failure to comply with order by Public Service Commission to store or park railroad cars safe distance from crossing
75-117	Refusal to comply with an order of the Public Service Commission by a motor or common carrier
75-155	Knowing and willful violation of Chapter 75 or 86 when not otherwise specified
75-371	Operating motor vehicle in violation of insurance and bond requirements for motor carriers
75-398	Operation of vehicle in violation of provisions relating to the unified carrier registration plan and agreement
75-426	Failure to file report of railroad accident
77-1232	Failure to list or filing false list of personal property for tax purposes prior to 1993
77-1324	False statement of assessment of public improvements
77-2026	Receipt by inheritance tax appraiser of extra fee or reward
77-2350.02	Failure to perform duties relating to deposit of public funds by school district or township treasurer
77-2713	Violation of laws relating to sales and use taxes when not otherwise specified
77-3709	Violation of reporting and permit requirements for mobile homes
81-2,147.09	Violation of Nebraska Seed Law
81-2,154	Violation of state-certified seed laws
81-2,290	Violation of Nebraska Pure Food Act
81-520.02	Violation of open burning ban or range-management burning permit
81-5,131	Violation of provisions relating to arson information

APPENDIX

- 81-674 Wrongful disclosure of confidential data from medical record and health information registries or deceitful use of such information
- 81-1525 Failure or refusal to remove accumulation of junk
- 81-1559 Failure of manufacturer or wholesaler to obtain litter fee license
- 81-1560.01 Failure of retailer to obtain litter fee license
- 81-1577 Failure to register hazardous substances storage tanks
- 81-1626 Lighting and thermal efficiency violations
- 84-1414 Unlawful action by members of public bodies in public meetings, first offense
- 86-162 Failure to provide telephone services

**CLASS V MISDEMEANOR    Maximum—no imprisonment,  
one hundred dollars fine  
Minimum—none**

- 2-219 Conducting indecent shows or exhibits or gambling at state, district, or county fairs
- 2-220 State, district, and county fairs, refusal or failure to remove illegal devices
- 2-3292 Conducting recreational activities outside of designated areas in a natural resources district recreation area
- 2-3293 Smoking and use of fire or fireworks in a natural resources district recreation area
- 2-3294 Pets or other animals in a natural resources district recreation area
- 2-3295 Hunting, fishing, trapping, or using weapons in a natural resources district recreation area
- 2-3296 Conducting prohibited water-related activities in a natural resources district recreation area
- 2-3297 Destruction or removal of property, constructing a structure, or trespassing in a natural resources district recreation area
- 2-3298 Abandoning vehicle in a natural resources district recreation area
- 2-3299 Unauthorized sale or trading of goods in a natural resources district recreation area
- 2-32,100 Violation of traffic rules in a natural resources district recreation area
- 2-3974 Violation of Nebraska Milk Act or impeding or attempting to impede enforcement of the act
- 2-4327 Violation of Agricultural Liming Materials Act, first offense
- 7-111 Practice of law by certain judges, clerks, sheriffs, or other officials
- 8-113 Unauthorized use of the word "bank"
- 8-114 Unauthorized conduct of banking business
- 8-226 Unauthorized use of the words "trust", "trust company", "trust association", or "trust fund"
- 8-305 Unauthorized use of "building and loan" or "savings and loan" or any combination of such words in corporate name
- 8-829 Collecting certain charges on personal loans by banks and trust companies
- 13-510 Illegal obligation of funds in county budget during emergency
- 16-230 Violation of ordinances regulating drainage, litter, and growth of grass, weeds, and worthless vegetation
- 17-563 Violation of ordinances regulating drainage, litter, and growth of grass, weeds, and worthless vegetation
- 18-312 Cities, villages, and their officers entering into compensation contracts contingent upon elections

## APPENDIX

21-1306	Unauthorized use of the word "cooperative"
21-1728	Unlawful use of the words "credit union" or representing oneself or conducting business as a credit union
23-808	Operating pool or billiard hall or bowling alley outside of municipality without a county license
23-813	Operating roadhouse, dance hall, carnival, show, amusement park, or other place of public amusement outside of municipality without a county license
23-817	Violation of law regulating places of amusement
23-1612	Audit of county offices, refusal to exhibit records
24-216	Clerk of Supreme Court, fees, neglect or fraud in report
28-3,107	Intentional or reckless falsification of report required under the Pain-Capable Unborn Child Protection Act
28-725	Unauthorized release of child abuse or neglect information
28-1018	Selling puppy or kitten under 8 weeks old without its mother
28-1305	Putting carcass or putrid animal substance in a public place
28-1306	Railroads bringing unclean stock cars into state
28-1308	Watering livestock at private tank without permission
28-1347	Unauthorized access to or use of a computer, first offense
*28-1418	Smoking or other use of tobacco by minors
28-1427	Minor misrepresenting age to obtain tobacco
28-1472	Failure to submit to preliminary breath test for operation of aircraft while under influence of alcohol or drugs
28-1483	Sale of certain donated food
31-435	Neglect of duty by officers of drainage districts
32-228	Failure to serve as an election official in counties having an election commissioner
32-236	Failure to serve as an election official in counties that do not have an election commissioner
32-241	Taking personnel actions against employee serving as an election official
32-1523	Obstructing entrance to polling place
32-1524	Electioneering by election official
32-1524	Electioneering or soliciting at or near polling place
32-1525	Exit interviews with voters near polling place on election day
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

## APPENDIX

37-321	Fishing violation in emergency created by drying up of waters
37-349	Use of state park name for commercial purposes
*37-428	Obtaining habitat stamps, aquatic habitat stamps, or migratory waterfowl stamps by false pretenses or misuse of stamps
*37-433	Violation of provisions on habitat stamps or aquatic habitat stamps
*37-443	Entry by a motor vehicle to a park permit area without a valid park permit
37-476	Violation of aquaculture provisions
37-504	Unlawfully taking, possessing, or destroying certain birds, eggs, or nests
37-527	Failure to display required amount of hunter orange material when hunting
37-541	Kill, injure, or detain carrier pigeons or removing identification therefrom
37-553	Violation by owner of dam to maintain water flow for fish
37-609	Resisting officer or employee of the Game and Parks Commission
37-610	Falsely representing oneself as officer or employee of the Game and Parks Commission
37-728	False statements about fishing on privately owned land
37-1270	Violation of State Boat Act when not otherwise specified
37-12,107	Destroy, deface, or remove any part of unattended or abandoned motorboat
39-221	Illegal advertising outside right-of-way on state highways
*39-301	Injuring or obstructing public roads
*39-303	Injuring or obstructing sidewalks or bridges
39-304	Injuring roads, bridges, gates, milestones, or other fixtures
39-305	Plowing up public highway
39-306	Willful neglect of duty by road overseer or other such officer
39-307	Building barbed wire fence which obstructs highway without guards
39-308	Failure of property owner to remove plant which obstructs view of roadway within 10 days after notice
*39-312	Illegal camping on highways, roadside areas, or parks unless designated as campsites or violating camping regulations
39-313	Hunting on freeway or private land without permission
39-808	Unlawful signs or advertising on bridges or culverts
39-1012	Illegal location of rural mail boxes
39-1801	Removing or interfering with barricades on county and township roads
39-1816	Illegal parking of vehicles on county road right-of-way
42-918	Unlawful disclosure of confidential information under Protection from Domestic Abuse Act
44-361.02	Insurance agent obtaining license or renewal to circumvent rebates
46-266	Owner allowing irrigation ditches to overflow on roads
46-282	Wasting artesian water
46-1666	Violation of Safety of Dams and Reservoirs Act or any application approval, approval to operate, order, rule, regulation, or requirement of the department under the act
47-206	Neglect of duty by municipal jailer
48-222	Unlawful cost to applicant for medical examination as condition of employment
48-237	Prohibited uses of social security numbers by employers
48-442	Violation involving high voltage lines

## APPENDIX

48-1227	Discriminatory wage practices based on sex, failing to keep or falsifying records, interfering with enforcement
48-2533	Knowing violation of the Conveyance Safety Act
49-211	Failure of election officers to make returns on adoption of constitutional amendment
49-14,103.04	Negligent violation of conflict of interest prohibitions
51-109	Illegal removal of books from State Library
53-197	Neglect or refusal of sheriffs or police officers to make complaints against violators of liquor laws
54-302	Driving off livestock belonging to another
*54-306	Driving cattle, horses, or sheep across private lands causing injury
54-7,104	Failure to take care of livestock during transport
54-1523	Misrepresentation of hogs as having had double inoculation against cholera
59-1503	Unlawful acts by retailers or wholesalers in sales of cigarettes
60-196	Failure to retain a true copy of an odometer statement for five years
60-3,135.01	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 the Nebraska Rules of the Road
60-699	Failure to report vehicle accident or give correct information
60-6,197.04	Refusal to submit to preliminary breath test for driving under the influence of alcohol
60-6,211.05	Failure by ignition interlock service facility to notify probation office, court, or DMV of evidence of tampering with or circumvention of an ignition interlock device
60-6,224	Failure to dim motor vehicle headlights
60-6,239	Failure to equip or display motor vehicles required to have clearance lights, flares, reflectors, or red flags
60-6,240	Willful removal of red flags or flares before driver of vehicle is ready to proceed
60-6,247	Operation of buses or trucks without power brakes, auxiliary brakes, or standard booster brake equipment
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

APPENDIX

60-1808	Violation of laws relating to motor vehicle camper units
60-1908	Destroying, defacing, or removing parts of abandoned motor vehicles
61-211	Managers or operators of interstate ditches failing to install measuring devices and furnish daily gauge height reports
69-208	Violation of laws relating to pawnbrokers and dealers in secondhand goods
69-1005	Violation of requirements for sale at auction of commercial chicks and poultry
69-1007	Failure to keep records on sale of poultry
69-1008	False representation in sale of poultry
69-1102	Failing to comply with labeling requirements on binder twine
70-409	Violation of rate regulations by electric companies
70-624	Failure of chief executive officer to publish salaries of public power district officers
71-503	Physician failing to report existence of contagious disease, illness, or poisoning
71-506	Violation of prevention and testing provisions for contagious and infectious diseases
71-1006	Violation of laws relating to disposal of dead bodies
71-1571	Installation of 4 or more showers or bathtubs without scald prevention device
71-2511	Violation of restrictions on sale of poisons
71-3107	Violation of laws relating to recreation camps
71-4410	Violation of rabies control provisions
*71-5733	Smoking in place of employment or public place, first offense
71-5733	Proprietor violating Nebraska Clean Indoor Air Act, first offense
74-593	Using track motor cars on rail lines without headlights or rear lights
74-605	Failure of railroad to report or care for injured animals
74-1308	Failure of Railroad Transportation Safety District treasurer to file report or neglect of duties or refusal by district officials to allow inspection of records
*74-1340	Failure, neglect, or refusal to comply with order of Department of Roads regarding railroad crossings
75-429	Failure of railroad to maintain or operate switch stand lights and signals
76-247	Register of deeds giving certified copy of power of attorney which has been revoked without stating fact of revocation in certificate
76-2,122	Acting as real estate closing agent without license or without complying with law
77-2105	Failure to furnish information or reports for estate or generation-skipping transfer taxes
77-5016.08	Prohibited acts relating to subpoenas, testimony, and depositions in Tax Equalization and Review Commission proceedings
79-223	Violation of student immunization requirements
79-253	Violation regarding physical examinations of students
79-571	Disorderly conduct at school district meetings
79-581	Failure by secretary of Class I, II, III, or VI school district to publish claims and summary of proceedings
*79-606	Failure to remove equipment from and repaint school transportation vehicles sold for other purposes
79-607	Violation of traffic regulations or failure to include obligation to comply with traffic regulation in school district employment contract

APPENDIX

79-608	Violations by a school bus driver involving licensing or hours of service
*79-899	Failure of school board to suspend or dismiss teacher for wearing religious garb on duty
79-949	Failure or refusal to furnish information to retirement board for school employees retirement
79-1084	Secretary of Class III school board failing or neglecting to publish budget documents
79-1086	Secretary of Class V school board failing or neglecting to publish budget documents
81-520	Failure to comply with order of State Fire Marshal to remove or abate fire hazards
81-522	Failure of city or county authorities to investigate and report fires
81-538	Violation of State Fire Marshal or fire abatement provisions when not otherwise specified
81-5,146	Violation of smoke detector provisions
81-5,163	Water-based fire protection system contractor failing to comply with requirements
81-649.02	Failure by hospital to make reports to cancer registry
81-6,120	Provision of transportation services by certain persons or failing to submit to background check prior to providing such services to vulnerable adults or minors on behalf of Department of Health and Human Services
81-1024	Personal use of state-owned motor vehicle
81-1551	Failure to place litter receptacles on premises in sufficient number
81-1552	Damaging or misusing litter receptacle
*82-124	Damage to property of Nebraska State Historical Society
82-126	Violating restrictions on visitation to state sites and monuments
83-356	Mistreatment of mentally ill persons
86-161	Failure of telecommunications company to file territorial maps
86-609	Unlawful telegraph dispatch activities
88-549	Failure of warehouse licensee to send written notice to person storing grain of amount, location, and fees

**CLASS W MISDEMEANOR**

<b>First Conviction:</b>	<b>Maximum—sixty days imprisonment and five hundred dollars fine</b> <b>Mandatory minimum—seven days imprisonment and five hundred dollars fine</b>
<b>Second Conviction:</b>	<b>Maximum—six months imprisonment and five hundred dollars fine</b> <b>Mandatory minimum—thirty days imprisonment and five hundred dollars fine</b>
<b>Third Conviction:</b>	<b>Maximum—one year imprisonment and one thousand dollars fine</b> <b>Mandatory minimum—ninety days imprisonment and one thousand dollars fine</b>
60-690	Aiding or abetting a violation of the Nebraska Rules of the Road which is a Class W misdemeanor



APPENDIX

- \*60-6,197.03 Operation of a motor vehicle while under the influence of alcoholic liquor or of any drug committed with less than .15 gram alcohol concentration
- \*60-6,197.03 Operation of a motor vehicle while under the influence of alcoholic liquor or of any drug committed with .15 gram alcohol concentration, first offense only
- \*60-6,197.03 Refusal to submit to chemical blood, breath, or urine test

**UNCLASSIFIED MISDEMEANORS**, see section 28-107

- 14-227 Failure to remit fines, penalties, and forfeitures to city treasurer
  - fine of not more than one thousand dollars
  - imprisonment of not more than six months
- 14-229 City officer or employee exerting influence regarding political views
  - fine of not more than one hundred dollars
  - imprisonment of not more than thirty days
- 14-415 Violation of building regulations
  - fine of not less than ten dollars nor more than one hundred dollars
- 15-215 Using unsafe building for the assembly of more than 12 persons
  - fine of not more than two hundred dollars
- 16-233 Using unsafe building for the assembly of more than 12 persons
  - fine of not more than two hundred dollars
- 16-706 Unauthorized use of city funds by city council member or city officer
  - fine of twenty-five dollars plus costs of prosecution
- 18-1914 Violation of plumbing ordinances or plumbing license requirements
  - fine of not more than fifty dollars and not less than five dollars per violation
- 18-1918 Installing or repairing sanitary plumbing without permit
  - fine of not less than fifty dollars nor more than five hundred dollars
- 18-2205 Violation involving community antenna television service or franchise ordinance
  - fine of not more than five hundred dollars
- 18-2315 Violation involving heating, ventilating, and air conditioning services
  - fine of not more than five hundred dollars
  - imprisonment of not more than six months
  - both
- 19-905 Remove, alter, or destroy posted notice prior to building zone and regulation hearing
- 19-913 Violation of zoning laws and ordinances and building regulations
  - fine of not more than one hundred dollars
  - imprisonment of not more than thirty days
- 19-1104 Failure of city or village clerk or treasurer to publish council proceedings or fiscal statement
  - fine of not more than twenty-five dollars and removal from office
- 20-124 Interference with freedom of speech and access to public accommodation
  - 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

APPENDIX

- 23-2533
  - imprisonment of not more than thirty days
  - Willful violation of County Civil Service Act
  - fine of not more than five hundred dollars
  - imprisonment of not more than six months
  - both
- 25-2231
  - Constable acting outside of jurisdiction
  - fine of not less than ten dollars nor more than one hundred dollars
  - imprisonment of not more than ten days
- 29-426
  - Failure to appear or comply with citation for traffic or other offense
  - fine of not more than five hundred dollars
  - imprisonment of not more than three months
  - both
- 31-134
  - Obstructing drainage ditch
  - fine of not less than ten dollars nor more than fifty dollars
- 31-221
  - Injuring or obstructing watercourse, drain, or ditch
  - fine of not less than twenty-five dollars nor more than one hundred dollars
  - imprisonment of not more than thirty days
- 31-226
  - Failure to clear watercourse, drain, or ditch after notice
  - fine of not more than ten dollars
- 31-366
  - Willfully obstruct, injure, or destroy ditch, drain, watercourse, or dike of drainage district
  - fine of not more than one hundred dollars
- 31-445
  - Obstruct ditch, drain, or watercourse or injure dike, levee, or other work of drainage district
  - fine of not more than one hundred dollars
  - imprisonment of not more than six months
- 31-507.01
  - Connection to sanitary sewer without permit
  - fine of not less than twenty-five dollars nor more than one hundred dollars
- 33-153
  - Failure to report and remit fees to county for taking acknowledgments, oaths, and affirmations
  - fine of not more than one hundred dollars
- 44-2504
  - Domestic insurer transacting unauthorized insurance business in reciprocal state
  - fine of not more than ten thousand dollars
- 54-1365
  - Violation of Nebraska Swine Brucellosis Act when not otherwise specified
  - fine of not less than one hundred dollars nor more than five hundred dollars
  - imprisonment of not more than thirty days
  - both
- 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

APPENDIX

74-918	<p>–imprisonment of not more than thirty days</p> <p>Failure by railroad to supply drinking water and toilet facilities</p> <p>–fine of not less than one hundred dollars nor more than five hundred dollars</p>
75-130	<p>Failure by witness to testify or comply with subpoena of Public Service Commission</p> <p>–fine of not more than five thousand dollars</p>
76-215	<p>Failure to furnish real estate transfer tax statement</p> <p>–fine of not less than ten dollars nor more than five hundred dollars</p>
76-218	<p>Violations involving acknowledging and recording instruments of conveyance</p> <p>–fine of not more than five hundred dollars</p> <p>–imprisonment of not more than one year</p>
76-239.05	<p>Failure to apply construction financing for labor and materials</p> <p>–fine of not less than one hundred dollars nor more than one thousand dollars</p> <p>–imprisonment of not more than six months</p> <p>–both</p>
76-2,108	<p>Defrauding another by making a dual contract for purchase of real property or inducing the extension of credit</p> <p>–fine of not less than one hundred dollars nor more than five hundred dollars</p> <p>–imprisonment of not less than five days nor more than thirty days</p> <p>–both</p>
77-1250.02	<p>Owner, lessee, or manager of aircraft hangar or land upon which is parked or located any aircraft report aircraft to the county assessor</p> <p>–fine of not more than fifty dollars</p>
77-1313	<p>Failure of county officer to assist county assessor in assessment of property</p> <p>–fine of not less than fifty dollars nor more than five hundred dollars</p>
77-1613.02	<p>County assessor willfully reducing or increasing valuation of property without approval of county board of equalization</p> <p>–fine of not less than twenty dollars nor more than one hundred dollars</p>
77-1918	<p>County officers failing to perform duties related to foreclosure</p> <p>–removal from office</p>
77-2703	<p>Seller fails or refuses to furnish certified statement regarding motor vehicle or motorboat transaction</p> <p>–fine of not less than twenty-five dollars nor more than one hundred dollars</p>
77-2706	<p>Giving a resale certificate to avoid sales tax</p>
79-2,103	<p>Soliciting membership in fraternity, society, or other association on school grounds</p> <p>–fine of not less than two dollars nor more than ten dollars</p>
79-898	<p>Teacher wearing any dress or garb indicating religious affiliation</p> <p>–fine of not more than one hundred dollars</p> <p>–imprisonment of not more than thirty days</p> <p>–both</p>
81-171	<p>Using state mailing room or postage metering machine for private mail</p> <p>–fine of not less than twenty dollars nor more than one hundred dollars</p>
*83-114	<p>Officer or employee interfering in an official Department of Health and Human Services investigation</p>

APPENDIX

84-732                   –fine of not less than ten dollars nor more than one hundred dollars  
Governor or Attorney General knowingly failing or refusing to  
implement laws  
                          –fine of one hundred dollars  
                          –impeachment

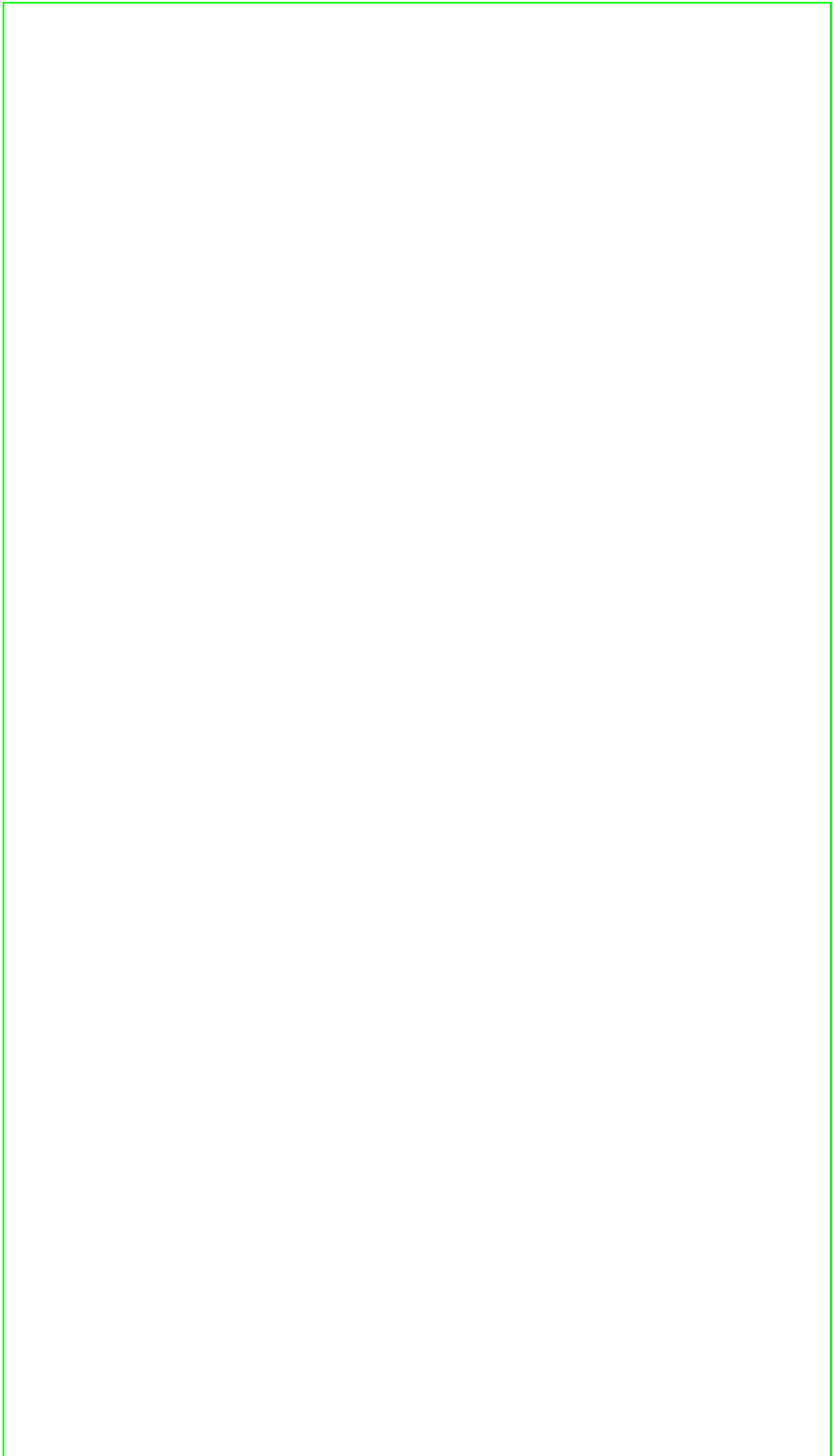
\*Sections noted with an asterisk have additional specified penalty provisions.

APPENDIX

**APPENDIX**

**ACTS, CODES, AND OTHER NAMED LAWS**

NAME OF ACT	WHERE CITED
Child and Maternal Death Review Act	71-3404
Children's Residential Facilities and Placing Licensure Act	71-1924
Commercial Real Estate Broker Lien Act	52-2101
Diploma of High School Equivalency Assistance Act	79-2301
Health Carrier External Review Act	44-1301
Health Insurance Exchange Navigator Registration Act	44-8801
ICF/DD Reimbursement Protection Act	68-1801
Nebraska Educational, Health, and Social Services Finance Authority Act	58-801
Nebraska Exchange Transparency Act	44-8701
Nebraska Money Transmitters Act	8-2701
Nebraska Municipal Land Bank Act	19-5201
Newborn Critical Congenital Heart Disease Screening Act	71-553
Step Up to Quality Child Care Act	71-1952
Wildfire Control Act of 2013	81-825
Young Adult Voluntary Services and Support Act	43-4501



APPENDIX

**APPENDIX**

**CROSS REFERENCE TABLE**

2013 Session Laws of Nebraska, First Session  
Showing LB section number to statute section number

	2013 First Session	2013 Supplement	2013 First Session	2013 Supplement	2013 First Session	2013 Supplement
LB 1	§ 1	28-830	6	31-113	58	83-389
	2	Omitted	7	38-2404	59	83-1205
	3	Omitted	8	38-2826.01	60	Omitted
LB 2	§ 1	Omitted	9	42-374	LB 23A	Omitted
LB 3	§ 1	28-101	10	43-289	LB 24	§ 1 49-801.01
	2	28-935	11	44-710.01	2	Omitted
	3	52-1901	12	68-911	3	Omitted
	4	52-1905	13	68-919	LB 27	§ 1 1-136.02
	5	52-1906	14	68-921	2	Omitted
	6	52-1907	15	68-1202	LB 28	§ 1 77-1233.04
	7	52-2101	16	68-1801	2	Omitted
	8	52-2102	17	68-1802	3	Omitted
	9	52-2103	18	68-1803	LB 29	§ 1 77-1616
	10	52-2104	19	68-1804	2	77-1710
	11	52-2105	20	68-1805	3	Omitted
	12	52-2106	21	68-1806	4	Omitted
	13	52-2107	22	68-1806.01	LB 30	§ 1 60-155
	14	52-2108	23	68-1807	2	60-156
	15	Omitted	24	68-1808	3	Omitted
	16	Omitted	25	68-1809	4	Omitted
LB 6	§ 1	9-1001	26	71-413	LB 31	§ 1 60-3,113.02
	2	9-1002	27	71-421	2	60-3,113.05
	3	9-1003	28	71-434	3	Omitted
	4	9-1004	29	71-1101	LB 32	§ 1 60-3,130.04
	5	9-1005	30	71-1104	2	Omitted
	6	9-1006	31	71-1107	LB 34	§ 1 77-5707.01
	7	9-1007	32	71-1108.01	2	77-5709
	8	9-1,101	33	71-2102	3	77-5712
	9	9-812	34	71-2411	4	77-5719
	10	9-831	35	71-2445	5	77-5720
	11	38-2121	36	71-5803.09	6	77-5723
	12	71-802	37	71-6018.01	7	77-5726
	13	71-804	38	71-6039	8	77-5728
	14	Omitted	39	71-6721	9	77-5731
	15	Omitted	40	71-6725	10	77-5734
	16	Omitted	41	71-6727	11	77-5735
	17	Omitted	42	77-1827	12	Omitted
LB 6A		Omitted	43	77-2704.12	LB 35	§ 1 60-3,113.04
LB 7	§ 1	81-3436	44	79-712	2	60-3,193.01
	2	81-3437	45	79-1118.01	3	60-462.01
	3	81-3450	46	79-1124	4	60-479.01
	4	81-3454	47	79-1128	5	60-4,147.02
	5	Omitted	48	83-101.06	6	75-363
LB 16	§ 1	90-278	49	83-112	7	75-364
	2	Omitted	50	83-217	8	75-366
LB 21	§ 1	Omitted	51	83-218	9	75-393
	2	Omitted	52	83-363	10	Omitted
LB 23	§ 1	21-610	53	83-381	11	Omitted
	2	23-104.03	54	83-382	LB 36	§ 1 76-902
	3	28-105.01	55	83-383	2	Omitted
	4	28-401	56	83-386	3	Omitted
	5	30-2624	57	83-387	LB 38	§ 1 30-3823

APPENDIX

2013 First Session	2013 Supplement	2013 First Session	2013 Supplement	2013 First Session	2013 Supplement
	2 30-3855		4 2-1079.03		20 81-3607
	3 Omitted		5 2-1080.01		21 81-3609
	4 Omitted		6 2-1083		22 Omitted
LB 39	§ 1 43-4302		7 2-1083.01		23 Omitted
	2 50-1202		8 2-1091	LB 79	§ 1 28-915.01
	3 50-1203		9 2-1091.01		2 49-1413
	4 50-1204		10 2-1095		3 49-1415
	5 50-1205		11 2-1091.02		4 49-1433.01
	6 50-1208		12 2-10,102		5 49-1445
	7 50-1209		13 2-10,103		6 49-1446
	8 50-1210		14 2-10,103.01		7 49-1446.04
	9 50-1211		15 2-10,103.02		8 49-1447
	10 50-1213		16 2-10,103.04		9 49-1455
	11 50-1214		17 2-10,104		10 49-1456
	12 77-2711		18 2-10,105		11 49-1457
	13 77-27,119		19 2-10,106		12 49-1459
	14 Omitted		20 2-10,111		13 49-1461.01
LB 40	§ 1 50-1204		21 2-10,115		14 49-1463
	2 50-1205.01		22 Omitted		15 49-1463.01
	3 84-304		23 Omitted		16 49-1464
	4 Omitted	LB 69	§ 1 2-2624		17 49-1467
	5 Omitted		2 2-2626		18 49-1469
LB 42	§ 1 38-2401		3 2-2629		19 49-1469.05
	2 38-2402		4 2-2634		20 49-1469.06
	3 38-2410.01		5 2-2635		21 49-1469.07
	4 38-2418		6 2-2636		22 49-1469.08
	5 38-2419		7 2-2638		23 49-1477
	6 38-2420		8 2-2639		24 49-1479.02
	7 38-2426		9 2-2641		25 49-1488.01
	8 Omitted		10 2-2642		26 49-14,122
LB 44	§ 1 28-101		11 2-2646		27 49-14,123
	2 28-105.02		12 2-2646.01		28 49-14,124
	3 83-1,110.04		13 2-2656		29 49-14,124.01
	4 83-1,135		14 Omitted		30 49-14,124.02
	5 Omitted		15 Omitted		31 49-14,125
LB 55	§ 1 77-1340.04	LB 70	§ 1 2-3951		32 49-14,126
	2 Omitted		2 2-3951.01		33 49-14,129
	3 Omitted		3 2-3951.02		34 49-14,132
LB 59	§ 1 44-361.01		4 2-3951.03		35 49-14,133
	2 Omitted		5 2-3951.04		36 49-14,140
LB 66	§ 1 18-2101		6 Omitted		37 49-14,141
	2 18-2103		7 Omitted		38 Omitted
	3 18-2123.01	LB 72	§ 1 81-885.21		39 Omitted
	4 18-2147		2 Omitted		40 Omitted
	5 Omitted	LB 78	§ 1 54-1158		41 Omitted
	6 Omitted		2 54-1161	LB 79A	Omitted
LB 67	§ 1 2-3965		3 54-1162	LB 87	§ 1 3-502
	2 2-3966		4 54-1163		2 Omitted
	3 2-3971		5 54-1165	LB 88	§ 1 15-905
	4 2-3975		6 54-1168		2 Omitted
	5 2-3976		7 54-1169	LB 90	§ 1 77-2701.16
	6 2-3977		8 54-1170		2 Omitted
	7 2-3981		9 54-1172		3 Omitted
	8 2-3982		10 81-1201.01	LB 91	§ 1 81-3520
	9 2-3982.01		11 81-1201.02		2 81-3527
	10 2-3986		12 81-1201.03		3 81-3528
	11 2-3988		13 81-1201.18		4 81-3529
	12 2-3989		14 81-12,149		5 81-3530
	13 Omitted		15 81-12,150		6 81-3531
	14 Omitted		16 81-12,155		7 81-3537
LB 68	§ 1 2-1072		17 81-12,164		8 81-3539
	2 2-1074		18 81-1361		9 81-3540
	3 2-1075.03		19 81-1368		10 Omitted



CROSS REFERENCE TABLE

2013 First Session		2013 Supplement		2013 First Session		2013 Supplement		2013 First Session		2013 Supplement	
LB 93	§ 1	60-462		2	77-27,142.01		17	3-324			
	2	60-479		3	77-5715		18	3-329			
	3	60-484		4	77-5725		19	3-330			
	4	60-4,189		5	Omitted		20	3-331			
	5	60-4,117		6	Omitted		21	3-333			
	6	80-414	LB 105	§ 1	71-1908		22	Omitted			
	7	Omitted		2	71-1911.03		23	Omitted			
	8	Omitted		3	Omitted	LB 141	§ 1	48-162.03			
LB 93A		Omitted	4	Omitted		2	48-182				
LB 94	§ 1	37-447	LB 107	§ 1	43-2935		3	Omitted			
	2	37-450		2	Omitted	LB 146	§ 1	4A-108 UCC			
	3	37-455	LB 111	§ 1	13-503		2	Omitted			
	4	Omitted		2	13-504		3	Omitted			
LB 97	§ 1	19-5201		3	13-505	LB 147	§ 1	44-1301			
	2	19-5202		4	13-506		2	44-1302			
	3	19-5203		5	13-508		3	44-1303			
	4	19-5204		6	13-509.01		4	44-1304			
	5	19-5205		7	Omitted		5	44-1305			
	6	19-5206		8	Omitted		6	44-1306			
	7	19-5207	LB 112	§ 1	16-317		7	44-1307			
	8	19-5208		2	16-318		8	44-1308			
	9	19-5209		3	17-605		9	44-1309			
	10	19-5210		4	17-606		10	44-1310			
	11	19-5211		5	19-1101		11	44-1311			
	12	19-5212		6	Omitted		12	44-1312			
	13	19-5213	LB 113	§ 1	17-110		13	44-1313			
	14	19-5214		2	17-614		14	44-1314			
	15	19-5215		3	Omitted		15	44-1315			
	16	19-5216	LB 117	§ 1	60-6,298		16	44-1316			
	17	19-5217		2	Omitted		17	44-1317			
	18	19-5218	LB 125	§ 1	32-545		18	44-1318			
	19	77-1736.06		2	32-552		19	44-7306			
	20	77-1759		3	32-570		20	44-7308			
	21	77-1807		4	32-606		21	44-7310			
	22	77-1809		5	79-4,129		22	44-7311			
	23	77-1810		6	79-552		23	Omitted			
	24	77-1915		7	79-559		24	Omitted			
	25	77-1916		8	Omitted	LB 153	§ 1	13-2701			
	26	77-2704.15		9	Omitted		2	13-2702			
	27	77-3211	LB 133	§ 1	60-1401		3	13-2703			
	28	77-3213		2	60-1439.01		4	13-2704			
	29	77-3206.02		3	Omitted		5	13-2704.01			
	30	Omitted	LB 135	§ 1	85-1512		6	13-2704.02			
	31	Omitted		2	Omitted		7	13-2705			
LB 99	§ 1	20-501	LB 137	§ 1	60-3101		8	13-2707			
	2	20-502		2	60-3102		9	13-2707.01			
	3	20-504		3	Omitted		10	13-2709			
	4	20-505	LB 140	§ 1	3-301		11	Omitted			
	5	20-506		2	3-302	LB 153A		Omitted			
	6	81-1822		3	3-303	LB 154	§ 1	60-6,378			
	7	81-1833		4	3-304		2	Omitted			
	8	Omitted		5	3-304.01	LB 155	§ 1	77-2387			
	9	Omitted		6	3-306		2	77-2398			
	LB 100	§ 1	8-157.01		7	3-307		3	Omitted		
		2	Omitted		8	3-308	LB 156	§ 1	68-153		
	3	Omitted		9	3-309		2	Omitted			
LB 102	§ 1	46-297		10	3-310		3	Omitted			
	2	46-637		11	3-311	LB 158	§ 1	60-498.02			
	3	Omitted		12	3-312		2	60-4,118.06			
LB 103	§ 1	24-734		13	3-313		3	60-6,197.01			
	2	43-278		14	3-319		4	60-6,197.03			
	3	Omitted		15	3-319.01		5	60-6,211.05			
LB 104	§ 1	77-27,142		16	3-320		6	Omitted			

APPENDIX

2013 First Session	2013 Supplement	2013 First Session	2013 Supplement	2013 First Session	2013 Supplement		
	7	Omitted	52	58-852	37	Omitted	
	8	Omitted	53	58-853	38	Omitted	
LB 164	§ 1	60-1403.01	54	58-854	39	Omitted	
	2	60-1417.02	55	58-855	40	Omitted	
	3	Omitted	56	58-856	41	Omitted	
LB 165	§ 1	60-1438	57	58-857	42	Omitted	
	2	Omitted	58	58-858	43	Omitted	
LB 166	§ 1	81-2,147.02	59	58-859	44	Omitted	
	2	Omitted	60	58-860	45	Omitted	
	3	Omitted	61	58-861	46	Omitted	
LB 169	§ 1	25-1625	62	58-862	47	Omitted	
	2	Omitted	63	58-863	48	Omitted	
LB 170	§ 1	58-801	64	58-864	49	Omitted	
	2	58-802	65	58-865	50	Omitted	
	3	58-803	66	58-866	51	Omitted	
	4	58-804	67	Omitted	52	Omitted	
	5	58-805	LB 172	§ 1	30-2601	53	Omitted
	6	58-806		2	30-2628	54	Omitted
	7	58-807		3	30-2647	55	Omitted
	8	58-808		4	Omitted	56	Omitted
	9	58-809	LB 173	§ 1	53-180.06	57	Omitted
	10	58-810		2	Omitted	58	Omitted
	11	58-811		3	Omitted	59	Omitted
	12	58-812	LB 180	§ 1	80-411	60	Omitted
	13	58-813		2	Omitted	61	Omitted
	14	58-814	LB 192	§ 1	13-513	62	Omitted
	15	58-815		2	Omitted	63	Omitted
	16	58-816	LB 194	§ 1	Omitted	64	Omitted
	17	58-817		2	Omitted	65	Omitted
	18	58-818		3	Omitted	66	Omitted
	19	58-819		4	Omitted	67	Omitted
	20	58-820		5	Omitted	68	Omitted
	21	58-821		6	Omitted	69	Omitted
	22	58-822		7	Omitted	70	Omitted
	23	58-823		8	Omitted	71	Omitted
	24	58-824		9	Omitted	72	Omitted
	25	58-825		10	Omitted	73	Omitted
	26	58-826		11	Omitted	74	Omitted
	27	58-827		12	Omitted	75	Omitted
	28	58-828		13	Omitted	76	Omitted
	29	58-829		14	Omitted	77	Omitted
	30	58-830		15	Omitted	78	Omitted
	31	58-831		16	Omitted	79	Omitted
	32	58-832		17	Omitted	80	Omitted
	33	58-833		18	Omitted	81	Omitted
	34	58-834		19	Omitted	82	Omitted
	35	58-835		20	Omitted	83	Omitted
	36	58-836		21	Omitted	84	Omitted
	37	58-837		22	Omitted	85	Omitted
	38	58-838		23	Omitted	86	Omitted
	39	58-839		24	Omitted	87	Omitted
	40	58-840		25	Omitted	88	Omitted
	41	58-841		26	Omitted	89	Omitted
	42	58-842		27	Omitted	90	Omitted
	43	58-843		28	Omitted	91	Omitted
	44	58-844		29	Omitted	92	Omitted
	45	58-845		30	Omitted	93	Omitted
	46	58-846		31	Omitted	94	Omitted
	47	58-847		32	Omitted	95	Omitted
	48	58-848		33	Omitted	96	Omitted
	49	58-849		34	Omitted	97	Omitted
	50	58-850		35	Omitted	98	Omitted
	51	58-851		36	Omitted	99	Omitted

CROSS REFERENCE TABLE

2013 First Session	2013 Supplement	2013 First Session	2013 Supplement	2013 First Session	2013 Supplement	
100	Omitted		163	Omitted	36	Omitted
101	Omitted		164	Omitted	37	Omitted
102	Omitted		165	Omitted	38	Omitted
103	Omitted		166	Omitted	39	Omitted
104	Omitted		167	Omitted	40	Omitted
105	Omitted		168	Omitted	41	Omitted
106	Omitted		169	Omitted	42	Omitted
107	Omitted		170	Omitted	43	Omitted
108	Omitted		171	Omitted	44	Omitted
109	Omitted		172	Omitted	45	Omitted
110	Omitted		173	Omitted	46	Omitted
111	Omitted		174	Omitted	47	Omitted
112	Omitted		175	Omitted	48	Omitted
113	Omitted		176	Omitted	49	Omitted
114	Omitted		177	Omitted	50	Omitted
115	Omitted		178	Omitted	51	Omitted
116	Omitted		179	Omitted	52	Omitted
117	Omitted		180	Omitted	53	Omitted
118	Omitted		181	Omitted	54	Omitted
119	Omitted		182	Omitted	55	Omitted
120	Omitted		183	Omitted	56	Omitted
121	Omitted		184	Omitted	57	Omitted
122	Omitted		185	Omitted	58	Omitted
123	Omitted		186	Omitted	59	Omitted
124	Omitted		187	90-536	60	Omitted
125	Omitted		188	Omitted	61	Omitted
126	Omitted		189	Omitted	62	Omitted
127	Omitted		190	Omitted	63	Omitted
128	Omitted	LB 195	§ 1	Omitted	64	Omitted
129	Omitted		2	Omitted	65	Omitted
130	Omitted		3	Omitted	66	Omitted
131	Omitted		4	Omitted	67	Omitted
132	Omitted		5	Omitted	68	Omitted
133	Omitted		6	Omitted	69	Omitted
134	Omitted		7	Omitted	70	Omitted
135	Omitted		8	Omitted	71	Omitted
136	Omitted		9	Omitted	72	Omitted
137	Omitted		10	Omitted	73	Omitted
138	Omitted		11	Omitted	74	Omitted
139	Omitted		12	Omitted	75	Omitted
140	Omitted		13	Omitted	76	Omitted
141	Omitted		14	Omitted	77	Omitted
142	Omitted		15	Omitted	78	Omitted
143	Omitted		16	Omitted	79	Omitted
144	Omitted		17	Omitted	80	Omitted
145	Omitted		18	Omitted	81	Omitted
146	Omitted		19	Omitted	82	Omitted
147	Omitted		20	Omitted	83	Omitted
148	Omitted		21	Omitted	84	Omitted
149	Omitted		22	Omitted	85	Omitted
150	Omitted		23	Omitted	86	Omitted
151	Omitted		24	Omitted	87	Omitted
152	Omitted		25	Omitted	88	Omitted
153	Omitted		26	Omitted	89	Omitted
154	Omitted		27	Omitted	90	Omitted
155	Omitted		28	Omitted	91	Omitted
156	Omitted		29	Omitted	92	Omitted
157	Omitted		30	Omitted	93	Omitted
158	Omitted		31	Omitted	94	Omitted
159	Omitted		32	Omitted	95	Omitted
160	Omitted		33	Omitted	96	Omitted
161	Omitted		34	Omitted	97	Omitted
162	Omitted		35	Omitted	98	Omitted

APPENDIX

2013 First Session	2013 Supplement	2013 First Session	2013 Supplement	2013 First Session	2013 Supplement
99	Omitted	162	Omitted	225	Omitted
100	Omitted	163	Omitted	226	Omitted
101	Omitted	164	Omitted	227	Omitted
102	Omitted	165	Omitted	228	Omitted
103	Omitted	166	Omitted	229	Omitted
104	Omitted	167	Omitted	230	Omitted
105	Omitted	168	Omitted	231	Omitted
106	90-539	169	Omitted	232	Omitted
107	Omitted	170	Omitted	233	Omitted
108	Omitted	171	Omitted	234	Omitted
109	Omitted	172	Omitted	235	Omitted
110	Omitted	173	Omitted	236	Omitted
111	Omitted	174	Omitted	237	Omitted
112	Omitted	175	Omitted	238	Omitted
113	Omitted	176	Omitted	239	Omitted
114	Omitted	177	Omitted	240	Omitted
115	Omitted	178	Omitted	241	Omitted
116	Omitted	179	Omitted	242	Omitted
117	Omitted	180	Omitted	243	Omitted
118	Omitted	181	Omitted	244	Omitted
119	Omitted	182	Omitted	245	Omitted
120	Omitted	183	Omitted	246	Omitted
121	Omitted	184	Omitted	247	Omitted
122	Omitted	185	Omitted	248	Omitted
123	Omitted	186	Omitted	249	Omitted
124	Omitted	187	Omitted	250	Omitted
125	Omitted	188	Omitted	251	Omitted
126	Omitted	189	Omitted	252	Omitted
127	Omitted	190	Omitted	253	Omitted
128	Omitted	191	Omitted	254	Omitted
129	Omitted	192	Omitted	255	Omitted
130	Omitted	193	Omitted	256	Omitted
131	Omitted	194	Omitted	257	Omitted
132	Omitted	195	Omitted	258	Omitted
133	Omitted	196	Omitted	259	Omitted
134	Omitted	197	Omitted	260	Omitted
135	Omitted	198	Omitted	261	Omitted
136	Omitted	199	Omitted	262	Omitted
137	Omitted	200	Omitted	263	Omitted
138	Omitted	201	Omitted	264	Omitted
139	Omitted	202	Omitted	265	Omitted
140	Omitted	203	Omitted	266	Omitted
141	Omitted	204	Omitted	267	Omitted
142	Omitted	205	Omitted	268	Omitted
143	Omitted	206	Omitted	269	Omitted
144	Omitted	207	Omitted	270	Omitted
145	Omitted	208	Omitted	271	Omitted
146	Omitted	209	Omitted	272	Omitted
147	Omitted	210	Omitted	LB 196	Omitted
148	Omitted	211	Omitted	LB 197	Omitted
149	Omitted	212	Omitted	LB 198	Omitted
150	Omitted	213	Omitted	LB 199	§ 1 Omitted
151	Omitted	214	Omitted		2 Omitted
152	Omitted	215	Omitted		3 Omitted
153	Omitted	216	Omitted		4 Omitted
154	Omitted	217	Omitted		5 Omitted
155	Omitted	218	Omitted		6 Omitted
156	Omitted	219	Omitted		7 Omitted
157	Omitted	220	Omitted		8 Omitted
158	Omitted	221	Omitted		9 Omitted
159	Omitted	222	Omitted		10 Omitted
160	Omitted	223	Omitted		11 Omitted
161	Omitted	224	Omitted		12 Omitted

CROSS REFERENCE TABLE

2013 First Session	2013 Supplement	2013 First Session	2013 Supplement	2013 First Session	2013 Supplement
	13 Omitted		2 85-1418		5 Omitted
	14 81-302		3 85-1502	LB 222	§ 1 2-3962
	15 81-2516		4 85-1539		2 2-3965
	16 Omitted		5 85-1540		3 13-1205
	17 8-1120		6 85-2233		4 13-2101.01
	18 43-3718		7 85-2234		5 37-1406
	19 43-3719		8 Omitted		6 43-296
	20 43-3720		9 Omitted		7 43-405
	21 45-621		10 Omitted		8 43-517
	22 53-117.03	LB 211A	Omitted		9 43-534
	23 53-117.06	LB 213	§ 1 8-103		10 43-1303
	24 58-703		2 8-108		11 43-3342.05
	25 58-706		3 8-135		12 43-4331
	26 59-1608.04		4 8-167.01		13 43-4406
	27 60-6,211.05		5 8-1,140		14 43-4407
	28 68-1604		6 8-204		15 43-4408
	29 71-7611		7 8-213		16 48-166
	30 72-815		8 8-355		17 50-405
	31 81-2004.02		9 8-702		18 50-424
	32 81-2004.05		10 8-705		19 50-1205
	33 81-2004.08		11 8-706		20 60-658
	34 81-2509		12 8-915		21 66-1336
	35 81-2510		13 21-17,115		22 68-1207.01
	36 81-2511		14 Omitted		23 68-1735.02
	37 81-2513		15 Omitted		24 68-2004
	38 81-3119	LB 214	§ 1 8-1101		25 71-825
	39 82-331		2 8-1104		26 71-1904
	40 82-332		3 8-1108		27 71-2518
	41 84-510		4 8-1108.02		28 71-51,103
	42 Omitted		5 8-1109		29 71-5206.01
	43 Omitted		6 8-1111		30 77-709
	44 Omitted		7 8-1114		31 77-4601
LB 200	§ 1 84-612		8 8-1120		32 79-318
	2 Omitted		9 58-703		33 79-602
	3 Omitted		10 58-711		34 79-10,142
LB 203	§ 1 81-1502		11 59-1722		35 79-1901
	2 Omitted		12 Omitted		36 81-1360
LB 205	§ 1 8-1108.01		13 Omitted		37 81-1430
	2 8-1111	LB 216	§ 1 43-4501		38 81-1845
	3 8-1118		2 43-4502		39 81-2213
	4 Omitted		3 43-4503		40 81-3133
LB 207	§ 1 60-386		4 43-4504		41 83-924
	2 60-3,141		5 43-4505		42 84-901.01
	3 60-3,156		6 43-4506		43 84-907.06
	4 60-3,186		7 43-4507		44 84-910
	5 60-3,190		8 43-4508		45 84-1219
	6 60-1515		9 43-4509		46 89-186
	7 Omitted		10 43-4510		47 Omitted
	8 Omitted		11 43-4511		48 Omitted
LB 207A	Omitted		12 43-4512		49 Omitted
LB 208	§ 1 14-2109		13 43-4513	LB 223	§ 1 60-135.01
	2 14-2110		14 43-4514		2 60-358.01
	3 14-2126		15 43-285		3 60-6,355
	4 Omitted		16 43-905		4 Omitted
LB 209	§ 1 87-214		17 43-1311.03	LB 224	§ 1 73-107
	2 87-219		18 71-1902	LB 225	§ 1 71-553
	3 Omitted		19 Omitted		2 71-554
LB 210	§ 1 1-101 UCC		20 Omitted		3 71-555
	2 9-101 UCC		21 Omitted		4 71-556
	3 9-510 UCC	LB 216A	§ 1 90-539		5 71-557
	4 9-513A UCC		2 Omitted	LB 230	§ 1 53-123.15
	5 Omitted		3 Omitted		2 53-124
LB 211	§ 1 85-1412		4 Omitted		3 53-124.01

APPENDIX

2013 First Session	2013 Supplement	2013 First Session	2013 Supplement	2013 First Session	2013 Supplement		
	4	53-162	33	81-2027.08	48	81-505.01	
	5	53-304	34	81-2041	49	83-108.04	
	6	Omitted	35	84-1301	50	Omitted	
LB 240	§ 1	68-1735.01	36	84-1307	51	Omitted	
	2	Omitted	37	84-1308	LB 269	§ 1	43-285
LB 242	§ 1	81-8,245	38	84-1314	2	43-905	
	2	84-901.01	39	84-1317	3	43-1311.03	
	3	84-908	40	84-1319	4	43-4101	
	4	Omitted	41	84-1321	5	43-4202	
LB 243	§ 1	38-2315	42	84-1321.01	6	43-4203	
	2	Omitted	43	84-1503	7	43-4208	
LB 250	§ 1	60-3,198	44	84-1511	8	68-1207	
	2	66-1418	45	84-1511.01	9	71-1904	
	3	Omitted	46	Omitted	10	43-4410	
LB 255	§ 1	28-707	47	Omitted	11	81-603	
	2	28-801	48	Omitted	12	71-3406	
	3	28-801.01	LB 265	§ 1	71-1924	13	81-3133
	4	28-802	2	71-1925	14	Omitted	
	5	28-804	3	71-1926	15	Omitted	
	6	28-830	4	71-1927	LB 269A	§ 1	Omitted
	7	28-831	5	71-1928	2	Omitted	
	8	28-1354	6	71-1929	3	Omitted	
	9	43-247	7	71-1930	4	Omitted	
	10	43-248	8	71-1931	5	Omitted	
	11	43-250	9	71-1932	LB 271	§ 1	32-808
	12	81-1430	10	71-1933	2	32-933	
	13	Omitted	11	71-1934	3	32-942	
	14	Omitted	12	71-1935	4	Omitted	
	15	Omitted	13	71-1936	LB 277	§ 1	68-935
LB 262	§ 1	79-2,104	14	71-1937	2	68-936	
	2	Omitted	15	71-1938	3	Omitted	
LB 263	§ 1	16-1011	16	71-1939	LB 279	§ 1	45-190
	2	23-2301	17	71-1940	2	45-191.10	
	3	23-2306	18	71-1941	3	45-920	
	4	23-2307	19	71-1942	4	45-1008	
	5	23-2310.04	20	71-1943	5	45-1013	
	6	23-2315	21	71-1944	6	45-1018	
	7	23-2317	22	71-1945	7	Omitted	
	8	23-2319	23	71-1946	LB 283	§ 1	9-614
	9	23-2319.01	24	71-1947	2	67-248.02	
	10	24-701	25	71-1948	3	67-298	
	11	24-703	26	71-1949	4	70-1903	
	12	24-710.13	27	71-1950	5	77-2704.57	
	13	79-902	28	71-1951	6	77-2716	
	14	79-904.01	29	28-710	7	77-2734.01	
	15	79-917	30	29-2264	8	84-511	
	16	79-921	31	43-2,108.05	9	Omitted	
	17	79-947.06	32	43-1301	10	Omitted	
	18	79-956	33	43-1302	LB 290	§ 1	45-701
	19	79-958	34	43-1304	2	45-727	
	20	79-962	35	43-1503	3	45-729	
	21	79-984	36	43-4308	4	45-737	
	22	79-987	37	68-1006.01	5	45-737.01	
	23	79-990	38	68-1207	6	45-741	
	24	79-991	39	71-428	7	Omitted	
	25	79-992	40	71-1901	LB 295	§ 1	18-2705
	26	79-996	41	71-1902	2	Omitted	
	27	79-9,102	42	71-1903	3	Omitted	
	28	79-9,117	43	71-1904	LB 296	§ 1	77-2716
	29	80-401	44	71-1907	2	85-1802	
	30	81-2014	45	75-302	3	85-1809	
	31	81-2016	46	77-2704.12	4	Omitted	
	32	81-2017	47	81-502	5	Omitted	

## CROSS REFERENCE TABLE

2013 First Session		2013 Supplement		2013 First Session		2013 Supplement		2013 First Session		2013 Supplement	
LB 298	§ 1	28-405		7	Omitted			6	79-2306		
	2	28-416		8	Omitted			7	79-2307		
	3	Omitted	LB 340	§ 1	70-1013			8	9-812		
	4	Omitted		2	Omitted			9	Omitted		
LB 299	§ 1	32-101	LB 341	§ 1	77-1807			10	Omitted		
	2	32-243		2	77-1808	LB 366A			Omitted		
	3	32-554		3	77-1812	LB 368	§ 1		48-3101		
	4	Omitted		4	77-1813			2	48-3102		
LB 303	§ 1	81-8,114		5	77-1818			3	48-3103		
	2	81-8,115		6	77-1822			4	48-3104		
	3	81-8,117		7	77-1823			5	48-3105		
	4	81-8,120		8	77-1824			6	48-3106		
	5	Omitted		9	77-1824.01			7	48-3107		
LB 306	§ 1	24-201.01		10	77-1825			8	48-3108		
	2	24-703		11	77-1830			9	Omitted		
	3	24-710.13		12	77-1831	LB 368A			Omitted		
	4	Omitted		13	77-1832	LB 377	§ 1		39-1702		
	5	Omitted		14	77-1833			2	Omitted		
	6	Omitted		15	77-1836	LB 384	§ 1		44-8701		
	7	Omitted		16	77-1837			2	44-8702		
LB 306A		Omitted		17	77-1849			3	44-8703		
LB 308	§ 1	77-2715		18	77-1902			4	44-8704		
	2	77-2717		19	77-1936			5	44-8705		
	3	77-2734.07		20	Omitted			6	44-8706		
	4	Omitted		21	Omitted			7	Omitted		
LB 311	§ 1	11-105		22	Omitted	LB 384A			Omitted		
	2	11-115	LB 344	§ 1	71-5829.04	LB 386	§ 1		39-1802		
	3	Omitted		2	Omitted			2	Omitted		
LB 316	§ 1	60-310		3	Omitted	LB 388	§ 1		70-1028		
	2	Omitted	LB 345	§ 1	76-2,126	LB 398	§ 1		60-6,300		
LB 326	§ 1	38-2845		2	76-3402			2	Omitted		
	2	38-2847		3	76-3410	LB 407	§ 1		77-3446		
	3	71-2444		4	76-3420			2	79-1003		
	4	71-2445		5	Omitted			3	79-1003.01		
	5	71-2446		6	Omitted			4	79-1007.07		
	6	71-2447		7	Omitted			5	79-1007.09		
	7	71-2448		8	Omitted			6	79-1007.11		
	8	71-2449		9	Omitted			7	79-1007.17		
	9	71-2451	LB 349	§ 1	32-101			8	79-1007.18		
	10	71-2451.01		2	32-633			9	79-1007.23		
	11	71-2452		3	32-620			10	79-1007.25		
	12	Omitted		4	32-1005			11	79-1015.01		
LB 329	§ 1	28-1005		5	32-1007			12	79-1017.01		
	2	28-1005.01		6	32-1008			13	79-1028.01		
	3	28-1009		7	Omitted			14	Omitted		
	4	28-1010	LB 361	§ 1	71-3404			15	Omitted		
	5	Omitted		2	71-3405	LB 408	§ 1		79-1022		
LB 331	§ 1	85-1903		3	71-3406			2	79-1023		
	2	85-1907		4	71-3407			3	79-1027		
	3	85-2403		5	71-3408			4	79-1031.01		
	4	85-2405		6	71-3409			5	Omitted		
	5	Omitted		7	71-3410			6	Omitted		
	6	Omitted		8	71-3411	LB 410	§ 1		43-2507.02		
LB 332	§ 1	85-2105		9	Omitted			2	79-214		
	2	Omitted	LB 363	§ 1	84-712			3	79-234		
LB 336	§ 1	44-710		2	84-712.03			4	79-237		
	2	Omitted		3	Omitted			5	79-241		
LB 337	§ 1	44-4805	LB 363A		Omitted			6	79-527		
	2	44-4815	LB 366	§ 1	79-2301			7	79-527.01		
	3	44-4821		2	79-2302			8	79-611		
	4	44-4826		3	79-2303			9	79-1007.20		
	5	44-4827		4	79-2304			10	79-1028.01		
	6	44-4828		5	79-2305			11	79-1104.02		

APPENDIX

2013 First Session	2013 Supplement	2013 First Session	2013 Supplement	2013 First Session	2013 Supplement			
	12	79-1118.01	LB 477	§ 1	2-967	15	68-1206	
	13	79-1204		2	2-968	16	71-1919	
	14	79-1336		3	Omitted	17	Omitted	
	15	79-2104.02	LB 479	§ 1	44-3,159	18	Omitted	
	16	79-2118		2	44-710.04	19	Omitted	
	17	84-712.05		3	Omitted	20	Omitted	
	18	85-1603	LB 483	§ 1	83-186.01	LB 507A	Omitted	
	19	85-1604		2	83-150	LB 510	§ 1	84-1411
	20	85-1644		3	Omitted		2	Omitted
	21	85-1656	LB 483A		Omitted	LB 517	§ 1	50-504
	22	79-529	LB 484	§ 1	38-1130		2	50-505
	23	Omitted		2	Omitted		3	50-506
	24	Omitted	LB 487	§ 1	71-5829.03		4	50-507
	25	Omitted		2	Omitted		5	50-508
LB 420	§ 1	38-1425	LB 493	§ 1	37-1016		6	Omitted
	2	Omitted	LB 495	§ 1	9-812	LB 517A		Omitted
	3	Omitted		2	79-1103	LB 528	§ 1	71-503.02
LB 423	§ 1	2-3812		3	79-1104.02		2	71-503.03
	2	29-818		4	Omitted		3	71-503.01
	3	38-3330		5	Omitted		4	Omitted
	4	54-742		6	Omitted	LB 530	§ 1	43-4214
	5	54-901	LB 495A		Omitted		2	43-4215
	6	54-902	LB 497	§ 1	9-812		3	43-4216
	7	54-905		2	9-836.01		4	43-4217
	8	54-906		3	50-425		5	43-4202
	9	54-913		4	79-8,137		6	43-4203
	10	Omitted		5	79-8,137.04		7	43-4213
LB 426	§ 1	44-1090		6	85-1920		8	Omitted
	2	44-6007.02		7	Omitted		9	Omitted
	3	44-6008		8	Omitted		10	Omitted
	4	44-6009	LB 499	§ 1	37-304	LB 530A		Omitted
	5	44-6015		2	37-314	LB 536		Omitted
	6	44-6016		3	37-321	LB 538	§ 1	81-1401
	7	Omitted		4	37-422		2	81-1403
LB 429	§ 1	84-602		5	37-447		3	Omitted
	2	84-602.02		6	37-448		4	Omitted
	3	Omitted		7	37-455	LB 545	§ 1	57-1409
LB 429A		Omitted		8	37-490		2	71-1567
LB 434	§ 1	81-829.41		9	37-492		3	71-4609
	2	Omitted		10	37-4,107		4	75-134
LB 435	§ 1	54-170		11	37-501		5	75-136
	2	54-171		12	37-503		6	75-139
	3	54-186.01		13	37-543		7	75-134.02
	4	54-1,128		14	37-546		8	75-156
	5	Omitted		15	37-604		9	75-722
LB 442	§ 1	52-2001		16	37-614		10	86-123
	2	76-825		17	Omitted		11	86-158
	3	76-842	LB 500	§ 1	60-6,175		12	86-209
	4	76-856		2	Omitted		13	86-255
	5	76-874	LB 507	§ 1	71-1952		14	86-269
	6	76-874.01		2	71-1953		15	86-578
	7	Omitted		3	71-1954		16	Omitted
LB 458	§ 1	71-467		4	71-1955		17	Omitted
	2	Omitted		5	71-1956	LB 549	§ 1	81-15,160
LB 459	§ 1	71-401		6	71-1957		2	81-15,162
	2	71-469		7	71-1958		3	Omitted
	3	Omitted		8	71-1959	LB 553	§ 1	24-703
LB 476	§ 1	81-1201.21		9	71-1960		2	79-901
	2	81-1210.01		10	71-1961		3	79-902
	3	81-1210.02		11	71-1962		4	79-916
	4	81-1210.03		12	71-1963		5	79-947.06
	5	Omitted		13	71-1964		6	79-947.07
	6	Omitted		14	43-536		7	79-954



CROSS REFERENCE TABLE

2013 First Session	2013 Supplement	2013 First Session	2013 Supplement	2013 First Session	2013 Supplement	
	8	79-958	41	43-421	LB 583 § 1	2-4902
	9	79-966	42	43-422		2 Omitted
	10	79-966.01	43	43-423	LB 583A	Omitted
	11	79-9,100	44	43-1411.01	LB 585 § 1	77-3442
	12	79-9,103	45	43-2402		2 79-611
	13	79-9,105	46	43-2404		3 79-2104
	14	79-9,113	47	43-2404.01		4 79-2104.01
	15	79-1003	48	43-2404.02		5 79-2104.03
	16	79-1028.01	49	43-2411		6 Omitted
	17	81-2017	50	43-2412		7 Omitted
	18	Omitted	51	43-2930	LB 589 § 1	76-2301
	19	Omitted	52	43-3503		2 76-2303
	20	Omitted	53	81-1427		3 76-2303.01
	21	Omitted	54	43-425		4 76-2329
LB 553A		Omitted	55	43-4102		5 Omitted
LB 556 § 1		71-8509	56	43-4203		6 Omitted
	2	71-8510	57	43-4314	LB 595 § 1	86-442
	3	71-8511	58	43-4318		2 86-443
	4	71-8512	59	43-4320		3 86-443.01
	5	68-911	60	43-4321		4 86-450.01
	6	71-8506	61	43-4324		5 86-471
	7	Omitted	62	81-8,245		6 86-465
LB 556A		Omitted	63	81-1417		7 Omitted
LB 561 § 1		28-726	64	83-4,124		8 Omitted
	2	29-2204	65	83-4,125	LB 595A	Omitted
	3	29-2257	66	83-4,126	LB 612 § 1	77-385
	4	29-2258	67	83-4,131		2 77-3,116
	5	42-364	68	83-4,132		3 77-27,195
	6	43-245	69	83-4,133		4 77-4110
	7	43-247	70	83-4,134		5 77-4933
	8	43-247.02	71	81-3136		6 77-5542
	9	43-251	72	Omitted		7 77-5731
	10	43-251.01	73	Omitted		8 77-5807
	11	43-254	LB 561A § 1	Omitted		9 77-5907
	12	43-258	2	Omitted		10 Omitted
	13	43-260.01	3	Omitted		11 Omitted
	14	43-260.04	4	Omitted	LB 613 § 1	50-406
	15	43-260.05	5	Omitted		2 50-407
	16	43-260.07	6	Omitted		3 Omitted
	17	43-272.01	7	Omitted		4 Omitted
	18	43-279.01	8	90-539	LB 616 § 1	8-2701
	19	43-281	9	Omitted		2 8-2702
	20	43-284	10	Omitted		3 8-2703
	21	43-284.01	LB 563 § 1	73-510		4 8-2704
	22	43-285	2	Omitted		5 8-2705
	23	43-286	3	Omitted		6 8-2706
	24	43-2,108.05	LB 568 § 1	44-8801		7 8-2707
	25	43-2,129	2	44-8802		8 8-2708
	26	43-404	3	44-8803		9 8-2709
	27	43-405	4	44-8804		10 8-2710
	28	43-406	5	44-8805		11 8-2711
	29	43-407	6	44-8806		12 8-2712
	30	43-408	7	44-8807		13 8-2713
	31	43-410	8	44-8808		14 8-2714
	32	43-412	9	Omitted		15 8-2715
	33	43-413	10	Omitted		16 8-2716
	34	43-414	LB 568A	Omitted		17 8-2717
	35	43-415	LB 573 § 1	77-2715.08		18 8-2718
	36	43-416	2	Omitted		19 8-2719
	37	43-417	3	Omitted		20 8-2720
	38	43-418	LB 579 § 1	53-117		21 8-2721
	39	43-419	2	Omitted		22 8-2722
	40	43-420	LB 579A	Omitted		23 8-2723

## APPENDIX

2013 First Session	2013 Supplement	2013 First Session	2013 Supplement	2013 First Session	2013 Supplement
24	8-2724		42 8-2742		4 Omitted
25	8-2725		43 8-2743	LB 629	§ 1 77-382
26	8-2726		44 8-2744		2 81-125
27	8-2727		45 8-2745		3 Omitted
28	8-2728		46 8-2746	LB 634	§ 1 81-825
29	8-2729		47 8-2747		2 81-826
30	8-2730		48 8-2748		3 81-827
31	8-2731		49 8-601		4 81-828
32	8-2732		50 8-602		5 Omitted
33	8-2733		51 Omitted	LB 634A	Omitted
34	8-2734		52 Omitted	LB 643	§ 1 16-230
35	8-2735		53 Omitted		2 17-563
36	8-2736	LB 620	§ 1 50-502		3 Omitted
37	8-2737		2 50-503	LB 646	§ 1 32-512
38	8-2738	LB 623	§ 1 39-810		2 70-612
39	8-2739		2 Omitted		3 70-615
40	8-2740	LB 628	§ 1 81-12,138		4 70-619
41	8-2741		2 81-12,142		5 Omitted
			3 81-12,143	LB 647	§ 1 54-784.01
					2 54-789
					3 Omitted

## APPENDIX

## CROSS REFERENCE TABLE

Legislative Bills, One Hundred Third Legislature  
First Session, 2013

Showing the date each act went into effect.  
Convened January 9, 2013, and adjourned June 5, 2013.

LB No.	Effective Date	LB No.	Effective Date
1	September 6, 2013		33, 34, 35, 37, 39, and 41 of
2	September 6, 2013		this act become operative on
3	May 17, 2013		January 1, 2014. The other
6	Sections 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15, and 16 of this act become operative on July 1, 2013. The other sections of this act become operative on May 26, 2013.		sections of this act become operative on April 25, 2013.
6A	May 26, 2013	79A	April 25, 2013
7	September 6, 2013	87	September 6, 2013
16	September 6, 2013	88	September 6, 2013
21	June 30, 2014 (operative date)	90	October 1, 2013 (operative date)
23	September 6, 2013	91	September 6, 2013
23A	September 6, 2013	93	Sections 1, 2, 3, 4, 5, and 8 of this act become operative on July 1, 2014. The other sections of this act become operative on September 6, 2013.
24	March 8, 2013		
27	September 6, 2013	93A	September 6, 2013
28	January 1, 2014 (operative date)	94	September 6, 2013
29	September 6, 2013	97	October 1, 2013 (operative date)
30	February 16, 2013	99	September 6, 2013
31	September 6, 2013	100	February 16, 2013
32	September 6, 2013	102	September 6, 2013
34	September 6, 2013	103	September 6, 2013
35	February 16, 2013	104	June 5, 2013
36	March 8, 2013	105	July 1, 2014 (operative date)
38	January 1, 2014 (operative date)	107	September 6, 2013
39	September 6, 2013	111	February 16, 2013
40	March 8, 2013	112	September 6, 2013
42	September 6, 2013	113	September 6, 2013
44	September 6, 2013	117	September 6, 2013
55	April 25, 2013	125	February 12, 2013
59	September 6, 2013	133	September 6, 2013
66	September 6, 2013	135	September 6, 2013
67	March 8, 2013	137	March 8, 2013
68	September 6, 2013	140	September 6, 2013
69	October 1, 2013 (operative date)	141	September 6, 2013
70	March 21, 2013	146	February 16, 2013
72	September 6, 2013	147	September 6, 2013
78	September 6, 2013	153	September 6, 2013
79	Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32,	153A	September 6, 2013
		154	September 6, 2013
		155	September 6, 2013
		156	September 6, 2013
		158	July 1, 2013

## APPENDIX

LB No.	Effective Date	LB No.	Effective Date
	(operative date)	279	September 6, 2013
164	September 6, 2013	283	September 6, 2013
165	September 6, 2013	290	September 6, 2013
166	May 8, 2013	295	April 4, 2013
169	September 6, 2013	296	January 1, 2014
170	September 6, 2013		(operative date)
172	September 6, 2013	298	June 5, 2013
173	March 8, 2013	299	September 6, 2013
180	September 6, 2013	303	September 6, 2013
192	September 6, 2013	306	July 1, 2013
194	May 22, 2013		(operative date)
195	July 1, 2013	306A	July 1, 2013
	(operative date)		(operative date)
196	July 1, 2013	308	September 6, 2013
	(operative date)	311	September 6, 2013
197	July 1, 2013	316	September 6, 2013
	(operative date)	326	September 6, 2013
198	July 1, 2013	329	September 6, 2013
	(operative date)	331	June 5, 2013
199	Provisions line-item vetoed by the Governor and overridden by the Legislature became effective on May 29, 2013. All other provisions became effective on May 26, 2013.	332	September 6, 2013
		336	September 6, 2013
		337	March 21, 2013
		340	September 6, 2013
		341	January 1, 2015
			(operative date)
		344	May 8, 2013
200	May 26, 2013	345	Sections 1 and 6 of this act become operative on September 6, 2013. Sections 2 and 7 of this act become operative on January 1, 2013. The other sections of this act become operative on May 8, 2013.
203	September 6, 2013		
205	September 6, 2013		
207	October 1, 2013		
	(operative date)		
207A	September 6, 2013		
208	September 6, 2013		
209	September 6, 2013		
210	September 6, 2013		
211	July 1, 2013	349	September 6, 2013
	(operative date)	361	September 6, 2013
211A	June 5, 2013	363	September 6, 2013
213	March 8, 2013	363A	September 6, 2013
214	September 6, 2013	366	June 5, 2013
216	June 5, 2013	366A	June 5, 2013
216A	September 6, 2013	368	July 1, 2014
222	May 8, 2013		(operative date)
223	September 6, 2013	368A	September 6, 2013
224	September 6, 2013	377	September 6, 2013
225	September 6, 2013	384	May 17, 2013
230	September 6, 2013	384A	May 17, 2013
240	September 6, 2013	386	September 6, 2013
242	September 6, 2013	388	September 6, 2013
243	September 6, 2013	398	September 6, 2013
250	September 6, 2013	407	May 22, 2013
255	October 1, 2013	408	March 1, 2013
	(operative date)	410	May 30, 2013
262	September 6, 2013	420	May 8, 2013
263	April 25, 2013	423	September 6, 2013
265	May 26, 2013	426	September 6, 2013
269	June 5, 2013	429	September 6, 2013
269A	June 5, 2013	429A	September 6, 2013
271	September 6, 2013	434	September 6, 2013
277	September 6, 2013	435	September 6, 2013
		442	September 6, 2013

## CROSS REFERENCE TABLE

LB No.	Effective Date	LB No.	Effective Date
458	September 6, 2013	628	September 6, 2013
459	September 6, 2013	629	September 6, 2013
476	October 1, 2013 (operative date)	634	June 4, 2013
477	September 6, 2013	634A	June 4, 2013
479	September 6, 2013	643	September 6, 2013
483	September 6, 2013	646	September 6, 2013
483A	September 6, 2013	647	September 6, 2013
484	September 6, 2013		
487	September 6, 2013		
493	September 6, 2013		
495	April 25, 2013		
495A	April 25, 2013		
497	May 30, 2013		
499	September 6, 2013		
500	September 6, 2013		
507	Sections 15, 17, 18, and 20 of this act become operative on June 5, 2013. The other sections of this act become operative on September 6, 2013.		
507A	June 5, 2013		
510	September 6, 2013		
517	June 5, 2013		
517A	June 5, 2013		
528	September 6, 2013		
530	June 5, 2013		
530A	September 6, 2013		
536	May 26, 2013		
538	January 1, 2014 (operative date)		
545	September 6, 2013		
549	September 6, 2013		
553	July 1, 2013 (operative date)		
553A	May 15, 2013		
556	September 6, 2013		
556A	September 6, 2013		
561	May 30, 2013		
561A	May 30, 2013		
563	May 30, 2013		
568	June 6, 2013		
568A	June 6, 2013		
573	January 1, 2014 (operative date)		
579	September 6, 2013		
579A	September 6, 2013		
583	September 6, 2013		
583A	September 6, 2013		
585	September 6, 2013		
589	May 9, 2013		
595	May 9, 2013		
595A	May 9, 2013		
612	April 25, 2013		
613	June 6, 2013		
616	January 1, 2014 (operative date)		
620	September 6, 2013		
623	September 6, 2013		