

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 948

Introduced by Murante, 49; at the request of the Governor.

Read first time January 10, 2018

Committee: Government, Military and Veterans Affairs

1 A BILL FOR AN ACT relating to state government; to amend sections
2 13-2710, 37-1280, 42-922, 44-213.02, 44-213.03, 46-734, 46-1136,
3 46-1501, 57-239, 58-709, 61-206, 69-2105, 71-7622, 73-306, 77-414,
4 77-1301.01, 77-1346, 77-4023, 77-4111, 77-4307, 81-8,221, 81-12,150,
5 81-1612, 84-907.04, and 84-909.01, Reissue Revised Statutes of
6 Nebraska, sections 13-1907, 13-2103, 13-2112, 60-495, 72-805,
7 76-2221, 77-702, and 77-6203, Revised Statutes Cumulative
8 Supplement, 2016, and sections 3-158, 60-6,102, 60-6,103, 60-6,107,
9 and 77-2703, Revised Statutes Supplement, 2017; to change and
10 eliminate provisions relating to rules and regulations, forms, and
11 procedural rules; to harmonize provisions; to repeal the original
12 sections; and to outright repeal sections 44-7512, 46-1509, and
13 69-2505, Reissue Revised Statutes of Nebraska.
14 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 3-158, Revised Statutes Supplement, 2017, is
2 amended to read:

3 3-158 Any person who in the ordinary course of his or her business
4 rents an aircraft to another person shall deliver to the renter a written
5 notice stating the nature and extent of insurance coverage provided, if
6 any, for the renter against loss of or damage to the hull of the aircraft
7 or liability arising out of the ownership, maintenance, or use of the
8 aircraft. The notice shall contain the name of the person giving the
9 notice ~~and shall be in the form prescribed by rule or regulation which~~
10 ~~the division shall adopt and promulgate.~~

11 Sec. 2. Section 13-1907, Revised Statutes Cumulative Supplement,
12 2016, is amended to read:

13 13-1907 (1) The Department of Economic Development ~~may~~ shall adopt
14 and promulgate rules and regulations to carry out sections 13-1901 to
15 13-1907 which shall include standardized reporting and application
16 procedures. Each development district shall submit annual performance and
17 financial reports to the department which shall address the activities
18 performed and services delivered.

19 (2) The Governor shall, from time to time, evaluate the
20 effectiveness and activities of the development districts receiving
21 assistance. If the Governor finds a development district to be
22 ineffective, he or she may take action, including the withholding of
23 assistance authorized under section 13-1906.

24 Sec. 3. Section 13-2103, Revised Statutes Cumulative Supplement,
25 2016, is amended to read:

26 13-2103 (1)(a) Beginning on December 1, 2014 ~~the date the rules and~~
27 ~~regulations updated in accordance with section 13-2112 become effective~~
28 ~~as provided in section 84-908~~, the department shall, for a period of one
29 hundred eighty days, accept formal applications for the designation of
30 enterprise zones. Within sixty days after the end of such application
31 period, the department may designate not more than five areas as

1 enterprise zones based on eligible applications it has received.

2 (b) If the department has received fewer than five applications for
3 the designation of enterprise zones after the end of the application
4 period described in subdivision (1)(a) of this section, the department
5 may establish a period of time within which to accept additional
6 applications. Within sixty days after the end of such extended
7 application period, the department may designate additional areas as
8 enterprise zones based on additional eligible applications received, but
9 not more than a total of five areas may be designated as enterprise zones
10 pursuant to this section.

11 (c) In the application period, the department may reject from
12 consideration any application which does not fully and completely comport
13 with the provisions of section 13-2104 at the end of the designated
14 application period. In choosing among eligible applications for
15 enterprise zone designation, the department shall consider the levels of
16 distress existing within the applicant areas and the contents of the
17 applicant's formal enterprise zone application.

18 (d) Each area designated as an enterprise zone shall meet all
19 eligibility criteria. Of the enterprise zones authorized, no more than
20 one shall be located inside the boundaries of a city of the metropolitan
21 class and no more than one inside a city of the primary class.

22 (2) Any city, village, tribal government area, or county may apply
23 for designation of an area within such city, village, tribal government
24 area, or county as an enterprise zone, except that if a county seeks to
25 have an area within an incorporated city or village or a tribal
26 government area designated as an enterprise zone, the consent of the
27 governing body of such city, village, or tribal government area shall
28 first be required.

29 (3) If an incorporated city or village or a tribal government area
30 consents, a county may apply on behalf of the city, village, or tribal
31 government area for certification of an area within such city, village,

1 or tribal government area as an enterprise zone. Both a county and a
2 city, village, or tribal government area shall not apply for
3 certification of the same area.

4 (4) Two or more counties or tribal government areas may jointly
5 apply for designation of an area as an enterprise zone which is located
6 on both sides of their common boundaries.

7 (5) Political subdivisions wishing to file an application for
8 designation of an enterprise zone shall first follow the procedures set
9 out in sections 13-2106 to 13-2108. An application for designation as an
10 enterprise zone shall be in a form and contain information prescribed by
11 the department pursuant to section 13-2104.

12 (6) An area designated as an enterprise zone shall retain such
13 designation for a period of ten years from the date of such designation.

14 (7) All enterprise zones designated as such within a single county
15 shall not exceed a total of sixteen square miles in area.

16 Sec. 4. Section 13-2112, Revised Statutes Cumulative Supplement,
17 2016, is amended to read:

18 13-2112 The department may ~~shall~~ adopt and promulgate rules and
19 regulations to carry out the Enterprise Zone Act. ~~The department shall~~
20 ~~update such rules and regulations within six months after July 18, 2014.~~

21 Sec. 5. Section 13-2710, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 13-2710 The department may ~~shall~~ adopt and promulgate rules and
24 regulations to carry out the Civic and Community Center Financing Act.

25 Sec. 6. Section 37-1280, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 37-1280 The Department of Motor Vehicles may ~~shall~~ adopt and
28 promulgate rules and regulations necessary to carry out sections 37-1275
29 to 37-1290, and the county treasurers shall conform to the rules and
30 regulations and act at the direction of the department. The department
31 shall also provide the county treasurers with the necessary training for

1 the proper administration of such sections. The department shall receive
2 and file in its office all instruments forwarded to it by the county
3 treasurers under such sections and shall maintain indices covering the
4 entire state for the instruments so filed. These indices shall be by hull
5 identification number and alphabetically by the owner's name and shall be
6 for the entire state and not for individual counties. The department
7 shall provide and furnish the forms required by section 37-1286 to the
8 county treasurers except manufacturers' or importers' certificates. The
9 department shall check with its records all duplicate certificates of
10 title received from the county treasurers. If it appears that a
11 certificate of title has been improperly issued, the department shall
12 cancel the certificate of title. Upon cancellation of any certificate of
13 title, the department shall notify the county treasurer who issued the
14 certificate, and the county treasurer shall enter the cancellation upon
15 his or her records. The department shall also notify the person to whom
16 such certificate of title was issued and any lienholders appearing on the
17 certificate of the cancellation and shall demand the surrender of the
18 certificate of title, but the cancellation shall not affect the validity
19 of any lien noted on the certificate. The holder of the certificate of
20 title shall return the certificate to the department immediately. If a
21 certificate of number has been issued pursuant to section 37-1216 to the
22 holder of a certificate of title so canceled, the department shall notify
23 the commission. Upon receiving the notice, the commission shall
24 immediately cancel the certificate of number and demand the return of the
25 certificate of number and the holder of the certificate of number shall
26 return the certificate to the commission immediately.

27 Sec. 7. Section 42-922, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 42-922 The department may ~~shall~~ adopt and promulgate such rules and
30 regulations and perform all other acts as may be necessary or appropriate
31 to carry out the Protection from Domestic Abuse Act. Such rules and

1 regulations shall include, but not be limited to, rules and regulations
2 relating to fees charged, training of personnel, and administration of
3 the program.

4 Sec. 8. Section 44-213.02, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 44-213.02 The Department of Insurance may adopt and promulgate ~~shall~~
7 ~~not later than ninety days after May 25, 1953, adopt and publish~~
8 ~~appropriate rules and regulations that in the manner provided by the~~
9 ~~Administrative Procedure Act, as now existing or as hereafter amended,~~
10 ~~which rules and regulations shall~~ prescribe fair, equitable, and
11 reasonable standards for all plans providing retirement, disability,
12 sickness, accident, or death benefits which are established, participated
13 in, or administered by domestic insurance companies. The standards
14 prescribed shall, among other things, (1) prohibit discrimination in
15 favor of officers and supervisory or highly compensated personnel; (2)
16 require that all plans be based upon sound actuarial principles and that
17 adoption thereof will not impair the company's financial position or be
18 prejudicial to the interest of the policyholders; and (3) require that
19 all plans contain stated maximum benefits found by the Director of
20 Insurance to be fair and reasonable and properly related to the
21 compensation of the recipient and the financial condition of the company.
22 Plans which do not comply with the standards prescribed shall not be
23 approved by the Director of Insurance.

24 Sec. 9. Section 44-213.03, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 44-213.03 No modifications of or amendments to any plan for
27 retirement, disability, sickness, accident, or death benefits of any
28 domestic insurance company shall be effective until and unless such
29 modifications or amendments are adopted and approved by a two-thirds vote
30 of the members of the board of directors present at the meeting. All
31 modifications of or amendments to any plan providing benefits upon or

1 after retirement must also be filed with and approved by the Director of
2 Insurance. Such modifications or amendments may provide for increased
3 benefits for retired members if such increase meets the standards
4 required in section 44-213.02, ~~and in the rules and regulations adopted~~
5 ~~thereunder~~. All such modifications or amendments shall comply with the
6 provisions of sections 44-213 to 44-213.07 and the Director of Insurance
7 shall review all plans providing benefits upon or after retirement in
8 their entirety and the effect on such plans of such modifications or
9 amendments when considering the same for approval.

10 Sec. 10. Section 46-734, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 46-734 The Environmental Quality Council may ~~shall~~ adopt and
13 promulgate, in accordance with the Administrative Procedure Act, such
14 rules and regulations as are necessary to the discharge of duties under
15 sections 46-721 to 46-733.

16 Sec. 11. Section 46-1136, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 46-1136 The council may ~~shall~~ adopt and promulgate rules and
19 regulations providing for:

20 (1) Procedures and specifications for the installation, replacement,
21 or repair of chemigation equipment;

22 (2) A system for the issuance of permits by the district to engage
23 in chemigation;

24 (3) A procedure for a permitholder to follow when notifying the
25 department and the appropriate district of any actual or suspected
26 accident related to the use of chemigation;

27 (4) A procedure for the review and approval of a cleanup and
28 recovery plan for an accident related to the use of chemigation;

29 (5) The posting of signs providing notice of the use of chemigation;
30 and

31 (6) Any other chemigation practices necessary to carry out the

1 Nebraska Chemigation Act.

2 Sec. 12. Section 46-1501, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 46-1501 Sections 46-1501 to ~~46-1508~~ ~~46-1509~~ shall be known and may
5 be cited as the Wellhead Protection Area Act.

6 Sec. 13. Section 57-239, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 57-239 The Tax Commissioner ~~may shall~~ adopt and promulgate rules and
9 regulations necessary for the implementation of sections 57-235 to
10 57-239. The Tax Commissioner ~~may shall~~ also prescribe necessary forms for
11 the implementation of sections 57-235 to 57-239.

12 Sec. 14. Section 58-709, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 58-709 The Department of Economic Development, in consultation with
15 the Nebraska Investment Finance Authority and the housing advisory
16 committee established in section 58-704, ~~may shall~~ adopt and promulgate
17 rules and regulations to carry out the Nebraska Affordable Housing Act.
18 The department shall monitor programs to see that only qualified
19 individuals and families are occupying projects funded by the Affordable
20 Housing Trust Fund.

21 Sec. 15. Section 60-495, Revised Statutes Cumulative Supplement,
22 2016, is amended to read:

23 60-495 (1) The director ~~may shall~~ adopt and promulgate such rules
24 and regulations and prepare and furnish all forms and information
25 necessary to carry out sections 60-493 to 60-495 and the duties of the
26 department under the Revised Uniform Anatomical Gift Act.

27 (2) The Organ and Tissue Donor Awareness and Education Fund is
28 created. Department personnel and the county treasurer shall remit all
29 funds contributed under sections 60-484, 60-4,144, and 60-4,181 to the
30 State Treasurer for credit to the fund. The Department of Health and
31 Human Services shall administer the Organ and Tissue Donor Awareness and

1 Education Fund for the promotion of organ and tissue donation. The
2 department shall use the fund to assist organizations such as the
3 federally designated organ procurement organization for Nebraska and the
4 State Anatomical Board in carrying out activities which promote organ and
5 tissue donation through the creation and dissemination of educational
6 information. Any money in the fund available for investment shall be
7 invested by the state investment officer pursuant to the Nebraska Capital
8 Expansion Act and the Nebraska State Funds Investment Act.

9 Sec. 16. Section 60-6,102, Revised Statutes Supplement, 2017, is
10 amended to read:

11 60-6,102 In the case of a driver who dies within four hours after
12 being in a motor vehicle accident, including a motor vehicle accident in
13 which one or more persons in addition to such driver is killed, and of a
14 pedestrian sixteen years of age or older who dies within four hours after
15 being struck by a motor vehicle, the coroner or other official performing
16 the duties of coroner shall examine the body and cause such tests to be
17 made as are necessary to determine the amount of alcohol or drugs in the
18 body of such driver or pedestrian. Such information shall be included in
19 each report submitted pursuant to sections 60-6,101 to 60-6,104 and shall
20 be tabulated on a monthly basis by the Department of Transportation. Such
21 information, including the identity of the deceased and any such amount
22 of alcohol or drugs, shall be public information and may be released or
23 disclosed as provided ~~by in rules and regulations~~ of the department.

24 Sec. 17. Section 60-6,103, Revised Statutes Supplement, 2017, is
25 amended to read:

26 60-6,103 Any surviving driver or pedestrian sixteen years of age or
27 older who is involved in a motor vehicle accident in which a person is
28 killed shall be requested, if he or she has not otherwise been directed
29 by a peace officer to submit to a chemical test under section 60-6,197,
30 to submit to a chemical test of blood, urine, or breath as the peace
31 officer directs for the purpose of determining the amount of alcohol or

1 drugs in his or her body fluid. The results of such test shall be
2 reported in writing to the Director-State Engineer who shall tabulate
3 such results on a monthly basis. Such information, including the identity
4 of such driver or pedestrian and any such amount of alcohol or drugs,
5 shall be public information and may be released or disclosed as provided
6 ~~by in rules and regulations~~ of the Department of Transportation. The
7 provisions of sections 60-6,199, 60-6,200, and 60-6,202 shall, when
8 applicable, apply to the tests provided for in this section.

9 Sec. 18. Section 60-6,107, Revised Statutes Supplement, 2017, is
10 amended to read:

11 60-6,107 (1) Except as provided in subsection (2) of this section,
12 the Department of Health and Human Services ~~shall~~ may adopt necessary
13 rules and regulations for the administration of the provisions of
14 sections 60-6,101 to 60-6,106.

15 (2) The Department of Transportation ~~shall~~ may adopt and promulgate
16 rules and regulations which shall provide for the release and disclosure
17 of the results of tests conducted under sections 60-6,102 and 60-6,103.

18 Sec. 19. Section 61-206, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 61-206 (1) The Department of Natural Resources is given jurisdiction
21 over all matters pertaining to water rights for irrigation, power, or
22 other useful purposes except as such jurisdiction is specifically limited
23 by statute. Such department ~~shall~~ may adopt and promulgate rules and
24 regulations governing matters coming before it. It may refuse to allow
25 any water to be used by claimants until their rights have been determined
26 and made of record. It may request information relative to irrigation and
27 water power works from any county, irrigation, or power officers and from
28 any other persons. It may have hearings on complaints, petitions, or
29 applications in connection with any of such matters. Such hearings shall
30 be had at the time and place designated by the department. The department
31 shall have power to certify official acts, compel attendance of

1 witnesses, take testimony by deposition as in suits at law, and examine
2 books, papers, documents, and records of any county, party, or parties
3 interested in any of the matters mentioned in this section or have such
4 examinations made by its qualified representative and shall make and
5 preserve a true and complete transcript of its proceedings and hearings.
6 If a final decision is made without a hearing, a hearing shall be held at
7 the request of any party to the proceeding if the request is made within
8 thirty days after the decision is rendered. If a hearing is held at the
9 request of one or more parties, the department may require each such
10 requesting party and each person who requests to be made a party to such
11 hearing to pay the proportional share of the cost of such transcript.
12 Upon any hearing, the department shall receive any evidence relevant to
13 the matter under investigation and the burden of proof shall be upon the
14 person making the complaint, petition, and application. After such
15 hearing and investigation, the department shall render a decision in the
16 premises in writing and shall issue such order or orders duly certified
17 as it may deem necessary.

18 (2) The department shall serve as the official agency of the state
19 in connection with water resources development, soil and water
20 conservation, flood prevention, watershed protection, and flood control.

21 (3) The department shall:

22 (a) Offer assistance as appropriate to the supervisors or directors
23 of any subdivision of government with responsibilities in the area of
24 natural resources conservation, development, and use in the carrying out
25 of any of their powers and programs;

26 (b) Keep the supervisors or directors of each such subdivision
27 informed of the activities and experience of all other such subdivisions
28 and facilitate cooperation and an interchange of advice and experience
29 between such subdivisions;

30 (c) Coordinate the programs of such subdivisions so far as this may
31 be done by advice and consultation;

1 (d) Secure the cooperation and assistance of the United States, any
2 of its agencies, and agencies of this state in the work of such
3 subdivisions;

4 (e) Disseminate information throughout the state concerning the
5 activities and programs of such subdivisions;

6 (f) Plan, develop, and promote the implementation of a comprehensive
7 program of resource development, conservation, and utilization for the
8 soil and water resources of this state in cooperation with other local,
9 state, and federal agencies and organizations;

10 (g) When necessary for the proper administration of the functions of
11 the department, rent or lease space outside the State Capitol; and

12 (h) Assist such local governmental organizations as villages,
13 cities, counties, and natural resources districts in securing, planning,
14 and developing information on flood plains to be used in developing
15 regulations and ordinances on proper use of these flood plains.

16 Sec. 20. Section 69-2105, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 69-2105 (1) In a consumer rental purchase agreement involving more
19 than one consumer, a lessor need disclose the items required by the
20 Consumer Rental Purchase Agreement Act to only one of the consumers who
21 is primarily obligated. In a consumer rental purchase agreement involving
22 more than one lessor, only one lessor need make the required disclosures.

23 (2) The disclosures required under the act shall be made at or
24 before consummation of the consumer rental purchase agreement.

25 (3) The disclosures shall be made using words and phrases of common
26 meaning in a form that the consumer may keep. For purposes of satisfying
27 the disclosure requirements of the act, the terms lease and rent shall be
28 considered synonymous. The required disclosures shall be set forth
29 clearly and conspicuously. The disclosures shall be placed all together
30 on the front side of the consumer rental purchase agreement or on a
31 separate form. The form setting forth the required disclosures shall

1 contain spaces for the consumer's signature and the date appearing
2 immediately below the disclosures. If the disclosures are made on more
3 than one page, each page shall be signed by the consumer. The
4 requirements of this section shall not have been complied with unless the
5 consumer signs the statement and receives at the time the disclosures are
6 made a legible copy of the signed statement. The inclusion in the
7 required disclosures of a statement that the consumer received a legible
8 copy of those disclosures shall create a rebuttable presumption of
9 receipt.

10 (4) Information required to be disclosed may be given in the form of
11 estimates. Estimates shall be identified as such.

12 (5) If a disclosure becomes inaccurate as the result of any act,
13 occurrence, or agreement after delivery of the required disclosures, the
14 resulting inaccuracy shall not be a violation of the act.

15 (6) Information in addition to that required by section 69-2104 may
16 be disclosed if the additional information is not stated, utilized, or
17 placed in a manner which will contradict, obscure, or detract attention
18 from the required information.

19 (7) The department may ~~shall~~ adopt and promulgate rules and
20 regulations establishing requirements for the order, acknowledgment by
21 initialing, and conspicuous placement of the disclosures set forth in
22 section 69-2104. Such rules and regulations may allow the disclosures to
23 be made in accordance with model forms prepared by the department.

24 (8) The terms of the consumer rental purchase agreement, except as
25 otherwise provided in the Consumer Rental Purchase Agreement Act, shall
26 be set forth in not less than eight-point standard type or such similar
27 type as prescribed in rules and regulations adopted and promulgated by
28 the department.

29 (9) Every consumer rental purchase agreement shall contain,
30 immediately above or adjacent to the place for the signature of the
31 consumer, a clear, conspicuous, printed or typewritten notice, in

1 boldface, ten-point type, in substantially the following language:

2 NOTICE TO CONSUMER – READ BEFORE SIGNING

3 a. DO NOT SIGN THIS BEFORE YOU READ THE ENTIRE AGREEMENT, INCLUDING
4 ANY WRITING ON THE REVERSE SIDE, EVEN IF OTHERWISE ADVISED.

5 b. DO NOT SIGN THIS IF IT CONTAINS ANY BLANK SPACES.

6 c. YOU ARE ENTITLED TO AN EXACT COPY OF ANY AGREEMENT YOU SIGN.

7 Sec. 21. Section 71-7622, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 71-7622 The Department of Health and Human Services ~~may shall~~ adopt
10 and promulgate rules and regulations to carry out the Native American
11 Public Health Act and shall adhere to already established or adopted and
12 promulgated rules and regulations for contracted services under the act.

13 Sec. 22. Section 72-805, Revised Statutes Cumulative Supplement,
14 2016, is amended to read:

15 72-805 The 2009 International Energy Conservation Code applies to
16 all new buildings constructed in whole or in part with state funds after
17 August 27, 2011. The State Energy Office shall review building plans and
18 specifications necessary to determine whether a building will meet the
19 requirements of this section. The State Energy Office shall provide a
20 copy of its review to the agency receiving funding. The agency receiving
21 the funding shall verify that the building as constructed meets or
22 exceeds the code. The verification shall be provided to the State Energy
23 Office. The State Energy Office ~~may shall~~, in consultation with the State
24 Building Administrator of the Department of Administrative Services,
25 adopt and promulgate rules and regulations to carry out this section.

26 Sec. 23. Section 73-306, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 73-306 The Department of Administrative Services ~~may shall~~ adopt and
29 promulgate rules and regulations to carry out sections 73-301 to 73-305.
30 Such rules and regulations shall apply to the Director of Administrative
31 Services in carrying out his or her duties pursuant to such sections.

1 Sec. 24. Section 76-2221, Revised Statutes Cumulative Supplement,
2 2016, is amended to read:

3 76-2221 The Real Property Appraiser Act shall not apply to:

4 (1) Any real property appraiser who is a salaried employee of (a)
5 the federal government, (b) any agency of the state government or a
6 political subdivision which appraises real estate, (c) any insurance
7 company authorized to do business in this state, or (d) any bank, savings
8 bank, savings and loan association, building and loan association, credit
9 union, or small loan company licensed by this state or supervised or
10 regulated by or through federal enactments covering financial
11 institutions, except that any employee of the entities listed in
12 subdivisions (a) through (d) of this subdivision who signs a report as a
13 credentialed real property appraiser shall be subject to the act and the
14 Uniform Standards of Professional Appraisal Practice. Any salaried
15 employee of the entities listed in subdivisions (a) through (d) of this
16 subdivision who is a credentialed real property appraiser and who does
17 not sign a report as a credentialed real property appraiser shall include
18 the following disclosure prominently with such report: This opinion of
19 value may not meet the minimum standards contained in the Uniform
20 Standards of Professional Appraisal Practice and is not governed by the
21 Real Property Appraiser Act;

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

23 (3) Any person who provides assistance (a) in obtaining the data
24 upon which an appraisal is based, (b) in the physical preparation of a
25 report, such as taking photographs, preparing charts, maps, or graphs, or
26 typing or printing the report, or (c) that does not directly involve the
27 exercise of judgment in arriving at the analyses, opinions, or
28 conclusions concerning real estate or real property set forth in the
29 report;

30 (4) Any owner of real estate, employee of the owner, or attorney
31 licensed to practice law in this state representing the owner who renders

1 an estimate or opinion of value of the real estate or any interest in the
2 real estate when such estimate or opinion is for the purpose of real
3 estate taxation, or any other person who renders such an estimate or
4 opinion of value when that estimate or opinion requires a specialized
5 knowledge that a real property appraiser would not have, except that a
6 real property appraiser or a person licensed under the Nebraska Real
7 Estate License Act is not exempt under this subdivision;

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

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

22 (7) Any person appointed by a county board of equalization to act as
23 a referee pursuant to section 77-1502.01, except that any person who also
24 practices as an independent real property appraiser or real property
25 associate for others shall be subject to the Real Property Appraiser Act
26 and shall be credentialed prior to engaging in such other appraising. Any
27 real property appraiser appointed to act as a referee pursuant to section
28 77-1502.01 and who prepares a report for the county board of equalization
29 shall not sign such report as a credentialed real property appraiser and
30 shall include the following disclosure prominently with such report: This
31 opinion of value may not meet the minimum standards contained in the

1 Uniform Standards of Professional Appraisal Practice and is not governed
2 by the Real Property Appraiser Act;

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

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

14 Sec. 25. Section 77-414, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 77-414 The Property Tax Administrator shall:

17 (1) Establish, implement, and maintain a required system of
18 educational courses for the certification and recertification of all
19 holders of county assessor certificates; and

20 (2) Establish the required educational standards and criteria for
21 certification and recertification of all holders of county assessor
22 certificates.

23 In order to promote compliance with the requirements of this
24 section, the Tax Commissioner ~~may shall~~ adopt and promulgate, and from
25 time to time amend or revise, rules and regulations containing the
26 necessary educational standards and criteria for certification and
27 recertification.

28 Sec. 26. Section 77-702, Revised Statutes Cumulative Supplement,
29 2016, is amended to read:

30 77-702 (1) The Governor shall appoint a Property Tax Administrator
31 with the approval of a majority of the members of the Legislature. The

1 Property Tax Administrator shall have experience and training in the
2 fields of taxation and property appraisal and shall meet all the
3 qualifications required for members of the Tax Equalization and Review
4 Commission under subsections (1) and (2) of section 77-5004. The Property
5 Tax Administrator ~~may shall~~ adopt and promulgate rules, ~~and~~ regulations,
6 ~~and forms~~ to carry out his or her duties ~~through June 30, 2007. Rules,~~
7 ~~regulations, and forms of the Property Tax Administrator in effect on~~
8 ~~July 1, 2007, shall be valid rules, regulations, and forms of the~~
9 ~~Department of Revenue beginning on July 1, 2007.~~

10 (2) In addition to any duties, powers, or responsibilities otherwise
11 conferred upon the Property Tax Administrator, he or she shall administer
12 and enforce all laws related to the state supervision of local property
13 tax administration and the central assessment of property subject to
14 property taxation. The Property Tax Administrator shall also advise
15 county assessors regarding the administration and assessment of taxable
16 property within the state and measure assessment performance in order to
17 determine the accuracy and uniformity of assessments.

18 Sec. 27. Section 77-1301.01, Reissue Revised Statutes of Nebraska,
19 is amended to read:

20 77-1301.01 The Tax Commissioner ~~may shall~~ adopt and promulgate rules
21 and regulations to establish standards for the appraisal of classes or
22 subclasses of real property in a county. The standards established shall
23 require that the appraisal shall be based upon the use of manuals
24 developed pursuant to section 77-1330 and shall arrive at a determination
25 of taxable value on a consistent basis in accordance with the methods
26 prescribed in sections 77-112 and 77-201. The Tax Commissioner ~~may shall~~
27 also establish standards for appraisal contracts which shall, among other
28 provisions, require that all such contracts shall require the use of
29 manuals developed pursuant to section 77-1330. No appraisal contract
30 shall be valid until approved in writing by the Tax Commissioner.

31 Sec. 28. Section 77-1346, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 77-1346 The Tax Commissioner may ~~shall~~ adopt and promulgate rules
3 and regulations to be used by county assessors in determining eligibility
4 for special valuation under section 77-1344 and in determining the
5 special valuation of such land for agricultural or horticultural purposes
6 under section 77-1344.

7 Sec. 29. Section 77-2703, Revised Statutes Supplement, 2017, is
8 amended to read:

9 77-2703 (1) There is hereby imposed a tax at the rate provided in
10 section 77-2701.02 upon the gross receipts from all sales of tangible
11 personal property sold at retail in this state; the gross receipts of
12 every person engaged as a public utility, as a community antenna
13 television service operator, or as a satellite service operator, any
14 person involved in the connecting and installing of the services defined
15 in subdivision (2)(a), (b), (d), or (e) of section 77-2701.16, or every
16 person engaged as a retailer of intellectual or entertainment properties
17 referred to in subsection (3) of section 77-2701.16; the gross receipts
18 from the sale of admissions in this state; the gross receipts from the
19 sale of warranties, guarantees, service agreements, or maintenance
20 agreements when the items covered are subject to tax under this section;
21 beginning January 1, 2008, the gross receipts from the sale of bundled
22 transactions when one or more of the products included in the bundle are
23 taxable; the gross receipts from the provision of services defined in
24 subsection (4) of section 77-2701.16; and the gross receipts from the
25 sale of products delivered electronically as described in subsection (9)
26 of section 77-2701.16. Except as provided in section 77-2701.03, when
27 there is a sale, the tax shall be imposed at the rate in effect at the
28 time the gross receipts are realized under the accounting basis used by
29 the retailer to maintain his or her books and records.

30 (a) The tax imposed by this section shall be collected by the
31 retailer from the consumer. It shall constitute a part of the purchase

1 price and until collected shall be a debt from the consumer to the
2 retailer and shall be recoverable at law in the same manner as other
3 debts. The tax required to be collected by the retailer from the consumer
4 constitutes a debt owed by the retailer to this state.

5 (b) It is unlawful for any retailer to advertise, hold out, or state
6 to the public or to any customer, directly or indirectly, that the tax or
7 part thereof will be assumed or absorbed by the retailer, that it will
8 not be added to the selling, renting, or leasing price of the property
9 sold, rented, or leased, or that, if added, it or any part thereof will
10 be refunded. The provisions of this subdivision shall not apply to a
11 public utility.

12 (c) The tax required to be collected by the retailer from the
13 purchaser, unless otherwise provided by statute or by rule and regulation
14 of the Tax Commissioner, shall be displayed separately from the list
15 price, the price advertised in the premises, the marked price, or other
16 price on the sales check or other proof of sales, rentals, or leases.

17 (d) For the purpose of more efficiently securing the payment,
18 collection, and accounting for the sales tax and for the convenience of
19 the retailer in collecting the sales tax, it shall be the duty of the Tax
20 Commissioner to provide a schedule or schedules of the amounts to be
21 collected from the consumer or user to effectuate the computation and
22 collection of the tax imposed by the Nebraska Revenue Act of 1967. Such
23 schedule or schedules shall provide that the tax shall be collected from
24 the consumer or user uniformly on sales according to brackets based on
25 sales prices of the item or items. Retailers may compute the tax due on
26 any transaction on an item or an invoice basis. The rounding rule
27 provided in section 77-3,117 applies.

28 (e) The use of tokens or stamps for the purpose of collecting or
29 enforcing the collection of the taxes imposed in the Nebraska Revenue Act
30 of 1967 or for any other purpose in connection with such taxes is
31 prohibited.

1 (f) For the purpose of the proper administration of the provisions
2 of the Nebraska Revenue Act of 1967 and to prevent evasion of the retail
3 sales tax, it shall be presumed that all gross receipts are subject to
4 the tax until the contrary is established. The burden of proving that a
5 sale of property is not a sale at retail is upon the person who makes the
6 sale unless he or she takes from the purchaser (i) a resale certificate
7 to the effect that the property is purchased for the purpose of
8 reselling, leasing, or renting it, (ii) an exemption certificate pursuant
9 to subsection (7) of section 77-2705, or (iii) a direct payment permit
10 pursuant to sections 77-2705.01 to 77-2705.03. Receipt of a resale
11 certificate, exemption certificate, or direct payment permit shall be
12 conclusive proof for the seller that the sale was made for resale or was
13 exempt or that the tax will be paid directly to the state.

14 (g) In the rental or lease of automobiles, trucks, trailers,
15 semitrailers, and truck-tractors as defined in the Motor Vehicle
16 Registration Act, the tax shall be collected by the lessor on the rental
17 or lease price, except as otherwise provided within this section.

18 (h) In the rental or lease of automobiles, trucks, trailers,
19 semitrailers, and truck-tractors as defined in the act, for periods of
20 one year or more, the lessor may elect not to collect and remit the sales
21 tax on the gross receipts and instead pay a sales tax on the cost of such
22 vehicle. If such election is made, it shall be made pursuant to the
23 following conditions:

24 (i) Notice of the desire to make such election shall be filed with
25 the Tax Commissioner and shall not become effective until the Tax
26 Commissioner is satisfied that the taxpayer has complied with all
27 conditions of this subsection and all rules and regulations of the Tax
28 Commissioner;

29 (ii) Such election when made shall continue in force and effect for
30 a period of not less than two years and thereafter until such time as the
31 lessor elects to terminate the election;

1 (iii) When such election is made, it shall apply to all vehicles of
2 the lessor rented or leased for periods of one year or more except
3 vehicles to be leased to common or contract carriers who provide to the
4 lessor a valid common or contract carrier exemption certificate. If the
5 lessor rents or leases other vehicles for periods of less than one year,
6 such lessor shall maintain his or her books and records and his or her
7 accounting procedure as the Tax Commissioner prescribes; and

8 (iv) The Tax Commissioner by rule and regulation ~~may shall~~ prescribe
9 the contents and form of the notice of election, a procedure for the
10 determination of the tax base of vehicles which are under an existing
11 lease at the time such election becomes effective, the method and manner
12 for terminating such election, and such other rules and regulations as
13 may be necessary for the proper administration of this subdivision.

14 (i) The tax imposed by this section on the sales of motor vehicles,
15 semitrailers, and trailers as defined in sections 60-339, 60-348, and
16 60-354 shall be the liability of the purchaser and, with the exception of
17 motor vehicles, semitrailers, and trailers registered pursuant to section
18 60-3,198, the tax shall be collected by the county treasurer as provided
19 in the Motor Vehicle Registration Act or by an approved licensed dealer
20 participating in the electronic dealer services system pursuant to
21 section 60-1507 at the time the purchaser makes application for the
22 registration of the motor vehicle, semitrailer, or trailer for operation
23 upon the highways of this state. The tax imposed by this section on motor
24 vehicles, semitrailers, and trailers registered pursuant to section
25 60-3,198 shall be collected by the Department of Motor Vehicles at the
26 time the purchaser makes application for the registration of the motor
27 vehicle, semitrailer, or trailer for operation upon the highways of this
28 state. At the time of the sale of any motor vehicle, semitrailer, or
29 trailer, the seller shall (i) state on the sales invoice the dollar
30 amount of the tax imposed under this section and (ii) furnish to the
31 purchaser a certified statement of the transaction, in such form as the

1 Tax Commissioner prescribes, setting forth as a minimum the total sales
2 price, the allowance for any trade-in, and the difference between the
3 two. The sales tax due shall be computed on the difference between the
4 total sales price and the allowance for any trade-in as disclosed by such
5 certified statement. Any seller who willfully understates the amount upon
6 which the sales tax is due shall be subject to a penalty of one thousand
7 dollars. A copy of such certified statement shall also be furnished to
8 the Tax Commissioner. Any seller who fails or refuses to furnish such
9 certified statement shall be guilty of a misdemeanor and shall, upon
10 conviction thereof, be punished by a fine of not less than twenty-five
11 dollars nor more than one hundred dollars. If the purchaser does not
12 register such motor vehicle, semitrailer, or trailer for operation on the
13 highways of this state within thirty days of the purchase thereof, the
14 tax imposed by this section shall immediately thereafter be paid by the
15 purchaser to the county treasurer or the Department of Motor Vehicles. If
16 the tax is not paid on or before the thirtieth day after its purchase,
17 the county treasurer or Department of Motor Vehicles shall also collect
18 from the purchaser interest from the thirtieth day through the date of
19 payment and sales tax penalties as provided in the Nebraska Revenue Act
20 of 1967. The county treasurer or Department of Motor Vehicles shall
21 report and remit the tax so collected to the Tax Commissioner by the
22 fifteenth day of the following month. The county treasurer shall deduct
23 and withhold for the use of the county general fund, from all amounts
24 required to be collected under this subsection, the collection fee
25 permitted to be deducted by any retailer collecting the sales tax. The
26 Department of Motor Vehicles shall deduct, withhold, and deposit in the
27 Motor Carrier Division Cash Fund the collection fee permitted to be
28 deducted by any retailer collecting the sales tax. The collection fee
29 shall be forfeited if the county treasurer or Department of Motor
30 Vehicles violates any rule or regulation pertaining to the collection of
31 the use tax.

1 (j)(i) The tax imposed by this section on the sale of a motorboat as
2 defined in section 37-1204 shall be the liability of the purchaser. The
3 tax shall be collected by the county treasurer at the time the purchaser
4 makes application for the registration of the motorboat. At the time of
5 the sale of a motorboat, the seller shall (A) state on the sales invoice
6 the dollar amount of the tax imposed under this section and (B) furnish
7 to the purchaser a certified statement of the transaction, in such form
8 as the Tax Commissioner prescribes, setting forth as a minimum the total
9 sales price, the allowance for any trade-in, and the difference between
10 the two. The sales tax due shall be computed on the difference between
11 the total sales price and the allowance for any trade-in as disclosed by
12 such certified statement. Any seller who willfully understates the amount
13 upon which the sales tax is due shall be subject to a penalty of one
14 thousand dollars. A copy of such certified statement shall also be
15 furnished to the Tax Commissioner. Any seller who fails or refuses to
16 furnish such certified statement shall be guilty of a misdemeanor and
17 shall, upon conviction thereof, be punished by a fine of not less than
18 twenty-five dollars nor more than one hundred dollars. If the purchaser
19 does not register such motorboat within thirty days of the purchase
20 thereof, the tax imposed by this section shall immediately thereafter be
21 paid by the purchaser to the county treasurer. If the tax is not paid on
22 or before the thirtieth day after its purchase, the county treasurer
23 shall also collect from the purchaser interest from the thirtieth day
24 through the date of payment and sales tax penalties as provided in the
25 Nebraska Revenue Act of 1967. The county treasurer shall report and remit
26 the tax so collected to the Tax Commissioner by the fifteenth day of the
27 following month. The county treasurer shall deduct and withhold for the
28 use of the county general fund, from all amounts required to be collected
29 under this subsection, the collection fee permitted to be deducted by any
30 retailer collecting the sales tax. The collection fee shall be forfeited
31 if the county treasurer violates any rule or regulation pertaining to the

1 collection of the use tax.

2 (ii) In the rental or lease of motorboats, the tax shall be
3 collected by the lessor on the rental or lease price.

4 (k)(i) The tax imposed by this section on the sale of an all-terrain
5 vehicle as defined in section 60-103 or a utility-type vehicle as defined
6 in section 60-135.01 shall be the liability of the purchaser. The tax
7 shall be collected by the county treasurer or by an approved licensed
8 dealer participating in the electronic dealer services system pursuant to
9 section 60-1507 at the time the purchaser makes application for the
10 certificate of title for the all-terrain vehicle or utility-type vehicle.
11 At the time of the sale of an all-terrain vehicle or a utility-type
12 vehicle, the seller shall (A) state on the sales invoice the dollar
13 amount of the tax imposed under this section and (B) furnish to the
14 purchaser a certified statement of the transaction, in such form as the
15 Tax Commissioner prescribes, setting forth as a minimum the total sales
16 price, the allowance for any trade-in, and the difference between the
17 two. The sales tax due shall be computed on the difference between the
18 total sales price and the allowance for any trade-in as disclosed by such
19 certified statement. Any seller who willfully understates the amount upon
20 which the sales tax is due shall be subject to a penalty of one thousand
21 dollars. A copy of such certified statement shall also be furnished to
22 the Tax Commissioner. Any seller who fails or refuses to furnish such
23 certified statement shall be guilty of a misdemeanor and shall, upon
24 conviction thereof, be punished by a fine of not less than twenty-five
25 dollars nor more than one hundred dollars. If the purchaser does not
26 obtain a certificate of title for such all-terrain vehicle or utility-
27 type vehicle within thirty days of the purchase thereof, the tax imposed
28 by this section shall immediately thereafter be paid by the purchaser to
29 the county treasurer. If the tax is not paid on or before the thirtieth
30 day after its purchase, the county treasurer shall also collect from the
31 purchaser interest from the thirtieth day through the date of payment and

1 sales tax penalties as provided in the Nebraska Revenue Act of 1967. The
2 county treasurer shall report and remit the tax so collected to the Tax
3 Commissioner by the fifteenth day of the following month. The county
4 treasurer shall deduct and withhold for the use of the county general
5 fund, from all amounts required to be collected under this subsection,
6 the collection fee permitted to be deducted by any retailer collecting
7 the sales tax. The collection fee shall be forfeited if the county
8 treasurer violates any rule or regulation pertaining to the collection of
9 the use tax.

10 (ii) In the rental or lease of an all-terrain vehicle or a utility-
11 type vehicle, the tax shall be collected by the lessor on the rental or
12 lease price.

13 (iii) County treasurers are appointed as sales and use tax
14 collectors for all sales of all-terrain vehicles or utility-type vehicles
15 made outside of this state to purchasers or users of all-terrain vehicles
16 or utility-type vehicles which are required to have a certificate of
17 title in this state. The county treasurer shall collect the applicable
18 use tax from the purchaser of an all-terrain vehicle or a utility-type
19 vehicle purchased outside of this state at the time application for a
20 certificate of title is made. The full use tax on the purchase price
21 shall be collected by the county treasurer if a sales or occupation tax
22 was not paid by the purchaser in the state of purchase. If a sales or
23 occupation tax was lawfully paid in the state of purchase at a rate less
24 than the tax imposed in this state, use tax must be collected on the
25 difference as a condition for obtaining a certificate of title in this
26 state.

27 (1) The Tax Commissioner may ~~shall~~ adopt and promulgate necessary
28 rules and regulations for determining the amount subject to the taxes
29 imposed by this section so as to insure that the full amount of any
30 applicable tax is paid in cases in which a sale is made of which a part
31 is subject to the taxes imposed by this section and a part of which is

1 not so subject and a separate accounting is not practical or economical.

2 (2) A use tax is hereby imposed on the storage, use, or other
3 consumption in this state of property purchased, leased, or rented from
4 any retailer and on any transaction the gross receipts of which are
5 subject to tax under subsection (1) of this section on or after June 1,
6 1967, for storage, use, or other consumption in this state at the rate
7 set as provided in subsection (1) of this section on the sales price of
8 the property or, in the case of leases or rentals, of the lease or rental
9 prices.

10 (a) Every person storing, using, or otherwise consuming in this
11 state property purchased from a retailer or leased or rented from another
12 person for such purpose shall be liable for the use tax at the rate in
13 effect when his or her liability for the use tax becomes certain under
14 the accounting basis used to maintain his or her books and records. His
15 or her liability shall not be extinguished until the use tax has been
16 paid to this state, except that a receipt from a retailer engaged in
17 business in this state or from a retailer who is authorized by the Tax
18 Commissioner, under such rules and regulations as he or she may
19 prescribe, to collect the sales tax and who is, for the purposes of the
20 Nebraska Revenue Act of 1967 relating to the sales tax, regarded as a
21 retailer engaged in business in this state, which receipt is given to the
22 purchaser pursuant to subdivision (b) of this subsection, shall be
23 sufficient to relieve the purchaser from further liability for the tax to
24 which the receipt refers.

25 (b) Every retailer engaged in business in this state and selling,
26 leasing, or renting property for storage, use, or other consumption in
27 this state shall, at the time of making any sale, collect any tax which
28 may be due from the purchaser and shall give to the purchaser, upon
29 request, a receipt therefor in the manner and form prescribed by the Tax
30 Commissioner.

31 (c) The Tax Commissioner, in order to facilitate the proper

1 administration of the use tax, may designate such person or persons as he
2 or she may deem necessary to be use tax collectors and delegate to such
3 persons such authority as is necessary to collect any use tax which is
4 due and payable to the State of Nebraska. The Tax Commissioner may
5 require of all persons so designated a surety bond in favor of the State
6 of Nebraska to insure against any misappropriation of state funds so
7 collected. The Tax Commissioner may require any tax official, city,
8 county, or state, to collect the use tax on behalf of the state. All
9 persons designated to or required to collect the use tax shall account
10 for such collections in the manner prescribed by the Tax Commissioner.
11 Nothing in this subdivision shall be so construed as to prevent the Tax
12 Commissioner or his or her employees from collecting any use taxes due
13 and payable to the State of Nebraska.

14 (d) All persons designated to collect the use tax and all persons
15 required to collect the use tax shall forward the total of such
16 collections to the Tax Commissioner at such time and in such manner as
17 the Tax Commissioner may prescribe. For all use taxes collected prior to
18 October 1, 2002, such collectors of the use tax shall deduct and withhold
19 from the amount of taxes collected two and one-half percent of the first
20 three thousand dollars remitted each month and one-half of one percent of
21 all amounts in excess of three thousand dollars remitted each month as
22 reimbursement for the cost of collecting the tax. For use taxes collected
23 on and after October 1, 2002, such collectors of the use tax shall deduct
24 and withhold from the amount of taxes collected two and one-half percent
25 of the first three thousand dollars remitted each month as reimbursement
26 for the cost of collecting the tax. Any such deduction shall be forfeited
27 to the State of Nebraska if such collector violates any rule, regulation,
28 or directive of the Tax Commissioner.

29 (e) For the purpose of the proper administration of the Nebraska
30 Revenue Act of 1967 and to prevent evasion of the use tax, it shall be
31 presumed that property sold, leased, or rented by any person for delivery

1 in this state is sold, leased, or rented for storage, use, or other
2 consumption in this state until the contrary is established. The burden
3 of proving the contrary is upon the person who purchases, leases, or
4 rents the property.

5 (f) For the purpose of the proper administration of the Nebraska
6 Revenue Act of 1967 and to prevent evasion of the use tax, for the sale
7 of property to an advertising agency which purchases the property as an
8 agent for a disclosed or undisclosed principal, the advertising agency is
9 and remains liable for the sales and use tax on the purchase the same as
10 if the principal had made the purchase directly.

11 Sec. 30. Section 77-4023, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 77-4023 The Tax Commissioner may ~~shall~~ adopt and promulgate such
14 rules and regulations as may be necessary to administer and enforce the
15 Tobacco Products Tax Act.

16 Sec. 31. Section 77-4111, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 77-4111 The Tax Commissioner may ~~shall~~ adopt and promulgate all
19 rules and regulations necessary to carry out the purposes of the
20 Employment and Investment Growth Act.

21 Sec. 32. Section 77-4307, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 77-4307 The Tax Commissioner may ~~shall~~ adopt and promulgate rules
24 and regulations necessary to carry out sections 77-4301 to 77-4316.

25 Sec. 33. Section 77-6203, Revised Statutes Cumulative Supplement,
26 2016, is amended to read:

27 77-6203 (1) The owner of a renewable energy generation facility
28 annually shall pay a nameplate capacity tax equal to the total nameplate
29 capacity of the commissioned renewable energy generation facility
30 multiplied by a tax rate of three thousand five hundred eighteen dollars
31 per megawatt.

1 (2) No tax shall be imposed on a renewable energy generation
2 facility:

3 (a) Owned or operated by the federal government, the State of
4 Nebraska, a public power district, a public power and irrigation
5 district, an individual municipality, a registered group of
6 municipalities, an electric membership association, or a cooperative; or

7 (b) That is a customer-generator as defined in section 70-2002.

8 (3) No tax levied pursuant to this section shall be construed to
9 constitute restricted funds as defined in section 13-518 for the first
10 five years after the renewable energy generation facility is
11 commissioned.

12 (4) The presence of one or more renewable energy generation
13 facilities or supporting infrastructure shall not be a factor in the
14 assessment, determination of actual value, or classification under
15 section 77-201 of the real property underlying or adjacent to such
16 facilities or infrastructure.

17 (5)(a) The Department of Revenue shall collect the tax due under
18 this section.

19 (b) The tax shall be imposed beginning the first calendar year the
20 renewable energy generation facility is commissioned. A renewable energy
21 generation facility that uses wind as the fuel source which was
22 commissioned prior to July 15, 2010, shall be subject to the tax levied
23 pursuant to sections 77-6201 to 77-6204 on and after January 1, 2010. The
24 amount of property tax on depreciable tangible personal property
25 previously paid on a renewable energy generation facility that uses wind
26 as the fuel source which was commissioned prior to July 15, 2010, which
27 is greater than the amount that would have been paid pursuant to sections
28 77-6201 to 77-6204 from the date of commissioning until January 1, 2010,
29 shall be credited against any tax due under Chapter 77, and any amount so
30 credited that is unused in any tax year shall be carried over to
31 subsequent tax years until fully utilized.

1 (c)(i) The tax for the first calendar year shall be prorated based
2 upon the number of days remaining in the calendar year after the
3 renewable energy generation facility is commissioned.

4 (ii) In the first year in which a renewable energy generation
5 facility is taxed or in any year in which additional commissioned
6 nameplate capacity is added to a renewable energy generation facility,
7 the taxes on the initial or additional nameplate capacity shall be
8 prorated for the number of days remaining in the calendar year.

9 (iii) When a renewable energy generation facility is decommissioned
10 or made nonoperational by a change in law during a tax year, the taxes
11 shall be prorated for the number of days during which the renewable
12 energy generation facility was not decommissioned or was operational.

13 (iv) When the capacity of a renewable energy generation facility to
14 produce electricity is reduced but the renewable energy generation
15 facility is not decommissioned, the nameplate capacity of the renewable
16 energy generation facility is deemed to be unchanged.

17 (6)(a) On March 1 of each year, the owner of a renewable energy
18 generation facility shall file with the Department of Revenue a report on
19 the nameplate capacity of the facility for the previous year from January
20 1 through December 31. All taxes shall be due on April 1 and shall be
21 delinquent if not paid on a quarterly basis on April 1 and each quarter
22 thereafter. Delinquent quarterly payments shall draw interest at the rate
23 provided for in section 45-104.02, as such rate may from time to time be
24 adjusted.

25 (b) The owner of a renewable energy generation facility is liable
26 for the taxes under this section with respect to the facility, whether or
27 not the owner of the facility is the owner of the land on which the
28 facility is situated.

29 (7) Failure to file a report required by subsection (6) of this
30 section, filing such report late, failure to pay taxes due, or
31 underpayment of such taxes shall result in a penalty of five percent of

1 the amount due being imposed for each quarter the report is overdue or
2 the payment is delinquent, except that the penalty shall not exceed ten
3 thousand dollars.

4 (8) The Department of Revenue shall enforce the provisions of this
5 section. The department may ~~shall~~ adopt and promulgate rules and
6 regulations necessary for the implementation and enforcement of this
7 section.

8 (9) The Department of Revenue shall separately identify the proceeds
9 from the tax imposed by this section and shall pay all such proceeds over
10 to the county treasurer of the county where the renewable energy
11 generation facility is located within thirty days after receipt of such
12 proceeds.

13 Sec. 34. Section 81-8,221, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 81-8,221 The State Claims Board may ~~shall~~ adopt and promulgate such
16 rules and regulations as are necessary to carry out the State Tort Claims
17 Act.

18 Sec. 35. Section 81-12,150, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 81-12,150 The Department of Economic Development may ~~shall~~ adopt and
21 promulgate rules and regulations to carry out the Site and Building
22 Development Act.

23 Sec. 36. Section 81-1612, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 81-1612 The State Energy Office may ~~shall~~ adopt and promulgate rules
26 and regulations for implementation and administration of sections 81-1608
27 to 81-1626. Rules, regulations, or amendments thereto shall be adopted
28 pursuant to the Administrative Procedure Act.

29 Sec. 37. Section 84-907.04, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 84-907.04 (1) At the time an agency finalizes a proposed rule or

1 regulation and prior to submission to the Secretary of State, Attorney
2 General, and Governor, the agency shall attach to the proposed rule or
3 regulation a concise explanatory statement containing:

4 (a) Its reasons for adopting the rule or regulation;

5 (b) An indication of any change between the text of the proposed
6 rule or regulation contained or referenced in the published notice and
7 the text of the rule or regulation to be adopted, with the reasons for
8 any change; and

9 (c) When procedural rules differ from the ~~model~~ rules promulgated by
10 the Attorney General under section 84-909.01, the agency's reasons why
11 relevant portions of the ~~model~~ rules promulgated by the Attorney General
12 were impracticable under the circumstances.

13 (2) Only the reasons contained in the concise explanatory statement
14 may be used by an agency as justifications for the adoption of the rule
15 or regulation in any proceeding in which its validity is at issue.

16 (3) The agency shall also attach to the proposed rule or regulation
17 a written report that includes a summary of the testimony offered at the
18 public hearing and that lists any specific issues or questions that were
19 presented by individuals or representatives of organizations at the
20 hearing or in written testimony submitted as part of the public hearing
21 process. The report shall also include a response from the agency
22 proposing the regulatory change to the questions and issues that were
23 presented by individuals or representatives of organizations at the
24 hearing or in written testimony submitted as part of the public hearing
25 process. The written report shall also be submitted to the Executive
26 Board of the Legislative Council. The chairperson of the executive board
27 or committee staff member of the executive board shall refer each written
28 report received pursuant to this subsection for review (a) to the
29 chairperson of the standing committee of the Legislature which has
30 subject matter jurisdiction over the issue involved in the rule or
31 regulation or which has traditionally handled the issue and (b) if

1 practicable, to the member of the Legislature who was the primary sponsor
2 of a legislative bill that granted the agency the rulemaking authority if
3 the member is still serving or, if the legislative bill was amended to
4 include the rulemaking authority, to the member of the Legislature who
5 was the primary sponsor of the amendment that granted rulemaking
6 authority if the member is still serving.

7 Sec. 38. Section 84-909.01, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 84-909.01 In accordance with the rulemaking and regulationmaking
10 requirements of the Administrative Procedure Act, the Attorney General
11 shall prepare and promulgate ~~model~~ rules of procedure appropriate for use
12 by as many agencies as possible and shall file the ~~model~~ rules with the
13 Secretary of State. The ~~model~~ rules shall deal with all general functions
14 and duties performed in common by several agencies. ~~For rules of~~
15 ~~procedure adopted on or after August 1, 1994, each agency shall adopt as~~
16 ~~many of the model rules as is practicable under its circumstances. To the~~
17 ~~extent an agency adopts the model rules, it shall do so in accordance~~
18 ~~with the rulemaking and regulationmaking requirements of the act. Any~~
19 ~~agency adopting a rule of procedure that differs from the model rules~~
20 ~~promulgated by the Attorney General shall include in the explanatory~~
21 ~~statement provided for in section 84-907.04 a finding stating the reasons~~
22 ~~why the relevant portions of the model rules promulgated by the Attorney~~
23 ~~General were impracticable under the circumstances.~~

24 Sec. 39. Original sections 13-2710, 37-1280, 42-922, 44-213.02,
25 44-213.03, 46-734, 46-1136, 46-1501, 57-239, 58-709, 61-206, 69-2105,
26 71-7622, 73-306, 77-414, 77-1301.01, 77-1346, 77-4023, 77-4111, 77-4307,
27 81-8,221, 81-12,150, 81-1612, 84-907.04, and 84-909.01, Reissue Revised
28 Statutes of Nebraska, sections 13-1907, 13-2103, 13-2112, 60-495, 72-805,
29 76-2221, 77-702, and 77-6203, Revised Statutes Cumulative Supplement,
30 2016, and sections 3-158, 60-6,102, 60-6,103, 60-6,107, and 77-2703,
31 Revised Statutes Supplement, 2017, are repealed.

1 Sec. 40. The following sections are outright repealed: Sections
2 44-7512, 46-1509, and 69-2505, Reissue Revised Statutes of Nebraska.